

**PANEL DYFARNU CYMRU  
ADJUDICATION PANEL FOR WALES**

**DECISION REPORT**

**TRIBUNAL REFERENCE NUMBER: APW/003/2023-024/AT**

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

**APPELLANT: Former Councillor Louise Thomas.**

**RELEVANT AUTHORITY: Mumbles Community Council**

**1. INTRODUCTION**

1.1 An Appeal Tribunal convened by the President of the Adjudication Panel for Wales has considered an appeal by Former Councillor Louise Thomas against the decision of the City and County of Swansea's Standards Committee on 13<sup>th</sup> of October 2023 that;

1.1.1 Former Councillor Thomas had breached Paragraphs 6(1)(a) and 6 (1)(d) of the Code of Conduct ("the Code") of Mumbles Community Council.

1.1.2 That former Councillor Louise Thomas be formally censured pursuant to Regulation 9 of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) for breaching paragraphs 6 (1)(a) and 6 (1)(d) of the Code of Conduct.

1.1.3 That had former Councillor Louise Thomas still been a serving Community Councillor, the Standards Committee would have imposed a 6-month suspension, which is the maximum period of suspension that the Committee could impose.

1.2 A remote hearing was held by the Appeal Tribunal at 10:00 am on Thursday 14<sup>th</sup> March 2024 by Microsoft Teams. The hearing was open to the public. The appellant represented herself. The Public Service Ombudsman for Wales ("the Ombudsman") was represented by Mr Leigh McAndrew, and the Monitoring Officer for the City and County of Swansea was represented by Mr Adrian Jeremiah.

1.3 The Appeal Tribunal and the parties had a final Hearing bundle comprising 412 pages and references in square brackets are to be page numbers in the hearing bundle.

## 2. PRELIMINARY DOCUMENTS

### 2.1 Appeal Against Decision of Standards Committee

2.1.1 By a Notice of Appeal dated 21 October 2023 [368], the Appellant sought permission of the Adjudication Panel for Wales (APW), to appeal against the Standards Committee's determination of 13 October 2023 [269].

2.1.2 The Standards Committee's determination followed its consideration of a report dated 21<sup>st</sup> March 2023 by the Public Services Ombudsman for Wales under the terms of sections 69(4)(c) and 71(2) of the Local Government Act 2000, and a determination in accordance with the 'Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001'.

2.1.3 The allegations in the Ombudsman's report were that the Appellant had breached the Council's Code of Conduct in that "*complaints made by former Councillor Thomas to the Ombudsman were frivolous and, in regard to complaints made against Councillors Keeton and Erasmus, malicious and vexatious. She failed to accept the guidance provided by my officers, did not seek further guidance, and did not utilize the Council's Local Resolution Procedure, suggestive of a breach of paragraph 6 (1)(d) of the Code of Conduct*" [31,269], and "*informing a member of the public that she had covertly recorded a confidential Council meeting, and offering to play the recording to him, is likely to bring former Councillor Thomas's office and/or authority into disrepute, suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct*" [32, 269].

2.1.4 The Ombudsman concluded, after an investigation which included interviewing the Appellant on 22<sup>nd</sup> September 2022, and giving her an opportunity to comment upon the Ombudsman's draft report, that the Appellant's conduct was suggestive of a breach of the following paragraphs of the Code of Conduct;

- You must - 6(1)(a) - not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- You must- 6(1)(d) - not make vexatious, malicious or frivolous complaints against other members or anyone who works for or on behalf of your authority.

2.1.5 The Appellant attended the oral hearing of the Standards Committee on 13<sup>th</sup> October 2023 where she agreed the undisputed facts in the Ombudsman's report and agreed the previously disputed fact that Councillor Erasmus had not been present at the vote count on Friday 6<sup>th</sup> May 2022. The Appellant disputed what had previously been considered to be an undisputed fact, namely the Ombudsman's finding that she did not attend training on the Code of Conduct even though she had booked onto One Voice Wales training courses. The Standards Committee found that on the balance of probabilities that the Appellant did not attend Code of Conduct training.

2.1.6 The Standards Committee made the findings summarised at paragraphs 1.1.1 - 1.1.3 above. The Appellant appealed on 23<sup>rd</sup> October 2023, as per paragraph 2.1.1 above. The Appellant disputed that she had failed to comply with the Code, disputed various findings of fact of the Standards Committee and appealed against sanction on the grounds that “I am a magistrate and this will affect my reputation, although the magistracy have not imposed any sanctions on me, I will want to clear my name. I did what I did to prove that Mumbles Community Council were not dealing with financial matter [sic] using the appropriate channels.”

