

**MEMBER CONDUCT PANEL
19TH JULY 2016**

PRESENT: Councillors C. Harris, Parsons and Tassell.

Helen Gretton (Investigating Officer)
Gordon Grimes (Independent Person)
Adrian Ward (Monitoring Officer)

Councillor Jukes
Councillor Poland (Councillor Jukes' Representative)

Democratic Services Officer (NC)

1. APPOINTMENT OF CHAIR

RESOLVED that Councillor Parsons be appointed Chair for the meeting.

2. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

No disclosures of interest were made.

3. DETERMINATION OF A COMPLAINT OF A POTENTIAL BREACH OF THE MEMBERS' CODE OF CONDUCT OF CHARNWOOD BOROUGH COUNCIL BY COUNCILLOR RON JUKES

In February 2016 a complaint was received from Mrs Deborah White, Repairs & Investment Manager at the Borough Council that Councillor Ron Jukes, a Member of Charnwood Borough Council, failed to comply with the Members' Code of Conduct during a meeting of the Housing Management Advisory Board on 17th February 2016.

During the fact finding process, Councillor Jukes offered to apologise at the next meeting of the Housing Management Advisory Board for any offence caused by his comments, although he stated that he could not remember exactly what he had said at the meeting. The Monitoring Officer decided that the offer of an apology would be an acceptable resolution to the complaint, but when the complainant was consulted she disagreed as she felt that Councillor Jukes apologising for something he did not remember saying would be meaningless.

Having been made aware of the Monitoring Officer's conclusions and of the complainant's views, the Independent Person's view at the fact finding stage was that further action should be taken to try and establish exactly what was said by Councillor Jukes, and that if he was found to have made the comments that were the subject of the complaint then this would certainly appear to be a potential breach of the Code of Conduct.

If the Monitoring Officer and the Independent Person do not agree at the fact finding stage, the process for dealing with complaints allows the complainant to request that

the complaint be referred to a Panel of the Member Conduct Committee, and in this case the complainant made such a request.

A Panel was therefore convened to consider the complaint and the fact finding summary, and at its meeting on 29th March 2016 decided to request the Monitoring Officer to arrange for a full investigation into the complaint.

The Investigating Officer's report was considered by the Monitoring Officer who, having consulted again with the Independent Person, decided that Councillor Jukes had a case to answer and that the report should be referred to a Panel of the Member Conduct Committee for a hearing. The Independent Person agreed with this decision.

The complaint to be determined is that Councillor Jukes breached the Code of Conduct of the Council in that at a meeting of the Housing Management Advisory Board on 17th February 2016, during a discussion regarding some tenants from minority communities indicating which their preferred language was, he asked '*have we asked them if they would prefer to go back to the country they came from?*'.

The relevant paragraphs of the Code of Conduct of the Council are:

- 3.1 You must treat others with respect.
- 3.2.1 You must not do anything which may cause the Authority to breach any of the equality enactments.
- 3.5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.

In accordance with the procedure for dealing with complaints, the Panel was asked to consider the material facts and decide whether they amounted to a breach of the Code of Conduct of the Borough Council by Councillor Jukes, and if so, what if any sanction should be imposed.

4. ADMINISTRATION OF THE PANEL

The Chair explained the order of proceedings and all present (including witnesses) confirmed they understood the procedure. It was established that nobody present was aware of any interests or other reason which could prejudice the ability of the Panel to hold a fair hearing and make a sound determination on the matters in question.

The Panel agreed that Councillor Poland could act as Councillor Jukes' representative, even though he was not a lawyer.

The Panel agreed that the hearing should be conducted in public and introductions were made. The witnesses were then asked to leave the room, until they were called in separately during the hearing.

5. SUMMARY OF THE PANEL'S PROCEEDINGS

The Investigating Officer presented her case, and answered questions from Councillor Jukes' representative and the Panel, summarised as follows:

- In addition to Mrs White, Mrs Ansell had also described the comment under consideration as ‘highly offensive’ during her interview.
- The other comments made by Councillor Jukes relating to the ethnic makeup of Leicester were not considered to be in breach of the Code of Conduct and the relevant statistics quoted within the complaint were not included in the investigation as they were subsequently found to be inaccurate.
- In the Investigating Officer’s view Mrs White was the person who was most shocked and upset at the meeting after the comments had been made, but there were no persons present from the relevant minority communities referred to within the report in question.
- The membership of the Housing Management Advisory Board included tenant representatives.

