

Appendix 2

Case Reference: Sept-05/ MC9/08

Report of an investigation under Section 59 of the Local Government Act 2000 into an allegation concerning Councillor and Assembly Member Richard Barnbrook.

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Appendix A Schedule of evidence

Appendix B Conduct of the investigation

1. Executive Summary

- 1.1 Richard Barnbrook has been a Councillor for Barking and Dagenham (“LBBD”) since his election on May 5 2006, and has been an Assembly Member of the Greater London Authority (“GLA”) since his election on May 5 2008.
- 1.2 Councillor Rush is a Councillor for Barking and Dagenham, and has Executive portfolio responsibilities for Safer Neighbourhoods and Communities.
- 1.3 Councillor/ Assembly Member Barnbrook was filmed in an interview by Simon Darby, Deputy Leader of the BNP outside Southwark Cathedral. The interview appeared on his website, YouTube and his blog on the Daily Telegraph website.
- 1.4 The interviewer introduces Richard Barnbrook as “Richard Barnbrook BNP General Assembly Member for London.”
- 1.5 Richard Barnbrook states during the recording that *“In Barking and Dagenham alone 3 weeks ago, there was a murder of a young girl. We don’t know who’s done it, her girlfriend was attacked inside an educational institute. Again, 2 weeks ago there was another attack by knives on the streets of Barking and Dagenham where two people were murdered”*
- 1.6 Councillor Rush complained to the GLA on 25 September 2008 that she knew the statements to be lies, and her complaint to LBBD on 7 October 2008 was that this was false information. She considered that the relevant breach of the Code of Conduct (“the Code”) was disrepute.
- 1.7 The Code needs to be read together with the Relevant Authorities (General Principles) Order 2001, and the relevant principles here are honesty and integrity, and leadership.
- 1.8 The Monitoring Officers of both LBBD and the GLA instructed a joint investigation further to the referral from their relevant Standards Committees sub-committees.
- 1.9 Mr Barnbrook wrote a letter to the Barking and Dagenham Recorder signing himself off as both Assembly Member and Councillor, which was published on 11 December 2008 which stated *“..To my mind it makes little difference whether there were one or three murders – just one murder is too many!”*
- 1.10 Mr Barnbrook met with the investigators and said that he knew at the time that he made the statements that they were inaccurate.
- 1.11 Mr Barnbrook said with regards his first allegation of a murder that the reason he had said that there had been a murder was that it *“came out wrong”* because of the speed of his delivery. He had meant to say that that the woman was from Barking & Dagenham and murdered in Newham.
- 1.12 Mr Barnbrook confirmed with regards his second allegation that there were two murders, that he knew at the time that he made the statement that they were on life support. He said that they did not die.

- 1.13 Councillor Rush's main concern was the impact of these statements on the community in terms of fear of crime, and their effect in undermining the public's confidence in local government and the police. Mr Barnbrook denied in his meeting that this was the case. Councillor Rush stated at her investigation meeting that the statements undermined the trusted messenger relationship built up with the council/police and the community, she felt that the fear of crime was a significant issue in the borough, and moreover that there was a disparity between actual incidents of crime and fear of crime the latter of which adversely affected the quality of life of all people in the Borough. Mr Barnbrook in his meeting with the investigators accepted that as a politician he should make sure that what he says is accurate, as by stating that there have been murders will raise the fear of crime.
- 1.14 The interview was filmed and then posted on his website although at the time he knew the statements to be incorrect. The recording was not live. Mr Barnbrook said that although he himself did not view the blog until someone from London Mothers Against Knives told him of the complaint, he took responsibility for the content of the blog.
- 1.15 Mr Barnbrook was asked by the national BNP whether he wanted to leave the video on the blog after becoming aware of its inaccuracies and he said he wanted it to remain because of his belief in gun crime, and thought it would be removed within 4-6 weeks anyway. Mr Barnbrook said in his meeting with the investigators that he thought that the blog had been removed in view of the inaccuracies.
- 1.16 Mr Barnbrook said that he would not apologise for the statements until knife crime is over. He stated that he regretted saying that there were two murders when there were not (in respect of one assertion made in his blog), and did not regret stating that there was another murder (in respect of the other assertion).
- 1.17 Mr Barnbrook said that he did not believe that he misled people as murders are happening. He was provided with a letter (document 14) which the investigators had been given, which was from the Metropolitan Police Service in Barking and Dagenham which showed that there had been no murders in the period that he had asserted that there were and that the number of murders in LBBB were decreasing. Mr Barnbrook said that he did not trust the police figures and had made a Freedom of Information Act request and had different figures which he would supply to the investigators. However, the evidence provided by Mr Barnbrook did not verify this.
- 1.18 Mr Barnbrook in his response to the draft investigation report stated that it had not been his intention to mislead anyone and the inaccuracies were unintentional. During the meeting with investigators, he made it clear that he knew that the statements were incorrect, and the investigators concluded that he did not attempt to remedy this, as he did not re-record the video.
- 1.19 In his response to the draft investigation report, Mr Barnbrook apologises for passing on information that was incorrect and said that he actually meant to say attempted murders and that this was not picked up in the editing of the recording. However, Councillor Rush in her response to the draft report provided new evidence from the Metropolitan Police to show that there had been no

serious incidents in that period at all, which included anyone on life support. Mr Barnbrook in his meeting with investigators said that he knew at the time of the statement that they were on life support, and said in his response to the draft report that they were attempted murders.

