



## **ASSESSMENT DECISION NOTICE**

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

#### **ACTION REQUIRED**

<b>Reference:</b>	<b>CCN060/23/24_Number</b>
<b>Complainant:</b>	<b>Councillor L Price – St Cleer Parish Council</b>
<b>Subject Member:</b>	<b>Councillor K Johnson – St Cleer Parish Council</b>
<b>Person conducting the Assessment:</b>	<b>Simon Mansell, Group Manager - Assurance</b>
<b>Date of Assessment:</b>	<b>4 September 2023</b>

#### **Complaint**

The Complainant considers that the Subject Member has breached the Code of Conduct. Further details with regards to the complaint are set out below.

#### **Decision and Action**

That, for the reasons set out in this Notice, it is considered that the Subject Member has breached the Code of Conduct for St Cleer Parish Council.

The Subject Member makes a written, unreserved apology to Council for his actions on 28 June 2023, with the apology read out at the next available meeting of the Parish Council; and

The Subject Member is censured for his actions at the meeting held on 28 June 2023.

#### **Reasons for the Decision**

In undertaking this assessment, I have had regard to the following:

- The complaint as made, which includes a video recording of the meeting of the Parish Council held on 28 June 2023;
- The response from the Subject Member; and
- The views of the Independent Person.

### The Complaint

The complaint centres around a meeting of the Parish Council held on 28 June 2023, and the Complainant has set out that, in his view, the Subject Member is constantly bullying and harassing people; this includes telling the whole Council that he is willing to slap all councillors around the head on a live stream.

Within the complaint it sets out that the Subject Member is constantly making up rules and convincing people that he is correct, both in meetings and online, and this includes failing to take the instructions from the Cornwall Association of Local Councils regarding best practice for leaving the role of chair, and that he failed to disclose an interest when requesting payment for his time in the chair.

The Complainant has said that the conduct of the Subject Member is affecting the whole parish and various peoples' [not named] mental health and people are becoming concerned about attending meetings and fear for their safety.

As part of the complaint a copy of the video from the meeting of the Parish Council held on 28 June 2023 has been provided.

### Response from the Subject Member

The Subject Member has responded to the complaint. He has set out his concern about the complaint being poorly formulated and has raised several points in response to the complaint, which have been noted. More specifically, after speaking with the Independent Person the Subject Member has stated:

1 - the instance where an exchange during the meeting [held on 28 June 2023] with Cllr Prinn resulted in a statement from myself that there had been a requirement to remedy the garbage (legacy) created by Prinn in his previous term as PC chair. This is a matter of absolute and irrefutable fact as recorded in the 21/22 AGAR with 6 of the 8 affirmations self-declared as non-compliant, the absence of a PC clerk at the subject meeting since they had their contract revoked following an investigation and finding of gross misconduct with Prinn openly admitting that he knew the clerk to be inadequate at the time he recruited her and had done nothing to remedy known deficiencies nor to improve performance throughout his entire period as former chair of the PC. I will absolutely stand by the statement that the preceding 12 months (my term as chair of the PC) was dominated by remedying legacy issues of incompetence, inadequacy and non-compliance of preceding chairs of St Cleer PC. Further, since Price rather than Prinn is the complainant, is it relevant that a comment in relation to Prinn should feature in a complaint from Price.

2 - the instance where Price, after having already been subject to a vote of the PC which resolved that he would be no longer heard at the meeting due to his sustained disruptive behaviour, left the room to make a telephone call whilst uttering obscenities and abuse on his way out. Having left the room, he intentionally left the door open for reasons best known by himself. Price's behaviour continued to be disruptive since his private telephone call was interfering with the business of the PC. As chair, I stood, walked to the door, made to close the door but was prevented from doing so by Price who jammed his foot in the door and 3 times yelled - you won't be shutting the door. This behaviour is the subject of a separate complaint in relation to Price which evolved into potential incitement to violence and public order offences.

It was the contention of the IP that I had displayed an intimidating behaviour by attempting to close the door. My approach was considered, calm, entirely passive and there was no body language which gives any evidence of an "intimidating" intent or action on my behalf.

