

NOTICE OF DECISION

TRIBUNAL REFERENCE NUMBER: [APW/002/2021/022/AT](#)

**APPEAL AGAINST STANDARDS COMMITTEE DETERMINATION IN
RELATION TO AN ALLEGED BREACH OF THE CODE OF CONDUCT**

APPELLANT: Councillor Richard Mainon

RELEVANT AUTHORITY(IES): Denbighshire County Council

1. An Appeal Tribunal convened by the President of the Adjudication Panel for Wales has considered an appeal by Councillor Richard Mainon against the decision of Denbighshire County Council's Standards Committee made on 11th June 2021 that he had breached Denbighshire County Council's Code of Conduct and should be suspended from being a member of Denbighshire County Council for a period of two months.

2. Denbighshire County Council Members' Code of Conduct.

a. Paragraph 2(d) of the code provides that members must observe the code of conduct at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

b. Paragraph 4(c) of the code provides that members must not use bullying behaviour or harass any person.

c. Paragraph 6(1)(a) of the code provides that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

d. Paragraph 7(a) of the code provides that members must not in their official capacity or otherwise, use or attempt to use their position improperly to confer on or secure for themselves or any other person, an advantage or create or avoid for themselves, or for any other person, a disadvantage.

3. The Standards Committee found the following facts.

a. On Saturday 8th December 2018, Mrs Sandie Grieve had a heated altercation with Ms Jayne Davies outside a local mini supermarket. Ms Davies is a constituent of the Appellant.

- b. Ms Davies phoned the local mini supermarket that evening to ask about CCTV footage of the car park and was advised the CCTV covered the car park, but it had no sound.
- c. On Monday 10th December 2018, Ms Davies established that Mrs Grieve worked for Social Care Wales (SCW) and asked Councillor Mainon for assistance with pursuing a complaint about Mrs Grieve to her employer. Councillor Mainon agreed to handle the matter for Ms Davies.
- d. On Tuesday 11th December 2018, Councillor Mainon conducted an online search for Mrs Grieve's place of work and determined an address for SCW's local office.
- e. On 11th December 2018, Councillor Mainon attended SCW's local office to determine if it was Mrs Grieve's place of work and to speak to her.
- f. On 11th December 2018, Councillor Mainon gained access to Mrs Grieve's workplace via a secure door entry. Mrs Grieve was not in the office at the time and Councillor Mainon spoke separately to three colleagues (an office colleague, her line manager and the organisation's Complaint Officer) about the altercation and shared details with them about the incident and Mrs Grieve's conduct. Councillor Mainon spoke to the office colleague in person but spoke to the line manager and Complaints Officer by telephone.
- g. On 15th December 2018 Councillor Mainon visited the local mini supermarket to ask whether the incident between Mrs Grieve and Ms Davies was recorded on CCTV.
- h. On 21st December 2018 Councillor Mainon visited the local mini supermarket and obtained information on what the CCTV footage of the incident had shown.
- i. On 21st December 2018 Councillor Mainon sent a complaint on Ms Davies' behalf to SCW about Mrs Grieve and her involvement in the altercation.
- j. SCW notified Mrs Grieve of the matter on 10th January 2019, which was subsequently dealt with according to the organisation's policy. SCW determined it was a private matter and no further action was taken.
- k. Aside from submitting that it was Ms Davies that had identified Mrs Grieve's employer, Councillor Mainon did not dispute this summary of the relevant facts.

4. The findings of the Standards Committee.

- a. The Committee was satisfied that Councillor Mainon gave the impression of acting in his capacity as a Councillor, thereby engaging paragraph 2 (d) of the Code of Conduct.
- b. The Committee found that Councillor Mainon had breached paragraph 4(c) of the Code in that his conduct in visiting Mrs Grieve's place of work and speaking to her colleagues in her absence could be considered to be bullying and harassing behaviour. The Committee had, in reaching this decision, considered the written evidence of Mrs Grieve and submissions to the effect

that she had genuinely felt stressed, vulnerable, upset and embarrassed. The Committee also considered the information provided by Councillor Mainon to the investigating officer and his submissions. The Committee accepted that Councillor Mainon had not intended to cause upset to Mrs Grieve and that he had no malicious intent when he attended her place of work. The Committee accepted that his intention was to assist Ms Davies and to avoid a damaging social media dispute in his community. The Committee did however conclude that Mrs Grieve was entitled to perceive Councillor Mainon's actions as bullying and harassing and that this conduct could reasonably be regarded as such.

