PRIVATE AND CONFIDENTIAL

Final Report

Case Reference:

Report of an investigation under Section 59 of the Local Government Act 2000 by Rhian Davies appointed by monitoring officer for Westminster City Council into an allegation concerning Councillor Susie Burbridge

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Executive summary

1.1 The Standards Committee received 46 complaints following an email sent by Councillor Burbridge to Mr John Cameron and subsequently readdressed to at least eleven other members of the public. A list of the complainants is attached as core document 1 of the evidence bundle and a copy of Councillor Burbridge's email is attached as core document 2 of that bundle. The complainants considered that Councillor Burbridge's email contained sexist comments, drawing attention to the following paragraph:

"To my mind, your notice is not a warning I see it as a threat. Bully-boy tactics until you get your own way. A common symptom of the male species."

- 1.2 I have considered the following paragraphs of the City Council's Code of Conduct:
 - Paragraph 3 (1) You must treat others with respect;
 - Paragraph 3 (2) (a) You must not do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006); and
 - Paragraph 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute
- 1.3 Having investigated this matter, I consider that Councillor Burbridge has failed to comply with paragraph 3 (1) of the City Council's Code of Conduct which states "you must treat others with respect".
- 1.4 This report concludes that there is a finding of failure in respect of the allegation that Councillor Burbridge failed to treat others with respect and a finding of no failure in respect of the allegations that Councillor Burbridge caused the City Council to breach the equality enactments and brought her own office, or that of the City Council's into disrepute.

2 Councillor Susie Burbridge's official details

- 2.1 Councillor Burbridge was first elected to office on 7 May 1998, and has been a member ever since having been re-elected most recently on 4 May 2006 for a term of four years.
- 2.2 Councillor Burbridge is a Deputy Cabinet Member for Housing and currently serves on the following committees: Built Environment Policy and Scrutiny Committee, Planning Applications Sub-Committee, and she is also a member of the City Council's Adoption Panel.
- 2.3 Councillor Burbridge gave a written undertaking to observe the Code of Conduct on 4 May 2006.

2.4 Councillor Burbridge attended a training session provided by then Deputy Director of Legal Services in September 2007, in respect of the new Code of Members Conduct. Councillor Burbridge also attended a training session in May 2002 when the code was introduced and at a subsequent refresher session held during 2004.

3 The relevant legislation and protocols

- 3.1 The City Council has adopted a Code of Conduct in which the following paragraphs are included:
 - You must treat others with respect;
 - You must not do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006); and
 - You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute
- 3.2 During the course of this investigation I have considered the following extracts of the Sex Discrimination Act 1975:

1 Direct and indirect discrimination against women

[(1) In any circumstances relevant for the purposes of any provision of this Act, other than a provision to which subsection (2) applies, a person discriminates against a woman if—

(a) on the ground of her sex he treats her less favourably than he treats or would treat a man, or

(b) he applies to her a requirement or condition which he applies or would apply equally to a man but—

(i) which is such that the proportion of women who can comply with it is considerably smaller than the proportion of men who can comply with it, and

(ii) which he cannot show to be justifiable irrespective of the sex of the person to whom it is applied, and

(iii) which is to her detriment because she cannot comply with it.

(2) In any circumstances relevant for the purposes of a provision to which this subsection applies, a person discriminates against a woman if—

(a) on the ground of her sex, he treats her less favourably than he treats or would treat a man, or

[(b) he applies to her a provision, criterion or practice which he applies or would apply equally to a man, but—

(i) which puts or would put women at a particular disadvantage when compared with men,

(ii) which puts her at that disadvantage, and

(iii) which he cannot show to be a proportionate means of achieving a legitimate aim.

2 Sex discrimination against men

(1) Section 1, and the provisions of Parts II and III relating to sex discrimination against women, are to be read as applying equally to the treatment of men, and for that purpose shall have effect with such modifications as are requisite.

29 Discrimination in provision of goods, facilities or services

(1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services—

(a) by refusing or deliberately omitting to provide her with any of them, or

(b) by refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.

