

Pre-hearing Process Summary

The name of the authority is Plymouth City Council

The name of the subject member is Councillor William Stevens (“Cllr Stevens”)

The name of the complainant is Councillor Steven Ricketts (“Cllr Ricketts”)

The case reference number is AC/2010/M1/R1

The name of the Standards Committee Member who will chair the hearing is Mr Steve Pearce

The name of the Monitoring Officer is Mr David Shepperd

The name of the clerk of the hearing or other administrative officer is Ms H Rickman

The date the pre-hearing process summary was produced is 24/02/2011.

The date, time and place of the hearing is Friday 11 March 2011 at 9.30 am in the Temeraire Committee Room in the Council House, Plymouth

A summary of the complaint

The complaint alleged that Councillor Stevens, a member of Plymouth City Council, breached the Members Code of Conduct by making comments at a meeting of the full Council held on 1 February 2010 that included false accusations, vexatious words and allegations about him.

The comments below followed an article that Councillor Stevens says he came across on the ‘Tory Bear website’. The comments he relayed at the full Council meeting were comments that Councillor Stevens says were attributable to Councillor Ricketts.

At the meeting of full Council Councillor Stevens asked the following question of the Council Leader, Councillor Mrs Pengelly. The extract that follows is taken from the recorded transcript of the meeting:

‘Does the Leader of the Council agree with me that one of the most important bits of community consultation and engagement that her Cabinet is responsible for is with the overwhelming moderate Muslim population that we have in the City? Can she tell us if that’s a responsibility that her Cabinet takes seriously and can she tell us if she thinks that task is helped or hindered by the comments Steve Ricketts can make – its worth waiting for – is that task helped or hindered by the comments Steve Ricketts can make a woman climax by looking at her and shouting Allah?’

Following a response by the Leader of the Council, Councillor Mrs Pengelly, there then followed dialogue between Councillor Stevens, the Lord Mayor (Councillor Ken Foster (meeting Chair)) and the Monitoring Officer, Mr Howes, regarding meeting process as Councillor Stevens sought to assert his right to ask a supplementary question ahead of any response from Councillor Ricketts.

A complaint was made by Councillor Ricketts to Mr Howes by e-mail on 8 February 2010. In the complaint Councillor Ricketts, referring to the transcript of the Council hearing, says:

‘the whole transcript shows the disgusting way that he tried to accuse me of something I knew nothing about. This is defamation of my character and this vexatious tirade deserves disciplinary action – this should follow in line with the Members Code of Conduct’.

A report was considered by the Standards Assessment Sub Committee on 18 February 2010, at which it resolved to authorise an investigation in relation to potential breaches of the Members Code of Conduct as referenced in the summary below. During his investigation the Investigator, Mr Pinwell of Foot Anstey Solicitors, considered further letters of complaint that had been received – one from Mrs Bronwen Lacey, Director of Children’s Services dated 3 February 2010, another from the Leader of the Council, Councillor Mrs Pengelly, dated 12 March 2010.

The relevant section or sections of the Code of Conduct are set out below:

- 2 (1) Subject to sub paragraphs (2) to (5) you must comply with this Code whenever you –
 - (a) conduct the business of your authority (which in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression that you are acting as a representative of your authority
- (2) Subject to sub paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 3 (1) You must treat others with respect
 - (2) (a) You must not act in a way which may cause your authority to breach an equality enactment
 - (2) (b) You must not bully another person.

- 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

The findings of fact in the investigation report that are agreed

Whilst Councillor Stevens has not confirmed which, if any, finding(s) of fact within the investigation report that he agrees with it would appear that he does not dispute the transcript of the full Council meeting which recorded what he said and the exchanges that subsequently took place between him, the Lord Mayor (Councillor Ken Foster), Councillor Mrs Pengelly, Councillor Ricketts and the Monitoring Officer, Mr Howes.

The findings of fact in the investigation report that are not agreed

Councillor Stevens has not confirmed which, if any, finding(s) of fact within the investigation report that he disagrees with. This is despite having first been asked for this on 17 November 2010 and subsequently on 31 January 2011. It would appear that Councillor Stevens does not agree with the investigator's conclusions (as distinct from any findings of fact) and considers that the investigator should have interviewed additional persons. It is unclear whether Councillor Stevens disagrees with and is therefore contesting the format of the investigator's report – a matter which had been raised by Councillor Stevens' former legal representative.

The subject member will attend and be represented by Ms Karen Gillard. Mr Gareth Pinwell, the Investigating Officer, will attend to present his report; Mr David Shepperd, the Deputy Monitoring Officer, will attend and advise the Committee.

Witnesses

As no findings of fact have been disputed the Investigating Officer has advised that it may not be necessary for him to call witnesses to attend the hearing to give evidence.

The Subject Member has advised that, despite him not disputing any of the findings of fact, he wants to ask all of the witnesses that the Investigator interviewed to the hearing. These are listed on page 4 of the Investigation Report. They are: Councillor Ricketts, Councillor Mrs Pengelly, Councillor Ken Foster, Councillor T Beer, Mr T Howes and Mrs Bronwen Lacey. In addition, Councillor Stevens has also advised that he wants the following witnesses to attend for the reasons he has stated below:

Councillor Tudor Evans and Councillor Briony Rudkin who will testify that what happened was appropriate, necessary and within normal local government debate;

Sue Stratton, Chaz Singh, Ossie Glover and Mohammed Elm Handi, who will testify that Councillor Stevens did not breach equality laws and bring his office into disrepute;

Linda Torney to discuss her initial report.

The Subject Member **must** make his own arrangements to ensure that his witnesses (and witnesses he would like to question) will attend the hearing.

The Standards Committee has the right to govern its own procedures as long as it acts fairly. For this reason, the Standards Committee may limit the number of witnesses if the number is unreasonable.

The Standards Committee will normally take a decision on whether to hear any particular evidence or witness after having heard submissions from both parties on the issue. Ultimately, however, this is a decision for the hearing.

Witnesses of fact that are disputed would normally attend the hearing and should be prepared to be cross-examined. It should be noted, however, that it does not appear that Councillor Stevens has disputed any witness of fact. Witnesses of the character of the subject member, if required, regularly present their evidence in writing and may or may not actually attend the hearing. Again, it is ultimately a decision of the hearing from which, if any, witnesses they wish to hear evidence.

An outline of the proposed procedure for the hearing is enclosed in the bundle of documents and is attached to this Pre-hearing Summary for ease of reference.

David Shepperd
Head of Legal Services
Plymouth City Council