Councillor Jukes’ representative then presented the case on his behalf, and stated that Councillor Jukes was known for being direct in his questioning and that part of the role of a councillor was to scrutinise the Council and its policies. He explained that Councillor Jukes’ comments should not be viewed as racist in nature, and that he had made them in line with Government policy. He referenced a statement made by Mr David Cameron, the Prime Minister, on the Today Programme in January 2016 that if immigrants did not learn English they may be requested to leave the UK.

The Chair stated that it was not a matter for the Panel to determine whether or not the comment made by Councillor Jukes was racist, but rather whether Councillor Jukes had failed to demonstrate respect for other communities and whether he had breached the Members’ Code of Conduct.

The witnesses were then called into the room and answered questions from Councillor Jukes’ representative, as summarised below:

- Mrs White confirmed she felt the comment made by Councillor Jukes was highly offensive and that her responsibility as an officer was to ensure fair and equal treatment of, and respect for, all residents, and the comment did not show that consideration.
- Mrs Ansell confirmed she felt regret at not having challenged Councillor Jukes during the meeting but she felt it was not appropriate to do so with tenants present, but she did believe the comment made by Councillor Jukes had a racist overtone.
- Mrs Ansell stated that it would be inappropriate for officers to put the question within Councillor Jukes’ comment to tenants, and she would not feel comfortable asking it. She explained that when Councillor Jukes made the statement he did not say it under his breath or in an enquiring way, but in a negative manner.

There was a brief adjournment of the meeting for 5 minutes for Councillor Jukes and his representative to confer in private.

- Mr Philp confirmed that he had not heard the comments made by Councillor Jukes being considered by the Panel, but he thought it may have been made whilst he was presenting the item so was focussed on that task.
- Mr Hopkins confirmed that he had prompted the Chair of the meeting on a number of occasions to re-focus on the business of the meeting, but had not heard the particular comment being considered by the Panel. He stated that he had been concentrating on taking notes of the meeting relevant to producing the minutes, but if he had heard a comment made that could have represented a breach of the Code of Conduct he would have reported it.
- Councillor Parton confirmed that he did not recall the comment in question being made by Councillor Jukes, although he had sat near to him during the meeting. He explained that he had not observed any disquiet amongst members of the Board, and he would have noticed as he was particularly sensitive to situations of conflict.
- Several of the witnesses stated that appropriately worded questions regarding the costs of translation services in light of the current fiscal climate would have been acceptable, although Mrs Ansell didn't feel this would have been relevant to the published agenda for the meeting of the Housing Management Advisory Board on 17th February 2016.

The Panel confirmed the following points with the witnesses:

- Where some of them were sitting in relation to Councillor Jukes at the meeting of the Housing Management Advisory Board on 17th February 2016, and the volume at which the comment was made.
- That persons from the relevant minority communities in question were not present during the discussion at the meeting of the Housing Management Board on 17th February 2016.
- That the notes made by Mrs White regarding the case were taken at the time of the meeting.
- That it was a standard question to ask in customer satisfaction surveys whether there was a preferred language for communication purposes.
- That the relationship between members and/or between members and officers of the Housing Management Advisory Board had been difficult at times.

Councillor Jukes answered questions from the Panel, summarised as follows:

- During the consideration of agenda items at the Housing Management Advisory Board meeting he was aware that the Board had drifted from the agenda on occasion, and that Mr Hopkins had intervened to bring the focus back onto the business of the meeting.
- No person present during the meeting on 17th February 2016 mentioned that his comment had upset them.
- He had asked at that meeting '*have we asked them if they would prefer to go back to the country they came from?*' and he believed this was a reasonable enquiry given the high costs of translation services incurred within the public sector.
- He had been advised an apology would be sufficient and had wanted to save councillors and officers time in preventing the need for a Panel.

The Panel then heard from Mr Grimes, the duly appointed Independent Person, who stated that in his view:

- It was important to consider the context in which the comment was made.
- The average person in the street would feel disquiet if the question within the comment made by Councillor Jukes was asked.
- The role and ability of councillors to hold the Council and officers to account was not likely to be impacted by this case, irrespective of the Panel's findings.
- That having considered the evidence in the report and hearing the evidence provided at this Panel, he believed that the comment made by Councillor Jukes was in breach of the Code of Conduct, and specifically paragraphs 3.1, 3.2.1 and 3.5.

