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The investigation of complaints
against
Councillor Brian Jones
of
Porthcawl Town Council

A report by the
Public Services Ombudsman for Wales
Cases: 202201160 & 202201353

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Introduction

Report by the Public Services Ombudsman for Wales on the investigation of 2 individual complaints made against Councillor Brian Jones of Porthcawl Town Council, of breaches of the Council's statutory Code of Conduct for Members

This report is issued under section 69 of the Local Government Act 2000.

Summary

The Ombudsman investigated 2 complaints made by a member of the public (“the first complainant”) and the Former Clerk (“the second complainant”) to Porthcawl Town Council (“the Town Council”) about a Member (“the Member”) of the Town Council.

It was alleged by the first complainant that the Member had used racial slurs and disrespectful language towards other members of the Town Council on social media.

It was alleged by the second complainant the Member had used disrespectful language towards the Former Clerk on social media and had refused to apologise at a Town Council meeting.

The Ombudsman found that the Member had used a racial term in an exchange on social media which was directed at a member who was of ethnic origin. Whilst the Member said this was the result of a predictive text error, the Ombudsman found the likelihood of this was low. The Ombudsman considered that the Member’s conduct may amount to breaches of paragraphs 4(b) (respect and consideration), 4(c) (bullying and harassment) and 6(1)(a) (disrepute) of the Code of Conduct.

The Ombudsman also found that the Member had made an inappropriate and uncalled for post about the Town Council and the Former Clerk in an exchange on social media and that he had refused to apologise at a Town Council meeting. In his response to the Ombudsman’s investigation the Member said he stood by his comments. The Ombudsman considered that the Member’s conduct may amount to breaches of paragraphs 4(b), 4(c) and 6(1)(a) of the Code of Conduct.

During the course of the investigation the Ombudsman also found that the Member had disclosed information about the investigation to a third party, and in doing so had failed to comply with the Ombudsman’s requests regarding the need for privacy and the requirement to maintain confidentiality, which may be suggestive of a breach of paragraph 6(2) (complying with requests) of the Code of Conduct.

The Ombudsman concluded that the Member's conduct may amount to a breach of paragraphs 4(b), 4(c), 6(1)(a) and 6(2) of the Code of Conduct and referred the matter to the Monitoring Officer of Bridgend County Borough Council for consideration by its Standards Committee.

The Complaints

The first complaint

1. On 23 May **2022**, my Office received a complaint from a member of the public, Mr Scott Daly (“the first complaint”), that Councillor Brian Jones had failed to observe the Code of Conduct for Members of Porthcawl Town Council (“the Town Council”). It was alleged that Councillor Jones had used racial slurs and disrespectful language towards other members of the Town Council on social media. A copy of the first complaint and supporting information is attached at Appendix 1.

The second complaint

2. On 31 May 2022, my Office received a complaint (“the second complaint”) from the Former Clerk to the Council, Mrs Kerry Grabham, (“the Former Clerk”) that Councillor Brian Jones had failed to observe the Code of Conduct for members of the Town Council. It was alleged that Councillor Jones had used disrespectful language towards the Former Clerk on social media and had refused to apologise at a Town Council meeting. A copy of the complaint and supporting information is attached at Appendix 2.

Legal background and relevant legislation

3. As required by Part III of the Local Government Act 2000 (“the Act”), the Council has adopted a Code of Conduct for Members which incorporates the provisions of a Model Code contained in an order made by the Welsh Ministers. A copy of that Code is at Appendix 3. Town Council members are required to sign an undertaking that, in performing their functions, they will observe the Town Council’s Code of Conduct. Councillor Jones gave such undertakings on 8 May **2017** and 12 May 2022. Copies of those declarations are attached at Appendix 4.

4. Section 69 of the Act provides the authority for my investigation and the production of this report.

5. Section 69B(2) of the Act provides that an investigation (conducted under Section 69) must be conducted in private.

6. Additionally, Section 69E of the Act provides that information obtained in the exercise of my functions under Part III may only be disclosed in specific circumstances, these being:

- a. to enable the performance of my function under Parts III (Investigations) and IV (Adjudications)
- b. to enable the performance of the functions of the Adjudication Panel for Wales
- c. for the purpose of criminal proceedings or the investigation of a criminal offence
- d. to enable the performance of the functions of the Auditor General
- e. to enable the performance of the functions of the Electoral Commission

7. The Town Council's Code of Conduct incorporates the mandatory provisions of the Model Code of Conduct for Wales, which is consistent with 10 core principles of conduct, derived from the Nolan Principles for Public Life:¹

- i. Selflessness
- ii. Honesty
- iii. Integrity and Propriety
- iv. Duty to Uphold the Law
- v. Stewardship
- vi. Objectivity in Decision-making
- vii. Equality and Respect
- viii. Openness
- ix. Accountability
- x. Leadership

¹The Conduct of Members (Principles) (Wales) Order 2001 SI 2001 No. 2276 (W.166)

8. Part 2 of the Model Code of Conduct² provides that Members must observe the Code:

- a) whenever they conduct the business, or are present at a meeting, of their authority
- b) whenever they act, claim to act or give the impression they are acting in the role of member to which they were elected or appointed
- c) whenever they act, claim to act or give the impression they are acting as a representative of their authority or
- d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

9. Article 10 of the European Convention on Human Rights (“ECHR”) was brought into effect in UK law by the Human Rights Act 1998. It provides that:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions and penalties as are prescribed by law and are necessary in a democratic society...for the protection of the reputation or rights of others”.

10. Enhanced protection of freedom of expression applies to political debate, including at local government level. Article 10 has the effect of permitting language and debate on questions of public interest that might, in non-political contexts, be regarded as inappropriate or unacceptable. This protection does not extend to gratuitous or personal comment.

²The Model Code of Conduct prescribed by the Local Authorities (Model Code of Conduct) (Wales) Order 2008 as amended.

11. If behaviour is considered to be in breach of the Code of Conduct, any restriction to a Member's freedom of expression must be proportionate and justified in the circumstances of any case. Restriction of a Member's freedom of expression is more likely to be justified, the more egregious the conduct is.

12. Case law - *Sanders v Kingston* [2005] England and Wales High Court ("EWHC") 1145, which set out a 3-stage test as follows:

- (i) Did the Member's conduct breach a Paragraph of the Code of Conduct?
- (ii) Would the finding, in itself, comprise of a prima facie breach of Article 10?
- (iii) If so, would the restriction involved be one which was justified by reason of the requirements of Article 10(2)?

