

Minutes of a meeting of the Member Conduct Panel held at County Hall, Glenfield on Tuesday, 26 June 2018.

PRESENT

Mr. D. Jennings CC  
Mr. J. Kaufman CC  
Mr. W. Liquorish JP CC

Ms. Betty Newton CC  
Mrs. C. M. Radford CC

In attendance

Mr. Jonathan Goolden of Wilkin Chapman LLP  
Ms. Natalie Ainscough of Hoey Ainscough Associates Ltd  
Mrs. Lauren Haslam, Director of Corporate Resources and Monitoring Officer of Leicestershire County Council  
Mr. Anthony Cross, Head of Law and Deputy Monitoring Officer of Leicestershire County Council  
Mrs. Joanne Twomey, Democratic Services Team Leader (Governance) of Leicestershire County Council

6. Election of Chairman for the meeting.

It was proposed and seconded that Mr D. Jennings CC be appointed Chairman. There were no other nominations.

Mr D. Jennings CC in the Chair

7. Declarations of Interest.

There were no declarations of interest.

In response to a question from Mr J. Kaufman CC, the Deputy Monitoring Officer advised him and the Panel as a whole that although they would know to Mr. Charlesworth as a Member, possibly for a number of years, this did not preclude them from sitting on the Panel unless they felt they could not consider the complaint objectively. He confirmed that it was accepted practice that complaints against elected members would be considered by a Panel of their peers.

8. Investigation in respect of an alleged breach of the Members' Code of Conduct by Mr. M. H. Charlesworth CC

Members considered a report of the County Council's Monitoring Officer, regarding two complaints made against Mr. M. H. Charlesworth CC which alleged that he had breached the Council's Members' Code of Conduct. A copy of the report is attached to these minutes marked 'Agenda Item 3'.

Attached to the Monitoring Officers report were the investigation report prepared by the independent investigator Mr. Jonathan Goolden of Wilkin Chapman LLP (the investigator), and a letter from the independent person, Ms. Natalie Ainscough of Hoey

Ainscough Associates Ltd (the independent person). Copies of both these documents are also filed with these minutes.

The Chairman welcomed the investigator and the independent person to the meeting.

### Preliminary issues

Mr. Charlesworth was not present at the meeting. The Panel therefore first considered whether or not to continue in his absence.

The Chairman sought advice from the Deputy Monitoring Officer who highlighted to the Panel an email sent by Mr. Charlesworth on 17<sup>th</sup> June 2018 in which he confirmed that he wished for the "*Panel to carry on regardless of whether or not he attended*".

After confirming there were no objections from those present, the Panel AGREED to proceed with the meeting.

The Panel then considered whether or not the meeting should be held in public or private.

The Deputy Monitoring Officer reported on comments made by Mr. Charlesworth in two emails dated 1<sup>st</sup> June and 17<sup>th</sup> June confirming that he did not consider that "*any part of the investigation should be withheld from the public and that all of the hearing should be in public.*"

At the request of the Chairman, the Monitoring Officer confirmed her view that there was no reason for the Panel to move the meeting into private session, except during its deliberations. The investigation report had already been made public with the agenda for the meeting. The Monitoring Officer confirmed that prior to circulation of the agenda papers she had consulted with the investigator and both had agreed that no personal or confidential information was contained within his report which would warrant it being regarded as 'exempt' in accordance with Schedule 12A of the Local Government Act 1972.

The Panel AGREED that the hearing should be held in public, save for the Panel deliberations when the public would be excluded.

### Presentation of the Complaints

At the invitation of the Chairman, the Monitoring Officer presented an overview of the complaints received and the processes followed to investigate these. She confirmed that:

- Following the decision of the Member Conduct Panel at its meeting in September 2017 that an investigation should be carried out, she had instructed Jonathan Goolden of Wilkin Chapman LLP. He was regarded as an expert in this field and had significant experience of dealing with elected member complaints.
- Mr. Charlesworth had been sent a copy of the completed investigation report and had been provided with the contact details of the independent person who he could consult directly.
- Mr Charlesworth had not engaged in the process throughout.

