

**CONSTITUTION AND ETHICS COMMITTEE**  
**HEARINGS SUB-COMMITTEE: MINUTES**

**Date:** Tuesday 12th August 2014

**Time:** 2.00pm – 4.40pm

**Place:** Kreis Viersen Room, Shire Hall, Cambridge

**Present:** Councillors S Kindersley (Chairman), S Frost and S Rylance

**Also in attendance:** Councillor M Leeke

**1. ELECTION OF CHAIRMAN/WOMAN**

It was resolved that Councillor Kindersley be elected Chairman for the meeting.

**2. TERMS OF REFERENCE AND MEMBERSHIP**

The Sub-Committee noted its terms of reference. Members and others present introduced themselves:

- Darren Williams, Investigating Officer
- Gill Holmes, Independent Person
- Councillor Maurice Leeke, Subject Member
- Quentin Baker, LGSS Director of Law & Governance and Monitoring Officer
- Katy Carson, Legal Officer
- Ruth Yule, Democratic Services Officer, clerk.

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**4. CODE OF CONDUCT COMPLAINT – COUNCILLOR MAURICE LEEKE**

The Sub-Committee considered a complaint made against Councillor Maurice Leeke alleging that he had breached the Members' Code of Conduct by disclosing confidential information and bringing his office or the authority into disrepute.

The alleged disclosure of information had taken place in a press release issued by the Liberal Democrat Press Officer on 11th September, which had indicated that the Council's Appointments and Remuneration Committee was due to discuss a pay rise for senior officers at its meeting on 16th September. The contents of the committee report 'Corporate Leadership Team Pay Review 2013/14' were confidential at the time of the press release and of the committee meeting.

**The presentation of the investigation report**

The Investigating Officer introduced his report, explaining that he had left the Council's employment in December 2013, when the report on his investigation and findings had been in early draft. The final version of the report had therefore been completed by the Head of Audit. Members noted the evidence considered during the investigation, the background to the allegations, the Investigating Officer's consideration of the facts, and his reasoning and findings on each of the two allegations in turn.

## Allegation 1 - Release of Confidential Information

The Sub-Committee noted the Investigating Officer's reasoning and finding, in summary that

- there was no evidence to indicate that the Subject Member had circulated the confidential committee report to any individuals
- the Subject Member had shared sufficient information in respect of the confidential report to enable a press release to be created
- the Subject Member had not been available to make a decision as to whether to retract the press release following the Chief Executive's expression of concern about its factual accuracy
- the Subject Member had breached Point 3.1 of the Members' Code of Conduct by disclosing information given to him in confidence.

In answer to questions from the Sub-Committee and the Subject Member seeking clarification and further information, the Investigating Officer replied that

- some people may have felt there was a distortion of the facts as presented by the press release, because it suggested that lower-paid staff were getting a pay cut while higher-paid ones would receive an increase
- while he had not himself seen a letter to lower-paid staff advising them that they would be subject to a proposed cut of 3% in either pay or benefits in kind, it was his understanding that the possibility of a 3% cut had arisen in the context of budget planning, and that the cut would have applied to all staff
- the existence and title of the report to the Appointments and Remuneration Committee was not confidential, but in his view, it was not possible to tell from its title that the report was suggesting a pay rise for senior staff
- the Subject Member had been present at a meeting of Group Leaders at which the content of the report had been discussed.

The Chairman commented that the question was whether the contents of the press release were a breach of confidential information or a lucky guess based on the title of the agenda item.

## Allegation 2 - Conduct which could reasonably be regarded as bringing your office or authority into disrepute

The Sub-Committee noted the Investigating Officer's reasoning and finding, that the Subject Member's action of releasing confidential information into the public domain had the potential to further damage the relationship between senior officers and members and was therefore in breach of the general provision 2.2 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.'

In answer to questions from the Sub-Committee and the Subject Member seeking clarification and further information, the Investigating Officer replied that

- to a large degree, it was the general public that judged on the question of disrepute, though it was for officers to define what constituted disrepute; the Investigating Officer's view of what constituted bringing a member's office or authority into disrepute was set out in his reasoning on allegation 2

- no complaints had been received from members of the public to suggest that the Subject Member had brought his office or authority into disrepute, and there was no proof that the public had been upset by his conduct
- it was possible for a council itself to do something that was likely to bring its own authority into disrepute.

### **The calling of witnesses**

Neither the Investigating Officer nor the Subject Member called any witnesses.

