

Public Document Pack



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, 4 SEPTEMBER 2020**.

Yours sincerely

G. Williams
Head of Legal, HR and Democratic Services

PLEASE NOTE: DUE TO THE CURRENT RESTRICTIONS ON TRAVEL AND THE REQUIREMENT FOR SOCIAL DISTANCING THIS MEETING WILL NOT BE HELD AT ITS USUAL LOCATION. THIS WILL BE A REMOTE MEETING BY VIDEO CONFERENCE AND NOT OPEN TO THE PUBLIC.

AGENDA

1 APOLOGIES

2 DECLARATION OF INTERESTS (Pages 5 - 6)

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 7 - 12)

To receive the minutes of the Standards Committee meeting held on 06 March 2020 (copy enclosed).

**5 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT
CASEBOOK (Pages 13 - 20)**

To consider a report by the Monitoring Officer (copy enclosed) informing members of the most recent edition of the Ombudsman's Code of Conduct Casebook.

6 ATTENDANCE AT MEETINGS

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

7 STANDARDS COMMITTEE FORWARD WORK PROGRAMME (Pages 21 - 22)

To consider the Standards Committee Forward Work Programme (copy attached).

8 DATE OF NEXT MEETING

The next meeting of the Standards Committee is scheduled for 4 December 2020.

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(s) of business because it is likely that exempt information (as defined in paragraph 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 23 - 28)

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

MEMBERSHIP

Independent Members:

Mr Ian Trigger (Chair), Julia Hughes (Vice-Chair), Anne Mellor and Peter Lamb

Town/Community Council Member
Gordon Hughes

County Councillors
Councillor Paul Penlington
Councillor Andrew Thomas

COPIES TO:

All Councillors for information
Press and Libraries
Town and Community Councils

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Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, (name)

a *member/co-opted member of
(*please delete as appropriate)

Denbighshire County Council

CONFIRM that I have declared a ***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-
(*please delete as appropriate)

Date of Disclosure:

Committee (*please specify*):

Agenda Item No.

Subject Matter:

Nature of Interest:

(See the note below)*

Signed

Date

*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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Public Document Pack Agenda Item 4

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Council Chamber, Russell House, Rhyl, Denbighshire, LL18 3DP on Friday, 6 March 2020 at 10.00 am.

PRESENT

Ian Trigger (Chair), Julia Hughes, Anne Mellor and Peter Lamb.

ALSO PRESENT

Deputy Monitoring Officer, Lisa Jones and Democratic Services Officer, Karen A Evans.

1 APOLOGIES

Apologies were received from The Monitoring Officer, Gary Williams, County Councillors Paul Penlington and Andrew Thomas and Town Councillor Gordon Hughes.

2 DECLARATION OF INTERESTS

None.

3 URGENT MATTERS AS AGREED BY THE CHAIR

There were no urgent items.

4 MINUTES OF THE LAST MEETING

Accuracy:

Page 6, item 5 Public Service Ombudsman for Wales, Code of Conduct Casebook. Remove the word 'not' from the last sentence to correct the rationale for the lack of detail.

Matters arising:

Page 6, item 4 – Special Standards Hearing held in July 2019. Due to capacity issues it had not been possible to produce a report on lessons learned from the hearing. It was suggested that the report be added to the forward work plan for the next Standards Committee meeting on 5 June 2020.

Page 7, item 6 – 2019 report by the Committee on Standards in Public Life. The Committee asked that a report covering the following be added to the forward work programme:

- examples of good practice elsewhere
- review of the Terms of Reference for the Standards Committee (reminder of existing terms to be emailed to members) and

- workload capacity for support of the Standards Committee.

It was also agreed that Independent Members Julia Hughes and Ann Mellor feedback on their experience with Flintshire County Council and Conwy County Council's Standards Committees respectively.

Page 7, item 6 – Meeting choice of language. The Committee asked that the preferred language of Town, Council or Community Council meetings be requested when circulating advice on dispensations, to assist reviewing the timetable of visits.

It was noted how few dispensation requests were received by Denbighshire's Standards Committee – Flintshire received far more. The Committee questioned whether there was a training need and suggested that a follow up email be sent to Town Clerks giving examples of what type of activity would require a dispensation.

RESOLVED that subject to the above that:

- *a report on the Special Standards Hearing Lessons Learned be brought to the next Standards Committee meeting;*
- *a review of the Standards Committee Capacity & Terms of Reference be added to the Standards Committee forward work plan and*
- *the minutes of the Standards Committee meeting held on 13 September 2019 be confirmed as a correct record.*

5 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT CASEBOOK

The Deputy Monitoring Officer (DMO) introduced a report on the Public Services Ombudsman for Wales – Code of Conduct Casebook (previously circulated). The DMO informed the Committee that the Casebook was intended to help members and others in considering whether circumstances that they were experiencing amounted to a breach of the Code. It also provided information about the way the Ombudsman and other standards committees in Wales dealt with cases with respect to sanctions applied.

The summaries highlighted case numbers in Denbighshire:

- 201803272 & 201900045 – Promotion of Equality and Respect – No breach of code of Conduct and
- 201700947 – Promotion of Equality & Respect – Standards Committee found that behaviour was capable of bringing the Council into disrepute and suspended the Member from office for a period of 4 months.

The Chair commented that it was difficult to draw a precedent from such potted histories. Whilst recognising that investigations for the Ombudsman was labour/resource intensive there was a danger that failing to take action would lead to a decrease in complaint submission and subsequent deterioration in local democracy.

