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## HEARINGS SUB-COMMITTEE – 22 SEPTEMBER 2017

Please find attached decision notice in respect of the above hearings sub-committee

Yours faithfully

A handwritten signature in black ink, appearing to be 'Kim Webber', written over a horizontal line.

Kim Webber  
Chief Executive





## DECISION NOTICE

Reference Number: LG5/79

Date of Hearing: 22 September 2017

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**Hearing into complaint of failure to follow the Burscough Parish Council Code of Conduct – LG5/79**

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**Subject Member:** Roger Bell

**Member's representative:** None

**Relevant authority:** Burscough Parish Council

**Person who made the allegation:** Mr N Brooks, General Manager, Martin Mere Wetland Centre, Burscough

**Investigator:** Mr M Dudfield

**Investigator's representative:** None

**Date of the hearing:** 22 September 2017

**Chairman of the hearing:** Councillor I Davis

**Standards Committee members attending the hearing:**  
Councillor I Moran, Councillor D Westley, Councillor I Davis, Councillor J Davis and Councillor K Wright.

Note: Councillor J Davis, having declared an interest, took no part in the hearing.

**Legal Advisor to the Sub-Committee:** Mr M Jones, Legal & Member Services Manager

**Member Services Officer:** Mrs S Griffiths, Principal Member Services Officer

## **1 Alleged Breach of Code of Conduct**

1.1 The Sub-committee considered an allegation that the Subject Member breached paragraphs 3.1, 3.2 and 5 of the Burscough Parish Council's Code of Conduct at two meetings, the first at Martin Mere on 30 June 2016 and the second at a meeting of Burscough Parish Council on 13 July 2016.

1.2 The relevant sections of the Code of Conduct are:

**Paragraph 3(1):**

"You must treat others with respect"

**Paragraph 3(2):**

"You must not do anything which may cause the Council to breach any of the equality enactments; bully any person; intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council".

**Paragraph 5:**

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

## **2 Documents considered by the Sub-Committee**

2.1 In advance of the Hearing the Sub-Committee received the following documents (agenda item 3):

- Hearing Procedure
- Investigator's Report and Schedule of Evidence
- Additional Information
- Response of the Subject Member
- Investigator's Response
- Views of the Independent Person
- Categories of exempt information

### **3 Preliminary Procedural Issues**

3.1 No preliminary procedural matters were raised by either the Subject Member or the Investigator.

### **4 Stage 1 - Findings of fact**

#### **4.1 The following facts in the Investigator's report were undisputed by the Subject Member:**

All the findings of facts not listed in 4.2 below.

#### **4.2 The following findings of fact in the Investigator's report were disputed:**

- (a) The capacity in which the Subject Member attended the meeting at Martin Mere on 30 June 2016. The Subject Member considered he did not attend the meeting in the capacity of a Parish Council member.
- (b) The description of the meeting at Martin Mere. The Subject Member considered there was a frank exchange of views but no rudeness on his part. His reference to "shooting the geese" was intended to be humorous.

#### **4.3 Summary of evidence received:**

The Sub-Committee considered the documents set out at paragraph 2 above which included the Investigator's report, its supporting documentation and attached witness statements, Forms A to E completed by the Subject Member, the Subject Member's written response to the Investigator's Report and the Investigator's observations thereon, the minutes of the Burscough Parish Council meeting held on 13 July 2016, an e-mail from Mr Brooks to the Investigator dated 30 May 2016 and the observations of the Independent Person.

#### **4.4 Summary of submissions by the Subject Member**

The Subject Member informed the Sub-Committee that he attended the meeting at Martin Mere on 30 June 2016 at the invitation of Ms Fellowes, the Marketing Manager, in order to discuss tourism development. He assumed this would be a continuation of other work he had undertaken in the past of the same nature, i.e as representative of OPTSA/"Burscough Moving Forward". He did not attend in the capacity of a parish member and did not know that Mr Brookes would also be present at the meeting. He accepted that he and Mr Brookes did not agree over the branding of Burscough as the "Home of the Whooper Swan" nor to the interpretation of the findings of a study from Lancaster University. He accepts there was a frank exchange of views and that he did refer to "shooting geese" but that this was attempted humour gone wrong. He indicated that he recalled commenting to Ms Fellowes that Mr Brooks' behaviour had been rather aggressive throughout the meeting.

In relation to his behaviour at the Parish Council Meeting, the Subject Member accepted that his behaviour was wrong. He explained that the Chairman had not permitted him to ask further questions of Mr Brookes. He had felt that Mr Brookes' statement in respect of branding Burscough 'The Home of the Whooper Swan' was misleading. He accepted that he should not have reacted in the manner in which he did and made an apology and remained in the meeting.

#### **4.5 Summary of submissions by the Investigator**

The Investigator indicated that in relation to the meeting at Martin Mere on 30 June 2016 it was difficult for him to reach firm conclusions as to the capacity in which the Subject Member attended the meeting as the Subject Member had not participated fully in the investigation. Although the Subject Member had raised the issue of "capacity" in a "privileged" document during the investigation he had not responded to questions about this issue and had not responded to the Investigator's draft report. He indicated that following the "open" statement from the Subject Member with regard to his work with OPTSA he contacted Ms Fellows, who indicated that she had not heard of OPTSA. She did though acknowledge that the request for a meeting did not specifically refer to the Subject Member's role on the Parish Council.

