

BURY METROPOLITAN BOROUGH COUNCIL

**STANDARDS COMMITTEE HEARING PANEL
10 JANUARY 2018**

**DECISION NOTICE: STANDARDS COMMITTEE HEARING PANEL – 10
JANUARY 2018**

REFERENCE: SCL.07/2017

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.

Summary of the Complaint

On 20 July 2017 the Council resolved to invite an independent investigator to consider the conduct of members of the Council in respect of issues that had been identified in a report by Malcolm Newsam; and in particular their compliance with the Council's Code of Conduct for Members and the Nolan Principles and the general law.

A general summary of the issues is set out below:

It was alleged that Councillor Gartside, as the Leader of the Conservative Group (at the time), failed to co-operate with the Newsam Review into safeguarding issues. It was alleged that as the Leader of the Group he was the conduit of information to and from members of the Conservative Group and so it was crucial that he should co-operate with the Review. Furthermore, it was alleged that he did not disclose an important letter to the Newsam Review which he had in his possession and which was received on 16 July 2105.

Relevant Sections of the Council's Code of Conduct

Following an initial assessment by the Monitoring Officer and Independent Person undertaken on 12 December 2017 it was agreed that the complaint did raise issues under the Council's Code of Conduct. They agreed that if proved, this conduct would engage Part 1 General Provisions, Sections 4b), 5 and 6a) of the Code of Conduct as set out below:

4(b) You must not prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

6(a) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

The Monitoring Officer and Independent Person concluded that the complaint was serious enough to merit action and necessary in the public interest; and in order for the Council to continue to promote and maintain high standards of conduct by Elected Members, in line with the principles and obligations of the Code of Conduct.

A Hearings Panel comprising Mr P Howard (Independent Member); Councillor Jones; Councillor Hodgkinson and Councillor Pickstone met to consider complaint. Ms. V Bracken, the Council's Independent Person was also present at the Hearing in line with the Bury Council's hearings procedures

All documentary evidence had been served on all parties in advance of the Hearing.

The Investigating Officer, Mr Charles Bourne QC, addressed the Panel to outline the findings and conclusions from his report. Councillor Shori, Leader of the Council and Mrs Jayne Hammond, Assistant Direct of Legal and Democratic Services were called as witnesses by Mr Bourne. Questions were responded to from Councillor Gartside, Panel Members and the Independent Person.

Councillor Gartside gave an oral statement and called Councillor Daly as a witness. Questions were responded to from Mr Bourne, the Panel and the Independent Person.

At the invitation of the Chair, the Investigator, Mr Bourne, and Councillor Gartside made closing statements to the Panel.

Decision:

Having considered all documentary evidence and having heard from the Investigator, Mr Bourne, his witnesses Councillor Shori and Mrs Jayne Hammond (Assistant Director of Legal and Democratic Services) and from Councillor Gartside and his witness Councillor Daly, the Panel resolved that:

In accordance with the provisions of the Localism Act 2011, there was **no breach of the Code of Conduct.**

The Panel concluded that there was no evidence whatsoever that any failure to engage with the Newsam review on the part of Councillor Gartside was motivated by any attempt to gain an advantage for himself or another or to secure or confer a disadvantage on any person so there was no evidence of a breach of paragraph 6(a) of the Code.

The Panel concluded that there was a breakdown of communication between Councillor Gartside and Mr Newsam in December 2016 which had resulted in

Councillor Gartside not engaging in the Newsam review. This had meant that there was no opportunity for Mr Newsam to ask Councillor Gartside about his involvement in the matters giving rise to the review nor was Mr Newsam able to ask Councillor Gartside whether he had relevant documents. It is possible that had Mr Newsam been able to speak to Councillor Gartside certain documents which would have been helpful to Mr Newsam might have been made available to him. However, the Panel did not believe that Councillor Gartside could have been said to have prevented Mr Newsam from gaining access to information to which he was entitled by law. Therefore, there was no breach of paragraph 4(b) of the Code.

The Panel concluded that Councillor Gartside could have done more to engage with Mr Newsam's review. The Panel believed that Councillor Gartside should have made a greater effort to contact Mr Newsam after Mr Newsam had emailed Councillor Gartside on 19 December 2016. However, The Panel concluded that this omission on the part of Councillor Gartside was not so serious as to amount to conduct which could reasonably be regarded as bringing his office or the council into disrepute. Therefore, the Panel found that there had been no breach of paragraph 5 of the Code.