



CAMBRIDGESHIRE & PETERBOROUGH
COMBINED AUTHORITY

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DECISION NOTICE

AUDIT AND GOVERNANCE SUB-COMMITTEE HEARINGS PANEL

4 February 2025

Subject Member: Councillor Anna Bailey, Cambridgeshire and Peterborough Combined Authority

Panel Members:

- John Pye, Independent Member (Chair)
- Cllr Paul Hodgson Jones
- Cllr Martin Smart
- Cllr Chris Wiggin

Independent Person: David Pearl

Legal Adviser to the Panel:

Simon Goacher, Partner, Weightmans LLP

Investigating Officer

Alex Oram, CH&I Associates

1. The complaint

- 1.1 On 26 November 2023, the Monitoring Officer for the Cambridgeshire and Peterborough Combined Authority (the Combined Authority) received a formal code of conduct complaint from the Mayor, Dr Nik Johnson, against Cllr Anna Bailey, also a member of the Combined Authority.
- 1.2 In his complaint, Mayor Johnson alleged that during a radio interview with BBC Cambridgeshire on 15 November 2023, Cllr Bailey described him as "...wholly unsuited to hold office...failed in being a decent human being...and hopelessly incompetent and frankly appalling". Mayor Johnson alleged that these comments were "highly discourteous and uncivil attack" that "go well beyond the constitutional threshold that states, 'You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack'."

- 1.3 Mayor Johnson further alleged that in a statement that was published on social media by Councillor Bailey on 15 November 2023, she made a series of comments about him that were disrespectful and/or included information that should have remained confidential. These included:
- reference to ‘...multiple codes of conduct complaints against the Mayor.
 - ‘some staff including senior staff, were issued with personal protection and security equipment. The Authority funded psychiatric counselling for some staff’.
 - ‘A junior member of staff was instructed not to be in the office alone with the Mayor. The Authority reported incidents to the police’.
 - “The costs to date, arising directly from the conduct of the Mayor and his office total just under £1.1m’.
 - ‘I apologise to all those staff who have suffered at the hands of the Cambridgeshire and Peterborough Combined Authority; the Authority has failed you’. And
 - ‘...for a qualified and practising Doctor, there is an overriding promise to do no harm. Mayor Nik Johnson has failed the people involved, he has failed the public, he has breached the code of conduct and I would have thought, the Hippocratic Oath. He has certainly failed at being a decent human being’.

- 1.4 The statement made by Cllr Bailey followed a published decision that Mayor Johnson had breached the Code of Conduct. The finding related to a breach of the Code in respect of civility. This breach related to the Mayor’s actions in relation to the conduct of a member of his office. The independent investigator had found that the Mayor had not breached the Code regarding bullying or harassment.

2. The Code of Conduct for the Combined Authority

- 2.1 The relevant paragraphs of the Code of Conduct (the Code), applicable at the time of Cllr Bailey’s actions, are:

Civility

1. Treating other members and members of the public with civility.

Civility means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a member you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.

In your contact with the public you should treat them courteously. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

In return you have a right to expect courtesy from the public. If members of the public are being abusive, threatening or intimidatory you are entitled to close down any conversation in person or online, refer them to the Authority, any social media provider or if necessary, the police. This also applies to members, where action could then be taken under the Member Code of Conduct.

Bullying and Harassment

3. Not bullying or harassing any person.

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. The bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and not always be obvious or noticed by others.

The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation. [...]

5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public except in certain circumstances. You should work on this basis but there will be times when it is required by law that discussions, documents and other information relating to or held by the Authority are treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations. [...]

Disrepute

7. Not bringing my role or Authority into disrepute.

Behaviour that is considered dishonest and/or deceitful can bring

your Authority into disrepute. As a member you have been entrusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on other members and/or your Authority.

- 2.2 The Monitoring Officer appointed Alex Oram (the Investigating Officer) of Ch&I Associates to conduct an investigation in respect of the complaint.
- 2.3 The final investigation report of Mr Oram made the provisional finding that there had been a breach by Cllr Bailey of paragraphs 1 and 5 of the Code but there had been no breach of paragraphs 3 or 7. A Hearing Panel met on 4 February 2025 to consider the complaint.

