

To: Chair and Members of Standards
Committee

Date: 13 March 2014

Direct Dial: 01824 706204

e-mail: dcc_admin@denbighshire.gov.uk

Dear Member of the Committee,

You are invited to attend a meeting of the **STANDARDS COMMITTEE** to be held at **10.00 am** on **FRIDAY, 21 MARCH 2014** in **CONFERENCE ROOM 1B, COUNTY HALL, WYNNSTAY ROAD, RUTHIN LL15 1YN.**

Yours sincerely

G. Williams
Head of Legal and Democratic Services

AGENDA

PART 1: THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING

1 APOLOGIES

2 DECLARATION OF INTERESTS

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS AS AGREED BY THE CHAIR

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

4 MINUTES OF THE LAST MEETING (Pages 5 - 10)

To receive the minutes of the Standards Committee meeting held on 31 January 2014 (copy enclosed).

5 ANNUAL REPORT OF THE ADJUDICATION PANEL FOR WALES (Pages 11 - 40)

To consider a report by the Monitoring Officer (copy enclosed) on the Annual Report of the Adjudication Panel for Wales 2012/13 which had been published in February, 2014.

6 PUBLIC SERVICE OMBUDSMAN FOR WALES' CODE OF CONDUCT CASEBOOK (Pages 41 - 60)

To consider a report by the Monitoring Officer (copy enclosed) about the introduction of a Code of Conduct Casebook by the Public Services Ombudsman for Wales.

7 ATTENDANCE AT MEETINGS

To note the attendance by members of the Standards Committee at County, Town and Community Council and to receive their reports.

8 DATE OF NEXT MEETING

The next meeting of the Standards Committee is scheduled for Friday, 9th May, 2014 in Conference Room 1B, County Hall, Ruthin.

PART 2: CONFIDENTIAL ITEMS

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item of business because it is likely that exempt information as defined in paragraphs "12 and 13" of Part 4 of Schedule 12A of the Act would be disclosed.

9 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000 (Pages 61 - 62)

To consider a confidential report by the Monitoring Officer (copy enclosed) which provided an overview of complaints lodged with the Public Services Ombudsman for Wales.

MEMBERSHIP

Independent Members:

Rev Wayne Roberts, Mr Ian Trigger (Chair), Ms Margaret Medley and Mrs Paula White

Town/Community Council Member

Councillor David E Jones

County Councillors

Councillor Bill Cowie

Councillor Colin Hughes

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STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Conference Room 1b, County Hall, Wynnstay Road, Ruthin LL15 1YN on Friday, 31 January 2014 at 10.00 am.

PRESENT

Ms. Margaret Medley, Reverend Wayne Roberts, Mr. Ian Trigger (Chair) and Mrs. Paula White together with Councillors Bill Cowie, Colin Hughes and David Jones

ALSO PRESENT

Deputy Monitoring Officer/Solicitor (LJ) and Committee Administrator (KEJ)

1 APOLOGIES

Head of Legal and Democratic Services/Monitoring Officer (GW)

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest were raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters were raised.

4 MINUTES OF THE LAST MEETING

The minutes of Standards Committee held on 25 October 2013 were submitted and the Chair praised the quality and accuracy of minutes produced.

***RESOLVED** that the minutes of the meeting held on 25 October 2013 be received and approved as a correct record.*

5 REGISTRATION OF MEMBERS' INTERESTS

A report by the Monitoring Officer was submitted (previously circulated) informing members of the legislative changes relating to the Register of Members' Interests and the course of action proposed to ensure that the County Council and Town and Community Councils were complying with the new requirements.

Members were reminded of the requirement for county councillors to register financial and other interests and for the Monitoring Officer to maintain a Register of Members' Interests available for public inspection. Legislative changes would soon be coming into force introducing a requirement to publish the register electronically and advertise how it could be accessed. Democratic Services were in a position to publish the register on the Council's website, linked to each councillor's profile page. Before publication councillors and co-opted members would be asked to

review their current register and update them if necessary. An annual reminder would also be sent to check for accuracy.

In terms of Town and Community Councils it was clarified that there was no requirement for those members to register. It appeared that where a register was maintained the Clerk would be responsible for ensuring an electronic version was published. Advice would be given as to the legal position when it became clearer.

The committee considered the uncertainty surrounding the requirements for Town/Community Councils and some concern was expressed that having to register interests could discourage potential candidates from standing for local election. The Deputy Monitoring Officer explained that each Town/Community Council decided individually whether to maintain a register but there was no requirement to do so. She confirmed there was an obligation for each council to have its own website in future and explained the issue was whether, in the interests of transparency, there would be an obligation to publish the register electronically where one was maintained. The new legislation would be interpreted by the Monitoring Officers and Governance Group following which a briefing note would be issued to Clerks of Town/Community Councils setting out the legal advice. Members were assured that no pressure would be placed on town/community councils to conform to a particular practice in terms of choosing whether or not to register members' interests.

There was some general discussion about the obligation placed on town/community councils to publish information online and the availability of grant funding for that purpose. Local councillors reported upon the current practice of their individual councils in this regard and members acknowledged there could be both advantages and disadvantages of maintaining and publishing a register of members' interests. In view of the potential difficulties for some Town/Community Councils to publish an electronic register members considered what support the County Council could offer in that regard. The general consensus was that it was not appropriate for the County Council to maintain a central register on behalf of those councils but further consideration could be given to providing support once there was a definitive view on whether there was a requirement to publish an electronic version. The committee felt it would be useful to seek the views of the Town and Community Councils on maintaining a register and the legislative changes.

As a point of note the Deputy Monitoring Officer advised that the power to make the decision had been incorrectly referenced as the 1972 Act in paragraph 10.1 to the report and should read the Local Government Act 2000.

RESOLVED that –

- (a) the legislative changes relating to the Register of Members' interests be noted and the steps being taken to ensure that the Council was in compliance with those changes be approved;*
- (b) the Monitoring Officer be asked to write to the Clerks of Town and Community Councils setting out the legal position and ambiguity over the*

publication of an electronic version of the register and seeking their thoughts and councillors' views on having a register of members' interests, and

- (c) *feedback received from the Town and Community Councils be submitted to a future meeting of the Standards Committee.*

6 ATTENDANCE AT MEETINGS

Members of the Standards Committee reported upon their attendance at meetings of the County, Town and Community Councils as follows –

Councillor Colin Hughes regularly attended Henllan Community Council and Denbigh Town Council meetings. He reported no issues of concern at Henllan Community Council meetings. With regard to Denbigh Town Council a potential conflict of interest had been identified and the Monitoring Officer had been asked to deliver some training which had been well received. It was unfortunate that the two councillors involved in the potential conflict of interest had not attended the training session. That aside, meetings were good and operated well with no problems.

Councillor David Jones reported that he had attended a meeting of Ruthin Town Council in January which he had found to be very well ordered with good, relevant debate. Reports had been succinct and discussions well thought out. He commended the preparation of reports by the Clerk, particularly on the precept which had facilitated effective decision making.

Reverend Wayne Roberts routinely attended meetings of the County Council as the Chairman's Chaplain and reported upon the last meeting at which Dr. Peter Higson, Chair of Betsi Cadwaladr University Health Board had delivered a presentation. He reported that councillors' questions had been good and answered well.

Members also advised of their intention to attend meetings of the following –

Rhuddlan Town Council – Councillor Bill Cowie
Prestatyn Town Council – Mrs. Paula White
Trefnant and Cefn Meiriadog Community Councils – Ms. Margaret Medley
Llanbedr DC Community Council – Councillor David Jones

The Chair queried the political make up of town/community councils and members responded that the majority of councillors were independent with few affiliated to any political party. The Chair thanked members for their attendance and feedback.

RESOLVED *that the verbal reports from members attending meetings be received and noted.*

7 DATE OF NEXT MEETING

The Chair reported that he was unable to attend the next scheduled meeting on 14 March 2014 because of an unavoidable commitment and asked if the meeting could be rescheduled. The Deputy Monitoring Officer put forward a number of alternative dates and members expressed their preferences. It was noted that the last

scheduled meeting for the committee was 9 May 2014 and that preparations were underway for the next cycle of council meetings. The Chair asked that details of future meetings of the Standards Committee for the forthcoming year be circulated to committee members once they had been approved.

RESOLVED that the next meeting of the Standards Committee be rescheduled to 10.00 a.m. on Friday 21 March 2014 in Conference Room 1B, County Hall, Ruthin.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.

