

Standards Committee – Hearings Panel – 17 February 2014

Present: Councillor Gwil Wren (Chairman)
Councillors Jean Allgrove, Paul Tooze and Alan Wedderkopp

Officers: Bruce Lang (Monitoring Officer), Roy Pinney (Legal Services Manager) and Richard Bryant (Democratic Service Manager and Corporate Support Lead)

(The meeting commenced at 10 a.m.)

1. Complaint against Councillor Jefferson Horsley

(The Hearings Panel considered the report of the former Monitoring Officer, Tonya Meers, in the absence of Councillor Horsley.)

Considered report previously circulated, which detailed the investigation undertaken by the former Monitoring Officer, Tonya Meers (“the Investigator”), into a complaint received in October 2013 against Councillor Horsley.

On 22 October 2013 a letter purporting to be from the Leader of the Council was sent to the press by Councillor Horsley via e-mail. The e-mail confirmed that he was sending private and confidential information.

Later the same day a complaint was received from the Leader of the Council, Councillor John Williams, stating that he wanted to make a complaint to the Standards Committee against Councillor Horsley who it was alleged had leaked what had turned out to be a fake letter to the press.

On the 24 October 2013 Councillor Mark Edwards used Public Question Time at the meeting of the Corporate Scrutiny Committee to put the following questions to the Chairman, Councillor Horsley:-

- (a) Could the Chairman inform the meeting who sent him the forged letter purported to be from Councillor John Williams to Councillor Taylor of West Somerset Council which he then sent to the press?
- (b) Why did he not realise it was not an authentic letter as there were so many errors and why did he not make an effort to check to see if it was authentic?
- (c) Assuming that he actually believed that the fake letter was real being marked private and confidential, why did he then send the forged letter to the press?

Councillor Horsley had responded by stating that he would not reveal his sources. He said he regretted that he had not checked the letter’s authenticity but confirmed that he had sent it to the press as he believed the public had a right to know. He stated that he had withdrawn the letter when he realised it was a fake.

The report of the Investigator had concluded that there appeared to have been a breach of the Code of Conduct in respect of the following paragraphs:-

Paragraph 1.11 of the Code stated that a Member must not disclose information given to them in confidence by anyone, or information that is acquired by which they believe, or ought reasonably to be aware, is of a confidential nature, except where –

- (a) they had the consent of a person authorised to give it;
- (b) they were required by law to do so;
- (c) the disclosure was made to a third party for the purpose of obtaining professional legal advice provided that the third party agreed not to disclose the information to any other person; or
- (d) the disclosure was –
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the Council; and
- (e) they had consulted the Monitoring Officer prior to its release.

In addition, Paragraph 1.13 of the Code stated that a Member should not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

In response to the complaint Councillor Horsley had sent an e-mail to the Investigator admitting to sending it to the press. However he had stated that he had sent it from his personal e-mail account and was therefore acting in his private capacity.

The Code of Conduct applied to Councillors when acting in their official capacity which included whenever they conducted business of the authority, claimed to act, or gave the impression they were acting in their official capacity or as a representative of the authority.

In this particular case, the letter clearly referred to Council business and, regardless of the fact that Councillor Horsley had used his private e-mail account this in itself did not mean that he was not acting as a Councillor when he sent it to the press as he regularly used his private e-mail account when conducting Council business.

The letter clearly related to the Business Case that was prepared concerning the sharing of services and management with West Somerset Council. Councillor Horsley sat on the Joint Members Advisory Panel connected to this project and was Leader of the opposition Group.

In addition, there was also evidence that Councillor Horsley had sent a copy of the letter to the other Members of his Political Group therefore it was clear that he was acting in his official capacity as a Councillor.

The Investigator had therefore recommended that the matter be referred straight to the Hearings Panel of the Standards Committee as Councillor Horsley had publicly admitted to sending confidential information to the press.

The Hearings Panel considered the Investigator's report in great detail although the absence of Councillor Horsley prevented the Panel from obtaining Councillor Horsley's input on aspects of his justification for his actions, in particular the issue of whether he had been acting in a private capacity or whether there was a case for the public to know about the contents of the letter.

Following much deliberation the Hearings Panel accepted that Councillor Horsley had not been acting in his private capacity and that he had not followed the procedures set out in the Code of Conduct, in particular by not consulting with the Monitoring Officer before releasing the confidential information.

In the view of the Legal Services Manager the Hearings Panel therefore had two options open to it:-

- (1) To accept the Investigator's view that Paragraph 1.11 of the Code of Conduct had been breached; or
- (2) To accept that Councillor Horsley had disclosed confidential information but that its disclosure was reasonable and in the public interest and had been made in good faith and in compliance with the reasonable requirements of the Council.

On the Chairman's casting vote, the Hearings Panel accepted Option (1), that there had been a breach of the Members' Code of Conduct.

After further discussions the Hearings Panel decided that the appropriate sanctions in this matter would be:-

- (a) To publish its findings, via the minutes of the meeting, which would be circulated to all Councillors;
- (2) To report its findings in a report to Full Council; and
- (3) For Councillor Horsley to attend a 'coaching session' with the Council's Monitoring Officer, Bruce Lang, to reinforce Councillor Horsley's understanding of the provisions of the Code of Conduct as far as the release of confidential information was concerned.

(The meeting ended at 12.10 p.m.)