



REASONED DECISION

TRIBUNAL REFERENCE NUMBER: APW/008/2023-24/AT

APPELLANT: Councillor Steven Bletsoe

RELEVANT AUTHORITY: Bridgend Town Council

1. INTRODUCTION

1.1 An Appeal Tribunal was convened by the President of the Adjudication Panel for Wales ('APW') to consider an appeal by Councillor Steven Bletsoe ('the Appellant') against the decision of the Standards Committee of Bridgend County and Borough Council ('the Standards Committee') which was convened on 9th of May 2024.

1.2 The Standards Committee found that the Appellant had breached Paragraphs 6(1)(a), 7(a), 11(1), 14(1)(a), 14(1)(c) and 14(1)(e) of the Code of Conduct ('the Code'). It also found that, in the light of certain aggravating factors, the Appellant should receive a sanction of six months' suspension in accordance with its powers under the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended).

1.3 The President of the APW had issued a decision dated 5 June 2024 which allowed the appeal to proceed on a limited ground of appeal in relation to sanction only. The President decided that the appeal in relation to the breach of Code element of the appeal had no reasonable prospect of success.

1.4 The Appeal Tribunal to adjudicate upon the appeal met at 10:30am on the 5th of December 2024 at the Port Talbot Justice Centre, Harbourside Road, Port Talbot, SA13 1SB, and the hearing was open to the public. The Appellant represented himself, with

the support of Councillor Martin Williams. The Public Service Ombudsman for Wales ('the PSOW') was represented by Mr Phillip Morris of 9 Park Place Chambers, Cardiff. The Monitoring Officer for Bridgend County Borough Council City ('BCBC'), Ms Kelly Watson, was also in attendance.

1.5 The Appeal Tribunal and the parties referred to a final Hearing bundle comprising 491 pages. The Appellant called Councillor Martin Williams to give evidence as to his character and he also supplied a large number of written character references.

2. BACKGROUND TO THE CASE AND CODE BREACHES

2.1 In summary, the Regeneration Committee of Bridgend Town Council had met on the 14th of June 2022. One of the items under discussion related to blue plaque unveilings in the town, and a heated discussion took place around inviting a high-profile guest to unveil a plaque. This discussion involved the Appellant's wife, who was also a Councillor, and the Clerk. Minutes were prepared and were to be received by a Council meeting on 26th September 2022. At that meeting, the Appellant proposed that the minutes be deferred to the next meeting, as he had '*questions regarding inaccuracies in the minutes.*'

2.2 On 24th October 2022, the Appellant chaired a further meeting of the Regeneration Committee. In relation to the item to confirm and sign the minutes of the meeting of 14th June 2022, the Appellant stated that the minutes needed to be reviewed, as certain references should not have been included and that the purpose of minutes was to record resolutions, not conflict. As regards the reference to his wife having left the meeting without apology, the minutes recorded that the Appellant said that he had heard his wife say; "*I'm sorry, I can't do this*" before leaving the meeting. The Appellant did not declare a personal or prejudicial interest in the matter; however, he abstained from the vote to amend the minutes and to omit the details of the dispute recorded in the draft minutes.

2.3 At a Council meeting on 12th December 2022, in an item to receive draft minutes of the Regeneration Committee held on 24th October 2022, the minutes record that the Appellant again spoke to state that he believed he had said at the meeting of 14th June 2022, that his wife had said "*I can't do this, I'm leaving*" as opposed to the wording recorded in the minutes; "*I'm sorry, I can't do this*". The Appellant did not declare a personal or prejudicial interest in the matter and confirmed that he was happy for his comments to be recorded in the minutes of the meeting of 12th December 2022.

2.4 The Standards Committee hearing of 9th May 2024 found the following on the balance of probabilities as regards the disputed facts, that: -

2.4.1 The Appellant did have a personal interest in the agenda item to ratify the committee minutes of 14 June 2022;

2.4.2 The Member did have a prejudicial interest in the same agenda item in accordance with the Code;

2.4.3 It was reasonable that a member of the public with all of the facts may consider that the Appellant was seeking to influence other Committee members inside the Chamber on the question of whether minutes, as drafted, should be ratified; and

2.4.4 There was an advantage to the Appellant's wife in his raising concerns about the draft minutes, due to the ongoing PSOW investigation and the public perception at that time.

