

## Appendix A

### **Tower Hamlets: Ministers formally intervene at east London council after 'toxic' culture found**

Ministers formally intervened in the running of Tower Hamlets council on Wednesday after a damning report raised concerns about a “toxic” political culture.

Local government minister Jim McMahon said the government remained concerned about the running of the borough and appointed a team of officials to oversee improvements.

A ‘best value’ report in November found a lack of trust and respect among both political parties and management meant the executive at Tower Hamlets Council remained unchallenged, with decision-making dominated by an inner circle around the mayor, Lutfur Rahman.

Mr Rahman was previously banned from public office after a High Court ruling in 2015 found he had won the 2014 election in the borough with the help of “corrupt and illegal practices”.

These included the wrongful portrayal of his rival Labour candidate John Biggs as a racist and the allocation of grants in a way that amounted to bribery.

Mr Rahman later staged a return as the directly-elected leader in 2022 with his Aspire party.

In a statement, ministers said intervention was “necessary” because of concerns the council was failing over “governance, leadership, culture, and partnerships”.

Under the arrangements, ministerial envoys - including former Newham chief exec Kim Bromley-Derry - will scrutinise the council and report back to government until March, 31 2028.

Ministers have warned the council they have not “ruled out the possibility of further action in the future” if improvements are not seen.

In a letter to Mr McMahon, Mr Rahman and chief executive Stephen Halsey said the council “accepted” the findings of November’s report, and had already begun making improvements.

They added: “We are determined that this statutory support package can be a fresh start to achieve meaningful and lasting change at the LBTH and welcome the input, oversight and support of the Ministerial Envoys to re-balance the political divisions and support the statutory officers in their role.”

Ministers previously intervened in Tower Hamlets between December 2014 and September 2018.

Executive Mayor Lutfur Rahman said: “We welcome the Envoys to Tower Hamlets Council.

“While we have much to be proud of, we know there is room for improvement and the expertise of the Envoys combined with our staff and members will help us achieve greater outcomes.

“This will offer the opportunity to celebrate our achievements and work with industry experts.

“We are leading the way as the first local authority to adopt groundbreaking initiatives such as universal free school meals, winter fuel payments for pensioners, grants for college and university students and free-swimming lessons for many residents, demonstrating how councils can maintain a strong financial position with balanced books while investing in our community to improve peoples' lives.”

*Source: Evening Standard*

### **Power to suspend councillors for misconduct is back on the table**

In an exchange of letters published last week by the Committee on Standards in Public Life, the government has confirmed it will consult on the CSPL's recommendation to introduce a new power to suspend councillors for misconduct.

In 2019, the CSPL published its report, *Local Government Ethical Standards*. The report made a series of recommendations, the most eye-catching of which was a proposal to amend the Localism Act 2011 to enable local authorities to suspend councillors for up to 6 months without allowances. The CSPL's justification was that the lack of “serious sanctions” – such as suspension – was undermining the effectiveness and credibility of the standards regime. The CSPL's advice was that suspension – if permitted – should only be used rarely and in the most serious of cases, giving examples such as councillors found to have bullied or harassed others or for “repeated non-compliance with lower level sanctions.”

However, they did not consider the evidence justified a power of disqualification. The Conservative government – led at the time by Boris Johnson – firmly rejected that recommendation.

In responding on the government's behalf (more than three years after the report's publication), Kemi Badenoch MP (now leader of HM Opposition) wrote that the removal of the power to suspend or disqualify councillors was a deliberate policy choice to remedy the “flawed” pre-2011 standards regime, claiming that the old regime had “allowed politically motivated complaints and had a chilling effect on free speech within local government.” However, in a speech in October this year, the new Deputy Prime Minister, Angela Rayner MP, promised a “reset” of relations between central and local government. In making that announcement, the Deputy Prime Minister cited cases of persistent poor behaviour by councillors, adding that the current framework does not protect victim or empower councils to address poor conduct.

She announced an intention to consult on amendments to the legislation, including “a proposal to allow for the suspension of members who violate codes of conduct.”

In response to a follow-up letter from the Chair of the CSPL, Doug Chalmers, inviting the government to reconsider their recommendations, Minister of State for Local Government and English Devolution, Jim McMahon OBE MP, confirmed that the government will consult on a range of changes to the current standards rules – including a power of suspension.

The consultation could also see a revival of the many other CSPL recommendations either rejected by the previous government or which were not progressed, including:

- a statutory definition of “official capacity”
- additions to the list of Disclosable Pecuniary Interests, such as unpaid directorships and trusteeships, and membership of campaigning organisations
- a statutory requirement to adopt a gifts and hospitality register
- reintroducing a “prejudicial interest” test for when councillors must withdraw from an item of business due to conflicts (or perceived) conflicts of interest
- strengthening the role of independent members of standards committees by allowing them to vote on determinations and sanctions
- clarification as to the roles of principal and town/parish councils in handling and determining complaints against town/parish councillors
- an extension of statutory protections for senior officers to all forms of disciplinary protection (and not just dismissal)

*Source: Cornerstone Barristers*

### **The standards pendulum – 1927 to now**

As a governance team, within the wider local authority team here at Bevan Brittan, a steady and significant part of our work consists of standards matters, including undertaking investigations and producing investigative reports, and assisting authorities with their hearings. What comes to us is, of course, more often than not the difficult stuff. These matters are put out for instruction not just because of capacity issues in-house but often on the basis of a perceived need for independence and a separation from the authority because of political sensitivities (both small and large ‘p’), because of the severity of the issues, or because of the nature of the individuals concerned. On the basis of the work we undertake, there appears to us to be a greater number of complaints concerning a lack of civility in political discourse (to put it politely), a number of which involve apparent threats of violence, and a significant group of members who collect findings against them as some sort of badge of (dis)honour of which they are perversely proud. When we speak to our colleagues in other firms who undertake this work, we all tend to say this same thing, as do groups like the LGA in their campaigns.

Very recently, we saw that a councillor was jailed for 18 weeks for harassment of the local authority’s senior staff. The Council had tried dealing with the councillor’s poor behaviour through the standards system some years earlier, and in a press release stated “*the limited*

*sanctions available through this legislation did nothing to stop or modify Councillor Ford's behaviour and the intervention through the court system was the only avenue available."* That is at the extreme end, most are not.

Most worryingly, despite the amount of allegations that are being investigated, we hear regular reports of senior officers who feel bullied or improperly attacked but who respond with "what's the point? There are no teeth to the system!"

