

People Scrutiny Commission

Supplementary Information
issued further to the meeting of the
commission held on 26 September 2022



Agenda item 8 - Fact-finding report - Use of social media by council staff in respect of the Bristol Parent Carer Forum

Additional documents, including responses to member and public questions:

Further to the meeting of the People Scrutiny Commission held on 26 September, the following additional documents are enclosed/published in connection with Agenda Item 8: Fact-finding report - Use of social media by council staff in respect of the Bristol Parent Carer Forum:

1. A document setting out:
 - a. responses to questions raised at the meeting.
 - b. the responses to written public questions 11-16.
2. A guidance note on systematic monitoring, as referenced in the response to the question asked by Cllr Parsons at the meeting.
3. An amended version of the fact finding report – minor adjustments have been made on page 7, as referenced in the response to the first supplementary question raised at the meeting by Jen Smith.

Issued by: Ian Hird, Scrutiny Advisor

E-mail: scrutiny@bristol.gov.uk

Date: Monday, 17 October 2022



People Scrutiny Commission Questions

Questions raised during Commission meeting

Question	Questioner	Response
<p>'The report states I was there (SENDIASS meeting) as a parent carer forum member, this is not true. So to claim otherwise in an official report is defamation. Why has Bristol City Council done this?'</p>	<p>Jen Smith</p>	<p>We have amended the report to correct this point. This does not however impact upon the conclusions of the report, as was set out in responses to the questions put to officers at the Scrutiny meeting and set out again here: This is a very nuanced area. Contact and the National Network of Parent Carer Forums have produced guidance co-production and campaigning guidance.pdf (contact.org.uk). The council sought the advice and expertise of Contact, the DfE's delivery partner for parent carer participation. Extensive work was undertaken by Contact with members of the Forum's steering group, including workshops and training relating to appropriate conduct on social media by steering group members so they don't compromise their position in the forum. We understand that most Parent Carer Forums accept that campaigning activity by their members can jeopardise the possibility of building trust and relationships and therefore manage campaigning by Forum members within their own governance. Members of Parent Carer Forums can campaign in their own right, though need to be aware that they may be perceived as being a member of the</p>

		forum even on their own private social media. This is also applicable to attending meetings.
'Does the Council only use its own social media to and collate information or do individual staff members use their private social media accounts to view instead or as well?'	Jen Smith	The council has no way of monitoring how employees use their private social media accounts, but guidance in this regard will be addressed in the review of the social media protocol.
'1 st September, BCC was informed that data subject one (herself) had joined the forum pending checks and references so that the public may understand any rules she was bound to regarding the forum and DFE rules. Please can BCC clarify on which date I signed the contract, joined the steering group and became an officer of the forum'	Hayley Hemming	The report comments that the BPCF contacted the council on that date to advise that HH had joined the steering group and been contracted as a co-production co-ordinator. Whether the information provided by BPCF was correct or not is a matter for BPCF.
'Did the report (the options paper) include some examples of the social media posts causing concerns as part of its evidence?'	Cllr Dyer	No.
'The Facebook group is a closed Facebook group. Would you say that if the Officers had entered the group to get evidence, then that would be a clear breach of RIPA?' In relation to reference to HH having recruited five parents via a Facebook group.	Cllr Kent	Officers referenced the number of members of the group and the administrators. The number of members is publicly available. Whilst information about the administrators is not currently publicly available, it is apparent from the index, as a contemporaneous document, that the information was publicly available at the time that the information was collated, as a link has been provided with the instruction to scroll down. There would have been no purpose to having included that instruction if it was necessary to be a member of the group in order to ascertain that information.
'Is it systematic monitoring that officers have information from a private Facebook group'	Cllr Weston	We have not seen any evidence that any council officer gained information from a private Facebook group. This action would not, if taken, be systematic

		<p>monitoring; however it would raise issues from a GDPR/Article 8 standpoint.</p>
<p>Request for further guidance on what constitutes 'systematic monitoring.' (Further guidance on RIPA also offered)</p>	<p>Cllr Parsons</p>	<p>Note attached regarding systematic monitoring. In relation to RIPA:</p> <p><i>RIPA is only engaged where the purpose of the surveillance is to prevent or detect crime achieving six month custody threshold or related to underage sales of alcohol/tobacco/nicotine inhaling products.</i></p> <p>We would like to clarify a possible misunderstanding in relation to the report. Paragraph 49 states:</p> <p><i>"The collation of social media content on the two occasions outlined was done for the specific purpose of evidencing the conflict of interest: on the first instance at the request of Contact and BPCF to substantiate the concerns being raised by BCC about the campaigning activity of the forum members; and earlier this year in order to inform the decision as to whether or not to support BPCF's funding application to the DfE."</i></p> <p>The reference in that paragraph to two occasions refers solely to the triggers for the collation of the social media. It was known at the time of writing that at least four officers had viewed social media of the data subject(s) in relation to the matter. The note attached clarifies what is and is not systematic monitoring and the conclusions of the report were based on that position.</p>

Additional questions raised ahead of rearranged meeting

11 – QUESTIONS FROM HAYLEY HEMMING

Topic: Questions on Agenda item 8 – Fact finding report – use of social media by council staff in respect of the Bristol Parent Carer Forum

Question 1

On 1st September BCC was informed that Data subject 1 had joined the forum “pending checks and references”. So that the public may understand any rules that data subject 1 was bound by regarding BPC and DfE funding terms please can BCC clarify on which date did data subject 1:

- Sign their contract with BPC Forum following those references and checks
- Join the forum steering group
- Become an officer of the forum

Officer response

This information will be held by Bristol Parent Carer Forum.