2.5 As to breaches of the Code, the Standards Committee resolved that;

2.5.1 There was a clear and obvious breach of Paragraphs 11(1), 14(a), 14(c) and 14(e) of the Code as the Appellant had failed to withdraw from the discussion and made representations in respect of an agenda item in which he had a prejudicial interest;

2.5.2 There was a breach of Paragraph 7(a) as the Appellant's involvement in the agenda item could reasonably be considered by the public as an attempt to seek an advantage for his wife, or a disadvantage for the Clerk; and

2.5.3 In relation to Paragraph 6(1)(a), the overall conduct was sufficiently serious to damage the public's trust and confidence, and to bring the Council and the Appellant's office into disrepute.

3. PRELIMINARY APPLICATIONS

3.1 The Appellant applied to exclude two items of evidence. These two items provided by the PSOW consisted of a Facebook post made on the 12th of May 2024, following the Standards Committee meeting, and an on-line news article dated 15th May 2024 entitled; '*Councillor given maximum suspension after 'trivial row' raises bias concerns about committee*'. He stated that these items post-dated the events and were of no relevance to the findings of fact and breach by the Standards Committee. He was adamant that he had not generated the news article and did not deliberately go out to make a news story. He said that persons aligned to a political party had, however, been active in the media in making extremely unpleasant accusations and comments about him following the Standards Committee hearing.

3.2 Mr Morris for the PSOW submitted that the documents were relevant in the Appeal Tribunal's consideration of aggravating and mitigating factors, for example as to the question of whether the Appellant felt remorse and insight regarding his actions.

3.3 The Appeal Tribunal retired to consider the Appellant's application. Following careful consideration of the application, it determined that the material which post-dated the Standards Committee hearing in May 2024 could be considered in the context of the sanction to be imposed following an appeal on sanction, as the Tribunal was considering the question of sanction afresh based on all relevant circumstances. It would however give due consideration as to the weight which would be placed on these items during the proceedings.

3.4 The Appellant apologised that due to the amount of material involved, he had not appreciated that Directions issued by the Appeal Tribunal had required him to provide the relevant timings for the part of the Standards Committee hearing which he wished the Appeal Panel to watch in connection with his submissions. Mr Morris indicated on behalf of the PSOW that he was content for this extract to be viewed, and the Appeal Panel duly viewed the relevant extract of the final part of the Standards Committee meeting during a break in the proceedings.

4. SUBMISSIONS OF THE APPELLANT ON THE ACTION TO BE TAKEN

4.1 The Appellant said that he respected rules and the law and was not a *'firebrand councillor.'* He gave an example that if he might not agree with the 20mph speed limit, he would abide by it and respect it. At the time he committed the breach, he did not think that he had a personal and prejudicial interest. He had whole-heartedly believed that he was acting in the interests of the Council. He had felt that the wording of the minutes had been inaccurate and not in the usual 'house style' and had been written under the direction of the Clerk to support her complaint to the PSOW. If he had sat back and accepted the Standards Committee sanction, he would be back in the Chamber by now. He felt he had to go through the ordeal, as he strongly believed that the sanction of six months' suspension had been too harsh. He felt that the PSOW had characterised him in an unfair way as being cavalier or a rule-breaker, whilst his aim was to serve the public. He felt that the PSOW had not recognised mitigating factors, and even the Deputy Clerk had confirmed in her statement that he was a good councillor.

4.2 The Appellant said that he was passionate about his work on the Town Council and serving his community and had refused councillor remuneration and chairman's allowance. He hoped that his commitment was evidenced by the many character references which had been submitted. He described on-line abuse which he had received at the time of the local government elections in 2022 and in relation to the standards process for three days in a row, which had made him emotional. He said that abuse had come from individuals using a fake profile, including a PSOW officer. This led to him having no faith in the system and a need to put his side of the story. He said he would not do the same again given the same set of circumstances.

4.3 The Appellant acknowledged that his Facebook post following the Standards Committee hearing stated; *'if the rules mean that you cannot be truthful, then the rules are wrong'* and said that he regretted the posting due to its personal impact and the on-line abuse which had taken its toll. He also acknowledged that it was very likely that the quotes attributed to him in the on-line article were correct but said that he did not stand by some of the comments. He had since had a meeting with the Monitoring Officer and acknowledged that he should have discussed the matter with her in the first place.

4.4 The Appellant did not agree that the Code breaches had been clear-cut, and he therefore considered that suspension for the maximum period of six months had been harsh. He did not realise at the time that he could apply for dispensation to speak and vote and considered that the lack of training had been highlighted by the Standards Committee in the recommendations it issued at the hearing of 9th May 2024. Whilst the Appellant accepted responsibility for his actions, he said that neither the Proper Officer of the Town Council nor her Deputy had advised him about the opportunity to apply for dispensation.

