

The Standards Sub Committee of 3rd March 2010 resolved that the Investigating Officer's report should be made available for publication subject to the redaction of personal information about members of the public and the deletion of the appendix containing notes of interviews.

CAMBRIDGE CITY COUNCIL STANDARDS COMMITTEE CODE OF CONDUCT COMPLAINT

REPORT OF AN INVESTIGATION UNDER SECTION 59 OF THE LOCAL GOVERNMENT ACT 2000 BY REVIEWING OFFICER, MRS GILLIAN AMERY APPOINTED BY MR SIMON PUGH, MONITORING OFFICER, CAMBRIDGE CITY COUNCIL INTO AN ALLEGATION CONCERNING COUNCILLOR KEVIN BLENCOWE

DATE OF REPORT: 23 February 2010

CONTENTS

1. EXECUTIVE SUMMARY
2. COUNCILLOR BLENCOWE'S OFFICIAL DETAILS
3. THE RELEVANT LEGISLATION AND PROTOCOLS
4. THE EVIDENCE GATHERED
5. SUMMARY OF MATERIAL FACTS
6. REASONING AS TO WHETHER THERE HAVE BEEN FAILURES TO COMPLY WITH THE CODE OF CONDUCT
7. FINDING

APPENDIX A SCHEDULE OF EVIDENCE TAKEN INTO ACCOUNT HAS BEEN REMOVED

1. EXECUTIVE SUMMARY

1.1 ALLEGATION BY MS A OF, CAMBRIDGE AS SET OUT IN HER LETTER OF 21 SEPTEMBER 2009 TO MR SIMON PUGH, MONITORING OFFICER OF CAMBRIDGE CITY COUNCIL:

“ I wish to make a formal complaint about the behaviour of Councillor Kevin Blencowe at the Special meeting of the east area Committee meeting held at St Philips Church on Thursday 20 August.

Standing Orders clearly define the role and obligations of the Chair. The most important is for the Chair to maintain an unbiased and impartial role in proceedings. It is also standard practice that if the Chair wishes to make a statement of a personal or party political nature on a matter which is likely to prove contentious, she/he should vacate the Chair for that business in order that it be clearly understood that the statement is separate from the office of Chair. At the meeting on 20 August Councillor Blencowe abused his position as chair on a number of occasions:

- He made an initial rambling statement in which he questioned the validity of the meeting
- He made totally unsubstantiated remarks about the legitimacy of the No Mill Road Tesco campaign and its planning specialist B
- - he made allegations about the legal challenges to the Council
- - he continually interrupted members of the public in a disrespectful manner

Councillor Blencowe may have opinions on all these matters and is welcome to them, but by using the authority of the Chair to express them, he brought his position and the Committee’s proceedings into disrepute. It is not unfortunate that the other councillors present did not see fit to request he vacate the chair, nor was there a Secretary, to my knowledge to stand in.

This behaviour was aggravated by the breach of specific obligations imposed by the Code of Conduct:

(1) treating others with respect- see paragraph 3 (1)

The Code of Conduct clearly states that in all proceedings, Councillors must treat others with respect.

“ Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This *particularly applies to dealing with the public and officers.* [my italics]. Chairs of meetings are expected to apply the rules

of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.'

(2) Bullying and intimidation

See paragraphs 3(2)9(b) and 3 (2)c

The Code of Conduct states that Councillors must not bully any person including other councillors, council officers or members of the public.

'Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.'

Far from applying these obligations, Councillor Blencowe flouted them.

From the very beginning of the meeting, Councillor Blencowe's manner was aggressive, first by questioning its validity and then by narrowing re agenda to a single area of planning enforcement. He was obviously annoyed that the meeting had been forced upon him by other councillors and wanted us to know it. This immediately undermined his impartiality.

During the course of the meeting speakers were repeatedly and rudely interrupted and prevented from having their say on matters related to the full agenda as published. The speaker on behalf of Friends of the earth was completely rattled by this and sat down having only made a small part of her statement- a clear example of Councillor Blencowe's bullying manner. At another point in the meeting, Councillor Blencowe was extremely derogatory about the No Mill Road Tesco campaign and its planning specialist B. This went far beyond the Chair exercising his role in the conduct of the meeting. This meeting should have been an opportunity for the public to present their views to the East area committee in a free and open debate so that democracy could be seen to be done.

It is no co-incidence that the meeting was extremely well attended by about 60 members of the public- this despite the fact it was on a workday morning and arranged at relatively short notice. It showed the strength of local feeling about the issue being discussed. The meeting itself became very rowdy with a large number of extremely irate members of the public- due entirely to Councillor Blencowe's handling of the meeting.