Question 2

Para 31 of the fact-finding report states: “*There was no formal written decision to authorise the gathering of these social media posts, but AH was briefed on the request and action taken*” On what date was AH briefed?

Officer response

It is usual practice for Directors to receive regular verbal briefings from senior officers and the Director and the officer concerned met on a weekly basis. Briefings are not usually minuted, so it has not been possible to confirm the date of this particular briefing.

12 – QUESTIONS FROM COUNCILLOR KERRY BAILES

Topic: SEND Partnership Plan

Please note that I cannot attend the meeting if held on Monday 26th September at 10am. Therefore, I request a written response.

Question 1

1. In light of the lack of co-production partners in Bristol, who has co-produced the SEND partnership plan with BCC?

Question 2

2. Who is co-producing the new local offer with BCC in line with the SEND Code of Practice?

Question 3

3. From my own understanding of the DfE terms, they don't mention representation as a key part of the agreement. Why has BAME representation, those with English as a second language, and other 'hard to reach' vulnerable families formed part of your decision to refuse to work with BPC, especially given the fact that white families have reported they previously did not feel represented by the forum (at SEND Scrutiny evidence day in 2020, which I attended) under previous officers.

Officer response

Q1 And Q2 The SEND partnership plan is the reframing and extension of the 2019 written statement of action. The local area has drafted the SEND Partnership Plan to include inspection findings from 2019, and other areas that parent carers have told us are important to them, including findings from Spring Parent Carer survey and PCF summer survey of top 3 priorities for SEND. Information and feedback over the last three years has been included in the development of the plan which is currently very high level and organised into broad themes. The themes and priorities are currently going through a process with key partners to ensure that all are comfortable with the themes and priorities. This document outlines how the plan will be delivered, how milestones will be monitored, and teams held to account. Once the themes and priorities have been agreed with all partners (including families), the SEND partnership group will focus on ensuring milestones and action plans sit beneath the themes and priorities, following the same model as used for the Written Statement of Action. The themes and priorities of the plan will be co-produced by the community of groups

Q3 We are keen to ensure that we hear as many of the diverse voices across Bristol as possible and the Community of Groups invites all representative groups to take part.

13 – QUESTIONS FROM JULIE WILSON

Topic: Education, Health and Care Plans

Question 1

Is it true that Asher Craig, Hugh Evans and Alison Hurley were upset that a parent (who is a forum officer but was not acting in that capacity at the time) had written to BCC on behalf of a mother who was recovering from cancer, to inform them that the child (aged 9) was going to be permanently excluded from school if the EHCP (which was in week 43) was not issued in 2 weeks time and that the family may take legal action

if the EHCP was not issued urgently to prevent the exclusion? If it is true could BCC explain why this action would be so upsetting to them and if you would prefer a child to be permanently excluded instead?

Question 2

If BCC spent less time monitoring families on social media and thinking of reasons to pull the DfE funding from Bristol Parent Carer forum and more time tackling the SEND crisis in Bristol by talking to that same forum, might fewer children wait in excess of 20 weeks to receive an EHC plan?

Officer response

Q1 We are unable to comment publicly on individual cases. However, LA officers and elected members address communications with the council in line with the agreed professional and public standards.

Q2 The SEND team do not monitor families on social media.

14 – QUESTION FROM HANNAH SUMMERS & AMY VALENZIA

Topic: Secondary school admissions

Will Bristol City Council's Education Department be reviewing the Catchments and admissions of Bristol's Secondary Schools as a matter of urgency, taking more ownership of administration and ensuring all Academies are working together to ensure all postcodes and areas of the city are served by at least one school?

Officer response

This has been identified as an action for this year. Headteachers were made aware of our intention to initiate a work with them to review of school areas in September 2022 and further communications will come out to schools and trusts shortly.

Consultations on school admissions for 2024/2025 will be run in accordance with the [School Admissions Code](#). This stipulates the earliest date to begin consultation as 1st October 2022 with a deadline for completion of 31st January 2023 and must run for a minimum of 6 weeks.

We do not yet have a fixed date for this consultation to open but it will be well publicised and promoted through the LA, our schools and other relevant groups and associations.