### **Submissions by the Subject Member**

The Subject Member told the Sub-Committee that the only issue concerned whether confidential information had been released. It was not the case that he had released confidential information, because the matter of the Corporate Leadership Team Pay Review was on the agenda of the Appointments and Remuneration Committee, and the existence of the report was not confidential. It was reasonable to take the report title to mean that a pay increase was being proposed; it could have been a reduction, but it did not rule out a pay increase.

The pay reduction mentioned in the press release referred to a letter generally distributed to low-paid staff telling them of a possible 3% cut in salary or benefits such as travelling allowances; there was no question of the letter being confidential, because it had been debated amongst staff and in the press. The contents of the press release that was the subject of the complaint had been in the public domain.

In answer to questions from the Sub-Committee and the Investigating Officer, the Subject Member replied that

- the report title 'Corporate Leadership Team pay review' on the agenda for the Appointments and Remuneration Committee could be interpreted as meaning that the pay was to go up, go down or stay the same; it was announcing to the public that the Committee would be considering the pay of senior staff
- the Group Leaders' meeting at which the report had been discussed had taken place in mid-August, though he could not recall the precise date; he had been aware that the meeting had been confidential and therefore had not breached the contents of the report
- the press release had been issued on 11th September because, in his opinion, the previous administration had been wrong to suggest a 3% across-the-board pay cut in a letter to staff in about July 2013; it was the pay cut, not the proposed pay rise, that was wrong
- although there were two Liberal Democrat members on the Appointments and Remuneration Committee, any debate at Committee would have been held in private, so he had taken the decision to issue the press release because he thought the different treatment being given to two groups of staff merited being brought to the attention of a wider audience. The Council had subsequently reflected, and had withdrawn the 3% pay cut
- he had not consulted the Monitoring Officer about the contents of the press release because he had thought that its content did not include confidential information and was of interest to a wider public; members had a responsibility to give the public insight into what the Council was doing in its name.

The Chairman said that the Panel had to decide whether the release of information was the result of a logical supposition from the report title on the agenda, or a breach of confidential information from the Group Leaders' meeting.

### **Concluding remarks**

The Investigating Officer told the Sub-Committee that their questions had highlighted the issues in his report. The Subject Member would have been aware of the proposed Corporate Leadership Team pay rise from his attendance at the Group Leaders' meeting. The letter to staff about a pay cut was a separate issue.

The Subject Member said that the information he had released related to the existence and import of the committee report, rather than containing any details about its content. The report had been a main item on the agenda of the Appointments and Remuneration Committee, and no disclosure of confidential information had taken place.

### **Consideration of the complaint**

The Sub-Committee, accompanied only by the Monitoring Officer, the Independent Person and the clerk, withdrew to consider whether the facts found in the Investigating Officer's report were established on the balance of probabilities. The Sub-Committee considered all the information presented to it, both orally and in writing, in order to reach its decision.

The members of the Sub-Committee, with the Monitoring Officer, Independent Person and clerk, returned to the meeting room, where the Chairman announced the Sub-Committee's findings to the Subject Member and the Investigating Officer.

### Findings of fact

The Panel found as a fact that Councillor Leeke had approved the press release of 11th September, 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."'

The Panel found on the balance of probabilities that Councillor Leeke had released what he knew, or ought reasonably to have known, was confidential information arising from his attendance at Group Leaders' meeting on 22nd August.

Releasing confidential information into the public domain was a direct breach of the Members' Code of Conduct. The statement in the press release dealt with confidential and sensitive information and was therefore in breach of general obligation 2.2(e), 'You must not... conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.'

### Sanctions

The Sub-Committee went on to consider what the appropriate sanction might be (if any) for the Subject Member given the established facts of the case.

Invited to express a view on whether a sanction should be imposed, the Subject Member stated that he disagreed with the Sub-Committee's conclusion, because he believed that there were matters that should be in the public domain and believed that he had demonstrated that this matter had been in the public domain. The

entire complaint process had taken a very long time; he felt that lessons had been learnt on all sides and that it would be appropriate for the Sub-Committee now to regard the matter as concluded without any further sanction.

Invited to make representations as to the appropriate sanction (if any), the Independent Person reminded members that she had originally recommended that an appropriate course of action would be for the Subject Member to write a letter of apology to the Chief Executive, a sanction that she still regarded as appropriate.

The Sub-Committee agreed that its findings should be reported to the Constitution and Ethics Committee, and that the Subject Member should write a letter of apology to the Chief Executive.

The Chairman advised that the Sub-Committee's full written decision would be made available within ten working days. He thanked the Independent Person and the Monitoring Officer, and closed the hearing.

Chairman