

**PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES**

DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/013/2022/023/CT

**REFERENCE IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE
CODE OF CONDUCT**

RESPONDENT: Former Councillor Karen Laurie-Parry

RELEVANT AUTHORITY: Powys 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 For the reasons set out in paragraphs 1.3 to 1.7 of the Listing Direction of 12 May 2023, the Case Tribunal determined its adjudication by way of written representations at a meeting held on a 6 July 2023 by way of remote video-conferencing. The meeting was not open to the public.

1.3 The Respondent did not provide any further representations in accordance with paragraph 1.2 of the Listing Direction. On 29 June, she did write to assert that she did not know that the Tribunal had issued directions in respect of written submissions and/or that the matter would have been determined on paper. The Tribunal was satisfied that she had been sent the Listing Direction (see the email of 29 June at the end of the Hearing Bundle, Section E). It summarised its communications with her in a detailed email of 4 July, as follows;

“The Panel’s communications with you have been carefully reviewed and the following has become clear.

In addition to your Council email address ([full address not reproduced] @powys.go.uk), you widely used 3 separate, private email addresses which are appear throughout the appendices to the Ombudsman’s report, although the last two appeared to have been used more frequently. The Panel has only ever used those addresses to communicate with you, as set out below;

1. [full address not reproduced] @yahoo.com
2. [full address not reproduced] @gmail.com
3. [full address not reproduced] @gmail.com

The Panel is unaware how the Ombudsman sent you a copy of its final report with the referral, but the Panel nevertheless notified you of its receipt on 28 February, a letter that was sent by email (to email address No. 1 above) and the only postal address that we had ([full address not reproduced] LD2 XXX). A further letter was sent to the same postal and email addresses on 28 March highlighting the fact that you had not responded.

On 17 April, the Panel received a letter from the Ombudsman, enclosing an email from you of 14 April, indicating that you had moved (to [full address not reproduced] CF44 XXX). Your email had been sent from email address No. 2.

You were then given another 28 days to respond to the Ombudsman's report. That letter was sent to the new, correct postal address (CF44 XXX) and also by email.

The Panel received no further comments from you and proceeded to issue the Listing Direction. You were then in breach of paragraph 3 of the Schedule to The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001, as amended. It was concluded that the matter could proceed on the basis of written submissions (for the avoidance of doubt, see another copy of the Direction now attached). Unfortunately, the Listing Direction was erroneously sent to your old postal address (LD2 XXX) but nevertheless provided to your email address (No. 3).

No reply was received and the direction for a response was not complied with. On 29 June, however, you communicated to say that you were unaware of the forthcoming meeting of the Tribunal to determine the allegations. You used address No. 2 to send that message and it was that email address to which the Panel responded, informing you that you could still submit written submissions up to the date that the Tribunal was due to meet (Thursday). Your further communication today contains no such representations.

The Panel has communicated with you using addresses which have been used by you throughout the period covered by the complaints. You have been aware that this process has been ongoing and have not sought to alert the Panel to a preferred address or the fact that any may not have been functioning.

The Tribunal is satisfied that you have been properly notified in accordance with paragraph 24 of the Schedule to the Regulations governing its procedure."

A yet further opportunity was given for her to provide written submissions before the Tribunal met, but she did not do so. She did ask to be present during the Tribunal's deliberations. That request was refused.

1.4 At 5.47 pm on 6 July, after the Tribunal had met to consider its decision, the Respondent sent some further written submissions to the Registrar to the Panel which were circulated. To the extent that there were other matters of relevance within it, they have been addressed below.

1.5 Unless otherwise stated, page references below are to the electronic page numbers of the Master Bundle, comprising the Ombudsman's bundle and report, and have been cited in square brackets.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

2.1.1 In a letter dated 22 February 2023, the Adjudication Panel for Wales received a referral from the Public Service Ombudsman for Wales ('the Ombudsman') in relation to allegations made against the Respondent. The allegations were that she had breached Powys County Council's Code of Conduct by making repeated, unsubstantiated allegations of corruption and malfeasance and had corresponded in an excessive and unreasonable manner and in breach of restrictions that had been placed upon her.

