



Hearings Sub-Committee decision notice

SUBJECT MEMBER: Cllr Geraldine Collins

On 13 January 2022 and on 3 March 2022 the Buckinghamshire Council Hearings Sub-Committee (the Sub-Committee) considered the complaints made concerning the alleged conduct of Cllr Geraldine Collins, a councillor of Buckingham Town Council. The Independent Person was consulted on this decision.

COMPLAINANTS:

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DECISION & RECOMMENDATIONS:

The Sub-Committee found that Cllr Collins, endorsed and reposted a Facebook post while giving the impression of acting as a representative of Buckingham Town Council. The Facebook post contained comments which were offensive and subjected groups of people to personal attack. The repost and endorsement of the Facebook post was found to be offensive, subjected groups of people to personal attack and was disrespectful and inappropriate. The repost and endorsement were not part of a legitimate public debate or political expression and the repost did not attract the protection within Article 10. It was found that such conduct breached Paragraph 1 of the Buckingham Town Council Code of Conduct .

After taking into account the circumstances of the breach, the Sub-Committee accordingly made the following recommendations:

- that Buckingham Town Council should adopt a programme of equalities training for all councillors which Cllr Collins should attend;
- that Buckingham Town Council should adopt guidance and training for the use of social media for all councillors and those officers who would use social media on behalf of the council.

This decision is to be published on Buckinghamshire Council's website.



SUMMARY OF COMPLAINT:

A general summary of the complaint is set out below.

The Allegations

The complaints allege a breach of the Buckingham Town Council Code of Conduct (BTC Code) by Cllr Collins when on 4 August 2020 she reposted on her personal Facebook account an alleged racist post to a fellow Councillor who was a Facebook friend. This repost remained visible on both the sender and recipient's accounts until deleted on or around 20 December 2020. The post that was reposted from Cllr Collins' account had been endorsed by the comment "thought this was good". The post had previously been posted by a third party and contained the following text: "*A passage written by an Englishman about the current situation in HIS homeland – that is thought provoking and is equally relevant in any other (once) white country.*" The post was asking why whites are considered racist and no other race are. The post also contained a passage relating to the generalised commission of offences by particular ethnic groups and the treatment of the Police when dealing with law enforcement matters.

Cllr Collins disputed the allegations in that she denied that she had reposted the post and put forward an explanation that her Facebook account had been hacked or impersonated.

Reasons for Decision

1) That Cllr Collins re-posted and endorsed the original Facebook post and it was in the public domain

The basis of the complaint is that the original post was re-posted and endorsed by Cllr Collins. As Cllr Collins denied re-posting the original post at all, it was considered necessary to determine whether Cllr Collins had re-posted the original post.

Cllr Collins' position was that her account must have been hacked or impersonated. Despite Cllr Collins having made contact with Facebook in relation to the alleged unauthorised access, a response from Facebook was not forthcoming. Neither had the Police responded to reports and/or enquiries about the account or access to the account. Therefore taking into account the following: that there had been no security response indicating that the account had been accessed and relevant devices were not accessible by third parties at the relevant time; that the account looked the same as usual and did not contain any indicators of impersonation; that no new friend requests from an account in the name of Cllr Collins had been sent to any contacts indicating a duplicate account existed; that the account at the time of the post looked as it always had; that Cllr Collins was not aware of her privacy or security settings at the time of the re-post; and that there being no other explanation for the repost, the Sub-Committee concluded that on the balance of probabilities Cllr Collins' Facebook account was not hacked or impersonated at the relevant time and therefore Cllr Collins had re-posted the post.

It was further concluded by the Sub-Committee that the post was visible to the public as it came to their attention via another Facebook friend who anonymously disclosed it. As Cllr Collins was not aware of the privacy and security setting on the account (that is, that the general nature of social media means that posting, reposting or sharing even in private accounts can result in further visibility) the fact that there were then multiple complaints relating to the repost by Cllr Collins indicates that it was or became available to view in the public domain.

2) That Cllr Collins gave the impression of acting as a representative of the Council

The BTC Code states that it applies:

“When a member of the Council...claims to act or gives the impression of acting as a representative of the Council.”

It was accepted that the Facebook account in question was not one which Cllr Collins used for Council business and that she considered it to be a personal account. However, at the relevant times, as a result of a request by the Town Council, the profile picture of Cllr Collins’ Facebook account was of Cllr Collins dressed in Mayoral regalia. The Sub-Committee concluded this reasonably gave the impression to anyone looking at the Facebook account that the account related to Cllr Collins as a representative of the Town Council and the posts on the account were made in that capacity, rather than in her personal capacity. The BTC Code therefore applied to the conduct complained of.