15 – QUESTIONS FROM BRISTOL PARENT CARER FORUM (PLEASE PDF ENCLOSED ALSO AT THE END OF THIS DOCUMENT)

Topic: Agenda item 11 – Progress update on Education Health and Care performance

As Bristol Parent Carer is no longer involved in strategic meetings with Bristol City Council but we remain committed to our charitable aims of improving parent carer experiences of SEND services in Bristol, we would like to submit questions to scrutiny on Agenda item 11.

It is unusual for a Parent Carer Forum to write in this manner and we would like to be very clear that we are not campaigning for any changes but offering our support to work with BCC to improve SEND services.

The data presented to the board does not appear to align with the feedback we receive from families. For clarity could BCC please provide us with the following information:

* What is the DfE cohort and what characteristics do the children and young people (CYP) in this cohort have that other CYP do not? Do other Local Authorities have this cohort definition and was it agreed with the DfE?

* The image in para 2.2 of is much clearer in terms of how many EHCPs were issued in a given month and how many EHCPs in that month were finalised within the 20-week period. Thank you for clarifying that. In order to get a complete picture, it would be helpful to know how many families were **expecting** a plan to be issued between January 2022 to the end of July 2022. So, 158 were issued within 20 weeks but how many families were expecting a plan in that period? It is helpful to understand data in terms of parent carer experiences in addition to DfE methodology.

* It would also be helpful to know that of the 158 plans issued between January 2022 to the end of July 2022 how many of these fell within the DfE cohort and how many did not.

The agenda item uses the word "demand" a few times. It is important to understand where the demand lies if we can. If the demand is borne out of schools not being inclusive enough then BCC's approach to strengthening inclusion and the school-based stages of the code of practice could provide something of a solution. But demand may also be partly a matter of statistics. To understand this, it is helpful to look at our statistical neighbours.

* Please can you tell us, for the academic year 2021/22, what the EHCP % count per population head was for Bristol? And how does this compare to our statistical neighbours, Brighton and Hove, Derby, Coventry, Leeds, Peterborough, Plymouth, Portsmouth, Reading, Sheffield, and Southampton?

In order to better understand demand and capacity and think about better ways of working, it's really helpful to have some additional context to the data. There is no denying that EHC needs assessment requests have increased which will add strain to the department.

The request stage is the easiest and least resource-demanding phase of the EHCP process, it should be concluded within a maximum of 6 weeks, but ideally sooner. The actual assessment stage comes next which does demand resources from schools, Educational Psychologists and health services. If we are going to talk about demand, we must also look at this data, we have included it below in comparison with our statistical neighbours who also experienced an increase in requests for 2020-2021.

Table 1 (full data at end of questions)

	Requests received	Is this increase higher or lower than BCC?	Assessments carried out	Is this increase higher or lower than BCC?	Plans requested and issued in the same year	Is this increase higher or lower than BCC?	% on time 2020-2021	Is this % on time higher or lower than BCC?
	% change 2020-2021		% change 2020-2021		% change 2020-2021			
Bristol, City of	16.76%		10.65%		-10.93%		33.90%	
Sheffield	56.40%	↑	63.44%	↑	81.85%	↑	50.20%	↑
Derby	20.14%	↑	8.54%	↓	38.10%	↑	39.90%	↑
Peterborough	31.94%	↑	68.22%	↑	124.62%	↑	92.90%	↑
Reading	28.78%	↑	9.27%	↓	4.76%	↑	89.90%	↑
Plymouth	21.98%	↑	9.32%	↓	-2.03%	↑	51.50%	↑

As you can see there is an increase in the number of requests across each of these LAs, and the number of actual needs assessments carried out rose in Bristol by 10.65%. Rises in assessments carried out were also seen in Sheffield and Peterborough which issued more ECHPs on time than Bristol. The rise in assessments in Reading and Plymouth is not massively different to Bristol, which both also issued more EHCPs on time in Bristol.

* If employing more people is not solving the problem, is it time to start looking at the processes involved in the Bristol EHC process to work together, with families, to determine how processes can be made more efficient alongside the improvements being made around inclusion and the school-based SEND Code of Practice? Bristol Parent Carers have previously offered their support with this to Alison Hurley and Richard Hanks and that offer remains.

* It's also important to understand why there is this increase in demand, for example, does BCC collect data on how many requests have been made previously which were denied, so a request is being made for a second (or maybe third or the fourth time)?

The agenda item notes, "A communication strategy was implemented in 2022 ensuring that all parent carers who have not yet been allocated a case officer, or are awaiting an EP assessment, are contacted and kept informed of next steps."

* Families do not seem aware of this strategy, please can you tell us what this entails so we can inform families of what they should expect?

The agenda item notes, "Out of the 90 cases, over half are in receipt of additional funding to support non-statutory support plans."

* This is fantastic news that over half are receiving extra funding. Could BCC please tell us how many of these CYP are attending a setting full time and being educated by a qualified teacher on a full-time basis in a manner equivalent to their peers without Special Educational Needs and Disabilities? If possible please could you provide a breakdown per timeliness group, i.e. 'X children in the 21-30 week bracket, X children in the 31-40 bracket etc.