### 3. Permission to Appeal.

3.1 The President of the APW, Tribunal Judge Claire Sharp, gave permission to appeal in a Notice of Decision dated 26<sup>th</sup> October 2023 [395]. This made it clear at paragraph 17 [399], that “*the Appellant cannot challenge the factual findings of the Standards Committee or how the hearing of the Standards Committee was conducted. The findings of fact established at the standards hearing will stand.*” The President noted that she was unable to ascertain from the decision of the Standards Committee **why** they found the Appellant had made frivolous, vexatious and malicious complaints, observing “*I am unable to see any reasoning from the Standards Committee as to how it extrapolated from the findings of fact to declaring that the Code of Conduct had been breached, particularly in relation to the first allegation. It appears that the Appellant did make complaints that were factually incorrect (for example, saying someone was present at an event when they were not), but this does not mean automatically that the complaint was frivolous, vexatious or malicious.*”

3.2 The President made it clear, and highlighted in bold for emphasis, when granting permission to appeal, that “***The only ground that will proceed to the Appeal Tribunal is whether those facts establish on the balance of probabilities that the Appellant made frivolous, malicious and vexatious complaints, and whether the findings as a whole show that the Appellant breached paragraphs 6(1)(a) and 6(1)(d) of the Code of Conduct. In light of the conclusions to be reached by the Appeal Tribunal, the issue of sanction will also be reopened to allow it to consider whether a censure or no action should be recommended.***” [399]. It was therefore made clear to the Appellant that the Appeal Tribunal’s remit was limited to the narrow legal issue identified by the President and that the Appeal Tribunal was unable to re-examine the facts.

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

### 4.1 The Appellant’s Submissions

4.1.1 The Appeal Tribunal, mindful that the Appellant was representing herself, explained again at the outset of the hearing that its remit was limited to the narrow question of whether on the facts established by the Standards Committee, that the Appellant’s complaints constituted breaches of the Code and whether they were vexatious, malicious or frivolous. Notwithstanding this, the Appellant appeared not to understand this as she sought to argue that the statements relied upon by the Ombudsman lacked an evidential basis and were untruthful.

4.1.2 The Appellant argued that her complaints to the Ombudsman were not vexatious, malicious or frivolous because when she had first made a complaint about the behaviour of certain other community councillors in May 2021, the Chair of the Community council said that he was not going to get involved and he advised her to go to the Ombudsman and that she was therefore acting on advice. The Appellant also argued that her complaints were not a breach of the Code, were not frivolous, vexatious or malicious as she had evidence to back them up, although she complained that her evidence was ignored when she contacted Dr O'Neill the chair of the Community Council.

4.1.3 The Appellant also said that she had sought guidance from the Monitoring Officer by e mailing her, and the Monitoring Officer replied that she could not deal with it as Ombudsman had a complaint in process and it had to go back to the Ombudsman. The Appellant also said that the Chair and the Clerk of the Community Council had ignored her and that is why she complained to the Ombudsman.

4.1.4 With regard to the complaints that the Appellant had about the closed part of the Community Council meeting when financial matters were being discussed, she went to the Ombudsman and to the Police over her allegations of financial mismanagement, and she considered that this matter was serious and was not a frivolous etc complaint.

4.1.5 The Appellant denied that her recording of the private part of the meeting on 3<sup>rd</sup> December 2021 was a breach of the Code and submitted that she made the recording as the Community Council did not keep accurate minutes or paperwork of meetings and the recording was of a private part of the meeting. She recorded it as she felt that the general public need to know what is going on behind closed doors and she recorded it as the other councillors would say that she was lying The Appellant said that Mr Williams, whom she offered to share the recording with, was not a member of the public but a member of the project team on the skate park. The Appellant did not share the recording with him and did not make it public and so disputes that this is a breach of the Code.

## **5.2 The Ombudsman's Submissions**

5.2.1 The Ombudsman was represented by Mr Leigh McAndrew, who had also written to the APW on 15<sup>th</sup> November 2023 [282] with the Ombudsman's comments in response to the Appellant's representations and appeal [283]. The Ombudsman had relied on her report and noted that the Appellant's appeal form related to statements of fact that the Appellant had agreed at the Standards Committee hearing.

5.2.2 Mr McAndrew referred to the points made in the Ombudsman's report and that the Ombudsman has issued guidance to members of local authorities in Wales on the Model Code of Conduct, including that Community Councillors may have access to confidential or commercially sensitive information and that members should treat items discussed in the confidential sections of meetings as confidential. Mr McAndrew noted the Ombudsman's guidance that members of community councils' actions and behaviour are subject to a greater scrutiny than those of ordinary members of the public and when considering whether a member's conduct is indicative of bringing their office

or authority into disrepute, the Ombudsman will consider their actions from the viewpoint of a reasonable member of the public.

