

THE BOARD OF THE CONSERVATIVE PARTY  
THE DISCIPLINARY SUB-COMMITTEE

In the matter of the Constitution of the Conservative Party and in the matter of an appeal against expulsion from membership by **Mr Peter Fuller, Mr David Cavill and Mrs Diana King.**

This is an appeal by  
**Mr Peter Fuller (“The First Appellant”);**  
**Mr David Cavill FRSA (“The Second Appellant”)**  
and **Mrs Diana King (“The Third Appellant”)**

against the decision of the Executive Council of the South West Wiltshire Conservative Association (**“the Respondent”**) taken on 9<sup>th</sup> September 2020 to expel them from membership, and consequently from membership of the Conservative Party.

The Appellants are Councillors serving on Trowbridge Town Council. Until July 2020 they were members of the Conservative Group.

On 9<sup>th</sup> September 2020, the Respondent resolved to expel them from membership.

The Respondent’s current Chairman is Mr Nabil Najjar.

The Appellants lodged their appeal against expulsion from membership on 5<sup>th</sup> October 2020.

In support of their appeal, they submitted a number of documents.

These, in their entirety, were sent to the Respondent’s Chairman who responded on 23<sup>rd</sup> October 2020.

The Appellants were invited to reply.

The Appellants submitted further evidence on 27<sup>th</sup> October 2020.

On 10<sup>th</sup> November 2020, a Panel, (“The Panel”) drawn from membership of the Disciplinary Sub Committee of the Board of the Conservative Party, met to discuss the management of the case pre-hearing.

The members of the Panel were:

Mr Robert Semple CBE (Chairman)

Mr Mike Ackroyd

Mrs Linda Kirk MBE

Mrs Pauline Lucas MBE

Mr Adrian Mitchell MBE

Accordingly, the Panel issued directions to elicit further information from the parties. These are referred to below.

On 25th of November 2020 the panel issued further directions. These are also referred to below.

The Panel met on 10<sup>th</sup> December 2020 to consider the appeal on the papers.

The Panel notes that at the time of the Appellants' expulsion, Mr Najjar was neither the Chairman (nor an Officer) and that his submissions and evidence have largely, if not exclusively, been informed by conversations between him and the Respondent's Chairman at the time, the Campaign Manager and others.

The Panel records its thanks to the parties in this matter for their co-operation and courtesy.

In order to properly address the Grounds for Appeal and to explain our decision and conclusions in relation to them, the Panel considers it necessary to set out the background to this matter.

## **BACKGROUND**

It appears that in February 2020 Mr Antonio Piazza was elected to Trowbridge Town Council at a by-election. He was subsequently elected Leader of the Conservative Group. The Appellants claim that his conduct had "been both alarming and unprofessional" to the extent that the Appellants felt they had no option but to "disassociate" themselves "from his leadership." It appears that another Councillor also left the Conservative Group and resigned from membership of the Conservative Party.

The Appellants claim that the Clerk to the Town Council, Mr Lance James Allen, had cause on several occasions to request that Councillor Piazza correct allegedly inaccurate statements he has posted on social media regarding decisions made, and projects undertaken, by the Council. Councillor Piazza had also, according to the Appellants, been reported to Wiltshire Council's Monitoring Officer by several councillors, staff, and the public, for what they termed "various infractions".

The Appellants claim that they were concerned that Councillor Piazza's conduct was bringing the Town Council and the Conservative Party into disrepute.

It appears that the Appellants resolved that their “only option was to disassociate” themselves from the Group Leader “by operating as Conservative councillors separate from the Conservative Group”.

The Clerk to the Town Council made a statement to this effect a meeting of the Council held on 21<sup>st</sup> July 2020.

The Appellants held a virtual meeting (because of the Covid pandemic) with the Chairman of the Trowbridge Branch of the Respondent on 24<sup>th</sup> July 2020 at which they sought to explain their reasons for “leaving” the Conservative Group.