Officer response

It is unusual for a parent carer forum to request information in this way. To ensure that we continue to focus officer time on needs assessments for families and development work, we have sign posted to national and local data to enable already published data to be scrutinised.

For ease of response, the questions have been assigned a letter for reference.

Local Authority data is published annually and is publicly available. This data can be downloaded, manipulated and compared by local authority, school type, need type and pupil group. We also publish our current data on our website. Information and data relating to questions a, b, c and d can be found here:

[Special educational needs in England: January 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2022)

[Data and methodology - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2022)

<https://opendata.bristol.gov.uk/pages/ehc-summary/>

Point e is not a question, rather an offer of joint working which is welcome. Bristol City Council and other local area partners are keen to work with all members of the Community of Groups (COG). It would be helpful if this offer is made at the next COG meeting.

In response to question f, this information is available on a case by case basis but we do not have a report that can be run to aggregate this information at this time.

In response to question g, the Time for change Programme was co-produced over the past 3 years with the local area. The new process was launched in July 2022 with a communication strategy linked to the programme. Further work can be done to ensure that families are aware of how communication for new assessments will be arranged. We will request that this be discussed at a future COG meeting.

Bristol City Council does not hold information relating to question h.

16 – QUESTIONS FROM LAURA DRAKE

Topic: Questions on Agenda item 8 – Fact finding report – use of social media by council staff in respect of the Bristol Parent Carer Forum

Question 1

On 20 January, Officer E contacted Officer C to notify them that BPCF had launched a survey, without any consultation with the council, in which the questions advertising it appeared to invite negative responses. Hugh Evans then wrote to BPCF on 6 April in order to set out the council's concerns in relation to the survey. Why did it take BCC so long to address these concerns if they were considered so important that BCC have now stopped community funding for SEND families?

Question 2

In its fact finding report, BCC says that. 'The issue of representation was considered at the SEND Scrutiny evidence day' this was on 3rd Feb 2020. The Community of Groups had their first meeting on 27th January 2022. Why did it take BCC 2 years to prioritise this work around representation, was it just a coincidence that it started shortly after the forum appointed new officers?

Officer response

Q1 The letter was not solely a response to the survey as suggested. The letter was written at the culmination of a longer term dialogue concerning the activity of the Parent Carer Forum. Bristol has not stopped community funding for SEND families. The fund will be held in the interim by Contact to support the development of strategic partnership going forwards with the Community of Groups.

Q2 The decision taken to move to the Community of Groups model was the end point of work to secure strategic partnership with BPCF. BCC made significant efforts to secure strategic PCF arrangements over the last 2.5 years (this included recruited Wiltshire PCF lead for 9 months, running two recruitment processes, an additional £45k investment, input, advice and support from Contact was sought).

Systematic Monitoring

In order to consider if the processing activity which is the subject of the allegation constitutes systematic monitoring, it is necessary to first define the term. There is no categorical definition provided by the UK GDPR, Data Protection Act 2018, or the Information Commissioner's Office (ICO), however there is sufficient information available to formulate a reliable definition of the term. In order to arrive at a definition, we have first considered both elements of the term in turn:

Systematic

The legislation provides no definition of the term 'systematic', however the [EDPB Guidelines on DPOs](#) contains a section titled 'What does 'regular and systematic monitoring' mean?' (p21) which provides a clear definition:

WP29 interprets 'systematic' as meaning one or more of the following:

- *occurring according to a system*
- *pre-arranged, organised or methodical*
- *taking place as part of a general plan for data collection*
- *carried out as part of a strategy*

The Article 29 Working Party (WP29) was an EU advisory body whose opinions on data protection matters carry significant weight, and whose opinion in this case has been adopted by the European Data Protection Board (EDPB). As such, we can consider the definition above to be a reliable one.

Monitoring

[UK GDPR Recital 24](#) states:

In order to determine whether a processing activity can be considered to monitor the behaviour of data subjects, it should be ascertained whether natural persons are tracked on the internet including potential subsequent use of personal data processing techniques which consist of profiling a natural person...

The criteria identified in Recital 24 is therefore that a processing activity must consist of the tracking and/or profiling of data subject(s) to be classed as monitoring. [UK GDPR Art 4\(4\)](#) provides us with the following definition of profiling:

any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person...

As the above definition makes clear, a fundamental component of profiling is that it is carried out automatically – an example of this is automating decisions about benefits payments based on characteristics of the claimant. We have seen no evidence to support the view that any of the processing activity which is under scrutiny took place by anything other than manual means, therefore we can categorically state that no profiling has occurred. In terms of 'tracking', we do not have the luxury of a definition provided within the legislation and as such must consider the common meaning of the word. The Oxford English Dictionary provides the following:

Track, v

To follow up the track or footsteps of; to trace the course or movements of...

