

## Standards Hearing (Ad Hoc) Sub Committee

### Notice of Decision

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Case reference:	Z38/87 & 93
Subject Member:	Councillor G. Fairhurst
Complainant:	Ms. D. Hall
Sub Committee Members:	Councillor C. Rigby (Chairman) Councillor S. Keane Councillor J. Ellis
Monitoring Officer:	Mr J. Mitchell
Investigating Officer:	Mrs. N. Welch
Witness:	Ms. D. Hall
Independent Person:	Mr K. Roberts
Corporate Governance Manager	Mrs J. Horrocks
Clerk to the Panel:	Mrs D. Adshead
Date of Hearing:	Wednesday 27 <sup>th</sup> August 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 complaint concerned allegations by the Council's Chief Executive, Donna Hall, of a breach of the Council's Protocol on Member/Officer Relations and Members' Code of Conduct against Councillor Gareth Fairhurst, stating that, through a series of

various social and local media articles, he had accused her of being a liar and of political bias.

The Chief Executive provided further documentation in support of additional alleged breaches of the Member/Officer Protocol which was sent to Councillor Fairhurst on 6 August 2013. The Monitoring Officer agreed with Councillor Fairhurst that whilst this additional information would be treated as a separate complaint, the two complaints would be considered alongside each other as one investigation.

The Sub Committee then heard oral and written representations from the Investigating Officer Ms. N. Welch and witness Ms. D. Hall which set out details of the complaint against Councillor Fairhurst.

The complainant and witness, Ms. D. Hall, described how Councillor Fairhurst's behaviour towards her had become "vindictive, persistent, obsessive." As such she asked that he donate some of his £15,000 annual allowance and newly acquired £4,000 leadership allowance (after accepting Cllr Bleakley (former Wigan Independent member) his father and wife into his group) to the Mayor's charity.

The Sub Committee then heard oral representations from the subject Member which set out details of his appeal against the investigation findings.

Following the submissions the Sub Committee agreed the following facts that:

- i. Through a series of various social and local media articles, the Councillor Gareth Fairhurst accused the Chief Executive of Wigan Borough Council of political bias and of being a liar in an attempt to discredit her in public and undermine her position.
- ii. He repeatedly criticised the impartiality and competence of the Chief Executive of Wigan Borough Council in public across a range of local and social media sources.
- iii. Councillor Fairhurst continued to engage in this conduct in direct contravention of advice, from the Chief Executive and other senior officers, as to what is considered acceptable behaviour for an elected Member.

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

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 has breached the requirements of the Protocol of Member/Officer Relations in repeatedly criticising the impartiality and competence of the Chief Executive across a range of social media sources.

Ms. Welch also concluded that there was a clear link between his social and local media comments and his role as a Member of Wigan Council and as such had failed to treat the Chief Executive with respect and through his failure had brought his office and authority into disrepute.

The subject Member argued that he was not acting in his official capacity as all his comments on Wigan World and other social media sites were his personal opinion and as such can not considered as a breach of the Code of Conduct.

The Sub-Committee concluded that in discussing Council business when making these critical public comments, Councillor Fairhurst was clearly acting in his official capacity.

The Sub-Committee also concluded that as a result of his actions Councillor Fairhurst had breached paragraph 4.3 of the Protocol on Member/Officer Relations:

*“Members should be aware that officers are constrained in the response that they may make to public comment by Members and should not abuse officers, or question their impartiality, in public or through the press nor seek to undermine their position by abuse rudeness or ridicule. If a member does so in an email or telephone conversation to an officer then the officer is justified in not responding to the email or in ending the telephone call.”*

and had breached paragraph 5 of the Council's Code of Conduct under the following article:

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

The Sub Committee then invited the Investigating Officer and subject Member 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. She advised that if a member of staff had behaved in a similar fashion that they would have faced a disciplinary and potential dismissal.

The subject Member indicated that as he considered the Sub Committee had no sanctions available to it there was no point in making any submission.

The Sub Committee having heard submissions from both sides concurred that Councillor Fairhurst was relentless, vindictive and personal in his attacks against the Chief Executive and other staff. The fact that Councillor Fairhurst attempted to undermine and challenge the Chief Executive in such an open and personal way in the view of the Sub Committee fell well below the behaviour considered acceptable of any Member.

The Sub Committee viewed it as deplorable for any Member in particular the Leader of a political group whose role is to lead by example, to make gratuitously offensive remarks about others who are linked to the council and then claim to be doing so in a private capacity.

The Sub Committee although frustrated by the limited sanctions available to them considered the action open to them 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 public apology to the complainant by 11<sup>th</sup> September;
- (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) that the report to Council include a recommendation that the Member be censured;
- (5) On receipt of an acceptable apology the Member to engage with a programme facilitated by an external provider that will address his issues and behaviour with a signed agreement as to what outcomes are to be achieved;
- (6) failure by the subject Member to make a public apology will trigger a re-convened Sub Committee on or before the 30<sup>th</sup> September so that further actions may be considered should the Member fail to comply with the above requirements. The potential sanctions may include but not limited to for example controlling access (emails/telephone) to all Council employees (including SMT) to be via email through a managed holding area.

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### **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.