At a meeting of the CONSIDERATION AND HEARING SUB-COMMITTEE OF THE STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on MONDAY, 5TH JULY, 2010 at 9.30 a.m.

Present:-

Mr. G.N. Cook in the Chair

Mr. J.P. Paterson and Councillor Tate

Also present:-

Councillor Wake
Mr. R.C. Rayner - Monitoring Officer
Ms. E. Waugh - Investigating Officer
Mrs. C. Tilley - Clerk of the Hearing

Apologies for Absence

There were no apologies for absence.

Declarations of Interest

There were no declarations of interest.

Introduction

The Chairman introduced himself and the other Members of the Sub-Committee and those Officers present to Councillor Wake.

Determination of whether the Hearing should be held in Public or Private

The Chairman explained that the Sub-Committee had discretion as to whether the hearing should be held in public or private and that it must first determine this issue.

The Monitoring Officer explained that the agenda papers were stamped to indicate that the information related to an individual and that it also related to matters under Regulations 17 and 18 of the Standards Committee (England) Regulations. He advised that it was considered good practice for the papers to be thus marked as this

prevented publicity which may be prejudicial to a fair hearing occurring prior to the hearing.

The Monitoring Officer explained that the Sub-Committee had a discretion to exercise as the grounds were subject to an overriding public interest test; that is whether the public interest was best served by an open and transparent hearing. In this case it would provide the opportunity to correct any misleading impression given by the press coverage of the complaint. He advised there was no confidential information and that on balance therefore would recommend the hearing to be held in public save for when the Sub-Committee needed to deliberate.

The Chairman invited Councillor Wake to make representations before the Committee decided whether to hold the hearing in public or private.

Councillor Wake welcomed the opportunity for clarity and openness and to have the hearing in public.

The Sub-Committee AGREED to have the hearing in public.

Procedure to be Followed

The Chairman advised that the Council's Handbook for dealing with Complaints against Councillors sets out the procedure for local determinations at Part 5 and this was the procedure to be followed at the hearing.

Preliminary Considerations

The Monitoring Officer advised that the first thing the Sub-Committee needed to do was to act as a Consideration Sub-Committee under Regulation 17 and to determine whether it accepted the Investigating Officer's findings detailed at paragraph 2.1(a) and 2.1(b) of the report.

The Sub-Committee found that there was no failure in respect of the alleged breaches of paragraph 3(1) of the Code – treating others with respect by referring to elderly residents as living in "God's Waiting Room" and paragraph 3(2a) of the Code – breach of the equality enactments, in relation to referring to a Police Officer as a "woodentop" and "black".

The Sub-Committee found that in relation to the 'joke' about rape there were breaches of the Code in respect of paragraph 3(1) – treating others with respect and paragraph 5 – bringing the office or Authority into disrepute and agreed that the matter proceeded to a hearing on those matters.

The Chairman stated that having read the papers it appeared there was only a narrow area of disagreement regarding the finding of fact regarding the precise wording Councillor Wake had used in making the joke.

The Investigating Officer advised that the amendment to the wording suggested by Councillor Wake detailed at paragraph 3 of the Addendum did not alter her finding as set out in paragraph 7 of the report.

Councillor Wake confirmed that he had no disagreement about the facts in the Investigating Officer's report other than the accuracy of the wording relating to the telling of the joke about rape.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake withdrew to allow the Sub-Committee to consider the findings of fact.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake were re-admitted to the meeting.

The Chairman advised that there were some differences in the accounts of Councillor Wake and others interviewed as to exactly what was said by Councillor Wake, however that the Sub-Committee had concluded that Councillor Wake had told an extremely distasteful joke about rape to the Inspector.

The Chairman advised that the Sub-Committee now needed to consider whether based on the facts, it found that Councillor Wake had failed to follow the Code of Conduct.

The Chairman invited the Investigating Officer and Councillor Wake to comment.

The Investigating Officer commented that whatever the actual wording of the joke it was still the case that rape was a very serious offence. It was totally inappropriate to make the joke at an official meeting and that it was reasonable to say that Councillor Wake had brought the office of Councillor into disrepute. She asked the Sub-Committee to find that this was a breach of the Code of Conduct.

Councillor Wake commented that it was not an official meeting but an informal meeting of Councillors and Policemen in order to share information and form relationships. The meeting had finished and it was a private conversation between himself and two Police Officers. He had not received any training on the Code of Conduct prior to this incident as he had not been aware that this was available. He had not intended to bring the Council into disrepute or to be derogatory to Police Officers.

The Monitoring Officer advised that training sessions on the Code of Conduct were held regularly with all Councillors being invited. Councillor Wake had since attended training on the Code of Conduct.