4.5 The Appellant accepted that he could not lodge an appeal regarding the Standards Committee decision as to breach, and he respected that fact. He had researched cases online regarding the suspension of other politicians and provided a number of examples, where he argued that the behaviour had been more egregious than his own behaviour, and yet the sanction had been less harsh. He felt that he had been suspended for telling the truth. He said that it would have been abhorrent to him to have asked another Councillor to act on his behalf to challenge minutes which he knew to be wrong in terms of style. In response to a question from the Appeal Tribunal, the Appellant did not know why he had felt he should abstain from voting in relation to the minutes, and yet not declare a personal and prejudicial interest. In terms of the impact of this breach, he said that everyone in the community knew that he and his wife were married.

4.6 The Appellant gave his reasons for not seeking advice from the Monitoring Officer on this matter. He said that he had talked to the Monitoring Officer many times in relation to other business. He had unfortunately taken a letter from the Monitoring Officer about her limited involvement in Town Council business the wrong way. He also said that he had been involved in a County Council issue where he had felt that he had been 'let down', and did not think that he could approach the Monitoring Officer as a result. He had felt a disconnect at the time but felt that he could now contact her.

4.7 In summary, the Appellant accepted that there had been a Code breach but could not accept the level of sanction, which he felt to be egregious. He said that the truth was dear to him, and he simply wanted to be open and truthful. At the relevant time, he thought he was acting properly as the Chairman to correct the minutes in terms of their style and had not felt that he was breaking the rules. However, he said that he now

realised that this was wrong, and he could not contest that there had been a breach. He said that he had made a judgment call which had been wrong. He did not feel that he had deflected blame onto others as he said that he was responsible for his own actions. He had acted unwittingly and with the best of intentions and had not acted deliberately.

5. CHARACTER REFERENCES

5.1 The Appellant said he had received a 'tidal wave' of offers to provide character references for him. He said that these had been provided by people with whom, and for whom, he had worked over the years.

5.2 Councillor Martin Williams provided oral evidence in relation to the Appellant's character and also in relation to sanction. He said that he was an Independent member, being the same political group as that of the Appellant. He was also a member of the BCBC Standards Committee but had taken no part in the hearing of 9th May 2024.

5.3 Councillor Williams stated that the Appellant had also been the subject of a complaint in 2023, in relation to voting for his wife to become the chairman of a committee. He said that this was dismissed as the PSOW took the view that such matters attracted 'political protection'. He did not think that the issue in this case was clear-cut, unlike the case where a close personal associate applied for planning permission. He felt that the examples contained in the Guidance were very different to this case. In addition, Councillor Williams referred to three other cases which had come before the Standards Committee earlier in 2024. Although these were not to do with declaration of interest, he considered that they were more serious than this case and yet attracted lower sanctions. He considered that there had been a lack of consistency, and queried what would occur if a more serious case came before the Standards Committee.

5.4 Councillor Williams referred to the Appellant being a 'political pedant', who loved nuance, but who believed in doing the right thing and had never knowingly subverted process. Regarding the Standards Committee hearing, he accepted that the Appellant initially did not agree that he had breached the Code of Conduct. Councillor Williams said that, with the benefit of hindsight, he would have declared a personal interest if he had been in the Appellant's position. He said that the Appellant now accepted the position in view of the APW President's decision. The question was now how to navigate the way forward. He did feel that the facts of this case were nuanced and had been over-simplified by the PSOW. He said this was very different to the case where a member did not declare a personal and prejudicial interest and remained in a meeting in relation, for example, to an increase of salary of the clerk where she was a close personal associate of the councillor.

5.5 He said that the Appellant had been advised by the Monitoring Officer that, whilst his wife had declared a personal and prejudicial interest and left the meetings, she could have remained in the debate about the minutes, and he found this to be a real contradiction. He also considered that there was nothing to differentiate between other members on the relevant committee who had likewise been close personal associates of the Appellant's wife. He said that this decision had caused great disquiet amongst councillors who were terrified about finding themselves in the same position as the Appellant. He said there was confusion as to where the line was drawn in relation to declarations. He referred to the need to test the legal position and to find the right answer, and he felt that training, guidance and legal opinion was needed to deal with the grey areas such as in this case.

5.6 Councillor Williams said that if all members continually erred on the side of caution and did not take part in debates, this would not serve democracy and the work of elected members. He said that some councillors were considering their position in politics because of such intervention, and he said; *'that chills me.'* He said that online abuse of politicians and their families, whilst shocking and sickening, had become normalised and had reached a crescendo at the time of the spring elections in 2022 elections. He accepted however that, as the Appellant had not declared interests, to an extent he was the author of his own misfortune. He had since accepted that he was responsible for his actions, but he had simply done his best.

