

**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**STANDARDS AND ETHICS COMMITTEE**

**RECORD OF THE DECISION OF THE STANDARDS AND ETHICS SUB-COMMITTEE MEETING HELD ON 14 SEPTEMBER 2018**

**SUBJECT MEMBER** Councillor Brian Cutts [Rotherham MBC] [in attendance] supported by Mr Reynolds [former Rotherham MBC councillor]

**COMPLAINANTS** Councillor Maggi Clark [Rotherham MBC] [in attendance]  
[Rotherham MBC officer] [in attendance]

**WITNESSES FOR THE COMPLAINANTS** Councillor Christine Beaumont [Rotherham MBC]  
Councillor Victoria Cusworth [Rotherham MBC]  
Councillor Pat Jarvis Rotherham MBC]  
Councillor Jayne Senior [Rotherham MBC]

**THE COMPLAINTS SUB-COMMITTEE**

Councillor McNeely (Rotherham MBC) (in the Chair)  
Councillor Simpson (Rotherham MBC)  
Councillor Rowley (Ravenfield Parish Council)  
Mr P Edler (Independent Co-opted Member)  
Ms J Porter (Independent Co-opted Member)

**INDEPENDENT PERSON**

Mr Phil Beavers

**ROTHERHAM MBC OFFICERS**

Dermot Pearson (Monitoring Officer)  
Stuart Fletcher (Investigating Officer)  
Dawn Mitchell (Senior Democratic Services Officer)

**Preliminary**

Councillor Cutts confirmed that he was content for complainants' witnesses to attend the whole of the hearing rather than being called in individually to give evidence.

**The Complaint**

The Investigating Officer presented his investigation report to the Sub-Committee.

The complainants had attended an Improving Lives Select Committee (ILSC) pre-meeting on 13 March 2018. The complainants are the Chair of the ILSC, Councillor Maggi Clark and

The Subject Member, Councillor Brian Cutts, also attended at the pre-meeting. During a discussion about the adoption of children, the Subject Member asked "*Why are we allowing lesbians and gay men to foster children?*" The Subject Member made further comments, in particular that:

- He "*knew right from wrong*"; and
- He "*knew which side of the road to drive on and which way to go – straight.*"

These comments were challenged by the Complainants and other councillors present. The Subject Member confirmed to the Sub-Committee that he had made the comments.

The Investigating Officer took the Sub-Committee through the complaint forms and the written responses from the Subject Member [attached]. The Subject Member had wished to meet the complainants to discuss his objections to children being parented by gay and lesbian couples, but the Monitoring Officer had determined that such a meeting would not be an attempt at an informal resolution of the complaint as provided for in the Council's Procedure, and the Subject Member had confirmed that he wished the complaint to be considered by the Sub-Committee.

The Investigating Officer referred the Sub-Committee to the following parts of the Code of Conduct for Members and Co-Opted members:

#### **Scope**

2. (1) *Except when you are acting as a representative of the Council when sub-paragraph (2) applies, you must comply with this Code whenever you -*

- (a) *conduct the business of the Council (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 you are acting as a representative of the Council.*

#### **General obligations**

(3) (1) *You must treat others with respect.*

(2) *You must not –*

(a) *do anything which may cause the Council to breach any of the equality duties;*

(5) *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.*

#### **The Evidence of the Complainant**

Councillor Clark went through the circumstances of the complaint and her complaint form. At a seminar for councillors held on 29 January 2018 about the OFSTED inspection the Subject Member had said he had been excluded from information



relating to the Children & Young People's Service [CYPS]. As the Chair of the Improving Lives Select Commission [ILSC] Councillor Clark had invited the Subject Member to attend ILSC meetings as a guest, as all councillors are entitled to do, to give him the opportunity to be well informed about issues which were being scrutinised.

On 13 March 2018 the Subject Member attended a pre-meeting of the ILSC but gave his apologies for the formal meeting. The meeting was attended by Councillor Clark, the councillors who were members of the ILSC, the Subject Member and the officer complainant, who was an officer from the scrutiny team. During the meeting a councillor raised a query about adoptions and the Subject Member said "*Why are we promoting fostering and adoption with lesbians and gay men*" and expressed his disagreement with the Council doing this. Committee members challenged the Subject Member, appalled by the views he was expressing. The Subject member went on to say that he "*knew right from wrong*" and that he "*knew which side of the road to drive on and which way to go – straight.*" Councillor Clark told the Subject Member his comments were completely out of order and would not be tolerated, and the officer present advised him that the comments were offensive and could warrant referral to the Standards & Ethics Committee.

