

DECISION NOTICE:

REFER TO STANDARDS COMMITTEE

Complaint Reference - 514139036

- On 16 May 2023, the Governance Lawyer considered a complaint submitted by Spennymoor Town Councillor Rachael Riches about a comment posted by Cllr Pete Molloy on Facebook. Cllr Molloy is an Elected Member of both Durham County Council and Spennymoor Town Council.
- 2. The system of regulation of councillor conduct in England is governed by the Localism Act 2011. Local authorities are under a duty to promote and maintain high standards of conduct by their elected members and co-opted members. Every local authority must have a code of conduct for its members, which must be consistent with the 'Seven Principles of Public Life', selflessness, honesty, integrity, objectivity, accountability, openness, and leadership. The code of conduct must also make provision for the registration and disclosure of pecuniary and other interests.
- 3. Local authorities, other than a parish council, must also have in place arrangements under which allegations that a member has failed to comply with the authority's code of conduct can be investigated and decisions on allegations can be made. As part of those arrangements, they must also appoint at least one Independent Person whose views must be sought and taken into account before making a decision on an allegation that it has decided to investigate.
- Durham County Council and Spennymoor Town Council have each adopted a Code of Conduct for their Members, which are available for inspection on their respective websites and on request from the Monitoring Officer.
- 5. Durham County Council has also adopted and published a procedure for how allegations that one or more of its members, or members of a parish council in respect of which the County Council is the Principal Authority, has failed to comply with the relevant council's Code of Conduct for Members can be investigated and decisions on allegations can be made.
- 6. This complaint was assessed in accordance with Durham County Council's Procedure for Local Assessment of Member Code of Conduct Complaints ("the Procedure").
- 7. The Procedure requires the Monitoring Officer to ensure that all Code of Conduct complaints are assessed as soon as reasonably possible, and normally within 20 working days. The Monitoring Officer, in consultation

- with the Independent Person where appropriate, will ensure that the complaint is considered and decide if any action should be taken on it.
- 8. The Monitoring Officer has delegated responsibility for the initial assessment of Code of Conduct Complaints to the Governance Lawyer.
- 9. Following initial assessment of the complaint, there are four possible outcomes:
 - (a) That no action should be taken in respect of the complaint;
 - (b) To seek local resolution;
 - (c) To refer the complaint for investigation;
 - (d) To refer the complaint to the Standards Committee.
- 10. This decision notice is produced to record the decision taken following initial assessment and includes the main points considered, the conclusion and the reasons for that conclusion. It will be available for inspection at the offices of Durham County Council for 6 years beginning with the date of the decision.

The Complaint

- 11. A copy of the complaint appears in **Appendix 1** to this Decision Notice.
- 12. The complaint arose from a post made by Cllr Molloy in a Facebook Group known as "Spennymoor What's Happening Politically", which was subsequently shared on other social media and reported upon in mainstream media.
- 13. The complaint alleges that:

"Pete Molloy has continued to air wholly unacceptable and racist views in a public forum on the Spennymoor What's Happening Politically Facebook page. Whilst it was shared from his personal page it cannot be separated from his identity as a councillor."

- 14. Cllr Molloy's Facebook post purported to be in response to an article published in the Daily Mail online under the headline "Bridgerton Star Adjoa Andoh stuns ITV", which referred to a comment made by Adjoa Andoh that the balcony of Buckingham Palace on the occasion of HM King Charles III's Coronation was "terribly white".
- 15. Cllr Molloy's post to the "Spennymoor What's Happening Politically" Facebook group read as follows: 1

"I don't care if this post offends anyone, because enough is enough now and it's about time more and more people grew a

Page 2

¹ A screenshot of the original post appears in Appendix 3, Image 1.

pair and speak their minds and stopped being the silent majority and become the vocal majority!

Another non-indigenous British person with not just a chip, but a whole sack of King Eddie potatoes on their shoulder.

Britain is a white man's country, just as Nigeria is a black man's country, India is a brown man's country and China is the yellow man's country, so it is not down to the indigenous British people in their own homeland to assimilate with non-indigenous British people who live here. The duty is on those non-indigenous British people to assimilate, as best as possible, into the culture and society of the indigenous British people. The same goes for every other country in the world that have non-indigenous people living there too, their duty is not to try and change the ways of those countries, but to assimilate into those countries societies.

I don't care if you are either an indigenous or non-indigenous British person, so if you dislike or hate the history, heritage, culture, religion, governance etc. of Great Britain, please feel free to make your way to any of the many air or sea ports and leave, because you don't have to live here!"

Relevant Provisions of the Codes of Conduct

- 16. The allegations made by the Complainant potentially engage the following provisions of the Codes of Conduct of both Durham County Council and Spennymoor Town Council:
 - Behave in accordance with all legal obligations:
 - Always treat people with respect;
 - Not bring the role of Member or the local authority into disrepute and be aware that the actions and behaviour of a Member are subject to greater scrutiny than that of ordinary members of the public.

Response to the Complaint

- 17. A copy of Cllr Molloy's response to the complaint appears in **Appendix 2** to this Decision Notice.
- 18. He accepts posting the comment subject of this complaint on Facebook.
- 19. He maintains that the Complainant's opinion, that the comment was unacceptable, is a subjective one, and states that he did not make any racist remarks.

- 20. He considers the complaint to be politically motivated, noting that the Complainant is a member of the Labour Party, whereas he is an Independent.
- 21. Cllr Molloy does not believe that he has breached the Code of Conduct for Members on the grounds that the original Facebook post was made in his personal capacity, using his personal Facebook profile, and not using his "Councillor Pete Molloy" profile, and that it did not reference the fact that he is a councillor.
- 22. Following notification that a complaint had been made against him, Cllr Molloy re-posted his original Facebook post on his "Councillor Pete Molloy" under the following comment:2

"Some of you will be aware of a complaint that has been made against me, which I believe is politically motivated, for a post I place on the Spennymoor What's Happening Politically group in my capacity as an individual person using my personal profile page and not as a Councillor using my Councillor profile page, in relation to the 'terribly white' comment made by the actress, Adjoa Andoh towards the Royal Family.