c. The Committee concluded that Councillor Mainon had breached paragraph 6(1) (a) of the Code of Conduct. Councillor Mainon had given the impression to Mrs Grieve's colleagues that he was acting as a councillor in pursuit of Ms Davies' complaint. In doing so, and by visiting Mrs Grieve's place of work and speaking to her colleagues about the incident there was potential damage to the Council's reputation particularly as Councillor Mainon appeared to have accepted Ms Davies' version of events and had not sought Mrs Grieve's version of events.

d. The Committee concluded that Councillor Mainon's conduct amounted to a breach of paragraph 7(a) of the Code of Conduct. The Committee took into account Mrs Grieve's view that Councillor Mainon's actions were an effort to get her investigated and discredit her professionally. The Committee accepted that Councillor Mainon had not considered his approach to the Complainant's employer to be menacing and that his intent had been to seek to assist Ms Davies to pursue a complaint. However, the Committee concluded that in giving the impression that he was acting as a councillor in bringing to the attention of Mrs Grieve's employer a private incident, without demonstrating balance or fairness towards both parties, Councillor Mainon had attempted to use his position to cause Mrs Grieve a disadvantage.

5. The President of the Adjudication Panel for Wales gave limited permission to appeal on the following grounds. At paragraphs 9(c) and 9(d) of her decision dated 28th July 2021: -

9c. The Appellant submits that the Standards Committee did not define "bullying" or "harassment" and failed to identify a course of conduct in relation to harassment.

The decision of the Standards Committee...shows that the Committee was taken to the definition of bullying and harassment within the Ombudsman's guidance; it accurately summarises that relevant factors when dealing with allegations of bullying include the perception of the victim and the intention of the Appellant. I note that the report pack before the Standards Committee included excerpts of the Ombudsman's guidance explaining both bullying and harassment.

*The decision of the Standards Committee did not separate bullying from harassment; the two are not the same thing. The decision does not set how the Committee concluded that there was a course of conduct/repeated behaviour which constituted harassment. While the Notice sets out the activities of the Appellant towards the Complainant, which could be seen as more than one act and repeated behaviour, the Committee does not set out its conclusions in that regard to its decision; while it is likely that the Appellant's case here is not strong, I cannot say it has no reasonable prospect of success. However, the decision does set out how the Committee concluded that the Appellant's conduct could be reasonably perceived subjectively and objectively as bullying. **I do not consider this ground of appeal to have a reasonable prospect of success in respect of bullying and direct it not to be considered by the Appeal Tribunal. I do consider this ground of appeal to have a reasonable prospect of success in respect of harassment and it therefore will be considered by an Appeal Tribunal in due course.***

*9d. The Appellant goes on to dispute the Standards Committee's finding that he undertook a course of conduct which equated to harassment. For the relevant reasons given in sub paragraph c above, **I do consider this ground of appeal to have a reasonable prospect of success and it therefore will be considered by an Appeal Tribunal in due course.***

6. The President gave permission to appeal the sanction imposed in the following terms and with the following caveat.

*9k. I cannot say in all the circumstances that there is no reasonable prospect of success...as it is generally always arguable that a sanction imposed was too harsh or too lenient. This is despite the Appellant at the hearing, according to the Notice of Decision, saying that he would accept its judgment, and the evidence within the Notice of Decision that the Standards Committee considered the Sanctions Guidance. I remind the parties that if the Appeal Tribunal chooses to recommend that the sanction be reconsidered by the standards committee, the tribunal has the ability to recommend a reduction or increase in the period of suspension. **It therefore will be considered by an Appeal Tribunal in due course.***

7. A hearing was held by the Appeal Tribunal at 10am on 29th October 2021 via Cloud Video Platform. The hearing was open to the public. Councillor Mainon was represented by Mr Owain James. The Public Service Ombudsman for Wales was represented by Ms Katrin Shaw.

8. The Appeal Tribunal found by unanimous decision that between 11th December 2018 and 21st December 2018, Councillor Mainon harassed Mrs Sandie Grieve.

9. The Appeal Tribunal found by unanimous decision that thereby Councillor Mainon breached paragraph 4(c) of the Code of Conduct by harassing Mrs Sandie Grieve.

10. The Appeal Tribunal accordingly decided by unanimous decision to endorse the decision of Denbighshire County Council's Standards Committee that Councillor Mainon had breached the authority's Code of Conduct.

11. The Appeal Tribunal further determined to endorse the decision of the Standards Committee that Councillor Mainon should be suspended from being a member of Denbighshire County Council for a period of two months.

12. Denbighshire County Council and its Standards Committee are notified accordingly. The full decision report will be published on the APW website in due course.

Signed: Tom Mitchell

Date: 29th October 2021

Tom Mitchell
Chairperson of the Appeal Tribunal

Siân McRobie
Panel Member

Hywel Eifion Jones
Panel Member