The Chairman then invited the investigator to present his report. The investigator highlighted the following points:

- i. It was a legal requirement that the Council establish a panel of at least three independent members to make recommendations on the Members' Allowance Scheme.
- ii. The selection and appointment of the three members of the Independent Remuneration Panel (IRP) had followed the Council's proper procedures. The Council's Political Group Leaders had been consulted on the Panel's composition. There was no indication that the members of the IRP were not independent.
- iii. The three Political Group Leaders had been consulted at various stages during the review and had been sent a copy of the papers put before the IRP for comment. They had also been advised of the membership of the IRP in order that they could submit comments directly as a Political Group.
- iv. What happened at the Council meeting in September 2017 had not been disputed. The wording used by Mr Charlesworth at that meeting had also not been disputed. The meeting had been recorded live on the Council's webcast system.
- v. Mr Charlesworth had read from a pre-prepared script. After making his statement he had been asked by the Chair to apologise for his comments but he refused to do so.
- vi. There were three areas within the Council's Members' Code of Conduct which were relevant in this case – paragraph 3.1 (respect), paragraph 3.5 (reputation of the Authority) and Principle 7 (Leadership).
- vii. There was no question that Mr Charlesworth at the time of speaking at the meeting of the County Council was acting in his capacity as a County Councillor.

Respect (paragraph 3.1 of the Code)

- viii. The phrase used by Mr Charlesworth that the Panel members had "*done what was expected of them*" questioned the independence of the Panel. Having regard to current guidance and case law, Mr Charlesworth's comments were personal, unwarranted and unjustified and went beyond the 'cut and thrust' of debate.
- ix. Unlike elected Members and Chief Officers, the IRP members had given up their time to support this necessary public service and should be classed as guests and accorded the greatest courtesy. Mr Charlesworth named each IRP member personally and they were not present to defend themselves.
- x. Mr Charlesworth had clearly been unhappy with the way savings had been identified in the IRP report. It was therefore reasonable for him to be challenging and critical and express his dissatisfaction, but his comments went beyond this. Instead his comments were personal and targeted and therefore breached paragraph 3.1 of the Council's Members' Code of Conduct.

Disrepute (paragraph 3.5 of the Code)

- xi. Mr Charlesworth essentially made unsubstantiated allegations that the Panel was not independent. This could lead members of the public to believe the Members had exerted undue influence on the Panel when there was no evidence of this. His comment reflected badly on the Council and would likely cause the public to have lower confidence in it and the conduct of its functions and the process of setting member allowances, therefore breaching paragraph 3.5 of the Council's Code.

### Leadership (Principle 7)

- xii. This or the other principles in the Council's Code directly address disrespect and disrepute. It was not considered therefore, that Mr Charlesworth in his actions breached this Principle of the Code.

### Questions by the Panel

The Chairman then invited members of the Panel to ask questions of the investigator. Arising from the questions put, the following points were noted:

- It had not been possible as part of the investigation to determine the motivation of Mr Charlesworth's comments and the specific words he used, and whether or not he was speaking on his own behalf or on behalf of his Political Group. Mr Charlesworth had not taken part in the investigation process in order for this point to be addressed.
- At the outset of the investigation, the investigator had written to Mr Charlesworth. However, Mr Charlesworth had responded quickly indicating that he would not take part in the process. The investigator read Mr Charlesworth's email response in full –

*"I was informed that you would be in contact with me. The only comment I will make is this; 'I stand by the comments I made at the County Council meeting as being accurate, the tone of my language may not have been to everyone's liking. My role as a County Councillor is to challenge, scrutinise and question any decisions that are put before us – even in a very robust way.'*  
*I will not be available for any interviews and the webcast is for all to see.*  
*Regards,*  
*Michael Charlesworth CC"*

- Notwithstanding this response, questions were sent to Mr Charlesworth by the investigator, but he did not respond.
- It could be assumed from the facts (i.e. that Mr Charlesworth had read from a pre-prepared script at the meeting) that the words used Mr Charlesworth had been intended. Mr Charlesworth had subsequently confirmed this in his email referred to above that he stood by the comments he had made.
- Two of the IRP members were also independent persons appointed to support the Council's Member Conduct Complaints process. Those persons had applied for that position following an advert in the local press and had undertaken an interview before a cross party panel of elected members who then made the appointments. The other IRP member had been a member of the IRP for a number of years.

