

**Reference: STD001093**

## **Initial Assessment Decision**

### **Complaint**

The complaint was made about Councillor Emily Quilty, a Calverton Parish Councillor by a Calverton Parish Councillor.

A general summary of the complaint is set out below:

*The Complainant has alleged that, due to her behaviour at a series of meetings and by her conduct outside meetings Councillor Emily Quilty has breached the Code of Conduct for Calverton Parish Council. Councillor Quilty has responded to the complaint strongly refuting the allegations made.*

### **Decision**

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that this is an appropriate case, to seek to resolve the complaint informally, without the need for a formal investigation.

I find that there is a potential breach of the Code of Conduct in relation to the following paragraphs of the Code of Conduct:

1. He/she shall behave in such a way a reasonable person would regard as respectful.

I recommend that Cllr Quilty apologises to the complainant and the parish council for sketching/ drawing in meetings in a manner which some parish councillors have found intimidating but could also be viewed as demonstrating a lack of interest in the proceedings at the meeting.

I also recommend that Calverton Parish Council considers:

1. Adopting a revised Code of Conduct which is sufficient to promote the high standards of conduct expected and sets out the behaviours expected of elected members.

The Code of Conduct is central to upholding high Standards in public life. The Calverton Parish Council Code is minimal and having assessed complaints I am not satisfied that it goes far enough to set out the standards expected.

2. Introducing Committees with delegated powers.

The complainant describes lengthy debates about policies which may be more appropriately conducted in a Committee meeting, rather than full Council. There is also a decision of the Council to plan Committees which was not progressed for a significant period of time. If not done so already I recommend that steps should be taken to give effect to the Council's decision.

In assessing this complaint I have had regard to:

- the complaint as submitted by the complainant;
- the recording of the meeting on 11 September 2018;
- the response to the complaint submitted by Councillor Quilty;
- the views of the Independent Person: and
- the Calverton Parish Council's Code of Conduct.

In considering if the Code has been breached the facts relating to the matter are considered in an objective manner adopting a reasonable person approach applying the balance of probabilities test, that is; is it more likely than not that a reasonable person in possession of all the facts would consider that the conduct complained of was a breach of the Code.

Whilst the complaint discloses a potential breach of the Code, I consider that it is appropriate to seek to conclude it by way of informal resolution.

The reason for this decision is as follows:

I am satisfied that for the purposes of this complaint that Councillor Quilty was acting in her official capacity at the time of the alleged conduct and was therefore bound by the Calverton Parish Council Code of Conduct.

The complainant alleges Cllr Emily Quilty is in breach of the following areas of the Code of Conduct: Integrity / honesty and openness; respect for others; selflessness; and leadership. The Calverton Parish Council's code of conduct states it is "is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership"; however there are no specific obligations set out which require a Calverton Parish Councillor to act with integrity, honesty etc. The conduct alleged has to be assessed with reference to the specific obligations set out in the Code of Conduct. Therefore even if Councillor Quilty is found not to have acted with integrity, openness, respect etc. a breach of the Code could not be found. There are 5 obligations in the Code of Conduct; the following are relevant:

1. He/she shall behave in such a way a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

The complaint and the response are extensive and whilst all these have been read and considered only the key areas are referenced below. Rather than assessing each of the activity alleged, I consider each of the above obligations and assess whether the behaviour alleged could amount to a breach of those obligations.

**The Code of Conduct sets out, at paragraph 1 that a Calverton Parish Councillor must behave in a way that others would regard as respectful.**

For a breach of the Code to be found following an alleged failure to treat with respect, the behaviour complained of has to be, when viewed objectively by a reasonable man in possession of all the facts, unfair, unreasonable or demeaning. The Code does allow a councillor to be critical of an individual and a member can even be argumentative, but this must not be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

Whilst the complainant has now resigned from office, this is a councillor on councillor complaint. When considering an allegation of lack of respect, it is clear that the 'robust political debate' is allowed and case law (Patrick Heesom v The Public Service Ombudsman for Wales) sets out that politicians are subject to wider levels of acceptable criticism than members of the public and are required to have 'thicker skins' and be more tolerant than ordinary citizens.

The complaint alleges that Cllr Quilty is "single minded in wanting to achieve her personal missions". Examples given include blocking Committees and motions, such as:

- Insisting that the planning for Finance and General Purposes Committee and Planning Committee is delayed and then not turning up at the meeting.
- Stating forcefully that she does not want to see delegated powers.
- Overriding concerns about the HR group and that HR matters are dealt with at full Council.
- During the discussion about Media Policy at meeting on 11 September 2018, speaking at length about a number of vaguely linked issues and completely 'putting down' the NALC policy.
- Demonstrating an absolute focus on a personal mission to protect the southern ridge, not sharing information, keeping others in the dark and defending the decision to purchase the land.

I am satisfied that a reasonable person viewing the conduct alleged objectively would not come to the conclusion that it is behaviour which is not respectful. Cllr Quilty, as a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express her views; this can be forceful but should not be a direct personal attack on another individual. The decision as to whether or not HR matters are dealt with at full Council or there are Committees with delegated powers to deal with Finance and Planning Committees falls to the Parish Council as a whole. Freedom of speech and expression of views should be allowed. Cllr Quilty is entitled to express her view in a robust fashion and I do not consider that her behaviour went beyond what could reasonably be regarded as fair and reasonable.

I note that the decision of the Parish Council went against Cllr Quilty's view and a resolution to plan for the 2 committees is passed in January 2018. It is of concern that 11 months after that resolution, the Parish Council had not introduced committees as a

result of the delay in arranging the planning meeting and then 5 councillors failing to turn up. Cllr Quilty explains that this was not a formal council meeting and she cannot recall why she did not attend; she states that her attendance is generally good but sometimes she struggles with childcare. Cllr Quilty cannot be held solely responsible for the delay; there were 4 others who failed to attend.

