

**Cambridgeshire County Council
Hearings Sub-Committee**

Pre-Hearing Summary Report

1. Summary

This document summarises the results of the pre-hearing process relating to the above complaint. In particular, it sets out the details of the hearing and the process this matter has been through prior to the hearing date. It also sets out those facts in the investigation report which are agreed and those which are in dispute.

2. Subject Member: Cllr Leeke

3. Complainant: Cllr Count

4. Hearing Date

The Hearing has been scheduled to take place on 12 August 2014 at 2pm.

5. Hearing Panel:

Cllr Kindersley (Chair)
Cllr Rylance
Cllr Frost

6. Monitoring Officer:

Quentin Baker

7. Independent Person:

Gill Holmes

8. Investigating Officer:

Darren Williams

9. Clerk of the Hearing:

Ruth Yule

10. Attendance of Subject Member

The Subject Member is attending the hearing.

11. Attendance of Witnesses

- The Subject Member does not wish to call any witnesses.
- [The Investigating Officer does not intend to call any witnesses.]

12. Proposed Hearing Procedure

Circulated as Appendix 1 to the Sub-Committee Report

13. Summary of the Complaint

On 12 September 2013, a complaint was received from the Complainant alleging that the Subject Member had breached the Code of Conduct through the disclosure of a confidential

paper entitled "Corporate Leadership Team Pay Review 2013/14" that was due to be considered by the Council's Appointment and Remunerations Committee at its meeting on 16th September 2013. The confidential paper is alleged to have been disclosed through a press release (a copy of which is attached at **Appendix A**)

14. Relevant Sections of the Code

The Complainant alleged that the Subject Member was responsible for the public disclosure of confidential information, in breach of paragraph 3.1 of the CCC members' code of conduct. This paragraph states:

- "3.1 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:*
- a) you have the consent of a person authorised to give it;*
 - b) you are required to do so by law;*
 - c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or*
 - d) the disclosure is:*
 - e) reasonable and in the public interest; and*
 - f) made in good faith and in compliance with the reasonable requirements of the authority."*

There is also a Members' Code of Conduct – Guidance on Confidentiality attached at **Appendix B** to this report.

The Complainant also alleged that the Subject Member acted in such a manner as to bring their office or authority into disrepute, in breach of paragraph 2.2 (e) of the code:

15. Pre-Hearing Stages

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 should be referred for further investigation. The Monitoring Officer instructed LGSS Risk & Management Service to carry out this investigation. The investigation was completed by Darren Williams (who now no longer works for the Council) and a copy of the investigation report has been circulated as Appendix 1 to the Hearing Sub-Committee Report.

Following receipt of the final investigation report, the Independent Person and Monitoring Officer reviewed the recommendations of the report and the Independent Person recommended that the complaint should be referred to the Constitution & Ethics Committee for determination. A copy of the Independent Person's recommendation is attached at **Appendix C**. The Constitution & Ethics Committee met on 22 April 2014 to consider the investigation report. The Committee decided, by majority vote, that this complaint should be referred to a hearing. An extract of the minutes is set out in paragraph 16 below.

16. Extract of Minutes from the Constitution & Ethics Committee: 22 April 2014

"The Committee then turned to the report and comments in relation to the complaint against Councillor Maurice Leeke.

Speaking at the Chairman's invitation, Councillor Leeke explained that he had stood down as a member of the Committee for the current meeting as it would be

inappropriate for him to consider his own conduct. He assured the Committee that he had neither disclosed confidential information nor brought his office or the authority into disrepute; the information he had disclosed was not confidential but had appeared on the agenda sheet of the Appointments and Remuneration Committee for 16th September 2013.

