

**PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES**

DECISION REPORT

TRIBUNAL REF. NO. APW/008/2021/022/CT

RE: REFERENCE ABOUT ALLEGED BREACH OF THE CODE OF CONDUCT

Respondent:

Former Councillor Paul Dowson

Relevant authorities concerned:

Pembrokeshire County Council

Representation and attendance:

Respondent: Did not attend and was not represented.

PSOW: Ms K Shaw, counsel (with Mr L McAndrew, PSOW investigator);
Mr J. Harries, Interim Deputy Monitoring Officer

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. A hearing was held by the Case Tribunal on 22nd August 2022 at 0930, remotely via Cloud Video Platform. The hearing was open to the public.

PRELIMINARY DOCUMENTS

Reference from the Public Service Ombudsman for Wales

3. In a letter dated 8th February 2022, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”, “PSOW”) in relation to allegations made in three complaints against now former Councillor Paul Dowson.
4. In summary, the allegations were that former Councillor Dowson had breached paragraphs 4 (c) and 6 (1)(a) of the Code of Conduct for members of Pembrokeshire County Council. The alleged failures under consideration were set out in paragraphs 112 to 140 of the Ombudsman’s report.

- 4.1 The first complaint, initiated by a member of the public called Mr Marc Davies, alleged that the Respondent repeatedly made statements that were untrue about a fellow Member of Pembrokeshire County Council (“the Council”), Councillor Joshua Beynon; and about Mr Marc Davies himself.
 - 4.1.1 In 2020, the Respondent was alleged to have falsely and publicly accused Councillor Beynon of sharing a pornographic video of an underaged girl. It was further alleged that to make such a false allegation without checking that it was true brought the Respondent’s office and/or his Authority into disrepute. When the Respondent repeated and insinuated those false allegations, he bullied Councillor Beynon. This bullying is aggravated because the Respondent lied when he said that he was only repeating something Councillor Beynon had told him.
 - 4.1.2 Between September 2020 and February 2021, the Respondent was alleged to have falsely and publicly accused Mr Marc Davies of being an ex-offender, something which again, was factually untrue. Mr Marc Davies challenged the Respondent in September 2020 and told him he was wrong. Nonetheless, the Respondent repeated the allegations against Mr Marc Davies between September 2020 and February 2021, when he apologised for them and accepted that they were untrue. To repeatedly say such things against Mr Marc Davies without taking reasonable steps to confirm that the information he was sharing was accurate after being told that it was not, amounts to harassment and brought the Respondent’s office as a Member and/or his Authority into disrepute.
- 4.2 The second complaint, initiated by a member of the public Mrs Elaine Wyatt, alleged that on and after 17th January 2021, the Respondent misinformed people when he posted online that the Welsh Government’s Relationships and Sex Education (“RSE”) curriculum aims to teach 3-year-old children about masturbation; and to teach 13-year-old boys and girls about anal sex. He repeated this misinformation in an email to a fellow Member of the Council when he also said that lesson plans for 11-year-olds and upwards contained reference to bondage, anal sex, facial ejaculation and more. There was no basis for these statements about the curriculum and in saying that there was, the Respondent wilfully and dishonestly misinformed people to outrage them. By doing so, he has brought his office and/or his Authority into disrepute.
- 4.3 The third complaint, initiated by a member of the public Mr Timothy Brentnall, alleged that on 12th April 2021, the Respondent engaged in a heated conversation on Facebook with Mr. Brentnall, who at the time was using the name “Timothy Stjohn”. At one point in the conversation, the Respondent replied to Mr Brentnall “what a t**ser. I heard you are on the

register but it's not been proven so I'm not spreading it around. Better man than you".

- 4.3.1 It is alleged that the Respondent was thereby falsely and maliciously suggesting that Mr Brentnall was subject to registration because he was a sex offender.
- 4.3.2 It is further alleged that screenshot evidence the Respondent provided to the PSOW's investigation in respect of this third complaint was a fabricated exhibit and therefore amounted to a deliberate attempt to mislead the investigation. Both the initial post and the attempt to mislead the investigation taken separately and together, brought the Respondent's office as a Member and his Authority into disrepute.

The former Councillor's Written Response to the Reference

- 5. Former Councillor Dowson responded in the following terms:
 - 5.1.1 Regarding Councillor Beynon, former Councillor Dowson said that he did not suggest that the Councillor had shared images of a child. He said that the person depicted was 17 and not under 17. This was something that Councillor Beynon had told former Councillor Dowson in person, as had the girl's family. He conceded the possibility of making an error in relation to the girl's age, but denied he acted deliberately and said that in any event, everything he said, wrote or published concerning Councillor Beynon amounted to political expression, was in the public interest, and therefore protected by his Convention right to Freedom of Expression.
 - 5.1.2 Regarding Mr Marc Davies, former Councillor Dowson said that Marc Davies deliberately misled several people into believing that he was a near namesake, Mark Davies, who had been to prison. Former Councillor Dowson said that he apologised for what he had previously said when he became aware that they were different people. He said that he apologised to show good faith, but it was only later that he discovered that Mr Marc Davies had deceived him "by impersonating the other Mark".
- 5.2 Regarding the second complaint, former Councillor Dowson said that what he said about the Welsh Government's Relationships and Sex Education Curriculum was true. Former Councillor Dowson accepted that he erred when he typed "0-3 yr olds" instead of "3-6 year olds", which he accepted was wrong, albeit a genuine mistake.
- 5.3 Regarding the third complaint, former Councillor Dowson said that he did not suggest that anyone was on a sex offenders register, nor did he seek

to imply the same. His original comment in fact read "...I heard you are on the Antifa register but it's not been proven so I'm not spreading it around." Former Councillor Dowson said that "from day 1" he referred to the "local Antifa register", said by him to be part of "Antifa Watch". The screenshot that he relied upon which contains the word "Antifa" had been sent to him.

