

**MINUTES OF A MEETING OF THE
ADJUDICATION & REVIEW - (STANDARDS - HEARINGS SUB-COMMITTEE)
Committee Room 1-Town Hall - Town Hall
15 July 2014 (6.30 - 9.30 pm)**

Present:

COUNCILLORS

Conservative Group Joshua Chapman (Chairman)

Residents' Group Julie Wilkes

UKIP Group David Johnson

All decisions were taken with no votes against.

1 CHAIRMAN'S ANNOUNCEMENT

The Committee Officer reminded Members of the action to be taken in an emergency.

2 DISCLOSURE OF PECUNIARY INTERESTS

No pecuniary interests were declared.

3 EXCLUSION OF THE PUBLIC

The Committee resolved to exclude the public from the meeting during discussion of the following item on the grounds that if members of the public were present it was likely that, given the nature of the business to be transacted, that there would be disclosure to them of exempt information within the meaning of paragraph 1 of Schedule 12A to the Local Government Act 1972 which could reveal information relating to an individual.

4 CONSIDERATION OF CASE NOS. CO 39/13, CO 40/13, CO 41/13 AND CO 42/13

Following an article printed in the Romford Recorder dated 22 November 2013, the Cabinet meeting on 20th November 2013 and the Full Council meeting on 27th November 2013 five complaints were received.

Councillors Michael White, Steven Kelly and Pam Light complained that Councillor Tucker made racial comments to the Romford Recorder, a newspaper and published online, week commencing 18th November 2014; thereby bringing the Council into disrepute.

Councillors Steven Kelly and Denis Breading complained that Councillor Tucker's remarks made at Cabinet on 20th November 2013 were insulting and racist towards the Officers, Members and the public within the London Borough of Havering and the London Borough of Newham; thereby in breach of the Code of Conduct.

Councillor Denis Breading complained that at Full Council on 27th November 2013, Councillor Tucker was disruptive and prevented the meeting going ahead; thereby in breach of the Code of Conduct.

Councillor Pam Light and Denis Breading complained that the conclusion of Full Council on 27th November 2013, Councillor Tucker was aggressive towards Ian Burns, Acting Assistant Chief Executive in breach of the Code of Conduct.

This Complaint was considered by an Initial Assessment Panel on 12th December 2013. The findings of that Panel were to refer this allegation to the Monitoring Officer to formally investigate and following investigations to report to the Sub-Committee Hearings Panel. The Monitoring Officer appointed an Independent Officer and the Panel was to consider her report.

After deliberation and by taking due regard to the report from the Deputy Monitoring Officer, the Independent Officers report, the evidence gathered at this hearing and the Public Sector Equality Duty. The panel reached the following conclusions in respect of the allegations:

Councillor Tucker made racial comments to the Romford Recorder, a newspaper and online publication week commencing 18 November 2013 thereby bringing the Council into disrepute.

The Independent Officers finding was that there is insufficient evidence to support the allegation. Councillor Tucker disputed the accuracy of the article and the Independent Officer explained to the panel that she had considered it inappropriate to test the accuracy with the reporter because she did not wish to raise the profile of the matter further.

The Panel understood the investigator's reasoning but regretted that it did not have independent evidence on this point, none the less the panel considered that there was nothing to gain in re-opening this aspect of the investigation.

In the circumstances, the Panel found there was insufficient evidence to support the allegation.

In relation to the allegation:

Councillor Tucker's remarks made at Cabinet on 20 November 2013 were insulting and racist towards officers, members and the public within the London Borough of Havering and the London Borough of Newham, thereby in breach of the code of conduct.

The Independent Officer has found that there is insufficient evidence to support this allegation. The Panel have accepted the Independent Officer's finding that comments about "African and English football teams" were not made at this meeting and therefore accept that no racist comments were made.

The Panel has had more difficulty with the allegation that insulting comments were made, in relation to "the washing of curtains". The Panel debated if these comments were insulting to residents of both boroughs and there were differing views as to the severity of the comments and the level of insult that may have been felt by residents, members and staff. One member of the Panel felt that this was insulting and in breach of the code but the majority view was that although the words used by the member were not well chosen he was simply trying to express what he was as the difference between the two boroughs and therefore no breach of the code had been found.

In relation to the allegation:

Complaints that at the Council meeting on 27 November 2013, Councillor Tucker was disruptive and prevented the meeting from going ahead; thereby in breach of the code of conduct.

The Independent Officer found that Councillor Tucker's conduct was not conducive to good order and the running of the meeting and there was a clear breach of the code of conduct but his conduct formed part of a general breakdown of disorder. Therefore although there was a breach of the conduct expected, the Independent Officer was of the view that it would be unfair and unreasonable to pursue the matter against a single member.

The Panel accepted this view and did not uphold the allegation.

In relation to the allegation:

That at the conclusion of the Council session on 27 November 2013, Councillor Tucker was aggressive towards Ian Burns, Action Assistant Chief Executive in breach of the code of conduct.

The Independent Officer found that "By his actions, namely, leaving his seat, approaching and then touching the officer in Chambers whilst in an apparently hostile mood, councillor Tucker has failed to treat people with respect, as required by the code"

“Following the close of the meeting on 27 November 2014, by his verbal conduct towards the officer, he failed in his obligation as a holder of public officer to promote and support these principles by leadership and example.”

The Panel considered the findings of the Independent Officer and debated this at length. There was a difference of opinion as to whether this amounted to a breach of the code. One of the panel members considered that given all the circumstances leading up to this point, and the fact that passions were running high, there was not a breach of the code as Councillor Tucker was not sufficiently aggressive to make Ian Burns feel threatened.

The majority view was that there was a breach of the code.

The Panel therefore considered what sanction, if any, should be applied.

The Panel noted the recommendations of the Independent Officer in relation to an apology, however it was noted that Councillor Tucker had already apologised to Ian Burns at the Councillor meeting on 11 June 2014 and that Ian Burns had accepted that apology.

The Panel therefore considered that no further apology was necessary, however the Panel did consider, in all the circumstances, that it would recommend to the Monitoring Officer to arrange training on the Code of Conduct and urged Councillor Tucker to take up this recommendation.

5 CONSIDERATION OF CASE NO CO 43/13

Following a trail of emails prior to Full Council on 27th November 2013 between Councillor David Durant and Ian Burns, which were copied to all Councillors, Councillor Pam Light submitted a complaint concerning the tone of these emails, alleging that they bordered on bullying.

This Complaint was considered by an Initial Assessment Panel on 12th December 2013. The findings of that Panel were to refer this allegation to the Monitoring Officer to formally investigate and following investigations to report to the Sub-Committee Hearings Panel. The Monitoring Officer appointed an Independent Officer and the Panel was to consider her report.

After deliberation the Panel accepted the recommendations of the Investigating Officer that Councillor Durant had not breached the Code of Conduct. However, the Panel would take the issue back to the Adjudication and Review Committee and give further thought as to whether to include an item on the Member/Officer protocol in respect of emails, in its work programme.

Chairman