In respect of the meeting of Burscough Parish Council on 13 July 2016 the Investigator relies upon the admission of the Subject Member that he did swear and was disrespectful.

#### **4.6 Hearings Sub-Committee's findings of fact**

The Hearings Sub-Committee made the following findings in relation to the facts in dispute after considering the submissions of the parties and the evidence before it:

The Sub-Committee did not consider that it had been shown that the Subject Member attended the meeting at Martin Mere on 30 June 2016 in his capacity as a Parish Councillor. The Subject Member is well known as being active in the Burscough community in a number of capacities and it was not proven that he was invited as a Parish Member, or was holding himself out as such when he attended. Given the findings of the Sub-Committee it was not necessary to consider further the alleged actions, as the Code of Conduct only applies when a Parish Member acts in the capacity as a Member.

The Sub-Committee considered that the Subject Member did attend the meeting of Burscough Parish Council on 13 July 2017 in his capacity as a Parish Member. At this meeting Mr Brooks made a presentation to the Parish Council on the branding of Burscough as the home of the Whooper Swan. Councillors asked questions or made comments. The Sub-Committee accepted the Investigator's findings, which were not disputed by the Subject Member, that his comments were aggressive and negative of Martin Mere, and that he swore and threatened to leave the meeting. The Chairman asked him to apologise, which he did. The item continued but the Subject Member did not take any further part in the debate although he did mutter under his breath when he disagreed with what was said.

## **5 Whether or not the member had failed to follow the Code of Conduct**

Given the findings of fact of the Sub-Committee in relation to the meeting at Martin Mere on 30 June 2016 it was not necessary for it to consider further the alleged actions as the Code of Conduct only applies when a Parish Member acts in the capacity as a Member.

However, given the Sub-Committee's findings of fact in relation to the meeting on 13 July the Sub-Committee went on to consider whether on the facts found the Subject Member had failed to follow the Code of Conduct.

### **5.1 Summary of submissions by the Investigator**

The Subject Member had failed to comply with paragraph 3.1 of the Burscough Parish Council's Code of Conduct at the meeting on 13 July 2016. His conduct was not respectful to the Chairman and the Councillors of Burscough Parish Council nor to Mr Brooks and any other members of the public present at the meeting.

The Subject Member did not fail to comply with paragraph 3.2 of the Burscough Parish Council's Code of Conduct in that his conduct at the meeting did not constitute bullying. He considered that bullying usually comprises a series of actions rather than a single one. None of the parish councillors to whom he had spoken expressed any feeling of being bullied.

The Subject Member did not fail to comply with paragraph 5 of the Burscough Parish Council's Code of Conduct. A single outburst at a meeting is unlikely to be reasonably regarded as likely to bring his office as a Parish Councillor or the Parish Council itself into disrepute.

### **5.2 Summary of submissions by the Subject Member**

The Subject Member agreed with the submissions of the Investigator.

### **5.3 Hearings Sub-Committee's decision on whether or not there had been a failure to comply with the Code of Conduct**

The Hearings Sub-Committee reached the following decision after considering the submissions of the parties:

- 5.3.1 The Subject Member did fail to comply with paragraph 3(1) of the Code of Conduct at a meeting of Burscough Parish Council on 13 July 2016.

The Hearings Sub-Committee's reasons for this decision were:

The Subject Member accepts that he "lost it" at the meeting. His response to being refused permission to speak by the Chairman was out of order both in the language used and the physical reaction and threat to leave the meeting. Swearing is not a reasonable form of language in a local authority meeting. To swear shows a complete lack of respect not only to the person to whom it is directed but also to others present. The Subject Member's physical reaction to being refused permission to speak was also disrespectful to those present.

- 5.3.2 The Subject Member did not fail to comply with paragraph 3(2) of the Code of Conduct at a meeting of Burscough Parish Council on 13 July 2016.

The Hearings Sub-Committee's reasons for this decision were:

None of the Parish Councillors interviewed by the Investigator expressed any feeling of being bullied. The Sub-Committee found that the behaviour of the Subject Member, although disrespectful, was not such to amount to bullying.

- 5.3.3 The Subject Member did not fail to comply with paragraph 5 of the Code of Conduct at a meeting of Burscough Parish Council on 13 July 2016.

The Hearings Sub-Committee's reasons for this decision were:

The nature of the single incident, although found to be disrespectful, was not, in itself, sufficient to demonstrate that the Subject Member had brought himself or the Parish Council into disrepute.

## **6 What Sanction, if any, ought to be imposed**

### **6.1 Summary of Submissions by the Investigator**

The Investigator referred to paragraph 34 of his report

### **6.2 Summary of submissions by the Subject Member**

The Subject Member indicated that the Investigator had provided a fair summary.

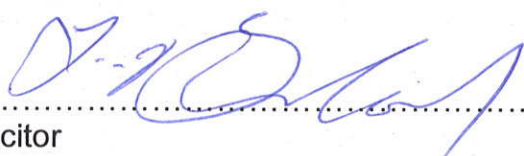
### **6.3 Hearings Sub-Committee's decision on what Sanction, if any, ought to be imposed**

That Burscough Parish Council is recommended to arrange training for the Subject Member with regard to the Code of Conduct.



That the findings of the Sub-Committee be reported to Burscough Parish Council and consideration be given by the Burscough Parish Council to arranging Code of Conduct training for all Parish Council members.

Signed .....  
Borough Solicitor



Date: 4 October 2017

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