

# Ethical Update – November 2022

‘Helping to promote high standards of conduct’

## Welcome to the November 2022 issue of Manchester City Council’s Ethical Governance Update

This newsletter contains details of the following:

- Code of Conduct decision – social media posts
- Councillor disqualified after receiving 8 month suspended sentence
- Councillor required to undergo further planning committee training
- Reminder: Register of Interests
- Reminder: Dispensations

To save paper this newsletter is distributed via e-mail, if you would like a hard copy or want further information about any of the issues raised please contact the Democratic Legal Services team.

## Code of Conduct decision – Social media posts

A town council member has been found by Durham Council’s Standards Committee hearing panel to have brought Spennymoor Town Council into disrepute by posting racist and Islamophobic material on social media, and in a separate complaint, was found to have bullied two town council officers in breach of the town council’s Code of Conduct for members (the Code). For context, Durham Council Standards Committee deal with complaints about the behaviour of Durham County councillors and town/parish councillors within County Durham.

In respect of the complaint about racist and Islamophobic material posted on social media, the member had two social media accounts, one where he identified himself as a councillor, and one which he did not. Posts were automatically shared between the two profiles.

The question was whether the member was acting, claiming to act or giving the impression he was acting as a representative of the town council when the posts were shared between the two profiles. The independent Investigating Officer took into account the Committee for Standards in Public Life (CSPL) report, *Ethical Standards in Local Government*, on the issue of members acting in their “official capacity” and social media.

The member said the posts were merely expressing his personal opinions in a “private capacity as an individual” the posts never mentioned he was a councillor. The member stated the user settings were set to “friends” only being able to view the posts, however it was found that any Facebook user could view the posts.

In taking the CSPL report into account, the Investigating Officer stated that the posts by the member could be seen or interpreted as being published in an official capacity as the accounts were not independent of each other; the posts were accessible and could receive “enormous exposure.” He stated “It’s not done in private. It’s not the equivalent of a conversation with a close friend behind closed doors. It’s the opposite of that”.

The Investigating Officer cited the guidance from the Public Services Ombudsman for Wales which is contained in the CSPL report:

“ 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.... 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 ...”

Having found that the town council’s Code applied to the posts, the next question the Investigating Officer considered was whether the posts breached the Code.

The member stated that he was not a racist and had the posts been racist or discriminatory, these would have been removed by Facebook under its Community Standards. The member maintained his posts were protected under his right to freedom of expression.

The Investigating Officer described the posts as “on the wrong side of the line” between free speech and an “attack on all Muslims, a denial of their right to live in this country”. He further stated, “not only do they single out a specific group – Muslims – for offensive treatment; they offend against anyone who values democratic principles, such as pluralism, mutual respect and tolerance.” One of the posts also indicated support for a white supremacist conspiracy theory, and when read alongside other posts by the member, the posts were racist and were not protected in law under the right of freedom of expression and could therefore be considered a breach of the Code in failing to show respect to others.

In a separate complaint involving the same member, the Investigating Officer found that the member was disrespectful and bullying towards two town council officers which included discussing whether one officer’s employment should be terminated. The remarks made in an official capacity about the officers, some on social media, despite a previous warning, were described as unfounded, unfair, distressing, humiliating, undermining and embarrassing. The behaviour harmed the public interest in good administration. The member stated that he was “being open and honest” and trying to defend himself. He never intended to bully staff and apologised. The above complaints were considered by Durham County Council’s Standards Committee hearing panel which upheld the Investigator’s recommendations that the member had breached Spennymoor Town Council’s code of conduct for members.

Under sanctions, the member was required give a written apology to one of the officers; take part in mediation; undertake training on the Code of Conduct; undertake training on Member- Officer relations, as well as Equality and Diversity training within three months of the hearing.

