



STROUD DISTRICT COUNCIL

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Date: 22 June 2020

Dear Sir or Madam,

Re: Complaint(s) against Councillor Debbie Young

Further to your email(s) indicating that you wish to make a complaint under the Code of Conduct against Councillor Debbie Young, I set out below my assessment of the complaint.

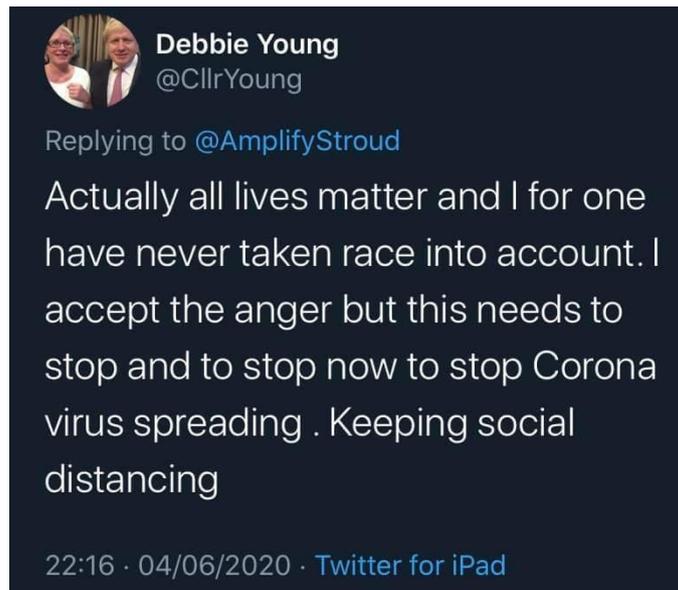
I would make it clear at the outset that in assessing the complaints I have applied the law and not concerned myself with the merits or otherwise of the current debate around the Black Lives Matter movement.

In view of the nature of the issues raised, the clear strength of feeling expressed in the complaints and the necessity to ensure that elected members at Stroud District Council have clear guidance as to their conduct, particularly in relation to social media, I sought the opinion of leading counsel who concurred with my conclusions.

The Complaints

On the 8th of June 2020 I started to receive complaints alleging a breach of the Stroud District Council Code of Conduct against Councillor Debbie Young. In total I received 42 separate complaints. The complaints followed a similar format and related to Councillor Young's Twitter activity. I also received a further 15 emails complaining that an apology published by Councillor Young, in effect, was insincere and did not go far enough.

On the 4th June 2020 Councillor Young tweeted the following in response to a tweet by Amplify Stroud which showed a video of a demonstrator giving a speech to protestors outside the Stroud Sub Rooms:



On or about the 6th of June, Councillor Young re-tweeted two tweets which are set out below. The first was by Katie Hopkins. The second was by someone with the Twitter handle Albert Clutterbuck who is alleged by the complainants to express right wing views. The re-tweets are set out below.





Given that it is my role to carry out an initial assessment as to whether there has been a breach of the Code of Conduct, there is no necessity for me to set out the complaints in detail. Rather, I will summarise the complaints which all relate to both the tweet by Councillor Young and the two that she re-tweeted. In short, they allege that Councillor Young's own tweet is detrimental to the Black Lives Matter movement and that the tweets of Katie Hopkins and Albert Clutterbuck are racist.

A large number of the complaints contain the same wording. The re-tweet of Katie Hopkins comments appears to have caused the most offence and led to the most complaints.

The complainants suggest that, in re-tweeting the comments of those considered to be racist or hold what are perceived to be extreme views; Councillor Young has promoted racist and / or offensive views.

Furthermore, it is suggested that in re-tweeting those views, Councillor Young has associated herself with the views of the authors of those posts generally. I have also received complaints that Councillor Young has, in the past re-tweeted viewpoints that the complainants find offensive.

The complainants allege that Councillor Young has breached Paragraphs 3.1 (c) and (f) of the Code of Conduct adopted by Stroud District Council, though the main allegation relates to Paragraph 3.1 (f) which refers to the Equality Act.

It is also pertinent to state that, in terms of the actions the complainants have asked to be taken, the Council is asked to 'sack' Councillor Young or have her removed from office. It is important that I manage expectations appropriately and make it clear that members are elected and cannot be removed from office as a sanction under the Code of Conduct regime in England. Neither can elected members be suspended either during an investigation or as a sanction.

Councillor Young's Response

Upon receipt of the first complaints, I contacted Councillor Young to ask her about the tweets which were, at that point, still on her Twitter feed.

Councillor Young explained that the context and motivation for her own tweet was in response to the fact that people were congregating in Stroud to protest despite the legal requirements around social distancing. She informed me that her intention was to say that she believed that all lives mattered and that she had not personally taken race into account i.e. treated a person less favourably on grounds of race. Councillor Young said that she accepted and acknowledged that there was anger around the issue, but that she wanted to urge people not to break social distancing guidelines.

