

SUNDERLAND CITY COUNCIL

COMPLAINT REGARDING COUNCILLOR STEPHEN O'BRIEN (REF 7/18)

SUMMARY OF FINDINGS OF THE HEARING SUB-COMMITTEE OF THE STANDARDS COMMITTEE

Findings

1. The Hearing Sub-Committee has considered a Code of Conduct complaint against Cllr Stephen O'Brien and has determined that Cllr O'Brien breached the Code of Conduct for Members (the Code). The Sub-Committee determined that Cllr O'Brien did not breach Paragraphs 3 or 4 of the Code but did breach Paragraphs 5, 6 and 7 of the Code¹.
2. The complaint related to a letter sent by Cllr O'Brien (and former Cllr Appleby) which was sent using Council letterhead, envelopes and postage (through the franking system). The letter was in the following terms:-

'Hastings Hill Update

New bus stop on Sevenoaks Drive

One of the first things Stephen O'Brien did as a local councillor was to work with residents to get a new bus stop for Hastings Hill.

We are glad to say the campaign has been successful and there will be a new bus stop installed near Arnham Grove, opposite the footpath to the field, hopefully by the end of July. This should make it easier for residents to catch the 16 into town and to the Hospital.

ALDI development on former Dewhurst site

Many people have been asking about plans for the former Dewhurst site. Sunderland Council has received no information or plans from ALDI that they want to start work on the site. We will keep you updated.

Road repairs

We have managed to get potholes repaired on Kirkwood Avenue after complaints from residents. We have reported Woodhurst Grove to be completely resurface but the Council are currently refusing – we will keep up the fight to get the road repaired and resurfaced.

If there's anything we can do to help please don't hesitate to get in touch.

With best wishes,

Councillor Stephen O'Brien

Councillor Lynn Appleby'

3. The Hearing Sub-Committee concluded that the letter was sent to all of the residents of the Hastings Hill Estate given the title of the letter, its contents, the fact that Cllr O'Brien had not disputed in his initial interview that it had been sent to all of the residents on the estate and the uncertainty over and differing versions as to who it had been sent to given at the hearing. It was also clear that the exercise to distribute the letter had required organisation and planning.

4. Taking into account the above finding on the extent of its distribution, the Sub-Committee concluded that there could be no doubt that the letter was designed to confer political credit on the authors and had as a result been sent for party political purposes. Although the letter did not contain a reference to a political party, as Deputy Leader at the time of the Liberal Democrats and Others group, Cllr O'Brien was a person identified with a political party.
5. The Sub-Committee were satisfied that the terms of the Protocol for Members on the Use of Council Resources are clear. Photocopying, postage and the use of the Council logo/letterhead are only to be used for Council business. Unsolicited communications of a political nature sent to a large number of residents could not be said to constitute Council business.
6. The Sub-Committee found that there was no breach of Paragraphs 3 or 4 of the Code on the basis that no staff members had known the content of the letters which had been submitted for franking and posting and the behaviour had not brought the Council or the office of member into disrepute .
7. The Sub-Committee concluded that Cllr O'Brien had gained an advantage in monetary terms and also in terms of time by using Council resources to send the letters. Conversely that had resulted in a disadvantage to the Council's other political parties. As a result, Cllr O'Brien had breached Paragraph 5 of the Code.
8. In connection with Paragraphs 6 and 7, the Sub-Committee determined that the letters had been sent for a party- political purpose for the reasons outlined above. As a result, there had been a clear breach of the Protocol on Use of Council Resources which is very specific that resources are to be used in connection with Council business only, not for party-political purposes.
9. The Council's Independent Person was in agreement with the Sub-Committee's findings and with the sanctions set out below.
10. Cllr O'Brien sought a review of the decision by the Independent Person of another Local Authority. Gateshead Council's Independent Person undertook the review and agreed with the Sub-Committee's conclusions that Cllr O'Brien had breached Paragraphs 5, 6 and 7 of the Code, that the letter which prompted the complaint was of a party-political nature and that the sanctions proposed by the Sub-Committee were reasonable. Having considered the report of Gateshead Council's Independent Person, the Hearing Sub-Committee confirmed its original determination.

Sanctions

11. The Hearing Sub-Committee

- i) determined that a summary of their findings be published on the Council's website.
- ii) censured Cllr O'Brien in relation to his breaches of Paragraphs 5, 6 and 7 of the Code of Conduct for Members.
- iii) acknowledged Cllr O'Brien's request for training, and whilst not considered to be relevant or material to their decision upon the breaches of the Code, agreed to the request for further training to be given.
- iv) invited Cllr O'Brien to apologise for and undertake not to repeat the conduct complained of by submitting the apology and undertaking to the Chair of the Hearing Sub-Committee. (No apology or undertaking has been provided.)
- v) as an advisory recommendation suggested to Cllr O'Brien that he make recompense to the Council for the Council resources used to send the letters.

¹ Paragraph 3 - You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
Paragraph 4 – You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.

Paragraph 5 – 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 any advantage or disadvantage.

Paragraph 6 – You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct and which is listed in the annex to this Code.

Paragraph 7- When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.

The full decision will also be available for inspection in person at the Civic Centre when the building is open to the public again.