



Leicester
City Council

MEETING OF THE STANDARDS COMMITTEE

TUESDAY, 13 NOVEMBER 2018

Further to the above meeting

HEARING PANEL RECOMMENDATIONS - COMPLAINT 2018/05

Following endorsement of the Hearing Panel recommendations by the Standards Committee the Monitoring Officer publishes the Decision Notice of the Hearing Panel and a redacted version of the Investigator's Report.

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Leicester
City Council

DECISION NOTICE

HEARING PANEL (STANDARDS SUB-COMMITTEE)
COMPLAINT 2018/05

Held: 13TH NOVEMBER 2018

MEMBERS OF THE HEARING PANEL

Ms Alison Lockley (Independent Member) - Chair

Ms Fiona Barber (Independent Member)

Councillor Susan Barton

* * *

SUMMARY OF DECISION:

The Standards Hearing Sub-Committee, having taken into consideration the written evidence, representations from the Investigator and witness evidence, finds the following:

RESOLVED:

- a) That Councillor Corral has breached paragraph 3(a) of the City Council's Code of Conduct by acting in a disrespectful manner. He knew, or ought to have known, that his comments went beyond allowable criticism and crossed the line into personal abuse. The suggestion that any of the councillors appointed to the Police and Crime Panel were chosen because of the colour of their skin is disrespectful both toward the councillors themselves and those who appointed them. It suggests that they were undeserving of their position and implies tokenism;

- b) That Councillor Corral has, for the same reasons, breached paragraph 3(e) of the Code of Conduct by failing to uphold and promote the Authority's discharge of its Equality obligations

- c) That Councillor Corral has breached paragraph 3(i) of the Code of Conduct by conducting himself in a manner which is likely to bring the Authority into disrepute. His offensive remarks seriously risked damaging the reputation of this authority. The City Council places great weight on upholding and discharging its equality obligations and Councillor Corral's comments can only have reduced the public's confidence in the City Council's ability to achieve this;

- d) That Councillor Corral has, for all of the above reasons, breached paragraph 3(f) of the Code of Conduct by failing to uphold and promote these principles by leadership and by example, and act in a way that secures and preserves public confidence.

RECOMMENDATIONS:

Whilst wishing to acknowledge and give due credit to Councillor Corral for his full engagement with the investigative process and his full apology to both the Committee and those affected by his offensive

remarks, the Hearing Panel nonetheless wish to stress the seriousness of the misconduct and recommend the following sanctions:

- i. That Councillor Corrall apologises directly to Councillor Z and Mr X in writing within 14 days of today for the offence caused
- ii. That the Monitoring Officer publishes the Decision Notice of the Hearing Panel, and a suitably redacted version of the Investigator's Report, on the Council's website
- iii. That the Labour Group and/or the Elected Mayor withdraws Councillor Corrall's appointment to any outside bodies on which he serves as a representative of the Council.

**Investigation into a complaint against
Councillor Stephen Corral,
Leicester City Council**

A report for the Monitoring Officer of
Leicester City Council

4 October 2018

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1 Executive Summary

- 1.1 ch&i associates was appointed by the Monitoring Officer at Leicester City Council (the City Council) to investigate a complaint about the conduct of Councillor Stephen Corral, a member of the City Council.

Scope and focus of the investigation

- 1.2 On **7 June 2018**, Mr [REDACTED] X, Leicestershire County Council's [REDACTED] Officer, emailed the City Council's Monitoring Officer to complain about Councillor Corral's conduct. Mr X is also [REDACTED] the Leicester, Leicestershire and Rutland Police and Crime Panel (the Police and Crime Panel). Councillor Corral is one of four elected members who represent the City Council on this Panel.
- 1.3 Mr X complaint concerned comments he said he heard Councillor Corral make on **4 June 2018**, immediately before a pre-meeting of the Police and Crime Panel. Mr X alleged that Councillor Corral said that Councillor [REDACTED] Z, another member of the City Council, "*only got the job because he is black*". Mr X also alleged that Councillor Corral complained about Sir Peter Soulsby (the City Mayor) '*appointing all these brown faces.*'

