



Northern Ireland

Local Government Commissioner for Standards

Local Government Act (Northern Ireland) 2014

In the Matter of former Councillor Jolene Bunting — C00339 (Belfast City Council)

Decision of the Assistant Northern Ireland Local Government Commissioner for Standards following an Adjudication Hearing held on 7 to 8 February 2023.

1. INTRODUCTION

The Northern Ireland Local Government Commissioner for Standards, Ms Margaret Kelly, has appointed Mr Ian Gordon, OBE, QPM, as Assistant Local Government Commissioner (the Assistant Commissioner) in relation to the Adjudication Hearing process in respect of this complaint against former Councillor Bunting (also referred to as the Respondent). Mr Gordon was assisted by Mr Michael Wilson, Solicitor, Legal Assessor.

The Adjudication Hearing was opened on the 7th of February 2023 and it concluded on 8th February 2023. On both days these Hearings were held in public at the office of the Northern Ireland Local Government Commissioner for Standards in Belfast and details of the arrangements for the Hearing had been published on its website.

2. PRELIMINARY MATTER

At a Pre-Hearing Review (PHR)¹ held on 5 January 2023, former Councillor Bunting was represented by Michael Brentnall, Solicitor. At that review Mr Brentnall raised two issues;

- first, the Hearing dates (10 to 12 January 2023) which had been fixed at a previous PHR attended by Mr Brentnall on 25 November 2022, were unsuitable due to former Councillor Bunting having to attend Court in connection with an unrelated matter; and
- secondly, he also sought a postponement to allow former Councillor Bunting some additional time to secure funding for representation at the Adjudication Hearing.

After consideration, and noting the history and length of the matter, the Assistant Commissioner acceded to the request and the revised Hearing dates were fixed for 7 to 9

¹ A Pre-Hearing Adjudication Review is a private administrative meeting conducted by the Commissioner for the ongoing management of the matter up to and including the Hearing, but it does not consider or determine the substance of a complaint. Its purpose is to secure the fair and efficient conduct of the adjudication.

February 2023, with a further PHR to be held on 27 January 2023. The Assistant Commissioner also noted that his role was inquisitorial and that, should the former Councillor Bunting be unrepresented, the Legal Assessor would provide advice and assistance to ensure that the Hearing was conducted fairly.

A further PHR was held on 27 January 2023. Neither Mr Brentnall nor former Councillor Bunting attended. At the direction of the Assistant Commissioner an e-mail was sent the same day to Mr Brentnall, noting his non-attendance at the PHR; confirming that the Hearing would commence at 12 noon on 7 February 2023, and asking him provide -

'an acknowledgement of this email by close of business on Monday 30 January 2023, with a clear indication of whether or not you continue to represent Ms Bunting in this matter or, if not, are you aware of any other legal representation she may have.'

On the same day the Assistant Commissioner directed that a letter be sent to former Councillor Bunting, as follows:

Dear Ms Bunting Complaint Reference Number: C00322

My letter is to confirm that the Adjudication Hearing, on the above complaint, will commence at 12 noon on Tuesday 7 February 2023, at Progressive House, 33 Wellington Place, Belfast BT1 6HN.

Your solicitor Mr Brentnall has been informed of the Hearing and he is aware of my intention that the Hearing will proceed on that day whether or not you have legal or other representation. I would urge you to contact Mr Brentnall on this matter.

If Mr Brentnall no longer represents you, a copy of the Bundle of Papers, to be used at the Hearing can be provided by the Deputy Commissioner's Office. It is important that you contact his office about this matter.

I urge you to attend the Hearing; it is important that you give your response to the complaints made against you.'

This letter was delivered to former Councillor Bunting by a courier on 30 January 2023.

In addition, on 2 February 2023 the Assistant Commissioner's staff were informed by the Deputy Commissioner's Senior Investigating Officer (Robert Bannon) that –

'I called to [former Councillor Bunting's] home address this afternoon to hand deliver a copy of the evidential bundle. No one answered the door. A few minutes ago I emailed Ms Bunting to inform her I called at the house, and the purpose of my call. I have asked her to contact the office to arrange collection or delivery of the documents before Tuesday.'

On 2 February 2023, the Assistant Commissioner was informed by his staff that:

'There has been no response from Mr Brentnall to the letter sent on Friday 27th January 2023. We have not had any contact from [former Councillor Bunting], however we have been advised by the courier service that the letter has been delivered.'

and later that day a member of his staff also informed him that:

I called Mr Brentnall's office at 16:05 and was again told he was unavailable but that a message would be left for him to contact me. I explained that I had not received a response to my previous call or emails regarding the matter.

I had previously asked if they had any information in relation to [former Councillor Bunting's] application for legal aid in this matter and was told that Mr Brentnall deals with those applications himself so they cannot provide any information on that position (this was during the call on 23.01.23)

Brentnall legal close at 5pm so I do not expect he will contact me now this evening.

I previously emailed Mr Brentnall to confirm the position of legal representation in this matter on Monday 23rd January and there has been no reply.

The letter sent on the 27th has not been responded to or acknowledged.'

On 6 February 2023 at 2pm at the request of the Assistant Commissioner his Legal Assessor e-mailed Mr Brentnall as follows:

'Urgent email sent on behalf of Assistant Commissioner Gordon to M Brentnall

As you are aware, I will open the Adjudication Hearing into the complaint, made against your client former Councillor Jolene Bunting, at 12 noon, tomorrow, Tuesday 7 February 2023.

I am, however, unaware if you are still acting for Ms Bunting in this matter. Can you please confirm the position.'

Mr Brentnall replied at 2.09pm:

'We refer to the above named and to the matter listed before the tribunal tomorrow.

As the Tribunal is aware we were in some difficulties in respect of Ms Bunting's funding of her case. Legal Aid funding was not available in this instance and as Ms Bunting is of very limited means, she was not in a position to fund the case herself.

We are acting on a Pro Bono basis in what we described as a “free speech” case which the tribunal is also aware of, and it is not feasible for our firm to act without remuneration in this instance.

Therefore, we can confirm that we are not currently acting for Ms Bunting in this case for the aforementioned reasons.’

The Legal Assessor immediately sought clarification of whether former Councillor Bunting was aware of this decision, and at 2.25pm Mr Brentnall confirmed:
‘I can confirm that I had consulted with [former Councillor Bunting] at length at lunchtime today and she is fully aware of the decision in the case.’

Former Councillor Bunting was not present at the commencement of the Hearing on 7 February 2023.

The Assistant Commissioner had been informed that on Monday 6 February at 6.39pm, which was after office hours, an email had been received from former Councillor Bunting which requested an adjournment of the hearing. The e-mail read as follows:

As the Commissioner will be aware I have been unable to secure legal representation for tomorrow’s hearing. I was informed that an attempt was made to deliver documents to me on Thursday however I still am not in possession of the documents.

Therefore, I have not had any time to seek further funding for my legal representation or seek new representation. I would on this basis seek an adjournment of tomorrow’s hearing on this basis.

To expect me, as a mother of two children on benefits, to firstly present a case in this instance when all other parties have access to full legal representation is unfair. I feel I should be entitled to legal representation and in this case seek more time to do so.

If the Commissioner is no in agreement with me in respect of this, then given my legal representatives were unable to proceed tomorrow I should be permitted extra time to prepare for this hearing.

Lastly, I would state that I am being thrust into a hearing in which the complainant is somebody who caused me great consternation and anxiety in his actions over the last number of years and I am genuinely in fear of this man. I am not emotionally ready to face him never mind engage with him.

Furthermore, if the Commissioner is not prepared to accept this argument and adjourn the hearing tomorrow, I would seek to exercise my legal rights and seek legal advice on this issue at the very earliest opportunity.

Having considered the content of this e-mail the Assistant Commissioner asked his office staff to contact former Councillor Bunting and by e-mail sent at 11.08am she was given two options for joining the Hearing:

- That she could still appear in person at the Hearing, or
- A Webex link for her to be present remotely was available.

In addition, the e-mail confirmed that the Commissioner had in place appropriate measures to ensure the safety of all persons attending the Hearing. No such concern had been raised by former Councillor Bunting, or either of her two former solicitors, at any time previously either in writing or at any of the multiple PHRs.

The Hearing had been scheduled to commence at 12 noon but there was a short delay whilst further efforts were made to contact former Councillor Bunting. When the Hearing commenced at 12.20 pm the Assistant Commissioner noted there had been no reply from Former Councillor Bunting despite three phone calls and the email message sent at 11.08am.

The Assistant Commissioner proceeded to consider the request for an adjournment. He first asked Ms. Best BL on behalf of the Deputy Commissioner, to comment on former Councillor Bunting's application.