13. Case law - *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin) ("Heesom"):

"Civil servants are, of course, open to criticism, including public criticism;... it is in the public interest that they are not subject to unwarranted comments that disenable them from performing their public duties and undermine public confidence in the administration. Therefore, in the public interest, it is a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, that adverse effect on good administration."

As local authorities are corporate bodies, individual councillors are "quasi-employers" of officers employed by their authorities. As such, there is a mutual bond of trust and confidence between councillors and their officers.

My investigation

14. Having considered the complaints as made to me, I concluded that it was appropriate to investigate whether Councillor Jones had failed to comply with any of the following provisions of the Code of Conduct:

- 4(b) – Members must show respect and consideration for others.
- 4(c) – Members must not use bullying behaviour or harass any person.
- 6(1)(a) – Members must not conduct themselves in a manner which could reasonably be considered as bringing their office or authority into disrepute.

15. Councillor Jones was informed of my intended investigations (which explains that my investigations are conducted in private and the requirement for confidentiality) on 7 July 2022. He was reminded on 6 November 2023 and 27 February 2024 about the restrictions on the disclosure of information concerning my Office’s investigations. (Appendix 5).

16. It subsequently became apparent during my investigations that Councillor Jones may also have failed to comply with the following further provision of the Code of Conduct:

- 6(2) – Members must comply with any request of their authority’s monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

17. During the investigations, my Investigation Officer obtained additional information and copies of relevant documents from the Town Council (Appendix 6) and from the “Facebook” social media channel (Appendix 7). The following witnesses were interviewed:

- Mrs Kerry Grabham, the Former Clerk

- Ms Ceri John, the Deputy Clerk
- Councillor Neelo Farr - Member of the Town Council and Bridgend County Borough Council

Copies of all witness statements are attached at Appendices 8 - 11.

18. The evidence found during the investigations was shared with Councillor Jones, enabling him to review it before responding to the questions which were put to him during 2 online interviews via Microsoft Teams on 17 November 2023. Transcripts of the interviews are included at Appendices 12 and 13.

19. Councillor Jones read a statement at each interview. Following the interviews Councillor Jones provided copies of the statements and further written submissions and supporting documentation (Appendices 14 - 18).

20. I have given Councillor Jones the opportunity to comment on a draft of this report which included my provisional views and findings arising from the investigation. Councillor Jones provided a response to the draft report (including supporting statements from third parties) which is available at Appendix 19.

My guidance on the Code of Conduct

21. My predecessor issued Guidance for Members of Town and Community Councils in Wales on the Model Code of Conduct (“the Guidance”). I include at Appendix 20 extracts of the Guidance which are relevant to this complaint, and which were in place at the time of the events.

Events

22. Prior to the local elections on 5 May 2022, Councillor Jones was a Member of both Bridgend County Borough Council (“BCBC”) and the Town Council. Councillor Jones’ BCBC ward was expanded to 2 members for the May 2022 election. At the election Councillor Jones was not

re-elected to BCBC and the relevant seats were won by Councillor Farr and Councillor Graham Walter. Councillor Jones retained his seat on the Town Council.

23. At the election Councillor Farr and Councillor Jonathan Pratt were both elected to BCBC and the Town Council. Following the election, Councillor Farr became BCBC's Cabinet Member for Regeneration with a portfolio encompassing local development in Porthcawl. At the time of the incident complained about she was the only BCBC Cabinet Member on the Town Council.

24. Councillor Jones has been a member of the Town Council since **2012**. He was re-elected to the Town Council in May 2017 and May 2022. He served as Mayor and the Former Clerk's Line Manager from May 2020 to May **2021**.

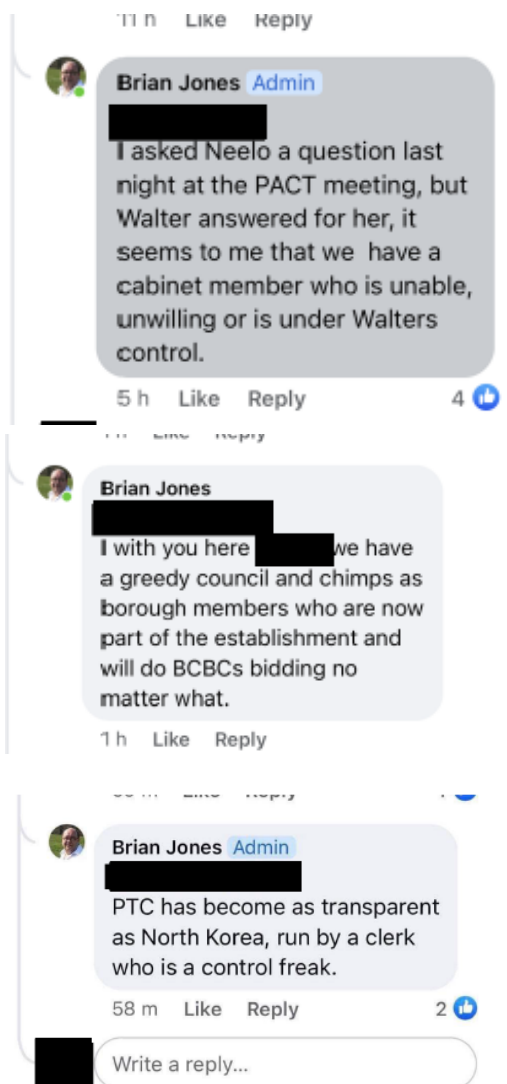
25. Councillor Jones undertook training on the Code of Conduct in **2020** and **2023**. He was provided with a copy of the Town Council's Social Media policy in 2021 and received Social Media training in 2022/23.

26. At the time of the events complained of, Councillor Jones was a member of a private Facebook group called "Porthcawl Residents" ("the Porthcawl Residents Facebook Group"). The group was created in May 2021 and currently has 1700 members. Councillor Jones was also a member of another private Facebook group called "A Voice for the Future - Porthcawl" ("the Voice for the Future - Porthcawl Facebook Group"). This group was created in July 2021 and currently has 1000 members.

27. The Former Clerk joined the Town Council on 8 February 2021. An external auditor was appointed in May 2021 to undertake an internal audit for the Council's 2020/2021 financial year. At a full Town Council meeting on 29 June 2021 the Town Council noted the contents of the internal audit report ("the Report"), which outlined irregularities in the Town Council's financial governance, and resolved to accept its recommendations. The Report was published on the Town Council's website in July 2021. Councillor Jones and some other members of the Town Council disputed the Report's content and publication; however, it remains on the Town Council's website.