Recommendation

- 1.4 My approach in this case has been to equip the Council to determine the allegations through any of the routes open to it, namely:
- i. The member *was not* acting in councillor capacity therefore the code was not engaged and the member did not breach it;
 - ii. The member *was* acting in member capacity, but did not through their conduct breach any Code paragraph;
 - iii. The member *was* acting in member capacity and breached the Code.
- 1.5 The investigation has established that Councillor Corral did act as alleged and in my view did so in his councillor capacity; as such the Code of Conduct was engaged. Councillor Corral is clearly a committed and hardworking member of the Council who is passionate about representing his local community. While I am gratified by his apologetic and regretful response to the complaint, it is my view that on this occasion Councillor Corral made a serious error of judgement that amounts to a clear breach the City Council's Code.
- 1.6 The Council's arrangements for dealing with standards complaints states that when the investigator considers that there has been a breach of the Code the Monitoring Officer will send the matter for local hearing. As such my provisional recommendation is that the matter be referred to the Council's Hearing Panel so that they can establish that a breach of the Code has occurred.

2 Official details of Councillor Stephen Corrall

- 2.1 Councillor Corrall has been a member of the City Council since 2003, representing the Labour Party. His current term of office is due to end in May 2019. Councillor Corrall is the Ward member for the Braunstone Park and Rowley Fields ward.
- 2.2 Councillor Corrall currently sits on the following Committees:
 - Braunstone Park and Rowley Fields Community Meeting Panel,
 - Housing Scrutiny Commission
 - Joint meeting of the Children Young People & Schools Scrutiny Commission and the Health & Wellbeing Scrutiny Commission.
- 2.3 Councillor Corrall represents the City Council on the following outside bodies:
 - East Midlands Reserve Forces and Cadet Association
 - Leicester, Leicestershire and Rutland Police and Crime Panel
 - Wyggeston's Hospital Trust

3 The relevant legislation & protocols

Localism Act 2011

- 3.1 By section 27(1) of the Localism Act 2011 (the Act) a “relevant authority” is placed under a statutory duty to “promote and maintain high standards of conduct by members and co-opted members of the authority”.
- 3.2 By section 27(2) of the Act a relevant authority “must in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity”.
- 3.3 Under section 28(1) of the Act a relevant authority must secure that a code adopted by it is, when viewed as a whole, consistent with prescribed principles of standards in public life – the so called “Nolan principles”.
- 3.4 The intention of the legislation is to ensure that the conduct of public life in local government does not fall below a minimum level which engenders public confidence in democracy, as was recognised by Beatson J, as he then was, in R (Calver) v The Adjudication Panel for Wales [2012] EWHC 1172 (Admin) when he held that there was a clear public interest in maintaining confidence in local government while at the same time bearing in mind the importance of freedom of political expression or speech in the political sphere.
- 3.5 Under 28(6) of the Act, Local Authorities must have in place (a) arrangements under which allegations can be investigated and (b) arrangements under which decisions on allegations can be made. By section 27(7), arrangements put in place under subsection (6)(b) must include provision by the appointment of the

authority of at least one “independent person” whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

- 3.6 Section 28(11) of the Act provides that if a relevant authority finds that a member or a co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take.

Leicester City Council’s Code of Conduct

- 3.7 Under Section 27(2) of the Act, the Council established a Code of Conduct for members (the Code).

- 3.8 The Code adopted by the Council includes the following paragraphs:

1. Application

The Code of Conduct applies to you whenever you are acting in your capacity as a Member (to include co-opted Members and the Elected Mayor) of Leicester City Council, including:

- a. At formal meetings of the Council, its Committees and Sub-Committees, its Executive and Executive Committees
- b. When acting as a representative of the Authority
- c. In taking any decisions as a Member of the Executive or as a Ward Councillor
- d. In discharging your functions as a Ward Councillor
- e. At briefings meetings with officers
- f. At site visits
- g. When corresponding with the Authority other than in a private capacity
- h. At any other time when you conduct the business of your Authority

* The Code therefore applies when performing your duties in meetings, or when acting alone, and it applies whether you are acting inside or outside of the City boundary

2. [...]

