

Cross Party Forum for the Evaluation of the Children and Families Estate – Complaint Against Councillor MacLaren

The City of Edinburgh Council

16 October 2008

Purpose of report

- 1 This report provides Council with an update on the current position regarding my on-going investigations into alleged leaks to the press from members of the Cross Party Forum for the evaluation of the Children and Families estate.

Main report

- 2 This report arises from an investigation of the activities of the Cross Party Forum formed by the Education, Children and Families Committee of the City of Edinburgh Council to evaluate the Children and Families Department estate. The Forum was established with the purpose of addressing the financial and educational issues resulting from the overcapacity of the city's schools owing to falling school rolls. The Forum has met five times with its first meeting held on 10 January 2008.
- 3 The Forum meets in private and all members agreed to a protocol in respect of information about its activities and decisions. This requires members of the Forum to treat its discussions and decisions as confidential. The only information released to the public is by press statements issued by the Director of Children and Families and agreed by the Forum. This protocol is designed to avoid causing early and possibly unnecessary concern for the parents and staff of the schools under review by the Forum.
- 4 Members of the Forum were regularly reminded of the importance of adherence to this protocol by Councillor MacLaren in her capacity as Convener. Despite this, information was leaked to the Edinburgh Evening News. In particular the names of the schools being considered for closure were disclosed following the meeting of the Forum on 22 April 2008.
- 5 On the basis of the evidence available to her at the time, Councillor MacLaren decided to inform the member of the Forum whom she considered to be the source of the leaks to the press that this individual's membership of the Forum was rescinded. The individual concerned, Mrs Lynda Flex, a parental representative, responded immediately by stating that she had not released information about the Forum, nor about its decisions, to the Press.

- 6 Subsequently Mrs Flex submitted a freedom of information request to the Council seeking the documentary evidence on which the Convener of the Forum had rescinded her membership. The Director of Children and Families provided a written response describing the information upon which the Convener had acted.
- 7 Mrs Flex also raised a complaint against Councillor MacLaren with the Ethical Standards in Public Life body, claiming that she had breached the Councillors' Code of Conduct and also wrote to me intimating that this complaint had been lodged.
- 8 Councillor MacLaren referred all of these matters to me and I decided to commission an independent investigation into the issues arising from the operation of the Forum, to enable me to determine how best to deal with the situation. I informed the Ethical Standards in Public Life body that I had commissioned this independent investigation and their investigating officer agreed to delay his own investigation pending its outcome.
- 9 I have now received the report detailing the findings of the investigation. That report has also been shared with Councillor MacLaren and Mrs Flex. Councillor MacLaren has confirmed that she is satisfied with the content of the report and believes that it offers a comprehensive review of the issues. Mrs Flex however has a number of reservations about the report.
- 10 The findings note that, rather than taking an objective view of the issues at hand, Mrs Flex had seen her role as an active campaigner against all school closures. She wished to raise difficult issues over closures which would serve as what she perceived to be 'obstacles' to decisions to recommend closures.
- 11 Several pieces of circumstantial evidence indicated that Mrs Flex had been leaking information to the press. However, the investigation found that this could not be proved conclusively on the basis of the information now available.
- 12 An awareness of Mrs Flex's clearly articulated position as an opponent of all closures taken together with this circumstantial evidence led Councillor MacLaren to determine that Mrs Flex was the source of the leak to the press of the names of the schools being considered for closure. The report finds that Councillor MacLaren reached this position in good faith given the information then available to her and in the context of previous statements attributed to Mrs Flex in the Evening News. Councillor MacLaren's subsequent actions in rescinding the Forum membership of Mrs Flex were considered to be understandable if account is taken of the timescales involved and the priority of preventing further unnecessary anxiety among parents and teachers.
- 13 The report also finds that, as Convener, Councillor MacLaren had no authority to dismiss Mrs Flex from the Forum. The basis of membership of the Forum was decided by the Education, Children and Families Committee. That Committee left the appointment of the parent representatives to the Director of Children and Families. Councillor MacLaren may not have understood this, but with the benefit of hindsight, it is clear that she was in fact exceeding her authority in excluding Mrs Flex from the Forum. It should also be noted that the arrangements for the operation of the Forum did not explicitly deal with this matter.

- 14 The report concludes that Councillor MacLaren believed that she was acting in the best interests of the City of Edinburgh Council and of the parents and teachers concerned, as she perceived them at that time. She acted on the basis of a range of observations and reports which seemed to her to confirm that Mrs Flex was the person speaking to the Evening News. The investigation however, discovered that the information which appeared at the time to Councillor MacLaren to confirm Mrs Flex as the guilty party, was misleading.
- 15 I am aware that, having reflected on these conclusions, Councillor MacLaren wrote to Mrs Flex to apologise formally to her and to offer her reinstatement to her position on the Forum.
- 16 In a subsequent letter to me, Mrs Flex has commented on Councillor MacLaren's letter of apology. Given that she feels herself to have been the subject of a "devastating attack" on her integrity, Mrs Flex considers the apology to be insufficiently robust. Specifically, she feels that the letter does not address the tone of Councillor MacLaren's earlier communications. She further views both the apology and offer of reinstatement as premature given that the investigation by the Ethical Standards in Public Life body has yet to be completed. Mrs Flex has not accepted the apology and I understand that she has rejected the letter and returned it to Councillor MacLaren.
- 17 The report on the investigation that I commissioned has also been submitted to the Ethical Standards in Public Life body to assist in their consideration of the complaint made to them by Mrs Flex.

Financial Implications

- 18 None.

Recommendations

- 19 It is recommended that Council note the content of this report.



Tom Aitchison
Chief Executive
09/10/08

Appendices	None
Contact/tel	Jim Inch, Monitoring Officer and Director of Corporate Services 0131 469 3008
Wards affected	-
Background Papers	None