Behind this, we must remind ourselves that local authority members are now arguably the least regulated they have been since 1927. The approach of the changes of 2011 was that the ballot box and party discipline would be the arbiter of such matters. The political parties and groups have by and large done their bit, but that falls down when members who have lost the whip continue in their personal approach to political life, in situations where the pressure is to maintain every vote, or within the groups that maintain little or no discipline. We have seen many examples where members have acted in an outrageous manner, in-person and online, but have been returned at the ballot box (sometimes with a significant increase in the majority of votes). There are likewise several instances of members who have been subject to a criminal conviction, including for defrauding their own authority, but have refused to resign and continued to hold their seat in the Chamber because their sentence was under three months.

The way we have often described this over the last few years is as a pendulum. The pendulum has swung back and forth, through the years of surcharge, scandal, the Standards Board for England, and then to the current position, where it is held at a point where balance must mean that it is due to swing back. Indeed, the English Devolution White Paper has stepped in and alongside it the consultation on 'strengthening the standards and conduct framework for local authorities in England'.

This proposes:

- the introduction of a mandatory minimum code of conduct for local authorities in England
- a requirement that all principal authorities convene formal standards committees to make decisions on code of conduct breaches, and publish the outcomes of all formal investigations
- the introduction of the power for all local authorities (including combined authorities) to suspend councillors or mayors found in serious breach of their code of conduct and, as appropriate, interim suspension for the most serious and complex cases that may involve police investigations
- a new category of disqualification for gross misconduct and those subject to a sanction of suspension more than once in a 5-year period
- a role for a national body to deal with appeals

Within this, the consultation underscores the comments made by the sector, including the committee on standards in public life, in the following terms:

*"Feedback from the local government sector in the years since the removal of the power to suspend councillors has indicated that the current lack of meaningful sanctions means local*

*authorities have no effective way of dealing with more serious examples of member misconduct.*

*“The most severe sanctions currently used, such as formally censuring members, removing them from committees or representative roles, and requiring them to undergo training, may prove ineffective in the cases of more serious and disruptive misconduct. This may particularly be the case when it comes to tackling repeat offenders.”*

It goes almost without saying from our comments above that the time is indeed right for the pendulum to swing back to a point where meaningful sanctions, controls, and limits on the part of elected members are reintroduced. To do otherwise arguably besmirches the name of the overwhelming majority of members who act decently and respect the public they interact with, those who work for and with them, and their fellow politicians, in order to deliver for their communities. There is much to learn from other legal frameworks and nations.

The question of enforcement is a part of the conversation. In many obvious examples the CPS have not pursued prosecutions in respect of a failure to disclose disclosable pecuniary interests, either because they felt it not a priority in the public interest and wanted to ration their own resources and those of the police, or because of their apparent failure to understand the complexities and nuances of local government. On occasion they have sought to bring criminal proceedings of their own volition where a monitoring officer would not, certainly showing that need for further understanding. So should it be the police and CPS who make a recommendation to the DPP, or should it be someone else? This goes beyond the question of a national appeals body, but should be addressed.

This conversation then leads to a secondary question which the consultation does not ask, which is how to respond not just to poor behaviour in terms of civility and conflicts of interest, but to how to hold those to account whose actions have been reckless and self-serving to such a degree that it can only be called an abuse of power, and as a result of which substantial loss has been caused to their authority. There is a wider accountability question many are now asking, part of the response to which we have seen reflected in the Financial Reporting Authority announcing its investigation into accounting activities at Thurrock and elsewhere.

It is now some 25 years since the possible imposition of surcharge disappeared; the straight forward concept that if a person perniciously, recklessly and deliberately misuses monies from the public purse, then the public purse should have the ability to get it back from them directly. The high watermark of the Porter affair saw to that, replacing the regime with the member code of conduct and a framework of suspension or removal that was vaguely akin to the possibilities for a wrongful action by a company director.

Added to that change was then the current legislative framework introduced in 2011, created in an environment in which the then Secretary of State:

- advised local authorities to act more commercially to create income, in the words of the guidance issued, to sell services and “undertake imaginative and joint ventures” to do so;

- advocated that “in a time when members have executive responsibilities”, authorities “should be “scrapping the post of chief executive entirely”;
- reduced the protections for statutory officers to make it “easier to abolish such posts without having to fork out expensive pay-offs”; and
- advised councils to make creative use of their reserves to address short term costs,

This created what may be referred to as a permissive legislative environment. It is one in which the voices of those who wish to speak truth unto power have been weakened and in which a number of politicians, officers and others, who consider the existence of governance strictures and the opinions of anyone who raises risk and risk management as a blocker to progress to be removed, gone around or ignored, have taken advantage of their political support (small ‘p’ or large) to promote schemes and policies that should never have been implemented once examined in the professional light of day.

The protection from personal liability of members and officers as an indemnity is conditional upon their actions being bona fide for the purpose of executing the legislation they are acting upon (in the words of s.265 of the Public Health Act 1875 and s.39 of the LG(MP)A 1976), or to not amount to deliberate wrongdoing or recklessness on the part of that member or officer (in respect of an indemnity granted under the Local Authorities (Indemnities for Members and Officers) Order 2004). This condition means that an authority, or anyone else with cause, may hold a member or officer personally liable for their action, or failure to act, in those circumstances. An action for this, and for breach of trust, therefore remains a potential. Presumably because of the cost involved relative to what may be gained, since *Porter v McGill*, we are unaware of anyone who has been made liable in this way.

The question, however, is how far the pendulum should now swing back in order to achieve the right kind of balance between civility, freedom of expression, the opportunity to take risk where there is opportunity, and the protections everyone involved deserves? We are certain that it must be brought back from its current permissive consequence free extreme, and that circumstances where individuals have acted wrongfully or have been reckless to the point of abusing their powers, should be held to account. The reforms must, therefore, go beyond a reintroduction of protections for statutory governance officers and a code of conduct regime with teeth. With the days of surcharge long gone and breach of trust almost never used, the sector cannot rely on the extreme of misconduct/misfeasance in public office alone as a further deterrent. In the light of the section 114 reports on poor governance and the scandals behind them, does the sector require more than the threat of disciplinary action under employment contracts or action via the standards regime (refreshed or not) to deal with its complex issues and characters? Time for a brand new version of the old district audit, one with teeth and an understanding of the sector? That is a matter for those responding to the consultation, but what we would urge is that the consultation is not allowed to be an opportunity squandered, and that as many respond as is possible before it closes at the end of this month.

## **Councillor jailed after sustained campaign against head of legal and chief executive**

A councillor at Torridge District Council has been jailed for 18 weeks for harassment of the local authority's head of legal and governance.

