
SPECIAL MEETING OF THE STANDARDS COMMITTEE, 8/12/21

Present:-

Elected Members:- Councillors Beth Lawton and Dewi Roberts.

Independent Members: Mr Aled Jones, Mr Hywel Eifion Jones, Miss Margaret E. Jones, Mr Dave Wareing and Dr Einir Young (Chair)

Community Committee Member: Mr Richard Parry Hughes

Also Present: On behalf of the Public Services Ombudsman for Wales - Katrin Shaw (Chief Legal Adviser and Director of Investigations) and Leigh McAndrew (Investigating Officer); Gwynedd Council Officers - Sion Huws (Senior Solicitor – Corpoarte) and Eirian Roberts (Democratic Services Officer).

1. APOLOGIES

No apologies for absence were received.

2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received.

3. ALLEGATION OF A BREACH OF THE CODE OF CONDUCT REFERRED TO THE STANDARDS COMMITTEE BY THE PUBLIC SERVICE OMBUDSMAN FOR WALES

The Chair welcomed everyone to the hearing and the Ombudsman's officers introduced themselves to members.

The Chair then explained the nature / format of the hearing.

Background

1. The Committee considered a report from the Public Services Ombudsman for Wales ("the Ombudsman") into a complaint from the Chair of the Personnel Committee of Tywyn Town Council ("the Council"), Councillor John Pughe, that Councillor George Michael Stevens ("the Member") had failed to observe the Council's Code of Conduct for Members.

2. It was alleged that the Member had been disrespectful to the Clerk of the Council ("the Clerk") and had repeatedly undermined her. The complaint related to correspondence sent by the Member to the Clerk and correspondence sent by the Member about the Clerk.

3. The Ombudsman concluded that the Member's correspondence included derogatory personal comments which were disrespectful and that comments about the Clerk's experience were intended to undermine the Clerk. The Member also used gendered language when commenting on the Clerk.

4. The Ombudsman determined that the Member may have breached the Council's Code of Conduct, in particular, paragraphs 4(a), 4(b) and 4(c), 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;*
- (c) not use bullying behaviour or harass any person;”*

The Ombudsman also found that the Member's actions could reasonably be regarded as behaviour which might have breached paragraph 6(1)(a) of the Code of Conduct:

6.—(1) You must — (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

5. The Ombudsman referred his investigation report to the Monitoring Officer of Gwynedd Council for consideration by its Standards Committee.

The Hearing

6. The Senior Solicitor (Corporate) (Gwynedd Council's Deputy Monitoring Officer, who advised the Committee) presented his report at the commencement of the hearing. He explained that the Member had resigned as a member of Tywyn Town Council on 4 December 2021, and that the Member had confirmed that he did not intend to attend the hearing. He explained that the resignation of the Member did not alter the fact that the Committee was required to consider and decide on the Ombudsman's report. However, the sanction of suspension was no longer available to the Committee, should it conclude that the Member had breached the Code.

7. The Committee resolved to proceed with the hearing and considered the Ombudsman's written report together with the further documents submitted by the Member and the Ombudsman in accordance with the Committee's pre-hearing procedure. The Committee also considered oral submissions from Katrin Shaw, Chief Legal Adviser and Director of Investigations of the Public Services Ombudsman for Wales and from Leigh McAndrew, the Ombudsman's Investigating Officer.

The Decision

8. The Committee first considered any finding of fact that it needed to make. The complaint concerned correspondence from the Member over a period of approximately 12 months. This correspondence was contained in the written evidence before it and therefore there was no doubt about what the Member had written. The one relevant disputed factual issue noted in the report was that the member denied that he intended to send his email dated 22 January 2020 to all members of Gwynedd Council.

9. In relation to this e-mail, the Committee considered the fact that the member had emphasised that he was always very careful as to what he puts in writing, and the fact that, at the time of writing and before it was sent, it would be obvious that the email would be sent to a large number of people. The e-mail in question was a response to a general invitation to all Gwynedd Council members by the Head of Finance. The fact that the Member had chosen to make critical comments about the Monitoring Officer in his response rather than just sending his apologies, strongly suggested that he intended for members to see these comments. The fact that the email did not specifically address one recipient (unlike many of his other emails) further reinforced this interpretation.

10. The Committee therefore decided that it was satisfied, on the balance of probabilities, that the Member intended to send the e-mail to all members.

11. The Committee proceeded to consider the Member's conduct, and after careful consideration of all the evidence presented, the Committee determined that the Member had failed to comply with the Code of Conduct as follows:

12. The Committee found that the Member had breached paragraph 4 (a) of the Code of Conduct for the following reasons:

12.1 The Committee found that the Member had used gender-based language in his correspondence using words such as "misandrist" and "overbearing school mistress" to describe the Clerk and described her as "slowly emasculating the Council". He had continued to use such language when interviewed by the Ombudsman and referred to the Clerk several times as "this / that woman" and that he thought it true (as someone had told him) that the Clerk was a "man-hating vegan" due to her connection with the Women's Equality Party.

12.2 The Committee was of the opinion that there was a pattern of using discriminatory language towards, and about the Clerk and that taken as a whole showed that the Member had failed to behave in a manner which had due regard to the principle that there should be equality of opportunity for all, irrespective of (among other issues) their gender.

13. The Committee found that the Member had breached paragraph 4 (b) of the Code of Conduct for the following reasons:

13.1 Whilst accepting that the Member had the right to criticise the Clerk's performance of her duties, the Committee considered how that criticism was expressed. The Committee found, in the correspondence, a pattern of criticism that was made in a manner that went beyond what it considered acceptable, whatever the Member's view of the Clerk's conduct as the clerk of the Council.

