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To: Edward Michael Hughes (Chairman)

Councillors: Patrick Heesom, Paul Johnson and Arnold Woolley

Co-opted Member:

Robert Dewey, Jonathan Duggan-Keen, Phillipa Ann Earlam and Kenneth Harry Molyneux

28 November 2017

Dear Sir/Madam

You are invited to attend a meeting of the Standards Committee which will be held at 6.00 pm on Monday, 4th December, 2017 in the Clwyd Committee Room, County Hall, Mold CH7 6NA to consider the following items

Please note the meeting start time

A G E N D A

1 APOLOGIES

Purpose: To receive any apologies.

2 DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

Purpose: To receive any Declarations and advise Members accordingly.

3 MINUTES (Pages 3 - 8)

Purpose: To confirm as a correct record the minutes of the meeting on 2 October 2017.

4 APPOINTMENT OF INDEPENDENT MEMBER (Pages 9 - 12)

Purpose: To appoint an independent member (co-optee) to the vacancy on the Standards Committee.

5 NORTH WALES STANDARDS FORUM (Pages 13 - 14)

Purpose: To receive the notes of the Vice Chair.

6 DECISION OF CASE TRIBUNAL (Pages 15 - 30)

Purpose: For committee to consider a recent decision of a case tribunal in respect of a former Councillor.


7 DISPENSATIONS

Purpose: To receive any requests for dispensations.

8 FORWARD WORK PROGRAMME (Pages 31 - 32)

Purpose: For the Committee to consider topics to be included on the attached Forward Work Programme.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robert Robins', with a horizontal line extending to the right.

Robert Robins
Democratic Services Manager

STANDARDS COMMITTEE **2 OCTOBER 2017**

Minutes of the meeting of the Standards Committee of Flintshire County Council held at Connah's Quay Town Council on Monday, 2 October 2017. This was also the annual joint meeting to which Town and Community Council representatives were invited to participate.

PRESENT: Edward Hughes (Chairman)

Councillors:

Patrick Heesom, Paul Johnson and Arnold Woolley

Co-opted members:

Robert Dewey, Phillipa Earlam and Ken Molyneux

APOLOGY: Jonathan Duggan-Keen

TOWN AND COMMUNITY COUNCIL REPRESENTATIVES: Councillors Brian Doleman, Christopher Owens and Andrew Griffiths of Bagillt Community Council; Councillors Klaus Armstrong-Braun and Keith Rogers of Broughton & Bretton Community Council; Mr. R. Phillip Parry of Caerwys Town Council and Halkyn and Whitford Community Councils; Councillor David Knights of Caerwys Town Council; Councillors Gwen Hardman and Owen Thomas, Mr. Alun Evans and Ms. Jean Ramsay of Cilcain Community Council; Mr. Steven Goodrum of Connah's Quay Town Council; Councillors Clive Carver and Dan Preece of Hawarden Community Council; Councillors Michael Brooke, Lynda Carter, Joe Johnson and Ted Palmer of Holywell Town Council; Mrs. Samantha Roberts of Mold Town Council; Councillors David Seddon and Debbie Seddon of Mostyn Community Council; Councillors Huw Morgan and Valmai Hughes-Parry and Ms. Helen Wade of Nannerch Community Council; Councillor John Golledge of Northop Hall Community Council; Mr. Stephen Harms of Northop Hall and Llanasa Community Councils; Councillor Alex Lewis of Sealand Community Council; and Councillor Bob Hughes of Whitford Community Council

CONTRIBUTORS: Mr. Nick Bennett, Public Services Ombudsman for Wales and Mrs. Annie Ginwalla, Investigation and Improvement Officer

IN ATTENDANCE:

Monitoring Officer, Deputy Monitoring Officer and Democratic Services Officer

27. PRESENTATION BY PUBLIC SERVICES OMBUDSMAN FOR WALES

Mr. Nick Bennett, Public Services Ombudsman for Wales (PSOW) was in attendance with Mrs. Annie Ginwalla to deliver a presentation on the work of the PSOW team in considering complaints about public services and independent care providers in Wales.

The main areas of the presentation were:

- Statistics for the last ten years - 126% increase in complaints received by the PSOW, resulting in 4,502 recommendations for improvement to public services across Wales.
- Enquiries and complaints received showed an upward trend over the past five years with a welcome reduction in the number of Code of Conduct complaints.
- Context outlined key issues including the possibility of more devolved powers for Town and Community Councils in the future.
- Code of Conduct complaints were mainly about the promotion of equality and respect and the disclosure and registration of interests.
- Complaints not upheld and those discontinued.
- Code of Conduct complaints by type of Authority showed a 53/46% split between town/community councils and county/ county borough councils.
- Flintshire facts indicated that less than 4% of Code of Conduct complaints had been made in Flintshire. It was noted that breaches of the Code of Conduct could only be determined by the Standards Committee of that authority or by the Adjudication Panel for Wales.
- Testing public interest involved a series of factors to determine whether to investigate the complaint or breach of the Code. A proportionate approach was taken to focus on what mattered to people most, with each case considered on its own merits.
- Complaints upheld - only one out of 22 complaints upheld were referred to the Adjudication Panel last year.
- Vexatious complaints.
- The future.
- New PSOW Bill - four areas where the PSOW hoped to receive additional powers.
- Conclusion

The PSOW encouraged low-level complaints between councillors to be dealt with through an adopted Local Resolution Process to enable his team to focus on more serious complaints and those generated by members of the public. Whilst such a process was in place at county level, this was optional for Town and Community Councils who were encouraged to consider adopting the model Local Resolution Protocol produced by One Voice Wales. During discussion, only four representatives indicated that a Local Resolution Procedure had been adopted by their Town/Community Council. The Monitoring Officer highlighted the importance of adopting such a procedure before any live complaints.

Following the presentation, Mr. Bennett and Mrs. Ginwalla responded to a number of questions from Committee Members and Town and Community Council representatives:

Low-level persistent dominating behaviour by councillors and the impact on those councils - There was an expectation to follow some

form of Local Resolution Process. If this failed, the PSOW would investigate by first considering any documented evidence of behaviour patterns and then applying the principles of the public interest test.

