

SUMMARY OF THE DECISION FOLLOWING A HEARING OF A COMPLAINT THAT A MEMBER OF THE COUNCIL BREACHED THE CODE OF CONDUCT FOR MEMBERS

Member Complained of: Councillor Pat Karney
Complaint Reference: CCM 2019/06- 07- 09- 12- 13- 14
Date of Hearing: 20 February 2020

1. Background

- 1.1 In March 2019 seven complainants submitted complaints to the Council's Monitoring Officer concerning the conduct of Councillor Pat Karney, a member of the Council, shortly before and during the Council's Budget Meeting. The Monitoring Officer undertook an Initial Assessment of the complaints in accordance with the Council's Arrangements for dealing with Complaints that Council Members have failed to comply with the Code of Conduct for Members Having consulted with one of the Council's Independent Persons, she concluded, in her 3 July 2019 decision notice that the complaints should be referred for local investigation.
- 1.2 An Investigating Officer was appointed by the Monitoring Officer to conduct the investigation. Following his investigation the Investigating Officer issued a report, dated 23 October 2019, in which he concluded that there had been a breach of the Code of Conduct for Members (the Code) by Councillor Karney.
- 1.3 Having considered the Investigating Officer's report, and consulted the Independent Person, the Monitoring Officer determined that the matter should be referred for a local hearing. On 6 February 2020, one complainant withdrew their complaint. The Standards (Hearing) Sub-Committee served as the Hearing Panel.

2. The Alleged Conduct Complained Of

- 2.1 The Investigating Officer's report summarised the alleged conduct against the member as follows:

The incident occurred immediately before and at the Council's budget setting meeting on 8 March 2019.

Cllr Karney placed some letters behind the seat in which the Lord Mayor would sit during the meeting. The letters were positioned to read "10 years of Tory and Lib Dem cuts".

Cllr Leech, the leader of the Liberal Democrat group on the Council removed some of the letters before the meeting started. Cllr Karney confronted Cllr Leech demanding he return the letters.

Cllr Karney raised his voice and stated to Cllr Leech;

They are mine give them back to me. You do not run this council, if you want to run this council get more people elected. We make decisions about the council.

Now give them back to me now. That's vandalism, give them back to me, give them back to me now. We won't start till you give them back to me.

[at this point Cllr Karney grabs the letters from Cllr Leech]

How dare you. Vandal. How dare you.

Cllr Karney replaced the letters on the wall and the budget meeting commenced. The letters could be clearly seen on the Council's webcast of the meeting.

3. The Conduct of the Hearing

- 3.1 The conduct of the hearing is as detailed in the Hearing Panel's minutes, a copy of which are appended to (and forms part of) this Summary Decision.

4. The Hearing Panel's Decisions

- 4.1 The Hearing Panel's decisions are fully detailed in the appended minutes. However, the Panel's key conclusions are also set out below.
- 4.2 The facts as presented by the Investigating Officer were not disputed and were accepted by the Panel as the determined facts of the matter being considered.
- 4.3 Having considered the report of the Investigating Officer, and heard from the Member, the Panel does not feel there is sufficient evidence that the conduct of the Member amounted to harassment, bullying or abusive behaviour by the member against Councillor Leech. Therefore there is no breach of the Code of Conduct section 3.1(b).
- 4.4 The Panel does not consider on balance that the behaviour of the Member could reasonably be regarded as bringing the Member's office or the Council into disrepute. Therefore there is no breach of the Code of Conduct under section 5
- 4.5 The Panel agreed that in the having 14 of the letters of the sign displayed in the Council Chamber produced by the Member Services staff the Member did misuse the resources of the Council in breach of Section 6(b) of the code and

in doing so failed to demonstrate having regards to the use of the Local Authority code of publicity in breach of section 6(c) of the Code of Conduct.

4.6 In considering the appropriate sanction that should be applied, if any, the panel took account of the remorse demonstrated by the Member and concluded that the appropriate sanction was for the Panel's findings to be reported to Council for information.

