

Public Document Pack

Standards Committee

Meeting Venue
**Committee Room A - County Hall,
Llandrindod Wells, Powys**

Meeting date
Wednesday, 7 February 2018

Meeting time
10.00 am

For further information please contact
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01597 826980
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County Hall
Llandrindod Wells
Powys
LD1 5LG

Issue Date:
1st February 2018

The use of Welsh by participants is welcomed. If you wish to use Welsh please inform us by noon, two working days before the meeting

AGENDA

1.	APOLOGIES
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To receive apologies for absence.

2.	MINUTES
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To authorise the Chair to sign the minutes of the previous meeting(s) of the Committee held on the following dates(s) as a correct record:

- 4th October 2017

(Pages 3 - 8)

3.	DECLARATIONS OF INTEREST
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To receive any declarations of interest from Members relating to items to be considered on the agenda.

4.	REPORT OF THE SOLICITOR TO THE COUNCIL
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To receive the report of the Solicitor to the Council.

(Pages 9 - 32)

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MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD AT COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON WEDNESDAY, 4 OCTOBER 2017

PRESENT

Mrs H Rhydderch-Roberts (Chair)

Independent Members: Mrs C Jackson, Mrs J Evans, Mr S Hays and Mrs S Jarman,

County Councillors S McNicholas, K M Roberts-Jones and K S Silk

1. MINUTES

The Chair was authorised to sign the minutes of the meeting held on the 28th June 2017 subject to the following amendments:

On page 4 three lines from the bottom amend to: 'The Committee also questioned if Councillor Price failed...'

On page 5 under case 8/15/CC amend to: 'Code of Conduct had occurred and imposing imposed...'

On page 5 under case 9/15/CC amend to: 'Code of Conduct had occurred and imposing imposed...'

Members queried if Councillor K Roberts-Jones and Councillor M Williams had received an apology from Councillor G Price.

Councillor K Roberts-Jones advised that she had not received an apology from Councillor Price.

Councillor Roberts-Jones declared an interest in this matter and left the room

The Chair advised that she had that morning spoken to Councillor M Williams who confirmed he had received no letter, phone call, text, email or verbal apology.

Independent Member H Rhydderch-Roberts declared an interest in this matter and left the room.

Independent Member C Jackson (Vice-Chair) took the Chair for this item.

Members expressed their concern that the APW had taken into account Councillor Price's intention to send letters of apology to Councillors Roberts-Jones and Williams and this had been used in mitigation by the APW and had led to a reduction in sanction from a five month suspension to a three month suspension. When the matter was returned to the Standards Committee they had followed the recommendation from the APW and Councillor Price was suspended for 3 months.

Members were of the view that Councillor Price had shown a lack of respect to the Councillors who were expecting an apology, the APW and themselves by

advising that he intended to send a letter of apology which he did not subsequently send. His inaction may have brought the office of Councillor and the County Council into disrepute.

Members acknowledged that there was a lack of clarity regarding the timescale for sending an apology but that it was to be sent 'by the end of the process'. Councillor Price's suspension has now concluded and therefore the process has now ended. Members felt that sufficient time had elapsed in which an apology should have been made.

Members were of the view that both the APW and the Ombudsman should be advised of Councillor Price's failure to fulfil his offer to apologise to Councillor Roberts-Jones and Williams. Cllr Price will be informed that letters have been sent to the APW and the Ombudsman.

2. APOLOGIES

Apologies were received from Councillor S Lewis.

3. DECLARATIONS OF INTEREST

To receive any declarations of interest from Members relating to items to be considered on the agenda.

Minutes

Councillor K Roberts-Jones declared an interest in relation to case 6/15/CC as she was the Member who reported this matter to the Ombudsman.

Independent Member H Rhydderch-Roberts declared an interest in relation to case 6/15/CC as she had not sat on the Hearing for this case due to a personal connection.

Report of the Solicitor to the Council

Councillor K Silk declared an interest in relation to B1 of the Report of the Solicitor to the Council as she was one of the eight Councillors who had been reported to the Ombudsman.

4. REPORT OF THE SOLICITOR TO THE COUNCIL
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The Committee received the report of the Solicitor to the Council (copy filed with signed minutes).

A General Standards Issues for County Councillors and Co-opted Members

A1 Code of Conduct Training

Code of Conduct training had been offered to the four County Councillors and one Independent Member who have yet to receive this training. This training would be offered to the newly appointed Town and Community Council representatives on the Standards Community Sub-Committee.

B County Councillor referrals

The current position regarding existing matters with the Ombudsman is as follows:

- 04/CC/2016 Ombudsman not investigating
- 02/CC/2017 Ombudsman originally decided not to investigate – complainant submitted a request for a review of that decision and the Ombudsman has now decided to investigate.
- 04/CC/2017 Relating to eight Councillors – Ombudsman not investigating

C Dispensations

C1 Applications – County Councillors

No applications for dispensations had been received.