The Deputy Monitoring Officer then advised the Panel to consider what issues they might seek to clarify if Mr Charlesworth had been present to see if these could otherwise be addressed. He suggested that the Panel might want to question whether there had been any evidence of collusion between the complainants who were both fellow elected members, and whether the complaints might have been politically motivated.

In response, the Monitoring confirmed that the complaints had been made to her separately and had been received on different days. She had not been aware of any discussions between the two complainants.

At the invitation of the Chairman, the investigator gave his view as follows:

- The Council's process had built in safeguards to make sure complaints were looked at early on and those considered to be politically motivated rejected and not unnecessarily investigated. A criticism of the old standards system.
- This complaint had been considered by the Monitoring Officer, the independent person and the Member Conduct Panel and all had agreed that the matter being complained about warranted further investigation. At that point, the motivation of the complainants became irrelevant and this was not considered as part of the investigation.

#### Views of the Independent Person

The Chairman then asked the independent person for confirmation of her views, having now heard all the information presented.

The independent person confirmed that, in her view, Mr Charlesworth had questioned the independence of the IRP members without any evidence to support his allegations. He had named them personally in a public meeting at which they were not present which was disrespectful and brought the Council into disrepute. She confirmed that she agreed with the findings of the investigator.

#### Closing remarks

The investigator summarised his findings as set out in his report and, if the Panel agreed that Mr Charlesworth had breached the Council's Code of Conduct, he asked that it considered the following:

- The factual and potential seriousness of Mr Charlesworth's conduct
- The need in general to uphold standards of conduct amongst all elected members across the Council
- The regrettable lack of engagement by Mr Charlesworth throughout the investigation process and at the hearing.

The Chairman asked the independent person if she had any final comments.

The independent person reconfirmed the comments of the investigator and, with regard to possible sanctions, suggested the Panel might consider some form of public apology given that the complaints arose out of comments at a public meeting in the first instance.

The Chairman thanked everyone for attending and the Panel agreed to adjourn to consider its decision.

*The Panel adjourned at 10.25 am for 25 minutes.*

#### RESOLVED:

Having decided to conduct the hearing in public session and to proceed in the absence of Mr M. H. Charlesworth CC, the Panel unanimously agreed that, for the reasons set out in the Investigators report, Mr M. H. Charlesworth CC had breached paragraph 3.1 (you must treat others with respect) and 3.5 (you must not conduct yourself in a matter which could reasonably be regarded as bringing your office or the Authority into disrepute) of the Members' Code of Conduct when, at the meeting of the full County Council held on 27<sup>th</sup> September 2017 he made comments which called in to question the independence

of the three members of the Independent Remuneration Panel who were not present at that meeting. These comments were unwarranted, unjustified and personalised, did not treat the Panel members with respect and thereby brought his office and the Authority into disrepute.

Having made the above decision, the Panel decided unanimously to impose the following sanctions:

- i. That the Monitoring Officer write a formal letter to Mr Charlesworth setting out the decision of the Panel, the sanctions it has imposed, and its disappointment at having to make the decision that the Code of Conduct has been breached. A copy of this letter to be published on the Council's website and displayed on your Councillors webpage for a period of up to a year.
- ii. That Mr Charlesworth send a letter of apology to each of the three members of the Independent Remuneration Panel the wording of which will be prepared by the Monitoring Officer and first agreed by the Panel. Such letter to be sent to the three members of the Independent Remuneration Panel within 14 days of receipt.
- iii. That Mr Charlesworth make a public apology to the members of the Independent Remuneration Panel and the Council at the Council meeting to be held on 26<sup>th</sup> September 2018.
- iv. That Mr Charlesworth undertake training to be organised by the Monitoring Officer on the Code of Conduct and in particular, the standards expected of members during meetings.

9.30 am - 12.00 pm  
26 June 2018

CHAIRMAN