

**Notice of meeting of
Joint Standards Committee Hearings Sub-Committee**

To: Councillors Kramm (Chair), Hayes and Wiseman (Parish Council Member)

Date: Thursday, 3 January 2019

Time: 10.30 am

Venue: The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

1. Declarations of Interest

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Exclusion of Press and Public

To consider whether to exclude the Press and Public at any point in the hearing when there is a possibility that exempt information under Paragraph 1 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006) may be disclosed; namely, the identity of any of the witnesses called to give evidence.

3. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Wednesday 2 January 2019**. Members of the public can speak on agenda items or matters within the remit of the sub-committee.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

4. Complaint against a Member of City of York Council (Pages 1 - 196)

To consider a complaint made against Cllr Keith Aspden, a Member of City of York Council, which has been referred to the Hearings Sub-Committee for determination following an investigation.

Details of the procedure to be followed at the hearing can be found at pages 191 to 195 of the agenda papers.

[Note: This agenda has been re-published to include the Decision Notice from the meeting. The Decision Notice will be published as an annex to the minutes at a later stage]

5. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democratic Services Officer responsible for this meeting:

Name: Fiona Young

Contact details:

- Telephone – (01904) 551027
- E-mail – fiona.young@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

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Standards Hearing Sub Committee

Complaint against Councillor Aspden – City of York Council

Complainants :

Subject Member : Councillor Keith Aspden

Investigator : Wilkin Chapman LLP Solicitors

1. Background

- 1.1 In February/March 2017 there was a concern that an officer had leaked confidential information to the press. Councillor Aspden has stated that after discussion, he reported this to the Chief Executive as soon as this was discovered.
- 1.2 The Chief Executive was then informed of concerns raised by Person A. The Chief Executive subsequently had a meeting with Person A on the 8th March 2017 in the presence of their line manager.
- 1.3 In light of the concerns raised by Person A,, a 'desk top review was completed on 25th April by Mr R.J.B Morris, who was appointed through the Local Government Association on behalf of the Chief Executive. .
- 1.4 A decision was then made to procure external investigators to complete the investigation under the Council legal procurement framework. Gowling Solicitors were appointed to report to the Council's Human Resources department. They produced a report, known as Project Rose which investigated further the allegations made. This investigation was completed in August 2017

- 1.5 A separate solicitor from Gowlings was appointed to advise the Chief Executive with regard to the findings of the investigation and that solicitor was not be part of the investigation.
- 1.6 On the 17th October 2017, Wilkin Chapman Solicitors were appointed to investigate the issues as they concerned Councillors.
- 1.7 Wilkin Chapman Solicitors have produced a Report of their investigation into allegations concerning Councillor Keith Aspden of City of York Council attached at appendix 1.
- 1.8 Councillor Keith Aspden has provided two responses which are attached as Appendix 2.

2. The Complaints

- 2.1 The potential breaches of the Council's Code of Conduct from Project Rose and subsequent legal advice appear in full at page 4 of the Wilkin Chapman Report, but can be summarised as follows:
 - (a) *Allegation in relation to the pressure applied on officers in relation to a council appointment contrary to Paragraph 3(3) and 3(4) of the Code of Conduct for Members*
 - (b) *Allegation in relation to obtaining an advantage for another in relation to the appointment contrary to paragraph 3(8) of the Code.*
 - (c) *Failure to disclose a personal interest in relation to appointment in effectively chairing the Appointments Panel without disclosing that matter*
 - (d) *Allegation that the Councillor disclosed confidential information regarding a Congestion Commission and investments in local mental health services contrary to paragraph 3(9) of the Code*
 - (e) *Allegation in relation to the use of Council facilities by Liberal Democrat Interns contrary to Paragraph 3(9) of the Code.*
- 2.2 The investigation as detailed in Appendix 1 has concluded that in the Investigator's opinion, the Councillor did:

- (a) *Use his position as a Councillor to improperly to obtain an advantage for an administrative role contrary to paragraph 3(8) of the Code by reason of his involvement in the process whilst having a personal interest.*
- (b) *Did disclose confidential information (the paper applications for the administrative role) contrary to paragraph 3(5) of the Code.*
- (c) *By failing to follow paragraphs 3(5) and 3(8) of the Code in relation to the appointment of the administrative role, he acted in a manner which could reasonably be regarded as bringing the Council or his position as a Councillor into disrepute contrary to paragraph 3(7) of the Code.*

2.3 The investigation also concluded that, in the Investigator's opinion, the Councillor did :

- (a) *Not bully or intimidate officers contrary to paragraph 3(3) of the Code.*
- (b) *Not compromise the impartiality of officers contrary to paragraph 3(4) of the Code.*
- (c) *Not disclose confidential information regarding the Congestion Commission paper contrary to paragraph 3(5) of the Code*
- (d) *Not disclose confidential information regarding budget proposals for local mental health services contrary to paragraph 3(5) of the Code.*
- (e) *Abide by the Council's reasonable requirements when authorising the use of Council facilities by the Liberal Democrats and therefore did not use them for political purposes contrary to paragraph 3(9) of the Code.*

3. The Code of Conduct for City of York Council

3.1 As required by the Localism Act 2011, the Council has adopted a Code of Conduct which sets out the conduct expected of Councillors when acting as such. The Code of Conduct appears at Appendix 3. The Investigators have investigated a number of matters where breaches of the Code have not been found. However the remaining alleged breaches relate to the following sections:

3(5) You must not disclose information which is confidential, unless:

- (a) You have the permission of a person authorised to give it; or
- (b) You are required by law to disclose the information; or
- (c) You disclose it 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 reasonable; and is in the public interest; and is made in good faith.

3(7) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.

3(8) You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.

4. The Hearing Process

4.1 The Standards Committee has approved a procedure for hearings which appears at Appendix 4. In line with that procedure the subject member has been asked to complete a pre hearing check list indicating whether they intend to attend the hearing, to identify facts which they say are in dispute, and state whether any part of the hearing should be in public.

- 4.2 Submissions have been made by Councillor Aspden in line with the questions asked within the pre hearing checklist. Councillor Aspden does not wish the hearing to be held in private, and is content for the Investigator's Report and other relevant documents to be made public. Councillor Aspden has indicated that he would like a number of witnesses to attend the hearing.
- 4.3 Councillor Aspden's submissions are at Appendix 2. He disagrees with the Investigating Officer's view as stated in his responses dated 6th August and 9th November 2018.

5. Issues to be determined

- 5.1 Has Councillor Aspden breached the Council's Code of Conduct in respect of one or more of the allegations?**
- 5.2 It is noted that a number of allegations were investigated and dismissed. Therefore a large part of the Investigating Officer report and documentation shows matters that were investigated and were not found to be a breach of the Code. Therefore for this report, it is helpful to concentrate on the areas where the Investigating Officer has concluded that there has been a breach of the Code and which Councillor Aspden disputes those conclusions as presented in his responses.
- 5.3 Those matters which the Investigating Officer has assessed that there have been breaches of the Code, concern the facts around two aspects of the recruitment and appointment of Person B during the period of May and July 2015. For the sake of clarity, there is no allegation that Person B did anything wrong or improper.
- 5.4 The allegations concerns Cllr Aspden's involvement in the process due to an alleged 'close association' with the successful candidate , and the alleged disclosure of confidential information concerning the paper applications. and thereby bringing the Council or his position as a Councillor into disrepute. There is not an agreed set of facts

regarding this matter and therefore the Sub-Committee will be asked to consider the conflicting evidence presented.

6. The Background of the allegations

6.1 Following the Council election in May 2015, it was agreed with then Chief Executive that given the three largest political groups had a similar number of councillors there would be additional administrative roles for the Leader, Deputy Leader and the Leader of the opposition which would be funded from existing budgets.

6.2 Councillor Aspden wanted to be involved in the recruitment process. However the law provides that Councillors should not make decisions regarding the appointment of non-chief officer posts as this should be an officer decision and not a political appointment. The details of the discussion regarding this issue is provided in paragraph 4.23 to 4.33 which resulted in an agreement that there would be an interview panel for the post which would comprise of two officers and would include Councillor Aspden.

6.3 At 9.57 of 26th June 2015 an officer e-mailed Councillor Aspden and other Panel Members with the applications forms for all of the applicants for this post which was marked high importance and confidential. One of the Applicants was Person B who was an intern for the Liberal Democrat Party in York. Councillor Aspden had previously interviewed Person B for this role.

6.4 In the Summer of 2015 there was a conversation between Councillor Aspden, Person D, Person A and Person C (a Liberal Democrat activist but not a Councillor) in a York Pub. The details of what was said and what happened at the pub are not agreed and are in dispute.

6.5 The following is what is said by each of the individuals who were present at the pub:

6.6 Person A's Statement

6.7 Person A alleges that this was a 'pre-short listing' meeting to prepare for the 'official' short listing meeting on the 29th June 2015. Person A alleges that Councillor Aspden had printed copies of the application forms and CVs of the applicants and passed the forms around all the persons present and they considered their suitability for the post. Person A states *"the meeting and the passing around of the papers was run by Councillor Aspden. They were reading them and making comments as to their suitability. Councillor Apsden was keen to have two individuals on the short list/put through to interview and they were Person B and Person H because he knew both of them and knew them to be Liberal Democrats.*

6.8 *"it was discussed that they would need to put at least some other candidates in the short list to make things look credible and that was done. It was also discussed what good points the two favoured applicants had and what they needed to do to enhance those points, as well as what were not so good areas that the other applicants had. The other candidates mainly had administration/PA skills which were better than the favoured two. However, they were not as experienced applicants in political areas."*

6.9 Person A states that *"it was not correct to do a pre short listing in a public house with people not involved in the process or even Council employees."*

[page 21-22 paragraphs (ff) to (gg)]

6.10 Person C's's Statement

6.11 Person C states that circa late June 2015 he had agreed to meet up for a social drink at the Pub at around 7pm or 9pm. He states that:

6.12 *“after about 10 minutes or so after sitting down Keith Aspden turned to [Person D] and said “Do you want to get the applications out?”*

6.13 *“[Person D] had a large brown envelope which he opened as instructed, producing a large bundle of what were completed job application forms.*

6.14 *“at first he had no idea what was happening but it was then explained to him by Keith Apsden that they were the application forms for candidates for the new job of [REDACTED] who would work directly for him as Deputy Leader of the Council.*

6.15 *“Person C was not clear what the post was but after a short while he became aware that it was a Council employee post and not a Liberal Democrat post. He had been uncomfortable with what was happening.*

6.16 *“Keith Aspden explained that he wanted the right person for the job and wanted the four of them to read the applications and give their views on who were the best candidates;*

6.17 *“the application forms were handed out amongst them and they looked at them. He had no liked what was going on. He had thought that they were confidential papers, people had applied for the post in good faith and that was not the correct way that applications and applicants should be treated.*

6.18 *“He estimated that there were in the region of 80 pieces of paper. Keith Aspden asked for feedback on the applications and the group gave their views.*

6.19 *He expressed that he was uncomfortable with it and said specifically that he {Councillor Aspden} should seek to employ the best candidate for the job....*

6.20 *“It was apparent that Keith Aspden wanted someone he knew and trusted and had stated that two applicants were his favoured choices. They were Person H and Person B. Both were known to Keith Aspden and had worked as interns for the Liberal Democrat Group.*

6.21 *“Councillor Aspden then asked them for their opinions on the good points in their applications so he could use them later.*

6.22 *“There were a further 4 applications selected so it would not have been so obvious that there were a favoured two. They were then asked to find weaknesses in the 4 applicants’ forms so the two favoured ones could be enhanced at the next stage of selection. He had refused to do that.*

6.23 *It was clear to him that that process was inappropriate – that a sifting for a job had occurred in the pub, in public and that he had no relation to the Council but had been shown applications. He also felt that Keith’s intention to try and employ a Liberal Democrat activist rather than the best qualified person in the role was counter productive and unethical.” [page 30-31 paragraphs (k) to (x)]*

6.24 Person D’s statement

6.25 Person D states that:

6.26 “[they] attended the Duke of York pub with Person A, Person C and Councillor Aspden, which was one of many similar occasions with Councillors and Person A whilst he was the [REDACTED].

6.27 Aspects of the discussion at the pub focussed on the desire to have the best person to replace [them] as [REDACTED], but there was no request for him to get the applications out, and [they] would not have brought them to the pub for a social occasion. There was no request from Councillor Aspden or others for feedback on the strengths of individual candidates, and any discussion on the [REDACTED] role would have been limited amongst a much wider discussion. [Person D] did not taken any notes on any aspects of their conversation which was social in nature and described the evening as a social evening over a number of hours with all attendees having a number of drinks and the conversation covered a number of topics.

6.28 [Person D] was sure Councillor Apsden would have met with [Person B] at some point before the interview as they had on-going interactions as [Person B] had just started working as an [REDACTED] with Councillors.

6.29 [Person D] would have been present for some of those conversations, but there was no meeting concerning the [REDACTED] interviews between Councillor Aspden and [Person B] that [they] attended, and was never part of any conversation with [Person B] on the detail of the interview” [pages 32 to 33 paragraph (g) to (j) of the Investigators Report]

6.30 Councillor Keith Aspden’s Statement

6.31 Councillor Aspden states:

6.32 *"In respect of 'the appointment of [REDACTED] it was agreed shortly after May 2015 that there would be [REDACTED] [REDACTED] to the Leader of the Council, the Deputy Leader of the Council and the Leader of the Opposition, and that the [REDACTED] had a Council job description which outlined their role. He agreed that officer appointments below Chief Officer level were made by Officers but that there were a limited number of roles where Councillors were consulted in an advisory capacity, as confirmed by Officer A who stated:*

6.33 *"In general, elected members should not be involved in the selection process of non Chief Officer posts, except where they have regular contact with the role eg Head of Communications"*

6.34 *He relied on the evidence of the appointed officer, Officer A who stated that Person B was the best candidate for the job, which was supported by the evidence of Person A, a member of the interview panel, and stated his role as Chair was to simply welcome the candidates and make initial remarks, but not to lead the process or make the final appointment;*

6.35 *He did not give Person B advanced information of the contents of the 'in tray exercise', which formed part of the recruitment process, as alleged by Person A;*

6.36 *That the connection between him and Person B was clearly identifiable on the recruitment papers as it was declared that Person B was, at the time of his application and appointment, [REDACTED]*

working for York Liberal Democrats. He confirmed he took part in the interview panel for that role, but he did not know Person B or any of their family until they were interviewed for, and worked for the Liberal Democrats in summer 2015. He did not believe his connection with Person B was that of having 'a close association' within the terms of paragraph 6(1) of the Code of Conduct; [Councillor Aspden confirms that he took part in an advisory capacity]

6.37 He could not recall a specific conversation, but thought it likely that he would have mentioned in passing to Person B to consider applying for the position;

6.38 He agreed that in summer 2015 he had a drink and a conversation in a York pub with Person A, Person C and Person D about the process and candidates who had applied for the role, that it was an informal discussion but not a meeting or a short-listing meeting. He confirmed there was a long conversation in a pub about the strength and skills looked for in a colleague but that Person A and Person C were misrepresenting that drink and conversation as a pre-short-listing meeting, which it was not, and stated that for unknown reasons he and Person C unfortunately never got along particularly well;

6.39 His recollection of that evening and conversation was that it was a social evening, not a meeting and not chaired. Nobody raised any concerns, left the pub or refused to take part in the conversation. Person C did not repeatedly say they should employ the best qualified person for the job. Nobody had paper copies of the applications, he did not print off paper copies of the applications, nor did he instruct anybody else to do so. No notes were taken and there was no short-listing or pre-short-listing. He suggested that Person D should be approached regarding that evening;

6.40 *The short-listing meeting was held at West Offices on Monday 29 June 2015. He Officer A, Officer E and Person A had attended, and Officer A had circulated electronic applications the previous week. He recalled that 7 candidates were selected for interview and 6 of the 7 candidates were at least known to him, as to other members of the panel;*

6.41 *Person B stayed at his house for 5 weeks from 1 September 2015 until his family had purchased a flat Person B had needed temporary accommodation and colleagues within York Liberal Democrats provided temporary accommodation to those new to the City. There was no formal agreement and he had received a one-off payment of £500 towards the cost of rent, wear and tear and all bills for the duration of the 5 weeks which had been in line with the rental costs in his area". [Page 40 to 41, paragraphs (q) to (y).]*

Areas of Dispute

6.42 It is clear from the above that whilst the four individuals met in a pubis not in dispute the contents of the conversation and whether paper application forms were distributed are in dispute. It is not in dispute that this conversation occurred prior to the short listing process on the 29th June 2015

6.43 The Investigating Officer has been presented with two witness statements which state that application forms containing confidential details were disclosed at the pub meeting and two witness statements which state that they were not. The Investigating Officer has concluded that

6.44 *"7.37 Notwithstanding the fact that Councillor Aspden and Person D have said the applications were not taken to the public house, based*

on the available evidence we are of the view that the applications were taken to the public house, shared and openly discussed”

6.45 Whilst the Investigating Officer’s report had concluded that there was a disclosure of confidential information the Sub-Committee will need to make a determination whether this was the case.

6.46 Councillor Aspden has stated that Person D’s statement is clear in that he states:

6.47 “Aspects of the discussion at the Duke of York Pub will have focused on the desire to have the best person to replace myself as [REDACTED] [REDACTED] – this would only have been natural as the recruitment process was just beginning and I had just taken on the temporary role.

6.48 “There was no request for me to get the applications out, and I would not have brought them to the Duke of York Pub for a social occasion. As such there was no request from Councillor Aspden or others for feedback on the strengths of individual candidates any discussion on the [REDACTED] role would have been limited amongst a much wider discussion and would not have focused on individual candidates.

6.49 “I did not take notes on any aspects of our conversation which was social in nature. This was a social evening over a number of hours with all attendees having a number of drinks and the conversation covered a number of topics.”

6.50 Councillor Aspden further states:

6.51 *“It is equally clear that I did not instruct [Person D] to get the applications out as alleged by [Person A] that [Person D] did not have a large brown envelope and that he did not therefore open this in the pub as alleged by [Person B], that I did not ask for feedback on the individual candidates as alleged by [Person B], that [Person D] did not make notes as alleged by [Person A] and that nobody had paper copies of the applications at the pub. This was a wider discussion which was part of a social evening, unlike the allegations from [Person A]. The statements and the inconsistencies in the evidence throughout the investigations does not seem to have been given appropriate consideration ... I wish to repeat that I did not print off paper copies of the applications for the evening, nor did I instruct anybody else to do so, and paper copies of the applications were not shared.”*

7. Conclusions of the Investigating Officer

7.1 Does the Code apply: Official Capacity?

7.2 Section 28(2) of the Localism Act requires a Council to adopt the Code of Conduct dealing with conduct that is expect of Members when acting in their official capacity. The Investigating Officer has concluded that in the appointment of Person B Councillor Aspden was fully engaged in the recruitment process, including the short-listing and interviews of which he chaired. For the purposes of the investigation, the Investigating Officer has concluded that Councillor Aspden was acting in his official capacity during the recruitment and appointment of Person B. It is understood that this point is not in dispute.

- 1. *Alleged Breach: You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so (Paragraph 3.8)***

7.3 Paragraph 3.8 of the Code of Conduct states that you must not use your position as a Councillor improperly to obtain an advantage or disadvantage for yourself or any other person, or attempt to do so.

7.4 The Investigating Officer has considered this part of the Code by asking the following three questions and answering them accordingly:

- (a) **Whether Councillor Aspden had an interest in the recruitment process by reason of his association with Person B**

7.5 The Investigating Officer has considered that Councillor Aspden had an interest in the recruitment process by reason of his association with Person B. The Investigating Officer refers on page 61 of his report to guidance that was published by the Standards Board for England in 2007 regarding the previous Statutory Code of Conduct. This guidance refers to the concept of “close association” and states that “*a person with whom you have a close association is someone that you are either in regular or irregular contact with over a period of time who is more than an acquaintance. It is someone who reasonable member of the public might think you might be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone who you know through general social contact*”. The Investigating Officer has stated:

7.6 *“In determining whether Councillor Aspden had a close association with [Person B] we have considered the following points:*

- *Councillor Aspden interviewed [Person B] for the post of [REDACTED]*
- *Councillor Aspden had regular contact with [Person B] when working as an [REDACTED]*
- *Councillor Aspden was shown as the contact/employer on [Person B’s] application for the post of [REDACTED]*

7.7 *In addition to this following his successful application for the post of ESA [Person B] lodged for a short period of time with Councillor Aspden for which he paid him rent.*

7.8 We consider that Councillor Aspden had a close association with [Person B] and therefore that Councillor Aspden had a personal interest in the outcome of the appointment process. We also consider that the sharing of the applications in the Duke of York Public House was an inappropriate disclosure of confidential information.

7.9 Whilst the outcome of any recruitment process will result in the conferring of an advantage on the successful applicant, in this case Councillor Aspden's involvement and conduct in relation to this process was improper for the reasons set out above. We have concluded that Councillor Aspden did breach paragraph 3.8 of the Code of Conduct."

7.10 Councillor Aspden disagrees with this conclusion and queries the appropriateness of relying on guidance from the Standards Board for England, rather than the current Code of Conduct, in that the regime, requirements and guidance was entirely abolished in 2012. He states that the Investigating Officer's report failed to appropriately assess close association, including with the timescales involved, the available evidence and accumulative evidence. He further states that the Investigating Officer has ignored the presented evidence that any association was both already declared and did not need to be declared in any event.

7.11 Councillor Aspden's submission in Appendix 2 outlines the areas in which he wishes to explore to demonstrate the reasons for his disagreement.

(b) Whether the paper sift was appropriate (ie the alleged conversation at the meeting in the pub)

7.12 As stated above the Investigating Officer has concluded that confidential information was shared at the Duke of York Public House at some time after the applications were sent to Councillor Aspden on 26 June 2015. The Investigating Officer states at paragraph 7.35 of his report:

7.13 “[Person D] from memory suggests that applications were printed off from Councillor Aspden’s inbox prior to the short-listing panel. He also confirmed together with [Person A] and [Person C] that a meeting did take place in the Duke of York Public House and that the post of [REDACTED] was discussed. Councillor Aspden also confirms that the meeting did take place in the public house about the strength and skills that they would look for in a colleague. What is in dispute is whether the applications were taken to the public house; whether they were openly shared and whether the application of [Person B] was prematurely highlighted as a preferred applicant together with the application of [Person H].”

7.14 Whilst the Investigating Officer concludes that based on the available evidence he was of the view that the applications were taken to the public house shared and openly discussed, Councillor Aspden disputes this and states that his evidence and the evidence from Person D have failed to be fully considered. He also raises general concerns with regard to timescales, failing to deal with the background and motivation behind the complaint, credibility of witnesses and the number of allegations that ultimately were proved to be unfounded, mistaken or were not breaches of the Code of Conduct as outlined in his response in paragraph 4.72 of the Investigating Officer’s report

7.15 Councillor Aspden’s additional submission in Appendix 2 outlines the areas in which he wishes to explore to demonstrate the reasons for his disagreement, including

(c) **Whether interview questions were provided to Person B in advance**

7.16 The Investigating Officer did not consider that this allegation was founded.

2. Alleged Breach: Disclosure of confidential information

7.17 The Council's Code of Conduct states:

"3(5) You must not disclose information which is confidential unless you rely

(a) You have the permission of a person authorised to give it

(b) You are required by law to disclose the information or

(c) You disclose it to a third party for the purposes of obtaining professional advice, provided that the third party agrees not to disclose that information to any other person

(d) The disclosure is reasonable and is in the public interest and is made in good faith.

7.18 As stated above the Investigating Officer has concluded that applications were taken to the public house, shared and openly discussed. Councillor Aspden has categorically denied that application forms were disclosed and the conversation was of a more general nature.

3. Alleged Breach: Bringing the Council or the position of Councillor into disrepute

7.19 As the Investigating Officer has concluded that there has been breaches of two parts of the Code of Conduct, he has also concluded that paragraph 3(7) of the Council's Code of Conduct has been breached due to the same set of circumstances. This paragraph states:

"You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute or your position as a Councillor into disrepute".

7.20 The Investigating Officer has concluded the following:

7.82 In this case it is a suggestion that Councillor Aspden did attempt to obtain an advantage for Person B during the recruitment process for the post of [REDACTED] and did openly share confidential and private completed application forms in the Duke of York Public House in York.

7.83 In applying the circumstances of the disclosure of the application forms we consider that Councillor Aspden's actions would have an adverse effect on the public's confidence in the Council to carry out its duties. As such we consider that Councillor Aspden did bring the office of the Councillor and the Council into disrepute."

7.21 Councillor Apsden in his responses has stated that he did not disclose confidential information and that he did not use his position to improperly obtain an advantage. He has stated that given his detailed comments to rebut the allegations of a breach of paragraphs 3(5) and 3(8) of the Code of Conduct, he feels that it is very difficult to see how in the circumstances this could then be stretched to become a breach of 3(7),

8. Matters for the Sub-Committee

8.1 The Sub-Committee is asked to follow the City of York's procedures in dealing with alleged breaches of the Code of Conduct and make a determination on this matter as to whether there has been any breaches of the Code of Conduct.

8.2 In the event that the Sub-Committee finds that the Code has been breached it will need to determine whether a sanction should be imposed, and if so, what sanction.

Report Author:

Barry Khan, Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer for North Yorkshire County Council as legal advisor to the Sub-Committee

Background papers:

None

Annexed Documents

- (1) Wilkin Chapman Solicitors Report and schedule of Evidence of their investigation into allegations concerning Councillor Keith Aspden of City of York Council attached at appendix 1 (excluding documents which are exempt and documents which are no longer relevant to this Standards Hearing sub-committee).
- (2) Pre Hearing Submissions submitted by Councillor Aspden attached at Annex 2
- (3) Code of Conduct of York City Council attached at Annex 3.
- (4) Hearing Procedure attached at Annex 4.

Certain personal information has been exempted as it relates to individuals and the business of the council, in accordance with Paragraphs 1, 2 and 3, Schedule 12A Local Government Act 1972 (as Amended).

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CONFIDENTIAL REPORT



PRIVATE AND CONFIDENTIAL

Case reference:

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for City of York Council, into allegations concerning Councillor Keith Aspden of City of York Council.

14 June 2018

VOLUME 1 REPORT

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Appendix A Schedule of evidence taken into account and list of unused material

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1. Executive Summary

1.1 Councillor Keith Aspden is a member of The City of York Council having been first elected in 2003.

1.2 The Council's Standards Assessment Sub Committee considered a report prepared by Gowling WLG Solicitors entitled Project Rose (the Project Rose Report). The report concerned whistle blowing allegations made by [REDACTED] Person A, relating to the conduct of Councillor Aspden.

1.3 The Project Rose Report and subsequent advice to the Chief Executive identified that Councillor Aspden might have been in breach of the Council's Code of Conduct in relation to the following:-

"3(3) and 3(4) in relation to the pressure applied to officers, especially Officer A in relation to the appointment of Person B; and in relation to Person B following his interview;

3(8) obtaining an advantage for another – in relation to the appointment of Person B;

6 – Disclosure of a personal interest in relation to Person B – Cllr Aspden suggested Person B for the job and then effectively chaired the Appointments Panel without disclosing that matter;

3(5) in relation to the disclosure of documents that were not intended for publication;

3(9) in relation to the use of the Council facilities by Liberal Democrat Party interns."

1.4 The above referred to the following matters:-

- (a) the appointment of Person B;
- (b) the disclosure of a confidential discussion paper on the establishment of a Congestion Commission;
- (c) the disclosure of information concerning Council budget proposals for investments in local mental health services;
- (d) the use of Council facilities by Liberal Democrat Party interns.

1.5 In relation to the appointment of Person B, we have concluded that Councillor Aspden:-

- did not bully or intimidate officers contrary to paragraph 3.3 of the Code;
- did not compromise the impartiality of officers contrary to paragraph 3.4 of the Code.

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- 1.6 However in relation to that same Issue, we have concluded that Councillor Aspden:-
- Did use his position as a Councillor improperly to obtain an advantage for Person B contrary to paragraph 3.8 of the Code by reason of his involvement in the process whilst having a personal interest;
 - Did disclose confidential information contrary to paragraph 3.5 of the Code.
- 1.7 In relation to the Congestion Commission paper, we have concluded that Councillor Aspden did not disclose confidential information contrary to paragraph 3.5 of the Code.
- 1.8 In relation to budget proposals for local mental health services, we have concluded that Councillor Aspden did not disclose confidential information contrary to paragraph 3.5 of the Code.
- 1.9 In relation to the use of Council facilities by Liberal Democrat Interns, we have concluded that when authorising the use by others of the resources of the Council, Councillor Aspden did abide by the Council's reasonable requirements and such resources were not used for political purposes and was thus not in breach of paragraph 3.9 of the Code.
- 1.10 By failing to follow paragraphs 3.5 and 3.8 of the Code in relation to Person B's appointment, we have concluded that Councillor Aspden thereby also conducted himself in a manner which could reasonably be regarded as bringing the Council or his position as a Councillor into disrepute contrary to paragraph 3.7 of the Code.

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2. Councillor Aspden's official details

- 2.1 Councillor Aspden is a member of the City of York Council, having been first elected in 2003.
- 2.2 He is a Liberal Democrat Councillor representing the Fulford and Heslington Ward.
- 2.3 He is the Executive Member for Economic Development and Community Engagement, is a Member of the Executive Committee, the Executive (Calling In) Committee, the Fulford and Heslington Ward Committee, the Local Plan Working Group and is Vice-Chair of the Staffing Matters and Urgency Committee.
- 2.4 He is a member of the Liberal Democrat Party, Business Support York and North Yorkshire, Fulford Parish Council, the Fulford Parish Council Cemetery Committee, Germany Beck Community Forum, Heslington East Community Forum, the Human Rights and Equalities Board, the Local Government Association Councillor's Forum, the Local Government Association General Assembly, the Local Government Association Fire Services Management Committee, the Fire Commission and the North Yorkshire Fire and Rescue Authority.
- 2.5 Councillor Aspden could not recall attending any specific Code of Conduct training during his time as a Councillor, but was sure he would have received information on the Code in member training and induction.

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3. Relevant legislation and protocols

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Council must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.

3.2 Section 28 (1) of the Act provides that the City Council must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council adopted a Code of Conduct in 2012 (attached at WC 1) in which the following paragraphs are included:-

You are acting as a Councillor or action as a co-opted Member only when conducting the business of the Council or acting, claiming to act or giving the impression that you are acting as a representative of the Council.

3.3 You must not bully or intimidate any person, or attempt to bully or intimidate them.

3.4 You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality.

3.5 You must not disclose information which is confidential, unless:

- a) You have the permission of a person authorised to give it; or*
- b) You are required by law to disclose the information; or*
- c) You disclose it 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 reasonable; and is in the public interest; and is made in good faith*

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3.7 You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.

3.8 You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.

3.9 When you use or authorise the use by others of the resources the Council you must:

- a) abide by the Council's reasonable requirements; and*
- b) ensure that such resources are not used improperly for political purposes (including party political purposes); and*
- c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.*

Disclosure of personal interests

6.1 You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule or any person with whom you have a close association

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4. Evidence and facts

Our appointment

- 4.1 The City of York Council's (the Council) arrangements for dealing with standards complaints state that the Monitoring Officer of the Council, in consultation with the appointed Independent Person, shall decide whether or not to investigate a complaint.
- 4.2 Andrew Docherty, the Monitoring Officer (MO) of the Council, instructed Wilkin Chapman LLP on 17 October 2017 to carry out an investigation on his behalf of complaints contained within the Project Rose Report and considered by the Standards Assessment Sub Committee.
- 4.3 Barry Khan the MO for North Yorkshire County Council advised the Standards Sub Committee with regards this matter and acted as Deputy MO with regards this investigation.
- 4.4 Wilkin Chapman LLP is a solicitors firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Jonathan Goolden, Dave Hayward, Peter Bray and Mark Lambert

The investigation

- 4.5 During the investigation, signed statements were obtained from:-

- Person A - [REDACTED]
- Officer B - [REDACTED]
- Officer A - [REDACTED]
- Person C - [REDACTED]
- Person B - [REDACTED]
- Officer C - [REDACTED]
- Person D [REDACTED]

- 4.6 Councillor Aspden declined to meet us in person, however following disclosure of the evidence he intimated that he was willing to consider questions from us. Questions were emailed to Councillor Aspden on 12 March 2018. We subsequently received a prepared statement from Councillor Aspden on 21 March 2018.
- 4.7 Copies of all relevant documents are annexed to this report and listed in a schedule of evidence at Appendix A.
- 4.8 We wish to record our thanks for the courtesy shown to us by all those we had cause to contact during the investigation.