- 1.20 If we accept the evidence from the Metropolitan Police then this does raise serious concerns as to the conduct of Mr Barnbrook both in the statements made in recording the video, and then the evidence he has provided both at the meeting with investigators and his response to the draft investigation report. At his meeting with us in January, he said that the second statement “came out wrong” and he meant to say that they were on life support as he knew that they were. In his response to the investigation report, he has said that he meant to say attempted murders but due to the editing this was not picked up. However the evidence from the Metropolitan Police show that there were no serious incidents during this period. The investigators are minded to conclude that this new evidence raises concerns about Mr Barnbrook’s evidence provided at the meeting with investigators as to why he initially made inaccurate statements.
- 1.21 Mr Barnbrook has provided documents to demonstrate that people are murdered in London because of knife, gun or other weapons, and has provided newspaper articles that show the impact of such crimes.
- 1.22 Council Rush has provided documents to demonstrate that fear of crime affects peoples behaviour and attitudes.
- 1.23 As a result of our investigation, we consider that:
 - (a) Mr Barnbrook was giving the impression that he was acting as an Assembly Member of the GLA, and a Councillor of LBBDD
 - (b) Mr Barnbrook failed to comply with the Code of Conduct of both the GLA and the LBBDD, by bringing his office and the respective authorities into disrepute.

2. Councillor and Assembly Member Richard Barnbrook's official details

- 2.1 Councillor and Assembly Member Richard Barnbrook was elected to Barking and Dagenham Council on 5 May 2006 and as an Assembly Member on the London Assembly on 5 May 2008, each for a term of four years. He was Leader of his party at the London Borough of Barking and Dagenham during 2006/07 and 2007/08.
- 2.2 Councillor and Assembly Member Richard Barnbrook currently serves on the following committees at the London Borough of Barking and Dagenham: Assembly, Ceremonial Council and the Development Control Board. He is a representative on the Dagenham Gateway Community Housing Partnership and he was also a member of the Scrutiny Management Board during his first two years of office. He is a member of the following London Assembly committees: Audit Panel, Budget Monitoring Sub-Committee and the Health and Public Services Committee.
- 2.3 Councillor and Assembly Member Richard Barnbrook gave a written undertaking to observe the Code of Conduct of the London Borough of Barking and Dagenham on 4 May 2006 and the Code of Conduct of the Greater London Authority on 3 May 2008.
- 2.4 Councillor Barnbrook was unable to attend training sessions on the Code of Conduct held at Barking and Dagenham on 3 and 24 September 2007 and 9 January 2008, but subsequently signed to confirm that he had read the training material provided.
- 2.5 Assembly Member Barnbrook received training on the Code of Conduct from the Greater London Authority on 8 July 2008 from the Monitoring Officer.

3. The relevant legislation

The Code of Conduct

- 3.1 At the time of the complaint both the Greater London Authority (“the GLA”) and the London Borough of Barking & Dagenham (“LBBD”) had adopted the Model Code of Conduct as set out in the schedule to the Local Authorities (Model Code of Conduct) Order 2007 as their Codes of Conduct, and the GLA had made slight amendments to it.
- 3.2 The Relevant Authorities (General Principles) Order 2001 sets out the principles which are to govern the conduct of members of relevant authorities in England, which include the GLA and the LBBD. The LBBD has these principles in its preamble to the Code. The GLA has amended its Code so that it reads:

Paragraph 1 (2) of the GLA Code of Conduct

“You should read this Code together with the general principles prescribed by the Secretary of State, which are as follows:

Selflessness

You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

Openness

You should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.

Personal Judgement

You may take account of the views of others, including their political groups, but should reach your own conclusions on the issues before you and act in accordance with those conclusions.

Respect for Others

You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

Stewardship

You should do whatever you are able to do to ensure that your authority uses its resources prudently and in accordance with the law.

Leadership

You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence."

3.3 Paragraph 2 of the GLA and LBBB Codes states:

" 2. —(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of the Authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

....."

3.4 Paragraph 5 of the respective Codes state:

“You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.”

4. Evidence Gathered

The Complaint

Councillor Rush's complaint to the GLA is as follows (Document 4 of the Schedule of Evidence):

"Please note that this is on Richard Barnbrook's blog which introduces him as a Greater London Assembly Member. It is also on youtube. On the basis of the comments made in the latter part of the video where Richard Barnbrook quite clearly states that 3 weeks ago a young girl was murdered in an education establishment in Barking and Dagenham I know this to be an absolute lie. He also goes to claim a further 2 murders in the borough in the last 2 weeks which is also a lie. On making these false statements not only on his blog but on You tube which has a world wide audience I believe that Richard Barnbrook has brought his position as an elected member of the GLA into disrepute he has also tried to damage the reputation of the GLA and its elected Members as well as Barking & Dagenham Council, the fact that Barking & Dagenham is on public record as a Safe place to live is brought into disrepute by his total lack of honesty and integrity...I am very much aware of all the incredible work that is being done by the GLA and its members alongside London boroughs to tackle knife crime in the capital and I am very disappointed that all an elected Assemblyman can do is to mock the efforts of others and to openly and outrageously lie to whip up fears in the London community."

Councillor Rush's complaint to the LBBB is as follows (Document 5 of Schedule of Evidence):

"That a video recording of an interview, which appeared on Richard Barnbrook's blog and on You Tube, appeared to focus on and criticise the Borough, and include false information. Councillor Rush considered that the statements made during the interview resulted in the councillor acting in a way which brought his honesty and integrity as a councillor into disrepute, and also, by association, the Council. She also considered that the councillor's actions were at odds with two principles within the Code of Conduct: a duty to uphold the law and leadership."

4.1 Oral evidence (meetings with Councillor Rush and Mr Barnbrook)

i. Councillor Rush

- First viewed video blog on/around 24 September 2008 on Mr Barnbrook's¹ Daily Telegraph blog.
- Blog was also posted on Mr Barnbrook's own website and on YouTube
- Found statements to be inflammatory (inflamed fears in the community and across London), that dealing with community fears/fear of crime is a responsibility that any elected member should take seriously.