In the course of answering questions of clarification from members of the Committee, Councillor Leeke further stated that

- he had not consulted other group leaders when drafting the press release of 11th September, because he had already pointed out to them the problem of cutting and increasing pay for different groups of staff*
- in his view, the report submitted to the Appointments and Remuneration Committee – and subsequently published non-confidentially for the meeting of the Resources and Performance Overview and Scrutiny Committee held on 26th September – should never have been confidential*
- the status of information brought to group leaders' meetings had not always been clear at that time, though procedures had now been changed to mark each agenda item as confidential or non-confidential*
- at the time of the 11th September press release, he had believed the information the press release contained to be correct and not confidential; that a pay rise was being proposed for senior staff had been a guess that happened to correspond to the contents of the report*
- he had not sought the Monitoring Officer's advice before issuing the press release because it did not disclose any confidential information.*

Councillor Leeke then withdrew from the meeting, and the Committee considered what further action, if any, should be taken in relation to the complaint. In the course of discussion, a range of views was expressed, including that

- no further action should be taken because there had been confusion over the status of the information discussed at the group leaders' meeting; the press release had been based on the discussion at the group leaders' meeting and had not contained any confidential information*
- the fact that the report was due to be considered by the Appointments and Remuneration Committee – which received a large number of confidential reports – should have raised a group leader's suspicions that the matter might be confidential*
- a hearings sub-committee should be established to decide how to deal with the complaint, which concerned an ill-advised action by Councillor Leeke, rather than trying to arrive at a judgement in full committee*
- the press release had gone beyond the content of the agenda front sheet and had wrongly juxtaposed two separate matters*
- if Councillor Leeke were prepared to resolve the matter in a manner that satisfied the Chief Executive, for example by writing a letter of apology to him, it would not be necessary to convene a hearings sub-committee*
- a hearings sub-committee would be the appropriate forum in which to examine further Councillor Leeke's total rejection of the investigating officer's report.*

The Committee decided by a majority that a hearings sub-committee should be established to consider the complaint and report relating to the allegation that Councillor Leeke breached the Members' Code of Conduct."

17. Summary of the findings in the investigation report

To assist the panel, the following is a brief summary of the findings contained in the investigation report:

- Allegation 1: Disclosure of confidential information – the Investigating Officer concluded on the facts that the Subject Member breached paragraph 3.1 of the Code of Conduct relating to the release of confidential information. It was acknowledged that the Subject Member did not circulate the actual confidential report; however, he released enough information for a press release to be compiled.
- Allegation 2: Bringing the Subject Member's office or the Authority into disrepute – the Investigating Officer concluded on the facts that the Subject Member breached paragraph 2.2(e) of the Code of Conduct. The Subject Member was aware of the confidential nature of the committee report prior to authorising the press release. As a result of the Subject Member's actions, the Council had to take action to mitigate the impact of the release of the information into the public domain. Therefore, the Investigating Officer found that the action had the potential to damage the relationship between the Senior Officers and Members and therefore the Subject Member brought his office/the Authority into disrepute.

18. Findings of fact in the Investigation Report that are agreed

The key facts in the Investigation Report that are agreed are:

- The "Corporate Leadership Team Pay Review 2013/14" report was confidential and the Subject Member was aware of this;
- It is agreed that there is no evidence that the Subject Member circulated the confidential committee report to any person;
- There is no dispute as to the contents of the press release or the extent of the Subject Member's involvement in its creation. It is also agreed that it was the Subject Member who authorised the publication of the press release.
- It is agreed that the press release referred to the existence of the committee report and the fact that certain staff could get a pay rise. However, it did not give any direct quotes from the confidential committee report;
- The Subject Member had received a copy of the confidential committee report at the time of his input into the press release;
- The Subject Member understands that the discussions at a group leaders meeting are confidential until that matter goes to committee and any issues on an individual's pay are permanently confidential;
- The Chief Executive emailed the Subject Member to inform him that the press release contained misleading information. However, the Subject Member was not around at the time that email from the Chief Executive was sent and therefore he could not action the request to remove the press release;
- No discussions were held by the Subject Member with the Monitoring Officer prior to issuing the press release.

19. Findings of fact in the investigation report that are not agreed

As part of the pre-hearing process, the Subject Member was asked to indicate which of the facts in the investigation report he did not agree with. The Subject Member's statement in response is set out in **Appendix D** to this report.

From this response it does not appear that the Subject Member disagrees with the facts found by the Investigating Officer as set out in his investigation report.