3. General Conduct

You must, therefore:

- a. Respect others and not bully or intimidate any person ...
- e. Uphold and promote the Authority’s discharge of its Equality obligations, in particular to (i) eliminate discrimination (ii) promote equality of opportunity (iii) foster good relations

- f. Uphold and promote these principles by leadership and by example, and act in a way that secures and preserves public confidence [...]
- i. Not conduct yourself in a manner which is likely to bring the Authority into disrepute

4 The investigation

- 4.1 This investigation was conducted by Alex Oram on behalf of the Council's Monitoring Officer. Alex is a director of ch&i associates¹, a company with a successful track record of conducting complex investigations, assessments and case reviews within the regulatory, charity, NHS and local government sectors. Alex has been conducting member conduct investigations since 2003. He was previously employed by Standards for England as a principal investigator responsible for conducting many of their most complex, politically sensitive and high-profile investigations into member conduct.
- 4.2 During the course of this investigation I have met with Councillor Stephen Corral and Mr [REDACTED] X. I have also spoken with Councillor Y, a member of [REDACTED] District Council, and obtained the necessary documentary evidence from the Council website and various other internet sites. I would like to thank all parties for their co-operation during the investigation. I would also like to commend Mr X for raising his concerns with the Monitoring Officer in the first instance.

5 The evidence

- 5.1 The Police and Crime Panel is a joint Committee of Blaby District Council, Charnwood Borough Council, Harborough District Council, Hinckley and Bosworth Borough Council, Leicester City Council, Leicestershire County Council, Melton Borough Council, North West Leicestershire District Council, Rutland County Council and Oadby and Wigston Borough Council. The Panel publicly scrutinises the actions and decisions of the Police and Crime Commissioner (PCC) in the context of relevant sections of the Police Reform and Social Responsibility Act 2011.
- 5.2 The Police and Crime Panel is currently made up of 13 councillors and two independent members. Leicestershire County Council (the County Council) act as the host authority and therefore provide all the necessary administrative and financial support. [REDACTED]. At the time of this complaint the City Council had four representatives on the Panel; Councillor Stephen Corral, Councillor Ratilal Govind, Councillor Manjula Sood MBE and Councillor Abdul Osman.

¹ Alex is not a lawyer and therefore nothing in this report should be interpreted as legal advice. Any opinions offered are based on his experience of having been involved in over 300 standards investigations.

- 5.3 The Police and Crime Panel meets six times a year, with the PCC, his Deputy, his Chief Executive Officer and the Chief Constable also generally present. Three or four days prior to each meeting the members of the Panel are invited to attend a pre-meeting; a private meeting where Panel members can agree on a list of questions to ask at the forthcoming meeting. Mr X told me that although these meetings are not minuted, they are considered a formal meeting and are chaired by the Chair of the Police and Crime Panel. Mr X also confirmed that these pre-meetings are generally attended by far fewer of the Panel members than the subsequent meeting.
- 5.4 On **4 June 2018** there was a pre-meeting of the Police and Crime Panel held at County Hall in Glenfield; the actual meeting took place on **8 June 2018**. The pre-meeting was scheduled to start at 2pm. At approximately 1:50pm Mr X entered the meeting room to ensure that the meeting would start promptly. Councillor Stephen Corral was already sat in the room, as was Councillor Y (a member of [REDACTED] District Council).
- 5.5 Mr X told me at interview that as he sat down at the table, Councillors Corral and Y were sat on the other side discussing which members might turn up to the pre-meeting. Mr X said that Councillor Corral then turned to him and asked whether Councillor [REDACTED] Z was coming or whether he had sent his apologies. Mr X told Councillor Corral that he did not know whether Councillor Z was going to turn up or not. Mr X alleged that at this point Councillor Corral told him: “[REDACTED] Z *only got the job because he is black*”.
- 5.6 Mr X told me that neither he nor Councillor Y responded to Councillor Corral’s remark, adding that he was a little confused by it as he had never considered Councillor Z as ‘*black*’. Mr X said that he initially assumed the ‘*job*’ to which Councillor Corral was referring was Councillor Z’s [REDACTED] position at the City Council; in hindsight though he could as easily been talking about Councillor Z’s position on the Police and Crime Panel.
- 5.7 Mr X said that as the conversation continued, Councillor Corral complained about Sir Peter Soulsby (the City Mayor) ‘*appointing all these brown faces*’. Mr X said that again neither he nor Councillor Y made any response, even though Councillor Corral’s comments had made him feel very uncomfortable. Mr X said that it was as if Councillor Corral was expecting them to agree with him. Mr X said that the conversation continued for a short period until the two other councillors who turned up for the pre-meeting arrived, though nothing of further concern was said.
- 5.8 Mr X told me that he was not particularly surprised by Councillor Corral being critical of his colleague from the City Council. Mr X said that Councillor Corral had previously expressed his frustration at the failure of his three City Council colleagues, who along with Councillor Corral are the only Labour members on the Police and Crime Panel, to regularly attend the pre-meetings. Mr X considered of note an earlier disagreement involving a paper that City Councillor Govind had brought forward, which proposed that two of the six Police and Crime Panel meetings be held at City Hall. Mr X said that while the proposal had been supported by fellow City Councillors Abdul Osman and Manjula Sood, Councillor