In the face of Price's continued intentional overt disruption of the meeting, his aggressive approach, his physical intervention to block the door and his confrontational body language, his verbal assault and sustained abusive and offensive language all indicate quite the opposite of the initial observation by the IP. Even Price verbally declared that he was NOT intimidated which rather dispels any potential for my behaviour to be assessed as confrontational. This is further reinforced by my resigned acceptance that Price was clearly seeking trouble and that I was wise enough to see through his ploy and retreat back to my seat.

3 - the 3rd example of the IP's assessment of "robust" nature of chairing the meeting was the approach adopted when addressing Price's early point of order interjection. The point of order was that items on the agenda were being addressed in an order which differed from that stated on the agenda. This point of order was presented by Price yet, without waiting to hear the chair's decision on the point, Price set about his REAL intent for the interjection which was to launch an ad hominem, abusive and slanderous verbal assault upon myself. This is clearly evidenced in Price's own video submission. The point of order was heard, I gave a chair's explanation, quoting standing orders, and dismissed his point of order. That was an entirely appropriate course of action and, given the real intent behind the point of order as a launchpad for a verbal assault - to suggest anything other than a "robust" reaction to such behaviour is simply not appropriate. There then followed a chairman's imposed recess in order to calm proceedings. The reality is that in the face of a premeditated, coordinated, collusion between councillors to intentionally disrupt the business of the meeting, the requirement for a suitably "robust" nature of chairing the meeting should actually be set out as an exemplar to others.

#### Application of the Code of Conduct

In considering the complaint as made, I am satisfied that the Subject Member was acting in their official capacity at the time of the alleged conduct and therefore was bound by the Code of Conduct.

As with all ethical standards complaints, this is assessed against the Code of Conduct adopted by the Council and the procedures for assessing complaints adopted by Cornwall Council. The information provided is assessed on the balance of probabilities; this is, would a reasonable person objectively considering of all the facts be of the view it is more likely than not that the actions of the Subject Member amount to a breach of the Code of Conduct.

#### Consideration of the Facts

In undertaking this assessment I do consider that the complaint could have been better formulated and, whilst other allegations in the complaint have been noted, as nothing has been provided to substantiate these allegations, this assessment considers the actions of the Subject Member with regards to the meeting held on 28 June 2023 only.

In undertaking this assessment, I have reviewed the video of the meeting of the Parish Council and have noted that the meeting of 28 June 2023 was one where there

was considerable discord at times between some of those present and the Subject Member. I have noted that the start of the meeting was one which proceeded well, with discussion on the location of a defibrillator and the funding for this.

However, at 24 minutes into the meeting, the Subject Member then deviated slightly from the agenda, this was immediately picked up by Councillor Price by raising a point of order and levelling several claims of misconduct against the Subject Member.

Even though the point of order was one which was forced by Councillor Price and, in viewing the meeting, was no doubt designed to provoke the Subject Member, the Subject Member did seek to deal with this by suspending the meeting. This had limited effect, although with a motion being raised, whilst the meeting was suspended, that Councillor Price is not heard, the meeting recommenced.

It is then raised by Councillor Prinn that the Subject Member had referred to a motion presented by members of the Council as 'stupid' and as part of this Councillor Prinn then asserts that the Subject Member has called those who had proposed the motion as stupid.

Replying to this the Subject Member has said he was referring to the motion and not the people but, and whilst I have noted the Independent Person's view on this, I disagree.

The Code requires that the facts are view objectively by a reasonable person viewing all of the relevant facts. The facts are that the Subject Member had called the motion stupid, with no consideration given to how his words may be perceived. Whilst the later explanation for the use of this term is noted, this was after the event, and it appears the phrase was used with regards to the motion in an almost dismissive manner.

Given the robust nature of the Subject Member, it is easy to then see how those who proposed the motion would see themselves as been classed as stupid. The comment was poorly phrased and failed to show due consideration for the motion itself and thereby respect to those who had proposed the motion. Therefore, I consider by calling the motion stupid, this comment breaches paragraph 2.1 of the Code of Conduct for St Cleer Parish Council.

There is then criticism raised about some of the email correspondence sent out by the Subject Member, to this the Subject Member responds by stating that he has spent 12 months clearing up your 'garbage'.