Councillor Clark said the issue was about respect. The Subject Member's comments were unacceptable, unpalatable and she could not accept that behaviour in the Council or anywhere else. She had never complained about another councillor's conduct before but the Subject Member had breached the Code of Conduct and the Council's equalities duties. The behaviour was unacceptable for any member of the Council. Councillor Clark had circulated a draft of her complaint to the other councillors present at the pre-meeting before submitting it and all but one had agreed the contents, with the remaining councillor accepting that the comments had been made by the Subject Member.

When the Chair asked what outcome she wanted from the hearing, Councillor Clark said that was up to the Sub-Committee but invited the Sub-Committee to consider the Subject Member's role on outside bodies.

The Subject Member was asked if he had any questions for Councillor Clark and confirmed he did not.

In response to questions from the Sub-Committee Councillor Clark gave the following responses;

- The councillors at the pre-meeting had challenged the Subject Member's comments at the time.
- The Subject Member had not been aggressive at the pre-meeting.
- The pre-meeting was a private meeting.
- There was no link between the previous discussion about adoption and the Subject Member's comments about gay and lesbian adoption.
- The comments had been made towards the end of the meeting.

The Subject Member then asked if the meeting was over when he made his comments and Councillor Clark said she had chaired the meeting and the Subject Member had left before the meeting finished.



The officer complainant then gave evidence.

She had been supporting the ILSC to go through the agenda for a future meeting. There was nothing on the agenda about adoption or LGBT adoption. Councillor Senior had raised a query at the pre-meeting about adoption from a constituent. The Subject Member had then asked why the Council was allowing lesbians and gay men to foster, had gone on to say that children should only be brought up by a mother and a father and it was not acceptable for lesbians and gay men to parent. He had then said that he could discriminate between good and bad and made a comment about knowing which side of the road to drive on and driving "straight". These two comments were homophobic.

The Subject Member had no questions for the officer complainant.

The Sub-Committee asked about the law on adoption by same sex couples and the Monitoring Officer confirmed that the law provided for adoption by single people and couples, and that the definition of "couple" included both two people of different sexes or the same sex.

The Subject Member said that the pre-meeting had finished when he made his comments. The officer complainant replied that the discussion on the agenda for the next ILSC meeting had concluded but members were still discussing the arrangements for the meeting.

Cllr Clark said that she did not see the difference between whether the meeting had finished or not, but it had not finished.

The witnesses for the complainants, who were councillors who had attended the pre-meeting then gave evidence.

Councillor Jarvis confirmed that she had been in attendance at the ILSC pre-meeting and that she had witnessed the comments made by the Subject Member.

Councillor Cusworth said there was nothing on the agenda about adoption. She had given the pre-meeting feedback from the Corporate Parenting Panel, and would do so at pre-meetings either verbally or in writing if relevant. Councillor Senior had raised a query from a constituent about adoption and the Subject Member had then made his comments. The response has been that assessment for adoption was about the fitness of the applicants to adopt not their sexual orientation. The Subject Member's comments had got worse as he went on and she believed he knew his remarks were offensive. He had been invited because he had said he was excluded from information about CYPS. The Subject Member had left early and she was not sure why he had raised the issue of LGBT adoption. His comments were in breach of the Council's equalities duties and the Code of Conduct.

The Sub-Committee asked whether the Subject Member had been aggressive at the pre-meeting. Councillor Cusworth replied that the Subject Member's comments got stronger, saying the Council should not be allowing same sex couples to adopt, that he knew right from wrong. He was challenged by other councillors and was aware he was offending people but continued. She had not stood up at the meeting.



Councillor Senior said that when the councillors challenged the Subject Member about his comments the challenge was calm not aggressive. She found the suggestion itself offensive. The Council places children with parents who can meet their needs.

Councillor Beaumont said that she could not agree that there had been any aggression from the councillors at the pre-meeting, but the councillors had been united in their shock and horror. It had not been loud, there had been no increase in volume.

### **The Evidence of the Subject Member**

The Investigating Officer referred to the two documents provided by the Subject Member appended to his report and invited the Subject Member to present his case.

The Subject Member said that Council officers who select parents [to adopt] go through an assessment process and do a good job. He does not understand how they can anticipate how an 8 year old will feel at 18 when they realise that they have been adopted by same sex parents. How do the officers know the child will not be bullied? He does not have issues with gay or lesbian people. Other children will have the benefit of mother and father of different sexes.

He acknowledged that he had made the comments and had been expressing his views as councillor and did not agree with private pre-meetings for scrutiny select commissions.

The Subject Member could not understand why the Council was placing children for adoption with two men. The best situation would be a married different sex couple, then an unmarried different sex couple, then two women then two men. He did not think that his comments should have offended anyone and there had been a loud and instant reaction. It was not relevant that he had left the meeting to get back to his car. The issue is that the care of children is best when they are looked after by a man and a woman.