3) The content of the re-shared post was unacceptable and amounted to a breach of the BTC Code

Paragraph 1 of the BTC Code states that Cllrs *“...shall behave in such a way that a reasonable person would regard as respectful.”*

‘Respect’ in this context is considered to be due regard for the feelings, wishes or rights of others and would include not being rude or offensive.

The Sub-Committee also considered guidance within the Buckinghamshire Council Code of Conduct relating to the meaning of respect as follows:

“Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.”

Cllr Collins reposted the original post with the comment “thought this was good”.

The Sub-Committee concluded that this comment is, taken literally, support for the original post. No other explanation or evidence that this was not the case or context was given. It was therefore determined that Cllr Collins’ comment showed that she specifically endorsed the contents of the post in full.

In light of the above, the contents of the original post were considered. The original post contained a series of statements indicating that white people are, or would be, deemed to be racist for certain actions or practices, but the same actions or practices by other races are not considered to be racist. The Sub-Committee accepted that this is a legitimate topic for debate.

Evidence that Cllr Collins is interested in and has, as a minimum, discussed the different treatment of different races within society was accepted.

It is also accepted that councillors and the public can hold controversial or indeed racist views and there is a right to freedom of expression.

When taken in isolation the majority of statements within the original post can simply be seen as statements and comparisons which may be agreed with, or not, for a variety of reasons. The veracity of the statements was not considered.

However, one particular paragraph (commencing "*You rob us, carjack us, and rape our daughters...*") implicitly refers to the commission of criminal activity against whites by non-whites or non-English and then goes on to set out that legitimate action by white Police officers against ethnic minorities is termed racist by blacks and Asians.

The Sub-Committee considered that this paragraph was more than debate or comparison as it clearly references criminal activity, is not a full comparison, singles out specific races and is not contextual. The result of this is that the paragraph itself attacks the minorities referred to and tarnishes all individuals from that group in the same way. The wording also significantly diminishes concerns of and about racism. This paragraph could also affect the reading of the whole post, especially when the beginning of the post refers to who is 'British'.

The Sub-Committee further concluded that accordingly the endorsement of the original post did not have due regard for the feelings of the groups of people referred to in the post and as well as not being expressed in a civil manner was found to be an attack on specific ethnic minorities and was therefore disrespectful and offensive and a breach of paragraph 1 of the Code of Conduct.

Having found a breach of the BTC Code it was decided it was not necessary to make findings in respect of any further paragraphs of the BTC Code which may be engaged.

4) That the re-post by Cllr Collins does not fall within any protections under Article 10 of the Human Rights Act 1998 and the European Convention – right to freedom of expression.

The Sub-Committee considered the protections afforded by Article 10 of the Human Rights Act 1998 and the European Convention. These are for the rights of individuals to hold their own opinions and to receive and impart information and ideas without interference by public authorities. That the Act and the Convention allow for such restrictions upon freedom of expression as are required by law where this is necessary in a democratic society, for the protection of morals or for the protection of the rights of others, was also considered.

The Sub-Committee accepted that political debate and expression will be afforded higher protection and will not be restricted in the interests of democracy and the BTC Code needs to be narrowly interpreted to accommodate this. The Sub-Committee therefore carried out a weighing-up exercise between the need to maintain minimum standards in local government (which serves to maintain public confidence) and the fundamental importance of free speech in a democracy.

Under legislation, the BTC Code is to be based on various principles and councillors are expected to maintain high standards of behaviour and conduct when acting in their official capacity. The requirements for respect are based upon a number of those principles.

The Sub-Committee considered that much of the post *arguably* entailed content of legitimate public debate and is therefore deserving of the enhanced protection afforded by freedom of expression. In particular, this includes the parts about differential treatment and standards between different racial groups. However, the content of the post also included unjustified and generic attacks on a section of the public purely on the basis of their race (that is, the paragraph beginning "*You rob us, carjack us and rape our daughters*").

The Sub-Committee noted that, whilst they considered Cllr Collins gave the impression of acting in her official capacity, the post and repost was not part of an ongoing public debate, the repost was not in an immediately public forum (that is, reposted for debate purposes), the repost endorsed statements which disrespected and attacked groups of people without any indication or actual promotion of debate, those groups of people were not politicians, and those groups are themselves given protection by legislation.

On balance the Sub-Committee therefore concluded that the restrictions or requirements imposed by the BTC Code were appropriate and proportionate and the repost does not attract the higher level of protection afforded to political expression by virtue of Article 10.

This decision is final and there is no right of appeal.

Signed xx

**Cllr Thomas Broom
Chairman Hearings Sub-Committee**

Date 03.03.2022