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INVESTIGATION REPORT



Councillor Conduct complaint 19-20

Issue Date:	14 th January 2021	Final report:	<i>Monitoring Officer</i>
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INVESTIGATION INTO COMPLAINT 19-20

1 Introduction and scope

- 1.1 The Head of Internal Audit and Counter Fraud (the Investigating Officer) was appointed by Sharon Bridglalsingh, Monitoring Officer at Milton Keynes Council, to investigate a complaint about the conduct of Cllr William Hewitt.

Scope of the investigation

- 1.2 Milton Keynes Council ('MKC') received a complaint from Councillor Hume ("the Complainant") on 2nd September 2020, alleging that Councillor William Hewitt (the "Subject Member") had breached the Member's Code of Conduct of Bletchley & Fenny Stratford Town Council in the posting of three 'tweets' on social media page, Twitter.
- 1.3 At a meeting held on 17th November 2020, the Standards Assessment Sub-committee decided that the 'tweets' engaged Rules 1 and 2 of the Bletchley and Fenny Stratford Town Council Members Code of Conduct.
- 1.4 The investigation has involved a review of the evidence provided in support of the complaint and arising from the Monitoring Officer's initial review. No witness interviews have been conducted as part of the investigation as these were not deemed necessary by the Investigating Officer. The Subject Member was interviewed by the Investigating Officer regarding the allegation and given the opportunity to present his case.
- 1.5 It should be noted that the Standards Investigation process is not subject to criminal standards and should operate on the basis of a 'balance of probabilities'. As such, the conclusion reached is not required to be 'beyond reasonable doubt'.
- 1.6 It is the role of the Investigating Officer to present details of the evidence provided, and summarise responses or witness accounts given, in order to support informed decision making. Where evidence or facts have been contested this has been identified within the report.
- 1.7 In accordance with the Council's Arrangements for dealing with Standards Allegations, the Investigating Officer circulated a draft report on the investigation's findings to the complainant and the subject of the complaint, in confidence, on 7th January 2021. Both were asked to advise the Investigating Officer of any factual inaccuracies or anything they wished to be considered further before the report was finalised. Any additional comments have been given due consideration in the final version, as considered appropriate by the Investigating Officer.

2 Background details

Investigating Officer

- 2.1 The Head of Internal Audit and Counter Fraud, as Investigating Officer, has undertaken an objective, professional and independent investigation. The Investigating Officer has no direct relationship, and had no prior interaction with, elected councillors at Bletchley & Fenny Stratford Town Council; is bound by professional and ethical standards; and has experience in undertaking complex, sensitive and high profile investigations across a number of local government authorities.

Councillor William Hewitt

- 2.2 Cllr William Hewitt was co-opted on to Bletchley & Fenny Stratford Town Council in 2015 and elected on 5th May 2016, representing the Queensway & Denbigh North ward, and remains in office at the time of reporting.

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3 Relevant legislation and policies/protocols

Localism Act 2011

- 3.1 The Localism Act 2011 places a statutory duty on local authorities 'to promote and maintain high standards of conduct by members and co-opted members of the authority' (section 27(1)).
- 3.2 In doing so, the authority is required to 'adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity' (section 27(2)).
- 3.3 Section 28(6) of the Localism Act states that if the authority finds that a member of the authority has failed to comply with its code of conduct that it may have regard to the failure in deciding whether to take action and, if so, what action to take.

Bletchley & Fenny Stratford Town Council – Code of Conduct

- 3.4 The Town Council has adopted a Code of Conduct, last reviewed in 2019, which includes the following expectations of its members:
- 3.5 When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.
 - 1. He/she shall behave in such a way that a reasonable person would regard as respectful.
 - 2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

4 Evidence

Code of Conduct

- 4.1 Cllr William Hewitt confirmed that he was aware of the Council's Code of Conduct and had been provided with a copy of the Code upon taking on the role of councillor. Cllr William Hewitt has advised that he understands the expectation of the Council to be that councillors will act 'responsibly'.
- 4.2 Cllr William Hewitt advised that he had not received any training on use of social media as a councillor and was not aware of any policy or guidance on this.
- 4.3 The Investigating Officer has been provided with a copy of the Council's Press and Media policy which includes a section entitled Social Media Protocol. This policy was last reviewed and approved by Full Council in May 2019. The protocol primarily addresses 'posting comments or views on social media about individual Members or employees of Council or sharing information about the Council'. The protocol also refers to defamation of a person/company and states that 'defamatory statements are most likely to constitute a breach of the adopted Code of Conduct and the Council may refer members to the Standards Committee of Milton Keynes Council if it becomes aware of any defamatory statements made by members in their capacity as councillors'.