2.2 The Former Councillor's response to the Reference

2.2.1 Although the Respondent did not respond in writing to the Ombudsman's reference to the Panel, she was interviewed as part of the Ombudsman's investigation on 27 July 2022 [1827-1910]. She also provided further written submissions on 13 September 2022 [1912-1922] and commented upon the Ombudsman's draft Report on 5 January 2023 [1924]. In dealing with the matter on the basis of written submissions in accordance with rule 3 (3) and 15, the Tribunal took into account the contents of that information.

2.3 Further written representations following the Listing Direction

2.3.1 In accordance with paragraph 1.2 of the Listing Direction, the Ombudsman provided submissions of 5 June 2023 [2523-5], which were only addressed to the Third Stage, submissions having been made in relation to the other elements previously (Section D of the Hearing Bundle). The Respondent supplied no further written submissions until after the Tribunal had met to consider its decision (see paragraph 1.4 above).

3. FINDINGS OF FACT

- 3.1 Having considered the documentary evidence, the Case Tribunal found the following material facts on the balance of probabilities. This was not a difficult task as the evidence was largely contained within a significant number of email exchanges. The Tribunal approached its task by addressing the main factual areas which underpinned the allegations of breach of the Code of Conduct
- 3.2 In addition to the sources of the Respondent's account referred to in paragraph 2.2.1 above, the Ombudsman's investigation included the taking of witness statements from the following witnesses;
- Dr Turner, Chief Executive Officer [1724-1738];
 - Mr Brinn, Corporate Director for the Environment and Economy [1785-1794];
 - Ms Jones, Deputy Monitoring Officer [1795-1802];
 - Mr Boyd, Cabinet Manager [1556-1560];
 - Ms Baynham, County Councillor [1561-1566];
 - Mr Hurford, Chair of Bronllys Green Group [1803-1807].

Introduction

- 3.3 The Respondent was elected as a member of Powys County Council in 2017. She did not stand for re-election in May 2022. She nevertheless acted in her capacity as an elected Member during the events complained of.
- 3.4 When interviewed, she accepted that she had received training on the Code of Conduct in 2017 and 2020 [1839].

Communications about matters of concern

- 3.5 Between 2019 and 2022, the Respondent sent a large volume of emails to a number of recipients on a regular basis. Although a range of different subjects were covered, three matters took particular prominence;

3.5.1 Bronllys;

There is a housing development project on a disused school site in the village of Bronllys, north-east of Brecon. The local Green Group wanted part of the site to be protected and retained under Village Green status.

Mr Brinn is the Corporate Director for the Economy and the Environment Directorate within the Council with overall responsibility for the project to develop the site. It was a complicated development because of the potential Village Green application, an adjacent development owned and operated by

Monmouthshire Council, an existing housing site and the use and/or incorporation of a play area.

The Respondent (and Mr Hurford who led the local Green Group) were pushing for the Council to apply for Village Green status. Mr Brinn was firmly of the opinion that obtaining such status would hamper an attempt to develop affordable homes on the site. The proposed development already incorporated an area of open space for play in any event. He met the Respondent on a number of occasions to discuss the site and the Council's proposals. It was clear that there was a difference of opinion between them as to the way forward. It was also clear that, during one of the meetings that he had with her, as he accepted, he referred to his desire to 'wipe the slate clean', in the sense that he wanted to move forward rather than look back.

Mr Brinn alleged that, following their two meetings on 12 July and 20 August 2020, the Respondent made assertions about what had been said which were not true. She believed that she had been threatened by him to stop interfering so that the site could have been developed as he had wanted. She asserted that he threatened to withdraw the proposal to build an all-weather 3G pitch on the site, which he said had never been part of any proposal. She construed the expression 'wiping the slate clean' as some form of bullying. She also alleged that the meeting had occurred on a different day, which he stated could not have been the case as he had been on leave on that day.

Whatever happened and whatever was said (although their accounts were broadly similar), it was clear from the evidence that they fell out. The Respondent clearly interpreted the words used differently from how Mr Brinn had believed that he had used them. It was also clear that the Respondent then proceeded to make a significant number of public allegations of misinformation and corruption against Mr Brinn and those connected with the site (see, further below).

3.5.2 Y Gaer;

This was a complicated construction project in Brecon. Kier, a well-known construction business, had been awarded the contract but there was a significant overspend which was subsequently audited. The audit report went to the Scrutiny Committee of the Council. The Respondent made a number of serious allegations in respect of the project and Mr Brinn's (and others') involvement in it.

