

Decision on Mr Mike Lock's Appeal

Power of Review

This is a complaint brought by Mr Lock's against a ruling made against him under the New Complaints Procedure agreed by the Federal Executive on the 14th September 1999 and subsequently ratified by Conference. The "Complaints Panel" under that procedure found that he had brought the Party into disrepute and revoked his membership of the Party.

Under Paragraph 3.6 of our procedure ratified by Conference on the 18th September 2020 the Federal Appeal Panel has power to review decision of the "Complaints Panel" but on the following limited basis only, namely

Where the Appellant can demonstrate that it is arguable that:-

- There was a serious failure of process or reasoning that was likely to render the determination of the complaint unsafe or unsatisfactory in all the circumstances; or
- Relevant evidence which was not available at the time of the determination of the complaint, has since come to light which is likely to render the determination of the complaint unsafe or unsatisfactory in all the circumstances; or.
- The sanction determined was manifestly excessive or manifestly lenient in all the circumstances.

No other ground can be entertained.

Mr Lock's Grounds

Mr Lock's set out his grounds in his response on 16th April 2021, which, in part, repeats other documents. He also clarified them and added a fourth at the Oral Hearing.

Namely they are:-

- i) There was a breach of Natural Justice in that the new complaints panel procedure is inquisitorial and does not allow for cross examination at the hearing.
- ii) There was a failure to follow due procedure and therefore the complaints panel failed to give him a fair hearing
- iii) That he had not brought the Party into disrepute in that he had not broken the Code of Conduct for party members as he was not, at the time, acting as a party member but wholly in a private capacity as a landlord.

- iv) At the Panel hearing he added the complaint that the Sanction imposed was excessive in all the circumstances.

i) The first Ground denial of cross-examination.

The Panel notes that the new complaints procedures resulted from a thorough review of the complaint processes by the Party over several years. That the Final version was duly agreed upon by the Federal Executive and adopted by Conference and the procedures were published in advance, so that all members of the Party should have been aware of their terms.

The Panel notes that the new complaints panel procedure gave the panel power to deal with complaints against members where the allegation was that the member had brought the Party into disrepute. Paragraph 1.1 of the new procedures set out what bringing the party into disrepute meant for the purposes of the new procedure: (the underlining has been added by us)

1.1 Bringing the Party into Disrepute

Generally, the Party will be 'brought into disrepute' under Article 3.7(b) of the Party's Federal Constitution ("the Constitution") by any course of conduct, act or omission on the part of a member that would substantially lower the Party's reputation in the mind of a fair, objective and right-thinking observer. Specifically, this includes breaches of the Constitution, its policies, the Members' Code of Conduct, or any of the criteria set out in Article 3.7 of the Constitution for revocation of membership, as follows:

- (a) Material disagreement, evidenced by conduct, with the fundamental values and objectives of the Party;*
- (b) Conduct which has brought, or is likely to bring, the Party into disrepute;*
- (c) Standing against the candidate of the Party in any election to public office;*
- (d) Membership of or support for another political party in Great Britain;*
- (e) A breach of the standards set out in Article 3.1(b) of the Constitution; or*
- (f) Discrimination against another person on the basis of a protected characteristic as defined in the Equality Act 2010.*

Like this Panel the complaint procedure under Article 23 was intended to be internal complaints procedure between the Party and its members which is agreed upon by members as a condition of their membership.

Paragraph 5.2.3.5 of the Complaints Panels procedures set out how the procedure at a complaints panel hearing will be conducted and states as follows:

5.2.3.5. Evidence

At the Complaints Panel hearing, the Investigator shall present their report. Where appropriate, witnesses shall be asked to give evidence directly to and may be questioned by the Complaints Panel. The Complainants and Respondents or their representatives may address and may be questioned by the Complaints Panel. Complainants and Respondents or their representatives shall have a right of reply once all evidence has been presented, but they may not question witnesses or the other party to the Complaint.

It was clearly always the intention under this published procedure to restrict cross examination. This Panel notes that this procedure has been debated at length, been agreed by the Federal Executive and by Party members at conference, and considers that there can be no justification for the suggestion that it breaches the requirements of natural justice.

It is clearly a procedure agreed between the Party and its members as a term of membership. Members are clearly bound by the procedural rules set out in the Complaints procedures as part of their general agreement they enter into when becoming members of the Party to abide the party's rules and procedures.

Therefore the Panel rejects this part of Mr Lock's submissions and find that the new rules and procedures are fair and binding on all Party Members. It should be noted that this ruling has general effect in relation to all proceeding before the Complaints Panel where the published procedures are challenged as being contrary to the principles of natural justice.

Further the panel notes, in any event, that central evidence against Mr Lock in these proceeding was the Court Transcript and not evidence from a complainant. We therefore find that even if Cross examination had been permitted that this would not have assisted Mr Lock in this case.

ii) Failure of the Panel to follow due procedure and to provide him with a fair hearing.