This complaint has been picked up by the BBC https://www.bbc.co.uk/news/articles/c0311z506lpo and the Northern Echo

https://www.thenorthernecho.co.uk/news/23510447.durham-council-probe-social-media-post-spennymoors-pete-molloy/

I can confirm that I have sent in to DCC my response to the complaint. I would like to thank everyone who have sent messages of support, both publicly and privately, and I would like to reassure you that I will not be resigning from either the Town Council or the County Council."

23. Finally, in responding to the complaint, Cllr Molloy has drawn the Governance Lawyer's attention to a number of supportive comments³ that the above post has received, which he considers as providing political balance to the more negative comments that his original Facebook post attracted when shared on Twitter.

Decision

24. The Governance Lawyer recommends that this complaint be referred to the Standards Committee for hearing.

² Appendix 3, Image 2.

³ See Appendix 2.

Reasons for decision

- 25. Cllr Molloy has the right of freedom of expression, which is protected under Article 10 of the European Convention on Human Rights. This right includes the freedom to hold and express opinions and thus protects the right to criticise, speculate and make value judgments. Statements on political issues or other matters of general interest attract enhanced protection under the law, meaning that there are relatively few limits which can be imposed on "political speech". As a result, even statements which offend, shock or disturb may be protected by the law.
- 26. However, freedom of expression is not an absolute right, which means that speech which spreads, incites, promotes or justifies violence, hatred or intolerance may be lawfully restricted.
- 27. In practice, it can be very difficult to draw a distinction between lawful and unlawful speech and there is a need to carefully balance the rights of individuals to express points of view which others may find insulting or offensive against the rights of others to be protected from hatred and discrimination.
- 28. Cllr Molloy has argued that the Facebook post subject of this complaint was made in his private rather than official capacity and is not therefore subject to the Code of Conduct.
- 29. There is no legal definition of "official capacity". The Code potentially regulates conduct on social media: the question is whether, in publishing this post, Cllr Molloy was acting, claiming to act or giving the impression he was acting as a representative of the Council.
- 30. The Committee on Standards in Public Life considered the issue of official capacity and social media in its report, Ethical Standards in Local Government. In its report, the Committee 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 ..."

31. The Committee endorsed this approach and set out the following guidance:

"The widespread use of social media presents a particular challenge to determining whether a code of conduct applies to instances of behaviour. In line with the guidance provided in

Wales, it is clear to us that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the code of conduct applies. This would be the case even if the individual posts a 'disclaimer' to suggest that the account is a personal one

However, a number of recent cases also suggest to us that high standards are expected of public office holders in their use of social media, even when this purports to be in a personal capacity. What is relevant is not just whether an individual is acting in an official capacity or a personal capacity, but also whether the behaviour itself is in public or in private. Restrictions on what an individual may do or say in public are different in kind from restrictions on an individual's private life.

There is a need to balance the rights and responsibilities of democratic representatives. The sort of public behaviour that is relevant to a public office and its code of conduct therefore depends on the scope and nature of the public role in question: the requirements for civil servants will rightly be different to the requirements for teachers, for example. Roles representing the public, such as MPs or councillors, have particular privileges that need to be protected, but also need to acknowledge a greater responsibility, given the scope and public visibility of the role.

Inevitably, councillors carry their council 'label' to some extent in their public behaviour. What counts as relevant public behaviour for the purpose of the councillor code of conduct should therefore be drawn more broadly.

An individual's private life — that is, private behaviour in a personal capacity — should rightly remain out of scope. This includes, for example, what is said in private conversations (where those conversations are not in an official capacity), private disputes and personal relationships. But those in high-profile representative roles, including councillors, should consider that their behaviour in public is rightly under public scrutiny and should adhere to the Seven Principles of Public Life. This includes any comments or statements in print, and those made whilst speaking in public or on publicly accessible social media sites."

32. It may reasonably be inferred that Cllr Molloy is aware of the foregoing, given that it is taken from the Investigation Report of an independent barrister into a previous complaint against Cllr Molloy, which was heard by a Standards Committee Hearing Panel in November 2021, relating to comments posted by Cllr Molloy on Facebook which were deemed Islamophobic.

- 33. Cllr Molloy operates two separate accounts on Facebook.
- 34. The first is "Councillor Pete Molloy" in which he describes himself as a "Town Councillor for the Spennymoor Ward and County Councillor for the Spennymoor Division". All of his activity on this page would be subject to the Code of Conduct.
- 35. The second is "Pete Molloy". The content of this page is, for the most part, unrelated to Cllr Molloy's role as a member of Spennymoor Town Council and Durham County Council. However, there are a number of occasions when Cllr Molloy has re-posted material from his "Councillor Pete Molloy" Facebook page and, in doing so, identified himself as a councillor. These include posts published on 29 January 2022, 2 February 2022, 3 February 2022, 5 February 2022, 6 February 2022, 10 February 2022 and 17 February 2022, which remain visible on his timeline at the time of writing. 6
- 36. Copies of relevant extracts from Cllr Molloy's two Facebook profiles appear in **Appendix 3** to this Decision Notice.
- 37. The post subject of this complaint does not, at the time of writing, appear on the "Pete Molloy" Facebook page but has been re-posted on the "Councillor Pete Molloy" Facebook page.⁷ Nevertheless, the name and profile picture indicate that it was originally posted using the "Pete Molloy" account.
- 38. The "Spennymoor What's Happening Politically" Facebook group is described as being "Local elections political group for mainly Local issues for people of any Political persuasion to air their views or discrepancies". It is a private Facebook group, meaning that only members who are in the group can see who is in the group and what they post. The group has 673 members at the time of writing.8
- 39. Cllr Molloy's Facebook post was shared on <u>Twitter</u> and has since been reported by traditional media including <u>the BBC</u>, <u>ITV News</u> and <u>The Northern Echo</u>.
- 40. On balance, I consider that a Standards Committee Hearing Panel would be entitled to conclude that the Facebook post subject of this complaint was made both in public and in Cllr Molloy's official capacity:
 - (a) "Spennymoor What's Happening Politically" is a private Facebook group. Nevertheless, it has 673 members who have expressed an interest in local politics and who might reasonably be assumed to know that "Pete Molloy" is a local councillor;

⁴ Appendix 3, Image 3.

