

Standards Sub-committee

Thursday, 28 September 2023

Present: Councillor F Lott (Chair)
Councillors L Bartoli and E Darke

In attendance: Mr D Entwisle, Independent Person,
Mr C Jones, Investigating Officer

SS5/23 Appointment of Substitute Members

There were no substitute members.

SS6/23 Declarations of Interest

There were no declarations of interest.

SS7/23 Exclusion Resolution

The Sub-committee was required to consider any representations from the Investigating Officer and/or the Member as to why the Committee should exclude the press and public under the following terms:

“That under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 2 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1 of Part 1 of Schedule 12A to the Act.”

Neither the subject Member nor the Independent Investigator requested that the hearing, or parts of the hearing, be dealt with in private. The complainant had indicated in writing that he wished the hearing to be dealt with in open session.

On considering the Exclusion Resolution it was agreed that the Sub-committee should proceed with the hearing in public.

Resolved: that the Committee hearing proceed in public and the agenda papers be made available.

SS8/23 Preliminary Matters

The Sub-committee considered the following two preliminary matters.

1. Attendance

The subject Member, Councillor L Bones, was not in attendance at the hearing but had, on the morning of the hearing, submitted a statement to the Monitoring Officer with a request that this be read out at the hearing in his absence.

The Sub-Committee was satisfied that Councillor Bones was aware of the date and time of the hearing and had made a conscious decision not to attend. It was therefore considered appropriate to proceed with the hearing in his absence.

2. Procedural Issue

Councillor Bones had written to the Monitoring Officer on 24 August 2023 raising a procedural issue about the length of time between the Investigation Report being completed and the date of the complaint hearing. The Local Arrangements, under the section 'Procedure for Standards Hearings' states that on receipt of Forms A to E from a Subject Member, the Chair of the Standards Committee, in consultation with the legal adviser will then: -

"confirm a date, time and place for the hearing, which must be within three months from the date that the report was completed". The final Investigation Report was received on 23 May 2023.

The Monitoring Officer had responded to Councillor Bones by email and had also provided legal advice to the Chair of the Standards Committee on this procedural matter as part of the pre-hearing process. The Monitoring Officer read out his email to Councillor Bones for the benefit of the Sub-committee.

It was noted that Councillor Bones, despite repeated requests to do so, and the requirement on him to comply with the Code of Conduct process, had failed to return the completed Forms A to E which would have provided his response to the Investigation Report. It was also noted paragraph 15 of the Local Arrangements document and the paragraph 'Revision of these arrangements' which states "The Standards Committee/Sub-Committee, on the advice of the Monitoring Officer, may depart from these arrangements where it is necessary to do so in order to secure the effective and fair consideration of any matter."

The advice of the Monitoring Officer to the Chair of the Standards Committee was that, in the circumstances, it would be improper for the complaint against Councillor Bones to not proceed to a hearing.

Having considered the information provided, the Sub-committee, by a majority decision, agreed that it was appropriate on this occasion to depart from the Local Arrangements in respect of the three-month deadline for holding a complaints hearing, and to proceed to consider the complaint submitted against Councillor Bones.

Resolved: To depart from the three-month deadline for holding a complaints hearing and proceed to consider the complaint submitted against Councillor Bones.

**SS9/23 Code of Conduct for Members' and Co-opted Members – Complaint
NT09.2022-23**

The Standards Committee received a report which presented the Investigating Officer's completed investigation report in relation to an alleged breach of the Members' Code of Conduct in relation to Complaint NT09/2022-23.

The Pre-Hearing Process Summary Report was attached at Appendix B to the report.

In determining the procedural arrangements at the hearing, the pre-hearing process considered:

1. Summary of Allegations

The complainant, Mr James Allan, a former Labour Councillor of the Authority, alleges that:

1. The Subject Member, Councillor Liam Bones, published an article about him that appeared on a Facebook page and website called "North Tyneside Gazette" operated by Councillor Bones which contained "varying inaccuracies".
2. In publishing the article, Councillor Bones had failed to treat him with respect by suggesting that he had failed to undertake any work when he was a North Tyneside Councillor and that he was paid £150,000 in allowances despite his failure to attend any meetings.
3. The contents of the article are an "outright lie" because he continued to undertake "casework" and attend online meetings despite his illness in the 6 months before he lost his seat on the Council and had attended "thousands" of meetings during his time as a Councillor.
4. The article was written in an attempt to degrade his character and his record as a Camperdown Councillor. It was deceitful and dishonest and as a result brought the Authority into disrepute.
5. The article was either written in ignorance of his illness or with a disregard for it.
6. The article was written in the knowledge that the by-election had been called as a result of his non-attendance at an Authority meeting for over 6 months. That knowledge could only have been known by Councillor Bones as a result of confidential information given to him by officers which he then used in the article.
7. The use of his photograph taken when he was a Councillor in the article was the use of an Authority resource for political purposes.