Consideration of whether to proceed with an investigation (Code of Conduct) and the threshold for low-level complaints - The team was given delegated authority to consider complaints and evidence of breaches to the Code before applying the subjective public interest test set by the PSOW. Further information could be requested, if needed, from a complainant. If the principles of the test were not met, the team would reject the complaint and provide written reasons. Guidance was available on the PSOW website to assist councils in respect of low-level complaints and deciding when a referral should be made.

Members against whom a complaint had been made - The PSOW team would inform the accused Member, Clerk and Monitoring Officer about the complaint.

Clarification on officer complaints - Code of Conduct refers to elected members and not officers (where a separate Code applied). An officer failing in their legal duties would be maladministration. PSOW could consider complaints about 'procedural errors' as set out in the Act.

Complaints arising from a previous complaint about an elected Member - Procedural error must be demonstrated rather than a complainant merely disagreeing with the outcome in complaints of maladministration. Nature of the complaint must be about the service received, ie from the service user, and that person must have suffered an injustice. Generally, elected Members were unable to make a complaint about their own authority. Where an elected Member was the service user, then advice could be sought from PSOW.

Options for Town/Community Councils to deal with ongoing issues arising from a complaint made to the PSOW - The council would be expected to attempt to resolve this by local resolution (if possible) in the first instance before involving the PSOW. Town and Community Councils could adopt a protocol (similar to that adopted by Flintshire County Council) to deal with long-standing vexatious complaints affecting time and resources. This again highlighted the importance of adopting a procedure prior to any live complaints.

Town/Community Councillor requesting a review of a decision - In this event, the PSOW would advise the relevant Town or Community Council of the review. Reviews must generally be received within 20 days as stated in the guidance.

Where a councillor with a personal and prejudicial interest insists on speaking on that item - This should be pursued through the Local Resolution Process if possible and (at county level) referred to the

Monitoring Officer. Unresolved complaints should be referred to the PSOW.

Local Resolution Procedures - The only two known to be existence in Wales were produced by One Voice Wales (previously circulated by the Standards Committee) and another by Denbighshire County Council. The Chief Officer agreed to circulate the latter to Town and Community Councils.

Local resolution options available - Whilst acknowledging that not all Town/Community Councils were members of One Voice Wales, it was nevertheless important to have a procedure in place particularly if Town/Community Councils were to be given more powers in the future.

Guidance sought from the Monitoring Officer on Local Resolution Procedures at Town/Community Councils - The Monitoring Officer agreed to arrange a training session for Clerks.

Responsibility on authorising financial expenditure - Members should satisfy themselves on correct spend and all accounts presented should be within the budget previously agreed. Guidance was available from Wales Audit Office on the appropriate level of detail required before authorising.

Self-referral to PSOW - It was confirmed that this opportunity had been available for some time. Mrs. Ginwalla agreed to look into why contrary advice had been given over the telephone to Councillor Carver.

Confidentiality - Following a decision by the PSOW not to investigate a complaint, confidentiality was no longer required unless the complaint was referred to a Standards Committee or Adjudication Panel. Decisions taken not to investigate further could be recorded in minutes.

On behalf of those present, the Chairman thanked Mr. Bennett and Mrs. Ginwalla for their attendance and detailed presentation.

28. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

No declarations of interest were made.

29. MINUTES

The minutes of the meeting of the Committee held on 4 September 2017 were submitted.

RESOLVED:

That the minutes be signed by the Chairman as a correct record.

30. DISPENSATIONS

The Deputy Monitoring Officer circulated copies of a dispensation request submitted by Councillor Geoff Collett after publication of the agenda. Councillor Collett wished to speak for five minutes as local Member at the forthcoming Planning Committee meeting on planning application 056742. He had declared a personal and prejudicial interest on the item as his home was adjacent to the proposed development. It was confirmed that (d) and (f) were the relevant paragraphs under which dispensation was sought.

As Councillor Collett was not a member of the Planning Committee, he would not be entitled to vote and having declared a personal and prejudicial interest, would only be permitted to speak for three minutes. If granted, the dispensation would allow him an additional two minutes to speak on the item and fully represent his constituents.

Following discussion, Councillor Arnold Woolley felt that this was a reasonable request and proposed that dispensation be granted. This was supported by the Committee.

RESOLVED:

That Councillor Geoff Collett be granted dispensation under paragraphs (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak for five minutes as local Member at Planning Committee on planning application 056742, or any application which, in the opinion of the Monitoring Officer, is similar. Councillor Collett is to leave the meeting after speaking, before the application is debated and voted on. The dispensation to be granted for 12 months, ceasing on 2 October 2018.

31. REVIEW OF DISPENSATIONS

The Deputy Monitoring Officer presented an update on the review of dispensations following discussion at the previous meeting where the Committee determined which dispensations should continue to have effect and which should be cancelled.

At that meeting, the Committee agreed to extend several dispensations until this meeting to enable the Deputy Monitoring Officer to write to those Members to ask if they wished for a further extension. As a consequence, Councillor Veronica Gay had requested an extension of her dispensation in respect of the Community Asset Transfer of the Community Centre, Library and Youth Centre to 1 October 2018. In relation to members of Argoed Community Council who were represented on 'MIFFY', it was reported that the Clerk had confirmed that these dispensations were no longer required.

The Monitoring Officer clarified that Members who had previously been granted dispensation could re-apply in similar terms if they wished. Councillor Patrick Heesom commented that this should be made clear to the those involved.

RESOLVED:

That the dispensation granted to Councillor Veronica Gay by the Committee on 4 July 2016 in respect of the Community Asset Transfer of the Community Centre, Library and Youth Centre should continue until 1 October 2018.

