Haringey Council

COMPLAINT BY COUNCILLOR REITH AGAINST COUNCILLOR OAKES – LOCAL REFERENCE SC3/089

LONDON BOROUGH OF HARINGEY – STANDARDS COMMITTEE – DETERMINATION HEARING PANEL – WEDNESDAY 21 OCTOBER 2009

PANEL CHAIR – MS CAROL SYKES – INDEPENDENT MEMBER

MEMBERS OF HEARING PANEL – CLLRS DODDS AND WINSKILL AND MS R. CHAMBERS, INDEPENDENT MEMBER AND MR J. BATTERHAM, INDEPENDENT MEMBER

ROSEMARY LANSDOWNE DEPUTY MONITORING OFFICER LEGAL ADVISER TO THE PANEL

TERENCE MITCHISON ON BEHALF OF THE INVESTIGATIONG OFFICER – E. JARRETT

MR COLLIS SOLICITOR OF COUNCILLOR OAKES

CLERK TO STANDARDS COMMITTEE – CLIFFORD HART

DATE OF HEARING – WEDNESDAY 21 OCTOBER 2009

TIME OF HEARING – COMMENCING AT 10.00AM

LOCATION OF HEARING – HARINGEY CIVIC CENTRE, HIGH ROAD, WOOD GREEN, N22

Notice of Finding of Standards Determination Hearing relating to Cllr John Oakes.

On Wednesday 21st October 2009, the Standards Committee – Determination Hearing Panel found that Councillor John Oakes had failed to comply with Paragraph 4 (a) (iv) of the Council's Code of Conduct for Members by the unauthorised disclosure of Confidential Information.

The Panel heard that most of the key facts in this matter were not in dispute, these being as follows:

i)   Cllr Oakes signed the Code of Conduct on 8 May 2006.

1

ii) Cllr Oakes disclosed an exempt report of the General Purposes Committee of 4 November 2008 to Tim Ross of the Evening Standard by email dated 1 December 2008.

iii) That Cllr Oakes acknowledges that it was an exempt report.

There were a number of facts in dispute summarised as follows:

i) That Cllr Oakes said that the content of the exempt report was already in the public domain, but the Panel found that the substance of the report was not already in the public domain – whilst the Panel accepted that there was an ongoing tribunal case of which some information was public knowledge, the legal advice, settlement issues and details of further grievances contained in the exempt report were not in the public domain.

ii) Whilst the Panel acknowledged a legitimate concern on the part of Cllr Oakes with regard to public expenditure and the disproportionate cost of extended gardening leave, the Panel found that the exempt report did not in fact deal with that issue other than in a passing reference to 'an absence from the workplace between February 2007 and February 2008'. Cllr Oakes did not check the circumstances of that absence, or whether the issue of the cost of extended absence was being addressed elsewhere.

The Panel found:

That Cllr Oakes breached paragraph 4 a) of the Council's Code of Conduct as follows:

Firstly, that he did acquire information which he knew was of a confidential nature and disclosed it to the press. He acknowledged that fact but considered that it was only a technical breach of the code. Cllr Oakes says he is entitled to rely on the defence set out in sub paragraph (iv). However the Panel did not accept his representation in that regard, finding as follows:

i) **the disclosure was unreasonable because it was passed to the press; he did not ask or seek advice from the Chief Executive or any other source before he disclosed the confidential information; he held an unreasonable belief that the journalist would treat the disclosed information confidentially; he failed to redact any part of the report. The disclosure entailed the Council failing in a duty of confidence towards the employee, regardless of whether or not the disclosure was more widely published.**

ii) **The disclosure was not in the public interest because the benefit of disclosure to the public at large did not outweigh the harm caused to the individual employee and possible**

repercussions to the Council as an employer. Cllr Oakes said the reason for disclosure was to give information to the journalist, not because he had thought it was in the public interest.

iii) The Panel notes that the disclosure is not covered by any of the examples given by the Standards Board for England as to what would be in the public interest. The Panel concluded that Cllr Oakes fell far short of proving the disclosure was within the public interest.

iv) Cllr Oakes failed to comply with the reasonable requirements of the Council, namely that the report remained exempt pursuant to Paragraph s 1 and 2 of Part 1 of schedule 12A of the Local Government Act 1972 as amended by the Access to Information Act 1985 and he failed to follow the clear advice and guidance he had previously been given at training – namely to ask either the Monitoring Officer or the Chief Executive before disclosing the report.

v) The Panel does not find that Cllr Oakes conclusively demonstrated that he acted in good faith. The Panel was unclear as to his motives in releasing the report. The Panel found that the evidence did not clearly identify an ulterior motive, however the Panel did conclude that he did not hold a reasonable belief that he had a right to disclose the exempt report.

SANCTION

The Panel decided that Cllr Oakes should be suspended from his office as a Councillor of the London Borough of Haringey from Monday the 26 October 2009 until the end of the year, i.e. 31 December 2009. This was because the Panel felt that there was a serious breach of trust, although it has taken into account the mitigation submitted.

The Panel also recommended that Cllr Oakes should undertake further training.

The Panel clarified that full suspension meant that Cllr Oakes would not be able to take part in any formal business of the authority, have access to Council facilities, which will mean that he would have to hand in any pass-card, mobile and laptop, which is why the sanction would not commence until Monday 26 October 2009 in order to permit the necessary arrangements to be made, or to receive a Council allowance.

Councillor Oakes may apply for permission to appeal against the findings.

CHAPTER 1 DATE: 23 OCTOBER 2009

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