

## **FACT FINDING SUMMARY**

### **Complaint from a Councillor of Birstall Parish Council that another Member of Birstall Parish Council failed to observe the Member Code of Conduct**

#### **Complaint Ref: MC3 23/24**

A complaint was submitted by a Birstall Parish Councillor ('the complainant') that another Member of Birstall Parish Council ('the subject Member') failed to observe the requirements of the Member Code of Conduct.

The complaint alleged that the subject Member, in his role as chair of a committee, failed to respond to requests to clarify why the complainant's apology for non-attendance at a meeting of the committee had not been accepted, and also that he had previously requested that a matter about the complainant be included on a parish council agenda.

The complainant stated that these actions were disrespectful and felt like a personal attack against her by the subject Member, and that this may also be a breach of the Code of Conduct requirement that councillors '*shall not act in a way which a reasonable person would regard as bullying or intimidatory*'.

In his response to the complaint the subject Member stated that the decision not to accept the complainant's apology for not attending the meeting was a collective decision by the committee as a whole, that he had been on holiday when clarification was sought from him, but that anyway his understanding was that the chair of a committee was not obliged to explain or justify the collective decisions of a committee.

He also said that he had requested the other previous matter to be put on the agenda because the complainant had sent an email to all the parish councillors wrongly suggesting that he had failed to do something that had been agreed, and which also contained factual inaccuracies.

He stated that he considered this to have been an attempt by the complainant to discredit, embarrass and belittle him, and therefore he had felt it necessary to exonerate himself by requesting an agenda item to explain that he had done what had been agreed and to clarify other relevant facts.

Having considered the complaint and the subject Member's response, the Monitoring Officer concluded that the complaint does not warrant further action or investigation because the conduct in question would not, if proven, be a breach of the Code of Conduct.

This is because the decision not to accept apologies for absence from the complainant was a collective decision of the relevant committee and was not a personal decision of the chair, and also there is no requirement for the chair to explain the reasons for the collective decisions of the committee.

For information, it was noted during the fact finding review that the parish council has received guidance from the Leicestershire & Rutland Association of Local Councils regarding the recording of attendance and non-attendance at meetings, which states that *'if a councillor doesn't send apologies, or council doesn't accept or approve them, it is up to your council if and how this is recorded'*.

Also, having reviewed the relevant agenda item and minutes relating to the matter which the subject Member requested to be considered at a parish council meeting it did not appear to be framed as a personal attack on the complainant, but rather was designed to clarify the relevant facts and to suggest improved processes for the future reporting of issues of concern by parish councillors in general.

It is apparent that the relationship between the complainant and the subject Member has become somewhat strained, with the latter stating in his response to the complaint that he is considering making a counter complaint against the complainant and another councillor should this current complaint against him not be upheld.

To avoid a potentially damaging situation with 'tit for tat' complaints being made within its councillor cohort, Birstall Parish Council may wish to consider arranging for mediation or reconciliation between the complainant and the subject Member, because it is obviously important that their councillors should be able to work together in a constructive and mutually respectful manner.

### **View of the Independent Person**

An Independent Person, Mr Laurie Faulkner, was consulted and supported the Monitoring Officer's conclusion that the complaint was not serious enough to warrant further action or investigation, but that Birstall Parish Council may wish to consider arranging for mediation between the complainant and the subject Member.

**Adrian Ward**  
**Monitoring Officer**

**Date: 14 August 2023**