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## HERTSMERE BOROUGH COUNCIL STANDARDS COMMITTEE

STANDARDS ASSESSMENT PANEL - 5 November 2019

### ASSESSMENT DECISION

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<b>Case No:</b>	<b>HBC/2019/014</b>
<b>Complainant:</b>	<b>A Resident</b>
<b>Subject Member:</b>	<b>Councillor Paul Morris OBE of Hertsmere Borough Council</b>
<b>Date Complaint Received:</b>	<b>12 September 2019</b>

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#### **Summary of Complaint:**

The complainant alleged that at the extraordinary Council Meeting held on 4 September 2019 Councillor Paul Morris OBE:

- Made a personalised and vindictive attack on Councillor Jeremy Newmark which in the view of the complainant amounted to victimisation and an abuse of position;
- Made a personal attack on Councillor Gray by stating that he (Councillor Gray) had send a most outrageous email to the Corporate Director, Sajda Bijle; and
- Made personal remarks about the private lives of Councillor Jeremy Newmark, Councillor Richard Butler and Councillor Rebecca Butler in the course of which he disclosed information given to him in confidence.

#### **Potentially Relevant provisions of the Members Code of Hertsmere Borough Council**

##### Paragraph 2.1

You must comply with this Code whenever you: (a) conduct the business of your authority, or (b) act, claim to act or give the impression you are acting as a representative of your authority

##### Paragraph 2.2

This Code has effect in relation to your conduct in an official capacity

### Paragraph 3.1

You must treat others with respect

### Paragraph 3.3 (a)

You must not do anything which may cause your authority to breach any of the equality enactments

### Paragraph 3.3 (b)

You must not bully any person

### Paragraph 4.1

You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is:
  - reasonable and in the public interest; and
  - made in good faith and in compliance with the reasonable requirements of the authority.

### Paragraph 5.1

You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

### **Members of the Standards Assessment Panel**

Councillor Anne Swerling - Chairman of Standards Committee (Chairman)

Mr. Jagat Chatrah - Independent Person

Harvey Patterson - Monitoring Officer, Hertsmere Borough Council

### **Panel Decision**

1. That Councillor Paul Morris receives a letter from the Monitoring Officer informing him of the view of the Panel that the remarks he made in the Council Chamber relating to the private lives of three other councillors, were intrusive and inappropriate and that in future the rights of all councillors to a private life must be respected.
2. That subject to 1.above, no further action be taken in relation to the complaint.

## Reasons for Decision

Allegation that Councillor Paul Morris made a personalised and vindictive attack on Councillor Jeremy Newmark which in the view of the complainant amounted to victimisation.

Although it is was not the role of the Panel to make findings of fact, the remarks made by Councillor Morris about Councillor Newmark were a matter of public record. Paragraph 3.1 of the Members Code of Conduct required Councillor Morris to treat others with respect and had his remarks in the Council Chamber been directed to a member of the public, the Panel would have been more likely to refer this aspect of the complaint to the Monitoring Officer to procure an investigation.

However, Councillor Newmark was not a member of the public and the Council Chamber was a political debating chamber where contentious issues, including the SIAS Audit Report on the Governance of Council Owned Companies could be vigorously debated. It followed that the Panel would not interpret the obligation in the Members Code of Conduct to treat others with respect in a manner that would inhibit or restrict vigorous debate or prevent a member whose character and integrity was being called into question by fellow members from responding to his or her critics.

It also followed that the Panel did not consider the remarks made by Councillor Morris constituted either bullying or a misuse of position, nor did the Panel consider that they constituted victimisation as the complainant had provided no evidence that the remarks made by Councillor Morris were in response to a protected act carried out by Councillor Newmark, nor did the remarks directed at Councillor Newmark cause the Council to be in breach of any of the Equalities enactments.

Accordingly, and taking into account that Councillor Newmark had not considered this matter to be sufficiently serious to complain to the Standards Committee on his own account, no further action would be taken in respect of this part of the complaint.

Allegation that Councillor Paul Morris made a personal attack on Councillor Gray

Again, the remarks made were a matter of public record. Councillor Morris had referred to Councillor Gray whereas the member responsible for the e-mail referred to by Councillor Morris was, in fact, Councillor Evans. This appeared to the Panel to be an inadvertent mistake on the part of Councillor Morris which was corrected in the meeting by the intervention of Councillor Evans. Accordingly, no further action would be taken in respect of this part of the complaint.

Allegation that Councillor Paul Morris made personal remarks about the private lives of Councillor Jeremy Newmark, Councillor Richard Butler and Councillor Rebecca Butler in the course of which he divulged information given to him in confidence.

The Panel was supplied with a copy of an apology sent by Councillor Paul Morris to Councillor Rebecca Butler as well as a response from Councillor Butler to that apology in which she requested that the private matters referred to by Councillor Morris in the Council Chamber were not referred to again.

The Panel considered that the remarks made by Councillor Morris concerning the private lives of three fellow councillors to be intrusive and inappropriate.

However, the Panel was reluctant to spend public monies on procuring an investigation to establish the facts in circumstances where the facts were a matter of public record, Moreover, the Panel was conscious that had the Standards Committee determined that Councillor Morris had breached the Members Code of Conduct, the sanctions available to

the Committee were very limited as parliament had removed all meaningful sanctions from Standards Committees in 2012. Furthermore, it would be very difficult to reconcile the request of Councillor Rebecca Butler that the private matters referred to by Councillor Morris be not referred to any more, with the commissioning of an investigation and a potential hearing before the Standards Committee, where, necessarily, these matters would be referred to and the reasoned decision of the Standards Committee would be published.

Consequently, taking into account the absence of meaningful sanctions, the apology offered by Councillor Morris, the desire of Councillor Rebecca Butler for privacy and the fact that this decision would be published on the Council's web-site for 56 days, the Panel reluctantly resolved to take no further action in respect of this part of the complaint. However, the Monitoring Officer would be instructed to write to Councillor Paul Morris making clear the view of the Panel that the remarks he made were intrusive and inappropriate and that in future the rights of all councillors to a private life must be respected.

Finally, as to the allegation that Councillor Morris had disclosed information given to him in confidence, the Panel noted that Councillor Morris could only be in breach of the requirement in paragraph 4.1 of the Members Code of Conduct not to disclose information given to him in confidence if such information was received by him in an official capacity. In this regard the Panel did not consider that any information received by Councillor Morris about the private lives of third parties would have been received in an official capacity as such information had no relevance to his role as an Executive Portfolio-holder or ward councillor nor was it relevant to the discharge of any of the Council's functions. Accordingly, no further action would be taken in relation to the allegation that Councillor Morris had disclosed information given to him in confidence.

### **Finality of Decision**

There is no right to appeal the decisions of the Standards Assessment Panel

### **Distribution**

In accordance with the Council adopted arrangements, copies of this decision will be provided to:-

- The Subject Member: Councillor Paul Morris OBE of Hertsmere Borough Council
- The Complainant
- The Subject Members' Group Leader: Councillor Morris Bright MBE.

**Signed** Harvey Patterson

**Date** 18<sup>th</sup> December 2019

**Monitoring Officer**

**For and on behalf of Chairman of the Standards Assessment Panel**