In relation to Councillor Quilty's focus on protecting the southern ridge and defending the decision to purchase the land, Cllr Quilty has disputed that she has stated she is concerned about one particular area of council work. She accepts that the 'southern ridge' has constituted an important part of her work and she took on the task of producing the evidence document; however states that there are other areas of work she has carried out, including developing and maintaining the website. Cllr Quilty has also provided a copy of an email she received from the complainant dated 1 October 2017 in which the complainant states "*Just wanted to say I really appreciate all the work you have done and are doing on the land project ... well done you do 'us' proud*".

The actions of Councillor Quilty could be described as determined, focused and forceful, however I am satisfied that a reasonable person viewing the conduct objectively would not regard it as showing lack of respect. It is also relevant that the decision to purchase the land was made by the Parish Council and whilst the complainant may not now agree with it, it is not unreasonable for Cllr Quilty to defend a decision made by the Parish Council.

The complainant describes Cllr Quilty's behaviour during debates and parish council meetings, for example:

- At the council meeting on 20 November 2018 speaking at length off agenda, defending the purchase of the land and not addressing the resolution.
- Puts down information and contribution put forward by others, for example the Media Policy, Complaints Policy, evidence of inappropriate behaviour by staff and nomination for Chairman.
- Sketching other councillors during council meetings and selectively filming the complainant on her mobile phone.

For a breach of this part of the Code to be found it has to be shown that there has been a personal attack made by the councillor. The Code does allow a councillor to be critical of an individual and a councillor can even be argumentative, but this must not be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

As set out above, in the case of *Heesom v The Public Services Ombudsman for Wales*, it was noted that:

'.....politicians are subject to wider limits of acceptable criticism and are required to have thicker skins and to have more tolerance to comment than ordinary citizens.'

Taking this case into account, it is clear that should a personal attack be made on a councillor then there is a higher threshold that needs to be attained before a breach of the Code can be found.

Speaking at length off the agenda is a procedural issue which is a matter for the Chair of the meeting to control. It is recognised that the code is an ethical code not a backstop against poor governance or process. Whilst the complainant may expect fellow councillors to stick to the matter being debated, I consider that this is not a matter which falls within the scope of the code of conduct.

Putting down or criticising information put forward by others is permissible but would be a breach of the code of conduct if what was said amounted to a personal attack on another individual. In considering the comments quoted in the complaint, I do not consider that, if proven, they would meet the threshold to amount to a breach of the code of conduct.

In her representations, Councillor Quilty admits that, as an artist, she does find herself drawing on whatever is to hand. I understand that whilst doodling in a meeting may look disrespectful to some, it may actually assist others to concentrate. The question is whether sketching other councillors during a meeting meets the threshold for demonstrating lack of respect. I have not seen copies of the 'sketches' but have viewed the recording of the meeting on 11 September where Councillor Quilty is seen sitting back in her seat holding a hardback book; the councillors sat on either side are shown what Cllr E Quilty is recording and the councillor opposite her makes a comment that she considers being sketched intimidatory. I note that there is a debate at the meeting about whether sketching is different to the right to film a meeting. In the complaint, the complainant also makes reference to Councillor Quilty sketching her with papers held high near her head.

The complainant and the councillor at the meeting on 11 September state that they find Councillor Quilty sketching them intimidatory, but an assessment has to be made as to how this behaviour would be viewed objectively by a reasonable person. I do consider that a reasonable person assessing the facts objectively would conclude that this behaviour is not intimidatory but could demonstrate lack of respect to not only the councillors being sketched but to other councillors at the meeting, particularly the Chair. Having viewed the recording of the meeting in September and making an objective assessment it could be concluded that Cllr Quilty is more interested in what she is recording on paper and displaying a lack of interest in the meeting.

The complainant also alleged that Cllr Quilty directly filmed her on a mobile phone in a selective way. Cllr E Quilty admits that she did try to attempt to digitally record some meetings, but states that the complainant has misrepresented and exaggerated her behaviour. The complainant alleges that Cllr Quilty was clearly filming her in "a selective and intimidating way" and a photograph provided by the complainant does show Cllr Quilty sitting with her mobile phone directed at the person opposite. There is also reference in the complaint to a comment made by another Parish Councillor pointing out to Cllr Quilty 'yes but you are filming' the complainant.

It is clear that Cllr Quilty has concerns about filming of parish council meetings, but both the complainant and Cllr Quilty are entitled to record parish council meetings by

virtue of the Openness of Local Government Bodies Regulations 2014. The legal position is that a parish council is required to allow any member of the public (which includes a parish councillor) to take photographs, film and audio-record the proceedings, and report on all public meetings. There is no requirement for a member of the public or councillor to ask for permission to do this, although it is helpful for the Council to be aware so that it can comply with the obligation to provide reasonable facilities for any member of the public to report on meetings. An individual can be asked to stop recording where they are disrupting the meeting. The starting point therefore is that Cllr E Quilty is entitled to record the meeting and this in itself would not be a breach of the code of conduct. The question is whether she has gone further than this and her behaviour amounts to lack of respect or intimidation. I am satisfied that a reasonable person objectively viewing the facts would not conclude that it would meet the threshold to be a breach of the code of conduct.

The complainant also alleges that Councillor Quilty has made inappropriate comments about others and the following are examples:

- Reacted “with fury on the street and on Facebook” to questions asked by the public and “acted with fury” across the community following a councillor tabling a resolution at the council meeting on 20 November 2018.
- Telephoned her after the meeting on 12 November 2018 and was “quite abusive”.
- “Openly defamed” the resident bringing the complaint about the decision to purchase the land.
- Has described other female councillors as “the witches”.

