

**PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES**

DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/005/2010-011/CT

REFERENCE IN RELATION TO AN ALLEGED BREACH OF THE CODE OF CONDUCT

RESPONDENT: Councillor Patrick Heesom

RELEVANT AUTHORITY(IES): Flintshire 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 A hearing was held by the Case Tribunal commencing on 18 January 2011. The Case Tribunal sat in North Wales for a total of 58 days before concluding its adjudication on 19 July 2013. During this period, the Case Tribunal was unable to conclude hearing evidence for a period of some 12 months due to the ill-health of the Respondent. The hearing was open to the public, save for a limited number of occasions when the matters before the Case Tribunal were of a sensitive and private nature.

1.3 Cllr Heesom attended and was represented by Counsel, Mr Michael Murphy.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

2.1.1 In a letter dated 22 July 2010, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in relation to allegations made against Cllr Heesom. The allegations were that Cllr Heesom had breached Flintshire County Council's Code of Conduct by failing to show respect and consideration for officers of the Council; using bullying or harassing behaviour, attempting to compromise the impartiality of officers and, in so doing, conducting himself in a manner likely to bring his office or the Council into disrepute.

2.1.2 The circumstances leading to the allegations of breach are noted in the detailed Findings of Fact appended to this Decision.

2.2 The Respondent's Written Response to the Reference

2.2.1 Cllr Heesom made an initial written response dated 14 September 2010 and two further witness statements during the course of the proceedings.

2.3 The Ombudsman's Written Representations

2.3.1 The Ombudsman submitted a written response by email dated 21 October 2010.

3. ORAL SUBMISSIONS

3.1. The Case Tribunal heard oral evidence and submissions as noted in the detailed Findings of Fact appended to this Decision. The Case Tribunal also refers to all decisions made during the course of proceedings in response to applications made by the Respondent and Ombudsman.

4. FINDINGS OF FACT

4.1 The Case Tribunal made detailed Findings of Fact which are appended to this Decision (Appendix 1). A brief summary of our Findings are as follows:

4.1.1 Scrutiny Meeting, 14 February 2007 – we find that the Respondent described the management of the Adult Social Care Directorate as a “shambles” and “shambolic”. At the conclusion of the meeting, the Respondent, whilst looking in a menacing fashion at Susan Lewis and Maureen Mullaney, stated that a number of Managers in the Authority had been dispensed with and there were more to go. The intention and effect of this statement was one of a threat to either or both of the Officers. (*ref: Chapter 2, Findings of Fact*)

4.1.2 In terms of the mutual exchange, we are satisfied that the Respondent, on 9 August 2007, wrote letters to Mr and Mrs Dodd and to Ms Mills, authorising them to proceed with an exchange of their properties when he knew that such action was in contravention of the refusal of Flintshire County Council to grant their application for a mutual exchange. He attempted to involve himself, both before and after the writing of the letters, in the decision making process and made misleading statements. (*ref: Chapter 3, Findings of Fact*)

4.1.3 We find in terms of the Sheltered Housing Meeting on 4 July 2008, that the Respondent was confrontational and aggressive. He was rude and aggressive to Dawn Evans, a relatively junior Officer. He questioned Dawn Evans in an aggressive manner and accused her of trying to downgrade residential wardens. He was critical of how she managed accommodation issues in his constituency. Dawn Evans, who found his conduct confrontational and intimidating, was upset by his conduct. (*ref: Chapter 4, Findings of Fact*)

4.1.4 In terms of Visioning Day, we find the preparations had been fully scoped and discussed with the Respondent. His actions in circulating the letter to Councillors before the meeting were intended to undermine Susan Lewis, the

Director. Comments in his note, that Visioning Day was arranged without the authority of Elected Members, were unwarranted and without foundation and intended to undermine Officers. Whilst we believe comments were made during the meeting by the Respondent, and there is some evidence that those comments caused upset to Susan Lewis, we do not find on the balance of probability that this was a sustained verbal attack. However, he referred to the Director as *“that Officer”* and intimated *“that Officer has no business to be bringing these things to you here today.”* His tone was dismissive and confrontational. We are satisfied that from March 2007 to the date of the complaint being submitted to the Ombudsman, the Respondent engaged in a course of conduct against Susan Lewis which amounted to harassment. (ref: Chapter 5, Findings of Fact)