5.2.3 Mr McAndrew referred to the Ombudsman's guidance to members that they are not to make complaints against other members which are not founded in fact, and which are motivated by malice or by political rivalry. He noted that frivolous complaints can have adverse effects. Mr McAndrew referred to the two-stage test applied by the Ombudsman when deciding whether to investigate a Code of Conduct complaint. The first stage aims to establish whether there is direct evidence that a breach of the Code has occurred. The second stage involves a consideration of whether an investigation or a referral to a standards committee or the APW is required in the public interest.

5.2.3 Mr McAndrew then referred to the complaints made by the Appellant to the Ombudsman. The first complaint was dated 12<sup>th</sup> May 2021 [145-172]. This was a complaint about four councillors who were involved in the interview stage and the offer of employment to an environment officer. This did not meet the first stage of the two-stage test and the Appellant was advised to seek guidance for making complaints to the Ombudsman's office. The complaint related to the conduct of the Council as a whole and not to the individuals, all of whom were of another political party. The complaint was political in nature. Councillor Erasmus was not a member of the committee that made the decision.

5.2.4 The Appellant said that she felt bullied or ostracised, but the complaints were made after the first meeting she attended, and the Ombudsman saw no evidence that the members complained about were responsible for the matters complained about.

5.2.5 The appellant submitted three further complaints [173–197] which Mr McAndrew characterised as being about catty behaviour, and in relation to Councillor Erasmus that she had ignored the Appellant at a vote count that Councillor Erasmus was not actually in attendance at. Mr McAndrew said that the Appellant's explanation that she thought that it was someone who looked like Councillor Erasmus was not credible. He said that Councillor Erasmus found the complaints to be distressing and dishonest and these were frivolous and low-level complaints that should not have been made to the Ombudsman's office. They were not founded in fact and were based on untruths and were intended to impact negatively upon Councillor Erasmus.

5.2.6 Mr McAndrew noted that a further complaint made on 28 July 2021 [198 – 203] related to low level issues and was frivolous. This related to an email that Councillor Erasmus had sent to the Appellant [201]. The Appellant had made this complaint to the Ombudsman despite being reminded by the Ombudsman not to make low level or frivolous complaints to the Ombudsman's office.

5.2.7 The eighth complaint was against Councillor Sara Keeton and the Appellant complained that she was not being asked to get involved and felt excluded from the organisation of family fun days and that Councillor Keeton had said that she did not trust the Appellant. [204 – 215]. Mr McAndrew again characterised this as being a low-

level personal issue and that the Appellant had targeted her concerns about the Council as a whole at Councillor Keeton.

5.2.8 The ninth complaint [216-222] was made before Christmas 2021 against Councillor Keeton. This complaint to the Ombudsman referred to an official complaint that the Appellant had made to the legal department over the council being asked to vote upon a sum of money to be paid to the company constructing the skate park. Mr McAndrew said that the timing and content of that complaint did not relate to Councillor Keeton and the complaint was personal. He said that the Appellant was by then familiar with the Ombudsman's process and knew that the complaint would be shared with Councillor Keeton upon receipt. Mr McAndrew said that as a result of the Appellant's conduct the Ombudsman has now changed its processes so that the subject of the complaint will only be notified that a complaint has been made when the Ombudsman has decided that it passes the two-stage test and will go forward.

5.2.9 Mr McAndrew said that the complaints made by the Appellant to the Ombudsman were overwhelmingly related to personal matters and mentioned the political party of the councillors complained about. The Appellant persisted in making complaints to the Ombudsman's office. She had failed to consider the impact of her complaints upon others. Frivolous and vexatious complaints have a negative impact upon those complained about but also take resources away from the Ombudsman's office. The Appellant should have used the local resolution procedure and not complained to the Ombudsman.

5.2.10 Mr McAndrew referred to an email to the Ombudsman's office from the clerk to the Mumbles Community Council sent on 20 February 2022 [69] which confirmed that the Appellant told the clerk that she had already written to the Ombudsman on the night of her first council meeting and that he had explained the purpose of the Local Resolution Procedure but the Appellant had never subsequently engaged with it. Mr McAndrew noted that the Appellant had disputed during the hearing what she had previously said at interview. He said that she had not followed the guidance and the local resolution procedure, and it was extremely unusual for a councillor to make complaints about other members. He submitted that her complaints were frivolous and those against Councillors Keeton and Erasmus were frivolous and vexatious as she had not followed the Ombudsman's guidance and the resolution procedures.

