



Northern Ireland

# Local Government Commissioner for Standards

## **Local Government Act (Northern Ireland) 2014**

**In the Matter of former Councillor Ruth Wilson - Mid & East Antrim Borough Council – C00339**

### **Decision of the Assistant Northern Ireland Local Government Commissioner for Standards following an Adjudication Hearing**

The Northern Ireland Local Government Commissioner for Standards, Ms Margaret Kelly, has appointed Mr Ian Gordon, OBE, QPM, as Assistant Local Government Commissioner (the Assistant Commissioner) in relation to the Adjudication Hearing process in respect of this complaint. Mr Gordon was assisted by Mr Michael Wilson, Solicitor, Legal Assessor.

The Adjudication Hearing was initially opened and adjourned on the 12th of January 2022 when the details of the alleged breaches of the Code were read into the Record. The Adjudication Hearing concluded on 28 November 2022. Both of these Hearings were held remotely via Webex. Details of the arrangements for the Hearings were published on the Northern Ireland Local Government Commissioner for Standards' website.

#### **1. COMPLAINT**

The Northern Ireland Local Government Commissioner for Standards (the Commissioner) received a complaint from Mr Michael Murray alleging that former Councillor Ruth Wilson, a member of Mid & East Antrim Borough Council had, or may have, failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors (the Code). Former Councillor Wilson was elected to Mid & East Antrim Borough Council and signed the declaration of office on 5 June 2014 (the Code).

At the local government elections, held on 2 May 2019, Councillor Wilson was not re-elected therefore no longer holds the position of Councillor. Former Councillor Wilson will be referred to as the Respondent in this Decision Report.

The allegation was investigated by Mrs Michaela McAleer then Acting Deputy Commissioner for the Local Government Ethical Standards (LGES) Directorate of the Northern Ireland

Ombudsman's Office. The Assistant Commissioner has no role in the receipt, assessment or investigation of a complaint.

The Acting Deputy Commissioner submitted a report to the Commissioner on 23 December 2020 in accordance with sections 55 and 56 of Part 9 of the Local Government Act (Northern Ireland) 2014, and it was accepted for Adjudication by the Assistant Commissioner on 7 January 2021. The alleged breaches of the Code under paragraphs, 4.2, 4.11, and 4.13(a) above arose in the context of two separate Facebook posts dated 16 June 2018 and 28 July 2018. The former post related to the visit of Arlene Foster to the Belfast Islamic Centre on 15 June 2018; the latter post was in reference to the annual Belfast Pride Day march. The remaining allegation was 4.6, regarding compliance with the Acting Deputy Commissioner's investigation.

## **2. PRE-ADJUDICATION HEARING REVIEW**

On the 15 November 2022, the Assistant Commissioner held a (virtual) Pre-Hearing Review Meeting (PHR), under paragraph 37 of the Procedures for the Adjudication of Cases (Procedures) document, to consider the efficient progression of the adjudication. In the PHR, the legal representatives for the Acting Deputy Commissioner (Peter Coll KC) and the Respondent (Alan Kane KC), informed the Assistant Commissioner that within the factual context of the Respondent's comments relating to the annual Belfast Pride Day march complaint they wished to consider and, if agreed:

- i. To submit for his consideration a proposed Statement of Facts, and
- ii. To identify which breach(es) of the Code such agreed facts might constitute.

The Assistant Commissioner agreed to this course of action and directed that he be informed of the outcome of the parties' deliberations in advance of the Adjudication Hearing which was fixed for 28 November 2022.

## **3. STAGE 1 –FINDINGS OF FACT**

The Assistant Commissioner subsequently received from the parties an agreed Statement of Facts, the full details of which are set out below. The Assistant Commissioner noted that this Statement also included an acceptance by the Respondent that she had breached paragraphs 4.2 and 4.13(a) of the Code arising from her comments which related to annual Belfast Pride Day March.