13.2 The Committee felt that the words used by the Member and also the tone of the emails were unacceptable. This was not an isolated case, but a consistent pattern of criticism over a considerable period of time using derogatory personal terms. He had also referred to her on many occasions as being new and inexperienced despite having been in post for 3 years, stating that she had a far too high opinion of herself and her ability, and was out of control. Furthermore, members of the Council were included in this correspondence.

13.3 Although it was not within the Committee's remit or powers to decide on the Clerk's own conduct, the Committee did take it into consideration as context for the Member's behaviour. Whilst accepting that the member had strong views about the way in which the Council was run and felt frustrated, it did not provide an excuse for behaving in the way he did. The conduct of the Member was his own responsibility and no one else's.

13.4 The Committee was very concerned, when considering this particular paragraph of the Code, about the view expressed by the Member at his interview with the Ombudsman when discussing his conduct towards the Clerk. The Member said that he believed that respect was not "a divine right" and had to be earned. The Committee disagreed, and the Code makes it clear that members must show respect and consideration for others.

13.5 Having concluded that the conduct was in breach of this paragraph, the Committee then went on to consider the behaviour in the context of Article 10 of the European Convention on Human Rights. The Committee accepted that political expression attracted an enhanced level of protection, and this could include the expression of views in relation to the way in which an authority was administered. However, as the Ombudsman explained in his report, "*the right of enhanced protection afforded to Councillors to make political representations does not include the right to make unwanted or insulting personal remarks, nor any representations discriminatory*". The Committee also took into account that these

comments were directed to a paid officer of the Council and not to another member, who could be expected to have a “thicker skin”.

13.6 The Committee therefore considered that the comments went beyond what could be considered as political comment that would be protected under Article 10.

14. The Committee found that the Member had breached paragraph 4 (c) of the Code of Conduct for the following reasons:

14.1 The Committee found that the Member's behaviour amounted to bullying and harassment. It was noted that the Ombudsman's Guidelines described bullying as behaviour that seeks to undermine an individual, is detrimental to their confidence and ability and can adversely affect their health. Harassment is described in the Guidelines as repeated behaviour which annoys or upsets people.

14.2 The Committee considered that the Member, through his correspondence sought to undermine the Clerk and was damaging to her confidence. He criticised not only her work and her ability but also attacked her character, and did so in correspondence that had been shared with other members of the Council. It was also noted that the Clerk had been absent from work as a result of this behaviour. The Committee also found that as there was a pattern of such behaviour that it also constituted harassment.

14.3 Whilst the Member was entitled to scrutinise and criticise the Clerk's performance, his conduct, and in particular the manner in which he had chosen to express his dissatisfaction, far exceeded what was acceptable to him even after allowing for the enhanced protection afforded to political expression.

15. The Committee found that the Member had breached paragraph 6 (1) (a) of the Code of Conduct for the following reasons:

15.1 Looking at the conduct of the Member as a whole, the Committee considered that it was sufficiently serious in nature to bring the Council and his office as a member into disrepute. The behaviour had been detrimental to the relationships within the Council and to its administration, and had damaged its reputation

Sanction

16. The Committee considered that this a serious breach of a code of conduct. In considering what sanction was appropriate, it took into account what the Ombudsman's representative had to say at the hearing and also the issues set out in the Sanctions Guidance issued by the Adjudication Panel for Wales, as mitigating and aggravating factors.

16.1 With regard to mitigating factors:

The Committee acknowledged that the Member had engaged in the investigation process, but on the other hand also noted the Ombudsman's comments that it had proved a very difficult investigation due to the Member's conduct.

It was also acknowledged that the Member felt very strongly about the way the Council was run, that he felt that his comments were not listened to and that he believed he was acting in good faith.

16.3 Turning to the consideration of aggravating factors, the Committee found that a number of these were present in the conduct leading up to the complaint and during the course of the investigation:

Seeking to blame others unfairly for the Member's own actions

A lack of understanding or acceptance of the misconduct and any consequences

Failure to heed previous advice and/or warnings, specifically from the Ombudsman and following an investigation by One Voice Wales.

Refusal to accept the facts despite the clear evidence to the contrary

16.4 Having considered the seriousness of the conduct in question and having considered the relevant mitigating and aggravating factors, the Committee resolved that the Member should be censured, as this is the maximum sanction that the Committee can impose following the Member's resignation from the Council.

16.5 The Committee nevertheless wished to put on record that, except for his resignation from the Council, it was likely to have suspended the Member from the Council and to have done so for the maximum possible period.

16.6 The Committee also asks the Member to consider and reflect on his conduct, in particular the way he speaks and corresponds with others in any other current or future public role. The Committee also encourages him to take advantage of any training opportunities available in relation to the Code of Conduct for Members

Appeal

17. It was noted that the Member may seek permission to appeal against the Committee's determination to an appeals tribunal drawn from the Adjudication Panel for Wales by giving notice in writing within 21 days of receiving the notification of determination to the president of the Adjudication Panel for Wales. The notice seeking permission to appeal must specify the grounds of appeal and whether or not permission to appeal is granted, he consents to the appeal being conducted by written representations.

18. In accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) the Member, the complainant and the Public Services Ombudsman for Wales will be notified of the Committee's decision by Notice of Determination.

The meeting commenced at 10.00 am and concluded at 3.00 pm

CHAIR