(2) The following are examples of the facilities and services mentioned in subsection (1)—…

(g) the services of any profession or trade, or any local or other public authority.

[(2A) It is unlawful in connection with the provision of goods, facilities or services to the public or a section of the public (except in so far as they relate to an excluded matter) for any person to subject to harassment—

(a) a woman who seeks to obtain or use those goods, facilities or services, or

(b) a woman to whom he provides those goods, facilities or services.]

[(4) In its application in relation . . . to discrimination falling within section 2A, subsection (1)(b) shall have effect as if references to male members of the public, or of a section of the public, were references to members of the public, or of a section of the public, who do not intend to undergo, are not undergoing and have not undergone gender reassignment.]

76A Public authorities: general statutory duty

- [(1) A public authority shall in carrying out its functions have due regard to the need—
- (a) to eliminate unlawful discrimination and harassment, and
- (b) to promote equality of opportunity between men and women.
- (2) In subsection (1)—

(a) "public authority" includes any person who has functions of a public nature (subject to subsections (3) and (4)),

(b) "functions" means functions of a public nature, ...

4 The evidence gathered

- 4.1 I individually contacted all 46 of the complainants inviting them to submit any further evidence. All responses received from the complainants are attached as documents 6 -10 of the evidence bundle.
- 4.2 Amongst the comments received from the complainants, Mr Di Miceli withdrew his complaint with a comment that "Ms Burbridge should do the right thing and simply apologise"; Mr Upperton responded that he his comments were not a complaint; and Mr Djanogly informed me that he hadn't made a personal complaint about Councillor Burbridge but was now content for his letter to be treated as such.
- 4.3 During the course of my investigation I became aware that Mr Charles Lort-Phillips's complaint was done so on behalf of Mr Cameron and the "No to Bikes Fees Parking Campaign". Although this information was before the Assessment Sub-Committee of the Standards Committee since Mr Cameron had only been referred to as a "supporter" it was not therefore obvious that Mr Cameron had complained. Accordingly when I interviewed Councillor Burbridge on 11th June she was unaware that Mr Cameron had made a complaint against her.
- 4.4 I interviewed Councillor Burbridge on 11th June (document 11) and Elaine Furness, members' secretary, on 29th June (document 13).
- 4.5 On 11 March 2009 Mr Cameron sent an email to all Westminster City Council's elected members. A copy of that email is attached as core document 3 of the evidence bundle. Councillor Burbridge responded to that email, copying her response to all elected members of the City Council.
- 4.6 On Thursday 19 March 2009 Councillor Burbridge requested Ms Furness not to forward her any further emails relating to her "bully-boy tactics emails and sexist remarks" but instead reply to the sender by cutting and pasting them her response to Mr Cameron.
- 4.7 On 23rd March at 10.30am, Councillor Burbridge emailed Ms Furness stating that she had changed her mind and did not want Ms Furness to respond to any further emails but requested that Ms Furness store them in order that she (Councillor Burbridge) could view them at a later date. Before Ms Furness had sight of that email she had that morning, on behalf of Councillor Burbridge, already replied to at least eleven emails by readdressing to them Councillor Burbridge's email to Mr Cameron. Two of the recipients of these emails complained to the Standards Committee.
- 4.8 Between 23rd and 29th March, the Standards Committee received forty six complaints that Councillor Burbridge had breached the City Council's Code of Conduct.