D Ombudsman’s Casebook

The Ombudsman had published Code of Conduct Casebooks for the following periods:

- April 2017 – June 2017

A copy of this Casebook was attached at **Appendix A**.

E Annual Letter from the Ombudsman

The Annual Letter from the Public Services Ombudsman for Wales was received and noted.

The Solicitor to the Council advised that complaint handling was being taken seriously by himself and the Chief Executive. Previously there had been three systems for recording complaints and the authority are now moving to one system with new software which will help monitoring of complaints. This alone would not improve complaint handling and staff were instructed to give complaints due priority.

F Appointment of Independent Member

The process for appointing an Independent Member had commenced. The post had been advertised in the Brecon and Radnor and the County Times and had also been placed on the front page of the Powys County Council website. To date there have been 35 expressions of interest and 11 applications. The closing date for submitting applications is the 6th

October 2017. Shortlisting will take place on the 23rd October 2017 with Interviews taking place on the 8th November 2017.

The Interview Panel will comprise of the following members:

Mrs S Thompson – High Sheriff
Mrs H Rhydderch-Roberts – Chair of Standards Committee
Mrs J Evans – Independent Member Standards Committee
Councillor S Lewis – County Councillor Member Standards Committee
Community Councillor Hugh Pattrick – Community Councillor Member Standards Committee.

The appointment will be made at the meeting of Powys County Council on the 25th January 2018. The first meeting of the Standards Committee thereafter will be the 7th February 2018.

G. Appointment of Town and Community Council Representatives to the Standards Community Sub-Committee.

<p>RECOMMENDED :</p> <p>1. That the Standards Community Sub-Committee comprise the undermentioned 9 Members :-</p> <p>(i) All 5 Independent (Lay) Members of the main Standards Committee.</p> <p>(ii) County Councillor K Roberts-Jones.</p> <p>(iii) Town Councillor Hugh Pattrick (Ystradfellte Town Council) – elected by the Town and Community Councils in Brecknockshire.</p> <p>(iv) Community Councillor Joy Shearer (Tregynon Community Council) – elected by the Town and Community Councils in Montgomeryshire.</p> <p>(v) Town Councillor Margaret Morris (Glasbury Community Council) – elected by the Town and Community Councils in Radnorshire.</p> <p>2. That the terms of office of the 5 Independent (Lay) Members be for the remainder of their terms of office as Independent Members on the main Standards Committee.</p> <p>3. That the terms of office of the County Councillor and Town and</p>	<p>To constitute the Standards Community Sub-Committee.</p>
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<p>Community Councillors be for the maximum term permitted by the existing regulations or by any amending regulations (currently a maximum of five years) or until they cease to be Councillors or resign whichever shall first occur.</p>	
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H. Meeting Dates

To note dates of future meetings as follows:

Wednesday 7th February 2018

Wednesday 27th June 2018

Wednesday 3rd October 2018

Mrs H Rhydderch-Roberts (Chair)

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CYNGOR SIR POWYS COUNTY COUNCIL.**Standards Committee****7th February 2018****REPORT BY: Solicitor to the Council****SUBJECT: Standards Issues**

REPORT FOR: Decision, Information and Discussion

A. General Standards Issues for County Councillors and Co-opted Members**A1 Code of Conduct Training**

Code of Conduct training was held on the 16th May 2017. Four County Councillors and one Independent Member were unable to attend the training (one County Councillor was on other Council business). In addition 3 Town and Community Council representatives were appointed in September who were required to undertake the training. Alternative dates were offered and the training was undertaken on 24th October and 14th November. As a consequence all Members and Co-Opted Members have completed the training. The new Member of the Standards Committee will have received training on 1st February, 2018.

A2 Mandatory Training

The Council agreed on 15th July, 2015 that:

- (i) Where a Member does not attend/complete a "Mandatory development" session they will receive an email from the Standards Committee advising them that they need to attend the next session. They will be given details of the session or how to access an appropriate session from another source and the required date for completion.
- (ii) Where a Member does not complete the second session they will be required to provide a verbal/written explanation of why they have failed to attend/complete the required development to the Standards Committee. The Standards Committee will require the Member to agree to complete the required "mandatory development" within a specified timescale.
- (iii) If a Member continues to fail to attend/complete the required training the Standards Committee can suspend that Member for a period of up to one month. During this period the individual will not receive their allowance and will not be able to act as a Councillor.
- (iv) The Standards Committee will however, take into account a Member's individual circumstances when considering the above.

