

## FEDERAL APPEALS PANEL

**APPEALS BY  
MS MONICA ANDERSSON AND MR STEVEN DUDHILL  
AGAINST  
A DECISION OF A FEDERAL PARTY COMPLAINTS PANEL**

### **FINAL DECISION**

DAVID GRAHAM, JENNIE RIGG, and HARRY SAMUELS

Case Panel

14 October 2021

#### Ruling

1. This appeal is allowed.
2. The parties shall have 7 days to make any submissions as to the publication of this decision on the Party website.

#### Reasons

3. This appeal was, with the agreement of the parties, determined in writing following a virtual directions hearing in June 2021 and written submissions.
4. The underlying complaint here related to a video which was found by the Complaints Panel to have been posted on Twitter, in which unsubstantiated aspersions were cast on the parentage of a relative of a politician in another political party. The sanction imposed by the Complaints Panel was 'unconscious bias training'. The Appellants contended that this decision was illogical; Mr Banks and the original panel argued that it was appropriate.
5. We note that the Complaints Panel told us that they found Mr Banks freely accepted that he had been at fault and showed remorse, and that the video had been taken down by him promptly. They state that they imposed unconscious bias training 'as a way of broadening his perspective, to help him be more reflective in his actions and more empathetic as to the effects of his pronouncements'.
6. We were also told by the chair of the Complaints Panel that they were not aware that the video could have continued to circulate online after being taken down (we were told that the file had been saved and re-posted 9 times by someone else and that this had taken place; it is unclear why that evidence could not have been submitted at the time of the original hearing).

7. In our view, the training required was not a sanction that a reasonable panel would have imposed for this particular misconduct, however desirable such training might otherwise be for members of the Party (as to which we do not express a view). There was nothing unconscious about the behaviour; it was simply ill-judged and unbecoming behaviour. A deliberate decision was made to record and publish the video, in which Mr Banks repeated accusations which he knew at the time he had no evidence to support, which related not to any policy disagreement with or misconduct in public office by the politician, but to the private and family lives of those individuals concerned, and which could have caused them hurt and/or reputational harm. The decision on sanction shall accordingly be remitted back to the Complaints Panel to consider what other sanction, if any, is appropriate. We consider that the additional evidence of onward circulation or viewing of the video on social media is potentially relevant to that question.