



ASSESSMENT DECISION NOTICE

A BREACH OF THE CODE HAS BEEN FOUND

ACTION REQUIRED

Reference:	CCN011/19/20
Complainants:	Matt Blewett, Tony Leamon, Craig Truscott, Teresa Morris, Mike Tremayne, Mark Phillips and John Morris (as members of the Kernow Matters Steering Group). Advisor permitting his name to be added to the complaint – Craig Weatherhill
Subject Member:	Councillor Dulcie Tudor, Cornwall Council
Person conducting the Assessment:	Matt Stokes, Head of Legal and Deputy Monitoring Officer
Date of Assessment:	15 January 2020

Complaint

The substance of the complaint can be summarised as:

- 1, That Councillor Tudor has failed to issue a public apology within 28 days of the date of Code of Conduct complaint decision notice CCN005/19/20 (20 August 2019), relating to comments made by Councillor Tudor during a public protest outside New County Hall, Truro;
- 2, That Councillor Tudor has refused publicly on 23 August 2019 to issue an apology;
- 3, That Councillor Tudor has sent emails that were impolite, blunt or otherwise not considered appropriate; and
- 4, That Councillor Tudor has been disingenuous about emails and pictures sent to her which she found unpleasant

Decision and Action

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

- 1, By failing to issue a public apology, as proposed in the decision notice of 20 August 2019, Councillor Tudor has failed to comply with the Code of Conduct of Cornwall Council;

- 2, By refusing publicly to issue that apology Councillor Tudor has failed to comply with the Code of Conduct of Cornwall Council;
- 3, No breach is found in relation to this part of the allegation; and
- 4, No breach is found 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 simple and clear.

By this decision notice Councillor Tudor is again requested to issue the apology sought through decision notice CCN005/19/20 dated 20 August 2019. If the apology is not made within 28 days of this decision it is proposed that the matter is referred to the Standards Committee to determine whether further action might be taken. The outcome of the earlier Code of Conduct complaint, which sought a public apology, still stands and is not superseded by this decision.

Breaches of the Code Found

In relation to points 1 and 2 above, the provisions of the Code of Conduct of Cornwall Council found to have been breached are:

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

In the circumstances, I consider these to be technical breaches of the Code of Conduct. However, I consider the action proposed to be appropriate and proportionate.

Reasons

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

- The complaint;
- The publicly available material referred to in the complaint, including the video of Councillor Tudor referenced in the complaint;
- The decision notice dated 20 August 2019 relating to complaint number CCN005/19/20, and the related papers; 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. She has also been afforded the opportunity to provide me with material she considers appropriate to my determination of this complaint, but I have received no such material.

I am of the view that at all times in relation to the conduct complained of Councillor Tudor has been acting in her official capacity as a Cornwall Councillor. Accordingly, the Code of Conduct, to which Councillor Tudor subscribed on taking office, is engaged.

In the video of Councillor Tudor posted on Cornwall Live on 23 August 2019 she explains her position, including the difficulties she has faced over an extended period, and makes clear that she will absolutely not apologise to the few people to whom her

earlier comments were directed.

I am mindful of the fact that Councillor Tudor did not ask for a review of the original Code of Conduct complaint decision dated 20 August 2019.

In relation to the breaches of the Code of Conduct I have found:

Paragraph 2.1 – You must treat others with respect

I am not revisiting the earlier decision which resulted in a finding of breaches of the Code and sought the issue of a public apology. However, it is important to confirm that I consider the previous finding, including the request for an apology, to be reasonable and proportionate. Members, being subject to the Code of Conduct, are subject to the higher standards of behaviour expected of persons in public office.

In determining this complaint I am concerned with the conduct of Councillor Tudor since the decision notice of 20 August 2019 was issued, and to which the complaint the subject of this decision notice relates.

By failing to issue the apology sought in the earlier decision notice, Councillor Tudor's failure to treat with respect those to whom her comments were directed continues.

Councillor Tudor's failure to adhere to the Code of Conduct and the related complaints process, particularly by failing to issue the requested apology, is disrespectful to the Standards Committee and the office of Monitoring Officer, given their complementary responsibilities in relation to the Code of Conduct regime.

Paragraph 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

By virtue of being subject to the Code of Conduct for Members of Cornwall Council, Councillor Tudor is subject to the higher standards of behaviour expected of persons in public office. That is the case irrespective of the behaviours of others.

Even though she is subject to the Cornwall Council Code of Conduct for Members, Councillor Tudor has:

- failed to issue an apology in accordance with complaint decision CCN005/19/20 dated 20 August 2019; and
- publicly stated that she will not apologise to those persons to whom her earlier comments were directed.

These actions are individually and collectively contrary to the Council's duty to promote and maintain high standards of conduct.

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

In relation to her office as a Councillor, for this provision of the Code to be breached a reasonable person in possession of all the facts would need to be satisfied that Councillor Tudor's standing in the local community would be damaged by her actions.

By failing to apologise as requested in the 20 August 2019 decision notice, and by publicly stating that no apology will be issued, it is considered that a reasonable person could legitimately conclude that Councillor Tudor's standing in the local

community would be damaged, thereby bringing her office into disrepute.

Although Councillor Tudor has seemingly failed to show any proper regard to the Code of Conduct and the related complaints process, I do not consider that to have brought the Council into disrepute. However, I am concerned that the stance Councillor Tudor has taken has caused the effectiveness of the ethical standards regime and the related complaints process to be called into question.

In relation to points 3 and 4 of the complaint

On point 3, the complaint is weak and there is a lack of corroborating evidence. That part of the complaint does not require further consideration, but on the basis of what I have seen I find no breach.

On point 4, the complainants seem to be asserting that they are aware of all correspondence and material Councillor Tudor has received, focussing on only limited material to which they have had access. I do not know the entirety of the correspondence or material Councillor Tudor has received, and I suggest neither do the complainants. That part of the complaint does not require further consideration, but on the basis of what I have seen I find no breach.

Generally

I am aware that Councillor Tudor has been subjected to some unconscionable behaviour from some members of the public over a prolonged period. That has included derogatory comments being made to and about her and dog excrement being smeared on her car. That is not behaviour that anyone should be subjected to. Councillor Tudor being in public office does not provide any justification for such behaviour. I need to be clear that I am not suggesting that any of the persons associated with this complaint have been involved in any of that unconscionable conduct. However, because of the behaviours to which she has been subject, I am not surprised that Councillor Tudor has taken an entrenched position.

Even so, having found breaches of the Code of Conduct, and having regard to all the circumstances, I consider it reasonable and proportionate to seek the further action set out above in response to my findings. The earlier decision still stands.

What happens now?

This decision notice is sent to the complainants and Councillor Tudor and published on the Council's web site.

Right of review

At the written request of Councillor Tudor, as the subject member, the Monitoring Officer can review and is able to change the decision I have reached. If a review is requested, it will be determined by a different officer.

We must receive a written request from Councillor Tudor 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: 15 January 2020