28. Audit Wales informed the Town Council in early 2021 that it would be undertaking an in-depth audit of the Town Council (not yet concluded). Audit Wales subsequently referred matters to the Police, who carried out an investigation between 2021 and 2022. In order to assist Audit Wales and the Police with their enquiries, the Former Clerk was required to provide information on behalf of the Town Council to both bodies, whilst also undertaking her role for the Town Council. During this period, the Former Clerk took sick leave due to work-related stress.

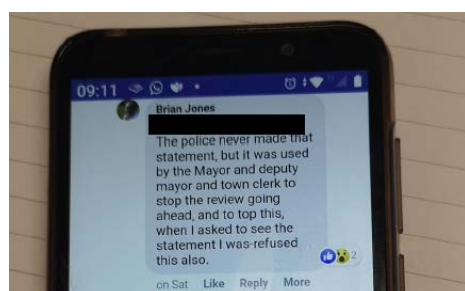
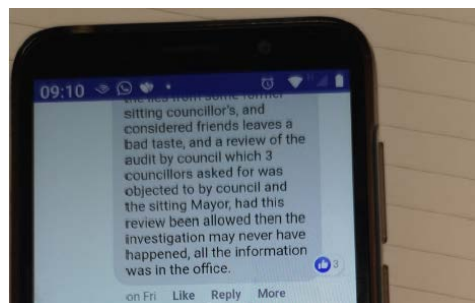
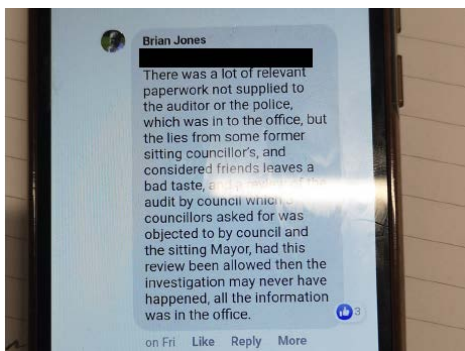
29. On or around 19 May 2022, Councillor Jones had online exchanges with members of the Porthcawl Residents and Voice for the Future - Porthcawl Facebook Groups during which he made the following comments:



(Appendix 1 Pages 5 to 8)

30. At a special meeting of the Town Council on 30 May 2022 (under Item 6 - Social Media), the Mayor advised the meeting that unacceptable and insulting comments had been posted on social media platforms. The minutes record that the Former Clerk was extremely disappointed and upset to learn of the comments, and several Councillors shared their concerns relating to the disrespectful posts and an expectation that there should be an apology. The minutes record that Councillor Jones advised the meeting on 2 occasions that there would be no apology (Appendix 6 Page 209).

31. On 18 February 2023, Councillor Jones had an exchange with members of the Porthcawl Residents Facebook Group during which he made the following comments:



(Appendix 9 Pages 470/471 and 483)

32. On 20 February 2023, the Deputy Clerk provided a letter to the Former Clerk (addressed to my Office) about a visit Councillor Jones had made to the Town Council offices on 10 February, which stated that, during his visit, Councillor Jones had made “derogatory” comments about my Office and said he and other members were able to behave “in any way”. (Appendix 10 Page 490).

33. During my Office’s investigation, the Former Clerk took sick leave due to work-related stress. She resigned from the Town Council in June 2023.

What the witnesses said

The First Complaint - What Mr Daly said

34. With his complaint and supporting information, Mr Daly provided screenshots of exchanges on the Facebook groups which encompassed 3 posts by Councillor Jones posted on or around 19 May 2022, set out at paragraph 29, in which Councillor Jones referred to the Town Council, its members and the Former Clerk. Mr Daly said Councillor Jones’ comment about “chimps” was a racial slur and aimed at Councillor Neelo Farr, as she is of Pakistani origin and the only councillor who sat as a borough and cabinet member. Mr Daly said that whilst he understood debates could become heated, there should not be name calling or bullying.

35. Mr Daly also said that Councillor Jones had used disrespectful language towards other members of the Town Council and his remark about the Former Clerk was unprofessional, and not the way a Member should speak about fellow colleagues. He said Councillor Jones had a negative attitude towards his fellow members, had openly insulted them and the Former Clerk on social media, and had failed to apologise for his comments at a Town Council meeting (Appendix 1).

The Second Complaint - What the Former Clerk said

36. With her complaint, the Former Clerk provided a copy of the screenshot in which Councillor Jones said the Town Council had become “as transparent as North Korea, run by a clerk [sic] who is a control freak.”

The Former Clerk said this was disrespectful to her role as Clerk and Councillor Jones had refused to apologise.

37. The Former Clerk subsequently provided screenshots of an exchange on the Voice for the Future - Porthcawl Facebook Group which encompassed a discussion between individuals (including Councillor Jones) about development matters and included the following post by Mr Daly:



(Appendix 8 Pages 447-451)

38. In her statement, the Former Clerk said:

- Whilst her working relationship with Councillor Jones was initially good, it changed after the internal audit in 2021 and he then began requesting information and asking for amendments to agendas. She said, at that time, the Police were treating her as a witness, and the Town Council had been advised that matters related to the police investigation should not be discussed. The Former Clerk said this made her ability to deal with information requests from members difficult.
- On or around 20 May 2022, a member of the public messaged her about a post made by Councillor Jones on Facebook and sent her a screenshot. The Former Clerk said she was not able to see what had been posted on Facebook herself as it was a private group, and she did not have access to it.
- The matter was put on the agenda for the next Town Council meeting, however Councillor Jones refused to apologise in the meeting to her or any other member.

- The police investigation had put her in a difficult position with regard to what she could disclose to others and there was no understanding or recognition of that in Councillor Jones' comment about her. She said Councillor Jones had made derogatory comments about the Town Council as well as her and she thought his remarks had brought the Town Council into disrepute.
- She felt the racist nature of Councillor Jones' post in a public forum brought her integrity, character and role in the Town Council into question and she found it upsetting, unjust and unnecessary.
- She understood that Councillor Jones had since removed his comments from Facebook.
- The Town Council has a Social Media Policy which she had emailed to Councillor Jones when she started her role.

39. The Former Clerk subsequently provided screenshots of a further exchange between Councillor Jones and other individuals on 17 and 18 February 2023 which she felt was targeted at her (Appendix 9 Pages 463-484).