8 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000

The Deputy Monitoring Officer verbally reported that since the last meeting there had been no changes to the confidential report on complaints against members lodged with the Public Services Ombudsman for Wales. She highlighted that of the three outstanding complaints, one had been dealt with by the committee at the last meeting and two were awaiting outcomes from the Ombudsman. There had been no new complaints.

During debate the Deputy Monitoring Officer confirmed that, further to the committee's last meeting, a decision notice had been sent to former County Councillor Allan Pennington at his last known address in accordance with legal requirements. The notice had been returned to the Council as not at that address. Members noted that the time limit in which to challenge the committee's decision had expired.

RESOLVED that the position be noted.

Upon completion of the above the meeting resumed in open session.

9 ANY OTHER BUSINESS - MEMBER TRAINING

Prior to the close of the meeting the Chair provided the opportunity for members to raise any other business. Ms. Margaret Medley referred to forthcoming elections and was keen for training to be made available as soon as possible, particularly for newly elected councillors, and for the provision of on-going and refresher training.

The Deputy Monitoring Officer (DMO) reported upon in-house training provided free of charge together with sessions subject to a nominal fee of £30 where an external provider was used. Members discussed the range and type of training provided both in-house and via external sources and their own experiences thereof together with associated costs. The committee paid tribute to the quality of training provided in-house and highlighted the need to encourage take up. The DMO reported upon efforts made to boost attendance with sessions being taken to different localities at various times promoted via Town/Community Council Clerks. At the request of the

Chair, she agreed to provide a list of training events organised during the year and welcomed the attendance of committee members at those sessions.

The committee (1) emphasised the importance of training for all councillors, not just chairs and vice chairs, particularly new members, and (2) paid tribute to the in-house training provided by the Monitoring Officer and Deputy Monitoring Officer.

The Chair thanked members for their attendance valued contribution to debate.

The meeting concluded at 11.05 a.m.

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Report To: Standards committee

Date of Meeting: 21st March 2014

Lead Member / Officer: Monitoring Officer

Report Author: Monitoring Officer

Title: Annual Report of the Adjudication Panel for Wales

1. What is the report about?

- 1.1 The report is about the Annual Report of the Adjudication Panel for Wales 2012/13 which was published in February 2014.

2. What is the reason for making this report?

- 2.1 To inform members of the Adjudication Panel's report and to consider whether there are any issues revealed by the report that require further consideration by the Committee.

3. What are the Recommendations?

- 3.1 That the Committee notes the contents of the Annual Report of the Adjudication Panel for Wales and considers whether there are issues contained within it that merit further consideration by the Committee.

4. Report details.

- 4.1 The Adjudication Panel for Wales (the Panel) has issued its annual report for the financial year 2012/2013. The report provides an overview of the work of the Adjudication Panel and contains summaries of the cases and appeals that the Panel has dealt with over the last year. The full report is attached as Appendix 1 to this report.
- 4.2 The Adjudication Panel has two statutory functions. The first is to form case or interim case tribunals to consider reports from the Public Services Ombudsman for Wales following the investigation of allegations that a member has failed to comply with the relevant authority's Code of Conduct. The Adjudication Panel considers the most serious allegations of breaches of the Members' Code of Conduct. The second statutory function is to consider appeals from members against the decisions of local Standards Committees following a referral to those committees by the Public Services Ombudsman for Wales.
- 4.3 During 2012/13, the Panel received five new referrals from the Public Services Ombudsman for Wales and had four cases carried over from the previous

financial year 2011/12. Seven of these cases were heard during the period covered by the report and summaries of them are contained within the report. Members will note that there are five hearings summarised in the report. The matter relating to Coedpoeth Community Council involved three complaints which explains why there are five summaries involving seven referrals.

4.4 The Panel received one appeal against a decision of a local Standards Committee during the period and a summary of this case is also helpfully set out in the report.

4.5 Members will note that all of these cases involved findings that the member concerned had, by their actions, brought their office or authority into disrepute and that two of them had breached the requirement to show respect and consideration to others. This is consistent with the general themes that emerge from the analysis set out in the report of the different types of misconduct that have been considered by the Panel since 2002. The three most prevalent areas of misconduct are, in order:

Paragraph 6, bringing the office or authority into disrepute,
Paragraph 4, failing to show respect, having regard to equality of opportunity and bullying,
Paragraphs 11 and 14, declaration of interests

4.6 Members will also note that three of these matters related to breaches which involved the use by members of social media.

4.7 One of the cases summarised in the report relates to a former member of this Council. Members can find a full report of this matter on the panel's website at <http://wales.gov.uk/apwsubsite/APW-PDC/RegTrib/PreviousTrib/cllreckersley/?lang=en>

4.8 As an annex to the report the Panel have provided a summary of the sanctions imposed by the case tribunals and appeal tribunals in the period October 2002 to March 2013. Members will note that there have been significant sanctions imposed by the Panel in that period and only a minority of matters have not resulted in suspension or disqualification.

5. How does the decision contribute to the Corporate Priorities?

5.1 The contents of the report do not impact directly on corporate priorities.

6. What will it cost and how will it affect other services?

6.1 There are no costs directly associated with this report.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision?

7.1 This report does not require an Equalities Impact Assessment.

8. What consultations have been carried out with Scrutiny and others?

8.1 This matter has not been reported or consulted upon elsewhere as this is a matter for the Standards Committee alone.

9. Chief Finance Officer Statement

9.1 There are no obvious significant financial implications arising from the report

10. What risks are there and is there anything we can do to reduce them?

10.1 The Panel's report highlights areas of risk for all members in respect of their conduct. The Council has provided considerable training in respect of the Code of Conduct and will continue to do so. It is encouraging that individual Community Councils have asked for bespoke training on aspects of the Code and the Monitoring Officer has and will continue to provide such training. The Council has also arranged training for members on Equalities issues and the use of Social Media. There is shortly to be produced a policy and guidance on the use of social media.

11. Power to make the Decision

11.1 Section 54 Local Government Act 2000

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Adjudication Panel for Wales

Annual Report



2012 – 2013

Foreword

This report reviews the work of the Adjudication Panel for Wales during the financial year 2012-13.

During 2012-13, the Panel received 5 new referrals from the Public Services Ombudsman for Wales and 4 appeals against the decisions of local authority standards committees. A further 4 cases were carried over from 2011-12. A summary of the cases that were determined can be found in Section 3.

Although the numbers of new cases are still relatively low, the new members appointed in 2010 have now had an opportunity to sit on tribunal hearings. I believe that training and development of Panel Members is of prime importance and once again this has been an important part of the Panel's activities over the past year. In October the Adjudication Panel for Wales held its training seminar which, as well as providing useful updates and training on current issues, also gave the new members an opportunity to discuss their experiences with the original members.

The Welsh Government continues to progress the recommendations of the report of the Welsh Committee of the Administrative Justice and Tribunals Council following its *'Review of Tribunals Operating in Wales.'* The Panel's administration transferred to the Administrative Justice and Tribunals Unit within the Welsh Government on 1 April 2013. As part of the transfer I welcome Leon Mills as the new Registrar to the Panel replacing Stephen Phipps, who provided support over the transition period.

I take this opportunity to express my thanks to Stephen Phipps for the hard work and commitment he has shown the panel over his time with the Adjudication Panel. I also express my thanks to John Davies and Jason Plange for their time within the Support Unit and also to Carol Webber, whom left the Support Unit during the reporting period, for all the assistance they provided to the Adjudication Panel.

Finally, I hope you will find this report and the case summaries contained within it of interest. Once again, the report is being published via the Panel's website in order to save on printing costs.

A handwritten signature in black ink that reads "J Peter Davies". The signature is written in a cursive style with a large initial 'J'.

J PETER DAVIES
President of the Panel



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1. Background

1.1 Local Government Act 2000

Part III of the Local Government Act 2000 ("the 2000 Act") established a new framework to promote observance of consistent standards of conduct by local government members in England and Wales. In essence, the framework comprises:

- a set of ten general principles of conduct (derived from the "Seven Principles of Public Life");
- separate statutory codes of conduct for members and officers;
- local standards committees to advise members and relevant authorities on standards of conduct;
- the investigation of alleged misconduct by members in Wales by the Public Services Ombudsman for Wales or local authority monitoring officers; and
- the adjudication of such investigations by local standards committees or, generally in more serious cases, the Adjudication Panel for Wales ("the Adjudication Panel").

