

## **INITIAL ASSESSMENT OF COMPLAINT DECISION NOTICE**

**Subject Member: Cllr Ian Bates - Peterborough City Council**

### **1. Background**

- 1.1. On 21st November 2018 the Monitoring Officer received a formal complaint from Hannah Southerington ("the Complainant"), alleging that Cllr Bates ("the Subject Member") had breached the Cambridgeshire County Council Code of Conduct.
- 1.2. The substance of the complaint relates a telephone conversation that took place between the Complainant and Subject Member on 14th November 2018 at approximately 10.30 a.m. In particular, the Complainant alleges that she responded to a missed call showing on her telephone and after introducing herself was then put on to the Subject Member. The Subject Member is said to have used an aggressive tone as a means of bullying information out of the Complainant leaving her feeling distressed following the conclusion of the call.
- 1.3. It is acknowledged that there has been a delay in processing this complaint. Unfortunately the Monitoring Officer was absent from the office on a prolonged period of sick leave since Christmas and has only recently returned to work.

### **2. Evidence Considered**

- 2.1. The following documents and information were considered for the purposes of this initial assessment of this complaint:-
  - 2.1.1. Complaint sent by email on 21st November 2018;
  - 2.1.2. Response from the Subject Member sent by email on 3rd December 2018 together with the additional emails and documents referred to therein;
  - 2.1.3. Response from Line-Manager - 22.11.2019;
  - 2.1.4. The Council's Members' Code of Conduct; and
  - 2.1.5. Protocol on Member Officer Relations.

### **3. Jurisdiction**

- 3.1. For a complaint to be considered in connection with the Member's Code of Conduct, the following test must be satisfied:
  - 3.1.1. the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council; and
  - 3.1.2. the Subject Member had signed up to the Members' Code of Conduct in force at the time the alleged action took place; and
  - 3.1.3. the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.
- 3.2. The Monitoring Officer and Independent Person have concluded that all three limbs of this test are satisfied in this matter.

#### **4. Initial Assessment Decision**

4.1. The Independent Person has considered whether the actions of the Subject Member described in paragraph 1.2 above constitutes a breach of the following provisions of the Members' Code of Conduct:

- 4.1.1. You must treat others with respect (para 2.1 Code of Conduct); and
- 4.1.2. You must not bully any person (para 2.2 Code of Conduct).

4.2. The complaint and subject member's response can be summarised as follows:

- 4.2.1. The complainant alleges that from the commencement of her discussion with him, the Subject Member was immediately rude in tone. The first issue raised was in relation to the Complainant's voicemail which the Subject Member contended was not working. The Complainant later followed this up with ICT and discovered that there had been a problem but this was not something that she had previously been aware of and did not therefore know that the Subject Member had previously tried to contact her. The complainant had not spoken to the Subject Member before and had not been left any information in her hand-over notes about the need to keep him informed on matters relating to the LHI for his areas. The Subject Member however was seeking information in what the Complainant describes as an aggressive tone which she considers was designed to bully information out of her. Specifically the Subject Member was seeking the names and contact details of applicants within his constituency on the premise that it was 'his' money that they were spending and he had not been consulted on that. The Complainant recalls that she made suggestions to the Subject Member as to how his concerns could be addressed as part of the application process but that these were dismissed with comments by the Subject Member about him already being aware of that and telling her not to argue with him. The Complainant confirms that she was left feeling very distressed after the phone call and this has prompted her complaint. The Complainant as part of the information provided has offered her view that the Subject Member was possibly only requesting the information so that he could attend the meetings and 'throw his weight around'. The Complainant had not been aware at the time of the call that the Subject Member was entitled to attend. The Complainant confirms that if the Subject Member "had spoken to me nicely I would have cooperated and we may have been able to broach a discussion about his ideas for reviewing parts of the LHI process in order to keep local members better informed."

