

INITIAL ASSESSMENT OF COMPLAINT DECISION NOTICE

Subject Member: Cllr Lucy Nethsingha – Cambridgeshire County Council

1. Background

- 1.1. On 16th December 2018 the Monitoring Officer received a formal complaint from Councillor Count (“the Complainant”), alleging that Cllr Nethsingha (“the Subject Member”) had breached the Cambridgeshire County Council Code of Conduct.
- 1.2. The substance of the complaint relates to an online article published by Cambridgeshire Live on 9th November 2018 and subsequently then discussed on Radio Cambridgeshire. In particular it is alleged that Councillor Nethsingha had used the following words “not safe”, ‘not a safe or sensible solution’ and ‘horrendous’ without basis and in direct opposition to the information supplied by officer. It is alleged that by so doing Cllr Nethsingha had implicitly implied that the Council had put a person at risk and that that conditions arranged for the person in question were below an acceptable standard which is denied.

2. Evidence Considered

- 2.1. The following documents and information were considered for the purposes of this initial assessment of this complaint:-
 - 2.1.1. Complaint sent by email on 5th February 2019 together with the links referred to therein;
 - 2.1.2. Responses from the Subject Member sent by email on 5th to 7th February 2019; and
 - 2.1.3. The Council’s Members’ Code of Conduct.

3. Jurisdiction

- 3.1. For a complaint to be considered in connection with the Member’s Code of Conduct, the following test must be satisfied:
 - 3.1.1. the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council; and
 - 3.1.2. the Subject Member had signed up to the Members’ Code of Conduct in force at the time the alleged action took place; and
 - 3.1.3. the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.

- 3.2. The Independent Person and Deputy Monitoring Officer have concluded all three limbs of this test are satisfied in this matter.

4. Initial Assessment Decision

- 4.1. The Independent Person has considered whether the actions of the Subject Member described in paragraph 1.2 above constitutes a breach of the following provisions of the Members' Code of Conduct:

- 4.1.1. You must treat others with respect (para 2.1 Code of Conduct);
- 4.1.2. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (para 2.2(e) Code of Conduct.

- 4.2. The complaint and subject member's response can be summarised as follows:

- 4.2.1. Councillor Count alleges that Councillor Nethsingha has failed to treat officers with respect by disregarding the information that was shared with her relating to the circumstances of the individual concerned. In particular it is said that whilst assurances were given that the individual was safe and receiving 24 hour care Councillor Nethsingha's comments to the media were not reflective of that and were sufficiently sensationalised as to cause reputational damage to the council.
- 4.2.2. Councillor Nethsingha contends that she does not believe that the circumstances the individual was in prior to her being removed was safe as supported by the fact that she was relocated to the Travelodge. Furthermore she does not consider that a Travelodge is suitable accommodation for an individual suffering from advanced dementia. Councillor Nethsingha has explained that her use of the term 'horrendous' was intended to apply to the situation and not the hotel itself. Furthermore it remains her view that for a care-worker to be looking after an active individual with dementia in a hotel would be pretty awful and has great concern for anyone put in that situation. Councillor Nethsingha has confirmed that she did not intend to blame individual council employees for the circumstances and she acknowledges being aware that there were difficulties in managing this case. Her concern however was that the system is not sufficiently well resources and the financial pressures and staff workload pressures in her view are leading to poor decision making in some cases. To that end Councillor Nethsingha believes the financing of the social care system, and the workload of social work staff to be a matter for legitimate political debate, and thus entirely within her role as Leader of the Liberal Democrat group.

4.2.3. Councillor Nethsingha has also sought to clarify aspects of the complaint as follows:

4.2.3.1. "Councillor Count's assertion: "Not safe" Cllr. Nethsingha has implicitly implied we have put a person at risk. I said "I am concerned that the county council is pretending that it can manage this shortage by caring for people in their homes, when in fact that is not a safe or sensible solution" — that is a general point, and by definition not even related to the situation of the lady in the Travelodge.

4.2.3.2. Councillor Count asserts: "Not safe or sensible solution" Cllr. Nethsingha has implicitly implied our actions allow us to continue to put individuals at risk. As above, and entirely legitimate matter for political debate.

4.2.3.3. Councillor Count asserts: "Horrendous" Cllr. Nethsingha has implicitly implied that the conditions we arranged for this person to temporarily live in were far below what would be an acceptable standard. I said "I don't know how long she was in a Travelodge with her carer, but the idea of having to care for someone in this state in a Travelodge, even for a few days, is pretty horrendous". That's a comment about how difficult it would be for the carer to have to care for someone with this condition in a hotel."

4.2.4. Councillor Nethsingha has declined to apologise or retract her statement.

4.3. The Independent Person and Deputy Monitoring Officer, having considered all of the available evidence, have concluded as follows:

4.3.1. As to the question of whether Councillor Nethsingha has failed to treat others with respect; it was felt that the comments made were not designed with the deliberate intent to be disrespectful. It is however acknowledged that the views of officers who had provided reassurances were disregarded for the purpose of the article which could be construed as undermining the integrity of their views. This is balanced again the fact that no individuals were personally named and, as per Councillor Nethsingha's response, many of the comments were intended to be considered in the 'broader' sense as opposed to specifically in relation to this particular case. Nevertheless it is acknowledged that officers may have felt devalued by the comments made and whilst this is unlikely to have been the intended consequence is something which must be considered in future.

4.3.2. As to the question of whether Councillor Nethsingha has behaved in a way that could reasonably be regarded as bringing herself or the authority into disrepute; it is acknowledged that the comments made were of a critical nature and had the effect of highlighting concerns generally and in relation to the particular individual associated with the article. Councillor Nethsingha however contends that her comments did not go beyond those which she is reasonably entitled to make in a political arena and as the Leader of the Liberal Democrats. Whilst this is acknowledged, the words published have again to be considered in conjunction with the advice that was given by officers.

4.4. In summary the Independent Person's view is that:

4.4.1. In respect of the allegation of Cllr Nethsingha having failed to treat others with respect, whilst it is clear that there are lessons to be learnt it is not considered that this reaches the threshold for further investigation.

4.4.2. In respect of the allegation that Cllr Nethsingha is guilty of bringing herself/Cambridgeshire County Council into disrepute, whilst in the overall context it is considered that the remarks don't go far enough to amount to a breach of the code, there is a very fine line to be drawn and care should always be taken to ensure the accuracy of the information published.

4.5. As a consequence of the above, the Independent Person advised that in her opinion there was no apparent breach of the Code of Conduct and therefore no further action should be taken.

4.6. The Deputy Monitoring Officer concurs and therefore no further action will be taken.

Approved By: **Gill Holmes (Independent Person)**
 Amy Brown (Deputy Monitoring Officer)

Dated: **26th March 2019**