

# **Final Report: Code of Conduct Complaints against Councillor Simon Lumley**

## **Introduction.**

On 18<sup>th</sup> June 2020, Mrs Adele Wylie the Monitoring Officer of Melton Borough Council, appointed me to carry out an investigation into separate complaints made by Mr Jonathan Read and Ms Dill Westermann-Childs and another, who has asked not to be named in the public domain, (“the Complainants”) that Cllr Simon Lumley had failed to comply with the Members Code of Conduct (“the Code”).

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### **1. Executive Summary**

#### **1.1 Summary of the Complaints**

The Complainants allege that on the Twitter social media platform Cllr Lumley published messages that were racist or had racist connotations. The Complaints are set out in full at Appendix 1 to this report.

#### **1.2 Summary of Investigation Conclusion**

Councillor Lumley did not breach the Members Code of Conduct.

### **2. The Relevant Legislation and Protocols**

2.1 The Localism Act 2011 requires local authorities to adopt a Code of Conduct that is consistent with 7 Statutory Principles. The Code adopted by Melton Borough Council sets out the 7 Statutory Principles and sets out the rules of General Conduct by which Members agree to uphold the Statutory Principles.

2.2 I have identified 2 requirements of the rules of General conduct that are relevant to the complaints (“the Relevant Provisions”):

- “You must treat others with respect.”
- “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”.

2.3 The Code of Conduct requires that a Member must comply with the Code whenever he acts, or claims to act, or gives the impression of acting as a

representative of his authority and references to his official capacity are construed accordingly.

### **3. The Investigation**

3.1 I have asked questions of and received written responses from:

- The Complainants.
- Cllr Simon Lumley.

3.2 I have received written information and documents from:

- Adele Wylie, Monitoring Officer.
- Natasha Taylor, Democratic Services Manager.

3.3 I have considered the following documents and evidence relevant to the scope of the investigation:

- The Complaints.
- Cllr Lumley's written responses to the Complaints and to my questions.
- Cllr Lumley's letter of explanation and apology to his fellow MBC councillors (Appendix 2 to this report)
- Additional explanations and information provided by the Complainants.
- The Melton Borough Council Members' Code of Conduct.

### **4. Summary of Material Facts**

4.1 The Tweets.

- On 3rd June, in a tweet, Cllr Lumley published the slogan “#WhiteLivesMatter”.
- On 5th June Cllr Lumley re-posted a tweet from a third party stating, “Kneeling to surrender British and Western values”.
- On 8th June, in a tweet, Cllr Lumley stated that “I apologise for any offence I may have caused. However my tweets were taken out of context. To be clear ALL LIVES MATTER”.

### **5. Application of the Code of Conduct**

In considering whether or not there had been a breach of the Code of Conduct I had first to be satisfied that in publishing the tweets complained of Cllr Lumley had been acting, or claiming to act, or giving the impression of acting as a representative of the Council.

In Cllr Lumley's written response to my question on this point he says that:

*“I believe you are referring to my Twitter sub-account name as, ‘CllrLumleyMelton’. I could have chosen a completely different and random name. I have seen so many Twitter sub-account names that do not even relate to their official Twitter account name in bold, on tweets, and at the top of their profile account. The official name for my Twitter account is in bold as Simon Lumley.”*

I have been mindful of the guidance given by the Local Government Association in its 2020 publication on the use of social media by Councillors:

*“The code of conduct for members and relevant legislation continues to apply online and in social media. If you are referring online in any way to your role as a councillor, you are deemed to be acting in your “official capacity” and any conduct may fall within the code.”*

On balance I am satisfied that, in referring to himself as “CllrLumleyMelton” on the tweets, Cllr Lumley has given the impression of acting in his official capacity and that the conduct complained of was subject to the Code of Conduct.

## **6. Reasoning**

For a Member to express racist views or to publish racist materials when acting, or giving the impression of acting, in his official capacity would be a breach of the Relevant Provisions. I have considered whether the expressions used by Cllr Lumley are racist.

On a literal interpretation of the phrases White Lives Matter and All Lives Matter it would be perverse to find that either phrase was of itself racist in that both expressions, taken at face value, are literally true. It is self-evident that white lives do matter and that all lives do matter. Similarly, the words “Kneeling to surrender British and Western values” are not in and of themselves racist.

The Complainants point to the wider context (the slogans White Lives Matter and All Lives Matter are used by far-right groups with clear racist intent, the slogan Kneeling to Surrender British Values has, to some, insular, nationalist connotations) and say that Cllr Lumley would, or should, have understood this when publishing the tweets. Councillor Lumley has, tacitly, acknowledged a lack of understanding of the wider context of the phrases and his ignorance of their use by racist groups. In his letter of explanation (Appendix 2) he says: *“I had very recently heard that the #WhiteLivesMatter discussion point was used by some worldwide extreme right wing persons and organisations, which I was not aware of. I genuinely thought this was ‘another side to the story’ type topic discussion point, from some of the tweets associated with this”*.

In his written response to me in respect of his use of the phrase *“Kneeling to surrender British and Western values”* Cllr Lumley says: *“So, in this case, the ‘BlackLivesMatter’ movement, whilst I would think most people around the world understood their cause and reason for protest, it has recently been widely reported on the media that its UK organisation is, or has been hijacked, by a politically hard left wing movement with some of their concerning views and policies widely reported such as defunding/scrapping the Police and the Armed Forces”*. Though this may appear to some as a wilful misunderstanding of the motivations of the Black Lives Matter movement I do not see that it is a breach of the Code of Conduct to use these words or to hold this political view.

