

**MANCHESTER CITY COUNCIL
REPORT FOR INFORMATION**

Report to: Council – 25 January 2017

Subject: Findings of the Hearing Panel in Respect of a Complaint
Concerning a Breach of the Code of Conduct for Members

Report of: The Monitoring Officer

Purpose of the Report:

To report to Council the findings of the Hearing Panel in respect of a complaint concerning a breach of the Code of Conduct for Members.

Recommendations:

To note the report.

Wards Affected:

None.

Financial Consequences for Revenue Budget:

None.

Financial Consequences for the Capital Budget:

None.

Implications for:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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1. Background

- 1.1 On 22 September 2016 a complaint concerning the conduct of a (now former) member of the Council was heard by the Standards (Hearing) Sub-Committee acting as a Hearing Panel. The Hearing Panel concluded that there had been a breach of the Code of Conduct for Members. One of the sanctions imposed was that the Hearing Panel's findings should be reported to the Council.
- 1.2 The Hearing Panel's findings are included in the Annex to this report in the form of a Summary Decision, which has also been published on the Council's website.

ANNEX

SUMMARY OF THE DECISION FOLLOWING A HEARING OF A COMPLAINT THAT A MEMBER OF THE COUNCIL BREACHED THE CODE OF CONDUCT FOR MEMBERS

Member Complained of: (Former) Councillor Mark Hackett
Complaint Reference: CCM 2014/4
Date of Hearing: 22 September 2016

1. Background

- 1.1 On 18 September 2014 the Complainant submitted a complaint to the Council's Monitoring Officer concerning the conduct of Mark Hackett, who was a member of the Council at that time. The Monitoring Officer undertook an initial assessment of the complaint in accordance with the Council's Arrangements for dealing with Complaints that Council Members have failed to comply with the Code of Conduct for Members. She concluded in her 19 January 2015 decision notice (having consulted with one of the Council's Independent Persons) that the complaint should be referred for local investigation.
- 1.2 An Investigating Officer was appointed by the Monitoring Officer to conduct the investigation. Following her investigation the Investigating Officer issued a report, dated 9 July 2015, in which she concluded that there had been a breach of the Code by Mark Hackett.
- 1.3 Having considered the Investigating Officer's report, and consulted the Independent Person, the Monitoring Officer determined that the matter should be referred for a local hearing. The Standards (Hearing) Sub-Committee served as the Hearing Panel.

2. The Alleged Conduct Complained Of

- 2.1 Paragraph 2.2 of the Investigating Officer's report summarised the complaint against the member as follows:

The Complaint concerned emails from the Member to the Complainant which formed email exchanges between both of them concerning the "Remember the Children of Gaza" event held on the 17th August 2014. The Complainant alleges that the Member was "very polemic" towards him, made outrageous accusations and defamatory comments about him which were completely, untrue and not based on any factual evidence. The Member accused the Complainant of being a "terrorist" and the Complainant feels he needs to clear his name, plus he feels the false allegations "could destroy his business". The Complainant also alleges that the Member has been "racist and Islamophobic" towards him. Furthermore, the Complainant alleges that "the Member has used bullying

tactics towards him by copying other Members of Manchester City Council” (i.e. the Labour Group) into the email exchanges, which led to the Complainant feeling intimidated and following the Member reporting him to the Police felt in fear of the Police visiting him to investigate alleged terrorist activity.

3. The Conduct of the Hearing

3.1 The conduct of the hearing is as detailed in the Hearing Panel’s minutes, a copy of which are appended to (and forms part of) this Summary Decision.

4. The Hearing Panel’s Decisions

4.1 The Hearing Panel’s decisions are fully detailed in the appended minutes. However, the Panel’s key conclusions are also set out below.

4.2 It was agreed that the facts were proven.

4.3 It was agreed that the conduct of the (now former) member amounted to a breach of the following provisions of the Code:

- Paragraph 3.1 (b):
“A Member must not bully or be abusive to any person”;
- Paragraph 3.1 (c):
“A Member must not intimidate or attempt to intimidate any person who is likely to be:
 - i. a complainant,
 - ii. a witness, or
 - iii. involved in the administration of any investigation or proceedings,in relation to an allegation that a Member has failed to comply with his authority’s Code of Conduct”; and
- Paragraph 5:
“A Member must not conduct himself in a manner which could reasonably be regarded as bringing his office or the Council into disrepute.”