40. The Former Clerk said these comments were unfair and unwarranted and Councillor Jones' conduct had contributed to her having to take leave from the Town Council with work-related stress and anxiety and she subsequently resigned from her role.

What the Deputy Clerk said

41. In her statement the Deputy Clerk said:

- As far as she could recall, she was alone during Councillor Jones' visit to the office on 10 February 2023. She said, as the visit was some time ago, she could not clearly recall what happened or what he had actually said, and her letter addressed to my Office dated 20 February which she provided to the Former Clerk contained her concept of something "derogatory" Councillor Jones had said in passing that day.

What Councillor Jones said

The First Complaint

42. In his interview and submissions Councillor Jones said:

- He had received training on the Code of Conduct in 2020 and 2023 and use of social media in 2023.
- He had known Councillor Farr for over 35 years and Mr Daly was her son. Whilst he and Councillor Farr were political opponents, with opposing views on local building development, he could not recall having had any disagreement with her.
- The post in which he referred to “chimps” was meant to say “chumps” and his use of the word “chimps” was a result of predictive text and was not aimed at Councillor Farr. He said the word “chump” was not derogatory and would have been a correct term for those who are “easily led.”
- At the time, he was being subject to attack by people who opposed his views about local development, and he believed in freedom of speech and the right to defend himself.
- Councillor Farr was not part of the exchange and, as far as he was aware, she used a different social media site.
- The social media item in the 30 May Town Council meeting was not related to the post Mr Daly had complained about, but an entirely different matter related to the Former Clerk. In any event, the Town Council did not have “the authority to dictate what a Councillor should do”.
- Mr Daly had been selective with his complaint. Councillor Jones provided the following posts which he said were from the same thread. He said the exchange had been a political discussion and not bullying, and he had named 2 members he was critical of and had pointed out that Mr Daly had an issue with predictive text.



(Appendix 14 Page 557)

- Once he realised that there might be some concern over his post, he had privately messaged Councillor Farr to say the post was not about her, and he had removed his post within 48 hours.
- He could not now provide a copy of his message to Councillor Farr as some of the messages they had exchanged were no longer saved due to lack of storage space.
- Councillor Farr had replied and accepted what he had said and talked about other council business.
- The fact that the word “chumps” had mutated to “chimps” was regrettable and he should have checked it before he posted it. He said it was not intentional, and he did not think his conduct amounted to a breach of the Code.
- Councillor Farr had not complained about the post, he did not believe he had offended anybody and the only person who appeared to be offended was her son.

The Second Complaint

43. In his interview and submissions Councillor Jones said:

- He had maintained good working relationships with the previous Clerks to the Town Council.
- His relationship with the Former Clerk became “severely strained” when she refused to provide him and other members with details they asked for, and she had provided information to Audit Wales without reference to him as her Line Manager and Chair of the Town Council, which led to the police investigation.
- The Former Clerk had misled the Town Council about various matters related to the internal audit, the Report and the police investigation. She had also refused him reasonable adjustments for Town Council meetings and complained about him to the Town Council and “continually deprived [him] of information [he] was entitled to”. As a result, it was “not unreasonable to view her as very controlling”.
- His comment that the Town Council had become as transparent as North Korea was made on the Voice for the Future - Porthcawl Facebook Group, which was a forum for residents to discuss political and local matters and which he participated in as a resident. He believed what he had said was true as the Town Council was not transparent, and the Former Clerk had refused to provide information and was “controlling the Council”.
- He did not delete his comment because he was not an Administrator of the Voice for the Future - Porthcawl Facebook Group. He did not ask for it to be removed, and whilst he thought it may have been removed by someone else, he was unsure of this or if it was still there, as he no longer visited the page.
- He had refused to apologise at the Town Council meeting on 30 May 2022. He had only said he would not apologise once, and he refused because he believed what he had said was true and there was a lack of transparency in the Town Council.

- He did not think his post reflected on him negatively as some members of the public had supported what he had said on Facebook, however, their comments were no longer available.
- He would not like to comment on the Deputy Clerk’s statement about his visit to the Town Council because they had a good working relationship, and he did not remember making the comments.
- The exchanges on 17 and 18 February were part of a political discussion with residents and members of the Town Council on the Porthcawl Residents Facebook Group, and he had simply commented on facts concerning the withholding of information.
- As a forthright person, he believed residents needed to be informed about what had happened at the Town Council and that the Town Council needed to be more transparent. He was “not sorry” about what he had put on Facebook because he thought the Former Clerk had acted “wrongly.” He thought she was a “very strong person” and “very confident in what she was doing.”
- He was entitled to his opinion and freedom of speech concerning the Former Clerk. His comment about excessive control was “not overstated,” he did not believe the Former Clerk could be “hurt or harassed by it” or that his choice of words could have had an impact on anybody, and he did not think he had breached the Code.

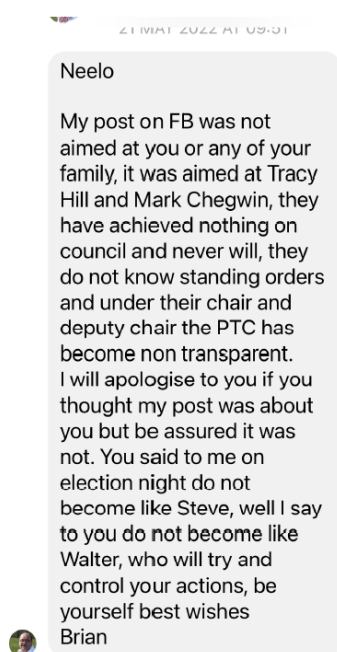
What Councillor Farr said

44. In her statement, Councillor Farr said,

- Her relationship with Councillor Jones was “not very good” due to historical family-related issues involving bullying and harassment, and the fact that Councillor Jones had lost his BCBC seat to her in the May 2022 election.
- A fellow Member sent her a message about Councillor Jones’ post, and somebody else also sent a screenshot of it. She viewed the post online at the time. Her recollection was that Councillor Jones had

called her a “monkey” and he had referred to something about a “borough councillor” and “monkey”. Her son, Scott Daly, saw the post and challenged Councillor Jones about it online.

- She found Councillor Jones’ post upsetting, offensive and racist. It had made her feel powerless, deflated and oppressed and that some people did not see her as part of a community which she had belonged to for 35 years.
- Councillor Jones sent her a message on 21 May at 09:51 about his post which she responded to (Appendix 11 Page 497 -501). Councillor Jones had also called her about it, and she told him clearly that she felt the message was directed at her because he had said something about borough councillors, and she was the only borough member on the Town Council. Councillor Jones had maintained the post was not about her and did not apologise.
- Councillor Farr provided a copy of the following exchange.



