



## **CODE OF CONDUCT FOR MEMBERS: DECISION NOTICE**

**Complaint Reference 2015/004**

### **Complaint**

A complaint was received about the conduct of Councillor Julian Mott, a Member of East Staffordshire Borough Council, from Councillor Richard Grosvenor, another Member of the Council.

A general summary of the complaint is set out below:

Councillor Grosvenor alleged that Councillor Mott posted on his blog a highly critical comment about Frank Bather, a former Councillor, who had passed away and whose funeral had taken place the previous day. On the date in question Cllr Mott was the Leader of the Council; and Councillor Grosvenor alleged, in particular, that an offensive caption, capable of being seen on the picture of Mr Bather which Cllr Mott had posted, brought both the office of Leader and the Council itself into disrepute. It was also alleged that Cllr Mott's actions were compounded by a radio interview, during which Cllr Mott said that he would apologise to Mr Bather's family 'if the situation arises' which it was alleged suggested that Cllr Mott showed no remorse and would not make a point of apologising. Cllr Grosvenor complained that this further brought the office of Leader and the Council itself into disrepute; and that Cllr Mott had breached the following paragraphs of the Council's Code of Conduct for Councillors:

- Paragraph 3.1 – Councillors must treat others with respect; and
- Paragraph 3.9 – Councillors must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute;

as well as the following paragraph of the Social Media Policy for Councillors:

- Paragraph 5.6 – Councillors must treat others with respect, avoid personal attacks and not make disrespectful, rude or offensive comments.

Having consulted with the Independent Person, the then Monitoring Officer decided to refer the complaint for investigation and he appointed an independent Investigating Officer to undertake the task.

The Investigating Officer found evidence of breaches of paragraph 3.1 of the Code of Conduct for Councillors and paragraph 5.6 of the Social Media Policy for Councillors.

He recommended that the complaint should be referred to the Standards Committee for further consideration.

The complaint was heard by the Standards Committee at a meeting on Tuesday 9<sup>th</sup> June 2015 at 5.00pm in the Coltman VC Room, Town Hall, Burton upon Trent.

The complaint has been considered in accordance with the Standards Committee Complaints Procedures at Part 4L of the Council's Constitution.

### **Decision**

Having considered the papers; heard submissions from the Investigating Officer and Ms Frances Randle of Steele and Shamash Solicitors, on behalf of Councillor Julian Mott; and having considered the views of the Reserve Independent Person, the Committee found that Councillor Julian Mott had breached paragraph 3.1 of the Council's Code of Conduct and paragraph 5.6 of the Social Media Policy for Councillors but that he had not breached paragraph 3.9 of the Code of Conduct.

The Committee was then required to consider which, if any, of the sanctions contained at paragraph 13.5 of the Code of Conduct, to impose on the Councillor. In reaching its decision the Committee considered the submissions of the Deputy Monitoring Officer; the submissions of Councillor Mott's solicitor; and the views of the Reserve Independent Person. The Committee imposed the following sanctions:

13.5.1 Publish its findings in respect of Councillor Julian Mott's conduct;

13.5.2 Report its findings in respect to the Council for information.

### **Reasons for decision**

In her closing submissions, Ms Randle made the point that this matter should have been resolved by mediation between the parties and also stated that she believed that it was unnecessary to hold a full-scale hearing of the complaint. The Committee did not accept either of those points: in their view, the incident giving rise to the complaint had occurred in a public arena and in the interests of transparency it was entirely proper for the Council to conduct a formal investigation and to convene a Standards Committee hearing.

Councillor Mott had admitted breaches of paragraph 3.1 of the Code and paragraph 5.6 of the Social Media Policy and the Committee found the admission to be wholly consistent with the evidence.

As far as paragraph 3.9 of the Code of Conduct was concerned, the Committee had had to draw the distinction between the common use of the word “disrepute” and its meaning within the context of a Standards complaint. The Committee accepted what the Investigating Officer had to say on the subject at paragraph 7.3 of his report: in particular, what he had to say about the words of Mr Justice Collins in the High Court case of Livingstone v Adjudication Panel for England. In his judgment, Mr Justice Collins drew the distinction between conduct which may damage an individual and that which may damage the reputation of his office or authority. On this point, the Committee also agreed with the Investigating Officer’s comments in paragraph 7.3.3 of his report in which he said that there were certainly those who had been critical of Councillor Mott’s behaviour and considered him unfit to hold office but that there was little to suggest that Councillor Mott’s office or the Council itself had been brought into disrepute. The Committee found that although Councillor Mott’s personal reputation had been affected, his office and the standing of the Council were not and they therefore found that there had been no breach of paragraph 3.9 of the Code of Conduct for Councillors.

In determining which sanction to apply the Committee took into account the submissions of the Deputy Monitoring Officer and Ms Randle; and they also had regard to the views of the Reserve Independent Person.

The Committee found the following to be aggravating factors:

- The use of the particular file name in respect of the photograph of Mr. Bather;
- The timing of the publication on the blog;

and the following to be mitigating features:

- Councillor Mott has shown genuine regret and remorse
- This was a genuine mistake.

The Committee also took into account the fact that approximately two weeks prior to the Standards Committee hearing, Councillor Mott had attended training on the Council’s code of Conduct for Councillors and the Social Media Policy. Had he not done so, the Committee would also have imposed a requirement for Councillor Mott to attend such training.

### **Notice of decision**

This decision notice will be sent to the person or persons making the allegation and the Member against whom the allegation was made. The decision will also be reported to the next ordinary meeting of the Standards Committee.

## **Appeal of decision**

There is no right of appeal for the Complainant or for the Councillor against a decision of the Standards Committee.

If someone feels that the Council has failed to deal with a Complaint properly, they may make a complaint through the Council's ordinary complaints process. This process would not re-consider the original complaint but would consider the way in which the complaint had been handled.

## **Terms of reference and Complaints Procedures**

The Terms of Reference of the Standards Committee and its Complaints Procedures are available on the Council's website ([www.eaststaffsbc.gov.uk](http://www.eaststaffsbc.gov.uk)) and from the Monitoring Officer.

## **Additional Help**

If you need additional support in relation to this decision notice or future contact with us, please let us know as soon as possible. If you have difficulty reading this decision notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

We can also help if English is not your first language.

**Signed** ..... **Date** .....

Angela Wakefield,  
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