Cllr Leonard Ford, an unaligned ward member for Appledore since May 2023, was found guilty of two charges at Exeter Magistrates Court last month (13 December 2024).

He had been charged with:

1. Persistently making use of public communication network to cause annoyance/ inconvenience/ anxiety.
2. Harassment without violence.

In his sentencing remarks at Exeter Magistrates' Court last week District Judge Stuart Smith said Cllr Ford had denied the offence of section 2 harassment against head of legal Staci Dorey, but had accepted the sending of emails to her where he repeatedly called her "corrupt and dishonest".

The councillor had in addition insulted the head of legal by calling her "a disgrace to the human race", and had likened her to Hitler.

The judge said: "She felt bullied and harassed and described the effect of your campaign of behaviour on her as horrific. She felt the need to be escorted in and out the building, had to install cameras at her home and even considered resigning from her job because of you."

Cllr Ford had also "bombarded" the CEO of the council, Steven Hurst, with a similar barrage of abusive and insulting emails over the same period.

District Judge Stuart Smith told Cllr Ford that he found his messages to be "nothing more than a verbal tirade of abusive and insulting language with no legitimate purpose, and with the sole intent to cause needless anxiety and distress.

"You were persistent and send messages on an almost daily basis for a period of 8 months, often with multiple messages in the same day. Those messages were derogatory, demeaning and unhinged."

The judge noted that Cllr Ford had no previous convictions, but did have one caution from 2021 for harassment for identical behaviours.

District Judge Stuart Smith said: "You are an elected public official, in a position of power, responsibility and influence. You have standards to uphold and an example to set. In behaving in this way you have let down the community you represent."

Turning to the guidelines for harassment, the judge described Cllr Ford's culpability as high, and that he had been persistent and acted with purpose in the messages he sent.

District Judge Stuart Smith said Cllr Ford's previous caution, his offending towards Mr Hurse and the enhanced position of trust all aggravated and increased the starting point of 12 weeks' custody.

The judge added: "I consider your offending is so serious that neither a fine nor a community order can be justified. The appropriate sentence for the harassment is one of 18 weeks custody, with no separate penalty for the section 127 communication offence."

He said he did not consider there were any factors present which would warrant that sentence being suspended and it would therefore be an immediate sentence of imprisonment.

Cllr Ford was also ordered to pay costs of £685 and a victim surcharge.

He has also been made subject to a restraining order for four years. This requires him:

1. Not to contact Staci Dorey directly or indirectly (except when attending council meetings whilst acting in his capacity as an elected councillor).
2. Not to use threatening, abusive, intimidating or insulting words or behaviour (including via electronic means such as telephone or email) towards any council officers or councillors.
3. Not to contact staff or officers of Torridge District Council by electronic means (including not to telephone or email), unless it is the officer designated by the council for official council business.
4. Not to be within 100 metres of Torridge District Council Offices at Riverbank House, Bideford.

In December, after Cllr Ford was found guilty, Steve Hearse, Torridge's Chief Executive Officer, said: "Councillor Ford has undertaken a sustained campaign of intimidating and bullying behaviour towards our staff and councillors. As a council, and as an employer, we will not condone these actions. The health, safety and wellbeing of our staff and Councillors is paramount.

"It is unfortunate that action through the legal system was necessary. The council's only remedy for dealing with such poor behaviour is through the standards system. Whilst Councillor Ford's actions were dealt with internally through this process by the Standards Committee in 2022 the limited sanctions available through this legislation did nothing to stop or modify Councillor Ford's behaviour and the intervention through the court system was the only avenue available."

Hearse added: "It is imperative that we can achieve and deliver the council's ambitious plans with senior officers, staff and councillors working together side by side with mutual respect. "We welcome the verdict and hope that Councillor Ford can abide by a code of conduct that is fitting of the privileged position of being a councillor and a representative of the electorate. Our staff and councillors deserve to be treated with dignity and respect, free from bullying, harassment and victimisation."

## **Conservative councillor owes £3,835 in council tax and 'has missed 27 meetings'**

A Conservative councillor is facing calls to quit - after it emerged he owes nearly £4,000 in council tax and has failed to attend numerous Pendle Council meetings.

Coun Tom Ormerod "should resign immediately" according to Lib-Dem councillor David Whipp, who issued a media statement this week revealing the unpaid tax bill and missed meetings. Pendle Council has confirmed the council tax arrears.

A council spokesman said: "We can confirm that Coun Tom Ormerod is in arrears with his council tax and owes £3,835."

Karen Spencer, the council's director of resources, said: "Section 106 of the Local Government Finance Act 1992 makes it an offence for a councillor in council tax arrears of at least two months to vote at a council meeting where financial matters relating to council tax are being considered.

"Coun Ormerod has attended two committee meetings and one full council meeting since December 2023. If a councillor fails to attend meetings for six months, unless the non-attendance was approved by the council, they automatically cease to be a councillor."

Coun Ormerod was elected to Colne's Vivary Bridge ward in May 2023. The ward has a forthcoming by-election following the resignation of another Conservative councillor - Kieran McGladdery - after his group failed to back stronger taxi-safety measures at a council meeting in December.

Coun Whipp has now raised questions about what the local Conservative Party knew about the council tax situation when they chose Coun Ormerod as a local election candidate in 2023.

He said: "This is a scandal. At the end of March last year, Coun Ormerod owed £3,835 in council tax arrears. He was paid £3,131 in allowances in that year.

"Coun Ormerod has only attended two meetings in the past 14 months, the bare minimum to avoid disqualification for non-attendance. And he has only been to one full council meeting during the whole of his time on the council. In total, he's missed 27 meetings that he should have attended.

"It's hardly a surprise that Colne is a neglected corner of Pendle when it has a non-paying, non-attending councillor. Coun Ormerod should resign immediately and allow someone willing to do the work to take over.

"The Conservatives need to take a long, hard look at themselves in putting forward a candidate who was £1,700 in arrears at the time of his election. They should have acted before now to make him stand down. Residents rightly want answers as to why this situation has been allowed for three years. It stinks. It cannot continue."

Coun Whipp said Coun Ormerod is in tax arrears of:

- £1,153 for the year ending March 2022
- £547 for the year ending March 2023
- £2,135 for year ending March 2024

He said Coun Ormerod has only attended two meetings since December 2023. Both were area committee meetings in Colne, on May 9 and November 7, 2024. His claimed his only attendance at a full council meeting was May 18, 2023.

Coun Ormerod remains a borough councillor.

