

MONITORING OFFICER DECISION NOTICE

Brent Members' Code of Conduct

Complaint about the conduct of Councillor Aslam Choudry

The Complaints

Three complaints about the conduct of Cllr Aslam Choudry have been considered under the council's procedure for considering complaints that the Members Code of Conduct has been breached. The complaints were received from Mr. Di Netimah, Mr. Joel Davidson and Mr Richard Geldart. The three complaints have been considered together, as they all arise from the same WhatsApp post by Cllr Choudry on a mutual aid Covid -19 WhatsApp group.

Between them the complaints allege the post breached the following provisions of the Code:

Para 3 - It is your responsibility to ensure that you are familiar with, and comply with, this Code.

Para 4 - You must maintain a high standard of conduct.

Para 5 - In particular, you must comply with the seven principles of conduct in public life set out in *Appendix 1*. In particular:

- Integrity: You should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour;
- Leadership: You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Para 7 -You must not do anything which may cause the Council to breach any of the duties under the Equality Act 2010. ¹

¹ The Council has adopted the IHRA definition of anti-Semitism

Para 12 - you must not conduct yourself in manner which could reasonably be regarded as bringing your office or the Council into disrepute.

The facts

On 1st May 2020 at 12:12 Cllr Choudry shared on the Dudden Hill Mutual Aid Group WhatsApp group (the WhatsApp group) a link to a video clip of a discussion that took place on the Real Face television channel (the Link). Cllr Choudry has acknowledged that this was an "abhorrent anti-Semitic link".

Cllr Choudry removed the post shortly afterwards, having been requested by other members of the group to do so, and at 12:18 posted on the group an apology stating it was sent by mistake. The post had at that time been seen by at least some members of the WhatsApp group.

Also on the same day, Cllr Choudry posted an apology on his Facebook page acknowledging that the content of the video clip was "untrue", "racist and unacceptable and extremely offensive". He apologised for the hurt and offence caused and said he would be seeking to undertake training on anti-Semitism.

On 1 May 2020, an article appeared in the Jewish Chronicle referring to the WhatsApp group post and the clip, as well as to Cllr Choudry's apology and statement that posting the Link

had been a mistake. The article also referred to a Facebook post previously shared by Cllr Choudry (in 2016) for which he had apologised for and explained as a mistake at that time. On 4 May 2020, an article appeared in the Brent & Kilburn Times containing similar information and details of comments made by the councillor to the paper, together with some comments made by local residents, including one that "I'm shocked and appalled...I really thought our local councillors were better than this". A further article appeared in the Jewish Chronicle on 4 May referring to the article in the Brent & Kilburn Times.

Cllr Choudry's response

Cllr Choudry provided a written response to the complaint received on 21 May 2020.

Cllr. Choudry first explained how the post to the WhatsApp group came about, in summary:

- He was a member of the Dudden Hill Mutual Aid Group, which he helped to set up with Cllr. Hirani to help the constituents of Dudden Hill relating to COVID-19, on his **personal iPhone**.
- He was also a member of the Alperton Mutual Aid Group on his **council iPhone**.
- He received the Link on his **personal iPhone**.
- He noticed there was some useful and practical advice on the Alperton Mutual Aid Group which he wished to share with his Dudden Hill Mutual Aid colleagues concerning how best to liaise services.
- He inadvertently shared the Link from his **personal iPhone** to the Dudden Hill Mutual Aid Group rather than sharing the Alperton Mutual Aid Group information.
- He has certain eyesight related issues, which had not helped.

He stated he "absolutely and unequivocally" had not intended to share the Link to the Mutual Aid Group and removed the post from the WhatsApp group as soon as the group "Admin" brought it to his attention, and subsequently removed himself from the WhatsApp group and the Alperton Mutual Aid Group.

In terms of the video itself, he stated:

- He was not aware of the full contents of the video clip at the point he shared it to the WhatsApp group, only opening it when his attention was drawn to the post by the group "Admin".
- He does not share the views stated in the video clip, and
- As a councillor is "truly proud that we at Brent have adopted motions against all forms of hate, the IHRA definition of anti-Semitism and Islamophobia" and referred to his personal contribution in relevant debate in the chamber.

Cllr Choudry acknowledged that he had fallen below expected standards of behavior, in particular stating:

- He had "fallen short by unknowingly sharing the wrong link".
- His action had "caused hurt and harm to so many people".
- "I understand that I cannot undo the harm that my carelessness has caused".
- "I appreciate faith will not easily be restored".

