

**ASSESSMENT DECISION NOTICE**

**NO BREACH OF THE CODE**

|  |  |
|--|--|
| <b>Reference:</b>                        | <b>CCN010/19/20</b>  |
| <b>Complainant:</b>                      | <b>An employee of St. Just in Penwith Town Council</b>     |
| <b>Subject Member:</b>                   | <b>Cllr Marna Blundy, St. Just In Penwith Town Council</b> |
| <b>Person conducting the Assessment:</b> | <b>Eleanor Garraway, Corporate Governance Officer</b>      |
| <b>Date of Assessment:</b>               | <b>8 November 2019</b>                                     |

**Complaint**

On 8 November 2019 the Monitoring Officer considered a complaint from an employee of St. Just in Penwith Town Council concerning the alleged conduct of Cllr Marna Blundy of St. Just in Penwith Town Council. A general summary of the complaint is set out below:

It is alleged the Subject Member stated inappropriate, sexist and racial comments to the Complainant when speaking of her predecessor to the role.

**Decision**

That for the reasons set out in this notice the Subject Member has not breached the Code of Conduct for St. Just in Penwith 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; and

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

The Complainant states that on 18 or 19 June 2019, the Subject Member stated inappropriate, sexist and racial comments to the Complainant when speaking of her predecessor to the role.

For the purposes of clarity the Complainant is currently employed as the Locum Clerk to the Town Council.

It is alleged that the Subject Member came to see the Complainant on 18 or 19 June 2019 to discuss Council business. In the discussion the Subject Member raised the subject of mistakes to previous minutes made by the Complainant's predecessor and questioned his nationality, stating:

*"...he's been in England long enough to have better English"*

It is alleged the Subject Member further stated that she appreciated a female Clerk and stated:

*"Whist he was a nice man, it's just better having a lady and an all lady team".*

The Complainant took the comments to be inappropriate, sexist and racist.

It should be noted that the previous Clerk has not been approached to provide his comments to this complaint.

The Subject Member has responded to the complaint stating that she believes the conversation took place on 18 June when she introduced herself to the new Locum Clerk, where they had an informal conversation and in particular spoke of Council business. She has stated that she does not recall bringing up the matter of previous Council minutes and errors however does appreciate the passage time from the date of the meeting to the date of this complaint being made.

However, the Subject Member goes on to state that she believes it they discussed the next Council minutes as the previous Clerk's style was *'sometimes unusual'* and this was due to his upbringing with Italian parents. The Subject Member states she made this comment as a factual statement and not a criticism or a racial remark.

The Subject Member further advises that the comments surrounding a female 'team' was stated in a light heartened manner to make the new Locum Clerk feel comfortable in her position.

In her commentary, the Subject Member has stated that she always treats others with respect and strives to maintain those principles of public life in private as well as in public and further if her comments have caused any distress to the previous Clerk, she apologises

and respects him as a valued colleague and an equal and his parentage and genre made no difference to how she worked with him or viewed him.

### *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 St. Just in Penwith Town Council.

*The Code of Conduct sets out, at paragraph 2.1 that a Councillor must treat others with respect.*

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 viewing the facts objectively.

For disrespect to be shown there has to be a clear attack on an individual however on occasion this may be extended to a group.

Under the Localism Act 2011 members should promote equality by not discriminating unlawfully against another and thus treating them with disrespect because of one of the protected characteristics presented under the Equality's Act 2010. That is their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers.

In considering all of the information available to me I am of the opinion that due to the conflicting opinions of those in attendance I am unable to form a view with absolute certainty that the alleged comments stated were made and this is the same as the complaint can be viewed on the balance of probabilities.

There were no witnesses to the incident so no clarity either way could be gathered by the assessing officer as to the alleged statements and, despite the clear importance the Complainant has attached to the matter, there are no notes of the meeting and the date was not recorded by her.

Therefore in considering the facts of the information available to me at assessment it is clear that both the Complainant and the Subject Member have differing views on the comments surrounding the parentage of the previous Clerk. It is clear from viewing the Subject Member's commentary that she cannot with absolutely certainty recall the event due to the passage of time.

When considering whether or not the incident did in fact take place as stated by the Complainant, the problem that is presented in this, and all other similar matters, is that

when there a conversation takes place and no witness details are provided the threshold for disrespect is unlikely to be met as what was said is not quantifiable.

I have considered referring this part of the complaint for further investigation but, as the ethical standards regime does not allow statement of truth to be made, or interviews to be conducted under caution, the alleged conduct will remain a case of one word against the other. It is therefore not considered to be in the public interest to refer this for further investigation as it would not be possible to resolve these conflicting statements.

For the reasons given above, I am unable to make a finding under the Code of this aspect of the complaint.

However I have further considered the comments regarding the Council being a female 'team'.

The Subject Member has not disputed the comments were made however I believe how they have been received by the Complainant has been misconstrued although it is appreciated that the interpretation of vocal communication can be highly subjective.

The Subject Member has stated that the Town Council had traditionally been a male enclave and was acknowledging, in an informal setting, of the fact that this custom had transitioned.

On viewing both statements of those present, I believe, on the balance of probabilities, the comment stated by the Subject Member was said in a light hearted manner which was done so in trying to make the new Locum Clerk feel comfortable in her role. The fact that the comment made has been misinterpreted by the Complainant is unfortunate.

Whilst the complainant may have found the comments made impudent, I do not believe a reasonable person would constitute the comments made would amount to disrespect and therefore I am unable to find the Subject Member to be in breach of the Code of Conduct for this aspect of the complaint.

*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*

For the reasons set out above as I consider the Subject Member has not failed to adhere to the general principles of public life underpinning the Code and has not therefore conducted herself in a manner contrary to the Council's statutory duty to promote and maintain high standards of conduct for St. Just in Penwith Town Council.

### **What happens now?**

This decision notice is sent to the Complainant, the member against whom the allegation has been made and the Clerk to St. Just in Penwith 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. 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.



**Eleanor Garraway**  
**Corporate Governance Officer**

On behalf of the Monitoring Officer  
Date: 8 November 2019