

**IN THE MATTER OF THE LOCAL GOVERNMENT ACT 2000
& THE LOCAL GOVERNMENT (FUNCTIONS OF MONITORING OFFICERS &
STANDARDS COMMITTEES(WALES) REGULATIONS 2001 (AS AMENDED)**

**AND
IN THE MATTER OF COUNCILLOR IAIN MCINTOSH,
A MEMBER OF POWYS COUNTY COUNCIL**

**AND IN THE MATTER OF COUNCILLOR IAIN MCINTOSH
A FORMER MEMBER OF BANNAU BRYCHEINIOG NATIONAL PARK AUTHORITY**

**CEREDIGION COUNTY COUNCIL
ETHICS & STANDARDS COMMITTEE**

NOTICE OF DETERMINATION

23 August 2024

Background

1. The Council' Ethics & Standards Committee ("the Committee") considered a report of the Monitoring Officer, together with its enclosures, and also received submissions from the Ombudsman' representatives , Councillor/former Councillor Iain McIntosh and relevant witnesses in respect of the findings of the investigation (case reference 202201445/202202498) and any allegation that Councillor/former Councillor Iain McIntosh had failed or may have failed to comply with the respective Codes of Conduct of contained in the investigation report of the Public Services Ombudsman for Wales dated 20 November 2023 undertaken under Section 69 of the Local Government Act 2000, and the Committee made a final determination.
2. In accordance with Part III of the Local Government Act 2000, Powys County Council and Bannau Brycheiniog National Park Authority, respectively adopted a Code of Conduct for Members, which was contained within the Ombudsman report dated 20 November 2023.
3. Councillor/Former Councillor Iain McIntosh ("the Member") had signed undertakings to abide by the respective Codes of Conduct.
4. Part 5 Document S of the Ceredigion County Council' ("the Council") Constitution sets out the procedure ("the Hearings Procedures") for dealing with allegations made against Councillors and referred (by the Ombudsman) to the Ethics & Standards Committee.
5. The purpose of the Ombudsman investigation is to decide whether there has been a breach of the Code of Conduct and if so to refer back to the relevant Standards Committee for determination, and if deemed necessary, to impose a sanction.

- 6 The Ombudsman had determined that the Member may have breached both the Powys County Council and the Bannau Brycheiniog National Park Authority' respective Codes of Conduct, in particular, paragraphs 4(b) and 7(a) which provide:
- “4. You must —
- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others; ”
- “7. You must not — (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;”
7. The Ombudsman referred her investigation report to the Monitoring Officers of Powys County Council and the Bannau Brycheiniog National Park Authority' for consideration by their respective Standards Committee.
8. On 1 May 2024, the Ceredigion County Council Ethics & Standards Committee (the Committee) noted the acceptance by the Monitoring Officer :
- of the transfer of this matter from the Powys County Council Standards Committee
 - of the transfer of this matter from the Bannau Brycheiniog National Park Authority Standards Committee
- 9 On the 1 May 2024 the Committee, in accordance with para 22 of the Hearings Procedure, and in accordance with Rule 7 of the 2021 Regulations the Committee also determined that;
- that there was evidence which might amount to a failure to comply with the Powys County Council and the Bannau Brycheiniog National Park Authority respective Codes of Conduct, and that
 - the Member should be given the opportunity to make representations either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

The Hearing

- 10 At the Final hearing on 23 August 2024, the Council's Monitoring Officer who was advising the Committee, presented her report. The Member was present remotely.
- 11 **First Stage- Preliminary issues**
The Committee considered preliminary issues including correspondence and relevant documentation and witnesses in accordance with the Committee's Hearing procedure (para 37).

The Committee decided:

- a) to adopt the Ceredigion County Council's procedure as set out in Part 5 Document S of the Constitution (the "Hearings Procedure")
- b) following application of the public interest test,
- i) that some documentation was not for publication as they contain exempt information as defined in paragraphs 12 of Part 4 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation) and that due to this factor, the public

interest in maintain the information outweighs the public interest in disclosing the information at this stage.

- ii) that notwithstanding that the hearing should take place in public unless there was good reason to exclude the public (para 33 Hearings Procedure) and/or valid reasons for not doing so to promote public confidence in public life (para 1.24 PSOW Guidance), having taken into account of representations by the Member, and the Ombudsman' representative, the remainder of the hearing (save for decisions) should take place in private session, in order to maintain the confidentiality of the sensitive information, without which there was a risk of sensitive information being disclosed

- c) to defer the decision as to whether to hear evidence from the Member' witness until the Finding of Fact stage.

12 Second Stage - Findings of Fact

The Committee considered the Ombudsman's written report, and further correspondence and documents submitted by the Member and the Ombudsman in accordance with the Committee's Hearing procedure (paras 38-44). The Committee also considered the oral submissions from the Ombudsman' representative, the Member, and a witness of fact, who all attended remotely.

- 13 The Committee made findings of fact in relation to Disputed facts on balance of probabilities in accordance with the Committee's Hearing procedure (paras 45-51).

14 Stage 3 - Code of Conduct for Members

The Committee found on balance of probabilities that the Member' conduct had breached the following paragraphs of both the Powys County Council' Code of Conduct for Members and the Bannau Brycheiniog National Park Authority Council' Code of Conduct for Members:

"4 You must-;

- (b) show respect and consideration for others

"7. You must not — (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;"

15 Action to be taken /Sanction

In accordance with the Committee's Hearing procedure (paras 52-56), the Committee decided that:

a) In respect of the matter relating to Powys County Council', the Committee accordingly decided to exercise its power under Regulation 9 Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended, that the Member should be censured.

b) In respect of the matter relating to Bannau Brycheiniog National Park Authority, the Committee accordingly decided to exercise its power under Regulation 9 Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended, that the Member should be censured.

16 Appeal

17 At this stage in the proceedings there is no right of appeal against the decision of the Ethics & Standards Committee, as the 21-day appeal period expired on the 3/10/ 24

18 In accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) (“the Regulations”) and para 67 of the Hearings Procedure, the Member, the Complainant and the Public Services Ombudsman for Wales are notified of the Committee’s decision by this Notice of Determination.

Signed

Caryl Davies
Chair, on behalf of the Ceredigion County Council Ethics & Standards Committee

Dated 4 October 2024