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HERTSMERE BOROUGH COUNCIL STANDARDS COMMITTEE

STANDARDS ASSESSMENT PANEL - 27 June 2017

ASSESSMENT DECISION

Case No: HBC/2017 /003

Complainant: [REDACTED] (a resident)

Subject Member: Councillor Anthony Spencer
Hertsmere Borough Council

Date Complaint Received: 28 March 2017

Summary of Complaint:

The complainant made two allegations against Councillor Spencer. Firstly, she considered that a letter composed by Councillor Spencer and published in the Jewish News in January 2015 contained remarks that were homophobic in nature. Secondly, she alleged that Councillor Spencer had spoken at the meetings of full Council held 16 January 2017 on an item of business relating to the proposed redevelopment of Newberrries Car Park in Radlett, in the course of which he made supportive remarks about one of the Council's proposed business partners, Marks & Spencer plc, without declaring that he was in receipt of a pension from the Marks & Spencer plc pension fund.

Potentially Relevant provisions of the Members Code of Conduct of Hertsmere Borough Council

Paragraph 2.2

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

Paragraph 3.1

You must treat other with respect

Paragraph 3.3 (a)

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

Paragraph 5.1 (a)

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

Paragraph 7.1 (a)

7.1 You have a pecuniary interest in any business of your authority where it relates to or is likely to affect:
(a) any person or body who employs or has appointed you.

Paragraph 8.1 (d)

You have a non-pecuniary interest in any business of your authority where it relates to or is likely to affect a decision in relation to that business that might reasonably be regarded as affecting your well-being or the well-being of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision

Paragraph 9.1

Subject to sub-paragraphs 9.2 to 9.5, where you have a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your register of Interests or for which you have made a pending notification.

Members of the Standards Assessment Panel

Councillor Peter Knell - Chairman of Standards Committee (Chairman)

Mr. Jagat Chatrah - Independent Person

Harvey Patterson - Monitoring Officer, Hertsmere Borough Council

Panel Decision

That no further action be taken in respect of either of the complaints.

Reasons for Decision

Alleged Homophobic Remarks

- Paragraph 2.2 of the Members Code of Conduct provided that the Members Code of Conduct only had effect in relation to the conduct of Councillor Spencer when he acted in an official capacity.
- As the letter complained of had been written by Councillor Spence prior to becoming an elected member of Hertsmere Borough Council, it was clear that in so doing he was not acting in an official capacity.
- Consequently, Councillor Spencer's conduct in writing the letter in question could not constitute a failure on his part to comply with any of the requirements of the Members Code of Conduct of Hertsmere Borough Council.

Alleged Failure to Declare and Interest and Act Accordingly

- The Panel noted that the item of business referred to by the complainant was the Leaders Report, in the course of which the Leader of the Council had updated members on the progress made in relation to the proposed development of Newberries Car Park. The Leader had accepted a question from an opposition member which included critical remarks about one of the Council's preferred business partners, Marks & Spencer plc, and Councillor Spencer had responded to rebut these criticisms and remind members that the decision of the Council to develop Newberries Car Park had been taken unanimously.
- Councillor Spencer had disclosed in the Register of Members Interests his membership of the Marks & Spencer plc pension scheme for reasons of openness and transparency. Notwithstanding, the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012 did not require a members to register their membership of

a pension scheme or that they were in receipt of a pension unless they were pension scheme administrators.

- Accordingly, Councillor Spencer did not have a disclosable pecuniary interest as defined by the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012
- In addition, Councillor Spencer did not have an 'other' pecuniary interest as defined by Paragraph 7.1(a) of the Members Code of Conduct because he was not a remunerated director or employee of Marks & Spencer plc or an administrator of the Marks and Spencer plc pension scheme.
- Councillor Spencer also did not have a non-pecuniary interest within the meaning of Paragraph 8 of the Members Code of Conduct because the item of business in question - the Leaders Report - was an information item and not a decision making item; that it to say there was no decision that could have related to or affected the well-being of Councillor Spencer to a greater extent than the majority of the Council tax payers, ratepayers or inhabitants of the Borough.
- As Councillor Spencer had neither a pecuniary or non-pecuniary interest to declare in relation to this item of business, it followed that Councillor Spencer had not failed to comply with the requirements Paragraph 5.1(a) of the Members Code of Conduct by using or attempting to use his position as a member improperly to confer on, or secure for himself or any other person, an advantage or disadvantage.

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 Anthony Spencer of Hertsmere Borough Council
- The Subject Member's Group Leader:- Councillor Morris Bright of Hertsmere Borough Council
- The Complainant:- [REDACTED]

Signed

Date 17 July 2017

Monitoring Officer - on behalf of Chairman of the Standards Assessment Panel

