



FINAL REPORT

(9 August 2018)

Report of Investigating Officer

To The Monitoring Officer

FINAL Report -

1. Introduction

Report of an investigation under Section 28 of the Localism Act 2011 by Chris Gay appointed as investigating officer by the Monitoring Officer for Burnley Borough Council into allegations concerning Councillor Alan Hosker (the "Subject Member").

2. Summary of the Allegations

It is alleged by Councillor Joanne Greenwood (the "Complainant") that Councillor Hosker breached the Members Code of Conduct in relation to his personal judgement and integrity, and specifically that this conduct could be reasonably regarded as bringing Councillor Hosker's office as a Councillor and the Council into disrepute.

The allegations arise out of the sharing of a video clip posted on Councillor Hosker's Facebook social media page.

3. Councillor Alan Hosker Official Details

Councillor Alan Hosker was elected as a Borough Councillor for the Ward of Hapton with Park on 05/05/16 for a term of 4 years.

Councillor Hosker gave a written undertaking to observe the Code of Conduct for Elected Member's on 16/05/16.

4. The Relevant Legislation and Protocols

- The Localism Act 2011, Section 28
- The Constitution, Part 5.1 (Code of Conduct for Members, "the Code"), Burnley Borough Council

Under the Constitution of Burnley Borough Council elected Councillors are responsible for complying with the Code of Conduct for Members which contains general principles and provisions of conduct.

Specific to these allegations the Complainant has stated that they believe the Subject Members conduct gives rise to breaches of the following general principles and general provisions paragraphs of the Code:

- a) 5.1 Part 1 (5), page 166. "You [Councillors] must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

4. Member Code of Conduct General Provisions Under Investigation

In considering the allegations made by the Complainant and the scope and general obligations given in the General Provisions of the Members Code of Conduct, and the Complaint Initial Assessment, these allegations give rise to an investigation as to whether the following paragraphs of the Code have been breached:

- Part 1. Para. 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute

5. Evidence Gathered

1. A complaint received by the Monitoring Officer Lukman Patel via e-mail from Councillor Joanne Greenwood on 11/06/18 (appendix 1)
2. An initial complaint letter sent to Councillor Hosker by the Monitoring Officer on 11/06/18 (appendix 2)
3. An unsolicited written representation from [REDACTED] (Witness), dated 12/06/18 (appendix 3)

4. Summary record of verbal representation provided by phone call message to Lukman Patel from Councillor Alan Hosker on 12/06/18 (appendix 4)
5. A written representation dated 13/06/18 from Councillor Hosker in response to the initial complaint letter (see appendix 5)
6. Email representation from Councillor Alan Hosker to Lukman Patel on 13/06/18 (appendix 6)
7. As Monitoring Officer Lukman Patel undertook consultation with the Independent Person Pat Higginbottom on 20/06/18 and agreed that the matter merited a formal investigation. Councillor Hosker was informed of this by letter on 20/06/18 (appendix 7)
8. A copy of a video Clip taken from the "Alan Hosker Borough and County Councillor" Facebook page posted at 2:37 PM on 09/06/18 (included in appendix 2)
9. Record of interview with Councillor Alan Hosker on 02/07/18, confirmed as a true and accurate record signed and dated 04/07/18 (see appendix 8)
10. Record of interview with Councillor Joanne Greenwood 27/06/18, confirmed as a true and accurate record signed and dated 03/07/18 (see appendix 9)
11. Copy of Local Resolution letter from Lukman Patel to Councillor Alan Hosker dated 15/11/17 (see appendix 10)
12. Summary record of initial (verbal) representation provided by phone call for Lukman Patel from Councillor Alan Hosker on receipt of the draft investigation report on 13/07/18 (appendix 11)
13. Written representation from Councillor Alan Hosker in response to the draft investigation report, dated 15/07/18 (appendix 12)
14. Email representation from Councillor Joanne Greenwood in response to the draft investigation report, dated 16/07/18 (appendix 13)

15. Written response and observations from the Deputy Monitoring Officer to Councillor Hosker regarding his representation of 15/07/18 on the draft investigation report (appendix 14)

6. REPRESENTATIONS

6.1 Summary of Complainant Representation

- **Interview with Councillor Greenwood 27th June 2018. Councillor Greenwood chose not to be accompanied at interview.**

Councillor Greenwood was made aware by a resident from her ward, on 09/06/18, of a video clip on the Facebook page belonging to 'Alan Hosker Borough and County Councillor' that was in their opinion "horrendous and vile" and it was "another racist post". The video had been shared at 2:37 PM that day.