6. SUBMISSIONS OF THE PSOW ON THE ACTION TO BE TAKEN

6.1 Mr Morris, on behalf of the PSOW, referred in detail to the Sanctions Guidance issued by the PSOW under section 75(10) of the Local Government Act 2000. He said that none of the aggravating factors referenced by the PSOW had been challenged by the Appellant in substance. He said that the Appellant was an experienced member, and so the expectations upon him were greater than they would have been for an inexperienced member. He said that there had been six breaches, that there was therefore a pattern of behaviour, and the Appellant had failed to declare an interest on more than one occasion.

6.2 He stated that there had been no real reflection or remorse by the Appellant. He said that the Facebook post following the Standards Committee indicated that the Appellant would do the same again and that he felt that the rules were wrong. He said that whilst there was a tacit acknowledgement of some regret, this was more about the Appellant putting himself through an ordeal, rather than about the consequences of his actions, despite having been given the opportunity to acknowledge the breaches and to put his hands up to them.

6.3. Mr Morris considered that there had been repeated attempts by the Appellant to deflect blame onto others, including the Proper Officer, and he had not asked for further time to take advice, including from the Monitoring Officer. Mr Morris also submitted that the Appellant had tried to undermine the process, and he again referenced the Facebook post which he said was inappropriate, particularly in view of the pending appeal. He said that the Appellant did not regret what he said, only the reaction to it and he did not withdraw the comments which he had made to the journalist. He submitted that the Appellant's answers to questioning had been evasive or qualified and that there had been no real sense of regret, and any remorse was; '*remorse through gritted teeth*'.

6.4 Mr Morris also submitted that the Appellant continued to misunderstand the basis of the Standards Committee findings. He said that this was not about whether the relevant minutes were accurate or not, nor about the ability to correct them. Indeed, there were other legitimate opportunities to correct them, such as obtaining dispensation. He said that the Appellant should not have involved himself in business where there was a clear personal and prejudicial interest. The effect of doing so would be to undermine democracy. He said that the Appellant showed continued disregard for, or ignorance of, the importance of the rules when, in his own view, they were wrong.

6.5 Finally, with regard to the PSOW's investigation into a previous complaint regarding the Appellant's participation in a vote regarding his wife's chairmanship of a committee, he said that the PSOW did not recognise the phrase '*political protection*' from the relevant response letter. He said that in that case, it was decided that the Appellant had a personal but not prejudicial interest. However, he did not consider this previous case to be relevant to the question of sanction.

6.6 With regard to Article 10 of the European Convention on Human Rights ('ECHR'), Mr Morris stated that this would have been considered in the balancing exercise carried out by the Standards Committee. Whilst the right to political freedom of expression was important, the private rights of others likewise needed to be considered. Mr Morris referenced the decision of the Standards Committee. He said that this showed that the Committee had properly reached its decision having carried out that balancing exercise.

7. THE MONITORING OFFICER'S INPUT

7.1 The Monitoring Officer confirmed that there were no previous breaches of the Code of Conduct by the Appellant which the Appeal Tribunal needed to consider. She explained that the Appellant would have received the County Council Code of Conduct training from 2022 onwards. She confirmed that the general training did deal with the right to apply for dispensation. However, she confirmed that the facility for applying for dispensation had not been used during her time as Monitoring Officer. In relation to a

complaint made against the Appellant in 2019, training had been offered to the Appellant as recommended in the PSOW's letter at that time, however this was not taken up by the Appellant.

7.2 The Monitoring Officer confirmed that she had met with the Appellant following the Standards Committee hearing and his Facebook post. Following that meeting, the Monitoring Officer had understood that the Appellant would issue a further Facebook clarification, however he did not proceed with this. She confirmed that complaints had been received from members of the public that the Facebook post had brought the Council into disrepute. The issue about which the Appellant said he had been uncomfortable with her input occurred in 2023, and not 2022 when the relevant events took place. The Appellant apologised to the Monitoring Officer and said that he had not realised the sequence of events and he had not sought to mislead the Appeal Tribunal. The Monitoring Officer said that, in any event, the Appellant had readily approached her regarding other issues. In addition, he would have been able to approach the Deputy Monitoring Officer.