Instead, the Subject Member takes issue with the conclusion drawn by the Investigating Officer at paragraph 4.14 that the only possible source of the information contained in the press release was the confidential committee report itself. The Subject Member's case is that the information was also available from the agenda for the Appointments and Remuneration Committee which was already in the public domain and was not marked as confidential. A copy of this agenda is attached at **Appendix E**

20. Directions from the Monitoring Officer on the facts of this case

The Monitoring Officer directs the Panel to note that the fact that a report on Corporate Leadership Team pay was in existence and that it was being taken before the Appointments & Remuneration Committee is a matter of public record. As evidenced by the agenda annexed at **Appendix E**.

However, the Panel may feel it is necessary to explore and seek further clarification from the Subject Member as to the source of the information contained in the press release indicating that there would be a pay increase for some Council staff.

Report date: 30 July 2014

Appendix A – Press Release

From: Annie Green [mailto:Annie.Green@heart.co.uk]
Sent: 11 September 2013 12:08
To: Miller Mark; Thwaites Glenn
Subject: Press Release Forward

From: Lesley Innes [mailto:lesley.innes0@googlemail.com]
Sent: 11 September 2013 11:55
To: County media; Tom Horn; Cambridgeshire News
Subject: Press Release: Council high-earners could get pay rise as staff face pay squeeze
Contact: Lesley Innes 07914 083 230

Embargo: Immediate

September 11, 2013

COUNCIL HIGH-EARNERS COULD GET PAY RISE AS STAFF FACE PAY SQUEEZE

High-earning Cambridgeshire County Council officers could get a pay increase just weeks after the rest of the staff were told they face a pay cut and even possible redundancy.

The news has come as a huge blow to staff who received a letter in July from Chief Executive, Mark Lloyd warning they faced a pay cut of up to three per cent or the loss of a similar amount through changes to their employment terms and conditions.

If these measures failed to deliver the savings to help the county council balance its books, redundancy could be on the cards they were warned.

The proposal to give the council's high earners a pay rise has angered the county's Liberal Democrats who claim it is "devastating for staff morale".

County Lib Dem leader, Maurice Leeke said: "Cutting the pay of the lowest paid to give more to the high-earners cannot be justified in any organisation, and there is certainly no excuse for it in the public sector. This is an appalling example of double standards and will be devastating for staff morale."

Members of the council's Appointments and Remuneration Committee are to discuss the proposal set out in the Corporate Leadership Team Pay Review 2013/14 on Monday (September 16) as the council faces making savings of £32 million in the next year.

Mr Lloyd told staff in a letter that the council is facing "unprecedented times" and there are "difficult budget choices" to make.

He said the council's current employment costs stand at £128 million a year and the figure will need to be reduced by at least three million a year which could mean a two or three per cent pay cut for staff.

Other options being explored include changes to employment terms and conditions including reducing subsistence payments, freezing pay increments or a reduction in sick pay benefits.

If these options or a combination of options cannot deliver the necessary savings there may be no other choice than to consider higher levels of redundancies, he warned.

Ian Manning, Lib Dem Spokesperson on Resources said: "What happened to 'We're all in it together'? Just like the Lib Dems voted against raising councillor allowances at a time where staff pay has been frozen, so we should expect the same leadership from senior management."

CONTACTS: Maurice Leeke – 07900 005939

Ian Manning – 07931 958169

Appendix B – Members’ Code of Conduct – Guidance on Confidentiality

MEMBERS’ CODE OF CONDUCT - GUIDANCE ON CONFIDENTIALITY

Information about the following matters should be regarded as confidential except in the circumstances outlined in paragraphs (i) - (v):

1. Information which is marked as being confidential
2. Information where the recipient has been advised by a Council officer or member that the information is confidential
3. Information about individual service users or clients (past, present and prospective)
4. Information about individual employees or office holders (past, present and prospective)
5. Information relating to the names of tenderers, contractors, companies and the amounts and terms of contracts with the Council (past, present and prospective) prior to such information being released into the public domain when the tendering process has been completed
6. Information relating to potential or actual criminal proceedings
7. Information in documents which are circulated in draft
8. Personal information covered by the Data Protection Act 1998
9. Information relating to any court case or legal action which is not already in the public domain, unless there is specific legal advice to the contrary
10. Information supplied at lead member briefings, joint member meetings with the Strategic Management Team, and County Advisory Groups. Members will be advised whether the information may be made public.