The Monitoring Officer added that the purpose of the meeting Councillor Wake had attended on 3rd December 2009 between Washington Councillors and Washington Neighbourhood Policing Team was to discuss matters of local concern in respect of crime which related to the Council's functions in respect of crime and disorder and that Councillor Wake was therefore attending in his official capacity.

The Chairman stated the Council went to great lengths for Members and Officers to arrange the necessary training on the Code of Conduct and that it was Councillor Wake's responsibility to ensure that he received the training.

The Committee requested the Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake to withdraw from the meeting to enable them to consider the representations.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake were re-admitted to the meeting.

The Chairman confirmed that the Sub-Committee had decided that Councillor Wake had failed to follow the Code of Conduct in respect of paragraph 3(1) and paragraph 5 of the Code of Conduct in relation to the joke about rape.

The Chairman invited Councillor Wake and the Investigating Officer to make representations as to whether a sanction should be applied and what form it should take.

Councillor Wake admitted that he should not have made the joke about rape, that he and his family had suffered as a result as he had been maligned in the press and cast out of the Conservative Party. He asked the Sub-Committee not to make any sanctions.

The Monitoring Officer advised the Sub-Committee of the penalties available to the Sub-Committee as detailed in Schedule 2 of Part 5 included at pages 12 and 13 of the agenda and of the relevant factors when determining sanctions.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake withdrew from the meeting in order to allow the Sub-Committee to deliberate in private whether to impose sanctions and if so what the sanctions should be.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake were re-admitted to the meeting.

The Chairman advised of the Sub-Committee's decision as follows:-

1. RESOLVED that Councillor Wake should:-

    (1) be censured.

    (2) be required to apologise in writing to Councillors Snowdon and Fletcher and to the Police.

    (3) be suspended from Office until the letter has been sent.

The Chairman indicated that Councillor Wake should consult the Monitoring Officer regarding the wording of the letter.

Councillor Wake thanked the Monitoring Officer and the Investigating Officer for the fair and professional manner in which they had dealt with the matter and asked that this be placed on record.

A copy of the Reasons for Decision notice of the Consideration and Hearing Sub-Committee (as given by the Chairman) in relation to this case is appended to these minutes.

(Signed) G.N. COOK,
Chairman.

SUNDERLAND CITY COUNCIL

Consideration and Hearing Sub-Committee of the Standards Committee

Reasons for Decision **Case No 3/09**

1. Introduction

We have carefully considered the report and all the statements and the representations made today.

2. Background

2.1 This case concerns complaints made by Councillor Snowdon and Councillor Fletcher about the behaviour of Councillor Eddie Wake at a meeting held on 3 December 2009 between a number of Washington Ward Councillors and the police. The meeting was held to discuss local matters of concern including crime and disorder issues.

3. Findings

3.1 The purpose of the meeting was therefore relevant to the Council's functions. Accordingly, attendance and behaviour at a meeting of this nature falls within the scope of the Code of Conduct and constitutes acting in a Member's official capacity.

3.2 During the meeting Councillor Wake made comments about elderly persons as "in God's waiting room" and referred to police as "woodentops" which are considered to be inappropriate and of which we disapprove, notwithstanding that we were have found they did not in the circumstances, constitute a breach of the duty to treat others with respect.

3.3 In relation to Councillor Wake's reference to a PC as "black", we have noted that all concerned accept that Councillor Wake was intending to compliment the conduct of the officer at a remembrance day parade, and the police officers did not take offence at this reference. We conclude it did not have any racist motive and did not involve a breach of the equality enactments under paragraph 3 (2) (a) of the Code.

3.4 It is undisputed that at the conclusion of the meeting Councillor Wake told a joke about rape. Whilst there is conflicting evidence about the precise wording, this is not material to our conclusion that it was disgraceful, inappropriate and hurtful.

In doing so Councillor Wake demonstrated no sensibility to the sensitivities of others. We consider this represented a clear breach of Councillor Wake's obligations to treat others with respect (paragraph 3(1) of the Code) and that it could reasonably be regarded as brining his office or the authority into disrepute.

4. Sanctions

We have decided that Councillor Wake should:

(1) Be censured.
(2) Be required to apologise in writing to Councillors Snowdon and Fletcher and to the Police.
(3) Be suspended from office until the letter has been sent.

In reaching our decision we have noted that Councillor Wake has suffered adverse publicity, been expelled from his party and has found this a chastening experience. We understand that he has received training since the incident and therefore do not believe this is necessary.

5. Recommendations to the Authority

We have no specific recommendations to the authority but believe that this case will serve as a useful reminder to Members that they must maintain proper standards of conduct.

Signed _____ Dated: 5 July 2010

Chairman of the Standards Committee and of this Sub-Committee.