¹ All references to Mr Barnbrook are to Councillor/ Assembly Member Barnbrook

- Because of her portfolio Councillor Rush knew that these statements were untrue
- Statements seem to be attempting to undermine confidence in public safety, confidence with the police, and are directly at odds with the principle of leadership
- Councillor Rush said that across London, politicians are working hard to reassure the elderly/ young people that the streets are safe and by what Mr Barnbrook has said he has deliberately set out to inflame fear and undermine the public's trust and confidence in local government and the police.
- Presented letter from the Metropolitan Police in Barking & Dagenham confirming that according to its statistics there were no murders in Barking and Dagenham during the 3 weeks preceding the posting of the video blog.
- Presented letter from Mr Barnbrook to local newspaper published on 11 December 2008 and headlined "Number of murders not relevant" in support of assertion that Mr Barnbrook knew the statements to be wrong and yet kept them posted on website
- Mr Barnbrook made the statements knowing them to be untrue
- Considered that Mr Barnbrooks actions brought the Council into disrepute because statements undermine trusted messenger relationship built up by Councillor Rush/the police with the community and undermined their message of reassurance with regards murders in the borough.
- Following a murder there is a lot of effort by the Community Safety Strategic Partnership to reinforce the community message. The Partnership has worked hard to reassure the community and they are responding to that message. The kind of comment from Mr Barnbrook "throws that all off side". that she had people coming up to her to state "three murders – what are you keeping from us?"
- Fear of crime is a main issue in the Borough
- Disparity between actual and fear of crime
- Fear of crime affects quality of life of all people in the Borough
- Young people more likely to join gangs and older people are less likely to leave home after dark when there is a perception of crime
- In LBBD Mr Barnbrook was the leader of the Opposition until his election to the GLA. The new leader of the Opposition does not have the same profile as Mr Barnbrook. The BNP's reputation is taken seriously and they are a legitimate party in Barking & Dagenham.

- Would like a public apology and a period of cooling off for a few months so that he is not allowed in the chamber until he understands that there are certain standards for elected members that he has to abide by, for example, sitting outside the Chamber for a couple of months

ii. Councillor/ Assembly Member Barnbrook

- Considered complaint to be a personal attack on him by Councillor Rush
- Has used blogs as a communication tool since “approximately 2004/2005”
- Checks contents of blogs and takes responsibility for these although he did not have time to see the final version of the blog in question.
- Initially he said that prior to the video going out, there was a murder of a young African Caribbean woman in Barking & Dagenham, and there were two other fatal attacks. He later said that that the woman who was killed was from Barking & Dagenham but was killed outside the area in Newham, and in relation to the other two attacks, the people did not die.
- With regards the first incident, Mr Barnbrook said that the statement “came out wrong” because of the speed of his delivery. With regards the second incident, Mr Barnbrook said that he “spoke too soon” and knew at the time that they were on life support.
- Did not himself view the video containing the statements giving rise to this complaint until (*London Mothers against knives*) *told me about the complaint*”
- Was asked by national BNP officials whether he wanted to leave video on blog after becoming aware of inaccuracies. He believed that the overall tenor still stands, and that it should be left on the website regardless of the misstatement. Indicated that his belief in gun crime [was] strong enough to keep it on his website and that he was of the view that it “*would be removed in 4-6 weeks anyway*”
- Felt that that the information was not correct, but “*until knife crime is over I will not apologise*”
- Did not regret making the statements, but he did regret not putting the correct information over, and it would have been better if the correct information had been put across. He regretted saying that there were two murders when there were not, but did not regret referring to the other murder.

- Mr Barnbrook said he had an audit process for screening information before publishing it. This was through the media, police and public.
- With reference to the article in the local newspaper in December 2008, he said that what he was saying was that nothing is being done in the Borough, even if one person dies or three, something still has to be done.
- Denied that his comments undermined the public's trust and confidence in local government and in the police, as the police don't have power or resources to deal effectively with knife crime. Politicians should say what is happening and he is feeding back to the community what is happening in real life.
- Thought that the blog had been removed in view of the fact that there had been inaccuracies.
- If he had said three murders took place, that wouldn't have been inaccurate because murders have happened in the Borough.
- If he had said that people are dying by the knife that would also have been accurate. *"I don't believe that I misled them, there are murders happening"*.
- He added *"but I could have made lots of other reports if I'd wanted to undermine police and the Borough. If I had to go through this again, I would do it again, but making sure it was accurate."*
- Comments were to show that this is happening, it was not enough for politicians to say it is all going nicely.
- He said that he did not trust the figures from the Metropolitan Police and had made a Freedom of Information request and had different figures returned.
- He said that his actions were not intentional

Specific responses to Allegation 1

- There was a murder but that in fact it involved a woman from the Barking and Dagenham area being murdered outside the Borough (in Newham)
- Had in fact meant to say that there had been a murder of a girl from Barking and Dagenham and that the statement *"had come out wrong because of speed of delivery"*

Specific responses to Allegation 2

- Acknowledged stating that there were two murders but that in fact *"the two people didn't die, they were critically ill but didn't die"*

- Accepted that at the time of making the statement he knew that the two individuals were in fact on life support
- Confirmed that both individuals in fact survived

4.2 Documentary evidence

Councillor Rush

- Letter from Hugh Boyle to Councillor Rush: 'Barking and Dagenham – Murder Statistics' dated 9 December 2008
- Undated newspaper article – 'BNP's Barnbrook under fire over 'YouTube murder claim'. Barking and Dagenham Recorder
- Newspaper article – statement of Councillor Barnbrook in the Barking and Dagenham Recorder: 'Number of murders not relevant' dated 11 December 2008