Information is not confidential if it is already in the public domain. This will be:

- (i) Information contained in a published official document
- (ii) Information reported at a meeting which is open to the public
- (iii) Information on the Council’s website (this does not include the Council’s Intranet)
- (iv) Information where the member has been advised that it is in the public domain
- (v) Information to which the public have the right of access under the Local Government (Access to Information Act) 1985 which is not deemed to be exempt information.

Members must seek advice from the Monitoring Officer on the disclosure of confidential information in advance of the information being disclosed.

Appendix C – Independent Person’s Recommendations

INDEPENDENT PERSON’S COMMENTS REGARDING THE INVESTIGATING OFFICER’S REPORT

Subject Member: Cllr Maurice Leeke

1 Background

1.1 On the 12th September 2013, a complaint was received from Councillor Steve Count (the Complainant) alleging that Cllr Maurice Leeke (Subject Member) breached the Code of Conduct through the disclosure of a confidential report that was due to be considered by the Council’s Appointment and Remunerations Committee at its meeting on 16th September 2013. The confidential information was allegedly released in a press statement which the Subject Member contributed to and authorised to be sent out.

2 Summary of the Allegations

2.1 The Complainant alleges that the Subject Member was responsible for the public disclosure of confidential information, in breach of paragraph 3.1 of the CCC members’ code of conduct. The contents of the disclosure related to a confidential council paper entitled “Corporate Leadership Team Pay Review 2013/14” to be considered at the meeting of the Appointment and Remunerations Committee on 16th September 2013.

2.2 It is also alleged that the Subject Member acted in such a manner as to bring his office or authority into disrepute, in breach of 2.2 (e) of the code.

3 Outcome of Initial Assessment by Monitoring Officer and Independent Person

3.1 The Monitoring Officer and Independent Person carried out an initial assessment of this complaint and the Independent Person recommended that this matter warranted further action by way of a formal investigation. The formal investigation has been concluded and the findings conveyed in an Investigation Report. The Complainant and the Subject Member have had the opportunity to comment on this report as part of the investigation procedure.

3.2 The Independent Person has considered the findings of the Investigation Report and their comments in relation to this complaint are set out below.

4 Conclusions of the Investigating Officer

4.1 The Investigating Officer concluded that the Subject member had breached paragraph 3.1 of the code by releasing confidential information and brought his office or authority in to disrepute contrary to paragraph 2.2 of the code.

5 Comments of the Independent Person following consideration of the Investigating Officer’s Report

Release of Confidential Information

- 5.1** In considering whether there has been a breach of the provisions relating to confidential information within the Code of Conduct, the Independent Person notes, there was no physical release of the confidential report by the Subject Member to any other party and no direct quotes from the report were used in the press release. The information released by the Subject Member referred to the existence and import of a report that was due to go before a committee rather than containing details of the content of that report itself. However, the Independent Person considers that this could amount to a disclosure of confidential information, albeit indirectly, which implied what the contents of the confidential report may be.
- 5.2** The Independent Person urges the Subject Member to have respect for information marked as confidential in the future and to follow all proper procedures prior to any release of the same. The Independent Person notes that it is not for Members to determine if information marked as confidential has been correctly labelled as such and therefore whether or not it can be disclosed. In accordance with the Member's Code of Conduct - Guidance on Confidentiality, where there is any doubt as to whether information may be disclosed by a Member, advice must always be sought from the Monitoring Officer prior to disclosure.

