

Standards Hearing (Ad Hoc) Sub Committee

Notice of Decision

Case reference:	Z38/79
Subject Member:	Councillor E. McGurrin
Complainant:	Councillor G. W. Fairhurst
Sub Committee Members:	Councillor S. Keane (Chairman) Councillor P. Dewhurst Councillor L. Holland
Deputy Monitoring Officer:	Mr P. Hassett
Investigating Officer	Mr P. Hogg.
Independent Person:	Mr K. Roberts
Corporate Governance Manager	Mrs J. Horrocks
Clerk to the Panel:	Mrs D. Adshead
Date of Hearing:	Wednesday 5 th November 2014

This was a hearing to consider whether ex Councillor E. McGurrin 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 Members' Code of Conduct in accordance with the Localism Act 2011 for the determination of complaints that a Member may have breached the Council's Members' Code of Conduct.

The Sub Committee had received no notification from the former Councillor in regard to attending the hearing. The Sub Committee decided to hear the matter in ex Councillor McGurrin's absence. In doing so the Sub Committee took into account the following matters:

- Councillor McGurrin had been offered a number of opportunities to engage with the process;
- The complaint had been outstanding for a considerable period;
- The former councillor had been notified of the date and time set for the hearing for a reasonable time;
- The investigating officer was in attendance and had prepared for the hearing to take place.

The Sub Committee having heard oral representation from the Investigating Officer and, following legal advice, agreed to hold the hearing in private on the grounds that paragraphs 1, 2 and 3 of Schedule 12a to the Local Government Act 1972 apply (information relating to any individual or which is likely to reveal the identity of any individual, information relating to the financial or business affairs of any particular person).

The Sub Committee had not received notification from the subject Member as to whether she wanted the hearing to be held in public despite the opportunities she had been given to state her preference in advance of the hearing.

The Sub Committee sought the view of the Investigating Officer who considered that in this case discussion would involve details of individual(s), including a number of private sector businesses.

Although the Sub Committee recognised the public interest in justice being seen to be done, having considered both sides of the argument, it felt that the greater public interest was to maintain the exemption which would ensure that any future complainant(s) and witnesses are not discouraged from bringing such complaints in the future.

The complaint concerned an allegation made by Councillor G. W. Fairhurst on 9th April 2013 that ex Councillor E. McGurrin, who at the time was a member of the Council's Planning Committee, had publicly stated that she had been working with a developer. He considered that a Planning Committee Member should not be working with a developer and believes that in doing so she has breached the Members' Code of Conduct.

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 Sub Committee considered the information provided by ex Councillor McGurrin but, as she had chosen not to attend, was unable to hear oral evidence or question her.

Following the submissions and subsequent discussions, the Sub Committee agreed the following facts in relation to the complaints against Councillor McGurrin. That ex Councillor McGurrin had:

1. Direct contact with three developers whilst serving on the Council's Planning Committee (prior to any formal application submission);
2. Been in touch with high level Board members from each company discussing and supporting their proposals;
3. Discussed developers proposals within the Standish Labour Group;
4. Directed one company to hold consultation meetings which she attended and was also asked to support their development proposals by circulating associated literature;
5. Provided information about Core Council Strategy preferences and medical capacity/associated data to one company;
6. Been offered and accepted hospitality from one company (no evidence it was actually taken because the event was cancelled);
7. Provided a wide range of contentious information to the local press (published her views) despite being asked by the Leader to delay such action.

Having considered the view of the Investigating Officer, the response from Councillor McGurrin and the legal advice provided, the Sub Committee concluded that Councillor McGurrin was acting in her capacity as a Councillor during the incident.

The Sub Committee then heard further representations from the Investigating Officer as to whether the subject Member had breached the Members' Code of Conduct.

The Sub Committee concluded, after having consulted with the Independent Person, that ex Councillor McGurrin had worked closely with developers in an inappropriate fashion for an Elected Member and in particular a Member of the Council's Planning Committee. As a result, Councillor McGurrin had breached the following paragraphs of the Council's Code of Conduct under the following articles:

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

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

In addition to the above breaches of the Members' Code of Conduct, the Sub Committee concluded that ex Councillor McGurrin's conduct has breached several key requirements of the Council's Members' Planning Code of Good Practice. In particular the Sub Committee concluded that the former Councillor's proven actions are in contravention to the detailed requirements of section 6 (Lobbying of and by Councillors), section 7 (Contact with Applicants/Developers), and section 1 (Site Visits).

In reaching the decision the Sub Committee recognised Councillor McGurrin's right to freedom of expression, however, after considering legal advice, believed that finding the former Councillor had failed to comply with the Code, was a justified and proportionate interference with her freedom of speech given the nature and potential implications of the actions on the Council.

The Sub Committee, having consulted with the Independent Person, resolved the following actions to be taken:

1. The Panel wished to place on record how very serious it considers the proven breaches to be;
2. The former Councillor submit an open letter of apology to be submitted to the Monitoring Officer for him to publish should he decide to;
3. If the Councillor had still been a Member of the Council the Panel would have recommended that she be removed from the Planning Committee and any other committees undertaking regulatory functions;
4. The matter be reported to the Standards Committee and Full Council with a view to the former Councillor being censured;
5. The decision be publicised on the Council's website and in a newspaper circulating in the ex Councillor's former ward;
6. Should the former Member be re-elected to the Council, the Monitoring Officer be authorised to report the matter back to the Panel if the former Councillor has failed to comply with these sanctions.

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.