5. Summary of material facts

1. Councillor/ Assembly Member Barnbrook was filmed in an interview outside Southwark Cathedral. He is introduced as "Richard Barnbrook BNP General Assembly Member for London"(the transcript of the blog is at Document 3).
2. The blog appeared on www.richardbarnbrook.com, YouTube, and the Daily Telegraph website.
3. He states during the recording that "*..In Barking and Dagenham alone 3 weeks ago, there was a murder of a young girl. We don't know who's done it, her girlfriend was attacked inside an educational institute. Again, 2 weeks ago there was another attack by knives on the streets of Barking and Dagenham where 2 people were murdered..*"
4. Councillor Rush, member for LBBD made a complaint to both the GLA and the LBBD about the content of the blogs that she had seen on or around 24 September 2008. The GLA's Assessment Sub-Committee on 20 October 2008 decided that there was enough evidence to instruct the Monitoring Officer to investigate whether there had been a breach of the Code of Conduct, and considered that Mr Barnbrook was acting in his capacity as an Assembly Member.
5. The LBBD's Review Sub-Committee decided that there was enough evidence to instruct the Monitoring Officer to investigate whether there had been a breach of the Code of Conduct, and considered that Mr Barnbrook was acting in his capacity as a Councillor of Barking & Dagenham.
6. The Monitoring Officers of both LBBD and the GLA instructed a joint investigation.
7. Mr Barnbrook wrote a letter to the Barking & Dagenham Recorder, signing himself off as both Assembly Member and Councillor, which was published on 11 December 2008 which stated "*this is typical of the unhelpful approach taken by so many politicians today. They seek to whitewash and sidetrack the genuine concerns of the man in the street by raising issues which are simply irrelevant. Violent street crime is a grave concern for all of us who live in Barking & Dagenham and in London. To my mind it makes little difference whether there were one or three murders – just one murder is one too many! We need to focus on what, if anything, is being done about it, and I will simply trying to do just that. Arguing about numbers won't solve anything.*"
8. Councillor Rush met with the investigators on 16 January 2009, and Mr Barnbrook met with the investigators on 6 February 2009. The summary of their evidence presented in the meeting is contained in section 4 above and the record of their meetings are set out at Documents 17 - 19.
9. Councillor Rush stated in her original complaints to the LBBD and the GLA that both Mr Barnbrook's assertions relating to murders were lies. She said in her meeting with the investigators that she knew that they were lies because of her portfolio responsibilities (she is portfolio holder at Barking & Dagenham for Neighbourhoods and Communities).

10. Councillor Rush said in her complaint to the GLA that she considered the statements on the blog breached the general principles of honesty and integrity, and the code of conduct (as it brought the authority into disrepute). She also said this in her complaint to the Assessment Sub-Committee of the LBB, as well as including the general principles of duty to uphold the law and leadership. In her meeting with the investigators she also added the other general principles of Duty to Uphold the Law, and Leadership.
11. Mr Barnbrook met with the investigators on 6 February 2009. He said in his meeting with the investigators that he knew at the time that he made the statements that there had not been fatalities in Barking & Dagenham.
12. He said with regards to the first allegation of a murder that the reason he had said that there had been a murder was that it "*came out wrong*" because of the speed of his delivery. He had meant to say that that the woman was from Barking & Dagenham and murdered in Newham.
13. Mr Barnbrook confirmed with regards the second statement of his allegation that there were two murders, he knew at the time that he made the statement that they were on life support. He said that they did not die. (However, see paragraphs 7.3 and 7.4)
14. Mr Barnbrook took responsibility for the blog although he did not check its content until (London Mothers Against Knives) told him about the complaint.
15. A letter was sent to him by email from the legal team at the GLA on 23 October 2008 following the meeting of the Assessment Sub-Committee enclosing the Decision Notice. The Decision Notice set out details of the complaint, and the decision and the reasons for it.
16. A letter was sent to him from LBB following the meeting of the Review Sub-Committee enclosing the Decision Notice. The Decision Notice set out details of the complaint, and the decision and the reasons for it.
17. The recording of the video was not a live recording.
18. Mr Barnbrook in the investigation meeting said that the video was usually on the personal blog for three weeks. He thought it would be removed within 4-6 weeks. The blogs appeared on the internet, without restriction.
19. Mr Barnbrook accepted he was asked by the national BNP if he wished to remove the blog, and he determined that it should remain on the internet as he believed that the overall tenor still stood regardless of the misstatement. (The investigators did not ascertain when this communication took place).
20. Mr Barnbrook said that he would not make an apology." He said that "*I would say that the information that was given over was not correct. But until knife crime is over, I will not apologise.*" Mr Barnbrook acknowledged he had made a misstatement and "*I do regret saying that two people died and they didn't, but I don't regret saying about the murder*".

21. Mr Barnbrook wrote a letter to a newspaper, signing his name off as both Assembly Member and Councillor which was published in the Barking & Dagenham recorder on 11 December 2008. He said in this article that *“to my mind it makes little difference whether there were one or three murders - just one murder is too many!”*
22. A letter dated 9 December 2008 from Barking & Dagenham Metropolitan Police to Councillor Rush shows that murder figures are decreasing and that there were no murders in the period to which Mr Barnbrook referred. Mr Barnbrook disputes this as factual information. He had made Freedom of Information Act requests and said that he had different figures returned. The documentation that Mr Barnbrook has provided do not provide murder statistics for the LBBD, but are crime statistics.
23. At the time of the meeting with Mr Barnbrook on 6 February 2009, the recordings were still on the internet, but have since been taken down.
24. Councillor Rush in her response to investigators on the draft investigation report provided evidence to show that not only were there no fatalities but there were no serious incidents during the period 1 September – 24 September 2008.
25. Mr Barnbrook in his response to the draft investigation report apologised for passing on information that was incorrect, said that he actually meant to say *“attempted murders”*, and also stated that he did not apologise for trying to highlight a genuine problem in order to encourage something to be done about it.

6. Conclusion on facts

1. That Councillor Rush in her complaint considered the statements to be a lie, and Mr Barnbrook in his statements said that he knew at the time of making these statements that they were not correct. Councillor Rush in her meeting on the 16 January 2009 states that "because of her portfolio responsibilities she knows these statements to be false."

The Metropolitan Police Service in Barking & Dagenham have confirmed this by letter and said that there was one murder on April 19 2008 and not in the 3 week period alleged by Mr Barnbrook. The letter also shows that the murder rate has been decreasing.

