



## **ASSESSMENT DECISION NOTICE**

### **NO BREACH OF THE CODE FOUND**

<b>Reference:</b>	<b>CCN014/19/20</b>
<b>Complainants:</b>	<b>Mr P Bateman</b>
<b>Subject Member:</b>	<b>Councillor Dulcie Tudor, Cornwall Council</b>
<b>Person conducting the Assessment:</b>	<b>Matt Stokes, Head of Legal and Deputy Monitoring Officer</b>
<b>Date of Assessment:</b>	<b>5 March 2020</b>

#### **Complaint**

The substance of the complaint can be summarised as:

- 1, Councillor Tudor has inappropriately referenced the complainant by a screenshot and comments posted on her Facebook profile, which the complainant suggests was an attempt to discredit him;
- 2, Councillor Tudor has denied the complainant any right of reply by blocking him from being able to respond through Facebook;
- 3, Councillor Tudor, by the above conduct, has failed to treat the complainant with personal or professional respect and has attempted to disadvantage him professionally; and
- 4, Councillor Tudor was disrespectful and insulting to the complainant at a public meeting of Truro City Council on 5 December 2019, by commenting "Your complaints don't bother me, you've chosen the wrong Councillor to bully".

#### **Decision and Action**

Dealing with each of the above four points in turn, and adopting the same numbering:

- 1, No breach is found in relation to this part of the allegation;
- 2, No breach is found in relation to this part of the allegation;
- 3, No breach is found in relation to this part of the allegation; and
- 4, I am unable to find a breach in relation to this part of the allegation.

I do not consider it necessary for this complaint to be subjected to more detailed investigation. The facts are sufficiently clear.

## Reasons

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

- The complaint, including the information submitted by the complainant after the original submission of the complaint;
- Comments from the clerk to the Planning Committee at Truro City Council; and
- The views of the Independent Person assigned to this matter.

Councillor Tudor has been afforded the opportunity to engage with the Independent Person assigned to this complaint but has not taken advantage of that opportunity.

### *In relation to points 1 to 3 of the complaint*

The originating social media post on which Councillor Tudor commented is considered by the complainant to have been private. That Councillor Tudor was able to view and comment on that post clearly demonstrates that the post was not as private as might have been thought and, in that context, the complainant's expectations of privacy were perhaps not realistic. Although Councillor Tudor did not have to comment on the post, share it on her political (Dulcie Tudor LD) social media account or offer any further comment in relation to the post, there was nothing to prevent her from doing so. That, in my view, is to be expected as part of the exposure associated with using social media and is also partly about living in a society where there is freedom of expression.

I am not persuaded that there is anything inherently disrespectful in Councillor Tudor's posts or the language used, but I accept that the complainant has an issue with them. I am also not persuaded that there is any evidence that there was any improper motive behind Councillor Tudor's posts. Whilst the complainant has presumed there was improper motive, to professionally discredit him and adversely affect his business, I am not able to find a breach of the Code of Conduct based on that.

I see nothing in the complaint that demonstrates there has been any prejudice to the complainant. I have also not seen anything that suggests that Councillor Tudor will not deal with matters coming before Committees she is a member of other than on their merits and in accordance with the Council's established procedures and the law. Further, I do not consider the fact of or circumstances of this complaint to create a declarable interest under the Code of Conduct that would prevent Councillor Tudor from dealing with matters at Committee in which the complainant is involved. I would also expect Councillor Tudor to have regard to the rules relating to impartiality in decision making and to seek advice if needed.

I do not consider Councillor Tudor having blocked the complainant from her social media account as being disrespectful or otherwise a breach of the Code. It is something she was perfectly entitled to do. Those using social media should know they can block and be blocked. In addition, the complainant could have made further posts on his own social media to address his concerns with Councillor Tudor's action, and so wasn't left completely without a way of responding.

Finally, on these parts of the complaint, had I thought there was a breach of the Code I would have had to consider the extent to which Councillor Tudor was acting in her official capacity or in her private capacity. As I am not finding breaches of the Code I do not need to do that.

*In relation to point 4 of the complaint:*

The complainant has complained about Councillor Tudor in her capacity as a Cornwall Councillor. Councillor Tudor is also a Truro City Councillor. That information is easily obtainable from her register of interests, which is available on the Cornwall Council website, and the Truro City Council website. From information received from the clerk to the Planning Committee it appears to me that Councillor Tudor was at the meeting on 5 December 2019 in her capacity as a Truro City Councillor. The complainant has been afforded the opportunity to consider whether he wished to amend his complaint so that it also related to Councillor Tudor in her capacity as a Truro City Councillor. He has not elected to do so.

As I believe Councillor Tudor was acting in her capacity as a Truro City Councillor at the meeting on 5 December 2019 and the complaint relates only to her capacity as a Cornwall Councillor, I am unable to find any breach of Cornwall Council's Code of Conduct for Members.

That being the case, there is nothing further to consider in relation to this complaint and no action is required in response to the complaint.

### **Independent Person's Statement**

The IP has formed a view having relied solely upon the full details of the complaint provided by the Corporate Governance Officer, Cornwall Council Assurance Service Customer and Support Services Directorate together with the information provided by the complainant.

The IP was provided with Cllr Tudor's response to the complaint sent to Cornwall Council's Governance Officer dated 03.01.20. The subject member stated that she is not prepared to engage with Cornwall Council Governance Officer over any complaints or procedures.

The Subject Member declined to respond to the complaints and chose not to contact the IP.

The initial complaint provided evidence of private social media posts regarding a situation that related to a residents association. Dulcie Tudor involved herself in the screen shots, in the evidence provided Dulcie Tudor did not respond in her capacity as a Councillor.

The IP's view is that it is likely that Cllr Tudor did, post a screenshot of Mr Bateman's post on her political (Dulcie Tudor LD) social media account, naming him and stating his profession as a Planning Consultant based in Cornwall. Cllr Tudor was acting in her official capacity at the time of the alleged conduct and was bound by the Code of Conduct.

At a Public Meeting on 5.12.19 the Complainant attended in her capacity as a City Councillor. Cllr Tudor acted inappropriately within a formal public meeting.

The IP's view is that the Subject Member failed to adhere to the General Principles of Public Life which underpin the Code of Conduct thereby conducting herself in a manner contrary to the Council's statutory duty to promote and maintain high standards of conduct by members.

Having considered the information provided and In the absence of any further evidence the IP's view is that Cllr Dulcie Tudor has breached the Code of Conduct below.

2.1 You must treat others with respect.

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.

### **What happens now?**

This decision notice is sent to the complainant, Councillor Tudor and the Cornwall Council Political Group Leader. It will also be published on the Council's website.

### **Right of review**

At the written request of the complainant, the Monitoring Officer can review and is able to change a decision not to refer an allegation for investigation or other action. To ensure impartiality in the conduct of the review different officers to those involved in the original decision will undertake the review.

We must receive a written request from the complainant 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.

### **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.

Matt Stokes  
Head of Legal and Deputy Monitoring Officer  
On behalf of the Monitoring Officer  
Date: 5 March 2020