"Relevant authorities" under Part III of the 2000 Act in relation to Wales are county, county borough councils, community councils, fire and rescue authorities and national park authorities.

Police authorities in Wales were subject to separate principles and code of conduct prescribed by the UK Government. However, police authorities were abolished in November 2012 and have now been replaced by 4 Police and Crime Commissioners (PCCs) that cover Wales. The PCCs are overseen by the Police and Crime Panels which are formed to scrutinise the Commissioners decisions.

1.2 Principles of Conduct/Code of Conduct

Following commencement of the Government of Wales Act 2006, the Welsh Ministers are empowered under the 2000 Act to specify general principles of conduct and to make a model code of conduct for elected members and co-opted members with voting rights. The principles draw on the 'Seven Principles of Public Life' which were set out in Lord Nolan's report 'Standards of Conduct in Local Government in England, Scotland and Wales.'

The general principles are encapsulated in the current model code of conduct prescribed by the Welsh Government in 2008. All local government bodies in Wales – i.e. county and county borough councils, town and community councils, national park authorities and fire and rescue authorities – are required to adopt a code of conduct encompassing the provisions of the model code. All elected and co-opted members (with voting rights) must give a written undertaking to observe their authority's adopted code of conduct.

1.3 Role of the Public Services Ombudsman for Wales/ Standards Committees

Under the 2000 Act, any person may make a written allegation to the Public Services Ombudsman for Wales ("the Ombudsman") that an elected or co-opted member of a relevant authority in Wales has failed or may have failed, to comply with their authority's code of conduct.

Where the Ombudsman considers that an allegation warrants investigation the Ombudsman may arrange for the investigation to be undertaken by his/her office. Alternatively, the Ombudsman may refer the matter to the relevant monitoring officer for investigation and report to the local standards committee.

The Ombudsman may conclude upon investigation that there was no breach of the code or that no further action needs to be taken. However, where there is prima facie evidence of a breach of the code, the Ombudsman will produce a report on the completed investigation and send it either to the monitoring officer of the relevant authority concerned or to the President of the Adjudication Panel for Wales for final determination.

1.4 Role of the Adjudication Panel for Wales

The Adjudication Panel has two statutory functions:

- To form case or interim case tribunals to consider reports from the Ombudsman following the investigation of allegations that a member has failed to comply with their authority's code of conduct; and
- To consider appeals from members against the decisions of local authority standards committees that they have breached the code of conduct.

Case and Interim Case Tribunals

Where the Ombudsman sends a report to the President of the Adjudication Panel, a "case tribunal" formed from the Panel will be convened to consider the report, to receive evidence and to determine whether there has been a breach of the code of conduct.

If the tribunal determines that a failure to comply with an authority's code of conduct has occurred, it has powers to suspend, or partially suspend, a member for up to one year; or it can disqualify a member for up to five years.

Where a case tribunal decides that a person has failed to comply with an authority's code of conduct, that person may seek the permission of the High Court to appeal that decision, or any decision of the tribunal as regards the sanction imposed.

Where the Ombudsman considers it necessary in the public interest, the Ombudsman may make an interim report to the President of the Adjudication Panel recommending that a member be suspended while an investigation is ongoing. An interim case tribunal will decide whether the member should be suspended or partially suspended for up to six months.

Appeal Tribunals

Where the Ombudsman has referred the matter to a monitoring officer and the standards committee has determined that there has been a failure to comply with the code of conduct, the member concerned has a right of appeal to the Adjudication Panel. This right must be exercised within 21 days of the member's receipt of notification of the standards committee's determination. Where an appeal tribunal agrees that there has been a breach of the code, it may endorse the penalty set by the standards committee, or refer the matter back to the committee with a recommendation that a different penalty be imposed. An appeal tribunal can also overturn the determination of a standards committee that a member has breached the code of conduct.

2. Members of the Adjudication Panel for Wales

The current members of the Adjudication Panel are shown below. Between them, the members have a wide range of relevant knowledge and experience which they bring to the work of the Panel and its tribunals. They are located around Wales which facilitates the appointment of tribunals on a geographical basis.

The President, four legal members and one of the lay members are Welsh speakers.

President and Legal Members



2002-2015
The President of the Adjudication Panel, **Mr J Peter Davies** runs his own legal practice in Cardiff specialising in civil and commercial litigation and, in particular, regulatory matters. He is a Deputy District Judge and chair of the Solicitors Disciplinary Tribunal.



2010-2015
Ms Kate Berry is the former Solicitor and Monitoring Officer with the City and County of Cardiff. She has a background in private and public sector law and is a former town councillor in Nailsworth.



2010-2015
Mrs Emma Boothroyd is currently an adjudicator with the Solicitors Regulation Authority. She has a background in private law.



2002-2015
Mrs Helen Cole is a senior partner in a general practice in West Wales specialising in non-contentious private client work.



2010-
2015

Mr Gwyn Davies is a solicitor with experience in a range of legal jurisdictions in the private and public sectors. He is a former Chair of Neath, Port Talbot County Borough Council's Standards Committee.



2002-
2015

Mr Hywel James is a District Judge.

Lay Members



2010-
2015

Mr Andrew Bellamy is a non-executive Director with Estyn and peer reviewer with the Health Inspectorate Wales. He has a National Health Service background.



2002-
2015

Mr Ian Blair was County Surveyor with Powys County Council and has been an invited lecturer for the University of Wales, Aberystwyth. He was a former member of the Courts Board for Mid and West Wales.



2002-
2015

Cllr Colin Evans is a Labour councillor with Carmarthenshire County Council.



2010-
2015

Miss Susan Hurds is a lay member of the Employment Tribunals for England and Wales. She has a background in the National Health Service, latterly with the Ceredigion Local Health Board. She is also a Panel Chair of the Nursing and Midwifery Council.



2002-
2015

Mrs Christine Jones is a former member of Conwy County Borough Council. She is also a Board member with Cartrefi Conwy Housing Association.



2002-
2015

Ms Juliet Morris runs an organic farm business in Carmarthenshire. Previously, she worked in social and public sector policy for organisations including the Local Government Information Unit, the Wales Consumer Council and independent advice sector in Wales.



3. Allegations of Misconduct

3.1 Overview

In the period October 2002 to 31 March 2013, the Adjudication Panel made determinations on 44 references from the Ombudsman and 11 appeals against the decisions of a standards committee. Figures 1 to 3 give a breakdown of the outcomes of those determinations. A summary of the sanctions imposed is in the Annex to this report.