Submission by Ms Best BL:

On behalf of the Deputy Commissioner, it was submitted that the matter should proceed for the following reasons:

- a. It was former Councillor Bunting who had asked for an 'in person hearing'; that was not an application of the Deputy Commissioner.
- b. Former Councillor Bunting had the benefit of two sets of solicitors and Counsel throughout the period of time that this case had been in existence, and therefore she has had the benefit of legal advice.
- c. This matter had been listed for Hearing on a number of occasions; this was not the first listing of the matter.
- d. In relation to the papers in this matter, Mr. Brentnall, who was former Councillor Bunting's solicitor up until the previous day (6 February 2023), had been provided with a full set of papers on 19 January 2023 by the Deputy Commissioner's office. On Thursday 2 February 2023, on behalf of the Deputy Commissioner, it was attempted to provide former Councillor Bunting with further papers, personally at her address, but there was no answer. However, on behalf of the Deputy Commissioner it was asserted that, because of the fact of the legal representation up until the previous day

(6 February 2023), the Assistant Commissioner could deem that she had had sight of the papers.

- e. Ms Best BL accepted that this was a finally balanced matter for the Assistant Commissioner. However, on behalf of the Deputy Commissioner, it was submitted that the interests of justice are such that, due to the public interest the matter should proceed. By this stage it was an historic complaint made in August 2018, four and a half years since the original complaint by Mr Golding. Mr Golding was in attendance and had travelled some distance today to give oral evidence.
- f. Ms Best BL concluded that on all of those points, and in the absence of any medical or otherwise evidence, the balance was firmly in favour of proceeding.

The Assistant Commissioner then sought the advice of the Legal Assessor noting that it was important that the Hearing was conducted fairly.

Advice by Mr Wilson:

Mr Wilson advised the Assistant Commissioner as follows, noting that the Assistant Commissioner would then adjourn to consider his decision:

- a. The three telephone calls made this morning had not been answered; these were in addition to the email, to which there appeared to have been no response; an effort was made to text former Councillor Bunting but this was not capable of being delivered; and a Webex link to the hearing had also been sent to former Councillor Bunting. Mr Wilson advised that a further check should be made if there was anyone on the Webex waiting to be admitted.
- b. Subject to that, the Assistant Commissioner was entitled to exercise a discretion and the first question was, have all reasonable efforts been made to advise former Councillor Bunting to ensure that she is aware of the hearing? Assuming that the Assistant Commissioner was satisfied about that, he then had to have regard to all of the other circumstances, some of which had been outlined by Counsel (Ms Best BL) and he had to balance fairness to former Councillor Bunting, with the interests of the public, in this matter proceeding.
- c. The Assistant Commissioner would be aware that since the events complained of occurred in June 2018, and he had made a decision to adjudicate this matter on 11 July 2019. Obviously, Covid had an impact, but the particular matter had been reviewed administratively on nine separate occasions to facilitate the progress and, as Counsel had outlined, this matter had been fixed for Hearing on a number of previous occasions.
- d. Former Councillor Bunting had had legal representation up until the previous day (6 February 2023). She had appeared at a number of the pre-hearing reviews. Through her legal representatives she had provided a Councillor Response Form and a personal statement. So the Assistant Commissioner might consider her knowledge of

what the case was about, and the efforts that had been made to ensure that she was aware of the case and to facilitate her attendance.

- e. He also noted the appropriate guidance in the case of the *General Medical Guidance v Adeogba*, (2016) an English 2016 Court of Appeal case.
- f. Finally, Mr Wilson said that the adjudication procedures, at paragraph 48, address the failure of a party to attend an Adjudication Hearing and gave the Assistant Commissioner the authority to adjudicate in the absence of former Councillor Bunting.

The Assistant Commissioner then adjourned to consider the application.

3. DECISION ON ADJOURNMENT REQUEST

The Assistant Commissioner said that he had considered the papers in the Hearing bundle and had taken into account the submissions from Ms. Best BL and the advice from Mr. Wilson, his Legal Adviser. He was very aware that it was important to exercise the utmost care and caution in deciding whether or not to proceed in the absence of former Councillor Bunting.

Former Councillor Bunting and her previous legal representatives had clearly shown that they were aware of the contents of the investigation report. To date there had been nine pre-hearing reviews since the case was first referred for adjudication, and in those hearings, there has been involvement by her various legal representatives in all but two of these.

In the absence of former Councillor Bunting, the Assistant Commissioner had a discretion whether to proceed or not. He had to be satisfied that all reasonable efforts had been made to contact her and he was so satisfied. He also accepted the propositions put forward by Ms Best BL opposing the adjournment.

Whilst former Councillor Bunting had requested an adjournment at a very late stage the Assistant Commissioner was satisfied that she was fully aware of the arrangements for the Hearing. He noted that if her legal representative had not withdrawn, she presumably would have been present and her absence was not based on any medical or other similar evidence.

Furthermore, in his consideration of the matter the Assistant Commissioner would have the benefit of her Councillor Response Form and also her personal statement, both of which were prepared with the assistance of her legal advisers. This was a case in which many of the facts were not in dispute, having already been agreed through Counsel on behalf of former Councillor Bunting.

Therefore, on balance, the public interest in having this matter concluded outweighed the application to adjourn. In proceeding in the absence of former Councillor Bunting, the Assistant Commissioner also reminded Counsel for the Deputy Commissioner of her obligation to draw to his attention, not only the evidence relied on by the Deputy Commissioner, but also the issues raised by former Councillor Bunting in her Councillor

Response Form and her personal statement. The Assistant Commissioner also noted that, with the assistance of his Legal Assessor, he might also ask questions of a witness.

4. THE COMPLAINT PROCESS

Part 9 of the Local Government Act (Northern Ireland) 2014 (the Act) introduced the Ethical Standards framework for local government, based on a mandatory Northern Ireland Local Government Code of Conduct for Councillors (Code), which came into effect on 28 May 2014

On 31 August 2018 a written complaint was received by the Northern Ireland Local Government Commissioner for Standards (the Commissioner) from Mr Paul Golding, in accordance with section 55 (1) (a) of the Act. Mr Golding alleged that former Councillor Jolene Bunting, whilst a member of Belfast City Council had, or may have, failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors (the Code).

Former Councillor Bunting was elected to Belfast City Council and signed the declaration of office on 24 May 2014 (the Code). At the local government elections, held on 2 May 2019, former Councillor Bunting was not re-elected therefore no longer holds the position of Councillor. Former Councillor Bunting will be referred to as the Respondent in this Adjudication Decision Report.

The allegation was investigated by Mr Paul McFadden, then Deputy Commissioner for the Local Government Ethical Standards (LGES) Directorate of the Northern Ireland Ombudsman's Office. The Assistant Commissioner has no role in the receipt, assessment or investigation of a complaint.

Mr Paul Golding is the leader of the group Britain First. His complaint alleged that the Respondent contacted him by phone and told him that she had been fined £500 by the Council as a punishment for when Jayda Fransen sat in the Lord Mayor's chair in January. Mr Golding said that the Respondent told him that she could not afford to pay the fine. He said he informed her that Britain First would pay the fine, but they needed proof of the same. He stated that the Respondent emailed him a copy of her payslip on 28 June 2018. Mr Golding alleges that the Respondent referred him to the 'Other Deductions' section of the payslip which was to the value of £545.38. Mr Golding stated that the Respondent informed him that this was the amount she had been fined as a result of the 'stunt' that occurred on 9 January 2018 where Jayda Fransen, Deputy Leader of Britain First, was filmed wearing Council ceremonial robes and speaking while seated in the Lord Mayor's chair in the Council Chamber.

Mr Golding stated that he transferred £50 to Respondent's bank account on 3 July 2018, and a further transfer of £65 to the same account on 19 July 2018. He was later told that the Respondent had not been fined.

The Deputy Commissioner submitted a report to the Commissioner on 7 June 2019 in accordance with sections 55 and 56 of Part 9 of the Local Government Act (Northern Ireland)

2014, and it was accepted for Adjudication by the Assistant Commissioner on 17 June 2019. The alleged breaches of the Code are:

Paragraph 4.2

You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.

Paragraph 4.16

You must not:

(a) Use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person'.

Paragraph 4.18

'You must not use, or authorise others to use, the resources of your council:

(d) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of your council or of the office to which you have been elected or appointed.'

Paragraph 5.3

'You must, within 28 days of becoming aware of any interest that falls within a category mentioned in paragraph 5.2 or any change to an interest already registered, register that interest or change by providing written notification to your Chief Executive.'

5. ADJUDICATION HEARING ON 7 FEBRUARY 2023

The Assistant Commissioner said the purpose of the Hearing was to determine whether the Respondent, had failed to comply with the Code. The allegation could only be upheld if Ms Best BL established to the satisfaction of the Assistant Commissioner that, on the balance of probabilities, the Respondent had failed to comply with the Code.

