

CYNGOR SIR CEREDIGION COUNTY COUNCIL

Report to: Ethics and Standards Committee

Date of meeting: 15 November 2023

Title: Update on Adjudication Panel for Wales matters

Purpose of the report: To update the Committee on Adjudication Panel for Wales matters

Background

The Adjudication Panel for Wales (APW) is an independent tribunal that has been set up to determine alleged breaches against an authority's statutory Code of Conduct by elected and co-opted members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities.

Ceredigion County Council Decision Report

Name: Councillor Steve Davies

Reference number: APW/014/2022-023/CT

Relevant authority: Ceredigion County Council

Nature of allegation: Breach of paragraphs 4(b), 4(c), 6(1)(a) and 7(a),

Hearing: 10 July 2023

Tribunal Decision: Suspended for 6 months

[Panel Dyfarnu Cymru \(gov.wales\)](https://gov.wales)

Other decision reports of interest to the Committee

Name: Former Councillor Karen Laurie-Parry

Reference number: APW/013/2022-023/CT

Relevant authority: Powys County Council

Nature of allegation: Breach of paragraphs 4(b), 4(c), 5(a), 6(1)(a), 6(1)(d), 7(b)(i) and 7(b)(iv)

Hearing: 6 July 2023

Tribunal Decision: Disqualified for 18 months

[apw-decision-notice-karen-parry.pdf \(gov.wales\)](https://gov.wales)

Name: Former Councillor Donald Jenkins
Reference number: APW/001/2023-024/CT
Relevant authority: St Harmon Community Council
Nature of allegation: Breach of paragraphs 6(1)(a) and 7(a)
Hearing: 4 July 2023

Tribunal Decision: Disqualified for 15 months

[apw-decision-notice-donald-jenkins.pdf \(gov.wales\)](#)

Name: Former Councillor Chris Evans
Reference number: APW/015/2022-023/CT
Relevant authority: Newport City Council
Nature of allegation: Breach of paragraphs 6(1)(a) and 7(a)
Hearing: 23 June 2023

Tribunal Decision: Disqualified for 9 months

[apw-decision-report-chris-evans.pdf \(gov.wales\)](#)

Wellbeing of Future Generations:

Has an Integrated Impact Assessment been completed? If, not, please state why.
No

Summary of Integrated Impact Assessment:

Long term: N/A
Collaboration: N/A
Involvement: N/A
Prevention: N/A
Integration: N/A

Recommendation(s):

To note the contents of the report.

Contact Name: Lisa Evans

Designation: Scrutiny and Standards Officer

Date of Report: 25/10/23

Acronyms:

DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/014/2022-023/CT

REFERENCE ABOUT ALLEGED BREACH OF THE CODE OF CONDUCT

RESPONDENT: Councillor Steve Davies

RELEVANT AUTHORITIES: Ceredigion County Council and
Aberystwyth Town Council

1. INTRODUCTION

- 1.1 An Interim Case Tribunal convened by the President of the Adjudication Panel for Wales has considered an Interim Report in respect of the above Respondent which had been made by Michelle Morris, the Public Services Ombudsman for Wales (“the PSOW”). The Interim Case Tribunal had before it a 374-page hearing bundle of documents containing the Listing direction of 15th June 2023, the Interim Report of the PSOW into the investigation of a complaint against Councillor Steve Davies of Ceredigion County Council and Aberystwyth Town Council dated 20th March 2023 and twenty-two appendices, relevant correspondence and the APW’s tribunal procedural guidance on references from the PSOW. The Interim report and appendices comprise 221 pages. References in square brackets are to page numbers in the hearing bundle.
- 1.2 In a letter dated 20th March 2023, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales in relation to allegations made against Cllr Steve Davies. The allegations were that Cllr Davies had breached the Ceredigion County Council and Aberystwyth Town Council Code of Conduct by failing to comply with paragraphs 4(b), 4(c), 6(1)(a) and 7(a) of the Code.
- 1.3 The Interim Case tribunal issued a listing direction dated 15th June 2023 in which it was noted that the Respondent had failed to respond to the letter sent to him by the Registrar to the APW dated 23rd March 2023. The Respondent was written to by the APW on 23rd March 2023 [317] at his home address explaining the purpose of the Interim Case Tribunal and was sent the form APW01, the Reply to a Notice of Reference Form,[321] as well as other documents namely the PSOW Report, the APW Tribunal procedural guidance [350], the APW