32. MEETING OF THE NORTH WALES STANDARDS COMMITTEES FORUM

It was confirmed that Rob Dewey would attend the Forum on 24 November 2017 and that the Chairman was unavailable on that date. In response to a query by Councillor Patrick Heesom, the Monitoring Officer explained that the Forum meetings were usually attended by the Chairs and Vice-Chairs of Standards Committees, providing a networking opportunity for those independent members. He agreed to check whether Council Members were able to attend as observers.

Members were reminded that they could contact the Monitoring Officer to submit any items for the meeting by 13 November 2017.

33. FORWARD WORK PROGRAMME

The Committee received the current Forward Work Programme for consideration. The November meeting currently had no items of business and would be cancelled unless any dispensation requests were received.

The Chief Officer gave a brief update on the appointment of a lay member on the Committee to be advertised jointly with the Fire Authority. As previously suggested, the advertisement would emphasise the beneficial nature of the work of the Committee to appeal to a broader range of applicants. It was anticipated that interviews would be held in late November 2017 to enable the Committee to consider recommendations from the joint interview panel in December before consideration by full Council on 12 December. The Monitoring Officer agreed to notify the Committee when the recruitment information pack was made available.

RESOLVED:

That the Forward Work Programme be noted.

34. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press or public in attendance.

(The meeting started at 6pm and ended at 7.35pm)

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Chairman



STANDARDS COMMITTEE

Date of Meeting	Monday, 4 th December 2017
Report Subject	Appointment of Independent Member
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

The Council has 1 vacancy for an independent (co-opted) member on the Standards Committee, and North Wales Fire and Rescue Authority (NWFRA) has 2 such vacancies. The Council therefore undertook a joint recruitment exercise with NWFRA. The two authorities shared the cost of advertising and used each other's networks to promote the vacancies to give them greater profile. They also appointed a joint recruitment panel to consider the applications and make the recommendation on who should be appointed.

In total 8 applications were received. They were shortlisted against criteria that were previously approved by Council. 5 candidates were invited for interview by a panel consisting of the Chair and Councillor Arnold Woolley from Flintshire's Standards Committee, the Chair of and another member (Cllr Susan Lloyd Williams) from NWFRA and the statutorily required "lay person" (Noella Jones).

At the time of writing the report the interviews had not taken place. The identity of the recommended candidate will be reported verbally at the meeting.

RECOMMENDATIONS

1	That Council be recommended to appoint XXX to the Standards Committee until the end of May 2022.
2	That Noella Jones be thanked for her participation.

REPORT DETAILS

1.00	Explaining the appointment
1.01	The Standards Committee has 1 vacancy for an independent (co-opted) member. The North Wales Fire and Rescue Authority also needs to fill vacancies for independent members on its standards committee.
1.02	When recruiting such members there is a statutory process to follow including publishing criteria for appointment and advertising in 2 or more newspapers. The composition of the recruitment panel is also prescribed and must include a lay member who must also have been appointed following open advertisement.
1.03	To reduce the costs of the required publicity, establishment of requisite criteria and establishment of an appropriate appointment panel, the Council and the Fire Authority have worked together. This enabled the recruitment to have greater prominence. A joint panel consisting of the Chair and Arnold Woolley from Flintshire's Standards Committee, the Chair of and another member (Cllr Susan Lloyd Williams) from NWFRA and the "lay person" was Noella Jones.
1.04	There were 8 applicants in total of whom 5 were shortlisted. Interviews took place at NWFRA Headquarters on 29 th November. The panel was impressed with the quality of applicants and agreed that it would be beneficial to recommend XXX for appointment to both committees (and YYY for the second vacancy at the NWFRA).
1.05	Flintshire's Standards Committee meets roughly 6 – 8 times per year whereas the NFWRA committee meets once. By making a joint appointment the two authorities will be able to share the investment in training, give the member wider experience and also cross fertilise between the two organisations.
1.06	The term of office for an independent member must be between 4 and 6 years. The periods of office for the existing independent members were staggered so that the committee retained continuity of experience. To reduce advertising costs it is suggested that the term of office for this independent member should coincide with one other independent member thereby reducing recruitment cost. 1 member is due to retire in 2018 and another 2 members are due to retire in 2019, each will only have served 1 terms and will be eligible for reappointment for a further 4 years. The term is therefore recommended to be until 2022.

2.00	RESOURCE IMPLICATIONS
2.01	The statutory process required adverts to be placed in 2 newspapers. The cost of advertising was therefore £2,968.14. Talking to the applicants however the social media and internet publicity produced more interest and

	the most number of applicant was actually gained by promoting the role to the Standards Committee members of other council.
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3.00	CONSULTATIONS REQUIRED / CARRIED OUT
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3.01	Full Council will make the appointment following the recommendation
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4.00	RISK MANAGEMENT
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4.01	The recruitment process was conducted in a fair manner using published, objective criteria.
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5.00	APPENDICES
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5.01	None.
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6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
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6.01	None. Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: Gareth.legal@flintshire.gov.uk
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7.00	GLOSSARY OF TERMS
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7.01	NWFRA – North Wales Fire and Rescue Authority Independent Member – a person who is neither a councillor nor an officer who is co-opted on to the Standards Committee thereby giving the committee a degree of impartiality and independence Lay person – a person recruited by open advertisement to sit on interviewing panels for independent members
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STANDARDS COMMITTEE

Date of Meeting	Monday, 4 th December 2017
Report Subject	North Wales Standards Forum
Report Author	Vice Chair

On your behalf, I attended the North Wales Standards Committee Forum on November 24th in Wrexham.

The meeting was well attended with Powys and Ceredigion committees represented for the first time.

New member Induction

Representatives described the training processes that they had undertaken with new Members after the elections. Some had used the WLGA presentations as a basis but had found them too long and had shortened them to about an hour/ninety minutes. Part of the WLGA included a video by the Ombudsman which was not thought to be very effective. However some had used interactive sessions which required people to problem solve for themselves which was thought to be a good thing. *I think this would be worth considering in the future.*

The Ombudsman's case book was mentioned as providing real life examples.