5.2.11 Mr McAndrew noted the evidence gathered from the Appellant at interview with the Ombudsman was that she had not sought guidance, and he described the email from the clerk to the council which confirmed that as 'compelling'. She had told the Appeal Tribunal something different today. The monitoring officer Tracey Meredith had also confirmed in an email on 16 February 2022 [87] that the Appellant had not approached her for guidance on making code of conduct complaints against fellow members.

5.2.12 Mr McAndrew submitted that the Appellant's conduct was suggestive of a breach of paragraph 6 (1) (d) and a reasonable member of the public would be likely to consider that the misuse of the complaints procedures was suggestive of a breach of paragraph 6(1)(a), as was covertly recording a confidential part of the meeting and offering to play that recording to a member of the public. That was likely to bring the authority into disrepute.

## **6. Appeal Tribunal's decision.**

6.1 The Appeal Tribunal find that the facts found by the Standards Committee do establish on the balance of probabilities that the Appellant made frivolous, malicious and vexatious complaints, and that the findings as a whole show that the Appellant breached paragraphs 6(1)(a) and 6(1)(d) of the Code of Conduct.

6.2 The case Tribunal reminded itself of the nine complaints made by the appellant.

6.2.1 The first three complaints were made by the Appellant to the Ombudsman on the 12<sup>th</sup> May 2021. This was the day after she attended her first council meeting on the 11<sup>th</sup> May 2021 and two days after she signed her Declaration of Acceptance of office on 10<sup>th</sup> May 2021. She complained about three fellow councillors, Councillors Townsend-Jones, Keeton and Erasmus who she said had been involved in the interview stage and were involved in offering employment to the new environment officer. The Appellant complained that all of the members of the Community Council should have been involved in this decision. The Appellant's letter of complaint to the Ombudsman [151] says "I am not in the habit of making complaints, but given this was my first meeting as a new local councillor I felt compelled to speak out." The Ombudsman responded to the Appellant on 26<sup>th</sup> May 2021 by letter explaining the two-stage procedure, referring the Appellant to the Council, to Audit Wales, to the Ombudsman's own guidance and to the Monitoring Officer for advice prior to submitting any complaints.

6.2.2 The day that the Ombudsman's letter had been sent to the Appellant, on the 26<sup>th</sup> May 2021, she made three further complaints to the Ombudsman (complaints four to six) about Councillors Townsend-Jones, Keeton and Erasmus. These related to them ignoring her at a vote count, that they had displayed 'catty' behaviour during the council's annual general meeting and made inappropriate posts on social media and comments on whatsapp.[179-180]. The Ombudsman's office wrote to the Appellant on 9<sup>th</sup> July 2021 with detailed reasons for not investigating the complaints which had failed to pass the two-stage test and pointing out that in the case of Councillor Erasmus, she had not been at the vote count in question.

6.2.3 On 28<sup>th</sup> July 2021 the Appellant complained to the Ombudsman (seventh complaint) about an e mail sent to Councillors by Councillor Erasmus in response to an email from the Appellant. This e mail was sent by Councillor Erasmus on the 28<sup>th</sup> July 2021 noting that she had been the subject of two complaints to the Ombudsman from the Appellant and that she did not trust her. [201]. The Ombudsman responded on the 6<sup>th</sup> August 2021[202-203] again explaining the two-stage test and why the complaint would not be investigated.

6.2.4 On the next day, 29<sup>th</sup> July 2021, the Appellant complained to the Ombudsman (eighth complaint) about Councillor Keeton alleging that Councillor Keeton had excluded her from involvement in the organisation of family fun days and that Councillor Keeton had said that she did not trust the Appellant in an e mail that was sent to the whole council. The Ombudsman wrote to the Appellant on 25<sup>th</sup> August

2021[214] again reiterating the two-stage test and giving clear reasons for the complaint not being investigated. The Ombudsman pointed out that this was the eighth complaint that the appellant had made to the Ombudsman, none of which had been taken forward, and that the complaints largely related to personal issues between the Appellant and other members of the Council. The Ombudsman's letter suggested that the Appellant familiarise herself with the Code of Conduct and to take advice from her clerk, the Monitoring Officer or One Voice Wales before submitting any further complaints to the Ombudsman, and that she may be able to obtain training on Code of Conduct matters.