Figure 1: Case Tribunal decisions – October 2002 to March 2013

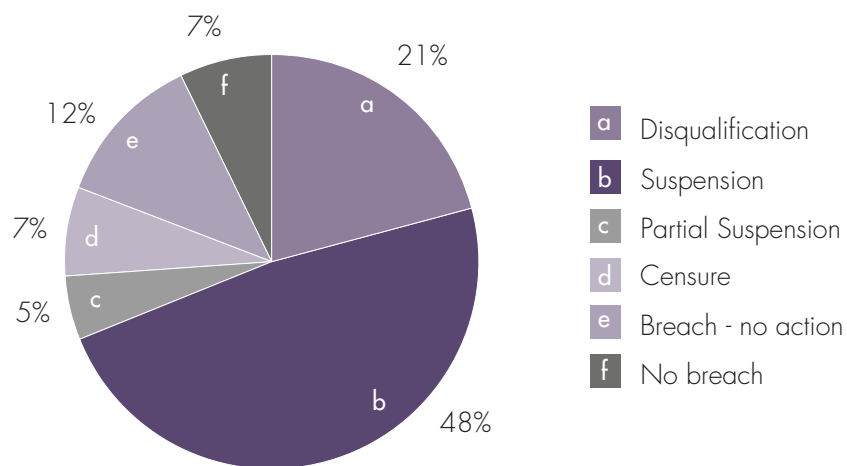


Figure 2: Appeal Tribunal decisions – October 2002 to March 2013

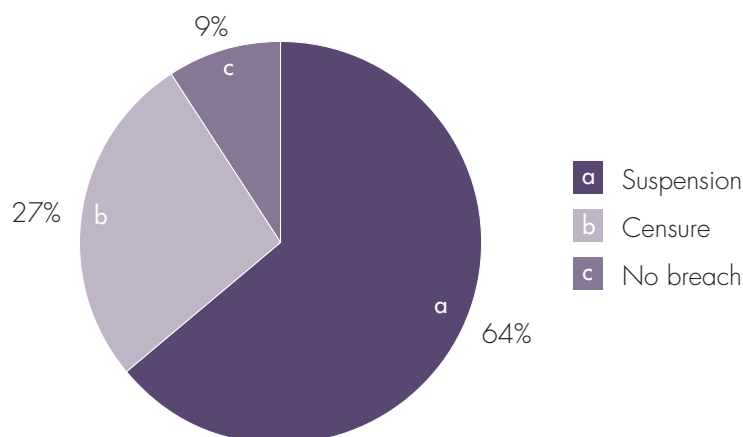
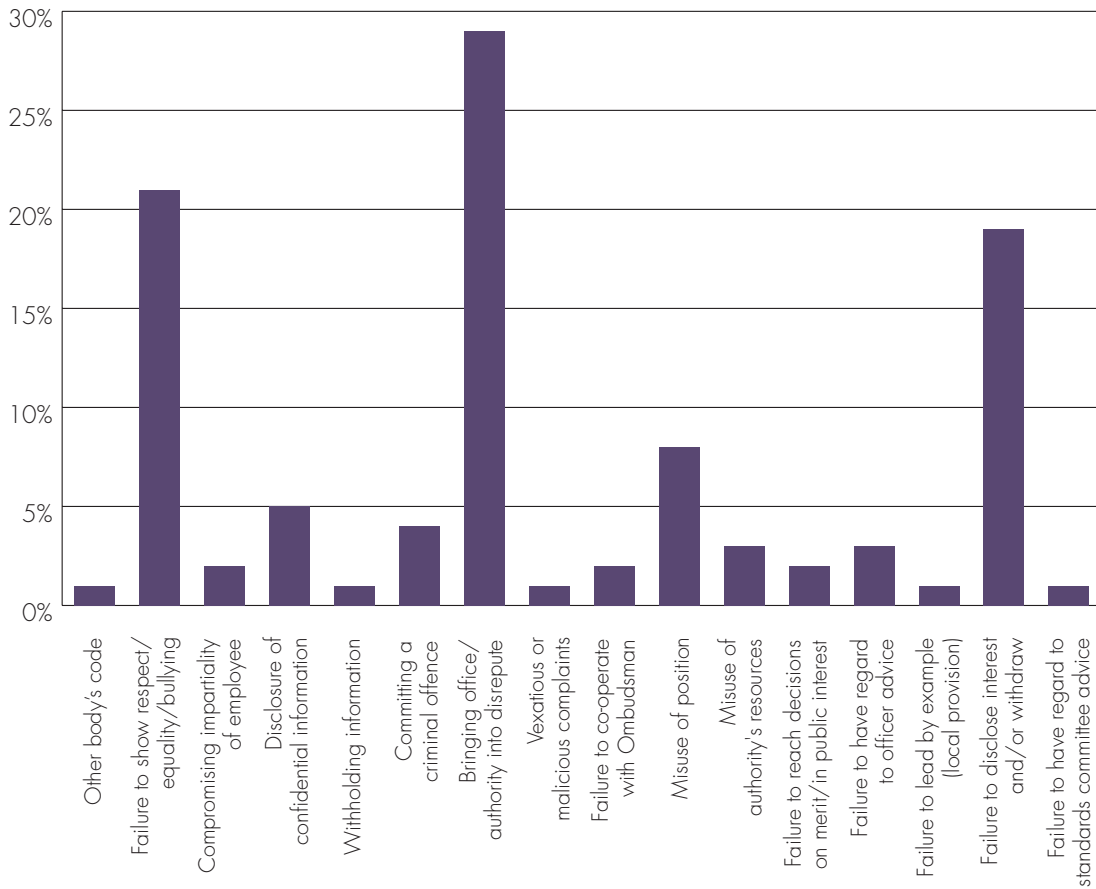


Figure 3: Breaches by type October 2002 to March 2013



3.2 Summary of Case Tribunals 2012 – 2013

The Public Services Ombudsman for Wales referred 5 cases to the Panel during 2012-13 and 4 cases were carried over from the previous year. Summaries of the 7 cases determined by the Panel during the year are below.

APW/002/2011-012/CT – Isle of Anglesey County Council

The referral concerned allegations that the councillor had breached the Council's code of conduct by making repeated personal attacks of an offensive nature against the then Director of Legal and Democratic Services and Monitoring Officer and the former Interim Managing Director and by making numerous requests for information thereby placing excessive demands and significant burden upon the Council's Corporate Information Officer.

Matters commented upon by the councillor were that when making the comments at the heart of the complaint made against him, the councillor was acting as a member of the council in bringing to light activities which he perceived as improper. He was discharging the duties placed upon him as an elected representative of the Isle of Anglesey County Council. By exposing the seemingly questionable practices of others he was actively contributing to the good governance of the area, effectively representing the interests of the electoral division concerned and was trying to ensure that the highest standard of conduct and ethics were maintained.

The tribunal found that the councillor, by his actions towards the then Director of Legal and Democratic Services, in particular the language used, failed to show respect and consideration and that his actions also amounted to bullying and harassment.

The tribunal found that as a more senior officer, the actions of the councillor did not amount to bullying or harassment of the Interim Managing Director. The tribunal did however find that making unfounded allegations in the public media that the Interim Director was dishonest and corrupt did fail to show respect and consideration in breach of paragraph 4(b) of the Code.

The tribunal found no breach in relation to his conduct towards the Information Officer. The Tribunal was satisfied that the councillor had made his requests perfectly properly and his letters to the Information Officer were appropriate in content and tone.

The tribunal also found that the councillor's actions amounted to a breach of 6(1)(a) of the code, in that the repeated unfounded allegations of a serious nature against senior officers of the council in public was bound to undermine the Authority and bring it into disrepute. In addition the language used by the councillor and the fact that the tribunal found his motives were not genuine further brought the office into disrepute.

The tribunal concluded by unanimous decision that the councillor should be suspended from acting as a member of the council for a period of 12 months.

APW/003/2011-012/CT, APW/005/2012-013/CT & APW/007/2012-013/CT – Coedpoeth Community Council

There were 3 separate referrals from the Ombudsman which were considered by a single tribunal.

The allegations were that the former councillor had breached the above Community Council's code of conduct by his behaviour and consequent arrest for a breach of the peace during a demonstration, failure to show respect and consideration to the Clerk of the Community Council, his behaviour, arrest, subsequent imprisonment and non-cooperation with the relevant authorities arising from a protest at a County Court and his lack of cooperation with the Ombudsman's investigation of these allegations.

In the absence of any proper or meaningful response by the former councillor the tribunal concluded by unanimous decision that the former councillor had, by his actions in breaching the code of conduct and in his unacceptable attitude to the investigation and general disregard to the code, demonstrated that he was unfit to hold public office and was unlikely to become fit over the next 5 years.

Accordingly the tribunal decided that the councillor be disqualified for 5 years from being or become a member of the community council or any other relevant authority.

APW/001/2012-013/CT – Llantrisant Community Council

The allegations were that the councillor had breached Llantrisant Community Council's code of conduct by posting unsubstantiated and highly offensive comments about a former neighbour on Facebook.

The councillor submitted that it was a private family matter and was never intended to be in the public domain. The councillor explained that she had acted on the spur of the moment and had posted the comments to defend her son. The councillor submitted that she never intended to cause anyone harm or distress and was acting as a mother not as a councillor.

The tribunal found that the councillor made 3 postings through her Facebook account and noted that the councillor's profile page makes reference to her position as a community councillor. The tribunal was satisfied that making such public postings without appropriate corroborative evidence was conduct which fell short of

that expected of an elected member. The tribunal considered that making offensive comments on a social networking site and the councillor's failure to take immediate steps to remove those comments was conduct which the tribunal considered brought the office of community councillor into disrepute.

The tribunal considered all the facts of the case and in particular the fact that this was an isolated incident which arose out of what should be a private family matter. The tribunal noted the excellent references received in support of the councillor and the work that she does in the community. The tribunal noted the effect that these proceedings had had on the councillor and the upset caused to the whole family. Nevertheless the tribunal were concerned that the councillor did not fully appreciate the seriousness of her actions. The tribunal took into account her refusal to apologise to the complainant and the fact she had not taken any positive steps to remove the comments. The tribunal took into account that the councillor believed her comments to have been true but nevertheless considered that her actions were inappropriate in the circumstances. The tribunal considered that the conviction in the Courts of a breach of Section 4 of the Public Order Act 1986 was a serious matter for a community councillor.

