

## **Standards Sub-Committee - Hearing**

**26 March 2015**

Present: Councillor C Johnson (Chair)  
Councillors P Earley and P Mason

Also Present: Mr P Keith-Lucas, Bevan Brittan LLP, Investigating Officer  
Mr G Clark, Independent Person  
Ms S Gardner, Independent Person

### **SSC19/03/15 Apologies**

There were no apologies submitted.

### **SSC20/03/15 Appointment of Substitute Members**

No appointment of substitutes was reported.

### **SSC21/03/15 Declarations of Interest and Dispensations**

There were no declarations of interest reported.

There were no dispensations in relation to registerable personal interests reported.

### **SSC22/03/15 Chair's Announcement**

The Chair's opening remarks included the introductions of all parties present and the preliminary procedural matters.

The Standards Sub-Committee was required to consider whether to adjourn or to proceed in the absence of the Member in relation to complaint NT01/2014, if the Member in relation to the complaint was not present.

The Sub-Committee was advised that as part of the pre-hearing process, the Member had submitted written representations which confirmed he would not be in attendance at the sub-committee hearing.

**Resolved** that the Sub-Committee hearing proceed in the absence of the Member.

### **SSC23/03/15 Exclusion Resolution**

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

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“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 item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act.”

No representations were received.

**Resolved** that the Sub-Committee hearing proceed in public and the agenda papers be made available.

### **SSC24/03/2015 Code of Conduct for Members – Complaint NT01/2014**

The Standards Sub-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 NT01/2014.

The Authority’s Local Arrangements for the consideration of complaints made against Members under the Code of Conduct for Members and Co-opted Members at Appendix A to the report, required that a completed investigation report be received by the Standards Sub-Committee to determine the action to be taken with respect to the Complaint.

The person(s) making the complaint would be referred to in this procedure as ‘the Complainant’ and the person against whom the complaint was made would be referred to as ‘the Member’.

The Pre-Hearing Process Summary Report in relation to complaint NT01/2014 was attached at Appendix B.

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

#### 1. The Summary of allegation:

The Complainant, Mrs N Redfearn, alleged that Councillor Miller:

- (i) in a political leaflet entitled “Intouch”, promoted and published in relation to the Monkseaton North Ward election that was held on 22 May 2014 Councillor Miller made statements that were misleading and untrue. These statements related to a number of matters including plans by the Labour administration to:
  - a) close middle schools;
  - b) build 5500 houses at Murton;
  - c) close Marden Bridge Sports Centre; and
  - d) close Whitley Bay Police Station.

It was alleged that the statements in relation to these matters because they were untrue bring the Authority into disrepute.

- (ii) that the political leaflet contained comments about the complainant that were highly critical of her and the way in which she conducts, as the Elected Mayor, the business of the Authority. She alleges that these comments failed to treat her with respect.

2. Relevant paragraphs of the Code of Conduct:

Paragraph 1: You must treat others with respect, including Council officers and other elected members.

Paragraph 4: You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council or your office as a Member of the Council into disrepute.

3. The attendance of the Member and Investigating Officer:

Councillor Miller had advised in an email dated 23 February 2015 he would not be in attendance at the hearing of the complaint against him. He stated he did not wish to participate in the hearing as he did not consider it would be a "fair judgment given the Labour majority on the panel". Councillor Miller had not appointed a representative to attend the hearing on his behalf.

The Investigating Officer had confirmed he would be in attendance at the hearing and would present his report.

4. Witnesses to be called:

No witnesses were called by either the Member or the Investigating Officer.

5. The findings of fact in the Investigating Officer's report that were disagreed:

The Member had not disagreed with any of the findings of fact details in the Investigating Officer's report, but did express concern over the interpretation of the facts in the report.

The report of the Investigating Officer in relation to Complaint NT01/2014 was attached at Appendix C.

In presenting his report the Investigating Officer made reference to Appendix 3 of his report which set out his conclusions in relation to the statements made in relation to Leaflet 1 and Leaflet 2. To assist the Sub-Committee in its deliberations, the Investigating Officer had prepared a Briefing Paper in respect of the complaint allegations against the Member on the issues to be determined. A copy of the briefing paper was circulated at the meeting.

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The Investigating Officer had found in his report that a breach of the Code of Conduct had occurred in relation to the Complaint. The Sub-Committee examined the Investigating Officer's report together with the written representations received from the Member.

The Sub-Committee asked questions of the Investigating Officer in relation to his report and also the issues presented in his briefing note.

[The Chair announced a short adjournment at this point.]

In its deliberations the Sub-Committee considered the findings of the Investigating Officer in his report together with the statements and conclusions in Appendix 3, taking into account the contents of the Investigating Officer's briefing note and his verbal comments at the meeting.

The Sub-Committee also took into account the views expressed by the Independent Persons in their written responses to the Monitoring Officer and also their verbal comments at the meeting.