3. Hearing to be in public or private

- 3.1 The Panel invited the Investigating Officer, Cllr Bailey and the Legal Adviser to make representations on whether the Hearing should be in public or private.
- 3.2 The Investigating Officer stated that it was essentially a matter for the Panel. He highlighted the requirement for transparency in dealing with member conduct complaints and stated that he would have no objection to the matter proceeding in public, though he clarified that this would require the redaction of some of the papers, if these were to be made public.
- 3.3 Cllr Bailey indicated that she believed that the process should be transparent and the hearing should be held in public, though some of the information, including the evidence from her witness would need to be considered in private.
- 3.4 The Legal Adviser stated that the hearing could be held in private if the Panel were considering information which is exempt under Schedule 12A of the Local Government Act 1972. He advised that some of the information to be considered fell within paragraph 1 of the Schedule (Information relating to any individual) in relation to the personal data of the Complainant, the Subject Member and third parties referred to in the Investigating Officer's report and information and evidence supplied by the Subject Member.
- 3.5 The Legal Adviser advised the Panel that a public interest test applied and the Panel had to consider whether the public interest in maintaining the exemption outweighed the public interest in holding the hearing in public. He reiterated that there is a general public interest in transparency in member conduct cases but that needed to be weighed against the interests of individuals and the ability of the Panel to consider and fully explore all of the relevant issues without being inhibited by any concerns of disclosing personal data of individuals inappropriately.

- 3.6 The Panel resolved unanimously that the press and public should be excluded from the hearing. In reaching this decision, the Panel took into account all representations received. In considering whether Paragraph 1 of Schedule 12A of the Local Government Act 1972 applied, the Panel considered the public interest test and acknowledged that there was clearly a significant public interest in the matter being heard in public. However, there was a concern that if the matter were to proceed in public, the personal data of individuals could be disclosed which would not be justified or proportionate.
- 3.7 The Panel considered that the public interest in maintaining the exemption under paragraph 1, outweighed that of the public interest in holding the hearing in public. The public interest could be served by the publication of a decision notice in due course. Accordingly, the Panel resolved to exclude the press and public and the public broadcast of the hearing ended and the matter proceeded in private.

4. Investigating Officer's Report

- 4.1 The Investigating Officer presented his report and findings for the Panel.
- 4.2 The Investigating Officer highlighted that there was no dispute from Cllr Bailey that she had made the comments alleged in the radio interview and the statement published on social media.
- 4.3 He indicated that Cllr Bailey was acting her capacity as a member of the Combined Authority. He stated that in his report, "her statement clearly related directly to the business of the Combined Authority and was clearly signed off "Cllr Anna Bailey, Leader of East Cambs District Council, Member of Cambridgeshire & Peterborough Combined Authority". Accordingly, we are satisfied that this complaint and Cllr Bailey's conduct falls within the jurisdiction of the Code."
- 4.4 The Investigating Officer stated that he was satisfied based on the evidence considered that Cllr Bailey does have genuine, deep-rooted concerns both about the way in which certain former members of staff were treated by an employee in the Mayor's Office and the Mayor's culpability in that.
- 4.5 He highlighted that the majority of the concerns raised by Cllr Bailey would be considered acceptable given the enhanced protection offered to political speech.
- 4.6 He highlighted the comments in his report in which he stated:

Councillor Bailey therefore is entitled to express any concerns she might have about the Mayor's actions and the standards regime more generally. We consider that this extends to her ability to express her opinion on Mayor Johnson's competence as a Mayor, her desire for him to resign and to offer an apology in the manner

that she did. We are not of the view that her language and tone were generally rude or offensive. While we can understand that the comments must have been uncomfortable for Mayor Johnson to read, elected members are expected to have a thick skin and be prepared to be criticized publicly.

- 4.7 The Investigating Officer stated that he believed that Cllr Bailey's comments had gone too far in some respects. He referred to the relevant parts of his report where he set out the basis for his findings, including:

Councillor Bailey's decision to end her statement with the comment '...for a qualified and practising Doctor, there is an overriding promise to do no harm. Mayor Nik Johnson has failed the people involved, he has failed the public, he has breached the code of conduct, and I would have thought, the Hippocratic Oath. He has certainly failed at being a decent human being' (which were repeated in her radio interview) saw her cross the line from legitimate political comment to overly personalised insults. In our view Councillor Bailey's reference to Mayor Johnson failing the Hippocratic Oath was misleading, damaging and unnecessarily inflammatory. While we take on board Councillor Bailey's comments about Mayor Johnson's own references to his profession within a political context and recognise that it is an oath that is used as a general guideline in ethics within the medical domain rather than the political, pertaining only to the relationship between the doctor and their patient. And talking about Mayor Johnson failing to be a decent human being is an overly personalised attack on his character.

