

# **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

## **STANDARDS COMMITTEE**

**23 November 2018**

### **REPORT OF THE HEAD OF LEGAL SERVICES – C.GRIFFITHS**

#### **Matter for Information**

**Wards Affected:** All

#### **Recent decision of the Adjudication Panel for Wales relating to Members Code of Conduct Breaches**

#### **Purpose of the Report**

1. To draw to Members attention a recent decision of the Adjudication Panel for Wales as the subject matter of this reports falls within the remit of the Standards Committee.

#### **Background**

2. The Adjudication Panel for Wales is an independent body which deals with the more serious breaches of the Code of Conduct referred to it by the Ombudsman and also appeals against decisions of standards committees.
3. On the 10<sup>th</sup> August 2018 the Panel issued its decision in the case of former County Councillor (now community councillor) Mr Graham Down from Monmouthshire.
4. This was a case referred to the Panel by the Ombudsman who alleged that Councillor Down had breached the Code by failing to show respect and consideration for others by making a series of homophobic statements in emails to the Chief Executive of the County Council.
5. The Panel considered the content of Five emails sent by Councillor Down between the 12<sup>th</sup> February 2016 and 13<sup>th</sup> October 2016 and found that in the case of 3 of the emails although his comments were 'disrespectful' they did not amount to a breach of the Code due to the enhanced protection that exists

for political expression under the European Convention on Human Rights (ECHR) and therefore the Human Rights Act.

6. However in the other 2 cases the Panel found that the comments were so offensive that despite the protections afforded to Councillor Downs under Articles 9 (Freedom of thought, conscience and religion) and 10 (freedom of expression) of the ECHR it was still necessary to take action for the protection of the rights and interests of others.
7. The Panel took into account a variety of factors when considering what sanction to impose, identifying in Councillor Down's conduct a number of mitigating and aggravating factors ( the latter including his failure to attend code training).
8. Taking into account these factors and decisions made in other similar cases the Panel decided to impose a 2 month period of suspension upon Councillor Downs
9. A copy of the Adjudication Panel for Wales' decision is attached at Appendix 1 for information.
10. The decision, although not setting out in full detail the allegations against Mr Down, provides useful guidance on the interpretation of key parts of the Code.
11. The reason for bringing it to Members attention today is that it provides some useful guidance with some practical examples on how the Adjudication Panel for Wales feels the Members Code of Conduct maybe breached and the possible consequences this might have.

### **Financial Impact**

12. There are no financial impacts associated with this Report.

### **Equality Impact Assessment**

13. There are no equality impacts associated with this Report

### **Workforce Impacts**

14. There are no workforce impacts associated with this Report

### **Legal Impacts**

15. The ethical framework of Members is as derived from the Local Government Act 2000 and the Members Code of Conduct is as set out in the Constitution

of Neath Port Talbot County Borough Council (“the Council”) as created by the Conduct of Members (Model Code of Conduct) (Wales) Order 2001.

### **Consultation**

16. There is no requirement under the Constitution for external consultation on this item.

### **Recommendations**

17. That Members note the report of the Adjudication Panel for Wales regarding compliance with the Members Code of Conduct.

### **Appendices**

18. Appendix 1 – Decision of the Adjudication Panel for Wales of the 10<sup>th</sup> August 2018.

### **List of Background Papers**

19. The Constitution of Neath Port Talbot County Borough Council incorporating the Members Code of Conduct.

### **Officer Contact**

Mr Craig Griffiths

Head of Legal Services

Telephone 01639 763767

Email: c.griffiths2@npt.gov.uk