



DECISION NOTICE: HEARING PANEL

Complaint Reference - COM 364

The Monitoring Officer further considered a complaint from Rebecca Redfern concerning the alleged conduct of Councillor Pete Molloy of Spennymoor Town Council, in accordance with Durham County Council's Procedure for Local Assessment of Complaints ("the Procedure").

Further to the decision notice dated 13 August 2021, the complaint was referred for investigation. The investigator's final report has now been received. The investigator has concluded that there has been a breach of the Member Code of Conduct.

In accordance with the Procedure, where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person, may seek local resolution to the satisfaction of the complainant in appropriate cases. Where local resolution is not appropriate or possible, the investigation findings will be reported to a Hearings Panel of the Standards Committee for local determination.

This summary decision is produced to record the decision taken following completion of the investigation and includes the main points considered, the conclusion and reasons for that conclusion. It will be available for inspection at the offices of the Council for 6 years beginning with the date of the decision. However, the summary will not be made available for inspection until the member who was the subject of the complaint has received the written summary of the decision.

Complaint

This is a complaint by a member of the public and concerns a large number of Facebook posts published by the Member which are said to express “racist views, religious discrimination and sexual orientation discrimination.” A number of the posts were published before the Member taking office and therefore the those posts are considered out of scope from this investigation.

Spennymoor Town Council Council’s Code of Conduct

The following paragraph of the Town Council Code of Conduct has been identified as a potential breach:

- (j) Always treat people with respect, including the organisations and public they engage with and work alongside;

Decision

The Monitoring Officer, in consultation with the Independent Person has decided that the matter should be referred to a Hearing Panel of the Standards Committee for local determination.

View of the Independent Person

The Independent Person on reviewing the report of the Investigating Officer, considers that the posts complained of amount to the Member giving the appearance of acting in his official capacity and therefore agrees that the Member Code of Conduct is engaged. The Independent Person concurs with the findings of the Investigating Officer and the recommendation of the Monitoring Officer to refer this matter to a Hearing Panel.

Reasons for decision

The Member has asserted that his posts were published on his personal Facebook page and therefore were not subject to the Code of Conduct. He also stated that the posts had not been removed by Facebook for violating their terms of service and that he had not been the subject of any criminal investigation as a result of the posts

The Investigating Officer confirms that there is no legal definition of “official capacity”. The Code potentially regulates conduct on social media: the question is whether, in publishing these posts, the Member was acting, claiming to act or giving the impression he was acting as a representative of the Council.

The Investigating Officer draws upon the Committee on Standards in Public Life consideration of official capacity and social media in its report, Ethical Standards in Local Government. The Investigating Officer points to the cited guidance on this issue from the Public Services Ombudsman for Wales, which states:

“If you refer to yourself as councillor, the code will apply to you. This applies in conversation, in writing, or in your use of electronic media. There has been a significant rise in complaints to me concerning the use of Facebook, blogs and

Twitter. If you refer to your role as councillor in any way or comments you make are clearly related to your role then the code will apply to any comments you make there.

Even if you do not refer to your role as councillor, your comments may have the effect of bringing your office or authority into disrepute ...”

The Investigating Officer finds that a number of the Members Facebook posts – published in his official capacity – express Islamophobic and racist views and therefore breach paragraph 2.4(j) of the Code in that they fail to show respect to others.

In view of the findings of the Investigating Officer and the seriousness of the allegations, the Monitoring Officer considers that it is appropriate for the Hearing Panel of the Standards Committee to determine this complaint.

This decision notice is sent to the person making the allegations, the Clerk to Spennymoor Town Council and the Member against whom the allegations were made.

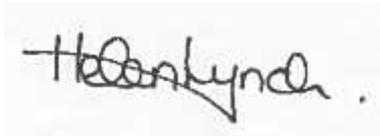
Right of appeal

Code of Conduct complaints are governed by the provisions set out in the Localism Act 2011. The Localism Act 2011 does not allow a right of appeal and this decision is final.

Terms of reference

The Localism Act 2011

Signed

A handwritten signature in black ink that reads "Helen Lynch". The signature is written in a cursive style with a period at the end.

Helen Lynch

Monitoring Officer

Date: 21 October 2021