Social media account

- 4.4 Based on the evidence bundle provided to the Investigating Officer, Cllr William Hewitt's Twitter profile for the account in question at the time of the relevant posts identified the account as belonging to:
- 'Bill Hewitt (@whewittMK) Parish Councillor and PCV driver'
- 4.5 Evidence has also been provided by the complainant of a 'tweet' made on this account on 19th September 2019 stating the following:
- 'I'm the local parish councillor for Bletchley and Fenny Stratford and Stadium MK, falls into my own parish. Thank you. Cllr. William Hewitt'.
- 4.6 In interview, Cllr William Hewitt has confirmed that he set up and maintained this Twitter account and advised that it was a personal account which he had set up prior to becoming a councillor. Cllr William Hewitt accepted that he had been identified as a parish councillor on the account and advised that he has since amended this reference and has also now set the account as private – meaning this is not publicly available and only connected users can see the posts he makes.
- 4.7 Cllr William Hewitt does not agree that he was acting in his capacity as a councillor in posting any items on this account. Cllr William Hewitt accepts, however, that it could be perceived that he was giving the impression of acting as a councillor in posting items on the account, during the period when he was identified as a councillor.

Social media posts

- 4.8 The social media posts, all relating to the above account, which have been highlighted by the complainant in support of the allegation are as follows:

Post A

- 4.9 This post was made on 4th June 2020 in response to an article on the Black Lives Matter protests in London. The content was follows:

'Pure fucking scum attacking the Police. We should have sent in the Army with water cannons to disperse those mindless thugs. May the fleas of 100 Covid-19 victims invade their arses and they all suffer a painful death'.

- 4.10 In relation to this post, Cllr William Hewitt advised the Investigating Officer:

'At that time, I had personally been furloughed for three months. The NHS had been run off its feet. We had been out on the street clapping our carers each Thursday and doing everything we could to prevent the spread of the virus. Then one day in London all these people gathered to protest. I totally support the Black Lives Matter cause but did not agree with them gathering as they did in Trafalgar Square, not wearing masks and potentially spreading the virus. There were people there of all ethnicities and from all over the UK and they were destroying all the good work everyone had been doing to prevent the spread all those months.

I saw red and posted this tweet.

I was tweeting about the thousand or so people who were breaking the rules.

I had had family members in Papworth hospital being treated for Covid. I know this was not caused by the protesters but the thoughtless risks taken of spreading of the virus made me so angry'.

- 4.11 Cllr William Hewitt accepts that this post was a breach of the Council's Code of Conduct and has apologised for this, both to the town council and in interview with the Investigating Officer. Cllr William Hewitt stated that he was so 'incensed' by the situation and did not give consideration to the Code of Conduct at the time of writing the post. Cllr William Hewitt also had not considered that he was acting in his capacity as a councillor in creating the post.

- 4.12 Cllr William Hewitt accepts that the language used was inappropriate and in breach of the Code of Conduct requirement to be 'respectful'.

- 4.13 Cllr William Hewitt strongly denies that the post was in any way racist and has clarified that it was addressed at all of those protestors, of all ethnicities, and he fully supports the Black Lives Matter movement. Cllr William Hewitt stated:

'I did not have any issue with what they were protesting about, but how they were doing so. They were also attacking the police when they tried to intervene – that is not the way to protest'.

Post B

- 4.14 This post was made on 31st May 2020 in response to an article about the Black Lives Matter protests in London. The content was as follows:

'I really hope every one of them gets riddled with Covid-19. All the isolation and furloughing ruined in one fucking afternoon. Bring back total isolation everywhere please Boris'.

- 4.15 In relation to the basis for this post, Cllr William Hewitt explained to the Investigating Officer that 'all the furlough schemes and all the steps taken to prevent the spread of Covid were ruined in one day by the thousands of people gathering at this event'.

- 4.16 As to whether Cllr William Hewitt considered the content could be considered inappropriate or offensive, he stated that:

'I put my hands up – it was the wrong thing to say'; and

'I know the content was insensitive and I regret it. I was not being racist and was just angry about these crowds of people potentially ruining all the work that had taken place over the last few months'.

- 4.17 Cllr William Hewitt accepts that this post was a breach of the Council's Code of Conduct and has apologised for this, both to the town council and in interview with the Investigating Officer.

Post C

- 4.18 This post was made on 20th May 2020 and was in response to a post by radio presenter, Amanda Holden. The original post by Amanda Holden stated 'something bit me on the [emoji]' and included a short video clip showing her inspecting her cleavage whilst presenting her show on Heart FM.

- 4.19 A comment was made via Cllr William Hewitt's twitter account as follows:

'If you need any volunteers to help you look.....?'

- 4.20 Cllr William Hewitt has described this as 'a humorous comment made on social media' and did not consider it was offensive.

- 4.21 Cllr William Hewitt does not accept that this was a breach of the Council's Code of Conduct and explained:

'I regret that I was identified as a councillor on the profile but I do not think the comment in itself was offensive'; and

'I did not set out to upset anyone and if anyone is offended then I am sorry for that'.