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Background

- 4.9 On 17 February 2017 a confidential draft report which had been prepared for the Audit & Governance Committee was leaked to the media. Person A [REDACTED] admitted being responsible for the leak.
- 4.10 It is understood that whilst on sick leave Person A requested a meeting with Mary Weastell, the Council's Chief Executive. This meeting took place on 8 March 2017. It is understood that in that meeting Person A raised a number of concerns [REDACTED] had. These concerns were treated by the Council as whistleblowing.
- 4.11 On the advice of the Local Government Association (LGA), Roger Morris OBE undertook an In-tray review of the allegations and reported to the Chief Executive. We understand that the report (not seen by us) highlighted the need for a detailed investigation into the issues raised.
- 4.12 The Council appointed Martin Chitty, a partner with Gowling WLG (UK) LLP, as external investigator to review the allegations and provide a report to the Chief Executive on a confidential basis. The investigation was given the operational name 'Project Rose'.
- 4.13 Martin Chitty completed his investigation and reported back to the Chief Executive in August 2017. The report (attached at WC2) was disclosed to Councillor Aspden in full and subject to consideration by the Standards Sub Committee.
- 4.14 In addition to this the Chief Executive received legal advice from Gowling's on potential breaches of the Council's Code of Conduct. We assume that this advice was shared with the Standards Sub Committee. Councillor Aspden has asked for disclosure of the advice but it has not been provided to him by the Council.
- 4.15 The advice identified that Councillor Aspden might be in breach of the Council's Code of Conduct in relation to the following:-
- "3(3) and 3(4) in relation to the pressure applied to officers, especially Officer A in relation to the appointment of Person B ; and in relation to Person B following his interview;*
- 3(8) obtaining an advantage for another – in relation to the appointment of PERSON B*
- 6 – Disclosure of a personal interest in relation to Person B – Cllr Aspden suggested Person B for the job and then effectively chaired the appointments panel without disclosing that matter;*
- 3(5) in relation to the disclosure of documents that were not intended for publication;*
- 3(9) in relation to the use of the Council facilities by Liberal Democrat Party interns."*

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4.16 There were four matters referred to in the Project Rose Report. These were:-

- (a) *The appointment of Person B* [REDACTED];
- (b) *The disclosure of a confidential discussion paper on the establishment of a Congestion Commission;*
- (c) *The disclosure of information concerning Council budget proposals for investments in local mental health services;*
- (d) *The use of Council facilities by Liberal Democrat Party interns.*

4.17 Relevant emails concerning the four matters were set out in the Project Rose Report. In addition to this we have been provided with additional emails during the course of the investigation all of which are reproduced below.

4.18 A chronology identifying the source of all emails is attached at WC3.

The Appointment of Person B

4.19 Following the Council elections in May 2015 the ruling administration of the Council was formed by a coalition of the Conservative and Liberal Democrat Groups.

4.20 Historically, the leader of the council was assisted by [REDACTED]

4.21 The position was a non political role acting as [REDACTED] for the leader, dealing with administration, diary management and correspondence including those from residents, other councillors, MPs and other stakeholders.

4.22 Following the 2015 elections the then Deputy Leader, Councillor Keith Aspden, requested that [REDACTED] be made available for that position given that the coalition were operating in joint leadership and regarded himself as joint leader. We understand that the post was agreed by the Chief Executive and a recruitment process began.

4.23 It would appear that from the outset Councillor Aspden wanted to be involved in the recruitment process and concerns were raised by officers as to the involvement by Members in the recruitment of non chief officer posts. These concerns were considered by the then Chief Executive Kersten England who stated in an email on 23 May 2015:-

"...but maybe it's done by having an advisory part of the process where they have an informal chat and officers do the technical/professional formal assessment and decision making?"

4.24 The same day Officer A replied:-

".....My understanding is that these staff are non political and are part of the officer structure, but I'm sure we can do as you suggest by having an informal chat built into the process for members...."

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4.25 The post was eventually advertised on 19th June 2015 with Councillor Aspden being informed of the adverts on 11th June 2015

4.26 On 22 June 2015 Kersten England emailed Officer D, [redacted] and Officer A and stated:-

Officer E *"I need you to pick this issue up. Cllr Aspden came to see me today to express his frustration and disappointment at the process by which [redacted] will be appointed. This is following feedback to him from Person D having met Officer E and Person A having talked to someone in our bit of the organisation. The critical thing is that he feels that we are not talking to him directly. And he wants a proper role in the appointment process – although he acknowledges that he can't be the decision maker. I would suggest that he can chair an advisory panel which feeds back to Officer D [redacted] – [redacted] possibly – who makes the decision. It just needs sorting. Can one of you pick up? He feels [redacted] is not replying to him/isn't getting his perspective. He is also of the [redacted] should manage [redacted]"*

4.27 The same day Officer A replied and stated:-

Officer E *"Hi Kersten
Officer E was on leave today.
I am sorry that Keith feels this way particularly as I know [redacted] has worked very, very hard over the last month initially with temporary staff, then the permanent appointments to ensure that everyone is supported, in addition to running a large new and growing service.
Officer E wouldn't have made any appointment without the Leaders' having the opportunity to meet the most successful candidates first to ensure that they can have a view and assess whether the relationship would work. We discussed this late last week.
Officer C will need to advise on the final point, but this in my view would not allow business continuity and would be working outside of the robust structure we have established for administrative support. If this it is preferred ie that all these are in fact to be political appointments (an again Officer C will advise) I suggest that this responsibility is transferred from [redacted] asap, but there will need to be a senior officer lead from someone who can oversee the support to each individual party and ensure this all works."*

4.28 Kersten England replied:-

"I understand – and absolutely agree that it must be an officer appointment – and I think there are ways of achieving this without Keith being presented with 'the successful candidate' but with the ability to have a chat with all candidates or to form an advisory panel...Keith was quite exercised about the issue so I suggest that you contact him directly...clearly I will not be around much after this week. I will let Keith know that you will be in touch."

4.29 The same day Kersten England sent a further email to Officer A stating:-

"Just as a ps these cannot be political appointments – that is not permissible for appointments below chief officer..."

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4.30 The same day Kersten England emailed Councillor Aspden and stated:-

"Dear Cllr Aspden

I have relayed your concerns about the process for appointing [redacted] to Officer A [redacted], who has responsibility for administrative support in [the Council]. Officer A will be in touch with you directly to talk about what might work – so that you feel that you have been properly involved but that we also are within due process which requires this to be a non political appointment. I think we can find a way through but will leave you to discuss with Officer A given my imminent departure."

4.31 On 23 June 2015 Officer E [redacted] emailed Officer F [redacted] and stated:-

"The advert for the above is due to close on [redacted]. Can you advise what if any role that Cllr Aspden or Person A [redacted] could take in the process. I am sure that it will be just an observatory role but need the HR line to be able to go back and confirm this to him."

4.32 Officer F [redacted] replied:-

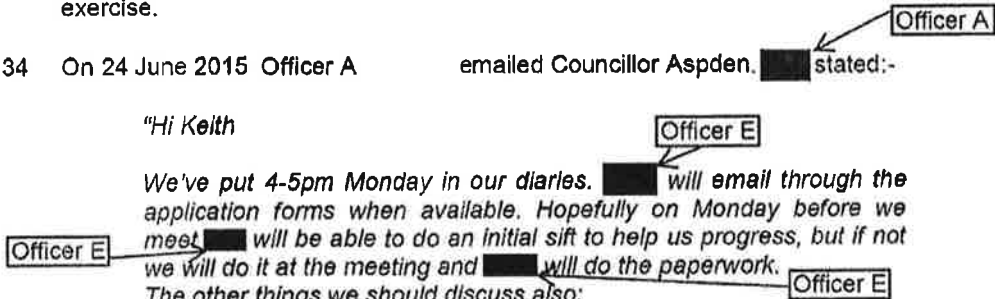
"It is not uncommon to involve stakeholders in a recruitment process, their views are important and if managed in a structured way their feedback on the candidates can be considered by recruitment panel and can provide an additional perspective on the recruitment decision. However, the appointment decision is for officers on the recruitment panel. It is important that you ensure that those involved in the making decision are consistent throughout the process from short listing to interview."

4.33 It was agreed that the Interview panel would comprise of Councillor Aspden, Person A [redacted] and Officer A [redacted]. The panel also completed the short listing exercise.

4.34 On 24 June 2015 Officer A [redacted] emailed Councillor Aspden. [redacted] stated:-

"Hi Keith

We've put 4-5pm Monday in our diaries. [redacted] will email through the application forms when available. Hopefully on Monday before we meet [redacted] will be able to do an initial sift to help us progress, but if not we will do it at the meeting and [redacted] will do the paperwork. The other things we should discuss also; Interview dates/times depending on length of shortlist Other selection tools to test skills – eg in tray exercise (recommended for this type of role), presentation? Compilation of draft questions Likely start dates, given time for notice, reference, medical clearance processes to take place. See you Monday"



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4.35 Councillor Aspden replied and stated:-

*"Thanks Officer A,
No specific initial sift necessary in advance – can all have a look at all applicants and bring ideas on Monday – which is I think what you are suggesting anyway! (if there are specific criteria in the person specification that these should be considered against please send across a copy)"*

4.36 On Thursday 25 June 2015 Councillor Aspden emailed Officer A and stated:-

"Just to say I've put time in my diary 4.30-5.30 tomorrow to look at all of the [redacted] applicants – before we meet on Monday – be grateful if I could have them all electronically and/or hard copy as appropriate by then"

4.37 On Friday 26 June 2015 at 09:57 Officer A emailed all applications to Councillor Aspden, Person A and Officer E and stated:-

*"Please find attached documents for shortlisting.
The PDF contains all applications, the other attachment contains supporting information, job descriptions, shortlisting template and guidance.
There are 27 applications.
I look forward to meeting with you on Monday."*

4.38 The email was sent with high importance and marked confidential.

4.39 The applications included that of Person B, who at the time was an intern [redacted] Person B had submitted [redacted] their application on 25th June 2015 (attached at WC4). The application showed [redacted] Person B's then present employer as York Liberal Democrats with the contact name being Councillor Keith Aspden. The referees included Person C, [redacted] [redacted].

Short listing and interview

4.40 On Monday 29 June 2015 Officer A met with Councillor Aspden, Person A and Officer E and a short listing process was completed. It is understood that seven applicants were passed to the interview stage. The applicants included Person B.

4.41 Further emails suggest that Councillor Aspden was then involved in the subsequent preparation of questions to candidates. Emails at the time would also suggest that it had been agreed that Councillor Aspden would chair the interview panel.

4.42 On 15 July 2015 Officer E emailed Councillor Aspden:-

*"Thank you for your prompt reply Keith.
I will allocate these questions to you and would suggest that as Chair you start the questioning followed by [redacted] with Officer A to finish."*

↑
Person A

CONFIDENTIAL REPORT

Am not sure if Person A shared with you the two practical exercises or whether you would like me to forward them to you. These will be completed prior to the interview and it is my intention to get these into you before you see the candidate"

- 4.43 Following the interviews and in tray exercise an offer of employment was made to Person B .

The Congestion Commission Paper

- 4.44 On 4 September 2014 a report headed, "Congestion Commission, Discussion paper for Group Leaders Meeting" was prepared by Officer G , [REDACTED]. We understand that the report was prepared as part of an attempt to achieve political consensus on what was a highly controversial topic.
- 4.45 The report ([REDACTED]) was not protectively marked nor was it circulated as 'salmon papers' (a term used to identify "exempt" business for formal meetings of the Council, which were normally open to the public). However the document contained details of a proposed budget for the work, rates of pay the Council might offer and details of potential participants and opinions on their suitability.
- 4.46 On 15 September 2014 at 10:01 Person F a reporter for 'The Press' (a York newspaper) emailed Councillor A , subject "Congestion Commission". [REDACTED] stated:

Person F

"Hi Councillor A,

We have received this morning a copy of a "discussion paper" which was presented to yourself and other group leaders on Sept 4, about a planned congestion commission. We intend to run a story on this for tomorrow, focussing both on the potential structure of the commission and the costs set out in the report. Do you want to comment? Can you tell us what was resolved at the meeting on Sept 4? Do you envisage the commission progressing in the way set out by Officer G ? Do you think the costs will represent value for money, and how confident are you that the commission will achieve more than previous attempts to tackle congestion have done?"

- 4.47 At 10:05 Councillor A emailed a number of recipients (names unknown) and stated:

*"Dear all,
As you can see someone has leaked our discussion paper on the congestion commission that was requested by group leaders.
I would prefer this doesn't get into a bun fight as it will hardly set us in good stead to work together on this project.
Can you please suggest how you would like to proceed? Would you like to have a political bash? Would you like a joint statement? Would you like individual statements saying our positions are reserved?"*

- 4.48 At 10:13 Person F emailed Councillors B , Aspden, C . Person F copied the email to Officer H and Person A . Under the subject heading "Congestion Commission". [REDACTED] stated:-

Person F

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"Dear Councillor B/Keith/Councillor C,

I've been sent a copy of a "discussion paper" on the proposed cross-party congestion commission, written by Officer G . It looks to have been discussed at the group leader's meeting on September 4,

██████████?
You'll no doubt know that the report sets out a possible structure for the commission, with a panel of 4 councillors and 5 external members, and a number of potential members are named. The report also sets out a potential cost for the commission, of £161,000 – including £86,000 on fees for expert commissions (£400 a day per person), £50,000 for specialist expertise on financing etc, £15,000 for a citizens' jury and £10,000 for online publication.

We're doing a story on this tomorrow, and I wondered if you wanted to comment. Have you decided who your representative will be on the commission, do you think it represents value for money, and how hopeful are you that it will achieve more than previous attempts to tackle congestion in York?"

4.49 At 10:33 Councillor Aspden emailed Councillor A copying in Councillor B , Councillor C ; Officer G , Kersten England and Officer C . He stated:

"Thanks Councillor A,

Opposition leaders have just been approached – Have you decided who your representative will be on the commission, do you think it represents value for money, and how hopeful are you that it will achieve more than previous attempts to tackle congestion in York?

I have shared with my group for a steer – difficult to respond anyway with timescale yet.

Keith

Ps: Kersten mentioned a group leaders meeting on the local plan. Will we be setting one up to discuss processes or what will happen at the meeting before Full Council (I miss that meeting due to party conference, but Ann is attending)"

4.50 At 10:35 Councillor Aspden emailed CYC Lib Dem Group, he stated:

"FYI"

Person A

4.51 At 11:05 Person A emailed Councillor Aspden, ██████ stated:

"Something like this? Could be made stronger/weaker depending on Tories:

"The Liberal Democrat Group supports the principle of cross-party traffic commission to tackle congestion and ensure that mistakes such as Labour's botched closure of Lendal Bridge are not repeated. However, we were surprised by the proposals to spend £86,000 plus on visiting consultants and we are not convinced that this represents value for money for taxpayers. We believe that the first priority of any commission should be to listen to local residents and business owners who actually use the transport system every day".

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4.52 At 11:14 Councillor Aspden emailed Person A . He stated:

*"From Councillor B -
Was thinking largely fence sitting - [redacted] has mentioned it for months
but first time we have detail and still to be discussed at group meeting,
concerned at cost and that labour never work cross party so
suspicious on their motives plus the times going overlap with the
election."*

Councillor A

Person A

4.53 At 14:05 Person A emailed Councillor Aspden, [redacted] stated:

Councillor D

*"I think [redacted] is in later so happy to have a chat etc
Councillor B sounds like he will raise concerns so I would do something like
my original draft maybe taking out the reference to Labour if we don't
want to be party political?
"The Liberal Democrat Group supports the principle of cross-party
traffic commission to tackle congestion and ensure that mistakes such
as the botched closure of Lendal Bridge are not repeated. However,
we were surprised by the proposals to spend £86,000 plus on visiting
consultants and we are not convinced that this represents value for
money for taxpayers. We believe that the first priority of any
commission should be to listen to local residents and business owners
who actually use the transport system every day. We hope to work
towards achieving this"*

Person A

4.54 At 16:54 Person A emailed Person F , [redacted] stated:

*"Can I ask if the Conservatives + Greens have sent you a quote on
this? If so, I can send you something through now"*

4.55 Person F replied:

Person A

"Hi [redacted], yes both have commented"

4.56 At 16:56 Person A emailed Person F and stated:

*"Thanks, here is a quote from Keith:
"The Liberal Democrat Group supports the principle of cross-party
traffic commission to tackle congestion and ensure that mistakes such
as the botched closure of Lendal Bridge are not repeated. However,
we were surprised by the proposals to spend such a high amount of
money on visiting consultants and we are not convinced that this
represents value for money for taxpayers. We believe that the first
priority of any commission should be to listen to local residents and
business owners who actually use the transport system every day".*

4.57 On 17 September 2014 the report was subject to a story in 'The Press' under
the heading 'Revealed: £161,000 plans for York's new congestion
commission' (attached at WC6) . The author of the report was Person F
[redacted]

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Mental Health Investment 2017

4.58 The press article appeared in 'The Press' on 30 January 2017 under the heading £200,000 investment in York's mental health services (attached at WC7) (██████). The investment money was for two new schemes in York. One was to help young people support their peers and one to help people with mental health problems get back into work.

4.59 On 24 January 2017 Person A emailed Person G (a reporter), subject 'Budget' Person A stated:

*"Hi Person G
Hope you are well.
Just thinking ahead to next week – budget papers will be published on Wednesday. Would you be interested in stories on schemes which will be funded before the full papers are published e.g. end of this week and early next week?"*

4.60 On 27 January 2017 Person A again emailed Person G, Subject 'Mental Health Investment'. Person A stated:

*"Hi Person G
Further to our chat, here is a press release on the mental health investment. Let me know if it makes sense or if you need further information. I've got the briefings from officers (confidential and draft) if that helps."*

4.61 Attached to the email was a Media Release from York Liberal Democrats concerning Extra investment in mental health support in York (attached at WC8) (██████).

4.62 The same day Person G emailed Person A and stated:

Person A

*"Thanks ██████, that's great.
Do you have any more info about the health champions thing? Whether it's for sec school pupils, uni students etc? If that's all in the briefings I'm happy to treat them as confidential and background info, if you're happy to share them?
Also, is it going anywhere else before Monday?
Thanks
Person G."*

4.63 Person A replied and stated:

*"Here is the briefing – you will see it is very rough so treat as confidential/provisional.
The RSPH scheme is primarily targeted at 14-18 year olds: <https://www.rsph.org.uk/resources/videos/youth-health-champions.html> but there has been discussion about extending it to universities. I can ask for further info although this being Friday there are about 7 people in West Offices!"*

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4.64 Person A then again emailed Person G and stated:

"Just realised I didn't answer your other question – no not going anywhere else before Monday.

Person A

4.65 Person A was interviewed by Peter Bray on 15 December 2017 and a signed statement was obtained on 12 January 2018 (Attached at WC 9). Person A stated that:-

(a) Person A was employed by the City of York Council from April 2012 until August 2017 as [REDACTED];

(b) Person A had previously worked in a similar role for [REDACTED] for a period of [REDACTED];

(c) Person A's position was paid for by the City of York Council;

(d) Person A had two line managers, initially Officer B an officer with the Council for HR issues. The day to day tasks were directed by the elected Liberal Democrat Councillors in particular the Leader of the Group, Initially Councillor Runciman and from 2013 Councillor Aspden;

(e) Person A was aware of their role profile and the code of conduct in which elected members and Council officials should operate;

(f) Person A was expected and encouraged by Liberal Democrat Councillors, in particular Councillor Aspden, when he became group leader, to become more involved with and deal with the Media more and became more of a press officer for the group than [REDACTED] had been previously with targets and time focused on this; Person A

(g) Person A was expected and instructed to become more involved in political campaigns in as much as helping with the production and content of political literature (Liberal Democrat 'Focus' leaflets, campaign letters, party manifestos and annual reports) writing copy and checking that they were correct and ready for production;

(h) Person A had three/four different Council line managers during their employment (Officer B, Officer I, Officer J and then Officer B again). He did not feel, at the time, it was something that Person A could discuss with them and it was easier to just accept the prevailing culture. For most of [REDACTED] period of employment [REDACTED] did not have regular one to one meetings with them and just had an annual appraisal (most years); Person A
Person A

(i) Person A became concerned about what was happening with the Liberal Democrat group and the overall culture that was developing with documents being leaked to the media. It happened on a number of occasions and in particular became a practice for Councillor Aspden;

(j) before the 2015 local election there was a Council issue over the setting up of a traffic congestion commission within the City of York. Person A believed this was in September 2014 and was an issue that would have a considerable political impact;

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- (k) the Labour Group was running the Council and a report had been prepared by Council officials and was given to the 4 political group leaders at a group leaders' meeting. In this case Councillor Aspden was given a copy as Leader of the Liberal Democrat group;
- (l) Person A believed the sharing of papers in this manner, to Leaders, was not in itself unusual as it pre warned them of an issue which was to be raised, allowed for informal and confidential discussion and gave them pre reading time and enabled them to research any issues that they might consider important;
- (m) Person A believed that the document was confidential by its very nature and not to be communicated to anyone outside the Council;
- (n) Person A was aware that Councillor Aspden contacted, and gave the document to a journalist called Person F of "The Press", a York Newspaper;
- (o) Person A had had a conversation with Councillor Aspden at the time who told Person A that he had or was going to "leak" the report to Person F and that he should prepare a comment from Councillor Aspden as he would receive a request from Person F asking for a comment;
- (p) Person A was told the reason for the leak was because he wanted the party to be on the ball and did not agree with the commission as he disagreed with the cost, but given the importance of tackling congestion he did not want to be the one to quash the idea. Councillor Aspden's view was that the resulting press article would put pressure on the Council's ruling Labour Group to drop the proposal. It would not directly involve the party and they would be able to get what they wanted whilst embarrassing the Labour Group;
- (q) Person A was aware that the system of leaking papers and the use of the press had happened before. The process was for a document or information to be leaked and given to the press, usually by a Councillor. The resultant article would be reported as from an ANON source. The Journalist obviously knew where it was from and would put in a request for a comment to the group that leaked it first;
- (r) Person A was uneasy with the culture of leaking and what was happening. However, Person A went along with it and in the case of the congestion commission story, subsequently released a comment from Councillor Aspden;
- (s) the Press did run an article in "The Press" on the subject which reported on a "leaked council report" which raised public concern, as expected. The proposal was dropped by the Council/Labour;
- (t) Councillor Aspden also asked Person A to leak/pre-release budget proposals on plans for mental health investment in January 2017. This was an attempt to gain an advantage over the Conservative Group and generate favourable press coverage for the Liberal Democrats;

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(u) Person A was convinced the leaking culture was not in the interests of openness or motivated by a 'public right to know' justification and was instead directly for the political advantage of the Liberal Democrat Group;

(v) Person A was concerned that this method of "leaking" information was part of the culture and used by Councillor Aspden for political advantage;

(w) following the Elections in 2015 Councillor Keith Aspden became the Deputy Leader of the City of York Council. This role included a more corporate area of responsibility and as a result he took on additional work and Portfolios not directly attached to the Liberal Democrat group;

(x) it was agreed, by the former Chief Executive, that the Leaders of the 3 largest groups should each be assisted [redacted];

Person A

(y) the role was duly advertised and [redacted] recalled Councillor Aspden wished the post to be filled permanently as soon as possible;

Person A

(z) the post was an officer post and not political. As such [redacted] had not expected the applicant to be appointed by elected members;

(aa) Person A became aware that Councillor Aspden was concerned that he got the right person for the job as the successful applicant would be working directly for him. Councillor Aspden wanted to fill the post with a political appointment;

Person A

(bb) Person A became aware that applications had been submitted and [redacted] was, at some stage, asked to become involved in the official short listing and interviewing of candidates. [redacted] was also aware that this was generally performed by the Council's HR officials/relevant officers and did not include Councillors. However, Councillor Aspden was very keen to be part of the process;

Person A

Person A

Person A

(cc) in summer 2015, [redacted] cannot recall the actual date, [redacted] went to the pub on Kings Square, which [redacted] believed was called The Duke of York. Person A met Councillor Aspden, Person D ([redacted]) and a man called Person C, [redacted] believed, to meet [redacted] or Councillor Aspden socially;

Person A

Person A

(dd) Person C was not a councillor but a Liberal Democrat Activist. The meeting was at the behest of Councillor Aspden and was a 'pre-short listing' meeting to prepare for the 'official' short listing meeting with Officer A;

(ee) Councillor Aspden had printed copies of the application forms and CVs of the applicants for the [redacted] role. He passed the forms around all of the persons present and they considered their suitability for the post. He knew Person C was not entirely comfortable with the situation and what was happening;

(ff) the meeting and the passing around of the papers was run by Councillor Aspden. They were reading them and making comments as to their suitability. Councillor Aspden was keen to have two individuals on the short list/put through to interview and they were Person B

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and Person H because he knew both of them and knew them to be Liberal Democrats. Person B was an intern at the time of the application process and Person H had previously [redacted] an intern with [redacted]

(gg) it was discussed that they would need to put at least some other candidates in the short list to make things look credible and that was done. It was also discussed what good points the two favoured applicants had and what they needed to do to enhance those points, as well as what were not so good areas that the other applicants had. The other candidates mainly had administration/PA skills which were better than the favoured two. However, they were not as experienced applicants in political areas;

(hh) It felt like they were making the two favoured applicants fit the job description, a description which was for a [redacted] role, not for a party political officer;

(ii) Person A recalled Person D making a few notes;

(jj) the official short listing took place a few days later in the Council offices. Included in this were Councillor Aspden, Officer A and Person A. The short listing was carried out in a structured way and Councillor Aspden spoke up for his two favoured applicants (as agreed at the pre-short listing meeting), saying they should be given a chance. Person A believed six applicants, including Person B and Person H [redacted], were passed to be interviewed;

(kk) the interview process was to take place in the Council building and, along with Officer E, [redacted] was asked to prepare an in tray exercise which they did; Person A

(ll) Person A along with Councillor Aspden and Officer A were to conduct the interview of the candidates and deal with the in tray exercise;

(mm) Officer A did make it clear that they were the appointing officer in the recruitment process and [redacted] would technically take the decision on who should be successful in the appointment; Officer A

(nn) they all had set questions which were the standard interview questions. Under the instructions of Councillor Aspden, [redacted] had prepared a slightly harder, more political, question. Councillor Aspden was fully aware of [redacted] questions before the interview date. Councillor Aspden was also fully aware of the in tray exercise which was proposed; Person A

(oo) on a day shortly before the interview, at about lunchtime, [redacted] was returning to the Group's office when [redacted] saw Councillor Aspden, [redacted] Person D and Person B sat together in conversation. [redacted] only heard a small part of [redacted] believed, the tail end of their conversation but [redacted] was convinced that it concerned the interview and a part of one of the questions. The conversation stopped quite abruptly when [redacted] walked in; Person A

(pp) the interviews took place and Councillor Aspden was chair of the panel. Councillor Aspden essentially ran the interviews;

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(qq) Person A asked the 'political' question as agreed to all candidates and Person A recalled that no one scored particularly well at all;

(rr) Person B, however, answered it extremely well. It was a near perfect answer to a very difficult question which the others had performed poorly on;

(ss) the interview was scored using the traditional point system and all three of them put Person B as the best candidate;

(tt) following the interviews they discussed who had performed the best and it was agreed that Person B had and that [redacted] was the best candidate;

Person B

(uu) Person A did not know the motivation behind why Councillor Aspden wanted Person B or Person H to have the job. [redacted] felt that Councillor Aspden had manipulated the process so he would get the person he wanted and went away from the correct and proper procedure for appointment;

Person A

(vv) it was not correct to do a pre short listing in a public house with people not involved in the process or even council employees. Councillor Aspden should not have manipulated himself onto the interview panel or been involved in the questions or in tray exercise. He should not have been Chair of the panel nor owned the process;

(ww) Person A firmly believed that that went away from all the Policies, processes and procedures set down by the Council and his actions were unfair to all those concerned, giving Person B an unfair advantage throughout the selection process;

(xx) Person A was aware that Person B and Councillor Aspden were known to each other as they would have come into contact when [redacted] was an intern [redacted] was aware that they socialised together outside of work and [redacted] had spent time living with Councillor Aspden;

Person B

Person A

Person B

(yy) Person A was aware that equipment within the Liberal Democrat office was for the sole use of the group's councillors whilst engaged in Council business, not to be misused for Party political use;

(zz) the room, which was provided, owned and supplied by the Council was regularly used for campaigning and party political purposes by interns and party activists, as well as local party staff and members;

(aaa) their use included the using of phones to ring Liberal Democrat members when the individual's membership had or was about to run out and encourage them to renew membership, or issues on similar party business;

(bbb) the interns were encouraged to do this along with non elected party activists. The computers were used to send email updates to party members/supporters and the shared printing facilities were used for the printing of leaflets for distribution to party members on party issues as well as letters to residents on campaigning and party political

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issues. This was an improper use of resources and not in any way part of the City of York Council business;

(ccc) Person A was also aware that the use of Person B's time was used on non Council business on a regular basis and [redacted] was encouraged to become involved with Party political work which again was not appropriate and not the City of York Council business. This work included activities such as editing/proof reading Councillor Aspden's Focus and other political literature, and writing and sending out the 'weekly roundup' campaign email to party members and supporters;

Person B

Officer B

4.66 Officer B was interviewed by Pete Bray on 5 January 2018 and a signed statement was obtained on 19 January 2018 (attached at WC 10). [redacted] stated that:-

Officer B

(a) Officer B was employed by the City of York Council as [redacted];

(b) Officer B's Job description included numerous different areas of responsibility including supporting the 47 elected councillors, arranging and making sure that appropriate training was delivered, arranging Council meetings and ensuring the meetings were held and papers and agendas were prepared and circulated;

Officer B's

(c) as part of [redacted] role [redacted] had responsibility for the line management of [redacted];

(d) Person A was employed as [redacted] for the Liberal Democrat Group and [redacted] was [redacted] line manager for a period. [redacted] post, along with [redacted] came under other supervisors prior to 2015. She had however regained responsibility for the post sometime after the 2015 elections;

Officer B

Person A

(e) the Post of [redacted] was paid for by the Council and the official line management was from the designated Council official. However, day to day supervision of the work allocated was by the political group itself;

(f) the post of [redacted] was different from that of [redacted]. It was, by its very nature, the [redacted] of elected Members or Member of the Group to which it was allocated, such as the Leader of the Council or his/her Deputy;

(g) It was generically administration support for the specific role and dealt with diary issues, meetings and background work in preparation for meetings;

(h) It was a Council appointed post and fully funded by the Council. It was a Non Political post. Whilst there should not be any political involvement in the formal appointment process, given the location of the post holder (based within the relevant political group) it created an environment which made it difficult for group Members to not wish to take an interest in appointments made;

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- (i) the post holder was, however, appointed by Council officials and should not have any party or group involvement in either the formal application process or the interview and appointment process;
- (j) the process for such an appointment should, as per the Council's procedure in appointments, be as follows:-
 - the post has a job description and would be advertised either internally, externally or both. This was generally dealt with by the line manager with HR assistance;
 - a closing date would be agreed and applications were submitted through the Council's on-line portal. Again, this would be dealt with by the line manager;
 - a short listing would take place, arranged by the line manager, and generally involved the agreed panellists (generally 2 or 3 individuals) and selected by the line manager;
 - the applications were looked at by the panellists as to suitability at an arranged meeting and a short list prepared;
 - a formal interview was set which may involve an in tray exercise or some form of presentation along with a number of set questions;
- (k) Officer B's experience the questions and format were decided by the panellists who would have an agreed chair who would lead the interview process. The chair was most usually the manager of the service;
- (l) the process was to ensure fairness to all candidates and to select the best person for the post, along with having a transparent system with good governance;

(m) Officer B was aware that the application and interview process in respect of the [redacted] post and the appointment of Person B [redacted] was conducted by Officer A [redacted] [redacted], Councillor Keith Aspden and Person A ;

(n) at the time (July 2015) the line manager for the post of [redacted] [redacted] was Officer E ([redacted]);

Officer B's

(o) it was [redacted] understanding that all papers relating to post applications were confidential papers which should only be dealt with by authorised individuals within the Council;

(p) Officer B was not sure of the date but believed it to have been in the summer of 2017 when [redacted] met with Person A , off site. At the time [redacted] was off sick and as [redacted] was then [redacted] line manager, [redacted] met [redacted] as a welfare visit;

(q) at the meeting Person A told [redacted] that [redacted] had concerns with the appointment of Person B , not that [redacted] had got the job but the manner in which the interview process and in tray exercise had been conducted. [redacted] told [redacted] that [redacted] firmly believed that Councillor Aspden

v1

Officer B

Person B CONFIDENTIAL REPORT

Officer B's had given information on the In tray exercise and some aspect of the questions prior to the interview; Officer B

- (r) as part of own work role was involved with the organisation and running of Group Leader meetings. These were held from time to time, usually one per month. The meetings had an agenda and those, along with any attachments, were sent to all the Leaders of political groups;
- (s) the purpose of the meetings was to brief the Party Leaders on specific issues in advance, sometimes delicate issues;
- (t) at the time of briefing Group Leaders, the issues were not generally in the public domain and it was generally understood that the matters and papers discussed were not for sharing or circulation (particularly outside the organisation or with the press) unless otherwise agreed or indicated;
- (u) the papers were not printed as "salmon papers" but carried similar significance in terms of maintaining appropriate confidentiality.

4.67 Officer A was interviewed by Pete Bray on 9 January 2018 and a signed statement was obtained on 25 January 2018 (). Officer A stated that:-

(a) Officer A was employed by the City of York Council as . In 2015, was the , and was the direct line manager of Officer E who worked in and had overall responsibility for the HR department within the Council;

Officer A

(b) following Council elections in May 2015 the Council was run as a coalition between the Conservative Party and the Liberal Democrat Party and had joint leadership between the two Parties;

(c) historically, the Leader of the Council had appointed to them , which was an Officer appointed post and a non-political role acting as an , dealing with administration, diary management and correspondence;

(d) following the 2015 elections the Deputy Leader, at that time Councillor Keith Aspden, made a request that an role be made available for his position. Given that the coalition were operating in joint leadership he regarded himself as joint leader;

(e) the post was agreed and Officer E was tasked with dealing with the advertising and appointment process;

(f) the process took time due to differing views, and the capacity of Officer E , who was also struggling with some health issues, was made aware by the Chief Executive that Councillor Aspden was keen to move more quickly than the process was taking;

Officer A

(g) Officer E commenced the recruitment process and raised concerns with and Officer C about the process becoming increasingly of a political nature, sending an email trail on 28 May

Officer A

V1

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2015, including an email from Councillor Aspden that was copied to the Chief Executive and Councillor B

█, regarding how the post should be advertised. █ had discussed it with Officer D, and Officer C

Officer A

█ satisfied █ that the advertising approach was appropriate for the job role;

themselves

Officer A

(h) through that email, █ was aware that Councillor Aspden had become involved in the recruitment process, and that he had a view that the candidate should have experience of working in a political environment, given the location and nature of the role;

(i) the job description was agreed and the post advertisement would be both internal and external. The job was subsequently advertised by Officer E, being a █ appointment and was a Council post. Generally, elected members should not be involved in the selection process of non Chief Officer posts. However, Councillor Aspden assumed that he would be involved and the Chief Executive

Officer A

made suggestions about how that might happen and asked █ to get involved. █ became involved in the recruitment process at the short listing and interview stages to minimise the pressure and avoid any continuity issues in respect of Officer E's ill health;

Officer A

(j) it was agreed that Councillor Aspden, Person A and █ would be the interview panel, and that general policy was for the agreed panel to complete the short listing of applicants;

(k) Officer A made it clear to all involved that the appointment was an Officer appointment and █ would have the final say. █ was clear that Councillor Aspden would be involved because the successful candidate would work directly and closely with him, and that Person A

Officer A

Person A

█ would be involved as █ was used to working in the same environment that the post holder would be working in;

(l) Officer A was aware that was not a normal situation with Officer posts but it was an exceptional role, different to existing roles and working in a very different environment so she discussed the approach with Officer D and Officer C;

(m) Officer A communicated details of the panel to the Chief Executive of the Council, Kersten England, who raised no concerns with █. █ made the panel aware of their roles and that whilst Councillor Aspden would chair the panel █ would be the decision maker and would be in direct charge of the process;

Officer A

Officer A

(n) applications were returned to the HR department who had forwarded them to █ electronically with a PDF attachment containing 27 application forms. █ then emailed it to Councillor Aspden and Person A on 26 June. Councillors involved in a recruitment process would usually receive a précis of each candidate but with 27 applications and short listing timescales that was not feasible;

(o) Officer A's intention had been that officers at the short listing meeting would bring recommended candidates for short listing and the final decision would be █. █ was aware that Councillor Aspden had set time aside on the afternoon of Friday 26 June to view the applications in

Officer A

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preparation for their short listing meeting on Monday 29 June and assumed that that would be in a confidential office environment;

(p) the PDF attachment was 194 pages and had not been printed by Officer A

Officer A

(q) on the Monday [redacted], along with Councillor Aspden, Person A and Officer E, completed the short listing process and a summary template was submitted to HR. [redacted] felt the process was normal and included healthy debate as Councillor Aspden and Person A felt the successful applicant should have more experience of working in a political environment than perhaps [redacted] did;

(r) 7 applicants were selected for interview; 4 from [redacted] administration backgrounds and 3 from a more political background. No candidate had the full skill sets or balance of experience and whilst the strongest candidates on paper were the [redacted] none had worked in a political office environment (i.e. working directly with Councillors or other politicians);

(s) since the beginning of this investigation [redacted] had been told that at the time of the short listing process, Person B was working as [redacted] an intern at West Offices. [redacted] had no knowledge of that, neither from the application form, which gave a different work address, nor was [redacted] made aware during the application process. The contact name was Keith Aspden but the referee was someone different. [redacted] did not remember any discussion about that at the time of short listing, but assumed there was one, and was satisfied that the short listing was dealt with correctly and not influenced, other than healthy debate, by anyone present at the short listing meeting;

Officer A

(t) following short listing one candidate pulled out of the process leaving 6 to interview;

(u) Officer E produced a draft set of 14 questions which Officer E circulated to the interview panel. Councillor Aspden amended the 4 he wanted to ask and made a suggestion about one other to make it fair to all internal and external candidates. On the day a final set of 12 questions were used;

(v) Officer E was assisted by Person A in setting the in tray exercise which was, again, circulated to the interview panel before the interview for information;

(w) the in tray exercise and interviews took place in the Council offices. Councillor Aspden was Chair and his role in that particular interview process was only to welcome and make introductory comments, not to direct the process of the interview or decide the outcome, that was Officer A's role;

(x) they all marked their score sheets independently. [redacted] collated the scores and there was a clear winner, Person B. All three of the panel scored [redacted] as the best candidate on the day. They had a brief discussion after the interview and [redacted] asked, after adding up the scores, if they were all happy. [redacted] took the final decision to appoint Person B ;

Person B

Officer A

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Person A (y) Person A had his head down and looked annoyed so [redacted] had asked if [redacted] had an issue. [redacted] said something to the effect that, the successful candidate would be working directly with [redacted] and it would cause [redacted] more work but, when asked again if [redacted] had an issue with the result of the interview process [redacted] said "no"; Officer A

- (z) a conditional offer was made, recruitment checks undertaken and Person B was appointed in the role;
- (aa) Officer A had no knowledge of any discussions or sharing of information outside of the interview process and had had no involvement in setting the in tray exercise;
- (bb) Person B did perform well in all aspects of the interview, including the in tray exercise;
- (cc) Officer A was fully aware of the need for confidentiality in respect of papers, information and data held within the Council and by individuals themselves. In respect of all job applications personal data was held and should be treated with great care and in the strictest of confidence;
- (dd) Officer A was aware that the inclusion of an elected member in the appointment process of a Council post of that level was not a normal process, but it was not a normal post. Councillor Aspden made it clear early in the process that he wanted to be involved because he would be working very closely with the successful applicant and he wanted the best person for the job;

Person C

4.68 Person C was interviewed by Pete Bray on 2 January 2018 and a signed statement was obtained on 9 January 2018 (attached at WC 12). Person C stated that:-

- (a) In 2015 [redacted] was an active member and activist of the Liberal Democrat Party in York;
- (b) Person C was also involved in the 2015 elections and at the time held a seat on the Party's campaign committee;
- (c) Person C had never been employed by the City of York Council nor held any official position;
- (d) Person C knew Councillor Keith Aspden as a Liberal Democrat councillor in York and was aware that in 2015 he became the Deputy Leader of the City of York Council;
- (e) Person C also knew Person A who was also a party member and worked for the Liberal Democrat Group in York as a [redacted];
- (f) Person C also knew Person D, [redacted] Person C did not know Person D as well as the two others but was aware he was working for the Liberal Democrat Group at the time. [redacted] believed Person D was [redacted];

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Person A

Person C

(g) Person C had socialised from time to time with [redacted] and occasionally Person A, Keith and [redacted] and other party group members would meet up in a local pub for a social drink either after a meeting or at some other time;

(h) Person C was not totally clear on the date but believed it was in late June 2015, it was most definitely in the summer of 2015, when Person C had arranged with Keith and others to meet up one evening for a game of squash;

Person C

(i) sometime during that day the arrangements changed. [redacted] did not know who had changed them and seemed to recall it was a late change of plan. The squash game was cancelled and it was agreed to meet up for a social drink instead in The Duke of York pub in York;

(j) Person C had met Keith Aspden and Person A on Coney Street and Person D [redacted] had joined them shortly after arrival at the Duke of York pub. That had been around 7pm or 8pm. They had got a drink and sat upstairs;

(k) after about 10 minutes or so after sitting down Keith Aspden turned to Person D and said, "Do you want to get the applications out?";

Person D

(l) Person D had a large brown envelope which [redacted] opened as instructed, producing a large bundle of what were completed job application forms;

Person C

(m) at first [redacted] had no idea what was happening but it was then explained to [redacted] by Keith Aspden that they were the application forms for candidates for the [redacted] who would work directly for him as Deputy Leader of the Council;

(n) Person C was not clear what the post was but after a short while [redacted] became aware that it was a Council employee post and not a Liberal Democrat post. [redacted] had been uncomfortable with what was happening;

Person C

(o) Keith Aspden explained that he wanted the right person for the job and wanted the four of them to read the applications and give their views on who were the best candidates;

(p) the application forms were handed out amongst them and they looked at them. [redacted] had not liked what was going on. [redacted] had thought that they were confidential papers, people had applied for the post in good faith and that was not the correct way that applications and applicants should be treated;

Person C

(q) Person C estimated that there were in the region of 80 pieces of paper. Keith Aspden asked for feedback on the applications and the group gave their views;

Person C

(r) Person C expressed that [redacted] was uncomfortable with it, and said specifically that he (Councillor Aspden) should seek to employ the best candidate for the job;

(s) Councillor Aspden told [redacted] that [redacted] did not understand the Council bubble. Councillor Aspden said he did not want someone "who would gossip with her friends over lunch";

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- (t) it was clear that that was not good practice and [redacted] had not engaged. [redacted] gave positive views on a couple of strong candidates (who were not Liberal Democrat party members). It was clear from the conversation that some were non-starters with little experience. Some had political experience and some had very good administration skills; Person C
- (u) it was apparent that Keith Aspden wanted someone he knew and trusted and had stated that two applicants were his favoured choices. They were Person H and Person B. Both were known to Keith Aspden and an intern [redacted] for [redacted]
- (v) Councillor Aspden then asked them for their opinions on the good points in their applications so he could use them later;
- (w) there were a further 4 applications selected so it would not have been so obvious that there were a favoured two. They were then asked to find weaknesses in the 4 applicant's forms so the two favoured ones could be enhanced at the next stage of selection. [redacted] had refused to do that; Person C
- (x) it was clear to [redacted] that that process was inappropriate – that a sifting for a job had occurred in the pub, in public, and that [redacted] had no relation to the Council but had been shown applications. [redacted] also felt that Keith's intention to try and employ a Liberal Democrat activist rather than the best qualified person in the role was counter productive and unethical; Person C
- (y) Person C was aware that Person A and Keith Aspden were on the interview panel along with a third person from the Council. [redacted] also understood that there was to be a further official paper sift, involving Keith Aspden and Person A; Person C
- (z) after a few days [redacted] had contacted Person A. [redacted] was also unhappy with what had taken place; Person C
- (aa) Person C had not reported this to the Council or councillors. [redacted] had not done so because Keith Aspden had said more than once that summer that he had effectively used his new position to gain control of the Liberal Democrat Council Group through his use of appointments; Person C
- (bb) Person C was also concerned that [redacted], who was a close friend, would be impacted by a complaint made to the Council. [redacted] came to the conclusion that the most effective option would be to try and reduce Keith's influence in the local Party and Council Group; Person A
Person C
- (cc) unfortunately, [redacted] was unsuccessful in doing that and it appeared to Person C that senior members in the Liberal Democrats in York whom [redacted] has spoken to were unwilling, or felt unable, to adequately address Keith Aspden's influence or unethical behaviour. Given that, and because [redacted] had left [redacted] position at the Council, [redacted] had come to the conclusion that sharing the details of that incident with the Monitoring Officer was in the public interest; Person C
Person A

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Person D

4.69 Person D provided a signed statement on 16 May 2018 (attached at WC 13). [redacted] stated that:-

[Person D]

(a) Person D was recruited and employed through the temping agency Work with York as [redacted] between [redacted] whilst a permanent replacement was recruited. Officer E was [redacted] line manager and supervised [redacted] work during that period;

[Person D's]

(b) the [redacted] involved working closely with a number of Council Officers and Councillors (including Person A and Councillor Aspden), and that further details of the role were held by the Council and by Work with York;

(c) that beyond supporting Councillor Aspden (as required by [redacted] rôle) [redacted] did not become involved in the recruitment process for a [redacted], but that Councillor Aspden and Person A would have been involved and they, and the Council Officers involved (along with relevant Council documents), would be able to more accurately reflect the recruitment process;

[Person D's]

(d) regarding the recruitment process, the applications were shared with the members of the short-listing and interviewing panel (Councillor Aspden, Office A and others);

[Person D's]

(e) as [redacted] rôle was to support Councillor Aspden, [redacted] had access to the Councillor's inbox, and [redacted] would, therefore, have had access to the applications at the same time Councillor Aspden received them. From memory, the applications were sent by Office A and would have been printed at West Offices before the shortlisting panel.

[Person D's]

(f) whilst in York [redacted] met Person C on a few occasions in the company of other Councillors and Person A. He described Person C as a Liberal Democrat campaigner who would have worked with Councillors;

(g) Person D attended the Duke of York pub with Person A, Person C and Councillor Aspden, which was one of many similar occasions with Councillors and Person A whilst [redacted].

[Person D]

(h) aspects of the discussion at the pub focussed on the desire to have the best person to replace [redacted] as [redacted], but there was no request for [redacted] to get the applications out, and [redacted] would not have brought them to the pub for a social occasion. There was no request from Councillor Aspden or others for feedback on the strengths of individual candidates, and any discussion on [redacted] rôle would have been limited amongst a much wider discussion. [redacted] did not take any notes on any aspects of their conversation which was social in nature and described the evening as a social evening over a number of hours with all attendees having a number of drinks and the conversation covered a number of topics;

[Person D]

(i) Person D was sure Councillor Aspden would have met with Person B at some point before the interview as they had on-going interactions as Person B had just started working as an intern [redacted];

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(j) Person D would have been present for some of those conversations, but there was no meeting concerning [redacted] interviews between Councillor Aspden and Person B that [redacted] attended, and [redacted] was never part of any conversation with Person B on the detail of the interview. [Person D]

Person B

4.70 Person B was interviewed by Mark Lambert on 31 January 2018 and a signed statement was obtained on 16 February 2018 (attached at WC 14). Person B stated:-

(a) [redacted]

(b) Person B used websites, including, "Work for an MP" to look for job opportunities within politics and [redacted]

(c) In early 2015 Person B [redacted], had joined the Liberal Democrat Party, and had worked as [redacted], employed by the local Liberal Democrat Party for the General Election that year, until [redacted] lost their seat in the General Election in May 2015, when [redacted] had lost [redacted] job;

(d) Person B had then applied for a job as an intern for [redacted] and had been interviewed for the job at the City of York Council (CYC) West Offices, by Councillor Keith Aspden (Leader of the Liberal Democrat Group) and Person I [redacted], (who [redacted] believed was [redacted] for the local Liberal Democrat Party). It was the first time [redacted] had met either person. [redacted] had been offered the [redacted] the role of intern and had accepted the offer;

Person B

(e) the local Liberal Democrat Party had employed [redacted] as an intern and Person B worked between the local Party Office in Clifton, York, and the Liberal Democrat Group room at CYC West Offices, with Person I as [redacted] line manager. [redacted] had designed campaign literature, organised campaign sessions, been involved in surveys, door knocking, leaflet drops, inputting campaign data and had also organised social/fund raising events;

Person B

(f) Person B had limited access to CYC computers for email purposes, but had not used CYC telephones as they had been password protected. Person B had not had an induction, formal training in systems use or an identification card/access card for CYC whilst working there as intern. Person B did not feel there had been any conflict of interest with CYC whilst [redacted] had been working as a [redacted];

Person B

(g) Person B had a fair amount of contact with Councillor Aspden whilst working as an intern, both when assisting with campaigning in Fulford and Heslington, and when working in the Group room at CYC where Councillor Aspden was based, and had got on well with him. He was a very friendly guy who [redacted] had had no issues with;

Person B

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(h) Person B had worked 10 to 15 hours per week at [redacted] per hour as intern and, after a few weeks, Councillor Aspden made [redacted] aware of a new role of [redacted] to the Deputy Leader of the Council, at that time being Councillor Aspden. That role provided full time working with reasonable pay and job security, which [redacted] had wanted. The role was similar to [redacted] and required [redacted] to look after, and assist, Councillor Aspden, [redacted] employer being CYC;

Person B

(i) Person B had been told [redacted] they would be interviewed for the [redacted], but had not received any assistance, inside information, coaching or details of the Impending Interview questions, nor any assurances by any person(s), prior to the interview. [redacted] denied they had been coached in the Group room at CYC by Councillor Aspden and Person D regarding the "In-tray exercise" prior to the actual interview;

Person B

(j) Person B had not been aware that a number of applications for the role [redacted], including [redacted] own, had been reviewed and openly discussed in The Duke of York Public House, York by Councillor Aspden, Person D [redacted], Person A ([redacted]) and Person C [redacted] (believed to be a member of the local Liberal Democrat Party) in the full view and hearing of members of the public. [redacted] felt that that could never be considered a part of any proper recruitment process, that it would raise data protection and conduct issues and may risk introducing bias;

Person B's

(k) Person B had had no discussion with Councillor Aspden regarding any preferred candidates that Councillor Aspden may have had for [redacted] role;

(l) the interview panel for [redacted] role had consisted of Councillor Aspden, Officer A [redacted] and Person A [redacted], but Person B was not sure who had chaired the interview. Councillor Aspden had sat in the middle of the panel;

(m) Person B was aware that [redacted] had been described as having been far more confident and animated during the interview than usual. [redacted] was normally quiet, if not a bit introverted, but in an interview situation [redacted] needed to be positive, demonstrate [redacted] qualities, experience and project a positive image to the panel to show [redacted] would be good fit for the role. [redacted] previous experience over a number of interviews had stood him in good stead, as had [redacted] experiences working within the Liberal Democrat Party in [redacted];

Person B

(n) Person B had commenced the role [redacted] at that time Councillor Aspden, in September 2015 and had had 3 line managers whilst in that role (Officer E [redacted], Officer B [redacted] and Officer K [redacted]). [redacted] had had a buildings induction, training in the use of CYC systems and had received an identification card and access pass. [redacted] had looked after Councillor Aspden's diary, assisted with the volume of emails, organised meetings, took work off Councillor Aspden, assisted with case work, telephone enquiries, drafting responses and hospitality;

Person B

(o) Person B had not been asked to do anything as [redacted] that had made Person B feel uncomfortable, and [redacted] role had been [redacted] role. At some point Person A [redacted], Councillor Aspden's [redacted] went off work on sick leave and it was suggested that [redacted] could cover

Person B

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Person A's role along with █ their own, so he had had a meeting with Officer B and Officer K and Councillor Aspden to discuss what █ could, and could not, do, politically speaking;

Person B

Person B

(p) during █ role as █ had had a good relationship with Councillor Aspden. They got on well and █ saw him socially outside of work at the pub, playing squash and playing board games. █ described Councillor Aspden as a friend as well as being █ boss. █ had talked to Councillor Aspden about job opportunities, but there had been no mention of Councillor Aspden assisting in furthering █ career at CYC;

Person B

(q) Councillor Aspden had offered █ the use of a spare room at his home until Person B could find a flat in York. He had stayed there for just over a month on an informal temporary basis and had paid Councillor Aspden rent for the period █ was there, until a suitable flat was found. Person J, was using Councillor Aspden's other spare room at that time;

Person B

(r) having been spoken to by Martin Chitty regarding this investigation, Councillor Aspden had then asked █ what they had talked about. Person B had told Councillor Aspden it was not appropriate to discuss what had been said as it was a confidential investigation. █ believed that, at that time, Martin Chitty had not spoken to Councillor Aspden. Councillor Aspden had appeared very keen to know what had been discussed, but █ had not thought it appropriate to discuss the meeting with Councillor Aspden. █ had approached █ line manager following that incident as █ had wanted independent reassurance that █ had done the right thing. █ had had a meeting with Officer D, who had assured █ had acted correctly;

Person B

(s) Person B had had a good working relationship with Person A, but not as close as that with Councillor Aspden, who █ saw as a friend. █ had not seen █ out of work as much as █ had seen Councillor Aspden;

Person A

Person B

(t) Person B had left CYC in █

Officer C

4.71 Officer C provided a signed statement on 12 February 2018 (attached at WC 15). In Officer C's statement they stated:-

(a) Officer C █ the City of York Council and would give their opinion as to the confidentiality, or otherwise, of certain documents which had allegedly been released to the Press from within the Liberal Democrat Group. █ would also comment on the Council's use of "salmon" papers for meetings;

Officer C

(b) "Salmon papers" were used to identify "exempt" business for formal meetings of the Council, which were normally open to the public. "Exempt information" did not have to be made available for public inspection. Where reports were made public, sensitive information would be placed in an exempt annex. If such reports were printed, the "exempt" pages were printed on "salmon" paper. Members of a

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decision making body could access all the papers for its meetings on the Council's website but needed to log in to access exempt information. On the website those reports appeared on a white background;

- (c) councillors had additional rights to information, especially where there was a "need to know" because of their role, but it would not be printed on any particular coloured paper and increasingly was provided electronically. Also, Councillors might see draft versions of reports but it was not usual practice for exempt business to be identified in such reports because those reports were not going to public meetings;
- (d) Group Leaders' meetings were not formal meetings of the Council, or open to the public, so accordingly, there would be no exempt business;
- (e) if agendas or reports were printed, no special paper had been used to Officer C's recollection during their time with the Council, and papers for internal meetings between Officers were not normally printed on any specially coloured paper;
- (f) regarding the question of confidentiality, the Code of Conduct for Members of the Council said:-

"(5) You must not disclose information which is confidential, unless:

(a) You have the permission of a person authorised to give it; or

(b) You are required by law to disclose the information; or

(c) You disclose it 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 reasonable; and is in the public interest; and is made in good faith.

- (g) Information would be confidential if it was intended to be kept secret and shared only to a limited audience. It was a common law concept and its' definition derived from decisions made by the Courts, which said that to be confidential information must:

(a) have "the necessary quality of confidence namely, it must not be something which is public property and public knowledge"; and

(b) "it must be disclosed in circumstances imposing an obligation of confidence."

(h) When deciding whether an obligation of confidentiality arose out of the circumstances of disclosure, it was necessary to consider whether

"a reasonable man standing in the shoes of the recipient of the information would have realised that upon reasonable

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grounds the information was being given to him in confidence".

(g) So, did the recipient know, or ought they to have known, that the information was confidential?

(h) In respect of the 'Press Release Mental Health Investment', it seemed to be a Liberal Democrat Press release issued in advance of formal budget proposals being prepared. [redacted] view was that documents relating to political policy formulation could certainly have the character of confidence. However, a political group would generally be free to publicise its own policies and determine when they were released into the public domain. The fact that there was a joint administration in York may have made the situation a little trickier but, in the absence of evidence of some formal agreement having been breached, [redacted] took the view that the Liberal Democrats were free to do this. The notes to the release referred to some (possibly) unpublished statistics. [redacted] had made some enquiries but was still not absolutely clear what those statistics were or where they came from. [redacted] had been told that it seemed more likely than not that they would have been simply unpublished rather than confidential;

Officer C's

(i) In respect of the 'Congestion Commission Report', that report was prepared for a Group Leaders meeting. [redacted] was aware that the document was released around, or shortly after, the time the meeting took place. The document was prepared as part of an attempt to achieve political consensus on what was a highly controversial topic. For that reason alone an expectation that the document would have been treated confidentially while those discussions took place would have been reasonable. [redacted] was aware that this was the expectation of the Leader of the Council at the time. The document contained details of a proposed budget for the work, rates of pay the Council might offer and details of potential participants and opinions on their suitability. That information would have been confidential at the time. Some of the information would be regarded as confidential even now. In [redacted] view a reasonable recipient of the information would have realised that. The release of the information constituted a breach of confidence in [redacted] view;

Officer C's

4.72 Written questions were sent to Councillor Aspden on 12 March 2018 ([redacted]) to which he responded on 21 March 2018 ([redacted]). In his responses Councillor Aspden stated:-

(a) the original allegations related to alleged issues in 2014 and 2015 and were made 12 months ago. Since then the City of York Council had commissioned a desktop review, an investigative report and a standards report; he had been interviewed twice, answered a range of questions, provided information and a response to the Assessment Sub-Committee, and he felt the allegations seemed to have changed over that time;

(b) he had never had to deal with such a stressful, prolonged and difficult process in his professional, Council or personal life and had received no professional advice from the Council, and that it led to his immediate removal from his job as Deputy Leader of the Council, and impacted on his family;

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- (c) the allegations emerged during a serious disciplinary investigation into the potential gross misconduct of an Officer, which he himself had identified and reported to the Chief Executive;
- (d) the subject of that investigation was Person A who, whilst on sick leave, raised a number of protected disclosures under 'whistleblowing' procedures before resigning their position prior to their disciplinary investigation;
- (e) he was first elected as a local Councillor in 2003 and last signed a Declaration of Office following the May 2015 elections. He could not recall attending any specific Code of Conduct training whilst a Councillor but was sure he would have received information in member training and induction;
- (f) he was currently the Leader of the Liberal Democrat Group at the Council and served on a number of committees, outside bodies and community groups. He qualified as a teacher in 2004;
- (g) that until the current allegations, since 2003 there had been no Standards complaints relating to him;
- (h) he had never leaked, or caused to be leaked, any confidential or exempt documents;
- (i) in respect of 'Congestion Commission – September 2014', this referred to a media article in York Press on 17 September 2014 regarding the Labour Council Leader's proposed Congestion Commission, which followed the closure of Lendal Bridge. He denied Person A's allegation that he had handed over [the report to a journalist] in person but did accept that he provided media comment;
- (j) in respect of 'Mental Health investment – January 2017', this was a press release authorised by Councillor E, which announced a political and budget priority for their group, and was not confidential. He understood that Councillor E still had a copy of that press release;
- (k) in respect of 'Group Leaders meetings' there had never been, since his time as a Group Leader (2013 onwards), any written and agreed rules or procedures for Group Leaders' meetings, and he understood there were neither any rules agreed by Group Leaders, nor any rules within the Council constitution. He had checked with the Monitoring Officer, who confirmed via email:-

"I haven't found any specific recorded agreement about confidential matters being discussed at Group Leaders. I do have the protocol which is attached. The only copy I can find of this is attached to an email from Councillor A sent in 2011 who refers to it having been agreed the previous year."
- (l) he was not a Group Leader in 2010/2011 and the protocol, even if agreed then, was not subsequently reviewed or agreed by new Group Leaders, but that the protocol from 2010/2011 on confidentiality stated:-

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"Decisions and agreements reached in the meeting are not routinely confidential. However, individual contributions, opinions etc expressed in the meeting should not be shared without permission."

- (m) since very late 2017 Council Officers had added to the Group Leaders meeting agendas a statement to the effect that it was a private meeting only for Group Leaders, but that that had not been agreed by the Group leaders, was not within the constitution and could not actually apply to the meeting given the potential attendance and nature of the business discussed. That was supported by a file note from Councillor B which stated:-

"Cllr B had never seen 'the' Group Leader Meeting Protocol"

Councillor B

"Issues of confidentiality were obvious although [redacted] could not recall any such issues that were discussed at meetings"

"There is no way that Labour would bring difficult aspects like that for them to any cross party forum."

- (n) he believed it would be helpful if, regarding Group Leaders meetings, the Council Officers developed a policy to be agreed and reviewed on an on-going basis by Group Leaders;

- (o) in respect of 'Use of the Councils' facilities by the Liberal Democrat Group' the Liberal Democrats in York supported work experience placements and employed part-time interns to support party campaigns and Liberal Democrat Councillors working on behalf of residents, and that such interns were paid by the local Liberal Democrat Party organisation, not by the Council Liberal Democrat Group. This was not peculiar to the Liberal Democrats as all four political groups on the Council had done so over many years. He referred to an email received in February 2010 by the then Liberal Democrat Group Political Assistant from a Council Officer, which set out the arrangements for the appointment of interns, which stated:-

"Re: getting an intern. Yes we have made similar arrangements in the past, both the Conservative Group and the Labour Group have had placements. It's really up to the Group to organise/support but you will need to do the following:

Contact Officer our HR rep to get clearance from HR to go ahead, I think this is for insurance purposes among other things. Can you make sure you brief the individual on Fire Evacuation procedure (drill every Wednesday at 10am but any alarm sounded outside this time should be taken as the real thing...evacuate to St Helen's Square)

- *You will need to make an appointment to get a temporary id/swipe card for them via Officer M*
- *You will need to arrange temporary login arrangements for them via ITT. Give them a call on 2222 and explain it's a temporary placement and they should be able to assist."*

- (p) this showed it had long been established custom and practice at the Council for political groups to have interns, and for those interns to have access to Council facilities. He could provide evidence that such interns' role was primarily the processing of residents' casework, and

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that no party campaigning activity was undertaken by interns using Council facilities;

- (q) In respect of 'The appointment of [REDACTED]' it was agreed shortly after May 2015 that there would be [REDACTED] to the Leader of the Council, the Deputy Leader of the Council and the Leader of the Opposition, and that [REDACTED] had a Council job description which outlined their role. He agreed that Officer appointments below Chief Officer level were made by Officers but that there were a limited number of roles where Councillors were consulted in an advisory capacity, as confirmed by Officer A [REDACTED] who stated:-

"In general, elected members should not be involved in the selection process of non Chief Officer posts, except where they have regular contact with the role e.g. Head of Communications."

- (r) he relied on the evidence of the appointing Officer, Officer A who stated that Person B [REDACTED] was the best candidate for the job, which was supported by the evidence of Person A [REDACTED], a member of the interview panel, and stated his role as Chair was to simply welcome the candidates and make initial remarks, but not to lead the process or make the final appointment;
- (s) he did not give Person B [REDACTED] advance information of the contents of the 'In-tray exercise', which formed part of the recruitment process, as alleged by Person A [REDACTED];
- (t) that the connection between him and Person B [REDACTED] was clearly identifiable on the recruitment papers as it was declared that [REDACTED] Person B was, at the time of their application and appointment, a part-time intern working for [REDACTED]. He confirmed he took part in the interview panel for that role, but that he did not know Person B or any of their family until they were interviewed for, and commenced their internship in summer 2015. He did not believe his connection with Person B was that of having 'a close association' within the terms of paragraph 6(1) of the Code of Conduct;
- (u) he could not recall a specific conversation, but thought it likely that he would have mentioned in passing to Person B [REDACTED] to consider applying for the [REDACTED];
- (v) he agreed that in summer 2015 he had a drink and a conversation in a York pub with Person A [REDACTED], Person C [REDACTED] and Person D [REDACTED] about the process and candidates who had applied for [REDACTED] role, that it was an informal discussion but not a meeting or a short-listing meeting. He confirmed there was a long conversation in a pub about the strengths and skills looked for in a colleague but that [REDACTED] and Person C were misrepresenting that drink and conversation as a pre-short-listing meeting, which it was not, and stated that for unknown reasons he and [REDACTED] unfortunately never got along particularly well;
- (w) his recollection of that evening and conversation was that it was a social evening, not a meeting and not chaired. Nobody raised any concerns, left the pub or refused to take part in the conversation. Person C [REDACTED] did not repeatedly say they should employ the best qualified person for the job. Nobody had paper copies of the

Person C

Person A

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applications, he did not print off paper copies of the applications, nor did he instruct anybody else to do so. No notes were taken and there was no short-listing or pre-short-listing. He suggested that Person D [REDACTED] should be approached regarding that evening;

(x) the short-listing meeting was held at West Offices on Monday 29 June 2015. He, Officer A [REDACTED], Officer E [REDACTED] and Person A [REDACTED] had attended, and Officer A [REDACTED] had circulated electronic applications the previous week. He recalled that 7 candidates were selected for interview and that 6 of the 7 candidates were at least known to him, as to other members of the panel;

Person B's

(y) Person B [REDACTED] stayed at his house for 5 weeks from 1 September 2015 until [REDACTED] family had purchased a flat. Person B [REDACTED] had needed temporary accommodation and colleagues within York Liberal Democrats provided temporary accommodation to those new to the city. There was no formal agreement and he had received a one-off payment of £500 towards the costs of rent, wear and tear and all bills for the duration of the 5 weeks, which had been in line with the rental costs in his area.

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5. Summary of the material facts

Recruitment of Person B

- 5.1 Following the local elections in May 2015 the City of York Council was run by a coalition between the Conservatives and Liberal Democrat Groups.
- 5.2 Councillor Keith Aspden was the Deputy Leader of the Council.
- 5.3 It was agreed that the post of [REDACTED] be made available to Councillor Aspden.
- 5.4 At the time Person B was working as an intern for [REDACTED] having been interviewed for this role by Councillor Aspden.
- 5.5 Councillor Aspden informed Person B of the [REDACTED].
- 5.6 Councillor Aspden did not inform the Council of his association with Person B [REDACTED].
- 5.7 The completed applications were emailed to Councillor Aspden on Friday 26 June 2015 by Officer A.
- 5.8 Councillor Aspden was involved in the short listing which took part on Monday 29 June 2015.
- 5.9 Seven applicants were short listed for interview. Person B was the successful applicant.
- 5.10 Following their successful appointment as [REDACTED] Person B was a lodger with Councillor Aspden.

Disclosure of Confidential Material – Congestion Commission

- 5.11 On 4 September 2014 a report headed, Congestion Commission, Discussion paper for Group Leaders Meeting was prepared by Officer G [REDACTED].
- 5.12 The report was not protectively marked nor was it circulated as 'salmon papers'. However the document contained details of a proposed budget for the work, rates of pay the Council might offer and details of potential participants and opinions on their suitability.
- 5.13 On 15 September 2014 at 10:01 Person F [REDACTED] emailed Councillor A [REDACTED] subject Congestion Commission, indicating that they were in possession of a copy of the report and requesting answers to questions concerning it.
- 5.14 The same day Councillor A [REDACTED] emailed a number of recipients and confirmed that a copy of the report had been leaked.
- 5.15 The same day at 16:56 Person A [REDACTED] emailed Person F [REDACTED] with a quote from Councillor Aspden.
- 5.16 The report was subject of a story in 'The Press' on 17 September 2014.

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Disclosure of Confidential Material - Mental Health Investment 2017

- 5.17 On 27 January 2017 Person A emailed Person G 'The Press' a press release on mental health investment.
- 5.18 The press release would appear to be a Liberal Democrat press release issued in advance of formal budget proposals being prepared.
- 5.19 The article appeared in 'The Press' on 30 January 2017 under the heading £200,000 investment in York's mental health services.

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6. Councillor Aspden additional submissions

6.1 The following comments were received from Councillor Aspden on the draft version of this report:-

"Response from Cllr Keith Aspden to draft Standards report 29/5/18"

Thank you for the opportunity to comment on your draft report, including draft findings. Please find below separate sections, firstly, one addressing the draft findings, and secondly, one addressing points in the draft report.

Draft findings

I welcome your findings that I did not bully or intimidate officers contrary to paragraph 3.3 of the code; that I did not compromise the impartiality of officers contrary to paragraph 3.4 of the code; that in relation to the Congestion Commission paper, I did not disclose confidential information contrary to paragraph 3.5 of the code; that in relation to budget proposals for local mental health services I did not disclose confidential information contrary to paragraph 3.5 of the code; and that in relation to the use of Council facilities by Liberal Democrat Interns, I did abide by the Council's reasonable requirements and such resources were not used for political purposes and was thus not in breach of paragraph 3.9 of the code. As I welcome your findings on these points I will not comment in further detail.

On a general point, the other draft findings do not even meet City of York Council's Joint Standards Committee Assessment Criteria for Complaints at 5.1:

"A complaint will not normally be investigated where the events took place more than 6 months prior to the complaint being submitted. An exception to this may arise where the conduct relates to a pattern of behaviour which has recently been repeated."

It is quite clear from the text of the Criteria that in normal circumstances complaints which relate to events which took more than six months prior to the complaint being made should not be investigated unless the exception which is detailed in the provision applies. This draft report relates to an event which allegedly took place more than two years before a complaint was submitted, and three years before this draft report. This investigation has now been ongoing for more than twelve months and a succession of detailed reports have been produced at significant public expense. In none of these reports has the following been provided;

- Any details of any allegations that I have repeated any of the behaviours or acts now set out in this draft report (which for the avoidance of doubt are denied); or*
- Any detailed explanation of why this continued investigation is in the public interest or is otherwise justified.*

In the circumstances, and in light of the findings provided in the draft report that the vast majority of allegations are unfounded or unproven, I look forward to receiving such an explanation in writing in early course.

I am equally concerned with the interpretation of the weight of evidence in the draft report, which at times appears to ignore the context and motivation

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behind the original allegations from Person A how aspects of the allegations have changed during the lengthy investigations and that many of the allegations have been proven to be mistaken, unfounded or otherwise not breaches of the code of conduct.

Draft Finding: Did use his position as a councillor improperly to obtain an advantage for Person B contrary to paragraph 3.8 of the Code by reason of his involvement in the process whilst having a personal interest.

In my submission to the Standards Assessment Sub-Committee, I relied on the evidence of the appointing officer, Officer A, who clearly states throughout the investigations that Person B was the best candidate for the role, for which [redacted] was the decision maker. For example:

Officer A [redacted] "Officer A is very clear that the decision to appoint was [redacted] and was based upon the view [redacted] and others formed at the time based on the performance of Person B in the interview. [redacted] is also clear that Person B was the best candidate on the day." Officer A's [redacted]

This is further supported by the evidence of Person A, a member of the interview panel, who is cited in paragraph 4.1.13 of the report as saying:

"Person A concedes that based upon the scores given at the time, Person B [redacted] was assessed as being the best candidate by each member of the interview panel, with scores ranging between 100 and 91 points. It is noted that the scores by reference to each panel member were as follows:

- (i) Keith Aspden – 100
- (ii) Officer A – 99
- (iii) Person A – 91."

To set this in context, it is helpful to compare the point scores of all the candidates, which are provided in a table below:

| Candidate Number | Officer A | Aspden | Person A |
|------------------|-----------|--------|----------|
| 1 | 64 | 84 | 76 |
| 2 | 85 | 86 | 85 |
| 3 | 60 | 63 | 71 |
| 4 | 86 | 92 | 85 |
| 5 (Person B) | 99 | 100 | 91 |
| 6 | 76 | 84 | 84 |

In your draft report it is equally accepted at 7.40 that the outcome of any recruitment process will result in the conferring of an advantage on a successful applicant.

What is clear from this is that the scoring was consistent between the panel in respect of each of the candidates and that Person B was the best candidate by some distance according to all three panellists. The evidence shows that even had I not attended the panel or had an advisory role in the recruitment process, Person B would have been appointed by Officer A in any

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event. It therefore seems very difficult to argue that any advantage was obtained for another person, within the meaning of the Code of Conduct.

Officer A

In Martin Chitty's report it is clearly stated at 4.4.41 of . Officer A , "Officer A saw their role to get the job done and, in view, then and now, Person B was the best candidate. It was decision to make and made it; Officer A rejects that they were managed to that conclusion in any way. There was no pressure from anyone, no prompt or direction that was to be preferred. Person B was the best candidate."

Person B

This was also the conclusion of the initial investigating officer, Martin Chitty, in their report dated July 2017 at paragraph 5.3.10:

"It is my conclusion that, based upon the assessment on the interview day, Person B was regarded by all three interview panel members as the best available candidate. The marking of his performance, and that of all of the candidates, is consistent which is, of itself supportive of the common view held not only of him but of the other candidates."

In the circumstances, it is quite clear that no advantage was conferred on, or received by Person B . The second issue is whether I had a personal interest in the appointment, and if I did have such an interest (which for the avoidance of doubt is denied) whether it was declared, and whether this declaration was necessary or possible.

Firstly, I wish to repeat that the connection with Person B, limited as it was to a shared supervisory duty of care by an employer for an intern, does not meet the standard of a 'close association' within the terms of paragraph 6(1) of the Code of Conduct, dated 2012.

Person B

The internship of Person B had commenced on 6th June 2015 as confirmed in the initial investigation and on their application form. This was only 2 weeks prior to the shortlisting process for the position, for which had applied. Any contact with Person B I would have had at that point in time would have therefore been very limited. For example, at the point of short-listing, contact would have been during an intern interview panel and a few conversations, including about the intern role, responsibilities and duties - particularly given the time pressures of both my professional work and new council duties at that time.

Account should also be taken of the part-time nature of the intern role. The intern role was for 10 hours per week, so at the point of short-listing Person B would have worked for York Liberal Democrats for the equivalent period of at most 3 days. Furthermore, intern roles have responsibilities across the local party and require engagement with a variety of Liberal Democrat local party officers and councillors, with a range of people sharing the supervisory duty of care.

In seeking to define 'close association', on which I cannot recall having received any specific code of conduct information or training (until I received information through this investigation), I further draw attention to the helpful advice to officers within paragraph 7.1 of the Council's Employee Code of Conduct. Clearly, neither of the circumstances detailed apply. This states:

"To avoid accusations of bias, employees should avoid being involved in an appointment if they are related to, or the partner of, an applicant."

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The guidance on 'close association' that has been referenced in your draft report, for councillors from the 2007 code of conduct, is not included in the current code of conduct adopted in 2012. Close association is not a term defined in law and additionally it seems very difficult and unfair to judge councillors against previous guidance, as it is not current in the code of conduct at City of York Council.

Notwithstanding this, I do not consider that a shared supervisory duty of care by an employer for an intern for a very limited period for a part-time role, would reasonably be considered to meet the standard of a 'close association' with regular contact over a period of time, as defined in the 2007 code of conduct (which did not apply at the time of the event or allegations). At that point of time, there would have been no cumulative evidence of a close association; I would have only met Person B on a small number of occasions as outlined, met within a work context, not regularly attended social events or been aware of each other's families, or had any business dealings.

Secondly, even if the evidence is not accepted that I did not have a close association as defined in 2012, I have stated that I did not believe a further formal declaration of a personal interest was necessary or possible.

It was not necessary as the limited connection was already clearly declared. It has been accepted throughout the investigations that the connection between Person B and myself was clearly identifiable on the face of the recruitment paper, as it was clearly declared that Person B was, at the time of their application and appointment, a part time intern working for [REDACTED] supporting [REDACTED] (including myself). I was aware of the clear identification of this connection, as all those who read the applications would have been. Indeed, in your draft report, at 7.32 you list the declaration on the application form as evidence considered of a personal interest.

At a technical level, I have been advised that paragraph 6 of the code of conduct would not apply in this instance as the appointment panel was not a formal meeting or committee of the Authority, as defined in Section 31(1)(a) of the Localism Act 2011. The panel was acting in advisory capacity to Officer A [REDACTED], an officer of the Council exercising their delegated authority to make a staffing appointment.

Equally, it was not possible beyond the above to make a further declaration of a personal interest, as no formal agenda existed for the panel, nor were any minutes kept of the proceedings in which I could have recorded a further declaration of interest.

It is disappointing that the advice and commentary, in relation to this specific appointment process in the draft report between officers, appears never to have been fully passed to me, specifically on the suggestions from the former Chief Executive (4.23 and 4.26 refer). The former Chief Executive had confirmed that the appointment would take place within due process, was a non-political appointment and that she thought a way through could be found to enable me to be involved. The process was devised, agreed and led by council officers on behalf of the Council, who were content with a councillor being involved in an advisory capacity. Additionally, I cannot recall having received any recruitment training from City of York Council on any appointments, which I believe would be helpful for councillors.

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Finally, in relation to this matter, I maintain that it was appropriate for me to be involved, in an advisory capacity, in the appointment of a post which would be working with me on a daily basis. I continue to recognise entirely that the ultimate decision must always be made by an officer, as indeed it was. But with such [REDACTED] roles, it is essential that the principal is always content with the candidate selected, as there is a need for a good working relationship, and it was therefore right for officers to agree that I should have been involved, in a process and appointment that officers ran. Moreover, I am aware that in a range of other authorities appointments of this kind are also made with the involvement of the elected member(s) in an advisory capacity.

Draft Finding: Did disclose confidential information contrary to paragraph 3.5 of the Code.

In my statement to you, I confirmed that I had agreed during my first interview with Martin Chitty on 6 July 2017 that at some point in summer 2015 I had a drink and conversation in a York pub, "Councillor Aspden stated that it was perfectly possible that there might have been an informal discussion in the pub, alongside discussion of many other topics, about the process and the candidates who had applied for it... He rejects absolutely that there was any predetermination of the shortlist". This was with Person A, Person C and Person D. I confirmed that I had an informal discussion straight away and this has never been denied, but I repeat, this was not a meeting and was not a short-listing meeting - it could not and would not have been.

I did readily agree that I did have a long conversation in a pub, including about the strengths and skills that we would look for in a colleague. This conversation was with Council colleagues [REDACTED], and a Liberal Democrat Party Colleague [REDACTED]. My recollection of the evening and the conversation in the pub is as follows:

- That it was a social evening, not a meeting and not chaired.
- That there was no short-listing or pre-short-listing.
- That nobody raised any concerns or left the pub, or refused to take part in the conversation that evening.
- Person C did not repeatedly say we should employ the best qualified person for the job, as that was what we all would have wanted to do.
- That nobody had paper copies of the applications.
- That I did not print off paper copies of the applications for the evening, nor did I instruct anybody else to do so.
- That no notes were taken.

I am surprised that the statement from Person D [REDACTED], which has now been included in the draft report, could not be included in the initial draft report. I was particularly concerned from the authors original statement that this evidence would make "no difference to the conclusions in the report" when the statement directly contradicts aspects of the draft report and the draft findings.

The statement provided is clear:

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"Aspects of the discussion at the Duke of York Pub would have focussed on the desire to have the best person to replace [REDACTED] as the [REDACTED] - this would only have been natural as the recruitment process was just beginning and [REDACTED]"

Person D

"There was no request for [REDACTED] to get the applications out, and I would not have brought them to the Duke of York pub for a social occasion. As such there was no request from Councillor Aspden or others for feedback on the strengths of individual candidates. Any discussion on [REDACTED] role would have been limited amongst a much wider discussion and would not have focused on individual candidates."

"I did not take notes on any aspects of our conversation which was social in nature. This was a social evening over a number of hours with all attendees having a number of drinks and the conversation covered a number of topics."

It is therefore apparent from this statement that it was a "social occasion" and "this was a social evening over a number of hours with all attendees having a number of drinks and the conversation covered a number of topics", not a meeting.

Person D

It is equally clear that I did not instruct Person D to get the applications out as alleged by Person C, that Person D did not have a large brown envelope and that [REDACTED] did not therefore open this in the pub as alleged by Person C, that I did not ask for feedback on the individual candidates as alleged by [REDACTED] Person C, that Person D did not make notes as alleged by Person A and that nobody had paper copies of the applications at the pub. This was a wider discussion which was part of a social evening, unlike the allegations from [REDACTED] Person A. The statement and the inconsistencies in the evidence throughout the investigations does not seem to have been given appropriate consideration.

Person D's statement is unequivocal: "There was no request for me to get the applications out, and I would not have brought them to the Duke of York pub for a social occasion. As such there was no request from Councillor Aspden or others for feedback on the strengths of individual candidates." I wish to repeat that I did not print off paper copies of the applications for the evening, nor did I instruct anybody else to do so, and paper copies of the applications were not shared.

In the circumstances, and in light of the recent evidence disclosed to me, I am confident that you will conclude that I did not disclose confidential information as outlined in the draft report, namely the paper applications.

As stated previously, I am sorry, however, that from their interviews Person A [REDACTED] and Person C [REDACTED] are now misrepresenting this social occasion as a pre-short-listing meeting, which it was not. This comes amid a wide range of changing and unfounded allegations from Person A [REDACTED], made whilst they were the subject of a disciplinary investigation, years after the event and were not concerns that were reported to anybody at the time. According to Person C's [REDACTED] statement [REDACTED] socialise with Person A [REDACTED] and they are "close friends" (Person C's statement bb refers). I understand they have discussed this ongoing investigation.

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At the time and until your disclosure, I was unaware of Person C's campaign, mentioned in their statement, to "try and reduce Keith's influence in the local party and council group". It is true to say that for reasons not known

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to me Person C and myself unfortunately never got along particularly well, and I know that Person C would have been disappointed to have narrowly missed out on being elected to the council.

I can happily provide further evidence as necessary from Liberal Democrat party colleagues to explain the work I do as a local councillor, as group leader and the way in which I undertake my duties.

Draft Finding: By failing to follow paragraphs 3.5 and 3.8 of the Code in relation to Person B's appointment, we have concluded that Councillor Aspden thereby also conducted himself in a manner which could reasonably be regarded as bringing the Council or his position as a councillor into disrepute contrary to paragraph 3.7 of the Code.

Given my detailed comments to rebut any allegations of a breach of 3.5 and 3.8 of the code of conduct, it is very difficult to see how in the circumstances these draft findings could then be further stretched to become a breach of 3.7 of the code of conduct, reflecting an "adverse effect on the public's confidence in the ability of the Council to carry out its function", which I was surprised to see, as it has not been referenced or mentioned throughout the length of the investigations until this point.

I repeat as above, I did not disclose confidential information contrary to paragraph 3.5 of the code, and I did not use my position improperly to obtain an advantage contrary to paragraph 3.8 of the code. Both points are evidenced in detail in my statement above. Equally, as stated above, the process was devised, agreed and led by council officers on behalf of the Council, who were content with a councillor being involved in an advisory capacity.

I will happily provide further evidence on how I have not and do not bring the Council or my position as a councillor into disrepute. I have not seen the former Standards Board for England guidance, Case Review 2010 (2011 Edition), referenced in the draft report and I will submit further comments on this point if necessary. This will include evidence from fellow councillors, colleagues in education and members of local and community groups to explain the work I do as a local councillor and the way in which I undertake my duties.

Draft report

| Section of report | Comment | Our Response |
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| 4.5/7.35 7.36/7.37 7.38/7.54 | I am surprised that the statement from Person D, which I have now seen, could not have been included in the initial draft report. I am particularly concerned from the author's original statement that this evidence would make "no difference to the conclusions in the report" when the statement directly relates to the draft findings. The implication | Person D did not provide a signed statement at the time of the initial draft report. Person D had provided answers to a number of questions but did not give their consent for us to use this information. |

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| | <p><i>is that the findings of your investigation were predetermined, or alternatively that you are not giving due weight to Person D's evidence, and I would be grateful if you would address this point accordingly.</i></p> <p><i>Relevant sections of the report including 7.35, 7.36, 7.37, 7.38 and 7.54 should fully reflect upon and give weight to the evidence from the statement.</i></p> | <p>We disagree that the statement in the initial draft report, "would make no difference to the conclusions in the report" contradicts aspects of the draft report and draft findings. Person D's statement provides supporting evidence that the applications were printed off and there was a meeting in the public house to discuss the applications.</p> |
| 4.6 | <p><i>This should include reference to the context supplied that this was due both to professional advice, and the fact that I had already been interviewed twice at length, answered a range of supplementary questions, provided a variety of information and provided a response to the Assessment Sub Committee, in advance of the statement.</i></p> | <p>It is not disputed that Councillor Aspden had already been interviewed on two occasions and gone on to provide additional information.</p> <p>However the fact remains that Councillor Aspden declined to meet us in person but responded to written questions following disclosure.</p> |
| 4.10 | <p><i>This should include reference to the context supplied that the allegations emerged during the course of a serious disciplinary investigation into the potential gross misconduct of an officer. Further, that the subject of that investigation, whilst on sick leave, then raised a number of protected disclosures before resigning from their position after six months, in advance of any disciplinary investigation. This is said not to in any way lessen or diminish the impact of the allegations, but rather to set them in their proper context.</i></p> | <p>Other than the content of the Project Rose report and Person A's evidence we have not considered Person A's alleged conduct and/or the circumstances in which they left City of York Council.</p> <p>Person A's allegations were treated as protected disclosures within the City of York Council Whistleblowing Policy. Person A willingly assisted the Gowling investigation and went on to provide a detailed statement for this investigation.</p> |
| 4.22 | <p><i>I have never used the term "joint leader" so I am unaware of where this has come from for your draft report? Could this please</i></p> | <p>The term 'Joint Leader' is used by Officer A (paragraph 4.67 d). We note the comments</p> |

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| | <p>reflect the situation as submitted in my statement and outlined by officers, that it was agreed shortly after May 2015, with the then Chief Executive, that given the three largest political groups had similar numbers of councillors, that there would be [REDACTED] from within existing administrative budgets.</p> | <p>from Councillor Aspden on this point however as this contradicts the evidence of Officer A [REDACTED] the report has not been changed.</p> |
| <p>4.23/7.12</p> | <p>The concerns referenced here as being raised by officers, were part of an email conversation between only officers clarifying what involvement could take place. These emails were not shared with me, apart from the email from the former Chief Executive of 22/6/15 confirming that the appointment would take place within due process, was a non-political appointment and that she thought a way through could be found to enable me to be involved. The process was agreed by council officers on behalf of the Council.</p> <p>As in my statement above, it is disappointing that the advice and commentary, now seen in relation to this specific appointment process in the draft report, appears never to have been fully passed to me, specifically on the suggestions from the former Chief Executive (4.23 and 4.26 refer).</p> <p>Equally, it was reported in an earlier email of 23/5/15 by the former Chief Executive, that the "Deputy Leader and the Leader of the Opposition... wish to be involved in the recruitment."</p> | <p>We have considered and noted Councillor Aspden's comments on this point.</p> |
| <p>4.39</p> | <p>Given this states that the referees included Person C has [REDACTED] Person C's reference to City of York Council for Person B been reviewed? I never saw these but assume it would have been an</p> | <p>We are unaware whether the Council has conducted any formal review of the recruitment process concerning [REDACTED] Person B and/or the</p> |

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| | <i>additional opportunity to raise any concerns, that Person C says he had three years ago, directly with the council.</i> | reference of [REDACTED] Person C |
| 5.4 | <i>I did not individually make an appointment. The recruitment for the [REDACTED] role was undertaken by a Liberal Democrat party recruitment panel, of which I was a member.</i> | This paragraph has been changed to reflect that Councillor Aspden interviewed Person B for the post of [REDACTED]. |
| 5.6 | <i>As submitted in my statement above, for a variety of reasons, I do not accept this point.</i> | This comment has been considered however we consider that the paragraph is factually correct. |
| 7.31 | <i>Could you confirm where this quote is from? Is it from the previously adopted Code of Conduct from 2007, not currently in place, which was replaced by the 2012 Code of Conduct adopted and followed at the time of these investigations (without any such advice or details on 'close associations')?</i> | This concerns the Code of Conduct - Guide for Members May 2007, published by the Standards Board for England. Paragraph 7.31 has been changed to reflect this. |
| 7.32 | <i>I would not have had "regular contact" at that stage. As outlined above the limited contact would have been during an [REDACTED] interview panel and a few conversations.</i> | This differs from the evidence provided by Person B, who states that they had a fair amount of contact with Councillor Aspden whilst working as an [REDACTED]. |
| 7.33 | <i>This occurred in September, well after the conclusion of the appointment process. Can the timeline be made clear here? From 1 September 2015 for five weeks. As repeated from [REDACTED] Person B's statement, "Person B confirmed that the offer was only made after the permanent role was offered to them in mid July - Person B added that there would have been no reason for it to have been made before.</i> | This comment has been considered however we consider that the paragraph is factually correct. |

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| <p>7.35/7.36</p> | <p><i>I did not confirm that a 'meeting' took place. My statement refers to "a drink and conversation" and "I confirmed that I had an informal discussion straight away and this has never been denied, but this was not a meeting and was not a short-listing meeting - it could not and would not have been."</i></p> <p><i>Additionally, the statement from Person D now seen does not refer to a 'meeting'. It refers to "a social occasion", "our conversation which was social in nature" and "this was</i></p> <p><i>a social evening over a number of hours with all attendees having a number of drinks and the conversation covered a number of topics".</i></p> | <p>We note that both Councillor Aspden and Person B do not use the term meeting. Neither does Person C [REDACTED]. Person A refers to a pre short listing meeting.</p> <p>There is no dispute that all four [REDACTED] met in the Duke of York Public House. What is in dispute is whether the applications were shared and discussed. Whether this was a meeting or not is irrelevant.</p> |
| <p>7.36</p> | <p><i>Yes, I would have set time aside (for example, as shown by an email to Officer A [REDACTED]) in West Offices to look at the applications for the post of [REDACTED]. This would have followed receipt of the applications sent by Officer A on 26 June 2015 and would have been required in advance of short-listing, in order to judge applications against the CYC job description and specification. This reflects a recruitment process being followed and I cannot see how this is evidence for your draft conclusion at 7.37.</i></p> | <p>We disagree, the fact that that the applications had been sent to Councillor Aspden by email, printed off and that time had been set aside by Councillor Aspden to consider these is in our view supporting evidence when considering what took place in the public house.</p> |
| <p>7.37</p> | <p><i>As submitted in my statement above, for a variety of reasons, I do not accept this point.</i></p> <p><i>I had no "preferred candidates"; I would have wanted the best person to be recruited for the role, as outlined through all the previous submissions and already shown by the consistency of marking across all panellists at the interview. Indeed, as submitted through my statement I recall that 7 candidates</i></p> | <p>We do not dispute the scoring process with regards the applicants and we do not dispute that with or without Councillor Aspden's involvement Person B may well have been the best candidate on the day. However based on the available evidence we are of the view that the applications were taken to</p> |

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| | <p>were selected to be interviewed and, as confirmed during the investigation, 6 of the 7 were at least known to me, as to other members of the panel.</p> | <p>the public house and shared with others present. We also remain of the view that based on the available evidence Person B and Person H were Councillor Aspden's preferred candidates.</p> |
| <p>7.38</p> | <p>Additionally, the statement from Person D now seen states, "There was, however, certainly no meeting concerning [redacted] interviews between Councillor Aspden and Person B which I attended. I was never part of any conversation with Person B on the detail of the interview" providing further evidence against Person A's mistaken allegations.</p> | <p>This comment has been considered and noted.</p> |

Response to comments

- 6.2 We have carefully considered the comments on various paragraphs of the report and provided responses within the response column above. Where necessary the report has been changed to reflect these however our finding remains the same.
- 6.3 In addition to these we have carefully considered the general comments raised by Councillor Aspden and have provided additional commentary below concerning the public interest test. However there is nothing within Councillor Aspden's comments that justify any substantial amendment to the report, especially its conclusions.

Timing of complaint and the Public Interest Test

- 6.4 Following the completion of the Project Rose investigation the report was considered by the Standards Sub Committee and a decision was made to investigate.
- 6.5 The decision notice states:

"The Sub Committee considered the allegations sufficiently serious to warrant investigation and that the seriousness and nature of the allegations means that there is a strong public interest in these matters being investigated despite the length of time which has passed since some of the events are alleged to have occurred".
- 6.6 It is evident from this that the Sub Committee were mindful of the time issue, however it is clear that in their view the public interest in the matters strengthened the need for a thorough investigation.

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7. Reasoning as to whether there have been failures*Official Capacity*

- 7.1 Section 28(2) of the Localism Act 2011 requires the Council to adopt a code of conduct dealing with the conduct that is expected of members of the Council *"when they are acting in that capacity"*. The Council's code is expressed to apply whenever a member is acting in the capacity as a member or co-opted member or claiming to act or giving the impression of acting as a representative of the authority.
- 7.2 Though relating to the former 2007 model code of conduct, the Upper Tribunal decision in *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC) is a helpful distillation of the previous High Court cases on capacity – *Livingstone v Adjudication Panel for England* [2006] EWHC 2533 and *R(Mullaney) v Adjudication Panel for England* [2009] EWHC 72. The principles stated in *MC* are:-
- (a) *was the councillor, as a matter of ordinary English, actually conducting the business of their authority, including the business of the office of councillor?*
 - (b) *a fact sensitive approach is required to the above;*
 - (c) *just because the councillor used routes of communication open to members but not to others does not in itself provide a definitive answer to the question;*
 - (d) *the question is one for the tribunal to determine, not a reasonable observer.*
- 7.3 In the appointment of Person B It is evident that Councillor Aspden was fully engaged in the recruitment process, including the shortlisting and interviews of which he chaired. It is without doubt that throughout the process Councillor Aspden was acting in his official capacity. Therefore for the purposes of this investigation we have concluded that Councillor Aspden was acting in his official capacity during the recruitment and appointment of Person B [REDACTED].
- 7.4 As Group Leader of the Council and a member of the Group Leaders meeting Councillor Aspden would have received the Congestion Commission Report and had sight of any Liberal Democrat press releases. Therefore for the purposes of this investigation we have concluded that Councillor Aspden was acting in his official capacity during the time of the suggested leak of both documents to the press.
- 7.5 With regards the use of Council resources by interns and Person B for political purposes. It is evident that Councillor Aspden was actively engaged with interns employed by the [REDACTED]. In addition to this Person B [REDACTED] was working directly for him. Therefore for the purposes of this investigation we have concluded that Councillor Aspden was acting in his official capacity with regards both his day to day engagement with interns and Person B [REDACTED].

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The appointment of Person B - Bullying

7.6 Paragraph 3.3 of the Councils Code of Conduct states:

"You must not bully or intimidate any person, or attempt to bully or intimidate them"

7.7 The term bullying is not defined within the code however bullying and intimidation is referred to in the Standards for England Case Review 2010. It defines bullying as:

"Offensive, intimidating, malicious, insulting or humiliating behaviour by an individual or group of individuals, based on abuse or misuse of power or authority, which attempt to undermine an individual or a group. It can have an impact on a council's effective use of resources and provisions of services. Officers who are subject to bullying are frequently away from their posts, sometimes for extended periods, on sickness or stress-related leave.

Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, or when the behaviour by both the complainant and member contributed equally to the breakdown in relations".

7.8 This can be contrasted with legitimate challenges which a member can make in challenging policy or scrutinising performance.

7.9 At Q22 on the same page, the Standards board advised that members could criticise officers:-

"In some cases officers have been known to reject reasonable criticism appropriately made and describe it as bullying. The Government did not intend the Code of Conduct to constrain members' involvement in local governance, including the role of members to challenge performance. Members are able to question and probe poor officer performance provided it is done in an appropriate way. In the everyday running of a local authority, it is inevitable that members may have disagreements with officers from time to time.

This paragraph does not mean that members cannot express disagreement with officers. This disagreement might, in the appropriate content, manifest itself in criticism of the way in which an officer or officers handled particular matters.

It is important that members raise poor performance in the correct way and at the proper forum, such as in a private meeting with a senior manager, and not in a public meeting or through a published article in the media"

7.10 In this case it is suggested that Councillor Aspden bullied Officer A with regards the appointment process of Person B for the post of [REDACTED]

7.11 It is evident that Councillor Aspden wished to be involved in the process, the emails between him and the then Chief Executive Kersten English confirm this. It is also evident that concerns were being raised by officers with regards Member involvement in the appointment of a Non Chief Officer post. However these concerns would appear to have been addressed and agreement reached on what role Councillor Aspden should play.

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7.12 Despite concerns by Officers no complaints were made as to Councillor Aspden's insistence to be involved in the recruitment process. There is certainly no evidence to suggest that Councillor Aspden bullied Officer A [REDACTED], to the contrary Officer A states:

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| Officer A | <p>"Officer A made it clear to all involved that the appointment was an Officer appointment and [REDACTED] would have the final say. [REDACTED] was clear that Councillor Aspden would be involved because the successful candidate would work directly and closely with him, and that Person A would be involved as Person A was used to working in the same environment that the post holder would be working in;</p> <p>Officer A was aware this was not a normal situation with Officer posts but it was an exceptional role, different to existing roles and working in a very different environment so [REDACTED] discussed the approach with Officer D [REDACTED] and Officer C [REDACTED]"</p> |
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7.13 We have therefore concluded that Councillor Aspden did not breach paragraph 3.3 of the Code of Conduct.

The appointment of Person B – compromising the impartiality of anyone who works for the Authority

7.14 Paragraph 3.4 of the Councils Code of Conduct states:

"You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality"

7.15 Q27 of the Standards for England Case Review 2010 describes what activities would "compromise the impartiality of those who work for, or on behalf of, your authority";

"Paragraph 3(2)(d) is directed at any activity that seeks to put pressure on officers to carry out their duties in a way that is biased or partisan. This may include direct or indirect coercion to favour a particular person, group or organisation, whether commercial, political or voluntary. This is contrary to officers' obligations to act independently and in the public interest.