In response to the allegations that she reacted and acted ‘with fury’ across the community, Councillor Quilty states that she is bemused by the claim and has absolutely no idea what the complainant means. She also refers to an email from the complainant dated 22 November 2018 in which she states that she is not part of the social media circuit. As regards the telephone call, Councillor Quilty confirmed that she did telephone the complainant but ended it in response to rudeness on the complainant’s behalf. In her representations, Councillor Quilty states that she is not aware of anything she has said that could be construed as defamatory, although she may have alluded to the fact that she was annoyed about resources being wasted in calling an extraordinary meeting.

The allegations that Cllr Quilty ‘acted with fury’ and openly defamed another are general in nature and not sufficiently specific to be able to make a finding. There is also little detail about who was called “witches”, who the comment was made to and in what context. In view of the lack of evidence, I am unable to determine whether the allegation if proven would amount to a breach of the Code of Conduct and therefore make no finding. This aspect of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation.

I note that whilst both parties agree that a telephone call took place, the account of the telephone call differs. The problem that is presented is that when there is a call between two people, there were no witnesses to it and as a result the alleged conduct

will remain as one word against the other. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. It is therefore not considered to be in the public interest to refer this for further investigation as it would not be possible to resolve these conflicting statements. As a result I make no finding at initial assessment stage.

**The Code of Conduct sets out, at paragraph 2 that a Calverton Parish Councillor must not act in a way which a reasonable person would regard as bullying or intimidatory**

The complainant contends that Cllrs Emily and her husband Nick Quilty act 'in tandem' and so they are supporting and compounding each other's forceful and intimidating behaviour. Cllr Nick Quilty generally takes the front attacking line, with Cllr E Quilty coming in as 'back up sincere justifier' ...trying to adopt some sort of 'moral high ground', often belittling the people who are raising issues. The complaint also alleges that Cllr E Quilty resolutely speaks and votes in support of Cllr N Quilty.

In response to the allegation, Cllr E Quilty has stated that she objects to the idea that she has implemented a strategy to bully 'in tandem' with Cllr N Quilty.

When considering an allegation of bullying, it is accepted that bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises or injures someone. Some examples of bullying behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour
- ridiculing or demeaning someone-picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position

Bullying and intimidation are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider parish council in terms of morale and operational effectiveness.

On balance, the majority of the behaviour alleged demonstrates a distinct difference of opinion between the complainant and Cllrs N and E Quilty. It is understood that being faced with a pair of married councillors, who dominate the debate at parish council meetings in a forceful or obfuscating way could be regarded by the complainant as intimidatory. The complainant may not welcome Cllr Quilty using "big words", "emotive and intellectual argument" and taking "the moral high ground" or "intellectual high ground"; however I am satisfied that Councillor Quilty's style of oral communication does not meet the threshold of bullying and intimidatory to amount to a breach of the code of conduct. The examples provided do not meet the threshold to demonstrate that Cllr Quilty's comments are personal and are aimed at undermining, humiliating, unfairly criticising or injuring an individual.

The complaint alleges that Cllrs N and E Quilty support each other and work together to block proposals put forward by others or to progress their own policies and personal missions; examples given include debates and decisions relating to the purchase of

the farmland at the south-western edge of the village, the Complaints Policy and procedure, 'wrongdoings' by employees, filming of meetings and Media Policy. In her representations, Cllr E Quilty states that she has always expressed her views as an individual and never sought to influence in co-ordination with anybody.

I am conscious that a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express views about matters. It is also clear in a political environment that members of the same political group will share a common policy, common views and regularly vote in support of the same proposals at meetings. Robustly expressing views in common with others does not amount to a breach of the Code of Conduct and if this was the case, the management of the ethical standards process would become untenable. Councillors must be free to propose what they wish and express their views; it is then for the Parish Council as a corporate body, taking advice from its Clerk, to consider the matter and make a decision. The complainant clearly does not agree with the views expressed by Cllr Quilty at meetings and the decisions of the Parish Council she supported or voted against, however this is part of the democratic process. Councillors are entitled to express different opinions.

Decisions of the Parish Council are not made by consensus, they are made by majority of those present and voting and, on their own, Cllr N and E Quilty cannot carry the vote. There is no allegation in the complaint that Cllr N and E Quilty have bullied or intimidated others, including the complainant, into voting in a particular way. In viewing the recording of the meeting in September 2018, it is clear that the complainant has a different view of the Media Policy proposed to Cllrs N and E Quilty and expresses her support to the NALC model policy. Whilst, I appreciate that the complainant may be frustrated that Cllr N and E Quilty resolutely spoke in support of the draft Media Policy he proposed and she "sagely threw out concerns about the NALC Policy left real gaps" I am satisfied that the conduct described and viewed is not bullying or intimidatory in nature.

The complaint alleges that on 12 November 2018 Cllr E Quilty telephoned the complainant and was clearly very cross and "quite abusive", but the complaint does not detail how Cllr Quilty was abusive. In her representations, Cllr Quilty confirms that she did make the phone call but it ended in response to rudeness on behalf of the complainant.

As above, I note that whilst both parties agree that a telephone call took place, the account of the telephone call differ. The problem that is presented is that when there is a call between two people, there were no witnesses to it and as a result the alleged conduct will remain as one word against the other. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. It is therefore not considered to be in the public interest to refer this for further investigation as it would not be possible to resolve these conflicting statements. As a result I make no finding at initial assessment stage.