Councillor Greenwood advised the resident to raise a complaint with the Borough Council. However, they were reluctant to do this as they found him (Councillor Hosker) intimidating. Separately, another resident also approached Councillor Greenwood to express their concerns about the video.

Councillor Greenwood started to view the video footage shortly thereafter. However, she stopped viewing not long after the beginning upon hearing a crowd chanting "Allah is a Paedo" and "Who the Fuck is Allah".

She felt "very sad" that someone representing her ward would publicly share such an offensive video; adding that in her view "By sharing it he was endorsing it".

Councillor Greenwood believed that sharing the video on his 'Councillor' page, and not his personal Facebook page, was "significant" because lots of people see his Councillor page and that "by doing this he is not setting an example as a Councillor". Adding that she felt that the actions of Councillor Hosker brought his position as Councillor into disrepute through "a complete lack of responsibility and a lack of understanding his responsibilities"

She also read some general comments posted on Councillor Hosker's Facebook page associated with the shared video, made by individuals viewing the page complaining about the lack of media coverage of 'the march', with one comment saying that there should be no coverage.

Separately, Councillor Greenwood also said that she personally had been identified and vilified on social media regarding her making this complaint. Comments attributable to Councillor Hosker, that she found "horrendous", were made on-line on the 'Padiham Community Page', but were removed after a day.

Councillor Greenwood stated that she hoped any outcome to this investigation would be different to last time in that "the last one hasn't worked in terms of social media and what he (Councillor Hosker) puts out there"

6.2 Summary of Subject Member Representation

- **Written representation from Councillor Hosker to Lukman Patel, Monitoring officer, 13th June 2018**
- **Interview with Councillor Hosker 2nd July 2018, accompanied by Councillor Tom Commis**

At interview on 2nd July Councillor Hosker presented a letter addressed to him from the Monitoring Officer, Lancashire County Council. This was a response to a complaint made to the County Council regarding this same video posted on his 'Councillor' Facebook page; the letter stated that no further investigation action was being taken.

The investigating office confirmed that the County Council was a separate organisation to Burnley Borough Council, and any complaint raised with them was a matter for them alone, and he could not comment on it. He returned the letter to Councillor Hosker, and then reiterated the point that this had no bearing on the investigation being carried out by Burnley Council.

In his written representation, as well as at interview, Councillor Hosker stated that he was first made aware of the video being on his 'Councillor' Facebook page only after he had received a letter from Lukman Patel on 12th June informing him that a complaint had been made.

Then when subsequently viewing the video shortly after receiving the complaint letter he "stopped viewing the video when I heard what was being said, I was disgusted"; stating that he "did not post it" and "did not endorse it".

In written representation Councillor Hosker stated that he did not subscribe to the views expressed in the video.

Councillor Hosker stated that the video was removed from his page on 12th June.

He explained that having just recently undergone some surgery on his jaw he had been inactive on his Facebook page since the previous week. During this time his [REDACTED] [REDACTED] [REDACTED]), who has access to his personal, business and Council Facebook pages, "posted a number of articles, including the one complained about on the Council page".

He confirmed that he was "not best pleased" about this happening, going on to say that "Joanne Greenwood had a point, but [REDACTED] didn't watch it before it was copied" and [REDACTED] didn't have any speakers" – to listen to it.

He stated that [REDACTED] only shared the video to show the number of people there at the march. Councillor Hosker had been asked on several occasions if he was planning to attend the march (which he did not). In his opinion [REDACTED] believed it was a normal protest march and thought he might have been interested in it.

Councillor Commis stated that he believed the video originated from an unofficial UKIP discussion group on Facebook; but was shared innocently. He also stated that whilst there may be two separate investigations (referring also to the separate complaint lodged with the County Council) he believed that this looked like "a continuation of politics by Labour" and that it was out of character for Alan to post the video.

Councillor Hosker requested that [REDACTED] is kept out of this matter for medical reasons
[REDACTED]

When asked if he had made any comments regarding this video or the complaint Councillor Hosker stated that he had placed a comment retrospectively on both his Councillor and personal Facebook accounts to state that if the content of the video had caused any upset then he apologised; and that he also apologised in the Burnley Express.

Councillor Hosker reiterated that "Do you honestly think I would post that video. I wouldn't do it. Anyone with common sense wouldn't do that". He also stated that "I am concerned about the cost of this investigation. You'll get nowhere and are wasting taxpayer funds"

Councillor Hosker reported that since an article [about the complaint] had appeared in the Burnley Express that he had received "some nasty phone calls, threatening. I can tell they are Asian because of the tone but the number is withheld". The Deputy Monitoring officer advised that all such incidents should be reported to the Police.