⁵ Appendix 3, Image 4.

⁶ Appendix 3, Images 5 – 12.

⁷ Appendix 3, Image 2.

⁸ Appendix 3, Image 13.

- (b) the "Pete Molloy" Facebook page is publicly accessible to any Facebook user and therefore Cllr Molloy's activity on it does not take place in private. As the Committee on Standards in Public Life observed:
 - "... those in high-profile representative roles, including councillors, should consider that their behaviour in public is rightly under public scrutiny and should adhere to the Seven Principles of Public Life. This includes any comments or statements in print, and those made whilst speaking in public or on publicly accessible social media sites."
- (c) Cllr Molloy has identified himself as a councillor on the "Pete Molloy" Facebook page and shared content from his "Councillor Pete Molloy" page in posts which remain publicly accessible on his timeline;
- (d) the "Councillor Pete Molloy" page is also publicly accessible to any Facebook user and clearly identifies Cllr Molloy as a Town and County Councillor. As the Committee on Standards in Public Life observed:
 - "... it is clear to us that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the code of conduct applies. This would be the case even if the individual posts a 'disclaimer' to suggest that the account is a personal one."
- (e) Cllr Molloy has shared the post subject of this complaint on his "Councillor Pete Molloy" page and expressly commented upon it.
- 41. Therefore, I consider that a Standards Committee Hearing Panel would be entitled to conclude that the Facebook post subject of this complaint falls within the scope of the Code of Conduct for Members.
- 42. I do not consider that this post is protected under Article 10 of the European Convention on Human Rights. The post expresses a general attack on persons living in the United Kingdom who do not "assimilate" themselves with what Cllr Molloy considers to be British culture and society.
- 43. Article 17 of the ECHR prevents Convention Rights (such as Article 10) from being relied on to "engage in any activity or perform any act aimed at the destruction of the rights and freedoms" of others. The rights to respect for private and family life, and to freedom of thought, conscience and religion are also protected by the Convention.
- 44. Furthermore, race and religion are protected characteristics under the Equality Act 2010 and discrimination, because of a protected characteristic, is prohibited under the Act.

- 45. As the European Court of Human Rights found in the case of *Norwood v United Kingdom* (2005) 40 EHRR SE11, statements which are "incompatible with ... tolerance, social peace and non-discrimination" are not protected by law.
- 46. In my opinion, Cllr Molloy's post was not a legitimate exercise of the right of freedom of expression and can, in principle, be subject to sanction under the Code of Conduct for Members.
- 47. It is also my opinion that a Standards Committee Hearing Panel may reasonably conclude that comments such as "Britain is a white man's country" are racist in nature and, if found to have been published in Cllr Molloy's official capacity, are capable of amounting to a breach of one or more of the following paragraphs of the Code of Conduct for Members:
 - 4.3 (h) Behave in accordance with all legal obligations;
 - 4.3 (j) Always treat people with respect;
 - 4.3 (n) Not bring the role of Member or the local authority into disrepute.
- 48. In light of the striking similarity between the subject matter of the present complaint and that of complaint reference <u>COM 364</u>, previously considered by a Standards Committee Hearing Panel⁹, I do not consider it to be either necessary, or a proportionate use of Council resources, to recommend that a further independent investigation be commissioned. The salient law is set out in the previous Investigation Report and remains unchanged.
- 49. The central issues for a Standards Committee Hearing Panel to consider will be: (1) whether Cllr Molloy was acting in his capacity as a councillor when the comments subject of this complaint were made; and, if so, (2) whether the comments made breach the Code of Conduct for Members.
- 50. Cllr Molloy was provided with a copy of this decision notice in draft and given an opportunity to comment on its contents. His comments have been taken into account in making the recommendation set out above.

Cllr Molloy's Comments on Draft Decision Notice

51. Cllr Molloy was invited to comment on a draft copy of this decision notice. In response, he stated that he had, prior to receipt of the draft decision notice, been unaware that the posts which identify him as a councillor on his 'Pete Molloy' Facebook page¹⁰, were visible on his publicly accessible timeline. He has since adjusted his privacy settings so that they are no longer publicly accessible. He has also removed the post subject of this complaint from his 'Councillor Pete Molloy' Facebook page.

⁹ On that occasion, sanctions were imposed which included, amongst other matters, training on the Code of Conduct and Equality and Diversity.

¹⁰ Appendix 3, Images 4 – 12.

Views of the Independent Person

- 52. As part of the arrangements that Durham County Council has in place for investigating allegations of failure to comply with the Code of Conduct for Members, and for making decisions on allegations that it has decided to investigate, an Independent Person has been appointed under section 28(7) of the Localism Act 2011:
 - "(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
 - (b) whose views may be sought—
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
 - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
 - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority."
- 53. The Governance Lawyer has consulted the Independent Person in respect of the recommendation set out in this Decision Notice. The Subject Member has also consulted the Independent Person.
- 54. The Independent Person's views were as follows:

"I have read through the complaint, evidence and response from Cllr Molloy and I fully endorse the action that you propose.

It appears to me that the two Facebook profiles are intertwined and Cllr Molloy has brought himself within the ambit of the code of conduct.

I felt that the post was discriminatory in nature and, in my opinion, Cllr Molloy has breached the code of conduct."

Right of Appeal

55. There is no right of appeal against this decision.

Terms of reference

- Part I Chapter 7 of the Localism Act 2011
- Code of Conduct for Members of Durham County Council
- Code of Conduct for Members of Spennymoor Town Council
- Procedure for Local Assessment of Member Code of Conduct Complaints
- Local Determination Procedure

Jayne La Grua Governance Lawyer

Date: 25 May 2023

APPENDIX 1: COMPLAINT

Alleged Breach of Members' Code of Conduct - Complaint received

Reference: FS-Case-514139036

Is the person you are complaining about currently a councillor?: Yes

Are you happy for your information to be shared with the councillor/s mentioned within this complaint?: Yes - I understand and agree that my name and details of this complaint will be shared.