*Source: LancsLive*

### **Council rejects 'harassment' claims against ex-leader**

**An independent report commissioned by a council concluded its former leader was more likely than not to have "sexually harassed" a councillor who "didn't feel comfortable being left alone in a room" with him.**

But, in a hearing held behind closed doors, Dacorum Borough Council's standards committee rejected the findings into Liberal Democrat councillor Ron Tindall's alleged behaviour.

A Dacorum Liberal Democrats spokesperson said he remained suspended from their group "pending an internal investigation".

Tindall denies all the allegations.

Two councillors formally lodged anonymous complaints against Tindall shortly before he was replaced as leader in April by Adrian England.

Last month, eight female Lib Dem councillors resigned the party whip after accusing England of "failing to deal with allegations of bullying and harassment, including sexual harassment".

### **'Unwanted behaviour'**

After their resignations, England told the Local Democracy Reporting Service (LDRS): "Quite a lot has happened so we need to just have a think about what may have caused people to expend quite a bit of procedural venom."

An independent report was commissioned to investigate allegations Tindall had "made various misogynistic remarks which were completely inappropriate and disrespectful to women".

It considered six incidents reported by the two councillors, which occurred while he was council leader.

It concluded, on the balance of probabilities, that "there was unwanted behaviour of a sexual nature on repeated occasions".

The report added: "The evidence that was heard created an uncomfortable and intimidating environment for the complainant to such an extent they didn't feel comfortable being left alone in a room with him."

It found both complainants were "very concerned about the impact of his comments, especially on younger women".

Tindall told investigators "I just wouldn't dream of doing that sort of thing," and added he "had never used sexual connotations with colleagues".

He said "he did not regard his remarks as having sexual connotations" and that they were not "in any way misogynistic".

He added he was "proud of the number of female councillors in the [Lib Dem] group" and said his alleged comments "which might have been construed [sic] were jokes".

He told the LDRS the investigator had "very professionally" taken on board his denials, but suggested they had "failed to recognise the political situation from which these complainants were emerging".

The council's standards committee, made up of three male and one female councillor, dismissed the complaints.

They concluded one complaint was "insufficiently particularised or evidenced for either Councillor Tindall to fairly be able to respond, or for the committee to adjudicate as to whether what has been alleged is a breach of the code [of conduct]".

On the other complaint they were "not satisfied, on the balance of probabilities, that the alleged factual allegations occurred".

A spokesperson for the eight councillors who resigned said: "The mechanisms in local government do not provide a fair process for elected members to speak up against sexual harassment."

A council spokesperson said the report "only formed part of the evidence the committee received".

They added: "The council has examined the process undertaken by the independent investigator and the standards committee and we are satisfied that all processes and procedures were followed correctly."

**Source: BBC**

## **Appendix B**



**10 December 2024**

**MEDIA RELEASE**

## **NORTH LANARKSHIRE COUNCILLOR SUSPENDED FOR BREACH OF COUNCILLORS' CODE**

At a Hearing held in Airdrie on 10 December 2024, the Standards Commission decided to suspend North Lanarkshire Councillor Greg Lennon for two months. This was after he was found to have behaved disrespectfully towards the Council's Chief Executive Officer in a social media post and email to a constituent regarding a decision taken by the Council to carry out a review of its facilities.

Helen Donaldson, Standards Commission Member and Chair of the Hearing Panel, said:

*"The Panel found that, in both his post and email, Cllr Lennon effectively accused the Chief Executive both of going beyond his remit and of not being politically neutral by stating that he (along with the Council Leader) had initiated the review and by inferring that this had been done for political reasons."*

The Standards Commission's Hearing Panel found, and noted it was not in dispute, that Cllr Lennon stated in the post and email that the "review was initiated by the Chief Executive of NLC, Mr Des Murray, and [the Council Leader]" and that "the timing and process" were "suspect", given two upcoming elections. Cllr Lennon stated that he questioned whether the "real purpose" of the review was "to create a crisis and overturn it to gain votes for both the Labour and Conservative Groups". The Panel found that Cllr Lennon had published the post despite being aware that the decision to undertake the review had been made by elected members at a Council meeting in February 2023. As such, the Chief Executive had not been responsible for initiating the review and, instead, was simply responsible for implementing the decision to undertake one.

The Panel further heard and found that, in another social media post, Cllr Lennon noted that one of his political group's budget proposals was a cut to "the council and labours PR machine". The Panel agreed this clearly inferred, in a public forum that, instead of being politically neutral and working to publicise decisions made by the Council, council officers were colluding with the Labour Party to promote its messaging. The Panel considered this was disrespectful and discourteous towards officers.

The Panel accepted that, as a politician, Cllr Lennon was entitled to criticise the decision by fellow councillors to undertake the review, its timing, and the likely use of its findings by political opponents. The Panel considered, however, that he could have done so without specifically naming or, indeed, making any mention of the Chief Executive. Similarly, the Panel noted that Cllr Lennon was entitled to criticise or make comments on another political party's messaging without suggesting that council officers were colluding with them and, as such, were failing to be politically neutral.

The Panel found, on balance, that Cllr Lennon published the first post and sent the email deliberately, knowing they contained incorrect information and gave the impression that the Chief Executive had failed to maintain political neutrality (being a serious allegation). It found that Cllr

Lennon named the Chief Executive and published the post in a public forum despite knowing he had no right of reply.

The Panel noted that Cllr Lennon amended the first post after concerns about it were raised with him. The Panel noted, however, that while he had removed the Chief Executive's name, Cllr Lennon chose to retain the reference to his job title. The Panel further noted there was evidence of apparent problems in the relationship between Cllr Lennon's political group and council officers. Given this, and Cllr Lennon's knowledge that officers would be expected to act upon and communicate about decisions made by councillors, the Panel was satisfied, on the balance of probabilities, that the mention of the Chief Executive in the first post and email was deliberate and intended to link him to criticisms of the Administration.

The Panel concluded, therefore, that Cllr Lennon's conduct amounted to a breach of the provisions in the Code which require councillors to:

- treat everyone, including council officers, with courtesy and respect; and
- refrain from criticising the conduct of individual officers in public, and to work with them in an atmosphere of mutual trust and respect.

As council officers are obliged to remain politically neutral, the Panel was of the view that such public questioning of the Chief Executive's impartiality and therefore integrity, amounted to a personal attack. The Panel noted that not only would this have been distressing, but it could have been highly damaging to the Chief Executive's reputation as an individual. The Panel further considered the linking of officers to a specific political party's messaging was also a deliberate and public attack on their impartiality. The Panel considered this could have been damaging to the reputation of the Council itself.

