

IN THE FEDERAL APPEALS PANEL

BETWEEN:

AVRIL COELHO

Appellant

-and-

A COMPLAINTS PANEL

Respondent

FINAL DETERMINATION

**HARRY SAMUELS, CAROLE FORD, WILLIAM CHARNLEY
FEDERAL APPEALS PANEL**

A. INTRODUCTION

1. By permission granted on 21 July 2021 by the Chair of the Federal Appeals Panel, the Appellant in this case appeals against a decision of a Complaints Panel held on 27 April 2021 to expel her from the party.
2. After a hearing of the Federal Appeals Panel on 26 June 2022, the Panel informed the parties that it would dismiss the Appellant's appeal. These are the written reasons for that decision.

B. BACKGROUND

3. The Appellant was the subject of five complaints about her conduct. These complaints related, amongst other things, to conduct on social media, conduct as a member of the

executive committee of the Liberal Democrat Campaign for Racial Equality, conduct at an event, and intimidatory conduct towards another member.

4. A Complaints Panel hearing was held on 27 April 2021. At that hearing, four of the five complaints were upheld, with the complaint relating to conduct at an event being dismissed. The sanction imposed by the Complaints Panel was expulsion from the party.
5. The Appellant appealed to the Federal Appeals Panel on a number of grounds, and was granted permission to appeal on six of them. These were:
 - a. That the Complaints Panel had erred in failing to adjourn the 27 April 2021 hearing on medical grounds;
 - b. That the Complaints Panel had erred in failing to take into consideration various supporting statements from character witnesses;
 - c. That the Complaints Panel had erred in failing to take into consideration evidence from another, linked complaint, which the Appellant had made against one of the Respondents;
 - d. That the Complaints Panel had erred in failing to take into consideration the personal motivations of the Appellant in engaging in some of the social media conduct in light of the murder of George Floyd and the Black Lives Matter movement more broadly;
 - e. That the Complaints Panel's reasoning in relation to the social media conduct was seriously erroneous in finding that it was conduct capable of bringing the party into disrepute;
 - f. That the Complaints Panel's sanction was manifestly excessive.

6. At the hearing, the Appellant was represented by Jon Sheller. The chair of the Complaints Panel was present as the primary respondent, and two of the original complainants against the Appellant were also given respondent rights.

C. REASONING

Ground 1

7. Mr. Sheller for the Appellant argued two points. First, he argued the ground of appeal as-is: that the Complaints Panel had seriously erred in failing to adjourn. But secondly, he argued that a recording of the Complaints Panel's consideration process of the application to adjourn proved that the decision not to adjourn had been pre-determined.
8. On the first point, Mr. Sheller drew our attention to the fact that the Appellant's previous representative, Linda Jack, had taken ill, with the result that he was only given a short amount of time to read the papers before the hearing. He further highlighted a 'fit note' from a medical professional indicating that the Appellant had been signed off sick at the time.
9. On the second point, Mr. Sheller drew our attention to the recording of the Complaints Panel. As it happened, the Complaints Panel had failed to pause its recording during its deliberation process, and as such, the full discussion about the application to adjourn was recorded. Mr. Sheller submitted that this discussion showed that there was motivated pre-determination in the decision to refuse adjournment.
10. Mrs. Redesdale on behalf of the Complaints Panel highlighted that there had already been many delays before the hearing of the complaint. She said that there had been at least one panel hearing which had been adjourned already. She stated that the first application would have been (and was) granted, but that subsequent applications would need real justification – and that the parties had been informed of that fact.
11. We pressed Mrs. Redesdale to distil down the factors as to why a second adjournment was not granted. She stated that this was because there had been a previous adjournment, that there had been lengthy correspondence beforehand, that the

complainants were being materially prejudiced by not having their complaint resolved, that there were issues regarding the availability of the complainants for subsequent hearings, and that there existed a very detailed investigation into the facts of the complaint.

