



Confidential

FINAL REPORT

(29th March 2019)

Report of Investigating Officer

To The Monitoring Officer

Final Report - Confidential

1. Introduction

1.1 This is the Report of an investigation under Section 28 of the Localism Act 2011 carried out by Catherine Waudby, Head of Legal and Democratic Services who was appointed as the Investigating Officer by Lukman Patel, the Monitoring Officer for Burnley Borough Council ("the Council") into allegations concerning Councillor Alan Hosker ("the Subject Member".)

2. Summary

2.1 The allegation was brought to the Monitoring Officer's attention on 21st January 2019. The Complainant asked the Monitoring Officer to keep their identity secret due to concerns for their safety.

2.2 An allegation was made by the Complainant that Councillor Hosker had breached the Council's Code of Conduct for Members ("the Code") by "liking" and responding to a comment made about Julie Cooper MP which referred to her as a "robbing biatch". The comments appeared on his Borough and County Councillor Facebook account on 19th January 2019.

2.3 The Complainant alleged that the particular activity by Councillor Hosker on 19th January 2019 was a breach of the Members Code of Conduct in that it was action that showed a lack of respect for another person and brought the Council and him into disrepute by endorsing such misogynistic abuse.

2.4 I have carried out an investigation into whether the Subject Member breached the Code by his actions of liking a comment that referred to Julie Cooper MP as a "robbing biatch" and responding with his own comments that she was "taking the P." As part of the investigation I interviewed the Complainant. I also attempted to

interview the Subject Member but he declined to be interviewed, or answer my questions in writing.

2.5 My findings are that the Subject Member has breached the Code of Conduct as he has failed to treat others with respect (Section 3.1); has conducted himself in a way that could reasonably be regarded as bringing their office and the authority into disrepute (Section 5) and has breached the Leadership principle.

3. Investigation Process and Standards

3.1 On 8th February 2019, Lukman Patel, the Monitoring Officer of the Council considered the allegations made by the Complainant about the conduct of the Subject Member and after having considered representations made by the Subject Member and consulting with the Independent Person, determined that the complaint merited a formal investigation.

3.2 I was appointed by Lukman Patel to investigate the matter on 8th February 2019.

3.3 A detailed timeline for the investigation is as follows;

12th May 2016 – Councillor Hosker completes Declaration of Acceptance of Office
(Appendix 1)

19th January 2019 - Councillor Hosker “likes” a comment and adds remarks on his Alan Hosker Borough and County Councillor Facebook page which relates to Julie Cooper MP (Appendix 2)

21st January 2019 - The Complainant complains about the comment to Lukman Patel via email. (Appendix 3)

29th January 2019 – Lukman Patel writes to Councillor Hosker regarding the complaint. (Appendix 4)

31st January 2019 Councillor Hosker responds. (Appendix 5)

8th February 2019 Councillor Hosker was informed that the complaint merited a formal investigation. (Appendix 6)

9th February 2019. Article in Lancashire Evening Telegraph (Appendix 7)

15th February 2019. Letter sent to Councillor Hosker asking him to make contact to be interviewed. (Appendix 8)

17th February 2019. Letter received from Councillor Hosker declining the offer to be interviewed. (Appendix 9)

18th February 2019. Letter sent to Councillor Hosker asking that he reconsider his decision (Appendix 10)

19th February 2019. Interview with Complainant took place. (Agreed notes are contained at Appendix 11)

25th February 2019. Letter from Councillor Hosker again refusing to meet. (Appendix 12)

5th March 2019. Letter sent to Councillor Hosker putting questions in writing. (Appendix 13)

4. Member Code of Conduct

4.1 When elected to office, Members agree to abide by the Code of Conduct for members.

4.2 The Complainant alleges that the Subject Member has breached the following provisions of the Code:

4.2.1 Section 3 (1) the obligation to treat others with respect, and Section 3 (2) not to bully any person.

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

5. Councillor Alan Hosker

5.1 Councillor Alan Hosker was elected as a Borough Councillor for the Ward of Hapton with Park on 5th May 2016 for a term of 4 years. Councillor Hosker gave a written undertaking to observe the Code on 12th May 2016 when he accepted the office of Councillor (Appendix 1.)

5.2 On 27th September 2018 Councillor Hosker was the subject of a Standards Hearing which determined that he had breached the Code as a result of footage which had been posted on his Facebook account. The Hearing recommended that he undertake social media and data protection training, and that he solely managed his Facebook pages.