Not only did Councillor Blencowe's behaviour upset the members of the public at the meeting, but it was clear that this upset some of the other city and county councillors present too.

For the record, though it was no business of Councillor Blencowe , nor the basis of our complaint, this Campaign has been conducted in a very professional manner by its committee, and has always endeavoured to deal with the council's permanent staff and councillors in a co-operative manner. Members of the campaign have been regularly updated through emails and newsletters.

Councillor Blencowe also stated that the No Mill Road Tesco Campaign's legal action against the Council had been undertaken without consultation of the campaign as a whole. This is not the case. The decision to proceed with legal proceedings was not taken lightly and the campaign had been consulted. The fact that several thousand pounds were donated by members of the campaign (to help with legal costs) within a week of the decision to proceed with the legal case shows that there was support for this action.

The matter of the legal action was not an issue on which the chairman of this meeting should have been commenting and he should certainly not be making personal remarks about any member of the public or about a local campaign, which has been so successful in bringing the local community together.

However, what are relevant to this complaint are Councillor Blencowe's personal remarks about the Campaign, our campaign planning specialist and the legal action, and the offensive manner in which they were expressed. These remarks should not have been uttered from the Chair, as they were his personal views and not the view of the East Area Committee and as such were breaches of paragraphs 3(1), 3 (2)(b) and 3 (2)(c) of his obligations under the Council's Code of Conduct.'

(Signed) Ms A

1.2 SUMMARY OF INVESTIGATION OUTCOME

For the reasons explained in Section 7 below **I find no failure to comply with the Code.** I do not uphold this complaint.

2. COUNCILLOR BLENCOWE'S OFFICIAL DETAILS

Councillor Blencowe was elected to office in 1994 and has served as a City Councillor since then. He serves on a number of committees and is the current Chair of the East Area Committee. He has received training on the Code of Conduct and confirmed in oral evidence (Appendix A1) that he is fully aware of the provisions of the Code.

3. THE RELEVANT LEGISLATION AND PROTOCOLS

3.1 Cambridge City Council adopted a Code of Conduct on 13 September 2007 – the relevant extract from which is at Appendix A2.

4. THE EVIDENCE GATHERED

4.1 I have taken account of oral evidence from Councillor Blencowe recorded at Appendix A1 and from Ms A at Appendix A2. I have also taken account of written and oral evidence from MsC, and written evidence from MsB, Ms D and Councillor Margaret Wright in support of Ms A's complaint. I have also obtained and considered the minutes of the East Area Committee meeting held on 20 August 2009.

5. SUMMARY OF MATERIAL FACTS

The special meeting of the East Area Committee held on 20 August 2009 was convened at short notice. In the Chairman's brief the purpose of the meeting was to discuss an alleged breach of planning permission relating to the Mill Road TESCO site namely 'no loading or unloading of goods, including fuel, shall take place otherwise than within the curtilage of the site'. The issue to be decided in a closed meeting at the end of the public meeting was 'whether it is expedient to initiate enforcement action in respect of the alleged breach of planning control'. The agenda issued to members of the public attending the meeting stated that the meeting was: 'PLANNING ENFORCEMENT AT TESCO STORES 163-167 MILL ROAD CAMBRIDGE' with no limitation to discussion of loading and unloading goods. The meeting was attended by over one hundred members of the public, members of local groups and both County and City Council councillors, some of whom attended in a private capacity or as community advocates.. At the commencement of the meeting, as recorded in the minutes, the Chair 'emphasised that the purpose of the meeting was solely to consider the enforcement action available to the Council in the event of a breach of planning conditions regarding deliveries and services'. The minutes record 'The Chair went on to comment on the short notice for the meeting and his concern that, in his view, it had not been summoned in accordance with the Council's constitution, giving very little notice to members or residents and providing a report to members only the day before the meeting. ... nevertheless he acknowledged the members present wished to continue with the meeting and that in view of the public concern it would be reasonable to do so and give residents the opportunity to comment'. Later in the meeting it is recorded that:

'The Chair then invited members of the public who had registered before the meeting to speak. C said that the Council should take action against any breach of the planning conditions whoever was responsible for the site.

Ms B said there was more than one enforcement issue. She said that as the public had not had access to the report to members she was unsure whether they were aware that the No Mill Road Tesco Campaign was intending to take legal action against the Council possibly seeking judicial review in view of its failure to act in a timely manner against the applicant

breach of planning conditions....The Chair said that he was not clear why the No Mill Road Tesco campaign had taken this stance. The Council had to act within its ability to enforce the planning conditions... (he) queried whether the petitioners behind the campaign were all aware of the Campaign's proposals to take legal action against the Council...' Later the minutes also record: 'The Chair said, in response to invitations to adjourn the meeting to view the premises, this option was open to members to comment on and resolve if they so wished'.

