



Not for Publication by Herefordshire Council

**Complaint Number COC112
Councillor Julian Utting of Ross-on-Wye Town Council**

Monitoring Officer Decision Notice following Initial Assessment

Summary

The Council received a complaint that Councillor Utting had failed to comply with the Code of Conduct of Ross-on-Wye Town Council as follows:

The complainant alleges that the conduct of the subject member, who is a Liberal Democrat councillor, in meeting with the other Liberal Democrat members of the Town Council as a political group on 29.04.25, was a predetermination of their voting at the meeting of Ross-on-Wye Town Council on 12.05.25, and was in breach of the following part of the Code of Conduct:

5.1 I do not bring my role or local authority into disrepute

A copy of the code of conduct is linked here: [Code-of-conduct-ADOPTED-October-2022.pdf](#)

The complaint was accepted as it passed the jurisdictional test.

Background

The complainant is a member of the public.

The subject member is Councillor Julian Utting, who is a Liberal Democrat member of Ross-on-Wye Town Council.

The complainant says that the conduct of the subject member, having met as part of the Liberal Democrat group on 29th April 2025, ahead of voting on the nominations for the roles of Deputy Mayor and Committee Chairs, at the Council meeting on 12th May 2025, amounted to a predetermination.

The complainant supplied photos of what appear to be screenshots of papers another Liberal Democrat councillor was holding, at the meeting on 12th May, which it is suggested showed that the Liberal Democrats had met a Group on 29th April 2025 and predetermined their votes on 12th May 2025. The complainant says the photos were taken by looking over a Councillor's shoulder. One is a partial shot of a page; the other was supplied but was, in my view illegible.

Draft minutes of the meeting on 12th May 2025 can be seen here: [Full Council](#)

There is no dispute by the subject members that they met on 29th April, although not all members of the Liberal Democrat group attended.

The Complainant considers that the subject member breached paragraph 5.1 of the Councillor Code of Conduct of Ross-on-Wye Town Council

Local Assessment Criteria

I considered the Local Assessment criteria, sufficient evidence having been provided to enable me to do so.

The subject member replied to the complaint. Councillor Utting said that the complaint appears to misunderstand the legal definition of predetermination and the normal, legitimate practices of political group governance. He pointed out that it is standard and lawful for a political group with a majority to meet in advance to discuss appointments and responsibilities; and that doing so ensures the Council functions efficiently and cohesively. Councillor Utting said this is not unlawful, nor does it amount to predetermination.

Councillor Utting went on to express his views about predetermination, which he said only occurs when a councillor has irreversibly closed their mind to any other views prior to making a decision. He accepted that the meeting on 29th April 2025, amounted to a predisposition, which is a lawful and accepted part of democratic process, where views are formed in advance but remain open to change following debate or new information.

Councillor Utting offered his thought process around, and consideration of, his vote on 12th May. He shared his concerns about the suitability of the unsuccessful candidate, demonstrating his individual views that affected his own vote. He pointed out that the group meeting on 29th April 2025 evaluated all councillors—across party lines—based on their conduct, contributions, and capacity to lead. He stated that the focus was on ensuring competence and alignment with the values required for these key positions and he emphasised that, in previous years, support has been given to Independent councillors for the Mayoralty and committee chairs on multiple occasions

Councillor Utting suggested the complaint was politically motivated, noting that the complainant is a friend and colleague of Cllr Boylan, who was the unsuccessful candidate for the role of Deputy Mayor.

Councillor Utting also noted that the complaint referred to a councillor referring to notes during the meeting. He stated this is both routine and appropriate, saying that councillors are expected to prepare and may refer to internal notes, previous minutes, or group discussions. This, Councillor Utting suggested, does not constitute misconduct or evidence of predetermination.

Councillor Utting added that he thought the suggestion that the Liberal Democrat group does not work collaboratively is unfounded and pointed to examples of a demonstrated willingness to work constructively across party lines when it serves the public interest.

Councillor Utting rejected the accusation that the Liberal Democrat group had brought the Council into disrepute.

I noted the subject member's careful consideration of the allegations, giving a response that went beyond a simple rejection of the allegations. These were helpful in completing this assessment.

I considered whether the meeting of those Liberal Democrat members who were available on 29th April 2025, was suggestive of a predetermination of their votes on 12th May. In summary, I do not think this amounted to a predetermination. In my view, that would only be the case if there was evidence that members attended the meeting on 12th May 2025 with their minds closed to the debate, and this was not the case.