- 4.8 Therefore, the Investigating Officer believed that in making those comments Cllr Bailey had breached paragraph 1 of the Code, relating to civility.
- 4.9 The Investigating Officer stated that in relation to these comments he did not believe that Cllr Bailey's comments amounted to a breach of paragraphs 3 (bullying or harassment) or 7 (disrepute) of the Code.
- 4.10 The Investigating Officer stated that in his view Cllr Bailey had also breached paragraph 5 of the Code in that information included in her interview and statement had been confidential. The information referred to fell into two types, financial information about the cost the Combined Authority arising out of actions it took as a result of the employment concerns raised by actions in the Mayor's Office and certain measures taken in relation to protection of staff.
- 4.11 The Investigating Officer stated that the financial information had been provided to Cllr Bailey by the Chief Executive of the Authority in an email. He accepted that the email had not been marked confidential, nor had it explicitly stated that it was confidential. He stated that information does not

have to be marked confidential to be treated as such.

4.12 He stated that the other information had appeared in a whistleblowing report which was confidential. However, Cllr Bailey had indicated in that she had been provided with this information directly from former members of staff affected and they had not indicated that the information was confidential. He stated that Cllr Bailey was only aware of these issues because of the confidential information which she was aware of because of her role as a member of the Combined Authority Board.

5. Response of Councillor Bailey

5.1 Cllr Bailey had provided written responses which were considered by the Panel. She had also provided a statement from a former employee of the Combined Authority.

5.2 She stated that her comments about the Mayor may be considered to be personal but they were not unreasonable or excessive and to amount to a breach of paragraph 1 of the Code they must be excessive or unreasonable.

5.3 Cllr Bailey highlighted issues which had been brought to her attention by employees of the Combined Authority over a number of years. She stated that there had been a toxic and bullying culture in the Mayor's Office and this had a severe and ongoing impact on a number of now former employees. She stated that it was the severity of this which was material to her comments and why they were not unreasonable or excessive.

5.4 Cllr Bailey highlighted the statement she had provided of a former employee. She stated that this showed the impact of the Mayor's behaviour and explained her comments.

5.5 Cllr Bailey stated that the information she had disclosed in her statement had not been confidential. She stated that the Chief Executive had simply provided her with amounts of expenditure and this could not be confidential. She stated that the former employees had approached her and had not indicated that they had any expectation of confidentiality. She stated that she did not believe that she had disclosed any confidential material but if she had then it would have been in the public interest to do so.

6. Representations from the Independent Person

6.1 The Independent Person considered that the report by the Investigating Officer was very clear and thorough. He stated that he agreed with the findings of the Investigating Officer that Cllr Bailey had breached the paragraph of the Code relating to civility in relation to her statement where it made reference to the Mayor's profession, questioned whether he had breached the Hippocratic Oath and stating that he had failed as a human being.

6.2 The Independent Person agreed with the Investigating Officer's view that the

comments had not breached paragraphs 3 (bullying or harassment) or 7 (disrepute) of the Code.

- 6.3 The Independent Person stated that he did not believe that Cllr Bailey had acted in breach of paragraph 5 of the Code in relation to confidentiality.

7. Decision on whether there had been a breach of the Code of Conduct

- 7.1 The Panel carefully considered all of the papers before them and the representations made. The Panel unanimously accepted the findings of the Investigating Officer that Cllr Bailey's comments had not amounted to bullying and had not brought the Authority into disrepute.
- 7.2 The Panel also unanimously disagreed with the views of the Investigating Officer that Cllr Bailey's statement disclosed confidential information in breach of paragraph 5 of the Code. The Panel believed that the information disclosed by Cllr Bailey was not confidential, as she had not disclosed any details of individuals but merely of headings of expenditure and measures taken by the Combined Authority.
- 7.3 The Panel decided, by a majority vote, that Cllr Bailey's comments had breached paragraph 1 of the Code (civility). Her comments about the Mayor, in bringing in reference to his profession and questioning whether he had failed to comply with the Hippocratic Oath amounted to unreasonable and excessive personal abuse and were not justified political expression.

8. Article 10

- 8.1 In reaching its conclusions the Panel considered Cllr Bailey's right of freedom of expression under Article 10 of the European Convention on Human Rights. The Panel recognised that political expression enjoys a higher degree of protection.
- 8.2 The Panel, by a majority, agreed with the representations of the Investigating Officer that the comments which breached the Code amounted to excessive personal abuse. The Panel concluded that any interference with Cllr Bailey's rights was lawful, justified and proportionate particularly having regard to the sanctions available.

9. Sanctions

- 9.1 Following deliberations, the Panel considered sanctions. The Panel thanked Cllr Bailey for the constructive way in which she had engaged with the process and the hearing.
- 9.2 The Panel decided on the following sanctions/ recommendations:

- (i) that the findings of the Panel should be published; and
- (ii) that Cllr Bailey should consider apologising to the Mayor regarding her comments which the Panel had concluded breached the Code in respect of civility.

10. Right of Appeal

10.1 There is no right of appeal to this decision which is final in accordance with the Authority's procedure set out in its constitution.

Signed: John Pye, Chair of the Panel

Dated: 10 February 2025