As it is now a new term of Council, it would seem appropriate that this decision of Council is implemented. The purpose of this section of the report is to remind the Committee of the Council's decision and to give advanced notice that in future reports, the names of Members who have not completed Mandatory Training will be reported.

In addition it would be prudent for the Committee to write to all Group Leaders and Co-Opted Members to remind them of the Council's policy and to advise that in future the names of Members not attending Mandatory development Sessions will be reported to the Standards Committee.

RECOMMENDATION:	REASON FOR RECOMMENDATION:
<p>(i) To note the Council's policy in relation to Mandatory Development Sessions.</p> <p>(ii) That the Committee writes to all Group Leaders and Co-Opted Members reminding them of the Council's policy and to advise that in future the names of Members not attending Mandatory Development Sessions will be reported to the Standards Committee.</p>	<p>To implement the Council's policy regarding Mandatory Training as approved on 15th July, 2015.</p>

B. Referral of Councillors to Public Services Ombudsman

B1. County Councillor Referrals

B1.1 The current position regarding matters with the Ombudsman is as follows:

- 02/CC/2017 Ombudsman investigating.
- 01/CC/2018 Ombudsman investigating.

C Dispensations

C1 Applications - County Councillors

No applications for dispensation have been received from County Councillors.

D Ombudsman's Casebook

The Ombudsman has published Code of Conduct Casebooks for the following period:

- July – September 2017

A copy of this Casebook is attached at **Appendix A**.

Back copies of the casebooks can be accessed from the website of the Public Services Ombudsman for Wales at:

<http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx>

E Annual Report from Adjudication Panel for Wales

The Adjudication Panel for Wales (APW) has published its Annual Report for 2014/15 and 2015/16 Combined.

The report is usually published annually but was delayed due to the few cases dealt with by the APW and the retirement from office of the previous President of the APW, Mr Peter Davies. The current President is Ms Claire Sharp.

The report can be accessed from the APW website on the following link;

<http://gov.wales/docs/apw/publications/170404-apw-annual-report-2014-2016-en.pdf>

The Adjudication Panel for Wales is an independent tribunal. Their function is to determine alleged breaches by elected and co-opted members of Welsh county, county borough and community councils, fire and national park authorities, against their authority's statutory code of conduct.

The APW role is to form case and interim case tribunals ("Case Tribunals") to consider references from the PSOW following the investigation of allegations that a member has failed to comply with their authority's Code of Conduct; and

The Panel to consider appeals by members against decisions of their own authority's Standards Committee that they have breach their Authority's Code of Conduct ("Appeal Tribunals").

F Adjudication Panel for Wales decision report

In October 2017 the Adjudication Panel for Wales published a decision report in respect of Alison Halford former Councillor for Flintshire County Council. The Adjudication Panel for Wales had received the matter as a referral from the Public Services Ombudsman for Wales and, having dealt with the matter at a Case Tribunal on 6th October 2017. The outcome of the Tribunal was to disqualify Ms Halford from being or becoming a Member of a relevant authority for a period of 14 months.

A copy of the report is attached at **Appendix B**.

G Register of Gifts and Hospitality

To receive the Register of Gifts and Hospitality covering the period May 2016 – November 2017 at **Appendix C**.

H. Meeting Dates

To note dates of future meetings as follows:

Wednesday 27th June 2018

Friday 14th September 2018 – Standards Conference Aberystwyth University

Wednesday 3rd October 2018

Contact Officer Name:	Tel:	Fax:	Email:
<i>Clive Pinney – Solicitor to the Council</i>	01597 826746	01597 826220	clive.pinney@powys.gov.uk

The Code of Conduct Casebook

Issue 14 November 2017

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Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- (a) that there is no evidence that there has been a breach of the authority's code of conduct;
- (b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- (c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what

penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers July to September 2017.

Case summaries

No evidence of breach

Vale of Glamorgan Council – Integrity

Case Number 201606398 - Report issued in July 2017

A complaint was received that a member of the Council had sought to mislead the public, to create an advantage for herself in the election campaign, by making misleading statements in a campaign leaflet.

The investigation found that there was no intent to mislead and that once a complaint had been received that the leaflet could be misleading, it was withdrawn.

Llanelli Rural Council – Promotion of equality and respect

Case Number 201607211 - Report issued in August 2017

Councillor B complained that Councillor C had said Councillor B was corrupt, during a Council meeting at which the public and press were present. She said that doing so had been disrespectful and inconsiderate to her and had brought the Council into disrepute. Councillor B said this would amount to a breach of the Code of Conduct for elected members.