- 4.9 Councillor Burbridge said that her email to Mr Cameron had been shared with other campaigners by Mr Cameron, or possibly the Labour group. I have not investigated as to how the email was circulated to supporters of the motorcyclists campaign.
- 4.10 At interview Councillor Burbridge said that she was unaware that her email to Mr Cameron had been readdressed and sent to other members of the public. She said that this meant that the recipients of that email believed that she had simply chosen to readdress Mr Cameron's email to them which was not the case, (core documents 4 and 5). She said that she had instructed Ms Furness to cut and paste the entire response to Mr Cameron with a heading "Cllr Burbridge's response to John Cameron's email:-" in order that they would have the opportunity to read her entire email to Mr Cameron and therefore not take her comments out of context. Councillor Burbridge's email instructions to Ms Furness are attached as document 14 of the evidence bundle.
- 4.11 At interview Ms Furness said that she had understood that Councillor Burbridge's instructions had required her to respond to any further emails by readdressing Mr Cameron's email to them. Ms Furness explained that it was usual practice for members to draft the contents of an email leaving her to "top and tail" it before sending it out on their behalf.
- 4.12 It is clearly unfortunate that there was a misunderstanding between Ms Furness and Councillor Burbridge. Ms Furness's actions were, in my view, reasonable since they were consistent with how she normally responds to such requests from members. Equally Councillor Burbridge could not have known that her instructions had been misunderstood. On the balance of probabilities I therefore consider that Councillor Burbridge was unaware that her email to Mr Cameron had been readdressed to other members of the public.
- 4.13 When I asked Councillor Burbridge what she had meant by "a common symptom of the male species" and whether she meant that it is usual for men to be bullies, she was adamant that her e-mail did not say that and that was not what she had meant. She said that she believed her statement was fact based and not sexist, that "bullyboy tactics" more frequently come from men and not women. In later correspondence Councillor Burbridge stressed that newspapers refer to "bully-boy tactics" and not "bully-girl tactics".
- 4.14 Councillor Burbridge said that she believed that she had been very respectful in her email to Mr Cameron and that her comments were not personal to him. She said that since Mr Cameron had not complained she assumed that he had not been offended. (At this time Councillor Burbridge was unaware that Mr Cameron had complained). She also said that had Mr Cameron expressed to her that her email had offended him she would have replied indicating that she had not meant to offend

him, that in her view others would not have taken offence but that she was sorry he had. She also said that she would have told him that he should not have passed her e-mail on to others without her express permission since it contained a privacy clause.

- 4.15 I informed Councillor Burbridge by email on 28th July that Mr Cameron had made a complaint via Mr Charles Lort Phillips who also represented the "No to Bike Parking Fees Campaign". Councillor Burbridge responded that as far as she had been advised there had not been any complaints from Mr Cameron, that she had responded directly to him with a privacy clause, and had not sent the email to the "No to Bike Parking Fees Campaign". A copy of that email can be found at document 12 of the evidence bundle.
- 4.16 Councillor Burbridge explained to me that her e-mail system kept crashing because of the high volume of e-mails she received on the motorcycle parking issue. She told me that she had felt truly bullied, under threat and as a result could not always get on with her work in her normal way. She said that over a long period of time she had received hundreds of motorcyclists' e-mails on a daily basis and when she received Mr Cameron's e-mail she was quite upset as she considered it threatening.
- 4.17 I am aware that the motorcyclists' campaign has undertaken a prolonged and time consuming campaign against the City Council. For example, I have seen evidence of a forum urging campaigners to "swamp" named officers with telephone calls in order that those officers are unable to undertake their usual job due to the sheer volume and length of calls received in the hope that the officers will have to change their telephone numbers. A copy of comments on one of these forums is attached as document 15 of the evidence bundle.
- 4.18 Councillor Burbidge said that she felt bullied by the campaign and in particular that she found Mr Cameron's email threatening. Councillor Burbridge said that she was concerned about attending the Policy and Scrutiny Committee meeting when the issue was due to be discussed and even whilst on Victoria Street she contemplated returning home but was reassured by the presence of the police. She said that her colleagues and the Head of Legal Services were also concerned for her safety and although she felt threatened she was determined to continue. She was clear that she was not going to succumb to a group of men and women pressurising her into changing her mind rather than through a thorough debate.

5 Summary of the material facts

- 5.1 Councillor Burbridge sent an email to Mr Cameron on 11th March 2009. This email was copied to all of the City Council's elected members.
- 5.2 The email contained the following sentences:

"To my mind, your notice is not a warning I see it as a threat. Bullyboy tactics until you get your own way. A common symptom of the male species."

and was shared with motorcyclists campaigning against parking charges.