The Hearing was initially in two stages:

Stage 1 was to establish the facts of the case;

Stage 2 was the determination - whether or not the Respondent had failed to comply with the Code.

If the Respondent was found to have breached the Code, then a further stage (Stage 3) would be held to determine sanction.

There were no other preliminary matters to deal with.

STAGE 1 - FINDINGS OF FACT

The Assistant Commissioner said his decision would be based on the evidence presented and, where appropriate, the contents of the Deputy Commissioner's investigation report and the representations made at the Hearing. This included the Statement of Facts agreed between

the parties (noting that there were also two disputed facts), and witness evidence. The agreed facts were confirmed on behalf of former Councillor Bunting on 16 August 2021 by Counsel instructed by her initial solicitors. (The same e-mail also confirmed agreement with the proposed hearing bundle prepared by the Deputy Commissioner.) Although there was a subsequent change of solicitor (to Mr Brentnall), former Councillor Bunting had not resiled from this agreement of the undisputed facts (and hearing bundle).

The Assistant Commissioner read into the record the agreed undisputed facts.

Relevant Undisputed Facts

1. Former Councillor Bunting signed an undertaking on 24 May 2014 that she had read and would observe the Local Government Code of Conduct for Councillors.
2. At the relevant times (specifically between 9 January 2018 and 19 July 2018) former Councillor Bunting was a member of Belfast City Council.
3. Former Councillor Bunting was not re-elected as a councillor following local government elections on 2 May 2019.
4. Former Councillor Bunting received a basic annual allowance of £14,200 in her role as a member of Belfast City Council. This allowance was paid in equal monthly instalments by the council's payroll and is subject to tax, National Insurance and pension deductions where applicable.
5. Former Councillor Bunting utilised a mobile phone provided to her by Belfast City Council under a contract with the mobile phone provider Vodafone. Where former Councillor Bunting exceeded the data usage limits as set down in the contract she was liable for personal payment of those amounts which were deducted automatically from her councillor allowance on a monthly basis.
6. For the period September 2017 to October 2018 former Councillor Bunting had the following deductions taken from her monthly allowance for phone repayments:

Month	Amount
September 2017	271.03
October 2017	191.03
November 2017	108.05
December 2017	321.31
January 2018	57.32
February 2018	138.72
March 2018	70.84
April 2018	46.53
May 2018	47.64
June 2018	545.39 ²
July 2018	650.18

² Rounded by 1pence more than actual amount deducted

August 2018	16.69
September 2018	0.12
October 2018	96.20

7. On 12 June 2018 a letter detailing that the amount of £545.39³ was to be deducted from her June allowance for mobile phone charges was placed in former Councillor Bunting's pigeonhole at City Hall.
8. Former Councillor Bunting normally attended City Hall 3-4 times a week during which time she would have lifted her mail from her mailbox.
9. On 27 June 2018 former Councillor Bunting's allowance for June 2018 was lodged into her bank account.
10. Former Councillor Bunting's 'pay slip', dated 27 June 2018, contained a deduction of £545.38 in respect of 'Members Phone Repayment'. This amount relates to mobile phone charges incurred between the period 1 May and 31 May 2018.
11. Former Councillor Bunting discussed the reasons for the 'other deductions' from her councillor allowance with Mr Golding on the telephone on 27 June 2018.
12. Early on the morning of 27 June 2018, former Councillor Bunting spoke with Aaron McMullan democratic Services Assistant about her mobile phone deductions. On the same date at 9.28am Mr McMullan sent an email to WilsonN@BelfastCity.gov.uk to request a cap of 4GB data be placed on former Councillor Bunting's phone.
13. On 28 June 2018, at 18.42, former Councillor Bunting forwarded, a JPEG image of her pay slip by email from the email address 'Jolenebunting@icloud.com' to Mr Paul Golding at the email address 'admin@britainfirst.info.'
14. The 'OTHER DEDUCTIONS' section of the JPEG image of the pay slip received by Mr Golding at the email address 'admin@britainfirst.info' had the amount of £545.38 documented but did not show the words 'members phone repayment' as recorded on the original copy of the pay slip.
15. On 18 July 2018 Democratic Services was contacted by the Chief Executive's office to inform them that former Councillor Bunting was disputing the charges of the previous month's bill to be deducted from her July 2018 allowance.
16. Former Councillor Bunting sent the following text to Paul Golding on 18 July 2018 at 2207 hours:
'We're (sic) you able to put something in Paul?'
17. Former Councillor Bunting sent the following texts to Paul Golding on 19 July 2018:

³ IBID

'You won't forget about me today?' (sent at 0937 hours)
'Don't forget about me today Mr Golding lol' (sent at 1408 hours)
'Will you let me know when you put that in please Paul.'
'Okay darling thank you very much do you know how much?'
'Did you transfare (sic) that?' (sent at 1920 hours)
'Let me know when you have chum. I'm not going to have signal'.
'Will you defo transfer that tonight Paul my landlord has been annoying the life out of me because I told him send it through today. Sorry for being a pest.' (sent at 2055 hours) '
Any joy?' (sent at 2229 hours)

18. Former Councillor Bunting received two payments by bank transfer, from an account named 'Patriot Merchandise', Lloyds bank, on 3 July 2018 and 19 July 2018. The bank account holder is Britain First. Mr Golding authorised these payments as leader of Britain First.
19. The payment made on 3 July 2018 was for £ 50.00 and the payment on 19 July 2019 was for £65.00.
20. The reference created for the payments by Mr Golding at the time of making these payments on 3 July 2018 and 19 July 2018 was 'Jolene Bunting Belfast Penalty'.
21. A new iPhone was purchased and set up for former Councillor Bunting on 31 August 2018.

There were two 'Relevant Disputed Facts' (identified by the Respondent):

22. That former Councillor Bunting told Mr Golding that the deduction of £545.38 from her June 2018 allowance was as a result of a fine she received for organising a visit to the Council by Britain First on 9 January 2018 where Jayda Fransen sat in the Lord Mayor's Chair wearing ceremonial robes and made a political statement.
23. That former Councillor Bunting obscured the words Members Phone Repayment from the JPEG image prior to sending a JPEG image of her June payslip to Mr Golding on 28 June 2018.

Submissions by Ms Best BL.

Ms Best BL proposed to focus on the two disputed facts before calling the witnesses and drew attention to the following:

1. Ms Best BL set out the text messages between the Respondent and Mr Golding, which were in the agreed facts. Prior to these messages, one of the issues in this case and one of the disputed facts concerned the pay slip. Ms Best BL referred to the copy of the pay slip sent by the Respondent to Mr. Golding. On the pay slip he had received under the box, "other deductions", the only entry was £545.38. There was no explanation as to what that was.

2. Ms Best BL referred to the actual pay slip where immediately under the box "Other Deductions," and beside the amount, of £545.38 there was an entry "Member's Phone Repayments" which was omitted from pay slip received by Mr Golding, and Counsel contended that it had been removed presumably to support the account that Mr. Golding said he received from Ms. Bunting, which was that she was being fined.
3. The dispute between the Respondent and Mr Golding related to why the money was required and it was important to look at the documents that were in play at that time. One of the documents, which was persuasive to Mr. Golding's account, was the payment transfer and why the money was being transferred. At the time, Mr. Golding had put in "Jolene Bunting, Belfast penalty." Ms Best said that was entirely in accordance with what Mr. Golding had stated in his statement and his consistent account, that he was told this money was required because the Respondent was being fined for actions of Ms. Fransen on behalf of Britain First.
4. It was agreed by Mr. Golding to pay the money to the Respondent. However, when interviewed about the matter, the Respondent had provided a number of accounts, some of which were conflicting as to what the money was to be for.
5. The first account the Respondent provided was in the note of a telephone call conversation between Mr. McWatters (one of the investigators) and the Respondent.
6. Mr McWatters had said:
"that telephone call to Councillor Bunting to return her call over lunch. She told me the complaint is complete lies. She says she did receive a £120 from Paul Golding because he asked her to do a favour."
7. The Respondent was then interviewed (by Mr McWatters), on the issue of what account she provided at the time. The Respondent had said:
"I pay £500 for my rent alone, let alone having two kids to feed. Britain First had asked me could they use my address for two weeks for a PO Box, something I reluctantly agreed to in June. So as soon as I had got up I had two or three missed calls from Paul Golding and then Paul phoned me again. At this time I'm in tears wondering what am I going to do for the rest of the month and he phoned me to ask me to send, so I said to him I'll send stuff first thing, whatever morning it was because I knew I was getting paid. I thought I would have been able to afford to be able to post them and I cracked up with him and I said do you know I'm doing you favours left, right and centre. I'm in the middle of a crisis because (redacted) had phoned me and to be honest with you I was and just needed to get my anger out and I took it out on him and he says 'listen, don't be worrying' he says, 'what's it come out for' and I says I'm not sure, I don't know what it is. I need to go on and check and find what it's for. He says listen, don't be worrying, I can lend you or I can help it was. It was 'we can help'."