Cllr Cusworth commented that she found the idea that two women could not be as good parents as parents of different genders offensive.

The Subject Member felt he had been sprung on by the unanimous response from the other councillors at the pre-meeting.

In response to questions from the Sub-Committee the Subject Member gave the following responses;

- If divorce or bereavement leaves children with one parent, being united in grief will bond the family together.
- Mr Reynolds [supporting the Subject Member] said that the Subject Member's view was that a traditional family might be more robust.
- He had been a councillor for 14 years but was not aware of the law on same sex adoption. He had not gone to the pre-meeting with the intention of being controversial.
- He apologised for any offence caused and said he was only concerned about the welfare of children.



- He was aware of the Code of the Code of Conduct and had received it recently. [The Monitoring Officer confirmed to the Sub-Committee that when councillors are elected or re-elected they make a Declaration of Acceptance of Office which included an undertaking to comply with the Code of Conduct.]
- When asked about what he meant by his comment that he knew right from wrong, Mr Reynolds said that the Subject Member had only expressed his disagreement with the policy of [same sex adoption] and that he was entitled to his personal view even if it contradicted the "party line".

Cllr Cusworth said that the way the Subject Member had spoken in the meeting had repeated the distress he had caused in the pre-meeting.

### **Summary**

The Investigating Officer summarised the matters before the Sub-Committee. In particular that the comments were admitted, the Sub-Committee had to decide whether the comments had been made during the pre-meeting or after it had finished and that the evidence of the complainants and their witnesses was of the distress and distaste caused by the Subject Member's comments at the pre-meeting.

The Subject Member confirmed he did not wish to sum up.

### **The Findings of the Sub-Committee**

The Sub-Committee considered, in consultation with the Independent Person, whether the Code of Conduct applied to the Subject Member's conduct at the pre-meeting on 13 March 2018.

They noted that the comments were made at a private pre-meeting to which the Subject Member had been invited as a councillor and the evidence of Councillor Clark, as Chair of the pre-meeting that the Subject Member had left before she closed the meeting. They found on balance that the Subject Member had been conducting the business of his office as a councillor when he made the comments at the pre-meeting and that the Code of Conduct applied to his conduct at the pre-meeting.

The Sub-Committee then considered, in consultation with the Independent Person, whether by making the comments the Subject Member had failed to treat others with respect. They considered the comments made by the Subject Member that:

- He "*knew right from wrong*"; and
- He "*knew which side of the road to drive on and which way to go – straight.*"

And found that those comments were homophobic, being indicative of a dislike or prejudice towards LGBT people.

The Sub-Committee found on balance that that the Subject Member had breached the Code of Conduct in making those comments in that he had failed to treat others with respect, namely the LGBT community and in particular same sex couples who foster or adopt children or who wish to do so.



The Sub-Committee then considered, in consultation with the Independent Person, whether by making the comments the Subject Member had done something which may cause the Council to breach any of the equality duties. They noted the Council's responsibility under the Equality Act 2010 when exercising public functions to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

And found on balance that by making the homophobic comments at a pre-meeting of the Improving Lives Select Commission the Subject Member had done so.

The Sub-Committee then considered, in consultation with the Independent Person, whether by making the comments the Subject Member had conducted himself in a manner which could reasonably be regarded as bringing his office of councillor or the Council into disrepute. They found on balance that by making the homophobic comments at a pre-meeting of the Improving Lives Select Commission the Subject Member had done so, both in respect of his office as councillor and the Council.

Given their findings that the Subject Member had breached the Code of Conduct the Sub-Committee considered what sanctions, if any, to impose upon him. They noted that the Subject Member sat on the South Yorkshire Police and Crime Panel and on the Council's Improving Places Select Commission.

The Sub-Committee decided that the following sanctions should be applied to the Subject Member:

- (1) The member shall be censured
- (2) The formal decision notice setting out the findings of the Sub-Committee shall be published on agenda of the next meeting of the Standards & Ethics Committee ;
- (3) The Sub-Committee shall recommend to the Councillor's Group Leader that he be removed from the Committees or Sub-Committees of the Council upon which he sits;
- (4) The Monitoring Officer shall be instructed to arrange equalities training for the Subject Member;
- (5) That the Sub-Committee shall recommend to Council that the Subject Member be removed from all outside appointments to which he has been appointed or nominated by the Council ;

Signed:

OW BETHLE  
OF COUNCILLOR ROSE MCNEELY [Chair of Sub-Committee]

Dated:

19<sup>th</sup> September 2018

