

ARUN DISTRICT COUNCIL
ASSESSMENT PANEL – 17 OCTOBER 2018

DECISION NOTICE - COMPLAINT 3

Subject Member	Councillor Damien Enticott
Representing	Bognor Regis Town Council
Assessment Panel Members	Councillor Paul English - Chairman Councillor David Edwards Councillor Ann Rapnik Councillor Robert Wheal John Thompson – Independent Person

Summary of Complaint

The complaint related to a statement made by the Subject Member on his social media accounts on 4 July 2018 which were alleged to be anti-Semitic and racist.

The Complainant alleged that the Subject Member had conducted themselves in a manner which could be regarded as bringing his office as a Councillor and the Bognor Regis Town Council itself into disrepute. On this basis, the Complainant believed that the Subject Member was in breach of the Bognor Regis Town Council's Code of Conduct.

How the Code of Conduct applied to this complaint

As required by the Localism Act 2011, all Town and Parish Councils across the Arun District have adopted a Code of Conduct and required each councillor to sign up to this Code. Whilst all the Codes work to the same general principles, Bognor Regis Town Council has established its own rules for defining the general obligations of its councillors and the arrangements for registering and disclosing pecuniary and other interests. The assessment of this complaint was reviewed against the Bognor Regis Town Council's Code of Conduct adopted by the Council on 9 March 2015 and reviewed on 2 July 2018.

The Panel's Decision

The Complainant had identified six paragraphs within their complaint that they believed demonstrated that there had been a breach of the Code of Conduct by the Subject Member.

The Panel considered the report of the Investigating Officer. The Panel noted that the Complainant had declined to attend the hearing as they were satisfied that the Investigating Officer's report covered all the points they wished to raise.

As the Subject Member failed to attend and no satisfactory explanation was given for his absence, the Panel decided to proceed with the hearing.

Having reviewed all the evidence presented, the Panel was deeply concerned over the Subject Member's conduct. In finding the Subject Member in breach of Bognor Regis Town Council's Code of Conduct on all six paragraphs raised by the Complainant, the Panel recognised the offence and distress his conduct had caused locally, nationally and internationally.

In reviewing the evidence presented from the many media and news articles provided to them, the Panel found that they clearly identified the Subject Member as a Bognor Regis Town Councillor. The Panel believed that the Subject Member's actions had not reflected the overriding principles of conduct expected of a local government councillor thereby bringing local democracy into disrepute.

The Panel's decision on each of the six paragraphs is set out below:

Paragraph 1 - Champion the needs of residents

<i>Decision</i>	BREACH
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. Whilst it was recognised that social media posts presented as evidence prior to 22 February 2018 were made before the Subject Member was elected to the office of councillor, the Panel did feel they had relevance for two reasons: <ol style="list-style-type: none"> a. anyone reviewing the older posts would not have been able to distinguish that the Subject Member had not been a councillor at the time of their posting and therefore may perceive these to be his ongoing views in his role as a councillor; and b. the earlier posts indicated a predisposition of the Subject Member to make inappropriate comments. 2. The Panel supported the view of the Complainant that by using the title 'Cllr' on his social media accounts this did demonstrate that the Subject Member was acting in his official capacity as a Councillor when he made the social media post on 4 July 2018. 3. Based on the evidence reviewed, the Panel supported the Complainant in their view that the Subject Member had not championed the needs of the whole community by posting such a statement. 4. The Subject Member's conduct in making this social media post was regarded as bringing his office as a councillor as well as Bognor Regis Town Council itself into disrepute. 5. On this basis, the Panel determined that the Subject Member had breached paragraphs 3.1, 3.3 and 3.6 (Respect) and paragraph 3.9 (Disrepute) of Bognor Regis Town Council's Code of Conduct

