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11<sup>th</sup> January 2019

## COMPLAINT DECISION NOTICE

**COMPLAINT REFERENCE: COUNCILLOR WISDOM DA COSTA**  
**DECISION: NO BREACH OF THE CODE OF CONDUCT**

### Power to determine the Complaint

The Code of Conduct complaint against Cllr. Da Costa has been determined under Part 7 of the Royal Borough of Windsor and Maidenhead's Members' Code of Conduct complaints process, Appendix 4.

I assessed the complaint under paragraph 3 of Appendix 4, and considered that the criteria stated in that paragraph was met with regard to accepting the complaint. Under paragraph 4 of Appendix 4, I consulted the views of Mr. David Comben, the Royal Borough's Independent Person.

### The Complaint

A Code of Conduct complaint was made against Cllr. Da Costa by Cllr. Dee Quick, Cllr. John Bowden (both Ward Members of Clewer East) and Cllr. Ed Wilson (Ward Member for Clewer South) with regard to a supplementary question made by Cllr. Da Costa at the Council meeting on 25<sup>th</sup> September. Cllr. Da Costa's first question of the Lead Member for Environment was with regard to concerns about asbestos exposure following demolition of a building in a residential area in Windsor. A response was given by Cllr. Coppinger, Lead Member for Planning. Cllr. Da Costa asked a supplementary question. The transcript of the question was:

"It would be great if the council would help me, perhaps, advise residents because our understanding is that an at-risk register should be maintained by somebody and given that a number of residents and even motorists driving along Dedworth Road will have been exposed to asbestos and silica it would be helpful for you to work with us to help our residents. Can you do this for us?"

The Councillor complainants say that residents who heard these remarks would have been entitled to believe that Dedworth Road had been affected by asbestos and the developers who were demolishing buildings in that road would have been entitled to believe there had been an allegation made about them. The actual situation is, however, that there is no evidence whatsoever of asbestos in Dedworth Road. They alleged therefore that Cllr. Da Costa deliberately created a false alarm among the residents. They believed that he did this for political effect only and that he should, instead, have engaged with the appropriate ward members and officers who were dealing with the site at Dedworth Road, rather than raise it in the Council meeting. He would have then been assured that there was no asbestos on the site in question and that it was closed for other reasons.

**Russell O'Keefe- Acting Managing Director**  
Town Hall, St. Ives Road, Maidenhead, SL6 1RF

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As Cllr. Da Costa had not taken the issue out outside the public domain, in view of the sensitivity of the issue, the complainants alleged that he breached the following paragraph of the Council's Code of Conduct:

- viii) *You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.*

## **Analysis**

The complainant's point was that he should not have raised such a serious issue in full Council, bearing in mind that there were assurances made to Clewer East and Clewer South Ward Members and residents there was no asbestos on site. They believed that he should have gone through them about this rather than create false alarm via a question in full Council.

Cllr. Da Costa's response to me was that there was evidence given to him of asbestos from residents, despite denials from the Council. Confidential recent emails were shown to me and I am content that they demonstrated real concern about the issue. Even if resident's evidence provided to Cllr Da Costa was misguided or wrong in some way, Cllr. Da Costa's perception was that residents genuinely believed there was asbestos. Rather than raise a false alarm Cllr. Da Costa believed he needed guidance from the Council on how best to advise residents who were still worried about it. The point Cllr. Da Costa was making in his supplementary question was that it would have been helpful for the Council to work with him to help residents. He had asked officers for advice and he believed that he had not received a satisfactory response from them. Cllr. Da Costa felt it was his duty to help residents and denied it was done for political purposes. The information with regard to concerns about asbestos was not confidential. Cllr. Da Costa feels therefore that he has not failed to support high standards of conduct when serving in his public post.

I feel that it may have been, with hindsight, better for Cllr. Da Costa not to raise this issue in full Council, but instead speak to the Lead Member for Planning, or Ward Members if he felt that he had not obtained a satisfactory response from officers. The development was not in his Ward. However, his actions were based on an apparently genuine need to help residents who were still unhappy with what they were told, and that being the case, I cannot find that he has failed to support high standards of conduct by his actions.

I have advised Cllr. Da Costa that, as he has now been put on notice that work has been done on this issue with residents, that he takes up residents' concerns with the Lead Member for Planning, Cllr. David Coppinger, or liaise with Ward Members direct rather than bring the matter up in public, either via social media or in a council meeting.

**Decision: I consider that Cllr. Da Costa did not breach of paragraphs viii) of the Council's Code of Conduct for the reasons given.**

## **Notification of Decision**

My decision has been sent to Cllr. Da Costa and the complainants, and will be published on the Council's webpage for a period of 3 months

Under Part 7 Appendix 4 of RBWM's complaints procedure there is no further right of appeal.. Anyone dissatisfied with this decision may however write to the Local Government

Ombudsman. Further details are on the Local Government Ombudsman's website. It should be noted that Councillor complainants are unable to use this service.

Mary Severin  
Monitoring Officer

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