Bringing the Authority into disrepute

- 5.3** Turning to the question of whether the Subject Member has brought the Council into disrepute, the Independent Person notes that the Subject Member failed to engage with the Chief Executive after the Chief Executive communicated to him that the information contained in the press release was factually misleading. By failing to respond in any way to the advice of the Chief Executive to retract the press release, the Subject Member has given rise to the risk that the public may have been misled as to the facts surrounding the Council's proposals on senior management salary increases.
- 5.4** In addition, the Independent Person is of the view that the release of factually incorrect information by an elected Member, in their capacity as an elected Member, undermines the ability of the authority to carry out its functions and brings the authority in to disrepute.
- 5.5** The Independent Person was disappointed to note that to date, no action has been taken by the Subject Member to correct the information contained in that press release. The Independent Person also notes that the Subject Member has not shown any remorse in relation to his actions that gave rise to this complaint.
- 5.6** In the circumstances, the Independent Person strongly recommends that an appropriate course of action would be for the Subject Member to write a letter of apology to the Chief Executive.

.....
Gill Holmes
Independent Person
Date:

.....
Quentin Baker
Monitoring Officer
Date: 09-04-14

Appendix D – Subject Member’s Statement

From: Maurice Leeke [mailto:maurice16@ntlworld.com]

Sent: 28 July 2014 13:37

To: Carson Katy

Subject: Re: FW: Hearing Statement, Attendance & Evidence Forms - Cllr Leeke

Hi Katy

You ask me for a Statement setting out where I disagree with the facts.

The one outstanding allegation against me is that of "Disclosure of Confidential Information".

The relevant section of the report is, I think, section 4.14. This makes clear that "there is no evidence to indicate that he circulated the entire confidential committee report to any individuals either within or outside the council."

The entire case against me seems to be based on the following paragraph:

"It is evident that the press release refers to the existence of the committee paper and the fact that it is proposing a pay increase for 'high earning Council Officers'. Whilst the press release does not contain any quotes or extracts from the committee paper, the fact that it referred to the existence of the report and a pay increase is confidential information as the comments could only be made from the contents of the report."

That conclusion is wholly wrong. it fails to take account of the fact that the Agenda for the Appointments and Remuneration Committee is public (ie not confidential, and not marked as confidential).

Clearly listed as item 3 on that public agenda is:

Corporate Leadership Team Pay Review 2013/14.

So, while the contents of the accompanying report - which is agreed had not been disclosed by me - were confidential, the fact that a pay increase was being considered for senior (and better paid) members of staff, at that meeting, on that day, was certainly not confidential.

Significantly the Independent Person notes that:

".... there was no physical release of the confidential report by the Subject Member to any other party and no direct quotes from the report were used in the press release. The information released by the Subject Member **referred to the existence and import** of a report that was due to go before a committee rather than containing details of the content of that report itself."

However, as has been shown above, the existence and import of the report are clearly set out in the public Agenda for the Committee. Those are not confidential items.

I believe the facts speak for themselves. I did not release any confidential information.

I hope that helps. Do get back to me if you require further information.

Maurice Leeke

APPOINTMENTS AND REMUNERATION COMMITTEE



Cambridgeshire
County Council

Monday 16th September 2013
4.00 p.m.

Kreis Viersen Room
Shire Hall
CAMBRIDGE

Corporate Director Customer Services
and Transformation
Shire Hall
Castle Hill
Cambridge
CB3 0AP

AGENDA

- 1. Exclusion of Press and Public** (oral)

To resolve that the press and public be excluded from the meeting for the following items of business on the grounds that they contain exempt information under Paragraphs 1 (item 4) and 3 (item 3) of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed (information relating to any individual; and information relating to the financial or business affairs of any particular person (including the authority holding that information)).

- 2. Minutes – 17th July 2013** (attached)

To confirm as a correct record the minutes of the meeting held on 17th July 2013

- 3. Corporate Leadership Team Pay Review 2013/14** (attached)

- 4. Senior Recruitment** (attached)

For more information about this meeting, please contact Michelle Rowe at the County Council's Democratic Services on Cambridge (01223) 699180 or by email at michelle.rowe@cambridgeshire.gov.uk

The Committee comprises: Councillors D Brown, P Bullen, S Count (Chairman), P Downes (Councillor Nethsingha substituting), R Hickford, M McGuire (Vice-Chairman) and P Sales