Walter, who will try and control your actions, be yourself best wishes
Brian

21 MAY 2022 AT 09:57

Thank you Brain I appreciate you messaging me. I know you are hurt and disappointed but I have no malice towards you. I could not comment the other night because I have not met with the department- I really don't know what has been agreed and not agreed- I don't know if that's correct

don't know if I can change anything or not at this stage but I promise I will do all I can to listen to all the residents and try my best to ensure Porthcawl is high in the agenda. Neelo

Seen

to listen to all the residents and try my best to ensure Porthcawl is high in the agenda. Neelo

Seen

You can now call each other and see information such as Active Status and when you've read

+ 📷 📎 🗣️ Aa 😊 👍

12:47
Brian Jones
21 MAY 2022 AT 10:30
Thank you Neelo I know you will do your best for Porthcawl, im not that disappointed, I believe and always will that the residents have the choice of who represents them.

I can't say the same about Walter please be careful with

I can't say the same about Walter please be careful with him, he is a control freak and will try to control you, he did the same with other Cllrs including me, most resisted but some fell for it, hence the post Hill and Chegwin, there are others also. I wish you good luck in your new role and hope it bares fruit for Porthcawl, but I and many others will still oppose the development of Sandy Bay for anything other than leisure facilities.

Brian

(Appendix 11 Page 497-501)

- She did not like attending the Town Council meetings in person and avoided it because Councillor Jones and his group made her feel intimidated. She tried to protect herself by doing things online and that felt safer. She was aware that Councillor Jones and his supporters had made derogatory remarks about her when she was speaking.

Councillor Jones' response to the draft report

45. With regard to the first complaint, Councillor Jones said:

- He had contacted Councillor Farr to reassure her he had not intended to cause her offence and she had not asked him to post an apology.
- He was sorry the word “chimp” had been used and he had been much more careful since.
- The social media thread had been quite heated, and he had been subject to “considerable criticism in connection with [his] Council role”.
- He was not aware of any ill feeling between the families apart from a historic event 35 years ago.
- He did not lose his seat to Councillor Farr, as such, because the ward was expanded to 2 members, and she and another member were elected.
- Councillor Pratt was also a member of BCBC and the Town Council at the time, however he understood that Councillor Farr could have felt his comment referred to her and that is why he contacted her quickly.
- He felt he had an amicable and mutually supportive relationship with Councillor Farr, and that she was a “decent person but is being manipulated by others”.

46. With regard to the second complaint, Councillor Jones said:

- His comments were part of a thread started by a local resident.
- He had not intended to undermine anyone but had been “hugely frustrated” when he was criticised for “not doing [his] job” because he could not obtain information.
- He did not name anybody in his comment, and he did not expand on it further.
- He was “ambushed” at the Town Council meeting on 30 May 2022 and felt members and the Former Clerk were “aggressive and threatening”. He did not offer an apology because of the “aggressive threats being made”.
- He did not agree with what the Former Clerk had said in her statements, and he disputed that the stress she experienced was caused by him in any way.
- His comments to the Deputy Clerk had been taken out of context and he had not been rude or critical of my Office.
- It was his “genuine belief that...[the Former Clerk] was an obsessive with a need to exercise control over situations and others.”

47. A copy of Councillor Jones’ response to the draft report encompassing his comments and unsigned supporting statements from two third parties is available at Appendix 19. One of the statements refers specifically to my investigation in the opening paragraph.

Undisputed facts

48. Councillor Jones has been a member of the Town Council since 2012. He signed declarations to observe the Code of Conduct in May 2017 and May 2022.

49. Councillor Jones served as Mayor of the Town Council and the Former Clerk's Line Manager from May 2020 to May 2021.

50. Councillor Jones received training on the Code of Conduct in 2020 and 2023. He received training on the use of social media in 2023.

51. Councillor Farr is a member of the Town Council. She is also a member of BCBC and the Cabinet Member for Community Safeguarding and Wellbeing. She holds appointments with a number of committees and outside bodies.

52. At the time of the events Councillor Farr was BCBC's Cabinet Member for Regeneration with a portfolio which included local development in Porthcawl.

53. The Town Council's 2020/2021 internal audit report was noted at a Council meeting on 29 June 2021 and published on its website in July 2021. Although some members of the Town Council disputed the Report's content and publication, it has remained as published.

54. Audit Wales informed the Town Council in early 2021 that it would be undertaking an in-depth audit of the Town Council (not yet concluded).

55. Audit Wales subsequently referred matters to the Police, who carried out an investigation between 2021 and 2022.

56. The Former Clerk was required to provide information on behalf of the Town Council to Audit Wales and the Police, whilst also undertaking her role for the Town Council.

57. The Porthcawl Residents Facebook Group and the Voice for the Future - Porthcawl Facebook Group are private social media groups, providing discussion forums for local politicians and residents. At the time of the events in 2022, Councillor Jones was a member of both groups.

58. On or around 19 May 2022, Councillor Jones posted comments on Facebook which said:

“I [sic] with you here [name redacted], we have a greedy council and chimps as borough members who are now part of the establishment and will do BCBCs [sic] bidding no matter what.”

And:

“PTC has become as transparent as North Korea, run by a clerk who is a control freak.”

59. On 21 May Councillor Jones sent a text message to Councillor Farr about his post, which Councillor Farr responded to.

60. Councillor Jones removed his comment referring to “chimps” within a couple of days of it being posted.

61. Councillor Jones did not remove his comment about the Town Council and the Former Clerk and was unsure if it had been removed by anyone else.

62. The Council discussed “unacceptable and insulting” comments on social media at a meeting on 30 May 2022. Councillor Jones advised the meeting there would be no apology.

63. Councillor Jones had an exchange with other members and residents on Facebook on 17 and 18 February 2023 which referred to the Former Clerk withholding information.

64. The Deputy Clerk provided a letter (addressed to my office) to the Former Clerk on 20 February 2023 about a visit Councillor Jones had made to the Town Council offices and “derogatory” comments he had made.

65. The Former Clerk resigned from the Town Council in June 2023.

Disputed facts

66. Was Councillor Jones' post about "chimps" directed at Councillor Farr?
67. Was Councillor Jones' reference to "chimps" a texting error?
68. Was Councillor Jones post about the Town Council and the Former Clerk inappropriate and uncalled for?
69. Did Councillor Jones fail to comply with my Office's requests in connection with the investigations?

