



# AUDIT AND STANDARDS COMMITTEE

BURNLEY TOWN HALL

Monday, 22nd August, 2022 at 2.00 pm

## PRESENT

## MEMBERS

Councillor Mark Townsend, In the Chair.

Councillors H Baker, S Hussain, K Ingham and S Cunliffe

## OFFICERS

Lukman Patel	– Chief Operating Officer
Catherine Waudby	– Head of Legal and Democratic Services
Carol Eddleston	– Democracy Officer

## CO-OPTED MEMBERS

David Swift

## INDEPENDENT PERSON

Pat Higginbottom

### 1. Appointment of Chair

Councillor Mark Townsend was appointed as Chair of the meeting.

### 2. Minutes

The minutes of the Hearing Panel meeting held on 3<sup>rd</sup> December 2019 were approved as a correct record.

### 3. Declarations of Interest

There were no declarations of interest in any of the items on the agenda.

### 4. Arrangements for Dealing with complaints under the Code of Conduct for Members

The Chair outlined the procedure that the Hearing Panel had agreed would be followed for the hearing.

It was agreed that Councillor Whitaker would represent Councillor Chamberlain and that Councillor Birtwistle would represent Councillor Sumner.

## **5. Exclusion of the Public**

The Chair explained that it was proposed that the remainder of the meeting be held in private due to the nature of the information to be discussed. However, there had been a request for Councillors Hosker and McGowan to observe proceedings and it was in the remit of the Hearing Panel to consider this request.

IT WAS AGREED THAT:

- 1) The public be excluded from the meeting before discussion took place on the following item of business on the grounds that in view of the nature of the business to be transacted if the public were present there would be a disclosure to them of exempt information within the meaning of Schedule 12A of the Local Government Act 1972, and
- 2) Councillors Hosker and McGowan be permitted to remain in the meeting for observation purposes only, subject to their agreement to take no part in any of the proceedings and to maintain full confidentiality of the proceedings once the hearing has concluded.

## **6. Investigation Report and Appendices**

The Hearing Panel conducted a hearing into allegations that Councillor Phil Chamberlain and Councillor Jeff Sumner had breached the Council's Code of Conduct for Members, during a visit to the home of a local resident, by failing to treat others with respect and by conducting themselves in a way that could reasonably be regarded as bringing their office and the authority into disrepute.

The hearing was conducted in accordance with the Council's arrangements for investigating and taking decisions on alleged breaches of the Code of Conduct for Members.

The Investigating Officer, Catherine Waudby, who had carried out an investigation into the allegations, presented her report and responded to questions from Councillor Whitaker on behalf of Councillor Chamberlain and from Councillor Birtwistle on behalf of Councillor Sumner. She then responded to questions from the members of the Hearing Panel.

Councillor Whitaker presented Councillor Chamberlain's case and responded to questions from members of the Hearing Panel.

Councillor Birtwistle presented Councillor Sumner's case and responded to questions from members of the Hearing Panel.

Councillor Birtwistle then called the resident as witness to the incident.

The witness responded to questions from Councillors Whitaker and Birtwistle, the Investigating Officer and members of the Hearing Panel. The witness then left the meeting.

Councillors Whitaker, Birtwistle and the Investigating Officer were invited to sum up before being asked to leave the room at the same time as Councillors Hosker and McGowan so that the Hearing Panel could commence its deliberations.

Before commencing its deliberations the Hearing Panel took into account and had regard to the views of the Independent Person.

The Hearing Panel invited the Investigating Officer and Councillors Whitaker, Chamberlain, Birtwistle and Sumner to return and the Chair presented the Panel's decision and reasons.

#### Decision

The Hearing Panel agreed with the Investigating Officer that Councillor Chamberlain and Councillor Sumner had breached the Code of Conduct in that they had failed to treat others with respect (section 3.1) and had conducted themselves in a way that could reasonably be regarded as bringing their office and the authority into disrepute (section 5).

#### Reasons for decision

A hostile discussion had taken place between two elected members in the presence of a resident and a vulnerable adult.

The incident had begun in a private residence and spilled over in a public place. Although Councillor Sumner had suggested that Councillor Chamberlain was the instigator, Councillor Sumner could have chosen not to get involved in the discourse. Neither did he de-escalate the situation.

It was left to a member of the public, i.e. the resident, to intervene to de-escalate the situation.