2. Relevant Paragraph(s) of the Code of Conduct

The relevant paragraphs of the Code are:

a) Part 1 Paragraph 1 of the Code – Treating others with Respect

You must treat other Members and members of the public with respect.

b) Part 1 Paragraph 4 of the Code – Confidentiality and access to exempt information

You must not disclose information:

- a) given to you in confidence by anyone
- b) acquired by you which you believe, or ought reasonably to believe, is of a confidential nature

c) Part 1 Paragraph 5 of the Code – Disrepute

You must not do anything to bring your role or the Authority into disrepute.

d) Part 1 Paragraph 7 – Use of the Authority's resources and facilities

You must not misuse the Authority's resources.

You must, when using the Authority's resources or authorising their use by others: –

- a. Act in accordance with the Authority's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which you have been elected or appointed.

3. Conduct of the Hearing

The Investigating Officer had found in his report that breaches of the Code of conduct had occurred in relation to the above Complaint.

The Committee examined the Investigating Officer's report.

The Committee asked questions of the Investigating Officer in relation to his report.

The Committee considered the written statement from the Member.

In its deliberations in private, the Committee, having read the papers, heard from the Investigating Officer and considered the written submission of the Subject Member, carefully considered whether one or more breaches of the Code of Conduct had occurred. In reaching its decision the Sub-Committee took into account the views of the Independent Person.

4. Findings of Fact

The Sub-Committee made the following findings of fact:

Application of the Code

1. Councillor Bones does not dispute that he was the author of the article that appeared in the 'North Tyneside Gazette' ("the article") about Mr Allan on 9 June 2022. (Para 6.1.1.)

2. The Code of Conduct applies to the article because the article wholly relates to "Council business" and when Councillor Bones published the article he was therefore acting in his capacity as an elected Member and therefore the Code of Conduct for Members was engaged. (Para 3.6.2)

3. The article published by Councillor Bones on 9 June 2022 in the 'North Tyneside Gazette' included the following passages:

- "Voters to go to polls after 'Laziest Labour Councillor' kicked out".
- "During his time as a Councillor, Mr Allan received over £150,000 in allowances – but didn't think it necessary to attend the meetings he was being paid to go to".
- Labour Councillor Kicked Out.
- How many elections do we need to have before we get a Councillor who does the job?"

4. It is not disputed that Councillor Bones was responsible for the publication of the article. (Para 6.1.1)
5. Councillor Bones suggested that in accordance with the *Heesom v Public Ombudsman of Wales*, Mr Allan was subject to wider limits of acceptable criticism than other Members of the public because the article related to a period of time when Mr Allan was a Councillor. (Para 6.1.5.)
6. Councillor Bones also claimed that the statements that he made in the article were made in a political context and therefore, even if untrue, could be “tolerated” because they had some factual basis. Councillor Bones is of the view that the statements contained in the article “all had a factual basis”. (Para 6.1.6)
7. When considering whether the statements appearing in the article had a “factual basis”, including the statement that “During his time as a Councillor, Mr Allan received over £150,000 in allowances – but didn’t think it necessary to attend the meetings he was being paid to go to.” it is the case that Mr Allan during “his time as a Councillor” had in fact attended very many meetings of the Authority. That is verified by the Minutes of a sample of the meetings attended by Mr Allan over the years referred to in the Investigation Report. (Para 6.1.1)
8. The £150,000 estimate of allowances received by Mr Allan referred to in the article could only ever be based on Mr Allan’s entire period as a Councillor over many years and not merely for the period of 6 months absenteeism. (Para 6.1.9)
9. The statement appearing in the article relating to Mr Allan’s attendance and allowances as set out in paragraph 7 above was not an accurate reflection of the truth. (Para 6.1.10)
10. As part of his role in the Conservative Group, Councillor Bones regularly checked the attendance of Councillors at Authority meetings, including the attendances of Mr Allan. It is in that context, and being aware that Mr Allan had attended very many meetings over the years that Councillor Bones chose to refer to Mr Allan in the article as the “Laziest Labour Councillor”. (Paras 6.1.10 and 6.1.11)
11. The right of freedom of expression afforded to Councillor Bones as an elected