Frequently Asked Questions booklet [362] and the APW Practice Direction 1 dated 1st January 2020 [369]. It was made clear to the Respondent in the APW's letter of 23rd March 2023 that his response to the notice must be received by the Registrar to the APW within 21 days and that the completed Respondent's reply to the reference form was to arrive at the APW office by no later than 13th April 2023.

- 1.4 The Respondent failed to provide any response at all within that time frame, and the tribunal therefore decided that, in accordance with regulations 15(1)(b) and 3(3) of The Adjudications by Case Tribunals and Interim Case Tribunal (Wales) Regulations 2001, that the Interim Case Tribunal would determine the interim application without a hearing.
- 1.5 The Interim Case Tribunal is satisfied that the Respondent, Councillor Davies, had received the letter sent to him by the APW on 23rd March 2023. The letter was not returned to the APW in the dead letter system. Further, the Interim Case Tribunal were informed by the Registrar of the APW that Councillor Davies had e mailed the APW on 27th April 2023. The Interim Case Tribunal have not seen and were not informed about the contents of that e mail, only of its existence, since it was dealt with by the President of the APW who directed that it could not be put before the Interim Case Tribunal on the grounds of legal professional privilege. However, Councillor Davies had no reason to e mail the APW unless he had received the APW's letter of the 23rd March 2023.
- 1.6 The case was determined on the papers by the Interim Case Tribunal meeting by remote video hearing on Microsoft Teams on 10th July 2023.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Public Services Ombudsman for Wales

- 2.1.1 The reference to the APW from the PSOW by letter dated 20th March 2023 contained an Interim Report which detailed an initial complaint made to the PSOW by the then Statutory Director of Social Services for Ceredigion County Council on 9th December 2021, and further incidents that had come to light and were under investigation by the PSOW.

2.2 The Ombudsman's Interim Report.

- 2.2.1 Section 72(1) of the Local Government Act 2000 ("the Act") authorises the PSOW to produce an interim report where the Ombudsman considers it necessary and in the public interest, before the completion of the Ombudsman's investigation under section 69.
- 2.2.2 The PSOW says that it was appropriate to investigate whether Councillor Davies had failed to comply with any of the following provisions of the Code of Conduct;
- 2.2.3. Paragraph 4 (b) states that "*You must- show respect and consideration for others;*"