2. Councillor Rush's main concern as she says in her statement is the impact of these statements on the community in terms of fear of crime, and that they undermine the public's confidence in local government and the police. Mr Barnbrook denied in his meeting that this was the case. Councillor Rush said that it undermined the trusted messenger relationship built up with the council/police and the community, that the fear of crime is the main issue in the borough, and the fear of crime affects the quality of life of all people in the borough. However, Mr Barnbrook accepted the point made to him in the meeting with investigators that as a politician he should make sure that what he says is accurate, as if he says there have been two murders and there haven't this will raise the fear of crime.
3. That the blog was filmed and then posted on Mr Barnbrook's website although at the time he knew the statements to be incorrect. He gave the reason for this as the "speed of delivery". The recording was not live. Mr Barnbrook although he himself did not view the blog until someone from London Mothers Against Knives told him of the complaint, said that he took responsibility for the content of the blog.
4. Mr Barnbrook was asked by the national BNP whether he wanted to leave the video on the blog after becoming aware of its inaccuracies and he said he wanted it to remain because of his belief in gun crime, and thought it would be removed within 4-6 weeks anyway.
5. Mr Barnbrook said that he would not apologise for the statements although stated that he regretted saying that there were two murders when there were not, and did not regret stating that there was another murder.
6. However, in his response to the investigation report, he has apologised for passing on information that was incorrect, that he meant to say that there were attempted murders, although did not apologise for trying to highlight a genuine problem in order to encourage something to be done about it.
7. Councillor Rush has provided evidence from the Metropolitan Police in response to the draft report that show that there were no serious incidents during that time period, which includes nobody on life support.
8. Mr Barnbrook also said that he did not believe that he misled people as murders are happening. He said that he did not trust the police figures and had made a Freedom

of Information Act request and had different figures which he would supply to the investigators. However, the evidence provided by Mr Barnbrook does not verify this.

7. Councillor Rush and Councillor/ Assembly Member Richard Barnbrook's additional submissions

The investigators would like to thank both Councillor Rush and Councillor/ Assembly Member Barnbrook for providing them with various documents. Apart from the documents set out in the Schedule of Evidence these have not been included in the report but have been collated as background papers, and we can provide these to the Committee, Monitoring Officers, Mr Barnbrook and the complainant on request. We recognise the significance they attach to these documents, but because of the narrow remit of this investigation, we do not consider them to be strictly relevant.

Councillor Rush's evidence not used

- 7.1 Councillor Rush provided the investigators with documents which she considered showed that fear of crime was a key concern of people, that the use of knives is increasing and as to why people carry knives.

Mr Barnbrook's evidence not used

- 7.2 Mr Barnbrook provided the investigators with newspaper articles which suggested that violent crime statistics were in disarray as crime figures had been misreported (however this did not include murder rates), as well as newspaper articles about knife crime. He also provided the investigators with responses to FOI requests about crime figures, numbers of murders in Barking and Dagenham, numbers in London admitted to hospital as a result of injuries sustained using knives, guns or other weapons and the destination of discharge from hospital,

7.3 Comments on Councillor Rush's comments on draft report

Councillor Rush disputes the assertion put forward by Mr Barnbrook that when referring to the occurrence of an incident on the streets of Barking and Dagenham* having resulted in two murders, he had in fact intended to state that the two victims did not die but were placed on life support before recovering.

She has produced evidence sourced from the Metropolitan Police that there were in fact no reported incidents in Barking and Dagenham during the period between 1-24 September 2008 which resulted in any individual suffering critical injuries requiring intensive care.

This evidence appears to cast doubt over the accuracy of the evidence provided by Mr Barnbrook during his investigation interview.

However, whilst the investigators have no reason to doubt the validity of the Metropolitan Police data, some uncertainty remains as to when the original video footage was taken, and as a consequence, whether the time period to which the data relates corresponds with the time period to which Mr Barnbrook refers in his blog. The investigators have sought verification from Mr Barnbrook's Personal Assistant as to the date of production of the video, however, he was unwilling to assist in this regard.

* Mr Barnbrook refers on the blog to this incident having taken place "two weeks ago"

7.4 Comments on Mr Barnbrook's comments on draft report (our comments in italics)

We have considered Mr Barnbrook's comments with care and taken them into account in formulating our final report. Where appropriate, we have included his comments and responded to them in the main body of the report.

- I accept the general validity of the complaint but do not accept that the inaccuracy of my statement was deliberate.

Mr Barnbrook stated at our meeting with him that with regards the first murder that the information came out wrong because of the "speed of delivery", and the second statement was wrong because "he spoke too soon". At the time he made the recording with regards this second statement he admitted at the interview with us that when he was making the statement he knew that it was wrong and that they were on life support.

- I did not know that the data contained in the recording was incorrect. I would not have posted the recording if I had known that it was incorrect.

This is different to the information that he provided at the meeting with us. He admitted at the meeting that he did know that the information was not correct.

- Once I realised that the data was incorrect, the recording was removed from the internet on my instruction within 24 hours.

At our meeting with Mr Barnbrook, he admitted that he knew that the information was inaccurate when he made the recording. He would have been informed of the complaint made by Councillor Rush after the meeting of both Assessment Sub-Committees of both the GLA and LBBD and also the Review Sub-Committee of LBBD and therefore would have been informed that the video was on the internet at this time. It was not until the investigators spoke to him at their meeting in January 2009 that he removed the statements.

- Although I knew that the video was to be used for some purpose, I did not know the exact timing or media that would be used to convey it.

In our meeting with him, he said that the BNP national website had asked him if he wanted to leave the recording on there.

- The speed of the delivery of the report, meant that some of the remarks I had intended to make, did not come out as I had intended them.

As we stated this was not being published live, so it could have been re-recorded.

- I had meant to say that one girl from Barking and Dagenham had been murdered in Newham, not that she had been murdered within the Barking and Dagenham borough.

This is addressed already in the report.

- The other two cases I mentioned were attempted murders and, at the time, the victims were in intensive care. Very fortunately these victims pulled through.

In the recording he states that they were murders.

- When I stated that these were “murders” I had actually meant “attempted murders”. This was not picked up in the editing of the report.

He did not state this in his recording, he did not re-record, and he did not say this in our meeting with him, or when we sent him a copy of the record of our meeting to review.

