

Review of the process leading to the disqualification of Mr Brian Lester from Stretton Parish Council.

Review carried out by Nick Begy, Ward Member for Greetham Ward

Summary Position

Further to non-attendance for 6 months of SPC meetings, Mr Lester was informed he was to be disqualified from being part of SPC due to non-attendance. This was undertaken by letter.

Mr Lester had suffered a series of personal issues and illness, and had given apologies through members of the public.

Mr Lester had no access to the internet to join meetings due to Zoom.

Process

Further to the 6 months absence, the Chair looked for advice initially from the Ward member (myself). The advice I gave, and evidenced by email, was to ensure we followed protocol, and to seek this advice from the monitoring officer and LRALC.

Advice was asked of LRALC on 26th October on the rules of non-attendance.

At that point - 26th October - Mr Lester had missed 5 consecutive meetings. (Meetings, 4.3, 30.7, 20.8, 17.9, 5.10).

Note that meeting on 4th March, pre-Covid, was when Mr Lester offered his resignation as chairman.

Since then, a further 3 meetings were held unattended by Mr Lester (dated 29.10, 19.11, 10.12) which brought the total up to 8 consecutive meetings.

See, below email correspondence with the monitoring officer dated 8th December confirming disqualification under s85 of the Local Government Act 1972.

“Good afternoon Jayne

Thank you for your email. I notice that there is nothing in your standing orders relating specifically to the submission or recording of apologies, although this does not change the outcome below.

You are correct in your understanding that Mr Lester is disqualified as per *S85 (1) of the Local Government Act 1972 provides that “if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of that authority.”*

The letter to Mr Lester regarding disqualification of councillor position went out on 7th January 2021. The Chair had made efforts to discuss with Mr Lester prior to this and explain the circumstance. This was unsuccessful and made difficult with Covid restrictions.

Below is a correspondence I had on the matter, with the Monitoring Officer trying to clear up some concerns:

1. He does not have a PC, so how can he attend meetings? – He is able to attend via phone
2. He was seriously ill – Unless there is already a report and agreement from the Council the reason then they are unable to do anything about this.
3. These are extraordinary times, should normal rules be suspended – They cannot it is within the Local Government Act 1972 (Section 85)
4. He gave apologies via a member of the public, so surely this is acceptable – No the law and case law is clear. A member ceases by operation of law where a Councillor hasn't attended. Unless a report has been taken.
5. With his non attendance was the parish open to other courses of action – No.
6. If any of the above apply what is his process to make a complaint – The only complaint that could be made would be to the Parish Council.

Responses of the Monitoring Officer in RED

It has only recently come to light that attendance via phone is possible on Zoom. This assumes that the councillor should have known how this was possible.

I also looked for clarification on point 2:

From Nick Begy to Phil Horsfield:

“Thanks Phil, and on the last point there seem no basis for a complaint.

What do you mean by a “report”? What should have happened? Should this have been discussed and minuted at a meeting is this what this means?”

“Cllr Begy,

I agree completely – there is nothing that they can do.

A formal report to the Council. This should have been initiated by the Councillor themselves informing the Council that they would be unable to attend. A formal report would then be written by someone (it would be me here) discussed and voted on in a meeting of the Parish Council.

Thanks

Phil”

The onus is on the councillor in this case, however, knowing what we know now, my recommendation below indicates SPC could have made the councillor aware. However, in this case “you don’t know what you don’t know”. The Chair has agreed his inexperience has led to this lack on knowledge, and there is no other motive involved, and I will not accept unsubstantiated speculation on this matter.

LRAC do note:

“Apologies from Councillors need to be in writing to the Clerk. It should then be minuted and either accepted or not by council at the meeting. If that hasn't happened and the Councillor has missed 6 consecutive meetings then it is automatic disqualification. You will need to inform the monitoring officer as soon as possible and they will notify the Councillor.”

This process for apologies to be debated and voted on is not in the standing orders, and though adopted by some, does not seem to be standard. It must be noted, apologies not through an official channel, cannot be discussed/debated, can be noted in the minutes, but is not officially accepted.