12. By a majority, the Federal Appeals Panel decided that:

- a. The Complaints Panel had the full history and evidence before it at the time of making its decision not to adjourn. Case management decisions of this nature will very rarely be successfully challenged upon appeal: they are fully within the discretion of the Complaints Panel (of course within limits of rationality and natural justice).
- b. The Complaint's Panel determination to proceed was based on rational factors including the history of the case (including several prior adjournments), the fact that the Appellant had been invited to give written representations, the concern about undue prejudice to the complainants, and its conclusion that there would be no injustice done to the Appellant if the hearing proceeded.
- c. A previous adjournment had been granted by the Complaints Panel, and at that time the Appellant was advised that another was unlikely to be granted. In those circumstances, the Appellant was invited to make written submissions if she considered that another adjournment would need to go ahead.
- d. Indeed, having listened to the deliberations of the Complaints Panel on the question of the adjournment, we were of the opinion that it was particularly anxious to make sure that the Appellant's needs were accommodated and that the Appellant would not be disadvantaged.
- e. We also were not persuaded that there was any degree of pre-determination. The Complaints Panel was entitled to consult the Lead Adjudicator on how to proceed upon the application in this complex case. There was no hint that the Complaints Panel had fettered or surrendered its own discretion. It considered the advice and made its own decision.

13. For those reasons, the Panel was not satisfied that there was a serious error of reasoning in respect of the decision not to adjourn such as to render the Complaints Panel's decision unsafe.
14. It follows that Ground 1 is dismissed.

Ground 2

15. The Appellant alleged that the Complaints Panel had failed to take into account supporting statements from various character witnesses.
16. Having read the Complaints Panel's decision notice, however, we noted that it referred expressly to these witness statements.
17. Mr. Sheller did not seek to press this point too far, and we are grateful for the concision of his submissions.
18. We are satisfied that the Complaints Panel did take into account the relevant evidence, and it follows that Ground 2 is also dismissed.

Ground 3

19. Ground 3 is dismissed for the same reason as Ground 2. It is clear from the face of the decision notice that the linked complaint was indeed considered. Mrs. Redesdale confirmed that the Complaints Panel had received and considered the character statements, and we were satisfied that this was the case.
20. In submissions, Mr. Sheller also stated that character evidence would have been relevant to the sanction to be imposed, which we will address further below.

Ground 4

21. Part of Ground 4 concerns issues arising under the Equality Act 2010. It was agreed between the parties that, since this is currently the basis of an ongoing claim issued by the Appellant in the County Court, those Equality Act issues ought not to be discussed or determined at this hearing.
22. Accordingly, we proceeded to consider only the elements of Ground 4 relating to the allegation that the Complaints Panel gave insufficient weight to the Appellant's justifications for her conduct, including her deep upset about the murder of George Floyd.
23. We heard Mr. Sheller's submissions on the matter, and listened to the Appellant's own submissions. This is clearly (and understandably) a highly emotional issue for the Appellant, and the murder was a horrendous example of the type of systemic and brutal racism which all people should abhor, and which our party seeks to fight against.
24. None of that is diminished in this decision.
25. We are asked, however, whether the Complaints Panel took insufficient account of it. As the Appellant will appreciate, we would have had to have been persuaded that the Complaints Panel fell into serious error on this question.
26. On balance, we do not think the Complaints Panel fell into serious error. Although a more detailed discussion of the issue in the decision notice may have been desirable in the circumstances of the case, we are not persuaded that the Complaints Panel outright failed to consider the point, and we are further not persuaded that the outcome before the Complaints Panel would have been different had it written more about this point in the decision notice. It appears to us from what we heard from Mrs. Redesdale that the Complaints Panel was aware of the Appellant's view and took it into consideration. As a result, Ground 4 is dismissed.