In all the circumstances the tribunal concluded by unanimous decision that the councillor should be suspended from acting as a member of Llantrisant Community Council for a period of 6 months or, if shorter, the remainder of her term of office. The tribunal considered that this sanction was necessary to reflect the serious nature of the misconduct and to uphold standards in public life. The tribunal considered that a period of suspension was appropriate in the circumstances of this case to give the councillor an opportunity to reflect on her actions. The tribunal considered that a 6 month period of suspension was proportionate in these circumstances.

APW/002/2012-013/CT – Merthyr Tydfil County Borough Council

The allegations were that the former councillor had breached Merthyr Tydfil County Borough Council's code of conduct by sending an email to all members of the Council in which he misrepresented the outcome of a previous tribunal hearing; by co-operating with the Merthyr Express to produce a story about his suspension; misrepresenting the decision of the tribunal when he wrote to the Merthyr Express; publishing a confidential letter and other similar material on his blog for which he had already been suspended by the Adjudication Panel; participating in a live

radio programme phone-in during which he misrepresented Council policies and failed to state that he was, at the time, suspended from the Council.

The tribunal found that the councillor had persistently and deliberately misrepresented his position as a councillor following his suspension by a previous tribunal, in emails, blogs letters and articles to the press and a radio phone-in in a 3 month period following the tribunal finding; deliberately and persistently misrepresented the findings of the previous tribunal; misrepresented the Council and its policies; and, despite the finding of the previous tribunal, had knowingly published confidential information and failed to seek advice from the appropriate authorities.

The tribunal concluded by unanimous decision that the former councillor should be disqualified for 3 years from being or becoming a member of Merthyr Tydfil County Borough Council or any other relevant authority within the meaning of the Local Government Act 2000, with immediate effect.

APW/004/2011-012/CT – Denbighshire County Council

The allegations were that the councillor had breached paragraphs 4(a), 4(b) and 6(1)(a) by on 2 separate occasions making inappropriate comments relating to Muslims, gypsies and travellers at meetings of the Corporate Equalities Group.

The tribunal found by unanimous decision with regard to both allegations that the former councillor had failed to comply with paragraph 4(b) of the council's code of conduct. The tribunal further found that the councillor did not breach paragraphs 4(a) and 6(1)(b).

The tribunal concluded that the former councillor's conduct merited a censure as it was not acceptable for any councillor to use language and express opinions in a way that would be inappropriate or offensive to others.

3.3 Summary of Appeal Tribunals 2012 – 2013

There was 1 appeal tribunal hearing during the reporting year.

APW/003/2012-013/A – Anglesey County Council

An appeal was received against the decision of Anglesey County Council's standards committee that the councillor had breached the Council's code of conduct and should be suspended for a period of 6 months.

The allegations were that the councillor had breached paragraph 6(1)(a) of the Council's code of conduct as a consequence of receiving a criminal conviction for failing to declare his full income when applying for Incapacity Benefit, thereby bringing his office or authority into disrepute.

The tribunal found that it was clear that the councillor showed an unwillingness to be frank and showed a reluctance to provide full and accurate disclosure of information to those investigating the allegation unless and until pressed to do so.

The tribunal found that it was significant that the councillor appeared to have been unwilling or unable to learn any lessons from the fact that he was prosecuted in the Magistrates Court on criminal charges because of a failure to make full disclosure of his circumstances when making a claim for benefits. If the councillor had learned from that experience he should have realised that, in cooperating with the subsequent investigation by the Ombudsman and his appearance before the standards committee, it was the councillor's duty to provide full, carefully checked and accurate information so that there could be no possibility of misunderstanding and any doubts about his integrity could be assuaged.

It was also incumbent on him to act in a way that members of the public and fellow councillors would consider to be exemplary, notwithstanding his criminal conviction. Instead his conduct had engendered doubts about his sincerity and the level of his contrition.

It was also clear from the evidence that inaccurate or misleading information was provided by the councillor to the Ombudsman and to the standards committee. That standards committee was of the view that there was a perceived pattern of behaviour relating to a failure or unwillingness to provide full information.

The tribunal was satisfied that the standards committee gave the councillor every opportunity to substantiate his mitigation during the standards committee hearing. The tribunal was satisfied that appropriate credit was given by the standards committee for the mitigation put forward by the councillor, but that the mitigation was outweighed by other factors of the case including the councillor's credibility. The tribunal was satisfied that the standards committee applied due proportionality having regard to all the facts in deciding on the sanction that should be applied to the councillor.

The tribunal accordingly decided by unanimous decision to endorse the decision of the Isle of Anglesey County Council's standards committee, that the councillor should be suspended for 6 months.

3.4 Ongoing Cases

At September 2013, the Adjudication Panel had determined 2 cases in the current financial year and a further 3 were on going. These cover a range of potential breaches, such as failing to show respect, attempting to misuse their position as a member, intimidating and bullying behaviour towards council employees, making unsubstantiated public allegations about officers.

Further information on completed cases can be found in tribunal decision reports which are published on the Panel's website: www.adjudicationpanelwales.org.uk

4. Overview of Procedures

The work of the Adjudication Panel for Wales is governed by Part III of the Local Government Act 2000 and subordinate legislation made by the National Assembly for Wales/Welsh Ministers and the UK Government (the latter in relation to police authorities).

The overriding aim of the Adjudication Panel is to ensure that all parties are able to have their cases presented and to have them considered as fully and fairly as possible.

Tribunals will normally comprise a legally qualified chairperson, plus two others. This may be varied at the President of the Adjudication Panel's discretion.

Tribunal hearings will normally be held in public except where the tribunal considers that publicity would prejudice the interests of justice, or where the respondent or appellant agrees that the allegations may be dealt with by way of written representatives. There may be other reasons from time to time for not holding a hearing, or part of a hearing, in public.

Hearings will usually take place in the relevant authority's area where suitable accommodation is available. Hearing arrangements take account of any special requirements of those attending, such as wheelchair access, interpreter, hearing assistance etc.

A simultaneous translation service is provided for those who wish a tribunal hearing to be conducted in Welsh.

The person who is the subject of the allegations is entitled to give evidence, to call witnesses, to question any witnesses and to address the tribunal on matters pertinent to allegations under consideration.

Details of tribunal hearings and their outcome are published on the Panel's web-site and in the local press as appropriate.

There is a right to seek the permission of the High Court to appeal the decision of interim case tribunals and case tribunals established by the Adjudication Panel. There is no right of appeal against the decisions of appeal tribunals, but, as a public body, the Adjudication Panel and its tribunals are subject to judicial review where appropriate.

Further information on tribunal procedures can be found on the Adjudication Panel's web-site.



5. Support Unit

The Adjudication Panel is supported by:

Leon Mills, Registrar to the Panel

The Panel's address is:

Adjudication Panel for Wales

Government Buildings

Spa Road East

Llandrindod Wells

Powys

LD1 5HA

Tel: 01597 829805

Fax: 01597 829801

E-mail: adjudicationpanel@wales.gsi.gov.uk

Web-site: www.adjudicationpanelwales.org.uk

Annex

Summary of Sanctions Imposed by Case Tribunals and Appeal Tribunals in the Period October 2002 to March 2013

Sanction	Period	No of decisions
Case and Appeal Tribunals		
Disqualification	5 years	1
	3 years	2
	2 years 6 months	1
	2 years	1
	1 year 6 months	1
	1 year	3
	Suspension	12 months
Suspension	9 months	3
	6 months	7
	4 months	1
	3 months	2
	2 months	4
	1 month	3
	Partial Suspension	3 months
7 weeks		1
Censure	-	6
Breach – no action	-	5
No breach	-	4
Withdrawn	-	2

Appeals	
Breach of code upheld/dismissed	10 (91%)/1 (9%)
Sanction endorsed	8
Different sanction recommended	1 increase/1 decrease
Not accepted <ul style="list-style-type: none"> • Out of time • Not in jurisdiction 	1 1

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Report To:	Standards committee
Date of Meeting:	21st March 2014
Lead Member / Officer:	Monitoring Officer
Report Author:	Monitoring Officer
Title:	Public Services Ombudsman for Wales' Code of Conduct Casebook

1. What is the report about?

- 1.1 The report is about the introduction of a Code of Conduct Casebook by the Public Services Ombudsman for Wales (the Ombudsman).

2. What is the reason for making this report?

- 2.1 To bring to Members' attention the introduction by the Ombudsman of a Code of Conduct casebook.

3. What are the Recommendations?

- 3.1 That Members note the introduction of a Code of Conduct casebook and the contents of the first edition.