The Appellants considered that they were unable to remain members of the Conservative Group under the leadership of Cllr Piazza who, they claimed, had made public statements which undermined the integrity of the Town Council on social media platforms and call into question democratic decisions made by the Council prior to his election to it.

On 27<sup>th</sup> July 2020, the Appellants each received from the Respondent a letter headed “Suspension pending formal expulsion”.

On 24<sup>th</sup> August 2020, they were each sent a letter headed “Motion for Expulsion”.

The Appellants claim that “during this period” (presumably between 27<sup>th</sup> July 2020 and 9<sup>th</sup> September 2020) they requested further information and clarity from the Respondent.

The Appellants claim that they did not receive a satisfactory response.

The Appellants wrote to the Respondent; on 27<sup>th</sup> August 2020, on 2<sup>nd</sup> September 2020 and on 7<sup>th</sup> September 2020.

On 27<sup>th</sup> August, the Appellants informed the Respondent, *“the whole process from the beginning has been entirely unsatisfactory and, we are professionally informed, legally flawed.*

*You stated that you had been advised on the action by Conservative Central Office. You have since been asked to provide the details of the person or persons providing advice as we are concerned that the correct procedures are not being followed.*

*At the same time, you were asked who you had told about the suspensions and what advice they had been given about how that information should be protected. We would have expected your committees to have understood the implications of UK data protection legislation which requires that circulation of a decision to suspend be treated confidentially: this has clearly not been the case. In any event, no reply or even an acknowledgement has been forthcoming. This is not satisfactory.*

*We believe that information about our suspension has been circulated to a number of persons who are not entitled to know. We have separately made a Subject Access Request regarding this.*

*We therefore must conclude that the process you have followed is flawed. The actions you have taken have been improper and not in accordance with natural justice, legal process, precedent and the Association’s internal procedures. We have examined Stage 1 procedures from Alleged Breaches of the Code of Conduct and have identified the following: -*

1. *We have not seen the written complaint from the complainant.*
2. *We have not been asked to provide our own evidence in order to establish our position*
3. *We have not been asked to provide our own witness statement nor seen any others*
4. *We believe confidentiality has not been observed*

*Therefore, any decision of the Executive Council regarding this matter would be invalid and as a result rendered nugatory.*

*We are prepared to attend a panel when the procedures have been correctly followed: this should begin with the appointment of an independent person with appropriate experience, who should ask those who have been suspended for their reasons. This is so that your Executive Council can have accurate information before they take a decision as to whether suspension and any further action is necessary.*

*Once the process has been conducted correctly, we shall be happy to attend any meeting of the Executive Council to resolve this issue.*

*In the meantime, we believe that you should be investigating the conduct of the current leader of the Conservative Group on Trowbridge Town Council, Councillor Piazza. He has received several formal warnings issued by the Town Clerk notifying him of breaches of the Council's Code of Conduct. His aggressive, inaccurate and sometimes offensive media statements are currently the subject of several formal complaints to the County Monitoring Officer."*

On 2<sup>nd</sup> September, the Appellants wrote again to the Respondent as follows:

*"Your response has not answered the questions and is therefore unacceptable. We still required answers to the points itemised in Stage 1 of Procedure for Alleged Breaches of the Code of Conduct.*

*To be clear:*

*1 We are entitled know the identity of the complainant and to receive a copy of the statements they have made about us. This has not been done*

*2 As respondents we will be given the opportunity to provide any evidence or details that will help to establish our position. This has not been done*

*3 It may be necessary to receive witness statements to any of the incidents mentioned in the complaint and we should be informed of such statements. This has not been done*

*4 The importance of confidentiality is emphasised throughout. However, we have evidence which confirms that a number of people have been made aware of our suspensions (including a member of the public with no association with any conservative group.) How can this have been allowed to happen?*

*Unless and until these procedures have been followed the entire process is flawed and any resulting decision by the Executive Committee will be nugatory.*

*Regrettably, we are unable to take part in this process until the correct procedures have been implemented."*

On 7<sup>th</sup> September 2020, the Appellants wrote again to the Respondent. They copied their email to Mr Stovold, Chairman of the Area Management Executive, who had been appointed to Chair the Agenda item at the Executive Council at which the motion to expel the Appellants would be moved.

