

ASSESSMENT DECISION NOTICE

NO BREACH OF THE CODE

Reference: CCN015/18 /19(iii)

Complainant: Mr Kevin Johnson

Subject Member: Cllr Derris Watson, St. Cleer Parish Council

Person conducting the Assessment: Simon Mansell, Corporate & Information Governance Manager

Date of Assessment: 26 September 2018

Complaint

On 26 September 2018 the Monitoring Officer considered a complaint from Mr Kevin Johnson concerning the alleged conduct of Cllr Derris Watson of St. Cleer Parish Council. A general summary of the complaint is set out below:

The Complainant has set out that at a meeting of the Parish Council held on 8 August 2018 the Subject Member gave inaccurate and misleading verbal commentary which may have influence the vote on a motion to Council that the Complainant stop filming which the Complainant considers was ultra vires.

Decision

That, for the reasons as set out in this notice there has been no breach of the Code of Conduct 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 has set out that at a meeting of the Parish Council held on 8 August 2018 the Subject Member submitted a motion to Council that the Complainant stop filming which the Complainant considers was ultra vires.

The Subject Member has responded to this complaint by setting out that he made the proposal as he considers that the Complainant was causing a disruption to the meeting by filming and that there was also a need to protect an employee from the actions of the Complainant.

Application of the Code of Conduct

I am satisfied that for the purposes of this complaint that the Subject Member was acting in his official capacity at the time of the alleged conduct and was therefore bound by the Code of Conduct.

Findings of fact

In considering the findings of fact decisions are based on the balance of probabilities, that is, would a reasonable person in possession of all the facts objectively consider that a breach of the Code of Conduct has occurred.

I have noted the comment made by the Complainant and the response by the Subject Member. In particular I have noted that the motion was accepted by the Council and that the decision to stop the filming became a Council decision and was not something that could then be attributed to an individual.

The Code of Conduct can only consider if the actions of individual members, and not decisions that are made by a Council, as the jurisdiction of the Code does not extend to such decision.

In considering if the actions of proposing the motion are a breach of the Code; were the Code of Conduct extended to a member making a motion or suggesting a that a vote be taking that may, or may not, be appropriate then the management of the ethical standards process would become untenable. Members should be free to propose what they wish and it is then for the corporate body, taking advice from its officer or officers, to consider if the matter should be voted upon.

As a result as it is considered that the actions of the Subject Member do not amount to a breach of the Code.

Actions to remedy the breach

As no breach of the Code has occurred no further action needs to be taken.

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.

Right of review

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.



Simon Mansell, Corporate and Information Governance Manager

On behalf of the Monitoring Officer
Date: 26 September 2018