7.3 Finally, the Monitoring Officer confirmed that she had no recollection of having advised the Appellant that his wife could have attended and participated in the relevant item at the Regeneration meeting of 24th October 2022, and neither the Appellant nor his wife had requested Monitoring Officer advice prior to the meeting.

8. APPEAL TRIBUNAL'S DECISION ON THE ACTION TO BE TAKEN

8.1 The Appeal Tribunal had regard to the parties' submissions, to the APW Sanctions Guidance, and to the PSOW Guidance. It also had regard to the purpose of sanctions which was to provide a disciplinary response to breaches of the Code, and to place the sanction on public record, deter future misconduct, promote a culture of compliance and to foster public confidence in local democracy. It then followed the five-stage process set out in the Guidance, being to assess the seriousness and consequences of the breach, identify the broad type of sanction, consider mitigating or aggravating circumstances, consider further adjustment to ensure the sanction achieved an appropriate effect regarding the sanction purposes and to then confirm the decision.

8.2 Firstly, the Appeal Tribunal assessed the seriousness of the Appellant's breaches of the Code with particular regard to the nature, extent, and number of breaches. It did not consider that the breaches comprised of the most serious type of breach typically referred to Standards Committees in Wales. It reached this view for the following reasons.

8.3 The Appeal Tribunal noted that the examples of failure to declare personal and prejudicial interests provided in the PSOW Guidance were clear-cut, relating to matters

such as deliberate deception for personal gain, systematic bullying, or a breach of confidentiality regarding sensitive information. The substantive issue in this case, which was being discussed in a Regeneration meeting on 14th June 2022 was to do with the unveiling of blue plaques and was not to do with a matter which personally affected the Appellant's wife. The failure to declare a personal and prejudicial interest arose in relation to the subsequent minutes and arose because of the recording of certain details of a dispute that occurred at the meeting and involving the Appellant's wife and the Clerk which then led to a complaint to the PSOW about the wife's behaviour at that meeting. Significantly, however, the Appellant's wife declared a personal and prejudicial interest and the Appeal Tribunal considered that this should have alerted the Appellant to the need to consider his own position with regard to the relevant item.

8.4 Involvement in business relating to a close personal associate would usually constitute a serious breach of the Code of Conduct, including using a casting vote to pass a relative's planning application. The Appeal Tribunal did not, however, consider that the breach in this case had been as clear-cut. In this case, the nature of input was to reduce the detail contained within the minutes and to record that there had been an apology by the Appellant's wife before leaving. It was not to erase from the record the fact that there had been a dispute. A complaint had already been submitted to the PSOW by the complainant to outline her concerns, and a copy of the draft minutes had presumably already been submitted in relation to the complaint. In the circumstances, the Appeal Tribunal considered that it was unlikely that the Appellant's input could have made any difference to PSOW's decision to investigate or pursue the Clerk's complaint.

8.5 The Appeal Panel considered the most concerning aspect in relation to the Appellant's behaviour to have been the Appellant's comment at the meeting of 24th October 2022 that his wife had said "*I'm sorry, I can't take this*" at the June meeting in response to the draft minutes which recorded that the Appellant's wife had left abruptly without apology. It noted the further input at the Council meeting of 12th December 2022, to record that he had in fact stated, "*I can't do this, I'm leaving*". In evidence, the Appellant demonstrated some confusion about the order of events in this respect. The Appeal Tribunal concluded that on the balance of probabilities, the Appellant's input at the October meeting sought to minimize the absence of an apology by his wife before leaving the meeting. This was despite the fact that any failure to apologise before leaving a meeting was unlikely to have made any real difference to the investigation.

8.6 As to the number of Code breaches, the Appeal Tribunal noted that the Standards Committee found the Appellant to have been in breach of six paragraphs of the Code. However, these were all in relation to the same events concerning the minutes of the Regeneration Committee dated 12th June 2022. The Appeal Tribunal did however consider that there had been a pattern of behaviour in terms of there being a repeated failure to declare personal and prejudicial interests, particularly in relation to the

Regeneration Committee meeting of 24th October 2022 and the full Council meeting of 12th December 2022. As regards the Council meeting of 26th September 2022, the Appeal Tribunal recognised that, as Chairman of the Regeneration Committee meeting, the Appellant was in an invidious position in his chairman's role of presenting and signing minutes which he did not feel able to support.