We consider that the key element of tracking is that it involves following or observing the movement of someone or something, either physically or digitally. For example, tracking cookies, which follow an individual's movement across multiple digital spaces, or the Covid Track and Trace programme, which followed an individual's physical movement based on who they'd come into contact with.

With the above points in mind, we would consider the following to be a reliable definition of 'systematic monitoring': 'the tracking and/or profiling of individuals which occurs according to a system, and/or is pre-arranged, organised, or methodical, and/or takes place as part of a general plan for data collection, and/or is carried out as part of a strategy.'

Bristol City Council Data Protection Team
6th October 2022

Fact-finding report – Use of social media by council staff re SEND Parent Carer Forum

Introduction

1. Concerns have been raised in relation to the viewing and sharing by council staff of social media posts made by members of Bristol Parent Carers Forum (BPCF¹). OSMB considered this matter at its meeting on 27 July following submission of statements from councillors. The Chair considered these and noted:

2. *He had been advised that officers were looking into this matter in order to establish the facts and that he would like them to conclude this piece of work before OSMB considered whether any additional action was necessary. Once he had been advised of the outcome of officers' inquiries, he intended to discuss next steps with the other OSMB lead members.*

3. OSMB resolved:

To note that members feel that an independent inquiry into these allegations is essential, but to also recognise the need to gather further factual information (as referred to in the Chair's statement under Chair's business). Once that process is concluded, OSMB agree to delegate to the OSMB Chair and Vice-Chair the decision on the way forward and whether to instigate an independent investigation.

Remit

4. Legal Services have been asked to establish the facts around what occurred and the reasons why. We have also been asked to comment on the lawfulness of the viewing and sharing that took place.

Actions undertaken in preparation of report

5. Evidence was requested from and provided by Hugh Evans (Executive Director – People), Alison Hurley (Director – Education and Skills), Officer A [REDACTED], Officer B [REDACTED], Officer C [REDACTED], Officer D [REDACTED], Officer E [REDACTED] and Officer F [REDACTED]. Input on the legality of the actions was sought from Officer H [REDACTED], Officer I [REDACTED] and Officer J [REDACTED].

¹ The name Bristol Parent Carers was used in 2021 and this changed to Bristol Parents Carers Forum in either late 2021 or January 2022. We have referred to the group as BPCF throughout this report in order to avoid confusion.

Parent Carer Forums

6. Statutory guidance entitled '[Special educational needs and disability code of practice: 0 to 25 years](#)' was published in January 2015. The guidance states in relation to Parent Carer Forums:
7. *'...representative local groups of parents and carers of children and young people with disabilities who work alongside local authorities, education, health and other service providers to ensure the services they plan, commission, deliver and monitor meet the needs of children and families. Parent Carer Forums have been established in most local areas and local authorities are actively encouraged to work with them.'* (para 1.13)
8. *'At a strategic level, partners must engage children and young people with SEN and disabilities and children's parents in commissioning decisions, to give useful insights into how to improve services and outcomes. Local authorities, CCGs and NHS England **must** develop effective ways of harnessing the views of their local communities so that commissioning decisions on services for those with SEN and disabilities are shaped by users' experiences, ambitions and expectations. To do this, local authorities and CCGs should engage with local Healthwatch organisations, patient representative groups, Parent Carer Forums, groups representing young people with SEN and disabilities and other local voluntary organisations and community groups.'* (para 3.18)
9. The charity, Contact, is the delivery partner of the Department for Education (DfE) in supporting parent carer participation in England. Contact supports parents carer forums in a number of ways², including administering and paying a grant of up to £17,500 a year (funded by the DfE) to one parent carer forum in each local authority area in England.
10. Guidance is provided by Contact in relation to the grant funding³ and this requires that:
'Forums need to work with their local authority to be able to perform their role effectively. As part of the application process, the forum must obtain the local authority's agreement to the Memorandum of Understanding (MOU).'
11. *'As co-production is reciprocal, we also require the forum to agree to the same principles and to also sign up to work in partnership.'*

² '[How we support forms in England](#)'

³ [FINAL-Grant-application-guidance-24-3-22.pdf \(contact.org.uk\)](#)

- *We commit to uphold the principles of the SEND Code of Practice and to work in partnership with the local authority/health organisations to improve local services for children and young people with SEND.*
- *We recognise the local authority and health organisations as our strategic local partners.*
- *We value the role of the local authority and health organisations in carrying out their statutory duties and will raise issues from parent carers providing constructive feedback through open dialogue, and challenging partners when necessary.*
- *We agree to work together with respect and as equal partners.*

I confirm we will abide by the principles of co-production above.'

12. Co-production is described by Contact⁴ as below:

The Children and Families Act encourages co-production, collaboration and partnership working and for families to be at the heart of the support and services that they receive; and in designing them. Coproduction is achieved when all partners play an integral and equal part in the decision-making process and are fully engaged in shaping, developing, implementing and evaluating services and systems. These local partners include the Parent Carer Forum, local authority, health agencies, social care and other local service providers and organisations.