3.5.3 The Heart of Wales Property Service ('HOWPS');

HOWPS was a joint venture established in 2017 between the Council and Kier. The joint venture Board contained two elected members from the Council and two of its officers, one of whom was Mr Brinn. This was a further organisation which the Respondent raised concerns about repeatedly.

- 3.6 The Tribunal did not concern itself with the nature or extent of the Respondent's communications in 2019 or earlier. The focus of the evidence was on the period from the middle of 2020 onwards. That was not to say that the Respondent did not communicate extensively about the matters set out above before the middle of 2020.
- 3.7 As referred to above, there were two meetings at the Bronllys site in the summer of 2020. Thereafter, the frequency of the Respondent's emails increased significantly. Ms Jones, the Council's Deputy Monitoring Officer, described it as 'daily' and the evidence bore that out. She was then writing to different officers and Cabinet Members, frequently copying in Councillors. She was making allegations against Mr Brinn personally and the Head of Legal and Democratic Services and the Monitoring Officer, Mr Pinney, and the Leader, Mr Davies. Examples could be found at [122-3, 124-5, 127-8, 129 and 130]. Some were so serious that apologies were requested and Code breaches alleged by the Monitoring Officer himself [126-7].
- 3.8 The Council's Chief Executive, Dr Turner, considered that the only way to stem the flow of correspondence was to provide the Respondent with what she wanted; an investigation into the matters that she had raised. By then, she said, she was aware of 10 members of staff who had felt intimidated (paragraph 27 of her witness statement [1728]). She therefore treated two of the Respondent's emails of 14 and 23 August 2020 as triggers to conduct a Stage 2 Formal Investigation into the all of her concerns.
- 3.9 The Respondent was provided with a detailed written response on 18 September 2020 [171-7]. Her concerns were found to have been without merit. Each was addressed in turn and in depth. She was therefore asked not to repeat them in the future unless some evidence to back up her allegations was brought forward. In particular, she was told that the allegations that she had made against Mr Brinn were serious and ought not to be repeated if they could not be substantiated. She was directed to the Ombudsman if she remained unhappy and she was warned that further allegations of the nature that she had been making might have been considered to be breaches of the Code of Conduct and/or libellous. In order to try to curtail her conduct, she was asked to not contact anyone below the level of Heads of Service, with the exception of the Deputy Monitoring Officer, Ms Jones.
- 3.10 The Respondent's emails continued nevertheless. She did not heed the direction contained within 18 September letter. Amongst emails to a number of officers and councillors, she continued to allege that there

were '*non-transparent practices*' [162] and other issues of concern within the three projects referred to above and in other areas, without any further evidence being provided. It was noteworthy that many of the emails were chased for a response the same day (for example, [161]).

- 3.11 In light of the continuing conduct, advice was sought from the Ombudsman's office directly. As a result, the Respondent was directed to use Ms Jones, the Deputy Monitoring Officer, as a *single* point of contact ('SPOC'), in a letter dated 9 October 2020 [178-180]. In that letter, she was also reminded that repeated allegations against Mr Brinn could be seen to amount to harassment.
- 3.12 Dr Turner and Ms Jones met with the Respondent on 19 October 2020 to explain the reasons for appointing a SPOC and the impact of her voluminous emails upon the Council and its officers. A recording of the meeting formed part of the Ombudsman's evidence [406], a transcript of which was also provided as a separate document. The Respondent was asked not to revisit issues for which she had been provided with explanations or answers (page 32 of the transcript) and warned against the dangers of repeating allegations without evidence (page 38). It was explained that a great deal of time and cost was involved in responding to her extensive correspondence.
- 3.13 Although the Respondent again alluded to having being 'threatened' and being 'scared' (page 6) and to a lack of openness (page 8), she was apologetic when confronted with the information that her bombardment of officers was considered to have been grossly excessive and was causing intimidation and pressure (pages 25-8). She nevertheless stated that she would be taking her concerns to the Ombudsman.
- 3.14 The frequency of correspondence from the Respondent then did abate somewhat until December 2020, but it increased significantly up to and past Christmas 2020. She continued to make numerous, repetitious allegations without any further evidence being produced to substantiate them. Between 4 December and 5 February 2021, she sent 94 emails to Ms Jones alone, a period of 29 working days [189]. She sent 60 in January and 70 in February. Although she had indicated that she was '*respecting the wishes*' of Dr Turner not to contact others [107], she started to do so again. She also had a habit of chasing for responses to emails within days or, sometimes, hours. See, for example, the emails sent on 14, 15 and 17 January [105-7] and those sent on 6 April in which she initially demanded a response within 2½ hours, in default of which she threatened to contact officers directly [144], which she then proceeded to do, but before her own deadline had passed [140].
- 3.15 The time which Ms Jones devoted to dealing with the Respondent led her to the view that she was provided with a '*bespoke service*'. Many of her emails were answered immediately, in an attempt to ward off further correspondence, in preference to other communications. Responses

