

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 \(contact.org.uk\)](#)

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 JS was attending in their capacity as a BPCF member and the meeting was confidential. 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 responses⁸.
 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.
 38. This was discussed with Cllr Craig who was supportive of the approach.

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

⁸ Has the child you care for: been discriminated against; received a full time education; experienced any type of exclusion?

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