One authority tries to visit every town/community council to undertake an audit of declarations of interest that had been made. They have a schedule and do this on a rolling 3 year programme. *I get the impression that in Flintshire some CCs rarely attend our sessions and this might be a worthwhile way of involving them. It was widely agreed that training was generally being given to those whole least needed it.*

WLGA "Five years to make a difference"

The WLGA held a very useful regional event in Llandudno with some excellent presentations. This was primarily aimed at new councillors but was not very well attended. *I was not aware of this but it sounded an excellent session with excellent speakers.*

One feature mentioned was the concern about Members' safety in the current climate of concerns about bullying and/or inappropriate behaviour. For example, Members can be invited into people's homes on their own without any independent witness to support them. Training could be 'sold' on the basis of it being members' own best interests to avoid future allegations. *It was thought that Members routinely visit people without recognising the danger that allegations could be made against them.*

There was a discussion about how/whether members' training records should be recorded. Powys and Wrexham put the record on the website as part of the member's profile. *I am not sure how our members can be satisfied (and perhaps could satisfy an ombudsman) that they have attended all the training relevant to their role in the Council.*

Procedures of dealing with claims against members

Concerns were expressed about how claims against members for inappropriate behaviour are handled. It is not entirely clear to many how such claims should be handled (NB compare problems in the Welsh Assembly recently). The Leader of the Council can appoint or remove a member of the Executive/Cabinet. There is no power for him or the Council to suspend him/her as a councillor. There is a need for a Member/officer protocol so that it is clear how a claim will be handled. We owe a duty of care to the staff but cannot suspend or sack a councillor as a precaution if a complaint has been lodged. Only the ombudsman can suspend/sack a councillor. That would be a long process with a member continuing to have access to the premises in the meantime.

Agreed a letter will be drafted (by WCBC) and circulated to Monitoring Officers to send to the Ombudsman raising this issue.

Any Other Business

Noted the presence of Wrexham Councillors at the meeting. It was explained that it is acceptable for members of the host authority to attend but not others.

Standards Conference will be in Aberystwyth probably mid September (?14th).

Next meeting May – venue unknown ?Flintshire?



STANDARDS COMMITTEE

Date of Meeting	Monday, 4 th December 2017
Report Subject	Case Tribunal Decision - Former Councillor Halford
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

Councillor Alison Halford formerly represented the Ewloe ward. In April 2016 there was a large unlawful encampment in Ewloe on the former Alyn and Deeside Council offices. The building is owned by the Council but at that time was leased to another company, and it was thus that company's responsibility to evict the encampment.

Cllr Halford corresponded with a number of officers regarding the encampment. In 2 emails she was insulting to a relatively junior officer. She subsequently repeated the insult in a tweet when she was reported to the Public Services Ombudsman for Wales.

A case tribunal found that she had breached the code of conduct by failing to show the officer respect and by bullying him. She was disqualified for 14 months even though she retired at the elections in May 2017.

RECOMMENDATIONS

1	That the committee considers the judgement of the case tribunal and shares with other councillors any messages or lessons arising from the decision that it considers appropriate.
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REPORT DETAILS

1.00	Explaining the case tribunal decision
1.01	The County Council owns the former offices of Alyn and Deeside Council in Ewloe for which Councillor Halford was the ward member until she retired in May 2017. Until recently these were leased to a private company.
	In April 2016 a large unlawful encampment took place at the premises. Although the private company was responsible for evicting the encampment, Cllr Halford sent a number of emails to officers about the issue. Amongst others she emailed an officer in planning enforcement even though the encampment was not a planning issue.
	<p>Cllr Halford was unhappy with the officer's actions and wrote an email to his chief officer as set out below. Other officers and councillors were copied into the email</p> <p>"Andy, my resident has raised a genuine concern about Jones & would like an answer. Who us [sic] protecting him?" He's arrogant, lazy, mentally challenged & has been useless for years. Why do you not call him to account. He is not worthy of his salary. Alison."</p>
	<p>Subsequently Cllr Halford forwarded an e-mail to the officer and copied it to a councillor and the Officer's Head of Service at 4.32pm on 5 May, 2016. It stated</p> <p>"..., I'm sure you [sic] aware I don't rate you at all & I have made this clear to your senior officers. What about surprising this member of the public who does contribute to your salary & actually get back to him. Of course, this may be something of a record for you but you must be accountable to someone just for once. Alison Halford."</p>
	The officer subsequently complained to the Public Services Ombudsman for Wales who investigated and in turn referred the matter to the Adjudication Panel for Wales (APW). The APW convened a case tribunal to hear the complaint and on 6 October 2017 found that Cllr Halford had committed breached of the code of conduct by failing to show the officer respect and by bullying him. Its decision is at Appendix 1.
	<p>The case tribunal commented that Cllr Halford had made</p> <p>"...personal comments which were highly offensive, extremely insulting, malicious and unwarranted. The Case Tribunal found the use of the words "mentally challenged" particularly shocking. The Officer was singled out unfairly, particularly as there was no indication that the Respondent had any previous complaints or concerns about his competence or responsiveness to members of the public. The Respondent had clearly been aware or should have appreciated by the 5th May, 2016 that the Officer was not responsible for dealing with temporary traveller encampments ... This therefore constituted bullying behaviour and behaviour which fell well below the standard of behaviour expected of a</p>

	Member, let alone an experienced politician.”
	<p>The Case Tribunal disqualified Cllr Halford for 14 months saying</p> <p>“The Case Tribunal had found that these were blatant and deliberate or reckless breaches of the Code, which did not stop at one e-mail but which continued after the Respondent became, or should have become aware, that the Officer did not have responsibility for dealing with the traveller encampment in question. This was further exacerbated by a “twitter” message posted in March 2017 which showed a complete lack of insight or remorse as to her behaviour and as to the further impact it might have on the Officer.</p> <p>The comments about the Officer would impact not only on the rights and interests of the employee of the Council but also upon the public interest in good administration, recognising the fact that officers are entitled to conduct their duties with dignity and without the risk of gratuitous attacks upon their reputation.</p> <p>In all the circumstances, the Case Tribunal considered that disqualification was an entirely justified and proportionate sanction. The Case Tribunal considered that it was a particularly serious example of bullying and that the disqualification had to be sufficiently long to enable the Respondent to properly reflect upon her actions before considering re-entering local politics. “</p>
	<p>In offering training on the code of conduct the monitoring officer stresses that councillors are able to challenge officers. Councillors are specifically advised not to use personal insults and to focus on the issues instead. Where councillors have concerns about an officer’s performance they are advised to use the appropriate channel, i.e. raising the matter privately with the officer’s line manager, rather than voicing such concerns in public meeting or on email copied to others.</p>

2.00	RESOURCE IMPLICATIONS
2.01	There are no resource implications for the council arising out of the decision.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The case tribunal is required to notify this committee of its decision and its notice is attached at Appendix 2. It has also published notice of its decision in the local press as required and the judgement is on the APW’s website.

