

REDDITCH BOROUGH COUNCIL

STANDARDS DETERMINATION SUB-COMMITTEE HEARING

FULL WRITTEN DECISION

Reference number 2 / 2010

Hearing in relation to a possible breach of the Code of Conduct by failing to treat others with respect and through conduct which could reasonably be regarded as bringing the office of Councillor or the authority into disrepute.

Member subject to allegation	former Councillor Graham Vickery
Investigating Officer	Mr. Andy Teepe
Date of report:	28th April 2011
Name of Member's representative:	Mr. Ian Reilly
Relevant authority concerned:	Redditch Borough Council
Date of the hearing:	Commenced and adjourned on 11th July 2011; reconvened on 28th November 2011
Names of Standards Committee members:	
Chair:	Mrs. Deborah Andrews Mr. Michael Collins Councillor Jinny Pearce
Standards Committee Legal Adviser:	Mrs. Clare Flanagan
Committee Services Officer:	Mr. Ivor Westmore

Referral for investigation

The Standards Assessment Sub-Committee considered an allegation about the Subject Member on 13th July 2010 and decided to refer the matter to the Monitoring Officer for local investigation having identified that the Subject Member might have failed to comply with the Code of Conduct by failing to treat others with respect and through conduct which could reasonably be regarded as bringing the office of Councillor or the authority into disrepute.

The Monitoring Officer appointed Mr. Andy Teepe, Senior Solicitor, to investigate the allegation.

Summary of the Allegation

That former Councillor Vickery failed to comply with the Code of Conduct for Redditch Borough Council in that:-

the subject member had made a statement likening the political system in Redditch to that in Zimbabwe and suggesting that the Leader could be seen as the Robert Mugabe of Redditch.

Preliminary Issues

The Standards Consideration Sub-Committee had decided at a meeting on 11th July 2011 that the written papers and oral evidence were to be considered in public.

Mr. Reilly highlighted a number of procedural issues that he wished to raise with the Determination Sub-Committee, points which had been included in an earlier submission to the Council's Monitoring Officer by a legal representative acting on behalf of the subject Member. The points were essentially that the present course of action was wasteful of Council resources for the following reasons:

- former Councillor Vickery had resigned his seat and the Standards Committee no longer had jurisdiction over him;
- the Committee would have no powers to impose any penalties on him insofar as they would not be able to require him to apologise or suspend him from office;
- the Investigating Officer would not personally present his report or be challenged on it, thereby going against Standards for England guidance and the Council would be at a disadvantage in presenting its case; and
- the complainant had since requested the withdrawal of his complaint thereby reducing the gravity of the allegation.

The Deputy Monitoring Officer read out for the benefit of those present a response from the Council's Monitoring Officer to the points which had been made in the above submission. These were, in summary, that:

- no significant additional Council resources would have been used in hearing the case on 11th July as the Committee was already meeting on that evening;
- it was accepted that the only sanction open to the Council was censure;
- it was acknowledged that the subject Member was no longer a Councillor and that the complainant had asked that the matter be set aside on that basis. The Council had sought advice from Standards for England and been informed that the matter could not be put aside as the Investigating Officer's report had been issued;
- it was acknowledged that the subsequent death of the Investigating Officer would prevent that individual being questioned. However, the matter under consideration was not complex, there was no significant dispute over the facts and the Investigating Officer had been tasked with reaching a conclusion with reasons, which he had done in his Report which could therefore be put to the Sub-Committee as evidence of his finding;
- The only issue to be decided by the Sub-Committee was whether the comments made were acceptable as "political" comment or whether they displayed a lack of respect, amounting to a breach of the Code of Conduct.

The Sub-Committee noted the points that the subject Member and their representative had made in respect of the procedural issues.

Findings of fact

The facts set out in paragraph 5 of the Investigating Officer's Report were not significantly disputed by former Councillor Vickery and were therefore adopted by the Sub-Committee as the facts of the matter. Mr. Reilly and former Councillor Vickery did comment that the facts in question comprised little more than what was contained within a press report of the meeting at which the alleged breach had taken place and the judgment of the Investigating Officer.

Summary of submissions by the Subject Member

Mr. Reilly made a number of points in respect of the allegations against the subject Member, former Councillor Vickery.

It was stated that the comments made at the Council meeting were political in their nature, were not intended to be disrespectful and there had been no intention to breach the Council's Code of Conduct. It was contended that the

language used was robust but had not been intended to cause offence and that the subject Member had known the Council Leader for a considerable time and had respect for her. It was suggested that, in hindsight, the subject Member's words might have been more carefully chosen but it was pointed out that the comments formed a part of the political debate that brought the Council into repute rather than the comments bringing the Council into disrepute. Mr. Reilly commented that an interpretation had been placed on the words of the subject Member that had not been intended.

Former Councillor Vickery contended that the conclusion of the Investigating Officer was to reject the political aspect of what had been said at the Council meeting. It was also suggested that the contention within the Investigating Officer's report that comparison with Zimbabwe and its democratically elected leader was offensive in itself was unfounded. Former Councillor Vickery explained that the comments had arisen during a debate over procedure. The point was being made that, whilst the appointment of a particular Member to be the Chair of the Overview and Scrutiny Committee at the Council meeting was Constitutional, it was also partisan. The comparison to Mr. Mugabe had been an allusion to that Leader's opportunity to choose the leader of the opposition. It was reiterated that the Investigating Officer had set aside the political debate and had focused on the reference to Zimbabwe as being reprehensible in itself.

Former Councillor Vickery then made reference to comments made in the House of Lords by Lord Harris in which he was reported to have asked whether Lord Strathclyde was trying to win the Robert Mugabe award for constitutional innovation in response to a proposal. It was suggested that the debate in the Redditch Borough Council Chamber required the same rights and that the Council should aspire to the same standard of political debate as in the country's highest chambers.

Mr. Reilly added that Article 10 of the Human Rights Act, which covered the right to freedom of speech, provided a higher level of protection to political comment than to other forms of free speech. He also suggested that there was relevance to the complaint being made by an individual who had not been at the meeting in question and on the basis of a press report whereas no Members present at the meeting had felt that the comments had warranted a complaint.

Submissions by the Investigating Officer

In the absence of the Investigating Officer, there were no further submissions.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Determination Sub-Committee found as follows:-

The Sub-Committee decided that there had been no breach of the Redditch Borough Council Code of Conduct. The Sub-Committee accepted former Councillor Vickery's argument that the comments were made within a political context and that no personal offence was intended to the Leader of Redditch Borough Council. However, the Sub-Committee did consider that the comments were intended to be sensationalist and that the point could have been made in a more appropriate way.

Details of legal advice

The Chair stated that the Sub-Committee had received no legal advice other than confirmation that Mr. Reilly had been correct in his assertion that Article 10 of the Human Rights Act did give a higher level of protection to political comment.

Recommendations to the authority

No recommendations were made to the authority.

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Chair of the Standards Determination Sub-Committee

Dated: