

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].

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

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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."*

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

*"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"*

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:

"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]), [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;

(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;

(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;

(oo) on a day shortly before the interview, at about lunchtime, [redacted] was returning to the Group's office when [redacted] saw Councillor Aspden, 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;

(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 Person B 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). Officer B 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

Officer B

Person A

Person B

Officer B

Person A

Person A

Officer B

v1

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;
- (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

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 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

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

Officer A

Person A

(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

CONFIDENTIAL REPORT

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 A
Person C

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Person D

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

(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;

(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;

(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);

(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.

(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].

(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;

(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

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;

(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 [redacted]; [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

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

(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, 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 and they are "close friends" (Person C's statement bb refers). I understand they have discussed this ongoing investigation.

they

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
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 ██████ Person C
5.4	<i>I did not individually make an appointment. The recruitment for the ██████ 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 ██████.
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 ██████ 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 ██████.
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 ██████ 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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	<i>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.</i>	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.
7.38	<i>Additionally, the statement from Person D now seen states, "There was, however, certainly no meeting concerning 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.</i>	This comment has been considered and noted.

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:

Officer A "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;

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]"

- 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