Cllr Choudry commented on his record in respect of community and councillor work, including:

- That he has "no prejudice against any faith, or individual view points" and "always acted to stop any form of discrimination."
- That his "commitment to work with the Dudden Hill Mutual Aid Group irrespective of faith" is demonstrated by his close working with Cllr. Hirani and "Admin" people

concerned with the group, emphasising the need to work closely with the Council in “handling the cash with absolute care and transparency” and to “help the residents of Dudden Hill regardless of any other factors”.

- That in his long career working both overseas and in the UK he had never been accused of being biased or prejudiced, while managing many people of different backgrounds and faith.
- He referred to his community work as a councillor and in the voluntary sector and referred to his “total commitment to work with communities irrespective of their belief, religion, race and gender”.
- He referred to his position as Chair of the Audit and Standards Committee and stated that under no circumstances would he “think about sharing a message of this nature in my capacity as a Councillor - a prominent position in the public domain.”
- He refers to his activities as Mayor of Brent including money raising and events involving faith groups of different nationalities and to working alongside different communities. He refers to an occasion when anti-Semitic graffiti appeared in his Ward and he was involved in ensuring its prompt removal. He also referred to his role on the Standing Advisory Council on Religious Education.

He apologised for posting the Link, in particular stating:

- “I wish to apologise unreservedly for this human error.” and that he is “remorseful and embarrassed”;
- “it is an unfortunate human error and no malice. I apologise wholeheartedly”;
- “I want to take the opportunity once again to apologise for my actions and for the harm caused”.

Cllr Choudry concluded by emphasising he greatly values the work and the role of being a councillor and wants to rectify the position and make amends, being “willing to accept advice and guidance as well as IT and social media training so nothing like this ever happens again”.

He also provided copies of a public press release and his Facebook statement released on 1st of May 2020.

The scope of the Members’ Code of Conduct

All local authorities are required to adopt a code of conduct “dealing with the conduct that is expected of membersof the authority when they are acting in that capacity.” (s27(2) of the Localism Act 2011).

The Council’s Members’ Code of Conduct states that “This Code applies to you as a member of Brent Council” (para. 1(1)) and sets out its scope at para 2(1):

“You must comply with this Code whenever you –

- (a) Conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) Act, claim to act, or give the impression you are acting as a representative of the Council,

and references to your official capacity are construed accordingly.”

I take the view that the words “a representative of the Council” should be broadly understood, and that acting or giving the impression of acting as a *councillor* should be equated with acting as a *representative* of the Council, which maintains the important distinction between councillors’ personal and public actions.

Decision

In accordance with the Members' Code of Conduct Complaints Procedure, before deciding the outcome of this complaint, I consulted the Council's Independent Person and have taken his views into account.

Cllr Choudry has not disputed posting the Link to the WhatsApp group or that the Link was to anti-Semitic material. He has acknowledged that uploading the Link fell below expected standards of behaviour. The only factual issue is whether Cllr Choudry posted the Link by accident or deliberately. Only the councillor is in a position to know the factual position in relation to this and I must therefore take a view based on his statement in relation to the question and what is suggested by the surrounding circumstances. In accordance with the Assessment Criteria set out in section 2 of Annex 1 to the Code of Conduct Complaint Assessment and Determination Procedure, I have therefore been able to conclude that there has been a breach of the Code of Conduct without an investigation.

The first question I need to address is whether the alleged conduct falls within the scope of the Code. This is not a straightforward question.

The video extract itself is certainly not related to any council business. Nor does it appear to be related to any constituents business or to any other activity with Cllr Choudry's remit as a councillor. The clip is available in the public domain. The Mutual Aid Group to which the WhatsApp group relates was not set up or sponsored by the council but rather self-organised in the community.

However, it is also important to consider the wider context in which the Cllr Choudry was involved in the WhatsApp group. The LGA publication "A councillor's guide to civil emergencies" emphasises the important role councillors have in a civil emergency, providing information and support to residents. While previously this could be done face to face, the lockdown has meant many councillors have used social media to fulfil this role. I note that Cllr Choudry refers to the Dudden Hill Mutual Aid group as having been set up by himself and his fellow ward councillor, Cllr Hirani, and that the name he uses in the WhatsApp group set up for the Mutual Aid group is Cllr Choudry. Participation in the group by Cllr Choudry is clearly at least partly referable to his position as a local councillor and he gave the impression he was acting in that capacity.

The matters complained of, therefore, fall within the scope of the Code.

Having considered Cllr Choudry's explanation of how he came to copy the Link into the WhatsApp group and his assertion that he had no intention to do so, on balance I accept that he did not intentionally or knowingly share a link to material he agrees is anti-Semitic to that group.

The broader issues of how the Link came to be readily available on Cllr Choudry's phone, or how he came to copy that link before posting it to the WhatsApp group, while serious matters, are outside my remit to consider.