She went on to say:

"and I was like what's the craic then and he says 'listen, send me through, grab your pay slip and send me it through and I'll transfer the £500 in' and I was like well that's panic"

stations completely over and at the end of the day they had it. I says to him look, I'll pay you every single penny back. I'm really sorry about this. That was why I sent him the pay slip."

8. Ms Best BL said, in that account the Respondent was saying that she was helping out by providing a PO Box and that Mr. Golding was saying that we can help you.
9. When questioned about the money and what it was for, the Respondent had also said:
"And he paid me two lots of £60 but as far as I'm concerned Jeffrey that was a personal loan to me but he needed the pay slip to understand that, how much money had been gone through."
10. The interview continued and eventually the Respondent acknowledged the subject of a fine came up with Mr. Golding. Mr. McWatters had asked:
"But am I right in saying that you can remember that the word fine did come up in conversation?"
The Respondent had said:
"I remember him because I've been racking my brain. I remember him saying something like you know 'well that happens' and I said I don't know. I don't know because I didn't."

Mr. McWatters also asked:

"Okay and obviously his allegation is that you brought it up. Is it possible that maybe just with a fuzzy memory it might have happened that way."

The Respondent had said:

"No. Well, I may have said I don't know if it's a fine from the Commissioner or if it's my mobile phone bill or whatever. I don't know. All I say I can't. So I'm not going to say oh definitely not because I'm not too sure. I'm not too sure."

Legal Assessor intervention

Mr. Wilson advised that he had just been informed that former Councillor Bunting had been trying to join the Hearing by Webex. He suggested the Assistant Commissioner might wish to adjourn the Hearing so that this could be verified.

The Hearing was adjourned for half an hour.

When the Hearing resumed, the Assistant Commissioner asked Mr Wilson to update the Hearing on what had taken place during the break.

Mr Wilson stated that just before the break, the office had been contacted by former Councillor Bunting to say that she was endeavouring to make contact through Webex. In the interval, and with the Commissioner's permission, he had spoken with former Councillor Bunting by telephone. The outcome of that discussion was his advice to the Assistant Commissioner that he should proceed with the hearing.

Mr Wilson stated that he had discussed with former Councillor Bunting her non-attendance, but he was limited in what he could say other than her position was that she did not intend to participate in the hearing, and that this reflected legal advice she had received.

The Assistant Commissioner said he had taken Mr Wilson's advice and that he had already explained why he had taken that route. The Hearing was to continue, he asked Ms Best to continue her submissions.

Submissions by Ms Best BL (continued)

11. Ms. Best BL said, when it was put to the Respondent that there was a missing section from Mr. Golding's copy on the phone charges, Mr Watters asked the Respondent:

Q. "..... so just before we finish then Jolene can I ask you a direct question. Did you alter the pay slip?"

A. "NO".

Q. "Did you ask anyone else to alter the pay slip?"

A. "NO".

Q: 'Did anyone else alter the pay slip?'

A. "Obviously someone altered it because you've got a copy of the pay slip with details missing in it."

Q. Okay and can you offer any explanation for why?"

A. "No."

Ms Best BL submitted that was the Respondent's account, that she could not offer any explanation but she accepted that somebody must have altered it.

Evidence of Paul Golding

Mr Golding was sworn in and identified his written statement (Appendix 1). He then read his statement into the record. Ms Best BL questioned Mr Golding. These questions/answers included the following:

Q. Mr. Golding before I take you to the interview transcript, Ms. Bunting has put a response in to the Deputy Commissioner's office in relation to this allegation against her and, in my role, I wanted to raise these with you. The first point that Ms. Bunting has made was that it's false pretences what you're saying. In other words, you're lying about what was said in the conversation, what do you say to that?

A. "What do I say"?

Q. Yes?

A. *"Well what I've said is completely accurate and backs up with payslips, bank statements, text messages, screenshots. You can see from all the evidence that what I'm saying marries up with the evidence. There's no discrepancies".*

Q. What was your relationship like with Ms. Bunting at this period of time. So we're talking June/July 2018?

A. *"Friendly and cordial. She was an ally, probably the best way of putting it, to Britain First and we were becoming very active in Northern Ireland at that time".*

Q. In her statement, her response to the investigation report, Ms. Bunting alleges that relations broke down between yourself and Ms. Bunting and that that gave rise to malicious and untruthful allegations against her. What do you have to say about that?

A. *"No, the reason that she was proscribed from Britain First is because while she was in prison Jayda Fransen's credit card was used unauthorised and we traced it back to Sunderland in the North East. We traced it back to a man called Stuart (inaudible) who was one of Jayda's previous bodyguards and we've got recordings of him admitting that he did it and he was sorry and that Wayne and Jolene both knew about what he was doing and because they had said nothing or done nothing that's why they were proscribed".*

Q. What timescale that would have been?

A. *It was around about I mean obviously five years ago now, probably four and a half. It was around about this time.*

Q. Was after you had lent money to Ms. Bunting?

A. *'It was -- she was proscribed shortly after the second payment and of course we sent the first payment and Jolene Bunting had no objection to the reference that we used, which was Belfast Penalty and she--a considerable amount of time passed and she didn't raise any objections to the reference that we used, the Belfast Penalty and then shortly after it came to light about Jayda Fransen's credit card'.*

Q. "Ms. Bunting also goes on to say that she's had to contact the PSNI on many occasions due to your alleged harassment of her?

A. *"No phone call, an email, a text message, any contact whatsoever from the PSNI".*

Questions by the Assistant Commissioner:

Q. Asked Mr Golding that he was curious as to why the payments came to an end?

A. *"When we find out that Jolene and Wayne, we basically, we spoke to the person who admitted that they'd defrauded Jayda Fransen's credit card while she was in prison and he said "yes, I did it, I'm really sorry" and I asked him if Wayne and Jolene as he was very friendly with Wayne and Jolene at that time, they were very friendly. So I asked him directly, his name is Stuart (inaudible) from Sunderland, if Wayne and Jolene knew what you'd been doing with Jayda's card? And he said "yes, they know all about it."
.....the wage slip looked like it had doctored and basically because not paying her another penny.*

Q. Where's that actual payslip now?

Ms Best BL explained that the copy of the payslip in the bundle at page 65 is Mr. Golding's;the real payslip was at page 71. The one that Mr. Golding received (at page 65) was a copy of that and then, under 'Other Deductions', it's quite clear in the payslip at page 71 the words "member's phone and agreed payment" had been amended in the copy that Mr. Golding received.

Assistant Commissioner:

Q. So the payslip at page 65 does not show any indication whatsoever, not even the shading that is referred to?

MS. BEST: No, that was as a Jpeg.

Assistant Commissioner: And that's where it came up?

Ms Best said, this was a printout of the image that she was sent, and you cannot zoom in on it but, if we had a laptop here and we had the original that I sent to the Commissioner, then you can zoom in and you can see that it's been tampered with. You can see the tops of the letters. You can see a little bit of detail of what is on page 71 where it says "member's phone repayments.

Mr Wilson said there was another copy of this at page 191.

The Assistant Commissioner said he had expanded it (payslip at page 191) using a laptop and he could see it and he just wanted to make sure that the document that was at page 191 linked back to the original payslip that Mr Golding had received?

Questions by Mr Wilson:

Q. Could I just pursue one matter with the witness and it's really to reflect Ms Bunting's position. If I understand your evidence, your relationship with the Respondent was good until Fransen's credit card?

A. "Yes".

Q. That was after the two payments had been made?

A. "Yes".

Q. And those two payments came after you had a call, whether with or from but certainly with Ms Bunting, in which you describe her as being frantic and clearly, you'd agree she needed money, she needed help, she was under financial pressure?

A. Yes.

Q. She denies tampering with the wage slip. If we look at it in a timeline you have a conversation with Ms Bunting. You then receive a payslip from her?

A. "Yes"

Q. You make two payments and your relationship is good. She is pushing you for money. Then towards the end of July 2018 your relationship deteriorates because of the matters around Ms Fransen's credit card?