*"The response in your last email dated 7/9/2020 is totally unsatisfactory; a very long way from normal judicial processes; and is almost diametrically opposed to the Association's own Code of Practice.*

*You state that the Officers of SWWCA have made the complaint. Therefore, everything which has happened since is quite unacceptable. Who brought it to their attention?*

*When was the matter formally discussed? Where are their names and individual statements?*

*How were they able to decide on our Suspension without ascertaining the facts?*

*Given that the Officers have made this complaint how can you as Chairman and Byron Quayle as a paid consultant/agent possibly be involved in these discussions and with the administration at all? We have pointed out your failure to follow the process from the beginning, so why has this been ignored? Why was no attempt made to appoint someone independent to investigate immediately? Why was our complaint ignored?*

*This reply is meaningless: you may have now appointed an independent Chairman but who will hear the case? Who is collecting evidence? Anything you now bring to the hearing is flawed. Your officers cannot be involved as they made the complaint. The letter of 24 August accused us with 'conduct inconsistent with the objects of the Association' but the evidence quoted does not support that accusation.*

*You took the decision to suspend on hearsay a month before the letter of the 24 August was cobbled together. There has been plenty of time to collect any witness statements and appoint someone to investigate. You simply have not done so. You say you have advice from Conservative Central Office, but we have been unable to find anyone who admits to knowing anything about it.*

*When shall we be hearing from Mr Stovold? You state that he was appointed last week, but surely, he should have been gathering evidence during the last six weeks and bringing together an independent panel of suitable people to hear both sides without bias.*

*We will forward our statements and the witness statements to Mr Stovold when he advises us that he is the investigating officer. And when he has sent us the statements from the complainants and any witness statements. We shall not be attending any meeting until the correct procedures have been observed."*

The Appellants claim that they were not invited to submit evidence in support of their position. According to the Appellants, they were told by Mr Stovold that although they were "welcome to submit any correspondence or documentary evidence...but, to be honest, it will be unnecessary."

The Appellants acknowledge that they were invited to attend the meeting of the Executive Council on 9th September.

They declined to do so for the reasons set out in their letters to the Respondent above.

On 10<sup>th</sup> September the Appellants were informed that the Executive Council had resolved to expel them from membership.

### **Further Evidence in support of the Appeal**

1. Witness Statement by the Town Clerk, Mr Lance Allan, dated 7<sup>th</sup> September 2020
2. Witness Statement by the Leader of the Council, Cllr Stewart Palmen dated 8<sup>th</sup> September 2020
3. Witness Statement by Wiltshire Councillor, Jo Trigg, dated 7<sup>th</sup> September 2020
4. Examples of Councillor Piazza's posts on social media sites and e-mail streams sent to the Town Council
5. Statement by the Appellants to an on-line newspaper "to refute misinformation by Councillor Piazza" entitled "Setting the Record Straight" dated 22 September 2020

### **The Respondent's position**

On 23<sup>rd</sup> October 2020, the Chairman of the Respondent, Mr Nabil Najjar responded to the Appellants' Grounds for Appeal.

He stated that he understood "following a disagreement with the leadership of the Conservative Group on Trowbridge Town Council, the Appellants subsequently resigned from the Conservative Group in order to form a new grouping, which they entitled 'Independent Conservatives'."

The Officers discussed the matter and issued formal letters of suspension on 27<sup>th</sup> July 2020.

On 24<sup>th</sup> August 2020, the Appellants received notice that an Executive Council meeting would be held to discuss the Motion for Expulsion, on the grounds that the declared opinions and conduct of the Appellants were inconsistent with the objects of the Association.

The Executive Council met on 9<sup>th</sup> September 2020.

On 10<sup>th</sup> September 2020, the Appellants received notice that their membership was terminated. They were informed of their right to appeal.

