

CAERPHILLY COUNTY BOROUGH COUNCIL

NOTICE OF DETERMINATION OF THE STANDARDS COMMITTEE

Member	Councillor Jon Scriven
Relevant Authority	Caerphilly County Borough Council
Date and Location of Hearing	23 February, 2024 Conducted In-Person and via Microsoft Teams
Complainant	Christina Harrhy
Public Services Ombudsman Reference No:	202203322/202203379

Background

1. On 23rd February, 2024, the Council's Standards Committee considered a report from the Public Services Ombudsman for Wales ("the Ombudsman") into a complaint from Christina Harrhy, the chief executive at Caerphilly County Borough Council, that Councillor Jon Scriven ("the Member") had failed to observe the Council's Code of Conduct for Members. The complaint was received on 24th August 2022.
2. It was alleged that the Member had used his position inappropriately in relation to the misuse of social media by posting on Facebook a photograph of the Member holding a rifle with the accompanying message, "Ogmore-by-Sea tonight for a quick swim and make sure there wasn't any English people trying to cross the channel".
3. The Ombudsman determined that the Member may have breached the Council's Code of Conduct, in particular, the following paragraph which provides that:
 - **6(1)(a) – Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.**
4. During the Ombudsman's investigation, copies of relevant documents were obtained from the Council, witness statements were obtained, and a statement was provided by the Member.
5. The Ombudsman referred her investigation report to the Monitoring Officer of Caerphilly County Borough Council on 7th December 2023 for consideration by its Standards Committee.
6. Under its procedure, the Standards Committee met on 19th January 2024 to consider the report of the Ombudsman and decided that there was a case to answer against the Member, and determined that the Member should be given the opportunity to

make representations either orally or in writing in respect of the findings of the investigation report and any allegation that he has failed, or may have failed, to comply with the Council's Code of Conduct.

The Hearing

The Standards Committee heard the matter in public. The Member appeared in person before the Committee whilst the Ombudsman's representatives, Ms Ginwalla and Mr Phelps, joined the meeting remotely. The Monitoring Officer outlined the matter before the Committee. The Committee considered the Ombudsman's investigation report and appendices. The Committee also considered the oral representations of the Member and those of the Ombudsman's representative.

The Committee, in accordance with their adopted procedure dealt with the case in three stages. Their decision in relation to each stage is detailed below.

Stage 1 – Findings of Fact

The Committee first considered any finding of fact that it needed to make.

The Committee heard from the Ombudsman's representative and the Member that there were no real areas of disagreement between the parties on the factual background. The Committee retired to consider its decision. The Committee decided to accept the facts as stated in the Ombudsman's report at paragraphs 48 to 57. As to the sole fact in dispute at paragraph 58 of the report, the Committee felt that on the balance of probabilities the conclusion reached by the Ombudsman at paragraph 61 was reasonable.

Stage 2 – Did the Member fail to follow the Code of Conduct

Following the acceptance of the findings of fact, the Committee proceeded to hear representations from the Member and the Ombudsman's representative as to whether the facts amounted to a breach of the code of conduct. After careful consideration of all the evidence presented, the Committee determined that the Member had failed to comply with paragraph 6(1)(a) of the Code of Conduct.

Posting the message on his personal Facebook page was ill-judged and unfortunate. The Member had committed a criminal offence under section 5 of the Public Order Act 1986. Whilst hearing that the Member did not intend to cause any offence and the whole episode had caused personal distress to the Member, looking at the incident as a whole, the Committee considered that the Member's actions brought the Council and his office as a member into disrepute contrary to section 6(1)(a) of the code of conduct.

Stage 3 - Sanction

In considering what sanction was appropriate, the Committee listened to representations from the Ombudsman's representative and the Member. The Ombudsman's representative felt that this was a serious breach that went to the heart of the code of conduct and warranted suspension. The representative referred the Committee to the Sanctions Guidance issued by the President of the Adjudication Panel for Wales. The Member felt that the whole episode had gone on for too long causing stress to him and his family. He had

apologised and taken down the post promptly in 2022. He no longer used social media and reiterated that he had not meant to cause anyone offence..

The Committee decided to censure the Member for the breach of paragraph 6(1)(a) of the code of conduct. The Committee warned the Member to be careful in his use of social media going forward. Whilst hearing that the Member didn't mean to cause offence in making the post on Facebook, he did cause offence and accepted that a criminal offence was committed.

Decision

That Councillor Scriven be censured for his breach of paragraph 6(1)(a) of the codes of conduct for members of Caerphilly County Borough Council and Penyrheol, Trecenydd & Energlyn Community Council. That Councillor Scriven receives further training from the Monitoring Officer on the code of conduct and when it applies, and the use of social media.

Appeal

The Member may seek permission to appeal against the Committee's determination to an appeals tribunal drawn from the Adjudication Panel for Wales by giving notice in writing within 21 days of receiving this notification of determination to the president of the Adjudication Panel for Wales. The notice seeking permission to appeal must specify the grounds of appeal and whether or not permission to appeal is granted, he consents to the appeal being conducted by written representations. (Further details can be found on the Adjudication Panel's website www.adjudicationpanel.gov.wales)

Notification of decision

In accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) the Member, the complainant and the Public Services Ombudsman for Wales are notified of the Committee's decision by this Notice of Determination.

Caerphilly County Borough Council Standards Committee

Dated: 6th March, 2024