6.2.5 The ninth complaint was made by the Appellant to the Ombudsman about Councillor Keeton on 20<sup>th</sup> December 2021[217-220]. This complaint related to what the appellant described as a 'secret finance meeting' that she had attended. She mentioned Labour councillors, but the complaint did not attribute any matters to the individual conduct of Councillor Keeton, as the Ombudsman pointed out by letter to the Appellant on 29<sup>th</sup> January 2022. The Ombudsman declined to investigate the complaint and noted that the actions complained of related to a decision of the Council as a whole.

6.3 The Appeal Tribunal carefully considered the submissions and the findings of fact before it. The Appeal Tribunal finds that the first three complaints by the Appellant were frivolous because they were made the day after she had attended her first meeting. She essentially complains to the Ombudsman about a decision of a council committee on which three councillors from a different political party sit. The Appellant alleges a breach of paragraph 4 (b) of the Code, failure to show respect and consideration to others as a result of a decision of a council committee to offer employment to an individual. The Appeal Tribunal notes that the Appellant draws attention to the fact that she was a new Councillor at this point, and in essence pleads ignorance in her defence.

6.4 The Appeal Tribunal finds that the Appellant's approach has been contradictory. On the one hand she has stated that she was a new councillor, and the first complaints were made after her first meeting as a new local councillor [151]. On the other hand, the Appellant has stressed in written submissions and orally that she sits as a Magistrate, and she has drawn attention to her former career in the Police force. For example, in her written complaint to the Ombudsman (complaints four to six) on 26<sup>th</sup> May 2021 [193] she says "I am an ex police officer and worked as a Beat manager dealing with local issues and attending local council meetings I have never come across such hostility in my life." In her interview with the Ombudsman on 21<sup>st</sup> September 2022, the Appellant said [122] "...I'd already complained to the Chair about the treatment I was receiving from 3 said Councillors...I'm an ex-police officer, so I understand how to conduct yourself in a .. public office, and I regarded what they were like towards me as bullying. And I mentioned it to Steve Haydon.... the clerk... and he was very supportive... but it just carried on."

6.5 Mr McAndrew asked the Appellant at interview if she had spoken to the Monitoring Officer or sought any further guidance from the clerk to the Community Council, Steve Haydon and she replied "I didn't need to, to be honest, with my background... I know how it works and... I've seen how it works actually in... the other councils as well, so um, yeah, I don't need to seek guidance, I know exactly what's going on and I know



that I'm going to be made a scapegoat for something that should have been addressed."

6.6 Mr McAndrew asked the Appellant at interview if she knew about the Community Council's Local Resolution Procedure and she answered "Oh, don't bother. I know they've got a so-called resolution in place" but she considered that the Chair had been railroaded by these Councillors that she had complained about and "...it's just a little tick exercise, it means nothing." [124].

6.7 The Appeal Tribunal finds that the first three complaints were frivolous not just because of the subject matter of the complaints, but because they were made precipitously by the Appellant without her taking any advice about the Code of Conduct and its operation, and because she had not followed procedures such as the Local Resolution Procedure. The complaints were about a decision of the Council and not about the behaviour of the three individuals complained about. In the letter that the Appellant wrote to the Ombudsman on 26<sup>th</sup> May 2021 (in support of her fourth, fifth and sixth complaints) [179] she referred to her concerns that the three councillors complained of had ignored her in the Brangwyn Hall during the vote count in her first meeting (on 11<sup>th</sup> May) and that she had, on 12<sup>th</sup> May 2021, discussed her complaint with an anonymised person. The Appellant says, "that given my vast experience of bullying in the workplace, I was going to follow procedures and raise a formal complaint." The Appellant did not follow procedures. Had she done so, the Local Resolution Procedure is unlikely in any event to have been able to resolve the matter within a day. She complained to the Ombudsman, in ignorance of the Ombudsman's two stage test, on the 12<sup>th</sup> May 2021, the day after the meeting. She complained about three members of an opposition party to whom it was clear from her letter of the 26<sup>th</sup> May 2021 that she had taken a dislike and had found to be rude. The substance of the complaint was about the decision of a committee, but the Appellant only complained about the three Labour councillors. The Appellant said that she believed that the chair of the Community Council had taken her complaint seriously because of an e mail sent round on 13<sup>th</sup> May 2021 entitled "Ground Rules" [180], but her complaint to the Ombudsman was made on 12<sup>th</sup> May before she was aware of what action, if any the Community Council would take. Taken together, the Appeal Tribunal find that these matters, and the subject matter of the complaint, make the first three complaints frivolous.