I did not consider the photographs submitted were probative of any predetermination. Capturing the images in the manner employed did appear to me to be intrusive.

In my view, the subject member may have had a predisposition to vote in a certain way on 12th May, which is lawful. The discussion offered by the subject member, gave a broader perspective to his views, which I believe were individual views, and were lawful.

I considered the case law on this point, including the case of *R v Waltham Forest London Borough Council ex parte Waltham Forest Ratepayers Action Group* (1987) EWCA Civ J0924-3. In that case, the court considered the extent to which party political considerations can lawfully be taken into account in decision-making. The court made reference to:

‘...As is common practice, the members of the Waltham Forest Council, who were members of the Labour Party and formed the majority group, held private meetings at regular intervals at which they discussed forthcoming council business and determined what the policies of the group should be. Such a meeting took place in advance of the rate making meeting of the Council on 10th March.’

The court held that if the councillors in question had voted for the resolution in question, not because they were in favour of it but because their discretion had been fettered by the vote at a group meeting, then the councillors would have been in breach of their duty to make up their own minds, but that was not established on the facts.

The court found that the councillors were entitled to take account of party loyalty and party policy as relevant considerations, provided they did not dominate so as to exclude other considerations. In making decisions, councillors must observe the distinction between having a closed mind to arguments, which would be unlawful, and simply having a predisposition to taking a certain view, which is lawful.

In my view, there was no evidence in this case that any councillor failed to listen to or consider the statements made at the meeting on 12th May 2025, prior to casting their vote.

Accordingly, my assessment is that whilst the subject member may have had a predisposition to the voting that took place on 12th May 2025, there was no evidence of having a closed mind, or a predetermination of the vote.

Although it is outside the remit of the complaint, I noted the part that negative commentary on social media had in this matter and note the potentially damaging and divisive effect this can have.

I would offer advice to all members about the LGA guidance to councillors about their use of social media, which is linked here: [Guide to the role of councillors on social media | Local Government Association](#)

The LGA guidance includes the following, which is, in my view, pertinent:

‘Party politics can also be one of the main triggers for abuse and aggression on social media which can be particularly corrosive if it is between councillors of different political parties on the same council. Residents do not like to see their councillors being rude or hostile to one another on social media. It is vital that any political disagreements are handled politely and with respect to opponents.’

In summary, I do not believe any evidence was submitted that was indicative of a breach of the Code of Conduct on the part of the subject member.

I do not believe it would be in the public interest to investigate this matter further, noting that views on this matter have been aired with the press and thus are already in the public domain.

The Council may reach one of the three following decisions on a complaint, after initial assessment:

1. No further action should be taken; or
2. The matter should be dealt with through a process of informal resolution in the first instance;
or
3. The matter should be referred for formal investigation.

Comments from Independent Persons

I consulted with two of the Council's Independent Members and they agreed with my assessment and decision. They commented as follows:

One said: 'I am surprised that the political division evident in these complaints is so significant at Town Council level. However, given that the division exists, there is nothing that I see as unreasonable in the behaviour described' and that: 'There is some indication that the complaint is politically motivated and may also be "tit-for-tat"'.

The other Independent Person pointed to the relevance of the LGA guidance on councillors' use of social media and also noted: 'I'm very sorry to see this kind of politically motivated complaint against so many councillors... I hope your decision might make some of them, at least, think about the futility of similar politically motivated complaints'.

Monitoring Officer Decision

I have had regard to the complainant's views as submitted in the complaint; the response from the subject member; and the evidence submitted by each at Initial Assessment.

I have taken into account the views of the Independent Persons.

I confirm my decision that: -

The complaint is rejected because it fails the local assessment criteria, since no evidence of a breach of the Code of Conduct is identified on the part of Councillor Utting, and it is not in the public interest to investigate this matter further.

Accordingly, I do not intend to take any further action in this case.

A copy of this decision will be published on the Council's website in accordance with section 5b of the Transparency Arrangements in the Council's adopted procedure. This will be for a period of 6 months from the date of publication.

A copy will be provided to the Complainant and Subject Member, and to the Clerk to the Town Council, as Proper Officer.

There is no right of appeal against this decision notice.

Claire Porter
Monitoring Officer
Herefordshire Council
19.06.2025