

Case summary (A and B findings)

Part 1 — information

Everything you enter in this part will be in the summary sent to the relevant parties and displayed on the website.

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| Case number(s) | SBE08976-KJ1ZF; SBE08977-UMW2B; SBE08978-E06DW |
| Member(s) | Councillor Mark Howell |
| Authority | South Cambridgeshire District Council |
| Principal authority | Ditto |
| Allegation | Summarised below |
| Date received | 02 February 2010 |
| Date investigation completed | 22 April 2010 |
| Outcome | The ethical standards officer found that the member did not breach the Code of Conduct |

Summary

1. Details of allegations:

The three complainants are residents of a supported housing complex owned by the Council. The allegation concerned a meeting held at the complex on 4 November 2009 attended by Councillor Howell, the Council's Portfolio Holder for Housing. At the meeting Councillor Howell discussed the implications for residents of a recent vote by tenants to retain the Council as landlord. These implications related to the residents' concerns about support being given to them by non-resident wardens. They alleged that Councillor Howell failed to treat those present at the meeting with respect, bullied them, and by his conduct brought his office or authority into disrepute. In particular, they alleged that he:

- Addressed them in a loud, arrogant and bombastic manner.
- Waved his arms around and pointed at them whilst standing near them.
- That he told them it was their fault for voting the way they had done, and the consequence of the vote was that there would be cuts in the level of support they received and they would no longer have a resident warden but "floating support" from mobile wardens.
- That he told them they must "suffer the consequences" of the vote, that things would get worse for them and he agreed there might be fatalities because of the service cuts.
- That he spoke sharply to a resident sitting near him and made a physically threatening gesture towards him.

2. Member's response:

Councillor Howell stated that that it is his style to speak very directly and to set out the truth, even if he knows the message he has to deliver will not be well received. He described his style as very direct and forthright. Councillor Howell stated that he naturally has a loud voice which he raised at the meeting to ensure that all those present could hear him; he did not shout.

Councillor Howell stated that he pointed out the financial implications of the Council retaining its housing stock but he did not tell residents that things would get even worse for them because he does not know what the future holds. Councillor Howell stated that he would not have used the expression "you must suffer the consequences".

Councillor Howell said that he had told the truth and agreed that there was always a possible risk of fatalities. He stated that even with on-site wardens there is a risk that a resident will die before they can summon help. He explained that he was asked a direct question and he gave a direct answer.

Councillor Howell admitted that he had spoken sharply to a resident in response to a critical comment but he apologised straight away. He categorically denied making any physically aggressive gesture towards the man.

3. ESO's considerations:

There was a dispute of evidence as to the nature of Councillor Howell's manner. On the balance of probabilities, the ESO considered that the weight of the evidence indicated that his manner was forthright and brusque and that he spoke in a loud voice, but that he was not aggressive, although at one point he reacted sharply to one comment.

The ESO considered on the evidence that Councillor Howell did not say that the residents were responsible for the cuts to the warden services or use the expression "suffer the consequences". He concluded that Councillor Howell did not tell residents that "things would get even worse". However, the ESO thought that in Councillor Howell's vigorous explanation of the financial implications of the housing stock vote, he implied that the council tenants who had voted to retain the Council as landlord had a part to play in the service cuts which followed.

The ESO considered that Councillor Howell reacted sharply to a comment made by a resident. The witnesses were divided on whether Councillor Howell made a threatening gesture by unfastening his jacket. The ESO thought that Councillor Howell did unfasten the buttons of his jacket but he did not accept that this was a threatening gesture. The ESO, on the balance of the evidence, accepted that Councillor Howell apologised for his sharp comment.

The ESO did not consider that speaking frankly, directly, forcefully and in a loud voice was of itself, conduct which is disrespectful, such as to amount to a failure by Councillor Howell to comply with paragraph 3(1) of the Code of Conduct. In the ESO's opinion, Councillor Howell, who was a guest of the residents, was discourteous and abrupt on one occasion when he reacted sharply to a critical comment from a resident, but the ESO did not consider that he was disrespectful in terms of the Code of Conduct.

The ESO did not consider that Councillor Howell's conduct at the meeting could objectively be described as offensive, intimidating, malicious, insulting or humiliating such as to amount to bullying. The ESO did not conclude, on an objective test of what constitutes bullying, that Councillor Howell's words and the way he delivered them, could be said to amount to conduct by which he failed to comply with paragraph 3(2)(b) of the Council's Code of Conduct.

The ESO did not find that Councillor Howell brought his office, as a member of the Council, into disrepute by the words he used or the manner of his delivery. Councillor Howell's ability to perform his role as a councillor and properly to represent the interests of the community was not, in the ESO's view, in question here. In the ESO's opinion, Councillor Howell's conduct could not reasonably be regarded as bringing his office or authority into disrepute and he did not therefore fail to comply with paragraph 5 of the Code of Conduct.

4. ESO's finding: No failure to comply with the code