

SOUTH DERBYSHIRE DISTRICT COUNCIL

STANDARDS SUB-COMMITTEE

DECISION NOTICE

HEARING DATE: 26TH MARCH 2015 AT 10:00AM

Opened: 10:00 am
Closed: 4:50pm

In attendance:

SUB-COMMITTEE

Councillor Harrison (Chairman)
Councillor Stanton
Councillor Pearson

INDEPENDENT PERSONS

Peter Purnell
Peter Smith

SUBJECT MEMBER

Councillor Martyn Ford

MONITORING OFFICER

Ardip Kaur

INDEPENDENT INVESTIGATOR

Owen Willcox – Geldards

COMPLAINANT

David Anthony Barke

CLERK TO THE PANEL

Angela Edwards – Senior Legal Officer

DECISION NOTICE

1. The Chairman opened the Hearing.
2. The Chairman introduced himself, invited the Members of the Sub-Committee, and the Independent Persons to introduce themselves. The Chairman invited Officers present to introduce themselves.
3. The Chairman invited;
 - (a) the Independent Investigator to introduce himself;
 - (b) the Member subject of the investigation to introduce himself;
 - (c) the complainant to introduce himself.
4. The Chairman explained the procedure to be followed.
5. The Chairman asked Mr Willcox to present his report and call any witnesses, including Mr Barke. Mr Willcox outlined the complaint against Councillor Ford, identifying each element of the complaint. The investigator then called David Barke
6. The Chairman asked Councillor Ford if there were are any questions he wished to put to Mr Barke. Councillor Ford asked questions of Mr Barke.
7. Mr Willcox finalised presentation of his report and concluded by stating his report identified Councillor Ford had breached the Council's Member Code of Conduct in relation to paragraphs 3(1), 3(2)(b), and 5.
8. The Chairman asked Councillor Ford if there were any questions he wished to put to Mr Willcox.
9. The Chairman asked the Sub-Committee and the Independent Persons if they had any questions of Mr Willcox. The Sub-Committee and Independent Person put questions Mr Willcox.
10. The Chairman asked Councillor Ford if he wished to make representations to the Sub-Committee and call any witnesses. Councillor Ford made representations.
11. The Chairman asked Mr Willcox if there were any questions he would like to put to Councillor Ford. Mr Willcox asked questions of Councillor Ford.
12. The Chairman asked the Sub-Committee and Independent Persons if they had any questions for Councillor Ford. The Sub-Committee and Independent Persons asked questions of Councillor Ford.
13. The Chairman allowed Mr Willcox to sum up.
14. The Chairman allowed Councillor Ford to sum up.

15. At the conclusion of the evidence, the Sub-Committee and Independent Persons retired to consider in private whether Councillor Ford failed to comply with the Council's Member Code of Conduct, as set out in the Independent Investigators report.

DECISION

The Sub-Committee and Independent Persons returned and the Chairman announced the Standards Sub-Committee had made a decision.

Prior to announcing the Sub-Committee's decision the Chairman asked the Independent Persons to express their views.

The Independent Persons expressed the following view;

'We accept the Investigator's finding that there has been a breach of the Code of Conduct in respect of 3(1) and 3(2)(b) for the reasons set out in his report.

We are not convinced that the evidence presented in relation to 3(1) and 3(2)(b) automatically substantiates a breach of the Code in respect of paragraph 5'.

The Chairman announced the following decision;

In relation to paragraph 3(1) of the Member Code of Conduct – you must treat others with respect, the Sub-Committee resolved Councillor Ford had breached paragraph 3(1) of the Code

The reasons for this were as set out in paragraphs 158 – 161 of the Independent Investigator's report;

- Paragraph 158 – On 8th July Councillor Ford tweeted on his own Twitter account the words 'smiling assassins! The face of the enemy' accompanied by a photograph of the team at Murrays including Mr and Mrs Barke.
- Paragraph 159 – In my judgment, this is an offensive and disrespectful comment and breach of paragraph 3(1) of the Code.
- Paragraph 160 – On 8th July at 11:41 Councillor Ford commented that Murrays had probably offered those removing Campaign posters 'a deal on burial, more posters removed, more money off'. This and his comment on 11th June at 13:46 on the Save the Wheel Facebook page that 'They put cash above community, pounds above people' are both in my judgment disrespectful, particularly given the nature of Murrays business and are a breach of paragraph 3(1) of the Code.
- Paragraph 161 – On 12th August Councillor Ford 'liked' (or endorsed) a Facebook accusation that Murrays were responsible for stealing or the unauthorised removal of a number of campaign poster boards. Both the allegation and its endorsement by Councillor Ford, are, in my judgment, disrespectful and a breach of paragraph of 3(1) of the Code.

In relation to paragraph 3(2)(b) of the Member Code of Conduct – you must not bully any person, the Sub-Committee resolved Councillor Ford had breached paragraph 3(2)(b) of the Code

The reasons for this were as set out in paragraphs 163 - 168 of the Independent Investigator's report;

- Paragraph 163 - For the reasons set out in para 72 of this report, Councillor Ford's posting of 1st August to the Campaign Facebook Page was intended to intimidate the complainants and as such, in my judgement, amounts to bullying and a breach of paragraph 3(2)(b) of the Code.
- Paragraph 164 - For the reasons set out in para 73 of this report I also find that the post of 20th August endorsed by Councillor Ford amounts to a breach of paragraph 3(2)(b). The resident's campaign against Murrays was designed, at least in part, to intimidate them and to coerce them to relocate elsewhere. The entry of 20th August was, an example of such intimidation and was endorsed by Councillor Ford.
- Paragraph 165 - For the reasons stated in para 82 of this report I find that Councillor Ford's tweet of 8th July on his own Twitter Account is in breach of paragraph 3(2)(b) of the Code.
- Paragraph 166 - For the reasons stated in paras 92 and 93 of this report I also find that Councillor Ford's email of 18th August amounts to bullying in breach of paragraph 3(2)(b) of the Code.
- Paragraph 167 - Councillor Ford also advocated a boycott of Murrays (Page 218). On 8th May he posted a message on the Facebook Campaign Page to that effect which he confirms in his own statement (paragraph 28) was designed to persuade them to relocate elsewhere. Again, in my judgement this amounts to bullying in breach of paragraph 3(2)(b) of the Code.
- Paragraph 168 - Alternatively, if a cumulative view is taken of the postings and their endorsement of a wider campaign of intimidation, they amount to a breach of paragraph 3(2)(b) of the Code.

In relation to paragraph 5 of the Member Code of Conduct – you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. The Sub-Committee resolved Councillor Ford breached paragraph 5 of the Code; this was not a unanimous decision.

The reasons for this were as set out in paragraph 173 of the Independent Investigator's report;

- Paragraph 173 – Given the nature and circumstances of the breaches of paragraphs 3(1) and 3(2)(b) Councillor Ford has in my judgment, conducted himself in a manner which could be reasonably regarded as bringing his office of member his authority (namely the Council) into disrepute.

SANCTIONS

The Sub-Committee resolved to impose the following sanctions in relation to the above breaches of the Members Code of Conduct;

- Censure
- Recommending the Monitoring Officer arrange Members Code of Conduct training for Councillor Ford.