Corrall (along with other Panel members) had been against it. Mr X said that when Councillors Govind, Osman and Sood failed to attend the pre-meeting held directly prior to the meeting where Councillor Govind's proposal was due to be considered, Councillor Corrall had been quite derogatory about them. Mr X was clear though that at no point previously had Councillor Corrall ever referred to their ethnicity or skin colour.

- 5.9 In his comments on the draft report Councillor Corrall challenged Mr X's description of his earlier conduct, stating in the first instance that he had been ambivalent about Councillor Govind's proposal: "*As to being derogatory, if saying something to the effect that people can't be bothered to attend meetings to present papers is derogatory, then I'm guilty as charged*"
- 5.10 Mr X stressed at interview that he has no personal issue with Councillor Corrall; he felt it important to submit the complaint though because in his view such comments are wholly unacceptable. Mr X said that his intention was to ensure that such comments were never made again.
- 5.11 Councillor Y told me that he did not have a particularly clear recollection of his conversation with Councillor Corrall prior to the pre-meeting, however when Mr X's account was put to him, Councillor Y told us that he believed Mr X's description of Councillor Corrall's conduct to be broadly accurate.
- 5.12 Councillor Corrall also told me that while he could not recall specifically making the remarks attributed to him, he would not dispute Mr X account and therefore accepted that he must have made comments along the lines of those alleged: "*My one reservation is that the wording of the allegation is that I used the words 'brown faces'. These are not words I use. I would have said 'black faces'².*" Councillor Corrall added that he did not believe that he had been directly addressing Mr X at the time; he could only recall talking to Councillor Y.
- 5.13 Councillor Corrall told me that he had been appalled when informed of the complaint because he had always considered himself a person who would never speak in such a manner: "*I would challenge anyone to find another example of me making any sort of racist remark.*" Councillor Corrall said that he was slightly disappointed that neither Mr X nor Councillor Y '*picked him up on it*' at the time so that he would have had the opportunity to retract his comments: "*If I could turn the clock back and apologise there and then I would do so*".
- 5.14 Councillor Corrall offered little by way of explanation for his comments, simply maintaining that he was not the sort of person who would make a racist remark. Councillor Corrall acknowledged that he sometimes gets annoyed when people who put themselves forward to sit on Panel's and Committees do not then do the

² In his comments on my draft report, Mr X said that he was confident that the words '*brown faces*' were used by Councillor Corrall because he wrote them in his notebook at the end of the pre-meeting. Mr X added "*Councillor Corrall says he did not believe he was addressing me at the time. Well, he was facing towards me, but not facing Cllr Y, and he had already brought me into the conversation and there were only 3 of us in the room so I took it as the comments were addressed towards me. It's not something I would insist on arguing about though. The point is I was in the room and was guaranteed to hear the comments.*"

work required; he also confirmed that his frustration at Councillor Z's repeated failure to attend the pre-meetings likely led to his making the comment about him. Councillor Corral insisted though that he did not seriously believe that Councillor Z had only been appointed to the Police and Crime Panel because of the colour of his skin; his had been a flippant remark made in an unguarded moment.