It is important to take a firm line against any conduct that undermines the principle of political neutrality, under which all officers operate. The only exceptions to this neutrality are political group assistants appointed under Section 9 of the Local Government and Housing Act 1989.

Paragraph 3(2)(d) may cover the whole range of activities carried out by the authority. Examples include:

- *Preparing committee reports, particularly in a controversial area such as planning control or licensing.*
- *The allocation of council housing.*
- *The appointment of staff.*

Local authority constitutions drawn up under Section 37 of the Local Government Act 2000 must contain protocols for managing member-officer

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relations (in accordance with the requirements of the Local Government Act 2000 (Constitutions) (England) Direction 2000). Members who fail to comply with such protocols may be found to have compromised the impartiality of officers.

The fact that the conduct under consideration did not actually compromise the impartiality of officers, or was not intended to do so, will not necessarily excuse a member's conduct. Paragraph 3(2)(d) covers any conduct that was intended, or was likely, to compromise the impartiality of officers.

- 7.16 Q28 explains who is covered by the phrase "work [...] on behalf of [...] your authority"

"Clearly this term covers those who work for the authority, such as council officers. The inclusion of the phrase "or on behalf of" indicates that members must be just as vigilant in relation to contractors or consultants who are working for the authority on a short-term basis, or the employees of organisations that deliver local authority services.

Members should not improperly seek to influence the way in which such people carry out their duties."

- 7.17 In addition to the above the Council adopted a Protocol for Officer/Member Relations in 2009 (attached at WC 18). Paragraph 3 highlights expectations and includes what officers can expect from Members:-

"not to be bullied or subjected to inappropriate pressure"

- 7.18 What appears to be suggested here is that Councillor Aspden applied pressure to Council officers and in particular Officer A with regards the recruitment process for the post of [REDACTED].

- 7.19 As above, it is evident that Councillor Aspden wanted to be involved in the recruitment process however there is no evidence of inappropriate pressure being applied to Officer A or evidence that Councillor Aspden was attempting to compromise [REDACTED] impartiality. To the contrary, the evidence from Officer A shows appropriate advice being sought as to Councillor Aspden's involvement and the fact that [REDACTED] would have the final say.

Officer A

- 7.20 We have therefore concluded that Councillor Aspden did not breach paragraph 3.4 of the Code of Conduct.

The appointment of Person B – obtaining an advantage for another

- 7.21 Paragraph 3.8 of the code states:-

"You must not use your position as a Councillor improperly to obtain an advantage or disadvantage for yourself or any other person, or attempt to do so"

- 7.22 The issue here is whether Councillor Aspden's actions during the recruitment process were improper. If they were it might be considered he was attempting to confer an advantage on Person B .

- 7.23 There are three areas of Councillor Aspden's conduct which might determine whether he acted improperly:-

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- (a) Whether he had an interest in the recruitment process by reason of his association with Person B ;
- (b) Whether he carried out the paper sift process in a manner which was appropriate;
- (c) Whether he provided interview questions to Person B in advance.

Whether Councillor Aspden had an interest in the recruitment process

7.24 The Case Review 2010 has scant reference to this area of the code. Question 46 on page 75 sets out where it will be improper for a member to seek an advantage. It also highlights the fact that the term "improperly" is not defined in the code thus ensuring that the scope of the provision is not unnecessarily limited. The most relevant sections state:-

"There are circumstances where it will be proper for a member to seek to confer an advantage or disadvantage and other circumstances where it will not.

For example, there can be no objection to members voicing their opposition to the closure of a local public library. This conduct is clearly intended to secure an advantage for the users of the library. What is crucial is that members' attempts to secure this advantage are clearly part and parcel of their duties as a local representative. Therefore, these activities are not improper.

The underlying principle is that members are elected or appointed to public office to serve the public interest.

A member's conduct would be improper if they were to use their public position to further private interests of themselves or associates, or to settle old scores with enemies; to the detriment of the public interest. Any conduct that unfairly uses a member's public position to promote private interests over the public interest will be improper."

7.25 Paragraph 6.1 of the Councils Code of Conduct states:-

"You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule or any person with whom you have a close association."

7.26 In addition to this paragraph 6.2 of the code states:-

"If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting:

- a) *If the interest is not registered, you must disclose the interest to the meeting*
- b) *If the interest is not registered and is not subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days.*

7.27 The definition of meeting is found at paragraph 2.3 of the code, it states:-

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"meeting" means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Cabinet or any committee of the cabinet

7.28 Paragraph 6.3 of the code states:-

"If you have a personal interest and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would likely to prejudice your judgement of the public interest then you have a prejudicial interest. This is subject to the exceptions set out in paragraph 6.4."

7.29 Paragraph 6.4 sets out the circumstances where a Councillor would not have prejudicial interest.

7.30 Question 59 of the 2010 Case Review defines what types of interest are covered:

"A personal interest can arise not only from the employment, business interests and shareholdings of the member concerned, but also from those of their relatives or close associates."

7.31 The Code of Conduct – Guide for Members May 2007, published by the Standards Board for England, sets out the following:-

"A person with whom you have a close association is someone that you are either in regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts."

Members and monitoring officers might wish to consider the following questions when deciding whether a close association exists;

*How many times do the two people meet?
Where do they meet?
Do they regularly attend the same social events?
Do they know each others families?
Do they visit one another's homes?
Do they have regular business dealings?
Do they work for the same organisation?
Are they close or connected in other ways?*

These questions should never be taken in isolation. It is cumulative evidence of these factors and others like them that will establish a close association."

7.32 From this it is evident that "close association" is not intended to cover situations where there has been brief and infrequent contact between the individuals, nor even where there had been some commercial transactions between them. In determining whether Councillor Aspden had a close association with Person B we have considered the following points:-

- Councillor Aspden interviewed Person B for the post of intern;
- Councillor Aspden had regular contact with Person B when working as an intern;

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- Councillor Aspden was shown as the contact/employer on Person B's application for the post of [REDACTED]

7.33 In addition to this following his successful application for the post of [REDACTED] Person B lodged for a short period of time with Councillor Aspden for which Person B paid him rent.

Whether the paper sift was appropriate

7.34 The second issue concerns the meeting in the Duke of York Public House and the suggested informal paper sift exercise. Email evidence shows that all of the completed application forms were forwarded to Councillor Aspden by Officer A on Friday 26 June 2015. Councillor Aspden had informed Officer A by email that he had set time aside in his diary to consider the applications.

7.35 Person D from memory suggests that the applications were printed off from Councillor Aspden's inbox prior to the shortlisting panel. He also confirms together with Person A and Person C that a meeting did take place in the Duke of York Public House and that the post of [REDACTED] was discussed. Councillor Aspden also confirms that a meeting did take place in the public house about the strengths and skills that they would look for in a colleague. What is in dispute is whether the applications were taken to the Public House; whether they were openly shared and whether the application of Person B was prematurely highlighted as a preferred candidate together with the application of Person H.

7.36 In determining the evidence on this we have considered the following:-

- Time had been set aside by Councillor Aspden to consider the applications on Friday 26 June 2015;
- The applications had been forwarded to Councillor Aspden by Officer A [REDACTED] on Friday 26 June 2015;
- The applications were printed off;
- There was a meeting in the Public House to discuss the applications;
- Both Person A and Person C confirm that the applications were openly shared in the public house and discussed;

7.37 Notwithstanding the fact that Councillor Aspden and Person D have said the applications were not taken to the public house, based on the available evidence we are of the view that the applications were taken to the public house, shared and openly discussed. We also consider that both Person B [REDACTED] and Person H were Councillor Aspden's preferred candidates.

Whether interview questions were provided to PERSON B in advance

7.38 The third issue is whether as suggested by Person A, Councillor Aspden assisted Person B prior to the interview by providing him question(s) that were to be asked of the candidates. Other than Person A there is no evidence that supports this suggestion.

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Conclusion on improperly conferring an advantage

- 7.39 We consider that Councillor Aspden had a close association with Person B and therefore that Councillor Aspden had a personal interest in the outcome of the appointment process. We also consider that the sharing of the applications in the Duke of York public house was an inappropriate disclosure of confidential information.
- 7.40 Whilst the outcome of any recruitment process will result in the conferring of an advantage on the successful applicant, in this case Councillor Aspden's involvement and conduct in relation to the process was improper for the reasons set out above.
- 7.41 We have therefore concluded that Councillor Aspden did breach paragraph 3.8 of the Code of Conduct.

Disclosure of Confidential Information

- 7.42 The Council's Code states:

"3.5 You must not disclose information which is confidential, unless:

- (a) *You have the permission of a person authorized to give it;*
Or
(b) *You are required by law to disclose the information; or*
- (c) *You disclose it 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 reasonable; and is in the public interest; and is made in good faith"*

- 7.43 The term confidential is not defined. In this case it is suggested that Councillor Aspden disclosed:

- Completed application forms for the post of [REDACTED] to Person C. Although Person C was a Liberal Party activist Person C was not employed by the Council;
- A Congestion Commission report to a reporter;
- A Press release concerning Mental Health Investment to a reporter.

Information

- 7.44 Information is a broad term. It includes facts, advice and opinions. It covers written material, including tapes, videos, CDs, DVDs and other electronic media. It covers material in unwritten form, including Intellectual property. Information can only be confidential if all of the following apply:-

- (a) it has the necessary 'quality of confidence' about it (trivial information will not be confidential but information that you would expect people to want to be private would be);
- (b) it was divulged in circumstances importing an obligation of confidence (information properly in the public domain will not be confidential);

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(c) disclosure of it would be detrimental to the party wishing to keep it confidential.

7.45 We are mindful from the content of the Project Rose report that reliance had been placed on the term 'Salmon Items' and applying this definition to the documents that had allegedly been disclosed. Officer C provided commentary with regards this, he stated:-

"Salmon papers" were used to identify "exempt" business for formal meetings of the Council, which were normally open to the public. "Exempt information" did not have to be made available for public inspection. Where reports were made public, sensitive information would be placed in an exempt annex. If such reports were printed, the "exempt" pages were printed on "salmon" paper. Members of a decision making body could access all the papers for its meetings on the Council's website but needed to log in to access exempt information. On the website those reports appeared on a white background"

7.46 From this it is evident that the term 'Salmon Items' is irrelevant to the circumstances of this case.

7.47 In addition to this we have considered a draft protocol for Group Leaders' meetings (). With regards confidentiality the protocol states:-

"Decisions and agreements reached in the meeting are not routinely confidential. However, individual contributions, opinions etc expressed in the meeting should not be shared without permission"

7.48 Although a formal statement was not taken the former Leader of the Council, Councillor B did provide some commentary on the issue of confidentiality at Group Leaders' meetings. He stated:-

"...the issues of confidentiality were obvious although he could not recall any such issues that were discussed at the meetings"

7.49 We have carefully considered the wording of the Code in relation to confidential material. It is quite specific that the Code covers any information which is confidential. From this we have concluded that the first test is whether the information provided to Councillor Aspden was confidential.

Application Forms for the Post of ()

7.50 The application forms for the post of () were clearly marked 'Private and Confidential' and contained personal data. As such we are of the view that the application forms were confidential and Councillor Aspden should have treated them as such.

The Congestion Commission Paper

7.51 The Congestion Commission report was prepared for the Group Leaders meeting and was done so, according to Officer C, in an attempt to achieve political consensus on what was, at the time, a highly controversial topic. The document contained details of a proposed budget, rates of pay the Council might offer and details of potential participants and opinions on their suitability. We are of the view that this information was confidential and shared with Councillor Aspden as such.

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Mental Health Investment 2017

7.52 The press release concerning Mental Health Investment would appear to be a Liberal Democrat press release issued in advance of formal budget proposals being prepared. There is certainly no evidence to suggest that the content of the press release was confidential and/or there was an agreement with the Conservative Group that the information should not be released. As such we have determined that the information in the press release was not confidential.

7.53 The second test is whether Councillor Aspden disclosed the information.

Application Forms for the Post of [REDACTED]

7.54 With regards the application forms we have already determined that Councillor Aspden did openly share the completed application forms in the Public House to Person C, a person not employed by the Council.

The Congestion Commission Paper

7.55 With regards the Congestion Commission report, despite Person A's suggestion that Councillor Aspden informed him that [REDACTED] was going to leak the report, there is no evidence to support this. The subsequent emails between the reporter and certain Members, although confirming that a leak had taken place, do not support the suggestion that this had been leaked by Councillor Aspden.

Person A

Mental Health Investment 2017

7.56 The Mental Health Investment Press release was disclosed to the press. However this was provided by Person A. The suggestion by Person A that Councillor Aspden had asked [REDACTED] to do this is not supported by any evidence.

Person A

Was the disclosure(s) a breach of the code?

7.57 The third test is whether that disclosure was in breach of the code. We have carefully considered the wording within the code on this point and determine that in respect of the Congestion Commission report although shared with Councillor Aspden and confidential there is no evidence to support the suggestion that Councillor Aspden actually leaked the report.

7.58 In respect of the Mental Health Investment press release we have determined that the press release was not confidential neither is there any evidence to support the suggestion that Councillor Aspden leaked the report.

7.59 With regards the application forms for the post of [REDACTED] we have determined that Councillor Aspden did not have the requisite authority or consent to share the application forms.

7.60 We have therefore concluded that Councillor Aspden did breach paragraph 3.5 of the Code of Conduct by disclosing the application forms to someone not authorised to see them.

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The use of Council Facilities by Liberal Democrat Party interns

7.61 The Councils Code of Conduct states:

"3.9 When you use or authorise the use by others of the resources the Council you must:

- a) Abide by the Council's reasonable requirements; and*
- b) Ensure that such resources are not used improperly for political purposes (including party political purposes); and*
- c) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986."*

7.62 The suggestion here is that interns working for the Liberal Democrat Members were encouraged to use resources within the Liberal Democrat Office for party political purposes.

7.63 Question 49, page 76 of the Case Review 2010 defines the term 'resources of your authority' :-

"They include services and facilities as well as the financial resources of the authority. Resources could include any land or premises, equipment, computers, and materials. The time, skills and assistance of anybody employed by the authority, or working on its behalf, are also resources, as is information held by the authority which it has not published."

7.64 Q50, page 76 of the Case Review 2010 sets out how members will know what the authority's reasonable requirements for the use of resources are.

7.65 Standards for England strongly recommended that local authorities had protocols dealing with the use of authority resources. The key principle underlying all such protocols should be that public office and public resources should not be used to further purely private or party political purpose.

7.66 The term "reasonable" is a generic and relative one and applies to that which is appropriate for a particular situation. In the tort of Negligence, the reasonable person standard is the standard of care that a reasonably prudent person would take under a given set of circumstances. An individual who subscribes to such standards will avoid liability for negligence. Similarly a reasonable act is that which might fairly and properly be required of an individual.

7.67 Question 51 Page 77 of the Case Review 2010 sets out what constitutes using resources "improperly for political purposes" Paragraph 6(b)(ii) acknowledges that party politics has a proper role to play, both in the conduct of authority business and in the way that members carry out their duties.

7.68 It also acknowledged that there will be times when it is acceptable for political groups to use the resources of the authority, for example, to hold meetings in authority premises. Often it is impractical to separate a member's political campaigning from carrying out their duties as an elected ward member, such as when they hold surgeries or deal with correspondence from constituents.

7.69 However it goes on to state that members and monitoring officers will need to exercise considerable vigilance to ensure that this provision is not abused. They must ensure that there is a sufficient connection between the use of

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resources and the business of the authority. Only improper use of resources for party political purposes will be a breach of the Code of Conduct.

Person A 7.70 Person A has suggested that interns were encouraged to use Council resources for political campaigning and Liberal Democrat Membership. In addition to this [redacted] has suggested that Person B [redacted] In their role of [redacted] was encouraged to become involved in party political work which included editing and proof reading Councillor Aspden's 'Focus' and other political literature together with the 'Weekly Roundup' campaign email to party members and supporters.

Person B 7.71 Person B in their statement states that this role was a non-political PA style role. [redacted] also states that [redacted] was never asked to do anything that made them feel uncomfortable.

7.72 Councillor Aspden has provided evidence with regards the appointment of interns and their use of Council resources. He has stated that the interns role was primarily the processing of resident casework. He also stated that Council Resources were not used by interns for party campaigning activity.

7.73 Other than Person A's suggestion with regards the improper use of Council resources there is no evidence to support this. As such based on the available evidence we have determined that Council resources have not been used by interns and/or Person B in their role of interns for Party Political purposes.

7.74 We have therefore concluded that Councillor Aspden did not breach paragraph 3.9 of the Code of Conduct.

Disrepute

7.75 Although not referred to within the complaint it is relevant to consider disrepute. Paragraph 3.7 of the Councils Code of Conduct states:-

"You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute".

7.76 This is in the spirit of the relevant provision of the previous 2007 model code of conduct which deals with 'disrepute' and perceptions of both the Authority as a body and the office of member.

7.77 As such it is relevant to consider guidance issued by the then Standards Board for England (SfE). Question 43 on page 66 of the Case Review 2010 (2011 Edition) published by SfE advises that disrepute is:-

"...a lack of good reputation or respectability.

In the context of the Code of Conduct, a member's behaviour in office will bring that member's office into disrepute if the conduct could reasonably be regarded as either:

1) Reducing the public's confidence in that member being able to fulfil their role; or

2) Adversely affecting the reputation of members generally, in being able to fulfil their role."

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7.78 Q44 on the next page of the Case Review 2010 advises that:-

"An officer carrying out an investigation...does not need to prove that a member's actions have actually diminished public confidence, or harmed the reputation of the authority...the test is whether or not a members' conduct "could reasonably be regarded" as having these effects.

The test is objective and does not rely on any one individual's perception. There will be a range of opinions that a reasonable person could have towards the conduct in question."

7.79 Q42 on page 66 of the Case Review indicates that:-

"A case tribunal or standards committee will need to be persuaded that the misconduct is sufficient to damage the reputation of the member's office or authority, as opposed simply to damaging the reputation of the individual concerned."

7.80 In applying the Code to the circumstances of an alleged breach of code it is established that it is not necessary for the member's actions to have actually diminished public confidence, or harmed the reputation of the authority. The test is whether or not the conduct could 'reasonably be regarded' as having these effects. However, the conduct must be sufficient to damage the reputation of the member's office or the Authority, not just the reputation of Councillor Aspden as an individual.

7.81 What must be considered here is to gauge an objective view. That is, whether the actions of Councillor Aspden were such that a member of the public, knowing all the relevant facts, would reasonably think that his actions were so significant that it would impact on the Council's ability to properly carry out its functions.

7.82 In this case it is the suggestion that Councillor Aspden did attempt to obtain an advantage for Person B during the recruitment process for the post of [REDACTED] and did openly share confidential and private completed application forms in the Duke of York Public House in York.

7.83 In applying the circumstances of the disclosure of the application forms we consider that Councillor Aspden's actions would have an adverse effect on the public's confidence in the ability of the Council to carry out its function. As such we consider that Councillor Aspden did bring the office of Councillor and that of the authority into disrepute.

7.84 We have therefore concluded that Councillor Aspden did breach paragraph 3.7 of the Code of Conduct.

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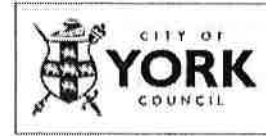
8. Finding

- 8.1 Our finding is that there has been a breach of the code of conduct of the authority concerned.**

**Wilkin Chapman LLP
Investigating Solicitors**

14 June 2018

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PRIVATE AND CONFIDENTIAL

Case reference:

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for City of York Council, into allegations concerning **Councillor Keith Aspden** of City of York Council.

14 June 2018

VOLUME 2 SCHEDULE OF EVIDENCE

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Appendix A

Schedule of evidence and list of unused material

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Part 1: General Provisions**Introduction**

1. (1) This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of the City of York Council.
- (2) This Code also applies to any person appointed as a co-opted member of the City Council or any of its Committees when acting as such.
- (3) A person will be acting as a Councillor or as a co-opted member when:
 - Present at formal meetings of the Council.
 - Performing duties entrusted to them by the Council
 - Performing functions associated with the ordinary role of Councillor – such as undertaking casework for residents
 - Otherwise acting, claiming to act or giving the impression that they are acting as a Councillor

But a person will not be acting as a Councillor or as a co-opted member when acting as a trustee or director of another organisation even where the appointment to that role was made by the Council.

- (4) The Code has been adopted by the City Council and is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Definitions

2. (1) A "co-opted member", is a person who is not an elected member of the authority but who –
 - (a) is a member of any committee or sub-committee of the authority, or

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Section 5: Codes and Protocols
5A: Members' Code of Conduct

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and

in either case is entitled to vote at any meeting of that committee or sub-committee

- (2) "meeting" means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Executive or any committee of the Executive.
- (3) A "sensitive interest" is one where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees.

General Duties as to Conduct

3. (1) You must treat others with respect.
- (2) You must not do anything which may cause the Council to breach any equality enactment.
- (3) You must not bully or intimidate any person, or attempt to bully or intimidate them.
- (4) You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality.
- (5) You must not disclose information which is confidential, unless:
- (a) You have the permission of a person authorised to give it; or
- (b) You are required by law to disclose the information; or
- (c) You disclose it 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

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- (d) The disclosure is reasonable; and is in the public interest; and is made in good faith.
- (6) You must not prevent another person gaining access to information which that person is entitled by law.
- (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.
- (8) You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.
- (9) When you use or authorise the use by others of the resources of the Council you must:
 - (a) abide by the Council's reasonable requirements; and
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (10) You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions, in accordance with any requirements imposed by statute or the Council.

Part 2: Interests**Disclosable Pecuniary Interests*****Registration of disclosable pecuniary interests***

4. (1) Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. These will be included in the register of interests which is published on the Council's website

Definition of disclosable pecuniary interests

- (2) A 'disclosable pecuniary interest' is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interest is of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Non participation in items of business in the case of disclosable pecuniary interest

- (3) Where a matter arises at a meeting which relates to one of your disclosable pecuniary interests,
- (a) You may not participate in any discussion of the matter at the meeting.
 - (b) You may not participate in any vote taken on the matter at the meeting.
 - (c) If the interest is not registered, you must disclose the interest to the meeting.
 - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

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Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

Non participation in individual executive decision making in case of disclosable pecuniary interest

- (4) Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Notification of Interests

5. (1) In addition to the disclosable pecuniary interests you must, notify the Monitoring Officer of any interests you have of a kind described in the second schedule. You must make that notification within 28 days of this Code coming into effect or of you becoming a Member or co-opted Member if that is later.
- (2) You must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.

Disclosure of Interests

6. (1) You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule or any person with whom you have a close association.
- (2) If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting:
 - (a) If the interest is not registered, you must disclose the interest to the meeting.
 - (b) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

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Section 5: Codes and Protocols
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- (3) If you have a personal interest and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of the public interest then you have a prejudicial interest. This is subject to the exceptions set out in paragraph 6.4.
- (4) You do not have a prejudicial interest in any business of the authority where that business:
- (a) does not affect your financial position or the financial position of a person or body named in the second schedule;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in the second schedule; or
 - (c) relates to the functions of your authority in respect of:
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

CONFIDENTIAL REPORT

Section 5: Codes and Protocols
5A: Members' Code of Conduct

-
- (5) A member with a prejudicial interest must leave the room during the debate and voting on the matter in question.

Sensitive Interests

7. (1) If you have a sensitive interest which is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- (2) If you are required to declare a sensitive interest at a meeting you need only declare the fact of the interest and not the details of the interest itself.

Dispensations

8. (1) The Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he or she has an disclosable pecuniary interest or a prejudicial interest. The Council may grant such a dispensation if:
- It believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or
 - considers that without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote relating to the business
 - It is in the interests of the inhabitants in the Council's area to allow the member to take part; or
 - It is otherwise appropriate to grant a dispensation.
- (2) The Council has granted the Monitoring Officer in consultation with the Chair of the Joint Standards Committee the power to grant dispensations. These can only be granted following a written request from the Member and the existence of and reason for the dispensation should be recorded in the minutes of the meeting.

CONFIDENTIAL REPORT

Section 5: Codes and Protocols
5A: Members' Code of Conduct

First Schedule – Interests which are Disclosable Pecuniary Interests

| <i>Interest</i> | <i>Description</i> |
|---|---|
| Employment, office, trade, profession or vacation | Any employment, office, trade, profession or vocation carried on for profit or gain. |
| Sponsorship | <p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p> |
| Contracts | <p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> |
| Land | Any beneficial interest in land which is within the area of the relevant authority. |
| Licences | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer. |
| Corporate tenancies | <p>Any tenancy where (to your knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial</p> |

CONFIDENTIAL REPORT

Section 5: Codes and Protocols
5A: Members' Code of Conduct

| | |
|-------------------|---|
| Securities | <p>interest:</p> <p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <ol style="list-style-type: none"> i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |
|-------------------|---|

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“relevant period” means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) of the Act;

CONFIDENTIAL REPORT

Section 5: Codes and Protocols
5A: Members' Code of Conduct

“relevant person” means you or any your partner as defined in paragraph 4.2

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

Second Schedule – Other Interests

1. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
2. Any body —
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
3. Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £50 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.

CONFIDENTIAL REPORT

WC 9

**STATEMENT
FRONT COVER**

| | |
|----------------------|----------|
| Case Ref: | |
| Name: | Person A |
| Position Held | |

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CONFIDENTIAL REPORT

wilkin chapman

STATEMENT of Person A

1. I was employed by the City of York Council from April 2012 until August 2017 as a [REDACTED].
2. The post I held was advertised in the traditional manner and I applied and was successful with my application and subsequent interview.
3. I had previously worked in a similar role for [REDACTED].
4. As [REDACTED] my brief terms of reference were to assist elected Liberal Democrat members with administration, research and communications with the media, amongst other tasks.
5. My position was paid for by the City of York Council and as such by members of the public.
6. During my time at the Council, I effectively had 2 line managers. My immediate Council line manager when starting in the role was **Officer B** an officer of the Council who dealt with my HR issues, however my day to day tasks were directed by the elected Liberal Democrat Councillors in particular the Leader of the Group. At the time my employment commenced this was Councillor Runciman and from 2013 it was Councillor Aspden.
7. I worked in an office at the main Council building known as West Offices, York (following the move from previous council offices). This office was allocated by the City Council as the Liberal Democrat office (group room) and as such used by the Liberal Democrat Group. It had all the facilities of a working office such as telephones and computers as well as access to shared printing facilities.

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8. When I first started work for the City of York Council I do not recall any significant formal training or training package. However, I do recall I had a number of informal meetings including with the Monitoring Officer.
9. I was aware of my role profile and the code of conduct in which elected members and Council officials should operate.
10. In the months and years that followed it was quite apparent that the working practices and culture at the Liberal Democrat office and the City of York Council were very different to that I had been used to [REDACTED]
11. I was expected and encouraged by Liberal Democrat Councillors, in particular Councillor Aspden, when he became group leader, to become more involved with and deal with the media more and I became more of a press officer for the group than I had been previously with targets and time focused on this.
12. I was also expected and instructed to become more involved in political campaigns in as much as helping with the production and content of political literature (Liberal Democrat 'Focus' leaflets, campaign letters, party manifestos and annual reports) writing copy and checking that they were correct and ready for production.
13. I was getting, and it was expected that I became, more political in my role which I began to feel was not what was within my role profile or terms of reference and contravened the politically restricted nature of the position.
14. I had three/four different Council line managers during my employment (Officer B Officer I , Officer J and then Officer B again) and did not feel, at the time, it was something that I could discuss with them and it was easier to just accept the prevailing culture. For most of my period of employment I did not have regular one to one meetings with them and just had an annual appraisal (most years).
15. I did have an annual appraisal (most years) which was completed by whoever was my line manager. Over a 4 year period my manager changed a number of times (as above). The process would be that my group manager, who was the political group leader, would be involved in my day to day assessment and also be involved in the

CONFIDENTIAL REPORT

setting of my next 12 months objectives. This would then result in my direct non-political line manger completing my appraisal.

16. As such I never felt that I could air my initial concerns as to the tasks I was being given and concerns about the culture I was operating in.
17. I became concerned about what was happening with the Liberal Democrat Group and the overall culture that was developing with documents being leaked to the media. It happened on a number of occasions and in particular became a practice for Councillors Aspden and [REDACTED]. I outline some examples below.
18. Before the 2015 local election there was a Council issue over the setting up of a traffic congestion commission within the City of York. I believe this was in September 2014 and was an issue that would have a considerable political impact. The Labour Group was running the Council and a report had been prepared by Council officials and was given to the 4 political group leaders at a group leaders' meeting. In this case Councillor Aspden was given a copy as Leader of the Liberal Democrat Group.
19. I believe the sharing of papers in this manner, to Leaders, is not in itself unusual as it pre-warns them of an issue which is to be raised, allows for informal and confidential discussion and gives them pre reading time and enables them to research any issues that they may consider important.
20. It is my belief that the document was confidential by its very nature and not to be communicated to anyone outside the Council.
21. I am aware that Councillor Aspden contacted, and gave the document to, a journalist called Person F of "The Press" a York Newspaper.
22. I had a conversation with Councillor Aspden at the time and he told me that he had or was going to "leak" the report to Person F and that I should prepare a comment from Councillor Aspden as I would receive a request from Person F asking for a comment. I was told the reason for the leak was because he wanted the party to be on the ball and did not agree with the commission as he disagreed with the cost, but given the importance of tackling congestion he did not want to be the one to quash the idea. His view was that the resulting press article would put pressure on the Council's ruling

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Labour Group to drop the proposal. It would not directly involve the party and they would be able to get what they wanted whilst embarrassing the Labour Group.

23. I was aware that this system of leaking papers and the use of the press had happened before. The process was for a document or information to be leaked and given to the press, usually by a councillor. The resultant article would be reported as from an ANON source. The journalist obviously knew where it was from and would put in a request for a comment to the group that leaked it first. In this case to the Liberal Democrat group and me as I now dealt with many media requests. I would prepare a press comment on behalf of a specific Councillor and generally get their approval and then release it. In some cases, I had the permission of the councillor to release quotes without direct approval if they were not contactable and there were deadlines.

25. I was uneasy with the culture of leaking and what was happening. However, I went along with it and in the case of the congestion commission story, subsequently released a comment from Councillor Aspden.

26. The Press did run an article in "The Press" on the subject which reported on a "leaked council report" and it did raise public concern, as expected, and the proposal was dropped by the Council/Labour.

27. Councillor Aspden also asked me to leak/pre-release budget proposals on plans for mental health investment in January 2017. This was an attempt to gain an advantage over the Conservative Group and generate favourable press coverage for the Liberal Democrats.

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28. I am convinced this leaking culture was not in the interests of openness or motivated by a 'public right to know' justification and was instead directly for the political advantage of the Liberal Democrat Group.
29. I was concerned that this method of "leaking" information was part of the culture and used by Councillor Aspden and for political advantage.

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41. Again, I was not happy with the situation nor the practice, which was becoming common place.
42. The public and press only have access to public open documents and it is well known that no official document should be disclosed or leaked in this or any manner.
43. There is a proper procedure for the public and press to obtain information including via a Freedom of Information Act request (FOI).

CONFIDENTIAL REPORT

44. I am aware of the need for openness and to keep the public aware of issues and the public right to know. However, there are processes and procedures to ensure this takes place and I am convinced that the reasons for these documents being released was not for that reason and was for purely political reasons.

48. Following the Elections In 2015 Councillor Keith Aspden became the Deputy Leader of the City of York Council. This role includes a more corporate area of responsibility and as a result he would take on additional work and portfolios not directly attached to the Liberal Democrat Group.

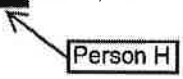
49. At this time it was agreed, I believe by the former Chief Executive, that the leaders of the 3 largest groups should each be assisted by an Executive Support Assistant.

50. The role was duly advertised, and I recall Councillor Aspden wished the post to be filled permanently as soon as possible.

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51. I maintained my role as [REDACTED] I had no interest in the job of [REDACTED] and did not consider applying (given that the role was a lower grade etc).
52. I was aware that the post was an officer post and not political. As such I did not expect the applicant to be appointed by elected members.
53. I became aware that Councillor Aspden was concerned that he got the right person for the job as the successful applicant would be working directly for him. He wanted to fill the post with a political appointment.
54. I became aware that applications had been submitted and I was, at some stage, asked to become involved in the official short listing and interviewing of candidates. I was also aware that this was generally performed by the Council's HR officials/relevant officers and did not include Councillors. However, Councillor Aspden was very keen to be part of the process.
55. In summer 2015, I do not recall the actual date, I went to the pub on Kings Square (I believe it is called The Duke of York). I met Councillor Aspden, Person D ([REDACTED]) and Person C ([REDACTED]) who was there, I believe, to meet me or Councillor Aspden socially. [REDACTED] is not a councillor but is a Liberal Democrat activist. The meeting was at the behest of Councillor Aspden and was a 'pre-short listing' meeting to prepare for the 'official' short listing meeting with Officer A.
56. Councillor Aspden had printed copies of the application forms of the applicants for the [REDACTED]. He passed the forms around all of the persons present and we considered their suitability for the post. I know Person C was not entirely comfortable with the situation and what was happening.
57. The meeting and the passing around of the papers was run by Councillor Aspden. He and we were reading them and making comments as to their suitability. Councillor Aspden was keen to have two individuals on the short list/put through to interview and they were Person B and Person H because he knew both of them and knew them to be Liberal Democrats. Person B was Interns at the time of the application process and Person H had previously been Interns with [REDACTED].