were provided well within the 10 day reply target prescribed in the Council's Charter (paragraphs 25-6 [1799]).

- 3.16 Many of her emails continued to contain allegations of corruption and/or a conflict of interest [145], a lack of transparency and/or openness [93], suggestions that individuals within the Council were attempting to line their own pockets [137] and that there was a widespread failure to comply with Local Government Regulations [154].
- 3.17 Her communications continued despite a further attempt by Dr Turner in February to draw a line in the sand. She reiterated the fact that matters had been examined through the investigation and she asked the Respondent again to curtail her activities [189-191]. At that stage, her conduct had been so poor that it was considered to have merited an apology. She was also reminded of her own route of complaint to the Ombudsman which, despite her threats, she still had not taken up.
- 3.18 Cllr Baynham referred to the number and frequency of emails that she received; sometimes three or four a day and many over a 24 or 48-hour period if she was concerned about something. They were described as 'tiresome', 'repetitive' and 'time consuming' (paragraph 4 of the witness statement [1561]);
"When she has an issue, she just keeps on emailing and won't accept the answer she is given. It is quite difficult because, when I see an email from Councillor Karen, I feel quite deflated. I don't think Councillor Karen means to be deliberately difficult, I don't think she means to say anything deliberately nasty." (paragraph 5).
- 3.19 Mr Brinn referred to the Respondent's emails as *"repetitive, relentless and unaccepting of explanations provided to her"* (paragraph 24 [1789]). The frequency was 'prodigious' but much of it was *"just inappropriate repetition"* (paragraph 26). He was clearly upset by the manner in which she had launched what had been a personal attack on him in such a public manner. He was concerned about the effect upon his own reputation but, more objectively, the time which he had spent dealing with her queries, concerns and complaints was draining, particularly as he was a relatively expensive resource to the Council as a senior officer (paragraph 33 to 34 [1790]).
- 3.20 Dr Turner was acutely aware of the effect of the Respondent's actions upon Mr Brinn and Mr Pinney. They had joined a union specifically in order to obtain support over the issue (paragraphs 81 and 82 [1737]).
- 3.21 By May 2021, having employed all methods known to her to curtail the Respondent's activities, Dr Turner made her own complaint to the Ombudsman [78]. As a result of the further matters set out below, a further complaint was made on 20 July 2021.

- 3.22 Dr Turner subsequently discovered that a number of councillors had implored the Respondent to stop emailing them (see paragraph 78 of her witness statement [1736-7]).

Council meeting 15 July 2021

- 3.23 There was a full Council meeting on 15 July 2021 at the end of which there was a confidential session during which members discussed staffing issues, including the salary and grading of Mr Brinn and another officer. During those discussions, the Respondent made derogatory comments about the Council and a number of its officers. She continued in what was described as a '*rant*' or an '*absolute outburst*'. She complained about salary levels generally and demanded that a number of directors were investigated. She made specific comments about Mr Brinn; that he was not worth what he was paid and that she had been bullied by him. She was described as having shouted, been "*quite agitated*" and "*a bit aggressive*" (Cllr Baynham's statement, paragraph 19 [1564]). When asked to cease her attack, she accused the Chair of bullying her.

Sharing of alleged confidential information

- 3.24 The Ombudsman alleged that the Respondent shared confidential information in three respects;

3.24.1 On 21 January 2020, at a Cabinet Meeting, the sale of some housing stock was discussed (item 15 on the agenda [374]). Following the meeting, the Respondent asked Mr Pinney for a copy of the District Valuer's Valuation Report for Powys Residential Sites (Internal). She was sent it on a '*private and confidential*' basis '*as we had agreed*' [117]. It had not been shared in full during the meeting. The report itself watermarked '*Private and Confidential*' [1453].