4. Report details.

- 4.1 The Ombudsman has for many years published a quarterly casebook in respect of complaints investigated by the Ombudsman in respect of maladministration in the delivery of public services. It enables authorities and members of the public to see how complaints have been addressed and measures put in place to resolve them.
- 4.2 There have been calls for some time for a similar casebook to be published in respect of the work done by the Ombudsman in investigating complaints made in respect of the conduct of elected members.
- 4.3 The Ombudsman has found it more challenging to produce a Code of Conduct casebook. Whereas the Ombudsman's office is able in cases of maladministration to make recommendations as to resolution and publish reports of the outcome of these cases, in Code of Conduct cases the Ombudsman investigates and then refers to either a local Standards Committee or the Adjudication Panel for Wales. It has therefore been more difficult for the Ombudsman to provide a summary of the case from complaint to disposal.

- 4.4 The new Code of Conduct casebook will be published twice a year and will contain summaries of all of the cases in respect of which the Ombudsman has completed an investigation in the previous six months.
- 4.5 Where those cases have been referred to a Standards Committee or the Adjudication Panel for Wales, a link will be provided in the electronic version of the casebook to the full report of the outcome of the case produced by the relevant Committee or Panel.
- 4.6 The Ombudsman expresses the hope that the publication of these summaries will help Members and others in considering whether circumstances that they may be experiencing amount to a breach of the Code. The Ombudsman's guidance on the Code contains examples drawn from real life situations and it is likely that the regular publication of summaries of current cases will greatly assist in helping members and others understand better the operation of the Code.
- 4.7 The casebook will allow local authority Standards Committees access to information about the way in which other Standards Committees in Wales are imposing sanctions and disposing of cases and help to explain why in some cases the Ombudsman may decline to investigate alleged breaches on the basis that previous similar allegations have not resulted in a sanction.
- 4.8 The first edition of the casebook is attached at Appendix 1 to this report and contains details of matters in respect of which the Ombudsman completed an investigation and issued a report between April and November 2013.
- 4.9 Members will note that the majority of breaches complained of in this edition of the Code of Conduct casebook related to the requirement to show respect and consideration to others and the registration and disclosure of interests.

5. How does the decision contribute to the Corporate Priorities?

- 5.1 This report does not contribute directly to the corporate priorities.

6. What will it cost and how will it affect other services?

- 6.1 There are no costs associated with this report.

7. What consultations have been carried out and has an Equality Impact Assessment Screening been undertaken?

- 7.1 This report does not require an equalities impact assessment.

8. Chief Finance Officer Statement

- 8.1 There are no obvious significant financial implications arising from the report

9. What risks are there and is there anything we can do to reduce them?

9.1 There are no risks directly associated with this report.

10. Power to make the Decision

10.1 Section 54 Local Government Act 2000

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The Code of Conduct Casebook

Issue 1 November 2013

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A word from the Ombudsman

I'm very pleased to introduce the first edition of 'The Code of Conduct Casebook'. 'The Ombudsman's Casebook' featuring investigations into complaints about maladministration and service failure is published quarterly and has proved of interest and value to its many readers. It's designed above all to highlight the findings of investigations and quick fixes so the other service providers can learn from them and improve public services.

For quite some time there have been calls for an equivalent publication on Code of Conduct investigations, but this has proved more challenging to produce. While maladministration cases result in reports and recommendations from my office, cases where there is evidence of a breach of the Code of Conduct are referred to either a Standards Committee or a Tribunal convened by the Adjudication Panel for Wales for a decision. Consequently, it is harder to provide the full story of a case in our summary. We have used the learning from Code cases in the form of case examples, however, in developing guidance for County Councillors and Community Councillors which is available here.

In order to develop the Code of Conduct Casebook, we have been including summaries in each report we produce, whether the case is referred or not. We're also grateful to the Local Authority Monitoring Officers and to the Adjudication Panel for Wales for allowing us to include links to their judgements so that the full story of each case can be told.

(Continued overleaf)

I hope you find them useful, and hope also that members of county and town and community councils will find them helpful in considering situations where the Code might possibly be breached. Recently, we have seen a welcome reduction in the number of cases being investigated by my office and I believe that the introduction of local resolution mechanisms by county councils has played an important part in this. Ideally, it would be good to see a further reduction in the months ahead.

The vast majority of councillors pursue their duties in a public spirited, open and transparent fashion. Examples of poor behaviour are thankfully rare. The real problems often arise where acrimony between councillors is allowed to develop to the point of continuous argument with sides being taken and entrenched positions adopted. Typically, this happens within town or community councils and the issues at the heart of the disputes, if they can even be remembered, are often trivial.

I hope that the councils concerned will take a long objective look at themselves, realise they are bringing themselves and their councils into disrepute, and seek assistance either from their monitoring officer or One Voice Wales to resolve the dispute. I would like to pay particular tribute to the Monitoring Officer of the City and County of Swansea who personally engaged in mediation in an attempt to end one particularly protracted squabble. His work, and that of his colleagues across Wales, has been of particular support to my office in improving adherence to the Code of Conduct.

Although this is the first Code of Conduct Casebook, I also anticipate it will be my last as I expect to move to a new role shortly. I would like to take the opportunity to wish all of those in local government in Wales the very best as they head into some very difficult times ahead, and also to pay tribute to the work of some key individuals and organisations who have contributed to driving up standards including the Adjudication Panel for Wales under the capable leadership of its president, Peter Davies; Stephen Phipps both as long time clerk to the Panel and in developing policy for the Welsh Government, and Steve Thomas and Daniel Hurford at the WLGA.



Peter Tyndall
Ombudsman

Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- (a) that there is no evidence that there has been a breach of the authority's code of conduct;
- (b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- (c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains the summaries of all reports issued by this office during the last six months, for which the findings were one of the four set out above. In reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known.

Case Summaries

No evidence of breach

Promotion of equality and respect - City and County of Swansea July 2013 - Case references 201204336, 201204337, 201204338, 201204389 & 201204706

Following complaints made by five individuals, the Ombudsman investigated whether a Councillor had made insulting and abusive comments and behaved in an inappropriate manner during a Special Development Management and Control Committee meeting.

The Ombudsman obtained copies of relevant documents from the Council. The Ombudsman also obtained accounts of events from persons present at the meeting, which included members of the public, elected members and Council officers. The Councillor in question was also given an opportunity to respond to the complaint.

Having considered the available information, the Ombudsman concluded that there was no evidence that the Councillor had breached the Code of Conduct.

Promotion of equality and respect – Powys County Council June 2013 - Case reference 201203179

The Ombudsman received a complaint that a member of Powys County Council breached the code of conduct by sending letters to members of Llandrindod Wells Town Council which contained untrue statements which caused the complainant to suffer harassment, alarm and distress.

The investigation considered whether the Councillor had breached the paragraphs of the Code relating to bullying and harassment and bringing the office of the member into disrepute. The Ombudsman obtained evidence from the Police and County Court; the Councillor in question also provided written comments. Having considered the evidence gathered, it was concluded that, in circulating the letters, it was not the Councillor's intention to cause harassment, alarm or distress to the complainant. It was also established that the statement made in the Councillor's letters (notwithstanding the probable misapplication of terminology in respect of one statement) were in the main representative of the truth.

The finding was that there was no evidence of any failure to comply with the Code of Conduct.

**Disclosure and registration of interests – Cefn Community Council
July 2013 - Case reference 201202501**

Mr A complained that a member of Cefn Community Council had failed to declare a personal and prejudicial interest in the business of a charitable trust of which he was a trustee by virtue of his status as a Cefn Community Council councillor. Mr A said that the interest was that the Councillor's close personal friend was the General Manager of a football club which played on a pitch owned by the charitable trust. Mr A also complained that the Councillor had used his position to disadvantage the football club after his friend had resigned from the club.

The Ombudsman considered various minutes arising out of Community Council and charitable trust meetings, as well as copies of documentation relating to the status of the charitable trust. The Ombudsman considered complaint correspondence which had been exchanged by the Community Council and also interviewed three members of the Community Council as well as the Clerk.

The Ombudsman found no evidence that the Councillor had used his position to disadvantage the football club. The Ombudsman did not consider that the Councillor's association with the Football Club's General Manager was such that it gave rise to the need to declare a personal interest.

The Ombudsman's finding was that there was no evidence of a breach of the Code.