4.2.2. The Subject Member contends that he only became aware of the LHI dates for his area indirectly as a result of an email that had been circulated to request a substitute. The Subject Member denies that he was rude but observed that the Complainant seemed to have no knowledge of who he was, what LHIs were in his division or the role of elected members in that process. The Subject Member had previously been notified of LHIs (albeit that this notification had only been in relation to Hilton and Hemingford Abbots) and understands that the constitution provides for this. The Subject Member confirmed that he did use the phrase 'his money' but only in the context of his overall responsibilities as a member of Full Council with budget responsibilities and as the Chairman of the Economy and Environment Committee. The Subject Member has a detailed knowledge of the LHI process and had been actively involved in the in the Hilton bid. The Subject Member strongly objects to the insinuation that he would have attempted to object to the application and has provided email evidencing his involvement to date. He also denies that he would attempt to bully bidders and instead refers to the instances in which he has spoken about the process as meetings in order to assist where appropriate. In conclusion, the Subject Member denies any wrongdoing and he expressed a view that the complaint is unfounded.

4.2.3. The Member Officer Relations Protocol states as follows:

10.1 It is essential for the proper running of the Council that members should be fully informed about matters on which they may be required to make decisions or which affect their electoral divisions.

10.2 It is the duty of each Executive, Corporate and Service Director to ensure that all relevant staff are aware of the requirement to keep local members informed and that the timing of such information allows members to contribute to those decisions. Local members shall also be kept informed about matters affecting their divisions during the formative stages of policy development and discussion at informal meetings.

10.3 Issues may affect a single electoral division but others may have a wider – even sub-regional – impact, in which case numerous members will need to be kept informed.

10.4 Local members have an important role to play in representing the County Council in their constituencies; responding to the concerns of their constituents; in meetings with partners and serving on outside organisations.

10.5 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the electoral division(s) affected should as a matter of course be invited to attend the meeting.

10.6 Similarly, whenever the Council undertakes any form of consultative exercise, the local member(s) should be notified immediately prior to the outset of the exercise.

4.3. The Independent Person and Monitoring Officer having considered all of the available evidence have concluded as follows:

4.3.1. As to the question of whether Councillor Bates has failed to treat others with respect; it was not felt that the comments made were designed with the deliberate intent to be disrespectful. It is however acknowledged that there were issues predating the call which are likely to have influenced the overall tone of the conversation. In particular, it is clear that the Subject Member had seemingly attempted to contact the Complainant on more than one occasion to find out the information he required. He had a particular interest in the LHIs for his area and was very knowledgeable about that and the LHI application process overall. He was attempting to obtain the information he required and considered himself to be entitled to based on previous experience. The Complainant however had no knowledge of the Subject Member, his background or his specific entitlements. Equally she did not until that point know that there were issues with her voicemail. It is clear that the Complainant thought that she was being helpful in making suggestions to the Subject Member in the context of the knowledge she had at the time. Equally the Complainant acted diligently in taking immediate steps to rectify the issues with her phone. Nevertheless, the Member Officer Relations Protocol does require in circumstances such as these that Members are required to be kept informed to include being given information about meetings. In that regard it seems likely that the suggestions made would have fallen short of what was expected and could have added to the existing tensions. Furthermore it is noted that there seems to have been a misunderstanding on the Complainant's part as to the purpose of the Subject Member's request for that information and how it might be used. These factors will undoubtedly have influenced the way in which the Complainant and Subject Member reacted to each other during the course of that particular phone call.

4.3.2. As to the question of whether Councillor Bates is guilty of bullying, the definition of bullying is broadly defined as by 'Bullying UK' as 'repeated behaviour which is intended to hurt someone either emotionally or physically and is often aimed at certain people because of their race, religion, gender or sexual orientation or any other aspect of their appearance or disability. In this context it seems clear that the actions described took place as part of a 'one off' event and occurred as a result of unmet expectation as opposed to being related to the particular characteristics of the Complainant.

4.4. In summary the Independent Person's view is that:

4.4.1. In respect of the allegation of Cllr Bates having failed to treat the complainant with respect, whilst it is clear that there are lessons to be learnt it is not considered that this reaches the threshold for further investigation.

4.4.2. In respect of the allegation that Cllr Bates is guilty of bullying, whilst it is acknowledged that the Complainant was left feeling distressed, it is not considered that this in itself and the wider context described would meet the

threshold for bullying/further investigation having regard to the legal definition.

4.5. As a consequence of the above, the Independent Person advised that in her opinion there was no apparent breach of the Code of Conduct and therefore no further action should be taken.

4.6. The Monitoring Officer concurs and therefore no further action will be taken.

**Approved By:**            **Gillian Holmes (Independent Person)**  
                                 **Amy Brown (Deputy Monitoring Officer)**

**Dated:**                    **27th March 2019**