On 25 March 2021, she emailed the report in full to her trade union representative and two other councillors [91]. A few days later, on 30 March, she emailed the report to Dr Turner, Ms Jones, a further eight councillors and the leader of SWAP (the Council's internal audit function) [98]. An accompanying email from Mr Hurford of the Bronllys Green Group indicated that he had seen a copy of the report as well [95-6] although, somewhat mysteriously, he denied having written and/or sent the email which bore his name himself [1804];

3.24.2 On 11 March 2021, Mr Brinn provided a confidential update on an alleged tarmac theft from the Council [115]. An internal investigation had been mounted and four Council employees had been suspended. The police had been informed. The same day, the Respondent then emailed questions about the investigation to Dr Turner, Ms Jones and the Police and Crime

Commissioner [1224]. She was immediately chastised for her breach of confidentiality by a fellow councillor, Cllr Breeze [1226]. The Respondent questioned the alleged breach, believing that the Police and Crime Commissioner “*is Dyfed-Powys police*” [1240];

3.24.3 On 11 June 2021, the Respondent sent an email to a number of fellow councillors and a Senedd member in which she disclosed that her union representative was suffering with poor mental health [1773]. She also alleged that he had been bullied by officers and/or employees of the Council and was threatened in order to withdraw his support from her. He was off work sick at the time and she subsequently acknowledged that she had not had permission to divulge his state of health to anybody. She also subsequently acknowledged that she had no evidence of him having been bullied in the manner which she had alleged.

3.25 When the Respondent was interviewed and in her written submissions, she referred to having suffered from bouts of anxiety which had been magnified by Covid and the resulting lock downs. She referred to a number of domestic and personal stressors; the ill health of her parents, her divorce and the need for medication to control her blood pressure and assist her mental health.

3.26 It was important to note that Dr Taylor, Cllr Baynham and others attested to their belief that the Respondent had really believed what she had been saying in her emails. In essence, they described her as misguided, but not malicious.

3.27 It was also noteworthy that, even by 2022, the Respondent’s behaviour did not appear to have changed markedly. In February and March, Ms Jones received a total of 107 emails from her, sometimes up to 12 a day (paragraph 23 witness statement [1799]).

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

4.1 The Code of Conduct

4.1.1 The relevant parts of the Code of Conduct were as follows;

Paragraph 4 (b) and (c);

*“You must-
(b) show respect and consideration for others;
(c) not use bullying behaviour or harass any person;”*

Paragraph 5 (a);

“You must not-

(a) Disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without express consent of a person authorised to give such consent, or unless required by law to do so;”

Paragraph 6 (1)(a) and (d);

“(1) You must –

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.”

Paragraph 7 (b)(i) and (iv);

“You must not –

(b) use, or authorise others to use, the resources of your authority

(i) imprudently;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;”

4.2 The Respondent’s Submissions

4.2.1 The Respondent’s only submissions, beyond the evidence which she had provided to the Ombudsman, were contained within an email of 6 July at 5.47 pm. Although filed beyond the date required in the Listing Direction, beyond the stipulations contained in further advice to her and after the Tribunal’s deliberations, the email was nevertheless circulated, read and considered.

4.2.2 Most of the document continued to express and explain the concerns which she had been airing through the emails discussed above, but it did not deal with the allegations which the Tribunal was dealing with. The Tribunal did note, however, that she appeared to attribute her conduct to a sense of *“being alienated and no real sense of inclusion”* and, at the end, that she expressed some limited degree of contrition, albeit that she still felt that her conduct had served the public good.

4.3 The Ombudsman’s Report

4.3.1 It was contended that the following breaches of the Code of Conduct had occurred;

(i) Paragraph 4 (b) and (c);

It was asserted that the Respondent’s repeated making of allegations, particularly against Mr Brinn, in the absence of evidence to support them, to a wide audience, constituted bullying and harassment and, at the very least, demonstrated a lack of respect and consideration. In particular, her

unsubstantiated allegation of his threatening behaviour, despite concerns having been raised to her about such conduct, constituted breaches of the paragraphs.