Analysis of evidence

Was Councillor Jones' post about "chimps" directed at Councillor Farr?

Was Councillor Jones reference to "chimps" a texting error?

70. Appendix 1 Page 6/7 shows a screenshot of Councillor Jones' post and the exchanges around it. Appendix 8 Pages 447 - 451 shows screenshots of the same, wider, exchange (at a later period) with Councillor Jones' post removed.

71. The exchanges involve a discussion between 4 people including Councillor Jones and Mr Daly, about "development", "objections", "the inspectorate", "PEDW" and "BCBC". The nature and context of the exchanges encompass a decision or judgement that will be made on a development matter. In response to one of the contributor's concerns about whether objections would be considered, Councillor Jones posted the following comment:

"I [sic] with you here [name redacted], we have a greedy council and chimps as borough members who are now part of the establishment and will do BCBCs [sic] bidding no matter what."

72. Councillor Jones said he meant to use the word “chumps” rather than “chimps.” He said this was an honest mistake and not intentional, as predictive text had auto corrected it and “chumps” can easily mutate to “chimps.” Councillor Jones said, “chump just means someone that is easily led...and I don’t see that as derogatory because that’s what’s been happening.”

73. Councillor Jones said Councillor Farr’s portfolio included a local development proposal, which he was against. Councillor Jones said at the time he had been under attack from political opponents and those who opposed his views against the development, and that Councillor Farr “has come in and said she supports it” and the word “chump would have been correct...because she has actually just followed on and she’s being easily led”.

74. Councillor Jones said his post was part of a political discussion, his comments were not directed at Councillor Farr, and he was being critical of 2 other members who he had named in the same thread.

75. Councillor Jones provided screens shots of an exchange with Mr Daly (set out at paragraph 42) in which he named the 2 other members (Cllr Chegwyn and Cllr Hill), however, it is short and the context is not entirely clear. The exchange starts with Councillor Jones stating he is “entitled to an opinion of the 2 Cllrs Chegwyn and Hill”), and Mr Daly then indicated they were not borough members and asked if Councillor Jones was not obliged to follow a Code of Conduct. Councillor Jones said the exchange was part of the same thread involving his post about “chimps as borough members.” On balance, I consider it likely that it is part of the same discussion. In any event, the members he named were not members of BCBC. Councillor Farr was the only member of the Town Council who sat as a BCBC member and a Cabinet Member with a portfolio which included a local development proposal. Councillor Jones said his intention had been to use the word “chumps” because it denoted Councillor Farr as being easily led in respect of her support for the development. Councillor Farr said as far as she was concerned his comment was directed at her because he had mentioned a borough councillor, and she was the only member of the Town Council who was also on the borough council at that time. In his comments on the draft report Councillor Jones

noted that Councillor Farr's assertion that she was the only Town Council member who was a borough member at that time was incorrect, as Cllr Pratt was also a BCBC and Town Council member. However, Councillor Jones also said he understood that Councillor Farr could have felt his comment referred to her and that is why he contacted her quickly. I consider that, on balance, Councillor Jones' comment was directed at Councillor Farr.

76. Predictive text offers the user the option to write and complete a word with just a few taps. Whilst it offers suggestions for a word it does not necessarily force the suggestion on the user. Depending on the platform and the facility being used it usually provides the user with the choice of whether to accept the suggestion or not. Whilst Councillor Jones drew attention to predictive text in a post by Mr Daly, I have not seen any evidence in the exchanges provided that he endeavoured to explain what had happened regarding his own post or that it was a typing error. In his submission Cllr Jones said, "chump can easily mutate to chimps." However, it would appear that the likelihood of this is low, therefore I cannot be sure this happened.

Was Councillor Jones' post about the Town Council and Former Clerk inappropriate and uncalled for?

77. Councillor Jones said the Former Clerk had withheld information, "misled" the Town Council and acted "wrongly." He said she had deprived him of information, and it was "not unreasonable to view her as very controlling." He said he thought his comment was "fully borne out of the facts and... reasonable under any right to free speech" and he did not believe the Former Clerk was "hurt or harassed" by it. He said there had been a police investigation, the residents needed to be informed about what was happening and the Town Council needs to be more transparent. Following his interview, he provided a large volume of information related to the Town Council's governance and the Former Clerk, which he said supported his view about the Former Clerk controlling the Town Council.

78. It is noted that the Former Clerk took on her new role at a difficult time for the Town Council and that some members of the Town Council, including Councillor Jones, were unhappy with the internal audit and its published report. Whilst still new to the Town Council, the Former Clerk

was also required to assist Audit Wales and the Police on behalf of the Town Council with their enquiries. The Former Clerk said Councillor Jones' comment on social media failed to understand or recognise the difficult position she was in at the time or what she could disclose to others, and it had questioned her integrity, character, and role.

79. Wikipedia defines North Korea as a “totalitarian dictatorship with a poor human rights record.” The term “control freak” can be described as a derogatory label indicating abnormal behaviour. Councillor Jones said he had expressed his opinion about the Former Clerk to which he was entitled and which he stood by. Whilst Councillor Jones has set out the reasons for the frustration he felt about the Former Clerk's actions, I consider that comparing the Town Council to North Korea and stating that the Former Clerk was a “control freak” were inappropriate and unnecessary comments for a “quasi-employer” and former line manager to make about a member of staff, on a social media platform able to be seen by local residents.

Did Councillor Jones fail to comply with my Office's requests in connection with the investigations?

80. Letters sent to Councillor Jones (Appendix 5) at the start of and during my investigation specified that my Office's investigations are conducted in private, and any evidence obtained is subject to restrictions as set out in the Act. Councillor Jones was advised in the letter of 7 July 2022 that he should not contact or discuss details of the complaint with any potential witnesses and to let my Office know if witnesses should be contacted. Councillor Jones did not provide any witness contact details during the course of the investigation. He was subsequently also advised on 6 November 2023 and 27 February 2024 that the information provided to him during the investigation, and with the draft report, should be held in the strictest confidence and not shared with anyone other than a legal or other adviser.

81. Councillor Jones submitted a response to the draft report which included supporting statements from members of the public. In particular, one individual said:

“I am writing to you in response to allegations made to you against Councillor Brian Jones, who is a Town Councillor on Porthcawl Town Council. I have been given to understand that Councillor Jones has been accused of bullying in Council meetings a fellow Councillor, namely Councillor Neelo Farr.”

