

Paragraph 5: Disrepute

Councillor Yeo disagrees with the Investigators' finding at page 12 of the report that he is in breach of paragraph 5 of the Code.

The Local Government Association Guidance on the Model Code of Conduct (**LGA Guidance**) is clear that a councillor's right to freedom of expression must be considered when making findings of disrepute. The report fails to appropriately address this as it does not engage with any of the authorities which map out how Article 10 should be considered.

1. Article 10 of the European Convention on Human Rights (ECHR)

Article 10 ECHR states:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

2. Political Speech

Freedom of expression is protected more strongly in the context of political speech. A wide degree of tolerance is accorded, and this enhanced protection applies to all levels of politics, including local government.

Jerusalem v Austria (2003) 37 EHHR 25

"In this respect the court recalls that while freedom of expression is important for everybody, it is especially so for an elected representative of the people. He or she represents the electorate, draws attention to its pre-occupations and defends its interests. Accordingly, interference with the freedom of expression of an opposition member of parliament, like the applicant, call for the closest scrutiny on the part of the court."

Political expression is a broad concept.

Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504

“Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated.

...

The protection goes to ‘political expression’; but that is a broad concept in this context. It is not limited to expressions of or critiques of political views, but rather extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others. The cases are careful not unduly to restrict the concept; although gratuitous personal comments do not fall within it.”

3. Approach to Applying Article 10

There are three questions which should be considered when dealing with Article 10.

Sanders v Kingston (No.1) [2005] EWHC 1145 (Admin)

“1. Was the Case Tribunal entitled as a matter of fact to conclude that Councillor Sanders conduct was in breach of paragraph 2(b) [respect] and/or paragraph 4 [disrepute] of the Code of Conduct?

2. If so, was the finding in itself or the imposition of a sanction prima facie a breach of Article 10?

3. If so, was the restriction involved one which was justified by reason of the requirements of Article 10(2)?”

Councillor Yeo’s comments on the Town Council proposals are political and therefore, they attract the higher protection afforded to political expression.

4. Disproportionate Interference

A finding of a breach of the Code of Conduct is an interference with Article 10 rights. Where an interference is not proportionate, it is a violation of Article 10.

R (Robinson) v Buckinghamshire Council [2021] EWHC 2014 (Admin)

Councillor Robinson made comments at a public meeting *“which called into question and misrepresented the motivation, intentions and integrity of other parish councillors regarding development of Green Belt land in the parish”* and resulted in public backlash and the integrity of the Chair and Clerk being questioned. The Deputy Monitoring Officer concluded that he had brought the Parish Council and the role of councillor into disrepute.

However, the Court held that this finding was a breach of Councillor Robinson’s Article 10 rights:

“In re-making the decision under Article 10(2), I conclude that the interference did not fulfil a pressing social need, and nor was it proportionate to the aim of protecting the reputation of the other councillors. As an elected councillor, taking part in a public meeting called by the PC to discuss the Green Belt, the Claimant was entitled to the enhanced protection afforded to the expression of political opinions on matters of public interest, and the benefits of freedom of expression in a political context outweighed the need to protect the reputation of the other councillors against public criticism, notwithstanding that the criticism was found to be a misrepresentation, untruthful, and offensive. Although no further action was pursued against the Claimant, beyond recommending that he apologise, it was a violation of Article 10 to subject the Claimant to the complaints procedure, and to find him guilty of a breach of the PC Code.”

There are clear parallels between Councillor Robinson’s case, and Councillor Yeo’s. Councillor Yeo is entitled to scrutinise and express disagreement with the Town Council’s proposals; it is fundamental to his role as an elected representative. The content of his comments is not a breach of the Code of Conduct on a proper application of his Article 10 rights.

We refer also to the former Adjudication Panel for England decision APE 0399 – Capon, which we consider to be analogous. The Councillor made comments about the Town Clerk at a Parish meeting, saying that an Officer found her *“difficult to get on with”*. The Councillor added that *“this is also the view of many town’s people who say that when they try to contact the town clerk, she is downright rude to them”*. The Panel considered that the threshold for a failure to treat another with respect has to be set at a level that **allows for the passion and frustration** that often accompanies political debate and the discussion of the efficient running of a Council. It should also be set within the context of who was involved in the exchange. In this case, the comments were opinions of other individuals which the Councillor honestly believed to be true. The Councillor’s conduct was not unfair, unreasonable or demeaning to the Town Clerk, and the comments were not made in a malicious or bullying manner. The Town Clerk was very experienced in her dealings with Councillors and given her seniority, was entirely able to defend her position. The Panel decided that the threshold was not met.

With regards to the fact that Councillor Yeo allegedly engaged in conduct disruptive to the meeting separate to the content of his comments (i.e. interrupting other Councillors), the LGA Guidance is clear that *“the misconduct will need to be sufficient to damage the reputation of the councillor’s role or local authority, as opposed simply to damaging the reputation of the individual concerned.”* Councillor Yeo interrupting other Councillors and not sitting down cannot reasonably be said to have brought his role or the Town Council into disrepute. It does not have any bearing on the ability of Councillor Yeo, nor the Town Council, to fulfil their

respective roles. It is conduct that can only reasonably be regarded as having a potential impact on Councillor Yeo's reputation as an individual, and it is clear that this is not sufficient for a finding of disrepute.

Paragraph 9: Declaration of Interests

Councillor Yeo disagrees with the Investigators' finding at page 14 of the report that he is in breach of paragraph 9 of the Code.

