

## Letchworth Town Council Replies – Let the truth be told

Following the decision of Bedford Industrial Tribunal in favour of the previous town council employees, the response from the Town Council Supporters represents a partial and heavily biased presentation of the facts in the case relating to our dealings with the staff and the hearing before the Industrial Tribunal.

A line by line response to each and every criticism made is beyond the scope of this document. However, in the interests of truth and accuracy we are gathering all the relevant information that answers the criticisms raised and this will be made available on the HELP and/or Council websites as appropriate in the near future. By making all the information available in this way, Letchworth residents will be able to judge for themselves what is truthful and the extent to which attempts are being made by others to mislead them.

There are however a few key points to which we must now respond. In the following three sections we respond to:

1. the key issues raised with us by The Advertiser on Tuesday 25 October,
2. your headline article (**Calls for HELP Councillors to stand down**)
3. the staff article on page 3 (“... **staff speak out** ...”)

Finally, we provide some clarification of total staff related expenditure.

### 1. **Queries raised by The Advertiser by email dated 25 October 2011 at 08.38.**

#### A. When were the contracts altered?

At the council's Policy and Resources Committee meeting of 3 November 2008, a group of the old councillors (including Philip Ross), having considered a confidential report from Cllr Sayers, made a decision to introduce a staff recruitment and retention policy. The idea was that as a result of this policy, the contracts of the staff would be altered. It is beyond dispute that it was not until March 2009 that the contracts of the staff were altered as a result of a letter sent to each of them on 30 March 2009.

At any time before then the old councillors could have reconsidered the situation. But they didn't. Notwithstanding the fact that bye elections a few weeks earlier had resulted in all of their candidates being defeated, they still went ahead and wrote to the staff to alter their contracts as described above.

#### B. Could this all have been avoided by going to ACAS?

No. The references that have been made to requesting the services of ACAS are wholly misleading.

Yes, there was a time in mid 2009 when a request was made to go to ACAS. The Chairman of the PRC consulted with ACAS who suggested that we try first to work things out ourselves. Soon thereafter the staff and we agreed to sit around the table and see if we could negotiate a settlement ourselves, first. And we did. We had a meeting on 13 October 2009. That resulted in us reaching agreement on a number of issues, as indicated in minutes:

<http://www.letchworth-tc.gov.uk/minutes/new/policy/prn06131009.pdf> . (Para PRN/39)

The only outstanding issue was the balance of nine months notice pay. The staff before the Tribunal made great play of the fact that the Chairman of the Council's Policy and Resources Committee said at the end of the 13 October meeting that “we should all be shot if we can't work this out”. And we did work it out. There was a further meeting on 10 November at which time we and the staff reached a settlement, as indicated in minutes:

<http://www.letchworth-tc.gov.uk/minutes/new/policy/prn07101109.pdf> (Para PRN/45)

The agreement we reached was very generous to the staff, but we felt it was the right thing to do to treat them fairly. We have set out the figures below. So, it's absolutely clear that it is not the case

that the outcome would have been different if we had gone to ACAS – it would not. We had by then reached an agreement with the staff.

So, why did it break down and go to a Tribunal? As is customary in such matters, we asked the staff to sign a compromise agreement. Their representative, Mrs Lewis, told Councillor Bruce Carr on more than one occasion that they were about to sign it and we would get it back “any day”. And then, on their penultimate day of employment (12 January 2010), they told us that they would not sign the agreement and that they still wanted us to pay them another nine months money. They didn’t say “we have a problem with this bit of the agreement, can we discuss it”. They didn’t say “we need to go to ACAS to sort out this compromise agreement”. In our view, they just reneged on our agreement. So, to say this all happened because we refused to go to ACAS is inaccurate.

Finally, once the proceedings had been issued, Councillor Ian Mantle spoke with ACAS. He was informed that, given the nature of the dispute, they could not help.

### C. Treatment of the staff

You asked for our comments with regard to the treatment of the staff. Please have no doubt about this. We deplore and will not condone any treatment of staff as they have described.

I am pleased that you accept that the HELP group played no part in that treatment and we trust that ex-employees also accept that.

## 2. **Calls for HELP Councillors to stand down – The Advertiser, 26 October 2011 – Page 1.**

Notwithstanding that council staff should be treated fairly and reasonably, this should not be so unreasonable as to place an excessive financial burden on the council tax payers of Letchworth. As a result of our concern over the sums involved and the manner, timing and structure of the changes to staff employment contracts, we sought legal advice. We considered this was the responsible thing to do.

Having received the opinion that there was a case in law that the action taken by the previous council was not lawful it would have been irresponsible for us not to have attempted to address the matter.

Who are the people calling now for our resignation?

It’s the same people who were responsible for agreeing the staff should be paid £200k if their roles became redundant before 31 December 2010. Philip Ross was a member of the old Policy and Resources Committee that approved the decision: see minutes of Policy and Resources Committee Meeting on 3 November 2008 at

<http://www.lethworth-tc.gov.uk/minutes/old/policy/f23minutesammended.pdf> (Para 08/107)

NB. the then single HELP councillor (Peter Groves) was excluded from the part of the meeting that discussed the staff recruitment and retention policy.

These same people were castigated by a High Court Judge for seeking to “*frustrate the lawful decisions of a democratically elected council by judicial order*” – with a judicial review application that the judge described as “*a weak or hopeless claim*”, but which resulted in the council having to spend around £12,000 of the money that had been raised from the people of Letchworth.