- (ii) Paragraph 5 (a);
It was alleged that the Respondent had breached confidentiality in relation to the three matters set out in paragraph 3.24 above.
- (iii) Paragraph 6 (1)(a);
It was alleged that the Respondent's repeating of allegations of a lack of transparency, conflicts of interest and corruption in public fora and over a significant period of time, without evidential proof, was capable of undermining public confidence in the Council and its officers.
- (iv) Paragraph 6 (1)(d);
The Ombudsman's case was that the Respondent's comments at the 15 July 2021 Council meeting about Mr Brinn had been both vexatious and malicious.
- (v) Paragraph 7 (b) (i) and (iv);
This allegation focused upon the nature and extent of the Respondent's communications and the drain on the Council's resources in dealing with them. It was alleged that the nature of the correspondence caused the Respondent to use the council's resources imprudently, particularly when she had been asked to stop sending repeated emails, particularly about matters which had been answered and/or dealt with.

4.4 Case Tribunal's Decision

4.4.1 On the basis of the findings of fact, the Case Tribunal found by a unanimous decision that there were failures to comply with Powys County Council's Code of Conduct as follows:

- (i) Paragraph 4 (b) and (c);

The right to freedom of expression embodied in Article 10 of the Human Rights Act was not without limit. Article 10 (2) provided for restrictions when necessary in a democratic society, for the protection of the reputation and rights of others. In *Heesom-v-Public Services Ombudsman for Wales* [2014] EWGC 1504 (Admin), it was determined that it was a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, an adverse effect upon good administration. Officers should not therefore be subject to unwarranted comments which may be reputationally damaging or that hamper their ability to carry out their duties or undermine public confidence in the administration.

Cases of this nature often require a tribunal to separate a respondent's firmly held, if misplaced, concerns about the running of council affairs and their right to express them, from an excessive and personal attack on one or more of its officers. As the *Guidance from the Public Services Ombudsman for Wales in relation to the Code of Conduct* indicates, members are, however, always expected 'to afford colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives'.

Here, not only were the Respondent's communications frequent, but they contained little precision and often included personal and damaging rhetoric which directly concerned the integrity and professionalism of a senior officer. The allegations were made in a public forum in writing and even in a Council meeting. Yet further, she was given many opportunities to substantiate her claims over a significant length of time and failed to do so. She was asked not to repeat the allegations if they could not have been substantiated, but also failed to heed that direction.

The Respondent's repeated, serious allegations against Mr Brinn in particular, constituted a breach of paragraphs 4 (b) and (c) as alleged. Her conduct on 15 July 2021 was further evidence of those breaches. The repeated nature of the conduct constituted bullying and the effect upon Mr Brinn was evident from his witness statement.

The Tribunal gave particular attention to pages 16-19 of the Ombudsman's *Guidance* (above). The nature of the Respondent's conduct was in excess of that which might have required of somebody in Mr Brinn's position as a person who was expected to have had a 'thick skin'. As set out on page 18, the Respondent's communications amounted to a pattern of offensive and insulting behaviour which upset and annoyed both Mr Brinn and some of the wider audience (Cllr Baynham, for example). The Respondent's concerns were dealt with as a formal complaint, yet still she continued. She was directed to the Ombudsman on more than one occasion, but ignored that invitation. Instead, she continued to embark upon the course of conduct which constituted breaches of paragraph 4.

(ii) Paragraph 5 (a);

The Tribunal was satisfied that the Respondent was also in breach of paragraph 5 (a) of the Code of Conduct. First, she disclosed the contents of a report from the District Valuer to a number of people, both internal and external to the Council, which had been provided to her on an 'agreed'...'confidential basis' [117]. She should therefore have reasonably believed that she ought not to have disseminated its contents.

Secondly, in her role as a councillor, she received an email concerning a theft which was described as 'sensitive' and which itself was stated to have been 'confidential' [115]. Her emailed questions about the theft to the Police and Crime Commissioner, who she obviously thought to have been one in the same as the police, was a further negligent breach of confidentiality. Other Council staff were also copied into the email who had not been privy to the original communication.

Finally, her dissemination of information about her trade union representative's mental health was unauthorised and insensitive and ought reasonably to have been regarded as personal, and confidential, albeit that it did not directly concern the business of the Council itself, albeit that he was a Council employee as well.