82. Noting that the letter starts as a testament to Councillor Jones’ character and the manner in which he was observed by that individual to conduct himself at meetings, it then develops into an assessment of Councillor Farr’s character and references alleged incidents which are not of direct relevance to this investigation. The author specifically offers a view on whether she has observed any ‘bullying’ of Councillor Farr by Councillor Jones in Town Council meetings, demonstrating that she has been made aware of the nature of the investigation and allegations made against Councillor Jones by Councillor Farr during the investigation.

83. In the light of the above it would appear that Councillor Jones has shared details of the complaint and my draft investigation report, and specifically what Councillor Farr said in her evidence, with a member of the public. None of the provisions of the Act which govern disclosure of information obtained during my investigation permit the disclosure of details of the complaint, draft reports and/or witness evidence by an accused member to third parties who are not their legal or other representative. I consider that in doing so Councillor Jones has disclosed information which should reasonably be regarded as confidential, and he has failed to comply with my Office’s requests regarding the need for my investigations to be conducted in private and the requirement to maintain confidentiality.

Conclusions

84. My Guidance sets out that members are entitled to privacy in their personal lives and many of the provisions of the Code of Conduct only apply when members are acting in their role as member or acting as a representative of their council. However, the public rightly expects high

standards of those who represent them in public office and a member's conduct, whether in their private life or when acting or giving the impression that they are acting in their public role, has the potential to bring disrepute upon their council and their office as a councillor. Consequently, as there may be circumstances in which a member's behaviour in their private life can impact on the reputation and integrity of their authority, some of the provisions of the Code of Conduct apply to members at all times. Members are bound by the full extent of the Code of Conduct whenever they act, claim to act or give the impression that they are acting in the role of member, as a representative of their authority.

85. Councillor Jones made his posts on social media groups for local politicians and residents. Whilst he said he had participated as a resident; he also said his posts were part of political discussions. I am satisfied that the exchanges encompassed political matters and that Councillor Jones gave the impression he was acting in the role of member to which he was elected or appointed, and the Code of Conduct was therefore fully engaged.

86. Similarly, I am satisfied that in approaching members of the public to provide supporting statements for my investigation Councillor Jones gave the impression he was acting in the role of member to which he was elected or appointed, and the Code of Conduct was therefore fully engaged.

Councillor Jones' post about "chimps"

87. My Guidance sets out that members are expected to afford the public, colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. This does not mean that Members cannot participate in robust debate with political opponents or make legitimate challenges in questioning policy or scrutinising performance, but it must be measured.

88. When considering allegations of bullying behaviour, I will consider both the perspective of the alleged victim, and whether the member intended their actions to be bullying. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour.

89. Councillor Jones said the exchange had been a political discussion. He said whilst he had referred to “chimps as borough members” he had meant to say, “chumps as borough members” and his use of the word “chimps” was a result of predictive text. Councillor Jones said he was being critical of Cllr Chegwyn and Cllr Hill, and his comment was not directed at Councillor Farr. However, he also said he meant to use the word “chumps” because he thought it applied to Councillor Farr as she was “easily led.” He said that, once he realised there might be some concern over his post, he had privately messaged Councillor Farr to say the post was not about her, which she had accepted. Councillor Jones said he removed the post within 48 hours and the only person who appeared to be offended was Mr Daly, Councillor Farr’s son.

90. Councillor Farr provided a copy of Councillor Jones’ message to her and her response to him. In his message Councillor Jones said the post had been aimed at Cllr Hill and Cllr Chegwyn, and he would apologise if she thought it was aimed at her. In her response, Councillor Farr said she appreciated him messaging her and she had no malice towards him. Councillor Farr’s response does not suggest that she “accepted” the post was not about her. In her statement, Councillor Farr said Councillor Jones had also called her about the post, and she had made it clear to him that she thought it was directed at her because she was the only member of the Town Council who was also a borough member. Councillor Farr said that Councillor Jones had maintained his post was not aimed at her and he did not apologise. In her testimony to my Office Councillor Farr was clear that she felt the post had been aimed at her.

91. Mr Daly said the use of the word “chimps” was a racial slur and aimed at Councillor Farr as she is of Pakistani origin and the only member of the Town Council who sat as a BCBC and Cabinet Member. Given the circumstances and nature of the exchange, I consider that it was reasonable for Mr Daly to interpret the remark as directed at Councillor Farr. Councillor Jones acknowledged that he should have checked the post before he made it and that it remained online until he was aware of a concern about it. I am of the view that Councillor Jones’ should have fully considered the content of his post when he shared it, which he acknowledges he did not do, and apologised to Councillor Farr as soon as possible, and the failure to do so shows a lack of prudence and judgement.

92. Councillor Jones' post made reference to "chimps as borough members" who are "part of the establishment and will do BCBCs bidding no matter what." In my view, given her role with BCBC, Councillor Jones' comment was directed at Councillor Farr. Councillor Farr said she found the post upsetting, offensive and racist. Calling someone a "chimp" is a racial insult which carries a derogatory meaning with a strong emotional and moral charge. In determining whether there was a failure to show respect and consideration, I will consider the specific circumstances of the case and if there was an attempt to undermine the individuals involved. I consider that Councillor Jones' comment was an attempt to undermine Councillor Farr and insulting and offensive and is therefore suggestive of a breach of paragraphs 4(b) and 4(c) of the Code of Conduct.

Councillor Jones' post about the Town Council and the Former Clerk

93. Appropriate challenges to the manner in which non-elected senior public servants do their job, even in very robust terms, are protected by Article 10. However, Article 10(2) provides that this right may be restricted as prescribed in law and when necessary, in democratic society, for the protection of the reputation and rights of others. Case law (set out above) states that, in the public interest, it is a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, an adverse effect on good administration. Officers should not therefore be subject to unwarranted comments which may be reputationally damaging or that disenable them from carrying out their duties or undermine public confidence in the administration.

94. As a member of the Town Council, Councillor Jones' is a "quasi-employer". He had also previously been the Former Clerk's designated line manager on behalf of the Council. In my view, saying the Town Council is "becoming like North Korea" and the Former Clerk is a "control freak" on a social media group is a disrespectful and humiliating thing for an employer to do. It also has the potential of impairing the obligation of mutual trust and confidence between the employee and employer. Whilst the post was made on a private social media group, to which the Former Clerk did not have access, it was available to local

residents, and a member of the public notified the Former Clerk about it. The Former Clerk said she found it upsetting, unjust and unnecessary and it questioned her integrity, character and role.