4.00	RISK MANAGEMENT
4.01	None arising from this decision.

5.00	APPENDICES
5.01	Appendix 1 – decision of case tribunal Appendix 2 – notification of case tribunal's decision

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None. Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: Gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Adjudication Panel for Wales – the umbrella body appointed to hear allegations of breaches of the code of conduct Case Tribunal – the panel of 3 members drawn from the APW who hear a specific case



DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/001/2017-018/CT

REFERENCE IN RELATION TO AN ALLEGED BREACH OF THE CODE OF CONDUCT

RESPONDENT: Former Councillor Alison Halford

RELEVANT AUTHORITY: Flintshire County Council

1. INTRODUCTION

1.1 A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.

1.2 The Case Tribunal determined its adjudication on the basis of the papers only, at a meeting on 6 October 2017 at the APW Office, Government Buildings, Spa Road East, Llandrindod Wells, Powys, LD1 6HA.

2. PRELIMINARY MATTERS

2.1. Reference from the Public Services Ombudsman for Wales

In a letter dated 22 June 2017, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”) in relation to allegations made against former Councillor Halford (“the Respondent”). The allegations were that the Respondent had breached Flintshire County Council’s Code of Conduct by the sending of communication which allegedly failed to show respect and consideration for others and, used bullying and harassing behaviour.

2.2. Method of determination.

2.2.1. The Panel gave full consideration to the question of whether to proceed to determine the case that day or whether to adjourn the matter in order to provide a further opportunity for the Respondent to engage in the adjudication process.

2.2.2. The Panel firstly considered the relevant Regulations. The Adjudication by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 as amended, Regulation 2 states that the Respondent; “must deliver to the Registrar [of the Adjudication Panel for Wales] a written reply acknowledging receipt of the notice [of the reference to the Panel] and stating [amongst other matters]:-

- (a) Whether or not that person intends;
- (i) to attend or be represented at the hearing, or
 - (ii) to dispute the contents of the report and, if so, on what grounds”.

2.2.3. The Panel noted that the Registrar had forwarded the written notice of the referral to the Respondent on the 4th July, 2017 by special delivery. The package enclosed a copy of the Ombudsman’s report and a form entitled; “Respondent’s Response to the Reference”.

2.2.4. A further reminder was sent to the Respondent on 21st July, 2017 making it clear that; “if you do not collect the package, it may affect your ability to respond by the deadline to the allegations. The panel may decide in the absence of any response from you to make a decision without any hearing taking place.” It also stated; “it is your opportunity to set out your defence” and “if you require more time to respond, you can make an application to the President for more time...more time can be granted if the President considers it to be in the interests of justice to do so, but there is also a public interest in dealing with your case promptly.” No response was received from the Respondent however.

2.2.5 The Panel noted that Listing Directions were sent to the parties on 8th September, 2017, providing a further opportunity to make written submissions, the covering letter providing the Respondent the opportunity to confirm a preference for an oral hearing. The Respondent replied by e-mail on 17th September, stating that she would be abroad on the 6th October, 2017.

2.2.6 The Tribunal bundle was sent to the Respondent by special delivery on the 13th September, 2017. The Registrar then sent a reminder to the Respondent on the 18th of September, 2017 regarding the contents of the letter dated 8th September, 2017.

2.2.7 The Panel further noted that the Respondent wrote an e-mail to the Registrar on the 20th September, however the Panel considered that the letter did not address the requirements of regulation 3 of the 2001 Regulation, apart from stating; “Of course, I accept that it is virtually impossible to find against the decision of the PSOW”. The Panel did not consider that this necessarily evidenced an acceptance by the Respondent of the contents of the Ombudsman’s report however. The Panel further determined that, although the Respondent made the comment; “As it is the decision of the PSOW to send me to a tribunal at least I should be afforded the opportunity to attend it. As before, I expect that the hearing will be in N Wales as travel is no longer easy for me,” the e-mail failed to confirm whether the Respondent would actually attend or be represented at a hearing and failed to clarify whether or not she disputed the contents of the Ombudsman’s report.

2.2.8. The Panel finally noted that on the 26th September, 2017, the Registrar provided yet a further opportunity for the Respondent to engage in the process and to apply for an extension of time to submit the form; “Respondent’s Response to the Reference” which was originally due to be returned no later than the 25th July, 2017. The letter made it clear that; “If you do confirm that you wish to apply for an

extension and provide reasons, with evidence, the Panel will consider this application on 6th October, 2017. However, in the absence of such application, consideration and determination of the matter may proceed on that day.”

2.2.9. No such application or further correspondence was received from the Respondent, nor had the Respondent made arrangements to collect either the package containing the Ombudsman’s report or the package containing the Tribunal bundle from the Post Office as of the 6th October, 2017.

2.2.10. In all the circumstances, the Panel decided that the Respondent had failed to properly and meaningfully engage with the adjudication process to date, despite the Adjudication Panel for Wales providing several opportunities to do so over a period of three months and concluded that there was no realistic prospect of her doing so in the future. The Panel considered that it was in the public interest to determine cases promptly and not to delay proceedings indefinitely. It therefore decided that it would proceed to finally determine the matter on the papers on the 6th October, 2017.