The complainant provides an email exchange on 11 and 12 November 2018 following the decision to cancel the scheduled parish council meeting on 13 November as evidence of bullying and intimidatory behaviour. The complainant describes Cllr Quilty's response as a "friendly approach" stressing an "emotive" argument. When

assessing the contents of the email objectively, I find the tone and the language used perfectly reasonable and am not persuaded that it amounts to bullying or intimidation.

The complainant describes the following behaviour, which she believes occurred at the Parish Council meeting in September. Having viewed the recording of that meeting, it is clear that Cllrs Nick and Emily Quilty are not sat at either side of the complainant and therefore the behaviour alleged must have taken place at a different meeting. The complainant states that Cllr N and E Quilty were sitting either side of the complainant, with Cllr N Quilty picking up his phone and waving it at the complainant whilst saying “we’ve got to get this one” and Cllr E Quilty sketching the complainant on papers held up high close to her head. Cllr E Quilty in her representations states that she would not have made a choice to sit in this way if there were empty seats and does not recognise the description of sketching with her papers held high. Cllr Quilty does accept that she may have held her papers up to avoid being filmed. Simply sitting on either side of the complainant alone would not amount to bullying if there were no other seats available; however waving a phone in front of the complainant whilst making the comment “we’ve got to get this one” and sketching could be personally intrusive and could reasonably be regarded as intimidatory. Given the fact that this is a single incident which is not of the most serious nature, I do not consider that it has met the threshold to be a breach of the code of conduct in respect of bullying and intimidation on this occasion.

The complainant also mentions the actions of a relation of Cllr E Quilty and a large entourage at the meeting on 20 November 2018 as evidence of bullying and intimidation. The nub of the complaint is about them filming the meeting with a large camera on a tripod and a hand held device. The complainant states that she found the filming distracting and makes no mention of being intimidated by it. Cllr Quilty explains that this was a public meeting and members of the public are allowed to film meetings. In considering this matter objectively, any member of the public is entitled to attend and film a public meeting. In my view the complainant has recorded meetings, which she is entitled to, and which other councillors have clearly expressed their dissatisfaction about. She may have found it distracting when Cllr E Quilty’s family recorded the meeting, simply being distracted does not amount to bullying and intimidatory behaviour on the part of Cllr Quilty.

### **Potential breaches of the Code of Conduct considered**

The Calverton Parish Council code of conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

1. He/she shall behave in such a way a reasonable person would regard as respectful.

*(Note - Failing to treat others with respect might be defined as unfair, unreasonable or demeaning behaviour directed by one person against another. I consider that most reasonable members of the public would take into account the context in which particular language and behaviour has been used in assessing whether it was “disrespectful”. The context might include the place where an incident occurred, who*

*observed the behaviour, the character and relationship of the people involved, and the behaviour of one or more of the parties that prompted an alleged act of disrespect. )*

2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidation.

*(Note - Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature.)*

## **Response to Initial Assessment Decision**

Councillor Quilty responded to the Initial Assessment Decision Notice. She does not accept the decision on initial assessment and has not apologised as recommended. A summary of why she does not accept the decision is as follows. She considers that:

- There are significant aspects of the original complaint, her treatment throughout the complaint process, the handling of the complaint and the resulting decision/recommendation that are fundamentally unreasonable.
- The manner in which the evidence has been collected and evaluated has been unfairly weighted in favour of the complainant throughout this process.
- The assessment of the complaint and the associated request for an apology is untenable for a number of reasons.
- The question of the content of her notes is irrelevant. Other councillors, including the complainant whilst in office, routinely draw on the side of their notes. She is perfectly entitled to do likewise; it has only ever enhanced her ability to concentrate on the proceedings of meetings.
- She is entitled to keep her notes private or share with individual councillors if she wishes. She is unaware that the scribbles that are routinely applied to other councillors' personal documents have ever been subject to a similar level of scrutiny.

## **Decision and reasons**

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that no further action should be taken in relation to the original complaint and the file should be closed.

The reason for this decision is as follows:

Whilst the complaint discloses a potential breach of the Code, that part of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation.

I am aware that Emily Quilty is now no longer a councillor and neither is the complainant. If the complaint is investigated, even if a finding of breach is made, any sanction is limited to sending a letter or publishing findings. This is likely to have little impact when Mrs Quilty is no longer a councillor.

In any event, even if Emily Quilty was still a councillor the potential breach of the Code is not serious enough to merit an investigation. The officer time and costs which would be incurred by the Borough Council to investigate are disproportionate to the breach and any possible sanction which could be imposed in the event of a finding of breach.

**Reference: STD001069**

## **Initial Assessment Decision**

### **Complaint**

The complaint was made about Councillor Nick Quilty, a Calverton Parish Councillor by a Calverton Parish Councillor.

A general summary of the complaint is set out below:

*The Complainant has alleged that, due to his behaviour at a series of meetings and by his conduct outside meetings Councillor Nick Quilty has breached the Code of Conduct for Calverton Parish Council. Councillor Quilty has responded to the complaint strongly refuting the allegations made.*

### **Decision**

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that this is an appropriate case, to seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution would involve Councillor Quilty apologising to the complainant.

I find that there is a potential breach of the Code of Conduct in relation to the following paragraphs of the Code of Conduct:

2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidation.

I also recommend that Calverton Parish Council considers:

1. Adopting a revised Code of Conduct which is sufficient to promote the high standards of conduct expected and sets out the behaviours expected of elected members.

The Code of Conduct is central to upholding high Standards in public life. The Calverton Parish Council Code is minimal and having assessed complaints I am not satisfied that it goes far enough to set out the standards expected.