(iii) Paragraph 6 (1)(a)

The Tribunal accepted the Ombudsman's submissions in respect of this allegation. The Ombudsman's *Guidance* gives the making 'unfair or inaccurate criticism of your authority in a public arena' as an example of behaviour falling under this paragraph;

(iv) Paragraph 6 (1)(d);

The Respondent's repeated concerns about Mr Brinn were dealt with as a complaint and were dismissed. She was asked not to repeat them thereafter. She was asked to bring evidence forward if she was to repeat them. She did neither. Her conduct therefore became wilful and/or vexatious. She appeared to have become fixated with her points. When they were not accepted, she seemingly became more intransigent and unaccepting of reason, as demonstrated by her conduct at the July Council meeting.

(v) Paragraph 7 (b) (i) and (iv);

The Tribunal accepted that the Respondent's conduct demonstrated unreasonable expectations in respect of the Council's officers and staff, particularly with regard to the number and frequent urgency by which she demanded responses. Her unreasonableness was further demonstrated by her decision to ignore restrictions imposed upon her, both with regard to the use of Ms Jones as a SPOC and the prohibition against contacting others.

What concerned the Tribunal, however, was whether those paragraphs of the Code of Conduct could properly have been applied to the Respondent's conduct. Could a Deputy Monitoring Officer or a Chief Executive Officer be a 'resource' that was 'used' in the sense covered by paragraphs? The *Guidance*

referred to examples of resources as including telephones, computers, other IT facilities and transport. It did also refer to 'support from council employees' but, considering those words *sui generis*, we considered that they related to administrative resources. In that sense, Ms Jones was not being used as an administrative resource. The *Guidance* also appeared to direct the prohibition towards the personal misuse of resources for non-Council means. For example, asking a secretary to type and send a personal letter.

Further, paragraph 7 (b)(iv) prohibited use that was not facilitative of the Respondent's business as a councillor. We concluded that the Respondent's questions and demands for responses were very much in accordance with her *perceived* role as a councillor.

Giving the Respondent the benefit of the doubt, we were not satisfied that the alleged breaches of paragraph 7 were properly made out. We did not, however, consider that it made any significant difference considering the fact that the mischief about which the Ombudsman complained was more than adequately covered in the other allegations considered above, specifically by paragraph 6 (1)(a).

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 The Respondent's and Ombudsman's submissions

6.1.1 The Respondent made no submissions on this issue.

6.1.2 The Ombudsman's submissions were set out in its letter of 5 June 2023 [2523-5].

6.2 Case Tribunal's Decision

6.2.1 The Case Tribunal considered all the facts of the case and, in particular, the following aggravating factors;

- (i) That the Respondent failed to alter her course of conduct after repeated warnings and/advice from senior officers, including the Monitoring Officer and the CEO;
- (ii) That the conduct undoubtedly caused personal disadvantage to Mr Brinn in particular, whether it had been intended or not;
- (iii) That the breaches of confidentiality had been abusive of the trust that had been placed in her as a Councillor;
- (iv) That her behaviour was not a 'one off'. She had embarked upon a pattern of conduct over many months;
- (vi) She appeared to have been driven by a personal agenda. There was little evidence that she was pursuing concerns that had been raised by constituents in the manner in which she had raised them.

- 6.2.2 The Tribunal considered the following mitigating factors;
- (i) The Respondent's personal circumstances, including the physical and mental ill-health;
 - (ii) Her past record of good service;
 - (iii) The fact that she cooperated with the Ombudsman in relation to the investigation;
 - (iv) The Tribunal's conclusion, based upon the beliefs of others, was that she had been misguided in the content and frequency of what she had said, but had probably not intended the level of upset and harm that was nevertheless caused.
- 6.2.3 The Case Tribunal unanimously concluded that the appropriate sanction in all of the circumstances was for the Respondent to be **disqualified for a period of 18 months** from being or becoming a member of authority or of any other relevant authority within the meaning of the Local Government Act 2000.
- 6.2.4 The authority and its Standards Committee is notified accordingly.
- 6.2.5 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.

7. CASE TRIBUNAL RECOMMENDATIONS

- 7.1 No recommendations are made.



Signed.....
John Livesey
Chairperson of the Case Tribunal

Date.....7 July 2023.....

Dr G Jones
Panel Member

Ms S Hurds
Panel Member