

**STANDARDS PANEL****TUESDAY, 28 JUNE 2016 at 6:00pm**

<b>SUBJECT:</b>	<b>Consideration of a Standards Complaint</b>
<b>REPORT OF:</b>	<b>Deputy Monitoring Officer</b>

**REPORT SUMMARY**

- 1.1 The purpose of this report is for the Standards Panel to formally consider a standards complaint in accordance with the Protocol for Dealing with Complaints against Members.
- 1.2 The Standards Panel was established by the Standards and Constitutional Oversight Committee at its meeting on 2 June 2016 pursuant to paragraph 9.5 of Article 9 of the Council's Constitution.
- 1.3 There are two investigation reports relating to this standards matter. The initial investigation report is dated 20 June 2014 and was, by agreement of the parties, released into the public domain; whereas the second investigation report dated 6 December 2015 remains confidential and the relevant parties advised to maintain this confidentiality so as to ensure that there is no prejudice or unfairness to any of the parties involved.
- 1.4 As part of the process however, the Standards Panel is required to consider (i) whether the second investigation report should be disclosed in the public domain, and (ii) whether the proceedings themselves should be held in public.

**RECOMMENDATION/S**

That the Panel:

- (1) Considers this matter in accordance with the Procedure set out at Appendix 4 to this report (and the governing arrangements).
- (2) Considers and makes a determination in respect of the standards matter involving Councillor Foulkes in accordance with the aforementioned Procedure (and the governing arrangements).
- (3) Subject to the Panel's finding, considers any sanction (if any) that should be imposed, pursuant to the aforementioned Procedure (and the governing arrangements).

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 The establishing of the Standards Panel and Standards Appeal Panel is required under the Council's Constitution and the Protocol for Dealing with Complaints against Members.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 No other options were considered.

### **3.0 BACKGROUND AND KEY ISSUES**

- 3.1 The role and purpose of the Standards Panel are set out in Article 9 of the Constitution – which is set out at Appendix 1.
- 3.2 The Members' Code of Conduct and Protocol for Dealing with Complaints against Members are set out at Appendix 2 and 3 respectively for reference.
- 3.3 The Standards and Constitutional Oversight Committee agreed a Procedure for dealing with matters before the Standards Panel, which is set out at Appendix 4.
- 3.4 The Standards Panel is required to consider a standards matter involving Councillor Foulkes.
- 3.5 An investigation was previously undertaken into issues raised by Councillor Jeff Green at a meeting of full Council on 16 December 2013 alleging that a senior member of the administration (i) used language about a senior officer that was totally unacceptable; and (ii) encouraged former Council employees to smear Councillor Green to take pressure off the senior member's own colleagues and gain political advantage. An investigation was undertaken and a report completed on 20 June 2014 in which the investigator concluded that there was no breach of the Members' Code of Conduct by any councillor. Councillor Foulkes provided material witness evidence in relation to that investigation. This initial Investigation Report dated 20 June 2014 appears at Appendix 5.
- 3.6 However, a few months after the conclusion of the initial investigation further witness evidence came to light challenging/questioning the witness account provided by Councillor Foulkes in the initial investigation. This issue led to the standards matter being re-opened as it related to evidence gathered during the course of the initial investigation and related specifically to the alleged smear of Councillor Green. A further investigation report was produced focusing specifically on the account/evidence provided by Councillor Foulkes in the initial investigation. The investigator concluded that Councillor Foulkes breached the Members' Code of Conduct. The Investigation Report dated 6 December 2016 appears at Appendix 6.
- 3.6 Under paragraph 16.2 the Standards Committee shall consider and/or have regard to:

- (i) the Investigator's final report;
- (ii) the views of the Independent Person;
- (iii) material factors, relevant issues and evidence;
- (iv) relevant representations made by the parties,
- (v) available guidance and advice; and
- (iii) any aggravating and/or mitigating factors (as considered appropriate).

It will then reach one of the following decisions in respect of the complaint:

- (a) Agree with findings and conclusions of the Investigator as set out in the Investigator's final report; or
- (b) Reach an alternative decision as permitted under its Terms of Reference.

3.7 The Standards Panel after consideration of a complaint may-

- (a) ask for additional information on the allegation before reaching a decision;
- (b) determine that no action should be taken in respect of the allegation(s) made;
- (c) determine that the Members' Code of Conduct has been proved to have been breached;

3.8 Where the Standards Panel determines that the Members' Code of Conduct has been breached, it may:

- (a) instruct the Monitoring Officer to write a formal warning letter to the Member reminding him/her of the need to comply with the Members' Code of Conduct; and/or
- (b) require the Member(s) to apologise to the complainant (whether verbally or in writing) for breaching the Members' Code of Conduct. Should the Member in question fail or refuse to do so promptly, the Monitoring Officer shall report this fact to the Member's Political Group Leader\*; and/or
- (c) report the Panel's decision to a public meeting of the Standards and Constitutional Oversight Committee for reference / consideration; and/or
- (d) recommend to the Member's Political Group Leader\* that disciplinary action should be taken against the Member in

question and/or that he/she be removed from all (or some) outside bodies to which the Member has been appointed; and/or

- (e) instruct the Monitoring Officer to arrange training for the Member in question who shall be required to attend. Should the Member fail to attend the training arranged, the Monitoring Officer shall report this fact to the Member's Political Group Leader\*.

3.9 Where the Standards Panel determines that the Members' Code of Conduct has NOT been breached, it may:

- (a) recommend, subject to the agreement of the Member against whom the allegation(s) has been made, that a Council media statement be issued upon the Council's website detailing the nature and outcome of the investigation into the allegations made and the decision of the Panel.
- (b) subject to the agreement of the Member against whom the allegation(s) has been made, report the Panel's decision to a public meeting of the Standards and Constitutional Oversight Committee;

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 There are none arising directly from this report.

#### **5.0 LEGAL IMPLICATIONS**

5.1 The Council has a duty to promote high standards of conduct by members and put in place appropriate arrangements to deal with complaints against members.

5.2 Under Section 27 of the Localism Act 2011, the Council "must promote and maintain high standards conduct by Member and Co-opted Members of the authority".

5.3 In discharging the duty the Council must (under Section 27 of the Localism Act 2011) adopt a code dealing with the conduct that is expected of Members and Co-opted Members of the Council when they are acting in that capacity.

5.4 The Council must (under Section 28 of the Act) also have in place arrangements under which allegations can be investigated; and decisions on allegations can be made.

#### **6.0 RESOURCE IMPLICATIONS: ICT; STAFFING AND ASSETS**

6.1 There are none arising directly from this report.

#### **7.0 RELEVANT RISKS**

7.1 There are no identified risks arising directly from this report.

## 8.0 ENGAGEMENT / CONSULTATION

8.1 The Members' Code of Conduct and Protocol for Dealing with Complaints against Members was developed, prepared and approved by members and Council.

## 9.0 EQUALITIES IMPLICATIONS

9.1 There are none arising directly from this report.

**REPORT AUTHOR:** **Joe Blott**  
Deputy monitoring Officer and  
Strategic Director for Transformation and Resources

## APPENDICES

1. Article 9 of the Constitution;
2. Members' Code of Conduct;
3. Protocol for Dealing with Complaints against Members; and
4. Procedure for dealing with matters before the Standards Panel and Standards Appeal Panel.
5. Initial Investigation Report dated 20 June 2014
6. Investigation Report dated 6 December 2015

## REFERENCE MATERIAL

NONE

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	