[https://www.durham.gov.uk/media/36927/Standards-Committee-Hearing-Panel-Decision-Notice-COM332-324-and-364/pdf/Standards\\_Committee\\_Hearing\\_Panel\\_Decision\\_Notice\\_accessible.pdf?m=637749901103900000](https://www.durham.gov.uk/media/36927/Standards-Committee-Hearing-Panel-Decision-Notice-COM332-324-and-364/pdf/Standards_Committee_Hearing_Panel_Decision_Notice_accessible.pdf?m=637749901103900000)

### **Councillor disqualified after receiving 8 month suspended sentence**

A Maldon District Council member has been disqualified after being found guilty at Chelmsford Crown Court in February 2022 of breaching a non-molestation order. The member was given eight months in prison (suspended for 18 months).

Section 80(1)(d) of the Local Government Act 1972 states that if a custodial sentence of three months or more is handed down, then the elected member is automatically disqualified.

Previously in September 2021, Maldon District Council (the Council) upheld six complaints against the member who was found to have failed to treat others with respect; bullied officers and other members; to have disclosed confidential information about another member on social media; and had deliberately attempted to undermine the Council's Code of Conduct process, bringing his office and the Council into disrepute.

Prior to the conviction, the Standards Committee had been due to consider another investigation report into further complaints made about his disruptive behaviour at subsequent council meetings.

<https://www.bbc.co.uk/news/uk-england-essex-60560151>

### **Councillor removed from Planning Committee until further training provided**

The Monitoring Officer for Babergh and Mid Suffolk District Council was forced to bring a planning committee to a halt mid-session after some councillors were seen to be passing a document to each other that was not part of the planning application papers before the committee. The document was a feasibility plan showing an earlier alternative layout for a development site and dates from 2020. Once the issue was raised, the Council's Monitoring Officer immediately adjourned the meeting to investigate any procedural irregularities.

Each committee member was interviewed by the Monitoring Officer and there was no evidence that there had been any attempt to influence the committee members or

influence the outcome of the planning decision when the document was circulated by some of the committee members. Members confirmed that they considered the document to be immaterial to the planning application.

During the investigation, one committee member revealed information that demonstrated that they "did not have the requisite skills and understanding of the planning process" and has been removed from the committee until further training on the planning process is provided.

The Monitoring Officer concluded that the integrity of the planning process had not been undermined by the circulation of the old plan as members had not been influenced when the plan was shared. Members were instructed to disregard the document, however due to the planning committee not being able to reconvene in its original form, the application heard at the committee was struck through, and the process will start afresh, that is, the officer will repeat their presentation and the speakers will be invited to repeat their submissions to ensure the process is fair, transparent and legally sound.

<https://www.midsuffolk.gov.uk/news/statement-regarding-investigation-into-procedural-irregularities-during-babergh-planning-committee-meeting/>

The report of the Council's Monitoring Officer can be found here:

<https://www.midsuffolk.gov.uk/assets/Communications/Planning-Committee-10-August-2022-Investigation-Report.pdf>

## **Register of Interests- keeping it up to date**

Members ordinarily complete their register within the 28 day period of being elected.

However, members are reminded that this is a live document and therefore needs to be reviewed regularly to ensure it is up to date. Failure to keep your register of interests up to date could lead to a complaint being received that it is not accurate and also misleading.

If any member is unsure if something should be registered then please contact the Democratic Services Legal Team via [DemServ@manchester.gov.uk](mailto:DemServ@manchester.gov.uk), or 0161 234 3336.

To update your register please contact the Governance and Scrutiny Support team on 0161 234 33034.

## Dispensations

The Council may grant you a dispensation, but only in limited circumstances, to enable you to vote on a matter in which you have a Disclosable Pecuniary Interest or a prejudicial interest.

The main reason why a dispensation may be granted is where so many Members have an interest in a matter that it would not be possible for the business in question to go ahead. This is particularly relevant at the Council budget setting meeting as many Members are Council Tax payers or may be Council tenants etc.

If you want a dispensation you will need to make an application to the Monitoring Officer in good time before the meeting.

If any member is unsure if they should need to apply for a dispensation then please contact the Democratic Services Legal Team via [DemServ@manchester.gov.uk](mailto:DemServ@manchester.gov.uk), or 0161 234 3336.