The Panel finds that the failures indicated by Mike Lock were of delays, which, though very regrettable, should not have prevented him from making preparations for any hearing: in fact might be said to be in his favour as giving him more time. He claimed he had not received a disclosure of the complaint or of the procedure but the Chair of the Panel set out the procedure clearly in an email to him dated 28th February 2020.

Further, Mr Lock claimed that the failure to follow due procedure meant that the panel did not give him a fair hearing, he argues that the Panel acted as a kangaroo court and its findings are not robust and some aspects are against natural justice. Further Mr. Lock was most aggrieved that the Complaints Panel relied upon the content of the County Court Judgement. Mr Lock claimed at the Oral Hearing that he did not know that the Panel would focus on this Judgement so was not prepared for this. We find this incredible as the Court Judgement was mentioned in all the paper-work and is clearly always going to be the principle evidence in the case. We find no fault on the Complaints Panel in relying on the County Court Judgment.

We note that content of the County Court Judgement are clear in regard to its finding against

Mr Lock. The Judge's assessment of Mike Lock as a witness is fairly conclusive for example, in paragraph 96 page 21 he writes "I considered Mr. Lock an unsatisfactory witness;" and follows this up with several references to his unsatisfactory evidence and then awards damages against Mr Lock for harassment (paragraphs 153 & 154 on pages 37 & 38).

While Mr Lock claimed the Judgement was flawed and he was appealing, he did not appeal before this Panel on the basis that new evidence has since come to light which is likely to render the determination of the complaint unsafe or unsatisfactory in all the circumstances. Nor could he have done so, since at the Oral Hearing, he confirmed that the County Court Judgement had not been appealed, saying that he had been let down by his lawyers.

Our power is only one of review and not as was suggested in the written submission of Mr Lock a full re-hearing of the case. The question before the Panel, is limited to whether the complaints panel in coming to its conclusions, committed a serious failure of process or reasoning that was likely to render its determination of the complaint unsafe or unsatisfactory in all the circumstances.

As stated the central evidence relied upon by the Complaints Panel was the County Court Judgement, having read the judgement ourselves we cannot find any fault in the way the Complaint Panel concluded. We do not find their Judgement was unreasonable, arbitrary or unsound, indeed sadly, we find that on the basis of the County Court Judgement that their decision was somewhat inevitable.

Therefore we find no merit in this ground of appeal.

iii) He had not broken the Code of Conduct for party members as he was not, at the time, acting as a party member but wholly in a private capacity.

At the Oral Hearing, Mr Lock and his Friend were arguing that he should not have had his membership withdrawn because his actions were private and had nothing to do with the party as he was not acting as a party official or as a councillor. We find this argument untenable.

The majority of Liberal Democrat members do not hold elected office, so the distinction between acting as a councillor or a party official and in a private capacity has no relevance. If Mr Lock's reasoning was to be followed, this aspect of the Code of Conduct would only apply to a minority of members.

The requirement that member must not bring the Party into disrepute obviously applies in full to all members - including Mr Lock and applies in respect of "any course of conduct" capable of bringing the Party into disrepute, see the definition of bringing the party into disrepute set out in the complaint panel procedures set out and underlined above.

References to the Council's Code of Conduct for Councillors and comparisons with other professions and office holders, we find are therefore irrelevant. The Definition of what can amount to conduct capable of bringing the party into disrepute is wide see 1.1b of the Complaints Panel procedures:

"Conduct which has brought, or is likely to bring, the Party into disrepute".

And as stated this includes “any course of conduct”

Conclusion

The Panel finds that the new rules and procedures of the complaint panel are fair and binding on all Party Members and are not contrary to the principles of natural justice for the reasons set out above.

We find that the findings of the adjudicating Panel, relying on the County Court Judgement, that Mr Lock brought the Party into disrepute by his conduct as a landlord was fair and sound.

We find that the reference to conduct in the Rules is intended to be interpreted widely and includes “*any conduct or course of conduct*” by a member; whether acting in a party or elected capacity or in their personal capacity or any other capacity.

We have considered the belated ground that the sanction was excessive and find that Complaint Panel acted well within its powers to revoke membership in light of its findings that Mr Lock’s conduct had brought the Party into disrepute.

We therefore dismiss the Appeal.

Codicil

This Appeal Panel further considered whether the ban on Mike Lock being a member should be interpreted as a ban for the rest of his life and concludes that such an interpretation would be too severe. We rule that the ban should be interpreted as being for a minimum of 18 months only (i.e. to September 25th 2021).

After that date, we consider that Mr Lock may apply to re-join the party and become a Liberal Democrat once again, should he wish to do so. However, we must remind Mr Lock that acceptance of his application would not be automatic and it would be a matter for the Party to determine at the time his application is made and within its membership rules and procedures at that time, as to whether he should be readmitted or not.

Catherine Smart
William Charley
Alan Masters

14th June 2021.