Please note SPC did write to Mr Lester and did not wait for a letter from RCC to be the first mention of this matter. A councillor also spoke with Mr Lester (email evidence provided in confidence) outlining the position, and Mr Lester subsequently made no representation to SPC, however at this point the process was already in motion.

During the January meeting a retrospective resignation was received and accepted by SPC. On contacting RCC, to understand if the resignation could be used as the reason on all documents, they would not allow this to be noted on the official documentation, though SPC did make this request.

Councillors

I have requested input from councillors, and there is some sympathy from some, that this was not the process that should have been followed, and some sympathy to the position of Mr Lester granted. However, it was also clear that we need to be seen to follow process, and though with regret, the feeling is SPC needs to move on and carry on the good work started.

Discussions did take place with Mr Lester who indicated he wanted to remain in the council, but process overtook this. An offer to reinstate Mr Lester via co-option was offered.

There have been a number of correspondence from members of the public, which this will serve as a response based on facts, but no further communication from Mr Lester, who I am told by one councillor would like to move on, but his upset is noted, understood, and accepted.

Conclusions

SPC precisely followed the process as outlined in law by both LRALC and the RCC Monitoring Officer. The way apologies were sent, and personal circumstances in this case would have no bearing on the position. It is my strong view, with past concerns overdue process, it is only appropriate that due process is closely followed and adhered to. We have worked hard over the last number of years to ensure we adhere to all due process, and it is still work in process.

However, I would make the following recommendations and views:

1. SPC has over a period of 3 years looked to tighten up all processes. This process is ongoing, and these considerations will be included in future.
2. I believe that SPC were unaware of the legal position until it was too late, with the belief that the circumstances may be mitigating. Subsequently found to be not so. However, if this was to occur in the future, SPC should make more effort to discuss the consequences with the councillor concerned and look for a solution. I think timings in this case was against the council.
3. Standing orders should be reviewed to ensure that apologies are voted on and accepted. This would have allowed debate and a possible solution discussed. However, apologies MUST be through official channels, and those not, can be noted but not officially accepted. This must be made clear on appointment.
4. Though the Chair attempted to discuss this via channels open in Covid times, it did not happen, through no fault of the Chair. However, if point 2 was followed, this discussion could have happened sooner, and in this case, due to timing would not have made a difference. A councillor did discuss this with Mr Lester, but Mr Lester made no deputation on the position, but I suggest it would simply have led to the already offered position of co-option back on to SPC due to the due process followed.
5. There is a disconnect in law between what is seen as "right and just" and what is "law and due process". I agree the "right and just thing to do" was to have worked closely with Mr Lester to overcome this. HOWEVER, in order to ensure process was followed, advice was requested, and hence made the outcome predetermined.
6. There was, knowing the councillors, no other motive to remove Mr Lester from the council, and indeed the request to co-opt was offered. I am confident this is correct and will only enter into discussion on this with fact.
7. Mr Lester has indicted his dissatisfaction and upset to the process, which I think all personally feel. He wants to move and for the village to move on.
8. If not already done, an official letter of thanks from SPC to Mr Lester I think is appropriate.
9. New councillors should ensure they are aware of all standing orders and protocols, including those of attendance and virtual meetings.

I believe SPC followed the correct legal process and followed all advice. I think some lessons have been learned, and in a small community, it is key these are put right. It is however, and this is my opinion, that the above is implemented and we move forward for the good of the village. If there are concerns over SPC there is always scope for others to join, but now, with a new strong Chair, and a better cross section of the community, we need to focus on the positives.

With a strong chair, and an excellent clerk, who is also working with a bigger Parish with great effect, we can look forward to a positive future, but the village and the Parish Council need to work together.

If the residents feel there are questions to answer I believe the options open are:

1. A vote of confidence in the chair from the members of the Parish. My feedback from those spoken to is, that there is zero appetite for this, and feel the Chair is the right person to drive change and stability in this small community.
2. Complaint to the Monitoring Officer with **fact based** arguments, based on the due process above

I have undertaken this with total independence, and a sense of wanting this great village to flourish in the future.

Nick Begy
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