8.7 Paragraph 35 of the Sanctions Guidance also makes it clear that the level of culpability, intention of the member, and previous breaches of the Code are all relevant to the question of seriousness. The Appeal Tribunal found the Appellant's evidence and that of Councillor Martin Williams to be credible and persuasive in terms of the Appellant's general intentions. He had been described by an official as being a good Councillor. The Tribunal considered that the breaches had been unintentional and had been due to a misguided view of the Code rather than a deliberate breach. It was satisfied that the Appellant's primary motivation had been to ensure that minutes of the Regeneration Committee meeting had been fair and balanced. The Appeal Tribunal was clear however that this could not be divorced from the fact that the draft minutes focused on the behaviour of the Appellant's wife.

8.8 The Appeal Tribunal then considered the consequences of the breaches for individuals, the wider public and the council as a whole. Whilst it considered that the impact of the breach upon the complaint to the PSOW against the Appellant's wife was likely to have been minimal, the alteration of the narrative in the public record would have caused upset to officers and would have been a matter of concern for the general public. As for the Council, the obvious underlying relationship issue within the Council provided the background to this breach and would, in itself, have brought the Council into disrepute. The breach would however have caused a further layer of difficulty and media interest for the Council, unfortunately for the wrong reasons.

8.9 Finally, the Appeal Panel considered the evidence of previous cases supplied by the Appellant, both in the wider political context in Wales and in relation to recent cases which had been before the Standards Committee and where breaches had been more serious, and yet the sanction imposed had been less harsh than that imposed in this case. It also had regard to the fact that there had been previous complaints made against the Appellant which had resulted in no action. In a recent investigation, it appeared that the PSOW had decided that no prejudicial interest arose where the Appellant had participated in a vote to enable his wife to take up a remunerated chair position. On the face of it, voting in such a case might appear to be more serious than speaking in relation to the current issue. The PSOW may however have taken a pragmatic view in the recent case, that where a husband and wife were members of the same Council and the business related to routine, administrative arrangements, then no prejudicial interest would arise. The question of where the line is drawn in relation to

prejudicial interests is therefore not always clear cut, and the Appeal Tribunal noted that this may have caused understandable confusion for the Appellant.

8.10 In summary, and on the facts of this particular case, the Appeal Tribunal did not consider that the Code breaches by the Appellant in this case could be regarded as being amongst the most serious examples of breaches noted in Paragraphs 36 and 37 of the Sanctions Guidance.

8.11 Having assessed the relative seriousness of the member's breach of the Code, the Appeal Tribunal then considered which course of action would be the most appropriate and noted from the Sanctions Guidance that, *'in line with the principles of fairness and proportionality, the tribunal should start its considerations of possible sanctions with that of least impact.'* The Appeal Tribunal first considered the option of 'No action' or 'censure' as it had accepted that the breaches of the Code in this case had not been deliberate. As the course of action had however continued in more than one meeting, it was not simply one isolated incident, and it did have potential consequences in relation to alteration of an official record. It therefore considered that a short period of suspension was necessary.

8.12 The Appeal Tribunal therefore determined that a time-limited form of disciplinary response was appropriate to deter such future action, and to temporarily remove the Appellant from the Relevant Authority to safeguard the standards set by the Code and to reassure the public that standards were being upheld. It noted from Paragraph 39.5 of the Standards Guidance that a suspension of less than a month was unlikely to meet the objectives of the sanctions' regime.

8.13 The Appeal Tribunal then went on to consider any mitigating and aggravating circumstances in this case. It had regard to Paragraph 42 of the Sanctions Guidance in taking care to respect the Appellant's legitimate right to appeal, and to *'distinguish protestations or assertions made in the course of exercising that right from those actions that might be regarded as aggravating factors designed to obstruct the processes of the Ombudsman or Adjudication Panel.'*

8.14 In relation to mitigation, the Appeal Tribunal had regard to the large number of extremely positive character references supplied on behalf of the Appellant, which referred to his dedication to the role of Member and to his integrity and honesty. It was also satisfied that the following mitigating circumstances applied; -

8.14.1 It was satisfied from the evidence it had seen that the Appellant had a previous record of good service over a long period of time. The Appellant had been a Member for a period of six years. The Appeal Tribunal also noted that there were no previous relevant breaches which the PSOW and Monitoring Officer thought it should consider.

8.14.2 The misconduct related to one set of minutes, albeit that the failure to declare a personal and prejudicial interest, and participation in relation to the relevant item, took place over more than one meeting.

8.14.3 The Appellant was acting in good faith and due to an honestly held, albeit mistaken view that the conduct did not involve a breach of the Code of Conduct.

8.14.4 The misconduct arose from the unusual way in which the minutes had been drafted. The Appeal Tribunal considered that if the minutes had been drafted in a neutral manner, to simply record that a dispute had occurred, then it was unlikely that the minutes would have been controversial or that a Code breach would have been established.