The Panel noted, in mitigation, that Cllr Lennon had not named any specific officers in the second post and that there had not been any previous findings of a contravention of the Code against him. The Panel was nevertheless concerned that Cllr Lennon had not shown any insight into his conduct, and its potential impact. It noted that he had not proffered any apology.

In the circumstances, the Panel concluded, on balance, that a two-month suspension was the appropriate sanction.

*Ms Donaldson, stated: "The Code of Conduct does not prevent councillors from being able to express their views and opinions. The Panel accepted that Cllr Lennon was unhappy with the decision taken by fellow councillors to review Council facilities and that he had sought to raise publicly his concerns in this regard. The Panel agreed, however, there was no reason why he could not have done so without knowingly suggesting, incorrectly, that the Chief Executive was involved in instigating the review and, further, by inferring this had been done for political reasons. The Standards Commission considers that adherence to the Code helps maintain the mutual bond of trust and confidence between councillors and officers which, in turn, enables local government to function effectively. It also protects officers from offensive attacks that could potentially undermine the public's confidence in them and the Council itself."*

A full written decision of the Hearing will be issued and published on the Standards Commission's website within 14 days.

ENDS

## NOTES FOR EDITORS

1. Complaints about councillors are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: [info@ethicalstandards.org.uk](mailto:info@ethicalstandards.org.uk), <https://www.ethicalstandards.org.uk/> Tel: 0300 011 0550
2. The [Standards Commission for Scotland](#) is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies including in education, environment, health, culture, transport, and justice. The role of the Standards Commission is to encourage high ethical standards in public life; promote and enforce the Codes of Conduct; issue guidance to councils and devolved public bodies and adjudicate on alleged breaches of the Codes of Conduct, applying sanctions where a breach is found.
3. The [Codes of Conduct](#) outline the standards of conduct expected of councillors and members of devolved public bodies. In local authorities, there is one Code of Conduct, approved by Scottish Parliament, which applies to all 1227 councillors elected to Scotland's 32 Local Authorities.



**23 October 2024**

**MEDIA RELEASE**

## **NORTH LANARKSHIRE COUNCILLOR SUSPENDED FOR BREACH OF COUNCILLORS' CODE**

At a Hearing held in Airdrie on 23 October 2024, the Standards Commission decided to suspend North Lanarkshire Councillor David Crichton for one month. This was after he was found to have behaved disrespectfully towards the Council's Chief Executive Officer in a social media post regarding a decision taken by the Council to carry out a review of its facilities.

Suzanne Vestri, Standards Commission Convener and Chair of the Hearing Panel, said:

*"The Panel found that, in his post, Cllr Crichton effectively accused the Chief Executive both of going beyond his remit and of not being politically neutral by stating that he (along with the Council Leader) had initiated the review and by inferring that this had been done for political reasons."*

The Standards Commission's Hearing Panel found, and noted it was not in dispute, that Cllr Crichton stated in the post that the "review was initiated by the Chief Executive of North Lanarkshire Council, Mr Des Murray and [the Council Leader]" and that "the timing and process" also appeared unusual, given the upcoming elections. Cllr Crichton stated that he hoped that the "real purpose" of the review was "not to portray a greater crisis in an effort to gain votes for both the Labour and Conservative Groups". The Panel found that Cllr Crichton had published the post despite being aware that the decision to undertake the review had been made by elected members at a Council meeting in February 2023. The Chief Executive had not, therefore, been responsible for initiating the review and, instead, was simply responsible for implementing the decision to undertake one.

The Panel accepted that, as a politician, Cllr Crichton was entitled to criticise both the decision by fellow councillors to undertake the review, its timing and the likely use of its findings by his political opponents. The Panel considered, however, that he could have done so without specifically naming or, indeed, making any mention of the Chief Executive.

The Panel noted that the post had been prepared in advance by Cllr Crichton's political group, and that Cllr Crichton himself had added further wording to it. As such, it was evident that the post had not been drafted in haste, without considering the wording and its likely inference. In light of this, the apparent problems in the relationship between Cllr Crichton's political group and the Chief Executive, and Cllr Crichton's knowledge that the decision to undertake the review had been made by councillors, the Panel was satisfied, on the balance of probabilities, that the mention of the Chief Executive in the post was deliberate and was intended to link him to the review in order to publicly criticise his alleged conduct.

The Panel considered that, in stating that the Chief Executive had instigated the review and, in inferring he had done so for political purposes, Cllr Crichton was effectively accusing him both of going beyond his remit and of not being politically neutral. As council officers are obliged to remain politically neutral, the Panel was of the view that such public questioning of the Chief Executive's impartiality and therefore his integrity, could have been highly damaging to his reputation as an

individual. Given the Chief Executive's position as its senior officer, it could have also been damaging to the reputation of the Council itself.

The Panel found, therefore, that Cllr Crichton's conduct amounted to a breach of the provisions in the Code which require councillors to:

- treat council officers with courtesy and respect; and
- refrain from criticising the conduct of individual officers in public, and to work with them in an atmosphere of mutual trust and respect.

The Panel considered that the deliberate inclusion of the Chief Executive in the criticism of the decision to initiate the review, despite knowing this had been made by councillors, was wholly unfair and inappropriate. The Panel accepted that such an unjustified public inference that he had failed to maintain political neutrality amounted to a personal attack and would have been distressing for the Chief Executive.

The Panel nevertheless noted, in mitigation, that Cllr Crichton had not drafted the parts of the post in question and had removed it after a few days (albeit only after the Council's Monitoring Officer had raised concerns about it with him), meaning the duration of the breach was somewhat limited. The Panel further noted that Cllr Crichton had co-operated fully with the investigative and Hearing processes and there had not been any previous findings of a contravention of the Code against him.

The Panel was nevertheless concerned that Cllr Crichton had not shown any insight into his conduct, and its potential impact. It noted that he had not proffered any apology.

In the circumstances, and after a great deal of consideration, the Panel concluded, on balance, that a one-month suspension was the appropriate sanction.

Ms Vestri, stated: *"The Code of Conduct does not prevent councillors from being able to express their views and opinions. The Panel accepted that Cllr Crichton was unhappy with the decision taken by fellow councillors to review Council facilities and that he had sought to raise publicly his concerns in this regard. The Panel agreed, however, there was no reason why he could not have done so without knowingly suggesting, incorrectly, that the Chief Executive was involved in instigating the review and, further, by inferring this had been done for political reasons. The Standards Commission considers that adherence to the Code helps maintain the mutual bond of trust and confidence between councillors and officers which, in turn, enables local government to function effectively. It also protects officers from offensive attacks that could potentially undermine the public's confidence in them and the Council itself."*

A full written decision of the Hearing will be issued and published on the Standards Commission's website within 14 days.