- 2.2.4. Paragraph 4(c) states that “*You must- not use bullying behaviour or harass any person.*”
- 2.2.5 Paragraph 6(1)(a) states that “*You must- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute:*
- 2.2.6 Paragraph 7(a) states that “*You must not- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage.*”
3. The Interim Report notes that both the relevant authorities adopted a Code of Conduct for their members which incorporates the provisions of a Model Code of Conduct contained in an order made by Welsh Ministers. A copy of the Code was included in the papers before the Interim Case Tribunal [33]. The Respondent gave a signed undertaking that, in performing his functions, he would observe the Code of Conduct for Ceredigion County Council on 11th May 2012, 9th May 2017 and 20th May 2022. He did so likewise for Aberystwyth Town Council on 15th May 2017. The PSOW report notes at paragraph 4 [11], that the Respondent would have been required to give such a written undertaking on being re-elected to the Town Council in 2022 but that the Town Council had not been able to locate a copy of his acceptance of office. The PSOW was satisfied that the absence of that document does not affect the Respondent’s standing as a member or his duty to comply with the Code of Conduct.
4. The allegations that the Ombudsman considered on balance were suggestive of a breach of the Code were as follows;
- 4.1.1 In October 2020 a complaint was made to the Council that the Respondent was making repeated ‘welfare checks’ on a vulnerable widow (Ms A) despite her not being in his Ward and her asking him not to visit her. Ms A said that she did not wish to make a formal complaint and that she was terrified of the Respondent. The Respondent was spoken to by the Monitoring Officer.
- 4.1.2 In November 2020 a Police referral was made to the Council indicating that a member of the public (Ms B) had complained of harassing behaviour towards her by the Respondent. Ms B did not wish to make a formal complaint, but the Respondent was given words of advice by the Police.
- 4.1.3 In March 2021 the Respondent was alleged to have made inappropriate sexual and offensive remarks to a staff member (Ms C) and volunteer (Ms D) at a community hub where he also volunteered. The Respondent was advised by the hub that he was no longer welcome to attend there. Ms C and Ms D did not feel comfortable reporting matters to the Police owing to the Respondent’s position as a councillor and because he lived close to them. One of the alleged victims, Ms C, has reported that this was part of a pattern of behaviour by the Respondent that went unaddressed.

- 4.1.4 In March 2021, a woman, Ms E, advised Police that the Respondent had, since March 2020, been making unwanted visits to her home including at night. The Police recorded this as a stalking offence and gave advice to the Respondent. This was a different woman to the subject of the allegation at 4.1.1 above.
- 4.1.5 In January 2023 an allegation was made to the Police of harassment and stalking behaviour towards a much younger woman (Ms F) by the Respondent. Ms F did not pursue the complaint, but the Respondent was given advice by the Police and the incident recorded by the Police as a stalking event.

Legal considerations for the Interim Case Tribunal.

5. The Interim Case Tribunal is tasked, in accordance with section 76(2) of the Local Government Act 2000, with adjudicating upon the following three considerations;
- 5.1.1 Is the prima facie evidence such that it appears that the Respondent has failed to comply with the Code of Conduct of the relevant authorities?
- 5.1.2 Is the nature of that failure such as to likely to lead to disqualification under section 79(4)(b)?
- 5.1.3 Is it in the public interest to suspend or partially suspend the Respondent immediately?

Case Tribunal's Decision

6. **Is the prima facie evidence such that it appears that the Respondent has failed to comply with the Code of Conduct of the relevant authorities?**

- 6.1 There is no mystery about the words 'prima facie evidence' or about considering if there is a prima facie case made out. The Latin expression has been described as meaning "at first sight, "of first appearance", "at first view" and "based on first impression" or similar words. In other words, in the circumstances that are the subject of the PSOW's report and allegations of the apparent breaches of the Code, is there "a case in which there is evidence which will suffice to support the allegation made in it and which will stand unless there is evidence to rebut the allegation?" (Osborne's Concise Law Dictionary, Eighth Edition).
- 6.2 It is particularly important to note, and the Interim Case Tribunal reminded itself, that the consideration of whether there is prima facie evidence such that **it appears** that the Respondent has failed to comply with the Code of Conduct, is a different exercise to determining whether, on the facts, there has been a

breach of the Code of Conduct. The Interim Case Tribunal is not determining whether the allegations of a breach of the Code of Conduct are made out or not. That is a task for the Case Tribunal in due course. It follows that the Interim Case Tribunal is not required to and has made no findings of fact on whether the allegations are made out or not.

