
SPECIAL MEETING OF THE STANDARDS COMMITTEE 18/04/23

Present:

Elected Members:- Councillors Anne Lloyd-Jones, Beth Lawton and Dewi Owen.

Independent Members: Mr Aled Jones, Mr Hywel Eifion Jones (Chair), Mr Mark Jones and Mr Dave Wareing

Community Committee Member: Mr Richard Parry Hughes

Also in attendance: On behalf of the Public Services Ombudsman for Wales – Katrin Shaw (Chief Legal Adviser & Director of Investigations) and Sarah Jones (Investigating Officer); Cyngor Gwynedd Officers - Sion Huws (Propriety and Elections Manager / Deputy Monitoring Officer) and Eirian Roberts (Democratic Services Officer).

The Member: Councillor Louise Hughes

The Complainant: Howard Huws (as a witness)

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 SERVICES 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 Mr Howard Huws ("the Complainant") that Councillor Louise Hughes ("the Member") had failed to observe Cyngor Gwynedd's Code of Conduct for Members.

2. It was alleged that the Member had behaved inappropriately by responding in German to two e-mails sent to her in Welsh by the Complainant.

3. The Ombudsman determined that the Member may have breached the Council's Code of Conduct, in particular, paragraphs 4(a), 4(b), 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; ”

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;

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

The Hearing

5. The Propriety and Elections Manager (Cyngor Gwynedd's Deputy Monitoring Officer) who was advising the Committee presented his report at the commencement of the hearing.

6. The Committee considered the Ombudsman's written report, the further documents submitted by the Member and the Ombudsman in accordance with the Committee's pre-hearing procedure, and the authority's evidence confirming the translation provision available at the time the e-mails were received by the Member. The Committee also considered the oral submissions from Katrin Shaw, Chief Legal Adviser and Director of Investigations of the Public Services Ombudsman for Wales, the Complainant as a witness and the Member herself, who were present at the hearing. The Member had previously indicated that she would not be attending, having said what she had wanted to say in her written submissions to the investigation. However she decided to attend, despite the anxiety and distress the matter was causing her, to assure the Committee that she took the matter very seriously.

The Decision

7. The Committee first considered any finding of fact that it needed to make. There were no disputed facts in this case. The complaint resulted from two e-mails sent by the Member on 4/12/21 and 21/2/22. Copies of both were included in the written evidence before the Committee and there was no doubt therefore as to what the member had said.

8. 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:

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

9.1 By responding to e-mails from the Complainant in German the Member had denied the Complainant the opportunity of being able to contact an elected member of the Council in his chosen language of Welsh. The Committee believed that everyone should have the right to contact a member of the authority and receive the same level of service regardless of the language in which the contact was made. The member had however treated the Complainant differently because he wrote to her in Welsh. The Welsh language was an integral and fundamental part of the Complainant's cultural identity and treating him

differently on this basis was in the Committee's view discriminatory. Although the responses were ostensibly requesting a translation, the fact that she chose to write in German, which is not an official language in Wales, on two occasions shows in the Committee's view that this was not in fact the intention.

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

10.1 It was not reasonable in the Committee's opinion to interpret the Member's messages as a sincere attempt to understand the Complainant's emails, or as an attempt to convey the feeling of receiving a message in a language that you could not understand. Furthermore, the Complainant was contacting her in his official capacity as a representative of Cylch yr Iaith, an organisation specifically concerned with for the promotion the Welsh Language. The member was aware of this and of the importance of the Welsh language to the Complainant.

10.2 The Complainant had interpreted the member's response as derogatory, mocking and sarcastic and believed that this was the only reasonable interpretation. The Member, whilst admitting that her reply was a 'puerile' attempt at humour, denied however that she was in any way contemptuous of the Welsh language. While noting what the Member said as to her intention, the Committee's view was that it should have been clear to her that her replies would not be interpreted as humorous but as a sarcastic and disparaging of the Complainant's choice of language. The Committee concluded that not only did she show disrespect towards the complainant as an individual who wished to write to her in Welsh but also towards the organisation that he represented. The fact that she did this twice, approximately 3 months apart, reinforced the perception that this was a deliberate act rather than a rash mistake.