- The message I was trying to convey, in filming the report, was that knife crime in the borough of Barking and Dagenham is high and proportionately one of the highest in London. My intention in highlighting this was to make people aware of this in order to engage and encourage them to join in combating the problem rather than to frighten people or to criticise the Metropolitan Police.

Mr Barnbrook in the video states that various murders have taken place due to knife crime and this is factually incorrect.

- The Metropolitan Police statistics that they publish are inaccurate.

We have addressed this.

- I apologise for passing on information that was incorrect. It had not been my intention to mislead anyone and the inaccuracies were unintentional.

At his meeting with us, he stated that he would not make an apology. He has now apologised for passing on information that was incorrect. He knew at the time he made the statements that they were incorrect and the video was not re-recorded.

- I do not apologise for trying to highlight a genuine problem in order to encourage something to be done about it.

The recording emphasised that there had been murders in Barking & Dagenham which he knew was factually incorrect.

- I consider that the complaint is part of a political campaign against me.

We have been addressing the issue as to whether this is or is not a breach of the Code of Conduct.

Richard Barnbrook

15 April 2009

8. Reasoning and findings as to whether there been a failure to comply with the Code of Conduct

Capacity

8.1 Both the GLA and LBBB Codes of Conduct only apply to a member acting in their official capacity. Paragraph 2 (1) of the Code requires that a member must comply with the Code whenever they:-

(a) conduct the business of the Authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of the Authority.

The GLA

8.2 The Assessment Sub-Committee at its meeting of 20 October 2008 decided as set out in its Decision Notice (enclosed at Document 10) that *“Mr Barnbrook appeared to hold himself out as an Assembly Member and therefore the alleged conduct of the member fell within the scope of the Authority’s Code of Conduct.”*

The LBBB

8.3 The Assessment Sub-Committee sitting on 6 November 2008 to consider this complaint concluded that Mr Barnbrook was at the time of presenting his video blog not acting in his official capacity as a representative of LBBB. It decided to take no further action in response to the complaint. Councillor Rush however sought a review of the decision and the LBBB Review Sub Committee sitting on 3 December 2008 determined that the matter should be referred to the Monitoring Officer to investigate

8.4 Although the Decision Notices do not give any further detail, the Standards Board Case Review 2008 provides on page 3 that:

“the issue of whether a Member has been representing an Authority or acting in a private capacity is something which must be established... Ideally this will be established when assessing complaints. However, sometimes it will only become clear during an investigation.”

8.5 To that end we do not propose to review in detail the decisions on scope. However, with regards the GLA at the beginning of the blog, he is introduced as Richard Barnbrook BNP General Assembly Member for London and therefore it can be said that he was at the very least acting, claiming to act or giving the impression that he was acting as a representative of the Authority.

Does the behaviour breach paragraph 5 of the Code? - Disrepute

8.6 Paragraph 5 of the Codes of both authorities provide that a member must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

8.7 At Q43 on page 55 of the Standards Board for England's publication the Case Review 2007, the following guidance on the meaning of disrepute is given:-

"In general terms, disrepute can be defined as a lack of good reputation or respectability.

In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either

(1) Reducing the public's confidence in that member being able to fulfil their role; or

(2) Adversely affecting the reputation of members generally, in being able to fulfil their role.

Conduct by a member which could reasonably be regarded as reducing public confidence in the authority being able to fulfil its functions and duties will bring the authority into disrepute."

8.8 Q44 in the Case Review sets out the significance of the words "could reasonably be regarded":-

"An officer carrying out an investigation about someone allegedly breaking the Code of Conduct does not need to prove that a member's actions have actually diminished public confidence, or harmed the reputation of the authority, in order to show a failure to comply. The test is whether or not a member's conduct "could reasonably be regarded" as having these effects.

The test is objective and does not rely on any one individual's perception. There will often be a range of opinions that a reasonable person could have towards the conduct in question. Members will have failed to comply with the Code if their conduct "could reasonably be regarded" by an objective observer as bringing their office or authority into disrepute.

8.9 In summary, disrepute can be categorised as conduct which when viewed objectively, could reasonably be regarded as damaging or reducing the public's confidence in the member or members generally in being able to fulfil their role or in the authority being able to fulfil its functions and duties.

- 8.10 The GLA is a strategic authority. Its principal functions are the promotion of economic and social development, wealth creation and promoting the improvement of the environment in Greater London. It must exercise these functions in the way that best improves the health of people in London, achieves sustainable development in the United Kingdom and contributes towards the mitigation of, or adaptation to, climate change, in the United Kingdom. It also has particular functions in relation to, amongst other things, policing. The GLA is part of the wider GLA Group which includes the Metropolitan Police Authority (“the MPA”). The GLA has the power to direct the Functional Bodies on how they are to exercise their functions and the Mayor has the power to appoint to certain senior roles in those Bodies and is himself Chair of the MPA. One of the Mayor’s priorities is prevention of crime, which includes prioritising on prevention of gun and knife crime. The London Assembly consists of 25 elected members who hold the Mayor to account through scrutiny, approval of budgets and investigation of issues of importance to London.
- 8.11 The LBBD is a Unitary Authority with a statutory responsibility for delivering a range of services to the local community. It is made up of 51 councillors who are elected at local elections every four years. The Borough is divided into 17 areas called “wards”. Each ward elects three Councillors. In addition to its adoption of the Model Code of Conduct, the Authority also includes a range of protocols within its Constitution. This includes a Protocol relating to Communications for Council Members.

This states as follows:

1. It is the policy of Barking & Dagenham Council to be open, honest and accurate in dealing with the media at all times. Our press and marketing activity supports and promotes the wide range of activities Executive Members and Council Officers undertake as they work on behalf of residents to build communities and transform lives.
2. All elected members of the Council, whatever political party, have a duty both to the Council and to residents to ensure that in commenting on the policies and work of the Council, they make every effort to ensure that everything they say, whether verbally or written (for example in leaflets), is factually correct. Although Members are entitled to comment on Council policies, they must not knowingly explain Council policies in factually incorrect terms.
3. Inaccurately explaining Council policies can result in tension in the community and damage the reputation of the Council and its work on behalf of all residents that live in the borough.
4. Failure to follow this Protocol could lead to a Member being in breach of the Members’ Code of Conduct. Breaches of the Code will be referred to the Standards Committee.

