

**STANDARDS COMMITTEE
26 JUNE 2013**

Please note that these are draft minutes and will not be ratified by the committee until its next meeting on (16 September 2013).

Present: Independent members: -
Sue Fellows and Robert Spiring

Councillors Cooke, Daniel (Chair), Kramer, Roberts and Street.

Also in attendance were Mr Vallery-Peters, Councillor Emily Westley, Mrs Frances Randle, Solicitor for Cllr Westley, Chris Barkshire-Jones, Chief Legal Officer and Deputy Monitoring Officer and Kirsty Cameron, Principal Solicitor.

1. MINUTES

RESOLVED – that the minutes of the meeting held on 16 April 2013 be approved and signed by the chair as a correct record.

2. DECLARATIONS OF INTEREST

The following Councillors declared their interests in the minute indicated: -

Councillor	Minute	Interest
Daniel, Kramer, Roberts, Street	13 – Investigation of Complaint SC/01/13/2013	Personal – Cllr Westley is a member of the Labour Group.
Cooke	13 – Investigation of Complaint SC/01/13/2013	Personal – Cllr Gurney is a member of the Conservative Group and he was referred to in the Complainant's letter.

3. INVESTIGATION OF COMPLAINT REFERENCE SC/01/13/2013

The Complainant, Mr Vallery-Peters, alleged that Councillor Westley had put defamatory remarks about him on her twitter account alleging that he was standing as the UKIP candidate in the forthcoming County Council elections. He later provided evidence to the Council's Deputy Monitoring Officer and Chief Legal Officer that showed the following statements on Councillor Westley's twitter account;

"I see you have a defector for ESCC election to UKIP. I bet your glad to get rid of that criminal Richard Vallery-Peters". This was sent to Hastings Rye Conservatives 7th April 2013. When asked by the Hastings and Rye Conservatives what evidence there was in respect of the statement, the following was sent on 7th April in reply: "about him wearing medals he was not permitted to wear. Defecting he announced in the pub."

Since then the complainant had written to Councillor Westley about the 'tweets'. Councillor Westley had instructed lawyers from the Association of Labour Councillors who sent a letter to the complainant. The letter contained an apology in the following

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format: "Our client wishes to apologise for making this statement and regrets any distress or embarrassment which the wording... may have caused you".

The letter also explained that Councillor Wesley thought that Mr Vallery-Peters had been arrested in regard to the wearing of military medals he was not entitled to wear and had received a criminal sanction. She now realizes that was not the case. Councillor Westley had removed the 'tweets'.

The Chief Legal Officer and Deputy Monitoring Officer summarised her report.

Mr Vallery-Peters addressed the Committee and explained that Councillor Westley's accusation was false. He said he had wrongly been labelled as a criminal, accused of fraud and of wearing medals that he was not entitled to. Furthermore, he said that although an apology had been offered by Councillor Westley, it was not sufficient and he had rejected it. He believed that Councillor Westley had breached the Code of Conduct and had treated him with disrespect and that he was owed a formal apology.

Mrs Frances Randle, Solicitor for Councillor Westley addressed the Committee. She stated that the tweet had been removed and that an apology had been offered twice which was rejected as it was not accompanied by damages. She stated the facts were not in dispute - only Councillor Westley's capacity when making the tweet. She referred to case law and stated that the Code of Conduct only applied when acting in an official capacity as a representative of the authority. She stated that Councillor Westley was in her personal capacity when making the tweets and there was no failure to comply with the Code of Conduct as it was not engaged.

The Committee retired to consider findings of fact and which sections of the Code of Conduct had been breached (if any). They returned and announced their findings of fact, as follows: -

A motion that the Paragraph 3(1) of Code of Conduct was not engaged at the time when Councillor Westley made the tweets was lost by (2 votes to 3). A motion was moved and seconded that Paragraph 3(1) of the Code of Conduct was engaged at the time Councillor Westley made the tweets, this was won by (3 votes to 2).

Decision:-

Resolved unanimously that:-

The Committee decided that Paragraph 3(1) of the Code of Conduct – You must treat others with respect had been breached.

Reasons for the decision:-

1. Members considered submissions by the Complainant, Councillor Westley and her Solicitor and considered 'Connected Councillors: a guide to using social media to support local leadership' issued to all Hastings Borough Councillors and previous case law of relevance (including Hull CC v Fareham);

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2. At the time of the events complained of 9 April 2013, Councillor Westley was a member of Hastings Borough Council;
3. At the time of the events complained of Councillor Westley was required to observe the Code of Conduct of Hastings Borough Council;
4. At the time of the events, in posting the 'tweet' Councillor Westley was giving the impression that she was acting as a representative of the Council and therefore in her official capacity;
5. At the time of events, Councillor Westley was a leading member of the controlling political party and the description on her twitter profile was that of a labour Councillor;
6. The HBC protocol for relationships between members and officers was not relevant in this matter.
7. The Committee stated that Councillor Westley's comment re "criminal" was clearly not respectful - as her Solicitor had acknowledged in her submissions.

Decision:-

Resolved unanimously that:-

The Committee found that Paragraph (5) of the Code of Conduct - You must not conduct yourself in a manner which would reasonably be regarded as bringing your office or authority into disrepute, had not been breached.

Reason for decision:-

Having considered the guidance and case law on bringing your office or authority into disrepute, Councillor Westley's behaviour was not of that level and did not bring the Council into disrepute.

Sanctions :-

The Committee returned to consider imposing any sanction. The Chief Legal Officer and Deputy Monitoring Officer addressed the Committee in respect of sanctions.

The Standards Committee heard representations from Councillor Westley's Solicitor and consulted the Independent Persons.

The Committee were left to consider appropriate sanctions and announced their decision, as follows: -

A motion to agree the sanction was approved as set out in the resolution below.

RESOLVED (unanimously) – that: -

The Standards Committee considered all relevant mitigating circumstances, the fact that there were no aggravating factors and decided that Councillor Westley should

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attend training on Social Media and the Code of Conduct. The training is to be arranged by the Monitoring Officer or Deputy Monitoring Officer and undertaken by Councillor Westley on 11th July 2013 or within 3 months.

Reasons for the sanction imposed:-

The Committee agreed that Councillor Westley had apologised unreservedly. They felt her apology was adequate and accepted her explanation as to why she did not put apology on twitter. They believed there was a need to impose a penalty for the breach. They believed that Councillor Westley had suffered enough from the experience and given the effect on her and her family training was a proportionate sanction.

The Chair explained that Cllr Westley would receive the committee's decision in writing in due course.

(The Chair declared the meeting closed at 8.44pm)