

Date: 21 July 2020
Our Ref: [REDACTED]
Email Address: chiefexecutive@hart.gov.uk
Direct Line: 01252 622122



Mr Adam Goulder

Via Email: [REDACTED]

Hart District Council,
Harlington Way,
Fleet, Hampshire
GU51 4AE

Telephone: 01252 622122
www.hart.gov.uk
DX: 32632 FLEET

Dear Mr Goulder

1. I refer to your complaint about the conduct of Cllr Steve Forster.
2. I have investigated the complaint in accordance with the FEBRUARY 2020 LOCALISM ACT 2011 SECTION 28 – CODE OF CONDUCT ARRANGEMENTS FOR DEALING WITH ALLEGATIONS [the Arrangements] which can be found at https://www.hart.gov.uk/sites/default/files/4_The_Council/Councillors/Help_and_advice/Arrangements%20for%20dealing%20with%20Allegations%20draft%20February%202020%20versG.pdf.
3. I have considered your complaint details and the additional information that you have submitted, and I have forwarded all correspondence to both the Independent Persons appointed by the Council under Section 28 of the Localism Act and the Chairman of the Standards Committee.

THE DECISION

4. Setting aside the question of which Code of Conduct should apply (the matter could also be one for Hampshire County Council), the decision is that whatever the circumstances the Hart District Council Members Code of Conduct does not apply. The matter complained about was not related to Cllr Forster acting in any official capacity (perceived or otherwise) as a representative of Hart District Council.

REASONING

Code of Conduct

5. The Hart Code of Conduct https://www.hart.gov.uk/sites/default/files/4_The_Council/Councillors/Help_and_advice/Code%20of%20Conduct%202019%20v.08%20Feb%202020.pdf says:

The rules of good conduct apply to you whenever you act in your official capacity [my emphasis]. This includes whenever you conduct business of the Council or act, claim to act, or give the impression or reasonable perception that you are acting in your official capacity [my emphasis] as a representative of the Council which includes when using social media.

6. Cllr Forster is a 'dual-hatted' Councillor – he is both a Hart District Councillor and also a Hampshire County Councillor. In common with many other Councillors, Cllr Forster has a social media account. Using that account, he posts on various forums. He uses it in general to promote discussion on matters of local interest which might be about council business (either Hampshire or Hart) and might also be considered to be aspects of local political activism. The social media account is not published or sanctioned by either Hart District Council (Hart) or Hampshire County Council (HCC). Cllr Forster makes it clear in his account that he is both an HCC and a Hart Councillor but that the views and opinions expressed are personal. "*For official [my emphasis] comment or reply*" he asks that people use his respective steve.forster@hants.gov.uk or steve.forster@hart.gov.uk email accounts.
7. This does not mean that all his comments made through his Cllr Facebook persona are exempt from the Code of Conduct, but it does raise the threshold as to the test of the application of the Code of Conduct. The actions of the Councillor has to be directly related to official council business. Only then will the Code of Conduct be engaged.
- The Complaint**
8. The complaint relates specifically to a private Messenger exchange between you and Cllr Forster. The exchange is from his own private account and not his "Councillor" persona. They are quite separate accounts. Although the exchange was initiated by Cllr Forster, both you and Cllr Forster accept that it was a private exchange. This is confirmed in the information submitted by you within Appendix A of your complaint when Cllr Forster is recorded as saying: firstly "*...this is my personal page*", and then "*You're welcome to email my Hart or Hampshire email if you wish officially [my emphasis] to raise anything*".
9. Your response is to acknowledge the point when you say "*I will do so in future via your public cllr pages and contact methods if required. Thanks.*"
10. On this understanding this exchange was not related to any official council business (neither HCC nor Hart), irrespective of its context or content.
- a) The Facebook Posts**
11. Cllr Forster published two Facebook Posts – one on his own Cllr persona and the other on For Fleet's Sake! – a local community group for Fleet Hampshire. The posts are dated 6 May. These posts simply comprised a link to updated Coronavirus information that had just been published by the ONS (Office of National Statistics).
12. You posted a comment in response to the For Fleet's Sake! post. Your post is not directed at anyone in particular. It also makes no direct link to Cllr Forster's post, but it is overtly political and it seeks to discuss the issue of inequality within society at large. In making this post you accept that your intent was to "*..discuss the subject with the group and hope that more information would come to light on the local picture. No response was forthcoming, so nothing further was added*".

