

Report to Green Party Executive from the panel to investigate the membership of David Hay.

The panel, Paul Bailey (by skype) Craig Palmer, Janine McVeagh and Jeanette Fitzsimons met in Wellington on 18 December 2013 to discuss the investigation, and again in person in Auckland with David Hay on 10 January 2014.

We have reviewed David's media releases of 1 December 2013 (David Hay: Time for Metiria and Russel to go) and 2 December 2013 (Greens leadership challenger calls for 'strike'); and his blog of 2 December (J'Accuse: bullying in the Green Party)

We find that:

1. David has admitted breaching the Code of Conduct by attacking the Green Co-leaders in the media and by releasing internal party documents (namely the procedures around candidate nomination to the pool.) There is no dispute around these facts and therefore there are sufficient grounds under clause 4.5.2 of the Constitution to terminate his membership if the Executive so decides.
2. However, we believe David has a genuine grievance dating back beyond these actions which has not been adequately addressed. He disputes the facts on which he was denied admission to the candidate pool. We have been unable to find evidence of those facts, other than hearsay. Our task was not to investigate issues around the 2011 election, but we were unable to make any meaningful recommendations without looking into what led David to take the actions he did.
3. He claims that false allegations were made against him and no evidence in support was ever produced. It also appears that his formal complaint on 26 November, 5 days before the Exec. meeting on 1 December, was not responded to. This led him to believe that senior members of the party were 'out to get him'.
4. The first allegation was that he ran a two-tick campaign in Epsom in the 2011 campaign despite the strategy set by the campaign committee. He denies ever saying "Vote for me". He produced his campaign leaflet which seemed to us blatantly seeking the electorate vote, but says it was signed off by the Campaign Manager. It has a bold headline "David Hay, Epsom" and a full length photo of himself taking up 40% of one side, with "Party Vote Green" in much smaller type at the bottom. Half the text of that side is about himself. If this was approved, then he was entitled to see that as setting the standard, and it is hard to see what else he did that was worse. (It is possible that he submitted the text but not the layout.) No-one has given us documentation of other instances. He mentioned a Sunday Star Times article by Anthony Hubbard where he says he was misquoted.
5. It is claimed that he repeatedly refused to submit press releases for Party approval. David claims there was one press release that was not submitted for approval out of some 12-13, and acknowledges this was an error. We have not been given evidence of others.

6. He justified his complaint to the Broadcasting Standards Authority over exclusion of the Greens from the TV leadership debate by saying it was not made public and no harm resulted and he did not know the party was pursuing an alternative strategy. We do not find this an acceptable explanation.
7. He claimed the candidate's pledge does not give the Campaign Committee the right to deny his civil rights as a citizen; however after some discussion he admitted that he should have consulted the party first, rather than informing it afterwards, and that the pledge curtails citizens' rights which might conflict with the well-being of the Party during an election campaign.
8. He further claims that no-one from the national campaign talked to him about the allegations he had run a two-tick campaign or that he was refusing to abide by candidate procedures. This is contrary to what others have said but nothing seems to be in writing. He says the Auckland campaign manager, told him his campaign in Epsom was exemplary.
9. He also claims he was ignorant until 31 July 2013 of the Campaign Manager's recommendation to the Executive that he not be admitted to the pool in 2014. Roland has told us that during the 2011 campaign he phoned David and talked at length, primarily about the Broadcasting complaint, but also about other concerns about his candidacy. Roland says that he also warned him later that Campaign Committee had concerns about his behaviour and that these issues would be passed on to the Candidate Selection and Electoral Process Committee (CSEPC).. David denies that this occurred. We are unable to resolve this contradiction, except to remark that sometimes people genuinely do not register what they don't want to hear.
10. Despite all the above, nothing justifies his behaviour in making the media statements he did against the party leadership or the release of party documents, which have vindicated the actions taken by executive. It does however explain the source of his intense frustration, whether justified or not, which led to his actions.
11. David outlined, at our request, the activism he is involved in. He is the NZ spokesperson for the Centre for Advocacy of a Steady State Economy (CASSE); he is leading a project called "Therefore Change" designed to get ecological economics into the secondary school curriculum; and another project "Towards 2060" which arose out of his work at Manukau City Council to use the *Natural Step* process in community workshops and ultimately in local government. All of these are strongly consistent with Green Party fundamental principles.
12. David is talented, hard working, with considerable experience as a policy researcher and has sacrificed considerable time and money to the Green Party cause. None of this excuses his behaviour of publicly attacking the party and its leaders and releasing confidential documents. But it does indicate that he could be a valuable member after some reflection on what it takes to be part of a team.