8.14.5 The Appeal Tribunal accepted that a further failure to comply with the Code on the part of the Appellant in similar circumstances was unlikely, and it trusted that the Appellant would be prepared to attend all available training and accept appropriate advice in relation to the Code of Conduct and, in particular, in relation to personal and prejudicial interests in future.

8.14.6 The Appeal Tribunal had seen nothing to suggest that the Appellant had not complied with the Code since the events giving rise to the adjudication. It considered that the evidence showed the Appellant to be a dedicated and hard-working Member with the interests of his community at heart.

8.14.7 Whilst it would have been technically possible for the Appellant to have applied to the Standards Committee for dispensation, in reality, it was not a facility that had been used in Bridgend. The Appeal Tribunal also noted that the Standards Committee made certain recommendations on 9th May 2024 which clearly indicated that awareness-raising was required in relation to dispensation applications. Likewise, any facility for Members to be able to speak from the public gallery, in a similar manner to members of the public, did not appear to be used at the Town Council. The Appellant rightly made it clear that it would not be appropriate to influence any other member 'behind the scenes' to put forward views on his behalf. As such, the Appeal Tribunal understood why the Appellant had found himself in a difficult position as chairman, however if he could not have availed himself of the above mechanisms, he should have left the debate for other Members to resolve.

8.14.8 The Appeal Tribunal noted that none of the Town Council officials appeared to have provided any advice or warning to the Appellant about his interventions at any of the relevant meetings.

8.15 The Appeal Tribunal then went on to consider aggravating factors, and it considered that the following aggravating circumstances applied; -

8.15.1 In view of the Appellant's fairly long experience as a Member on both BCBC and the Town Council, as well positions of responsibility held on the Town Council, the Appeal Tribunal considered that the Appellant should have had greater awareness of the requirements of the Code of Conduct with regard to personal and prejudicial interests. Indeed, due to atmosphere of hostility in which he was working, particularly around the time of the local government elections in 2022, the Appeal Tribunal considered that the Appellant should have been alert to the need to take care in declaring personal and prejudicial interests where appropriate.

8.15.2 The Appeal Tribunal did consider that, at times, the Appellant sought to deflect blame against both Town and County Council officials, as well as political opponents. It also recognised that this was against a background of considerable hostility and abuse on social media. Nevertheless, it was most unfortunate that the Appellant had posted a Facebook message criticising the standards process, particularly as the appeal process was readily available for the Appellant to enable challenge of the decision of the Standards Committee.

8.15.3 The finding of the Standards Committee that the Appellant had breached Paragraph 7(a) of the Code of Conduct was upheld by the President of the APW. The finding was therefore that the Appellant had used/attempted to use his position improperly to confer/secure an advantage, or to create/avoid a disadvantage. In the circumstances, the Appeal Tribunal considered that there had been a degree of conscious, or at least, subconscious, attempts by the Appellant to influence the treatment of the minutes for these purposes.

8.15.4 Whilst the Appeal Tribunal noted that there were breaches of six separate Paragraphs of the Code, it was satisfied that these could not be fairly classified as a *'pattern of behaviour'* or a case of repeatedly failing to abide by the Code. The Appellant's interventions all related to the minutes of the meeting of 14th June 2022 and formed a pattern of behaviour only to the extent that the Appellant's input regarding the minutes continued over certain meetings between September and December 2022.

8.15.5 Whilst the Appeal Tribunal recognised the Appellant's legitimate right of appeal, it did consider that there had been an on-going lack of understanding or acceptance by the Appellant of the breaches and any consequences. Whilst the Appeal Tribunal had already given credit for the fact that the question of prejudicial interest is not always clear-cut, the current circumstances did not relate to routine, administrative business, it related to a heated discussion and controversy which directly involved the Appellant's wife which had already led to a complaint to the PSOW. This should have alerted the Appellant to the fact that he should not have participated in the business.

8.15.6 Whilst it was noted that the Appellant had attended Code of Conduct training, the Appeal Tribunal was concerned to note that the Monitoring Officer had reached out to

the Appellant to provide training in relation to personal and prejudicial interests following a complaint in 2019. It appeared that the Appellant had not taken up the offer and so, on the balance of probabilities, the Appeal Tribunal felt that Appellant had deliberately ignored the offer.

8.15.7 The Appeal Tribunal considered that the Appellant's Facebook post and input to the on-line press article, notwithstanding any provocation, amounted to a failure to co-operate with, and lack of respect for, the relevant standards regime and procedure. It noted that the article stated that the Appellant stood by his comment that, if the rules meant that he could not be truthful, then the rules were wrong. During the Appeal hearing, however, the Appellant made it clear that he would not do the same again in these circumstances.