LISTING DIRECTIONS

6. In a listing direction dated 17th June 2022, the Case Tribunal summarised the allegations substantially in the manner set out above, together with the undisputed facts and the disputed facts. The Case Tribunal directed that it would convene for the final hearing at Court 5 at the Haverfordwest County Court and Family Court Hearing Centre; that Mr Marc Davies, Councillor Joshua Beynon and Mr Timothy Brentnall were to give live evidence at the final hearing; and summarised the process and hearing timetable.
- 6.1 The Case Tribunal also gave the following directions relating to documents.

The Tribunal notes that the bundle served to date contains 2261 pages, a number which vastly exceeds the number of pages directly relevant to the deal with the issues in this case.

No party may rely on any further witness, document or other form of evidence unless they seek permission from the Tribunal to rely on that evidence and the Tribunal grants permission to do so.

By Friday 1st July 2022, the Respondent must specifically identify in writing, to both the Tribunal and the PSOW, those passages in the documents already served which prove that his statements about the content of the RSE curriculum are true.

By Friday 15th July 2022, both parties are to prepare and submit an agreed, core hearing bundle of exhibits directly relevant to the issues of fact identified above, that either a) prove or b) rebut the allegations made in this case.

If the parties cannot agree a core hearing bundle of exhibits, by Friday 29th July 2022 each party is to file and serve a separate, core hearing bundle of directly relevant exhibits.

7. By email dated 2nd July 2022 former Councillor Dowson formally informed the Case Tribunal that he had chosen not to participate in any manner with the scheduled hearing, citing a lack of confidence in the fairness of the process and the Case Tribunal. On 12th July 2022, the Registrar to the Adjudication Panel for Wales emailed former Councillor Dowson to reassure him that the Case Tribunal would be heard in public; that the Adjudication Panel for Wales acts independently of all other public authorities and parties; and that the proceedings would continue in his absence. By email dated 14th July 2022, former Councillor Dowson confirmed that he maintained his stated position. From that point, former Councillor Dowson has been absent from proceedings and has not been represented.
8. On 15th August 2022, the listing directions were varied to the extent that the Case Tribunal would proceed by Cloud Video Platform.
9. On 18th August 2022, the listing directions were amplified to permit that witnesses could attend from their own home or office (in each case, from a private room).

THE HEARING

Applications made during the hearing.

10. On behalf of the PSOW, Ms Shaw made a preliminary submission to exclude from the hearing a participant identified on screen only as “iPad”, on the grounds that the presence of such an unidentified person could affect those giving evidence. The Chair invited “iPad” to identify themselves. “iPad” did not do so. The Tribunal therefore rose to consider further directions. By the time the Tribunal reconvened, “IPad” was no longer online. It was therefore not necessary to take that matter further.
- 10.1 The Tribunal was also informed at the start that Mr Marc Davies had attended a different location to that stated in the latest listing direction and could not access the hearing to give evidence. The Chair noted that Mr Davies’ evidence did not relate to any disputed fact; and that his attendance had been requested when former Councillor Dowson participated in the proceedings, to give former Councillor Dowson the opportunity to ask such questions as he thought fit. In former Councillor Dowson’s absence, the Chair directed that the Tribunal could proceed without hearing live evidence from Mr Marc Davies.

The hearing.

11. The Chair gave standard remote hearing directions to all present, and summarised the allegations, as set out in the first Listing Direction.
12. The following undisputed facts were identified.
 - 12.1 The Respondent was elected as a County Councillor on 8th May 2017 and undertook to abide by the Council's Code of Conduct.
 - 12.2 The Respondent attended Code of Conduct training. He did not attend training on social media use.
 - 12.3 In his capacity as a Councillor, the Respondent alleged in material posted online that Councillor Beynon, when 18 years old, had shared a pornographic video of a girl.
 - 12.4 Councillor Beynon did not share a pornographic video of a girl when he was 18 years old. Intimate, but not explicit, photographs of the girl and her partner (both of whom were 18 years old) were shared in a Facebook Messenger group created by Councillor Beynon whilst he was a school pupil. No further action was taken by the police at the request of the girl.
 - 12.5 The Respondent alleged on social media and in emails to the PSOW that Mr Marc Davies was an ex-offender who had been imprisoned for violent crime and for breaching parole.
 - 12.6 Mr Marc Davies has no offences listed on his DBS certificate dated April 2019.
 - 12.7 The Respondent published a Facebook post stating that 0–3-year-olds “will” be taught about masturbation and that the new RSE curriculum “includes teaching 13-year-old boys and girls about anal sex”.
 - 12.8 In an email to a fellow Councillor, the Respondent said that RSE lesson plans teach 3-year-olds about masturbation and 11-year-olds and upwards about bondage, anal sex and facial ejaculation.
13. The following disputed facts were identified.
 - 13.1 Did the Respondent say that Councillor Beynon shared a pornographic video of a girl aged either: 17; or under the age of 17?

- 13.2 Did Councillor Beynon tell the Respondent that, when he was 18 years old, he had shared a pornographic video of a girl, aged either 17; or under the age of 17?
- 13.3 Were the Respondent's statements about the content of the RSE curriculum true?
- 13.4 Did the Respondent post on Facebook that he "heard" that Mr Brentnall was "on the register"; or "on the Antifa register"?
- 13.5 If the Respondent posted "on the register" and not "on the Antifa register", was he referring to registration as a sex offender?
- 13.6 If the Respondent posted "on the register" and not "on the Antifa register", did he deliberately attempt to mislead the PSOW's investigation by providing a fabricated exhibit?
14. On behalf of the Public Services Ombudsman for Wales, Ms Shaw formally presented the investigation report.
15. The Case Tribunal then heard oral evidence from:
 - 15.1 Witness 1: Councillor Joshua Beynon.
 - 15.2 Witness 2: Mr Timothy Brentnall
16. The Case Tribunal then heard submissions on behalf of the PSOW.

