

Complaint COM 8830

Paragraph 5: Disrepute

Councillor Yeo disagrees with the Investigators' finding at page 9 of the report that he is in breach of paragraph 5 of the Code for the same reasons as set out above in relation to COM 8299 and COM 8319.

Councillor Yeo was entitled to comment on the Town Council's recruitment procedure, which he viewed as highly flawed, and his comments were political comments attracting the enhanced protection under Article 10 ECHR.

The following part of judgment in *Heesom v Public Services Ombudsman for Wales* is highlighted: *"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."* (Our emphasis).

Paragraph 8.1: Training

Councillor Yeo disagrees with the Investigators' finding at page 10 of the report that he is in breach of paragraph 8.1 of the Code. The Investigator states that such allegation was *not* part of the complaint. It thus cannot have formed part of the scope of the investigation referred to her.

The LGA's guidance on Member Code of Conduct Complaints Handling states:

"Evidence of new breaches

*During the course of an investigation, you may uncover evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to you. **Your powers as an investigator relate only to the allegation that you have been given**. While that means you may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, you may also uncover evidence of a possible breach that does not directly relate to the allegation you are investigating. If this happens, you should tell the person you obtained the information from that you cannot investigate the possible breach as part of your existing investigation. You should tell them that they may wish to make a separate complaint to the authority and if the authority considers it needs further action it could be subsequently added to your investigation or dealt with as a separate matter."*
(emphasis added)

The Investigating Officer refers to the Council's arrangements to justify the addition of this allegation, however, per those arrangements, Councillor Yeo should have

been informed by the Dorset Council Monitoring Officer of the decision to add an allegation to the investigation. He was not so informed.