A number of witnesses were interviewed and whilst it was clear that Councillor B had become upset by something Councillor C had said there was not a consistent account of what was said. From the evidence gathered it was not clear that Councillor C had made the statement attributed to her by Councillor B. Further, it is not the Ombudsman's role to interfere with robust political debate and the evidence did not suggest that the actions of Councillor C went beyond that on this occasion.

Tywyn Town Council - Disclosure and registration of interests

Case Number 201607052 - Report issued in August 2017

Councillor A complained that Councillor B breached the Code of Conduct for members by failing to declare a personal and prejudicial interest in the matter of an adverse possession claim on a parcel of land owned and managed by the Town Council.

Councillor A alleged that Councillor B had a close personal association with the adverse possession claimant (a local farmer) despite denying having ever met him. Councillor A alleged that Councillor B concealed this in order to profit from the farmer's land claim. Councillor A also alleged that Councillor B sought to suppress the production of minutes of meetings at which the land claim was discussed.

The Ombudsman investigated whether Councillor B had improperly used her position to secure an advantage; whether she had failed to disclose a prejudicial or personal interest and whether she had brought her office into disrepute. Statements and comments were obtained from Councillor B, from the Clerk to the Council, from the farmer involved in the land claim and from the County Council's Monitoring Officer.

The Ombudsman found no evidence that Councillor B ever had a close personal association with the adverse possession claimant; no evidence that Councillor B sought to conceal and/or failed to declare a prejudicial or personal interest in the claim, and no evidence that Councillor B attempted to suppress the production or distribution of minutes. The Ombudsman concluded that Councillor B had not, therefore, breached the Code of Conduct.

No action necessary

There are no summaries in relation to this finding

Referred to Standards Committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

Flintshire County Council – Promotion of equality and respect
Case Number 201601611 - Report issued in June 2017

The Ombudsman received a complaint that a former member of Flintshire County Council (“the former Councillor”) had failed to show respect and consideration for others and had used bullying and harassing behaviour. The complaint related to two emails which the former Councillor had sent to a team manager in the Council’s planning department, which had been copied to senior officers and several other Members. The investigation considered whether the former Councillor may have breached paragraphs Paragraph 4(b), 4(c), 4(d) and 7(a) of the Code of Conduct (“the Code”).

The Ombudsman concluded that the two emails were distasteful and derogatory and failed to show respect and consideration for the recipient. He also found that the emails were intimidating and malicious and that they appear to have been intended to undermine and insult the recipient. He did not, however, consider that the former Councillor’s conduct breached paragraphs 4 (d) and 7 (a) of the Code.

Whilst the former Councillor did not seek re-election at the May 2017 election, the Ombudsman considered that the potential breaches were sufficiently serious for it to be in the public interest to pursue the matter further. The Ombudsman referred the matter to the Adjudication Panel for Wales for consideration, as he considered that the former Councillor’s conduct in sending the two emails was suggestive of breaches of paragraphs 4 (b) and 4 (c) of the Code.

On 6 October, a Case Tribunal, convened by the Adjudication Panel for Wales, concluded that the former Councillor had failed to show respect and consideration for the Council officer through the two emails and in a subsequent post on social media. The Case Tribunal further concluded that, through the two emails and in a subsequent post on social media, the former Councillor had used behaviour which amounted to bullying and harassment of the Council officer. Consequently, the Case Tribunal found the former Councillor to have been in breach of paragraphs 4 (b) and 4 (c) of the Code.

The Case Tribunal decided, by unanimous decision, that the former Councillor should be disqualified for a period of 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority.

The decision of the Panel can be found [here](#).

More information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to Matthew.Aplin@ombudsman-wales.org.uk or Lucy.John@ombudsman-wales.org.uk or sent to the following address:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
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CF35 5LJ

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e-mail: ask@ombudsman-wales.org.uk (general enquiries)

Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

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DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/001/2017-018/CT

REFERENCE IN RELATION TO AN ALLEGED BREACH OF THE CODE OF CONDUCT

RESPONDENT: Former Councillor Alison Halford

RELEVANT AUTHORITY: Flintshire County Council

1. INTRODUCTION

1.1 A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.

1.2 The Case Tribunal determined its adjudication on the basis of the papers only, at a meeting on 6 October 2017 at the APW Office, Government Buildings, Spa Road East, Llandrindod Wells, Powys, LD1 6HA.

2. PRELIMINARY MATTERS

2.1. Reference from the Public Services Ombudsman for Wales

In a letter dated 22 June 2017, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”) in relation to allegations made against former Councillor Halford (“the Respondent”). The allegations were that the Respondent had breached Flintshire County Council’s Code of Conduct by the sending of communication which allegedly failed to show respect and consideration for others and, used bullying and harassing behaviour.

2.2. Method of determination.

2.2.1. The Panel gave full consideration to the question of whether to proceed to determine the case that day or whether to adjourn the matter in order to provide a further opportunity for the Respondent to engage in the adjudication process.