2.3 Town or Community Council status

2.3.1. In the Listing Directions dated 8th September, 2017, the Tribunal required the Monitoring Officer of Flintshire County Council to establish whether or not the Respondent is/was a Town Councillor as well as previously being a County Councillor and if so, of which Town or Community Council.

2.3.2. The Monitoring Officer of Flintshire County Council duly confirmed in writing that the Respondent was also a former Councillor of Hawarden Community Council.

2.3. Code of Conduct Training

2.3.1. In the Listing Directions dated 8th September 2017, the Tribunal also required the Monitoring Officer to confirm the date(s) on which the Respondent attended any Code of Conduct training.

2.3.2. The Monitoring Officer of Flintshire County Council duly confirmed in writing that the Respondent had not attended Code of Conduct training since the local government elections in 2012.

3. FINDINGS OF FACT

3.1 The Case Tribunal found the following material facts:

3.1.1 At the relevant time, former Councillor Halford was a member of Flintshire County Council.

3.1.2 The Respondent signed an undertaking on 14th May 2012 to the effect that she would observe the County Council’s Code of Conduct.

3.1.4. Flintshire County Council had been required to respond to a number of complaints regarding traveller encampments on various sites in Flintshire during the early part of 2016, which generated a huge amount of e-mail correspondence.

3.1.5. Mr M Jones (“the Officer”) was a team leader responsible for planning enforcement at Flintshire County Council.

3.1.6. The Officer had received an e-mail from a member of the public on 26th April, 2016 and he responded that day by lengthy telephone call to the member of the public. The Officer was not responsible for nor leading on the matter however and the lead officer assumed the role of corresponding with the member of the public, with other members of the public and with councillors.

3.1.7. The Respondent forwarded an e-mail to the Officer’s Head of Service and copied it to the Officer and six councillors at 4.15pm on 27 April, 2016. It stated;

“Andy, my resident has raised a genuine concern about Jones & would like an answer. Who us [sic] protecting him?”
He’s arrogant, lazy, mentally challenged & has been useless for years. Why do you not call him to account. He is not worthy of his salary. Alison.”

3.1.8 The Respondent forwarded an e-mail to the Officer and copied it to a councillor and the Officer’s Head of Service at 4.32pm on 5 May, 2016. It stated;

“Mark, I’m sure you [sic] aware I don’t rate you at all & I have made this clear to your senior officers. What about surprising this member of the public who does contribute to your salary & actually get back to him. Of course, this may be something of a record for you but you must be accountable to someone just for once. Alison Halford.”

3.1.9. The Respondent was acting in her official capacity as a councillor when sending these e-mails.

3.1.10. The Respondent posted a “tweet” on social media on 27 March 2017 which referred to the Ombudsman’s investigation in the following terms; -“My sin; ticking off LAZY officer. Ugg!”

3.1.11. The impact of the e-mail dated 27th April 2016 upon the Officer was that he felt insulted, absolutely devastated and horrified.

3.1.12. The impact of the e-mail dated 5th May 2016 upon the Officer (and read by the Officer before reading the e-mail dated 27th April 2016), was to cause worry, stress and upset to the Officer.

3.1.13. The e-mails led to the Officer seeking medical, counselling and occupational health support. They have also served to affect the Officer’s confidence in relation to dealing with certain councillors. He has also been off work with stress.

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

4.1 The Ombudsman's Report

The Ombudsman's Report appended a number of statements, including statements from the Officer, other officers and a councillor as well as a large number of background e-mails. The Ombudsman concluded that there was evidence suggestive of breaches of Paragraphs 4(b) of Flintshire County Council's Code of Conduct: "you must...show respect and consideration for others", and Paragraph 4(c) of the Code of Conduct; "you must...not use bullying behaviour or harass any person".

4.2 Paragraph 4(b) of the Code

4.2.1. The Guidance issued by the Public Services Ombudsman for Wales and relevant at the time of the alleged breaches stated; "Recent case law has confirmed that council officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to unwarranted comments that disable them from carrying out their duties or undermine public confidence in the administration. That said, the officers who are in more senior positions, for example Chief Executives or Heads of Service, will also be expected to have a greater degree of robustness."

4.2.2. It goes on to say: "I expect members to afford colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives."

4.2.3. Also: "When considering such complaints I will take into account the specific circumstances of the case, whether in my view, the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what has been said".

4.3 Paragraph 4(c) of the Code

4.3.1. The Guidance issued by the Ombudsman and relevant at the time of the alleged breaches stated in this regard; "Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health."

4.3.2. It also states; "When considering allegations of bullying and harassment I will consider both the perspective of the alleged victim, and whether the member

intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied.”

4.3.3. Finally: “You need to ensure that your behaviour does not cross the line between being forceful and bullying...the greater the power difference between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.”

4.4 Case Tribunal’s Decision

4.4.1 On the basis of the findings of fact, the Case Tribunal found by unanimous decision that the Respondent had failed to comply with Flintshire County Council’s Code of Conduct and had been acting in her official capacity at the relevant time so that the requirements of the Code of Conduct were fully engaged.

4.4.2 In relation to **Paragraph 4(b)** of the Code of Conduct, the Case Tribunal found that the Respondent breached the requirement to treat others with respect and consideration. The comments made in the Respondent’s e-mails dated 27th April and 5th May 2016 as well as the “twitter” message of 27th March 2017 were completely unwarranted and would have adversely affected the Officer’s ability to properly carry out his role, the planning enforcement role being a challenging and often unpopular role. The Respondent’s conduct towards the Council’s professional officer displayed a total lack of courtesy and consideration. The Respondent had not previously criticised or questioned the professionalism of the Officer to senior management. The comments were wholly gratuitous and unjustified and as senior officers and councillors were copied into the e-mails, the Case Tribunal considered that they were calculated to intimidate or undermine the officer whose job was already under threat due to restructuring.