The Respondent stated it was his belief that due process had been followed throughout the expulsion process; the principle of natural justice had been upheld, and ultimately the "correct conclusion" had been reached.

### **The Appellants' Response**

In these matters, the Appellants have the last word.

Accordingly, the Respondent's reply was sent to the Appellants on 23<sup>rd</sup> October 2020.

They responded on 27<sup>th</sup> October 2020

In summary, they repeated their assertion that the Respondent "did not follow due process in this matter". Further, the Appellants rejected the notion that their opinions and conduct were "inconsistent with the stated aims of the Conservative Party."

The Panel issued directions on 10<sup>th</sup> November 2020.

**The Appellants** were invited to provide the Panel with further information:

1. Did the Appellants formally resign from membership of the Town Council Conservative Group at any stage? If so, who did they inform and when?
2. With regard to a statement made by Mr Lance James Allan, the Town Clerk, it appears from the Appellant's statement (marked "Appeal Final Joint letter") that it was made on 21<sup>st</sup> July 2020. The statement provided in evidence (marked "Appeal Appendix 3.1") however indicates that it was made on 7<sup>th</sup> September 2020. The Appellants are requested to clarify the date on which the statement was made and to provide evidence as to its authenticity. The Appellants appear to indicate that the statement was inaccurate in certain respects. Accordingly, the Panel invite the

Appellants to clarify the Clerk's statement including whether the Appellants had prior knowledge and/or sight of the statement.

3. Did the Appellants form or join another Group on the Town Council? If so, on what date did the Appellants form or join this Group? If the Appellants did not form or join another Group, are they currently members of any Group?
4. The Appellants claim that they were informed that they were not required to submit evidence in support of their position to the Executive Council of the Association. Who told them this? What precisely was said? If the Appellants cannot recall the precise words, the Panel invite them to provide the gist of what was said to any or all the Appellants, by whom, when, and under what circumstances.

The Respondent was invited to provide the Panel with further information:

1. Where and when did a meeting of the Officers of the Association take place at which it was determined to suspend the Appellants from membership? Who was present at that meeting? The Respondent is invited to provide the Panel with a copy of the Minutes of this meeting. If Minutes or other records are not available, the Panel invites the Respondent to provide a statement indicating the precise nature of the information available to the Officers at the time, including who provided it and how they obtained it. The statement by the Respondent should also include details of all and any correspondence or representations received by the Officers at any stage prior to the meeting from any person.
2. The Respondent is invited to provide the Panel with a copy of the Minutes of the meeting of the Executive Council held on 9<sup>th</sup> September 2020. The Panel assumes that the Minutes will indicate who was present at the meeting; who chaired the agenda item at which the motion was considered; the names of everyone who addressed the meeting and a summary of what was said. The Respondent is invited to signify whether the Minutes are in draft form or have been approved as a true record.
3. The Respondent is invited to list precisely the documentation circulated to members of the Executive Council in this matter in advance of the meeting of 9<sup>th</sup> September 2020 and the date of circulation and by whom.
4. The Respondent is invited to provide the Panel with an explanation for its apparent failure to invite the Appellants to provide evidence as to why the motion moved at the Executive Council should not be confirmed by that body.
5. The Respondent is invited to disclose to the Panel the nature of any advice obtained from any employee of the Conservative Party in respect of this matter leading up to, and including, the meeting of the Executive Council held on 9<sup>th</sup> September 2020. If any such advice is in writing, the Panel invites the Respondent to provide it.
6. The Respondent is invited to provide the Panel with a copy of its Rules.
7. The Respondent appears to rely, to some extent, on the provisions of the Rules of the Town Council Conservative Group in its instigation of disciplinary proceedings

against the Appellants. The Panel would be grateful to receive a copy of these Rules.

Further, the Panel directed: “The parties shall make every effort to settle this dispute before the hearing of the appeal and, if the dispute is settled before the hearing, they should record the terms of any settlement agreement in writing and provide a copy of such agreement, signed by the parties, to the Panel as soon as it is prepared. If no such settlement is possible, the parties shall inform the Chairman of the Panel as soon as practicable.”