ENDS

## NOTES FOR EDITORS

1. Complaints about councillors are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: [info@ethicalstandards.org.uk](mailto:info@ethicalstandards.org.uk), <https://www.ethicalstandards.org.uk/> Tel: 0300 011 0550

2. The [Standards Commission for Scotland](#) is an independent public body, responsible for encouraging high standards of behaviour by councillors and those appointed to boards of devolved public bodies including in education, environment, health, culture, transport, and justice. The role of the Standards Commission is to encourage high ethical standards in public life; promote and enforce the Codes of Conduct; issue guidance to councils and devolved public bodies and adjudicate on alleged breaches of the Codes of Conduct, applying sanctions where a breach is found.
3. The [Codes of Conduct](#) outline the standards of conduct expected of councillors and members of devolved public bodies. In local authorities, there is one Code of Conduct, approved by Scottish Parliament, which applies to all 1227 councillors elected to Scotland's 32 Local Authorities.



**4 February 2025**

**MEDIA RELEASE**

**ABERDEEN CITY COUNCILLOR CLEARED OF ALLEGED BREACH OF COUNCILLORS' CODE**

Aberdeen City Councillor Kairin van Sweeden was found not to have breached the Councillors' Code of Conduct at a Hearing held online on 4 February 2025, in respect of an allegation she had behaved disrespectfully towards and discriminated against, a fellow councillor during a council meeting on 11 October 2023.

Dr Lezley Stewart, Standards Commission Member and Chair of the Hearing Panel, said: "The Panel noted that Cllr van Sweeden accepted the remark was clumsily worded, and was satisfied from the evidence led by her that she did not intend it to be offensive or discriminatory. The Panel recognised, however, that the comment had caused offence to the Complainer."

At the Hearing, the Standards Commission's Panel heard that it was not in dispute that, during a council meeting on 11 October 2023, in response to a comment made by the Complainer (another elected member), Cllr van Sweeden referred to another councillor as a "new Scot" and suggested that, as such, the other councillor "maybe doesn't know about" actions she (Cllr van Sweeden) contended the SNP Government had taken with a view to mitigating against austerity measures, such as the introduction of the bedroom tax.

In reaching its view that Cllr van Sweeden did not intend her remark to be offensive or discriminatory, the Panel noted Cllr van Sweeden was responding to a point made by the other councillor, rather than choosing to target her out of the blue. The Panel further noted Cllr van Sweeden had been shocked and surprised by the reaction in the Council Chamber, and apologised publicly at the meeting, immediately after concerns about her use of the term 'new Scot' were raised. The Panel noted that this shock and surprise likely stemmed from Cllr Van Sweeden's understanding and previous use of the term in a solely positive capacity.

The Panel noted that it had been suggested that Cllr Van Sweeden's tone was sarcastic. While the Panel did not necessarily agree that her tone was sarcastic, the Panel did not consider it was unusual for councillors, as elected politicians, to use irony or sarcasm to question an opposition colleague's awareness or understanding of an issue, during a debate, to try and score a political point. The Panel was of the view that questioning or criticising a political opponent's awareness of a matter, was a common feature and component of a democratic debate. As such, it did not consider that Cllr van Sweeden's conduct, in doing so, would in itself meet the threshold for disrespect in terms of the Code, regardless of the tone used.

The Panel noted that evidence provided showed that the term 'new Scot' was one used in both Scottish Government and Aberdeen City Council publications, with a delivery plan for the 2024-26 "*New Scots Refugee Integration Strategy*" being published in July 2024, having been initially launched by the Government in 2013 and updated in 2024. The Panel considered this demonstrated that, in and of itself, the term was not necessarily or even commonly understood or perceived as derogatory or discriminatory. The Panel nevertheless accepted it could have such connotations and, indeed, that a number of those present at the meeting on 11 October 2023 had understood it as such. As such, the Panel agreed it was important for it to consider, whether anyone who heard Cllr van Sweeden's remark, with knowledge of the circumstances in which it had been used (during a heated political debate) and to whom it had been directed, would reasonably understand it to be offensive or discriminatory, regardless of her motivation in making it.

In making this assessment, the Panel did not accept that the use of 'new Scot' would be readily or reasonably understood to be a reference to the other councillor's race, ethnicity or skin colour; or that it amounted, or could be taken to amount, to a public assertion that the other councillor was ignorant due to any protected characteristic. This was because the Panel considered it was entirely plausible a white individual who had recently moved to Scotland from, for example, somewhere in Europe, or even another part of the UK, could be referred to as a 'new Scot', given they were new to Scotland. Indeed, the Panel noted that the "*New Scots Refugee Integration Strategy*" did not distinguish between race, ethnicity or skin colour.

The Panel agreed it was apparent from the context in which it was used, being the questioning of whether someone who may not have lived in the country was aware of a policy in place at the time and its impact, that Cllr van Sweeden was not questioning the other councillor's potential knowledge based on any protected characteristic. Given this, the Panel did not accept that Cllr van Sweeden had sought to distinguish the other councillor on the grounds of her race. The Panel also did not accept, in light of this context and the different ways in which the term 'new Scot' is used, that most individuals, with full knowledge of Cllr Van Sweeden's remark and the circumstances in which it was made, would reasonably or readily consider it to be offensive or discriminatory.

As such, the Panel was unable to conclude overall, and on the balance of probabilities, that Cllr van Sweeden had breached the Code.

Dr Stewart, stated: "The Panel recognised the sensitivities of this case and the strong feelings that have been expressed by those involved. The Standards Commission wishes to emphasise that racism and discrimination are abhorrent, have no place in politics and should not be tolerated. The Standards Commission, and indeed the public, expect politicians, including local councillors, to lead by example and be respectful at all times. This includes refraining from using language, or terminology, that could be perceived as being offensive. The Panel noted that a failure to do so only serves to lower standards of public discourse and encourage the exchange of abuse, rather than reasoned and respectful debate."

A full written decision of the Hearing will be issued and published on the Standards Commission's website within 14 days.

ENDS

#### NOTES FOR EDITORS

1. Complaints about councillors are made to the Ethical Standards Commissioner (ESC). The Standards Commission and ESC are separate and independent, each with distinct functions. The ESC is responsible for investigating complaints. Following investigation, the ESC will refer its report to the Standards Commission for Scotland for adjudication. Email: [info@ethicalstandards.org.uk](mailto:info@ethicalstandards.org.uk), <https://www.ethicalstandards.org.uk/> Tel: 0300 011 0550
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## **Newport City Council**

### **Promotion of Equality and Respect**

The Ombudsman received a complaint that a member (“the Member”) of Newport City Council (“the Council”) had breached the Code of Conduct (“the Code”).