Findings of fact and the reasons for them

17. The Case Tribunal reminded itself of the burden and standard of proof. The balance of probabilities applies, and the burden of proof lies upon the PSOW to prove the allegations which form the subject of these proceedings. The balance of probabilities is a single unvarying standard.
18. The Case Tribunal considered all written and documentary evidence presented together with the oral evidence called, limiting itself to that evidence.
19. The Case Tribunal made factual findings which are based on an interpretation of events that has previously been disclosed to former Councillor Dowson and in respect of which he has been provided with adequate opportunity to investigate, call evidence and make submissions.

20. The Case Tribunal based its factual findings on inferences drawn from documentary evidence and known or probable facts, using oral evidence to subject the documentary records to critical scrutiny and to consider each witness's personality and motivation. The Case Tribunal assessed the evidence in the round.
21. The Case Tribunal did not assess any witness's credibility exclusively on their demeanour when giving evidence. Each witness's veracity was tested by reference to the objective facts proved independently of their testimony, by reference to the documents in the case.
22. The Case Tribunal made a rounded assessment of each witness's reliability, rather than approaching their reliability in respect of each allegation in isolation from the others.
23. Where, as here, more than one allegation is pleaded in relation to the same Respondent, the Case Tribunal considered the facts of each allegation individually and separately, also considering the evidence as a whole.
24. The first complaint: in relation to Mr Marc Davies.
 - 24.1 On 18th September 2020, Mr Marc Davies sent an email to former Councillor Dowson asking the Respondent "...why you're happy to host comment on your Facebook page accusing another councillor of using child pornography". Mr Marc Davies said that he believed the accusations to be false. "I have seen you hint at accusations previously on several occasions but tonight's episode is beyond contempt. I...would like to know what as my councillor you're going to do you (sic) rectify this disgusting situation and also what you're going to do about the Facebook account using your name that wrongly accused me of being an ex convict?"
 - 24.2 Mr Davies identified himself as "Marc" and his email address is clearly visible. The other Councillor, to whom he said former Councillor Dowson was referring, was Councillor Joshua Beynon.
 - 24.3 At this stage, it may also assist to introduce the fact that there is another person, called Mr Mark Davies, who has previous convictions and is unrelated to Mr Marc Davies. It is an undisputed fact that Mr Marc Davies has no offences listed on his DBS certificate dated April 2019.

- 24.4 On 19th September 2020, former Councillor Dowson replied. "Everything I may have hinted about on my facebook page is true. I will not go into details with you about it as it should be up to the Cllr to come clean himself about it." Mr Marc Davies responded the same day, expressing dismay as to former Councillor Dowson's position.
- 24.5 In his witness statement to these proceedings, Mr Marcel Laval, a member of the public said that over a period of 6 to 8 months, former Councillor Dowson repeated "over and over again" that Mr Marc Davies was an ex-convict and not to be trusted; and that he made these statements even though Mr Marc Davies and others told him that he was referring to the wrong person.
- 24.6 Mr Marc Davies complained to the Ombudsman, referring amongst other things to allegations made on social media about Councillor Joshua Beynon. Correspondence indicates that former Councillor Dowson was informed of Mr Marc Davies' complaint on 12th October 2020.
- 24.7 On 12th October 2020, former Councillor Dowson responded to the Ombudsman in relation to Mr Marc Davies' complaint with an email in which he continued to allege that Mr Marc Davies had been imprisoned for violent offences. He repeated this accusation in a further email to the Ombudsman on 28th October 2020.
- 24.8 On 4th January 2021 former Councillor Dowson was informed that the Ombudsman had decided to investigate that part of Mr Marc Davies' complaint that related to Councillor Beynon.
- 24.9 On 5th and 12th January 2021, former Councillor Dowson provided to the Ombudsman screenshots and suggested that Mr Marc Davies was involved in a campaign against him.
- 24.10 On 16th January 2021, former Councillor Dowson wrote to the Ombudsman by an email in which he again accused Mr Marc Davies as having a "history of incarceration for violent crime", and campaigning against him.
- 24.11 On 21st January 2021, former Councillor Dowson posted the following on his "Cllr Paul Dowson" Twitter account. "@DyfedPowys would be worth running this mans name through the police national computer before taking any notice of him. Imprisoned for beating up a helpless man. Then recalled to prison for breaching parole. He is causing me alarm and distress and I will be making a report today." Mr Marc Davies responded

via Twitter. "You're accusing me of that? Just to be sure you don't think it could be anyone else?"

24.12 On 1st February 2021 former Councillor Dowson sent Mr Marc Davies a message via Facebook. It read, "Hi Marc. It appears I really did have you mixed up with someone else. A very good friend of mine gave me the wrong information about you and foolishly I did not check the facts out properly myself. All I can do is apologise for this error and hope we can move on from it and not waste any more time battling each other on our differing beliefs and opinions. If we were not in lockdown I would convey this apology in person. Perhaps when we come out of lockdown I can put this right with you. My mistake and I am sorry."

24.13 Mr Marc Davies responded the next day. "Hi Paul thanks very much for the apology. I have emailed you on 2 separate occasions to inform you that I wasn't the person you were talking about or that a fake account was talking about. I'm not sure you realise the influence you have over others who share your beliefs. There are several of your friends sharing this rumour about me at the moment...If you'd have listened in August or September this could have been avoided...I understand you've had threats yourself...so I know you understand where I'm coming from. I'm happy to meet up after this lock down is done and talk about things over a pint."

24.14 In his witness statement tendered in evidence to these proceedings, Mr Marc Davies said amongst other things that former Councillor Dowson had called him a drug dealer and said that he had spent time in prison. This was not Mr Marc Davies but Mr Mark Davies. He said that this was unsettling, and that people had asked him what he had been imprisoned for. He has a clear DBS history, good references, and acts as the Adult Protection Officer for a local youth rugby team he coaches.