- 6.3 In respect of the **first allegation** noted at 4.1.1 above, the PSOW Interim Report included a statement from Ms Elin Prysor, Ceredigion County Council Monitoring Officer [203], dated 20th January 2023, which at paragraph 13 of Ms Prysor's statement details the Customer Services Record of 1st October 2020 recording the complaint and her subsequent telephone conversation with the Respondent on 2nd October 2020 [204], in which Councillor Davies accepted that he should not visit and had no reason to visit the Ms A. The Interim Case Tribunal note that the Respondent did not deny that he had been visiting Ms A as alleged. The Interim Case Tribunal also noted that there was evidence that suggested that the Respondent was visiting homes of others in apparent breach of the Covid pandemic rules that were then in force [205, paragraph 19].
- 6.3.1 Further, the PSOW Interim Report contained a statement from Ms Elizabeth Upcott, the Corporate Safeguarding Manager of Ceredigion County Council, dated 2nd August 2022 [165]. This statement, at paragraph 6 [166] refers to the complaint that had been received in October 2020 in relation to Ms A. This confirms that Ms A was not a constituent of the Respondent's and so he had no reason to visit her. The statement refers to a letter that was sent to the Respondent by the Safeguarding Officer and that the Safeguarding Officer spoke to the Respondent who was concerned that this had been escalated to safeguarding. Paragraph 8 of the statement says; *"The Safeguarding Officer said that as he is a Councillor, he needs to be aware that he will sometimes deal with vulnerable people. Councillor Davies made a comment that he would be careful about who he would pick next, and that it would be someone who wouldn't complain. Although this was said half-jokingly, we were concerned about this comment."*
- 6.3.2 The Interim Case Tribunal were satisfied on the totality of the evidence in the PSOW Interim Report that the prima facie evidence was such that it appeared that the Respondent had failed to comply with paragraphs 4(b),4(c), 6(1)(a) and 7(a) of the Code of Conduct in respect of the first allegation.
- 6.4. In respect of the **second allegation** noted at 4.1.2 above, of harassing and stalking behaviour in relation to Ms B, the Interim Case Tribunal notes the minutes of the Professional Concerns Meeting held about the Respondent under the Social Services and Wellbeing Act 2014, Part 7 and the All Wales National Safeguarding Procedures in respect of the Safeguarding of Adults who may be at Risk of abuse and/or neglect on 16th December 2020 [143]. This meeting was attended by officers of Ceredigion Council and representatives of the Police. The circumstances of the allegation were set out in detail [145-147], which included unwanted contact between the Respondent and Ms B, entirely initiated by the Respondent, including him leaving 8-9 notes on her bicycle. The contents of some of the notes that the Respondent had left for Ms B were included. Ms B was not known to the Respondent and the allegation was that

he had continued to leave notes for her despite being asked to desist from doing so by Ms B and her boyfriend.

- 6.4.1 Ms B did not wish to make a formal criminal complaint but did wish the Police to speak to the Respondent. One of the discussion outcomes recorded from the meeting said “4- *The fact that Cllr Davies did not heed the advice from the police, the person herself, and also not listened to her partner, shows there to be a risk where he is not seeing professional/personal boundaries.*” [144] It was noted that if Ms B had supported the criminal process that the Respondent would have been charged with harassment and stalking crimes. The meeting notes recorded [144] that the Respondent confirmed that he had tried to contact Ms B and he was surprised that this was a matter of stalking. He was spoken to by the police and given advice and did not deny the conduct alleged. The Adult Safeguarding Enquiry Outcome Report in relation to this allegation, completed by Paul Portman-Barnard, Senior Practitioner for Ceredigion Adult Safeguarding Team, dated 20th November 2020 [106-107] notes that when the Respondent was spoken to and given words of advice about this matter “*he was unwilling to admit that the behaviour was unacceptable, regardless of whether it was threatening, and stated that he merely wanted a way to communicate with the IP.*” [107].
- 6.4.2 The Interim Case Tribunal were satisfied on the totality of the evidence in the PSOW Interim Report that the prima facie evidence was such that it appeared that the Respondent had failed to comply with paragraphs 4(b),4(c) and 6(1)(a) of the Code of Conduct in respect of the second allegation. The Interim Case Tribunal have noted above at paragraphs 6.4 and 6.4.1 prima face evidence suggestive of a breach of the Code in relation to this allegation and that the Respondent did not deny that the behaviour complained of had taken place.
- 6.5 The **third allegation** noted at 4.1.3 above concerns allegations of inappropriate and offensive sexual remarks and behaviour to Ms C and Ms D. There was a detailed statement from Ms C [273] dated 7th March 2023 which contained her evidence relating to incidents on 21st and 28th February 2021 amongst other matters relating to the Respondent’s behaviour. This included an exhibit of an e mail sent contemporaneously by Ms C on 28th February 2021 raising a complaint about the Respondent’s behaviour and noting that he treated it as ‘banter’. There is a letter dated 5th March 2021 to the Respondent on behalf of the Board of Trustees [285] at the community forum where the Respondent had been volunteering and where the behaviour complained of was alleged to have taken place. This detailed an internal investigation by the Board of Trustees and the decision to suspend the Respondent indefinitely from forum activities as a result.
- 6.5.1 The minutes of the Professional Concerns meeting of 16th March 2021 [from 137] detailed discussion of this third allegation and how a safeguarding meeting had been held with the Respondent on the 15th March 2021. There is evidence that this incident was referred to Dyfed–Powys Police who sent a MARF (Multi Agency Referral Form) to Ceredigion Council on 9th March 2021 [123]. An Adult Safeguarding Enquiry Report had been initiated by Paul Portman-Barnard [75]