The council and BPCF

13. At its discretion, a local authority may provide additional funding to the forum with which that it has chosen to work in partnership. The council provided BPCF with £18,750 in the 2021/22 financial year, in conjunction with the CCG, which provided £15,000. BPCF has been the designated forum in Bristol since this became a requirement in 2015.
14. In the second half of 2021 a consultant appointed by Contact had worked with the then Vice Chair and Treasurer (separate roles) to support BPCF in the absence of a Chair. The Chair of the Wiltshire Parent Carer Forum had performed the role for approximately a year before that. The council was advised on 1 September 2021 that HH had joined the steering group of BPCF and contracted as Co-Production Co-ordinator. HH was elected as Chair and JS as Vice Chair of BPCF in January 2022.
15. Officers working in the service area already had concerns in relation to the functioning of BPCF in terms of the governance of the group and the fact that it represented a relatively small section of the Bristol parent carer community. There

⁴ [What-is-parent-carer-participation.pdf \(contact.org.uk\)](https://www.contact.org.uk/what-is-parent-carer-participation.pdf)

were then further concerns in relation to the appointment of HH to a formal role and to JS being a member of the BPCF and subsequently taking up a formal role. These were due to the perceived conflict between their campaigning activity and the co-production role of the Forum. Both appear to have been active campaigners in relation to SEND for a reasonable period and certainly one that pre-dates their taking up formal roles with BPCF. Due to this the External Communications Team and the service area were familiar with both by virtue of their social media posts relating to SEND.

16. It is not within the remit of this report to investigate the veracity of those concerns, but it is important contextually to be clear that those concerns existed.

Sharing of social media posts

17. Officer C reports having been made aware of concerns about conflict of interest by colleagues and discussing them with AH and Officer E [REDACTED]. One of the concerns was the possibility that HH was the owner of the '[Twitter account A]' Twitter account which contained numerous posts that were critical of the SEN team and provision. This was primarily due to the frequency with which that account commented upon JS's '[Twitter account B]' Twitter account, as it was apparently known that HH and JS campaigned together, as well as both being members of BPCF. JS was an active campaigner and well known to the council in this regard. There was ongoing concern that the campaigning undertaken was in conflict with her role as a parent representative with BPCF. She was an active member at the time and ran support groups for parents on behalf of the BPCF.

18. Officer E had sent Officer C the below tweet from [Twitter account A] on 21 September:

[REDACTED]

19. Following on from the above concerns, on 28 September 2021, Officer C had a conversation with a Parent Participation Advisor at Contact to raise the concerns presented by the campaigning undertaken by HH and JS and the conflict with the role of the BPCF. The following day, the Advisor emailed Officer C having discussed the matter with colleagues and an independent community advice organisation and suggested, among other things:

20. *'Evidence, at the moment the forum has no evidence of proof of the lobbying activities and without this, they could be criticised for not thoroughly investigating*

the matter. Therefore, please could I ask you to share any of evidence or copies of the social media posts that are in the public domain? I understand that some of the evidence may be subject to GDPR but I have been advised that anything that is posted publically is ok to share

21. *Also, during our discussion you mentioned that another parent was also sharing confidential information on campaign and lobbying social media platforms and I wanted to say that this also constitutes a breach of the forum code of conduct so in order to address this please again could you send through any evidence that would help the forum address this matter.*
22. *The SG parents have only recently had training on the work and remit of forums which did cover conflicts of interest, the rules about lobbying and transparency so I know they will be very unhappy when they hear this news especially as they have been working so hard to build the forum and develop positive partnership working with L/A colleagues.'*
23. This email also referenced the fact that Contact representatives would be meeting with the Vice Chair⁵ the next day in order to discuss the issues.
24. On 30 September, and in response to the request from Contact and BPCF for information to corroborate the concerns raised by BCC, Officer C contacted Officer E to request that evidence of social media posting be gathered and also evidence to establish whether HH was the owner of the [Twitter account A] twitter account. Officer E emailed Officer C to confirm that HH was linked to the [Twitter account A] account. Officer E had viewed the publicly available photos on HH's Facebook account and found that the Twitter profile was a cropped version of an image that appears on HH's Facebook account. Officer E was clear that the photograph was publicly available. It is not possible to definitively state whether or not the picture was the Facebook profile picture or in an album. It is apparent from the email exchanges that Officer E and Officer C met to discuss this and for Officer E to demonstrate the link.
25. Whilst the email from Contact had suggested that information be provided to BPCF to evidence the concerns, no information appears to have been provided prior to the request from BPCF. Officer C [REDACTED] and reports that they did not hold any information in advance of the request from Contact, which is borne out by emails subsequent to the request from BPCF to gather the necessary information.

