



ASSESSMENT DECISION NOTICE

A BREACH OF THE CODE HAS BEEN FOUND

ACTION REQUIRED

Reference:	CCN002/17/18
Complainant:	Mr Matthew Coot
Subject Member:	Cllr John Brady, Saltash Town Council
Person conducting the Assessment:	Simon Mansell, Corporate and Information Governance Manager
Date of Assessment:	16 August 2017

Complaint

On 16 August 2017 the Monitoring Officer considered a complaint from Mr Matthew Coot concerning the alleged conduct of Cllr John Brady of Saltash Town Council. A general summary of the complaint is set out below.

The Complainant has alleged that a series of emails sent to him by the Subject Member are hurtful, unpleasant to read, are abusive and have failed to treat him with respect.

Potential breaches of the Code of Conduct identified by the Complainant are;

- You must treat others with respect;
- You must not unlawfully discriminate;
- You must not bully;
- You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members; and
- You must not do anything that could be reasonably regarded as bringing your office or authority into disrepute

Decision and Action

That, due to the tone and content of an email sent on 7 April 2017 and copied to 11 other recipients, the Subject Member has breached the Code of Conduct for Saltash Town Council.

The recommended action is that the Subject Member should apologise in writing to the Complainant for the tone and content of his email within 28 days of the date of this notice.

Breaches of the Code Found

2.1 You must treat others with respect

2.10 - You must not do anything that could reasonably be regarded as bringing your office or you authority into disrepute

Para 2.5 - You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members

Reasons

In assessing this complaint I have had regard to the following:

- The complaint; and
- The views of the Independent Person assigned to this matter.

No view was received from the Subject Member however, the Subject Member did contact the Independent Person and verbally advised him as to how he viewed the complaint.

The Complainant has alleged the following;

That a series of emails sent to him by the Subject Member are unprofessional and have failed to treat him with respect.

In considering this complaint I have reviewed all of the emails that have been supplied by the Complainant and whilst some of the terminology in them can be considered to be robust, this is not considered to be unduly so in most of the emails.

However, the email sent on 7 April 2017 by the Subject Member in his response to an earlier email sent by the Complainant is particularly strident in the language used and this is considered further.

Application of the Code

2.1 You must treat others with respect

For a breach of this part of the Code to be found it has to be shown that there has been a personal attack on a person by a member. The Code does allow a member to be critical of people and for concerns to be expressed, but this must not be done in such a way that is personal and therefore disrespectful.

When considering if there has been a breach of this, or any part of the Code, the matter is assessed on the balance of probabilities that is; is it more likely than not that a reasonable person, after viewing all of the facts objectively, would be of the opinion that the conduct of the Subject Member was a breach of the Code.

Whilst it is appreciated that the Subject Member may not have agreed with the views of the Complainant as set out in the earlier email, the personal nature of the response can not, when viewed objectively, be considered to be warranted. If the Subject Member wished to take the Complainant to task for his earlier correspondence in any way he had the option to do so without resorting to a personal attack, copying a large number of recipients.

Therefore it is considered that due to the tone and content of the email sent by the Subject Member on 7 April 2017 to the Complainant, the Subject Member has failed to treat the Complainant with respect and therefore has breached paragraph 2.1 of the Code of Conduct for Cornwall Council.

2.2 You must not treat others in a way that amounts to or which may reasonably be construed as unlawfully discriminating against them

I have considered the background comments that have been made by the Complainant with regards to this matter and have set these against the comments made by the Subject Member.

Even though the tone and content of the email set on 7 April 2017 is disrespectful I do not think on this occasion that these comments amount to unlawful discrimination as is required by the Code, even when viewed in the context of the other emails sent.

Therefore it is not considered that the Subject Member has breached paragraph 2.2 of the code of Conduct for Saltash Town Council.

2.3 You must not bully any person

Whilst it is considered that the way the Subject Member opted to address the Complainant is ill judged I do not view the comments as bullying. The Subject Member was expressing his concern regarding the Complainants earlier email and whilst the contents of the email may be disrespectful, it is not bullying.

As a result it is not considered that the Subject Member has breached paragraph 2.3 of the Code of Conduct for Saltash Town Council.

2.10 - You must not do anything that could reasonably be regarded as bringing your office or you authority into disrepute

For this part of the Code to be breached a reasonable person in possession of all the facts would need to be satisfied that the Subject Members standing in the local community could be damaged by his actions.

The Subject Member has every right to take the Complainant to task if he disagrees with him and a reasonable person would not consider any member doing this in a reasonable manner to be a breach of the Code.

However; the manner in which the Subject Member has opted to approach this and when viewing the personal nature of the comments it is considered that a reasonable person would consider that the Subject Members standing could be damaged by his comments.

Everybody would support the right for concerns to be raised, but nobody would like to be addressed in such a personal manner.

As a result I consider that the Subject Member has brought his office, but not his authority into disrepute by acting as he did and therefore has breached paragraph 2.10 of the Code of Conduct.

Para 2.5 - You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members

For the reasons set out above I consider the Subject Member to have failed to adhere to the general principles of public life underpinning the Code. As a consequence of that, and having found a breach of paragraphs 2.1 and 2.10 of the Code, it follows that the Subject Member has conducted himself in a manner contrary to the Council's statutory duty to promote and maintain high standards of conduct by members and the Subject Member has therefore breached paragraph 2.5 of the Code of Conduct.

Actions to remedy the breach

I have noted the Subject Members views on this matter which were relayed through the Independent Person and have taken into account these views, as well as the overall concern that has been expressed by the Subject Member in the emails and have set this against the complaint as made and the views of the Complainant.

As a result of the above, the recommended action at assessment is that the Subject Member should apologise to the Complainant in writing within 28 days of the date of this Decision Notice and a copy of the apology is to be provided to the Monitoring Officer.

What happens now?

This decision notice is sent to the complainant, the member against whom the allegation has been made and the Clerk to Saltash Town Council.

Right of review

At the written request of the Subject Member, the Monitoring Officer can review and is able to change a decision not to refer an allegation for investigation or other action. A different Officer to that involved in the original decision will undertake the review.

We must receive a written request from the Subject Member to review this decision within 15 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will write to all the parties mentioned above, notifying them of the request to review the decision.

It should be noted reviews will not be conducted by the same person who did the initial assessment.

Additional help

If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

We can also help if English is not your first language.

A handwritten signature in black ink, appearing to read 'SJR Mansell', with a long horizontal flourish extending to the right.

SJR Mansell MBE
Corporate and Information Governance Manager
On behalf of the Monitoring Officer
Date: 22 August 2017