on 9th March 2021. There is a (heavily redacted) report of the incidents that make up the third allegation from Dyfed-Powys Police, noting that the report was made to the Police on 11th March 2021 [183] and the allegation was that the injured person has received unwanted comments which are inappropriate, sexual and offensive over a period of months from the Respondent. The Police were considering this as a case of harassment.

6.5.2. The Interim Case Tribunal were satisfied on the evidence in the PSOW Interim Report that the prima facie evidence was such that it appeared that the Respondent had failed to comply with paragraphs 4(b),4(c), 6(1)(a) and 7(a) of the Code of Conduct in respect of the third allegation. The Interim Case Tribunal have noted above at paragraphs 6.5 and 6.5.1 prima face evidence suggestive of a breach of the Code in relation to this allegation.

6.6 The **fourth allegation** noted at 4.1.4 above related to unwanted visits being made by the Respondent to Ms E including at night. There is a report from Dyfed-Powys Police [180] which the Police had categorised as a potential stalking offence which recorded that since the beginning of the initial covid lockdown, (which was in late March 2020), it was alleged that the Respondent had attended at Ms E's address on several occasions unannounced, he had taken Ms E flowers even after being asked to stay away which had made Ms E feel harassed, alarmed and distressed. The Police had sufficient information to interview the Respondent about this and to issue him with words of advice.

6.6.1 The fourth allegation is also recorded in the 'Chronology in relation to Concerns regarding Councillor Steve Davies' [68] prepared by Ms Upcott, Corporate Safeguarding Manager dated 12th October 2021 which confirms that Ms E had received unwanted visits to her home from the Respondent since March 2020 without invitation and that he continued to visit when asked not to including at night. He would bring her flowers and tend to her garden even when asked not to do so. It is recorded that the Police were told that the Respondent made remarks which the woman perceived to be of a sexual nature. The Interim Case Tribunal noted that this matter was discussed in the Professional Concerns Strategy Meeting of 15th April 2021 when it was noted that people are reluctant to make a formal complaint against the Respondent because he is a County Councillor and lives in the area.

6.6.2 The Interim Case Tribunal were satisfied on the evidence in the PSOW Interim Report that the prima facie evidence was such that it appeared that the Respondent had failed to comply with paragraphs 4(b),4(c), 6(1)(a) and 7(a) of the Code of Conduct in respect of the fourth allegation. The Interim Case Tribunal have noted above at paragraphs 6.6 and 6.6.1 prima face evidence suggestive of a breach of the Code in relation to this allegation.