Whilst I have noted the Subject Member's reasoning for making this statement, it is not something that should have been made in the manner in which it was. All those around the table have sought to serve the community on a voluntary basis and credit should be given for this, even if errors may have been made. By calling the work of others garbage, this is a direct criticism of the work of other members of the Council, it shows a complete lack of respect for the work and the time others have given through their commitment. As a result, this comment is considered to be a further breach of 2.1 of the Code of Conduct.

This is then followed up with questions being asked with regards to the Subject Member's intention to resign, which was on the agenda. Responding to this, the Subject Member stated that he could not wait to go because for the past 12 months he has had to be civil to people that he would 'rather give a slap upside the face to'.

I find this comment one which treats everyone who the Council interacts with as highly disrespectful, and there can be no justification for this whatsoever. This was not a statement that was qualified, and even if it were, its difficult to see how anyone who has chosen to represent the local community as a Councillor, and then has then taken the Chair of the Parish Council, could justify a comment of wishing to slap others in the comment.

By making this statement the Subject Member has demonstrated a lack of forethought and restraint and has sought to make his views on those on the Council, and/or in the community clear.

In undertaking this assessment, this is a comment which is unique. I have never heard an elected member make such a statement at a public meeting, and from the Chair. This comment is blatantly disrespectful and it shows no regard whatsoever for others and I have no doubt that a reasonable person would consider this be to be a breach of 2.1 of the Code of Conduct.

The meeting progressed, and Councillor Price then left the room to make a call and could be heard talking on his mobile phone though the open door, though on the recording it is not possible to hear what was said. The Subject Member then leaves his seat and sets out to close the door, which Councillor Price refuses to do.

The following can then be heard on the video:

The Subject Member says to Councillor Price, 'you're so close'.

This is responded to be the comment, 'go on, do it, take a punch'!

In respond the Subject Member says, 'I know that's what you would like'.

I have noted the Independent Person's comments on this and have also viewed this part of the video on several occasions and on the balance of probabilities do not accept the Subject Member's explanation for his comments. This is based on the posture of the Subject Member and the tone of voice used. I do accept that there was an element of provocation in this, however the Subject Member was the Chair and should have remained in his seat and in control of the meeting but instead opted to forfeit control of the meeting in order to take direct action against Councillor Price. As a result of this the Subject Member was directly intimidatory towards Councillor Price and showed a lack of respect for him, and moreover for the meeting, having vacated the Chair. I consider these actions are a breach of 2.1 and 2.4 of the Code of Conduct.

Following this the meeting then continues, and there are no further incidents which may demonstrate a breach of the Code.

Given the above I am of the view that the actions of the Subject Member at the meeting held on 28 June 2023 has brought his office into disrepute breaching 2.10 of the Code. I have considered, given the fact the actions were undertaken whilst the Subject Member was acting as the Chairman could also be considered to have brought the Council into disrepute but after considering the video, but I am of the view that a reasonable person would stop just short of finding this.

As the Subject Member has breached 2.1, 2.4 and 2.10 of the Code of Conduct it follows that his conduct falls short of the high standard expected of an elected member and also breaches 2.5 of the Code.

There are no further breaches of the Code of Conduct found.

### Views of the Independent Person

The Independent Person, having considered all the facts relating to this matter and having viewed the video of the meeting and has provided the following views on specific elements of the subject members conduct:

On the calling of Councillors stupid, Cllr Johnson states that he has never called or referred to any member as being stupid, his comment was directed at the concept of the motion being proposed.

The Independent Person has said that in this regard, he agrees with Cllr Johnson's assertion, in that, one may consider an idea or in this instance a 'proposed motion' as stupid, without it directly or indirectly implying that the person or persons concerned are 'stupid'. Cllr Johnson's choice of words was, in my view, poor in this instance, but in my view does not breach the Code of Conduct under paragraph 2.1.

At the meeting Cllr Johnson reiterated that it is his intention to resign as Chairperson, agenda item 14, and that he cannot wait to forego the Chairmanship, because for the past 12 months he has had to be civil to people that he would 'rather give a slap upside the face to'.

It is the view of the Independent Person that it is this comment that breaches the standard required under paragraph 2.1 of the Code of Conduct. The comment relates to Cllr Johnson's role as Chairperson of the Council, and to his 'preferred' interactions whilst carrying out those duties, even if he never actually conducted himself in the described manner. The Independent Person is of the opinion that Cllr Johnson is entitled to hold those views, however, expressing them openly in the council meeting and relating them to his official duties and preferred interactions with others expresses, in my view, a disrespectful consideration of those he has had to work with or alongside and breaches the code of conduct which requires those who hold public office to remain respectful no matter the conduct or views of others.