The meeting began at 10am and was completed by 12.30pm. Following the meeting a number of complaints were made about Councillor Blencowe's chairmanship including the complaint by Ms A.

6. REASONING AS TO WHETHER THERE HAVE BEEN FAILURES TO COMPLY WITH THE CODE OF CONDUCT

The guidance issued by the Standards Board for England on the Code of Conduct states:

'You must treat others with respect.

Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to bullying or failing to treat others with respect. Ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct. ... Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

Bullying and intimidation

Bullying behaviour may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour...Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability and may adversely affect their health. This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. ...'

In reviewing this complaint I have had to rely on the accounts given by attendees at the meeting and from what was recorded in the minutes since I was not present at the meeting. All parties agree that the matter under discussion was one of great interest locally and was controversial. From the evidence given it is clear that the meeting did not start well in that Councillor Blencowe had been briefed that the meeting was to discuss a single issue whereas those attending had come, at short notice and on working day, expecting to discuss wider issues. The meeting thus started with a mismatch of expectations of what was to be discussed. This and the doubts expressed by Councillor Blencowe at the beginning of the meeting about

its legality may also have led to a sense of confusion. A public meeting with over one hundred attendees on a controversial matter needs firm chairmanship. The complaint here is that Councillor Blencowe's behaviour was bullying and showed lack of respect for public speakers and other attendees. Ms A and other complainants cited his dismissive attitude, cutting speakers off abruptly including Ms D and telling Ms B to sit down. Ms A has specifically pointed to his remark about whether the No Mill Road Tesco supporters were aware of the threatened challenge by judicial review and is clear that this was an unwarranted attack on the integrity of the Group.

On the other hand Councillor Blencowe told me that he did take a robust approach to keep the meeting under control. He did not see it as a difficult meeting. He felt justified in interrupting speakers who were not raising issues other than the single issue he had been briefed that the meeting was to discuss. He said that he mentioned the judicial review as fair comment because he wanted it to be made clear that if the Council had to take action following an application for judicial review, costs would be incurred which would fall back on local council taxpayers. He had not intended the comment to be seen as questioning the integrity of the Group.

Having considered the available evidence it is clear that attendees were upset not by the decision reached at the end of the meeting but by the manner in which the meeting was conducted. It was a turbulent meeting on a controversial subject convened at inconveniently short notice. Speakers who had applied at the beginning of the meeting to speak for 3 minutes were cut off early by the Chair because they were not keeping to the single issue he had been asked to focus on. It is clear that attendees had been expecting and had prepared for wider discussion. I consider that part of this dissatisfaction with the meeting stems from the mismatch of expectations which soured the meeting from the start.

I have looked back at the Standards Board guidance to determine whether the complaint that Councillor Blencowe contravened the Code of Conduct by acting in a bullying manner and with lack of respect. The guidance explains that there is a difference between legitimate challenge and a personal undermining of an individual with the latter characterising bullying. Ms A and some of the other attendees at the meeting were clearly upset and do consider that they were belittled and undermined by the Chairman's remarks to them. Having considered all the available evidence I consider that Councillor Blencowe did not chair the meeting well in that it appears he was struggling to keep attendees to the single issue and, on the evidence presented, was abrupt in his manner to speakers. I can see how his remarks about the judicial review were considered offensive by members of the group. Councillor Blencowe has said that he was making the point that costs would fall back on the Council if the judicial review application had to be defended. However I consider that, as Chair, he was unwise to provide a personal comment on the Group's decision and should have remained objective.

I consider that in trying to control the large public meeting relating to a highly controversial matter and to keep speakers to a single issue, as he had been briefed to do, Councillor Blencowe was assertive, abrupt in his manner and caused offence. In the heat of the meeting, he may have overstepped the boundaries of effective and objective chairmanship. However there is

a difference between issues relating to effective chairmanship and behaviour breaching the Code of Conduct, which is defined as bullying or intimidating behaviour with a lack of respect for others and described in the guidance cited above as 'unreasonable or excessive personal attack'. I do not conclude that these issues around Councillor Blencowe's chairing of the meeting, which was held in difficult circumstances, amount to a breach of the Code of Conduct. I do not find that Councillor Blencowe bullied or treated attendees with a lack of respect as defined by the Code.

I also consider that a root cause of the difficulties at the meeting was the short notice and the confusion over the agenda items to be discussed. This is a matter which the Council might want to consider further to ensure that clear and timely information is provided in future.

FINDING

I find that there has been no breach of the Code of Conduct.

Mrs Gillian Amery

Reviewing Officer