### Findings of Fact:

- a. Councillor L Miller was a member of North Tyneside Council representing the Monkseaton North Ward. His current term of office will end in May 2018. He has been a member of North Tyneside Council since May 2018 and formerly held a Cabinet portfolio during the administration of the former Mayor. Mrs Linda Arklely.
- b. Two leaflets were published in April 2014 in the context of the election which took place in May 2014 and were headed "Election Special". The first leaflet, identified as Leaflet 1 in the Investigating Officer's report, was published on behalf of Councillor L Miller, who was at that time standing for re-election to the Council in the Monkseaton North Ward. The second leaflet, identified as Leaflet 2 in the Investigating Officer's report, was published on behalf of Mr George Partis, who at the time was not a member of the Council but was standing for election for the Monkseaton South Ward.
- c. Councillor Miller was a Member of the Council at the time of the publication of Leaflet 1 in April 2014.
- d. Leaflet 2 was in very similar form to Leaflet 1, and contained very similar quotes, largely ascribed to Mr George Partis. The only quote ascribed to Councillor Miller was the statement on the first page that Labour had historically wanted to close Middle Schools. There was no evidence that Councillor Miller authorised the quotation.
- e. Leaflet 1 was stated to be published on behalf of Councillor Leslie Miller. It was clearly an election leaflet published on his behalf, and quotes him extensively. Councillor Miller authorised publication of the Leaflet 1 and approved its content.
- f. Councillor Miller was conducting the business of the Authority when he authorised the publication of Leaflet 1. Residents who received Leaflet 1 would identify that in

the leaflet Councillor Miller was continuing to pursue local political issues which he had previously raised in his role as a Councillor. Accordingly, his actions and quotes in Leaflet 1 would be recognised by residents as an extension of his work as a Councillor, and therefore came within the business of his office as a Councillor.

- g. The statements made by Councillor Miller in Leaflet 1 were political expression as they related to the local election campaign and to matters of local political concern within the responsibility of the Authority and other public bodies.
- h. The responsibility for the final approval of the Local Plan and the grant of planning permission were non-executive functions dealt with by either the Council Meeting or a committee of the Council. They were not the responsibility of the Mayor and Cabinet of the Authority.

The Sub-Committee noted and adopted the analysis and conclusions of the Investigating Officer at Appendix 3 to his report in relation to the statements made in Leaflet 1 marked 1 to 9 and 12 to 26.

Findings as to whether there had been a failure to follow the Code of Conduct:

In relation to the complaints made against Councillor Miller, the Sub-Committee accepted the conclusions of the Investigating Officer where he had found no breach of the Code of Conduct for Members by Councillor Miller in relation to:

- i) The statements made in Leaflet 1 marked 1 to 9 and 12 to 26 in the Investigating officers report at Appendix 3; and
- ii) The statement made in Leaflet 2 ascribed to Councillor Miller's statements marked 10 and 11 in Appendix 3 to the Investigating Officer's report, in that:

Statement 10: "her unpopular Local Housing Plan which will see her give developers the green light to build 5,500 new properties on the green fields between Earsdon and Rake Lane Hospital"; and

Statement 11: "the Mayor's plan to encourage developers to build 5,500 houses on the fields at Murton."

The Sub-Committee considered that these statements were inaccurate, largely by omission of balancing facts which were known to Councillor Miller at the time, and in ascribing views and policies personally to Mrs Redfearn, the Elected Mayor.

Whilst everything contained in Leaflet 1 fell within the definition of "Political Expression" and so was entitled to an enhanced level of protection against infringement of the right of political expression, the Sub-Committee was of the opinion that Councillor Miller's assertions about Mrs Redfearn, as set out above, in her capacity as Mayor of North Tyneside fell outside the limits of acceptable political expression.

Councillor Miller not only knew or should have known that his statements about the Local Plan process were incorrect and misleading, but in that they were positively

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damaging to the reputation of the Authority and to the reputation of Mrs Redfearn in her capacity as Mayor. To suggest that Mrs Redfearn was intent on pushing through proposals for development irrespective of the statutory consultative and decision processes of the Authority, which rested with the Council rather than the Mayor and Cabinet was wrong and was outside the limits of legitimate political expression.

The Sub-Committee found in relation to statements 10 and 11 set out above that Councillor Miller did fail to comply with Paragraphs 1 and 4 of the Authority's Code of Conduct.

This was a majority decision of the Sub-Committee.

In reaching its decision the Sub-Committee took into account the views of the Independent Persons.

### Sanctions:

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

The Sub-Committee considered all the relevant circumstances and listened to the views expressed by the Investigating Officer and the Independent Persons in relation to the setting of sanction.

**Resolved** that (1) the statements made in Leaflet 1 marked 1 to 9 and 12 to 26 in the Investigating officer's report at Appendix 3 that no breach of the Code of Conduct for Members had occurred be accepted;  
(2) the statement made in Leaflet 2 ascribed to Councillor Miller's statements marked 10 and 11 set out above that a breach under Paragraphs 1 and 4 of the Authority's Code of Conduct for Members had occurred be accepted;  
(3) the Monitoring Officer be instructed to issue Councillor Leslie Miller with a 'Letter of Censure' as a sanction for breaching the Authority's Code of Conduct for Members'; and  
(4) the Monitoring Officer be instructed to publish the Formal Written Notice of the Sub-Committee's decision on the Authority's web site.