

PEMBROKESHIRE COUNTY COUNCIL
REPORT OF STANDARDS COMMITTEE HEARING

Member	Former County Councillor Paul Dowson
Relevant Authority	Pembrokeshire County Council
Date of Hearing	9th June 2022
Location of Hearing	Council Chamber, County Hall, Haverfordwest, Pembrokeshire
Public Services Ombudsman Reference No.	202000660

Background

1. Pembrokeshire County Council's Standards Committee considered a report from the Public Services Ombudsman for Wales ("the Ombudsman") into a complaint that Councillor Paul Dowson ("the Member") had failed to observe the Council's Code of Conduct for Members.
2. It was alleged that the now former Councillor published a Facebook post which could be considered racist and could have the potential to damage the reputation of the Council.
3. The Ombudsman referred his Investigation Report dated 5th November 2021 to the Monitoring Officer of Pembrokeshire County Council for consideration by its Standards Committee. The Ombudsman's Report concluded that the former Councillor's actions were suggestive of a breach of Paragraph 6(1)(a) of the Code of Conduct for Members, which states that, as a Member:

"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

4. The two questions posed by the Ombudsman's Report for consideration and determination by the Committee were:

Was former Councillor Dowson acting in his capacity as a councillor when he posted his comments about the Black Lives Matter movement? and

Should former Councillor Dowson have been aware that some or all of the post he published on 8th June 2020 was likely to be considered racist?

The Hearing

5. The Council's Interim Deputy Monitoring Officer ("IDMO"), as legal adviser to the Committee, presented a report at the commencement of the Hearing. It was indicated that there was a preliminary issue of which the Committee was aware in general terms, namely that the Member wanted to present additional information to the Committee at the Hearing, which the Member had been

advised would have to be decided by the Committee in its discretion, the time limits allowed for providing information having passed.

6. However, before that initial issue was to be considered, it was explained that certain information had been brought to the attention of the Committee in its pre-Hearing meeting, which meant that the first matter to discuss was whether the entire Hearing should be held in private. The IDMO did explain that the position which had been adopted previously, for an earlier hearing, was that the Hearing should be webcast, and therefore effectively in the public domain, as the public were not allowed access to view the Hearing in person. The decision to allow a hearing to be webcast had been sanctioned previously whilst there were Covid restrictions in place. The parties, namely the Member and the Investigating Officer (“the IO”) from the Ombudsman’s Office (“the PSOW”), had also both previously indicated that it was suitable for the Hearing to remain in public. This position remained the same, so there would need to be good reason provided were the Committee minded to depart from this. The Member stated that, were the decision to be that the Hearing would take place in private, the Member would not participate any further. The initial proposal, which was seconded, was that the entire Hearing be held in private. The Committee then resolved to move into private session to debate whether the Hearing should proceed in private session, and reconvened, the Chair stating that it had been resolved unanimously that the Hearing was to be held in private.
7. The Committee then considered the request from the Member to adduce the extra information produced by the Member in the two days leading up to the Hearing. The Member stated that the information he wished to produce, concerning the apparent sharing of data, had no bearing on the Hearing, it was just to show the incompetency of the Ombudsman’s Office. The PSOW’s IO, who had been provided with a copy of the information the Member proposed to adduce, stated that it was a question of relevancy to the fact-finding and breach of Code considerations which were in issue. The IO disputed that there had been any data breach, and it had received no complaint. The PSOW takes data breach issues very seriously as a public body, and would be looking at this matter separately. It was submitted that the data breach issue was not relevant to the issues before the Committee. At this point the Member stated that he was not proceeding with the application to have the application to have the additional documentation included, and the Chair stated on that basis the Hearing would continue.