8.15.8 The Appeal Tribunal noted that the Appellant had accepted the fact that he had breached the Code, albeit that the PSOW argued that this was done through '*gritted teeth*' and that he had not shown remorse for his actions. The Appeal Tribunal noted that the Appellant was reluctant to acknowledge that he had breached the Code as he considered that the treatment of prejudicial interests was not clear-cut. His portrayal of the situation as being a binary '*The Truth*' versus '*The Rules*' was however unhelpful, and it considered this to be an aggravating factor in this case. The Appeal Tribunal considered that a more accurate portrayal of the issue would have been to compare the wish to continue to chair and/or speak about what the Appellant considered to be unfair or one-sided minutes, versus the requirement to declare interests and leave the meeting where a personal and prejudicial interest applied.

8.15.9 Finally, the Appeal Tribunal noted that, despite the fact that the Appellant had been in touch with the Monitoring Officer over several issues, he had failed to ask her for advice regarding the specific situation. It considered that he had ample time to consider his position between the Council meeting in September 2022 and the Regeneration meeting in October 2022 and then again, prior to the Council meeting in December 2022. The Appeal Tribunal was concerned that the Appellant had sought to excuse this lack of contact by referring to events which post-dated the current issue, albeit he apologised to the Monitoring Officer at the Appeal hearing for this error. The Appeal Tribunal was however mindful that the events in question took place in 2022, and it was most unfortunate that the proceedings were still in train in late 2024, so that memories will no doubt have faded.

8.16 The Appeal Tribunal then considered whether any further adjustment was required to the sanction in order to achieve an appropriate deterrent effect and to maintain public confidence. It also considered the overriding purpose of the sanctions regime to uphold standards of conduct in public life and to maintain confidence in local democracy. It therefore considered relevant previous decisions of the APW as follows: -

8.16.1 With regard to APW/001/2015-016/CT, the Appeal Tribunal considered that the personal and prejudicial interest in that case in terms of a partner's pay increase as clerk was clear and obvious. Nevertheless, the Member remained in the meeting but appeared not to have participated in the debate. In that case, a three-month suspension was imposed.

8.16.2 With regard to APW/011/2021-022/CT, the Appeal Tribunal noted that in that case, the sanction of suspension was not available as it involved a former member. It noted that it had been a finely balanced decision as to whether or not to impose any sanction and that the Guidance stated that a disqualification of less than 12 months was regarded as being unlikely to be meaningful. The behaviour in that case was seen to involve voting by the member in relation to a substantive decision as to whether to report her member husband to the PSOW, in full knowledge of the Code requirements and with a clear statement that she would do the same again.

8.17 Finally, the Appeal Tribunal had regard to Article 10 of the European Convention on Human Rights ('ECHR') as follows: -

8.17.1 *'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.... The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others...'*

8.17.2 The Appeal Tribunal also had regard to the case of *Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504*, which provided a reminder of the principle that to deprive constituents of the elected member of their choice required particular justification, and that consideration must be given to imposing the minimum sanction consistent with the aims of maintaining standards in public life.

8.17.3 In conclusion, with regard to Article 10 ECHR, in the light of other cases to which the parties had referred, and in the interests of proportionality, the Appeal Tribunal concluded that a period of suspension of six months was excessive, as this was the maximum sanction which could be imposed by the Standards Committee and it considered that the breaches in this case were not of the most egregious nature. As referenced in the Heesom case, the sanction of six months' suspension would not give *'adequate head room for the much graver breaches of the Code which could be envisaged'*.

DETERMINATION

8.18 The Appeal Tribunal, by unanimous decision, decided to refer the matter back to the BCBC Standards Committee with a recommendation that the Appellant should be suspended for **10 weeks** pursuant to the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.

8.19 The Authority and its Standards Committee are notified accordingly.

8.20 The Appeal Tribunal noted that the Standards Committee also made certain recommendations regarding advice and training upon elements of the Code. The Appeal Tribunal was mindful that such recommendations were outside its powers under the 2001 Regulations. Nevertheless, given the evidence received during the course of the Appeal hearing, it considered that it would be beneficial for the Standards Committee to pursue such recommendations.

Signed..... 

Date: 03rd January 2025

Chair of the Appeal Tribunal: Ms C Jones

Case Tribunal Member: Dr G Jones

Case Tribunal Member: Mr D Morris