Appendix B of Shaftsbury Town Council's Code of Conduct states the following about declaring an other registrable interest (**ORI**):

*"6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation."*
(emphasis added)

For a matter to be directly related to an ORI, it must be specifically and immediately about the interest itself. This is distinct from the situation where a matter *affects* an ORI, and the LGA Guidance is clear on this point:

*"What is the difference between 'relates to' and 'affects'?
Something relates to your interest if it is directly about it.
'Affects' means the matter is not directly about that interest but nevertheless the matter has clear implications for the interest."*

As the Investigating Officer pointed out in her response to these comments made on the draft report, the LGA Guidance also states that *"an interest 'directly relates' to an outside body where the local authority is taking a decision which directly relates to the funding or wellbeing of that organisation"*.

The examples given in the LGA Guidance for such situations are:

- Awarding/withdrawing grant funding to a body of which you are a member.
- Granting planning permission to a body of which you are a member.

Councillor Yeo's ORI is that he is a trustee of the Mampitts Lane Community Land Trust CIO. The matters discussed at the meetings were in relation to the Town Council's plans for a community hub:

- 17 December 2024: *"to receive an update on the Mampitts Hub Architect Tender process"*
- 11 March 2025: *"to consider the appointment of the Mampitts Architect"*.

It is plainly evident that neither of these matters are *directly about* the funding or wellbeing of the CIO (as is required by the definition of 'directly relates').

In regards to matters that merely *affect* an ORI, Appendix B states:

"8. Where a matter arises at a meeting which affects –
a. your own financial interest or well-being;
b. a financial interest or well-being of a friend, relative, close associate; or
c. a body included in those you need to declare under Disclosable Pecuniary Interests
you must disclose the interest.

9. Where the matter affects the financial interest or well-being:
a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest
you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest."

It is evident that paragraphs 8a, 8b and 8c of Appendix B do not apply. Neither matter listed above are matters which affect any interest which is Councillor Yeo's own financial interest or wellbeing, nor that of a friend, relative or close associate, and the CIO is not a body needing to be declared as a disclosable pecuniary interest.

With regard to paragraph 9 of Appendix B, the Investigating Officer has given the example of a councillor who is also on the committee of the local village hall and an application for a licence for another venue in the village is made which if granted might take business away from the village hall. Respectfully, this example does not map onto Councillor Yeo's situation.

At the time of both meetings, the s106 funding had *already been awarded to the Town Council* (decision made by Dorset Council's Cabinet on 15 October 2024). It was not the case that the CIO was still in competition with the Town Council to receive the funding, such that the appointment of an architect would affect the CIO's chances of being awarded the funding. The Town Council tendering for an architect when they already secured the s106 funding does not affect the funding or wellbeing of the CIO. The Town Council considering the appointment of the architect when they already secured the s106 funding also does not affect the funding or wellbeing of the CIO.

In drawing the conclusion that Councillor Yeo has breached paragraph 9 of the Code of Conduct, the report demonstrates a fundamental misunderstanding, stating:

“the Town Council proposal and the CIO proposal are in opposition to one another; there is only one site for the Mampitts Hub project and one developer contribution funding payment – if one proposal goes ahead the other will not.”

“Every decision taken by the Town Council to progress the Town Council proposal will inevitably relate to Cllr Yeo’s other registerable interest (his being a trustee of the CIO) within the meaning of paragraph 6 of Appendix B of the Code, because constructing the community facility in accordance with the Town Council proposal will mean that the CIO proposal will not be brought to fruition.”

Further, in her comments, the Investigating Officer suggests that Councillor Yeo sought to extend discussions to advance the desirability of the CIO proposal. This is irrelevant. The matters which arose at the meetings – in relation to the architect – still do not directly relate to or affect the funding or wellbeing of the CIO.

Councillor Yeo therefore *cannot* be in breach of paragraph 9 of the Code of Conduct, contrary to the conclusion of the report. He has not failed to register his interest, nor has he failed to correctly declare it. He was not required to withdraw from the meetings or seek a dispensation for them because his ORI does not directly relate to, and is not affected by, the matters dealt with at the meetings in questions.

Councillor Yeo also notes that the police carried out an inquiry into whether an offence had been committed under s34 of the Localism Act 2011 in relation to the declaration of disclosable pecuniary interests, and they have confirmed that no charges will be brought against him.

Investigating Officer’s Further Conclusions

It is regretful that the Investigating Officer has sought to imply that Councillor Yeo has acted in a manner which is not in the interests of the residents of Shaftesbury in her further conclusions set out on page 16 of the report.

Councillor Yeo has been resoundingly elected twice by the residents of East Shaftesbury (in 2019 and 2024). As a resident of Mampitts Lane area himself, he is well placed to understand the interests of local residents.

Councillor Yeo and five other East Shaftesbury residents founded the Mampitts Lane Community Land Trust (**the Trust**) in July 2020 and it is only because of that that there is going to be a community hub built on Mampitts Green at all. Upon his election in 2019, the Town Clerk briefed Councillor Yeo that, as per its Neighbourhood Plan, the Town Council did not want a community hub at Mampitts Green and wanted to spend the s106 money elsewhere in Shaftesbury. Shaftesbury Town Council only launched a proposal in 2022 after the Trust had presented the Trust's own proposal for a community hub to the Town Council in September 2021 (as Dorset Council's s106 Officer directed them to).

This is one of many instances where Councillor Yeo has stood up for the residents' needs and wishes to their benefit.