

19 September 2017

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Complaint in relation to Councillor Lilley		
Wards affected	Not applicable		

**This report requests the Committee to consider a complaint
received in relation to Councillor Lilley**

1. Decision Required

1.1 To determine what action should be taken in relation to this complaint.

2. The complaint

- 2.1 On 27 July 2017 the Monitoring Officer received a complaint from Councillor Davies regarding a tweet that had been posted earlier that day by Councillor Lilley on his Twitter account. The tweet is contained at Appendix 1 to this report.
- 2.2 The basis of Councillor Davies' complaint was that Councillor Lilley's tweet was xenophobic and not the standard of behaviour expected of a cabinet member, or indeed any councillor.
- 2.3 On 28 July 2017 Councillor Lilley posted two further tweets apologising for his earlier comments and also closed down his Twitter account. The details of the tweets are contained at Appendix 2 to this report.
- 2.4 On 31 July 2017 the Monitoring Officer received a complaint from a member of the public regarding Councillor Lilley's original tweet on the basis that the complainant's mother is Argentinian and accordingly he was offended by the comments.
- 2.5 Councillor Davies subsequently informed the Monitoring Officer that Councillor Lilley's apology tweet of 28 July 2017 was not sufficient and sought to justify his original comments.
- 2.6 The Monitoring Officer invited both Councillor Davies and Councillor Lilley to make a statement. Councillor Davies' statement is contained at Appendix 3 and Councillor Lilley's at Appendix 4.

3. Background

- 3.1 Under the Localism Act the Council has a statutory duty to promote and maintain high standards of conduct by Members and Co-opted members of the Authority. In order to discharge this duty the Council adopted a Code of Conduct for Members which sets out the conduct expected of Members and Co-opted members of the Authority when they are acting in that capacity. The Council has also adopted Arrangements which detail how complaints in relation to Member conduct will be handled.

3.2 The Full Council agreed that as part of the terms of reference of this Committee it is responsible for promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council.

4. The Member Code of Conduct

4.1 The Members' Code of Conduct only applies in relation to a Councillor's conduct in their official capacity as a Councillor. Councillor Lilley's Twitter account (prior to its deletion) was his own personal account which stated that "*views are my own direct from the dreaming city of Rowhedge.*" It also stated that "*I'm a Borough councillor for East Donyland*".

4.2 Accordingly the first thing the Committee needs to consider is whether Councillor Lilley's comments were made in his official capacity as a Councillor. The following table contains paragraph 2 of the Members' Code of Conduct which defines in which circumstances the code applies.

2. What does the Code apply to?

- (1) You must comply with this Code whenever you -
 - (a) conduct the business of the Authority, or
 - (b) you are acting as a representative of the Authority.
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of the Authority –
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4.3 Councillor Lilley's Twitter account clearly stated that it was his personal account and by implication not an official council account. Furthermore there is relevant case law around this point. Following the decision of the First- Tier Tribunal in the case of Councillor Fareham v Hull City Council Standards Committee in 2012 the Tribunal held that "*a person is not bound by the Code of Conduct simply by being a councillor or by being known to be a councillor, he is bound by acting in his official capacity. 'Official capacity' is defined in paragraph 2 of the Code of Conduct.*"

4.4 In accordance with the Council's Localism Act Arrangements one of the Council's Independent Person's has been consulted on this complaint and has agreed that following the Tribunal's decision and applying paragraph 2 of the Members' Code of Conduct Councillor Lilley's tweet of 27 July 2017 was not made whilst acting in his official capacity and consequently is outside of the remit of the Members' Code of Conduct.

5. Options for the Committee

5.1 As this complaint falls out the Members' Code of Conduct the Committee needs to consider whether any further action should be taken under the Council's powers of self-regulation and the options available are detailed at paragraph 5.3 below.

- 5.2 The Committee needs to consider the statements made by the Councillor Davies and Councillor Lilley together with the contents of this report and determine this complaint.
- 5.3 The Committee could decide to take no further action or consider using the actions delegated to the Governance Hearings Sub-Committee; i.e.
- (a) Report its findings to Full Council for information;
 - (b) Recommend to Full Council that the councillor be issued with a formal censure or be reprimanded
 - (c) Recommend to the councillor's Group Leader that the councillor be removed from any or all Committees or Panels of the Council;
 - (d) Recommend to the Leader of the Council that the councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - (e) Instruct the Monitoring Officer to arrange training for the councillor;
 - (f) Recommend to Full Council to remove from all outside appointments to which he/she has been appointed or nominated by the Council;
 - (g) Recommend to Full Council to withdraw facilities provided to the councillor by the Council, such as a computer, website and/or email and internet access; or
 - (h) Recommend to Full Council to exclude the councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings

6. Strategic Plan References

- 6.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

7. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health, Publicity and Safety and Risk Management Implications

- 7.1 None identified.