4.4 It was agreed that Hearing Panel should apply the most severe sanction that was available to it in the case of someone who was no longer a member.

4.5 It was agreed:

- That the findings of the Hearing Panel be published.
- That the findings of the Hearing Panel be reported to Council.

- To recommend to the Standards Committee that it review the processes and procedures regarding complaints against members and that the Complainant be invited to take part in that review.
- To note the Complainant's desire for an apology but that the Hearing Panel did not have the power to require an apology from the former member.

Liz Treacy
Monitoring Officer

On behalf of

The Hearing Panel

**APPENDIX – MINUTES OF THE STANDARDS (HEARING) SUB-COMMITTEE
22 SEPTEMBER 2016**

**Standards (Hearing) Subcommittee
Minutes of the meeting held 22 September 2016**

(Acting with delegated authority)

Present:

Nicole Jackson – Co-opted Independent Chair
Councillors Cooley, Evans and Lanchbury (as substitute for Councillor Andrews)

SHS/16/01 Exclusion of the Public

Decision

To exclude the public during consideration of the following item which involves consideration of exempt information relating to any individual, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**SHS/16/02 Consideration of a complaint
(Public excluded)**

A complaint had been made that the conduct of a person, who had been a member of the Council at the time of the complaint, constituted a breach of the Council's Code of Conduct for Members. The person who was the subject of the complaint was no longer a member of Manchester City Council.

The Subcommittee conducted a hearing into the complaint in accordance with the Council's procedure for hearing of allegations of misconduct.

(a) Question as to whether the hearing should proceed

The former member had been invited to the hearing but was not present. Having considered the correspondence between the Monitoring Officer and the person concerned, the Subcommittee agreed that, on the balance of probabilities, the person had been aware that the hearing was taking place. In deciding whether or not to proceed in the absence of the former member, the Subcommittee considered their written submissions, their right to a fair hearing, the history and date of the complaint, the difficulties to date in arranging a hearing date, and the sanctions available to the Subcommittee in relation to a former member.

Decision

To conduct the hearing with the former member absent.

Admission of additional documentation

The Subcommittee considered whether or not to admit a written submission from the former member that had been received outside the timescales required in the hearings procedure.

Decision

In the interests of fairness, the Subcommittee agreed to accept and consider the written submission.

(b) The finding on the facts

The Monitoring Officer had appointed an independent Investigating Officer to examine the complaint. The Subcommittee considered the Investigating Officer's report. In presenting that report the Investigating Officer asked the complainant to give evidence to the Subcommittee as a witness. The report also included a signed witness statement from the former member and a signed witness statement from the complainant. The facts were not in dispute.

Decision

That the facts are proven.

(c) Question as to whether the Code of Conduct had been breached

Having considered the report of the Investigating Officer the Subcommittee examined the Code of Conduct to consider whether the conduct of the former member breached that Code.

Decisions

1. The conduct was a breach of paragraph 3.1 (b) of the Code of Conduct
"A Member must not bully or be abusive to any person"
2. The conduct was a breach of paragraph 3.1 (c) of the Code of Conduct:
"A Member must not intimidate or attempt to intimidate any person who is likely to be:
 - i. a complainant,
 - ii. a witness, or
 - iii. involved in the administration of any investigation or proceedings, in relation to an allegation that a Member has failed to comply with his authority's Code of Conduct"
3. The conduct was a breach of paragraph 5 of the Code of Conduct:
"A Member must not conduct himself in a manner which could reasonably be regarded as bringing his office or the Council into disrepute."

(d) Decision whether a sanction should be applied

The Subcommittee agreed that given the seriousness of the breaches of the Code a sanction was appropriate and necessary. However, the Subcommittee was

constrained in the sanctions it could apply given that the person was no longer a member of the Council. The Subcommittee had heard from the complainant of the impact the former member's conduct had had on them.

The Subcommittee agreed that it should apply the most severe sanction now open to it.

Decisions

1. That the findings of the Subcommittee be published.
2. That the findings of the Subcommittee be reported to Council.
3. To recommend to the Standards Committee that it review the processes and procedures regarding complaints against members and that the complainant be invited to take part in that review.
4. To note the complainant's desire for an apology but that the Subcommittee did not have the power to require an apology from the former member.