95. Whilst Councillor Jones is entitled to voice his opinion, as set out above, it must be measured. I consider his choice of words about a member of staff on social media to be ill-judged, inappropriate and unnecessary and capable of breaching the duty of trust between the Town Council and its employee. In my view, Councillor Jones' comment was an attempt to undermine the Former Clerk, is insulting and offensive and is therefore suggestive of a breach of paragraphs 4(b) and 4(c) of the Code of Conduct.

96. Whilst several Members of the Town Council shared their concerns at a Council meeting about the disrespectful posts and agreed that members should be privileged and honoured to represent the Town Council and an apology was needed, Councillor Jones refused to comply.

97. He also stood by his comment in his interview and submissions to my Office. He said the Former Clerk was "very controlling" and "secretive" and the Council was not transparent. He said he felt he had a duty to the residents, and they needed to be informed about what was happening in the Town Council. He said he had a right to express his opinion and he was not sorry that he had put the comment on social media.

98. It is disappointing to note that, whilst Councillor Jones contacted Councillor Farr about a post which might upset her, he was not prepared to afford the Former Clerk the same consideration. Councillor Jones said he did not think his words about the Former Clerk could hurt or harass her or that they would have an impact on anyone. In my view, this shows a significant lack of insight and intransigence about his own behaviour.

99. It is also of concern to note that Councillor Jones continued to disparage the Former Clerk in his response to the draft report and maintained it was his "genuine belief" that she was "an obsessive with a need to exercise control over situations and others" and had sought to undermine him in meetings.

100. I have considered Article 10 of the ECHR and relevant case law throughout the investigation. I accept that elected Members have a duty to question and scrutinise officers and that Councillor Jones felt he had a duty to his electorate. However, the Former Clerk was obliged to co-operate with the Police and Audit Wales' enquiries. I consider that Councillor Jones' post about the Town Council and the Former Clerk on a social media platform for local residents amounted to a gratuitous and personal comment about her capabilities. Such an action has the ability to undermine public confidence in the Town Council's administration and to disenable staff from carrying out their duties. A legitimate aim of any interference with Article 10 rights is to prevent the interference with the rights and reputation of others. Therefore, I am satisfied that, given the circumstances, if a breach were proven, any sanction would be a proportionate interference with Article 10, in order to protect the rights of another.

101. A member's actions are subject to greater scrutiny than those of ordinary members of the public and their actions may have an adverse impact on the public perception of their office as a member or their Council as a whole. I am therefore satisfied that Councillor Jones' behaviour is suggestive of a breach of paragraphs 4(b) and 4(c). I am also of the view that his behaviour is likely to have brought his office as a member and his authority into disrepute and is therefore suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct.

102. I have also had regard to the test in *Sanders v Kingston* (set out above) when considering whether a referral to the Council's Standards Committee is proportionate. As I have noted, I consider that (i) the actions of Councillor Jones, in respect of his comments about members and officers, are suggestive of a breach of the Code of Conduct. I recognise that this finding, given the nature of his comments, may (ii) comprise a breach of Article 10, as it would be considered an interference with his right to freedom of expression. However, I am of the view that (iii) it is a legitimate aim of the ethical standards regime in Wales to protect officers from conduct of this kind and that, if the breaches are proven, a restriction would be justified for the reasons set out in Article 10 (2) above.

Councillor Jones' disclosure of information.

103. I expect the information including witness statements provided by my Office to a member during the course of an investigation to be treated in the strictest confidence and not to be disclosed to anyone other than a legal or other adviser. In addition, I expect members not to discuss the complaint with any witnesses whether directly or indirectly. Whilst it is reasonable for Councillor Jones to want to provide supporting and/or character statements in his defence, as set out clearly in my correspondence, he should in the first instance have notified my Office of the relevant parties who might be prepared to do this we could then have done this for him. This did not happen, and it appears that after receiving the draft report Councillor Jones approached two members of the public directly, and (in relation to one at least) divulged details of the complaint and evidence shared, in order to obtain supporting statements which he then forwarded to my Office in the form of typed and unsigned documents.

104. I am concerned to note that one of the witnesses stated, "I have been given to understand that Councillor Jones has been accused of bullying in Council meetings a fellow Councillor, namely Councillor Neelo Farr". I consider that this information is specific to Councillor Farr's statement. Unless the report on my investigation is made public the only individuals who should be aware of what Councillor Farr said in her statement should be Councillor Farr and Councillor Jones. Given the circumstances, it appears that Councillor Jones has shared the context of Councillor Farr's statement with someone else. I consider that the information referred to should reasonably be regarded as being of a confidential nature and that it has been shared without Councillor Farr's express consent. Furthermore, I am of the view that the sharing of such information is a failure to comply with my Office's requests regarding the need for privacy and confidentiality. As such, I consider that Councillor Jones' conduct is suggestive of a breach of paragraph 6(2) of the Code of Conduct.

Finding

105. My finding under section 69 of the Local Government Act 2000 is that my report on this investigation should be referred to the Monitoring Officer of Bridgend County Borough Council, for consideration by the Council's Standards Committee.

M.M. Morris.

Michelle Morris

27 March 2024

Ombwdsmon Gwasanaethau Cyhoeddus/Public Services Ombudsman

Appendix

Appendix 1	The Complaint and Supporting Information 202201160
Appendix 2	The Complaint and Supporting Information 202201353
Appendix 3	The Town Council's Code of Conduct
Appendix 4	Declarations of Acceptance of Office
Appendix 5	PSOW Letters to Councillor Jones
Appendix 6	Information from the Town Council
Appendix 7	Information from Facebook
Appendix 8	The Former Clerk's Statement and Exhibits
Appendix 9	The Former Clerk's Addendum Statement and Exhibits
Appendix 10	The Deputy Clerk's Statement and Exhibit
Appendix 11	Councillor Farr's Statement and Exhibit
Appendix 12	Interview Transcript 202201160
Appendix 13	Interview Transcript 202201353
Appendix 14	Councillor Jones' Statement and Information 202201160
Appendix 15	Councillor Jones' Further Submission 202201160
Appendix 16	Councillor Jones' Exchanges 202201160
Appendix 17	Councillor Jones' Statement and Information 202201353
Appendix 18	Councillor Jones' Further Submission 202201353
Appendix 19	Councillor Jones' Response to the Draft Report
Appendix 20	Extracts from the Guidance on the Code of Conduct

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel: 0300 790 0203
Website: www.ombudsman.wales
Email: ask@ombudsman.wales
Follow us on X: @OmbudsmanWales