

**REPORT INTO COMPLAINT DATED JULY AND AUGUST 2018
MADE BY SEVERAL RESIDENTS AGAINST COUNCILLOR STEPHANOS IOANNOU**

1. EXECUTIVE SUMMARY

This is a report into complaints dated 30th July 2018 by Mr. Omer Hassan, 8th August 2018 by Mr. Gorkem Ozsoy, 9th August 2018 by Mr. Faruk Tinaz and 10th August 2018 by Mrs. Serif Mustafa (The Complainants), (The complaints are attached at Appendix 1) about Councillor Stephanos Ioannou (Cllr SI). The Complainants allege breaches by Cllr SI of parts 8.3 and 8.8, 11 and 12 (1) AND 12.6 of the Code of Conduct, set out in full and addressed below. The Complaints are based on the content of a Facebook page alleged to have been posted by Cllr. SI on 20th July 2018. The post was of a Sun Newspaper article published on 5th August 1974, which stated that Turkish Cypriots are “Barbarians” and stating “Shame on them”. The Complainants allege that the posting of the newspaper front page article from the 1970s amounts to spreading hate speech and is deeply offensive to Turkish Cypriots. I recommend that the Council upholds all alleged breaches of the Code of Conduct (specifics of which are set out at section 6), with the exception of 8.3 which I do not consider is engaged here. The background to the Complaints, the evidence considered and the reasoning for my recommendations are set out in the body of the report.

1. INTRODUCTION

- 1.1. I am Head of Legal Services at Enfield Council. I was admitted to the Roll of Solicitors in July 2004.
- 1.2. On the dates outlined above, complaints were received by the Monitoring Officer Jeremy Chambers. Having consulted with the Independent Person, Jeremy Chambers has agreed that the complaints meet the criteria for investigation and has asked me to investigate. The outcome of my investigation has been reported to Jeremy Chambers who will consider whether he agrees or not with my recommendations.
- 1.3. I have interviewed the following people on the following dates. All my interviews were conducted by telephone:
 - Mr Hassan (25.09.18)
 - Mrs. Mustafa (2.10.18)
 - Mr. Ozsoy (2.10.18)
 - Mr. Tinaz (3.10.18)
 - Cllr Stephanos Ioannou (9.10.2018)
- 1.4. I sent the report to the Council’s Monitoring Officer on 19th October 2018.

2. BACKGROUND TO COMPLAINT

The factual background to the matter is not complex. On about 20th July 2018, as set out above, a post of a Sun Newspaper article published on 5th August 1974, which stated that Turkish Cypriots are “Barbarians” and stating “Shame on them” was seen on the Facebook page of Cllr SI. The Complainants allege that the posting of the newspaper front page article from the 1970s amounts to spreading hate speech and is deeply offensive to Turkish Cypriots. Several of the Complainants were aware that the post stayed on the Facebook page for several weeks, if not months.

3. RELEVANT LEGISLATION AND PROTOCOLS AND THE CODE OF CONDUCT

3.1 Section 27 of the Localism Act 2011 (the Act) provides that a relevant authority (of which the Council is one) must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Authority must 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.”

3.2 Section 28 of the Act provides that the Authority must secure that its code of conduct is, when viewed as a whole, consistent with the following principles:-

- (a) Selflessness;
- (b) Integrity;
- (c) Objectivity;
- (d) Accountability;
- (e) Openness;
- (f) Honesty;
- (g) Leadership.

3.3 The Council, most recently, adopted a Code of Conduct on 17 July 2013 under the provisions of the Localism Act 2011, the Code is found on the Council’s website at <http://governance.enfield.gov.uk/documents/s67628/PART%205.pdf> .:

3.4 Paragraph 3 of the Code states:-

“The Code applies to you in all aspects of your activities as a member, including when acting on Authority business, ward business or when otherwise purporting to act as a member. It does not seek to regulate what you do in your private and personal lives.”

3.5 Due to paragraph 3 of the Code, and to the statutory provisions of s27(2) of the Localism Act 2011, as a preliminary issue, it is important to consider whether, or not the Code applied at the time of the incident complained of. The Code does not apply when an elected member is acting in his or her private capacity. This is an important initial consideration in this case as Facebook is used in both a private and a business context. Before I can be satisfied that the conduct complained of is a breach of the Code, I have to be satisfied that the Councillor was “acting as Member”

Despite the introduction of the Localism act 2011 and the changes to the Standards regime, the case of Ken Livingstone v Adjudication Panel for England 2006 is the starting authority to determine whether a councillor is acting in their capacity as a councillor. In this case the court was considering whether Ken Livingstone had acted in his “official capacity” as a councillor. The court held that a statement made by Ken Livingstone when leaving a venue did not amount to him acting in his official capacity. The question then considered by the court was whether Ken Livingstone’s behaviour was regarded as “in performing his functions”. The court felt these words extended beyond acting in an official capacity and must cover activities within performing a member’s function. The judgment went on to state:

“thus misuse of a position for personal advantage will appear to whoever is affected by it to have been in performance of functions....the expression should be used so as to apply to a member who is using his position in doing or saying whatever is said to amount to misconduct.....thus

where a member is not acting in his official capacity.....he will still be covered by the code if he misuses his position as a member.....the link with the membership of the authority is in my view needed..... . The Judge also considered article 10, right to freedom of expression and stated: “anyone is entitled to say whatever they like provided he does not act unlawfully and so commits an offence under... “ [another act]

The judgment was considered in detail in Bartlett, Milton Keynes Council [2008] APE 0401 in an appeal from the local standards committee. In the Case Tribunal’s view, the Livingstone judgment established that for a councillor to be acting in an official capacity-

- (a) the councillor should be engaged in business directly related to the Council or constituents;
- (b) the link between the councillor’s office and the conduct should have a degree of formality.

In *MC v Standards Committee of the London Borough of Richmond* [2011] UKUT 232 (AAC), the tribunal indicated that merely acting, claiming to act or giving the impression of acting as a member was insufficient for the conduct to be covered by the code. There had to be sufficient material for the tribunal to properly conclude that the member was in fact acting as a representative of the council.

In the decision notice concerning Cllr. Alan Ball issued by Basingstoke and Deane Borough Council following an investigation, the Council found that he had not acted in his capacity as a Councillor in posting on Facebook (which formed the basis of the Complaint). Part of the reasoning for the decision was that the post on his Facebook account appeared in the name of “alan ball”, and he used the words “I personally would like to thank”, with no reference to him being a councillor, although the content of the post relates to a matter that was being dealt with by the parish council.

In this case, I understand from Cllr SI that he has 2 Facebook accounts, one personal account and one political account. The political account was used for campaigning before the election and since the election the name on the account is Cllr Stephanos Ioannou. Cllr SI posts issues relating to national politics but his posts also include advertising Council services, reporting on his work as a Councillor by giving feedback on the responses he has received to Members’ enquiries he has made, and interacting with residents and offering to take up the issues they raise with the Council, commenting about local issues that affect the Council and about Council decisions and policies. From the screen shots I have seen of the post complained about, it was posted on Cllr SI’s political account, and Cllr SI confirmed this in his interview. Cllr SI’s Facebook account is an open account, meaning that everyone can access it and view the posts as you would expect from a public Facebook page. I therefore conclude that as Cllr SI, clearly identifies himself as a Councillor on this Facebook page, maintains a separate personal page, and discusses and even advertises Council business, on balance, he can be said to have been acting in his capacity as a Councillor when he posted the newspaper headline.

4. THE COUNCIL’S CODE OF CONDUCT

The relevant sections of the Code of conduct in relation to this Complaint are set out below:

Public Duties of Members

6. You have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in you. (alleged breach)

8.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. (alleged breach)

8.8 Respect for Others

You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. (alleged breach)

Expectations of Conduct

11. You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute. (alleged breach)

Rules of Conduct

12. You shall observe the following rules when acting as a Member or co-opted Member of the Authority:

(1) Treat others with respect and courtesy (alleged breach)

12.6

You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. (alleged breach)

5. EVIDENCE CONSIDERED

Telephone Interview with Mr. Hassan 25.09.2018

Mr. Hassan said he saw the post on Facebook at the end of July even though he is not a Facebook friend of Cllr SI. His view is that the post was wrong (he maintains that the Sun had apologised and retracted this headline), deeply offensive to the Turkish Cypriot community, very biased especially for a Councillor and could rekindle old animosities and cause big problems in the community.

Telephone Interview with Mrs. Mustafa 2.10.2018

Mrs. Mustafa became aware of this post at the end of July on social media. She also stated that this had been retracted and corrected by the Sun. She found the post to be racist and to be breeding hatred. Mrs. Mustafa was particularly concerned that the post had remained on social media for so long. On 2nd October, Mrs. Mustafa said that she had checked and it had remained on until at least the end of August.

Telephone Interview with Mr. Ozsoy (2.10.2018)

Mr. Ozsoy had complained about the post on 8th August shortly after he saw it. He found it very inappropriate especially in view of the Councillor's position. Mr. Ozsoy stated that Cllr SI should not be derogatory to others and cause distress. Mr. Ozsoy also confirmed his understanding that the Sun had apologised for the article. Mr. Ozsoy stated he was angry, upset and disappointed, he considers it can incite hate and cause division, especially in this day and age. Mr. Ozsoy said he had spoken to many others in the Turkish Cypriot community who had considered that it was not the right thing to do. Greek friends of Mr. Ozsoy also agreed.