Title: Cllr

First name: Rachael

Last name: Riches

Who are you complaining as?: An elected or co-opted member of an authority

Please provide the name of the councillor(s) you believe have breached the Code of Conduct and the name of the authority of which they are a councillor:

Title	First name	Last name	Council or authority name
Cllr	Pete	Molloy	Spennymoor Town Council/Durham County Council

What date did the incident occur?: 2023-05-08

What time did the incident occur?:

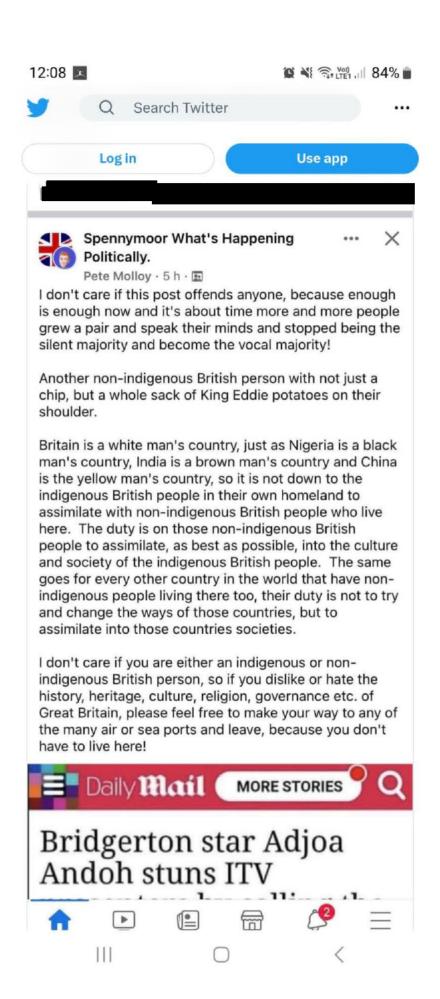
Were there any witnesses present?: No

Does your complaint relate to a live broadcast?: No

Please explain below what the councillor has done which you believe breaches the Code of Conduct: Pete Molloy has continued to air wholly unacceptable and racist views in a public forum on the Spennymoor What's Happening Politcally Facebook page. Whilst it was shared from his personal page it cannot be separated from his identity as a councillor. Text is in the screenshot attached.

Do you have any supporting evidence which you wish to upload in relation to your complaint which could be used as evidence?: Yes

Upload file(s): 281F3893-CD81-40DD-A240-1428FC081E8E.jpeg



APPENDIX 2: COMPLAINT RESPONSE

From: Jayne La Grua

Sent: Tuesday, May 9, 2023 5:00 pm

To: Cllr Pete Molloy

Subject: CONFIDENTIAL: Complaint

Dear Cllr Molloy,

I write to inform you that a complaint has been received about you under the Members' Code of Conduct. A copy of the complaint appears at the foot of this email. It refers to a comment that I understand was made by you on Facebook, in a Facebook group known as 'Spennymoor What's Happening Politically', and which has subsequently been shared on Twitter at timdredge1 on Twitter: "This fella is a councillor in a Nth-East local authority. https://t.co/ZLYvxmV2QH"/Twitter. A screenshot is also attached.

The Complaint potentially engages the following provisions of the Code of Conduct for Members:

- Behave in accordance with all legal obligations (in particular, the Public Sector Equality Duty)
- Always treat people with respect
- Not bring the Council into disrepute.

Accordingly, the complaint will be assessed in accordance with the Local Procedure for Assessment of Member Code of Conduct Complaints, a copy of which is attached.

To assist me assessing the complaint, could you please provide your response by no later than **16 May 2023**.

It would also assist me if you could comment upon whether the post, which appears political in nature, was intended to be made in your personal or public capacity.

Yours sincerely,

Jayne La Grua

Governance Lawyer

Legal and Democratic Services Durham County Council From: Cllr Pete Molloy Sent: 09 May 2023 20:54

To: Jayne La Grua

Subject: Re: CONFIDENTIAL: Complaint

Dear Ms La Grua,

Thank you for email to inform me that a complaint has been made against me for a potential breach of the Members' Code of Conduct in relation to a Facebook post.

With regards to what Councillor Rachael Riches saying that my remarks were 'wholly unacceptable', that is a subjective opinion and with regards to them being 'racist', I did not make any 'racist' remarks.

I don't believe I have breached the Members' Code of Conduct, because the post I placed on the Spennymoor What's Happening Politically group was done in a personal capacity using my personal profile page, which separate from my 'Councillor Pete Molloy' page, and I did not make any reference to being a Councillor or either Durham County Councillor or Spennymoor Town Council on the post, so the Members Conduct of Conduct does not apply.

Yours sincerely,

Councillor Pete Molloy

From: Jayne La Grua

Sent: Tuesday, May 9, 2023 9:04:43 PM

To: Cllr Pete Molloy

Subject: RE: CONFIDENTIAL: Complaint

Dear Cllr Molloy,

Thank you for replying to me so promptly. I will revert to you shortly with notice of my decision at the assessment stage of the complaints procedure.

Yours sincerely,

Jayne La Grua

Governance Lawyer

Legal and Democratic Services Durham County Council From: Cllr Pete Molloy Sent: 10 May 2023 08:20

To: Jayne La Grua

Subject: Re: CONFIDENTIAL: Complaint

Dear Ms La Grua,

Thank you for acknowledging receiving my email.

I would like to add that I do feel that Cllr's Riches complaint is politically motivated with her being a member of the Labour Party and on a couple of occasions during Spennymoor Town Council meetings in the past, I have had to raise complaints to the Chair on how Cllr Riches has not only spoke to myself, but other Independents too.