5.3 Despite repeated requests to Councillor Hosker to participate in the investigation, to date he has refused to engage with the process.

5.4 In his letter to Lukman Patel on 31st January 2019 he stated "I am going to politely and with all respect tell you that I am not planning on engaging with these proceedings. I have better things to do."

5.5 In his letter to me dated 15th February 2019 he stated "I have nothing further to add to the alleged complaint. The fact it is anonymous and the dubious

circumstances surrounding its timing does not warrant any further correspondence on the matter.”

5.6 In response to my letter of 18th February 2019 requesting that he review his decision, Councillor Hosker in his letter dated 25th February 2019 repeated “I have nothing further to add on the alleged complaint.... Any further involvement by me would be a waste of time for all involved.”

5.7 Lastly there has been no response to the questions I put to Councillor Hosker in writing about the incident on 5th March 2019.

5.8 Whilst Councillor Hosker has refused to co-operate with the investigation, it is noted that in a report in the Lancashire Evening Telegraph of 9th February 2019 (Appendix 7) he stated that he had sarcastically liked the comment about Julie Cooper being a “robbing biatch” because he believed the word had been spelt incorrectly.

6. Findings as to whether there have been failures to comply with the Code

6.1 To describe a person as a “robbing biatch” is in my opinion an offensive term, and a form of abuse and for a man to describe a woman in such terms is misogynistic. The inclusion of the word “robbing” before “biatch” makes the comment doubly offensive as it suggests that the person is also guilty of a crime.

6.2 I note that the Subject Member did not post the comment, however he did “like” the comment and I consider his liking of the comment should be taken at face value. I do not accept the explanation given to the Lancashire Evening Telegraph that he liked it sarcastically due to the misspelling of the word.

6.3 My reasoning for disregarding his explanation is based on the comment made immediately after he liked the post as he referred to Julie Cooper MP as “taking the P.” This is highly suggestive that the Subject Member fully supported the comments of the poster of “robbing biatch.”

6.4 The liking of the post and subsequent comments were all on the Subject Member’s Borough and County Councillor Facebook page. In my opinion to “like” the

post and then to make a supplementary comment is not conduct expected of an elected member and does bring the office and the Council into disrepute. The purported disclaimer which the Subject Member has loaded onto his page which says "Views expressed are my own and not necessarily the views of the Borough or County Council" cannot have the effect of allowing the Subject Member as an elected Councillor free reign to post whatever he chooses without being subject to the scrutiny of the Code of Conduct.

6.5 No other reasons have been put forward by the Subject Member to explain his actions and he has failed to co-operate with the investigation. He refused to agree to be interviewed despite written requests to do so on 15th and 18th February 2019, and has also failed to reply to the questions I put to him in writing on 5th March 2019.

6.6 Taking into account all the matters I find that there has been a failure by the Subject Member to comply with the Code in that he has;

Failed to treat others with respect (Section 3.1) and has conducted himself in a way that could reasonably be regarded as bringing their office and the authority into disrepute (Section 5).

6.7 In addition the Subject Member's refusal to co-operate with the investigation causes me concern, as there is a general requirement of accountability within the Code, and members are expected to co-operate fully and honestly with any scrutiny appropriate to their particular office. I believe that there has been a further breach of the Leadership principle within the Code as members are expected to promote and support the principles by leadership and by example and should act in a way that secures or preserves public confidence.

6.8 I am also of the opinion that there are aggravating features in the case, as Councillor Hosker refused to attend social media and data protection training which was recommended at the Standards Hearing on 27th September 2018. Had Councillor

Hosker attended the training I believe it is highly likely that he may have acted differently in relation to this matter.

7. Conclusion

7.1 I recommend to the Monitoring Officer that there is sufficient evidence to suggest that Councillor Hosker has breached the Code of Conduct in that he has;

Failed to treat others with respect (section 3.1)

Has conduct himself in a way that could reasonably be regarded as bringing his office and the authority into disrepute (section 5)

And has breached that Leadership Principle which requires members to promote and support the principles by leadership, and by example and should act in a way that secures or preserves public confidence.

8. Further Comments of the Subject Member and Complainant

8.1 Both the Complainant and the Subject Member were provided with the report and appendices and asked to make comments. The Complainant acknowledged receipt of the report and has not made any suggested amendments.

8.2 The Subject Member has not acknowledged receipt of the report or made any representations on its contents.