5 Investigating Officer's reasoning

Acting in an official capacity

- 5.1 In considering whether Cllr William Hewitt was acting or giving the impression of acting in his official capacity as a member of the Council, the Investigating Officer has considered the evidence provided.
- 5.2 Cllr William Hewitt had not considered that he was acting in his capacity as a councillor at the time of posting on the Twitter account and considered this to be for personal use, not expressing views on behalf of the Council.
- 5.3 It is the opinion of the Investigating Officer that Cllr William Hewitt was identified as a parish councillor on the respective Twitter account. This was noted both in his profile at that time and in the tweet dated 19th September 2019. Whilst the profile did not specify which council, the location stated was 'Milton Keynes' and it is the Investigating Officer's opinion that it would be reasonable for a member of the public to make the connection to Bletchley & Fenny Stratford Town Council, both from this and if they had seen the earlier post on 19th September 2019. This is uncontested by Cllr William Hewitt who has expressed regret at the fact he had been identified as a councillor in relation to these posts.
- 5.4 The Code of Conduct for Bletchley & Fenny Stratford Town Council states that it is not only engaged where a councillor is acting in their formal capacity but also where the councillor 'gives the impression of acting as a representative of the Council'.
- 5.5 In the opinion of the Investigating Officer, it may be reasonable for a member of the public to perceive that Cllr William Hewitt was giving the impression of acting in his capacity as a councillor when he was making social media posts on an account where he was identified as a parish councillor. There was no disclaimer given to indicate that posts were not made in the stated role of parish councillor.
- 5.6 Bletchley & Fenny Stratford Town Council has provided some guidance on use of social media for councillors, as part of the Press and Media policy, but no training has been delivered.
- 5.7 Nationally, there are numerous cases of Standards investigations where elected Members have been considered to have breached their Code of Conduct in postings made on their personal social media accounts. It is now widely accepted, in the Investigating Officer's experience, that social media postings made by councillors on their named account (including personal accounts in their name) can reasonably be seen to be acting or giving the impression of acting within their capacity as a councillor as it would be reasonable for the public to make this connection.
- 5.8 As such, the Investigating Officer considers that the Code of Conduct would apply in this case.

Compliance with the Code of Conduct

- 5.9 The Council's Code requires councillors to behave in such a way that a reasonable person would regard as respectful and to not act in a way which a reasonable person would regard as bullying or intimidatory. The Investigating Officer has considered each of the social media posts in questions against these expectations.
- 5.10 In relation to Post A, the use of the terms 'pure fucking scum' and the suggestion of wishing a 'painful death' upon those individuals is not, in the Investigating Officer's opinion, consistent with the expectations of the Code. It is the Investigating Officer's opinion that the language and tone could reasonably be seen as disrespectful, offensive and potentially intimidatory to

those involved in the protests. Cllr William Hewitt accepts that the post breached the Code and he has expressed regret and apologised for this.

- 5.11 Turning to Post B, the tone and sentiment expressed is not, in the Investigating Officer's opinion, compliant with the Code. Cllr William Hewitt has expressed to the Investigating Officer his distress during family members' battles with the Covid-19 disease and the impact of the pandemic, which made him so angry upon witnessing potential flaunting of restrictions during these protests. All individuals have a right to a freedom of speech, including elected councillors, but it is the Investigating Officer's opinion that this strong, emotive view could have been better expressed or directed more constructively and without suggesting a hope that 'every one of them gets riddled with Covid-19'. Again, this is uncontested by Cllr William Hewitt who accepts that the post breached the Council's Code.
- 5.12 In relation to Post C, the Investigating Officer acknowledges that the comment was made in jest. There is potential, however, for this to be perceived as disrespectful by others and is not, in the Investigating Officer's opinion, a comment that would be appropriately made on behalf of a parish council. Given that Cllr William Hewitt was identified as a councillor and, as such, could be seen to be giving the impression of acting in his capacity as a member of the Council, this would not appear appropriate. Cllr William Hewitt contests that this post breaches the Code in that it is not offensive or disrespectful but does not contest that it is regrettable that in making the comment he was identified as a councillor.

6 Conclusions and recommendations

- 6.1 In reaching a conclusion on this matter, the Investigating Officer has considered in relation to the allegation whether Cllr William Hewitt was acting or 'giving the impression' of acting in his capacity as a Councillor whereby the Code of Conduct should apply.
- 6.2 Private social media accounts maintained by councillors for both private and personal use risk 'blurring' identities. Where the individual is identified as a councillor either by content or in their profile, it would be difficult to determine that all posts of the account were purely of a private nature and could not reasonably be seen as 'giving the impression' of acting as a councillor.
- 6.3 Based on the evidence and consideration within this report, it is the Investigating Officer's opinion that Cllr William Hewitt could be seen as giving the impression of acting in his capacity as a Councillor at the time of the Twitter posts in question.
- 6.4 In relation to compliance, it is the Investigating Officer's opinion, and uncontested by Cllr William Hewitt, that the Code has been breached in the content and language within posts A and B. In relation to post C, whether the content is offensive may be considered subjective but it is uncontested that the content was not fitting as a comment made by a member of the parish council and, in the Investigating Officer's opinion, risked being seen as breaching the expectations of the Code.
- 6.5 It is the Investigating Officer's opinion that there is a case to answer for Cllr William Hewitt in relation to compliance with the Code in this case. It is noted that an apology has already been given by the councillor during a private session of a Council meeting.