10.3 Regardless of the lack of translation support from the Council it was noted that the Member made no effort to get help from others to understand the content of the Complainant's emails. If her wish was to understand the content of the emails, she could have asked for assistance.

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

11.1 Looking at the Member's behaviour as a whole, the Committee was of the opinion that it was sufficiently serious in nature that it brought her office and her authority into disrepute. The committee agreed with the Ombudsman's view that his behaviour showed disregard for the Complainant's right to contact an elected member through the medium of Welsh and showed that failure to communicate in English would lead to a lower quality service from an elected member. The Committee also took into account the impact this would have on Cyngor Gwynedd, especially considering the importance and central position of the Welsh language in all aspects of its activities.

Sanction

12. 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 and the Member had to say at the hearing and also the provisions of the Sanctions Guidance issued by the Adjudication Panel for Wales ("the Guidance").

13. The Committee considered the seriousness of the conduct and particularly the fact that the conduct had brought the member's office and authority into disrepute. It also took into account a purpose of imposing a penalty, which is the need to build public confidence in local democracy and that it is therefore necessary to reflect the seriousness of the matter.

The Committee was of the opinion therefore that a sanction which included a suspension was appropriate in the circumstances. The Committee proceeded to consider those mitigating and aggravating factors listed in the Guidelines (at paragraph 42):

14. With regard to mitigating factors the Committee found that the following were relevant in this case:

- a previous record of good service (especially if over a long period of time)
- recognition and regret as to the misconduct and any consequences;
- an apology, especially an early apology, to any affected persons - in this context the committee understood and accepted the Member's explanation as to why she did not apologise earlier which was the warning from the Ombudsman during the investigation not to discuss the matter with anyone else.
- co-operation with the investigation officer and the standards committee;
- acceptance of the need to modify behaviour in the future;
- compliance with the Code since the events giving rise to the adjudication.
- In addition to the specific matters set out in the Guidance the Committee also took into account the letters presented by the Member attesting to her character

The Committee considered whether the lack of translation facilities was a mitigating factor in this instance, but concluded that it was not, for the reasons set out in paragraph 10.3 above.

15. 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:

- long experience, seniority and/or position of responsibility;
- action(s) that has/have brought the relevant authority and/or public service into disrepute – whilst present as a factor in this case, the Committee had already taken it into account when deciding on the seriousness of the breach and was not therefore considered as a further aggravating factor

16. After weighing up the seriousness of the behaviour in question and after considering the relevant mitigating and aggravating factors the Committee decided that the Member should be suspended from being a member of Gwynedd Council for a period of 1 month

The Committee also decided:

17. That it expects the Member to take advantage of any training opportunities offered by the Council in the future, which relate to the conduct of members.

18. That the Member should write to the Complainant within 3 weeks (from the date of receipt of this notice) to apologise for her behaviour (with a copy sent to the Monitoring officer).

19. To recommend to Cyngor Gwynedd that it should consider whether support could be provided to members in relation to correspondence they receive in a language they do not understand, either internally or by referring members to other appropriate sources.

Appeal

20. 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, she consents to the appeal being conducted by written representations. (Further details can be found on the Adjudication Panel's website www.adjudicationpanel.gov.wales)

Coming into force of any suspension

21. In accordance with the Regulations (r.8(6)), any period of suspension or partial suspension shall commence on the day after:

(a) the expiry of the time allowed to lodge a notice of appeal

or, if an appeal is lodged:

(b) receipt of notification of the conclusion of any appeal, or

(c) a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal,

whichever occurs last.

Notification of decision

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

The meeting commenced at 10.00 am and concluded at 2.50 pm

CHAIR