Ground 5

27. At the hearing before us, Grounds 5 and 6 caused the most discussion and debate between the parties.

28. Mr. Sheller’s case on behalf of the Appellant was that the Complaints Panel had misinterpreted tweets by the Appellant in reaching its conclusion. Mr. Sheller and the Appellant also stated that the tweets had been deleted promptly and could not constitute bringing the party into disrepute.
29. There were two tweets in contention:
 - a. The “April Fools” tweet, in which the Appellant appeared to make a joke which concerned abortion;
 - b. The “TfL” tweet, in which the Appellant responded to one of the Complainant’s tweets celebrating a local political victory.
30. As to the “April Fools” tweet, we consider that the Complaints Panel was entitled to consider that it brought the Party into disrepute. Even if it was a joke, it was one about a controversial and sensitive issue which the Complaints Panel was entitled to view as potentially offensive. Mrs. Redesdale explained that the consensus on the Complaints Panel was that the joke was not funny, was unpleasant, and was not appropriate for a Liberal Democrat councillor. This was a view that it was entitled to make. It was not an irrational one or outside the scope of conclusions open to it.
31. Mr. Sheller and the Appellant were of the view that the TfL tweet was not targeted towards a fellow councillor or capable of bringing the Party into disrepute, but rather that it was a general expression of frustration towards TfL specifically.
32. We considered that the Complaints Panel had committed no serious error of reasoning in respect of the TfL tweet. It was open to the Complaints Panel to make conclusions as to the meaning of the tweet and to consider, based on those meanings, whether it was liable to bring the Party into disrepute. There was no serious error of reasoning, and so, by a majority, we dismissed Ground 5.
33. Mr. Sheller on behalf of the Appellant made other submissions in relation to Cllr. Cambridge, one of the complainants. He alleged that she had misled the Complaints

Panel by stating that she had never made a complaint before. He alleged that Cllr. Cambridge had made a complaint before, and applied to adduce that evidence on appeal.

34. We considered his application, but refused it. The evidence was essentially hearsay in light of the fact that the alleged complaint itself could not be produced to us. We were further unpersuaded that it would be of any relevance to the present dispute, and so did not think that it could change the outcome of the case.
35. We should note finally that Cllr. Cambridge also made submissions on Ground 5. She emphasised the level of upset the Appellant's actions had caused her, refuted the significance of the additional evidence Mr. Sheller sought to adduce, and emphasised the long history of this case. We noted her points and took them into consideration.

Ground 6

36. By Ground 6, the Appellant sought to argue that her expulsion was a manifestly excessive sanction. Mr. Sheller highlighted various aspects of the Appellant's record including her time as a hardworking councillor for the Party. The Appellant also sought to rely upon arguments advanced on other grounds of appeal as constituting mitigating circumstances under this ground, and we considered them in that light in fairness to the Appellant.
37. In particular, Mr. Sheller cited the character witness evidence as providing substantial grounds for mitigation.
38. As we have emphasised throughout this written ruling, our role is not to re-take the decision afresh. The membership (through the Constitution) has not given us that power. Accordingly, we can only interfere where the sanction was manifestly excessive, seriously erroneous, or entered in breach of natural justice.
39. By a majority, the Federal Appeals Panel considered that the penalty imposed by the Complaints Panel was not manifestly excessive, seriously erroneous or entered in breach of natural justice. This was because:

- a. The Appellant had had previous penalties imposed upon her for related behaviour including suspension from the candidates list which the Complaints Panel was entitled to consider;
- b. The Complaints Panel was entitled to consider that the Appellant's conduct, taken as a whole, was of a sufficient level of seriousness to justify expulsion – particularly in circumstances where there were multiple findings of misconduct including a finding of intimidation, which is conduct to be condemned in the firmest possible terms.
- c. The Complaints Panel was further entitled to consider that the risk of the Appellant further bringing the Party into disrepute could not be prevented other than by imposing the penalty of expulsion.
- d. In those circumstances, the Federal Appeals Panel could not say that the sanction imposed was manifestly excessive or seriously erroneous. Accordingly, there were no grounds for interfering with it.

40. It follows therefore that Ground 6 is dismissed.

D. CONCLUSION

41. The appeal is dismissed and the decision of the Complaints Panel is confirmed.