4.7 It was agreed:

- That the findings of the Hearing Panel be reported to Council.
- To recommend to the Standards Committee that it review the processes and procedures regarding complaints against members.

Fiona Ledden
Monitoring Officer

On behalf of

The Hearing Panel

**APPENDIX – MINUTES OF THE STANDARDS (HEARING) SUB-COMMITTEE
20 FEBRUARY 2020**

**Standards (Hearing) Subcommittee
Minutes of the meeting held 20 February 2020**

(Acting with delegated authority)

Present:

G Linnell – Co-opted Independent Member (Chair)
Councillors Andrews, Evans and Kilpatrick

SHS/20/01 Appointment of the Chair

Decision

To appoint Mr G Linnell as the Chair of the Subcommittee for this hearing.

SHS/20/02 Exclusion of the Public

Decision

To exclude the public during consideration of the following item which involved consideration of exempt information relating to any individual, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SHS/16/03 Consideration of complaints

(Public excluded)

A number of complaints had been made that the conduct of a member of the Council constituted a breach of the Council's Code of Conduct for Members. The Subcommittee conducted a hearing into the complaints in accordance with the Council's procedure for hearing of allegations of misconduct.

(a) The finding on the facts

The Monitoring Officer had appointed an independent Investigating Officer to examine the complaints. The Subcommittee considered the Investigating Officer's report. The report included statements from the complainants and from the Member. The Subcommittee also watched a video of the incident that had resulted in the complaints being made. None of the complainants had personally witnessed the incident, all had become aware of it when the video was published on a website.

The Subcommittee heard from the Member, and two other councillors who accompanied the Member as his representatives, including information that the exchange between the member and Councillor Leech was longer than evidenced by the video which was accepted by the Panel. The Member was given the opportunity to put questions to the Investigating Officer.

The Subcommittee noted the time that had elapsed between the incident and this Hearing taking place. In noting that, they were satisfied that the proper investigatory procedure had been followed in relation to these complaints.

Decision

That the facts were not disputed and were accepted by the Subcommittee as the determined facts of the matter being considered.

(c) Question as to whether the Code of Conduct had been breached

Having considered the report of the Investigating Officer and the written and oral statements of the Member the Subcommittee examined the Code of Conduct to consider whether the conduct of the Member breached that Code. The Investigating Officer's report addressed three sections of the Code of Conduct and the Subcommittee considered and reached a decision on each in turn.

Decisions

1. The Subcommittee did not feel there was sufficient evidence that the conduct of the Member amounted to harassment, bullying or abusive behaviour by the member against another Councillor. Therefore, there was no breach of the Code of Conduct section 3.1(b): "bully or be abusive to any person".
2. The Subcommittee agreed that in having 14 of the letters of the sign displayed in the Council Chamber produced by the Member Services staff the Member did misuse the resources of the Council in breach of Section 6(b) of the Code and in doing so failed to demonstrate having regards to the use of the Local Authority code of publicity in breach of section 6(c) of the Code of Conduct.

"Section 6(b) You must, when using or authorising the use by others of the resources of your authority:

- (i) act in accordance with the Council's reasonable requirements; and
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);

Section 6 (c) You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986."

3. The subcommittee did not on balance consider that the behaviour of the Member could reasonably be regarded as bringing the Member's office or the Council into disrepute. Therefore, there was no breach of the Code of Conduct under section 5: "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute."

(d) Decision whether a sanction should be applied

On the issue of whether a sanction was required, and if so of what nature, the Subcommittee considered the advice of the Investigating Officer as given in the written report and orally during the earlier part of the hearing. It also considered the matters raised by the Member in mitigation. The Subcommittee examined each of the sanctions that were available to it under the Council's Standards procedures.

Decisions

1. That a sanction be applied.
2. That the appropriate sanction to apply was that the findings of the Subcommittee be reported to Council.
3. On the procedural lessons to be learned from these complaints, and the time it has taken for them to come before a subcommittee, to recommend to the Standards Committee that it review the processes and procedures regarding complaints against members.