The complaints are well founded and it seems to me that it is in the public interest that they have been raised and considered. In publishing these tweets, whether

through ignorance or naivety or by deliberate intent, Cllr Lumley has caused offence, certainly to the Complainants and probably to other members of the public. The Complainants, and probably others, see a racist sub-text to the expressions used by Cllr Lumley. In publishing the phrases he has, in the view of the Complainants and others, shown a lack of understanding and damaged his reputation and that of his office and the Council.

Notwithstanding the foregoing it is not a breach of the Relevant Provisions to display a poor understanding of a situation nor is it a breach of the Relevant Provisions to hold or express a provocative or contrarian political view. Whilst it is clear that offence has been caused by Cllr Lumley's use of these slogans, to reason that the Relevant Provisions of the Code of Conduct should be applied to a subjective interpretation of his words and not to the words themselves would be to overreach.

### **7. Finding**

I find that Councillor Simon Lumley has not failed to conduct himself in accordance with the General Conduct Rules and has not breached the Melton Borough Council Members' Code of Conduct.

### **8. Recommendation.**

That no further action is taken in respect of the Complaints.

END OF REPORT.

Alan Turner

External Investigating Officer

13<sup>th</sup> July 2020

## **Appendix 1**

### **Member Complaint Gov001**

“Within the current national and international situation and raised awareness of racial inequality, being highlighted through such social media handles as Black Lives Matter, I am shocked and saddened to see the recent Tweets of Councillor Simon Lumley. He has displayed a shockingly poor understanding of the situation, its context and the lived injustice faced by Black people though his tweet on 3rd June, '#WhiteLivesMatter'. And it would appear his apology from 8th June, of which I had to search his Twitter account to find, displays again an insensitivity and lack of knowledge of the wider situation. (Screen-grabs are provided below) For a MBC councillor to publicly state a slogan associated with white supremacy, without seemingly any thought of listening to and learning from the lived reality of his Black residents, shows a callousness and, I am sad to say, an inherent racism that we as a community in Melton need to challenge and educate. It ultimately brings MBC into disrepute. You will note that his apology, which was within a reply to a Tweet (and so in effect hidden from easy view), does not at all say that he recognises that racism is at work within our society, that Black lives have been consistently undervalued. But rather he says that everyone is valued. It is true that everyone matters but at this time and in this place we need our leaders and people of influence to publicly state that the racism experienced by Black people is real and is harming them. An easy way to say this would have been to also state that Black lives matter. The style of response that Counsellor Lumley used hints at an underlying racial issue, something that is widely recognised as such. I want better from our councillors, I want better from Simon Lumley. Simply put we need our council here in Melton to be going above and beyond and providing the leadership to inspire and change the culture of racism that is actively at work within our borough. This is not something that is easy but the community here looks up to its leaders and we need them, especially Simon in this instance, to have greater empathy and understanding of the issues at hand.”

### **Member Complaint Gov002**

“Mr Lumley tweeted on his twitter account "White Lives Matter" ...this as he should know is a response that groups such as the Klu Klux Klan and Britain First have used in response to the Black Lives Matter protests. His twitter account also retweets far right accounts that are not in line with the Conservative party which he represents. Complaints were made and a vague apology issued in a reply to one tweet saying it was taken out of context...there was no context. His twitter account is now private so only people he wants to see it can...as a publicly elected official this is a worrying move, given what he was tweeting before.”

### **Member Complaint Gov003**

“Mr Lumley denies that he is racist, yet thought it OK to retweet this 'Kneeling to surrender British and Western values' tweet on 5th June. Kneeling to surrender British and western values”

## Appendix 2

**From:** Simon Lumley

**Sent:** 12 June 2020 19:26

**To:** Cllrs All; Alicia Kearns; Rutland and Melton Conservatives; Edd de Coverly

**Subject:** Tweet - explanation

Dear all,

I hope you are all keeping well. I wish to give you all an explanation into my recent controversial social media Twitter account tweet I made.

Unfortunately, my tweet was taken out of context. The recent articles in the media misreported my explanation of this, allowing many people to believe, incorrectly, that the tweet was a personal, one-sided and face value political view.

On the day of me tweeting this comment, was due to the previous day of the #BlackLivesMatter discussion point trending worldwide. So, to counterbalance the debate, I tweeted this #WhiteLivesMatter discussion point, also trending worldwide, in order to come across as in fact #AllLivesMatter.

I had very recently heard that the #WhiteLivesMatter discussion point was used by some worldwide extreme right wing persons and organisations, which I was not aware of. I genuinely thought this was 'another side to the story' type topic discussion point, from some of the tweets associated with this. For example, from the newly recent debate of removing statues of historic figures and worldwide ethnic group-to-group crime figures.

It is as simple as that. I just to reiterate again that there is often two sides to a debate or argument, so is balanced. But in this case, I wish to be clear, #AllLivesMatter .

Despite this explanation, and having apologised unreservedly, I still thought it appropriate to resign from Melton Borough Council's Conservative Group, as a result of this tweet. I am now a sole Independent Councillor.

I also wish to apologise to you all for the recent intensity, upheaval and upset this case may have caused you.

Thank you. See you all soon. Take care.

Edd: Please pass this email on internally.

Best Regards

Simon.