I am not on Twitter, but looking at the contributors in the link you provided, they all seem to be of the political persuasion as Cllr Riches and one of the contributors is Labour's Parliamentary Candidate for Bishop Auckland, Sam Rushworth, and going onto some of the Twitter accounts of those contributors, I have noticed some antimonarchy posts. Therefore, that particular Twitter post and its contributors cannot be classed as impartial opinions, but politically motivated opinions.

If you feel there is a need for me to come in and speak with you face to face, I am more than happy to do so.

Yours sincerely,

Cllr Pete Molloy

From: Jayne La Grua

Sent: Wednesday, May 10, 2023 8:23:14 AM

To: Cllr Pete Molloy

Subject: RE: CONFIDENTIAL: Complaint

Dear Cllr Molloy,

I acknowledge, and take account of, your further comments.

I do not need to speak to you for the purposes of my initial assessment of the complaint, but thank you for the offer.

I expect to finalise my decision notice later today and will revert to you with my assessment.

Yours sincerely,

Jayne La Grua

Governance Lawyer

From: Cllr Pete Molloy Sent: 10 May 2023 08:41

To: Jayne La Grua

Subject: Re: CONFIDENTIAL: Complaint

Dear Ms La Grua,

Thank you for taking into account my additional commitments and confirming that there is no need for a face to face meeting at this stage.

Yours sincerely,

CIIr Pete Molloy

From: Cllr Pete Molloy Sent: 12 May 2023 08:07

To: Jayne La Grua

Subject: Fwd: Supportive comments

Dear Ma La Grua,

I don't know if you are still deliberating on the complaint made against me, so I thought I would send you and example of the supportive comments left on my Councillor Facebook page and private messages I have received. With regards to the latter, I have removed the names and profile image, so not to be identified.

There are many more supportive comments on my personal profile Facebook page, and the Facebook groups 'Spennymoor What's Happening and 'Spennymoor What's Happening Politically'.

I also received a phone call yesterday, from a constituent of mine, after they had just read the Northern Echo article, to tell me not to resign and that they supported what I said.

I thought I would make you aware of the above as to balance with the link to the Twitter account you sent.

Yours sincerely,

Cllr Pete Molloy

WED AT 08:20

I see they're having a go at you again! Don't give in.



WED AT 09:05

They always will, but they won't be getting my resignation!

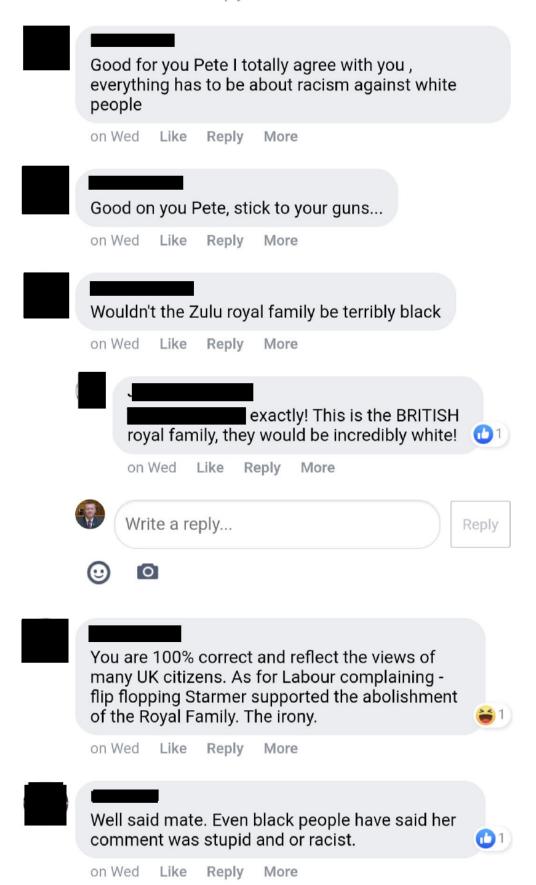
WED AT 09:55

Good. There's 3 of you that get out and do things, and the rest just sit and backbite. Its them who should resign as they are not doing what they are paid to do!



Totally agree 👍





WED AT 15:17



I hope you are ok Pete - whatever happens do not resign. I have no doubt that you would be re-elected but I think they would field as many candidates as they could muster to split the vote.

No worries about resigning over this

0

GOOD 4





Bridgerton star Adjoa Andoh stuns ITV presenters by calling the Buckingham Palace balcony 'terribly white' during live Coronation coverage

Boost unavailable



and 10 others

7 shares



I fail to understand why the actress Adjoa Andoh has not been subjected to an investigation for racism given what she said on National TV. Imagine if a white man had wondered why a black family were "terribly black"! Yet here we have you making a response to her remarks and it seems you're the baddie. Obviously don't resign, the mere suggestion that you should is ridiculous.



on Wed Like Reply More



Good for you Pete I totally agree with you, everything has to be about racism against white people

on Word Like Dealer Mane



Some of you will be aware of a complaint that has been made against me, which I believe is politically motivated, for a post I placed on the Spennymoor What's Happening Politically group in my capacity as an individual person using my personal profile page and not as a Councillor using my Councillor profile page, in relation to the 'terribly white' comment made by the actress, Adjoa Andoh towards the Royal Family.

This complaint has been picked up by the BBC https://www.bbc.co.uk/news/articles/c0311z506lpo and the Northern Echo

https://www.thenorthernecho.co.uk/news/23510447.durham-council-probe-social-media-post-spennymoors-pete-molloy/

I can confirm that I have sent in to DCC my response to the complaint. I would like to thank everyone who have sent messages of support, both publicly and privately, and I would like to reassure you that I will not be resigning from either the Town Council or the County Council.



From: Jayne La Grua

Sent: Wednesday, May 17, 2023 1:07:15 PM

To: Cllr Pete Molloy **Cc:** Lucy Gladders

Subject: CONFIDENTIAL: Draft Decision Notice

Dear Cllr Molloy,

Thank you for taking the time to speak to me yesterday.

Firstly, I acknowledge receipt of the attached screenshots of the post made on your 'Councillor Pete Molloy' Facebook page, in which you have shared a copy of the original post subject of the complaint made against you, together with a comment to the effect that the original post had been made in your personal capacity. I also acknowledge receipt of the screenshots of comments of support that you have received, both on your 'Councillor Pete Molloy' Facebook page and elsewhere.