24.15 When interviewed by the Ombudsman, former Councillor Dowson accepted that his allegations were incorrect and said he had apologised for them.

25. The first complaint: in relation to Councillor Joshua Beynon.

25.1 Former Councillor Dowson appeared in a live-streamed video on the "Voice of Wales" YouTube channel. The date cannot be ascertained. The following exchange took place. PAR1 is talking to PD who is former Councillor Dowson.

PAR1: ...But there's other things about Josh, isn't there, that we could bring up.

PD: That he's confided in me.

PAR1: That he's confided in you. Like I've heard some stories about when Joshy was a Head Boy, so you know, I don't know obviously he, and you've heard that from the horse's mouth haven't you?

PD: Yeah. He confided in me. I've got no problem, you know, relaying it, because I know it's a fact, it's true. Er yeah, I've got the screen shots, like he says, I've got the screen shots.

PAR1: Yeah. I've seen the screen shots.

PD: He was expelled as Head Boy whilst in the Sixth Form. 18 years old, to be Head Boy, makes him an adult.

PAR1: Mmm hmm.

PD: He denies it, but you know, the majority of people know about this. He, he had, uh, got into a girl's Facebook account, found a pornographic video she'd been sending to her boyfriend and decided that he'd pass it around everybody else. He was taken down a peg from Head Boy, expelled, wasn't allowed to give a speech at the end of the year, whatever, as they are normally. But nothing came of it because obviously you know, the person's parents did not want this in the public domain.

PAR1: And how old was the girl?

PD: The girl was a uh teenager, but she wasn't an adult, she was under 17 so...

PAR1: And it's a, right, yeah, yeah.

PD: And working on the doors recently, I came across a couple of lads, only about two months ago, that still had that video on their ...

PAR1: Really?

PD: ... on their phone and you know, in other words, yeah that poor girl's life is, yeah, it just goes on forever for her.

...

PAR1: I'm sure I heard, I may be wrong, but I'm sure I heard she was underage for sex. PD: Yeah, probably, yeah.

PAR1: So, under the age of 16, so that would take that offence to a whole another level.

PD: You know I've got the text messages here where he comes round to tell me all about it. Yeah, he actually came to my house, opened a McDonalds and told me all about it.

PAR2: So, he was boasting?

PD: Well, no, in a way he, he was confiding in me...

25.2 On 14th June 2021 a "Voice of Wales" video was posted to Facebook. This video featured former Councillor Dowson referring to videos posted to the TikTok social media site. INT speaks with PD, Paul Dowson.

PD: ... I'm also aware, er, I'm privy to some more information that he, um, you know, gave to me in confidence about a year ago, um, and it's caused me, er, concern because last year, er, when he told me about the story, it was about how he hacked into a schoolgirl's personal Facebook account, found a very private, explicit sex video on there, that he sent to loads of his friends. This girl was under age and he was eighteen years old which is an adult at the time.

...

PD: So, you know, that shows the measure of who, who this is, and there seems to be this overriding sexual theme in everything he does wrong.

INT: Mm.

PD: Er, you know, and it all seems to involve people, minors, or teenagers.

...

PD: I think the only reason why he wasn't prosecuted as an adult for a crime, was the fact that that girl's parents and family, and the girl herself, they don't want that being broadcast all over the place.

25.3 It is an undisputed fact that Councillor Joshua Beynon did not share a pornographic video of a girl when he was 18 years old. Intimate, but not explicit, photographs of the girl and her partner (both of whom were 18 years old) were shared in a Facebook Messenger group created by

Councillor Beynon whilst he was a school pupil. No further action was taken by the police at the request of the girl.

- 25.4 In his witness statement tendered in evidence to these proceedings, Councillor Joshua Beynon said that he did not recall the specifics of his conversation with former Councillor Dowson. Councillor Beynon recalls telling former Councillor Dowson that he had received anonymous letters and messages asking if it was true that he had shared images of a girl whilst at school. Councillor Beynon said that he explained to former Councillor Dowson that he did go onto a girl's Facebook account, but that he never shared an image. In his statement, Councillor Beynon went on to say that he was 17 when he left school and that his expulsion from school was due to comments he made in a speech at a Record of Achievement ceremony, rather than because of the incident involving access to the girl's Facebook account.
- 25.5 In a subsequent interview conducted by the Ombudsman with Councillor Beynon, Councillor Beynon said that he had shared one image to four other people in a Facebook Messenger chat group, but he did not share this image publicly or in a public group. That image was not pornographic.
- 25.6 In his live evidence to the Case Tribunal, Councillor Beynon said that he did not recall the specific conversation with former Councillor Dowson but Councillor Beynon said that he never shared any video material and that in so far as he spoke to former Councillor Dowson, he would have told him the truth about what happened. He said that the untruths told about him had left him anxious, that his reputation had been impeded and that he found the experience traumatic. He said that his performance as a Councillor had probably been affected.

26. **Findings of fact in relation to the first complaint.**

26.1 Did the Respondent say that Councillor Beynon shared a pornographic video of a girl aged either: 17; or under the age of 17?

- 26.1.1 The Case Tribunal found that former Councillor Dowson said that Councillor Beynon had shared a pornographic video of a girl aged under 17. The Case Tribunal relied upon the references in the "Voice of Wales" material set out above, in particular to the points where former Councillor Dowson said "The girl was uh teenager, but she wasn't an adult, she was under 17 so..."; and "...that shows the measure of who, who this is, and there seems to be this overriding sexual theme in everything he does

wrong...you know, and it all seems to involve people, minors, or teenagers.”

26.2 Did Councillor Beynon tell the Respondent that, when he was 18 years old, he had shared a pornographic video of a girl, aged either 17; or under the age of 17?