The Appellants responded on 14<sup>th</sup> November 2020.

The Respondent responded on 20<sup>th</sup> November 2020.

Having considered the supplementary evidence provided by the parties, the Panel issued further directions on 25<sup>th</sup> November 2020:

1. The supplementary evidence provided by the parties shall be accepted for consideration as evidence in the matter.
2. The Panel directs that the Secretary to the Board of the Conservative Party provides the parties with copies of the supplementary evidence submitted in response to the Panel’s directions issued on 10<sup>th</sup> November 2020.
3. The Parties shall provide to the Panel such evidence in rebuttal as they may wish by 4pm on Friday 4<sup>th</sup> December 2020. Such evidence in rebuttal must be limited to responding to those matters contained in the supplementary evidence referred to above.
4. If the rebuttal evidence is served late (i.e. after 4pm on Friday 4<sup>th</sup> December 2020) it shall be excluded and not considered by the Panel.
5. The appeal shall be heard on Thursday 10<sup>th</sup> December 2020 or the first available date afterwards.
6. The Panel urges the parties to make every effort to settle this dispute before the hearing of the appeal and, if the dispute is settled before the hearing, they should record the terms of any settlement agreement in writing and provide a copy of such agreement, signed by the parties, to the Panel as soon as it is prepared. If no such settlement is possible, the parties shall inform the Chairman of the Panel.

### **The Grounds for Appeal**

Having considered the Grounds for Appeal on which the Appellants rely and the evidence in support, and the Respondent’s response and the evidence on which it relies, the Panel determined that it would be appropriate and reasonable, for the proper and efficient management of this matter, to consider the grounds under the following broad headings.

In essence, they are:



- 1 The Respondent was in breach of the Constitution of the Conservative Party, rendering its process void;
- 2 The Respondent breached the principles of 'natural justice', rendering the process unfair and therefore void;
- 3 The sanction imposed by the Respondent was determined as a result of a defective and unfair process. In any event, was the sanction disproportionately harsh?

We note that there is no dispute between the parties in relation to the order of events in this matter.

We do not consider that we have a duty to address and deal with every comment or argument. We have however sought to identify and record only those matters which are critical to our decision.

Our directions dated 10th of November 2020 and 25th of November 2020 encouraged the parties to make every effort to settle this dispute before hearing. Regrettably, it appears that they were unable to find any common ground which came anywhere near close to facilitating such a settlement.

### **The Issues, Decision and Reasoning**

#### *The decision of the Appellants to leave the Conservative Group and the subsequent formation of a Group in opposition to the Conservative Group*

Our consideration of this issue is significant in this matter because, regardless of the Appellants' intentions or motives we find, on the evidence before us, that the Appellants, did leave the official Conservative Group and subsequently formed a new Group on the Council.

This is important because we are invited to consider whether the Appellants' initial decision was of sufficient magnitude to lead the Officers to consider whether it was reasonable to invoke disciplinary proceedings. We find that, viewed objectively, on the evidence presented to them on 27<sup>th</sup> July, by Cllr Piazza, the Officers were entitled to enquire further and to consider whether the conduct of the Appellants was inconsistent with the objects of the Association and/or in breach of their obligations as Party members.

It is good practice that every effort should be made to resolve any dispute between Party members before expulsion proceedings are initiated. Association Officers should, unless there are compelling or urgent reasons, (on which they can later rely upon if challenged) explore reasonable options which should include, a cooling-down period, independent arbitration or the use of a conciliator.

We consider that there are reasonable grounds to conclude that this matter could have been subject to such a process before the Officers wrote to the Appellants following their meeting on 27<sup>th</sup> July 2020.