2.2.2. The Panel firstly considered the relevant Regulations. The Adjudication by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 as amended, Regulation 2 states that the Respondent; “must deliver to the Registrar [of the Adjudication Panel for Wales] a written reply acknowledging receipt of the notice [of the reference to the Panel] and stating [amongst other matters]:-

- (a) Whether or not that person intends;
- (i) to attend or be represented at the hearing, or
 - (ii) to dispute the contents of the report and, if so, on what grounds”.

2.2.3. The Panel noted that the Registrar had forwarded the written notice of the referral to the Respondent on the 4th July, 2017 by special delivery. The package enclosed a copy of the Ombudsman’s report and a form entitled; “Respondent’s Response to the Reference”.

2.2.4. A further reminder was sent to the Respondent on 21st July, 2017 making it clear that; “if you do not collect the package, it may affect your ability to respond by the deadline to the allegations. The panel may decide in the absence of any response from you to make a decision without any hearing taking place.” It also stated; “it is your opportunity to set out your defence” and “if you require more time to respond, you can make an application to the President for more time...more time can be granted if the President considers it to be in the interests of justice to do so, but there is also a public interest in dealing with your case promptly.” No response was received from the Respondent however.

2.2.5 The Panel noted that Listing Directions were sent to the parties on 8th September, 2017, providing a further opportunity to make written submissions, the covering letter providing the Respondent the opportunity to confirm a preference for an oral hearing. The Respondent replied by e-mail on 17th September, stating that she would be abroad on the 6th October, 2017.

2.2.6 The Tribunal bundle was sent to the Respondent by special delivery on the 13th September, 2017. The Registrar then sent a reminder to the Respondent on the 18th of September, 2017 regarding the contents of the letter dated 8th September, 2017.

2.2.7 The Panel further noted that the Respondent wrote an e-mail to the Registrar on the 20th September, however the Panel considered that the letter did not address the requirements of regulation 3 of the 2001 Regulation, apart from stating; “Of course, I accept that it is virtually impossible to find against the decision of the PSOW”. The Panel did not consider that this necessarily evidenced an acceptance by the Respondent of the contents of the Ombudsman’s report however. The Panel further determined that, although the Respondent made the comment; “As it is the decision of the PSOW to send me to a tribunal at least I should be afforded the opportunity to attend it. As before, I expect that the hearing will be in N Wales as travel is no longer easy for me,” the e-mail failed to confirm whether the Respondent would actually attend or be represented at a hearing and failed to clarify whether or not she disputed the contents of the Ombudsman’s report.

2.2.8. The Panel finally noted that on the 26th September, 2017, the Registrar provided yet a further opportunity for the Respondent to engage in the process and to apply for an extension of time to submit the form; “Respondent’s Response to the Reference” which was originally due to be returned no later than the 25th July, 2017. The letter made it clear that; “If you do confirm that you wish to apply for an

extension and provide reasons, with evidence, the Panel will consider this application on 6th October, 2017. However, in the absence of such application, consideration and determination of the matter may proceed on that day.”

2.2.9. No such application or further correspondence was received from the Respondent, nor had the Respondent made arrangements to collect either the package containing the Ombudsman’s report or the package containing the Tribunal bundle from the Post Office as of the 6th October, 2017.

2.2.10. In all the circumstances, the Panel decided that the Respondent had failed to properly and meaningfully engage with the adjudication process to date, despite the Adjudication Panel for Wales providing several opportunities to do so over a period of three months and concluded that there was no realistic prospect of her doing so in the future. The Panel considered that it was in the public interest to determine cases promptly and not to delay proceedings indefinitely. It therefore decided that it would proceed to finally determine the matter on the papers on the 6th October, 2017.

2.3 Town or Community Council status

2.3.1. In the Listing Directions dated 8th September, 2017, the Tribunal required the Monitoring Officer of Flintshire County Council to establish whether or not the Respondent is/was a Town Councillor as well as previously being a County Councillor and if so, of which Town or Community Council.

2.3.2. The Monitoring Officer of Flintshire County Council duly confirmed in writing that the Respondent was also a former Councillor of Hawarden Community Council.

2.3. Code of Conduct Training

2.3.1. In the Listing Directions dated 8th September 2017, the Tribunal also required the Monitoring Officer to confirm the date(s) on which the Respondent attended any Code of Conduct training.

2.3.2. The Monitoring Officer of Flintshire County Council duly confirmed in writing that the Respondent had not attended Code of Conduct training since the local government elections in 2012.