As matters progressed and some of the demonstrations became violent with attacks on the police and property elsewhere, Councillor Young was concerned that the Black Lives Matter movement was being overshadowed by individuals with a different agenda. She informed me that she felt strongly that the violence was wrong and was not going to achieve the change that the BLM movement was advocating, in fact, Councillor Young felt that violent protest would achieve the opposite. It was in this context, and out of her sense of indignation at the violence against the police and resulting property damage that she re-tweeted the comments referred to above.

In hindsight, Councillor Young accepted that her actions in re-tweeting those views was unwise given the current climate and recognised that they had caused concern and upset to those in support of the BLM movement. An apology (reproduced below) was published on Councillor Young's Twitter account on the 10th of June 2020 and any reference to the tweet and re-tweets was removed.

As mentioned above, since Councillor Young published her apology, I have received a number of complaints that her apology did not go far enough or was insincere. The majority of those received are a standard format as follows:

It has come to my attention that Councillor Debbie Young has apologised for her previous retweets of far right racists. Her apology is, I am saddened to say, completely insufficient. It has not quelled the dismay felt at her actions, as it at no point states that her actions were wrong.

For good faith to be restored, I would ask that she issue a further apology that accepts responsibility for, and an appreciation of, what she has done. I ask that Councillor Debbie Young be required to remove all offending tweets, including those promoting the slogan "all lives matter" which I am sure you are aware is a popular way to silence the black lives matter movement. She needs to state in her apology a recognition for the hurt that her tweets have caused and reassure us that she will endeavour to better understand how to show support for the BAME in her community. To this end she needs to outline what she will be doing to ensure that racism is no longer tolerated, however casual, in Chalford.

Councillor Young's Apology

On June 4 2020, in response to the mass protests taking place as a result of the tragic death of George Floyd, I used social media to promote equality. I stated that all lives matter and that I had never taken race into account.

At the same time, I said I understood there was anger following George Floyd's tragic death, but urged protests involving large numbers of people to stop in order to avoid spreading Coronavirus, highlighting the need to maintain social distancing. My concern was for people's safety due to the potential spread of Coronavirus.

Some of the protests escalated into violence on June 6 and I re-tweeted comments made by two individuals. I accept that in doing so I may have caused concern and upset by my comments and in re-tweeting these posts. This was never my intention. I sincerely apologise for any offence caused.

This was in no way an indication of support for the views of those individuals. Neither was it a reflection of my values or my long-held beliefs on equality. I abhor racism in any form. I have worked tirelessly throughout my life to promote equality and to oppose racism. I have always served my community to the best of my ability, treating everyone equally and without prejudice. I will continue to fight against racism and to promote equality in all our communities.

The Code of Conduct

All elected members must comply with the Code of Conduct ('the Code') adopted by the authority of which they are a member.

The Code applies to all members of the Council whenever they are "*acting, or appearing or purporting to act, as a member of the Council; or whenever the member is acting, or purporting to act, as a representative of the Council.*"

The first exercise I have to carry out is to assess whether Councillor Young was acting, appearing or purporting to act as a member of the Council.

Given that Councillor Young uses the style @CllrYoung for her Twitter account and that she has made political comments, it is my view that Councillor Young has appeared or purported to act as a member of the Council and therefore the Code of Conduct is engaged.

For completeness, it is my view that, in the circumstances, Councillor Young was not acting as a member of the Council and neither was she acting or purporting to act as

a representative of the Council. Her actions were based on a personal political response using a Twitter feed for her own use.

In terms of the parts of the Code that are alleged to be breached by Councillor Young's actions, these are set out below and are mandatory.

3.1 Members must

(c) Not conduct themselves in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(f) Not do anything which may cause the Council to breach the Equality Act 2010;

Whilst the majority of the complainants referred to Paragraph 3.1 (f), some referred to Paragraph 3.1 (c) which, for reasons I will set out below, would be the more appropriate provision in the circumstances of this case.

Process

In determining complaints under the Code of Conduct I have to follow the procedure set out in the Council's standing orders - The Procedure for Assessing Allegations of Breaches of the Member's Codes of Conduct Applying to Stroud District Council and Parish and Town Councils within the District of Stroud.

<https://www.stroud.gov.uk/media/208436/members-code-of-conduct-investigations-procedure-section-7.pdf>

The relevant paragraph, 1.5 states that I will make an initial assessment of the evidence to decide whether there is a "*prima facie case of a significant breach of the Code*" The purpose of this preliminary step is to decide if the matter should be investigated.

The procedure goes on to provide that even if I consider there to be a prima facie case of a significant breach of the Code of Conduct, I may deal with the complaint without the need for a full investigation.