Peter Coll KC, on behalf of the Acting Deputy Commissioner, applied to the Acting Commissioner for permission not to proceed with the remaining complaint which arose from a post related to the visit of Arlene Foster to the Belfast Islamic Centre on 15 June 2018, on the basis that it was doubtful that he could discharge to the satisfaction of the Assistant Commissioner the burden of establishing the alleged facts and any attendant breach(es) of the Code. Mr Kane KC did not object to this application.

In considering this application, the Assistant Commissioner reminded himself that the evidential test for consideration of findings of fact is whether the Acting Deputy Commissioner established to the satisfaction of the Assistant Commissioner, on the 'Balance of Probabilities', there had been a failure to comply with the Code. The Acting Commissioner was satisfied that, on the basis of the Agreed Statement of Facts this test was met in relation to the annual Belfast Pride Day March complaint.

The following facts are agreed between the parties:

1. Former Councillor Wilson signed an undertaking on 5 June 2014 that she had read and would observe the Northern Ireland Local Government Code of Conduct for Councillors.
2. On 28 July 2018, former Councillor Wilson commented on a Facebook post made by a third party regarding the Belfast Pride Day parade.
3. The post in question stated: "PRIDE DAY!! Pouring Rain Incessantly Dropping Everywhere", followed by a biblical quotation from Matthew ch.24v39: "And knew not until the flood came, and took them all away; so shall also the coming of the Son of man be..... THE REAL REASON FOR THE (picture of pride/rainbow) FLAG".
4. The post was followed by three comments, below the original post. In her post, former Councillor Wilson posted: "Hopes it soaks them through to the skin".
5. At the time of her post on 28 July 2018, former Councillor Wilson was an elected member of Mid and East Antrim Borough Council.
6. On 22 October 2018 a written complaint was received by the Deputy Commissioner alleging that former Councillor Wilson had failed to comply with the Code.
7. On 26 October 2018, former Councillor Wilson was informed by letter from the office of the Local Government Commissioner for Standards that the complaint against her would be investigated.
8. Former Councillor Wilson was not re-elected to the position of Councillor following the local government elections held on 2 May 2019.
9. The Deputy Commissioner compiled a report into the matter dated 23rd December 2020 and former Councillor Wilson was referred to the Commissioner for adjudication as to whether she had breached the Code of Conduct for Councillors.
10. Former Councillor Wilson now accepts that in making that comment which she acknowledged could be construed by others as uncharitable she acted:
  - (a) In such a manner as to bring her position as a Councillor into disrepute contrary to the requirements of para 4.2 of the Code of Conduct, and

(b) In such a manner whereby she failed to treat others, and specifically those participating in the Pride parade, with respect and consideration contrary to paragraph 4.13a of the Code of Conduct.”

The Assistant Commissioner accepted the Statement of Facts as the finding of facts for Stage 1 of the Hearing.

In relation to the other complaint, the Acting Commissioner carefully considered the application by Mr Coll KC, and the reasons offered. He also took into account the extent of the factual matters in dispute identified in the Respondent’s Response Form, and in all the circumstances, he concluded that it was appropriate to accede to the application and therefore, there would be no findings of fact, or determination of any breach(es) of the Code, in relation to that complaint.

The Acting Commissioner determined that the facts numbered 1 to 10 as set out above represent the findings of fact in this matter.

#### **4. STAGE 2 – DETERMINATION ON BREACH**

- i. The Respondent’s Facebook name profile identified her as a Councillor; the Assistant Commissioner was satisfied, therefore, that she could be seen as acting in her capacity as a Councillor at the time of the alleged conduct.
- ii. The Councillor’s Code of Conduct applied to the Respondent. In reaching his decision on the failures to comply with the Code, the Assistant Commissioner has considered the Commissioner’s Guidance on the Code.
- iii. The Respondent had breached: Paragraphs 4.2 and 4.13(a) of the Code and the Respect Principle.

This concluded Stages 1 and 2 of the Adjudication Hearing process.

#### **5. STAGE 3 - SANCTION**

Stage 3 (Sanction) considers what action, if any, should be taken in relation to the breaches of the Code by the Respondent.