During our telephone conversation yesterday, I suggested that you remove the above-mentioned post from your 'Councillor Pete Molloy' Facebook page if it is your position that it was made in your personal capacity. I can see that you have now done that.

I also said that, if you would like to consult with the Independent Person, I would make those arrangements for you.

As I think you are aware, the Council has appointed an Independent Person whose views may be sought both by the Council and by any Member whose behaviour is the subject of an allegation under the Members' Code of Conduct. That consultation would generally take place by telephone.

If you would like to arrange a telephone call with the Independent Person, please could you contact Lucy Gladders in Democratic Services (she is copied into this email) and provide her with your availability on Thursday and Friday of this week (18 and 19 May 2023) and Monday and Tuesday of next week (22 and 23 May 2023). I anticipate that you will need to set aside an hour. Lucy will then contact the Independent Person for her availability and find a date and time which is convenient for you both. Prior to your consultation, the Independent Person will be provided with a copy of the complaint and your response, so that she may familiarise herself with the issues.

Please note that the Independent Person is not legally qualified. She is able to discuss the complaint with you, and give you her views on it, but she cannot advise you on law or procedure. If you have any questions about law or procedure arising from your consultation with the Independent Person, or otherwise, you are welcome to raise them with me and I will endeavour to assist you if I am able to. If I am not able to assist you, I will try to signpost you to most appropriate source of information and/or advice.

Finally, I attach a copy of my draft decision notice.

As I explained on the telephone, I will be recommending referral of this complaint to the Standards Committee. I do not, at this stage, propose to refer the matter for further investigation. The reasons for that are that: (1) the subject-matter of the complaint is contained in a single Facebook post, a copy of which is already available; (2) you have previously been the subject of an investigation relating to Facebook posts made using your "Pete Molloy" profile, and the law is unchanged since the investigation into that matter; (3) the issues for a Hearing Panel to determine are factual, i.e. were you acting in your official capacity and, if so, did the comments made in your Facebook post breach the Code of Conduct for Members?

I appreciate that you will be disappointed with a decision to refer the complaint to the Standards Committee.

Once you have had an opportunity to consider my decision notice, if you believe that further investigation is necessary, I will of course consider any representations you make on the matter.

Similarly, if you believe that there any factual errors or omissions in the draft decision notice, you are invited to please let me know so that these can be addressed before the notice is finalised.

I look forward to hearing from you.

Yours sincerely,

Jayne La Grua Governance Lawyer

Legal and Democratic Services Durham County Council From: Cllr Pete Molloy Sent: 17 May 2023 22:39

To: Jayne La Grua

Subject: Re: CONFIDENTIAL: Draft Decision Notice

Dear Ms La Grua,

Thank you for sending me over the draft decision notice.

In your email to me you state:

"During our telephone conversation yesterday, I suggested that you remove the above-mentioned post from your 'Councillor Pete Molloy' Facebook page if it is your position that it was made in your personal capacity. I can see that you have now done that."

I am a bit confused by this and hopefully you can clarify if you meant the post I put up on the Spennymoor What's Happening politically group, because if it is, It was never placed on my Councillor page for me to remove it, so would appreciate the clarification please.

In your draft decision notice, you say about my personal profile page:

(c) Cllr Molloy has expressly identified himself as a councillor on the "Pete Molloy" page in posts which remain publicly accessible on his timeline;

Could you please clarify if you are saying that my personal profile page is open for the general public to view?

If this is the case, this would be incorrect, because for some years now, I have not had my personal profile set on 'public', but on 'Friends', which means only people who I am friends with on Facebook can view my personal profile page. I have checked my settings to make that my personal profile page is still set on 'friends' and it is.

Near the bottom of the draft decision notice, you state:

I do not consider that this post is protected under Article 10 of the European Convention on Human Rights. The post expresses a general attack on "non-indigenous" persons living in the United Kingdom who do not "assimilate" themselves with what Cllr Molloy considers to be British culture and society. It also makes a personal attack on a public figure and encourages others to become "vocal".

I would like to point out that I am ethnically Irish, therefore, I am a non-indigenous Briton and with regards to your last sentence, I don't know if I am reading what you've written correctly, but it reads to me that you are saying that I was encouraging others to become vocal against the actress, which was not the case. I was speaking generally.

I look forward to receiving your clarification on points that I have raised.

Yours sincerely,

Cllr Pete Molloy

From: Jayne La Grua

Sent: Thursday, May 18, 2023 2:17:34 PM

To: Cllr Pete Molloy **Cc:** Lucy Gladders

Subject: RE: CONFIDENTIAL: Draft Decision Notice

Dear Cllr Molloy,

Thank you for coming back to me so quickly. In relation to your comments:

"During our telephone conversation yesterday, I suggested that you remove the above-mentioned post from your 'Councillor Pete Molloy' Facebook page if it is your position that it was made in your personal capacity. I can see that you have now done that."

I am a bit confused by this and hopefully you can clarify if you meant the post I put up on the Spennymoor What's Happening politically group, because if it is, It was never placed on my Councillor page for me to remove it, so would appreciate the clarification please.

The post that I was referring to is Image 2 in the attached document, which is/was posted on your 'Councillor Pete Molloy' Facebook page. In my report, I will expressly identify it by reference to an image number so that there is no confusion about what I am referring to.

In your draft decision notice, you say about my personal profile page:

(c) Cllr Molloy has expressly identified himself as a councillor on the "Pete Molloy" Facebook page and shared content from his "Councillor Pete Molloy" page in posts which remain publicly accessible on his timeline;

Could you please clarify if you are saying that my personal profile page is open for the general public to view?

If this is the case, this would be incorrect, because for some years now, I have not had my personal profile set on 'public', but on 'Friends', which means only people who I am friends with on Facebook can view my personal profile page. I have checked my settings to make that my personal profile page is still set on 'friends' and it is.