- 5.15 Councillor Corral told me that he realised that he had made a serious error when commenting in the manner that he did and indicated his willingness to accept whatever consequences were considered appropriate. Councillor Corral said that he did not personally feel that he could sit on the Police and Crime Panel any longer and had therefore asked the Chief Whip to remove him. Councillor Corral added that this incident had reinforced the decision he had already made not to stand at the forthcoming election.

6 Have there been failures to comply with the Code?

Official Capacity

- 6.1 Before I make a recommendation as to whether Councillor Corral's conduct amounts to a failure to comply with the Code of Conduct, I need to decide whether he was acting as a councillor (i.e. acting in his official capacity). Section 27(2) of the Localism Act 2011 requires all relevant authorities to adopt a code of conduct "*dealing with the conduct that is expected of members ... when they are acting in that capacity.*" The City Council has reflected this wording in their own Code.
- 6.2 Councillor Corral was appointed to the Police and Crime Panel by the City Council and was attending the pre-meeting as its representative. Although the comments that are the focus of this complaint were made prior to that pre-meeting starting, they were made in the same meeting room and in the presence of two people who were only there because they were due to attend the same meeting as Councillor Corral. In my view Councillor Corral was acting in his official capacity and therefore this matter does fall within the jurisdiction of the Code.

Has Councillor Corral breached the Code of Conduct?

- 6.3 The intention of the Code is to ensure that the conduct of public life at the local government level does not fall below a minimum level which engenders public confidence in democracy. In adhering to the principles set out in the Code there is an expectation that members will treat their fellow councillors, Council officers and members of the public with respect. This is not to say that councillors should not be encouraged to engage in vigorous public debate on matters pertaining to the Council, however the impact of such debate is diminished, rather than accentuated, when it is cast in abusive or offensive terms.

Freedom of expression

- 6.4 Any consideration as to whether Councillor Corral failed to comply with the Code must also take into account his right to free speech, in particularly the higher level of protection offered to political speech.

6.5 In *Heesom v Public Service Ombudsman for Wales* Mr Justice Hickinbottom considered a councillor's right to free speech in some detail.³ His considerations drew attention to a number of earlier cases in which the following propositions could be derived:

- a. While freedom of expression is important for everyone, it is especially so for an elected representative of the people. He represents his electorate, draws attention to their preoccupations and defends their interests.
- b. The enhanced protection applies to all levels of politics, including local.
- c. Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated
- d. Whilst, in a political context, article 10 protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false.
- e. The protection goes to "political expression"; but that is a broad concept in this context. It is not limited to expressions of or critiques of political views, but rather extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others.
- f. Past cases draw a distinction between fact on the one hand, and comment on matters of public interest involving value judgment on the other. As the latter is unsusceptible of proof, comments in the political context amounting to value judgments are tolerated even if untrue, so long as they have some – any – factual basis. What amounts to a value judgment as opposed to fact will be generously construed in favour of the former; and, even where something expressed is not a value judgment but a statement of fact (e.g. that a council has not consulted on a project), that will be tolerated if what is expressed is said in good faith and there is some reasonable (even if incorrect) factual basis for saying it, "reasonableness" here taking account of the political context in which the thing was said
- g. As article 10(2) expressly recognises, the right to freedom of speech brings with it duties and responsibilities. However, any restriction must respond a "pressing social need".

³ Full judgment <http://www.landmarkchambers.co.uk/userfiles/Heesom.pdf>

- h. Politicians are required to have a thick skin and be tolerant of criticism and other adverse comment. Civil servants are, like politicians, subject to the wider limits of acceptable criticism. However, unlike politicians they are involved in assisting with and implementing policies, not making them. As such they must enjoy public confidence in conditions free from perturbation if they are to be successful in performing their tasks and it may therefore prove necessary to protect them from offensive and abusive attacks when on duty.