No action necessary

Promotion of equality and respect – Isle of Anglesey County Council August 2013 - Case reference 201204406

A complaint was made that a member of the Isle of Anglesey County Council had breached the code of conduct during the live broadcast of a current affairs programme in conflict with one of the panellists by making comments about the panellist that were considered to be personal, insulting and unnecessary.

The conclusion was that the Councillor's comments were in general political rather than personal expressions and that they were not a matter of breaching the code. However, during part of the discussion, the Councillor made a comment regarding the panellist's lineage. It was considered that what was said could possibly be interpreted as being a personal and unnecessary expression and not a political one. It was considered that his comments were unwise and inappropriate.

The finding was that there was no need to take action in respect of the matters investigated.

Promotion of equality and respect – Caerphilly County Borough Council August 2013 - Case reference 201203463

The Ombudsman received a complaint that a member of Caerphilly County Borough Council had failed to observe the code of conduct for members of the Council. It was alleged that, during a meeting of Pentricwm Community Association (PCA), the Councillor had accused the complainant of failing to maintain confidentiality in the context of their work in cancer care. The complainant said that the accusation damaged their reputation and lowered their standing in the community. The complainant also alleged that the Councillor pointed their finger and shouted directly at them. The complainant said that the Councillor continued to verbally attack them and refused several requests from the chairperson to stop.

During the investigation evidence was obtained from the Council and the PCA. The Councillor in question, the complainant, and four witnesses were also interviewed.

The investigation found that there was evidence to suggest that the Councillor may have breached the Code by failing to show respect and consideration towards the complainant. However, there was conflicting evidence about exactly what was said and how it was said. There was also evidence to suggest that whatever exchange did take place was in the heat of the moment following an element of provocation from other people. The Councillor was reminded of their obligation under the Code and it was found that no action needed to be taken in respect of the matters investigated.

**Promotion of equality and respect – Penmaenmawr Town Council
July 2013 - Case reference 201201768**

Ms W complained that a member of the Town Council had acted aggressively towards her. This was witnessed by others.

The Councillor was interviewed and strenuously denied the allegation. Having investigated, the Ombudsman determined that, as the evidence was contradictory, no further action would be taken.

**Promotion of equality and respect – Member of Llanfaelog Community Council
July 2013 - Case references 201201908, 201201909, 201201910, 201201911 &
201201913**

A number of complaints were made regarding the behaviour of a Councillor from Llanfaelog Community Council. It was alleged that the Councillor had used bad language and had behaved inappropriately during a meeting.

The Ombudsman decided to investigate the matter to determine whether there was evidence of breaches of the Code of Conduct, which requires members to show respect and consideration to others and not to conduct themselves in a manner which could bring the role of member or the Council itself into disrepute.

Evidence was obtained from all members of the Council who were present at the meeting. The evidence gathered supported the fact that the Councillor was heard muttering offensive words under his breath. However, it does not appear that the language used was specifically directed at an individual. The Councillor said that it was possible he used the language described as a means of voicing his frustration during the meeting.

The Ombudsman found that the evidence suggested that the Councillor's actions may have breached the Code. However, whilst he would not in any circumstances condone the use of such language, when reaching his decision, the Ombudsman was mindful of the fact that this was an isolated incident, the comments were made in the heat of the moment and were not directed at a particular person. On this basis, the Ombudsman decided that no further action needed to be taken in respect of the matters investigated.

Disclosure and registration of interests – Cefn Community Council July 2013 - Case reference 201202499

Mr A complained that a member of Cefn Community Council had failed to declare a personal and prejudicial interest in the business of a charitable trust of which he was a trustee by virtue of his status as a Cefn Community Council councillor. Mr A said that the interest was that the Councillor's son was the Assistant Manager of a football club which played on a pitch owned by the trust. Mr A also complained that the Councillor had used his position as councillor to disadvantage the football club after his son had resigned from the club.

Having investigated, the Ombudsman found no evidence that the Councillor had used his position to disadvantage the football club but did find that he may have failed to properly declare a personal and prejudicial interest. Whilst the Ombudsman concluded that the evidence was suggestive of a breach of the Code of Conduct, there was no evidence to suggest that the Councillor had done so deliberately.

The Ombudsman's finding was that no further action was necessary in respect of the matters complained about.

Disclosure and registration of interests – Cefn Community Council July 2013 - Case reference 201202500

Mr A complained that a member of Cefn Community Council had failed to declare a personal and prejudicial interest in the business of a charitable trust of which he was a trustee by virtue of his status as a Cefn Community Council councillor. Mr A said that the interest was that the Councillor's brother-in-law was the general manager of a football club which played on a pitch owned by the trust. Mr A also complained that the Councillor had used his position as councillor to disadvantage the football club after his brother in law had resigned from the club.

Having investigated, the Ombudsman found no evidence that the Councillor had used his position to disadvantage the football club but did find that he may have failed to properly declare a personal and prejudicial interest. Whilst the Ombudsman concluded that the evidence was suggestive of a breach of the Code of Conduct, there was no evidence to suggest that the Councillor had done so deliberately.

The Ombudsman's finding was that no further action was necessary in respect of the matters complained about.

Disclosure and registration of interests – Rogiet Community Council June 2013 - Case reference 201204415

The Ombudsman received a complaint that a former member of Rogiet Community Council had breached the Code of Conduct. It was alleged that the former Councillor had failed to declare an interest during meetings of the Community Council. The former Councillor was co-opted to the Community Council in July 2012. The Community Council managed allotments on behalf of the County Council. The former Councillor had been an allotment holder for several years.

The investigation considered information from the complainant, the former Councillor, the Community Council and Monmouthshire County Council. The investigation concluded that the former Councillor had, on occasion, failed to declare a personal interest in the Community Council's discussions about the allotments. The former Councillor's conduct was therefore suggestive of a breach of the Code. However, the former Councillor had stepped down from the Council in April 2013. Therefore, the Ombudsman found that no action needed to be taken in respect of the matters investigated. The former Councillor was reminded that, if he were to be elected as a member of a council in the future, he should be mindful of his obligation to comply with the Code.

Disclosure and registration of interests – Blaengwrach Community Council June 2013 - Case reference 201204755

The Ombudsman received a complaint that a Councillor had breached the Code of Conduct on 14 February 2013 by remaining in the room when the Community Council discussed matters relating to her husband. The complainant also complained that the Councillor and others made inappropriate remarks to her for having reported her husband's behaviour to the Community Council. This had caused the complainant concern.

Although the recollections of the parties varied as to the exact circumstances under which the Councillor remained in the room when matters relating to her husband were discussed, it was the Ombudsman's view that she should not have remained. It is the responsibility of each member to decide whether or not they have a personal interest and the views of other members on the matter are not relevant. Further, it is clear that a matter concerning a person so closely related to a member gives rise to a personal and prejudicial interest.

The Code itself and the Ombudsman's Guidance to Members are quite clear on these matters. The Ombudsman provisionally found that there was evidence that a breach may have occurred under the relevant provisions of the Code, but that it was unlikely that a sanction would be applied if the breach were found. In accordance with his procedures, the Ombudsman consulted with the Monitoring Officer, who agreed that a sanction was unlikely but said that he would issue appropriate advice to the Community Council on the subject of personal interests. The Ombudsman concluded that in the circumstances of this particular complaint, no further action was necessary.

With regard to the concerns about inappropriate comments being made by the Councillor, the Ombudsman was not persuaded that the comments as reported provided sufficient evidence of a breach. The Ombudsman's finding in relation to that matter was that there was no evidence of a breach under the relevant provision.

**Duty to uphold the law – Pembrokeshire County Council
July 2013 - Case reference 201201986**

A complaint was made that a former Councillor had used the Council's computer systems to produce election leaflets for his colleagues. The former Councillor was interviewed and accepted that he had created, or been the last person to have saved, 23 files of election material and manifestos for some candidates who had difficulty using computers. He said that none of the files were printed using the Council's resources.

The former Councillor accepted that the Council's internal policy and the Code of Conduct did not permit members to use its resources for political purposes. He also accepted that he was wrong to have done so and was of the view that the rules concerning the use of Council computers should be changed.

There was evidence suggestive of a breach of the Code and the matter was referred to the Council's Monitoring Officer to determine whether he wanted to consider the matter locally. The Monitoring Officer agreed with the Ombudsman that, as the former Councillor had resigned and moved away from the area, no further action needed to be taken

**Objectivity and propriety – Llandrindod Wells Town Council
April 2013 - Case reference 201204096**

The complaint arose as a consequence of another complaint which was being investigated. The investigation considered that the Councillor may have breached the Code of Conduct in the way that he handled a complaint to the Council about another Councillor's behaviour.