In carrying out this preliminary determination I have effectively informally investigated the circumstances around the complaint of a breach of the Code in any event.

Paragraph 1.6 provides that if I consider that "*there is no prima facie case of a significant breach of the Code*", I must write to the complainants informing them of this and stating that I "*do not intend to investigate the complaint, or do anything further*".

If I consider that there is a prima facie case of a significant breach of the Code that should proceed on a formal basis, the process is set out in Paragraph 1.7.

Ultimately, any formal investigation would be referred to the Standards Panel for it to decide whether there has been a breach of the Code and whether any sanction is appropriate.

Even if I believed that a full investigation is merited, I have the authority in consultation with the Independent Person to secure an informal resolution of any complaint rather than to proceed to a full investigation and reference to the Standards Panel.

Findings of Fact

Whilst the issue is complex, the factual matrix of the actions leading to the complaints is straightforward. The complaints relate solely to Councillor Young's Twitter activity which is not in dispute.

The issue to be determined is whether Councillor Young's actions constituted a significant breach of the Code of Conduct and, if so, whether it would be appropriate to refer the matter to the Standards Panel

Analysis

At the outset, I would make it clear that I have to apply the law and not form value judgements about points of view. It is also important to point out that there is a difference between what is unlawful and matters of opinion which differ or where there is disagreement over viewpoints - no matter how forcefully held- on either side.

As mentioned above, the complaints relate to both Councillor Young's tweet and the two comments that she re-tweeted.

Before I go on to consider these, I will say firstly that Paragraph 3.1 (f) is not applicable. Even if I considered her comments to be in breach of equality legislation, Councillor Young was not acting in her role as a Councillor, was not acting as a representative of the Council and the Council had no involvement in the activity. Councillor Young carried out any activity on her own account. Therefore, it cannot be said that Councillor Young caused "*the Council to breach the Equality Act 2010*".

The Council has made its corporate position very clear with a statement to the media and more recently the statement made by the Leader at Strategy and Resources Committee.

I am therefore confining my consideration to Paragraph 3.1(c) and will determine whether Councillor Young conducted herself in a manner which could reasonably be regarded as bringing her office into disrepute. As I have already concluded that there is no question that Councillor Young was acting on behalf of the authority either expressly or by implication, I will only consider whether her actions brought her office into disrepute.

In order to decide this question, it will be necessary to look at the nature of the statements contained in the tweets and also to consider the point made by the complainants that, in re-tweeting the comments made by Katie Hopkins and Albert Clutterbuck, Councillor Young was associating herself with their ideology generally. In order to do this I will consider the tweets separately.

Councillor Young's Tweet

As I stated above, Councillor Young made the comment in response to a tweet by Amplify Stroud which showed a video of a demonstrator giving a speech to protestors outside the Stroud Sub Rooms. It is clear that Councillor Young took issue with the fact that a gathering had taken place and felt strongly enough to comment.

A literal interpretation on Councillor Young's tweet is that it is a matter of personal opinion and cannot be considered to be racist. There was nothing pejorative in her comment or anything which was mocking or contained disapproving elements based on race. It was a statement of her point of view.

The argument being advanced by the complainants is that the use of the term "all lives matter" represents a political proposition put forward to seek to diminish the Black Lives Matter movement.

Alternatively, it is suggested that a view that all lives matter misses the point of the Black Lives Matter cause, the basis of which is that, until it is accepted that issues of racism need to be addressed – i.e. that black lives matter - then one cannot reasonably advance an argument that all lives matter.

Whatever the view of the complainants, it appears that Councillor Young intended to, and did, convey her personal viewpoint that all lives matter and that she had not taken race into account – i.e. that she treated everyone equally / not less favourably due to race.

Councillor Young makes it clear that she accepts that there is anger around the issue which tends against a suggestion that she is seeking to diminish the reason for the protest from an ideological standpoint.

The second element of the message in the tweet, which was in response to the gathering of protestors, is an appeal to people to observe social distancing.

My conclusion is that, whether or not it was wise for Councillor Young to enter into the debate given the strength of feeling, the tweet was not intended to be and was not capable of being construed as racist or intended to diminish the Black Lives Matter cause.

Katie Hopkins Tweet

Ms Hopkins is known for expressing forthright views which may be considered to be / are designed to be provocative. The complainants allege that she is racist / makes racist comments. In carrying out this exercise, I can only consider the tweet which is the subject of this complaint, it is not appropriate for me to make value judgements on the propriety or accuracy of the statement made.

Whether one agrees with the proposition contained in the tweet or not, it was a statement of the author's opinion and does not contain any pejorative element based on race.

I am aware that Ms Hopkins has since been permanently removed from Twitter for breach of its policies on hateful conduct. As I have stated above, I can only assess the complaints on the basis of the tweet complained of.

