

DECISION REPORT OF THE WREXHAM COUNTY BOROUGH COUNCIL STANDARDS COMMITTEE

IN RELATION TO A FAILURE TO FOLLOW THE CODE OF CONDUCT COUNTY BOROUGH AND COMMUNITY COUNCILLOR PAUL ROGERS

1. INTRODUCTION

- 1.1 This is the determination of the Wrexham County Borough Council Standards Committee in relation to a complaint of the breach of the Code of Conduct by Councillor Paul Rogers of Wrexham County Borough Council and Brymbo Community Council.
- 1.2 The determination follows receipt of a report issued by the Public Services Ombudsman for Wales (the Ombudsman) under section 69 Local Government Act 2000 dated 24 March 2022 when the matter was referred to the Council's Standards Committee for consideration.
- 1.3 The Standards Committee determined its adjudication by way of an oral hearing on 12 January 2023 which was held at the Guildhall Wrexham. The Public Service Ombudsman was represented and Councillor Rogers also attended in person.

2. ALLEGATIONS

- 2.1 The allegations contained in the Ombudsman's report were that Councillor Rogers had breached the Code of Conduct in relation to emails sent to the Police about the complainant's behaviour and that Councillor Rogers believed the complainant's behaviour amounted to a breach of the peace / public order offence and that something should be done about it.
- 2.2 Having obtained CCTV footage of the incident from the bus company and evidence from the Police, the Ombudsman did not consider that the complainant appeared aggressive as suggested by Councillor Rogers and found that comments made by the complainant to Councillor Rogers during the incident related to issues which were public knowledge. On the basis of the information available the Ombudsman did not consider they could reasonably be considered "verbal abuse".
- 2.3 The Ombudsman concluded that Councillor Rogers' correspondence to the Police was misleading and exaggerated. He felt it was made in his capacity as a Member of both the Community and County Councils doing so in his official capacity, despite the fact he was present on the bus in his personal capacity.
- 2.4 The Ombudsman concluded that Councillor Rogers' conduct was such that it may amount to a breach of the following paragraphs of the Code of Conduct:

7(a) – not, in his official capacity or otherwise, to use or attempt to use his position improperly to confer on or secure for himself, or any other person, an advantage or create or avoid for himself, or any other person, a disadvantage.

- 2.5 The Ombudsman also concluded that attempting to misuse his position in this way and wrongly accusing someone of committing a public order offence is capable of bringing the Councillor’s office or authority into disrepute and is suggestive of a breach of paragraph 6(1)(a):

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

3. PRELIMINARY CONSIDERATION BY THE STANDARDS COMMITTEE

- 3.1 On 26 July 2022 the Standards Committee considered the report of the Ombudsman and concluded that Councillor Rogers should be given the opportunity to make representations in respect of the findings of the investigation and any allegation that he had failed, or may have failed to comply with the Code of Conduct.

4. MAIN FACTS OF THE CASE AGREED OR NOT AGREED

- 4.1 Councillor Rogers did indicate his disagreement with the findings of fact in the Ombudsman’s Investigation Report and provided further evidence prior to the hearing for consideration.

5. HEARING

- 5.1 Councillor Rogers confirmed that he wished to have an oral hearing and the Ombudsman’s office also confirmed that they wished to attend to present their report to the Committee.
- 5.2 On 12 January 2023 the Standards Committee considered the Ombudsman’s report and heard representations from the Ombudsman and Councillor Rogers. The Ombudsman also called the complainant as a witness.
- 5.3 The Ombudsman made representation as to the disputed facts:
- (i) whether Councillor Rogers alleged to the Police that the complainant had sworn;
 - (ii) was the complainant aggressive and abusive; and
 - (iii) whether Councillor Rogers made a complaint to the Police with regards to the complainant’s conduct.
- 5.4 Councillor Rogers made a further representation:
- (iv) whether the Police had properly investigated the incident on the day in question.
- 5.5 The Ombudsman stated that the Police investigation was not relevant to the Hearing. However Councillor Rogers’ behaviour following the incident by way of emails sent by him to the Police in relation to the complainant’s behaviour was.

- 5.6 In relation to the disputed facts the Committee agreed:
- (i) insufficient evidence – no longer disputed;
 - (ii) on the balance of probabilities, this was not proved;
 - (iii) yes, via numerous emails;
 - (iv) no relevance.
- 5.6 The Standards Committee found that Councillor Rogers had breached the Code of Conduct in relation to paragraphs 6(1)(a) and 7(a).
- 5.7 Prior to considering further action or sanction the Committee allowed Councillor Rogers to present three character witnesses on his behalf. Two attended in person whilst the third had submitted an email which was read to the Committee by the Chair.

6. SANCTION

- 6.1 At that meeting on 12 January 2023 the Committee, on a majority view, decided to impose the following sanctions:
- **That Councillor Rogers be suspended from his duties as a Wrexham County Borough Councillor and a Brymbo Community Councillor for a period of three months.**
- 6.2 In arriving at their decision as to the appropriate sanction, the Standards Committee took into account the Adjudication Panel for Wales Sanction Guidance. The Committee considered the whole range of sanctions available and were mindful of the representations made by the Ombudsman both as to mitigating / aggravating circumstances and that the Ombudsman was of the view that a suspension was in the public interest in this matter. The Committee also took into account the representations made by Councillor Rogers and the fact that he had co-operated with the investigation of the Ombudsman albeit that it had progressed to a contested hearing.

7. APPEAL

- 7.1 Councillor Rogers made an application for permission to appeal to the Adjudication Panel for Wales (“APW”) under Regulation 10(8) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales)) Regulations 2001. The President of the APW however deemed the application to have been made out of time i.e. outside of the 21 day period in which applications for permission to appeal must be received by virtue of Regulation 10(2).

21 February 2023