A. Yes.

Q. And it is after that that you make your complaint?

A. "Yes".

Q. Now Ms Bunting may well assert that you tampered with the wage slip?

A. *"Okay. I brought my laptop to here and showed, I can't remember who it was five years ago, I think whoever that I made my statement to, I think I came in at a later date but I showed them on the screen the email and then think that I showed the two screenshots there and then in front of them. They did ask for unfettered access to the email account and I said under the Data Protection Act I can't do that because there's a lot of confidential members, people who buy merchandise or emailing into that, so it's Britain First's Head Office main email account. So I couldn't just give out access to it. So I did it all in front of them downstairs in the office and they took pictures and screenshots and stuff like that and there's screenshots and pictures of it in here as it arrived in the in box".*

Q. So if Ms Bunting asserts that this only became an issue and therefore you decided to do her an injustice, if I use that term, by making a complaint based upon your own fabrication of the invoice, your answer to that would be?

A. *"I mean I've provided screenshots, the email, the image itself, the wage slip, I've provided text messages, I've provided screenshots. I don't know what else to provide to prove that this is the case".*

Q. You would agree that the decision the Commissioner has to make in this case, at the heart of this case very much is who fabricated this payslip?

A. *"The argument I would say to that is why would I put on two separate payments and I've*

said somewhere in my evidence that at that time, that Summer of 2018 I'd only just been released from prison and Britain First was in a financial bad state which was why there were small payments made like rather than in one go but why haven't I put on the reference if this was all later fabrication, if I did it down the line after we'd fallen out, why did I put Belfast Penalty on the bank transfers and then we was on good friendly terms".

Q. Ms. Bunting might say in response to that, that that's not what she sees when she gets it. That's what you say you put on it when you sent it but the receiver's message, there's no evidence before the Commissioner that the receiver's message into Ms. Bunting's account said anything about penalty?

A. *"I'm sure Ms. Bunting can provide, if she looks at her online bank she can provide what it received as I'm sure she can provide that information, I'm pretty sure it will match up but while we were on good terms I sent one payment which said 'Belfast Penalty' and then three weeks later I sent another one that said 'Belfast Penalty' and in the interim she never said you've got the reference wrong or it's not for that reason".*

Q. And when you first met with the investigator you've indicated that you produced the email with the attachment of the payslip. Did you also show them your online banking?

A. *"I might have done, yes. I can't remember to be honest.*

A. *"It's five years ago. You know memory is fairly cloudy but I think I did because I couldn't give access. I remember this being an issue. They wanted to be able to log in themselves to our Head Office email account and I said I can't do that because I've got a duty of care to our membership and so on, Data Protection Act, all sorts of obligations but I said I'm happy to come in and log in and show you. You can search for it yourself but I believe they typed in Jolene Bunting in the search area of the email account, the email, and it came up with her email and the screenshots in this bundle were taken".*

Evidence of Aaron McMullan

Mr McMullan, a Democratic Support Services Assistant employed by the Council, was sworn in and identified his written statement (Appendix 2). He then read his statement into the record. The witness was then questioned and the questions/answers included the following:

The Legal Assessor, Mr Wilson asked:

Q. There's just one question for the witness. It relates to the request that was made by Ms. Bunting to search for an email. You said in evidence that if you'd looked at her Council supplied phone it was to have extrapolated all her email accounts and we know that there were at least two. There was the Belfast City email account and there was also the email account from which we now know that the –

A. *"The iCloud account".*

Q. The iCloud account. Are you saying that when you searched through her phone for an email of that particular date, you were looking at all those different accounts?

A. "Yes".

Q. And can you offer any explanation as to why that email wasn't there or might not be there. I appreciate it's speculation on your part but given your experience you may have come across this?

A. *"At the time and this was quite a few years ago, the Apple email service I wouldn't have called it reliable. Contacts disappeared and then come back three days later. The same happened with emails. The same happened with phones and that's -- or it may not have been there at all. I don't know".*

Ms Best BL raised one point that arose from Mr. Wilson's questions.

Q. In relation to the searching of the emails, is it possible that if somebody deleted an email that it wouldn't appear then if you'd searched for it?

A. *"I don't know but I imagine if there was an email that she said was there and couldn't be found I would look in the deleted items folder".*

Q. But if she emptied the deleted items folder would it be there?

A. *"Not if it was deleted".*

Evidence of Jeffrey McWatters

Mr McWatters, an Investigating Officer with the Public Services Ombudsman, was sworn in and identified his written statement (Appendix 3). He then read his statement into the record. The witness was then questioned and the questions/answers included the following

Ms Best BL questioned the witness:

- the records of deductions from the Britain First bank account.
- receiving an email from Mr Golding containing the Respondent's payslip for June 2018.
- a note of two telephone calls (6 September 2018 and 1 November 2018), with the Respondent, which he read out for the record.
- His interview transcripts of the Respondent.

Q. You confirm whether or not those transcripts were a true record of the interview with the Respondent?

A. *"Yes it is a true record"*.

Q. There was a discussion with Ms Bunting about the payslip and whether it was altered or not?

A. *"Okay. So, I'm asking her did she alter the payslip"*.

Q. Yes and that's her response, it's recorded as a no?

A. *"Mm-hmm"*.

Q. Has Ms Bunting ever made any explanation for the differences in the payslips?

A. *"Only that no, she hasn't"*.

Q. And did she allege anybody else altered the payslip?

A. *"Well I asked her "can you offer any explanation for why?" Well she said obviously someone altered it but she couldn't offer me any explanation on why it had been altered"*.

Submissions of Ms Best BL

Ms Best BL identified key dates:

- 9th of January 2018 is the Jayda Fransen "stunt" at City Hall. where she was filmed on the Lord Mayor's chair.
- 27th of June 2018 former Councillor Bunting views her bank account and notices a reduction in her June Council salary and discusses same with Paul Golding on phone.
- 28th of June former Councillor Bunting emails a copy of the June 18 payslip to Mr Golding.
- 3rd of July 2018 Paul Golding transfers £50.00 to former Councillor Bunting's bank account.
- The 18th and 19th of July 2018 - Former Councillor Bunting texted Mr Golding during this period in respect of money.
- 19th of July 2018 Mr Golding transfers £65.00 to Councillor Bunting's bank account.
- Early August Mr Golding states he became aware at this time that the deduction from her salary was not for a fine.
- The 31st of August 2018 Mr Golding submits his written complaint.

The Hearing was adjourned to 10am on 8 February 2023.

Day 2

On 8 February 2023, the Assistant Commissioner re-opened the Adjudication Hearing and dealt with the findings of fact. Having heard the evidence of the following witnesses, Mr. Paul Golding, Mr. Aaron McMullen and Mr. Jeffrey McWatters, he had concluded that the twenty-one undisputed facts had been made out to his satisfaction.

In addition, the Assistant Commissioner stated that, in circumstances where the Respondent was not present or represented, he had been careful to ensure that in coming to this conclusion, sufficient consideration had been given to the statement of the Respondent, accompanied by her 'Councillor Response Form' dated the 26 February 2021, and also the record of her interview with Mr. McWatters.

Disputed facts

First disputed fact:

The Respondent disputed that she told Mr Golding that the deduction of £545.38, from her June 2018 allowance, was as a result of a fine she received for organising a visit to the Council by Britain First on the 9 January 2018, where Jayda Fransen sat in the Lord Mayor's chair, wearing ceremonial robes and made a political statement.

Having observed Mr Golding give evidence in relation to this issue, the Assistant Commissioner was satisfied that this fact was established for the following reasons.

The hard copy evidence of the pay slip was very relevant. It had been sent to Mr Golding as a Jpeg image, attached to an email from the Respondent. This image did not show any 'Member's Phone Repayments'. However, the pay slip sent from the Council to the Respondent had included the words "Member's Phone Repayments". Clearly, the words had been removed from the payslip which was more probably done before the email was sent. The email and its attachment had also been seen on Mr Golding's laptop by the witness Mr McWatters.

The two bank money transfer forms, sent to the Respondent, which read "Jolene Bunting Belfast penalty" further reinforced the truth of Mr Golding's evidence.

Second disputed fact:

'The Respondent had obscured the words "Member's Phone Repayment" from the Jpeg image prior to sending a Jpeg image of her June payslip to Mr Golding on the 28 June 2018.

The Assistant Commissioner noted that during the investigation the Respondent could not provide a satisfactory explanation as to why she was not able to show the email and attached Jpeg picture which had been sent to Mr Golding. Further, that at the time of this occurrence it was clear from the recovered text messages, and confirmed by Mr Golding, that their relationship was amicable, which had continued after the payments had been made.

The Assistant Commissioner was satisfied, on the evidence of Mr Golding and Mr McWatters, that the Jpeg image received by Mr Golding did not include the words "Members Phone Repayment" and further, that Mr Golding did not alter or amend the payslip'.

The Assistant Commissioner also noted that the Respondent had offered three different explanations during her interview by Mr McWatters for seeking money from Britain First.