13. We do see a problem that so far David has not acknowledged fault for his actions following 28 November. Other than in relation to the Broadcasting Standards Authority complaint he denies any other errors. He says he is currently “on strike” and does not seem to recognise that the party has relieved him of any positions he held.
14. We asked him why he thought the executive, on 1 December, had cut short the opportunity to investigate his grievance after just two questions. After some reflection he thought it “might” have been because of his press releases and interviews over the previous 2 days. This suggests a lack of awareness of the consequences of his actions.
15. We made it very clear that any member is entitled at any time to challenge for the leadership or any other position but asked if he had considered the effect on the party and the campaign of doing this in election year. He did not see that as a problem and thought it might give the Greens additional media coverage.
16. David operates very much alone. He did not seek the views of anyone else before lodging his complaint to the Broadcasting Standards Authority or before going to the media with his attacks on the Greens’ leadership.
17. We asked David if he wished to remain a Green Party member. He said that at this stage he is not sure.
18. It would have been helpful, in retrospect, if fuller records from the time had been available

We recommend that:

We believe it is important to take some action to indicate that this kind of behaviour will not be tolerated but that he could be a valuable member of the party in the future if he changes his attitude. Therefore we recommend the following:

1. The executive write a letter of censure to David, pointing out that his behaviour with regard to the press releases and release of documents was totally unacceptable, and suspending his membership of the Green Party for a year while he reflects on what it means to work as part of a team. The letter needs to make explicit that there is a firm expectation that he will accept and observe the disciplines for raising differences within the Greens’ channels of debate if he chooses to resume his membership following his suspension.
2. A copy of this report should be included with this letter.
3. We believe that Exec. should appoint one person to be the media spokesperson on this issue in case of need.

4. Green Party processes could be improved in the following ways:

- a. Better written records should be kept of any steps taken to resolve what could become contentious issues. Examples are above.
- b. A file should be kept on each candidate where copies of significant correspondence, press releases, and other documentation are kept. Such a file would have been a big help to us in our investigation, but we see it having wider value in building up a record of party service. It should be accessible to the Candidate Selection and Electoral Process Committee (CSEPC) when considering a candidate for a further election.
- c. Action taken to resolve disputes should be prompt and direct. In our view David should have been advised clearly in writing that in the view of the executive his performance as candidate was not satisfactory, and why, and of the recommendation that he not be considered for the candidate pool in 2014, as soon as the Campaign Manager's report had been received by Campaign Committee, with an appendix laying out the factual basis for the concern with dates etc. This would have allowed time for the hearing of any grievance or factual dispute long before the opening of the next pool.

The need for a prompt and formal response under the mediation provisions of the Code of Conduct should also apply to all complaints and grievances submitted to any member of the Greens' Executive.

- d. Clearer direction should be given by campaign committee to candidates on what constitutes "a two tick campaign" or "seeking the electorate vote", especially in view of the election strategy of "promoting our people". If in fact David did not ever say "Vote for me" then we are dealing with a grey area of implication, and the approval of his leaflet made it even greyer.

Individual campaign leaflets and individual campaign cyber-sites need to be submitted in full and final form for prior clearance by the Campaign Manager.

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Date: 21 February 2014