

**POWYS COUNTY COUNCIL
STANDARDS COMMITTEE
26 MAY 2017**

**TO CONSIDER THE REPORT OF THE ADJUDICATION PANEL FOR WALES,
DATED 17TH MARCH 2017, IN RELATION TO COUNTY COUNCILLOR GARY
PRICE – NOTICE OF DECISION.**

REPORT OF THE DEPUTY MONITORING OFFICER

Reason for this Report

1. To inform Members of the Committee of the recent decision of the Adjudication Panel for Wales (APW) in relation to a complaint against Councillor Price and to consider the recommendation made by the APW, which has to be referred back to the Standards Committee for further consideration. Thereafter for the Committee to determine the duration of suspension.

Background

2. This matter relates to a complaint made to the Public Services Ombudsman for Wales (PSOW) alleging that Councillor Price, a member of the County Council had failed to comply with the Council's Code of Conduct, in relation to correspondence he had sent which incorrectly and unfairly portrayed the content of a Grievance Appeal Hearing, of which he was a member of the Panel.

3. The Ombudsman investigated the complaint and issued a report of his findings under Section 69 of the Local Government Act 2000. The Ombudsman's finding was that the Member had breached paragraph 6 (1) (a) of the Code of Conduct and concluded that there was insufficient evidence that the Member had breached paragraph 4 (b) of the Code of Conduct. Therefore and under Section 69 (4) (c) of the Act, the matter was referred to the Council's Monitoring Officer for consideration by its Standards Committee.

4. On the 2nd of November 2016, the Standards Committee considered the report and found that Councillor Price had breached the code of conduct, both in relation to paragraph 4 (b) and 6 (1) (a). The PSOW report to the Standards Committee is attached as **Appendix A**. The PSOW has authorised disclosure of this report, as redacted.

5. At the meeting on the 2nd of November 2016, the Committee sanctioned him to a 5 month suspension. The minutes of the meeting on the 2nd of November 2017 are attached as **Appendix B**.

6. The decision to suspend was not implemented as Councillor Price appealed to the Adjudication Panel for Wales (APW) in a letter dated the 23rd of November 2016. Within his appeal, Councillor Price indicated his reasons for disputing information contained within the Ombudsman's report and raised several grounds of appeal. Councillor Price also claimed that no consideration had been given to Article 10 of the European Convention of Human Rights ("ECHR").

7. The President of the Adjudication Panel for Wales issued a Decision Notice on the 9th of December 2016 which specified the appeal grounds for which the President could not say in all the circumstances that there was no reasonable prospect of success and that the President therefore required an Appeal Tribunal to be convened to hear the appeal.

8. The APW heard the appeal on the 7th and 8th of March 2017 in Llandrindod Wells. The Notice of Decision and Decision Report of the APW is attached at **Appendix C and D**. The Findings of Fact are set out in Section 4 of the Appendix D report.

9. The APW conducted the appeal by way of a full rehearing of the allegations that Councillor Price had breached the Code of Conduct in writing the letter of the 20th March 2015 to Ms X in the terms he did and thereby undermined the whole grievance appeal process and failed to show respect and consideration for others, under paragraph 4 (b) and subject to paragraph 6 (1) (a) brought his office or authority into disrepute.

DECISION OF THE APPEAL TRIBUNAL OF THE APW

10. The Appeal Tribunal found by unanimous decision, that there had been a failure to comply with the Code of Conduct and endorsed the earlier determination of Powys County Council's Standards Committee. The Tribunal found that Councillor Price breached paragraph 4 (b) of the Code. The Appeal Tribunal found that notwithstanding the Ombudsman's original report, in view of the finding that Councillor Price was acting in the role of elected member, Councillor Price failed to show respect and consideration for his Panel colleagues and this undermined the whole Grievance Panel process.

11. The Appeal Tribunal found that Councillor Price had breached Paragraph 6(1)(a) as the action of sending the letter (dated the 20th March 2015) to Ms X in the terms in which he did, could reasonably be regarded as bringing the office of Councillor and the authority into disrepute.

12. Having made those findings, pursuant to the Tribunal Procedure Rules, the Tribunal had two options, namely:-

(a) endorse the penalty imposed by the Standards Committee, or

(b) refer the matter back to the Standards Committee with a recommendation that a different penalty be imposed. The recommendation is not binding on the Committee.

13. The Tribunal decided by unanimous decision to refer the matter back to the Standards Committee with a recommendation that Councillor Price should be suspended for a period of 3 months.

THE OPTIONS NOW AVAILABLE TO THE STANDARDS COMMITTEE

14. The Standards Committee has limited options available and has no power to change the findings of fact of the Tribunal. The Standards Committee must only consider the issue of sanction.

15. Regulation 9(2) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) Wales Regulations 2001 provides that where a Tribunal refers a matter back to a Standards Committee, with a recommendation that a different penalty be imposed, the Standards Committee may impose the new penalty but must also decide whether or not it should instead, uphold its original decision on sanction (extract from Regulations attached as **Appendix E**).

16. The Code of Conduct is contained within the authority's Constitution, and deals specifically with this situation and outlines the procedure to be followed, it can be found at 18.4.14.1 to 18.4.14.3, attached as **Appendix F**.

16. This is the final part of the process and deals specifically and exclusively with the level of sanction which should be imposed, taking into consideration the findings reached by the APW. The decision for the Standards Committee is therefore whether to suspend Councillor Price for a period of 5 months, or to follow the recommendation of the APW and suspend Councillor Price for a period of 3 months.

17. Whichever period of suspension the Standards Committee decides, it will take effect on the day after the Standards Committee has reached its decision.

18. There is no further right of appeal except by way of judicial review to the High Court. An application for permission to bring judicial review will not terminate the implementation of the suspension in that way that the Notice of Appeal to the APW did.

19. After making its determination, and communicating the decision in public at the end of the hearing, the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing to the Member, the Complainant, PSOW and the APW as soon as reasonably practicable.

DECISION REQUIRED

20. To determine the level of suspension to be imposed on Councillor Price as a result of the breaches of the Council's Code of Conduct, being either a period of suspension of three months, or a period of suspension of five months.

DEBBY JONES
DEPUTY MONITORING OFFICER
19TH MAY 2017

Appendix A – PSOW Report dated 17th June 2016

Appendix B – Minutes of the Standards Committee, dated the 2nd of November 2016.

Appendix C – Adjudication Panel for Wales, Notice of Decision, Tribunal Case Reference APW/003/2016-017/AT, dated 8th March 2017

Appendix D - Adjudication Panel for Wales, Decision Report, Tribunal Case Reference APW/003/2016-017/AT, dated 17th March 2017

Appendix E – Extract from Regulation 9 of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) Wales Regulations 2001.

Appendix F - Section 18 Code of Conduct for Members – Extract from Powys County Council Constitution.