6.6 In considering whether a breach finding would amount to a disproportionate restriction on Councillor Corral's right to freedom of expression I am firstly mindful that under the Localism Act the range of sanctions is very limited; as such, any interference of his rights is likely to be minimal. Having said that, I must give weight to the fact that his comments were about elected councillors; politicians are required to have a thick skin and be tolerant of criticism and other adverse comments. In addition, in a political context, councillors are able to be slightly more offensive in their language than what might be considered acceptable outside that context.

Councillor Corral's conduct

6.7 It is undisputed that Councillor Corral said that Councillor Z had only been appointed to the Police and Crime Panel because he was black. Councillor Corral also complained about the City Mayor appointing '*all these brown / black faces*'. Councillor Corral was clearly frustrated at Councillor Z's failure to attend the pre-meeting. Councillor Corral gave no explanation as to what his second comment specifically referred to, though it is likely relevant that the other two City Councillors on the Police and Crime Panel are also BAME and also did not attend the pre-meeting.

6.8 In considering whether Councillor Corral's comments represent a failure to comply with the Code, I am mindful of his right to free speech and can understand his frustration at being the only City Councillor who had taken the time to attend the pre-meeting. In those circumstances Councillor Corral is entitled to be critical of his colleagues. In my view though Councillor Corral's comments went beyond allowable criticism and crossed the line into personal abuse. The suggestion that any of the councillors appointed to the Police and Crime Panel were chosen because of the colour of their skin is disrespectful both toward the councillors themselves and those who appointed them. It suggests that they were undeserving of their position and implies tokenism. While Councillor Corral has contended that he comments were not meant seriously, this was clearly not evident to Mr X. Regardless, they were wholly inappropriate and offensive. Councillors have a responsibility to treat others with respect; I consider that on this occasion Councillor Corral failed to comply with paragraph 3(a) of the City Council's Code.

6.9 The Code also provides that members have a responsibility to uphold and promote the Authority's discharge of its Equality obligations, in particular to (i) eliminate discrimination (ii) promote equality of opportunity (iii) foster good relations. Councillor Corral's comments instead suggest that the Council do not

promote equality of opportunity, but instead made appointments based on skin colour. Positive discrimination is generally unlawful in the UK; appointing an individual solely because that person has a relevant protected characteristic rather than because he or she is the best person for the role would likely be considered discrimination under the Equality Act 2010. Accordingly, I consider that Councillor Corral failed to comply paragraph 3(e) of the City Council's Code.

- 6.10 Further to the above, Councillor Corral has a responsibility not to conduct himself in a manner which is likely to bring the Authority into disrepute. In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either reducing the public's confidence in that member being able to fulfil their role; or adversely affecting the reputation of members generally, in being able to fulfil their role.
- 6.11 While recognising that Councillor Corral's comments were made during a private discussion involving only two other people, I consider that his offensive remarks seriously risked damaging the reputation of his authority. The City Council places great weight on its equality and diversity charter, publicly committing itself to equality of opportunity, elimination of discrimination and promotion of good relations between all people, regardless of age, disability, race, ethnic or national origin, sex, gender identity, religion or belief, sexual orientation, pregnancy or maternity, marital or civil partnership status. Councillor Corral's comments can only have reduced the public's confidence in the City Council's ability to achieve this. Accordingly, I consider that Councillor Corral failed to comply paragraph 3(i) of the City Council's Code.

7 Recommendation

- 7.1 The investigation has established that Councillor Corral did act as alleged and in my view did so in his councillor capacity; as such the Code of Conduct was engaged. Councillor Corral is clearly a committed and hardworking member of the Council who is passionate about representing his local community. While I am gratified by his apologetic and regretful response to the complaint, it is my view that on this occasion Councillor Corral made a serious error of judgement that amounts to a clear breach the City Council's Code.
- 7.2 The Council's arrangements for dealing with standards complaints states that when the investigator considers that there has been a breach of the Code the Monitoring Officer will send the matter for local hearing. As such my recommendation is that the matter be referred to the Council's Hearing Panel so that they can establish that a breach of the Code has occurred.