Further, in the meeting another member raises his observation about the implications of this comment demonstrating disrespect for some of those who the chairperson has had to interact with, including damning email responses to members of the council who have undertaken work on behalf of the parish. Cllr Johnson responds by stating that his correspondence has been in response to him having spent 12 months clearing up 'your garbage'.

The Independent Person is again of the view that this is a 'disrespectful' expression of dissatisfaction at the work undertaken by or the performance of those who have undertaken activities on behalf of the council and parish and this comment fell below the standard required by the Code of Conduct Paragraph 2.1.

Cllr Johnson's response to Cllr Price's behaviour and actions is forthright in that he tells Cllr Price to get out, you are disrupting the meeting, and is followed by, in my view, an expression of intimidation, 'you're so close' Cllr Price responded in such a

way that in my view he took the phrase, 'you're so close' and to mean that Cllr Johnson was mindful to the use of force. I will emphasise that this is my view of that events recorded.

Cllr Johnson informed me that this was not his intention or meaning; he informed me that he was referring to the proximity of Cllr Price to himself. I informed Cllr Johnson, that having reviewed the footage, [several times at the point of drafting this report] my view remains that his words were intimidating, and Cllr Price had expressed clearly to Cllr Johnson how he had interpreted Cllr Johnson's comment. Despite the language used, Cllr Johnson, does, outwardly, remain calm, and he returned to his seat.

In my view, Cllr Johnson's actions and language breach the required standards of paragraph's 2.1 and 2.4. However, the Independent Person does not consider his actions to have amounted to a breach of paragraph 2.3 (bullying) of the Code.

Having considered the breaches of the Code at 2.1 and 2.4, it is my further view that his actions/conduct were contrary to the Council's duty to promote and maintain high standards of conduct, paragraph 2.5 of the Code; and for those events, for which, in my view he is not solely responsible, he brought his office and the Council into disrepute, a breach of paragraph 2.10 of the Code.

### Summary and Actions

As is set out above, the meeting on 28 June 2023 was one which did not put the Parish Council in a good light.

Even taking into account the potential provocation, the Subject Member showed a lack of restraint and poor judgement on 28 June 2023, and this resulted in conduct which was unacceptable and a breach of the Code. The fact that this was conduct which was demonstrated whilst the Subject Member was also Chairing shows a lack of control from the Chair and a disregard for the views or opinions of others and a failure to recognise how his words and actions would be viewed.

Leaving the Chair to tackle someone head on is an example of this, having suspended the meeting earlier it is not clear why, if the Subject Member felt that there was disruption, this was not done again but instead he opted to leave the Chair and to rise to the provocation.

With some of the other breaches there was, however, no provocation and the comments with regards to members being stupid, their work being garbage and saying he would like to slap some of the members are no comments that show any thought for how these words may be received and in this disregard the rest of the Council.

I have noted that the Subject Member does later apologise for the comments on the motion being stupid, but this is well after the event.

With limited sanctions available under the current ethical standards regime, the following actions are recommended to remedy the breach.

- The Subject Member makes a written, unreserved apology to Council for his actions on 28 June 2023 with the apology read out at the next available meeting of the Parish Council;

- The Subject Member is censured for his actions at the meeting held on 28 June 2023.

In addition to the above, should the Council consider in the future that the Subject Member should be their Chairman, it is recommended that he undergoes 1-2-1 training on Chairing skills, and in particular this focuses on how to deal with other members and challenging situations.

### **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 Cleer Parish Council and a copy placed on Cornwall Council's web site.

### **Right of review**

At the written request of the Subject Member the Monitoring Officer can consider a request for a review and, if the review is successful this may result in a change to the finding made in the original assessment.

The written request from the Subject Member to review this decision must be received within 14 days from the date of this Notice, explaining in detail on what grounds the decision should be reviewed.

The grounds for requesting a review must be substantive, and a re-submission of the original complaint will not be classed as substantive and neither will a request that sets out the findings are disagreed with. There must be fresh information in the request which was not considered at assessment which is such that this may result in a different outcome.

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.