4.1.5 We find on 14 November 2008 that the Respondent stated to another Member in the Members’ Executive Room *“Sue Lewis is shit at her job.”* This was a comment made by the Respondent on the same day that he forwarded a letter purporting to be an apology in respect of his conduct at Visioning Day. The Respondent had also been critical of Susan Lewis in comments made to Maureen Harkin, a Senior Officer who worked under Susan Lewis in her Directorate. He had indicated to Maureen Harkin that Susan Lewis *“knew nothing about Housing”* and *“her days are numbered.”* The words uttered by the Respondent were inappropriate and we find that the comment *“her days are numbered”* was intended to be a threat that the Respondent was going to seek to oust Susan Lewis from her post. The comments were made with the intention of undermining the position of Susan Lewis. (ref: Chapter 6, Findings of Fact)

4.1.6 We find in terms of the meeting of 18 December 2008:

- a. The Respondent had sought to interfere in the housing allocation process by seeking that Officers operate outside the allocations policy.
- b. That he sought to bring undue pressure as an Executive Member on Housing Officers to operate outside the allocations policy. His conduct in seeking to persuade officers to allocate properties in his ward to specific individuals outside the Council’s agreed policy breached the clear guidance given to the Respondent in a letter dated 14 December 2006 from the then Interim Head of Housing. The letter indicated such action could breach the “law and current good practice....”
- c. He stated in particular to Maureen Harkin Head of Housing *“I don’t want to hear that, I want you to listen to me as the Executive Member”*. This was on the basis of the policy he viewed as not working. The policy, however, was the policy that had to be operated by the Officers.
- d. At the meeting, he stated words of the nature of the following: *“I am not threatening you as I don’t need to as I know you will follow what I*

am saying as you won't like the repercussions if you don't and you won't believe the man I can become if you put me in this position." We find that this is a direct threat to Maureen Harkin and that she perceived it as a threat. She felt intimidated and that the Respondent was inappropriately involving himself in operational activity which was outside the remit, both of his roles as an Executive Member and as a Ward Councillor.

- e. At the conclusion of the meeting, he stated *"I am not going to fall out with you about this as you are a bright girl and I know you are listening to me"*. This, again, was put in the nature of a threat. We find that the words were also patronising. (ref: Chapter 7, Findings of Fact)

4.1.7 In terms of the Scrutiny Meeting on 7 January 2009 we find that whilst the Respondent was critical of the report presented and the way it was prepared, and that he may have expressed his opinion in a loud and confrontational manner, we do not find that there is evidence of him showing lack of respect to others at that meeting or of him undermining Officers. The Respondent was loud and confrontational but that confrontation was with other elected Members. (ref: Chapter 8, Findings of Fact)

4.1.8 In terms of the Head of Planning appointment process, we find that the Respondent did not act with the objectivity required. At the meeting on 29 January 2009, he questioned Sharon Carney, a Human Resources Officer, as to her planning qualification and such comments were made with the intention of undermining the Officer and her role in the process. At the meeting on 6 February 2009 he adopted an aggressive and hostile attitude to Sharon Carney and her presentation of Behavioural Event Interview feedback. His comment on 6 February 2009 aimed at the Director of Environmental Services *"if he dares"* was intended to ensure that the Officer did not speak and was a threat. The complaint as to Officers' conduct as outlined in a letter to Carl Longland was unwarranted and misleading. (ref: Chapter 9, Findings of Fact)

4.1.9 In terms of the Head of Housing process, we find that the Respondent's conduct on 12 February 2009 included a verbal attack, both on Natalie Pridding and Susan Lewis and that he was seeking to undermine the role of the Officers at that meeting. We do not find that there was any such verbal attack on 19 February 2009. (ref: Chapter 10, Findings of Fact)

4.1.10 At the Homelessness Prevention interview on 25 February 2009, the Respondent made inappropriate comments and sought to wrongly interfere in the role of the Homelessness Prevention Officer. He acted in a manner which intimidated and undermined the role of Caroline Littlewood and amounted to an attempt to bully the Officer. (ref: Chapter 11, Findings of Fact)

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

5.1 Submissions were received both on behalf of the Ombudsman and the Respondent as to whether on the basis of the Findings of Fact Cllr Heesom had breached the relevant Codes of Conduct.