*The decision of the Officers on 27<sup>th</sup> July 2020*

In the absence of any record of what was discussed by the Officers in the telephone conversations which took place on 27<sup>th</sup> July, or clarity as to whether the Officers met collectively on a conference call or, as is suggested, individual telephone conversations took place, the first issue for us to determine is whether the Officers acted fairly and constitutionally to move to serve upon the Appellants letters which notified them of their suspensions pending disciplinary proceedings without pausing in order to establish the facts, investigate what had occurred and/or afford the Appellants' a right to be heard.

The decision of the Officers to move to invoke expulsion proceedings immediately after their discussions was, in our view, hasty.

*The Rules of the South West Wiltshire Conservative Association*

On close examination of the evidence in this matter, it appears that the Respondent's Rules, as they have been provided to us, appear to be incompatible and inconsistent with the **mandatory rules** contained within the Constitution of the Conservative Party at Schedule 7. The panel were at a loss as to why this may be the case, as regular reminders of the need for Associations to adopt the mandatory rules are sent to Associations.

We consider that the Respondent's Rules are therefore potentially in breach of Paragraph 41.3 of the Constitution.

It is arguable therefore that the Executive Council proceeded on an erroneous and unconstitutional basis.

We can only make a determination in this matter based on the Constitution of the Party and the provisions of Schedule 7 and on no other basis, notwithstanding the fact that the Respondent may genuinely have held the view that its Rules conformed to mandatory rules.

*The allegation that the Respondent was in breach of the Constitution of the Conservative Party, rendering its process void;*

Paragraph 54 of the Constitution of the Conservative Party states, "The Executive Council of a Constituency Association may resolve to either to refuse membership to its Association of any individual or expel any existing Party Member from the Association **only** in accordance with the procedure set out in Paragraphs 3.5 to 3.7 of the Rules of Conservative Associations contained within Schedule 7".

Paragraph 3.5 of Schedule 7 of the Constitution of the Conservative Party gives Association Officers the power to move before Executive Council the suspension or termination of membership: "*The Officers of the Association may move before the Executive Council the suspension or termination of membership of the Association of any member whose declared opinions or conduct shall in their judgement, be inconsistent with the objects or financial well-being of the Association or be likely to bring the party into disrepute.*"

Paragraph 3.6 of Schedule 7 deals with the procedure for doing so.

“If the Officers so move, they shall ensure that the individual receives in writing, at least 14 days before the meeting of the Executive Council considering the motion:

- (i) notification that they have moved the suspension, termination or refusal (as the case may be) of his membership of the Association;
- (ii) the grounds for the motion and any supporting evidence;
- (iii) notification that they have the opportunity to appear before the Executive Council and to make representations **and provide evidence as to why such motion should not be confirmed by that body.** *(our emphasis)*

Paragraphs 3.5 and 3.6 of Schedule 7 reflects the importance the Conservative Party rightly attaches to fair procedures and natural justice articulated in the form of clear and easily understood rules when there is any question of suspension or expulsion. With respect to paragraph 3.5 the Respondent would not have been able to rely solely on the code of conduct for grounds of expulsion.

With respect to paragraph 3.6, however, the panel concluded that the Respondent failed to comply with article 3.6 (iii) so far as evidence was concerned, and for that reason it prevented the Appellants from providing the Executive Council with evidence prepared specifically to rebut the evidence to be relied on against them.

Neither of the letters sent to the Appellants, dated 27/7/20 & 24/8/20, with regard to the Executive meeting mention anything about the Appellants right to provide the Executive with written evidence in their defence. This was further reinforced in email correspondence between the Independent Chairman and the Appellants. Yet the Executive did consider written evidence in support of the motion.

That was unfair because, in contravention of both the letter and spirit of the Rules, the Appellants were denied the opportunity to provide their version of events to properly enable them to establish their position and to challenge the allegations against them.

Paragraph 3.6 (iii) does not exclude the provision of written evidence. The Respondent appears to have assumed that only oral evidence was admissible (this confusion may have been partly caused by the use of the wrong set of rules) but, nevertheless, the assumption was wrong.

The Panel therefore concludes that the Respondent breached article 3.6 (iii).