- i. That Mr. Golding asked her to do him a favour.
- ii. To use her address as a post-box.

- iii. To be a personal loan for her.

These conflicts, and the evidence of Mr McWatters that he was able to:

- Access Mr Golding's laptop to view the e-mail from the Respondent, where she had attached a photograph of her payslip, with no explanation for the deduction of £545.38 in the 'Other Deductions' box.
- See on the Jpeg (photo) of her payslip, in the 'Other Deductions' box the faint remnants of the words 'Members Phone Repayment'.
- See the mobile phone bank account with its description of the payment purpose, '*Jolene Bunting, Belfast penalty*'.

contributed to the straightforward narrative of Mr Golding.

The Assistant Commissioner was satisfied that both disputed facts had been established to his satisfaction and, together with the undisputed facts, would be used to consider if the Code had been breached by the Respondent.

STAGE 2 - DETERMINATION ON BREACH OF THE CODE

Ms Best BL Submissions on Breach of the Code

The Respondent was alleged to have breached four aspects of the Code of Conduct For Councillors. The Code applied to councillors and councils established in accordance with Section 1 of the Local Government Act Northern Ireland 1972 as 26 amended by the Local Government Boundaries Act Northern 27 Ireland 2008. The Code must be observed according to paragraph 2.7:

"Where the councillor conducts the business or are present at meeting of the council, whenever the councillor acts, claims to act or gives the impression they are acting in the role of councillor and whenever the councillor acts, claims to act or gives the impression that they are acting as a representative of the council."

In addition, the Code provides at 2.9 that the Code must be observed at all times in relation to:

- (a) Conduct which could reasonably be regarded as bringing the councillor's position as a councillor into disrepute or their council into disrepute.*
- (b) Conduct relating to the procuring, advocating or encouraging of any action contrary to the code.*
- (c) Conduct relating to the improper use or attempted use of the councillor's position to confer on or secure for the councillor or any other person an advantage or create or avoid for the councillor, or any other person, a disadvantage.*
- (d) Conduct relating to the use or authorisation of the use by others of the resources of the council.*

The Code is based on 12 principles of conduct that is; public duty, selflessness, integrity, objectivity, accountability, openness, honesty, leadership, equality, promoting good relations, respect and good working relationships.

Ms Best BL said the rules that had been breached by the conduct of the Respondent:

Paragraph 4.2 of the Code:

"You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor or your council into disrepute."

Ms Best BL said that under the relevant Guidance to Councillors, a consideration was whether the conduct was likely to diminish the trust and confidence the public places in the Respondent's position and that of the Council; was it likely to damage the reputation of either. Ms Best BL submitted that was entirely the case here, in relation to the facts that the Assistant Commissioner had found, which struck at the very heart of public confidence in councillors and the public which they serve:

"Whether a member of the public who knew all the relevant facts would reasonably consider her conduct as having brought the position or council into disrepute."

On the facts found, Ms Best BL submitted, there had been a deliberate amendment of the payslip in order to achieve financial gain from Mr Golding and/or Britain First. This brought the conduct within the scope of the disrepute paragraph.

Paragraph 4.16 of the Code:

(a) Use, or attempt to use, your position improperly to confer on, or secure, an advantage for yourself or any other person.

Ms Best BL submitted the Respondent had used her position for personal gain to pay her mobile phone bills. She referred to the evidence of Mr McMullan where he distinguished between the various email accounts being mixed between personal and official business. In terms of mobile phone bills Mr McMullan said data usage would have been for both. The Respondent was responsible for her bills and she had used her links to `Britain First to get a monetary gain to deliberately assist with that bill.

Paragraph 4.18 of the Code:

You must not use, or authorise others to use, the resources of your council:

(d) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of your council or of the office to which you have been elected or appointed.

Ms Best BL submitted that that arose from the Respondent's use of the mobile phone both in terms of the bills and also using it to e-mail the amended payslip to Mr Golding.

Paragraph 5.3:

You must within 28 days of becoming aware of any interest that falls within a category mentioned in paragraph 5.2 or any change to an interest already registered, register that interest or change by providing written notification to your chief executive.

Ms Best BL submitted this paragraph of the Code had been included as an alternative allegation to 4.2 of the Code as the Respondent had failed to disclose the payments she had received.

Legal Assessor intervention

Mr Wilson said a letter had just been received from the former solicitor for the Respondent (Mr Brentnall) which appeared to be in the form of a pre-action, protocol letter and which related to yesterday's adjournment. He advised that the Assistant Commissioner should adjourn to consider this.

The Hearing was adjourned.

The Assistant Commissioner reopened the Hearing and made reference to the correspondence received earlier that morning in which the Respondent's solicitor had asked for these proceedings to be stayed. He said it was not his intention to do so.

The Assistant Commissioner said the evidential test for consideration of the findings of fact is whether the Deputy Commissioner had established to his satisfaction, on the balance of probabilities, there had been a failure to comply with the Code. He had applied that test to his determination and had considered all of the evidence, which included the submissions given orally at the adjudication hearing.

The Assistant Commissioner said the Respondent had been elected to Belfast City Council on 22 May 2014 and had signed her Declaration of Office on 24 May 2014. By signing the declaration, the Respondent had affirmed that she had read and would observe the Code.

He found that the Councillors Code of Conduct applied to the Respondent, and she had breached the code as follows:

- Paragraph 4.2:
You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor into disrepute.
- Paragraph 4.16(a):
You must not use or attempt to use your position improperly to confer on or secure an advantage for yourself or any other person.
- Paragraph 4.18(d):
You must not use or authorise others to use the resources of your council (d) other than in a manner which is calculated to facilitate or to be conducive to the discharge

of the functions of your council or of the office to which you have been elected or appointed.

- Paragraph 5.3:
The Assistant Commissioner, in view of his findings on the other breaches, made no finding of a breach of the Code in relation to paragraph 5.3.

Reasons for the decision

The Assistant Commissioner had established the facts of the case and considered Counsel's submissions. He had to be satisfied on the balance of probabilities that each alleged breach of the Code had been made out. At the heart of his findings, and central to the conclusions on breach, was the fact that the Respondent had had altered her payslip and then furnished this to Mr Golding. This had occurred at a time when the relationship between the Respondent and Mr Golding was amicable, he was prepared to help her with money payments and the Respondent was in

Breach of paragraph 4.2:

You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor into disrepute.

The Assistant Commissioner was satisfied that the Respondent's alteration of her payslip, and the surrounding circumstances of her discussions with Mr. Golding, amounted to conduct likely to diminish public trust and confidence in her former position as a Councillor. This had been a deceitful act involving a person from whom she had been seeking financial assistance. He determined the public, knowing the relevant facts, would reasonably consider that she had brought her position as a Councillor into disrepute.

The Assistant Commissioner made no finding of disrepute against Belfast City Council.

Breach of paragraph 4.16(a)

You must not (a) use or attempt to use your position improperly to confer on or secure an advantage for yourself or any other person.

The Assistant Commissioner was likewise satisfied, on the facts found, that the Respondent improperly used her position to secure financial advantage for herself. She had used deceit and, what at the time had been an amicable relationship with Mr Golding, to her benefit.

Breach of paragraph 4.18(d)

You must not use or authorise others to use the resources of your council (d) other than in a manner which is calculated to facilitate or to be conducive to the discharge of the functions of your council or of the office to which you have been elected or appointed.

The Assistant Commissioner was satisfied, on the facts found, that the Respondent had acted deceitfully in this matter other than in the discharge of her function as a Councillor and for private personal gain.

Breach of paragraph 5.3:

You must within 28 days of becoming aware of any interest that falls within a category mentioned in paragraph 5.2 or any change to an interest already registered, register that interest or change by providing written notification to your chief executive.

This had been included as an allegation, however the Assistant Commissioner agreed with the submission of Ms. Best that this had been an alternative breach to Paragraph 4.2 above, and he made no finding on this alleged breach.

STAGE 3 - SANCTION

The Assistant Commissioner asked Ms Best BL to address him in terms of sanction.

Ms Best BL submitted that, when considering the consideration of mitigating factors in the Sanctions Guidelines (Appendix A), there was an absence of mitigating factors in this case. The only potential factor to consider was 'Co-operation with the Investigation and Adjudication Hearing'. Ms Best BL submitted that the Respondent would only be entitled to partial credit because she has not engaged with the adjudication hearing.

In light of the findings of fact, Ms Best BL said aggravating factors in this case were:

- i. There was the deliberate personal gain at public expense by exploiting her position as a Councillor.
- ii. Her actions had brought herself into disrepute as a Councillor which had a potential wider impact on public confidence.
- iii. The Respondent's actions had been nothing short of dishonest.
- iv. The Respondent had continued to deny the facts despite clear evidence, challenged the investigation and adjudication to the end.
- v. The Respondent had sought to unfairly blame others, namely Mr Golding in particular.
- vi. The Respondent had shown no remorse for her action and had offered no apology or satisfactory explanation.