Paragraph 4 – Exercise judgement and not compromise their position

<i>Decision</i>	BREACH
<i>Reason for the Decision</i>	<ol style="list-style-type: none">1. The evidence confirmed that the Subject Member had represented himself as acting in his official capacity as a Councillor by using the title ‘Cllr’ on his social media account.2. The Panel supported the Complainant’s view that the Subject Member had not exercised judgement as a councillor by publishing a social media post that:<ol style="list-style-type: none">a. caused offence and distress, especially to the Jewish community, as evidenced in local, national and international news articles;b. had not considered the views of all parties; andc. did not follow the requirements of the Town Council’s Social Media Policy3. Further, the Panel supported the Complainant’s view that the Subject Member had compromised his position as a councillor by initially denying posting the statement and subsequently retracting this denial and confirming he did post the social media post on 4 July 2018.4. The Subject Member’s conduct was regarded as bringing their office of Councillor as well as Bognor Regis Town Council itself into disrepute.5. On this basis, the Panel determined that the Subject Member had breached paragraphs 3.1, 3.3 and 3.6 (Respect) and Principle 6 (Honesty) of the General Principles of Bognor Regis Town Council’s Code of Conduct.

Paragraph 5 – Listen to the interests of all parties

<i>Decision</i>	BREACH
<i>Reason for the Decision</i>	<ol style="list-style-type: none">1. The Panel had no evidence from the Subject Member to demonstrate that he had considered the interests of all parties before posting the social media post on 4 July 2018.2. Evidence presented confirmed that the Subject Member had been given advice by the Town Clerk on two occasions about the importance of following Bognor Regis Town Council’s Social Media Policy which forms part of the Code of Conduct.3. The Subject Member’s conduct was regarded as bringing their office of Councillor as well as Bognor Regis Town Council itself into disrepute.4. The Subject Member had not followed the adopted Social Media Policy for Councillors that formed part of the Bognor Regis Town Council’s Code of Conduct, in particular the requirement at paragraph 10.1

	<p><i>“Councillors must not use insulting or offensive language or engage in any conduct that would not be acceptable in a workplace. They must show consideration for others’ privacy and for topics that may be considered controversial, such as politics or religion”.</i></p> <p>5. On this basis, the Panel determined there been a breach of Bognor Regis Town Council’s Code of Conduct as defined in paragraph 3.9 (Disrepute) and the Social Media Policy that forms part of the Code.</p>
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Paragraph 6 – Be accountable for their decisions and co-operate when scrutinised	
<i>Decision</i>	BREACH
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. The Panel supported the Complainant’s view that the Subject Member had not been accountable for their decisions and co-operated when scrutinised by: <ol style="list-style-type: none"> a. initially denying they had posted the social media comment; and b. not responding to the Monitoring Officer’s contact about the complaint made. 2. Further, the Panel considered that this initial denial did not demonstrate truthfulness from the Subject Member as required by the General Principles of the Town Council’s Code of Conduct. 3. The Panel acknowledged that the Subject Member had subsequently retracted this denial and confirmed that he did post the social media post on 4 July 2018. However, reviewing his public statement, the Panel noted this referred to the Subject Member saying “... will not be attending any courses if requested to do so” and he would “continue to express myself freely for my electorate and my apologies will only be to the people of Hatherleigh ward if requested. It is only the residents of Hatherleigh Ward that I truly represent as a councillor and who I am accountable to”. The Panel’s view was that this did not demonstrate that the Subject Member was accountable for his wider role as an elected councillor of Bognor Regis Town Council. 4. The Subject Member’s conduct was regarded as bringing their office of Councillor as well as Bognor Regis Town Council itself into disrepute. 5. On this basis, the Panel determined there had been a breach of Bognor Regis Town Council’s Code of Conduct as defined in paragraph 3.9 (Disrepute) and Principle 6 (Honesty) of the General Principles of the Code.

