

A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT FROM 1 APRIL 2014 TO 18 AUGUST 2014

To: **Constitution & Ethics Committee**

Date: **18 August 2014**

From: **The Monitoring Officer**

Electoral division(s): **All**

Forward Plan ref: **N/A**

Key decision: **No**

Purpose: **To brief the Constitution & Ethics Committee on the number and nature of the complaints received about Members under the Code of Conduct from 1 April to 18 August 2014 and to confirm the outcome of a complaint referred to the Hearing Sub-Committee.**

Recommendation: **It is recommended that the Constitution & Ethics Committee note the contents of this report.**

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1. INTRODUCTION

- 1.1. The Localism Act (“the Act”) places a statutory duty on the County Council to promote and maintain high standards of conduct amongst its Members and co-opted Members. This includes the obligation on the County Council to have in place a Code of Conduct setting out the standard of conduct expected of Members when acting in their capacity as County Councillors.
- 1.2. The requirements of the Act are supported by Article 9 of the Constitution which also requires the Constitution & Ethics Committee to monitor the operation of the Code of Conduct and the complaints received under it.
- 1.3. This report serves to provide the Constitution & Ethics Committee with an overview of the complaints received under the current Code of Conduct from 1 April – 18 August 2014.

2. OVERVIEW OF NEW COMPLAINTS

- 2.1. Between 1 April 2014 and 18 August 2014, 3 new complaints were received by the Monitoring Officer.
- 2.2. The Monitoring Officer and Independent Person carried out an assessment of each of these complaints and the following action was taken:
 - 2.2.1. 2 complaints were deemed to be outside of the jurisdiction of the Code of Conduct as the Members concerned were not acting in their capacity as Councillors at the time of the alleged incidents; and
 - 2.2.2. 1 complaint was referred for local resolution by means of a written letter of apology.
- 2.3. A detailed summary of each of the complaints is contained in Appendix 1.

3. OUTCOME OF SUB-COMMITTEE HEARING

- 3.1. At the meeting of the Constitution & Ethics Committee on 22 April 2014, a complaint made against Cllr Leeke was referred to a Hearing Sub-Committee for determination.
- 3.2. The Hearing Sub-Committee (comprising Cllr Kindersley (Chair), Cllr Frost and Cllr Rylance) met on 12 August 2014.
- 3.3. In summary, the Sub-Committee found that Cllr Leeke breached the Members’ Code of Conduct by releasing confidential information in a press release relating to the Corporate Leadership Team pay. Further, owing to the sensitive nature of the information released, Cllr Leeke had also brought the Authority into disrepute.
- 3.4. A copy of the decision of the Sub-Committee is attached at Appendix 2.

Source Documents	Location
1. Initial Assessment Decision Notice – Cllr Reeve	<p>Available from Legal on request</p> <p>Contact:</p> <p>Katy Carson Lawyer (Contracts & Commercial) LGSS Law Cambridgeshire and Northamptonshire County Councils Tel: 01223 699165 Email: katy.carson@cambridgeshire.gov.uk</p> <p>SH1201 Shire Hall Castle Hill Cambridge CB3 0AP</p>
2. Initial Assessment Decision Notice – Cllr Clapp	Available from Legal on request see above
3. Initial Assessment Decision Notice – Cllr Curtis	Available from Legal on request see above
4. Hearing Sub-Committee Decision Notice	See Appendix 2 to this report.

APPENDIX 1

Report to the Constitution & Ethics Committee

Overview of complaints made against Members

1 April 2014 to 18 August 2014

Cllr Peter Reeve

Complaint against:	Cllr Peter Reeve
Date of Complaint:	13 May 2014
Complainant:	Mr Ben Ansell
Allegation:	This complaint arose as a result of a newspaper article which reported that a UKIP councillor from Cambridgeshire asked the police to attend the address of a member of the public who had posted a tweet criticising UKIP policies. It was determined that the relevant Cambridgeshire councillor was Cllr Reeve. The Complainant alleges that Cllr Reeve's conduct in requesting the police to intervene in this matter, despite no laws having been broken, was a breach of the Members' Code of Conduct.
Current Status:	Decided
Outcome:	The Independent Person concluded there was no jurisdiction to hear this complaint under the Code of Conduct. Cllr Reeve was not acting, or purporting to act in his capacity as a Councillor at the time of the alleged incident. On the balance, the evidence suggested that Cllr Reeve was acting in his capacity as a UKIP party member and not as a Cambridgeshire County Councillor.
Date of final decision:	28 May 2014