26.2.1 The Case Tribunal found that Councillor Beynon did not tell the respondent that when he was 18 years old, he had shared a pornographic video of a girl, aged either 17; or under the age of 17. The Case Tribunal accepted Councillor Beynon’s evidence that he would not have told former Councillor Dowson anything other than what happened. Councillor Beynon was not 18 when the incident occurred. The incident related to photographs, not a video recording. The female person involved was 18. The Case Tribunal could see no reason why Councillor Beynon would have told former Councillor Dowson information that was factually inaccurate. This is particularly true because taking, making or distributing an indecent photograph of a person under the age of 18 is an offence contrary to s.1 of the Protection of Children Act 1978. If former Councillor Dowson’s version of events is correct, Councillor Beynon would have admitted a serious criminal offence to him, and the Case Tribunal finds that he did not do this.

27. The second complaint.

27.1 Following a consultation which ended on 19th July 2019, the Welsh Government published its “Curriculum for Wales guidance” on 28th January 2020. A copy of this document was provided to the Case Tribunal. The Welsh Government published its “Statutory Guidance and Code” for RSE on 21st May 2021 which sets out the draft statutory guidance for and the draft Code on RSE for its new curriculum. The consultation period ended on 16th July 2021.

27.2 On 17th January 2021, on a Facebook page headed “Paul H Dowson, County Councillor”, posted the following.

“If you are worried about our children’s future watch this RSE. New curriculum for sex education being sneaked in to our schools soon.

It will teach

Masturbation

From age 0-3

It includes teaching 13 year old boys and girls about anal sex. Illustrated by a banana and Nutella.

*A lot more graphic examples I won't state due to Facebook standards. This is real, I kid you not... the draft document is available on PCP WALES WEBSITE
Would like to hear cllr guy Woodham (cabinet member for education) and the new director of education should share his views too.
Sexual rights from birth. Wtf??"*

- 27.3 On 14th June 2021, former Councillor Dowson sent an email to Councillor Tessa Hodgson, which read, in part, as follows.

Regarding RSE Curriculum. Welsh government are not in full possession of the actual lesson content. They are that ignorant to it they recently suggested that I was spreading misinformation...I am absolutely certain that what I am saying is 100% accurate...The lesson plans really do teach 3 year olds about masturbation. What is good touch and bad touch. It also really does contain lesson plans for 11 years and upwards about bondage, anal sex, facial ejaculation and a lot more...This RSE Curriculum is abuse and has no place in our childrens childhood."

- 27.4 On his Councillor Facebook page, former Councillor Dowson also shared a post written by "Paul Dowson" which read as follows.

*"We also need to say No to this RSE sex education curriculum...mandatory from age 3.
At age 3 they want to teach children about masturbation.
Are we going to let the woke brigade call the shots for our children too?"*

- 27.5 When interviewed by the PSOW Investigating Officer on 31st August 2021, former Councillor Dowson said that it was "absolutely true" that the new curriculum would teach masturbation from age 3, but that it had been decided that children have sexual rights from age 0. The following exchange then took place. LM is the interviewer. PD is the Respondent.

LM: Where, where did you get that information?

PD: I got that from UNESCO and the World Health Organisation, the global rollout of the RSE which has happened in England and in Scotland already, and it comes from material that they've got.

LM: Okay. Is that in any of the Welsh Government documentation?

PD: There's nothing in any of the Welsh Government documentation, apart from generalisation, they haven't, er, they ... well, they won't, er, admit to what the contents are going to be. However, er, there is

a video on line of Caroline Jones Assembly Member referring to the Senedd and her referring to teaching masturbation at age 3 and nobody's disputing it with her.

LM: Well, I don't know whether anyone's disputing it with her or, or not. Um, I did, I did watch the video and I didn't see ... at the end she just asks for the evidence but, um, I'm not sure if the evidence was sent or not.

PD: It hasn't even been drawn up properly in Wales but, er, you know, it's, it's quite easy for, for the Welsh Government to say it's misinformation at the moment because they haven't even drawn it up.

The interviewing officer also asked the Respondent to identify the source of his information in relation to teaching about anal sex using a banana and Nutella. The Respondent referred to hyperlinks which he said took a reader to lesson plans but conceded that they had not been developed by Welsh Government, nor did they refer to Welsh Government. Former Councillor Dowson suggested that there had been a vote in March for the RSE curriculum to go ahead in Wales, "and the RSE curriculum is the UNESCO and World Health Organisation global rollout."

The Respondent doubted that the statement he was being asked about said "0 to 3" and if so, that would be a mistake. Rather, he said, 3-year-olds would be taught about masturbation and children had sexual rights from age 0 to 16. This was part of the curriculum "that they have adopted to implement".

LM: Okay. So, if the Welsh Government haven't drawn it up yet, how can you say that what it will and will not include if it's not been drawn up yet?

PD: Because the framework has to include what I have said, how they deliver it is up to them.

LM: Okay. And where, where does it state that the Welsh Government must, er, include every element of this framework?

PD: In the UNESCO and the WHO, um, information that's provided in those hyperlinks.

28. **Findings of fact in relation to the second complaint.**

28.1 Were the Respondents statements about the content of the RSE curriculum true?

28.1.1 The Case Tribunal found that the Respondents statements about the content of the RSE curriculum were not true. The Tribunal was provided with a massive quantity of documentation. The Tribunal accepted the PSOW's submission that the available material provided no credible evidence to suggest that the Welsh Government or the Senedd intended to include in the curriculum the content which former Councillor Dowson has said it will include.

28.1.2 The Case Tribunal also accepted the submission that when pressed in interview, former Councillor Dowson could not identify any Welsh Government or Senedd documentation to prove his point because as he conceded, at that point, the RSE curriculum had yet to be drawn up. The Welsh Government "Curriculum for Wales" guidance makes no mention of the lesson plans which former Councillor Dowson says will be taught.