⁵ Name not included as not relevant

26. On 7 October 2021 Officer G⁶ emailed BPCF to acknowledge the points that BPCF had raised in its meeting with Contact and to arrange a meeting with the council and BPCF. The [REDACTED] of BPCF, responded the same day to offer meeting dates and to request that information be provided:
27. *'Given the recent concerns that have been raised to the forum Chair and Treasurer regarding alleged campaigning and lobbying activity by forum steering group members alongside and concurrent to their BPC Forum rep role, we have informed Steering Group members of the general principle of the concerns raised.*
- In order to address the specifics of your concerns we do need more information and details on who, what, and when - so would ask that this is provided as soon as possible.'*
28. Neither HH, nor JS, were party to this email.
29. Officer C did a brief search of social media on 7 October, but asked Officer E and Officer F ([REDACTED]) to assist in the collation of information. Officer F collated comments and engagement by HH and JS from the Local Offer Facebook page and Officer E provided links to other social media.
30. On 8 October 2021, Officer G emailed BPCF with a collection of links and attachments to social media posts made by HH and/or JS that evidenced the concerns around campaigning and the conflict arising.
31. There was no formal written decision to authorise the gathering of these social media posts, but AH was briefed on the request and action taken. Officers in the teams who were reviewing and collecting this data do not record their time, but it is clear from the turnaround time (one working day) that there was not a significant amount of officer time spent on the collection of this information.
32. On 19 October 2021, BPCF provided the council with a one page statement setting out the findings of its investigation and its proposed actions, which were intended to address the issues:
- *Recommend our reps undertake the online Contact training for Parent Reps*
 - *Recommend our reps watch the Contact webinar on Campaigning and Lobbying*
 - *Continue our work to strengthen BPC's Governance including revising and clarifying our Code of Conduct and Declaration of Interest procedure.*
 - *Suggest all strategic partnership meetings start with Declarations of Interest and confidentiality terms for the information to be discussed.*

⁶ Officer G was not contacted or spoken to in relation to this report, but emails from them were seen in its compilation and therefore they have been referenced. Their role was [REDACTED].

- *Await further advice from an HR specialist to ensure we are attending to the contractual and training needs of BPC volunteers and contractors.*
33. Officers report that whilst they understood the approach taken, this did not resolve the concerns, but that work continued to engage with the BPCF . BPCF were invited to attend the monthly SEND Partnership Group meetings and the SEND Improvement Board meetings (every two months) held between December and April. In addition, co-production workshops were held on 7 December 2021 and 20 January 2022. These were facilitated by Contact with a view to attempting to address the issues that had led to a breakdown of trust between the parties and in order to try and build a mutual understanding between the council and BPCF.
 34. On 20 January, Officer D was contacted by SENDIASS⁷ to flag the fact that JS had been posting tweets about a confidential meeting with SENDIASS, the Alternative Learning Provision Team at the council and other stakeholders, in spite of the fact that the meeting was confidential⁸. On the same day, Officer E contacted Officer C to notify them that BPCF had launched a survey, without any consultation with the council, in which the questions advertising it appeared to invite negative responses⁹.
 35. Discussions in relation to the concerns were ongoing and included meetings with representatives of DfE and Contact. BCC officers had long running concerns, referenced above, about BPCF not being properly representative, either in terms of the way that parent carers were represented or the breadth of representation, as well as the more recent concerns about the campaigning activity of some members.
 36. The issue of representation was considered at the SEND Scrutiny evidence day in 2020, and the report from that meeting recommended:

We need to reach out to BAME families, those with English as a second language, and other 'hard to reach' vulnerable families. The Council should be proactive in contacting those families who feel they cannot engage or access services, and should widen the representation of voices across diverse communities in Bristol in the co-production and co-reviewing of services.
 37. This led to officers developing a Community of Groups approach to try to find a way of reaching out to all groups and ensuring that co-production could continue, and include the voices of the range of diverse groups in Bristol.

⁷ [Special Educational Needs and Disability Information Advice and Support Services](#)

⁸ The report was subsequently amended to remove the words "JS was attending in their capacity as a BPCF member." Whilst this was understood to be the case by the author, it is accepted that this was not accurate. This amendment does not have any impact on the remainder of the report due to the fact that the meeting was confidential and JS was vice-chair of BPCF at the time and therefore these tweets were still viewed by council officers as being in breach of the terms of the MoU with Contact.

⁹ Has the child you care for: been discriminated against; received a full time education; experienced any type of exclusion?

38. This was discussed with Cllr Craig who was supportive of the approach.
39. The concerns culminated in Officer C being asked to produce an options paper, which was taken to Cabinet Board on 29 March, with Councillor Craig having been briefed the previous day, in order to consider whether the council should continue to support BFCP in its application for DfE funding. It was agreed at Cabinet Board that the option of withdrawing funding from BPCF should be explored.
40. HE wrote to BPCF on 6 April in order to set out the council's concerns in relation to the survey and the compatibility of the social media postings with the work with the council and to suggest a meeting to discuss the concerns. On 7 April, Officer C emailed Officer E to request that she collate evidence of the conflict of interests. It is understood that this was requested by AH ahead of the meeting with BPCF.
41. On 20 May, Officer E sent Officer C a collection of tweets that evidenced campaigning by HH/JS. Officer C prepared an indexed pack of information evidencing conflict on the part of both HH and JS and sent this to HE, AH and Officer B on 30 May. This was used as background information by AH in preparation for a meeting that took place on the 10 June and was facilitated by Contact.