It was alleged that the Member made a complaint about the Complainant (“the Complainant”) to his employer; that the Member used his “Councillor” status in submitting the complaint and, by doing so, the Complainant felt the Member abused his position.

The Ombudsman’s investigation considered information obtained from the Council, the Complainant’s employer (“the Employer”), the Complainant and the Member.

The Ombudsman found that whilst the Member had used his title of “Cllr” in submitting his complaint, the Member’s status as a councillor would have been clear from him having to document why he was choosing to make the complaint. The Complainant made comments about the Member in a public arena which were provocative and personally offensive to the Member. The Complainant made serious allegations about the Member which were personal and had the potential to be damaging for him. It was understandable that the Member perceived them as an attempt by the Complainant to defame him. The Ombudsman considered that the Member had a right to challenge and try to defend himself against such comments.

The Employer said that no weight was given to the Member’s role when it investigated his complaint. Given that the substance of his complaint focused on the Complainant’s comments about him, in the context of his role as an elected member, it would have been evident that he was a councillor, even if the title had not been used. In these circumstances, the Ombudsman considered that it was not unreasonable for the Member to sign off his email with his “Cllr” title.

The Ombudsman found that there was no evidence of any failure to comply with the Code under Section 69(4)(a) of the Local Government Act 2000 in respect of the matters investigated.

## **Llantilio Pertholey Community Council**

### **Integrity**

The Ombudsman received a complaint that a Member (“the Member”) of Llantilio Pertholey Community Council (“the Council”) had breached the Code of Conduct (“the Code”). It was alleged that the Member acted in an obstructive manner in relation to the Council’s finances in an attempt to stifle the Council’s ability to function.

Information was obtained from the Council, including relevant minutes and emails. Witness evidence was obtained. The Member was also interviewed.

The Ombudsman's investigation found that the Member refused to sign blank cheques and requested further information and invoices relating to financial matters. The Ombudsman noted that Members are under a duty to act in the public interest in accordance with the principle of Stewardship and paragraph 7(b) of the Code which places a duty upon them not to use their Council's resources imprudently, in breach of their authority's requirements or unlawfully. She considered therefore that it was not appropriate for the Member to sign blank cheques without having had sight of proof that expenses had been reasonably incurred. The Ombudsman found that the Member's reasoning for not signing blank cheques appeared reasonable and she did not consider that there was evidence of a breach of paragraph 7(b)(iv) of the Code.

That being said, the Ombudsman's investigation found that there was evidence of a breakdown in the communication and relationship between the Complainant and the Member. The Member engaged in protracted and contested communication about the Council's bank account. It appeared that the Member did not attempt to resolve the issues or work with the Complainant to enable a smooth transition to new signatories for the Council's bank account. The Ombudsman considered that the matter could have been dealt with in a more productive manner.

Under Section 69(4)(a) of the Local Government Act 2000, the Ombudsman found that there was no evidence that the Member failed to comply with the Code.

While the Ombudsman found no evidence of a breach of the Code, she reminded the Council that, to avoid a potential similar escalation of matters in the future, advice could be sought from the Monitoring Officers and that concerns should be addressed through the appropriate local channels and procedures.

## Flintshire County Council

### Integrity

We received a complaint from a fellow councillor ("the Complainant") that a Member ("the Member") of Flintshire County Council ("the Council") had breached the Code of Conduct ("the Code"), when he put forward, and asked his political party colleagues to consider, a generous donation which had been offered by a local businessman. The donation included substantial financial assistance to the Member's political party, and financial help with the Member's, and others', political campaigns as candidates.

The donation offer was contingent on the Member's party forming an alliance with another party to achieve a change in political leadership at the Council. The Complainant was concerned, among other things, that the offer was improper with serious consequences for the impartial running of the Council as well as being a potential criminal offence. The Complainant felt the Member had encouraged acceptance of the offer by his party colleagues when he should have immediately declined it.

We decided that an investigation was appropriate, given the serious nature of the allegations, and that the following paragraphs of the Code should be considered:

- 7(a) – [members] must not use [their] position improperly to confer on or secure for [themselves], or any other person, an advantage or create or avoid for [themselves], or any other person, a disadvantage.
- 6(1)(a) – [members] must not conduct [themselves] in a manner which could reasonably be regarded as bringing [their] office or authority into disrepute.
- 9(b) – [members] must avoid accepting from anyone gifts, material benefits or services for [themselves], or any person, which might place [members], or reasonably appear to place [members], under an improper obligation.

We obtained information from the local party's treasurer, the Police, the Electoral Commission (whose role it is to make sure political parties and candidates comply with legal requirements in regard to donations), the Complainant and the Member.

We found the offer was made to the political party, and to candidates in their campaigns, and not for the financial gain of any individuals personally. We saw no evidence to suggest the party, or members, were being asked to do anything improper, such as to make Council decisions that may favour the local business in return for the donation (although they were being asked to support another political party in a forthcoming election).

We found there was, however, a very clear appearance to the Complainant, and others, that acceptance of the offer may place them under an improper obligation, or in other words that the local businessman may have been expecting something improper in return for his generous financial donation.

Public confidence in the impartiality and integrity of a council's decision making is severely undermined if there is any appearance of outside influence. The duties imposed on members are there not only to prevent any undue influence, but to prevent the appearance of any undue influence. In accordance with paragraph 9(b) of the Code for Members of Local Authorities, acceptance of the donation offer, given its substantial financial size and the appearance of personal inducements to candidates, had to be "avoided" because it gave the appearance of placing members under an improper obligation.

We found that no donation had ultimately been received or accepted, and no action had been taken by the Electoral Commission or the Police. We did not consider that the evidence showed that the Member had encouraged the acceptance of the offer, and after careful consideration we did not find that the evidence was suggestive of any breaches of the Code by the Member. However, we issued advice to the Member stressing he must take great care to avoid any appearance of undue influence or bias given how damaging this can be to public confidence in local democracy. We also advised the Member that he should undertake further training on the Code.

## Merthyr Tydfil County Borough Council

### Disclosure & registration of interest

The Ombudsman received a complaint that a Member (“the Member”) of Merthyr Tydfil County Borough Council (“the Council”) had breached the Code of Conduct (“the Code”).

It was alleged that the Member failed to declare a personal and prejudicial interest during Council meetings held on 27 February and 8 March 2023, during agenda items relating to the Council’s budget and decisions about funding for schools. It was alleged that the Member should have declared an interest in these meetings as the decisions being made may have impacted on her employment. It was also alleged that the Member failed to declare her employment on her register of interests.