- 8.12 It is necessary in the context of the above to consider the impact of Mr Barnbrook's statements (which he knew to be inaccurate) and whether they could reasonably be regarded as:
- (a) reducing the public's confidence in that member being able to fulfil his role;
or
 - (b) in the authority being able to fulfil its functions; or
 - (c) adversely affecting the reputation of members generally in being able to fulfil their role
- 8.13 We noted in our conclusion on the facts that Mr Barnbrook knew at the time he made the statements that they were untrue. He did not re-record the video even though it was not a live feed. When questioned by the BNP national party as to whether it should remain on the internet, he agreed that it should because of his belief in gun crime. He said that he took responsibility for the blog but said he did not view the blog until the London Mother's Against Knives person informed him of the complaint.
- 8.14 However, in his response to the draft report, Mr Barnbrook states that the inaccuracy of the statements was not deliberate, he did not know that the data contained in the recording was incorrect, and that he removed the recording from the internet within 24 hours of realising the data was incorrect. This appears at odds as to the comments he made in the interview with us.
- 8.15 At our meeting with us Mr Barnbrook clearly stated that he would not make an apology, although regretted not putting the correct information over. We were also told by Councillor Rush about Mr Barnbrook's high profile in Barking & Dagenham. We are aware that he was leader of the BNP group in Barking & Dagenham from 2006-2008. We are also aware of the wide audience that the internet reaches.
- 8.16 We noted that on 11 December 2008 he wrote a letter to the Barking & Dagenham Recorder where he stated that there has been a complaint by Councillor Rush about precisely how many murders had taken place in the borough. He said *"To my mind it makes little difference whether there were one or three murders – just one murder is one too many!.. Arguing about numbers won't solve anything."* However, we are aware from the letter dated 9 December 2008 from the Barking & Dagenham Metropolitan Police Service that at the time that he made the statements there were no murders in Barking & Dagenham during that period in which he said there were three. Mr Barnbrook has himself admitted in his statement of his awareness that the three murders he asserts in his statement did not end in fatalities in Barking & Dagenham.
- 8.17 Councillor Rush has told us that the issue of knife crime is the main issue in the LBB, and we are aware of the high profile this issue has across London, including the work that the GLA does on preventing knife crime.
- 8.18 We are aware that politicians do make generalisations and comments to score political points and we have had to carefully consider the statements made by Mr Barnbrook in this respect. The statements that Mr Barnbrook made were about two very specific incidents reporting three murders. He knew at the time he made those statements that they did not take place within the LBB, but the

statements he made suggested that they did. He knew that the video was then put on a blog, and at the very least thought it would be up there for 4-6 weeks.

8.19 The question for us as investigators is whether this brings his office or either authority into disrepute. We consider that on the facts presented Mr Barnbrook has been at the very least dismissive of providing people with correct information and at the most showed wilful disregard for the truth. Mr Barnbrook has demonstrated his concern with knife crime, both in the meeting with the investigators, and the subsequent evidence that has been provided to us. At his meeting with us he was clear that he did not want to apologise for the factually inaccurate reporting, whilst knife crime still exists. However, in his response to the draft report he apologises for passing on information that was incorrect and said that he meant to say that the two murders in Barking & Dagenham were in fact attempted murders and that this was not picked up in the editing, that it was not his intention to mislead anyone and the inaccuracies were unintentional. Whilst we have concerns with the last two points, this did appear to be an apology for inaccurate reporting. However, Councillor Rush in her response to the draft report has provided evidence to show that there were no serious incidents in the LBBB during the period at all which includes any resulting in a person being kept on life support. This is particular relevant for the second claim as Mr Barnbrook in his recording said that two people had been murdered; in his meeting with us said that he knew at the time that they had not been murdered but were on life support; and in his response to the draft report has said that he meant to say that they were attempted murders. If Councillor Rush's evidence from the Metropolitan Police is accepted and if it is the same period that Mr Barnbrook is talking about, then we have strong reservations about the accuracy of the evidence provided by Mr Barnbrook during the investigation.

8.20 As stated earlier, the Code needs to be read together with the general principles. The Code of Conduct Guide for Members 2007 states the following:

"These principles define the standards that members should uphold, and serve as a reminder of the purpose of the Code of Conduct.

As these principles do not create a statutory obligation for members, the Standards Board cannot accept allegations that they have been breached.

However, you should be aware that a failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be "conduct which could reasonably be regarded as bringing a member's office or authority into disrepute" as stated in paragraph 5 of the Code of Conduct."

8.21 As Councillor Rush points out in her complaint, she considers the relevant general principles are "honesty and integrity" and these are explained in the General Principle Order as "you should not place yourself in a situation where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour". She added in the investigation meeting and in communication with the Monitoring

Officer of LBBB that leadership was another principle that was important and we would agree that is relevant here. This principle reads *“You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence”*.

- 8.22 The general principles were recommended by the First Nolan Committee reviewing Standards in public life. They were recommended on the following basis:

“We can say that conduct in public life is more rigorously scrutinised than it was in the past, that the standards which the public demands remain high, and that the great majority of people in public life meet those high standards. But there are weaknesses in the procedures for maintaining and enforcing those standards. As a result people in public life are not always as clear as they should be about where the boundaries of acceptable conduct lie. This we regard as the principal reason for public disquiet. It calls for urgent remedial action.”

