

Bury Council – Decisions taken by the Standards Assessment Sub Committee on Thursday, 11 February 2021

Agenda Item No	Topic	Decision
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Part A – Items considered in public

4	DETERMINATION OF ALLEGATION OF BREACH OF THE MEMBER CODE OF CONDUCT PART A	<p>STANDARDS SUB-COMMITTEE</p> <p>DECISION NOTICE</p> <p>REFERENCE: SC 01/21</p> <p>Parties receiving this Decision Notice should take care when acting on this information, as some of it may be confidential for the purposes of these proceedings and must not be released without first discussing the same with the Monitoring Officer.</p> <p>Outline of Complaint:</p> <p>On 3 August 2020 the Monitoring Officer received a complaint from Mrs Jayne Hammond concerning remarks made about her by Councillor Robert Caserta at the Council meeting held on the 8 July 2020. This complaint was considered in the first instance by the Council’s Monitoring Officer and the Independent Person and following an investigation undertaken by an Independent Investigating Officer and the failure of local resolution, a standards sub-committee (Hearings Panel) was convened. The Standards Sub Committee met to consider the complaint and took representations from interested parties on the 11th and 18th February 2021.</p> <p>Decision:</p> <p>The sub-committee found three breaches of the Code of Conduct for Councillors and Other Voting Representatives (the Code), one breach was not found and it further found three breaches of the Protocol on Member Officer and Relations (the Protocol). In determining which sanction to impose, Members of the sub-committee considered that the action must be proportionate to the breach.</p>
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		<p>The sub-committee therefore resolved that:</p> <ol style="list-style-type: none"> 1. Councillor Robert Caserta issues an unequivocal apology to Mrs. Jayne Hammond 2. The Council’s Interim Monitoring Officer is instructed to arrange training for Councillor Robert Caserta in respect of the Code and the Protocol 3. A decision notice be published on the Council’s website. <p>Reasons for the Decision:-</p> <p>The Sub-Committee considered the Code and the Protocol as well as the relevant legislation</p> <ul style="list-style-type: none"> • Section 27 (2) of the Localism Act 2011 places a duty on relevant authorities to ensure their members and co-opted members maintain high standards of conduct and requires such authorities to adopt a code of conduct for their members. • Section 28 (2) requires a relevant authority to adopt a code whose contents must be consistent with the seven “Nolan” principles of standards in public life (Selflessness, integrity, objectivity, accountability, openness, honest and leadership). <p>Breaches of the Code identified:</p> <p>The Code of Conduct</p> <p><i>Preamble paragraph 2.8. - Respect for Others:</i> <i>“Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory</i></p>

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		<p><i>Officers, and its other employees”</i></p> <p>Reason – There was no evidence before the panel that the cost of the Bourne and Newsam reports were attributable to the complainant and by making that suggestion the subject member failed to respect the integrity of an Officer. Whilst a councillor must be free to raise issues and level valid criticism, the subject member went about this in the wrong way by making it personal to the complainant.</p> <p>Unanimous decision</p> <p><i>General provisions paragraph 3.1. (e) You must not...</i> <i>“Behave in a way that a reasonable person would regard as disrespectful”</i></p> <p>Reason – The subject member was disrespectful about the complainant. The Code of Conduct must be interpreted purposively. To allow an employee to be treated such upon departure would undermine the aims of the Code.</p> <p>Majority decision</p> <p><i>General provisions paragraph 5.</i> <i>“You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute”</i></p> <p>Reason – The subject member’s remarks implicitly suggested wrong-doing by the council and officer. The panel was of the view that the words spoken by the subject member, acting in his role as</p>

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		<p>councillor and at a council meeting, would bring the council into disrepute.</p> <p>Unanimous decision.</p> <p>Member Officer Protocol</p> <p><i>Preamble 1.1. Mutual respect:</i> <i>“Mutual trust and respect between Member and Officer”</i></p> <p>Reason – The panel concluded, by majority, that the subject member’s conduct was damaging to good governance and the effective running of the local authority.</p> <p>Majority decision.</p> <p><i>Principles 3.1: Observe the Protocol</i> <i>“Members and Officers must at all times observe this protocol”</i></p> <p>Reason - On the subject member’s own admission, he had not read the Code or Protocol and, by majority, the panel concluded that his conduct showed a disregard for the Code and the Protocol.</p> <p>Majority decision.</p> <p><i>Principles 19.3.</i> <i>“A Member who is unhappy about the actions taken by, or conduct, of an officer should:</i></p> <ul style="list-style-type: none"> ● <i>Avoid personal attacks on, or abuse of, the officer at all times</i>

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		<ul style="list-style-type: none"> • <i>Ensure that any criticism is well founded and constructive</i> • <i>Never make a criticism in public and</i> • <i>Take up the concern with the officer privately”</i> <p>Reason - The majority of the panel were satisfied that the subject member had made a personal attack on the complainant, referring to her by name, that his remarks were not constructive and that the criticism was made in public at a Council meeting. Whilst the subject member had stated that he had made a number of attempts to contact the complainant by email and received no response, the panel noted that there had been two years in which to arrange contact with the complainant in order to discuss his concerns in private.</p> <p>Majority decision.</p> <p>The Panel found <u>no breach</u> in relation to:</p> <p><i>General provisions paragraph 4. (a): You must not..</i> <i>“Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature”</i></p> <p>The panel <u>was not satisfied</u> that there had been confidential information within the subject member’s remarks, bearing in mind that the cost of the Bourne and Newsam reports was in the public domain.M Hayes Chair of the Standards Sub-Committee Date: 18 February 2021</p>

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A2		