



## **ASSESSMENT DECISION NOTICE**

### **A BREACH OF THE CODE HAS BEEN FOUND**

#### **ACTION REQUIRED**

<b>Reference:</b>	<b>CCN005/19/20</b>
<b>Complainant:</b>	<b>Various</b>
<b>Subject Member:</b>	<b>Councillor Dulcie Tudor, Cornwall Council</b>
<b>Person conducting the Assessment:</b>	<b>Eleanor Garraway, Corporate Governance Officer</b>
<b>Date of Assessment:</b>	<b>20 August 2019</b>

#### **Complaint**

On 15 August 2019 the Monitoring Officer considered complaints received from several complainants concerning the alleged conduct of Councillor Dulcie Tudor of Cornwall Council. A general summary of the complaint is set out below:

It is alleged that during a public protest outside New County Hall, Truro, the Subject Member was interviewed by a local radio station and during this made disrespectful comments about some of those present.

#### **Decision and Action**

For the reasons as set out in this Notice, the Subject member has breached the Code of Conduct for Cornwall Council.

For the reasons set out in this Notice, the Subject Member should issue a public apology within 28 days of the date of this Notice.

## Breaches of the Code Found

Para 2.1 You must treat others with respect

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 complaints received from 11 separate complainants;
- A response received from the Subject Member;
- A transcript of the radio interview quoted; and
- The view of the Independent Person assigned to this matter.

The complainants have alleged that during the course of a public protest outside at Council offices at New County Hall, Truro, the Subject member spoke to a reporter from a local radio station stating her views on the protest which was taking place in respect of the 'overdevelopment' of Cornwall.

It should be noted that others Members were also present and were spoken to during the protest who understood the views of those present.

The Subject member spoke to protesters present prior to be approached by a local reporter. During the discussion with the report the Subject Member acknowledged that she had had a 'vigorous' discussion with some of those present and understood their rationale for the protest.

During the interview, the Subject Member stated the following –

*"...I totally get where they're coming from, I totally get it. Apart from the few select people here who are some sort of sinister underbelly of Cornish nationalists, apart from that I totally get it...."*

### *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 Cornwall 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 on a person 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 dealing with any matters, 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. Having viewed the comments, I do not believe the comments made were directed towards anyone personally but were directed towards a group of people present and therefore could be viewed as personal.

The Subject Member in her submission has stated that she has been stated, in the past, as a *'trolled as a novice councillor'* in Facebook postings and has in the past received 'vicious' emails which, although reported to the Council, feels that as a Councillor has to expect this kind of criticism.

Prior to the radio interview, it is noted in the Subject Member's comments to the complaints received are that during the protest she viewed a banner directed at her personally, another person present who is known to the Authority for sending 'abusive emails' to the Subject Member and further another person present known to the Subject Member as a very vocal supporter of views regarding the Council and how residents should approach this. Whilst the Subject Member spoke to the member of the public holding the banner it is not known if the Subject Member approached the other two persons identified.

It was at this time that the Subject Member was then approached by the reporter.

Having viewed the transcript of the radio interview, I have considered whether the wording used could be conceived as disrespectful to those present. Whilst the tone of the words stated cannot be recorded within this Notice it should be noted that manner in which she stated the comments were made in an imprudent manner as a side comment to the statement she was making in respect of her views on the protest.

It is believed that the comments made were in reprisal of viewing the banner above and those persons present.

Whilst it is not clear who she has directed the comments at the wording used and in particular the words *'...a few select people here....'* could be perceived as the Subject Member knew who she was directing the comments at, indeed it is considered that as the

Subject Member was aware of the views of some present this could be considered to be directed at one group, but the approach could be perceived as disrespectful to those present.

Whilst I note the Subject Member's comments regarding the background to the complaints received, this does not excuse the fact that she made the comments stated and directed the same to those 'few' present. I therefore consider that the threshold for disrespect is exceeded and the Subject Member has breached 2.1 of the Code of Conduct for Cornwall Council.

## 2.2 You must not discriminate against another

In considering the application of this part of the Code I have considered the protected characteristics under the Equality Act 2010 and the way in which they are worded, in particular discrimination due to race.

The Act protects people against discrimination on the grounds of their race, which includes colour, nationality, ethnic or national origin

In considering whether the comments made were discriminatory, under the Localism Act 2011, discrimination can only be considered as a breach of the Code if one of the characteristics under the Equality Act has been breached.

As the Cornish are not considered a national minority under the Equality's Act, no breach of the Code in this regard is found.

However; it should be noted that even if the Cornish were recognised as such the threshold for discrimination would not be reached.

*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 of the Code it follows that the Subject Member has conducted herself 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 Breaches found*

I have noted the background to this and have taken into account that the Subject Member was generally supportive of the protestors but was concerned about some of those that were present.

I do consider this is a relatively minor breach, but for the reasons set out in this notice it is a breach nonetheless.

As a result it is considered that a suitable action to remedy this breach is that the Subject Member should issue a public apology within 28 days of the date of this Notice.

### **What happens now?**

This decision notice is sent to the Complainants, the member against whom the allegation has been made and the Subject Member's political party group leader.

### **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.



Eleanor Garraway  
Corporate Governance Officer  
On behalf of the Monitoring Officer  
Date: 20 August 2019