Cllr Clapp

Complaint against:	Cllr Paul Clapp
Date of Complaint:	24 May 2014
Complainant:	Cllr Martin Curtis
Allegation:	<p>The Complainant alleges that the language used by Cllr Clapp in submitting a complaint to Fenland District Council concerning Cllr Steve Tierney was in appropriate and in breach of the Members' Code of Conduct. Cllr Clapp had written in his complaint:</p> <p><i>"if this is how Cllr Tierney gets his kicks then in my opinion [sic] he is mentally ill and should not be a part of Wisbech Town Council."</i></p>
Current Status:	Decided
Outcome:	<p>The Independent Person concluded that there was jurisdiction to hear this complaint under the Members' Code of Conduct. The Independent Person decided there was scope for finding a breach of paragraph 2.1 (treating others with respect) and paragraph 2.2(e) (bringing your office or authority into disrepute) of the Member's Code of Conduct. The language used by Cllr Clapp was personal in nature and goes beyond the usual political banter which may be expected between members of opposing political parties. Such language was unacceptable from a councillor at any time.</p> <p>Cllr Clapp wrote a letter of apology to Cllr Steve Tierney.</p>
Date of final decision:	17 June 2014

Cllr Curtis

Complaint against:	Cllr Martin Curtis
Date of Complaint:	1 July 2014
Complainant:	Cllr Hales (South Cambridgeshire District Council)
Allegation:	Cllr Curtis wrote a letter dated 26 June 2014 on behalf of Curtin & Co. Cllr Curtis is an Associate Director of Curtin & Co. In that letter Cllr Curtis sought to arrange a meeting between the Complainant and the Developer of a proposed wind farm. Cllr Curtis also referred to the fact that he was a Councillor. The Complainant alleges that as a result of this letter, Cllr Curtis had used or attempted to use his position as a Councillor to his advantage.
Current Status:	Decided
Outcome:	The Independent Person concluded there was no jurisdiction to hear this complaint under the Code of Conduct. Cllr Curtis was not acting, or purporting to act in his capacity as a Councillor at the time of the alleged incident. He had not specified that he was a County Councillor and he signed the letter as an Associate Director for Curtin & Co.
Date of final decision:	10 July 2014

APPENDIX 2

Cambridgeshire County Council

Decision of Constitution and Ethics Committee Hearings Sub-Committee

Date of hearing:	12 August 2014
Subject Member:	Cllr Leeke
Sub-Committee:	Cllr Kindersley (Chair) Cllr Frost Cllr Rylance
Attended by:	Quentin Baker (Monitoring Officer) Gill Holmes (Independent Person) Darren Williams (Investigating Officer) Ruth Yule (Democratic Services Officer)

Background

1. The Hearings Sub-Committee of the Constitution and Ethic Committee met on 12 August 2014 in connection with a complaint made against Cllr Leeke ("Subject Member"). The complaint alleged that the Subject Member:
 - (i.) released confidential information in breach of the Code of Conduct; and
 - (ii.) brought his Office or the Authority into disrepute.

In accordance with the Council's Complaints Procedure, the Complaint was initially considered by the Monitoring Officer and the Independent Person who concluded that this matter warranted referral for investigation. An investigation was carried out into these allegations by an Investigating Officer. Details of this investigation and the procedural steps taken in assessing this complaint are contained in the report to the Sub-Committee published on the [Council's website](#).

2. The role of the Sub-Committee was to hear and consider evidence in order to determine whether, on the balance of probabilities, all or any of the facts set out in the investigating officer's report were established and whether, on the basis of the established facts, the Subject Member had breached the CCC Member's Code of Conduct.
3. In arriving at its decision the Sub-Committee considered oral and written submissions from both the Investigating Office and the Subject Member.

Findings of Fact

4. The Sub-Committee found the following facts had been established on the balance of probabilities:
 - (i.) The "Corporate Leadership Team Pay Review 2013/14" ("the Report") which was to be put before the Appointments and Remuneration Committee on 16

September 2013 was confidential and the Subject Member was aware of this;

- (ii.) The Report detailed a proposed pay increase for senior members of staff;
- (iii.) The Subject Member attended a Group Leader's meeting on 22 August 2013 at which the contents of the Report was discussed;
- (iv.) The Subject Member was aware that the information discussed at the Group Leader's meeting was confidential;
- (v.) The Subject Member approved a press release published on 11 September 2013, which included the line: *'The proposal to give the council high earners a pay rise has angered the county's Liberal Democrats who claim it is "devastating for staff morale."*
- (vi.) The fact that the report contained a proposal for a pay rise was confidential and was not in the public domain prior to the issuing of the release.
- (vii.) At no point during the relevant period of time did the Subject Member seek or obtain the advice of the Monitoring Officer in relation to the release of the information contained within the press release.
- (viii.) The Subject Member has considerable experience as an elected member.

Conclusions

5. On the basis of the established facts, the Sub-Committee found:

- (i.) in relation to the first allegation, the Subject Member released what he knew, or ought reasonably to have known, was confidential information of which he had become aware as a result of his attendance at the Group Leaders' meeting on 22 August 2013. This was in direct breach of paragraph 3.1 of the Members' Code of Conduct; and
- (ii.) in relation to the second allegation and given the finding in relation to the first allegation, that as the press release dealt with confidential and sensitive information, the Subject Member was in breach of paragraph 2.2(e) of the Members' Code of Conduct: *'You must not... conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.'*

Date of Decision Notice: 13 August 2014