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58. It was discussed that we would need to put at least some other candidates in the short list to make things look credible and this was done. It was also discussed what good points the two favoured applicants had and what they needed to do to enhance these points, as well as what were not so good areas that the other applicants had. The other candidates mainly had administration/PA skills which were better than the favoured two, however they were not as experienced applicants in political areas.
59. It felt like we were making the two favoured applicant fit the job description, a description which was for a [REDACTED] and not for a party political officer.
60. I do not think there were detailed written analyses taken as such but I do recall Person D [REDACTED] making a few notes.
61. The meeting finished and we just had a social drink.
62. The official short listing took place a few days later in the Council offices. Included in this were Councillor Aspden, Officer A [REDACTED] and myself. The short listing was carried out in a structured way and Councillor Aspden spoke up for his two favoured applicants (as agreed at the pre-short listing meeting), saying they should be given a chance. I believe six applicants including Person B and [REDACTED] were passed to be interviewed. 
63. The Interview process was to take place in the Council building and I, along with Officer E [REDACTED] were asked to prepare an In-tray exercise which we did.
64. I along with Councillor Aspden and Officer A [REDACTED] were to conduct the interview of the candidates and deal with the in-tray exercise.
65. It was known that the position was that of a (relative junior grade) Council employee and as such was an appointment by the officials of the Council and not something an elected member should be or generally is involved in.
66. I know Councillor Aspden was keen to be part of the process and be a panellist at interview. I am also aware he made it known that he should be on the panel.

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67. Officer A did make it clear that [REDACTED] was the appointing officer in the recruitment process and [REDACTED] would technically take the decision on who should be successful in the appointment.
68. We all had set questions which were the standard interview questions. Under the instructions of Councillor Aspden, I prepared a slightly harder, more political, question. He was fully aware of my questions before the interview date. He was also fully aware of the in tray exercise which was proposed.
69. It was, I believe, on a day shortly before the interview, at about lunchtime, as I was returning to the Group's office when I saw Councillor Aspden, Person D and Person B [REDACTED] sat together in conversation. I only heard a small part of, I believe the tail end of their conversation, but I was convinced that it concerned the interview and a part of one of the questions. I must state that I only heard a part of the conversation and could not be certain of the content. The conversation stopped quite abruptly when I walked in.
70. I already had very serious concerns about the whole interview process and this just reinforced these.
71. The interviews took place and Councillor Aspden was chair of the panel. He was sat in the middle of the three of us. Councillor Aspden essentially ran the interviews.
72. I asked the 'political' question as agreed to all candidates and as I recall no one scored particularly well at all. It was a difficult question and in fairness perhaps too specific and hard for the applicants. Person B however answered it extremely well. It was a near perfect answer to a very difficult question which the others had performed poorly on.
73. The interview was scored using the traditional point system and all three of us put Person B [REDACTED] as the best candidate.
74. I did think about the previous conversations I had overheard in the office as I have described and did have suspicions as to whether [REDACTED] had been prepared for the questions. I also considered that it may be that [REDACTED] was just an intelligent [REDACTED] and was able to answer the political style question (and others) well.

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75. Following the interviews, along with Councillor Aspden and Officer A , I discussed who performed the best and it was agreed that Person B had, and was the best candidate. I went along with that decision, albeit reluctantly given the circumstances as described.

76. Person B was offered and took up the post and worked closely with Councillor Aspden. did get more involved in the political issues than I thought should, as that was not role, it was a non-political role and should have been focused on providing for Councillor Aspden in his role as the Deputy Leader, not one for specific use on Liberal Democrat party political activity.

77. I continued to think of the process of appointing Person B and the more I thought the more I felt it was not the way or manner in which it should have been carried out.

78. I do not know the whole motivation behind why Councillor Aspden wanted Person B or Person H to have the job. I do feel however that he manipulated the process so he would get the person he wanted and went away from the correct and proper procedure for appointment.

79. I do not feel it was correct to do a pre-short listing in a public house with people not involved in the process or even Council employees. Councillor Aspden should not have manipulated himself onto the interview panel or been involved in the questions or in tray exercise. He should not have been Chair of the panel nor owned the process. I firmly believe that this went away from all the policies, processes and procedures set down by the Council and his actions were unfair to all those concerned and gave Person B an unfair advantage throughout the selection process.

80. I am aware that Person B and Councillor Aspden are known to each other as they would come into contact when Person B was with the Liberal Democrat Group. I am aware that they did/do socialise together outside of work and Person B spent time living with Councillor Aspden. I am not aware of any inappropriate association between Councillor Aspden and Person B

81. I also wish to state that I feel that within the Liberal Democrat Group there is an inappropriate use of Council resources.

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82. I am aware that equipment within the Liberal Democrat office is for the sole use of the group's councillors whilst engaged in Council business, not to be misused for party political use.
83. The room, which is provided, owned and supplied by the Council was regularly used for campaigning and party political purposes by interns and party activists, as well as local party staff and members.
84. Their use included the using of phones to ring Liberal Democrat members when the individual's membership had or was about to run out and encourage them to renew membership, or issues on similar party business. The interns were encouraged to do this along with non elected party activists. The computers were used to send email updates to party members/supporters and the shared printing facilities were used for the printing of leaflets for distribution to party members on party issues as well as letters to residents on campaigning and party political issues. This was an improper use of resources and not in any way part of the City of York Council business.
85. I am also aware that the use of Person B's time was used on non Council business on a regular basis and ■ was encouraged to become involved with party political work which again was not appropriate and not The City of York Council business. This work included activities such as editing/proof reading Councillor Aspden's 'Focus' and other political literature, and writing and sending out the 'weekly roundup' campaign email to party members and supporters.
86. I was again not happy with this use of Council resources which was known and encouraged by the councillors, in particular Councillor Aspden as Group Leader, the political line manager of Person B and the Councillor who directed the work of interns, party staff and activists.
87. I did not feel that I was able to report or discuss my concerns and did not see any obvious route for expressing my concerns given the clear culture that existed.
88. I have since left the employment of the Council, I believe on good terms. I do not feel that I have any issue directly with any individual and I do not have any personal grievance with any one at the Council.


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89. I do however feel that what happened was not right and I was not happy with the culture that developed and I was being involved in.
90. I do feel that in relation to Councillor Aspden and [redacted] that they operated in a manner in which, as elected members, they should not and I feel that it falls below the standard which they should set.
91. I feel that the disclosing of confidential information to the press for political advantage is a breach of the code of conduct. The manner in which the selection of the Executive Support Assistant was undertaken was wrong and a further breach of the code of conduct. The misuse and inappropriate use of equipment and resources of the Council (including staff) is wrong and against the code of conduct.

I Person A declare that this statement is true and accurate to the best of my knowledge and belief.

Signed [redacted] Date 12/01/18

**STATEMENT
FRONT COVER**

| | |
|----------------|--|
| Case Ref: | |
| Name: | Officer B |
| Position Held: |  |

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CONFIDENTIAL REPORT

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STATEMENT of Officer B

1. I am employed by the City of York Council as [REDACTED]
[REDACTED]
2. My Job description includes numerous different areas of responsibility including supporting the 47 elected councillors, arranging and making sure that appropriate training is delivered, the arranging of Council meetings and ensuring the meetings are held and papers and agendas are prepared and circulated.
3. Upon election, all elected councillors are given essential training in the code of conduct. There is refresher training offered to all councillors every four years although, whilst recommended, this is not mandatory for current elected members. The code of conduct is enshrined within the Council's Constitution, which is publicly available to view on the Council's website. Records of training given to Councillors are held on the Council's computer system for all elected members and Council officials to access if required.
4. Upon election, all Councillors sign a Declaration of Acceptance of Office which states that they will abide by the code of conduct.
5. As part of my role I have responsibility and the line management of [REDACTED]
[REDACTED]. This has not always been the case.
6. Person A was employed as [REDACTED]
and I was [REDACTED] line manager for a period. [REDACTED] post, along with other [REDACTED]
came under other supervisors prior to 2015. I did however regain responsibility for the post sometime after the 2015 elections. I would need to check the date
7. [REDACTED]

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8. The Post of [REDACTED] is paid for by the Council and the official line management is from the designated Council official. However, day to day supervision of the work allocated is by the political group itself.
9. [REDACTED]
10. In respect of becoming vacant and advertised then the appointment is one made by the Council and Council officials. It may involve members and representatives of the political group concerned at all stages of the selection and interview process.
11. [REDACTED]
12. [REDACTED]
13. It is a Council appointed post and fully funded by the Council. It is a Non Political post. Whilst there should not be any political involvement in the formal appointment process, [REDACTED] this creates an environment which makes it difficult for group Members to not wish to take an interest in appointments made.
14. The post holder is, however, appointed by Council officials and should not have any party or group involvement in either the formal application process or interview and appointment process.
15. I was not involved in any part of the application, paper sifting or interview process concerning the appointment of Person B .
16. I am able to say that the process for such an appointment should, as per the Council's procedure in appointments, be as follows:-
 - (a) The post has a job description and will be advertised either internally, externally or both. This is generally dealt with by the line manager with HR assistance;

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- (b) A closing date will be agreed and applications are submitted through the Council's on-line portal. Again, this will be dealt with by the line manager;
 - (c) A short listing will take place, arranged by the line manager, and generally involves the agreed panellists (generally 2 or 3 individuals) and selected by the line manager;
 - (d) The applications are looked at by the panellists as to suitability at an arranged meeting and a short list is prepared.
 - (e) A formal interview is set which may involve an in tray exercise or some form of presentation along with a number of set questions.
17. In my experience the questions and format are decided by the panellists who will have an agreed chair who will lead the interview process. The chair is most usually the manager of the service, again, in my experience.
18. The process is to ensure fairness to all candidates and to select the best person for the post, along with having a transparent system with good governance.
19. I am aware that the application and interview process in respect of the [REDACTED] [REDACTED] post and the appointment of Person B was conducted by Officer A [REDACTED], Councillor Keith Aspden and Person A.
20. At the time (July 2015) the line manager for the post of [REDACTED] was Officer E
21. It is my understanding that all papers relating to post applications are confidential papers and should only be dealt with by authorised individuals within the Council.
22. I am not sure of the date but believe it to be in the summer of 2017 when I met with Person A, off site. At the time [REDACTED] was off sick and as I was now [REDACTED] line manager I met [REDACTED] as a welfare visit. 
23. It was a long meeting, lasting a couple of hours. I was aware that [REDACTED] was having health problems. 
24. At the meeting [REDACTED] told me that [REDACTED] had concerns with the appointment of Person B [REDACTED] not that [REDACTED] had got the job but the manner in which the interview process

CONFIDENTIAL REPORT


and in tray exercise was conducted. [redacted] told me that [redacted] firmly believed that Councillor Aspden had given [redacted] information on the in tray exercise and some aspect of the questions prior to the interview. [Person B]

- 25. As part of my own work role I am involved with the organisation and running of Group Leader meetings. These are held from time to time, usually one per month. The meetings have an agenda and these, along with any attachments, are sent to all the Leaders of political groups.
- 26. The purpose of the meetings are to brief the Party Leaders on specific issues in advance, sometimes delicate issues.
- 27. At the time of briefing Group Leaders, the issues are not generally in the public domain and it is generally understood that the matters and papers discussed are not for sharing or circulation (particularly outside the organisation or with the press) unless otherwise agreed or indicated.
- 28. The papers are not printed as "salmon papers" but carry similar significance in terms of maintaining appropriate confidentiality.

I, Officer B declare that this statement is true and accurate to the best of my knowledge and belief.

Signature [redacted] Date 19/1/2018

**STATEMENT
FRONT COVER**

| | |
|----------------|--|
| Case Ref: | |
| Name: | Officer A |
| Position Held: |  |

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CONFIDENTIAL REPORT



STATEMENT of Officer A

1. I am employed by the City of York Council (the Council) as [REDACTED]
[REDACTED]
2. I have been employed by the Council since [REDACTED] and in the relevant period of 2015 I was [REDACTED]
3. I was the direct line manager of Officer E who worked in [REDACTED] and had overall responsibility for the HR department within the Council.
4. Council elections were held in May 2015 and from this point the Council was run as a coalition between the Conservative party and the Liberal Democrat party.
5. The Council itself had joint leadership between the two parties.
6. Historically the Leader of the Council had appointed to them an [REDACTED]
[REDACTED] The post of [REDACTED] was an officer appointed post.
7. [REDACTED]
8. Following the 2015 elections the Deputy Leader requested that [REDACTED]
[REDACTED] role be made available for that position given that the coalition were operating in joint leadership and regarded himself as joint leader.
9. At this time Councillor Keith Aspden was acting as Deputy Leader and it was he who made the request of the Chief Executive.

CONFIDENTIAL REPORT

10. The post was agreed and Officer E was tasked with dealing with the advertising and subsequent appointment process.
11. The process for agreeing this post and the formalities of the appointment process took time due to differing views on how the new roles/structure should operate and the capacity of Officer E as a busy [REDACTED] [REDACTED] [REDACTED]. I was made aware by the Chief Executive that Councillor Aspden was keen to move more quickly than the process was taking.
12. Officer E commenced the recruitment process and did raise concerns with me and Officer C about the process becoming increasingly of a political nature and sent me an email trail on 28th May 2015, including an email from Councillor Aspden that was copied into the Chief Executive and Conservative [REDACTED] Councillor B regarding how the post should be advertised. In turn I discussed this with Officer D and Officer C [REDACTED]. I satisfied myself that the advertising approach was appropriate for the job role.
13. Through this email I was also aware that Councillor Aspden had become involved in the recruitment process including wanting to put interview dates into his diary.
14. Councillor Aspden had a view that the candidate should have experience of working in a political environment given the location and nature of the role.
15. The job description was agreed and it was also agreed that the post advertisement would be both internal and external. The job was subsequently advertised by Officer E [REDACTED].
16. The post is a [REDACTED] appointment and is a Council post. In general, elected members should not be involved in the selection process of non Chief Officer posts, except where they have regular contact with the role e.g. Head of Communications.
17. Councillor Aspden was keen to keep the process moving and assumed that he would be involved and the Chief Executive made suggestions about how this might happen, asking me to get involved.

CONFIDENTIAL REPORT

18. As Officer E's [REDACTED] I was aware of this exposure at a time of ill health and to minimise the pressure and to avoid any continuity issues in case of absence it was agreed that I became involved in the recruitment process, at the short listing and interview stages.
19. It was also agreed that Councillor Aspden, Person A ([REDACTED]) and I should be the interview panel.
20. It is general policy that the agreed panel complete the short-listing of applicants.
21. I made it clear to all involved that the appointment was an officer appointment and as such I had the final say.
22. I was clear why Councillor Aspden and Person A would be involved in the process, Councillor Aspden because the successful candidate would be working directly and closely for him, and the trust/reliance he would be putting on the role given that he had to juggle a job as well as a leading councillor role, Person A was an officer of the Council used to working in the same environment that the post holder would be working in.
23. I am aware that this is not the normal situation with officer posts, however we found ourselves in a position where we had to move things along and this was a practical way to proceed given the resources available and the role/grade of the position. This was an exceptional role, different to existing roles, working in a very different environment. I discussed the approach with Officer D and Officer C.
24. I communicated details of the panel with the Chief Executive of the Council, Kersten England, and she did not raise any concerns with me. I understood and made all the panel aware of the clarity of roles and expectation of the panel. Councillor Aspden would act as chair of the panel given the importance of the role for him, however I would be the decision maker and in direct charge of the process.
25. Applications were returned by applicants to the HR department and, in turn, sent to me. This was done electronically with a PDF attachment containing 27 application forms.

CONFIDENTIAL REPORT

26. I then emailed the forms and attachments, which included application forms, to Councillor Aspden and Person A on 26 June. This would be normal information for an officer such as Person A to receive, however for councillors, where they have been involved in a recruitment process, it has been practice to give them a précis of each candidate. With 27 applications and short listing timescales this was not feasible.
27. My intention was that officers at the short listing meeting would bring recommended candidates for short listing and the final decision would be mine.
28. I was aware from an email that Councillor Aspden had set time aside on the Friday (26 June) between 4.30pm and 5.30pm to view the applications in preparation for our arranged short listing meeting on Monday 29 June. My assumption was that this would be in a confidential office environment.
29. The PDF attachment ran to 194 pages and was not printed off by me.
30. I attended the executive meeting room on the Monday and, along with Councillor Aspden, Person A and Officer E, we completed the short listing process in line with Council policy and procedure and [REDACTED] completed a summary template and submitted it to HR.
31. I did not feel that the process we undertook was anything more than normal. Councillor Aspden and Person A felt that the successful applicant should have more experience of working in a political environment than perhaps I did, however this was no more than healthy debate.
32. We selected 7 applicants to pass to the interview stage and the template was completed as to why we came to that decision.
33. There were 4 candidates from PA administration backgrounds and 3 from a more political background. No candidate had the full skill sets or balance of experience at that stage and whilst the strongest candidates on paper were the PAs none had worked in a political office environment ie working directly with councillors or other politicians.



Officer E

CONFIDENTIAL REPORT

34. It has been said to me since the beginning of this investigation that at the time of the short listing process, Person B was working as [REDACTED] at West Offices. I had no knowledge of this either from the application form which gave a different work address, nor was I made aware during the interview process. The only job referred to in York had started on 16th June 2015, a few days before the closing date for [REDACTED] and whilst the contact name was Keith Aspden the referee was someone different. I do not remember any discussion about this at the time of short listing but I assume there was one.
35. I am satisfied that the short listing I undertook was dealt with correctly and not influenced, other than healthy debate, by anyone present at the short listing meeting.
36. Once short listing was agreed and a date set for the interviews to take place, HR communicated with the shortlisted candidates. One candidate pulled out of the process leaving 6 to interview.
37. Officer E produced a draft set of 14 questions which [REDACTED] circulated to us for our agreement and selection. I recall Councillor Aspden amended the 4 he wanted to ask and made a suggestion about one other to make it fair to all internal and external candidates and we were all happy that we would ask a group of questions each as Officer E had proposed. On the day a final set of 12 questions were used.
38. Officer E was assisted by Person A in setting the in tray exercise which was again circulated to us all before the interview for information.
39. The in tray exercise and interviews took place in the Council offices. Councillor Aspden was Chair and the process was straightforward and conducted according to Council policy. The role of Chair in this particular interview process was only to welcome and make introductory comments, not to direct the process of the interview or decide the outcome as that was my role.
40. We all marked our score sheets independently without discussion, as is normal. I collated the scores and there was a clear winner, a candidate called Person B.
41. All three of the panel scored [REDACTED] as the best candidate on the day. We had a brief discussion after the interview and I asked, after adding up the scores, if we were all happy and I took the final decision to appoint Person B.

CONFIDENTIAL REPORT

42 Person A had his head down and looked annoyed, so much so I asked [redacted] directly if [redacted] had an issue. [redacted] said something to the effect that, the successful candidate would be working directly with [redacted] and it would cause [redacted] more work. I again asked if [redacted] had an issue with the result in light of the performance and scoring at interview and [redacted] said no.

43 Person A then left and I asked Councillor Aspden what he felt about [redacted] reaction and he stated that [redacted] had lots of skills but was not a team player and would benefit from some training in supervisory skills which I said I would look into.

Person A's

44. A conditional offer was made, recruitment checks undertaken and Person B [redacted] was appointed in the role.

45. I have no knowledge of any discussions or sharing of information outside of the interview process as described and I had no involvement in setting the in tray exercise.

46. Person B [redacted] did perform well in all aspects of the interview, including the in tray exercise.

47. I am fully aware of the need for confidentiality in respect of papers, information and data held within the Council and by individuals themselves. In respect of all job applications personal data is held and should be treated with great care and in the strictest of confidence.


48. I am aware that the inclusion of an elected member in the appointment process of a Council post of this level is not a normal process, but this was not a normal post. It was the case that Councillor Aspden made it clear early in the process that he wanted to be involved in the process because he would be working very closely with the successful applicant and he wanted the best person for the job, given the likely pressure on his time as a leading politician who also had an employed day job role outside of his political role.

49. The issue of his involvement was discussed at an executive level and following discussion it was agreed that he could be involved in a non decision making capacity.

CONFIDENTIAL REPORT

- 50. There is a chain of emails which cover this area and the practical approach taken given the nature of the role.

I Officer A declare that this statement is true and accurate to the best of my knowledge and belief.

Signed  Date 25/1/18

**STATEMENT
FRONT COVER**

Case Ref:

Name: Person C

Position Held

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CONFIDENTIAL REPORT






wilkin chapman llp

STATEMENT of Person C

1. In 2015 I was an active member and activist of the Liberal Democrat Party in York.
2. I was also involved in the 2015 elections and at the time held a seat on the Party's campaign committee.
3. I had a number of friends and associates within the Liberal Democrat group in York.
4. I have never been employed by the City of York Council nor held any official position.
5. I knew Councillor Keith Aspden as a Liberal Democrat councillor in York and was aware that in 2015 he became the Deputy Leader of the City of York Council.
6. I also knew Person A who was also a party member and worked for the [REDACTED] as [REDACTED].
7. I knew Person D [REDACTED]. I did not know [REDACTED] as well as the two others but was aware [REDACTED] was working for the [REDACTED] at the time. I believe [REDACTED] was [REDACTED].
8. I would socialise from time to time with [REDACTED] and occasionally [REDACTED], Keith and I and other party group members would meet up in a local pub for a social drink either after a meeting or at some other time.
9. I am not totally clear on the date however I believe it was in late June 2015, it was most definitely in the summer of 2015, when I had arranged with Keith and others to meet up one evening for a game of squash.

Person A

CONFIDENTIAL REPORT

10. It was sometime during that day that the arrangements changed. I do not know who changed them and I seem to recall it was a late change of plan. The squash was cancelled and it was agreed to meet up for a social drink instead in The Duke of York pub in York.
11. I seem to think it was Keith Aspden who changed the plan and that Person A and Person D were to join us.
12. At that time I was happy just to meet up and have a drink. I had no idea why the plans had changed and presumed it was because Keith had been tied up and did not fancy a game of squash.
13. I met Keith and  on Coney Street and  joined us shortly on arrival at the Duke of York pub. This was around 7pm or 8pm. We got a drink and set upstairs.
14. We were sat in a corner of the pub which was quite secluded and quiet. There was just general conversation between us to begin with.
15. It would have been after about 10 minutes or so after sitting down that Keith  turned to  and said, "Do you want to get the applications out?"
16. Person D had a large brown envelope and opened it as instructed and produced a large bundle of what were completed job application forms.
17. At first I had no idea what was happening but it was then explained to me by Keith that they were the application forms for candidates for the new job of  as Deputy Leader of the Council.
18. I was not clear what the post was but after a short while I became aware that it was a Council employee post and not a Liberal Democrat post, I was uncomfortable with what was happening.
19. Keith Aspden explained that he wanted the right person for the job and wanted the four of us to read the applications and give our views on who were the best candidates.

CONFIDENTIAL REPORT

20. The application forms were handed out amongst us and we looked at them. I did not like what was going on. I thought that these were confidential papers and people had applied for the post in good faith and that this was not the correct way that applications and applicants should be treated.
21. I did read them, but in honesty, did not read them with care. I read them very quickly as I became increasingly uncomfortable.
22. I would estimate there were in the region of 80 pieces of paper.
23. Keith asked for feedback on the applications and the group gave their views.
24. I expressed I was uncomfortable with it, and said specifically he should seek to employ the best candidate for the job. He said that I did not understand the Council bubble. He said he did not want someone "who would gossip with her friends over lunch".
25. It was clear that this was not good practice and I did not engage. I gave positive views on a couple of strong candidates (who were not Liberal Democrat party members). It was clear from conversation that some were non-starters with little experience. [REDACTED]
[REDACTED]
26. It was apparent that Keith wanted someone he knew and trusted and he stated that two applicants were his favoured choices. They were Person H and Person B [REDACTED] Both were known to Keith Aspden and had worked as interns for the [REDACTED]
27. Both had also been interns with [REDACTED] However, there was no doubt that both had strengths as candidates.
28. Councillor Aspden then asked us for our opinions on the good points in their applications so he could use these later. I repeated that I thought he needed to employ the best qualified candidate.

CONFIDENTIAL REPORT

29. There were a further 4 applications selected so it would not be so obvious that there was a favoured two. We were then asked to find weaknesses in the 4 applicant's forms so the two favoured ones could be enhanced at the next stage of selection. I refused to do this.
30. It was clear to me that this process was inappropriate – that a sifting for a job had occurred in the pub, in public, and that I with no relation to the Council had been shown applications. I also felt that Keith's intention to try and employ a Liberal Democrat activist rather than the best qualified person in the role was counter productive and unethical.
31. I would estimate that the selecting took 45 minutes to an hour and a total of 6 applicants were selected. I believe it was stated that Person H was the most likely candidate to be successful and Person B would have to perform well at interview if ■ was to be successful.
32. I had no prior knowledge of what was going to take place at the pub prior to Keith asking Person D to get the applications out.
33. The meeting was led and run throughout by Keith Aspden. I felt at the time and in hindsight that one of his motives was to test me to see if I would reinforce his behaviour. He was not happy that I was uncomfortable with what was happening.
34. I was aware that Person A and Keith Aspden were on the interview panel along with a third person from the Council. I also understood that there was to be a further official paper sift, involving Keith Aspden and Person A .
35. I left the pub as did the others and came to the conclusion that Keith was not an ethical individual and that it was in my best interest to be extremely careful in any involvement I had with him in future.
36. After a few days I contacted Person A . ■ was also unhappy with what had taken place.

CONFIDENTIAL REPORT

37. I did not report this to the Council or councillors. I did not do this because Keith had said more than once that summer that he had effectively used his new position to gain control of the Liberal Democrat Council Group through his use of appointments. I believe that this is probably true. I was also concerned that Person A, who is a close friend, would be impacted by a complaint made to the Council. I came to the conclusion that the most effective option would be to try and reduce Keith's influence in the local Party and Council Group. Unfortunately, I was not successful in doing this and it appears to me that senior members in the Liberal Democrats in York have I have spoken to are unwilling, or do not feel able, to adequately address Keith's influence or unethical behaviour. Given this, and because [redacted] has left [redacted] position at the Council, I have come to the conclusion that sharing the details of this incident to the Monitoring Officer is in the public interest.

Person A

I Person C declare that this statement is true and accurate to the best of my knowledge and belief.

Signed

[redacted signature]


...Date

9/11/2018

CONFIDENTIAL REPORT

WC 13

**STATEMENT
FRONT COVER**

| | |
|-----------------------|--|
| Case Ref: | |
| Name: | Person D |
| Position Held: |  |

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CONFIDENTIAL REPORT

wilkin chapman

STATEMENT of Person D

1. During my time in York I wasn't employed by City of York Council, I was recruited and employed through the temping agency Work with York as [REDACTED] the Deputy Leader of the Council who was, at the time, Councillor Aspden.
2. I worked at the Council between [REDACTED] and [REDACTED]. During my time at the Council Officer E [REDACTED] was my line manager and was responsible for supervising my work.
3. The [REDACTED] role involved working closely with a number of Council Officers and Councillors (including Person A [REDACTED] and Councillor Aspden). Further details on my day to day role will be held by both the City of York Council and by Work with York.
4. Beyond supporting Councillor Aspden (as my role required), I did not become involved in the recruitment process for [REDACTED] Councillor Aspden and Person A [REDACTED] would have had some involvement with this process, but they and the Council Officers involved (along with the relevant Council documents) will be able to more accurately recollect the recruitment process.
5. As with all recruitment processes in the Council, the applications were shared with those members of the shortlisting and interviewing panel (Councillor Aspden, Officer A [REDACTED] and others). My role was to support Councillor Aspden, as such I would therefore have had access to the applications at the same time Councillor Aspden received them, as for example, [REDACTED] have access to email inboxes.
6. From memory, the applications were sent by Officer A [REDACTED] and would have been printed at West Offices before the shortlisting panel.
7. During my time in York I met Person C [REDACTED] on a few occasions, in the company of other Councillors and Person A. Person C [REDACTED] was a Liberal Democrat campaigner and [REDACTED] would have worked with Councillors.
8. During summer 2015, I visited the Duke of York pub with Person A [REDACTED], Person C [REDACTED] and Councillor Aspden. This was one of a number of similar social occasions with Councillors and Person A [REDACTED] during my time as the [REDACTED].
9. Aspects of the discussion at the Duke of York pub would have focussed on the desire to have the best person to replace [REDACTED] - this would only have been natural as the recruitment process was just beginning [REDACTED].
10. There was no request for me to get the applications out, and I would not have brought them to the Duke of York pub for a social occasion. As such there was no request from Councillor Aspden or others for feedback on the strengths of individual candidates. Any discussion on [REDACTED] role would have been limited amongst a much wider discussion and would not have focused on individual candidates.

CONFIDENTIAL REPORT

11. I did not take notes on any aspects of our conversation which was social in nature. This was a social evening over a number of hours with all attendees having a number of drinks and the conversation covered a number of topics.
12. I am sure that Councillor Aspden would have met with Person B at some point before the interview. They would have required interaction as Person B had only just started working as [REDACTED] with Councillors. I would have been present for some of these conversations. There was, however, certainly no meeting concerning [REDACTED] interviews between Councillor Aspden and Person B which I attended. I was never part of any conversation with Person B on the detail of the interview.


I Person D declare that this statement is true and accurate to the best of my knowledge and belief.

Signed [REDACTED] Date 16.5.18

CONFIDENTIAL REPORT

WC 14

**STATEMENT
FRONT COVER**

| | |
|----------------|--|
| Case Ref: | |
| Name: | Person B |
| Position Held: |  |

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CONFIDENTIAL REPORT

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STATEMENT of Person B

1. I graduated from [REDACTED] with a [REDACTED] [REDACTED]. I am currently employed by [REDACTED]
2. I have always had an interest in politics and have used websites to look for job opportunities in that arena, mainly using the website "Work for an MP."
3. In [REDACTED] I went to [REDACTED] where I worked for [REDACTED] I was technically employed [REDACTED] I was entirely office based and my role consisted of general clerical and administrative duties, answering the telephone and drafting correspondence on behalf of [REDACTED] in response to queries [REDACTED]
4. In [REDACTED] I [REDACTED] where I worked [REDACTED] [REDACTED] I was employed by the local Liberal Democrat Party. I believe that it was at this time that I joined the Liberal Democrat Party. My role consisted of general clerical and administrative duties, canvassing, leaflet drops and inputting canvassing data. Unfortunately, [REDACTED] [REDACTED] I then applied for a job with [REDACTED]
5. In [REDACTED] I again used "Work for an MP" and found a job advertised for an intern for the Liberal Democrats in York. This job interested me and I felt I had relevant experience. Also, [REDACTED] [REDACTED] I applied for this job and went to The City of York Council (CYC), West Offices, for the interview. I was interviewed by Councillor Keith Aspden, who was the Leader of the Liberal Democrat Group, and Person I [REDACTED], who I believe was the membership secretary for the local Liberal Democrat Party. This was the first time I had met either of these people. I was offered the role [REDACTED] and accepted it.