Ms Best BL said that the proper sanction must look at the seriousness of these actions and balance that with the public interest and the public confidence. The sanction must reflect the potential harm that has been done to the public confidence. On behalf of the Deputy Commissioner, Ms Best BL submitted that it was the Deputy Commissioner's view that an appropriate sanction was disqualification. That is based on the guidance on disqualification, set out in the Sanctions Guidelines at page 9, paragraphs:

19(a) The Respondent had deliberately sought personal gain.

19(b) The Respondent had deliberately sought to misuse her position in order to disadvantage another person.

19(f) The Respondent had misused Council resources.

Legal Assessor intervention

Mr Wilson said that an email had apparently been received from the Respondent (at 11:50 am) which he had not yet seen but that it was an appropriate time for an adjournment to consider Sanction and the content of the e-mail received.

The Hearing was adjourned at 11:59 am.

The Hearing resumed at 1:00 pm.

The Assistant Commissioner noted that correspondence had been received from the Respondent at 11:50 am. To the extent that the content of this e-mail was relevant to the Hearing and related to matters in contention, the Assistant Commissioner was satisfied that all such content had been sufficiently considered at the hearing and, in particular, in his consideration of the evidence of the three witnesses the previous day.

The Assistant Commissioner had considered the Sanction Guidelines and he noted that the principal purpose of sanction is the preservation of public confidence in local government representatives and that is a key factor, that is the reason why the Adjudication Hearing had been held.

In terms of mitigating factors, the Assistant Commissioner accepted the Respondent's cooperation in the investigation. She had not, however, cooperated with the adjudication hearing itself but he did not consider that to be an aggravating factor in the circumstances.

The Assistant Commissioner accepted the Respondent was under significant personal financial pressure at the relevant time.

In terms of aggravating factors, the Assistant Commissioner said her actions were dishonest. The continued denial of her actions, where she had sought to blame another, were deliberate and for personal gain, which had brought her and her role as a Councillor into disrepute. The Assistant Commissioner did not find that the Respondent had brought the Council into disrepute.

The Assistant Commissioner stressed that any sanction imposed must be justified in the wider public interest. It should be designed to discourage or prevent future failings to comply with the Code or to discourage similar conduct by other Councillors. He said that is a very important feature of the whole procedure in dealing with breaches of the Code.

The Assistant Commissioner considered the available sanctions as set out in Paragraph 68 of the Procedures document:

- i. No action – this was not an appropriate sanction in this case.
- ii. Censure – this was not an appropriate sanction when the findings by the Assistant Commissioner were considered in this case.
- iii. Partial suspension and suspension were not available to the Assistant Commissioner, as a sanction, where the Respondent was no longer a Councillor.
- iv. Disqualification, this was the most severe option open to the Assistant Commissioner.

The Assistant Commissioner said he accepted the submissions of Ms. Best BL in relation to the factors set out in the Sanctions Guidelines, other than any reliance on the Respondent's actions having brought the Council into disrepute, in the light of his earlier finding on that point.

The Assistant Commissioner considered that the aggravating factors in this case so greatly outweigh the mitigating factors that disqualification was the only sanction to impose to ensure the preservation of public confidence in local government and to reflect the severity of the case. The imposition of this sanction was not intended to punish the Respondent, it was to highlight the seriousness of the breaches of the Code and to discourage any similar conduct on the part of others.

He was also aware that the local government elections are due to be held in May 2023 but, in view of the proposed length of any term of disqualification, he did not consider that to be a relevant factor.

The Assistant Commissioner disqualified the Respondent for a period of three years from becoming a Councillor which will be effective from the date of this written decision.

The Assistant Commissioner closed the Hearing and thanked those who had attended.

LEAVE TO APPEAL

Pursuant to section 59 (14) of the Local Government Act (Northern Ireland) 2014 former Councillor Bunting may seek the permission of the High Court to appeal against a decision made by the Assistant Commissioner, which must be made within 21 days of the date that she receives written notice of the Acting Commissioner's decision.

Ian A Gordon
Assistant Northern Ireland Local Government Commissioner for Standards
6 March 2023

OFFICIAL - SENSITIVE

LGES Reference No: C00322

STATEMENT OF WITNESS

STATEMENT OF PAUL GOLDING

AGE OF WITNESS (IF OVER 21 ENTER 'OVER 21') Over 21

I declare that this statement consisting of 2 page(s), each signed by me, is true to the best of my knowledge and belief. I understand that should the outcome of the investigation result in an Adjudication by the Local Government Commissioner for Standards, I may be required to give spoken evidence at a public hearing.

Dated this 18 day of SEPTEMBER 2018

Jeffrey Mcwatters
Signature of Investigator by whom
statement was recorded or received

Paul Golding
Signature of Witness

I am leader of the group Britain First. I submitted a complaint to the NI Local Government Commissioner for Standards on 31 August 2018. The complaint was made against Ctlr Jolene Bunting, Belfast City Council. I wish to make this statement which is related to my complaint. A couple of days prior to 28 June 2018 I received a phone call from Jolene who sounded as if she was in a bit of a panic. She said: I've been fined £500 by the Council as a punishment for when Jayda Fransen sat in the Lord Mayor's chair in January. She said: "I can't afford to pay that". I said don't worry because this was a Britain First publicity stunt and we will pay it. I assured her that we would pay we would pay it but I would need some kind of proof, an email, a letter, something to confirm that she had been fined. I said it's not a matter of trust, it's a matter of record-keeping: I needed something to put into the records to explain where the money is going to and what for. She said she'd been sent a letter from the Council but she had misplaced it and she was going to ask them to send a new one. I understood her references to 'Council' to be references to Belfast City Council. I said can you get something, some kind of proof, can you get the Council to send some kind of proof. She said what about if I send my payslip instead. That will show you the amount that I've been fined. I agreed. On 28 June 2018 I received an email from Jolene at 18:42. It contained a Jpeg scan of Jolene's payslip dated 27 June 2018. Given the date, I can't be sure from memory whether Jolene's phone call to me occurred on the 27th or 26th June 2018. Jolene would have phoned me in the days that followed to ask if I would send the money, however I can't remember any specific conversations with her about it. I'm pretty sure something was said though. The amount on the payslip for 'Other Deductions' was £545.38. Jolene referred me to this as the amount she had been fined by Belfast City Council for the Jayda Fransen stunt. I have provided copies of the payslip I received from Jolene as exhibit PG1. On 18 July 2018 at 22:07 I received a text from Jolene asking me if I was "able to put something in". This was a reference to the money I had promised to pay to cover her fine. It was always my intention to pay the full amount of her fine £545.38. I have provided screenshots of my texts with Jolene for the period 18 July 2018 to 22 July 2018 which I identify as exhibit PG2. I transferred £65.00 to Jolene's bank account on 19 July 2018 from the Britain First bank account. I transferred £50 to Jolene's bank account on 3 July 2018 from the Britain First bank account. At the end of July 2018 Britain First proscribed Jolene Bunting and her partner Wayne Cummings from Britain First, meaning that any member of Britain First who communicated with either of them would be disciplined. This related to the fraudulent use of Jayda Fransen's credit card while she was in prison. A Britain First security officer is suspected of the crime involving the theft of around £900 from Jayda's credit card. Jolene and Wayne were identified by Britain First as covering up for the culprit. This is why they were proscribed. I therefore wondered whether Jolene was telling the truth about the £500 fine. I spoke to an associate called David Fisher who asked a DUP councillor friend about the fine. The councillor said it was all rubbish and she wasn't fined. This happened in early August 2018. I then visited Belfast City Council, Democratic Services. They directed me to

Signature of Witness Paul Golding.

Signature witnessed by Jeffrey McWatters-

OFFICIAL SENSITIVE

Continuation Statement of

Page No: 2

the NI Local Government Commissioner for Standards. I agree to maintain confidentiality during this investigation. Paul Golding

Signature of Witnr:ss Paul Golding

Signature witnessed b:, Jeffrey McWatters

STATEMENT OF WITNESS

STATEMENT OF Aaron McMullan
AGE OF WITNESS (IF OVER 21 ENTER 'OVER 21') Over 21

I declare that this statement consisting of 3 page(s), each signed by me, is true to the best of my knowledge and belief. I understand that should the outcome of the investigation result in an Adjudication by the Local Government Commissioner for Standards, I may be required to give spoken evidence at a public hearing.