28.1.3 In the Listing Directions for the final hearing, former Councillor Dowson was asked to specifically identify those passages in the served documents which proved that his statements were true. He chose not to engage with the Tribunal any further.

29. The third complaint.

29.1 On 12th April 2021, The Pembrokeshire Herald published a post on Facebook headed "Dowson dissents on new CEO". The post gave rise to several responses. One of those responding was Mr Timothy Brentnall, who used the name "Timothy Stjohn", "St John" being his middle name. Former Councillor Dowson joined the thread to communicate with Mr Brentnall. According to Mr Brentnall, the following exchange took place.

Paul Dowson. *Timothy Stjohn get a grip I get you don't like me because I don't share your opinions. But don't get taken in by someone else's hate campaign. That pic was a selfie with a wall mural I'd just put up.*

Timothy Stjohn. *no Pauly, it's not that you don't share my opinions, that's not why I don't like you. I don't like you because you're a racist bigot, that's why I don't like you.*

Paul Dowson. *Timothy Stjohn what a t**ser. I heard you are on the register but it's not been proven so I'm not spreading it around. Better man than you.*

29.2 In his initial complaint, made on 16th April 2021, Mr Brentnall said that during the discussion, former Councillor Dowson called him a “tosser” (which he then edited to “t**ser”) and tried to suggest that he was a convicted sex offender. He provided a screenshot of the edit history for the exchange and the exchange itself.

29.3 On 21st April 2021, former Councillor Dowson responded to the complaint by email to the Ombudsman. He attached screenshots which contained text identical to that provided by Mr Brentnall, in particular the comment “I heard you are on the register”.

29.4 In an email on 18th May 2021 responding further to the complaint and its investigation, former Councillor Dowson said this.

His reference to the register being a sec (sic) offenders register is nothing more than his own interpretation of it. There are numerous registers but he automatically assumed it was the sex offenders register.

29.5 Former Councillor Dowson was interviewed by the Investigating Officer (LM) in relation to Mr Brentnall’s allegations on 1st September 2021. He said this.

LM: Okay. So, why did you refer to him being on the register in that comment thread?

PD: That, by the way, was the Antifa Register, not the Sex Offenders Register. If he chose to take it that way, that's not my fault.

LM: What do you mean by the Antifa Register?

PD: There's an unofficial register going round, with all the Antifa members in Pembrokeshire who are openly abusing people online. Somebody decided to make a page called the Antifa Register, where they're all named and shamed.

LM: Okay. So, when someone would read that comment, do you think they would think you were referring to the Antifa Register or the Sex Offenders Register?

PD: It all depends who they are and what they know about the Antifa Register.

LM: Okay. Is there anywhere within that thread where you refer to it being the Antifa Register?

PD: No, not at all.

LM: Okay, so what ... If you were referring to the Antifa Register, is there any reason why you didn't specifically refer to that?

PD: Because Mr. Stjohn, or whatever his real name is, is well aware of the Antifa Register, so he would know exactly what I'm on about.

Towards the end of the interview, former Councillor Dowson was asked if he had anything else to add. He declined to do so.

- 29.6 In an email to the Ombudsman on 13th December 2021, former Councillor Dowson forwarded a screenshot of his exchange with Mr Brentnall which reads as follows at the point in issue.

***Paul Dowson.** Timothy Stjohn what a t**ser. I heard you are on the Antifa register but its not been proven so I'm not spreading it around. Better man than you.*

- 29.7 Former Councillor Dowson's comments have subsequently been deleted and cannot now be accessed.
- 29.8 Mr Brentnall gave live evidence to the Case Tribunal in which he confirmed that the Respondent used the phrase "on the register" and therefore not "on the Antifa register".

30. Findings of fact in relation to the third complaint.

- 30.1 Did the Respondent post on Facebook that he "heard" that Mr Brentnall was "on the register"; or "on the Antifa register"?

- 30.1.1 The Case Tribunal accepted the PSOW's submission that the Respondent posted on Facebook that he "heard" that Mr Brentnall was "on the register"; and not "on the Antifa register". The Case Tribunal accepted Mr Brentnall's oral and written evidence. The document that former Councillor Dowson himself sent to the investigation on 21st April 2021, only a matter of days after the event did not include the word "Antifa" and therefore supported Mr Brentnall's version of events. That

submission was further bolstered by the evidence of the Respondent's other early correspondence on the point, and his replies in interview, where he himself said that he did not specifically refer to the "Antifa" register.

30.2 IF the Respondent posted "on the register" and not "on the Antifa register", was he referring to registration as a sex offender?

30.2.1 The Case Tribunal found that former Councillor Dowson used the term "on the register" to refer to Mr Brentnall as being a registered sex offender, and thereby to discredit him in a hurtful and harmful way. This was the meaning that Mr Brentnall understood when the term was used against him. The Case Tribunal accepted that is the meaning that any ordinary person would understand by that comment.

30.3 IF the Respondent posted "on the register" and not "on the Antifa register", did he deliberately attempt to mislead the PSOW's investigation by providing a fabricated exhibit?

30.3.1 The Case Tribunal found that former Councillor Dowson deliberately tried to mislead the PSOW's investigation by providing a fabricated exhibit. The Case Tribunal compared the document produced by former Councillor Dowson with the documents provided by Mr Brentnall. The Case Tribunal looked at the context and conversation. It looked again at the document former Councillor Dowson produced within days of the exchange, and his responses in writing and in interview. In the absence of expert evidence, the Case Tribunal did not need to go as far as the PSOW suggested in submitting that the document looked inauthentic. The rest of the evidence demonstrated that the inclusion of the word "Antifa" in the later document produced by former Councillor Dowson was a deliberate later addition, designed to mislead the Ombudsman.

31. **Findings of whether material facts disclose a failure to comply with the Code of Conduct.**

31.1 Paragraph 4(c) of the Code of Conduct reads as follows.

You must — (c) not use bullying behaviour or harass any person.