2. Introducing Committees with delegated powers.

The complainant describes lengthy debates about policies which may be more appropriately conducted in a Committee meeting, rather than full Council. There is also a decision of the Council to plan Committees which was not progressed for a significant period of time. If not done so already I recommend that steps should be taken to give effect to the Council's decision.

In assessing this complaint I have had regard to:

- the complaint as submitted by the complainant;
- the recording of the meeting on 11 September 2018;
- agenda and minutes for the meeting of the Parish Council on 12 June 2018;
- the response to the complaint submitted by Councillor Quilty;
- the views of the Independent Person: and
- the Calverton Parish Council's Code of Conduct.

In considering if the Code has been breached the facts relating to the matter are considered in an objective manner adopting a reasonable person approach applying the balance of probabilities test, that is; is it more likely than not that a reasonable person in possession of all the facts would consider that the conduct complained of was a breach of the Code.

Whilst the complaint discloses a potential breach of the Code, I consider that it is appropriate to seek to conclude it by way of informal resolution.

The reason for this decision is as follows:

I am satisfied that for the purposes of this complaint that Councillor Nick Quilty was acting in his official capacity at the time of the alleged conduct and was therefore bound by the Calverton Parish Council Code of Conduct.

The complainant alleges Cllr Nick Quilty is in breach of the following areas of the Code of Conduct: Integrity / honesty and openness; respect for others; selflessness; and leadership. The Calverton Parish Council's code of conduct states it is "is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership"; however there are no specific obligations set out which require a Calverton Parish Councillor to act with integrity, honesty etc. The conduct alleged has to be assessed with reference to the specific obligations set out in the Code of Conduct. Therefore even if Councillor Quilty is found not to have acted with integrity, openness, respect etc. a breach of the Code could not be found. There are 5 obligations in the Code of Conduct; the following are relevant:

1. He/she shall behave in such a way a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

The complaint and the response are extensive and whilst all these have been read and considered only the key areas are referenced below. Rather than assessing each of the activity alleged, I consider each of the above obligations and assess whether the behaviour alleged could amount to a breach of those obligations.

**The Code of Conduct sets out, at paragraph 1 that a Calverton Parish Councillor must behave in a way that others would regard as respectful.**

For a breach of the Code to be found following an alleged failure to treat with respect, the behaviour complained of has to be, when viewed objectively by a reasonable man in possession of all the facts, unfair, unreasonable or demeaning. The Code does

allow a councillor to be critical of an individual and a member can even be argumentative, but this must not be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

Whilst the complainant has now resigned from office, this is a councillor on councillor complaint. When considering an allegation of lack of respect, it is clear that the 'robust political debate' is allowed and case law (Patrick Heesom v The Public Service Ombudsman for Wales) sets out that politicians are subject to wider levels of acceptable criticism than members of the public and are required to have 'thicker skins' and be more tolerant than ordinary citizens.

The complaint alleges that Cllr Nick Quilty subverts the democratic process by insisting forcefully that the council cannot adopt something until perfect, but pushes through own agenda whatever state or form. Examples include:

- Introducing a Street Naming Policy which was not circulated prior to the 12 June 2018 meeting and under his Chairmanship turned it into a motion; and
- Whizzing through the Annual schools football match with no detail.

In his representations, Cllr Quilty states that both of these items were discussion items which were discussed at a meeting the complainant did not attend. They were discussed at length and a motion put forward and passed.

The agenda for the meeting on 12 June 2018 includes the following:

10.13 Calverton Street Naming Policy (tabled by Cllr N J Quilty) (emailed to all Councillors 5.6.18, bar S Harris & J Wood).

10.14 Annual Schools Football Match – St Wilfrid's v Sir John Sherbooke (tabled by Cllr N J Quilty) (emailed to all Councillors 5.6.18, bar S Harris & J Wood).

And the minutes confirm the complainant had given apologies and state:

#### 603 CALVERTON STREET NAMING

Councillors agreed that the Council should write to GBC requesting that new streets/roads in Calverton be named after the surnames of local people who died in WWI as commemorated at St Wilfrid's Church and the Mansfield Lane Cemetery Cenotaph.

#### 604 ANNUAL SCHOOLS FOOTBALL MATCHES – ST WILFRID'S v SIR JOHN SHERBROOKE

Councillors agreed that the schools be invited to take part in annual boys' and girls' matches in July of each year (September for 2018) with the winners of each match being presented with a cup and grant of £50.00 towards schools' sports equipment being provided by the Parish Council.

Based on the agenda and minutes, I am satisfied that the councillors were provided with information prior to the meeting. I am also cognisant of the fact that the Clerk was

present at the meeting to give procedural advice about what decisions could be made and ultimately the whole council has made decisions in respect of these 2 items, not Cllr Quilty on his own. Whilst the complainant may be frustrated by what she considers to be Cllr Quilty pushing through his own agenda and insisting that other matters are 'perfect' there were 6 other councillors in attendance at the meeting who were able to challenge the information being presented and if they were not content that they had sufficient information, request that the matter be adjourned until a later date.

I do not consider that the conduct alleged would amount to demonstrating lack of respect and a breach of the code.

The complainant alleges that Cllr Quilty treats anything complainant says with disdain, examples provided include:

- At the January 2018 meeting scoffing when the complainant said she found the NALC website a mine of information; and
- Ignoring the complainant's hand up to speak at meeting in July 2018 and being rude when she tried to speak twice, when others have spoken freely.

In his representations, Cllr Quilty confirms that he did query the value of the NALC membership which he is entitled to do. He also states that this accusation is not true – he tends to invoke standing orders allowing each councillor the right to speak once on agenda items to cover all the items of business on the agenda.

