

Allegations of a Breach of the Code of Conduct by Councillor Lumley - Report of Independent Investigator

Corporate Priority:	All
Relevant Ward Member(s):	N/A
Date of consultation with Ward Member(s):	N/A
Exempt Information:	No

1 Summary

- 1.1 To note the report of the independent Investigator in relation to complaints received by the Monitoring Officer against Councillor Simon Lumley.

2 Recommendation(s)

That Committee:

- 2.1 **Notes the report, findings and recommendations of the independent Investigator (Appendix A)**

3 Reason for Recommendations

- 3.1 The Committee are asked to consider and note the findings of the independent Investigator and the recommendation that no further action is taken in respect of the complaints received.

4 Background

- 4.1 Three complaints were received by the Monitoring Officer in relation to comments posted by Councillor Lumley on the Twitter social media platform.
- 4.2 On 18 June 2020, following a fact finding exercise and consultation with the Chair and Vice Chair of the Audit and Standards Committee and the Council's Independent Person, the Monitoring Officer decided to refer the complaints for independent investigation.
- 4.3 The Complainants allege that on the Twitter social media platform Cllr Lumley published messages that were racist or had racist connotations. The material facts of the social media comments are contained at Section 4 of the attached report.

5 Main Considerations

- 5.1 An external Investigator was appointed by the Monitoring Officer to ensure an entirely independent investigation of the complaints. The Investigator has 39 years Local Government experience including acting as a legal advisor, Standards and Deputy Monitoring Officer and ACAS certified workplace mediator.
- 5.2 The independent Investigator was provided with terms of reference for the investigation (Appendix B) and asked to determine:
 - 5.2.1 the facts in relation to the complaints;
 - 5.2.2 whether the subject members actions fall within the ambit of the Code of Conduct;
 - 5.2.3 whether the subject members conduct amounts to a breach of the Code of Conduct.
- 5.3 The outcomes of the investigation are contained in the Report of the Investigating Officer (Appendix A).
- 5.4 The Investigator concludes that there has been no breach of the general conduct rules, nor the Code of Conduct. As such the recommendation is that no further action is taken in respect of the complaints.

6 Options Considered

- 6.1 The Audit and Standards Committee has a choice as to whether or not to accept the findings of the Independent Investigator and may comment on the outcome of the investigation.

7 Consultation

- 7.1 The Chair and Vice Chair of the Audit and Standards Committee and the Council's Independent Person have been consulted on this matter.
- 7.2 The Investigator has conducted interviews with the complainants and the subject member.
- 7.3 The Independent Person who is a member of the public appointed by the Council to assist in delivering high standards of conduct amongst Councillors will present his views to the Committee.

8 Next Steps – Implementation and Communication

- 8.1 If the Investigating Officers report is accepted then the complaint will be concluded

- 8.2 If the Investigating Officers report is not accepted then the Committee may decide to convene a Standards Sub Committee to determine whether they consider there to have been a potential breach of the Code of Conduct.
- 8.3 The Constitutional Review Working Group shall be determining ongoing training for all elected members. Recommended mandatory training shall be Equalities Training and Social Media Training for all elected members.

9 Financial Implications

- 9.1 The Investigation was conducted by an external Investigator and was included within the budget for member conduct.

Financial Implications reviewed by: Deputy S151 Officer

10 Legal and Governance Implications

- 10.1 The Council has a duty under Section 27 of the Localism Act to promote and maintain high standards of conduct by members.
- 10.2 The Council has adopted the [Melton Borough Council Members Code of Conduct](#). All members agree to adhere to this code.
- 10.3 The Council also has a process for Member Code of Conduct Complaints (Appendix C). An updated process to reflect the change in governance processes shall be considered by Audit and Standards Committee in the coming months.
- 10.4 Decision makers should make decisions based upon material evidence otherwise the reasons for the decision may be considered not be reasonable and subject to judicial review proceedings.

Legal Implications reviewed by: Monitoring Officer

11 Equality and Safeguarding Implications

- 11.1 An Equality Impact Assessment (EIA) has not been completed as these matters relate only to the individual councillor. We have not been notified of any protected characteristics that would have a bearing on the decision before the Committee.

12 Community Safety Implications

- 12.1 There are no community safety implications.

13 Environmental and Climate Change Implications

- 13.1 There are no environmental or climate change implications.

14 Risk & Mitigation

There are no risks for the Committee in noting the report of the Investigating Officer.

15 Background Papers

15.1 There are no background papers.

16 Appendices

16.1 Appendix A – Report of the Independent Investigator

16.2 Appendix B – Terms of Reference for Independent Investigation

16.3 Appendix C – MBC Member Code of Conduct Complaints Process

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