6.7 The **fifth allegation** noted at 4.1.5 above related to an allegation of stalking and harassment behaviour by the Respondent in relation to Ms F, a much younger woman. The Police report of this matter [262] describes that the Respondent had undertaken a course of conduct towards Ms F at her two places of work

from 2022. He had started to give her unwanted presents from around October 2022, had left Christmas presents and a card and that despite being told that Ms F did not want any presents and he was not to attend there, he did so again in January 2023 with presents, a Valentines card and a letter which said that she should choose between her boyfriend and the Respondent.

- 6.7.1 The information from the Police was shared with Ceredigion County Council and was also dealt with in the witness statement of Ms Audrey Somerton-Edwards, Interim Statutory Director of Social Services and Corporate Lead Officer [267] who pointed out that the complainant Ms F was over 30 years younger than the Respondent and that he did not stop his behaviour when asked to do so.
- 6.7.2 The fifth allegation in relation to Ms F was discussed at a Professional Concerns Meeting on 22nd February 2023 [Minutes of the meeting are at 309]. These minutes record that Ms F made a statement to the Police and although she did not want to make a formal complaint, she did want the Respondent to be spoken to about his behaviour. The minutes record that the Respondent was spoken to about this by a Detective Sergeant who gave him words of advice. The Detective Sergeant felt that the Respondent “does not think he is doing anything wrong” [310].
- 6.7.3 The Interim Case Tribunal were satisfied on the evidence in the PSOW Interim Report that the prima facie evidence was such that it appeared that the Respondent had failed to comply with paragraphs 4(b),4(c), 6(1)(a) of the Code of Conduct in respect of the fifth allegation. The Interim Case Tribunal have noted above at paragraphs 6.7 and 6.7.1 and 6.7.2 prima face evidence suggestive of a breach of the Code in relation to this allegation.
- 6.7.4 The Interim Case Tribunal therefore finds by unanimous decision that in relation to the five particular allegations that there is prima facie evidence such that it appears that the Respondent has failed to comply with the Code.

7. **Is the nature of that failure such as to likely to lead to disqualification under section 79(4)(b)?**

7.1 The PSOW at paragraph 20 of her report [17] considers that the prima facie evidence is so serious that if proven, it would justify a disqualification. Factors that the PSOW considered in assessing the seriousness of the allegations (summarised at paragraph 21 of her report) were;

- The numerous alleged breaches of the Code that have taken place at a number of different locations involving several different women.
- That the Respondent has persisted with his conduct despite being advised by safeguarding officers, the Police and the Monitoring Officer about how his behaviour is being perceived.
- The potential consequences of the breaches are wide ranging and as the behaviour continues there is potential for further incidents.
- The Interim Statutory Director of Social Services has stated that the Respondent poses a risk to the public. He has displayed predatory

behaviour towards a much younger woman and there are concerns about his behaviour towards vulnerable adult women.

- The impact on the Councils is very serious if the behaviour continues. The Respondent has access to vulnerable members of the community through his role and the witness evidence suggests that he is using his position to call on women. If proven, his behaviour has the potential to have a serious negative impact on the reputation of the Council.

7.2 The PSOW considered that if the breaches are proven then disqualification is likely to be the most appropriate sanction in order to make clear the unacceptable nature of such conduct in public office, underscore the importance of safeguarding the public as well as the public's confidence in local democracy and to deter repetition of the behaviour. The PSOW's view was that if the alleged breaches of the Code were to be proven, then the Respondent's behaviour shows a disregard for the Code which calls in to question his fitness for public office.