Paragraph 10 – Always treat people with respect

<i>Decision</i>	BREACH
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. The Panel considered that the Subject Member had not always treated people with respect based on the evidence presented that he had: <ol style="list-style-type: none"> a. made offensive remarks in the social media post on 4 July 2018; b. threatened his fellow councillors in an email sent following the posting; and c. ignored the advice of the Town Clerk’s office in not following the requirements of the Social Media Policy. 2. The Subject Member was also seen to not have acted with objectivity, one of the general principles of the Town Council’s Code of Conduct, by making what have been perceived as discriminatory comments in the social media post on 4 July 2018 evidenced by the news articles covered in the local, national and international press. 3. The Subject Member’s conduct was regarded as bringing their office of Councillor as well as Bognor Regis Town Council itself into disrepute. 4. On this basis, the Panel determined that there had been a breach of Bognor Regis Town Council’s Code of Conduct as defined in paragraph 3.9 (Disrepute), Principle 3 (Objectivity) of the General Principles of the Code and paragraphs 3.1, 3.3 and 3.6 (Respect).

Paragraph 11 – Provide leadership through behaving in accordance with the principles of the Code

<i>Decision</i>	BREACH
<i>Reason for the Decision</i>	<ol style="list-style-type: none"> 1. The Panel supported the Complainant’s view that the Subject Member had not provided leadership by not behaving in accordance with the principles of the Town Council’s Code of Conduct as evidenced by him: <ol style="list-style-type: none"> a. publishing an offensive quote without reflecting on the consequences this might have on the community; b. initially denying that he had published the post and then retracting this denial; and c. publishing a statement that, whilst this was aimed at offering an apology for the offence caused, referred to his intention to continue to express himself freely for his electorate. 2. The Subject Member’s conduct was regarded as bringing their office of Councillor as well as Bognor Regis Town Council itself into disrepute. 3. On this basis, the Panel determined that there had

	<p>been a breach of Bognor Regis Town Council's Code of Conduct as defined in paragraph 3.9 (Disrepute) and Principle 7 (Leadership) of the General Principles of the Code.</p>
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Sanctions to be recommended to Bognor Regis Town Council

In view of the severity of this breach of Bognor Regis Town Council's Code of Conduct by the Subject Member, the Panel have recommended a number of sanctions to the Town Council for consideration.

1. The Clerk to the Council should report the findings of the Subject Member's conduct to Bognor Regis Town Council.
2. The Subject Member should be reprimanded publicly for his failure to abide by the Code of Conduct.
3. The Subject Member should be reminded publicly of the undertaking they signed following their election to observe the requirements of the Code of Conduct to comply with the Localism Act 2011.
4. The decision of the Assessment Panel should be published to Bognor Regis Town Council's website.
5. The Subject Member's Group Leader (or whoever agrees the allocation of committee seats) should suspend the Subject Member from all Committees and Sub-Committees of the Council for a minimum period of six months. The Subject Member will still be able to carry out his official duties as a councillor and he will be able to attend any meetings open to the public and attend any meeting of other organisations that are open to the public or he is invited to as a member of the public.
6. The Subject Member should be removed by the Council from all outside appointments to which he has been appointed for a minimum period of six months. The Subject Member will still be able to carry out his official duties as a councillor and he will be able to attend any meetings open to the public and attend any meeting of other organisations that are open to the public or he is invited to as a member of the public.
7. The proximity pass available to the Subject Member should be withdrawn for a minimum period of six months so he is only able to access the public areas of Bognor Regis Town Hall within the building's opening times. This will still allow the Subject Member to attend meetings that are open to the public and the Town Council's Full Council meetings and carry out his official duties as a Councillor.
8. The Clerk to the Council should explore what further training can be offered to the Subject Member to reinforce the requirements of the Code of Conduct and Social Media Policy, with this training to be provided within six months of the date of this decision.

Publication of the Decision

1. Following the review period, the decision of the Panel will be published to Arun District Council's website for a period of 12 months.
2. The Panel's decision will be reported to the next meeting of the Standards Committee and the Panel intend to ask the Committee to carry out a further review of whether there should be a longer timeframe for this publication.