Stage 1

8. The Committee first considered any finding of fact that it needed to make. The complaint was limited to one Facebook posting. There were two questions of disputed facts for the Committee to resolve. It was not in issue that the Member had posted the post. The Member stated that there was a flaw with the complaint itself, in that the complainant had never, even once, mentioned the post in question, and there was no reference to it. The Member stated that he wanted to repeat that the report is jam packed full of inconsistencies, with hardly any mention of the post itself or the one that preceded it. The report was blatantly prejudicial. The IO responded by establishing that the post was attached to the original complainant’s complaint, pointing the Committee to the

relevant pages in the report. The Member also claimed that: the Councillor training records produced as part of the report had been tampered with; there was only one mention of people of colour; the complaint is absolute rubbish; and the Member has the facts to prove the process was prejudiced throughout. The IO stated that it was a sample complaint. The Member stated that is why the Hearing should be conducted in public, and that he was no longer going to participate, as it was another example of prejudice. The IO repeated that the post was enclosed with the complaint, and that original complaints about 2 other posts had not been continued. The post in question had not been added in, but had been included from the start. At this point the Member stated that the other parties could continue to talk amongst themselves, that he was not going to participate further unless it was in public, and left the Hearing.

9. The IO was asked to explain the rationale for continuing with just the one complaint rather than all three. The IO explained that it had to be decided in relation to each post whether there were serious enough grounds for the post to be dealt with at a local level as it would be of local concern. The other posts were to do with freedom of expression and a lack of intervention to allow the posts, rather than with the content of the post itself, as was the case with the post in issue. The IO also responded to a further question by stating that there are separate Adjudication Panel for Wales proceedings involving the Member, and if there were to be a finding of breach of the Code by the Member this would be utilised as an aggravating factor in those proceedings.
10. At this time, the Committee resolved unanimously by formal vote to confirm for the record that the proceedings would continue in the Member's absence, there being no reason to delay any further.
11. The IO stated that she did not propose to go through the undisputed facts. Although the post referred to Council business, it had not been possible to conclude categorically that the Member had been acting in an official capacity or in in a public role. The issue of breach under Paragraph 6(1)(a) did not require this in any event, and covered actions by a Member whether in a public or private capacity. The other point for consideration was whether the Member would have been aware that the post would be considered as racist. The PSOW did not find what the Member had stated about the post as credible. The tone of the post was relevant, and the PSOW considered that it was derogatory. The reputation of the Council was also relevant, as the post was in the public domain. There had been a number of complaints, including several from persons of colour, contrary to what the Member had claimed. The Committee was also asked to consider the comments from the former Chief Executive of the Council and the Leader of the Council. Public concern was the key. It was further established that the Member had operated a number of social media accounts.
12. The Committee retired to consider its findings of fact in relation to the two questions it was to answer.
13. Following its deliberations, the Committee resolved by way of findings of fact that the two questions it was being asked were to be answered in the affirmative, namely that former Councillor Dowson was acting in his capacity as a councillor when he posted his comments about the Black Lives Matter

movement and that former Councillor Dowson would have been aware that some or all of the post he published on 8th June 2020 was likely to be considered racist. The Committee found on the balance of probabilities that it was more likely than not that the Member was acting in his role as councillor when he published the post, factors in favour of this including that he was well known as a councillor, although the account used did not specifically identify him as a councillor. Whilst the Committee found that the Member may have been legitimately entitled to post his view on the lighting up of the Council offices, the post went much further than that and the Member would have been likely to have known the impact of and the likely reaction to the post.

14. The Committee then proceeded on to Stage 2, which is to consider whether the findings of fact involved breach or breaches of the Code of Conduct for Members.

Stage 2

15. As the Member was no longer present and therefore not able to make representations on whether there had been any breach of the Code of Conduct, the Committee determined that it would be inappropriate, being contrary to its own procedure, to hear further from the PSOW, as the procedure stated that the PSOW could only make representations on the Member's statements. Therefore, the Committee effectively proceeded to consider the issue of whether or not there had been a breach of the Code of Conduct without hearing any further representations.
16. After further careful consideration, the Committee resolved that the Member, having regard to the capacity in which former County Councillor Dowson was acting, when publishing the Facebook post, had breached Paragraph 2(1)(b) of the Code of Conduct which states that "You must have failed to comply with the Code of Conduct observe this code of conduct whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed".
17. The Standards Committee also resolved, following its findings on the facts and evidence, that former County Councillor Dowson, when publishing the Facebook post, breached Paragraphs 2(1)(d), 4(b) and 6(1)(a) of the Code of Conduct which state:

Paragraph 2(1)(d): "You must observe this code of conduct at all times and in any capacity, in respect of conduct identified in paragraph 6(1)(a)...";

Paragraph 4(b): "You must show respect and consideration for others";

Paragraph 6(1)(a): "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

Stage 3 Sanction

18. The Committee was charged with considering its options, ranging from taking

no action against the Member to censuring the Member. As the Member was no longer a county councillor the possible sanction of suspension of the Member was no longer an option.

19. The Committee resolved that this was a serious breach of the Code of Conduct. In considering what sanction was appropriate, again, as the Member was not present, according to its own procedure it was inappropriate to hear from the PSOW, who could only make representations on statements made by the Councillor.
20. The Committee acknowledged that the Member had engaged in the investigation process, and that the Member was entitled to comment on the Council's actions, but not to the extent and manner in which he did.
21. The Committee found that there had been a failure to attend at the relevant training which had been provided and a failure to heed previous advice and warnings.
22. The Committee resolved that former County Councillor Dowson should be censured in relation to the above breaches of the Code of Conduct, under Paragraph 9(1)(c) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, which was the maximum sanction available to the Committee, as Mr Dowson is no longer a County Councillor. The Committee also wished to put on record that, had Mr Dowson been re-elected as a County Councillor in May 2022, it is highly likely that suspension for a period would have been a serious consideration.

Appeal

23. The Member has already received details of how to seek permission to appeal in the decision sent to the Member. The Committee is not aware that any such request has been made.
24. Whilst this Report is considered to be an accurate summary of the Hearing, for the purpose of clarification, when comparing this report to the webcast recording of the Hearing, it is confirmed that the steps at all 3 Stages of the Hearing were considered separately, with a decision being made at each Stage before moving on to the next Stage. The decisions at each Stage were announced on the webcast consecutively and at the same time purely for expediency, convenience and practicality.
25. This report is to be considered in conjunction with the decision announced on the day of the Hearing, and the fuller Decision sent to the parties following the Hearing, both of which are appended to this Report.

Signed:

Mrs Corinna Kershaw, Chair, on behalf of the Standards Committee

Dated: 12 July 2022

In the matter of former Pembrokeshire County Councillor Paul Dowson, I announce the decision of the Standards Committee as follows:

The Committee has carefully considered all the evidence and submissions in this matter. It is to be noted that former Councillor Dowson absented himself voluntarily from the meeting at an early stage of the substantive Hearing.

1. The Committee has formally resolved, in relation to the two disputed facts that: former County Councillor Dowson was acting in his capacity as a Councillor when he posted his comments about the Black Lives Matter movement; and that former County Councillor Dowson was aware that some or all of the post he published on 8th June 2020 was likely to be considered racist.
2. The Committee has resolved that, former County Councillor Dowson, when publishing the Facebook post, breached Paragraph 2(1)(b) of the Code of Conduct which states that *“You must observe this code of conduct whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed”*.
3. The Committee has also resolved that, on the facts and evidence, former County Councillor Dowson, when publishing the Facebook post, breached Paragraphs 2(1)(d), 4(b) and 6(1)(a) of the Code of Conduct which state that:

“You must observe this code of conduct at all times and in any capacity, in respect of conduct identified in paragraph 6(1)(a)...”
(Para 2(1)(d));

“You must show respect and consideration for others” (Para 4(b));
and

“You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute” (Para 6(1)(b)).

4. The Committee has resolved that former County Councillor Dowson should be censured in relation to those breaches. This is the maximum sanction available to the Committee, as Mr Dowson is no longer a County Councillor.
5. The Committee would wish to put on record that, had Mr Dowson been re-elected as a County Councillor in May 2022, it is highly likely that suspension for a period would have been a serious consideration.