7.3 The Interim Case Tribunal have had regard to the APW Sanctions Guidance ("the Guidance") which at paragraph 57 stresses that Interim Case Tribunals aim to facilitate the Ombudsman's effective and expeditious investigation of the Respondent's conduct, to minimise any disruption to the business of the authority concerned during its investigation, to maintain the reputation of the authority concerned and to protect the authority from legal challenge. The Sanctions Guidance recognises that any form of suspension can have a significant impact on a member's role, credibility and finances at a time when no definitive ruling has yet been made on the validity of the allegations. The Sanctions Guidance makes it clear that Interim Case Tribunals will seek to take the minimum action necessary to ensure the effective completion of the PSOW's investigation, the proper functioning of the authority concerned and the maintenance of public confidence. The Interim Case Tribunal has fully taken such matters into account.

7.4 The Interim Case Tribunal has therefore considered, in accordance with the Guidance, whether, if the allegations were substantiated, a suspension or partial suspension would be an appropriate sanction. To do this the Interim Case Tribunal follows the Guidance as to the Five Stage Process for determining sanction. The first step is to assess the seriousness of the breaches (if substantiated) and any consequences for individuals and the Council. The Interim Case Tribunal notes the number of allegations of breach of the Code, that they happened over a period of time and related to a number of different women. The Respondent was given advice by the Monitoring Officer and the Police and yet allegedly continued to behave in a manner that was characterised by the Police as stalking and harassment, was predatory and involved allegations of sexual misconduct. These are all matters that the Interim Case Tribunal regard as potentially very serious breaches if proven.

7.5 The Interim Case Tribunal does not consider that this is a case where it would be appropriate to take no action or impose no sanction in the event of the breaches being proven. The Interim Case Tribunal has considered whether suspension for up to 12 months might be the appropriate sanction but also notes the Guidance considers this appropriate where it is felt highly unlikely that there

will be a further breach of the Code, that the member has recognised their culpability, shown insight into their behaviour and apologised to all involved. Whilst the Respondent has not provided any information to the APW despite being given the opportunity to do so, and whilst he will have the further opportunity to have his say at the Case Tribunal in due course, such information and evidence as is currently before the Interim Case Tribunal suggests that the Respondent, at present, does not recognise his culpability and has not shown insight or apologised to those involved. A theme of the concerns of the officers of Ceredigion County Council is that there have been further allegations against the Respondent after he has been given words of advice by both the Police and Council Officers that he does not appear to have heeded. Whilst the Guidance does provide advice on circumstances when a partial suspension might be appropriate, those circumstances do not appear to be present in this case.

- 7.6 Further the Guidance provides details of both mitigating circumstances and aggravating factors at paragraph 42. There was no indication or evidence of any mitigating factors before the Interim Case Tribunal but there was evidence suggestive of various aggravating factors, including repeated and numerous alleged breaches of the Code, allegations of a breach of position of trust, allegations of ignoring advice and lack of acceptance of the alleged misconduct and its consequences, failing to co-operate with the PSOW and APW's processes, (the Respondent failed to comment on the PSOW's draft report) and allegations of behaviour that has brought the Authorities and public service into disrepute. This is not an exhaustive list.
- 7.7 The Guidance at paragraph 39.13 lists circumstances in which a tribunal may decide that a disqualification is appropriate. These include deliberately seeking to disadvantage another by exploiting membership of the authority, deliberately disregarding or failing to comply with the provisions of the Code and demonstrating the likelihood of continuing the pattern of behaviour, conduct that calls into question the Respondent's fitness for public office and bringing the authority into serious disrepute. Whilst the Interim Case Tribunal makes no findings of fact, we are required to consider if such failures to abide by the Code on the part of the Respondent as are alleged would be likely to lead to disqualification if proven. The alleged failures to comply with the Code do meet the circumstances in the Guidance for which disqualification is appropriate and the Interim Case Tribunal note that the Respondent is an experienced councillor who first signed the undertaking to observe the Council's Code of Conduct in 2012 and should therefore be familiar with the requirements of the Code.
- 7.8 The Interim Case Tribunal notes that the overriding purpose of the sanctions regime is to uphold the standards of conduct in public life and to maintain confidence in local democracy. Taking all of these matters into account, the Interim Case Tribunal accept the representations of the PSOW (summarised at 7.1 and 7.2 above) and find that the nature of such alleged failures to follow the Code of Conduct is such as to be likely to lead to disqualification under section 79(4)(b) of the Local Government Act 2000 if there are positive findings of fact in respect of them.
8. **Is it in the public interest to suspend or partially suspend the Respondent immediately?**

