

**CAERPHILLY COUNTY BOROUGH COUNCIL STANDARDS COMMITTEE**

**REPORT ON THE HEARING INTO ALLEGATIONS OF THE BREACH OF THE MEMBER CODE OF CONDUCT BY COUNCILLOR GRAHAM SIMMONDS**

**MEETING HELD ON 25TH AND 26TH JANUARY 2011 AT INNOVATION CENTRE TREDOMEN PARK**

PRESENT:

Mr. L.C. Davies - Chairman  
Mr. D. R. G. Parry - Vice Chairman

Councillors J. B. Criddle and L.R. Rees

Mrs. M. Evans, Mrs. D. Holdroyd

Together with:

D. Perkins (Head of Legal Services/Monitoring Officer), G. Williams (Deputy Monitoring Officer), S. Richards (Corporate Support Officer)

**APOLOGIES**

Apologies for absence were received from Community Councillor I. Racz and Professor S.M. Griffiths.

The Hearing held at the Innovation Centre commenced on 25th January 2011 and continued on 26th January 2011.

The Chair opened the Hearing and asked the Council's Monitoring Officer to run through the procedures and provide the background to the complaint.

The Monitoring Officer explained how the Public Services Ombudsman for Wales (PSOW) had conducted a comprehensive and thorough investigation into the complaints received that Councillor Graham Simmonds had breached the Member Code of Conduct, the first complaint was lodged by Councillor Vera Jenkins and the second lodged by Tina McMahon, a Council officer.

In his report the PSOW concluded that, on the balance of probabilities Cllr. Simmonds had breached the Member Code of Conduct and in accordance with the provisions of the Local Government Act 2000 the PSOW had referred his report to the Monitoring Officer for consideration by the Council's Standards Committee.

Cllr. Simmonds confirmed to the Committee that he did not accept any of the findings of fact set out in the PSOW's Report.

The Monitoring Officer then outlined the procedures to be followed.

Cllr. Graham Simmonds raised a query in relation to declarations of interest with particular reference to Cllr Criddle, a member of the Standards Committee, in relation to the complaint lodged by Tina McMahon. The Monitoring Officer advised Cllr. Simmonds that he did not accept his suggestion that Cllr. Criddle needed to declare an interest. Cllr Criddle confirmed that he did not wish to declare an interest.

The Monitoring Officer explained that the complaints lodged by Cllr. Jenkins and Tina McMahon were two separate matters that will stand and fall independently of each other.

Due to the availability of witnesses Cllr. Simmonds requested that Tina McMahon's complaint be dealt with first.

### **Tina McMahon's Complaint**

The PSOW's representative (KS) outlined the allegations made by Tina McMahon, a Council officer, that Cllr. Graham Simmonds had failed to observe the Code of Conduct for the elected members of Caerphilly County Borough Council.

Having considered the allegations the PSOW concluded that it was appropriate to investigate whether Cllr. Graham Simmonds had failed to comply with the provisions of the Code. The PSOW in his report concluded that on balance the conduct of Cllr Simmonds at the meeting of the Cefn Fforest Partnership on 9th July 2009 was disrespectful and bullying and constituted a breach of paragraphs 4(b) and (c) of the Code and this behaviour amounted to a pattern of disrespectful and bullying behaviour which brought Cllr. Simmonds' office and the Council into disrepute which constituted a breach of paragraph 6(1)(a) of the code.

KS made reference to the fact that the evidence on the capacity of Cllr. Simmonds at the Cefn Fforest meeting was mixed. The Committee would need to consider the evidence on this particular point and reach an appropriate conclusion.

Cllr. Simmonds asked if he would be permitted to play an audio CD of a meeting of the Partnership held in June 2010.

The Council's Monitoring Officer queried the relevance of the audio CD as it related to a meeting a year after the meeting in question.

KS confirmed that she had no objection to the audio CD being played.

The Chair confirmed that Cllr. Simmonds could play the audio CD for the Committee tomorrow (26th January).

KS called two witnesses namely:-

1. Tina McMahon, the complainant
2. Police Inspector Kevin Childs (who attended on 26th January)

Cllr. Graham Simmonds called several witnesses namely:-

1. Marian Edwards
2. Roy T. Edwards
3. Colin Thomas
4. C.J. Hawker
5. Linda Parry
6. Paul Booth
7. Mrs. D. Simmonds
8. Cllr. T. Williams (who attended on 26th January)
9. Mr. D. Dury (who attended on 26th January)

KS, Councillor G. Simmonds, the Committee and the Monitoring Officer were all afforded the opportunity to question the witnesses called by KS and Cllr Simmonds.

KS (on the 26th January) presented her summing up to the Committee.

Cllr. Simmonds was asked to formally sum up his case but offered no comment, however, he did ask that the Committee listen to the audio CD mentioned previously.

With the agreement of KS the Committee listened to the audio CD of the meeting of Cefn Fforest Partnership in June 2010.

Cllr. Simmonds confirmed to the Committee that the tape was recorded covertly and that he had found it on his doorstep recently.

The Chair commented on the significance and quality of the audio CD (it was not possible to increase the volume of the recording).

### **Cllr Vera Jenkins Complaint**

KS outlined the allegations made by Cllr. Vera Jenkins that Cllr. Graham Simmonds had breached the Code of Conduct for the Elected Members of Caerphilly County Borough Council.

