



ASSESSMENT DECISION NOTICE

NO BREACH OF THE CODE

Reference:	CCN009/19/20
Complainant:	Cllr Peter Samuels
Subject Member:	Cllr Sarah Martin, Saltash Town Council
Person conducting the Assessment:	Eleanor Garraway, Corporate Governance Officer
Date of Assessment:	4 November 2019

Complaint

On 4 November 2019 the Monitoring Officer considered a complaint from Cllr Peter Samuels concerning the alleged conduct of Cllr Sarah Martin of Saltash Town Council. A general summary of the complaint is set out below:

It is alleged that during the course of a meeting of the Council, the Subject Member publically stated that she had been bullied and harassed by the Mayor and Deputy Mayor via email regarding a project she had undertaken. Furthermore the allegation, subject to the complaint, was made in a tone which the Complainant considered loud and aggressive.

Decision

That, for the reasons as set out in this Decision Notice the Subject Member has not breached the Code of Conduct for Saltash Town Council and no further action needs to be taken.

Reasons for the Decision

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

- The complaint;
- A response from the Subject Member, along with supported documentation;
- The minutes of the meeting of the Council dated 5 September 2019;
- The views of the Clerk present at the meeting; and
- The views of the Independent Person assigned to this matter.

The complaint has alleged that during the course of a meeting of the Council on 5 September 2019, the Subject Member publically stated that she had been bullied and harassed by the Mayor and Deputy Mayor via email regarding a project she had undertaken. Furthermore the allegation, subject to the complaint, was made in a tone which the Complainant considered loud and aggressive.

The Complainant also set out that during the meeting the Chair had said that emails received from the Subject Member had been '*abusive*' and would welcome a request under the Freedom of Information Act 2000 to view the said correspondence referred to at the meeting.

It should be noted that it is not up to the assessing officer to determine whether the emails referred to would be considered disrespectful as they only form the backdrop to the complaint; the complaint that is assessed is whether the way in which the Subject Member has raised the same matter in an open forum would be considered a potential breach of the Code. However for the purposes of assessing this complaint, the assessing officer has viewed the emails in question to which the Subject Member refers to, this is to allow opinion of both parties to be put into context.

The Subject Member, in responding to the complaint, has set out her version of events, whereby she provides history to the matter and describes the complaint as '*vexatious*'. In considering this aspect I have reviewed all of the emails provided as evidence in which the Subject Member and various members of the Council, including the Complainant, communicated in respect of the project.

The project assigned to the Subject Member was to design six banners which would be installed within the vicinity to promote the Town. The Subject Member was provided with a timeframe to adhere to. Whilst the Subject Member has stated that the timescales provided were not problematic, the pressure she felt she was being put under made it different for her to continue, caused her stress and ultimately resulted in her having to hand the project back to the Council to complete.

Application of the Code of Conduct

I am satisfied that for the purposes of this complaint that the Subject Member was acting in her official capacity at the time of the alleged conduct and was therefore bound by the Code of Conduct as adopted by Saltash Town Council.

Finding of Fact

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 made by a Member. The Code does allow a Member to be critical of others but this must not be done in such a way that is not 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; is it more likely than not that a reasonable person would be of the opinion that the conduct of the Subject Member was such that it was a breach of the Code after they had viewed the facts objectively.

In viewing the evidence received from those witnesses present I have noted the comments made by the Subject Member and I have taken into account that whilst robust political debate may be allowed in the chamber, this has to stay within the boundaries of what is considered under the Code as respectful.

In dealing with any matter 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.

The ability to enter into robust political debate means that there is usually a higher threshold that needs to be attained before a breach of the Code can be found if the comments that form the basis of the complaint are made from one member to another. However on viewing the comments made, whilst the Subject Member clearly has a strong opinion, I do not believe that it passes the threshold when considering this element of the Code against the Subject Member as it would be untenable to extend the code to the expression of strong opinions.

In addressing the aspect of the complaint whereby it is alleged that the Subject Member spoke in a 'loud' and 'aggressive' manner, I have contacted the Clerk in this regard to gauge his views of the events that occurred. The Clerk, in his response, stated that he did not recall the events which is referenced.

When assessing this aspect, whilst it is not a question as to whether the events subject to this complaint took place, but whether the way in which the comments were delivered, were as alleged. How one interprets vocal communication is often highly subjective and this aspect of the complaint I am unable to reach a decisive conclusion on whether the comments were made in the manner alleged.

I have however had regard to whether the manner in which the Subject Member spoke on the subject and her conduct and have given consideration to the history surrounding the complaint.

It is clear from the email communications between members of the Council and the Subject Member that opinions surrounding the project had resulted in relationships becoming strained. I have however considered whether a reasonable person would consider if this would justify the comments made and the manner in which they were delivered during the course of the meeting.

I have compared the accounts of the meeting from all parties and have further seen sight of the minutes from the meeting, as well, as is set out above, I have spoken to the Clerk.

While clearly the Subject Member was aggrieved by the correspondence she had received, I do not believe that the threshold for disrespect has been exceeded. The Subject Member was clearly stating the fact that she felt aggrieved by the actions of her fellow members and voiced these. I cannot see anything in the comments made which would be considered as so significantly discourteous it would be considered disrespectful.

In considering the complaint I have noted the views of the Independent Person assigned to this matter with regards to the Subject Member's conduct. The Independent Person recognises the personal animosity between members of the Council and considers that a breach of the Code in respect of 2.1, 2.5 and 2.10 is found. Whilst the views of the Independent Person have to be taken into consideration upon assessment, the assessing officer does not have to agree with their decision and reasoning.

For the reasons given above I do not consider that that Subject Member has breached the Code of Conduct for Saltash Town Council.

Actions to remedy the breach

As no breach of the Code has occurred no further action needs to be taken however, whilst I do not consider that the Subject Member is in breach of the Code, for the reasons given above, the Subject Member should have considered whether the meeting was the correct arena to put forward her views and opinions on the actions of other members. As a result members of the council could be reminded not to air personal grievances in a public forum.

Whilst there has been no breach of the Code of Conduct and the right of the Subject Member to voice her opinion is recognised and supported, the Subject Member should be aware that there is a fine line between voicing one's opinion and being overly challenging.

In assessing this matter I am also mindful that there are divisions between members of the Council and such divisions, no matter how well intended, rarely achieve a positive outcome.

As a result of this, whilst these are not recommendations, in order to assist the Council deliver any future projects, I would advise that those members subject to this complaint

consider how they communicate in email correspondence going forwards and how the contents of the same may be construed by the reader.

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 Complainant, 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 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.



Eleanor Garraway
Corporate Governance Officer
On behalf of the Monitoring Officer
Date: 4 November 2019