

THE DECISION of the Standards Panel of 21.9.20

The decision of the Panel, together with the reasons, is as follows:-

The Panel's findings

In relation to the allegations, the Panel determined that:

- (1) Through his comment on Facebook on or about 7th March 2019, Councillor Nemeth—
 - (a) Failed to comply with paragraph 1.2 of the council's Code of Conduct for Members (Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute).
- (2) Through his conduct during the investigative process Councillor Nemeth—
 - (a) Failed to comply with paragraph 1.8 of the council's Code of Conduct for Members (Members must not refuse or fail to: i) co-operate with council investigations of any description, including those into alleged breaches of this Code; and/or ii) provide full access to all material that, in the view of the investigating officer, may be relevant to such an investigation).

Sanctions

The Panel considered the range of sanctions available to it and determined the following in respect of both breaches of the Code of Conduct:-

- (1) That Councillor Nemeth is requested to discuss with the Conservative Group Leader, who will be contacted separately by the Panel, Councillor Nemeth's choice of language and the impact of it when publishing his views on social media, with the aim of avoiding further breaches of the Code where the authority may be brought into disrepute.
- (2) That Councillor Nemeth is requested to work with the Conservative Group Leader to assist Councillor Nemeth to understand and reflect on the importance of ongoing co-operation with the Standards Investigation process, not least to reduce the cost to the Council of managing and conducting these proceedings and also to ensure public confidence in the process is not undermined.

REASONS FOR THE DECISION

- 1) The post on Facebook on 7th March 2019

The Panel considered the allegation that Councillor Nemeth had failed to comply with the council's Code of Conduct for Members, specifically paragraph 1.2 'Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.'

The Panel noted that the Facebook post was in the public domain and Councillor Nemeth did not dispute being responsible for posting it. The Panel was satisfied that it was reasonable for members of the public to assume that by issuing his Facebook post under the name 'Councillor Robert Nemeth', Councillor Nemeth was acting as a Councillor, and therefore that the Code applied.

The Panel noted the complaint which the post had generated from Councillor Yates, and the grounds on which he considered it breached the Code of Conduct.

The Panel further noted that Facebook posts are published comments, capable of a wide circulation and that they are capable of constituting libel and of amounting to a breach of the Code.

The Panel focused on whether the language used in Councillor Nemeth's Facebook post could reasonably be regarded as bringing his office or authority into disrepute. The post stated that **'All Councillors know that the figures are fake. I'm surprised that the Administration is prolonging this story by trying to keep up the deception.'**

It was noted by the Panel that Councillors were judged to a higher standard of behaviour than ordinary members of the public in view of their role and influence as elected representatives and their commitment to the Nolan Principles of Public Life and the Brighton and Hove City Council's Code of Conduct for Member, which all Councillors formally sign up to upon election.

The Panel found that the language used by Councillor Nemeth did not meet the standards expected of an elected Councillor. To allege that figures were 'fake' indicated a degree of deliberate falsification of the figures which was quite clearly not the case. The figures followed an approved methodology and were properly collated following that methodology and independently verified both on the night and subsequently by an internal audit that was requested by Councillor Nemeth and colleagues. At the Panel Hearing Councillor Nemeth and his witnesses objected to the comparison that was made between these figures and those of the previous year. However, the Facebook post made no such distinction and alleged the figures themselves to be 'fake'.

The Panel also found that the suggestion that "All Councillors" knew of a deception suggested an active participation on the part of all Councillors to cover up information. Again, it was clear from the Hearing that in fact what Councillor Nemeth was objecting to was the use that was made of this data and not that the data was wrong or inaccurate. The Panel did not accept that any or all Councillors had taken part in a deception and found that to suggest this brought the authority into disrepute.

At the Hearing Councillor Nemeth and his witnesses dismissed his use of language as hyperbole. He has also continued to repeat the same allegations recently, using the same language. The Panel is disappointed that Councillor Nemeth has been unable to articulate

his frustration about the methodology chosen for the count of rough sleepers, and the comparisons that were made using the data, in a way that focuses on the issue (the comparison that was made between the figures) without an intemperate use of language. In the Panel's view this both distracts from the points that Councillor Nemeth would seek to make and demonstrates a lack of regard for the Code of Conduct for Members and his fellow Councillors.

The Panel felt that Councillor Nemeth needed support to develop a method of effectively engaging, campaigning and opposing Council policy and decisions whilst adhering to the Nolan principles and the Code of Conduct. For this reason, the Panel's request is for the Conservative Group Leader to share his knowledge and experience of communicating within the standards expected of elected Councillors with the aim of avoiding further unnecessary breaches of the Code. In addition to the damage that is caused to the reputation of the Council, the investigation and determination of complaints under the Code cause a significant drain on Council resources. The Panel felt that the published indication from Councillor Nemeth that he will continue to use the same language notwithstanding any determination from the Panel suggests a disappointing lack of judgment in view of the constrained resources the Council has.

Having engaged initially with the complaint, Councillor Nemeth did not continue to engage until he requested witnesses at a very late stage, which led to a delay of the Panel Hearing and increased the costs being incurred in the determination of this matter. This inconsistent engagement in the process and the late proposal for witnesses was a breach of the Code of Conduct which Councillor Nemeth has signed up to. Again the Panel are requesting the Conservative Group Leader to engage with Councillor Nemeth to impress upon him the potential impact, cost and damage to the reputation of the Council if elected members do not act in accordance with the requirements of the Code and, in particular, the requirement to co-operate with Council investigations.

The Panel indicated their gratitude to the Investigating Officer for her clear report and presentation and also thanked the Independent Chair of the Panel, Helen Aston, for the considerable time that she had given to support the process.

RIGHT OF APPEAL

There is a right of appeal for the subject Member and the complainant against the decision of the Standards Panel.

If any of these persons wishes to exercise this right, they should write to the council's Monitoring Officer*, stating they wish to appeal the Standards Panel decision, with reasons for doing so. The appeal request will only be granted if one or more of the following criteria are met:

- (1) the hearing was procedurally flawed; a relevant consideration was not taken into account; or an irrelevant consideration was taken into account;
- (2) new evidence or material has arisen with a direct and significant bearing on either of the allegations;


(3) the Panel's decision was irrational, meaning it was so unreasonable that no sensible Standards Panel, having applied its mind to the complaints, could have arrived at that decision.

A request for an appeal must be received within 10 working days of 29th September 2020.

* Address: Brighton & Hove City Council, Hove Town Hall, Norton Road, Hove.

CONFIRMED AS A TRUE RECORD:

I certify that the decision recorded above was made in accordance with the council's procedure for determining an allegation that a Member has failed to comply with the Code of Conduct for Members.

Signed:  (Deputy Monitoring Officer)

Date: 29th September 2020