Albert Clutterbuck Tweet

As with the previous tweet I can only comment on what is said, which again was a matter of opinion - whether accurate or not. It is certainly a sweeping and unfortunate statement impugning the BLM movement as a whole when the violence had been perpetrated by a minority, the majority of protest having taken place peacefully and without incident. However, like the Katie Hopkins tweet, no matter what the views of the author generally, this tweet cannot be construed to be racist in content.

On the basis that I have concluded that, in my opinion, neither Councillor Young's tweet nor those that she re-tweeted were racist, it cannot be said that the complaints are made out or that Councillor Young's actions brought her office into disrepute. I will also comment below on the impact of freedom of expression in the context of things said by Councillor Young whilst making political statements.

In addition to the complaints relating to the content of the tweets, the complainants allege that in re-tweeting them, together with a suggestion of historical re-tweets of similar content, Councillor Young has furthered racist views and generally associated herself with the views of the authors - in other words, guilt by association. Councillor Young makes it clear in her apology that the re-tweets were not an indication of support for the views of those individuals and neither was it a reflection of her values or beliefs.

It seems to be perceived on social media that in 'liking' a Facebook post or re-tweeting a tweet, one is not only expressing approval of that particular comment but also associating oneself with all that the commentator stands for and anything they have said previously. It is a matter of opinion as to whether that is a reasonable viewpoint, and it will clearly be a matter of degree depending on the context with each case being considered on its merits. However, I think that this would be going too far in this case.

Freedom of Speech

Even if Councillor Young's actions were capable of bringing the office of councillor into disrepute, they would in my opinion fall clearly within the ambit of Article 10 of the European Convention which provides that;

- 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...*
- 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions and*

penalties as are prescribed by law and are necessary in a democratic society, ... for the protection of the rights and interests of others...".

The Strasbourg Court has recognised the particular importance of freedom of expression in the political sphere and that what is said by elected politicians is subject to enhanced protection, i.e. a higher level of protection, under article 10

The High Court has considered this issue on a number of occasions and the general approach to apply, is to consider the councillors actions by posing three questions, namely:

- Would the Standards Panel be entitled as a matter of fact to conclude that Councillor Young's conduct was in breach of paragraph 3.1(c)?
- If so, would the finding in itself or the imposition of a sanction *prima facie* be a breach of Article 10?
- If so, was the restriction involved one which was justified by reason of the requirements of Article 10(2)?

I have already concluded that Councillor Young's actions were not a breach of Paragraph 3.1 (c) and as such, the first question would be answered in the negative.

However, if I am wrong in that conclusion, one would have to consider whether the finding or any sanction would be a *prima facie* breach of Article 10. It is my view that both such a finding and any sanction would be a *prima facie* breach of Article 10. This is because both would impact upon the councillors' ability to exercise her freedom of expression and prevent her from expressing her views on a given subject.

What Councillor Young wrote and re-tweeted was lawful. The tweets were not directed at the complainants and it appears to me that most, if not all of the complainants, went looking for tweets on Councillor Young's Twitter account as a result of her commenting on the Amplify Stroud Twitter feed.

Given the divergence of views between Councillor Young and the complainants, it seems improbable that they follow her. Neither can it be suggested that the tweets were directed at the complainants personally; in effect, they chose to read the tweet and re-tweets.

It is clear from the language used in the complaints that the complainants profoundly disagree with Councillor Young's views but that is the nature of freedom of speech. It is perhaps not generally understood that anyone is entitled to say what they like of or about someone provided they do not act unlawfully. "*Free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative*" (Sedley LJ -Redmond-Bate v Director of Public Prosecutions (1999) 7 BHRC 375, [20])

Assuming that any action would be a breach of Councillor Young's Article 10 rights, it would then need to be considered whether a finding of breach of the Code and any

sanction would be justified. Based on the particular circumstances of this case, I do not believe that any action or restriction imposed under the Code of Conduct would be justified.

Decision

There is no prima facie evidence of a significant breach of Paragraph 3.1(c) of the Stroud District Council Code of Conduct and as such I do not intend to carry out an investigation or do anything further.

Whilst it is an academic point given my determination, had I decided that there was a breach of the Code, I would have dealt with it informally given Councillor Young's apology and her actions in seeking to diffuse the situation by deleting the tweets.

Notwithstanding that she has not breached the Code or acted unlawfully, I am satisfied that Councillor Young fully appreciates the depth of feeling generated by her actions and informs me that she has taken steps to ensure that she understands both sides of this debate.

I have also spoken to the Conservative Group Leader who has agreed that Councillor Young will undertake any race awareness training that the Council is currently arranging.

Independent Person

If you are unhappy with my decision not to investigate, you are able to ask for the matter to be referred to an independent person to review my decision. A request must be made within 10 working days of the decision being communicated to you.

Yours faithfully



Patrick Arran
Interim Head of Legal Services & Monitoring Officer