

Appendix 7: Update as of 7th June 2021

This appendix is dated 7th June 2021 and is to be read alongside the report substantive report.

The purpose of this Appendix is to give a timeline of events since my draft report was circulated on 17th February 2021, and to outline issues raised by Councillor Culley which will need to be discussed at the hearing.

Timeline of events

17th February 2021 – Draft report circulated to the complainants and to Councillor Culley and all were invited to comment on the report before it was issued as a final report. All were asked to respond with any comments no later than 28th February 2021.

27th February 2021 - Councillor Culley emailed me to say that she had noted inaccuracies in the report but that she had not had time to examine it in detail and therefore requested an extension of time. Councillor Culley was therefore offered a further 7 days and asked to return her comments to me by 7th March 2021.

6th March 2021 - Councillor Culley emailed me to say that she still hadn't been able to review the report but that there were a number of factual inaccuracies. Councillor Culley provided some detail about one of those purported inaccuracies which was a point about how the report says that she saved and uploaded the meme to Facebook. Councillor Culley says this is incorrect, and that she had actually shared the post of another Facebook user called Angela Walker but that the screen grab has been edited/cropped so that it looked as though she had uploaded and posted the meme herself. In doing so, any caption to the original post had been cropped off. Councillor Culley's email was clear that aside from this issue there were also other inaccuracies that she wanted to address and that she needed additional time to do so.

10th March 2021 - Luke Swinhoe emailed Councillor Culley regarding her request for additional time, and explained that the final report would be issued on 15th March 2021 as by then there will have been sufficient time for any comments on the draft report to have been forwarded.

11th March 2021 - Councillor Culley sent a further email to Luke Swinhoe repeating her concerns about the caption to the post not being included in the screen grab, and that her actions had been misrepresented given that she actually 'shared' the post as opposed to posting it herself.

19th March 2021 – having not received Councillor Culley's other comments on the report I emailed her to ask if I could phone her on Monday 22nd March. My intention was to ask her verbally what the factual inaccuracies were (aside from the issue of the cropping/editing of the screen grab) so that I could remedy these and issue the final report.

21st March 2021 - Councillor Culley replied with a lengthy email regarding the issue of the caption to the post not being included within the screen grab. In her email she says she has

been trying to find a copy of the original post which shows the caption, as this will indicate the context of the post which she shared.

22nd March 2021 - I emailed Councillor Culley to ask her to confirm whether, aside from the issue about the caption not being included within the screen grab, were there any *other* factual inaccuracies within the report that she wanted to raise. Councillor Culley replied on the same day to say that there were. I asked Councillor Culley the following day to tell me what the other inaccuracies are, and I also asked Councillor Culley to give consideration to temporarily reactivating her Facebook page in order to view the post and take a screen grab which includes the caption.

26th March 2021 - Councillor Culley emailed me to ask if I could send her a copy of my report in Word format so that she could highlight the inaccuracies. I sent this on 29th March 2021 and asked Councillor Culley again if her Facebook page could be reactivated in order to take a screen grab of the full post including any caption.

3rd April 2021 - Councillor Culley replied to express her views that it should be the Labour party who source and provide a copy of the full post including the caption, and suggesting that either she or I should write to them. Failing this, Councillor Culley will agree to attempt to log back into her Facebook account to retrieve the original post but would like me to attend her home to be present while she does so along with another of her colleagues who is experienced with Facebook. Councillor Culley says she will provide details of other inaccuracies in the report within 7 days of the issue regarding the context/caption being resolved.

10th April 2021 – Councillor Culley advised me that the original source of the screen grab is John Clare, a Labour Councillor for Durham County Council.

13th April 2021 – I emailed John Clare to asked him if he recalled a) whether the meme was posted on its own or if there was any caption either to Councillor Culley’s post or to the original post and b) if he commented on the post and the nature of his comments and c) if he had a screen grab of the post which shows any caption or comments. John Clare replied to tell me that he did not comment on the post. He also provided his screen grab which was the same as the screen grab provided earlier in this report and did not show anything additional. Finally, John Clare confirmed that he did not have any record of the comments made alongside the post.

13th April 2021 – Luke Swinhoe emailed Councillor Culley about the screen grab/caption issue and indicated that allowing for further time to explore the issue, he would ask the Investigating Officer to finalise her report by 29 April with a view to the final report being issued by 30 April.

14th April 2021 – I informed Councillor Culley of John Clare’s response and asked her to consider reactivating her Facebook page to retrieve the original post. Councillor Culley asked for assistance with this and I arranged for her to meet with Jonathan Robson from Xentrall on 23rd April 2021.

23rd April 2021 – Jonathan Robson (Xentrall) emailed me to advise that he had assisted Councillor Culley in trying to retrieve the post from her Facebook account but that this was not possible because the account had been deleted due to Facebook’s rules about dormant accounts.