3. FINDINGS OF FACT

3.1 The Case Tribunal found the following material facts:

3.1.1 At the relevant time, former Councillor Halford was a member of Flintshire County Council.

3.1.2 The Respondent signed an undertaking on 14th May 2012 to the effect that she would observe the County Council’s Code of Conduct.

3.1.4. Flintshire County Council had been required to respond to a number of complaints regarding traveller encampments on various sites in Flintshire during the early part of 2016, which generated a huge amount of e-mail correspondence.

3.1.5. Mr M Jones (“the Officer”) was a team leader responsible for planning enforcement at Flintshire County Council.

3.1.6. The Officer had received an e-mail from a member of the public on 26th April, 2016 and he responded that day by lengthy telephone call to the member of the public. The Officer was not responsible for nor leading on the matter however and the lead officer assumed the role of corresponding with the member of the public, with other members of the public and with councillors.

3.1.7. The Respondent forwarded an e-mail to the Officer’s Head of Service and copied it to the Officer and six councillors at 4.15pm on 27 April, 2016. It stated;

“Andy, my resident has raised a genuine concern about Jones & would like an answer. Who us [sic] protecting him?”
He’s arrogant, lazy, mentally challenged & has been useless for years. Why do you not call him to account. He is not worthy of his salary. Alison.”

3.1.8 The Respondent forwarded an e-mail to the Officer and copied it to a councillor and the Officer’s Head of Service at 4.32pm on 5 May, 2016. It stated;

“Mark, I’m sure you [sic] aware I don’t rate you at all & I have made this clear to your senior officers. What about surprising this member of the public who does contribute to your salary & actually get back to him. Of course, this may be something of a record for you but you must be accountable to someone just for once. Alison Halford.”

3.1.9. The Respondent was acting in her official capacity as a councillor when sending these e-mails.

3.1.10. The Respondent posted a “tweet” on social media on 27 March 2017 which referred to the Ombudsman’s investigation in the following terms; -“My sin; ticking off LAZY officer. Ugg!”

3.1.11. The impact of the e-mail dated 27th April 2016 upon the Officer was that he felt insulted, absolutely devastated and horrified.

3.1.12. The impact of the e-mail dated 5th May 2016 upon the Officer (and read by the Officer before reading the e-mail dated 27th April 2016), was to cause worry, stress and upset to the Officer.

3.1.13. The e-mails led to the Officer seeking medical, counselling and occupational health support. They have also served to affect the Officer’s confidence in relation to dealing with certain councillors. He has also been off work with stress.

4. FINDINGS OF WHETHER MATERIAL FACTS DISCLOSE A FAILURE TO COMPLY WITH THE CODE OF CONDUCT

4.1 The Ombudsman's Report

The Ombudsman's Report appended a number of statements, including statements from the Officer, other officers and a councillor as well as a large number of background e-mails. The Ombudsman concluded that there was evidence suggestive of breaches of Paragraphs 4(b) of Flintshire County Council's Code of Conduct: "you must...show respect and consideration for others", and Paragraph 4(c) of the Code of Conduct; "you must...not use bullying behaviour or harass any person".

4.2 Paragraph 4(b) of the Code

4.2.1. The Guidance issued by the Public Services Ombudsman for Wales and relevant at the time of the alleged breaches stated; "Recent case law has confirmed that council officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to unwarranted comments that disenable them from carrying out their duties or undermine public confidence in the administration. That said, the officers who are in more senior positions, for example Chief Executives or Heads of Service, will also be expected to have a greater degree of robustness."

4.2.2. It goes on to say: "I expect members to afford colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives."

4.2.3. Also: "When considering such complaints I will take into account the specific circumstances of the case, whether in my view, the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what has been said".

4.3 Paragraph 4(c) of the Code

4.3.1. The Guidance issued by the Ombudsman and relevant at the time of the alleged breaches stated in this regard; "Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health."

4.3.2. It also states; "When considering allegations of bullying and harassment I will consider both the perspective of the alleged victim, and whether the member

intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied.”

4.3.3. Finally: “You need to ensure that your behaviour does not cross the line between being forceful and bullying...the greater the power difference between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.”

4.4 Case Tribunal’s Decision

4.4.1 On the basis of the findings of fact, the Case Tribunal found by unanimous decision that the Respondent had failed to comply with Flintshire County Council’s Code of Conduct and had been acting in her official capacity at the relevant time so that the requirements of the Code of Conduct were fully engaged.