- 5.3 On 23rd March at least eleven emails, containing the above sentences, were sent addressed personally to members of the public. These emails were sent on behalf of Councillor Burbridge but she was unaware that they had been sent out in that format.
- 5.4 Between 23rd and 29th March the Standards Committee received 46 complaints about Councillor Burbridge's email/s.

6 Councillor Burbridge's additional submissions

- 6.1 Councillor Burbridge said that her e-mail to Mr Cameron contained a privacy clause which stated that her permission should have been sought before it was passed on to anyone else. She said that her email ought never have been circulated and that she would have declined permission to share it had she been asked.
- 6.2 Councillor Burbridge said that although she would have apologised to Mr Cameron had he given any indication that she had offended him she did not consider that she could apologise to other members of the public as she had not written to them directly. (When Councillor Burbridge made this comment she was unaware that Mr Lort-Phillips had complained to the Standards Board on Mr Cameron's behalf.)
- 6.3 Councillor Burbridge said that her background was in parliamentary research, and that she had a specific interest in women's issues. It was her view that "bully boy tactics" predominantly come from men and she cited examples used in the media during the week, in which she had sent her email, which described Bob Crow and Peter Mandelson of employing bully boy tactics. She pointed out that women were rarely accused of employing such tactics. She said that she had spoken to several women who had confirmed to her that they had felt bullied by men and that this was not a behaviour that they usually associated with women. She could not recall any men advising her that they have been bullied by women. She stated that she had been assaulted by men but had never been mugged or bullied by a woman.

- 6.4 Councillor Burbridge also said that she could not recall getting any emails from women complaining about the charges until she was accused of sexism. Following this accusation she then noticed some emails arriving from women.
- 6.5 Councillor Burbridge said that she did not understand why anyone would be offended by the e-mail. She did not think she had done anything to offend anyone and certainly had not meant to offend anyone. She pointed out that offending people is a subjective matter and that some people take offence at certain things which would not offend others.
- 6.6 Councillor Burbridge believed that there was a party political element to this issue as the motorcycle group were backed by the Labour Party. She explained that since she had copied the email to all her colleagues the Labour Group were aware of her comments, that the Labour group were against the charges and supported the motorcycle group. She suggested that the Labour group might have been responsible for passing on her email to the complainants.

7 Reasoning as to whether there have been failures to comply with the Code of Conduct

Failing to treat others with respect

- 7.1 As an elected member, Councillor Burbridge's official correspondence is likely to be scrutinised and although she may not herself consider particular comments to be offensive it is always open to others to be offended.
- 7.2 In my view had Mr Cameron responded to Councillor Burbidge informing her that he considered her comments to be disrespectful, an apology would have been forthcoming. However, this did not happen and Mr Cameron, via Mr Lort-Phillips, complained to the Standards Board.
- 7.3 It was apparent that Councillor Burbridge had not considered how her comments could be interpreted. In my view she genuinely believed that her comments were fact based and she struggled to understand how they could be considered offensive.
- 7.4 It is however understandable that Mr Cameron considered Councillor Burbridge's comments regarding "bully-boy tactics" as disrespectful towards him as in effect she called him a "bully". This accusation was done in official correspondence and copied to all elected members of the City Council.
- 7.5 Councillor Burbridge was unaware that her email to Mr Cameron had been re-addressed and sent to other members of the public. It is unfortunate that this occurred since it compounded the complainants'

view that Councillor Burbridge was "sexist". I consider that it is worth noting that Councillor Burbridge's email to Mr Cameron was sent on 11th March but the Standards Board did not begin receiving complaints until the 23rd March, ie the date which the re-addressed emails were sent on behalf of Councillor Burbridge.

