

FACT FINDING SUMMARY

Complaint from a local company that a Member of Charnwood Borough Council failed to observe the Member Code of Conduct

Complaint Ref: MC3 24/25

A complaint ('the complainant') was submitted by a local company that a Member of Charnwood Borough Council ('the subject Member') failed to observe the requirements of the Member Code of Conduct.

The complaint alleged that the subject Member had breached the code of conduct by displaying bullying and intimidating behaviour and potentially misusing their position.

In their response the subject Member explained that this issue related to a personal matter about the time of a delivery to a neighbouring property. As a resident they had raised direct concerns with the delivery driver and found the driver unprofessional and uncooperative. The subject Member had then telephoned the company to express their dissatisfaction with the delivery driver and wrote a negative Google review on the company website. The subject Member emphasised that this was all done in a private capacity and the company only established they were a Borough Councillor following questioning from the driver on why they appeared to know about the rules relating to delivering times. The subject Member elaborated that Borough Councillors due to the nature of their roles often have a better understanding and knowledge of such matters than ordinary residents.

The current Code of Conduct in *Paragraph 4 states:*

Application of the Code of Conduct

This Code of Conduct applies to you as a member or co-opted member of the Council. It applies as soon as you sign your declaration of acceptance of the office of member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a member.

This Code of Conduct applies to you when you:

- act in your capacity as a member or co-opted member of the Council; and***
- conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed)"***

This means that it is necessary to make a determination of whether the conduct complained about amounts to conduct in an official capacity based on the circumstances of the complaint.

For something to fall within the code there must be a link to a local authority function or role as a councillor.

A disagreement with a local company which does not relate to local authority business would not engage the code, even though the company had established the subject Member was a Borough Councillor.

Having considered the personal account of the subject Member, the email correspondence and Google review I can see no references to the subject Member being a Borough Councillor, and therefore drawn a reasoned conclusion that the subject Member was not acting in an official capacity and therefore the Code of Conduct does not apply. In these circumstances the complaint warrants no further investigation or action.

View of the Independent Person

An Independent Person, Mr Michael Gibson, was consulted and agreed with the Monitoring Officer's assessment of the complaint against the subject Member. Having reviewed the documentation, he agreed that there was no evidence that the subject Member was acting in an official capacity and is therefore not in breach of the Code of Conduct.

Karen Widdowson

Monitoring Officer

29th November 2024

Background case referred to during consideration of this complaint

Adjudication Panel for England APE0458 *Sharratt*:

“The dedication of many councillors to activities in public life means that often their social and professional lives are shaped by their roles as councillors and in turn shape how they approach those activities. However while they may always be conscious of their office as councillor and carry out a wide range of activities in which that is a factor in their thinking, no reasonable observer would conclude that they are carrying out the business of the office of councillor; a test which, in the light of the decision in Livingstone, should be narrowly construed.”