4.4.2 In relation to **Paragraph 4(b)** of the Code of Conduct, the Case Tribunal found that the Respondent breached the requirement to treat others with respect and consideration. The comments made in the Respondent’s e-mails dated 27th April and 5th May 2016 as well as the “twitter” message of 27th March 2017 were completely unwarranted and would have adversely affected the Officer’s ability to properly carry out his role, the planning enforcement role being a challenging and often unpopular role. The Respondent’s conduct towards the Council’s professional officer displayed a total lack of courtesy and consideration. The Respondent had not previously criticised or questioned the professionalism of the Officer to senior management. The comments were wholly gratuitous and unjustified and as senior officers and councillors were copied into the e-mails, the Case Tribunal considered that they were calculated to intimidate or undermine the officer whose job was already under threat due to restructuring.

4.4.3. In relation to **Paragraph 4(c)** of the Code of Conduct, the Case Tribunal found that, although falling short of repeated harassment, the Respondent intended to bully and had the effect of bullying the Officer. The comments made in the Respondent’s e-mails dated 27th April and 5th May 2016 as well as the “twitter” message of 27th March 2017 were personal comments which were highly offensive, extremely insulting, malicious and unwarranted. The Case Tribunal found the use of the words “mentally challenged” particularly shocking. The Officer was singled out unfairly, particularly as there was no indication that the Respondent had any previous complaints or concerns about his competence or responsiveness to members of the public. The Respondent had clearly been aware or should have appreciated by the 5th May, 2016 that the Officer was not responsible for dealing with temporary traveller encampments, as the Chief Executive forwarded an e-mail to the Respondent on 27th April, 2016 at 12.36pm stating that another officer would provide a full update and that the other officer; “is managing the case and will have the latest information”. This therefore constituted bullying behaviour and behaviour which fell well below the standard of behaviour expected of a Member, let alone an experienced politician.

4.5 Other Paragraphs of the Code of Conduct

4.5.1. It was noted that the Ombudsman did not consider that the Respondent's conduct breached paragraphs 4(d) and 7(a) of the Code, however he does not provide clarification as to how he reached that conclusion.

4.5.2. The Case Tribunal was somewhat surprised that the Ombudsman had not investigated the question of whether there had been a breach of paragraph 4(a) of the Code bearing in mind that the Officer is registered as disabled.

4.5.3. The Case Tribunal also noted that the Ombudsman had not investigated the question of whether there had been a breach of paragraphs 6(1)(a) and 6(2) of the Code.

4.5.4. In the circumstances, the Case Tribunal makes no findings in relation to these paragraphs of the Code.

5. DECISION ON ACTION TO BE TAKEN

5.1 Matters taken into account

5.1.1. The Case Tribunal considered all the facts of the case and in particular the serious nature of the breaches of paragraphs 4(b) and 4(c) of the Code of Conduct, in accordance with Section 79 of the Local Government Act 2000. It also had regard to guidance issued by the Adjudication Panel for Wales in relation to sanctions and to the sanctions imposed in previous cases.

5.1.2. The Case Tribunal was mindful of the fact that the aims of the sanctions guidance are directed towards upholding and improving the standard of conduct expected of local members, endorsing the role of the Code of Conduct, and maintaining public confidence in local democracy. The action is designed to discourage or prevent future non-compliance by members in general as well as the individual member.

5.1.3. In this case, the Tribunal was unanimous in concluding that imposition of a formal sanction was appropriate and noted that suspension was not an option as the Respondent was no longer a Councillor. The Case Tribunal considered that the facts leading to the breaches of the Code in this instance rendered the Respondent unfit for public office in view of the deliberate, blatant and repeated abuse of her position to bully, intimidate and maliciously undermine the confidence of a member of staff who did not hold a senior position, using wholly inappropriate language to do so.

5.2 Mitigating Factors

There is no doubt that there was considerable pressure upon the Respondent from members of the public in her electoral division relation to traveller encampments at the relevant time and that she would have experienced frustration

at not being able to ensure immediate resolution of the issues and it appears that the Officer bore the brunt of her frustration.

5.3 Aggravating Factors

5.3.1. The Case Tribunal received details of a Case Tribunal which found a previous breach by the Respondent of paragraphs 6(1)(a) and 6(2) of the Code in 2010. No sanction was imposed on that occasion. The decision report stated;-"the Tribunal accepts the assurances given that Cllr Halford fully appreciates the seriousness of this matter and that there will be no repetition." It was also noted that the conclusion at that time was that this was an isolated breach of the Code of Conduct. The Respondent neither fulfilled her commitment to the 2010 Case Tribunal, nor heeded the lessons from that previous investigation and adjudication.

5.3.2. The breach of the Code was blatant and deliberate or extremely reckless.

5.3.3. The case bundle revealed that the Respondent failed to co-operate with the Ombudsman's investigating officer and challenged the Ombudsman's investigation and the adjudication to the end, showing no regard for the formal processes in place in Wales to determine complaints of breach of the Code of Conduct.