It appeared that the Councillor had not considered his personal association with the person complained about, and also failed to comply with the Council's procedure and this may have brought the Council into disrepute. The evidence also indicated that the Councillor may have disclosed information which could reasonably be regarded as confidential.

The Ombudsman decided that, whilst there was evidence to suggest breaches of the Code of Conduct, the matters were minor in nature and it was unlikely that a standards committee would impose a sanction. The matter was referred to the Council's Monitoring Officer, who considered that further local investigation was not appropriate.

Referred to standards committee

Objectivity and propriety – Gorseinon Town Council

April 2013 - Case reference 201201628

The Ombudsman received a complaint that a member of Gorseinon Town Council had failed to observe the Code of Conduct. It was alleged that the Councillor had made untrue and malicious statements about a local bar and restaurant in a Town Council meeting. The complainant said the comments were later reported by the South Wales Evening Post and associated website. The complainant said that the Councillor lived close to the premises and was using his position to “continue a vendetta” against it.

The Councillor said that he had not received training on the Code and he did not believe he had breached it. He said his comments were “...genuinely held, reasonable and honest beliefs and represented ...the views of [his] constituents [and] many residents of Gorseinon...”. He confirmed that he made the comments but said he did not know the press were present. He said that if he had known he may “...have chosen [his] words differently...”.

The investigation established that the Councillor may have had a personal and prejudicial interest in the Council’s discussions about the restaurant. The Ombudsman concluded that the Councillor’s conduct was suggestive of a breach of the Code. The Ombudsman’s report was referred to the Monitoring Officer of the City and County of Swansea for consideration by its Standards Committee. It determined that the Councillor’s conduct had breached the Code but concluded that no further action should be taken.

The decision of the Standards Committee can be found [here](#).

Promotion of equality and respect – Monmouthshire County Council

March 2013 – Case reference 201102666

The Ombudsman received a complaint from an officer of Monmouthshire County Council that a member of the Council had failed to observe the Code of Conduct. It was alleged that the Councillor had provided information about the officer’s private life to other members and a member of the public.

It became apparent during the course of the investigation that the Councillor may also have failed to act within the scope of the dispensation awarded to him by the Council’s Standards Committee. That dispensation restricted his ability to participate in discussions involving the operation of a local attraction in which his wife worked, and in which he therefore had a personal and prejudicial interest.

The evidence found by the Ombudsman's investigation suggested that the Councillor may have breached provisions of the Code of Conduct. The Ombudsman decided to refer the matter to the Council's Monitoring Officer, for consideration by the Council's Standards Committee. It concluded that the Councillor had breached the specified paragraphs of the Code and determined that he should be suspended for four months.

The decision of the Standards Committee can be found [here](#).

Integrity – Neath Port Talbot County Borough Council February 2013 – Case reference 201200387

A member of the public complained that a member of Neath Port Talbot County Borough Council had sent out an election letter using Council-headed paper before the election that took place on 3 May 2012.

The Ombudsman concluded that the evidence that he had obtained during his investigation suggested that the Councillor may have misused the Council's resources for political purposes, thereby bringing their office or authority into disrepute. The Ombudsman decided that he should refer his report on this investigation to the Monitoring Officer of Neath Port Talbot County Borough Council, for consideration by the Council's Standards Committee.

It found that the Councillor had breached the Code and censured him for both breaches and required him to attend training, on the Code, within three months.

The decision of the Standards Committee can be found [here](#).

Objectivity and propriety – Llandudno Town Council February 2013 – Case reference 201103150

An individual complained that a member of Llandudno Town Council breached the Code of Conduct for members when she attempted to enter their licensed premises after hours by saying that she was a Town Councillor. The complainant said that, when her request was refused, she became abusive and made threats concerning their licence and business. Subsequently, the member circulated unfounded written allegations about the complainant's behaviour to other town councillors and senior elected members, which were investigated by the County Council's licensing officer.

The Ombudsman concluded that the Councillor's actions in attempting to gain entry to the licensed premises after hours, and subsequent e-mail to other town councillors and elected members making unfounded comments about the complainant's behaviour, suggested that she had misused her position as a councillor and thereby brought the office into disrepute. He referred the matter to the Monitoring Officer of Conwy County Borough Council for consideration by the Council's Standards Committee.

It found that the Councillor's actions, in using her position in order to confer an advantage for herself, had brought her office into disrepute. The Standards Committee also found that the Councillor had failed to comply with requests made by the Ombudsman's office during the investigation. The Councillor was suspended for a period of six months.

The decision of the Standards Committee can be found [here](#).

Objectivity and propriety – Powys County Council February 2013 – Case reference 201200003

It was alleged that a Councillor had breached the Code of Conduct for members of Powys County Council in that he disclosed sensitive information which was given to him in confidence and which he knew, or reasonably should have known, it to be confidential.

The Ombudsman concluded that the evidence suggested the Councillor had been provided with confidential information which he had then disclosed, and that in doing so, he may have breached the Code of Conduct. The Ombudsman decided that his report on this investigation should be referred to the Monitoring Officer of Powys County Council for consideration by its Standards Committee.

It found that the Councillor had disclosed information he knew to be confidential and so had breached the Code and, in so doing, brought his office as a member into disrepute. The Councillor was suspended for a period of one calendar month.

The decision of the Standards Committee can be found [here](#).

Referred to Adjudication Panel for Wales

Promotion of equality and respect – Flintshire County Council July 2010 – Case reference 200802503

The Ombudsman investigated a complaint against a member of Flintshire County Council. The complaint alleged that the Councillor breached the Code of Conduct by failing to show respect and consideration for officers of the Council; by using bullying or harassing behaviour; attempting to compromise the impartiality of officers and, in so doing; that he conducted himself in a manner likely to bring the office of member of the Council into disrepute.

The Adjudication Panel found that the Councillor had breached the Council's Codes of Conduct which were in force at the time of the events being complained about. It decided that the Councillor should be disqualified from being or becoming a member of an authority for a period of two and a half years.

The decision of the Adjudication Panel can be found [here](#). The former Councillor has been granted leave to appeal the decision to the High Court.

Integrity – Ceredigion County Council January 2013 – Case reference 201102175

The Ombudsman received a complaint that a former Councillor had failed to observe the Code of Conduct for members of Ceredigion County Council. It was alleged that the Councillor had over-claimed mileage expenses over a period of 11 years.

During his investigation, the Ombudsman took account of the fact that a Council investigation found that the Councillor had over-claimed expenses as a Member and as Chairman of the Council. The Councillor repaid £5100.42 to the Council.

The Ombudsman concluded that the evidence suggested breaches of the Code relating to misusing his position to gain an advantage for himself, failing to follow the Council's requirements when claiming expenses thereby bringing the office into disrepute. His report on the investigation was referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal. The tribunal found that the Councillor had breached the Code and that he should be disqualified, for a period of three months, from being or becoming a member of Ceredigion County Council or any other relevant authority.

The decision of the Adjudication Panel for Wales can be found [here](#).

Integrity – Mumbles Community Council January 2012 – Case reference 201002266

A Councillor alleged that another member of Mumbles Community Council had failed to observe the Code of Conduct. It was alleged that the accused Councillor had brought the office of Councillor and the Council into disrepute by making misleading statements about his assets to an Employment Tribunal.

The Ombudsman concluded that there was evidence to suggest that the Councillor's conduct may have breached the Code. His finding was that his report should be referred to the Monitoring Officer of the City and County of Swansea, for consideration by the Standards Committee.

It found that the Councillor's conduct in relation to misleading statements he had made about his assets amounted to a breach of the Code in that it had brought his office as Councillor and the Council into disrepute. It decided that the Councillor should be suspended from being a member of the Council for a period of 18 weeks.

The Councillor subsequently appealed to the Adjudication Panel for Wales. The Adjudication Panel for Wales unanimously endorsed the decision that the Councillor had breached the Code of Conduct. It also endorsed the decision to suspend him from being a member of the Council for a period of 18 weeks.

The decision of the Adjudication Panel for Wales can be found [here](#).

More Information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to James.Merrifield@ombudsman-wales.org.uk or sent to the following address:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel: 01656 644200
Fax: 01656 641199
e-mail: ask@ombudsman-wales.org.uk (general enquiries)

Follow us on Twitter: @OmbudsmanWales

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

By virtue of paragraph(s) 12, 13 of Part 4 of Schedule 12A of the Local Government Act 1972.

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