31.2 Paragraph 6(1)(a) of the Code of Conduct reads as follows.

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

- 31.3 The Case Tribunal found that the first complaint relates to two people whose complaints are similar in that in each case, former Councillor Dowson used social media to say in public that each person had behaved criminally. After Mr Marc Davies told former Councillor Dowson in September 2020 that he had not been convicted of any offences, as had previously been suggested, former Councillor Dowson later used Twitter to wrongly allege that Mr Davies was a violent criminal who breached parole. He made similar allegations during the PSOW's investigation. In Councillor Beynon's case, former Councillor Dowson alleged that Councillor Beynon engaged in serious criminal conduct, namely the posting of criminally indecent images. Neither allegation was true.
- 31.4 In the case of Mr Marc Davies, the Case Tribunal took the view that former Councillor Dowson did not care whether what he said was true or false and at best took no steps to determine the truth until Mr Marc Davies made a complaint and the Respondent was aware that he would have to answer it. In Councillor Beynon's case, the Case Tribunal took the view that former Councillor Dowson relied for credibility upon his untrue version of a conversation he had with Councillor Beynon, knowing that it was untrue. To that lie, he added others, again to bolster his credibility and to make life worse for a fellow elected Member.
- 31.5 Making such serious, false allegations against, on the one hand a member of the public, on the other, a fellow elected Member brought not only the office former Councillor Dowson held into disrepute but also the Council itself. The potential and actual reputational damage for both the office holder and the Council are obvious. In each case, former Councillor Dowson's actions demonstrated a wilful disregard for the truth. In the case of Mr Marc Davies, former Councillor Dowson continued with his statements even after he had been challenged. In the case of Councillor Beynon, former Councillor Dowson sought to justify his comments by reference to a conversation that never happened, at least in the manner that he suggested it did
- 31.6 In each case, former Councillor Dowson's behaviour also amounted, by reason of repetition to bullying against Councillor Beynon; and harassment against Mr Marc Davies. As the PSOW submitted and the Case Tribunal accepted, bullying can be characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour; and that bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to confidence and capability, and may adversely affect their health. The Case Tribunal found that former Councillor Dowson's behaviour towards Councillor Beynon fell four-square within this definition.

- 31.7 Similarly, as the PSOW submitted and the Case Tribunal accepted, harassment is repeated behaviour which upsets or annoys people. The Case Tribunal found that former Councillor Dowson's behaviour towards Mr Marc Davies fell four-square within this definition.
- 31.8 Former Councillor Dowson's behaviour towards both Mr Marc Davies and Councillor Beynon do not come within the ambit of free speech protected by Article 10 of the Convention. His comments about each were directed towards each personally. They were not aspects of "political expression" and were in any event, not merely offensive but grossly offensive, and therefore not protected by Article 10.
- 31.9 Accordingly, the Case Tribunal found that on the first complaint, in respect of both Mr Marc Davies and Councillor Beynon, former Councillor Dowson's behaviour amounted to breaches of paragraphs 6(1)(a) and 4(c) of the Code of Conduct.
- 31.10 In relation to the second complaint, the Case Tribunal found this to be a further example of former Councillor Dowson representing something as true when he had no grounds to do so, from a position of authority on a subject that had the capacity to wrongly cause serious alarm to both his constituents and members of the public. That brought both his office and the Council into disrepute, particularly when taken as part of his wider course of similar conduct.
- 31.11 Considering again the question of whether former Councillor Dowson's comments came within the ambit of free speech protected by Article 10 of the Convention, the Case Tribunal agreed with the PSOW's submission that whilst Article 10 protects the right to make incorrect but honestly made statements in a political context, it does not protect statements which the publisher knows to be false. As he admitted in interview, former Councillor Dowson knew that he had no real foundation for his assertions about the future RSE curriculum.
- 31.12 In the absence of same, the Case Tribunal found that his comments were directed to cause shock and outrage, rather than to honestly inform the public and so were not protected by Article 10. They amounted to wilful misinformation. The Tribunal was fortified in this decision by its decisions in relation to the nature of former Councillor Dowson's behaviour towards Councillor Beynon, Mr Marc Davies and Mr Timothy Brentnall. His comments on the RSE curriculum can be seen as part of a similar pattern of behaviour.

- 31.13 Accordingly, the Case Tribunal found that on the second complaint, that former Councillor Dowson's behaviour amounted to a breach of paragraph 6(1)(a) of the Code of Conduct.
- 31.14 In relation to the third complaint, the Case Tribunal found this to be a further example of former Counsellor Dowson suggesting serious criminal conduct by a member of the public when he had no cause or grounds to do so. To allege for no reason that a person is a registered sex offender can do no other than bring both the Council and the officer holder into disrepute, given the potential for loss of public confidence caused by such behaviour. To seek to justify that behaviour by misleading an investigation and relying upon a fabricated exhibit can again do nothing other than bring both the office holder and the Council into disrepute.
- 31.15 Former Councillor Dowson's behaviour towards Mr Timothy Brentnall does not come within the ambit of free speech protected by Article 10 of the Convention. His comments were directed towards Mr Brentnall personally. They were not aspects of "political expression" and were in any event, not merely offensive but grossly offensive, and therefore not protected by Article 10.
- 31.16 The Case Tribunal therefore found breaches of paragraph 6(1)(a) of the Code of Conduct in relation to both aspects of the third complaint.
- 31.17 All the Case Tribunal's findings were unanimous.