The 'Pete Molloy' Facebook profile that I am referring to is the one that is hyperlinked in my draft report. This is the link: <u>Pete Molloy</u>. Images 4 to 12 in the attached Appendix are publicly accessible in the timeline of this profile. If this is **not** your Facebook account, please say.

Near the bottom of the draft decision notice, you state:

I do not consider that this post is protected under Article 10 of the European Convention on Human Rights. The post expresses a general attack on "non-indigenous" persons living in the United Kingdom who do not "assimilate" themselves

with what Cllr Molloy considers to be British culture and society. It also makes a personal attack on a public figure and encourages others to become "vocal".

I would like to point out that I am ethnically Irish, therefore, I am a non-indigenous Briton and with regards to your last sentence, I don't know if I am reading what you've written correctly, but it reads to me that you are saying that I was encouraging others to become vocal against the actress, which was not the case. I was speaking generally.

I am content to amend this paragraph of my decision notice as follows:

I do not consider that this post is protected under Article 10 of the European Convention on Human Rights. The post expresses a general attack on "non-indigenous" persons living in the United Kingdom who do not "assimilate" themselves with what Cllr Molloy considers to be British culture and society. It also makes a personal attack on a public figure and encourages others to become "vocal".

I am aware that Lucy is currently trying to find a date and time for you to speak to the Independent Person. I will withhold issuing my final decision notice until after you have had an opportunity to do this.

Kind regards,

Jayne La GruaGovernance Lawyer

Legal and Democratic Services Durham County Council From: Cllr Pete Molloy Sent: 19 May 2023 10:23

To: Jayne La Grua

Subject: Re: CONFIDENTIAL: Draft Decision Notice

Dear Ms La Grua,

Thank you for your email with the clarification of the posts that you have mentioned in your attachment, and your amendment to your paragraph in your decision notice.

I would also like to thank you for your time in speaking with me over the phone yesterday, which helped to clarify and identify the specific posts you previously mentioned.

After our conversation, I think I have addressed the privacy settings on those posts, which now should not be seen by the public.

Please feel free to double check that I have been able to identify all of them and that they are no longer visible to you.

These were posts that had slipped through the net, which was unintentional and I apologise for this.

Thank you also for your complaint on my Councillor page on how informative it is for residents in my community.

On reflection it would be a shame to lose all that information for residents to view, so what I will do in future is to be more diligent on the privacy settings to ensure that only those I intend to view the posts will do.

Yours sincerely,

Cllr Pete Molloy

From: Jayne La Grua Sent: 19 May 2023 13:20

To: Cllr Pete Molloy

Subject: RE: CONFIDENTIAL: Draft Decision Notice

Dear Cllr Molloy,

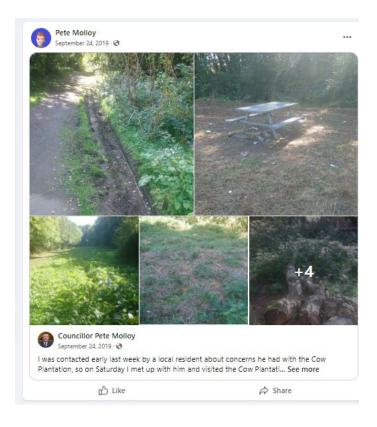
Thank you for your email this morning and for telephoning me yesterday afternoon.

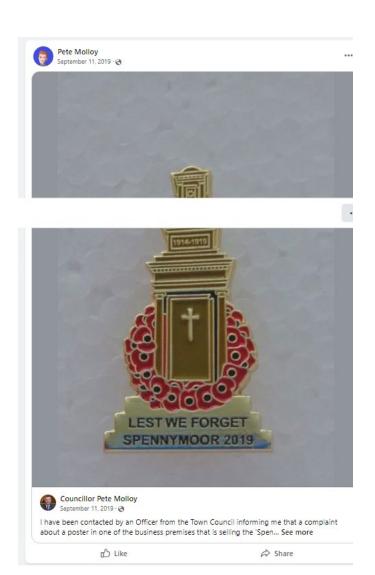
To put matters in context, you explained to me over the telephone that you had previously attempted to adjust the privacy settings on your 'Pete Molloy' Facebook account and had believed that your posts to that account could only be seen by your Facebook friends. You explained to me that you frequently post to Facebook and that there are many more posts which do not appear in your publicly accessible timeline. However, as you are signed into your own Facebook account and can, therefore, see all of your posts, both private and public, you had not appreciated that the posts referred to in the Draft Decision Notice continued to appear in your publicly accessible timeline.

I confirm that, whilst we were on the telephone yesterday, you accessed your 'Councillor Pete Molloy' Facebook profile and removed the image of the post to the 'Spennymoor What's Happening Politically' Facebook group (the post subject of this complaint). Your comment beginning "Some of you will be aware of a complaint that has been made against me ..." remains published. You explained to me that you want to be open and transparent about the complaint.

Following your email this morning, I have looked at your 'Pete Molloy' Facebook profile and confirm that all of the posts referred to in my Draft Decision Notice (images 4 – 12 in Schedule 3) have now been removed from your publicly accessible timeline.

Please be aware, however, that older posts identifying you as a councillor remain publicly accessible. These include the following:





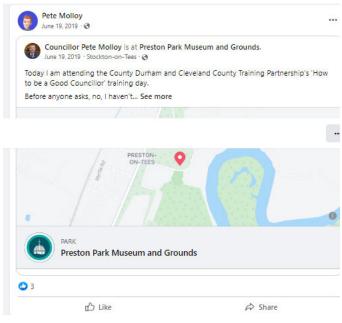


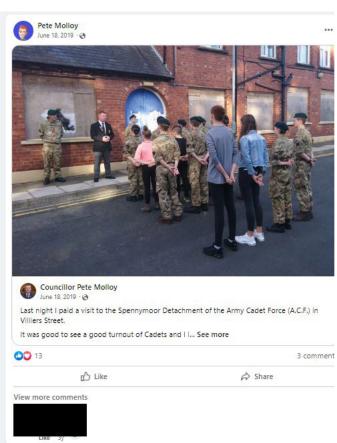
















I understand that arrangements are being made for you to consult with the Independent Person. Once you have done so, I will finalise my Decision Notice and the Monitoring Officer will contact you about next steps.