4.4.3. In relation to **Paragraph 4(c)** of the Code of Conduct, the Case Tribunal found that, although falling short of repeated harassment, the Respondent intended to bully and had the effect of bullying the Officer. The comments made in the Respondent’s e-mails dated 27th April and 5th May 2016 as well as the “twitter” message of 27th March 2017 were personal comments which were highly offensive, extremely insulting, malicious and unwarranted. The Case Tribunal found the use of the words “mentally challenged” particularly shocking. The Officer was singled out unfairly, particularly as there was no indication that the Respondent had any previous complaints or concerns about his competence or responsiveness to members of the public. The Respondent had clearly been aware or should have appreciated by the 5th May, 2016 that the Officer was not responsible for dealing with temporary traveller encampments, as the Chief Executive forwarded an e-mail to the Respondent on 27th April, 2016 at 12.36pm stating that another officer would provide a full update and that the other officer; “is managing the case and will have the latest information”. This therefore constituted bullying behaviour and behaviour which fell well below the standard of behaviour expected of a Member, let alone an experienced politician.

4.5 Other Paragraphs of the Code of Conduct

4.5.1. It was noted that the Ombudsman did not consider that the Respondent's conduct breached paragraphs 4(d) and 7(a) of the Code, however he does not provide clarification as to how he reached that conclusion.

4.5.2. The Case Tribunal was somewhat surprised that the Ombudsman had not investigated the question of whether there had been a breach of paragraph 4(a) of the Code bearing in mind that the Officer is registered as disabled.

4.5.3. The Case Tribunal also noted that the Ombudsman had not investigated the question of whether there had been a breach of paragraphs 6(1)(a) and 6(2) of the Code.

4.5.4. In the circumstances, the Case Tribunal makes no findings in relation to these paragraphs of the Code.

5. DECISION ON ACTION TO BE TAKEN

5.1 Matters taken into account

5.1.1. The Case Tribunal considered all the facts of the case and in particular the serious nature of the breaches of paragraphs 4(b) and 4(c) of the Code of Conduct, in accordance with Section 79 of the Local Government Act 2000. It also had regard to guidance issued by the Adjudication Panel for Wales in relation to sanctions and to the sanctions imposed in previous cases.

5.1.2. The Case Tribunal was mindful of the fact that the aims of the sanctions guidance are directed towards upholding and improving the standard of conduct expected of local members, endorsing the role of the Code of Conduct, and maintaining public confidence in local democracy. The action is designed to discourage or prevent future non-compliance by members in general as well as the individual member.

5.1.3. In this case, the Tribunal was unanimous in concluding that imposition of a formal sanction was appropriate and noted that suspension was not an option as the Respondent was no longer a Councillor. The Case Tribunal considered that the facts leading to the breaches of the Code in this instance rendered the Respondent unfit for public office in view of the deliberate, blatant and repeated abuse of her position to bully, intimidate and maliciously undermine the confidence of a member of staff who did not hold a senior position, using wholly inappropriate language to do so.

5.2 Mitigating Factors

There is no doubt that there was considerable pressure upon the Respondent from members of the public in her electoral division relation to traveller encampments at the relevant time and that she would have experienced frustration

at not being able to ensure immediate resolution of the issues and it appears that the Officer bore the brunt of her frustration.

5.3 Aggravating Factors

5.3.1. The Case Tribunal received details of a Case Tribunal which found a previous breach by the Respondent of paragraphs 6(1)(a) and 6(2) of the Code in 2010. No sanction was imposed on that occasion. The decision report stated;-"the Tribunal accepts the assurances given that Cllr Halford fully appreciates the seriousness of this matter and that there will be no repetition." It was also noted that the conclusion at that time was that this was an isolated breach of the Code of Conduct. The Respondent neither fulfilled her commitment to the 2010 Case Tribunal, nor heeded the lessons from that previous investigation and adjudication.

5.3.2. The breach of the Code was blatant and deliberate or extremely reckless.

5.3.3. The case bundle revealed that the Respondent failed to co-operate with the Ombudsman's investigating officer and challenged the Ombudsman's investigation and the adjudication to the end, showing no regard for the formal processes in place in Wales to determine complaints of breach of the Code of Conduct.

5.3.4. The Respondent persisted in her bullying behaviour despite having been made aware that the Officer was not responsible for dealing with the issue in question and should not therefore have been criticised in any way for any perceived failure to address it, let alone in the terms used by the Respondent.

6. ARTICLE 10

6.1. Article 10 of the European Convention on Human Rights ("ECHR") was fully considered by the Case Tribunal during its deliberations both in relation to breach and sanction. Article 10 states as follows:-

- (1) Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers...
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...the protection of the reputation or rights of others..."

6.2. The Case Tribunal adopted the three stage approach used by Wilkie J in the case of Sanders v Kingston No (1) [2005] EWHC 1145 in its deliberations as follows:-

- (1) Can the Panel as a matter of fact conclude that the Respondent's conduct amounted to a relevant breach of the Code of Conduct?

(CT13)

(2) If so, was the finding of a breach and imposition of a sanction prima facie a breach of Article 10?

(3) If so, is the restriction involved one which is justified by reason of the requirement of Article 10(2)?

As the Case Tribunal had determined (1) in the affirmative, it then went on to consider (2) and (3) and determined as follows.

6.3 The Case Tribunal was satisfied that in this instance, the contents of the e-mails of 27th April and 5th May, 2016 and the “twitter” message of 27th March 2017, did not consist of “political expression” which attracts enhanced protection under Article 10 of the ECHR. The contents were no more than gratuitous, abusive and offensive personal comments, divorced from any political debate. Had they been made in the context of political debate, the comments were so outrageous and unfair, the Panel concluded that the interference with the Article 10 rights would still have been lawful and justified.

7. DECISION OF THE CASE TRIBUNAL ON THE ACTION TO BE TAKEN

7.1 The Case Tribunal considered the facts of the case and the nature of the breaches. It decided that the imposition of no sanction was not an option, bearing in mind the aims of the sanctions guidance and in view of the serious nature of the Code breaches and the severe impact which these had upon an employee of the Council who, relative to the Respondent, was not in a position of seniority or power.