In addition, the complainant states that Cllr Quilty is rude and often interrupts others in meetings. Examples include:

- At the November 2018 meeting he interrupted a fellow councillor forcefully when she raised issues about employees;
- Being rude to a member of the public at the meeting in July 2018;
- Interrupting a fellow councillors and criticising her for reading out her motion at the meeting in November 2018. Then speaking at length and distracting the motion;
- Aggressively and rudely calling out and demanding the complainant remove her camera at the end of the public part of the August 2018 meeting; and
- At the 31 July 2018 meeting interrupting a fellow councillor and when asked not to, shouted forcefully and aggressively "I will interrupt".

In his representations, Cllr Quilty states that all issues relating to staff behaviour have been dealt with by the line manager, however he does not specifically respond to the allegation of interrupting one of the councillors. He explains that he politely asked the member of public at the July 2018 meeting to repeat himself as he had not understood him. He cannot recall the incident alleged in relation to the other councillor as it is more than 6 months old. He also confirms that he asked the complainant to remove her recording device once the council was in private session, but makes no comment about his tone.

For a breach of this part of the Code to be found it has to be shown that there has been a personal attack made by the councillor. The Code does allow a councillor to be critical of an individual and a councillor can even be argumentative, but this must not

be done in such a way that is a personal attack on an individual and therefore disrespectful. Councillors can be critical and can challenge, indeed this is intrinsic to the role of a councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.

As set out above, in the case of *Heesom v The Public Services Ombudsman for Wales*, it was noted that:

‘.....politicians are subject to wider limits of acceptable criticism and are required to have thicker skins and to have more tolerance to comment than ordinary citizens.’

Taking this case into account, it is clear that should a personal attack be made on a councillor then there is a higher threshold that needs to be attained before a breach of the Code can be found.

In considering the behaviour alleged objectively, I consider that it could be considered rude and discourteous. When acting as an elected representative, councillors should listen to each other and if they do not agree, challenge the issue under consideration, not belittle the other person. When Chairing meetings, Cllr Quilty should also act in a fair and impartial manner, following standing orders and giving all councillors equal opportunity to put their points across. In addition, interrupting other councillors while they are addressing the meeting is unacceptable and should be controlled by the Chair. Cllr Quilty may be domineering and forceful in his debating style, which other councillors may find challenging to respond to, and his repeated interruption must be frustrating; however I do not consider that the behaviour described meets the threshold to amount to lack of respect and a breach of the code. Clearly the complainant felt strongly enough to make a complaint, however in reviewing the facts as they relate to the complaint and the case law, and taking an objective view of the matter I do not consider on the balance of probabilities that Councillor Quilty has breached the Code of Conduct.

In relation to the alleged rudeness to a member of the public, the complaint does not set out the words used and simply described the behaviour as rude. Cllr Quilty explains why he asked him to repeat himself. Cllr Quilty may have been rude but this does not meet the threshold for a breach of the code.

Whilst I do not consider that this element of the complaint, if proven, would amount to a breach of the code of conduct I would recommend that Cllr Quilty considers the impact of his debating style and how rude, critical or dismissive comments could be regarded by not only his fellow councillors but also members of the public as inappropriate or unacceptable.

The complainant alleges Cllr Quilty pushes himself forward for his own interests, overrides others, dismisses their contributions, dominates discussions, speaks at length off the agenda and is not open to other's views. Examples include:

- Ignoring concerns that he was not impartial when dealing with a grievance and refusing to provide updates;
- Leading the cemetery development group entirely without agenda and controlled and dominated any 'discussion';

- At the meeting in January 2018, dominating discussions about setting up committees defeating the motion to plan for 2 committees in June 2018. Then delaying the meeting to plan for committees and did not turn up for the meeting in September;
- Adjourning the meeting in July 2018 to take an item tabled by the complainant to a future meeting;
- Blocking and delaying the adoption of a Complaints Policy and procedure;
- Ignoring Councillors who spoke in support of filming meetings;
- Launching into a defence of his Media Policy and waving the NALC document dismissively;
- Ignoring repeated reports about inappropriate behaviour of employees, shrugging shoulders and making jests as vice-chair and dominant member of the HR group.

In his representations, Cllr Quilty states that he heard the grievance in accordance with the procedure set out in the Employee Handbook. The complainant tried to discuss the matter in public and was informed that the matter was private and confidential, but she ignored this. He states that he volunteered to lead the cemetery group but resigned the position because he could not work with the complainant. In relation to the setting up of committees, Cllr Quilty states that he disagreed with the complainant, which he is perfectly entitled to do and his opinion is that the introduction of committees would increase the bureaucratic workload on the parish council office. He made the amendment to the resolution which was passed on a valid vote, but was unable to attend the meeting due to work commitments which were not foreseen when the vote was taken. Cllr Quilty is outraged by the complainant's assumptions about the implication of the adjournment of her item in July 2018 to the following meeting. In his representations, he explains that he asked whether the item was valid as it appeared identical to a previous resolution and the meeting was adjourned in accordance with Standing Orders as it had been going on for 3 hours. The following meeting was a week later.

Cllr Quilty submits that the delay in adopting a complaints policy was due to the complainant who took 6 months to draft it. The document she provided was referred to the Clerk to amend because it contained unrealistic timescales. In relation to filming, Cllr Quilty states that a number of councillors were upset by the complainant's belligerent attitude when asked why she was filming. And her demeanour caused a lot of negative feeling. He pointed out to the meeting that she had a legal right to film, but didn't have the right to obstruct the gangway or plug non-PAT tested equipment into the mains. He also reminded the complainant about filming minors. In response to the allegation about the Media Policy, Cllr Quilty stated that he drafted a document based on policies adopted by other authorities. He read through the proposed policy and described it for clarity before councillors voted on it. In his opinion the NALC policy was insufficient as it made no mention of filming of minors or those with limited mental capacity.