The Assistant Commissioner invited both parties to make submissions to him on an appropriate course of action for sanction. He noted that he had received, with the agreement of both parties, a written undertaking from the Respondent dated 25 November 2022 which he would consider in the context of the findings of Fact and of the Breaches of the Code, as well as the Sanctions Guidelines and anything that Counsel wished to submit. The Undertaking, which had been signed by the Respondent, was read out by Mr Brian Moss (Solicitor for the Respondent) and entered into the Record as follows:

*“Pursuant to Paragraph 8 of the Sanctions Guidelines where a Councillor has been found to have failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors (the Code): I, Ruth Wilson, Respondent, undertake to the Northern Ireland Local*

*Government Commissioner for Standards that, despite the imposition of no sanction for my acknowledged breaches of paragraphs 4.2 and 4.13(a) of the Code, there is not likely to be any further failure on my part to comply with the Code”.*

Mr Coll and Mr Kane both stated that they had no further submissions to make in relation to Sanction.

## **6. DECISION**

The Assistant Commissioner said the Sanction Guidelines at paragraph 3, state the objectives relevant to determining sanction are:

- i. The public interest in good administration, upholding and improving the standard of conduct expected of councillors, and the fostering of public confidence in the ethical standards regime introduced by the 2014 Act; and
- ii. Any sanction imposed must also be justified in the wider public interest and should be designed to discourage or prevent any future failures to comply with the Code by the particular Respondent and to discourage similar conduct by other Councillors.

### **The Respondent’s Undertaking.**

Paragraph 8 of the Sanctions Guidelines permits the Assistant Commissioner to find it appropriate to determine that no action needed to be taken in respect of a failure to comply with the Code, where the Respondent provides an undertaking as to their future conduct. In this case the Assistant Commissioner concluded that it would be a proportionate outcome to accept the Respondent’s Undertaking as set out above.

The Assistant Commissioner said that his consideration of the wider public interest also involved the need to act proportionately when seeking a fair and efficient outcome to an Adjudication process, and to reflect this in his Decision. The Assistant Commissioner noted that this matter had been scheduled for a Hearing lasting up to three days (in addition to the Hearing on 12 January 2022). The Assistant Commissioner said it was appropriate for him to express his appreciation to both Counsel for their diligent work in assisting him towards this outcome, and the saving of the time and resources which would otherwise have been needed.

The undertaking, that the Assistant Commissioner was prepared to accept from the Respondent, contained an express acknowledgement of her breaches of the Code and he considered that concluding the Adjudication, on this basis, was an appropriate course of action which would still reflect the public interest in good administration, would uphold and improve the standard of conduct expected of councillors, and would foster public confidence in the ethical standards regime introduced by the 2014 Act.

This is not a case which, in all the circumstances, including the Respondent’s cooperation with the Adjudication process, and taking into account the Sanctions Guidelines and the body of

previous Decisions relating to the Code, would have merited disqualification. Furthermore, as the Respondent was not a sitting Councillor, the sanction of suspension did not arise.

The Assistant Commissioner emphasised that the Respondent, as a former councillor, together with all other councillors still in post, must absolutely understand and comply with the Code of Conduct and its Guidance. It was their public duty to do so, and, on this occasion, former Councillor Wilson had failed in that duty and she had displayed little foresight as to her words and posts. However, the Assistant Commissioner was satisfied that accepting the Respondent's written undertaking, including her acknowledged breaches of the Code, was justified in the wider public interest and that it would discourage or prevent the Respondent from any future failures to comply with the Code, as well as discouraging similar conduct by others.

The Assistant Commissioner noted that there is a corresponding duty on Councils and their officers to ensure that Councillors are properly trained for their role, including regular refreshers, in part drawn on the outcomes of such Adjudication Hearings.

## **7. LEAVE TO APPEAL**

Former Councillor Wilson may seek the permission of the High Court to appeal against a decision made by the Assistant Commissioner, which must be made within 21 days of the date that she receives written notice of the Acting Commissioner's decision.

A handwritten signature in blue ink, appearing to read 'Ian Gordon'.

Ian Gordon  
Assistant Northern Ireland Local Government Commissioner for Standards  
5 December 2022