- 7.6 In respect of the re-addressed emails, although a misunderstanding occurred between Councillor Burbridge and Ms Furness, I consider that Councillor Burbridge is obliged to take responsibility for all correspondence addressed in her name. Two of the recipients of those emails (Mr and Mrs Grove and Mr Marc Hawker) complained to the Standards Board. Their complaints indicate that they believed Councillor Burbridge was responsible for the correspondence they had received from her. To date they have not received any information to suggest otherwise.
- 7.7 I therefore consider that Councillor Burbridge breached the City Council's Code of Conduct by failing to treat others with respect, namely Mr Cameron, Mr and Mrs Grove and Mr Marc Hawker.
- 7.8 Councillor Burbridge had not considered that her comments could have been read as implying that men are commonly bullies, she believed that her comments were factual, ie that more men exhibit bully-boy tactics than women. By strict semantic definition this would be accurate.
- 7.9 However, I do not consider that the comment "A common symptom of the male species" is particularly disrespectful to either Mr Cameron or the other complainants. These comments were not personal to any individuals but rather could be regarded as potentially disrespectful to all men.
- 7.10 In coming to this conclusion I considered a case investigated by the Standards Board of England. In case no: SBE18195.07, the complainant was offended by a Councillor who used a particular word to describe homosexual men. The Ethical Standards Officer (ESO) concluded that the Councillor's comments did not amount to a failure to treat the complainant with respect since <u>"words or behaviour which are potentially disrespectful of a whole group or class of people do not usually fall within the scope</u>" of the relevant paragraph in the Code of Conduct. I am of the view that this equally applies to Councillor Burbridge's comment "A common symptom of the male species".

Causing the City Council to breach the equality enactments;

7.11 Paragraph 3 (2) (a) of the City Council's Code of Conduct defines "the equality enactments" as those defined in Section 33 of the Equality Act 2006. The Sexual Discrimination Act 1975 is included within this definition. I have considered Councillor Burbridge's remarks in relation to sections 1, 2, 29, and 76A of the Sexual Discrimination Act 1975.

7.12 Sections 1 and 2, as referred to in paragraph 3.2 above define discrimnation. Section 29 refers to the provision of services

29 (1) It is unlawful for any person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public to discriminate against a woman who seeks to obtain or use those goods, facilities or services—

(a) by refusing or deliberately omitting to provide her with any of them, or

(b) by refusing or deliberately omitting to provide her with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to male members of the public or (where she belongs to a section of the public) to male members of that section.

In my view Councillor's Burbridge has not refused to, or deliberately omitted to, provide Mr Cameron, or any other male, with either her services, or those of the City Council, in the like manner and on the like terms as she would were they to have been female.

7.13 Section 76A refers to Public Authorities general statutory duty.

76A [(1) A public authority shall in carrying out its functions have due regard to the need—

- (a) to eliminate unlawful discrimination and harassment, and
- (b) to promote equality of opportunity between men and women.
- (2) In subsection (1)—

(a) "public authority" includes any person who has functions of a public nature (subject to subsections (3) and (4)),

(b) "functions" means functions of a public nature, ...

In my view, Councillor's Burbridge comments do not reduce the "equality of opportunity between men and women" and cannot therefore breach section 76A 1 (b).

- 7.14 At this stage it is also worth raising the point that the legislation differs in relation to other equality enactments (as defined in Section 33 of the Equality Act 2006). Thus had the same comments been directed towards, eg a particular race, then it is quite possible that such remarks would have caused the City Council to breach the equality legislation.
- 7.15 I do not therefore consider that Councillor Burbridge's comments have caused the City Council to breach the equality enactments.

Bringing office, or authority, into disrepute.

7.16 At interview Councillor Burbridge was clear that she would not willingly do anything which could bring either herself or the City Council into disrepute. Councillor Burbridge was surprised that her email had caused such offence as Mr Cameron had never replied indicating that

he had been offended by her remarks. She said that had he done so she would have apologised. I believe this is true, albeit that she would have apologised with a comment that he ought not to have circulated her email

- 7.17 Councillor Burbridge experienced problems with her e-mail system due to the volume of e-mails that she had been receiving on the motorcycle parking issue. I do believe that she felt vulnerable and bullied by the protesters and was not able to go about her council work in her usual way. When she received Mr Cameron's e-mail she was quite upset as she considered it to be threatening and responded as such.
- 7.18 Councillor Burbridge's response to Mr Cameron was, in all probabilities, ill-judged and might have led to some personal embarrassment but I do not consider that her comments were sufficiently serious to bring either her own office or that of the City Council's into disrepute.