13. The fundamental point about these posts is Cllr Forster was simply posting a link to fresh factual information that has been published by the ONS about Coronavirus. His two posts are totally benign. Other than describing the ONS data as "sad" Cllr Forster made no further comment. In posting the ONS Coronavirus data there is no suggestion from the evidence provided that he was seeking to make a political commentary or point.
- b) The Messenger Exchange**
14. Facebook Messenger is a completely private message exchange platform between two parties. You both agree this to be the case. The messages are not published. Therefore, unless one or the other parties publishes the exchange no third party would be aware of it.
15. For this exchange to have any relevance in terms of the Code of Conduct one must be quite clear as to whether the exchange relates to something associated with official council business and there has to be a public interest arising from it. Our decision is that it does not arise from or relate to any council business and no public interest arises from the investigation of a private messaging exchange.
16. You accept that you were trying to start a wider debate about inequalities – your post makes it clear that your message was overtly political and that you were talking about society at large rather than simply local matters.
17. Cllr Forster may have initiated the Messenger exchange but as Cllr Forster explicitly said in that exchange: *"If you want to have a quasi political debate on cause and blame, may I respectfully suggest you do that on a fresh post separately that you initiate"*. He goes on to say later in the exchange *"I'm focused on local issues. You're free to email your MP"*. He was plainly not talking about his own post nor local council business.
18. In our view there was no official council business involved (perceived or otherwise) and there is nothing before us that suggests Cllr Forster was doing anything other than pointing out that this was not the correct forum for such a political discussion. The exchange therefore was not taking place in the context of Cllr Forster acting in any official local council capacity - he was simply acknowledging that you were seeking to promote your own quasi political debate.
19. Cllr Forster also made it absolutely clear on a number of occasions that the exchange was taking place over his private Messenger Account (not his Cllr persona account): *"This is my personal fb page so please respect my wishes....."*; *"As I said this is my personal page."*; *" I will no longer engage in discussion on this issue. Please do not contact me here any further....."*; and *"Please do not contact me here any further. It is my private ID...."*. Finally, Cllr Forster says: *"You're welcome to email my Hart or Hampshire email if you wish officially [my emphasis] to raise anything"*.
20. All of this is acknowledged by you when you wrote: *" I will do so in future via your public cllr pages and contact methods if required. Thanks."*

21. In our view, there could have been absolutely no doubt in your mind that the Messenger platform was not being used on "official" council business nor was Cllr Foster engaging in any "official" local council capacity.
22. In these circumstances, we consider that there can be no reasonable finding, irrespective of its content, that correspondence relative to a private messaging platform which was not produced or sanctioned by the council related to council business. There is also no evidence whatsoever that when reflecting the views of others that Cllr Forster was commenting in any official council capacity. He was merely reflecting the views that he says were made to him through his social media activities. The comments he made may be uncomfortable for you, but the comments were not made pursuant to council business and therefore the Hart Code of Conduct is not in this instance engaged.

CONCLUSION

23. I appreciate that you will be disappointed with this decision but whatever the context or content for the exchange we do not see any public interest or injustice arising from a private Messenger exchange given the circumstances described above. The exchange was not public albeit that it related to a personal topic that you were seeking to advance. It was an overtly political agenda, but it was not related to official council business. In our view Cllr Forster was not obliged to engage further on this matter over a private Messenger platform and it is not for the Standards regime to interfere in a conversation that does not relate to council business.
24. This concludes our investigation of your complaint and the outcome will be published on our web page. Cllr Forster will also be sent a copy of this letter.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Daryl Phillips
Joint Chief Executive

cc Cllr Steve Forster