*The allegation that the Respondent breached the principles of ‘Natural Justice’*

Schedule 6 (28) of the Constitution states “Any removal of membership of, or removal of office or other position from, any Association or other body within the Party will only be made after due consideration of *natural justice*.”

The principles of natural justice impose upon decision-makers a duty to act fairly; a duty to ensure procedural fairness and a duty to ensure a fair hearing.

The onus is on a Respondent to demonstrate that it adhered to these principles.

### *A duty to act fairly*

A member of the Conservative Party should not be suspended or removed from membership unless there is just cause.

Decision-makers are required to be unbiased when holding any hearing or making any decision or recommendation, which must be made based on a balanced and considered assessment of the information and evidence before them without favouring one party over another.

From the evidence provided, the Association Officers did not seek information as to why the Appellants may have acted in the manner they did. Ideally this would have been done before the 27<sup>th</sup> July but, at the very least, such information should have been provided to the members of the Executive at the meeting of the 9<sup>th</sup> September.

In the minutes of the Executive meeting there is reference to the Association Chairman setting out how she tried to resolve the matter but there is no written evidence, for the Panel to consider, in respect to what she said to the members of the Executive.

Therefore, on the evidence before us, we conclude that the Respondent did not act fairly in this matter on the basis that the Executive Council could not conceivably have been in position to make a decision based on a balanced and considered assessment of the information and evidence before them without favouring one party over another.

### *The right to a fair hearing*

The right to a fair hearing requires that no person should be penalised by decisions affecting their rights or legitimate expectations unless they have been given the opportunity to present their case.

“Audi alteram partem” is a phrase meaning "listen to the other side" or "let the other side be heard as well". It is the legal principle that no person should be judged without a fair hearing in which a person is afforded the opportunity to respond to the allegations made against them.

It may be convenient at this stage to dispose of the Appellants' claim that the Respondent failed to inform them of the complainant's identity. It is not the identity of the complainant which is imperative in matters such as this; it is the substance of the complaint and the evidence in support of it. The relevance of the identity of the complainant in this matter is therefore not, by any means, central to our decision.

Decision makers should not pre-judge issues and not make any decisions until matters have been explored with the individuals concerned and they have had reasonable opportunity to explain their position and/or to establish their defence.

We consider that the Respondent failed to discharge its duty to provide the Appellants with a fair hearing.

The denial by the Respondent to provide the Appellants with an opportunity to provide evidence to the Executive Council to justify their position, based on the principles of natural

justice and the provision of Paragraph 3.6 (iii) of the Constitution, is enough to render the procedure adopted by the Respondent unfair and unconstitutional.

In considering all the relevant factors as they have been presented to us, we are satisfied that, viewed objectively, the Respondent failed to adhere to the principles of natural justice referred to in Schedule 6 (28) of the Constitution of the Party.

The Panel did not consider the reasons advanced by the Appellants for their conduct on the Town Council therefore the panel has made no judgement one way or the other as to their conduct.

It is the responsibility of the Branch, and ultimately, the Association Executive to decide whether the Appellants gain approval to stand as Conservative Party Candidates in the future.

In doing so, they may take into account the past and future conduct of the Appellants, alongside that of the Conservative Group and its leadership.

*The sanction imposed by the Respondent was determined as a result of a defective and unfair process. In any event, was the sanction disproportionately harsh?*

In view of our findings, set out above, consideration of this matter is irrelevant.

For these reasons the unanimous decision of the Panel is that the appeal must be upheld.

Consequently, the decision of the Executive Council held on 9<sup>th</sup> September must be set aside and the Appellants must be reinstated, with immediate effect, as members of the Conservative Party.

Additionally, we shall write to the Chairman of the Board of the Conservative Party remitting the Respondent's Rules for the Board's consideration pursuant to Article 41.3 and 43 of the Constitution of the Conservative Party.

**Robert Semple CBE**  
**for and on behalf of the Panel**

**7<sup>th</sup> January 2020**