- 8.23 The Nolan Committee’s third report stated local councillors are aware *“that high ethical standards are critical to maintain public confidence in local government.”*

We can also look to the GLA Standards committee’s terms of reference as these include *“promoting and maintaining high standards of conduct by the Mayor, Assembly Members, and co-opted members.”* The LBBB Standards Committee terms of reference highlight the need to *“promote and maintain high standards of conduct by Members and Employees”*

- 8.24 Mr Barnbrook has said to us that he knew that what he was saying at the time was untrue, and this does seem at odds with the general principles of honesty and integrity, and leadership. Councillor Rush said that by making false statements this did undermine public confidence in the police and Councillor Rush. However Mr Barnbrook denied that in his meeting with us. The documentary evidence provided by both Councillor Rush and by Mr Barnbrook unfortunately does not assist us on this point. We consider that a Councillor/Assembly Member, as a leading member of the community, should uphold high standards of behaviour. Lord Bingham noted in *Porter v Magill* [2001] UKHL 67 and as recently reported in *(R (Mullaney) v The Adjudication Panel for England* [2009] EWHC 72 (Admin)) that *“..public powers are conferred as if upon trust that those who exercise powers in a manner inconsistent with the public purpose for which the powers were conferred betray that trust and so misconduct themselves.”* It is noted that a core purpose of the statutory conduct regime is to increase public trust in local government by putting in place a framework to govern the behaviour that the public can reasonably expect from those it elects to represent it.

- 8.25 If the public were aware that Mr Barnbrook was in fact putting out statements that he knew were false, we consider that this could reasonably be regarded as undermining public confidence in both Members and the authorities as a whole in being able to fulfil their functions.

- 8.26 We have considered the issue of freedom of expression briefly and whether there could be any infringement of this right here. In APE 0414, the courts said *“It is important that the restraints should not extend beyond what is necessary to maintain proper standards in public life and that political expression is afforded a higher level of protection.”* We consider that a politician should be able to put across their political views, and make political statements regardless of whether other political parties or member of the public disagree with them.
- 8.27 However, the difference here is that Mr Barnbrook made statements which he knew at the time were inaccurate, which we consider were at the very least dismissive of the truth and at the most displayed a wilful disregard for factual accuracy. This is in our view a behaviour that must fall within the remit of the Code of Conduct and the standards regime.
- 8.28 We consider that in the context of this case, by knowingly putting false statements on the internet on a high profile issue, Mr Barnbrook, who is a high profile local politician has acted in a manner that could reasonably be regarded as:
- a) Reducing the public’s confidence in that member being able to fulfil their role; and
 - b) adversely affecting the reputation of members and the role of both Councillor and Assembly Member generally; and
 - c) reducing public confidence in the respective authorities ability to fulfil their functions and duties. Trust in elected representatives is essential and by knowingly making untrue statements it could reasonably be regarded that Mr Barnbrook may have damaged public confidence in, and harmed the reputation of elected representatives.

9. Finding

In conclusion, we find that Mr Barnbrook has failed to comply with the Code of Conduct of both the GLA and the LBB, by bringing his office and the respective authorities into disrepute.

Schedule of evidence (documents in separate bundle)

A: Complaint and relevant correspondence

Doc No	Date	Description	Pages
1		Code of Conduct of the Greater London Authority	1-10
2	July 2008	LBBB Members' Code of Conduct	11-20
3		Transcript of the statement made by Councillor/ Assembly Member Barnbrook.	21-22
4	25/09/08	Councillor Rush's complaint to the GLA	23-24
5	07/10/08	Councillor Rush's complaint to LBBB	25-26
6	20 21/10/08	and Emails between Councillor Rush and Nina Clark, providing further details of her complaint	27-28
7	07/10/08	Letter to Helen Sargeant from Councillor Rush	29-30
8	08/11/09	Emails between Councillor Rush and Nina Clark, requesting a review of the LBBB Assessment Sub-Committee decision	31-35
9	07/11/08	LBBB Assessment Sub-Committee Decision Notice	36-38
10	22/10/08	GLA Assessment Sub-Committee Decision Notice	39-40
11	23/10/08	Letter to Councillor/ Assembly Member Richard Barnbrook from Stephen Gee: 'Complaint against Richard Barnbrook, Assembly Member', attaching Decision Notice of 20/10/08	41-43
12	03/12/08	Review Summary of LBBB Standards Sub-Committee: 'Standards Sub-Committee (Review) MC9/08	44-45
13	13/02/09	Email to Councillor/ Assembly Member Richard Barnbrook from Helen Sargeant: 'Sept/05'	46-48
14	09/12/08	Letter from Hugh Boyle to Councillor Rush: 'Barking and Dagenham – Murder Statistics'	49
B: Other relevant Evidence			
15	Undated	Newspaper article – 'BNP's Barnbrook under fire over 'YouTube murder claim''. Barking and Dagenham Recorder.	50
16	11/12/08	Newspaper article – statement of Councillor Barnbrook in the Ilford Recorder: 'Number of	51

		Murders not relevant’.	
C: Meetings with Councillor Rush and Councillor/Assembly Member Richard Barnbrook and comments on draft report			
17	16/01/09	Notes of Standards Investigation with Councillor Mrs V Rush	52-56
18	06/02/09	Notes of Standards Investigation with Councillor/Assembly Member Richard Barnbrook	57-62
19	16/01/09	Notes of Standards Investigation with Councillor Mrs V Rush with Councillor Rush’s comments	63-68
20	18/03/08 and 01/04/09	Email Comments from Councillor Rush on draft report	69-72
21	15/04/09	Comments from Richard Barnbrook on draft report	73

Appendix B

Conduct of investigation

The Monitoring Officers of Barking & Dagenham and the GLA jointly requested that this investigation was undertaken by Satish Mistry, Interim Deputy Head of the GLA, and Sanjay Prashar, Deputy Head, Corporate Law and Employment. Helen Sargeant, Senior Legal Adviser, GLA was assisting Satish Mistry at the GLA. Since Mr Mistry's departure on 26 February 2009 Helen Sargeant, Senior Legal Adviser, GLA has been undertaking the investigation on behalf of the GLA.

Throughout this report we have referred to Councillor/Assembly Member Barnbrook as Mr Barnbrook for ease of reference.