32. Submissions on action to be taken.

- 32.1 Ms Shaw brought to the Case Tribunal's attention a report of a decision of the Standards Committee of Pembrokeshire County Council that took place in a hearing on 9th June 2022, when former Councillor Dowson was censured for behaviour on social media that breached paragraph 6(1)(a) of the Code of Conduct and other provisions. Former Councillor Dowson was not re-elected to office in May 2022, so by the time that hearing took place, the sanction passed was the maximum sanction available. The Committee noted that had former Councillor Dowson been re-elected, it was highly likely that he would have been suspended from office.
- 32.2 Ms Shaw directed the Case Tribunal's attention to the Sanctions Guidance, issued by the President of the Adjudication Panel for Wales under s.75(10) of the Local Government Act 2000. She outlined the role of the ethical framework in promoting high standards of public trust and confidence and noted the purpose of the sanctions regime as set out in

paragraph 18 of the guidance. She also noted that sanctions had to be applied in a fair and proportionate fashion, taking into account the public interest in maintaining public confidence in local democracy.

- 32.3 Ms Shaw directed the Tribunal to paragraph 33 of the guidance and the five-stage process prescribed therein. She noted that the Tribunal had returned five findings that former Councillor Dowson had brought both his office and the Council into disrepute. She also noted the evidence of actual and further potential harm to Mr Marc Davies, Councillor Beynon and Mr Brentnall.
- 32.4 Given that former Councillor Dowson is no longer an elected member of the Council, the Case Tribunal had a binary choice: either to take no action or to pass a period of disqualification from being or becoming a member of Pembrokeshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000. Ms Shaw accepted that the lack of any other sanction did not mean that the Tribunal should simply proceed to disqualification by default; and that this sanction should only be imposed if it was justified. Given the consequences and the seriousness of the breaches, Ms Shaw submitted that it was not appropriate to take no action and that disqualification was appropriate.
- 32.5 In terms of mitigating circumstances, Ms Shaw asked the Case Tribunal to consider the fact that former Councillor Dowson had served a relatively short length of service, having been in office since May 2017; that he had apologised to Mr Marc Davies in February 2021; and that he had co-operated with the process for example by being interviewed.
- 32.6 In terms of aggravating circumstances, Ms Shaw agreed that the Tribunal should be careful not to double-count as aggravating those features which were already considered as elements of the case proved. These were serious, numerous repeated breaches of the Code. The elements of dishonesty and the provision of misleading information were serious aggravating factors. Former Councillor Dowson had demonstrated a lack of acceptance of the wrong he had done and very little concern and reckless disregard for the consequences to others.
- 32.7 Ms Shaw submitted that in the circumstances, disqualification was proportionate, given that the behaviour to be sanctioned was at the very serious end of the scale. There are no comparable cases. The next elections for office will take place in 2027.

33. The Case Tribunal's decision.

- 33.1 Having applied the five-stage process directed in the sanctions guidance and having assessed the seriousness of the breaches and consequences for the individuals concerned and the Council, the Case Tribunal identified that disqualification was both appropriate and proportionate given the number of findings of disrepute; the gravity of each finding; the gravity of those findings when taken cumulatively; their persistence; and the serious potential and actual consequences for the complainants. The Case Tribunal agreed with the PSOW's submission that former Councillor Dowson's conduct called into question his fitness for public office.
- 33.2 Former Councillor Dowson may, at one time, have made some manner of apology to Mr Marc Davies but it was much too late to count seriously as mitigation. There was no such apology to Councillor Beynon, who had suffered real and serious personal and professional harm. Rather than apologise to Mr Brentnall, former Councillor Dowson had tried to explain his actions by using fabricated evidence.
- 33.3 The Case Tribunal considered mitigating features. Although former Councillor Dowson was relatively newly elected, the Case Tribunal did not consider his length of service to be mitigation. These were not trivial failures that could be explained by lack of knowledge or experience. His co-operation with the investigating authority was noted but very seriously undermined by his provision of a fabricated exhibit and his attempts to brazen out much of this case.
- 33.4 Former Councillor Dowson has been found to have bullied Councillor Joshua Beynon; harassed Mr Marc Davies and brought both his office and Pembrokeshire County Council into disrepute on five occasions. He alleged that Mr Marc Davies was a violent criminal when he was not. He alleged that Councillor Beynon distributed criminally indecent material when he did not. He alleged that Mr Timothy Brentnall was a registered sex offender when he was not. He alleged that the Welsh Government's relationships and sex education curriculum was to teach subject matter that it did not. He sought to undermine part of the investigation into him by relying on a fabricated exhibit and misleading the investigating authority.
- 33.5 This conduct, when taken together with the actual and potential further consequences for both the individuals concerned and the Council is so serious that disqualification is a reasonable and proportionate outcome. It is the only fair outcome.

- 33.6 Ms Shaw, in fairness to the Respondent, set out some possible mitigating features, however the Case Tribunal was unable to give them weight for the reasons set out above.
- 33.7 The Case Tribunal was careful not to double count those inherent facts of the breaches as additional aggravating features. The most recent, separate finding against former Councillor Dowson does him no credit but was distinct enough to be kept to one side.
- 33.8 The Case Tribunal found that the aggravating circumstances included: -
- 33.8.1 The repeated nature of the breaches and the findings of disrepute.
- 33.8.2 The lack of understanding of the consequence of misconduct for others.
- 33.8.3 The fact that former Councillor Dowson showed very little concern for those about whom he made allegations.
- 33.8.4 The fact that he sought to blame others for his faults.
- 33.8.5 He sought to blame Mr Timothy Brentnall for producing false documents, rather than admitting his own dishonesty.
- 33.8.6 He sought to blame Councillor Beynon for telling him what he repeated, even though no such conversation took place.
- 33.8.7 His behaviour demonstrated deliberate and reckless conduct with little or no concern for the Code of Conduct.
34. The Case Tribunal therefore decided unanimously that former Councillor Paul Dowson should be disqualified for three years from being or becoming a member of Pembrokeshire 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.
35. The Respondent has the right to seek the leave 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.
36. Pembrokeshire County Council and its Standards Committee are notified accordingly.

TOM MITCHELL

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Chairperson of the Case Tribunal

SUSAN HURDS

.....

Panel member

DEAN MORRIS

.....

Panel member

16th September 2022