- 8.1 The PSOW addresses this issue at paragraphs 23- 28 of her report [18] saying that it would be in the public interest to do so if it would facilitate her effective and expeditious investigation, would minimise any disruption to the business of the authority concerned during an investigation, maintain the reputation of the Councils or protect the Authorities from a legal challenge. The PSOW asserts that the Respondent remains active in the community and there is evidence before her that witnesses are cautious about coming forward. If the Respondent were to be suspended from his role as councillor, then it would provide reassurance to the public that complaints about him are being investigated independently by the PSOW's office so that potential witnesses may engage fully with the investigation.
- 8.2 The PSOW notes that the Respondent is in a position of authority as a member of both the County Council and Town Council and the Councils have no power to suspend or restrict the Respondent's role and remit. In the light of the Council's general safeguarding concerns, including about the Respondent's engagement with the public and in relation to female members of staff who work with or provide support to the Respondent, suspending the Respondent will minimise any disruption to Council business. It is noted that the Respondent is a school governor and although the complaints have not involved children, the role places him in a position of authority in the local school and its community, and that it would not be possible to monitor the Respondent's activities within the school without significant disruption to normal business and suspending him from his role will minimise the disruption to Council business.
- 8.3 The PSOW states that the Respondent has been advised by Council Safeguarding Officers and the Monitoring Officer that his behaviour is inappropriate and could pose a risk to the Council's reputation, but he has not acknowledged or accepted that this is so. There is a risk that if his behaviour continues, that the Council will be held publicly accountable for his actions because his role as a Councillor allows him access to vulnerable members of the community. The Council does not have any powers itself to suspend the Respondent and if suspended by the APW it will reduce the risk of further damage to the Council. The PSOW notes that the Respondent did not comment on the draft of the PSOW's Interim Report despite being given the opportunity to do so.
- 8.4 The PSOW's submissions deal with the factors set out in the Guidance at paragraph 57 upon the aims of Interim Case Tribunals. The Guidance at paragraph 63 says that if the Interim Case Tribunal concludes that a finding on breach would result in a suspension it will still require a compelling argument that it is in the public interest for a suspension or partial suspension of the Respondent in advance of the PSOW completing her investigation and referring a final report to the APW.
- 8.5 The Interim Case Tribunal recognises the force of the PSOW's submissions. It was clear from the information in the bundle that there have been other

allegations made against the Respondent which were not included in the five specific examples dealt with, and that will require ongoing investigation. The Interim Case Tribunal is also satisfied that the allegations raise issues of such gravity that they jeopardise public confidence in the Councils concerned.

9. Section 78(1) of the Local Government Act 2000 states that an interim case tribunal which adjudicates on any matters which are the subject of an interim report from the PSOW must reach one of the following conclusions;
 - (a) that the subject of the recommendation in the PSOW's interim report (the Respondent) should not be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned, or
 - (b) that the subject of the recommendation in the PSOW's interim report (the Respondent) should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.

- 9.1 For the reasons given above, the Interim Case Tribunal has decided that the Respondent should be suspended from being a member or a co-opted member of Ceredigion County Council and Aberystwyth Town Council for a period which does not exceed **six months** or (if shorter) the remainder of the Respondent's term of office **with effect from 10th July 2023, the date of the decision notice.**

10. Ceredigion County Council and Aberystwyth Town Council and their Standards Committees are notified accordingly.

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

Signed.....*R. Payne*.....

Date 9th August 2023

Tribunal Judge Richard Payne
Chairperson of the Case Tribunal

Mrs S. McRobie
Panel Member

Mr D. Morris
Panel Member