A reference to the judgement can be found at:

<http://www.lethworth-tc.gov.uk/minutes/new/general/gpn12minutes18-01-2010.pdf> Para GPN09/39)

Why does Philip Ross think HELP councillors should now resign? What are his true motives? Is it because he cares passionately about what has transpired? Is it because he suddenly cares about the ex-staff? No. It is because he sees an opportunity to revert to his old profligate ways where he can

spend five-figure sums on self aggrandisement measures such as a chain of office and all the trapping as a “Mayor”.

As councillors, Town Council Supporters were responsible for taxing Letchworth residents more than half a million pounds each year, most of which was spent on staff and premises.

Letchworth residents rejected this, and 22 of 24 HELP candidates were elected after our election leaflet showed that for every £3 of the public’s money they collected, £2 was being spent on administrative costs.

In fact we know now that the proportion spent on or committed to administration was a lot higher than that.

### **3. The “. . . staff speak out . . . ” article – The Advertiser, 26 October 2011 – Page 3**

We were disappointed to see Mrs Lewis has stated that “HELP ignored my repeated requests to go to arbitration and rejected offers from the employment service to go to ACAS”. As can be seen from our comments above, this does not align with the facts. Having agreed settlement terms in November 2009, there was clearly no need to go to ACAS. In her letter to the Chairman of the Council’s Policy and Resources Committee dated 12 January, she stated that she “declined to compromise the matter”.

She did not make any request then to go to ACAS.

She asked that the matter be taken through the Council’s grievance process and then the appeal process.

The Council followed the process that had been laid down by the old council.

Their grievance was heard on 15 February 2010.

The grievance panel awarded them an addition one month (less three days) pay, but did not uphold the rest of their grievance.

As was their right, they appealed against the grievance panel decision to the council’s appeals panel and their appeal was heard on the evening of 10 March 2010.

The staff were advised that the appeal panel would inform them of its decision within a few days. Unbeknown to the council, however, earlier that same day the staff had lodged their claim before the Industrial Tribunal.

So, in our view, it is clear that the staff were determined to go to a Tribunal, notwithstanding that the council was, rightly and properly, following the procedures laid down for it by the former council.

May we also address one other point to which the staff have drawn attention. Whilst this is not of direct relevance to the outcome of the case at the Tribunal, we must comment on this because it shows just how the truth is being masked by incorrect statements.

We refer to the account of the ‘hacking’ of their web site and pornographic material that appearing as a result.

The Council’s website was once 'hacked'.

But, in fact, it was the internet company that was then was hosting the council’s website that was hacked.

This attack affected all the websites hosted by that company (not just Letchworth Town Council).

The subsequent investigation showed that the hackers originated from South America, and it was nothing to do with Letchworth or HELP.

This is something that has been well known and understood for a long time, and so we were very disappointed to see that attempts are still being made to attribute this to the HELP group.

### **Clarification of staff related expenditure.**

## Redundancy Payments

1. When the staff was employed, their original contracts provided that their employment could be terminated by notice – for some staff it was one month, for others it was three months. This remained the position until the contracts were amended in March 2009 as described above. It is by reference to these terms that we have assessed that the payments to the staff would have been approximately £40,000.
2. The variation to the staff contracts resulted in them being entitled, in total, to five times as much – a total of approximately £200,000 between the six of them. This was the sum that we considered to be too generous, and we were advised that it was so excessive as to be unlawful.
3. As we have explained, we sought to find a compromise that would be fair and reasonable to the staff whilst at the same time looking after the interests of the tax payers of Letchworth so that they were not unduly burdened. The compromise agreed in November 2009 resulted in payments to the staff then of around £110,000.
4. The decision of the grievance panel in February 2010 resulted in a further payment of approximately £10,000.
5. By the time the Tribunal heard the case, the six staff had been paid a total of £120,000, and hence, the finding of the Tribunal that the staff were entitled to all that they were promised by the old council in March 2009 means that the council must now pay them an additional amount of approximately £80,000. The final figure is still being finalised and, when tax and NI is taken into account could in total be higher.
6. At the date of redundancy, two of the staff had been employed for only 18 months (and hence in normal circumstances would not have been entitled to any statutory redundancy pay), two had been employed for 26 months, one had been employed for 32 months and one had been employed for 40 months.

## **Pensions.**

At the meeting of the old council's Policy and Resources Committee on 30 March 2009 (i.e. again, shortly before the election), the PRC considered a request by one member of staff to take partial retirement. The minute reads as follows:

*Members considered the operational implications of the request and information provided by the Herts Pension Fund, and **RESOLVED** to grant flexible retirement and **RESOLVED** (having considered medical evidence) to exercise its discretion under the LGCC Council policy to permit release of pension benefits accrued to the date of flexible retirement without reduction on compassionate grounds.*

See <http://www.lechworth-tc.gov.uk/minutes/old/policy/f28minutes300309.pdf> (item 09/20).

It has since come to light that the effect of this decision is that the council must pay approximately £100,000 into the pension fund of that one member of staff. The council took legal advice on the

lawfulness of the old council's decision. The advice was that that payment was not unlawful and accordingly it is being honoured.

**Conclusions:**

The total cost to the Council, in relation to the payments to the former staff (either by way of redundancy payment or pension contribution) is in excess of £300,000 – nearly £10 for every man, woman and child in Letchworth.

Note – the payments to the staff were not equal and reflected their personal circumstances. Part of the reason for the different circumstances was that one staff member had been given pay increases of approximately 75% in less than 2 years.

**END**