Having considered the allegations the PSOW considered that it was appropriate to investigate whether Cllr. Simmonds had failed to comply with the Code. The PSOW in his report concluded that on balance that the conduct of Cllr Simmonds at the meeting of the Council's Regeneration Scrutiny Committee did constitute a breach of paragraphs 4(b) and (c) of the Code of Conduct and this behaviour was a breach of paragraph 6(1)(a) of the Code.

Cllr. Simmonds confirmed that he had questioned Cllr. Jenkins robustly at the meeting on 9th July 2009 and on reflection confirmed that his conduct fell short of the Member Code of Conduct. He confirmed that he was prepared to accept the findings set out in the PSOW's report and would wish to offer Cllr. Vera Jenkins an apology for his conduct. He also confirmed that he wished to put forward mitigation in relation to his behaviour for consideration by the Committee.

The Chair adjourned the Hearing for a short time so that Cllr. Simmonds could take time to consider his position.

The Chair reconvened the meeting and Cllr. Simmonds confirmed that he wanted to concede the allegations of breach of the Member Code of Conduct and apologise to Cllr. Vera Jenkins.

KS put the following allegations to Cllr. G. Simmonds:-

1. That he breached paragraph 4(b) of the Member Code of Conduct.
2. That he breached paragraph 4(c) of the Member Code of Conduct.
3. That his behaviour brought his office as Member and the Authority into disrepute, a breach of paragraph 6(1) (a) of the Code.

Cllr. Graham Simmonds admitted the breaches of the Code, save that he did not concede that he bullied Cllr Jenkins.

KS called the complainant Cllr. Vera Jenkins.

Cllr. Simmonds offered Cllr. Jenkins an absolute and unreserved apology for his conduct at the Scrutiny meeting on 9th July 2009 and also offered his belated sympathies on the death of her mother.

The apology offered by Cllr. Simmonds was accepted by Cllr. Jenkins.

KS asked Cllr. Jenkins to provide the Committee with a short summary of the events of the meeting.

The Committee, Cllr. Simmonds and the Monitoring Officer were afforded the opportunity to ask questions.

KS also called the following witnesses:-

1. Cllr. M. Parker
2. Cllr. T. Williams
3. Clive Campbell
4. Jonathan Jones
5. Anthony O'Sullivan

KS, Cllr. G. Simmonds, the Committee and the Monitoring Officer were all afforded the opportunity to ask questions of the witnesses.

Cllr. Simmonds confirmed that he did not wish to call any witnesses.

The Ombudsman did not offer any further comment on the complaint as Cllr. Simmonds had conceded all of the allegations.

Cllr. Simmonds reiterated to the Committee that his behaviour at the meeting was borne out of his frustration with the Scrutiny process within the Council.

The Chair thanked KS, Cllr. Simmonds and all witnesses for addressing the Committee. He asked the parties to leave whilst they considered the evidence and information received from all parties.

KS and Cllr. Simmonds were invited to return to the Hearing to hear the Committee's conclusions.

### **In relation to the complaint by Cllr. Vera Jenkins**

Cllr. Simmonds had during the Hearing admitted three breaches of the Caerphilly County Borough Council Code of Conduct for Elected Members, namely:-

- Breach of paragraph 4(b)
- Breach of paragraph 4(c)
- Breach of paragraph 6(1)(a)

### **In relation to the complaint by Tina McMahon**

In terms of the capacity of Cllr. Simmonds at the meeting on 9th July 2009, on balance the Committee considered that Cllr. Simmonds would have been recognised by all in attendance as being at the meeting as a local Councillor.

It was clear from the evidence that the meeting on 9th July 2009 was heated and the two opposing factions were at loggerheads. However, the Committee paid particular weight to the evidence of the eminent and neutral witness, Police Inspector Childs, a serving Police Officer for 20 years who stated that in his view Cllr. Simmonds' behaviour was aggressive and obstructive.

The Committee decided on balance that Cllr. Graham Simmonds conduct at the meeting on 9th July 2009 was in breach of the following paragraphs of the Caerphilly County Borough Council Code of Conduct for Elected Members:-

1. Breach of paragraph 4(b)
2. Breach of paragraph 6(1)(a)

The Ombudsman's representative and Cllr. G. Simmonds were asked to comment on sanctions and aggravating factors.

KS commended to the Committee, Cllr. G. Simmonds on his role as local member. KS added that clearly Cllr. Simmonds was clearly frustrated with the scrutiny process within the Council but reminded the Committee that Cllr. Simmonds has been an Elected Member since 1999 and had undertaken relevant training on the Member Code. KS reminded the Committee that every Member should be mindful of the Member Code at all times.

In relation to Vera Jenkins' complaint she reminded the Committee that the apology came very late in the day and until today Cllr. Simmonds had attempted to apportion blame to others.

In relation to the Tina McMahon complaint, there has been no acceptance of wrongdoing by Cllr. Simmonds.

Cllr. Simmonds asked the Committee to consider his frustrations with the Scrutiny process, it had taken officers 14 months to provide the report he had requested and even then the report did not include the information he had requested, even though in his view the information was readily available.

In relation to the Cefn Fforest Partnership meeting he asked the Committee to be mindful of the "bear pit" mentality at meetings.

The Chair asked the parties to leave to allow the Committee to consider sanctions.

After very careful consideration of all the representations made the parties were asked to return to the meeting.

The Committee resolved that Cllr. Graham Simmonds should be suspended from being a Member of Caerphilly County Borough Council for a period of 2 months for each complaint, to run concurrently, i.e. total period of suspension 2 months.