Concerns about breach of conditions of funding

42. The council took the view that campaigning by BPCF members (HH/JS in this instance) was not compatible with working the BPCF role as the officer co-production partner. This perspective was discussed with Contact & the DfE who agree that in principle campaigning activity can represent a conflict of interest for forum members. In its letter of 13 June BPCF notified HE that JS was stepping down as Vice-Chair in response to the concerns around aggressive social media posts.
43. On 22 June, HE wrote to BPCF to advise that the council was not going to support the application for DfE funding as a result of the concerns. This decision was taken by HE on the recommendation of officers from the service area and in consultation with Councillor Craig.
44. A decision had to be made to a deadline. HE stated that the basis on which this decision was reached was in part the issues raised by the conflict of interest resulting from the social media posting of HH and JS and also it was the view of BCC that BPCF had not demonstrated their ability to represent the broader parent carer community, and that both concerns were best addressed by asking an independent organisation to further explore the Community of Groups approach set out above. This approach was initially adopted in January this year with a view to broadening the level of engagement with the parent carer community.

45. The BPCF is part of this community and officers continue to work with members of the forum in that context.

Legal view on sharing that took place

46. The specific concerns raised relate to the gathering of information from social media in autumn 2021 and spring 2022, as detailed above. All of the information that was collated was publicly available and we have not seen any evidence, or any suggestion, that this wasn't the case. On this basis, there was therefore no surveillance, as defined in the Regulation of Investigatory Powers Act 2000 (RIPA). Nor is there any potential breach of the Article 8 (Right to Respect for Private and Family Life) under the Human Rights Act 1998, as there can be no reasonable expectation of privacy when personal information is being voluntarily put into the public domain by the person to whom that data relates.
47. In terms of data protection, specific processing activities require Data Protection Impact Assessment (DPIA) to be undertaken. It is mandatory under Article 35(3) of the UK GDPR to undertake a DPIA where there is going to be 'systematic monitoring of a publicly accessible area on a large scale.' There are also guidelines from the ICO and the European Data Protection Board (EDPB) that must be considered. Under the EDPB guidelines, a DPIA should be considered where there is going to be 'systematic monitoring.' The ICO guidance on when a DPIA is required can be found [here](#).
48. What constitutes systematic monitoring is not defined in the UK General Data Protection Regulation, but the words are defined in the Oxford dictionary as:
- Systematic - done according to a system or plan, in a complete, efficient or determined way;
 - Monitor - to watch and check something over a period of time in order to see how it develops, so that you can make any necessary changes.
49. There is no evidence that systematic monitoring took place. The collation of social media content on the two occasions outlined was done for the specific purpose of evidencing the conflict of interest: on the first instance at the request of Contact and BPCF to substantiate the concerns being raised by BCC about the campaigning activity of the forum members; and earlier this year in order to inform the decision as to whether or not to support BPCF's funding application to the DfE. On this basis, there was no legal requirement to undertake a DPIA. It is best practice that, when a new processing activity occurs, consideration should be given to whether or not a DPIA should be completed. There is no evidence that this took place in this instance. Although had this been flagged to the Information Governance and Security Team, they have confirmed that their view would have been that a DPIA would not have been required, for the reasons outlined above.

50. There is a more general viewing and sharing of social media content where it pertains to council work. Where comments are made on the Local Offer Facebook page or @BristolCouncil is included in a tweet, then it is of course necessary that the service area is notified in order that it may consider whether or not a response may be required. Both the External Communications team and officers in the SEND team have viewed and shared tweets relating to SEND, but no evidence has been seen that this has been on anything other than an ad hoc basis and would not amount to monitoring.

Decision-making and social media protocol

51. There is no formal audit trail in relation to decision to collate data; however this was something that was undertaken with the input of the relevant Director. Whilst decisions in relation to significant expenditure or discontinuing services are typically supported by reports, the majority of operational decisions are taken without. Although it is not possible to ascertain the exact amount of time spent by officers on collating the examples of conflict, given that the data collected was tweets from two accounts and viewing a Facebook account in order to establish a link, it is quite apparent that the amount of time in question was negligible and justified on the basis that it enabled an informed decision to be made to discontinue support for funding.
52. The decision to discontinue support for funding was quite properly informed by discussions with the relevant Cabinet member and at Cabinet Board.
53. The council has a [Social Media Protocol](#) , but it doesn't deal directly with viewing and sharing third party social media. It is recommended that the Protocol be reviewed and updated to add guidance on this, taking into consideration best practice from other local authorities and with input from the Local Government Association.

Legal Services

22 August 2022