Appendix 1



mike lilley
@lilz555

Replying to @SimonCrow and @Lewis2707

You have to fly to ascension island as the dirty argies, have a air ban. It's about 6k for the flight as well.

27/07/2017, 13:13

Appendix 2

“Sorry if my remark gave offence I guess in the invasion of my mums homeland when my great aunt was killed I forgot my place”

7.10 AM- 28 Jul 2017



Appendix 3

Councillor Davies' comments

"I became aware of Cllr Lilley's original tweet which I understand was posted at about lunchtime on 27th July. The tweet stated, "You have to fly to ascension island as the dirty argies, have a air ban (sic). It's about 6k for the flight as well."

The following morning at 7.10 a further tweet was posted which said, "Sorry if my remark gave offence I guess in the invasion of my mums homeland when my great aunt was killed I forgot my place." (sic)

There was a further tweet: "hi I apologise for my remark I made it was unacceptable so sorry if it gave offense (sic). My family suffered so its still close to my heart."

Whilst I am sympathetic to Cllr Lilley's family history and the horrors of the Falkland conflict, I do not feel that it is warranted to have made the original tweet.

I do not accept the second and third tweets to be apologies – they are attempting to justify the original message.

As a councillor and portfolio holder for public safety, Cllr Lilley should be able to demonstrate that he will treat everyone in a fair and equitable manner. I believe this tweet illustrates a natural prejudice held by Cllr Lilley, which is one that does not allow him to be impartial. If, for example, a conflict between two residents was to arise and one had Argentinian heritage, I would not be confident that Cllr Lilley would be able to put aside his natural prejudice and treat each person fairly. I believe a person (or group of people) of Argentinian heritage would be treated less favourably.

The fact that the tweet was written at all demonstrates a deep-seated prejudice. All councillors should be aware of their own natural prejudices – most people have them. But councillors should also have the emotional intelligence to recognise their own natural prejudices and be able to deal with them in an appropriate way.

Whilst I think Cllr Lilley is a good ward councillor and a decent person, I do not feel that it is realistic for him to continue as portfolio holder for public safety when he has shown that he is not able to manage his own prejudices and I feel that if he were to continue in the role, he could potentially act against the interests, and to the detriment of, persons with Argentinian heritage."

Appendix 4

Councillor Lilley's comments

"I would like to start by offering my deepest apologies to anyone and everyone I may have offended by my comments on Twitter regarding a conversation about flying to the Falkland Islands. It was never my intention to offend anyone and I am sorry for the upset it has caused. I didn't think about what I wrote it just came out and for that I apologise. For years growing up my dear late Mum had told me and my brother and sisters about her homeland where she was born and raised, The Falkland Isles. My relatives originally came from Enniskillen in Ireland but were forced to move like so many families, so the Skilling's moved to Scotland where they settled, after a few years one of the sons saw an advert for sheep farmers in a place 8,000 miles away called the Falklands. He signed up and set sail with others. On the way they stopped at Portugal and on the long trip down he met a Portuguese woman and they became close and got married on the ship. They settled down to life on the Islands.

My mum went to school in Uruguay and she won a scholarship to Cambridge but she had to take an exam so she came to England and stayed.

When the invasion took place all the Islanders were moved out of their homes by gunpoint and taken off, then the soldiers took over the homes, when they were living there they used the inside as a toilet as it was cold outside. So when they all moved back in after the War they found the mess, which is why my Mother and others called them that name. She would always get the Penguin News delivered and would read the news out what they Argentinians were up to but she always called them that name. I guess it stuck in my mind and that's why I tweeted it, I have no other explanation, it was just a stupid remark made in a moment of talking about where we all come from. I forgot, that not everyone knew my family history of where they come from so I can see now how it must look to people, i guess my Mum taught me something that I learnt which should not have been taught.

I have never met an Argentinian and I certainly do not hate them or anyone else to that matter .I have no fear of Foreigners ,in fact I believe people from other nations have made this Country better and I certainly am proud I come from Irish, Scottish, Portuguese, English stock. I do not hate anyone, it's not a word I recognize, I believe we are all one Race, the Human Race. It's not in my nature to hate anyone, my Mum did because of what happened during the War, it was over 30 years ago but she never forgot what they did to her family and she told us every day.

I made a stupid remark and will accept what the Committee decide, I am disappointed to be before the Committee as I'm not a bad person, I am proud to have helped so many people as a Councillor especially helping a homeless person find a place to live. It made me glad to have done a good job.

Thank you for your listening! Sorry to have wasted all your time due to my stupid tweet.

I have deleted my account and will never go back as it's now a horrible place full of nasty trolls who love it when you make a human error which I'm paying for. I'm not perfect, I made a mistake and once again I am so sorry for offending anyone."