7.2 The Case Tribunal had found that these were blatant and deliberate or reckless breaches of the Code, which did not stop at one e-mail but which continued after the Respondent became, or should have become aware, that the Officer did not have responsibility for dealing with the traveller encampment in question. This was further exacerbated by a “twitter” message posted in March 2017 which showed a complete lack of insight or remorse as to her behaviour and as to the further impact it might have on the Officer.

7.3. The comments about the Officer would impact not only on the rights and interests of the employee of the Council but also upon the public interest in good administration, recognising the fact that officers are entitled to conduct their duties with dignity and without the risk of gratuitous attacks upon their reputation.

7.4. In all the circumstances, the Case Tribunal considered that disqualification was an entirely justified and proportionate sanction. The Case Tribunal considered that it was a particularly serious example of bullying and that the disqualification had to be sufficiently long to enable the Respondent to properly reflect upon her actions before considering re-entering local politics. The sanction is no more than is proportionate and necessary in the circumstances.

7.5. In the case of *Heesom v the Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin), the High Court reduced the period of disqualification


imposed by the Tribunal from two years and six months to 18 months' disqualification. That case related to a series of incidents involving a number of officers in relation to paragraphs 4(b) and 4(c) of the Code of Conduct which took place over a period of some two years.

The Case Tribunal concluded that although the present case related to one officer and three incidents over a relatively short period of time, the cases were comparable in seriousness. In the present case the Panel considered that the bullying behaviour was particularly blatant and egregious.

7.6. In all the circumstances, the Case Tribunal concluded by unanimous decision that Former Cllr Halford should be disqualified for 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000.

7.7. The Case Tribunal directs that Flintshire County Council and its Standards Committee are notified accordingly.

7.8. The Case Tribunal duly notes that the Respondent has the right to seek the permission of the High Court to appeal the above decision. A person considering an appeal is advised to take independent legal advice about how to appeal.

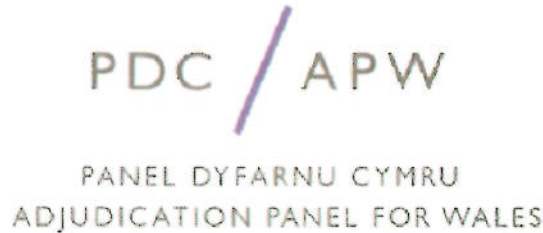
Signed: 

Date: 23 October 2017

Claire Jones
Chairperson of the Case Tribunal

Glenda Jones
Panel Member

Juliet Morris
Panel Member



NOTICE OF DECISION

TRIBUNAL REFERENCE NUMBER: APW/001/2017-018/CT

RESPONDENT: (Former) Councillor Alison Halford

RELEVANT AUTHORITY(IES): Flintshire County Council

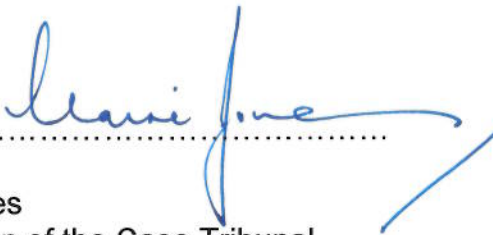
1. A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.
2. In a letter dated 22 June 2017, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”) in relation to allegations made against former Cllr Halford. The allegations were that former Cllr Halford had breached the Flintshire County Council Code of Conduct by the sending of communication which allegedly failed to show respect and consideration for others and the using of bullying behaviour or the harassing of any person.
3. In the absence of any proper and meaningful response by former Cllr Halford, the Case Tribunal determined its adjudication, on the basis of the papers received, at a meeting on 6 October 2017 at the APW Office, Government Buildings, Spa Road East, Llandrindod Wells, Powys. The Case Tribunal found by unanimous decision that former Cllr Halford failed to comply with the Flintshire County Council Code of Conduct as follows:
 - 3.1 Paragraph 4(b) of the Code of Conduct states that you must show respect and consideration for others.
 - 3.2 The Case Tribunal found that former Cllr Halford failed, in emails dated 27 April and 5 May 2016 and a subsequent social media post, to show respect and consideration for an officer of the Council.
 - 3.3 Paragraph 4(c) of the Code of Conduct states that you must not use bullying behaviour or harass any person.
 - 3.4 The Case Tribunal found that former Cllr Halford, in emails dated 27 April and 5 May 2016 and a subsequent social media post, used behaviour that amounted to bullying and harassment of an officer of the Council.
4. The Case Tribunal decided by unanimous decision that former Cllr Halford should be disqualified for 14 months from being or becoming a member of

(CT12)

Flintshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000, with effect from the date of this notice.

5. The Flintshire County Council and its Standards Committee are notified accordingly.

6. The Respondent has the right to seek the leave of the High Court to appeal the above decision.

Signed.....
Claire Jones
Chairperson of the Case Tribunal

Date..... 6/10/17

Glenda Jones
Panel Member

Juliet Morris
Panel Member

FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME

Date of Meeting	Topic	Notes/Decision/Action
February 2018	<ul style="list-style-type: none"> • Training • Dispensations 	
January 2018	<ul style="list-style-type: none"> • Training • Dispensations • Review of Constitution • One Voice Wales (?) 	<p>To set a new programme for the rolling review of the document</p> <p>OVW may wish to discuss the committee's work with town and community councils and the role of their representative</p>
December 2017	<ul style="list-style-type: none"> • Training • Dispensations • NW Standards Forum • Appointment of independent member • Case tribunal decision 	<p>Report back from Vice Chair</p> <p>Results of panel interviews</p> <p>Report of decision on former Councillor Halford</p>
November 2017	<ul style="list-style-type: none"> • Training • Dispensations • N W County Forum Meeting 	<p>CANCELLED</p> <p>24 November, Guildhall, Wrexham</p>
October 2017	<ul style="list-style-type: none"> • Training • Dispensations • Recruitment • Joint Meeting with Town and Community Councils 	<p>MO to provide update on recruitment of lay person</p> <p>2 October - Joint meeting with Town and Community Councils to be attended by the Ombudsman, Mr Nick Bennett</p>

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