8 Findings

8.1 On 11 March 2009 Mr Cameron sent an email to all Westminster City Council's elected members. The same day Councillor Burbridge replied in an email, copied to all elected members, containing the following paragraph:

"To my mind, your notice is not a warning I see it as a threat. Bully-boy tactics until you get your own way. A common symptom of the male species."

- 8.2 Mr Cameron considered Councillor Burbridge's comments as disrespectful and complained, via Mr Lort-Phillips, to the Standards Committee.
- 8.3 On Thursday 19 March 2009 Councillor Burbridge requested Ms Furness not to forward to her any further emails relating to her "bullyboy tactics emails and sexist remarks" but instead reply to the sender by cutting and pasting them her response to Mr Cameron. On 23rd March at 10.30am, Councillor Burbridge emailed Ms Furness stating that she did not want Ms Furness to respond to any further emails. Before Ms Furness had sight of this email she had already responded to at least eleven emails by readdressing Councillor Burbridge's email to Mr Cameron to them. Councillor Burbridge was unaware that her email to Mr Cameron had been readdressed and sent in this format. Two of the recipients of these emails (Mr and Mrs Grove and Mr Hawker) complained to the Standards Committee.
- 8.4 Between 23rd and 29th March, the Standards Committee received forty six complaints that Councillor Burbridge had breached the City Council's Code of Conduct.

- 8.5 The No to Motorcyclists Fee Parking Campaign has undertaken a prolonged and time consuming campaign against the City Council's plans to charge motorcyclists parking charges. Councillor Burbidge felt bullied by the campaign and in particular found Mr Cameron's email threatening.
- 8.6 There is a finding of failure as Councillor Burbridge breached the City Council's Code of Conduct in relation to paragraph 3 (1) you must treat others with respect.
- 8.7 There is a finding of no failure in respect to the allegations that Councillor Burbridge caused the City Council to breach the equality enactments, Paragraph 3 (2) (a), and/or brought either her own office or that of the City Council's, into disrepute Paragraph 5.

Appendix A Evidence Bundle

Core documents

Doc No	Description	Pages
1	List of complainants	1
2	Councillor Burbridge's email 11 March 2009	2-3
3	Mr Cameron's email 11 March 2009	4
4	Email to Mr and Mrs Grove	5
5	Email to Mr Marc Hawker	6 -7

Notes of telephone conversations, emails, letters, and interviews with

witnesses

Doc No	Description	Pages
6	Mr Di Miceli's email	
7	Mr de Dufort's email	
8	Mr Hawker's email	
9	Mr Upperton's email	
10	Mr Djangoly's email	
11	Notes of interview with Cllr Burbridge 11 June	
12	Cllr Burbridge's email dated 29 th July	
13	Notes of interview with Elaine Furness	

Minutes of meetings and other documentary evidence

Doc No	Description	Pages
14	Emails to Elaine Furness from Councillor Burbridge 19 and 23 rd March 2009	
15	No to Bike Parking Tax Forum comments	

Legal Framework

Doc No	Description	Pages
16	The Complainants letters (x 46)	
17	The City Council's Code of Conduct	
18	Councillor Burbridge's declaration of acceptance of office	

Appendix B

Chronology of events

- § 11 March 2009 14:11 email from Mr Cameron to all City Council Members
- § 11 March 2009 14:54 email response to Mr Cameron from Councillor Burbridge copied to all City Council Members
- § 19 March 2009 Councillor Burbridge requests the member's secretary not to send her any further emails referring to her "bullyboy tactics email" but to cut and paste her entire response to Mr Cameron for their information.
- § 23 March 2009 10.30am Councillor Burbridge changed her mind and requested that all emails be stored.
- § 23 March 2009 Ms Furness, on behalf of Councillor Burbridge, readdressed Mr Cameron's email and sent it to at least 11 members of the public
- § 23 29 March 2009 forty six complaints received alleging Councillor Burbridge breached the City Council's Code of Conduct