In his representations, Cllr Quilty explains that employment matters are deferred to the employee's line manager. Many of the accusations have been investigated and found to be malicious rumour. Advice has been given that anyone with evidence of illegal wrongdoing should report it to the police.

I am satisfied that a reasonable person viewing the conduct alleged objectively would not come to the conclusion that it is behaviour which is not respectful. Cllr Quilty, as a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express his views; this can be forceful but should not be a direct personal attack on another individual. Freedom of speech and expression of views should be allowed. Cllr Quilty is entitled to express his views in a robust fashion and I do not consider that his behaviour went beyond what could reasonably be regarded as fair and reasonable. It is also relevant that the decisions are made by the Parish Council and whilst the complainant may not agree with them, they have been made by the majority of councillors present and voting at a meeting and not by Cllr Quilty alone.

It is evident that Cllr Quilty's style is regarded by the complainant as belligerent, overbearing and dominating, however for it to amount to a breach of the code of conduct it has to demonstrate a lack of respect. I can sympathise with the complainant and other parish councillors if they feel that Cllr Quilty does not listen to their views, talks over them and is focussed on getting his own way, however I am not satisfied that the behaviour complained about is sufficient to amount to show lack of respect and therefore be a breach of the code. As set out above, Cllr Quilty is entitled to freedom of expression and can put forward his opinions in a forceful way. The complainant has provided a recording of the meeting held in September which I have viewed. Although it is only one meeting, it does provide an indication of Cllr Quilty's style of debate at meetings. Considering the recording objectively, whilst Cllr Quilty does laboriously present the Media Policy (about 12 minutes), the complainant speaks for some time (7 minutes), during which Cllr Quilty appears to be listening. The complainant is allowed by the Chair to speak again, as is Cllr Quilty. I would not consider Cllr Quilty's contribution to the meeting as anything other than persuasive and note that he actually concedes a point made by the complainant, offering to amend a time period from 6 to 2 days. Other councillors freely raise their concerns about the wording of the Policy proposed which Cllr Quilty does not interrupt or ignore them; he does however disagree with them. A lengthy and healthy debate takes place with an amendment proposed which is ultimately defeated and Cllr Quilty's policy approved with a minor amendment.

Speaking at length off the agenda is a procedural issue which is a matter for the Chair of the meeting to control. It is recognised that the code is an ethical code not a backstop against poor governance or process. Whilst the complainant may expect fellow councillors to stick to the matter being debated, I consider that this is not a matter which falls within the scope of the code of conduct.

In relation to the allegations about Cllr Quilty ignoring concerns raised by other, I am satisfied with Cllr Quilty's explanation that it would not be appropriate to discuss employment matters in a public forum. If he had a conflict of interest in relation to the grievance, failure to declare it and pass the matter to someone else to deal with, would not be a breach of the code. There is an important difference between breaching the code of conduct and being pre-determined or biased. It is possible for a Councillor to act within the code of conduct and still cause a decision they are involved into be bad for pre-determination or bias. In addition, being dismissive of concerns about employees' behaviour does not amount to disrespect.

**The Code of Conduct sets out, at paragraph 2 that a Calverton Parish Councillor must not act in a way which a reasonable person would regard as bullying or intimidatory**

The complainant contends that Cllrs Nick and (his wife) Emily Quilty act 'in tandem' and so they are supporting and compounding each other's forceful and intimidating behaviour. Cllr Nick Quilty generally taking the front attacking line, with Cllr Emily Quilty coming in as 'back up sincere justifier' ...trying to adopt some sort of 'moral high ground', often belittling the people who are raising issues.

In response to the allegation, Cllr N Quilty has stated that this is the complainant's subjective opinion.

When considering an allegation of bullying, it is accepted that bullying may be characterised as behaviour, or an abuse or misuse of power in a way that undermines, humiliates, unfairly criticises or injures someone. Some examples of bullying behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour
- ridiculing or demeaning someone-picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position

Bullying and intimidation are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider parish council in terms of morale and operational effectiveness.

On balance, the majority of the behaviour alleged demonstrates a distinct difference of opinion between the complainant and Cllrs N and E Quilty. It is understood that being faced with a pair of married councillors, who dominate the debate at parish council meetings in a forceful or obfuscating way could be regarded by the complainant as intimidatory. The complainant may not welcome Cllr Quilty dominating the debate; however I am satisfied that Councillor Quilty's style of oral communication does not meet the threshold of bullying and intimidatory to amount to a breach of the code of conduct. The examples provided do not meet the threshold to demonstrate that Cllr Quilty's comments personal and are aimed at undermining, humiliating, unfairly criticising or injuring an individual.

The complaint alleges that Cllrs N and E Quilty support each other and work together to block proposals put forward by others or to progress their own policies and personal missions; examples given include debates and decisions relating to the purchase of the farmland at the south-western edge of the village, the Complaints Policy and procedure, 'wrongdoings' by employees, filming of meetings and Media Policy. In his representations, Cllr N Quilty states that the decision relating to the purchase of the land has been subject to a complaint to the external auditors who have found that the parish council has acted lawfully and within its powers. His representations in respect of the policies and 'wrongdoing' by employees is set out above.

I am conscious that a democratically elected member has a right to freedom of speech which includes the right freely and frankly to express views about matters. It is also clear in a political environment that members of the same political group will share a common policy, common views and regularly vote in support of the same proposals at meetings. Robustly expressing views in common with others does not amount to a breach of the Code of Conduct and if this was the case, the management of the ethical standards process would become untenable. Councillors must be free to propose what they wish and express their views; it is then for the Parish Council as a corporate body, taking advice from its Clerk, to consider the matter and make a decision. The complainant clearly does not agree with the views expressed by Cllr Quilty at meetings and the decisions of the Parish Council he supported or voted against, however this is part of the democratic process. Councillors are entitled to express different opinions.