6.8 The remainder of the complaints were vexatious, malicious and frivolous. The next three complaints were made on the same day, 26<sup>th</sup> May 2021, that the Ombudsman's letter was sent to the Appellant refusing to investigate the first three complaints. The Ombudsman's letter gave information about the Ombudsman's test, the Ombudsman's guidance, that the Appellant should address any concerns to the Council, to Audit Wales on financial matters and to seek guidance from the Monitoring Officer. The Appellant's attitude to the Ombudsman's Guidance, the Monitoring Officer and the Resolution Procedure are set out in paragraphs 6.5- 6.7 above. The Appellant told Mr McAndrew in interview [123] that she had considered the Ombudsman's Guidance ("Oh yeah, yeah, I considered it absolutely") after making the first three complaints and before making the subsequent complaints. As noted above, she said that she did not need to seek guidance from the Clerk to the Community Council and she had not spoken to the Monitoring Officer.[123]

6.9 The fourth to sixth complaints were vexatious and malicious because they were made despite, on the Appellants own evidence, her having considered the Ombudsman's guidance yet completely failed to follow it. Councillor Erasmus had not even been at the vote count as the Appellant later accepted, and yet she had complained about her behaviour there. Councillor Erasmus had not been part of the Committee that made the decision that was the subject of the first complaint. The Appellant was aware of the local resolution procedure and the availability of seeking advice from the Monitoring Officer. She did not pursue either course because, on her own account, she did not need to do so because of her knowledge of how councils work. The Appellant talks, in her complaint of the 26<sup>th</sup> May 2021, of ongoing bullying when, on the evidence, it appears that she had only attended at one meeting and in any event had only been a community councillor for 16 days.

6.10 The seventh, eighth and ninth complaints likewise were vexatious and malicious. Having been informed by the Ombudsman of the two-stage test and that she should seek advice and training on the Code of Conduct, the Appellant simply ignored that advice and behaved as if it had not been given. In the process, the Appellant obliged the Ombudsman to spend time and resources on vexatious complaints. A vexatious complaint is one made without sufficient grounds, especially one made so as to cause annoyance or embarrassment. In making complaints about breaches of the Code of Conduct whilst professing to have read the Ombudsman's Guidance on the Code and having been specifically advised about the two-stage procedure yet continuing to make complaints against political opponents that clearly and obviously do not meet that test, the Appellant was behaving vexatiously and maliciously. To suggest, as the Appellant does, that the Ombudsman should investigate e mails for example, which say that the sender does not trust the Appellant as she has already complained to the Ombudsman, and that the Ombudsman should investigate alleged 'catty' behaviour betrays an ignorance of what is in the public interest and what would be an appropriate use of the Ombudsman's resources.

6.11 The Appellant made the nine complaints when she had received no training on the Code of Conduct, but she had been advised to attend training and been given the information about enrolling on various courses. The Appellant told the Appeal Tribunal that she thought that she had attended on a training course, that she had set it up and because she had "so much going on", including going back and forth to the Ombudsman, the chair and clerk of the Community Council, she ultimately accepted that she was mistaken and had not been on the course. The Appellant told Mr McAndrew in interview on 21<sup>st</sup> September 2022 that she did not undertake any training on the Code of Conduct because she works full time and "I just didn't have the capacity to go on these courses..... I'm quite busy at work." [121]. The Appellant told the hearing of the Standards Committee on 13<sup>th</sup> October 2023 ".. that she had attended a training event which was held remotely around June 2021. Former Councillor Thomas could not provide confirmation as to who the provider of the training event was, the date of the training or a certificate to confirm she had passed the training." [Paragraph 4.4, 388]. The Standards Committee found as a fact, binding on this Appeal Tribunal, that the Appellant had not attended Code of Conduct training.

6.12 The Appellant said in an e mail to Mr McAndrew on 4<sup>th</sup> January 2022 [228] "May I remind you that I never lie about anything....". The Appeal Tribunal notes that the

Appellant gave three different, irreconcilable accounts about her attendance or not at Code of Conduct training. The Appeal Tribunal found that the Appellant's explanation for maintaining before the Standards Committee and initially before the Appeal Tribunal, that she had attended at Code of Conduct training, to be entirely lacking in credibility. It beggars belief that, during the period (May to July 2021) when she was involved in making numerous complaints to the Ombudsman, was in frequent correspondence with the Ombudsman's office, and had been advised to attend training on the Code, that she would simply have forgotten that she had not attended on a course and mistakenly believe that she in fact had attended despite not being able to provide any evidence of attendance such as e mails, receipts, certificates or course materials. The Appellant had initially maintained this stance at the tribunal hearing despite her attention being drawn to the answer that she gave to the Ombudsman in interview that she had not attended training, and despite her being reminded of the factual findings of the Standards Committee.

