



## **DECISION NOTICE: BREACH OF THE MEMBERS' CODE OF CONDUCT**

**Reference - Standards 2016/01 – JB**

**Panel Membership:** Councillors C Blakeley, P Gilchrist (Chair) and Moira McLaughlin.

**Independent Person:** Mr Brian Cummings

**Deputy Monitoring Officer:** Mr Joe Blott

**Panel's Legal Adviser:** Mr Jonathan Goolden

**Representation:**

For the subject Member: Councillor Steve Foulkes and Ms Frances Randle

Independent Investigator: Ms Patricia Thynne

### **Introduction**

On 28 June 2016 the Standards Panel of the Standards and Constitutional Oversight Committee considered the Independent Investigator's final Report dated 6 December 2015 commissioned by the Strategic Director – Transformation and Resources in April 2015 following an allegation of breach of the Council's Code of Conduct for Councillors and additional evidence emerging following a previous report dated 20 June 2014. The Panel also had regard to supporting and background papers.

### **Decision on whether to conduct the Hearing in the Presence of the Press and Public**

The Panel heard representations from Ms Frances Randle and Ms Patricia Thynne on whether the Hearing should remain conducted in private or be opened to the public. The Panel took advice from Mr Jonathan Goolden and Joe Blott.

The Panel would be considering personal and sensitive information about a particular individual in the course of this Hearing in order to reach its decision. Following substantial consideration it came to the unanimous view that it would not be in the public interest for this kind of information to be put into the public domain. Therefore, it was **agreed** that this Standards Hearing would be held in private.

## **Independent Investigator's Findings**

Having assessed all of the available evidence the Independent Investigator found, on the balance of probability, that sometime in July 2013 Councillor George Davies made a request during a telephone conversation with a member of the group of former Council whistle-blowers known as the Group, on behalf of Councillor Foulkes, for a signed letter which would assist Councillor Foulkes. Councillor Foulkes had provided the Investigator with a copy of the letter. The letter described alleged behaviour by Councillor Jeff Green which was potentially damaging to him if released to a wider audience. Both Councillors Foulkes and G Davies had told the Investigator that the reason for the request for the letter was so that Councillor Foulkes could use it as part of his attempt to stop whistle-blowers being used politically or manipulated. Councillor Foulkes had admitted to having seen the letter previously. Consequently, he was aware of its content and the potential damage it could do to Councillor Green.

The Investigator also found it more likely than not that Councillor Foulkes gave Person C (a journalist) a copy of the letter at the Council meeting on 15 July 2013. She also found that Councillor Foulkes should have realised that the letter was confidential and potentially defamatory of Councillor Green and should not have disclosed it to anyone without first showing it to Councillor Green and to the Council's Monitoring Officer. He had done neither of these things.

In summary the Independent Investigator had found that Councillor Steve Foulkes:

- (1) Failed to treat others with respect.
- (2) Conducted himself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members.
- (3) Disclosed information which he knew or ought reasonably to have known was confidential, without consent, good faith, nor in the public interest and did so in pursuit of personal advantage, thereby using knowledge gained solely as a result of his role as a Member for the advancement of himself.
- (4) In so doing Councillor Foulkes acted so as to bring the Council into disrepute and in breach of paragraphs 1.1, 1.2, 1.3, 3 and 8 of the Members' Code of Conduct of Wirral Council.

## **Decision of the Standards Panel**

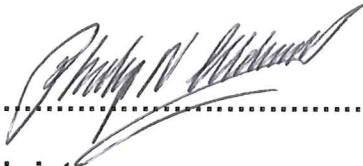
After careful consideration of the Investigator's Report, and the submissions and admissions made by the parties and after taking into account the views of the Independent Person:-

- (1) The Panel finds that Councillor Foulkes did request the letter referred to in the report, did meet Person C and did discuss the contents of the letter with that person;
- (2) The Panel notes that other evidence set out by the investigator is disputed by Councillor Foulkes. The Panel does not consider it necessary to make findings of fact in respect of those matters;
- (3) The Panel welcomes Councillor Foulkes' acceptance that he failed to treat others with respect;
- (4) The Panel finds that Councillor Foulkes has breached the Code of Conduct for Members of Wirral Council in that he:
  - (a) failed to treat others with respect in breach of paragraph 1.1 of the Members' Code of Conduct; and
  - (b) conducted himself in a manner which was contrary to the Council's duty to promote and maintain high standards of conduct by Members in breach of paragraph 1.2 of the Code.
- (5) The Panel makes no other findings of breach of the Code;
- (6) The Panel welcomes Councillor Foulkes' offer to contribute to the improvement of the culture of the Council; and
- (7) The Panel requires that Councillor Foulkes provide a written apology to Councillor Green within a period of 30 days from the date of this decision notice.

This Decision Notice and the full Investigator's report, (redacted in two places as agreed by the Standards Panel) will be published on the Council's website unless a request seeking permission to appeal is made under paragraph 18 of the Council's Arrangements for Investigating and Making Decisions in relation to allegations made under the Members' Code of Conduct.

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Signed .....



Date .....

1st July 2016

**Phil Gilchrist**  
**Chair of the Standards Panel**