The matter was initially dealt with under the Council’s Local Resolution Protocol (“LRP”). LRPs are informal and there is no statutory basis for them. They are intended to deal with low level and trivial complaints between members. As this was a complaint relating to a failure to disclose interests, the Ombudsman considered that it was not appropriate for consideration under the Council’s LRP and should not have been put before the Standards Committee in the manner it was.

The Ombudsman therefore investigated the complaint and reached her own finding on this matter, in accordance with the powers granted to her under the Local Government Act 2000. Information was obtained from the Council, including relevant minutes of meetings and reports. The complainant was interviewed as part of the investigation and information was obtained from the Member’s employer.

The Ombudsman’s investigation found that the Member was the Council’s Cabinet Member with responsibility for Education. The Member had recorded her employment on her register of interest, in compliance with the Code. The Member’s employment was within the field of Education and involved co-ordinating agency supply positions across several areas, including Merthyr Tydfil. The Member did not declare a personal or prejudicial interest during the Council meetings held on 27 February and 8 March 2023. It was considered that, on balance, when considered objectively, the Member’s employment meant that she had a prejudicial interest in the issue of funding for schools and that she should have declared her interest during those meetings and that her failure to do so was a breach of the Code.

Had the Member declared a personal and prejudicial interest during the meeting on 8 March, the motion may not have passed. However, her vote was unlikely to benefit her personally and as such the evidence did not suggest that her failure to preclude herself from the discussion and vote was a deliberate attempt to influence the vote. The Ombudsman accepted the Member’s explanation that she had not recognised a need to declare an interest.

The Member accepted, with hindsight, that she had an interest in the matter and has taken corrective action to ensure her understanding of the requirements of the Code and

appropriate application of interests in future. This demonstrates her commitment to abide by the requirements of the Code and should prevent a similar future occurrence. It was also noted that the Member co-operated fully with the investigation. For these reasons, the Ombudsman considered it was not in the public interest to refer this matter to the Standards Committee or Adjudication Panel for Wales, as a sanction is unlikely to be imposed. The Ombudsman's finding therefore was that no action needed to be taken in respect of the matters investigated.

### Pembrokeshire County Council

#### Promotion of equality and respect

The Ombudsman received a self-referred complaint from a Member ("the Former Member") of Pembrokeshire County Council ("the Council") that he had breached the Code of Conduct ("the Code"). It was alleged that the Former Member had recorded a racist voice note (an audio voice recording of a message) that he then sent to his partner, via the "WhatsApp" instant messaging application. It was also alleged that the Former Member shared information relating to Council business alongside disrespectful comments about members of the public to his partner, via WhatsApp.

At the time of submitting the self-referred complaint, the Former Member was a member of the Council. He later resigned.

The investigation considered whether the Former Member had failed to comply with the following provisions of the Code of Conduct:

- 4(b) – Members must show respect and consideration for others.
- 5(a) – Members must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so.
- 6(1)(a) – Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

The investigation considered information from the Council. Witness accounts were obtained and a Digital Evidence Report was obtained from a provider of Digital Forensics and Corporate Forensic Investigations.

During his interview, the Former Member said that the voice recording was a "deep fake" (an audio recording that has been edited using an algorithm to replace the person in the original with someone else in a way that makes it look authentic) created with malicious intent. The Former Member generally accepted that he shared information relating to Council business alongside disrespectful comments about members of the public to his partner, via WhatsApp. He explained that he was under personal pressure at the time and was "venting" to his partner.

The investigation found, on balance, that it was the Former Member's voice on the voice recording and that he sent the recording to his partner via WhatsApp. The content of the

voice note was considered racist. Evidence of widespread media reporting of the voice recording was considered. The investigation found that the Former Member's conduct could reasonably be regarded as disreputable and was capable of seriously undermining public confidence in the Council and the office of member and therefore suggestive of a breach of paragraph 6(1)(a) of the Code.

The investigation also found that the Former Member was not acting in his official capacity when he shared information relating to Council business alongside disrespectful comments about members of the public to his partner, via WhatsApp. It was therefore found that paragraphs 4(b) and 5(a) of the Code were not engaged in this case. However, the investigation found that sharing the information alongside disrespectful comments about members of the public was inappropriate and suggestive of a further breach of paragraph 6(1)(a) of the Code.

The report on the investigation was referred to the President of the Adjudication Panel for Wales, for adjudication by a tribunal.

## **Appendix C**

## **Welsh Government pursues appeal to Supreme Court in case which led to warnings it would be contempt if members of local authority did not adopt local plan**

The Welsh Government has applied to the Supreme Court to appeal a Court of Appeal decision that found Wrexham Borough Council did not have to adopt its local development plan (LDP) despite a High Court judge previously saying otherwise.

Mr Justice Eyre issued an order that the council adopt its LDP in November 2024 following judicial review proceedings that were brought by a group of developers after the council twice rejected the LDP.

Eyre J found that the council's initial resolutions not to adopt the plan – which had been deemed sound by a planning inspector and recommended by officers – were *ultra vires* and/or irrational on the basis of a mistaken belief in the existence of a discretion.

He also concluded that the council breached its statutory duty by declining to adopt. In an extraordinary meeting following the High Court judgment, the council's monitoring officer warned members that they could face prison sentences if they defied the High Court order.

Councillors went on to adopt the LDP. However, Plaid Cymru leader, Cllr Marc Jones, later appealed against Eyre J's ruling.

Lord Justice Holgate concluded at the Court of Appeal that the Planning and Compulsory Purchase Act 2004 "does not impose a duty on a local planning authority in Wales to adopt a local development plan".

Holgate LJ also found that the resolutions passed by the council in April and June 2023 not to adopt the plan were "not unlawful".

The Welsh Government has now confirmed that it will appeal the Court of Appeal's finding. Plaid Cymru councillor, Carrie Harper, said she was "astounded" by news of the Welsh Government's appeal.

In a post on social media, she said: "When Wrexham councillors said 'no we won't vote to adopt this plan', we were threatened with jail and we were told we had to vote for it.

"So councillors in Wrexham then had to take our own council, the Welsh Ministers and those developers to the Court of Appeal to uphold the principle that councillors shouldn't be told how to vote, or be threatened with jail for voting."

She added: "Welsh Labour ministers are now trying to reverse [the Court of Appeal] decision, so they're actively now trying to take away the democratic rights of councillors in Wales, which have just been upheld by three appeal court judges."

It is not yet known which grounds the Welsh Government aims to advance.

*Source: Adam Carey / Local Government Lawyer*