25th April 2021 – Councillor Culley emailed me to say that following her meeting with Jonathan Robson she had been able to retrieve her deactivated Facebook account, and that she had “found evidence” that the original post was shared from “the Facebook account of Angela Walker, the vice-presidential nominee of the Green Party in the US at the 2020 election”. Councillor Culley then requested another meeting with Jonathan Robson to “try and find a way to recover the deleted post and, failing that, to share the evidence we found about the source of the post”. This meeting went ahead on Friday 30th April 2021.

4th May 2021 – Jonathan Robson (Xentrall) emailed me following his meeting with Councillor Culley on the previous Friday to tell me that there was no evidence that the original post came from Angela Walker of the US Green Party (whose name on Facebook appears as ‘Angela N Walker’) and that in his opinion the original screen grab shared by John Clare, the Labour party and the Northern Echo are in fact “undoctored and the full post”.

17th May 2021 – Councillor Culley responded to my request, originally made on 17th February 2021, to confirm whether there were any factual inaccuracies within the draft report. Councillor Culley has made significant amendments to my original report and these are not limited to simply pointing out any factual inaccuracies (such as if any dates or names were incorrect) as I had invited. I have not made the changes that Councillor Culley requests as they are mostly to do with her perspective on matters and the reasons why she disputes that there has been any breach of the code of conduct. Those issues are more appropriate for Councillor Culley to make at the hearing rather than for me to present them as facts in my report which should be focussed on the facts that I have been able to establish throughout my investigation and my analysis of those. (For example, Councillor Culley’s amendments include repeated reference to the screen grab having been edited to exclude the context and mislead the public as to the nature of the post. However I have not found any evidence of this and I cannot comment on whether that is true or not. Is it for Councillor Culley to raise this issue at the hearing rather than for me to present it as a fact in my report).

Summary and analysis of outstanding issues to be dealt with at hearing

It would be helpful to understand why the issue of appropriate context was not raised throughout the course of the substantive investigation, or mentioned in interview, and

instead why it was only raised after circulation of the draft report. It is clear that Councillor Culley considers this to be a fundamental issue and I cannot understand why it was not raised sooner and in particular why it was not raised during the interview. I expect that this can be discussed at the hearing.

From the screen grab, it does appear that the meme was uploaded by Councillor Culley herself. However I note that following circulation of my draft report stating this, Councillor Culley has said numerous times that this is not correct and that she used Facebook's 'share' function to share this post from another user's profile and that she did not upload it herself. I cannot say for certain whether the post was shared or uploaded.

If the post was a shared post, I agree with Councillor Culley in that it would be useful to know whether the meme had been captioned in the original post. My understanding of Facebook is that if the original post had a caption, and Councillor Culley shared the post, then the original poster's caption would have been shared too. This may provide relevant context.

However I do not attach the same importance to this issue as Councillor Culley does because any caption / comment will only really be helpful to Councillor Culley's position if it discredits the meme or criticises the messaging of the meme. If the caption says something which is of the same sentiment as the meme then the concerns of the complainants will be the same and this will not alter the issues which need to be determined by the panel. However this can be further discussed and debated at the hearing where all sides will have the chance to offer their own views on the importance of this point.

I have made enquiries with Councillors Curry, Harker and Snedker to ask if either of them has a copy of the screen grab which shows any caption or if they can recall what any caption may have said. I have asked John Clare, Councillor for Durham County Council, the same question. All confirmed that they did not have screen grab showing any captions / comments and had no recollection of this.

I have not asked RT the same question as she made clear to me in her interview that she cannot remember where / how she became aware of the post. She was unclear whether she had seen the post on Councillor Culley's page, if she had seen the post shared or if she had only seen it in the Northern Echo article.

It is also noted that Councillor Culley herself appears not to be able to recollect the caption of the post or the sentiment of it. If I am wrong in that, and if Councillor Culley can recall this, then it would be helpful if she could share her recollection.

Councillor Culley has assumed that the uncertainty over the caption requires her to be reinterviewed. I do not agree that this is necessary because unless Councillor Culley can recall the caption, or at least the sentiment of the caption, then I have no further questions to ask her and I do not expect that there will be anything else significant to say outside of what Councillor Culley has already said to me in her emails.

It is also worth noting that if nobody can recall a caption, it may be possible that there was no caption at all and that the post consisted of the meme on its own. In that case, I cannot see that there is any real relevance in whether Councillor Culley uploaded it herself or shared it from another page.

Without any clarification of:

- a) whether the post was shared or uploaded; and
- b) if the post was shared whether there was a caption; and
- c) what that caption said

I cannot offer any further analysis to assist the panel at the hearing.

Without any further information the issues to be determined by the panel have not changed since my initial report of 17th February 2021.