

Ms Roni Jones
6 Clevedon Park Avenue
Milehouse
Plymouth
Devon
PL2 3HB

Your ref:

My ref: 055701/CCN004/18/19

Date: 13 July, 2018

Dear Ms Jones,

Request to review Code of Conduct Complaint Decision Notice CCN004/18/19

I write to advise we have reviewed a request to review the Decision Notice CCN004/18/19 in which we found a breach in respect of your complaint made against Cllr Johnson.

Paragraph 5 of Cornwall Council's procedures for the assessment and determination of breaches of the Code of Conduct sets out the procedure for requesting a review of a decision made under the Code.

The reasons for Cllr Johnson requesting a review are as follows;

1. The finding that a confidential matter was published when the complainant provides evidence of a set of PC minutes which are/were similarly posted to the PC webpage is wholly unsubstantiated, factually incorrect and therefore dismissed.
2. The assumption that 'sarcasm' can be translated to a finding of bullying, where the so-called investigation wholly failed to examine and consider the tone and content of the emails which were being replied to (and it is not my place to supply such evidence) exposes significant vulnerabilities in the investigation process.
3. That the Investigating officer has made no reference to:
 - (a) the fact that all / any corrections of misinformation (acknowledging that they may have been interpreted as containing a harshness of tone (albeit not dissimilar to that which initiated them) were factually correct and supported by empirical reference.
 - (b) the sheer volume of completely irrelevant and misinformed so-called 'evidence' of inappropriate behaviour which, in any real sense should cast a



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light of significant doubt upon the credibility, capability and motive of the complainant and so-called witnesses has resulted in the most severe degradation of confidence in the administrative process of the Monitoring officer's office.

With regards to the posting made on social media made on 26 April 2018 @ 15.40: In assessing a matter the assessment is made on the balance of probabilities after a consideration of the facts. It adopting this view it is a fact there is only one person employed by the Council to prepare the agenda and therefore, as there was no attempt in the post to quantify who was the subject of the post to, it is considered more likely than not that this was a reference to the complainant.

With regards to bullying: As the decision notice sets out in several places Cllr Johnson's ability to challenge the information given to him, and to other Councillors, was not questioned, and was supported as this is fundamental to his role as a Councillor. However, as the decision notice also states it was the manner by which he chose to undertake this challenge that was instrumental in the breach. In addition, whilst the tone of your emails may have been something that was not to his liking, it is not considered that responding in a like manner is the way to resolve this, Cllr Johnson has a route open to him as the Complainant's employer to formally raise this under a grievance procedure.

In employment law bullying is something that is generally subject to a subjective consideration, under the Code there is a requirement to then objectively consider the facts, though since the *Ledbury* case was heard there is now a need to take the subjective view into consideration as the right of redress for an employee is via the Code.. There is no 'malice aforethought' required for bullying, more often than not bullying is not something that can be linked to aforethought, but is a pattern of behaviour (though it can be a single act) that one person may regard as normal, and another person finds offensive.

On the issue of the confidential information: in undertaking the assessment the meeting notes as set out on Cllr Johnson's social media page were reviewed, along with his views on the complaint, as well as your views, it is worth noting that the ethical standards regime does not have the powers to compel the provision on information, such as web rights, and therefore consideration was given to the fact that the document had been previously published in the decision notice which sets out;

'...even if this had been previously published this would not mean that all of the document is in the public domain'.

As a result the finding was made on whether it was reasonable for Cllr Johnson to publish the complete document on social media, which included the derogatory



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statements regarding the complainant. As a result of these considerations it was decided that the publication of just these comments were a breach of confidentiality but, as the decision notice also clearly states, this was view as a technical breach and not one that was further considered when actions to mitigate the breach were considered.

In terms of Cllr Johnson's comments regarding the submission made by the Complainant which he views as 'irrelevant, and misinformed.' The ethical standards complaints process is something that is open to all and because of this no format is set out to dictate how a complaint may be framed and submitted, the only stipulation set out is that the complaint has to be in writing. Complainants, and members when responding to a complaint, are free to provide what they think is needed to substantiate or defend a complaint. All of the submissions are read as part of the final consideration of the matter, though not all the submissions may amount to a breach or be used in the assessment. It would be considered inequitable if complainants were penalised in some way for their submissions and, if this were to be employed, there would have to be reciprocal arrangements in place that allowed the consideration of the members' response in a similar manner.

For the reasons given above we have rejected the request for a review. You do not need to do anything further in respect of this letter we are just writing to advise you that a request to review the Decision has been received and rejected.

Yours sincerely,

Eleanor Garraway
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