5.3.4. The Respondent persisted in her bullying behaviour despite having been made aware that the Officer was not responsible for dealing with the issue in question and should not therefore have been criticised in any way for any perceived failure to address it, let alone in the terms used by the Respondent.

6. ARTICLE 10

6.1. Article 10 of the European Convention on Human Rights ("ECHR") was fully considered by the Case Tribunal during its deliberations both in relation to breach and sanction. Article 10 states as follows:-

- (1) Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers...
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...the protection of the reputation or rights of others..."

6.2. The Case Tribunal adopted the three stage approach used by Wilkie J in the case of Sanders v Kingston No (1) [2005] EWHC 1145 in its deliberations as follows:-

- (1) Can the Panel as a matter of fact conclude that the Respondent's conduct amounted to a relevant breach of the Code of Conduct?

(CT13)

- (2) If so, was the finding of a breach and imposition of a sanction prima facie a breach of Article 10?
- (3) If so, is the restriction involved one which is justified by reason of the requirement of Article 10(2)?

As the Case Tribunal had determined (1) in the affirmative, it then went on to consider (2) and (3) and determined as follows.

6.3 The Case Tribunal was satisfied that in this instance, the contents of the e-mails of 27th April and 5th May, 2016 and the “twitter” message of 27th March 2017, did not consist of “political expression” which attracts enhanced protection under Article 10 of the ECHR. The contents were no more than gratuitous, abusive and offensive personal comments, divorced from any political debate. Had they been made in the context of political debate, the comments were so outrageous and unfair, the Panel concluded that the interference with the Article 10 rights would still have been lawful and justified.

7. DECISION OF THE CASE TRIBUNAL ON THE ACTION TO BE TAKEN

7.1 The Case Tribunal considered the facts of the case and the nature of the breaches. It decided that the imposition of no sanction was not an option, bearing in mind the aims of the sanctions guidance and in view of the serious nature of the Code breaches and the severe impact which these had upon an employee of the Council who, relative to the Respondent, was not in a position of seniority or power.

7.2 The Case Tribunal had found that these were blatant and deliberate or reckless breaches of the Code, which did not stop at one e-mail but which continued after the Respondent became, or should have become aware, that the Officer did not have responsibility for dealing with the traveller encampment in question. This was further exacerbated by a “twitter” message posted in March 2017 which showed a complete lack of insight or remorse as to her behaviour and as to the further impact it might have on the Officer.

7.3. The comments about the Officer would impact not only on the rights and interests of the employee of the Council but also upon the public interest in good administration, recognising the fact that officers are entitled to conduct their duties with dignity and without the risk of gratuitous attacks upon their reputation.

7.4. In all the circumstances, the Case Tribunal considered that disqualification was an entirely justified and proportionate sanction. The Case Tribunal considered that it was a particularly serious example of bullying and that the disqualification had to be sufficiently long to enable the Respondent to properly reflect upon her actions before considering re-entering local politics. The sanction is no more than is proportionate and necessary in the circumstances.

7.5. In the case of *Heesom v the Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin), the High Court reduced the period of disqualification

imposed by the Tribunal from two years and six months to 18 months' disqualification. That case related to a series of incidents involving a number of officers in relation to paragraphs 4(b) and 4(c) of the Code of Conduct which took place over a period of some two years.

The Case Tribunal concluded that although the present case related to one officer and three incidents over a relatively short period of time, the cases were comparable in seriousness. In the present case the Panel considered that the bullying behaviour was particularly blatant and egregious.

7.6. In all the circumstances, the Case Tribunal concluded by unanimous decision that Former Cllr Halford should be disqualified for 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000.

7.7. The Case Tribunal directs that Flintshire County Council and its Standards Committee are notified accordingly.

7.8. The Case Tribunal duly notes that the Respondent has the right to seek the permission of the High Court to appeal the above decision. A person considering an appeal is advised to take independent legal advice about how to appeal.

Signed: 

Date: 23 October 2017

Claire Jones
Chairperson of the Case Tribunal

Glenda Jones
Panel Member

Juliet Morris
Panel Member

Gifts and Hospitality Record May 2016 – Nov 2017

Cllr G Banks	6 tickets for 3 concerts at Presteigne Music Festival (£139) – Presteigne Music Festival
Cllr. R. Harris	Visit to Silverstone Racing Circuit (£100) – Circuit of Wales
Cllr J. Powell	Visit to Silverstone Racing Circuit (£100) – Circuit of Wales
Cllr J Powell	1 ticket to Powys Business Awards (£35) – Powys CC
Cllr B Thomas	2 tickets to Powys Business Awards (£70) – Powys CC
Cllr R. Harris	1 ticket to Powys Business Awards (£35) – Powys CC
Cllr J Jones	£30 birthday present from friend working at Newtown Day Centre (PCC establishment)

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