Asked if [REDACTED] ever checked with Councillor Hosker, prior to posting or sharing anything on his Facebook page, to get his agreement he replied "[REDACTED] doesn't ask permission to post things"

6.3 Summary of Witness Representation

An unsolicited letter addressed to Lukman Patel was received from [REDACTED] ([REDACTED] of Councillor Hosker) dated 12th June 2018, in which they state the following:

- That (Councillor) Alan Hosker gave them the passwords to his Facebook accounts on 9th June to update his pages whilst he was having treatment
- That they posted the video of the march to show how many people attended as Councillor Hosker "had been asked numerous times if he would attend"
- Also stating; "I had no idea that they were shouting obscenities", "My computer had no sound", "If I had known I would never of posted it, I am truly sorry"

█ goes on in the written representation to offer apologies for any offence that has been caused. No further representation was required or requested from this witness.

7. Summary of the Material Findings of Fact

I find that there are a number of undisputed facts in this matter as follows:

A) A video clip was posted or shared on the Councillor Hosker County and Borough Councillor Facebook page at 2.37PM on 9th June 2018.

The video clip in question entitled "Free Tommy Robinson March, London 09/06/18" was approximately twelve minutes long. The footage was taken from within a crowd that had congregated in Trafalgar Square, London. The clip was recorded by persons unknown from a single vantage point panning around the large crowd. This was part of a public march and demonstration in support of Tommy Robinson, the founder of the English Defence League, who had recently been jailed for 13 months for contempt of court. The clip originated from the Unity News Network and was originally posted there at 2:19 PM on 09/06/18. A copy of the video has been retained as part of this investigation

B) The video footage contained chanting of a highly insulting, inflammatory and anti-Islamic nature.

From the start of the video clip and for approximately 50 seconds the crowd can be clearly heard, and seen, repeatedly chanting loudly "Allah is a Paedo, la, la, la la..." followed by "Allah, Allah, who the fuck is Allah". These same chants repeat at later stages in the footage at around 8 mins, for a further 30 seconds. The crowd is also heard continually through the footage with chants of "We want Tommy out", "English till I die" and "Whose Streets, our streets"

C) That the complainant and the Subject Member find the chanting in the video offensive.

Both commenting respectively that they found the chanting to be "disgusting" and "offensive"

D) That Councillor Hosker permitted someone other than himself to have access to his 'Alan Hosker Borough and County Councillor' Facebook page.

Both Councillor Hosker and [REDACTED] confirmed through their representations that [REDACTED] had access password(s) to Councillor Hosker's Facebook pages, including "Alan Hosker Borough and County Councillor", where they were able to post and share videos and comments unrestricted.

E) The video clip was shared on Facebook without any comment or narrative associated with it, other than its original title.

This fact is confirmed by both the complainant and Councillor Hosker; however, once the video and any comments associated with it were deleted they were no longer available to be viewed on-line as part of this investigation.

F) The video was no longer able to be viewed on the Facebook page sometime on or around the 12th June 2018.

The video clip was still present at 10:04 on 12th June but was deleted between sometime later that day and the morning of 14th June when a check revealed that the video was no longer present. The video had been visible for a minimum of three days.

G) An apology was posted on the Alan Hosker (personal) Facebook page at 5.28PM on 13 June (this was after the initial complaint letter was received by Councillor Hosker from the Monitoring Officer).

The wording is as follows below. My observation is that the focus of the message is political as opposed to being conciliatory and does not appear sincere. It also only appeared on Alan Hosker's personal Facebook page, and is not on the Facebook page on which the video was shared.



Alan Hosker

June 13 at 5:28 PM · 🌐

Just to update my family and friends. I have received a letter of complaint sent to the Borough Council from Hapton With Park Labour Borough Councillor Joanne Greenwood regarding a post that was shared on my page regarding a live march last Saturday 9th June 2018 - a protest march supporting Tommy Robinson.

The computer this was shared from had no sound so until I heard it and was made aware I wasn't aware of the chants. It's not the first time the Labour run Council have tried to discredit or drag me down and no doubt it wont be the last. It's not my fault that Labour is losing seats (the post has now been deleted but apologies if this has upset anyone all the same).

H) In his representation Councillor Hosker states that an apology was provided by him in the Burnley Express.

An article was published by the Burnley Express on 14/06/18 under the title "Burnley UKIP councillor accused of sharing Islamophobic video".

In this article Councillor Hosker is quoted as saying "This is not the first time a Labour councillor has filed a complaint against me or my team. They've already spent over £1,000 of taxpayers' money on these investigations and for what? It is unfortunate that Burnley Labour cannot get me at the ballot box so I expect these witch hunts will continue".