The Hearing Panel then invited Councillors Chamberlain and Sumner to make representations on any sanctions before asking them to leave, along with the Investigating Officer and Councillors Whitaker, Birtwistle, Hosker and McGowan, so that the Panel could consider the actions it might take regarding the breach of respect and disrepute.

Before considering any action to be taken, the Hearing Panel took into account and had regard to the views of the Independent Person.

The Hearing Panel invited the Investigating Officer and Councillors Whitaker, Chamberlain, Birtwistle and Sumner to return and the Chair presented the following sanctions:

#### Sanctions

The Hearing Panel will publish its findings in respect of the conduct of Councillor Chamberlain and Councillor Sumner;

The Hearing Panel will report its findings to full Council for information;

Councillor Chamberlain and Councillor Sumner will apologise in writing to the witness and the witness' family;

Councillor Chamberlain and Sumner will apologise in writing to all members of the Council, and

Councillors Chamberlain and Sumner are recommended to agree to mediation. Should either member fail to agree to this, the Monitoring Officer is recommended to arrange conflict resolution training for both members.

## **Decision Notice**



# **DECISION NOTICE**

## **FINDINGS:**

# **BREACH OF THE MEMBERS CODE OF CONDUCT**

### **Complaint**

On 22<sup>nd</sup> August 2022 the Audit and Standards Committee Standards Hearing Panel (The Hearing Panel) considered the report of the Investigating Officer in relation to complaints into the alleged conduct of Councillor Phil Chamberlain and Councillor Jeff Sumner, members of Burnley Borough Council, during a visit by both Councillors to the home of a local resident who had been in recent contact with them about different matters.

The cross-party hearing was chaired by Councillor Townsend.

Councillor Chamberlain attended the hearing with Councillor Whitaker.

Councillor Sumner attended the hearing with Councillor Birtwistle. At Councillor Sumner's invitation, the resident at whose home the incident took place attended as a witness.

### **Decision**

The Hearing Panel takes all complaints about Councillors very seriously and carefully considers all matters in accordance with its published procedures.

### **Councillor Chamberlain**

The Hearing Panel carefully considered the evidence set out in the Investigating Officer's report, the representations made by the Investigating Officer and the representations made by Councillor Whitaker on behalf of Councillor Chamberlain.

Before reaching its decision, the Hearing Panel took into account and had regard to the views of the Independent Person.

The Hearing Panel agreed with the Investigating Officer that Councillor Chamberlain had breached the Code of Conduct in that he had;

Failed to treat others with respect (section 3.1) and had conducted himself in a way that could reasonably be regarded as bringing his office and the authority into disrepute (section 5).

## **Councillor Sumner**

The Hearing Panel carefully considered the evidence set out in the Investigating Officer's report, the representations made by the Investigating Officer, the representations made by Councillor Birtwistle on behalf of Councillor Sumner and the representations made by the witness.

Before reaching its decision, the Hearing Panel took into account and had regard to the views of the Independent Person.

The Hearing Panel agreed with the Investigating Officer that Councillor Jeff Sumner had breached the Code of Conduct in that he had;

Failed to treat others with respect (section 3.1) and had conducted himself in a way that could reasonably be regarded as bringing his office and the authority into disrepute (section 5).

## **Reasons for Decision**

The Hearing Panel's reasons for deciding that both members had breached the Code of Conduct are as follows:

- A hostile discussion took place between two elected members in the presence of a resident and a vulnerable adult.
- The incident began in a private residence and spilled over in a public place. Although Councillor Sumner suggested that Councillor Chamberlain was the instigator, Councillor Sumner could have chosen not to get involved in the discourse. Neither did he de-escalate the situation.
- It was left to a member of the public, i.e. the resident, to intervene to de-escalate the situation.

## **Sanctions**

Before considering the action to be taken, Councillors Chamberlain and Sumner were invited to make representations on any sanctions and the Hearing Panel also took into account and had regard to the views of the Independent Person.

The Hearing Panel resolved the following:

- The Hearing Panel will publish its findings in respect of the conduct of Councillor Chamberlain and Councillor Sumner;
- The Hearing Panel will report its findings to full Council for information;

- Councillor Chamberlain and Councillor Sumner will apologise in writing to the witness and the witness' family;
- Councillor Chamberlain and Sumner will apologise in writing to all members of the Council, and
- Councillors Chamberlain and Sumner are recommended to agree to mediation. Should either member fail to agree to this, the Monitoring Officer is recommended to arrange conflict resolution training for both members.

This page is intentionally left blank