The Investigating Officer summed up by stating that having heard the evidence presented to the Panel she continued to endorse the findings of her report, which were that Councillor Jukes had not complied with paragraphs 3.1, 3.2.1, and 3.5 of the Code of Conduct in relation to his behaviour at the meeting of the Housing Management Advisory Board on 17th February 2016 and the particular comment in question.

Councillor Jukes' representative summed up the case on his behalf by stating that Councillor Jukes was a well-respected member of the Conservative Group and the Council, that he asked direct and sometimes challenging questions, and was honest and fair. He noted that despite difficult personal circumstances during 2016 Councillor Jukes had continued to perform his duties as a councillor and attend meetings. The comment made by Councillor Jukes did not merit this situation which had caused Councillor Jukes five months of worry in addition to his difficult personal circumstances. He was concerned that the outcome of this Panel could have far-reaching consequences for councillors and their ability to ask challenging and possibly awkward questions without the fear of being complained about.

The Panel and the Monitoring Officer withdrew to allow the Panel to consider the evidence in private.

The Panel and the Monitoring Officer returned to announce the Panel's decision.

RESOLVED

1. that the Panel's decision in relation to the material facts was that during a discussion at a meeting of the Housing Management Advisory Board on 17th February 2016 regarding the language preferences of some tenants for Council communications, Councillor Jukes made the comment '*have we asked them if they would prefer to go back to the country they came from?*';
2. that the Panel's decision was that this did represent a breach by Councillor Jukes of the following section of the Members' Code of Conduct:
 - 3.1 You must treat others with respect
 - 3.2.1 You must not do anything which may cause the Authority to breach any of the equality enactments
 - 3.5 You must not conduct yourself in a manner which could reasonably regarded as bringing your office or the Authority into disrepute.

Reasons

- 1 & 2. The Panel considered that, on the balance of probability, Councillor Jukes had made the comment he was alleged to have made and that in doing so he breached the Code of Conduct as the comment demonstrated disrespect for other communities and may have caused the Authority to breach equality enactments, and could thus have brought his office and the Authority into disrepute.

The Chair of the Panel stated that before the Panel considered whether or not to recommend the imposition of a sanction, Councillor Jukes or his representative had the opportunity to make representations.

Councillor Jukes' representative noted the Panel's decision and requested that Councillor Jukes' personal circumstances should be taken into consideration. He stated that although the comment made by Councillor Jukes may have been undiplomatic, it was not intended to be 'racist in nature, highly offensive and completely unacceptable' as referred to within the complaint. He therefore requested leniency by the Panel when considering imposing a sanction.

Councillor Jukes stated that he was not being disrespectful when he made the comment.

The Panel and the Monitoring Officer withdrew to allow the Panel to consider whether or not to impose a sanction.

The Panel and the Monitoring Officer returned to announce the Panel's decision.

The Chair stated that the Panel were extremely sympathetic to Councillor Jukes regarding his personal circumstances as presented by Councillor Poland, and had also taken into account Councillor Jukes' long and distinguished record of service in his ward and for the Council.

RESOLVED that in respect of the breach of the Members' Code of Conduct by Councillor Jukes it be recommended:

1. that Councillor Jukes undertakes appropriate training, to be agreed by the Monitoring Officer;
2. that Councillor Jukes' Group Leader be requested to ask Councillor Jukes to refrain from attending future Housing Management Advisory Board meetings until the agreed training has been undertaken.

The Panel also expressed their hope that the apology offered by Councillor Jukes during the earlier stages of the process would now be made by him to the Chair of the Housing Management Advisory Board.

Reasons

- 1 & 2. Having given due consideration to Councillor Jukes' personal circumstances and his long and distinguished record of service as a Councillor, the Panel felt that these sanctions were appropriate.

Councillor Jukes has a right of appeal which can be exercised within 10 working days of him being informed in writing of the Panel's decision.

The Panel's decision will be published in the form of these minutes, and the Monitoring Officer will also arrange for the publication of a notice of the Panel's findings and Councillor Jukes' right of appeal in a local newspaper and on the Borough Council's website.