Councillor Hosker's comments in this article are political in nature and do not include any apology as he stated in his representation.

There are some issues that are inconsistent within the Subject Members representations, those details and the response from Councillor Hosker are as follows:

1) In his written representation on 13th June Councillor Hosker states that he was inactive on Facebook "since last week"; covering the period during which the video was shared. At interview he confirmed that he didn't access his Facebook account on the weekend of 9th & 10th June.

There are messages posted and attributable to him on both the Alan Hosker (personal) and Alan Hosker County and Borough Councillor Facebook pages on the 10th June regarding the Hapton Parish Council Festival, and shared video posts relating to Brexit. When asked to explain this Councillor Hosker stated that [REDACTED] must have posted them as well"

2) There are several comments posted as attributable to Councillor Hosker, on his personal Facebook page, commenting on the march in response to other peoples shared comments. It is not possible to put a date on these posts but they do appear to be a reaction to the complaint being raised. This is inconsistent with Councillor Hosker's representation that the comments he made were an apology.

3) At interview Councillor Hosker stated that [REDACTED] does not seek his permission to post on his Facebook page. However, there is a post on 8th June from [REDACTED] asking if they can post an item about an event in Hapton

commemorating the end of World War One (the item was subsequently posted).

4) Councillor Hosker had indicated his Facebook passwords had been changed as per the local resolution to a complaint in November 2017, in which he agreed to take sole responsibility for managing his Facebook page(s) but others still had access to his passwords.

8. Findings as to whether there have been failures to comply with the Code of Conduct for Members

In respect of the requirement that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute (Part 1 Paragraph 5)

In light of all the findings of fact I find that there has been a failure by the Subject Member to comply with the Code of Conduct for Members in relation to conduct that could reasonably be regarded as bringing their office and the authority into disrepute.

Reasoning:

The explanation as presented is plausible but weak.

This weakness is based upon the convenience of the explanation and its timing, the circumstances surrounding it, and the inconsistencies identified in the representation of Councillor Hosker. In any event the issue as to whether the explanation is plausible or not is of secondary importance.

The Breach of the Code of Conduct General Provisions is due to:

- 1) The substantial findings of fact that are undisputed, in that a video clip was shared on the "Alan Hosker County and Borough Councillor" Facebook page, there is agreement that the content was insulting, offensive and it was visible for several days. The fact that this happened, and was made possible, outweighs how it happened i.e. who was responsible for the physical act of sharing the video;
- 2) Due to Councillor Hosker's failure to abide by the local resolution agreed to on 15th November 2017 where he agreed to personally manage his Facebook pages to ensure only he would make posts or comments on Facebook (see details in appendix 10). Also he did not prevent anyone other than himself access to it and allowed others to manage this page. The outcome of his disregard of these responsibilities was the sharing of an insulting video clip.
- 3) The sharing of this video would likely be seen as an act of endorsement of it by anyone viewing the post, particularly with no supporting comment as to the rationale for its being posted. Being responsible for putting themselves in that situation is not the conduct expected of an elected member or an example they should set.

Each of these factors serves to bring Councillor Hosker's office as elected member and the authority into disrepute.

In addition to this it is my opinion that there has also been a breach of the following General Principle of the Code of Conduct for members:

- 4) Leadership; members should promote and support General Principles of the Code of Conduct by leadership, and by example, and should act in a way that secures or preserves public confidence

The breach in respect of the Leadership principle is through disregarding the agreed actions of the local resolution in November 2017 to personally manage Facebook pages rather than allowing third party access to post material. The example provided through this failure does not secure or preserve confidence in, or demonstrate, leadership, public or otherwise.

9. Conclusion

I recommend to the Monitoring Officer that there is sufficient evidence to suggest that Councillor Hosker has breached the Members Code of Conduct.

10. Further Comments of the Subject Member and Complainant

Following submission of my draft findings to the Subject Member and Complainant, comments have been received as set out in appendix 12 (Subject Member) and appendix 13 (Complainant), as is the investigating officer's response to the Subject Member in appendix 14.

Separately to the above, new evidence is available in the form of:

- Summary record of representation from Councillor Hosker provided in phone call message for Lukman Patel on 12/06/18 (appendix 4)
- Email representation from Councillor Hosker dated 13/06/18 (appendix 6)
- Summary record of Councillor Hosker's representations, upon receipt of the draft report, provided by phone call for Lukman Patel on 13/07/18 (appendix 11)

These additional items were submitted for comment. But none were forthcoming from the Subject Member or Complainant.

I have no further comment to make as the matters raised by any further representation do not have a substantial bearing on my findings in this matter which accordingly remain unchanged.