Yours sincerely,

Jayne La Grua

Governance Lawyer

Legal and Democratic Services Durham County Council From: Cllr Pete Molloy Sent: 19 May 2023 13:52

To: Jayne La Grua

Subject: Re: CONFIDENTIAL: Draft Decision Notice

Dear Ms La Grua,

I agree with context you have written in your email and over this weekend, I will endeavour to locate these new posts and adjust accordingly.

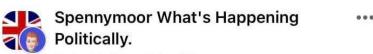
Regards,

Pete

APPENDIX 3: FACEBOOK

X

Image 1: Post on "Spennymoor What's Happening Politically" Group



Pete Molloy · 5 h · 🖭

I don't care if this post offends anyone, because enough is enough now and it's about time more and more people grew a pair and speak their minds and stopped being the silent majority and become the vocal majority!

Another non-indigenous British person with not just a chip, but a whole sack of King Eddie potatoes on their shoulder.

Britain is a white man's country, just as Nigeria is a black man's country, India is a brown man's country and China is the yellow man's country, so it is not down to the indigenous British people in their own homeland to assimilate with non-indigenous British people who live here. The duty is on those non-indigenous British people to assimilate, as best as possible, into the culture and society of the indigenous British people. The same goes for every other country in the world that have non-indigenous people living there too, their duty is not to try and change the ways of those countries, but to assimilate into those countries societies.

I don't care if you are either an indigenous or nonindigenous British person, so if you dislike or hate the history, heritage, culture, religion, governance etc. of Great Britain, please feel free to make your way to any of the many air or sea ports and leave, because you don't have to live here!



Image 2: Post on "Councillor Pete Molloy" Facebook Page



Some of you will be aware of a complaint that has been made against me, which I believe is politically motivated, for a post I placed on the Spennymoor What's Happening Politically group in my capacity as an individual person using my personal profile page and not as a Councillor using my Councillor profile page, in relation to the 'terribly white' comment made by the actress, Adjoa Andoh towards the Royal Family.

This complaint has been picked up by the BBC https://www.bbc.co.uk/news/articles/c0311z506lpo and the Northern Echo

https://www.thenorthernecho.co.uk/news/23510447.durham-council-probe-social-media-post-spennymoors-pete-molloy/

I can confirm that I have sent in to DCC my response to the complaint. I would like to thank everyone who have sent messages of support, both publicly and privately, and I would like to reassure you that I will not be resigning from either the Town Council or the County Council.



Image 3: "Councillor Pete Molloy" Facebook profile:

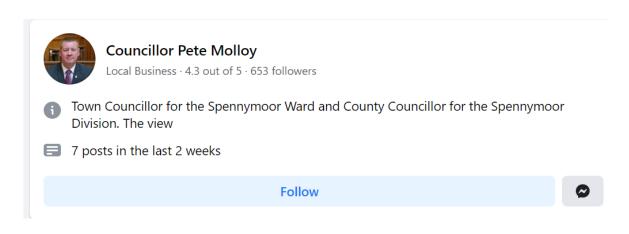


Image 4: "Pete Molloy" Facebook profile:



Image 5: Re-post from "Councillor Pete Molloy" to "Pete Molloy"



Image 6: Re-post from "Councillor Pete Molloy" to "Pete Molloy"



Image 7: Re-post from "Councillor Pete Molloy" to "Pete Molloy"



Image 8: Re-post from "Councillor Pete Molloy" to "Pete Molloy"



Image 9: Re-post from "Councillor Pete Molloy" to "Pete Molloy"



Been to parts of Byers Green this morning to deliver my newsletter and talking with some of the residents.

Image 10: Re-post from "Councillor Pete Molloy" to "Pete Molloy"





Councillor Pete Molloy February 6, 2022 · 🕲

On this day in 1952, Princess Elizabeth became Her Majesty Queen Elizabeth II, after the death of her father King George VI.

Congratulations to Her Majesty on ... See more

Image 11: Re-post from "Councillor Pete Molloy" to "Pete Molloy"

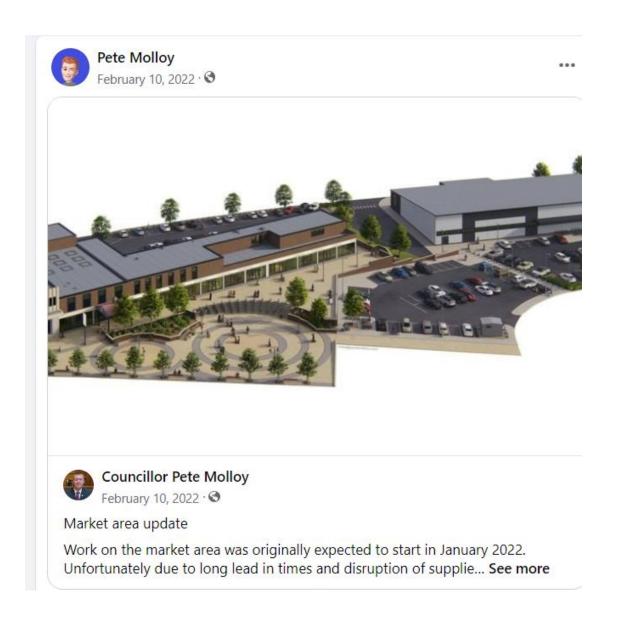


Image 12: Re-post from "Councillor Pete Molloy" to "Pete Molloy"





Have you or a close family member ever served in the Armed Forces?

Do you need advice and support on housing, employment or other welfare needs?

The Armed Forces Outreach Service can help you

Tel: Housing Solutions on 03000 268000

Email:

armedforcesoutreachworker@durham.gov.uk









Councillor Pete Molloy

February 17, 2022 · 3

From D.C.C.

Great News!

AFOS will now run a drop-in service at Spennymoor Town Hall on the following dates and times in the lounge/bar area:... See more

Image 13: "Spennymoor What's Happening Politically" Facebook group:

