

Record of Decision

Standards Hearing Sub-Committee – allegations of misconduct made against Councillor David Thomas

Decision maker

The Standards Hearing Sub-Committee at its meeting held on 13 May 2022.

Finding of Fact

The Standards Hearing Sub-Committee considered carefully all the written and oral representations and found as fact, the following:

1. Torbay Council is a relevant authority, in accordance with the Localism Act 2011.
2. Torbay Council adopted a Code of Conduct for Members and this was last revised and further adopted on the 25 February 2021.
3. Councillor Thomas was acting in his official capacity as an elected Member whilst present at the meeting of Torbay's Housing Crisis Review Panel on the 27 September 2021.
4. It is clear from the recording of the meeting, that Councillor Thomas' style was blunt and plain speaking, a style that might be difficult to accept at times, but a style people are familiar with. There was nothing in his individual remarks during the meeting of 27 September 2021 that crossed the line between plain speaking and being disrespectful.

Furthermore, his comments were general rather than directly aimed at individuals. Having heard Councillor Thomas' explanation behind the phrase 'having difficulties' Members accepted Councillor Thomas' submission that the phrase was to avoid drawing attention and further distress to the Clerk.

5. That Councillor Thomas avoided answering a question regarding the receipt of an email, however Councillor Thomas did not deny that he had received it.
6. When reviewing the recording of the meeting, it is clear that Councillor Thomas did not want to accept the opinion of the Officer's present and voiced his view very clearly and firmly, but Councillor Thomas was not the decision maker.
7. It is clear that the responsibility for running the meeting sat firmly with Councillor Foster, as the Chairperson. However, Councillor Thomas had a responsibility as Conservative Group Leader to respond to the request to provide three names from the Conservative Group to sit on the panel and to conform with the request for political proportionality. Councillor Thomas failed to do that, either before or during the meeting. That Councillor Thomas was also aware that his support of the Chairperson in the approach that she took

at the meeting if successful, would have led to the Conservative Group having the majority of membership on the Torbay Housing Crisis Review Panel, with other parties being disadvantaged.

8. The recording of the meeting is clear that, only as result of robust challenge by Officers, did they avoid being forced into carrying out the wishes of Councillor Foster, who appeared to be actively encouraged and supported by Councillor Thomas, and avoid their impartiality being compromised. Therefore, there was no compromise or likely to compromise the impartiality of those that work for, or on behalf of the Council.
9. It is the role of Officers to be present at meetings to provide clarity and advice on matters and they did so on this occasion.
10. In the meeting of the Torbay Housing Crisis Review Panel on 27 September 2021, Councillor Thomas was perceived to have belittled and acted in a chauvinistic manner. However, simply acting in this manner, would not have met the high threshold when considering whether a duty under the Equality Act 2010 had been breached.
11. A member of the public would be surprised to see how the meeting on 27 September 2021 was run. Councillor Thomas's apparent support of the approach taken by the Chairperson, exacerbated and resulted in a debate regarding panel membership becoming protracted for almost an hour, despite clear and impartial advice given by Officers regarding political proportionality. Councillor Thomas could have discussed his concerns over the political proportionality arrangements before the meeting and provided the three names as requested which would have changed the direction of the meeting and avoided the course of conduct that took place which resulted in the negative press coverage.

Decision and Reasons for Decision

Having determined the findings of fact, the Standards Hearing Sub-Committee deem Councillor Thomas to have failed to follow, the following paragraphs of the Code of Conduct for Members:

4.3(b) You must not attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

Reasons:

Councillor Thomas, accepted in his submission to the Standards Hearing Sub-Committee that an advantage for the Conservative Group would have been secured, had the Chairperson of the Torbay Housing Crisis Review Panel been successful in concluding the vote. On the recording, Councillor Thomas is seen to actively encourage the approach taken by the Chairperson, despite clear and impartial advice being given by Officers in respect of political proportionality. Had Councillor Thomas conformed to the request made of him as the Conservative Group Leader to provide three names, the outcome could have been avoided. Notwithstanding

Councillor Thomas's submission in respect of being on holiday at the time the initial request was made, Members noted that a group meeting had taken place earlier in the day on the 27 September 2021, where this matter was discussed and there provided an opportunity for Councillor Thomas to have secured three names and provided them at the start of the meeting, had he not had time prior to the meeting.

4.3(h) You must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

Reasons:

Had Councillor Thomas, as Conservative Group Leader, nominated three Members to be the formal representatives of the Conservative Group on the Torbay Housing Crisis Review Panel, either before or during the meeting on 27 September 2021, the outcome of the meeting would have been very different, and it is this omission which in Members opinion, added to and caused the Council to be brought into disrepute. Whilst Councillor Thomas' comments during the meeting were not offensive, his comments, in Members opinion, did provide support and encouraged the direction of travel taken by the Chairperson, ultimately leading to almost an hour debate on Panel membership which at times, became very heated and was uncomfortable for those also in attendance. Furthermore, as the Conservative Group Leader, Councillor Thomas could have suggested that the Chairperson take a different course of action or put forward three Members at any point during the hours debate, once clear and impartial advice had been given by Officers. Failure to do so, in Members opinion, caused the Council to be brought into disrepute.

In concluding, Members were unanimous in their opinion, that any reasonable bystander, would have been horrified and disgusted by the conduct, especially given the meeting was convened to debate a topic as important as housing.

Sanctions:

Having determined that Councillor Thomas had failed to follow the paragraphs of the Code of Conduct for Members set out above, Members considered it appropriate and proportionate to impose the following sanctions:

That Councillor Thomas make an unequivocal apology at full Council on 21 July 2021.

That Councillor Thomas make a written, unequivocal apology to the Clerk for the position she found herself in during the meeting of 27 September 2021.

Recommendations by the Standards Hearing Sub-Committee Members:

The Standards Hearing Committee Members, make the following recommendations to the Chief Executive of Torbay Council:

That training be provided to all Councillors and relevant Officers, on the differences in format and process of formal committees, to that of informal working party/review panel meetings.

That all Councillors are reminded that whilst at public meetings, they are there to represent the public who elected them and the Council as a professional organisation, and it is therefore imperative, that the highest standard of conduct is always displayed, to ensure the public's confidence in them as elected Councillors and the Council as a whole, is maintained.

Chairman of the Standards Hearing Sub-Committee