6.13 The Appeal Tribunal finds that the ninth complaint against Councillor Keeton, was vexatious and malicious for the following reasons. There was nothing in the complaint that related to the conduct of Councillor Keeton personally and it was made just before Christmas which caused Councillor Keeton additional distress. This complaint was made when the Appellant had been repeatedly reminded of the appropriate tests for the Ombudsman to investigate an allegation, reminded of the need to undertake training and had been signposted to various sources of advice including the Ombudsman's own guidance, the Monitoring Officer and the Clerk to the Council. The Appellant did not seek advice or follow any of the guidance available to her before making the ninth complaint.

6.14 The Appeal Tribunal accepts Mr McAndrew's submissions on why the complaints breach the Code and reject the submissions of the Appellant. Save for the very limited way in which the Appellant communicated with the Chair and clerk of the Community Council when making her first three complaints on May 12<sup>th</sup>, the day after the first meeting that she attended, she has been unable to point to any other evidence to show that she sought advice before making the remainder of the complaints.

6.15 The Appellant has always accepted that offering to play the recording of the meeting to a member of the public was a breach of the Code. Mr McAndrew asked the appellant in interview on 21<sup>st</sup> September 2022 [131] "So...when you offered to share that with him, you were aware at the time that might be a breach of the Code?" and she replied "Oh, I knew it was a breach. Of course, absolutely, I know what I've done." The Appeal Tribunal find that, as suggested by the Ombudsman in her report at paragraphs 74 and 76 of her report,[32] that offering to play the covert recording of a confidential section of the Council meeting to Mr Jason Williams shows that the Appellant was willing to breach the Code of Conduct "knowingly and flagrantly which is of significant concern" and that "informing a member of the public that she had covertly recorded a confidential Council meeting, and offering to play the recording to him, is likely to bring Former Councilor Thomas' office/and or authority into disrepute." The Appeal Tribunal accept those reasons and find that accordingly the offer to play the recording was a breach of paragraph 6(1)(a).

## **7. Third Stage - (Action to be taken)**

7.1 Having found that the Appellant had breached the Code of Conduct, the issue of sanction is reopened for the Appeal Tribunal to consider whether to recommend a censure or no action. The Appeal Tribunal invited submissions on sanction from the Ombudsman, the Monitoring Officer and the Appellant.

### **7.2 Ombudsman's submissions on sanction.**

7.2.1 Mr McAndrew submitted that the breaches were significant and serious and do not warrant a finding that there should be no sanction and that the purpose of a sanction is to provide a disciplinary response to an individual member's breach of the Code, to deter future misconduct and to promote a culture of compliance to maintain confidence in local democracy.

7.2.2 Mr McAndrew suggested that the mitigating factors are that the Appellant was inexperienced, that she has co-operated throughout with the Ombudsman's investigation and there are no previous findings of breaches against her.

7.2.3 The aggravating factors include that she has sought to blame others for her breaches of the Code, there have been repeated breaches despite guidance and warnings from the Ombudsman, there has been dishonesty regarding the complaints made, she has failed to attend training on the Code, has deliberately or recklessly ignored advice and refused to accept the facts despite clear evidence to the contrary. The breaches warrant a censure and offering to play the recording is so serious as to warrant a censure.

### **7.3 Monitoring Officer's submissions on sanction.**

7.3.1 Mr Jeremiah, on behalf of the Monitoring Officer, confirmed that there had been no previous breaches of the Code of Conduct by the Appellant and referred to the Standards Committee's views on aggravating and mitigating factors as set out in paragraphs 6.4 and 6.5 [272] of the Committee's decision report of the hearing on the 13<sup>th</sup> October 2023. For completeness, the Appeal Tribunal note that the aggravating factors noted by the Standards Committee were the effects that the complaints had on others, the lack of reflection, the absence of attending training on the Code, the failure to take advice from the Clerk or the Chair of the Council and the failure to use the Local Dispute Resolution Procedure, and that there was some element of planning in recording the confidential committee meeting.

7.3.2 The mitigating factors were as per the Ombudsman's submissions and that the Appellant may have genuinely held concerns as to what was going on at the Council.

## **8. The Appellant's submissions on sanction.**

8.1.1 The Appellant did not make any formal submissions on sanction, but she maintained that the statements taken by the Ombudsman were all lies, and she said that she wanted to complain about those statements. She said that she understood that the Police are investigating the Mumbles Community Council and that she was angry and felt let down by the whole complaints process.

## **9. Appeal Tribunal's decision on sanction.**

9.1 The Appeal Tribunal had regard to the submissions made and to the Sanctions Guidance ("the Guidance") issued by the President of the Adjudication Panel for Wales under section 75(10) of the Local Government Act 2000.

