

Standards Hearing (Ad Hoc) Sub Committee

Notice of Decision

Case reference:	Z38/72
Subject Member:	Councillor G. Fairhurst
Complainant:	Councillor C. Morgan
Sub Committee Members:	Councillor C. Rigby (Chairman) Councillor S. Keane Councillor J. Ellis
Monitoring Officer:	Mr J. Mitchell
Investigating Officer:	Mr M. Dudfield
Independent Person:	Ms. P. Gregory
Clerk to the Panel:	Mr M. Williamson
Date of Hearing:	Thursday 8 th May 2014

This was a hearing to consider whether Councillor G. Fairhurst had failed to comply with the Council's Code of Conduct.

The Sub Committee was convened under the Council's Arrangements for Dealing with Complaints about the Code of Conduct for Members in accordance with the Localism Act 2011 for the determination of complaints that a Member may have breached the Council's Code of Conduct.

The Sub Committee was notified by Councillor G. Fairhurst that he was unable to attend the hearing due to work commitments. The Sub Committee having taken into account his reason alongside the fact that he had been offered a number of opportunities to set a date and had also been offered three potential date options considered that it was able to proceed with the hearing in his absence.

The complaint concerned allegations that Councillor G. Fairhurst had posted comments on the Wigan World internet forum stating that Councillor C. Morgan had

been dismissed from his employment with the Royal Mail for stealing mail which may have involved postal votes.

As part of the preliminary procedural issues the Investigating Officer requested the Sub Committee to determine whether the subject Member was subject to the Members' Code of Conduct at the time of the incident. The subject Member's legal representative had submitted a written representation which argued that as the subject Member had not signed any declaration specifically referring to the new Code of Conduct, which had been implemented in July 2012, or been asked to adopt or abide by it, the Code of Conduct did not apply to his conduct in relation to the incident. The Investigating Officer argued that the wording of the Declaration of Acceptance of Office signed by the subject Member was sufficiently wide to include the revised code.

The Sub Committee did not agree with the view of the Member's legal representative and unanimously agreed that the wording of the Declaration of Office was sufficiently wide and that the subject Member was bound by the Code of Conduct at the time the incident occurred.

The Sub Committee then took into account the oral and written representations of the Investigating Officer, which set out the details of the complaint. The subject Member had not disputed the factual findings of the Investigator in his investigation report.

The Sub Committee agreed the following fact:

- the subject Member had made personal allegations against the complainant on Wigan World Social Web Page which were untrue.

The Sub Committee then heard further evidence from the Investigating Officer and took account of written submissions submitted by the subject Member and his legal representatives. The Sub Committee was advised that following an investigation into the subject Member's alleged breach of the Code of Conduct, the Investigating Officer had concluded that the subject Member was acting in his official capacity when making the posts, and that in making the posts without regard to their accuracy had breached the Code of Conduct under the following article:-

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

Having consulted with the Independent Person, the Sub Committee concluded that the Member had failed to comply with Paragraph 5 of the Council's Code of Conduct. The Sub Committee then invited the Investigating Officer to make representations on the actions to be taken in respect of the breach.

The Investigating Officer advised that any sanction needed to be appropriate and in line with the severity of the breach of the code. He advised that if similar sanctions were available to those that existed under the old standards regime, he would have proposed a short term suspension due to the serious nature of the false allegations that the subject Member had made against the complainant.

The Sub Committee considered the action available to it and taking into account the seriousness of the complaint and the requirement that any action should be relevant and proportionate to the complaint, and having consulted with the Independent Person resolved the following actions to be taken.

Resolved: The Sub Committee agrees that the following sanctions are to be imposed:-

- (1) the formal Decision Notice of the outcome of the hearing is to be published on the Council's website and details of the outcome in a newspaper circulating in the Standish area;
- (2) the Member be asked to submit a written apology to the complainant;
- (3) that a report is to be submitted to the Standards Committee and Council setting out the outcome from the hearing and noting whether the Member has submitted a written apology to the complainant;
- (4) at the next meeting of full Council it is to be recommended that the Member be censured;
- (5) the Member is to be asked to engage with officers to identify training, tailored to his needs and facilitated by an external provider if required, to ensure that the use of social media is compatible with the responsibilities of elected members, with a signed agreement as to what outcomes both he and the Council wish to achieve as a result of the training;
- (6) that all sanctions will be monitored and that the Sub-Committee be re-convened so that further sanctions may be considered should the Member fail to comply with the above requirements.

Right of Appeal:

Subject to judicial review or a decision of a Local Government Ombudsman, there is no right of appeal against the decision of the Standards Hearings (Ad Hoc) Sub Committee.