Decisions of the Parish Council are not made by consensus, they are made by majority of those present and voting and, on their own, Cllr N and E Quilty cannot carry the vote. There is no allegation in the complaint that Cllr N and E Quilty have bullied or intimidated others, including the complainant, into voting in a particular way. In viewing the recording of the meeting in September 2018, it is clear that the complainant has a different view of the Media Policy proposed to Cllrs N and E Quilty and expresses her support to the NALC model policy. Whilst, I appreciate that the complainant may be frustrated that Cllr N and E Quilty resolutely spoke in support of the draft Media Policy he proposed, I am satisfied that the conduct described and viewed is not bullying or intimidatory in nature.

The complainant mentions the actions of a relative of Cllr E Quilty and a large entourage at the meeting on 20 November 2018 as evidence of bullying and intimidation. The nub of the complaint is about them filming the meeting with a large camera on a tripod and a hand held device. The complainant states that she found the filming distracting and makes no mention of being intimidated by it. Cllr Quilty explains that this was a public meeting and members of the public are allowed to film meetings. In considering this matter objectively, any member of the public is entitled to attend and film a public meeting. In my view the complainant has recorded meetings, which she is entitled to, and which other councillors have clearly expressed their dissatisfaction about. She may have found it distracting when Cllr E Quilty's family recorded the meeting, simply being distracted does not amount to bullying and intimidatory behaviour on the part of Cllr Quilty. In relation to the comment about putting his water bottle in front of another member of the public's camera, Cllr Quilty states that the other camera was only 8 inches away from him: where was he supposed to put his water bottle, pen and notes. This allegation is trivial in nature and appears to demonstrate tit for tat behaviour between councillors who do not agree with each other.

The complainant describes the following behaviour, which she believes occurred at the Parish Council meeting in September. Having viewed the recording of that meeting, it is clear that Cllrs Nick and Emily Quilty are not sat at either side of the complainant and therefore the behaviour alleged must have taken place at a different meeting. The complainant states that Cllr N and E Quilty were sitting either side of the complainant, with Cllr N Quilty picking up his phone and waving it at the complainant whilst saying "we've got to get this one" and Cllr E Quilty sketching the complainant on papers held up high close to her head. Cllr N Quilty in his representations states that as some of

the last councillors to arrive before the meeting started, he and Cllr E Quilty were left with little choice but to sit either side of the complainant. During the meeting he did use his phone to record one of the items involving a local primary school. Simply sitting on either side of the complainant alone would not amount to bullying if there were no other seats available; however waving a phone in front of the complainant whilst making the comment “we’ve got to get this one” and sketching could be personally intrusive and, if proven, could reasonably be regarded as intimidatory and amount to a breach of the code.

The complainant also describes the following behaviour, which has occurred at the last few meetings of 2018; Cllr E Quilty has deliberately set up her phone camera to point across the table usually at the complainant whilst Cllr N Quilty has adopted the habit of sitting next to the complainant and pointedly reading her notes. Cllr Quilty states that this is simply not true.

I am also satisfied that Cllr Quilty adopting the habit of sitting next to the complainant at meetings, leaning forward and pointedly reading her notes, could be personally intrusive and, if proven, could reasonably be regarded as intimidatory and amount to a breach of the code.

I note that Cllr Quilty has denied adopting the habit of sitting next to the complainant at meetings, leaning forward and pointedly reading her notes but has made no specific representations about waving his mobile phone at the complainant whilst saying “we’ve got to get this one”. Where there are 2 versions of events a formal investigation would be able to come to a firm conclusion on these matters and I have considered whether to refer this aspect of the complaint for investigation. However, I consider that this aspect of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation. I recommend that this aspect of the complaint is concluded by way of informal resolution with Cllr Quilty apologising to the complainant.

### **Potential breaches of the Code of Conduct considered**

The Calverton Parish Council code of conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

3. He/she shall behave in such a way a reasonable person would regard as respectful.

*(Note - Failing to treat others with respect might be defined as unfair, unreasonable or demeaning behaviour directed by one person against another. I consider that most reasonable members of the public would take into account the context in which particular language and behaviour has been used in assessing whether it was “disrespectful”. The context might include the place where an incident occurred, who*

*observed the behaviour, the character and relationship of the people involved, and the behaviour of one or more of the parties that prompted an alleged act of disrespect. )*

4. He/she shall not act in a way which a reasonable person would regard as bullying or intimidation.

*(Note - Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour.)*

## **Response to Initial Assessment Decision**

Councillor Quilty responded to the Initial Assessment Decision Notice. He does not accept the decision on initial assessment and has not apologised as recommended.

A summary of why he does not accept the decision is as follows.

- He considers that he has been found guilty for not explicit refuting one point, which he missed in a very long complaint.
- He does not believe the summary of complaint was in a form that was usable.
- He refutes that this accusation ever occurred and therefore will not be apologising.

## **Decision and reasons**

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct and in consultation with the Independent Person, I have decided that no further action should be taken in relation to the original complaint and the file should be closed.

The reason for this decision is as follows:

Whilst the complaint discloses a potential breach of the Code, that part of the complaint is not serious enough to merit an investigation in circumstances where the resources needed to investigate are wholly disproportionate to the allegations and there is no overriding public interest in carrying out an investigation.

The potential breach of the Code is not serious enough to merit an investigation. The officer time and costs which would be incurred by the Borough Council to investigate are disproportionate to the breach and any possible sanction which could be imposed in the event of a finding of breach.