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6. As an intern, I was employed by the local Liberal Democrat Party and was working on their behalf, working mainly with other Party members. I worked both from the local Party Office at Victoria Farm Estate, Clifton, York, and from CYC West Offices, [REDACTED] room there. I think Person I [REDACTED] who I believe was my line manager at that time. I also worked out and about in, and around, York. My role included designing campaign literature, organising campaign sessions, surveys, door knocking, leaflet drops and inputting campaign data. I also organised social/fund raising events.
7. I used a Liberal Democrat Party laptop, which was stored in the Group room at CYC West Offices, as it had software on it for designing leaflets and the like. I think I had limited access to CYC computers for email purposes as I think there was an email address that started [REDACTED] or something similar. The telephones at CYC had to be logged in with passwords so I did not use them. I do not recall having an induction, any formal training in systems use or my own identification card or access card for CYC whilst working as an intern. I do not recall there being any conflict of interest with CYC whilst working in my role as an intern for the local Liberal Democrat Party. I just did as my line manager, Person I [REDACTED], asked.
8. I had a fair amount of contact with Councillor Aspden whilst working as an intern. He was campaigning in Fulford and Heslington, where he was Councillor for that ward, so I had contact with him whilst assisting with campaigning. I also saw him when I was working from the Group room at CYC West Offices, which is where he was based, so I probably saw more of him than of others in the local Party. I got on well with him and found him to be a very friendly guy. I had no issues with him at all.
9. As an intern I was working 10 or 15 hours a week at [REDACTED] per hour, so usually 2 or 3 days [REDACTED] a week only. I did this for only 2 to 3 months, between June and September 2015 [REDACTED] up to the point that I started a new role [REDACTED] Councillor Aspden, who was then the Deputy Leader of the Council.
10. Within a few weeks of having started the role of intern [REDACTED] the role of [REDACTED] was brought to my attention by Councillor Aspden, who would have known about this vacancy before me. Person D [REDACTED] was filling the role on a temporary basis at the time, but [REDACTED] was [REDACTED] and was due to return to [REDACTED]. I may have also seen it on "Work for an MP" as I was actively looking for full time work

CONFIDENTIAL REPORT

offering reasonable pay and job security. This role was close to my interests, politically speaking. [REDACTED] Councillor Aspden, who was then the Deputy Leader of the Council and Leader of the Liberal Democrat Group, although I would probably still have considered the role even if it meant working for someone from another political party. The role is similar to that of a [REDACTED], in [REDACTED]. The role was to be paid for by CYC.

11. I was subsequently advised that I would be interviewed for [REDACTED]. I can confirm that, prior to the interview I did not receive any assistance, inside information, coaching or details of the impending interview questions or process from any person or persons, aside from information about the interview process provided to me through the official CYC recruitment process. Nor was I given any assurances from any person or persons. I am aware that it has been suggested that I was being coached in the Group office at CYC by Councillor Aspden and Person D in respect of the "In tray exercise," which formed part of the interview process. I can categorically confirm that this did not happen, although I do accept that, had that happened, I would have had an unfair advantage over other candidates who had not received similar coaching.
12. I have now been made aware that it has been suggested that a number of applications for [REDACTED], including mine, were reviewed and openly discussed in The Duke of York Public House in York by Councillor Aspden, Person D, Person A [REDACTED] and Person C (who I think was a member of the local Liberal Democrat Party), by way of an informal paper sift type process, and that this was done in the full view and hearing of members of the public. All I can say is that, if this did take place as has been suggested, it could never be considered a part of any proper recruitment process. I assume it may raise data protection and conduct issues and may risk introducing bias.
13. At no time did I have any discussion with Councillor Aspden regarding any preferred candidates that he may have for [REDACTED] role.
14. On the day of my interview the interview panel consisted of Councillor Aspden, Officer A [REDACTED] and Person A [REDACTED]. I am not sure who chaired the interview but Councillor Aspden sat in the middle, with Person A [REDACTED] to my left and Officer A [REDACTED] to my right as I sat opposite them. I can understand why

CONFIDENTIAL REPORT

Councillor Aspden might want to be involved in the interview process due to the close working relationship that there would have to be between him and the successful applicant.

15. I am aware it has been suggested that I was far more confident and animated during the interview than usual. I can confirm that I am normally quiet, if not a bit introverted, but in an interview situation you cannot afford to clam up. You need to be positive, demonstrate your qualities, experience and project a positive image to the panel to show you are a good fit for the role. I had been through a number of interviews prior to this one, which stood me in good stead.
16. I am aware it has been suggested that I answered one question particularly well, whereas the other candidates struggled to answer that question. If this was a question to do with priorities for the Deputy Leader, I may have benefitted from my experience and knowledge of similar matters from my previous work within the [REDACTED]. I have read the local party manifesto and may, therefore, have mentioned things that the other candidates were simply not aware of.
17. Following the interview process, I was advised that I had been successful and was offered the role [REDACTED] the Deputy Leader of the Council, that person being Councillor Aspden at that time.
18. I commenced the role [REDACTED] in [REDACTED]. During my time in that role I had 3 line managers. The first, for a short time only, was Officer E [REDACTED]. I think I only met [REDACTED] as my line manager twice. The second was Officer B [REDACTED], who line managed me for the longest period. Finally was Officer K [REDACTED] who reported to Officer B [REDACTED].
19. On commencement of my role [REDACTED], I did have a buildings induction and some training in the use of systems, much of this being during a two week handover period when I was working with Person D, [REDACTED]. [REDACTED]. I also received a CYC identification card and access pass. In respect of use of computers and systems, I mainly used email and word processing programs.

CONFIDENTIAL REPORT

20. As I said previously, my role was to look after, and assist the person I was working for. [REDACTED] I looked after Councillor Aspden's diary, assisted with the volume of emails, organised meetings, took work off Councillor Aspden, assisted with case work, telephone enquiries, drafting responses and hospitality.
21. I do not recall being asked to do anything in my role that made me feel uncomfortable. My line manager was not involved in the political side of things so I could have gone to them if I had needed to have done so. My role was a non-political [REDACTED] whereas [REDACTED], that of Person A, was obviously a political role. At some point [REDACTED] went off work on sick leave. Discussions were had as to who could fill the role until [REDACTED] came back to work, and for how long that may be. It was suggested that, along with my [REDACTED], I could also do some of the [REDACTED] work, but this would mean I would be working in both non-political and political roles. Accordingly, I had a meeting with Officer B, Officer K [REDACTED] and Councillor Aspden to discuss what I could, and could not, do, politically speaking.
22. During my role [REDACTED] I had a good relationship with Councillor Aspden. We got on well in the work place. There was not a big age gap, he was only around 10 years older than me, so this probably led to a closer relationship than it might have been with an older Councillor. I would see him socially outside of work. We went to the pub, played squash and played board games. Other than being my boss, I would describe him as a friend too. We had a concept of starting a board games café in York, along with two other friends, Person J and Person K. It was discussed but never actually happened.
23. I talked to Councillor Aspden occasionally about job opportunities and the like, but there was no mention of him assisting in furthering my career within CYC. Whilst working as [REDACTED], I applied for a job [REDACTED]. The job was [REDACTED] [REDACTED] I was offered this job, but then did not know if I really wanted it, or not, so did not take it. Councillor Aspden was aware that I had applied for this job.
24. When I was offered the role of [REDACTED] Councillor Aspden, I needed to be in York permanently, so needed somewhere to stay. for the start of the new study year. We decided to look for a two-bedroom flat so that we could live together there. [REDACTED] In the meantime

Person A

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Councillor Aspden offered me the use of a spare room at his home on an informal temporary basis until [REDACTED] sorted a flat out. Person J was using Councillor Aspden's other spare room at that time too. I took him up on this offer and stayed there for just over a month until [REDACTED] sorted the flat out. I paid Councillor Aspden rent whilst I was there, but there was no contract or formal agreement in relation to my time there. I did not inform CYC that I was staying there, [REDACTED].

25. I have previously been spoken to twice by Martin Chitty in respect of this investigation. After the first of those meetings with [REDACTED] Councillor Aspden asked me in a roundabout sort of way what we had talked about. I think this was in the Group room at West Offices and I believe [REDACTED] was present. I told Councillor Aspden that it was not appropriate to discuss it as I had been advised that this was a confidential investigation. (I also think that Councillor Aspden had not been spoken to by Martin Chitty at that time). I would not describe Councillor Aspden as being aggressive or confrontational to me, but he was very keen to know what had been discussed. He was obviously trying to get information relating to the on-going investigation and, because of our close working relationship, he probably thought he would be able to get the information out of me, but I did not think it appropriate to discuss it with him.

26. As a result of that incident, I went to my line manager, Officer K and told [REDACTED] what had happened. I wanted independent reassurance that I had done the right

thing, and also in case anyone raised the fact of a possible compromise to the investigation in the future. [REDACTED] arranged a meeting for me with Officer D [REDACTED], who assured me I had acted correctly.

27. In respect of Person A, I would say I had a good working relationship with [REDACTED] although not as close as that with Councillor Aspden. We shared an office. I liked Person A, we were both similar in that we were both quiet, possibly shy. We were friends and we chatted a lot, both about work and other matters, but I did not see [REDACTED] out of work as much as I saw Councillor Aspden.

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28. I left CYC [REDACTED] The reason I left CYC was because I was offered a job [REDACTED] which came with a reasonable pay rise to the salary I had been on at CYC.


I Person B declare that this statement is true and accurate to the best of my knowledge and belief.

Signed .. [REDACTED]Date .. 16/07/2018

CONFIDENTIAL REPORT

WC 15

**STATEMENT
FRONT COVER**

| | |
|-----------------------|--|
| Case Ref: | |
| Name: | Officer C |
| Position Held: |  |

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Statement of: Officer C

1. I am Officer C . I am [REDACTED] the City of York Council. I am making this statement at the request of Dave Hayward giving my opinion as to the confidentiality or otherwise of certain documents which are alleged to have been released to the Press from within the Liberal Democrat Group. I have also been asked to comment on the Council's use of "salmon" papers for meetings.
2. Dealing first with the issue of "salmon papers". These are used to identify "exempt" business for formal meetings of the Council. Meetings of the Council, its committees and of the Executive are normally open to the public. By law agendas and reports for those meetings are available for inspection and appear on the Council's website. Where the report contains "exempt information" such as information about an individual or commercially sensitive information it does not have to be made available for public inspection. In practice the Council tends to make reports public in so far as it can and places the sensitive information in an exempt annex. When these agendas are printed the "exempt" pages are printed on salmon paper. Members of a decision making body may access all the papers for its meetings on the Council's website but need to log in to access exempt information. On the website these reports appear on a white background.
3. Councillors have additional rights to information especially where they have a "need to know" because of their role. In my experience when Councillors are provided with information because of a role, it would not be printed on any particular coloured paper. Indeed, increasingly such information is provided electronically.
4. Some Councillors may see draft versions of reports as part of the policy preparation process. It would not be usual practice for exempt business to be identified in such reports because those reports are not going to public meetings.
5. I have been asked specifically about Group Leaders' meetings. These are not formal meetings of the Council or open to the public. Accordingly there is no exempt

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business. Agendas and report are usually sent electronically. If an agenda or report is printed no special paper has been used to my recollection during my time with the Council.

6. Papers for internal meetings between Officers are not normally printed on any specially coloured paper.
7. Turning now to the question of confidentiality. The Code of Conduct for Members of the City of York Council says:-

"(5) You must not disclose information which is confidential, unless:

(a) You have the permission of a person authorised to give it; or

(b) You are required by law to disclose the information; or

(c) You disclose it 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 reasonable; and is in the public interest; and is made in good faith.

8. The concept of "confidentiality" is one which most people understand reasonably well. At its most straightforward information is confidential if it is intended to be kept secret and shared only to a limited audience. It is a common law concept so its definition derives from decisions made by the Courts. The Courts have said that to be confidential information must:-

(a) have "the necessary quality of confidence namely, it must not be something which is public property and public knowledge"; and

(b) it must be disclosed in circumstances imposing an obligation of confidence."

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9. When deciding whether an obligation of confidentiality arises out of the circumstances of disclosure, it is necessary to consider whether "*a reasonable man standing in the shoes of the recipient of the information would have realised that upon reasonable grounds the information was being given to him in confidence*". So, did the recipient know or ought they to have known that the information was confidential?

Press Release Mental Health Investment

12. This seems to be a Liberal Democrat Press release issued in advance of formal budget proposals being prepared. My view is that documents relating to political policy formulation can certainly have the character of confidence. However, a political group would generally be free to publicise its own policies and determine when they are released into the public domain. The fact that there is a joint administration in

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York may make the situation a little trickier but, in the absence of evidence of some formal agreement having been breached, I would take the view that the Liberal Democrats were free to do this.

13. The notes to the release refer to some (possibly) unpublished statistics. Having made some enquiries I am still not absolutely clear what those statistics are or where they came from but I am told that it seems more likely than not that they would have been simply unpublished rather than confidential.

Congestion Commission report

14. This report was prepared for a Group Leaders meeting. I am aware that the document was released around or shortly after the time the meeting took place. The document was prepared as part of an attempt to achieve political consensus on what was a highly controversial topic. For that reason alone an expectation that the document would have been treated confidentially while those discussions took place would have been reasonable. I am aware that this was the expectation of the Leader of the Council at the time.
15. The document contains details of a proposed budget for the work, rates of pay the Council might offer and details of potential participants and opinions on their suitability. This information would have been confidential at the time. Some of the information would be regarded as confidential even now. In my view a reasonable recipient of the information would have realised that. The release of the information constituted a breach of confidence in my view.

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I, Officer C, declare that this statement is true and accurate to the best of my knowledge and belief.

Signed



Date

12/2/18



DRAFT

PART 5C - PROTOCOL ON OFFICER/MEMBER RELATIONS**1 Introduction and Principles**

- 1.1 The purpose of this Protocol is to provide a set of principles to guide Members and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 This Protocol should be read in conjunction with the Members' Code of Conduct, Employees' Code of Conduct, the Council's Constitution, Whistle-blowing Policy and any guidance issued by the Standards Committee, Audit and Governance Committee and/or the Monitoring Officer.
- 1.3 Certain employees, e.g. Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the statutory Chief Officers have responsibilities in law over and above their obligations to the Council and its Members that they must be allowed to discharge.

2 The Relationship: General Points

- 2.1 Both Councillors and officers are servants of the public, and they are indispensable to one another. But their roles and responsibilities are different.
 - 2.1.1 Councillors are responsible to the electorate and serve only so long as their term of office lasts. Members are representatives of the ward constituents and they also develop policies which will be implemented by the officers.
 - 2.1.2 Officers are responsible to the Council as a whole, they are employed by and ultimately responsible to the Chief Executive as Head of Paid Service. Their job is to provide professional advice and support to relevant parts of the Council in developing and implementing the policies and decisions.
- 2.2 These are very different roles and this may in some circumstances give rise to tensions and, as such, it is essential that the working relationship between officers and Members is businesslike and founded upon mutual respect.
- 2.3 Member/officer relationships should be conducted in a positive and constructive way. Therefore it is important that any dealings between Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influences on the other party.

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**The Constitution – P 5C****3 Expectations**

3.1 What can Members expect from officers:

- Political neutrality;
- A commitment to act in the interests of the Council as a whole and not to any one political group;
- A professional approach to the working relationship;
- An understanding of their role and its pressures;
- Timely response to enquiries;
- Professional advice;
- Confidentiality where appropriate;
- Courtesy and respect;
- Compliance with the Officers' Code of Conduct.

3.2 What can officers expect from Members:

- Understanding of the requirements of their roles and an appreciation of competing calls on their time;
- A partnership working approach;
- Courtesy and respect;
- Political leadership and direction;
- Not to be bullied or subjected to inappropriate pressure;
- Respect for their professional advice.
- Members shall act within the Code of Conduct at all times.

4 Specific Issues

4.1 Officer Advice and preparation of reports: – The provision of advice and the preparation of reports are central to the roles of many senior officers and they are under a duty to give their best advice in the interests of the Council as a whole. When carrying out these duties it is essential that they feel able to give full and frank advice even where this may not be supportive of a particular policy or decision promoted by a Member. Members must not seek to unduly influence the content of any report or try to persuade an officer to change their professional advice when drafting their reports.

4.2 Social contact between Members and officers:- Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and Members that transcends the normal employer/employee relationship can potentially undermine Members' confidence in the political neutrality or even-handedness of an officer, and therefore, care should be exercised.

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**The Constitution – P 5C****5 When Things Go Wrong**

- 5.1 Procedure for Members:- From time to time the relationship between a Member and an officer may become strained for various reasons, including the tensions mentioned above. In such circumstances, it is essential that the Member should not raise such matters in a manner that is incompatible with the objectives of this Protocol. An officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy, or has any concerns about the conduct or capability of an officer he/she should raise the matter with the respective Head of Service/Assistant Director. The Head of Service/Assistant Director will then look into the facts and report back to the Member. If the Member continues to feel concern then he/she should report the facts to the appropriate Director, or if, after doing so is still dissatisfied, should raise the issue with the Chief Executive. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 5.2 Where an officer feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her Head of Service/Assistant Director, Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Head of Service/Assistant Director, Director or the Chief Executive will take appropriate action either by approaching the individual Member and/or Group Leader or by referring the matter to the Head of Civic, Democratic and Legal Services for advice on how to proceed.

6 Officer Support: Member and Party Groups

- 6.1 It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

Party groups are a recognised part of local authorities and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality.

- 6.2 In providing this support to party groups certain points must be understood by both officers and Members:
- (a) Officer support must be limited to providing information and advice in relation to matters of a Council business. Officers must not be involved in advising on matters of party business. It is recommended that officers are not present at meetings or parts of meetings where matters of party business are to be discussed.

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**The Constitution – P 5C**

- (b) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
 - (c) Where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant committee or sub-committee when the matter in question is considered.
- 6.3 Special care needs to be exercised whenever officers are involved in providing information and advice to party groups or other meetings which include persons who are not Members of the Council or Elected Members. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning declarations of interest and confidentiality) and, for this and other reasons, officers may not be able to provide the same level of information and advice as they would to a Member only meeting.
- 6.4 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, but officers must have regard to a Member's right of access to information and Council documents which are referred to in paragraphs 9.1 and 9.2 above. However the confidentiality of information discussed in the presence of an officer cannot be guaranteed in all cases as it may be subject to the Freedom of Information Act.
- 6.5 In relation to budget proposals;
- (a) The administration shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Executive/Council meetings, whichever is the earlier;
 - (b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Executive/Council meetings, whichever is the earlier.
- 6.6 Any particular difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

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**The Constitution – P 5C****7 Officer Support: The Executive**

- 7.1 It is important that there should be a close working relationship between Executive Members and the officers who support and/or interact with them. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and other party groups.
- 7.2 Whilst Executive Members will be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. A Director, Head of Service/Assistant Director will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report.
- 7.3 Under Executive arrangements, individual Members of the Executive may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Executive Member seeks advice from relevant Members and officers before making a decision with his/her delegated authority. This includes taking legal advice, financial advice and professional officer advice as well as consulting the Monitoring Officer where there is doubt about powers to act.
- 7.4 Officers will continue to work for and serve the Council as a whole. However, as the majority of functions will be the responsibility of the Executive it is likely that in practice many officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the officers. Officers must ensure that their political neutrality does not appear to be compromised.

8 Officer Support: Overview and Scrutiny

- 8.1 It is not the role of Overview and Scrutiny to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a panels behalf. This means:
- (a) Overview and Scrutiny's questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame;
 - (b) In these circumstances, it is for the Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him to do so.



- 8.2 Overview and Scrutiny should not act as a “Court of Appeal” against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, eg the Corporate Complaints Procedure, and external/statutory, eg Local Government Ombudsman, Standards Board for England, or appeal to the Courts. However:
- (a) Overview and Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits of a decision in individual cases;
 - (b) They can comment on the merits of a particular policy affecting individuals.
- 8.3 Wherever possible Overview and Scrutiny should provide written questions or details of indicative topics to someone invited to appear before a panel to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel has previously indicated.

9 Members’ Access to Information and to Council Documents

- 9.1 Members need to have access to information held by the council in order to perform their roles but their rights to access are not absolute. The starting point is that Members have the same rights as any other person and, as such, they are entitled to copies of any published information held by the council. They can also make a request under the Freedom of Information Act 2000 if they wish.
- 9.2 Members also have additional legal rights to access information held by the council which would not normally be made public. They are given these extra rights of access in order to enable them to undertake their roles as councillors. However, care should be exercised in this regard as Councillors are only entitled to confidential information where they either, have a right under S.100 of the local Government Act 1972 or, where they can show that they have a ‘need to know’ the information in order to conduct their council duties.

S.100(F) LGA 1972

- 9.3 This provides that any document held by the council containing material relating to any business to be transacted at any meeting of the council, committee or sub-committee must be available for inspection by any member of the council unless it is deemed by the proper officer to fall within certain categories of ‘exempt’ information as defined by Schedule 12A to the Local Government Act 1972. This applies to all categories of exempt information except those under paragraph 3 (except to the extent that the information relates to proposed terms of a contract), and paragraph 6 of Sched 12A.

Need to Know

- 9.4 Even where the above statutory rights do not apply to the information in question the Member also has a common law right to inspect information which it is necessary for them to inspect in order to carry out their function as a councillor. This will normally cover all the information

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9.5 In cases of doubt Members should approach the Head of Civic, Democratic & Legal Services for assistance.

(a) 9.2

9.4 The common law rights of Members are based on the principle that any Member has a right to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the Member properly to perform his or her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

9.5 The exercise of this common law right depends upon an individual Member being able to demonstrate that he or she has the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the particular Director or Assistant Director with advice from the Head of Civic, Democratic and Legal Services.

9.6 In some circumstances the Member will be expected to justify the request to inspect a document. In addition there will be a range of documents, which, because of their nature are either not accessible to Members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the premature disclosure of which might be against the Council's and/or the public interest.

9.7 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied, ie to brief the Member.

9.8 The Members Code of Conduct also contains specific rules about confidential information held by councils which prohibit members from disclosing such information unless it can be shown that it is in the public interest to do so.

10 Correspondence

10.1 Correspondence between an individual Member and an officer should not be copied (by the officer) to any other Member. Where exceptionally it is

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necessary to copy to another Member, this should be made clear to the original Member.

- 10.2 Official letters and electronic communications on behalf of the Council should be sent in the name of the appropriate officer, rather than in the name of the Member. It may be appropriate in certain limited circumstances (eg, representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

11 Communication of Officer Delegated Decisions

- 11.1 Notwithstanding the rights of Members to information and to Council documents set out in this Protocol, officers taking decisions under delegated authority from the Executive must ensure that relevant Members have prompt information regarding the decision, the reasons for the decision and the impact of the decision.

- 11.2 For the purposes of this protocol "relevant Member" will include:

- (a) Members of any Ward upon which the decision is likely to impact.
- (b) Members of the Executive and Shadow Executive where the decision falls within their portfolio area.
- (c) Members of any relevant Committee or advisory panel where if it was not for delegation to officers, the decision would be taken by that Committee or panel.
- (d) All Members of the Council where the decision is likely to have a corporate impact.

- 11.3 If any Member becomes aware that they have not been provided with the information in accordance with this protocol the matter should be raised with the appropriate Director and/or the Chief Executive.

12 Publicity and Press Releases

- 12.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential to ensure that decisions on publicity are properly made in accordance with the Code of

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Recommended Practice on Local Authority Publicity and the Council's Media Protocol.

12.2 Officers and/or Members should seek advice from Head of Marketing and Communications when making decisions on publicity, and particular care should be paid to any publicity used by the Council around the time of an election.

13 Involvement of Ward Councillors

13.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. In addition officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

14 Monitoring and Review

14.1 The application and implementation of this Protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer.

Draft Protocol for Group Leaders' meetings

Purpose of meetings

Group Leaders' meetings are not decision making meetings of the Council. Their purpose predominantly is:

- To facilitate appropriate working relationships between the political groups
- To provide a forum for Officers to consult on matters relating to the administration of the Council's business
- To provide an environment for individual Group Leaders to raise issues with all the other Leaders
- To provide briefings prior to Group Leaders on matters of particular importance prior to decisions being taken
- To allow for initial joint consultative briefings on matters affecting the way the Council is run

Principles of participation

Agenda and timing of meetings

Meetings will take place fortnightly on Friday mornings.

Each Group Leader or the Chief Executive may add items to the agenda.

If, by the Wednesday before the meeting, no business has been received the Chief Executive may cancel the meeting.

Representation

Groups will normally be represented by Group Leaders or their deputies. If neither is able to attend then a Leader may nominate a substitute Member.

The Chief Executive, Assistant Director of Governance and ICT and the Head of Democratic Services or their representatives will attend together with Officers required for specific items.

Clarity of decision making

It is the responsibility of each Leader to ensure that they make it clear if they to discuss any proposed agreement with their group and whether any indications of approval given are subject to such agreement.

Confidentiality

Decisions and agreements reached in the meeting are not routinely confidential. However, individual contributions, opinions etc. expressed in the meeting should not be shared without permission.

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Recording of meetings

Brief actions notes will be prepared by the Head of Democratic Services and circulated by e-mail

Response to questions from Cllr Keith Aspden 20/03/18**Process**

As part of this process, it is right that the Council is open and transparent and investigates complaints against councillors. However, the original allegations (which primarily related to alleged issues back in 2014 and 2015) were made twelve months ago and since that time City of York Council have commissioned a desktop review, an investigative report and a standards report, at significant public expense. I have been interviewed twice at length, answered a range of supplementary questions, provided a variety of pieces of information and provided a response to the Assessment Sub-Committee, in advance of this statement, as the allegations seem to have been allowed to change over that period of time. For this reason, I will in the first instance answer your 63 questions as a statement, not least because I have already answered many of them in detail. If, having read this answer, and also having read all previous relevant documents, you still have specific questions outstanding, please revert to me.

I have never had to deal with such a stressful, prolonged and difficult process in my professional, council or personal life, with no professional advice from the council at any stage. This led to my immediate and without notice removal from my job as Deputy Leader of the Council, impacted on my family and has been allowed to play out very much in the public domain without my being able to respond. I am sorry that no doubt I have not handled every aspect of the last twelve months perfectly, but given the pressure, stress and lack of advice, I have tried my best to approach it calmly and attempt to get on with my life.

Background of investigation

I have been told that these allegations are unusual in that they do not arise from a complaint made by a member of the public or other elected member of the Council. Instead they emerged during the course of a serious disciplinary investigation into the potential gross misconduct of an officer, which had been identified and reported to the Chief Executive by myself.

The subject of that investigation, Person A, whilst on sick leave then raised a number of protected disclosures by way of the authority's 'whistleblowing' procedures, before resigning from [redacted] position after six months in advance of his disciplinary investigation. This is said not in any way to lessen or diminish the impact of the allegations, but rather to set them in their proper context. Throughout this investigation, I have expressed considerable sympathy and sadness, as have all Liberal Democrat councillors, for [redacted] very difficult personal circumstances.

My background

I was first elected as a local councillor in 2003 and I last signed a declaration of office following the May 2015 elections. I cannot recall attending any specific code of conduct training during my time as a councillor, although I am sure I will have received information in member training and induction.

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I am currently the Leader of the Liberal Democrat Group at City of York Council and serve on a number of committees, outside bodies and community groups. Outside of the council, I qualified as a teacher in 2004. Until these allegations, since 2003 there have been no standards complaints relating to me.

If necessary, I would be happy to put forward evidence from fellow councillors, Liberal Democrat party colleagues, professional colleagues in education and members of local and community groups to explain further the work I do as a local councillor and the way in which I undertake my duties.

Disclosure of confidential documents

I have never, at any stage leaked, or caused to be leaked, any confidential or exempt documents.

Congestion Commission – September 2014. This refers to a media article which appeared on 17 September 2014 in York Press regarding the Labour Council leader's proposed Congestion Commission following a controversial issue in York, the closure of Lenda! Bridge. Whilst PERSON A alleges that I handed over [the report to a journalist] in person, I repeat as above, I have not leaked any confidential or exempt documents, and I am pleased that Mr Chitty recognises in his report that *"there is no evidence to support that allegation."*

I do accept that I provided media comment, as did a Conservative party councillor (both of us were in opposition at the time), alongside others such as Friends of the Earth and a Green party councillor.

Mental Health investment - January 2017. This press release, which would have been authorised by Councillor Carol Runciman as the relevant spokesperson rather than myself, was announcing a political and budget priority for our group and was not confidential. All political groups across all councils, both in control and opposition, will want to share and explain their priorities and plans with residents and the local press. I understand through a conversation that we had with Mr Chitty in my second interview that Cllr Runciman still has a copy of the press release.

Group Leaders meetings

There has never been, since my time as a group leader (2013 onwards), any written and agreed rules or procedures for group leaders' meetings. It is my understanding that there are neither any rules agreed by group leaders, nor any rules within the council constitution.

Indeed, as part of this investigation I checked this with the Monitoring Officer, who confirmed via email: *"I haven't found any specific recorded agreement about confidential matters being discussed at Group Leaders. I do have the protocol which is attached. The only copy I can find of this is attached to an e-mail from James Alexander sent in 2011 and he refers to it having being agreed the previous year."*

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I was not a group leader in 2010/2011 and the protocol even if agreed then was not subsequently reviewed or agreed by new group leaders. That said, the protocol from 2010/2011 on confidentiality states: *"Decisions and agreements reached in the meeting are not routinely confidential. However, individual contributions, opinions etc. expressed in the meeting should not be shared without permission."*

Although since very late 2017 (I assume as a consequence of this investigation) council officers have added to the Group Leaders meeting agendas a statement to the effect that it is a private meeting only for group leaders, this has not been agreed by group leaders, is not within the constitution and cannot actually apply to the meeting given the potential attendance and nature of the business discussed, which is primarily to then be shared with political groups and to facilitate the smooth running of council meetings and business.

This is supported in the evidence in your file note from Cllr X
 Cllr X had never seen 'the' Group Leader Meeting Protocol", "issues of confidentiality were obvious although he could not recall any such issues that were discussed at meetings" and "there is no way that Labour would bring difficult aspects like that for them to any cross party forum".

If necessary, I would be happy to put forward evidence from former group leaders and former council leaders on the inconsistency of the approach to group leaders meetings. I believe that it would be helpful and long overdue if City of York Council officers were to develop a policy to be agreed and reviewed on an ongoing basis by group leaders.

Use of the Council's facilities by the Liberal Democrat group

It has been acknowledged throughout the investigations that the Liberal Democrats in York support work experience placements and employ part-time interns to support both the party's campaigns, and also to support Liberal Democrat councillors in their work on behalf of residents. It has also been accepted that such interns are paid living wage stipends on an hourly basis by the local Liberal Democrat party organisation (not by the Council Liberal Democrat Group, which does not have its own bank account). None of this has ever been denied and both myself and Cllr F explained the roles at the first interview with Mr Chitty.

What has been barely mentioned throughout, which seems to insinuate that this arrangement is peculiar to the Liberal Democrats, is that all four political groups on the City of York Council have, over many years, engaged interns or work experience placements to support councillors in their work. By way of evidence, in addition to Dawn Steel's comments in the initial report, *"that the Liberal Democrat and Labour Groups do have interns in place from time to time"*, in February 2010, the then Liberal Democrat group political assistant received the following email from an officer of the Council setting out arrangements for the appointment of interns:

"Re: getting an intern. Yes we have made similar arrangements in the past, both the Conservative Group and the Labour Group have had placements. It's really up to the group to organise/support but you will need to do the following:

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Contact [REDACTED] our HR rep to get clearance from HR to go ahead, I think this is for insurance purposes among other things. Can you make sure you brief the individual on Fire Evacuation procedure (drill every Wednesday at 10am but any alarm sounded outside this time should be taken as the real thing...evacuate to St Helen's Square)

- You will need make an appointment to get a temporary id/swipe card for them via [REDACTED]
- You will need to arrange temporary login arrangements for them via ITT. Give them a call on 2222 and explain it's a temporary placement and they should be able to assist."

It is therefore quite clear that it has long been established custom and practice at the City of York Council for political groups to have interns and for those interns to have access to Council facilities. For the sake of clarity, we can provide evidence that the role of interns in the Liberal Democrat group office, working alongside several councillors, is primarily the processing of residents' casework and that no party campaigning activity is undertaken by interns using Council facilities.

I believe that it would be helpful and long overdue if City of York Council officers were to develop a policy to support and encourage those on work experience and internships with the political groups and councillors, including a new system of keeping a record of who is working at the council, to be held by council officers.

The appointment of [REDACTED]

It was agreed shortly after May 2015, with the then Chief Executive, that given the three largest political groups had similar numbers of councillors, that there would be [REDACTED] the Leader of the Council, the Deputy Leader of the Council and the Leader of the Opposition, from within existing administrative budgets. [REDACTED] have a City of York Council job description, which will outline their role.

Officer appointments will follow agreed processes, such as chief officer and [REDACTED] appointments being made by councillor panels, with advice from officers, and officer appointments below chief officer level being made by officers. There are a limited number of roles where councillors are consulted in an advisory capacity, as confirmed by Officer A [REDACTED] in [REDACTED] disclosure to you, "in general, elected members should not be involved in the selection process of non Chief Officer posts, except where they have regular contact with the role e.g. Head of Communications."

I rely on the evidence of the appointing officer, Officer A [REDACTED] who clearly states in the investigative report that Person B [REDACTED] was the best candidate for the role. This is made out as well in the evidence of Person A [REDACTED], a member of the interview panel, who is cited in the report as saying:

"Person A concedes that, based upon the scores given at the time, Person B [REDACTED] was assessed as being the best candidate by each member of the interview panel, with scores ranging between 100 and 91 points."