Member is a qualified right. Therefore, the statements made in the article needed to be justified by him. The claims in the article that Mr Allan had obtained £150,000 in allowances without “thinking it necessary to attend the meetings he was being paid to go to” and referring to him as “lazy” for not attending any meetings, could not be justified and Councillor Bones knew them to be false. (Para 6.1.14)

12. The information contained in the article regarding Mr Allan’s non-attendance at Authority meetings for over 6 months was true. Information in relation to the attendance of Members at meetings is publicly accessible, and the disqualification rules are a matter of law. (Para 6.2.1.3)

13. The photograph of Mr Allan included in the article was one which the Authority was likely to hold the copyright of and as such could be seen as its resource. However, the photograph also appears in other publicly available sources, such as the press, and was obtained through one of those sources. (Para 6.2.4.2)

Finding as to whether there has been a failure to follow the Code of Conduct

The Sub-Committee considered that the actions of Councillor Bones in publishing the article in the ‘North Tyneside Gazette’ on 9 June 2022 showed a lack of respect towards Mr Allan. Irrespective of whether Councillor Bones knew about Mr Allan’s illness or not, there was no excuse for him to have made the comments he did about Mr Allan, including the statement about Mr Allan’s attendance at meetings and the allowances he is said to have received, which were, in the words of the Independent Investigator “not an accurate reflection of the truth”.

No Breach

The Committee found unanimously that Councillor Bones **had not** breached the following paragraphs of the Code of Conduct for Elected Members:

Part 1 Paragraph 4 of the Code – Confidentiality and access to exempt information

As a Member:

You must not disclose information: -

a) given to you in confidence by anyone;

b) acquired by you which you believe, or ought reasonably to believe, is of a confidential nature, unless.....

or;

Part 1 Paragraph 7 of the Code – Use of Authority’s Resources and Facilities

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As a Member;

You must not misuse the Authority’s resources.....

Breaches

The Sub-Committee found unanimously that Councillor Bones **had breached** the following paragraphs of the Code of Conduct for Elected Members:

Part 1 Paragraph 1 of the Code – Respect

As a Member:

You must treat other Members and members of the public with respect.

Part 1 Paragraph 5 of the Code – Disrepute

As a Member:

You must do anything to bring your role or the Authority into disrepute.

7. Sanctions

The Sub-Committee considered what sanction, if any, to set in relation to the breaches of the Code of Conduct identified above.

In reaching its decision the Sub-Committee considered all the relevant circumstances, together with the verbal comments made by the Investigating Officer and the Independent Person.

The Sub-Committee also had regard to the statement submitted by Councillor Bones. In that statement he said: -

“Because of the lack of such an 'exemption motion', I incorrectly assumed Mr Allan's absence was due to laziness not illness. This was wrong, and I am sorry.”

He then went on to say: -

"I would once again like to extend an apology to Mr Allan for my poor language and its subsequent effect. In the time since my comments, I have both reflected on my actions and spoken with the Monitoring Officer, as well as received training on the code of conduct. Since then, no further complaints against me have proceeded."

The Sub-Committee, and the Independent Person welcomed Councillor Bones's willingness to apologise to Mr Allan and that he had made an incorrect assumption when publishing the article in the 'North Shields Gazette' and that he has reflected on his actions and has accepted that what he said was wrong.

Both the Investigating Officer and the Independent Person, when asked to comment on any possible sanctions, suggested that given the public nature of the comments made about Mr Allan by Councillor Bones, that any apology given by Councillor Bones to Mr Allan would have to be a "public" apology.

It was **resolved** that:

1. A letter of apology be issued by Councillor Bones to Mr J Allan.

The letter of apology be supplied to the Chair of the Standards Committee and Monitoring Officer, and agreed with the Chair of the Standards Committee and the Monitoring Officer, as soon as possible before it is sent to Mr Allan.
2. A letter of censure be issued to Councillor Bones by the Sub-Committee; and
3. The decision of the Sub-Committee be reported to a meeting of the full Council for information.

This was a majority decision of the Sub-committee.