5.2 Case Tribunal's Decision

5.2.1 The Case Tribunal found by unanimous decision that Cllr Heesom failed to comply with Flintshire County Council's Code of Conduct as follows:

2001 Code of Conduct

5.2.1.1 Conduct towards officers of the Council at a meeting of the People Performance Overview and Scrutiny Committee on 14 February 2007 (paragraph 4(a) - Failure to show respect and consideration for others).

5.2.1.2 Conduct relating to a proposed mutual exchange by Council housing tenants between 27 April 2007 and 21 November 2007 (paragraphs 4(a) and 4(b) – conduct which compromises, or which is likely to compromise, the impartiality of the authority's employees).

5.2.1.3 Writing an inappropriate letter to a Council housing tenant on 9 August 2007 (paragraphs 4(a) and 6(1)(b) – bringing the office of member or the authority into disrepute).

2008 Code of Conduct

5.2.1.4 Conduct towards an officer of the Council prior to a Sheltered Housing Visioning Day on 7 November 2008 (paragraph 4(b) - Failure to show respect and consideration for others; and paragraph 4(c) – Using bullying behaviour or harassing any person).

5.2.1.5 Making inappropriate comments about an officer of the Council on an unidentified date after August 2008 (paragraph 4(b)).

5.2.1.6 Conduct towards an officer of the Council at a meeting on 4 July 2008 (paragraphs 4(b) and 4(c)).

5.2.1.7 Conduct towards officers of the Council at a meeting on 18 December 2008 and at a homelessness interview on 25 February 2009 (paragraph 4(b)).

5.2.1.8 Conduct towards officers of the Council at a Head of Housing selection meeting on 12 February 2009 (paragraph 4(b)).

5.2.1.9 Conduct towards officers of the Council at Head of Planning selection meetings on 29 January 2009 and 6 February 2009 (paragraphs 4(b) and 4(c)).

5.2.2 The Case Tribunal found that Cllr Heesom did not breach the Code of Conduct as follows:

2001 Code of Conduct

5.2.2.1 Comments made about the Council's Adult Social Care Directorate at a meeting of the People Performance Overview and Scrutiny Committee on 14 February 2007 (paragraph 4(a)).

5.2.2.2 Writing an inappropriate letter to a Council housing tenant on 9 August 2007 (paragraph 7(a) – using position improperly to confer on, or secure, for any person ...an advantage or disadvantage).

2008 Code of Conduct

5.2.2.3 Conduct towards an officer of the Council at a Sheltered Housing Visioning Day on 7 November 2008 (paragraphs 4(b), 4(c) and 6(1)(a - bringing the office of member or the authority into disrepute).

5.2.2.4 Comments made about an officer of the Council on 14 November 2008 (paragraph 4(b)).

5.2.2.5 Conduct towards an officer of the Council at a meeting on 4 July 2008 (paragraph 4(d) – conduct which compromises, or is likely to compromise, the impartiality of those who work for the Council).

5.2.2.6 Conduct towards officers of the Council at Head of Housing selection meetings on 18 and 19 February 2009 (paragraphs 4(b) and 4(c)).

5.2.2.7 Conduct towards officers of the Council at a meeting of the Community and Housing Overview and Scrutiny Committee on 7 January 2009 (paragraphs 4(b) and 4(c)).

5.2.3 The Case Tribunal gave detailed reasons as to its Findings as to Breach which are appended to this Decision (Appendix 2).

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 Submissions were received both on behalf of the Ombudsman and the Respondent as to sanction.

6.3 Case Tribunal's Decision

6.3.1 The Case Tribunal considered all the facts of the case and appended to this Decision is the full reasons as to its Findings in terms of Sanction (Appendix 3).

6.3.2 The Case Tribunal concluded by unanimous decision that Cllr Heesom should be disqualified for 2 years and 6 months from being or becoming a member

of Flintshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000, with effect from 19 July 2013.

6.3.3 Flintshire County Council and its Standards Committee are notified accordingly.

6.3.4 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.

Prepared by Mr Hywel James and signed in his absence by the Registrar to the Adjudication Panel

Hywel James
Chairperson of the Case Tribunal

Date...6 August 2013..

Peter Davies
Panel Member

Susan Hurds
Panel Member