Telephone Interview with Mr. Tinaz (03.10.2018)

Mr. Tinaz became aware of the post as it had been reported on a community website and was in the Turkish newspapers. Mr. Tinaz was shocked that this had been posted by a Councillor, especially as the ward (Southgate) where Cllr SI is a Councillor has a high proportion of Turkish Cypriot residents. He considers that even though Cllr SI is of Greek Cypriot origin, he represents all the community, and the post is discriminatory and racist. Mr. Tinaz also stated that he went back on the site about a week later and saw it was still there. In his view, he felt this compounded it as it appeared that Cllr SI does not care.

Telephone Interview with Cllr SI (09.10.2018)

Cllr SI explained that he has two Facebook accounts, one personal and one political and that he edits them. The political account was changed to Cllr Stephanos Ioannou after the election. Cllr SI agreed that he had posted the Sun headline on the account named *Cllr* Stephanos Ioannou, and that his reason was to commemorate an anniversary of a historic event that is important to residents in the community and he had written in Greek "Do not Forget". He likened this to commemorating the Second World War. Cllr SI stated that he was not responsible for the article as the Sun had used this wording and he was not aware that the newspaper had apologised. He also pointed out that MPs discuss the Cyprus issue. Cllr SI stated however that he did not intend to cause offence, and understands now that he has, and that he is not racist and did not intend it to be racist. On being asked if he would post it again, he stated he would not, and that he understands that he represents everyone, the whole community. He would be prepared offer a written apology for the offence caused and to state that this would not happen again

6. THE ALLEGATIONS AND FINDINGS

Public duties

6. You have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act, and to act on all occasions in accordance with the public trust placed in you. (alleged breach).

The complainants state that Cllr SI has not uphold the law because he has been racist in posting the Sun headline and article, and he has incited hatred.

The act of posting a Facebook post such as this could, dependant on the facts, fall within the definition of racial harassment, which covers an incident or a series of incidents intended or likely to intimidate, offend or harm an individual or group because of their ethnic origin, colour, race, religion or nationality, and a racist incident is any incident that is perceived to be racist by the victim or any other person.

Such behaviour may include:

- Derogatory name calling.

- Verbal threats, insults and racist jokes.
- Display of racially offensive material.

On 24/02/2009 Bristol City Councillor Shirley Brown, was found guilty of an offence under the Public Order Act of racial harassment after calling a political opponent a 'coconut' during a debate. The Council's standards committee viewed the words as 'offensive and abusive' although did not consider the words to be racist.

The post, in this complaint, is aimed at one ethnic group, Turkish Cypriots and therefore the lack of respect is linked to race. Objectively I find that the post is offensive and has caused distress and can be considered racist.

Any findings of a breach of the Criminal law are matters that are the domain of the police and the criminal prosecution service and are outside of the remit of this investigation. I therefore make no finding on breach of the law but I do find that the Councillor has not acted in accordance with the trust placed in him.

8.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. (alleged breach). On the wording of this part of the Code, I do not find that there has been a breach.

8.8 Respect for Others

You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. (alleged breach).

In relation to the first part of this section of the code which prohibits discrimination, Cllr SI has not directly discriminated against Turkish Cypriots. Direct discrimination usually occurs when someone is treated 'less favourably' because of a protected characteristic (e.g race). Here the post could be deemed racist and offensive, however, there is nothing in the complaint which suggests that members of Turkish Cypriot background have been treated differently. I do not think he has discriminated against any person.

However, posting a newspaper headline with the words "Barbarians" in relation to Turkish Cypriots, with the words "Shame on them" in the article is clearly not treating other people with respect regardless of whether it is an article written by a third party, and regardless of whether you state that it was not your intention to cause offence. All four complainants spoken to, at separate times, expressed the same sentiments, the post had caused them great offence and they were distressed by it.

Cllr SI has not discriminated directly against any individual but neither has he "treated people with respect regardless of their race". He has treated one ethnic group disrespectfully. I find that Cllr SI has breached this part of the Code.

Expectations of Conduct

11. You shall at all times conduct yourself in a manner which will maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, you or other members or officers generally, into disrepute. (alleged breach).

As I have found that Cllr SI has breached several parts of the code and his conduct has been offensive to members of the public, it follows that I would find that he taken an action that brings him into disrepute. This is strengthened by the fact that his conduct has been widely criticised and publicised in the Press.

Rules of Conduct

12. You shall observe the following rules when acting as a Member or co-opted Member of the Authority:

(1) Treat others with respect and courtesy (alleged breach)

12.6

You should not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. (alleged breach)

For the reasons given above, I recommend that the Council also finds that Cllr SI has breached this part of the Code.

CONCLUSION

For the reasons set out above, I recommend that the Council finds that Cllr SI has breached sections 6, 8.8, 11, 12.1, and 12.6 of the Code of Conduct.

The Monitoring Officer will need to consider the findings in this report. I note Cllr SI has offered to make a full public written apology and recommend that if the findings are agreed, that in any event Cllr SI is asked to attend race awareness training.

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19th October 2018