Dated this 18 day of February 2021

M McAleer

Signature of Investigator by whom
statement was recorded or received

Signature of Witness

A. McMullan

I am employed by Belfast City Council as Democratic Services Support Assistant. I am the main point of contact for all councillors for 'everything'- e.g. finance, information technology, register of interests, declarations of interests. I have worked in this role for approximately 9 years. I had been previously asked by Senior Investigating Officer Robert Bannon on 7 May 2019 as to my recollections around contact from former Councillor Bunting in and around November/December 2018. This was an extremely busy period as the local government elections were running. On 9 May 2019 I confirmed to Mr Bannon that I could recall Councillor Bunting had spoken with me some months back about trying to obtain an email from her council issued mobile. I told Mr Bannon that I could recall looking through her phone but was unable to find the email she was looking for.

When now put to me that the date of contact was likely to have been sometime between the 30 October 2018 and 27 November 2018, and more likely in the first week in November 2018, I checked google to ascertain contextual information to help in retrieving more detail about the contact from my memory. Having checked google under the search terms 'Jolene Bunting credit card' I was taken to a media article on Belfast Live dated 28 July 2018 entitled 'Jolene Bunting and Britain First row erupts'. I was of the view at the relevant time that I was asked to search for a personal email regarding that incident. I can't remember if it was exactly at that time of the media report I was asked to find the email. In asking me to search for the email former Councillor Bunting would have said something like 'Aaron there is an email I sent or received and it's not there now.' I recall former Councillor Bunting was convinced that the email had been sent or received on a particular date. I

Signature of Witness

Signature witnessed by Michaela McAleer

Continuation Statement of

Page No: 2

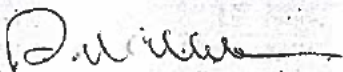
cannot recall the date but can recall upon checking the date there were no emails, either sent or received for that date. She indicated to me that she was concerned that someone may have gained access to her email account and deleted the email in question. Whilst I presumed that the email that I was asked to search for related to former Councillor Bunting being proscribed from the organisation Britain First, former Councillor Bunting did not say anything about the content of the email to me. Former Councillor Bunting did not ask me to check the photos on her phone.

I have been informed that Former Councillor Bunting has told the investigation that approximately a week after her interview on 30 October 2018 she contacted the 'tech guys' who looked through all her email accounts to see if it had disappeared somewhere else. She also described me as 'her go to' because she always needed help with technology. She stated that she had asked me to call up to her office at city hall and that my office is just a few doors down. She also stated that I looked through her emails and told her there was nothing there.

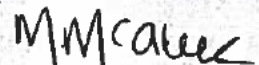
I confirmed that I would have had frequent contact, in and around weekly contact, with former Councillor Bunting about IT related matters. This contact varied e.g. from work on her IPAD, not being able to sign into the electronic minutes app on the phone; her own printer and the printer in the party room not working.

Whilst the mobile phone contract and the device is supplied and maintained by the council, any matters relating to a councillor's apple account e.g. iTunes, iCloud email, iCloud storage are personal to the councillor who would be billed directly for these from apple.

In respect of former Councillor Bunting attending the apple store I would not ordinarily have sent her to the store unless her device was broken. I never would have sent her to the apple store for matters



Signature of Witness



Signature witnessed by

Continuation Statement of

Page No: 2

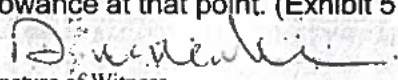
relating to her council email address. On the occasion in question I may have directed her to the apple store in relation to her iCloud address.

Upon checking my email account I can confirm that a new iPhone was purchased for former Councillor Bunting and set up on 31 August 2018 (Please see Exhibit 1).

I have also provided as Exhibit 2 a copy of former Councillor Bunting's phone bills for the period August 2017- September 2018. I can confirm that where deductions from a councillor's pay are to be made as a result of exceeding the contracted data limit of 2GB (this was increased to 4GB in May 2018) a letter is put in the councillor's mailbox at city hall 5 days before the payroll is run, which is on 17th of every month, setting out the exact amount of deductions to expect. For the month of June 2018 a letter, dated 12 June 2018, would have, on the same date, been placed in former Councillor Bunting's mailbox in city hall detailing the amount of £545.39 was to be deducted from her June allowance. Former Councillor Bunting would have attended City Hall 3 to 4 times a week. She would have routinely lifted her mail when attending City Hall. I can never ever recall having to clear out her mailbox due to it being full. The members' room steward would have reported to me if a councillor's mailbox was full and required emptying.

On the 27 June 2018, after discussion with Former Councillor Bunting, I requested that a data cap be placed on her account (Exhibit 3). However, the cap would only take effect after this date. On 18 July 2018 democratic services was contacted by the Chief Executive's Office to inform us that Former Councillor Bunting was disputing the charges of the previous month's bill to be deducted from her July 2018 allowance. Following this I contacted Former Councillor Bunting to work out a payment plan to spread the cost over a period of months (Exhibit 4). Former Councillor Bunting asked that the cap be lifted on 3 August 2018 as she had already used up the contracted data allowance at that point. (Exhibit 5).

END


Signature of Witness
Signature witnessed by

OFFICIAL – SENSITIVE

CHS: C00322

STATEMENT OF WITNESS

STATEMENT OF Jeffrey McWatters

AGE OF WITNESS (IF OVER 21 ENTER 'OVER 21') Over 21

I declare that this statement consisting of two page(s), each signed by me, is true to the best of my knowledge and belief. I understand that should the outcome of the investigation result in an Adjudication by the Local Government Commissioner for Standards, I may be required to give spoken evidence at a public hearing.

Dated this 4th day of October 2018

Signature of Investigator by whom
statement was recorded or received

Signature of Witness



I am an Investigator employed by the NI Local Government Commissioner for Standards. I have investigated complaints regarding possible breaches of the NI Local Government Code of Conduct for Councillors since 1 December 2015. On 19 September 2018 I met with Paul Golding, Leader of the group Britain First. Mr Golding had visited the Commissioner's premises at 33 Wellington Street, Belfast, by appointment to provide a statement relating to a complaint he had made against Councillor Jolene Bunting. I was accompanied by my colleague, Robert Bannon. I could see that Mr Golding had brought two electronic devices with him which he explained were his Apple Mac notebook and his mobile phone, an iPhone 8+. I gave Mr Golding the password to enable him to access the Office wifi, which he did using his Apple Mac. Mr Golding stated that Councillor Bunting had phoned him in a bit of a panic a day or two before 28 June 2018 and informed him that she had been fined £500 by Belfast City Council as a punishment for Jayda Fransen's use of the Council Chamber in January 2018. He stated that Councillor Bunting had emailed him a copy of her payslip which contained an amount of £545.38 under the heading 'Other Deductions' which he accepted as proof of the fine. Using his Apple Mac, Mr Golding showed me the Inbox for email address [REDACTED] where I saw Jolene Bunting's name appear within a list of names from whom emails had been received on 28 June 2018. I noted the email

Signature of Witness



Signature witnessed by

Continuation Statement of Jeffrey McWatters

Page No: 2

address and the list of names on a piece of paper which I identify as Exhibit JM1. He opened the email from Councillor Bunting and I saw a copy of the document identified by Mr Golding as Exhibit PG1. Mr Golding confirmed that he had accepted Ms Fransen's actions to be a Britain First publicity stunt and advised Councillor Bunting that he would pay the fine she had received. Using his mobile phone he showed me a series of text messages dating from 18 July 2018 that he had received from Councillor Bunting regarding payment of the money. I noted the messages down as they appeared and I identify this note as Exhibit JM2. Mr Golding explained that he made two payments by bank transfer to Councillor Bunting, £50.00 on 3 July 2018 and £65.00 on 19 July 2018. Using the Apple Mac, Mr Golding logged into a Lloyds business bank account named [REDACTED] and showed me a screen containing details of the £50.00 payment which left a balance in the account of £1,379.56. I noted the screen details down which I identify as Exhibit JM3. He also showed me a screen containing details of the £65.00 payment which left a balance of £1,775.79. I noted the screen details down which I identify as Exhibit JM4. I noted down details of Councillor Bunting's bank account details on Exhibit JM4. The reverse of Exhibit JM4 also contains some notes I made during my meeting with Mr Golding and other details pertaining to the [REDACTED] bank account. I asked to see the contacts list on Mr Golding's iphone 8+. I noted down Jolene Bunting's name among a list of names that appeared on the phone's screen at the same time. Mr Golding opened the contact for Jolene Bunting and I noted down the mobile phone number that appeared, [REDACTED]. I identify this note as Exhibit JM5. I took a statement from Mr Golding which he signed before leaving the premises. Later on 19 September 2018, I received an email from Mr Golding containing the Councillor Bunting's June 2018 payslip as an attachment which I identify as Exhibit JM6.



Signature of Witness

Signature witnessed by