9.2 The Appeal Tribunal followed the five-stage process set out in the Guidance and first assessed the seriousness of the breaches of the Code. The breaches are serious- the complaints made by the Appellant were frivolous, vexatious and malicious. The offer to share a recording of the confidential part of a Council meeting with a member of the public was serious. There were nine complaints made by the Appellant to the Ombudsman, in breach of the Code of Conduct, over a seven-month period.

9.3 The consequences of the breaches for others were to cause them significant upset over trivial and low-level allegations. The Appeal Tribunal endorses the comment of the Ombudsman in her report at paragraph 69 [31]; "Despite clear direction from my officers, Former Councillor Thomas persisted in making low level, frivolous complaints about her fellow members to my office. Not only do frivolous and vexatious complaints have a negative impact on those being complained about and the Council, but they also create significant work for my office and take resources away from dealing with serious complaints." The Appeal Tribunal notes that the Ombudsman has now changed its processes in terms of notifying the subject of a complaint when a complaint has been made, as a direct result of the distress caused to the objects of the Appellant's complaints in this case.

9.4 The mitigating factors are that the Appellant was a new councillor, and that she fully co-operated with the Ombudsman, the Standards Committee and with the APW. However, the fact that the Appellant was a new councillor offers relatively limited mitigation in the light of her evidence that she understood how council's work from her former work as a police officer.

9.5 The Appeal Tribunal accepts that the aggravating factors are as set out by the Ombudsman and the Monitoring Officer's representative. The Appeal Tribunal found that there are significant aggravating factors. The Appellant knew that making a recording and offering it to others was a breach of the Code. The Appellant has blamed others as a justification for her own behaviour. She has deliberately ignored the advice and guidance from the Ombudsman and has failed to seek advice from the clerk, the Monitoring Officer or One Voice Wales. She failed to attend training on the Code and has behaved recklessly with little or no concern for the Code.

9.6 It is a troubling feature of the Appellant's conduct in this case, that despite her stressing her work as a Magistrate and her former career as a Police officer familiar with the workings of councils, that she ignored the advice given to her and was unable or unwilling to grasp what was required for a complaint to be investigated by the Ombudsman. The Appellant continues to deny the facts despite the clear evidence to the contrary and refuses to accept that she has done anything wrong. Indeed, the Appellant told the Appeal Tribunal that she was going to make a further complaint to the Ombudsman about the statements taken.

9.7 The Appellant has had the remit of this case tribunal and the limitations of the appeal, explained to her in the permission to appeal reasons by the APW President, in e mail correspondence with the APW before the hearing, and at length at the outset of this hearing. Despite that, the Appellant sought, yet again, to dispute established facts and demonstrated a worrying lack of insight into this process. She seemed to be unable to appreciate that this hearing was about her conduct and previously established breaches of the Code and was not about the alleged conduct of others. She has been unable to reflect on her own conduct and throughout has exhibited a grandiose attitude to the Ombudsman's guidance and the Local Resolution Procedure, stating, in terms, that she knows and understands it all while proceeding to act in a manner that demonstrates the opposite.

9.8 The Appeal Tribunal makes allowances for the Appellant being a litigant in person and not being a lawyer. However, she is a former police officer, and she is a current Magistrate. She has repeatedly stressed this. She has worked, and apparently continues to work therefore in areas where a basic appreciation of procedural rules and the law is essential. Yet, throughout this case and process, the Appellant has repeatedly demonstrated a lack of that basic appreciation, an inability to take and follow advice, poor judgement, inflexible concrete thinking and a refusal to accept that she has done anything wrong. She is entirely lacking in remorse.

9.8 The Appeal tribunal's decision is to endorse the decision of the Standards Committee that;

9.8.1 Former Councillor Thomas had breached Paragraphs 6(1)(a) and 6 (1)(d) of the Code of Conduct of Mumbles Community Council.

9.8.2 That former Councillor Louise Thomas be formally censured pursuant to Regulation 9 of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) for breaching paragraphs 6 (1)(a) and 6 (1)(d) of the Code of Conduct.

9.8.3 That had former Councillor Louise Thomas still been a serving Community Councillor, the Appeal Tribunal would have recommended that the Standards Committee impose a 6-month suspension, which is the maximum period of suspension that the Committee could impose.

10. The Authority and its Standards Committee are notified accordingly.

Signed...*R. Payne*..... Date 25<sup>th</sup> April 2024  
Tribunal Judge Richard Payne  
Chairperson of the Appeal Tribunal

Sian McRobie  
Panel Member

Dean Morris  
Panel Member