This was also the conclusion of the investigating officer, Mr Chitty, in the same report:

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[REDACTED]

My role as chair was to simply welcome the candidates and make initial remarks, given the nature of the role, but not to lead the process or make the final appointment, as confirmed in Officer A [REDACTED]'s investigative report interviews and disclosure: *"I would be the decision maker and in direct charge of the process"* and *"the role of Chair in this particular interview process was only to welcome and make introductory comments, not to direct the process of the interview or decide the outcome as that was my role."*

In respect of the previous allegation made by Person A [REDACTED] that I gave Person B [REDACTED] advance information of the contents of the 'in-tray exercise' which formed part of the recruitment process, I once again confirm that this did not happen. Indeed, this is denied by Person B [REDACTED] in his evidence and Mr Chitty comments in the investigative report that:

[REDACTED]

I am advised that at a technical level, paragraph 6 of the code of conduct would not apply in this instance as the appointment panel was not a formal meeting of the Authority, as defined in Section 31(1)(a) of the Localism Act 2011. The panel was acting in advisory capacity to Officer A [REDACTED], an officer of the Council exercising her delegated authority to make a staffing appointment. No formal agenda existed for the meeting, nor were any minutes kept of the proceedings in which a declaration of interest could be recorded.

That said, it is accepted in the investigative report that the connection between Person B [REDACTED] and myself was clearly identifiable on the face of the recruitment papers, as it was declared that Person B [REDACTED] was, at the time of his application and appointment, a part-time intern working for [REDACTED]. I took part in the interview panel for that role, and it should be noted that I did not know Person B [REDACTED] or any of [REDACTED] family until [REDACTED] was interviewed for and commenced [REDACTED] internship in summer 2015.

I have made clear throughout this investigation that I do not believe that the connection with Person B [REDACTED], limited as it was to a supervisory duty of care by an employer for an intern, was that of having 'a close association' within the terms of paragraph 6(1) of the Code of Conduct. In seeking to define 'close association', I would go further and look to the helpful advice to officers within paragraph 7.1 of the Council's Employee Code of Conduct which states: *"To avoid accusations of bias, employees should avoid being involved in an appointment if they are related to, or the partner of, an applicant."* None of these apply.

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I cannot recall, from nearly three years ago, a specific conversation but as agreed in my earlier interviews it is likely that I mentioned in passing to Person B that [REDACTED] might consider applying for the [REDACTED] position because I would have wanted to see as wide a field of talent as possible in the applicant pool.

I also agreed back during my first interview with Mr Chitty on 6 July 2017 that at some point in summer 2015 I had a drink and conversation in a York pub, [REDACTED]

[REDACTED] This was with Person A, Person C and Person D. I confirmed that I had an informal discussion straight away and this has never been denied, but this was not a meeting and was not a short-listing meeting - it could not and would not have been.

I did have a long conversation in a pub, including about the strengths and skills that we would look for in a colleague. I am sorry, however, that from their interviews Person A [REDACTED] and Person C are now misrepresenting this drink and conversation as a pre-short-listing meeting, which it was not. This comes amid a very wide range of changing and unfounded allegations from Person A, which have been made well after the event and were not concerns that were reported to anybody at the time. According to Person C's statement [REDACTED] socialises with Person A and I understand they have discussed this ongoing investigation.

At the time and until now, I was unaware of Person C's campaign, mentioned in [REDACTED] statement, to "*try and reduce Keith's influence in the local party and council group*". It is true to say that for unknown reasons Person C and myself unfortunately never got along particularly well, and I know that Person C would have been disappointed to have narrowly missed out on being elected (he was a Liberal Democrat council candidate in May 2015).

My recollection of the evening and conversation is as follows:

- That it was a social evening, not a meeting and not chaired.
- That nobody raised any concerns or left the pub, or refused to take part in the conversation.
- Person C did not repeatedly say we should employ the best qualified person for the job, as that was what we all would have wanted to do.
- That nobody had paper copies of the applications.
- That I did not print off paper copies of the applications, nor did I instruct anybody else to do so.
- That no notes were taken.
- That there was no short-listing or pre-short-listing.

Given the accounts of the evening, you should approach Person D, who was the [REDACTED] at the time, with questions or for a statement.

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I note that the short-listing meeting as part of the recruitment process was held in West Offices, on Monday 29 June 2015. I believe that Officer A , Officer E , Person A and myself attended, and that Officer A had circulated electronic applications the previous week. I recall that 7 candidates were selected to be interviewed and, as confirmed to Mr Chitty during my interviews, 6 of the 7 candidates were at least known to me, as to other members of the panel. Officer A confirmed in [redacted] disclosure that *"I am satisfied that the short-listing I undertook was dealt with correctly and not influenced, other than by healthy debate, by anyone present at the short-listing meeting."*

During my first interview with Mr Chitty on 6 July 2017, I confirmed that Person B stayed at my house for a limited period of time. This was from when Person B first started at City of York Council, on 1 September 2015, for five weeks, until [redacted] family had completed the purchase of a flat. [redacted] needed temporary accommodation so that [redacted] could start [redacted] new job until [redacted] could move into the flat, and it fitted with the spirit of the York Liberal Democrats, whereby a number of colleagues have provided temporary accommodation for those new to the city. There was no formal agreement, and I received a one off payment of £500. I considered this to be directly to me as a home owner, and that it was towards the costs of rent, wear and tear and all bills for the duration of the five weeks. It is in line with the rental costs in my local area.

It is stated by Mr Chitty in his summary of PERSON B'S second interview with [redacted], that "Person B [redacted]"

I believe that it would be helpful and long overdue if City of York Council officers were to develop a policy to be agreed and reviewed on the appointment of certain council officers below chief officer level, when members are consulted in an advisory capacity, which has happened on a number of occasions over the years, particularly as I have already seen a suggested template for this from senior council officers.

Cllr Keith Aspden

Cllr Keith Aspden



Barry Khan
Assistant Chief Executive (Monitoring Officer)
North Yorkshire County Council, via email

6 August 2018

Dear Barry

I refer to our recent correspondence and I write to confirm that, as arranged, I had conference with Counsel on Friday. I shall be making an additional submission but, in the meantime, there are several matters which usefully can be dealt with now, as follows:

Do you disagree with any of the findings of fact in the report and the reasons for any disagreement?

Yes, I disagree with some of the findings of fact in the report. In addition to my submissions already made throughout, I will write to you again outlining the reasons for the disagreement.

Will you be represented by a solicitor or barrister, or by any other person at a final hearing to determine this matter?

Yes, I will be represented by Caroline Addy (One Brick Court). My solicitor is Richard Watson (Crombie Wilkinson).

Do you wish to attend the hearing?

Yes.

Do you wish witnesses to be called to give evidence to the Panel (and if so, which witnesses would you want to be there)?

Yes. Alongside myself, I would like the following witnesses to attend: Person A, Person C and Person D

Do you wish all or any part of the hearing to be held in private. Similarly do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public. The stated general position of the City of York Standards Committee is that any hearings should be held in public and that documents should be publically available in advance of the meeting. However it is recognised in the policy that there may be circumstances in which fairness to individuals dictates and that the law allows for information be considered in private. Therefore if you want any part of the hearing and the documents to be held in private and be kept confidential, then

please can you state your reasons for this so that the matter can be considered by the Sub Committee hearing the case.

I can advise that I do not intend to request that the Hearing is private.

[REDACTED]

[REDACTED]

I would also welcome a meeting in advance of formulating the plans for the hearing to better understand the process and the public hearing.

Release of supplementary legal advice

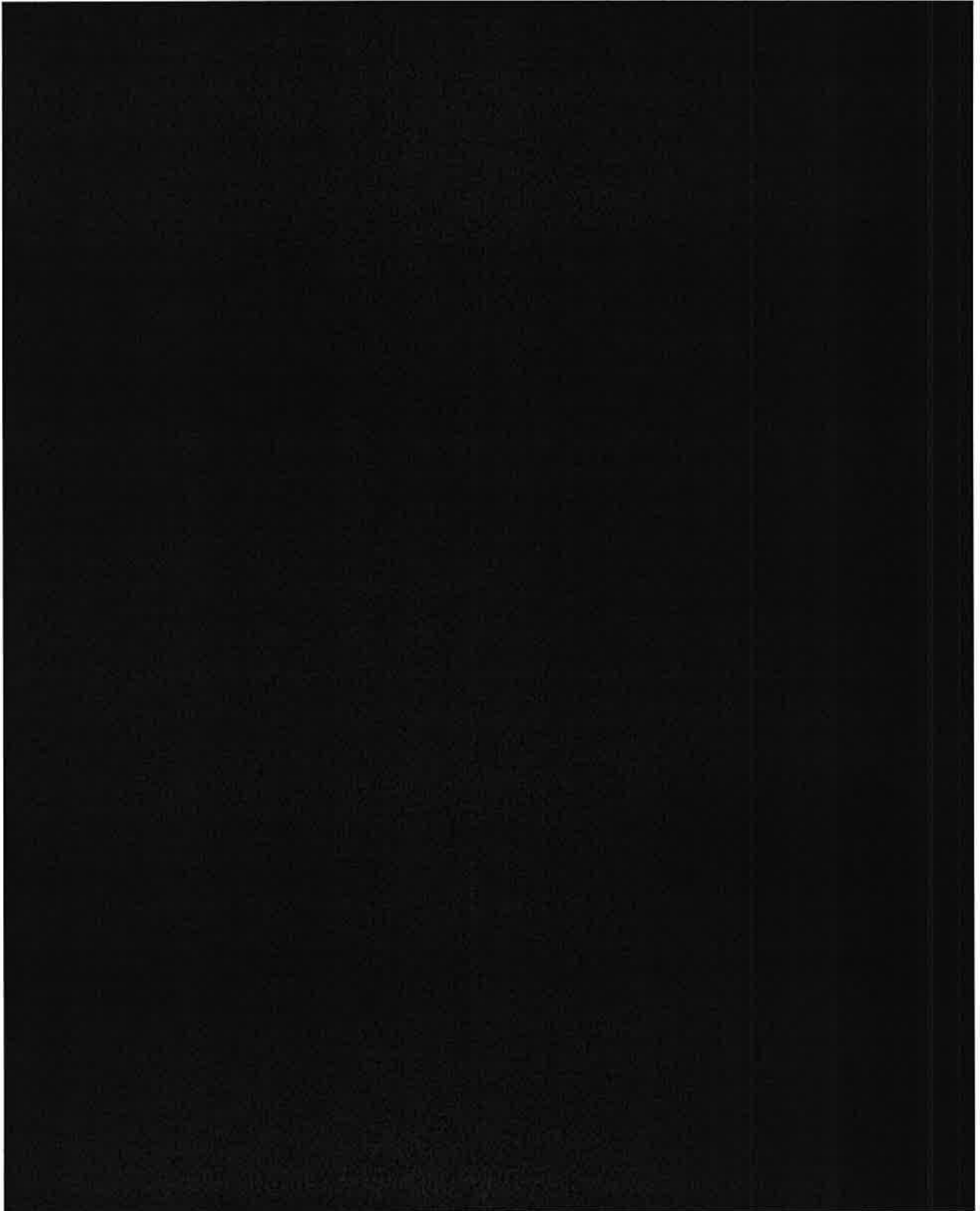
You will recall the earlier request for a copy of the Gowling legal advice to be sent to me and that this has to date been declined. My counsel and solicitor have revisited this and advise that the Chief Executive has erred in not immediately making this available. I would like you to review the release on a confidential basis of the supplementary legal advice supplied to City of York Council from Gowling WLG, in advance of the hearing, in order to enable my legal representatives to fully understand the background, process and allegations.

[REDACTED]

I believe that this legal advice must now be shared with me on the basis of fairness, openness and transparency and as legal privilege has clearly been waived. There has been significant dissemination of the relevant document [REDACTED]

As you know, any document that has been too widely disseminated cannot attract the protection of privilege.

[REDACTED]



Errors in the report

Due to the extent of the documents at the time, I did not notice these two minor factual errors in the draft report until this point. I would like you or the investigators to

consider how they are presented in the Wilkin Chapman Standards Report before any publication.

1.3: The Project Rose Report and subsequent advice to the Chief Executive identified that Councillor Aspden might have been in breach of the Council's Code of Conduct in relation to the following.

This is not correct; the Project Rose Report did not identify areas where I might have been in breach of the Code of Conduct or offer the Council legal advice. It was only the subsequent advice to the Chief Executive (that I have not seen) that identified that I might have been in breach of the Code of Conduct.

4.9: On 17 February 2017 a confidential draft report which had been prepared for the Audit & Governance Committee was leaked to the media. Person A who at the time was a [REDACTED] admitted being responsible for the leak.

This is not correct. It would be accurate to say that on 17 February 2017 a confidential draft report which had been prepared for senior officers was leaked to the media by Person A. This was not the confidential draft report which had been prepared for the Audit & Governance Committee, which was a different report version.

If you do have any questions in respect of this letter, please let me know and I look forward to hearing from you on the points raised.

Best wishes,

A large black rectangular redaction box covering the signature area.

Keith Aspden

Cllr Keith Aspden



Barry Khan
Assistant Chief Executive (Monitoring Officer)
North Yorkshire County Council, via email

9 November 2018

Dear Barry

As promised, please find the below response in relation to the outstanding question regarding the Standards report.

Do you disagree with any of the findings of fact in the report and the reasons for any disagreement?

Yes, I disagree with some of the findings of fact in the report and the general approach taken to reach those findings, which I wish to explore at the hearing.

Those findings are as follows:

- (i) his involvement in the process whilst having a personal interest contrary to paragraph 3.8 of the Code;
- (ii) did disclose confidential information (the paper applications) contrary to paragraph 3.5 of the Code; and then
- (iii) as a consequence of failing to follow paragraphs 3.5 and 3.8 of the Code, Councillor Aspden thereby also conducted himself in a manner which could reasonably be regarded as bringing the Council or his position as a councillor into disrepute contrary to paragraph 3.7 of the Code.

In addition to my submissions already made, the areas that I wish to explore at the hearing in detail to demonstrate the reasons for my disagreement are:

- The criteria for Standards complaints, including on timescale.
- Unfairly dealing with the background and motivation behind the complaint, entirely ignoring conduct and circumstances.
- Failure to make clear findings on all relevant disputes of fact and on the (relative) credibility of all witnesses.
- The interpretation of the weight of evidence in the report, including that the vast majority of the allegations have been proven to be mistaken, unfounded or were otherwise not breaches of the code of conduct.
- The misrepresentation that Person A left the Council on positive terms and his creditability as the complainant.

- The changing nature of the allegations over time (muddling the original 'whistleblowing' complaint).
- The report is not clear on the reasons for findings, making very limited attempts to justify any conclusions.
- The need to rely on guidance from the Standards Board for England, rather than the current Code of Conduct, when the regime, requirements and guidance were entirely abolished in 2012.
- Failing to appropriately assess close association, including with the timescales involved, the available evidence and cumulative evidence.
- Ignoring the presented evidence that any association was both already declared and did not need to be declared in any event.
- Misrepresenting and failing to fully consider the evidence from Person D
[REDACTED]

Equally, I wish to repeat that it is right for the Council to be open and transparent, which includes investigating complaints against councillors in the public interest. However, the original allegations (which primarily related to alleged issues back in 2014 and 2015) were made nearly two years ago and since that time City of York Council have commissioned a desktop review, an investigative report and a standards report, at significant public expense. I have been interviewed twice at length, answered a range of supplementary questions, provided a variety of pieces of information and provided a response to the Assessment Sub-Committee, in advance of a number of statements for the Standards investigation, as the allegations seem to have been allowed to change over that period of time.

The consequences for me of this protracted and over-complicated process have been significant and damaging. It led to my immediate and without notice removal from my job as Deputy Leader of the Council, has impacted on my family and has been allowed to play out very much in the public domain without my being able to respond. I hope that no other elected councillor is subjected to a process like this.

Best wishes,

Keith Aspden, via email

Part 1: General Provisions

Introduction

1. (1) This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of the City of York Council.
- (2) This Code also applies to any person appointed as a co-opted member of the City Council or any of its Committees when acting as such.
- (3) A person will be acting as a Councillor or as a co-opted member when:
 - Present at formal meetings of the Council.
 - Performing duties entrusted to them by the Council
 - Performing functions associated with the ordinary role of Councillor – such as undertaking casework for residents
 - Otherwise acting, claiming to act or giving the impression that they are acting as a Councillor

But a person will not be acting as a Councillor or as a co-opted member when acting as a trustee or director of another organisation even where the appointment to that role was made by the Council.

- (4) The Code has been adopted by the City Council and is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Definitions

2.
 - (1) A “co-opted member”, is a person who is not an elected member of the authority but who –
 - (a) is a member of any committee or sub-committee of the authority, or

-
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and
- in either case is entitled to vote at any meeting of that committee or sub-committee
- (2) “meeting” means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Executive or any committee of the Executive.
- (3) A “sensitive interest” is one where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees.

General Duties as to Conduct

3. (1) You must treat others with respect.
- (2) You must not do anything which may cause the Council to breach any equality enactment.
- (3) You must not bully or intimidate any person, or attempt to bully or intimidate them.
- (4) You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality.
- (5) You must not disclose information which is confidential, unless:
- (a) You have the permission of a person authorised to give it; or
- (b) You are required by law to disclose the information; or
- (c) You disclose it 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 reasonable; and is in the public interest; and is made in good faith.
 - (6) You must not prevent another person gaining access to information which that person is entitled by law.
 - (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.
 - (8) You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.
 - (9) When you use or authorise the use by others of the resources of the Council you must:
 - (a) abide by the Council's reasonable requirements; and
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
 - (10) You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions, in accordance with any requirements imposed by statute or the Council.

Part 2: Interests**Disclosable Pecuniary Interests*****Registration of disclosable pecuniary interests***

4. (1) Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. These will be included in the register of interests which is published on the Council's website

Definition of disclosable pecuniary interests

- (2) A 'disclosable pecuniary interest' is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interest is of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Non participation in items of business in the case of disclosable pecuniary interest

- (3) Where a matter arises at a meeting which relates to one of your disclosable pecuniary interests,
- (a) You may not participate in any discussion of the matter at the meeting.
 - (b) You may not participate in any vote taken on the matter at the meeting.
 - (c) If the interest is not registered, you must disclose the interest to the meeting.
 - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

Non participation in individual executive decision making in case of disclosable pecuniary interest

- (4) Where an Executive Member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Executive Member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

Notification of Interests

5. (1) In addition to the disclosable pecuniary interests you must, notify the Monitoring Officer of any interests you have of a kind described in the second schedule. You must make that notification within 28 days of this Code coming into effect or of you becoming a Member or co-opted Member if that is later.
- (2) You must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.

Disclosure of Interests

6. (1) You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule or any person with whom you have a close association.
- (2) If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting:
 - (a) If the interest is not registered, you must disclose the interest to the meeting.
 - (b) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

-
- (3) If you have a personal interest and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of the public interest then you have a prejudicial interest. This is subject to the exceptions set out in paragraph 6.4.
- (4) You do not have a prejudicial interest in any business of the authority where that business:
- (a) does not affect your financial position or the financial position of a person or body named in the second schedule;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in the second schedule; or
 - (c) relates to the functions of your authority in respect of;
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

-
- (5) A member with a prejudicial interest must leave the room during the debate and voting on the matter in question.

Sensitive Interests

7. (1) If you have a sensitive interest which is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- (2) If you are required to declare a sensitive interest at a meeting you need only declare the fact of the interest and not the details of the interest itself.

Dispensations

8. (1) The Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he or she has an disclosable pecuniary interest or a prejudicial interest. The Council may grant such a dispensation if:
- It believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or
 - considers that without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote relating to the business
 - It is in the interests of the inhabitants in the Council's area to allow the member to take part; or
 - It is otherwise appropriate to grant a dispensation.
- (2) The Council has granted the Monitoring Officer in consultation with the Chair of the Joint Standards Committee the power to grant dispensations. These can only be granted following a written request from the Member and the existence of and reason for the dispensation should be recorded in the minutes of the meeting.

First Schedule – Interests which are Disclosable Pecuniary Interests

| <i>Interest</i> | <i>Description</i> |
|---|---|
| Employment, office, trade, profession or vacation | Any employment, office, trade, profession or vocation carried on for profit or gain. |
| Sponsorship | <p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p> |
| Contracts | <p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> |
| Land | Any beneficial interest in land which is within the area of the relevant authority. |
| Licences | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer. |
| Corporate tenancies | <p>Any tenancy where (to your knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial</p> |

| | |
|------------|--|
| | interest. |
| Securities | Any beneficial interest in securities of a body where— (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and (b) either— i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“relevant period” means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) of the Act;

“relevant person” means you or any your partner as defined in paragraph 4.2

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

Second Schedule – Other Interests

1. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
2. Any body —
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
3. Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £50 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.

CITY OF YORK COUNCIL STANDARDS COMMITTEE HEARING PROCEDURE

General Matters

1. In this procedure the term “interested parties” is used to cover the complainant, the subject member and the investigating officer. The interested parties will all be invited to attend the hearing as potential witnesses.
2. The Independent Persons will also be invited to attend the hearing in an advisory, non-voting capacity. Their views will be sought as to whether the evidence establishes a breach of the code of conduct and, if so, as to what if any penalty should be imposed.
3. The Hearing Panel will be made up of members of the Standards Committee and there will normally be three members. The Panel will be supported by the Monitoring Officer or his representative and a democratic services officer.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed. The Standards Committee considers that in general the public interest in seeing that complaints relating to Councillors are handled properly will outweigh any considerations relating to the privacy of the Councillor concerned but each case will be considered on its own merits including consideration of the privacy of other parties.
5. The hearing will normally follow the procedure set out below but the Chair has the discretion to vary it at any time. Such a variation may be considered where, for example, the Chair believes that doing so will be in the interests of fairness or help in establishing the facts of the case.
6. It will not usually be necessary for the Subject Member to be represented at a hearing but he or she may choose to arrange such representation which may be by a solicitor or barrister or another person.
7. The Panel may take legal advice at any time during the hearing or during its deliberations. The substance of any advice given to the Panel will normally be shared with the parties.

Preliminary procedures

8. Prior to the hearing commencing the Panel may meet privately to review the material presented and to agree the main lines of enquiry.
9. At the start of the hearing, the Chair will arrange introductions of the Panel, its Officers, the Independent Persons and the interested parties. The Chair will briefly explain the procedure which the Panel will follow in the conduct of the hearing. The Chair will confirm that each interested party has seen the final report of the investigating officer and has had the opportunity to engage in the pre hearing procedures.
10. The Monitoring Officer will identify whether the pre hearing procedures have identified any significant disagreements about the facts contained in the Investigating Officer's report. The Panel will record the agreed facts and establish the facts in dispute which they will be required to rule upon.
11. If a party raises an issue which has not been raised previously then that party shall be required to give a full explanation to the Panel as to why it was not raised earlier. The Panel may then:
 - a. Consider whether or not to allow the issue that has been raised to be dealt with at the hearing
 - b. Consider whether the hearing should be adjourned for further investigations to take place.

Determining factual disputes

12. If there are disputed facts which the Panel consider relevant to establishing whether the Code has been breached or as to the seriousness of the breach then, the Panel will adopt an inquisitorial approach in establishing the facts. The Chair will invite members of the Panel to ask questions of the interested parties or any other

potential witness present. The Monitoring Officer may also ask questions.

13. Once a witness has answered questions from the Panel then the Chair will ask the interested parties whether there are other issues which ought properly to be raised with the witness. The Chair (or another Member) may put any such issues to the witness him or herself or may allow the relevant party to ask questions directly.
14. The Panel must reach a decision as to the facts it finds to be proven. The Panel must also make a decision as to whether the proven facts (including those which are agreed) show a breach of the code of conduct. Depending on the complexity of the case the Panel may consider each of those issues separately or deal with them together. In either case the Chair will invite the parties to make representations on each matter before the Panel reaches its decision.

Panel deliberations

15. When the Panel is considering its finding of facts and whether those facts amount to a breach of the Code of conduct it will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
16. At the conclusion of the Panel's deliberations, the Chair will publicly announce the Panel's findings as to the facts and as to whether those facts show a breach of the code of conduct. The Panel will give reasons for their findings. It will be normal practice to share the substance of any advice given by the Monitoring Officer and Independent persons at this stage.

Determining Sanctions

17. If the Panel concludes that the Subject Member has failed to comply with the Code of Conduct, the Chair will invite representations from the interested parties as to what action, if any, it should take.
18. The Panel will then consider whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect. It will do so in private but in the presence of the Monitoring

Officer, the Independent persons and the Democratic Services officer.

19. The sanctions available to the Hearings Panel are to –
- Censure the Councillor;
 - Formally report its findings to the City Council or Parish Council for information;
 - Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Panels or Sub-Committees of the Council;
 - Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - Recommend to Council that the Leader be removed from Office (if it is the Leader's conduct that is being considered)
 - Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;
 - Remove *[or recommend to the Parish Council that the Councillor be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
 - Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access.
20. The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances. If the Panel decides to withdraw facilities from the Councillor it must ensure that the Councillor is not thereby prevented from undertaking his/her representative duties.

21. The Chair will publicly announce the decision of the Panel. The substance of any further advice given by the Independent Person and Monitoring Officer will also be shared. Written notice of the findings of the Panel will be given as soon as is reasonably practicable to the Subject Member. They will also be placed on the council's website. If the complaint was against the Subject Member as a parish councillor, written notice of the findings of the Panel will be sent to the clerk to the parish council.

Other action

22. The Panel may also consider making any recommendations to the Council concerned with a view to promoting higher standards of conduct among its members.

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City of York Council**Joint Standards Committee Hearings Sub-Committee****3rd January 2019****DECISION NOTICE**

In attendance:

Members of the Sub-Committee

Cllr. L. Kramm (Chair)

Cllr. J. Hayes

Cllr. S. Wiseman (Parish Councillor and Vice Chair of the Joint Standards Committee)

Advisors to the Sub-Committee

Mr D. Laverick – Independent Person

Mr. B. Khan - Monitoring Officer, NYCC

Mrs. R. Antonelli – Deputy Monitoring Officer (Standards)

Apologies were given by Ms. A. Davies, Independent Person

Investigating Officers

Mr. J. Goolden – Wilkin Chapman LLP

Mr. D. Hayward – Wilkin Chapman LLP

Subject Member

Cllr K. Aspden – City of York Council

Subject Member's Advisors

Richard Watson – Solicitor, Crombie Wilkinson Solicitors

Caroline Addy – Barrister, One Brick Court Chambers

1. Background

- 1.1. The Sub-Committee was constituted in accordance with procedures approved by the City of York Council's Joint Standards Committee to consider a complaint in relation to the conduct of Councillor Aspden.
- 1.2. The Sub-Committee had the benefit of a report from Wilkin Chapman LLP who had independently investigated the complaint and also written representations from Councillor Aspden, who also attended the Sub-Committee, along with his legal advisors.
- 1.3. In addition three witnesses (Persons A, C and D) who provided written statements for the purposes of the investigation attended the Sub-Committee and gave evidence, as did Councillor Aspden.
- 1.4. The Sub-Committee considered the allegations in the light of the Standards Committee's published criteria for the assessment of complaints.

2. Evidence and Findings of Fact

- 2.1. Following the Council election in 2015 it was agreed that there would be additional administrative support for the Leader, Deputy Leader and the Leader of the Opposition.
- 2.2. The Acting Monitoring Officer advised that the law provides that appointments to such roles were the responsibility of Officers and not of Councillors (i.e. these roles are not political appointments). Councillor Aspden wanted to be involved in the recruitment process and at the request of the former Chief Executive, the officers agreed a way for him to take part in the process of shortlisting and interviewing candidates.
- 2.3. At 9.57am on Friday 26th June 2015, an Officer e-mailed Councillor Aspden and the other members of the interviewing Panel, with copies of the applications forms for all 27 applicants,

which were marked “confidential” and “high importance”. Short-listing for the role was to take place on Monday 29th June 2015.

- 2.4. Some time on the 26th June 2015, Councillor Aspden met at the Duke of York public house with three other individuals, two of whom were Council Officers. The other person was not a Council employee but a member of the public and a Liberal Democrat activist.
- 2.5. The Sub-Committee heard two conflicting views about what occurred in the pub. Two witnesses stated that printed job applications were circulated, but the other two witnesses stated that they were not. The sub-committee, faced with these two conflicting views, were not sufficiently satisfied that the application forms of candidates for the Executive Support Assistant post were physically taken to the Duke of York pub on the evening of 26th June 2015.
- 2.6. All of those present at that meeting gave evidence that there was a discussion about the qualities needed in the successful appointee of a Council position.
- 2.7. Two witnesses (namely Person A and Person C) stated that there were detailed conversations about the applicants and in particular about two favoured applicants. In addition, Person D, whilst categorically denying that printed application forms were distributed, stated that applicants were discussed including whether a particular applicant (Person B and Person H) should be considered for the role.

3. Conclusions The Sub-Committee was concerned that a discussion about applicants for the appointment took place in a public house and involved someone who was not a Member or Officer of the Council. Those applying for the post could expect their applications and the fact that they applied, to remain confidential to those involved in the appointment process.

- 3.2. Whilst it is recognised that the Independent Investigators invited the Sub-Committee to make a finding that just the oral

disclosure constituted improper conduct short of a breach of the Code of Conduct and only, if printed copies of the applications had been taken to the pub, there would have been a breach of the Code of Conduct, that was not a view shared by the Sub-Committee. In the view of the Sub-Committee, the oral disclosure of confidential information as confirmed by all three witnesses constituted a breach of the Code of Conduct by Councillor Aspden.

- 3.3. On the balance of probabilities and taking account of the evidence of all those who have indicated their presence at the meeting, the Sub-Committee are satisfied that information about applicants concerning at least two individuals (Persons B and H) was improperly shared at the public house, including the fact that they had applied for a Council post.
- 3.4. The Sub-Committee therefore concludes that there was a breach of the Code of Conduct paragraph 3(5) in that there was disclosure by Councillor Aspden of confidential information.
- 3.5. The Sub-Committee is concerned about how Councillor Aspden came to be so involved in the appointment process, in particular, chairing the Interviewing Panel but do not see that of itself as constituting any breach of the Code of Conduct. It was understandably in Councillor Aspden's interests to be consulted or involved in the appointment of his support, but the problematic situation was created by the former Chief Executive overriding the correct assessment of officers involved in the appointment process that Members should not be involved in the appointment process of an officer at this level. Through this intervention, Councillor Aspden was encouraged in his view, that a more active involvement was acceptable.
- 3.6. The Sub-Committee are satisfied that Councillor Aspden did not, at the time of the appointment process have a close association with the successful candidate. The Sub-Committee heard evidence that at the time of the interview, the successful candidate had previously been interviewed as an intern for the Liberal Democrat Party and that Councillor Aspden had been

identified by the candidate as the contact/employer on his application form, but noted that there had only been a short amount of contact between the two prior to the application being made. The Sub-Committee heard evidence that it was only after the successful appointment did Person B lodge for a short period of time with Councillor Aspden for which he voluntarily paid him rent.

- 3.7. It was also noted that all three of those on the Interviewing Panel (Councillor Aspden and two Officers) individually gave the successful candidate the highest marks on the various criteria that had been identified. The Sub-Committee concludes that there has not been a breach of paragraph 3(8) of the Code of Conduct which relates to a Councillor using or attempting to use his position improperly to obtain any advantage or disadvantage to the Councillor or any other person. On the basis of the length of time since the incident at the public house occurred and the facts found above, the Sub-Committee do not consider that Councillor Aspden brought his office or the Council into disrepute under paragraph 3(7) of the Code of Conduct. The negative impact on the reputation of the Council is rather created through the management of the allegations and the investigation then by Councillor Aspden's actions in the first place.

Sanctions:

The Sub-Committee have noted the peremptory decision of the then Leader of the Council to remove Councillor Aspden from the Executive. That is a far more severe sanction than the Sub-Committee panel would have considered for this breach. Taking that into account, and the length of time which has already elapsed, and the fact that Councillor Aspden was under increased public scrutiny as the investigation and proceedings did not reach the desired level of confidentiality, the Sub-Committee considers that no further action should be taken beyond publicising this decision.

Other Comments

- (1) The Sub-Committee will ask for a review to seek to establish improvements to the Council's appointment processes with regard to officer and member involvement and to provide appropriate training.
- (2) Bearing in mind that the matter under consideration occurred in 2015, the Standards Committee should seek to speed the process of investigating alleged breaches of the Code of Conduct.
- (3) The Sub-Committee will ask the Joint Standards Committee to consider the inclusion of guidance and a definition of "close associations" in the Councillor Code of Conduct.
- (4) The Sub-Committee also wishes to record their thanks to all the witnesses who appeared before them.

Cllr. L. Kramm

Cllr. J. Hayes

Cllr. S. Wiseman