A fully reasoned report of the Standards Committee's decisions today will be produced and published in due course.

PEMBROKESHIRE COUNTY COUNCIL
STANDARDS COMMITTEE HEARING 9th JUNE 2022
Re: FORMER PEMBROKESHIRE COUNTY COUNCILLOR PAUL
DOWSON
DECISION NOTICE

A meeting of Pembrokeshire County Council's Standards Committee was convened in order to consider a report from the Services Ombudsman for Wales ("PSOW") dated 3rd November 2021 ("the Ombudsman") into a complaint that the former County Councillor Paul Dowson ("the Member") had failed to observe the Council's Code of Conduct for Members following referral of complaints to it by members of the public.

1. SUMMARY OF ALLEGATIONS

The Allegations contained in the PSOW Report were as follows:

- 1.1 It was alleged that the now former County Councillor published a Facebook post which could be considered racist and could have the potential to damage the reputation of the Council.
- 1.2 The former Councillor said that he had not recognised the racist overtones when he shared the post and said that he was not a racist person.
- 1.3 The Ombudsman's office forwarded to the Monitoring Officer of Pembrokeshire County Council an Investigation Report dated 5th November 2021 which concluded that the former Councillor's actions were suggestive of a breach of Paragraph 6(1)(a) of the Code of Conduct.

2 DISPUTED FACTS

Most of the facts in the case were undisputed, as detailed in the Summary Report from the Legal Adviser to the Committee. With regard to the two disputed facts however, the Standards Committee formally resolved, in relation to the two disputed facts that: former County Councillor Dowson was acting in his capacity as a Councillor when he posted his comments about the Black Lives Matter movement; and that former County Councillor Dowson was aware that some or all of the post he published on 8th June 2020 was likely to be considered racist.

3. BREACH OF PARAGRAPH 2(1) OF THE CODE OF CONDUCT

With regard to the capacity in which former County Councillor Dowson was acting, the Committee resolved that former County Councillor Dowson, when publishing the Facebook post, breached Paragraph 2(1)(b) of the Code of Conduct which states that "You must observe this code of conduct whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed".

4. FURTHER ALLEGED BREACHES OF THE CODE

The Standards Committee also resolved, following its findings on the facts and evidence, that former County Councillor Dowson, when publishing the Facebook post, breached 2(1)(d), 4(b) and 6(1)(a) of the Code of Conduct which state:

- 4.1 Paragraph 2(1)(d): "You must observe this code of conduct at all times and in any capacity, in respect of conduct identified in paragraph 6(1)(a)...";
- 4.2 Paragraph 4(b): "You must show respect and consideration for others";

4.3 Paragraph 6(1)(a): "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

The Committee did not consider that former County Councillor Dowson had breached Paragraph 4(a) of the Code of Conduct as, although giving the impression that he was acting in the role of Member regarding the Facebook post, the specific wording of this Paragraph was not engaged.

5 SANCTION

The Committee resolved that former County Councillor Dowson should be censured in relation to the above breaches of the Code of Conduct, under Paragraph 9(1)(c) of the ~~Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001~~, which was the maximum sanction available to the Committee, as Mr Dowson is no longer a County Councillor. The Committee also wished to put on record that, had Mr Dowson been re-elected as a County Councillor in May 2022, it is highly likely that suspension for a period would have been a serious consideration.

Former County Councillor Dowson, the Public Services Ombudsman for Wales, and the Monitoring Officer of Pembrokeshire County Council are notified accordingly.

Any application for permission to appeal should be sent within 21 days of receipt of this Decision Notice to:

The President of the APW
Adjudication Panel for Wales
Oak House,
Cleppa Park,
Celtic Springs,
Newport NP10 8ED

or by e-mail to: adjudication.panel@gov.wales

Signed: 

Ms Corinna Kershaw, Chairman of the Standards Committee

Date: June 2022