However, accepting that the Link was posted to the WhatsApp group in error is not the end of the matter. In participating as a councillor in a WhatsApp group with residents, Cllr Choudry is required to comply with the Code. It is clear that if, as I accept, the Link was not intentionally posted to the WhatsApp Group, Cllr Choudry did not take sufficient and/or appropriate care in making his post to the group. He did not check that the Link being posted was the correct one and as a consequence circulated to a significant number of residents what he himself describes as an "abhorrent anti-Semitic link".

Turning now to consider whether specific provisions of the Code have been breached.

Para 3 - It is your responsibility to ensure that you are familiar with, and comply with, this Code.

Cllr Choudry has attended the mandatory training in respect of the Members Code of Conduct. I consider below whether he has failed to comply with specific provisions of it.

Para 4 - You must maintain a high standard of conduct.

As described above, Cllr Choudry has acknowledged that he had fallen below expected standards of behavior.

Para 5 - In particular, you must comply with the seven principles of conduct in public life set out in Appendix 1. In particular:

- Integrity: You should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour;
- Leadership: You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Integrity – by failing to take proper care in posting a link to the WhatsApp group, and as a result circulating the Link complained of to a significant number of local residents Cllr Choudry gave the appearance that he supported the views expressed in the video to which the Link led. He has acknowledged those views are anti-Semitic, particularly taking into account the definition of anti-Semitism adopted by the Council.

Leadership - Cllr Choudry has acknowledged that he has acted in a way that has undermined public confidence, and has stated that “I understand that I cannot undo the harm that my carelessness has caused.” And “I appreciate faith will not easily be restored”.

*Para 7 - You must not do anything which may cause the Council to breach any of the duties under the Equality Act 2010.*¹

¹ The Council has adopted the IHRA definition of anti-Semitism

The posting of the Link by Cllr Choudry is not capable of causing the council itself to be in breach of any of its duties under the Equality Act 2010 and so I do not consider there has been a breach of this particular provision. That the council has adopted the definition of anti-Semitism referred to is of course relevant to considering his behaviour by reference to other provisions of the Code.

Para 12 - you must not conduct yourself in manner which could reasonably be regarded as bringing your office or the Council into disrepute.

The posting of the Link has been the subject of adverse comment by residents and in the media. Cllr Choudry acknowledges that he has “caused hurt and harm to so many people and that “faith will not easily be restored”. I do not consider this has brought the council into disrepute. Cllr Choudry was acting as a ward councillor but was not undertaking any formal role that he was appointed to by the Council in his participation in the WhatsApp group. He has not sat as Vice-Chair of the Council’s Audit and Standards Advisory Committee or Chair

of the Audit and Standards Committee since the incident. I do consider that he has brought the office of councillor into disrepute.

In conclusion, I consider that Cllr Choudry breached paragraphs 4, 5 and 12 of the Members Code of Conduct in uploading the Link to the Dudden Hill WhatsApp Group.

Sanction

In considering the appropriate sanction it is relevant to take note of the actions already taken by Cllr Choudry to seek to remedy the breach. Since posting the Link Cllr Choudry has:

- a) promptly deleted the offending material from the WhatsApp page,
- b) removed himself from the WhatsApp group,
- c) acknowledged that his behaviour fell below expected standards,
- d) apologised publically,
- e) offered to attend training on anti-Semitism and on IT and social media.

On the other hand, as Cllr Choudry acknowledges, his action has caused “harm and hurt” to many people.

It should also be noted that all councillors have been provided with advice about careful use of social media, in particular, Monitoring Officer Advice Note 27 issued to all councillors included the following advice:

“Sharing posts

- Do not share a post unless you have read it/seen the video and want to be associated with it. This applies to ‘liking’ a post and to re-tweets.”

In all the circumstances, I consider the appropriate sanction in this instance to be as follows:

- 1 Cllr. Choudry to be requested to:
 - a. attend council training on the appropriate use of social media (I note he has already stated publically he will be attending training on anti-Semitism);
 - b. provide a written apology to be placed on the council’s website.
- 2 The council’s Labour Group to be invited to consider whether it is appropriate that Cllr Choudry retain his position on the Council’s Audit and Standards Committee and Advisory Committee;
- 3 This decision notice to be published on the council’s website for 6 months and reported to the Audit & Standards Advisory Committee.

In accordance with the Members’ Code of Conduct Complaints Procedure, as far as the complainants are concerned my decision is final and there is no right of appeal or right of internal review against my decision.

As far as Cllr Choudry is concerned, he may request in writing within 10 working days of receiving this decision notice that I review my decision that he breached the Code of Conduct and/or the sanction imposed. The reasons for requesting a review must be given and any new supporting documentation provided.

Debra Norman
MONITORING OFFICER, BRENT COUNCIL
5 June 2020