The Committee identified the commonality of breach in the categories Equality & Respect and Disclosure of Information. It was suggested that County, Town, City and Community Councils might benefit from another round of Code of Conduct

Roadshows. It was also agreed that case resolution details should be circulated to Clerks of the respective Town, city and Community councils.

RESOLVED that the Committee notes the information contained within the Code of Conduct Casebook.

6 CIVILITY IN PUBLIC LIFE

The Deputy Monitoring Officer (DMO) introduced the report (previously circulated) to inform members of the Committee of the Councillors guide on the Civility in Public Life Campaign and to seek the Committee's views on the draft programme of activities attached as Appendix 3 – particularly the guidance on handling intimidation and keeping oneself safe.

The campaign had three main themes which would serve as the foundations for future action:

1. Prevention - support and guidance for authorities.
2. Support and Intervention- development of policy and legislative proposals that address intimidation and standards of public discourse and
3. Challenge – a Pan UK commitment to call out and challenge instances of intimidation and abuse of politicians.

Responding to the Committee's queries the DMO:

- explained that the Guide for councillors on Handling Intimidation had already been issued. The promotional campaign was about to be launched;
- advised that Elected members were not covered by the employee's Anti-bullying & Harassment Policy;
- confirmed that harassment was more likely to be conveyed by social media nowadays than face to face;
- advised that a not for profit organisation, Fix The Glitch, was being engaged by the LGA to help develop resources for councillors and councils to address intimidation and threats online;
- reassured the Committee that a database on violent persons/dangerous dogs was available to access prior to home visits (The Corporate H&S Team being custodians of the register);
- confirmed that the Monitoring Officer would act as a 'sounding board' for any councillor who would want to make contact and
- The Leader and lead Member for Finance, Performance & Strategic Assets represented the Authority at the Welsh Local Government Association Annual General Meeting.

The Committee discussed the report and commented that:

- There did appear to be an increase in divisive/poor behaviour – particularly on social Media;
- Respect for public office was diminishing;
- Logging of all intimidating events should be encouraged.
- The Councillors guide to handling intimidation should be circulated to all County, City, Community and Town councillors.

- That the Councillors guide to handling intimidation was a valuable resource that:
 - should be available as hard copy as well as electronic and
 - would benefit from a Summary sheet available for portability – e.g. a Keep Safe card for differing scenarios.
- Contrary to advice given on page 56 some acts fell under civil law and did not require proving beyond reasonable doubt.
- The Committee requested a return visit of the report to inform the drafting of a policy for Elected members.

RESOLVED that subject to the above the draft action plan be agreed.

7 ATTENDANCE AT MEETINGS

Independent members Anne Mellor and Peter Lamb had attended a meeting of Denbigh Town Council on 27th January 2020. They reported:

- There was some difficulty navigating Denbigh Town Council's web site to find the meeting start time and agenda.
- The meeting started promptly. There was the Chair, Vice-chair and 9 members present. Also in attendance was a translator.
- They were given a warm welcome and translation headsets.
- Although there were two declarations of interest for item 19 they were not made obvious as to whether they were personal or prejudicial.
- The item on Electronic Book Keeping was moved on quite quickly even though two Councillors questioned the standard practice. The Chair overruled their objections with very little dialogue between them.
- The rest of the agenda ran efficiently.
- They were asked to leave for the last item (item 19) on Denbigh Town Hall which was a Part 2 confidential item.

Overall the meeting was suitably formal, polite and well managed. The Chair was appropriate (if swift) and the Clerk was very knowledgeable on all items on the agenda.

The Independent members felt that it was beneficial to have two members of the Standards Committee in attendance as they both saw different aspects of participation in the meeting.

Independent members Julia Hughes and Anne Mellor had attended a meeting of Cefn Meiriadog Community Council on 25 February 2020 at 7:00pm. It was reported:

- The website was difficult to navigate to find meeting times etc. but the Clerk had been extremely helpful supplying information. The website was in the process of being replaced.
- It was not clear who the Chair was initially as the Clerk covered a number of items.

- There were 6 members plus the Clerk in attendance. Two members arrived late and two apologies were given.
- The declaration of interest statement was read aloud at the start of the meeting. The two late arrivals were not asked but one declared regardless. The member stated what their interest was but did not clarify whether it was a personal or prejudicial interest. The member remained in the room whilst the item of interest was discussed – Urdd Funding Request.
- Sometimes the discussions were concluded without clear actions agreed nor voted upon when required. Although most councillors took an active part.
- The Clerk made a request about his salary and expenses but was not asked to leave the room whilst the subject was discussed.
- The Clerk gave good legal advice with supporting documentation to the committee regarding requests by individuals for funding.
- The Gypsy and Traveller planning application was discussed. The County Councillor explained the planning process and advised that members of the public could attend the Planning Committee.
- The County Councillor was unable to attend the Gypsy & Traveller site meeting, however a member of the Community Council would be in attendance. It was not clear at the end of the discussion if the Chair would attend the site meeting.
- The Chairs and Councillors were well supported by the Clerk throughout the meeting.

Following the feedback reports the Committee suggested that a standard template / tick list of points to note at meetings, relating to Code of Conduct and training requirements, might be a useful tool.

It was noted that Flintshire County Council Partnership Office/Monitoring Officer would write to all their Town and Community Councils highlighting generic advice and feedback on observed meetings. The Deputy Monitoring Officer agreed to liaise with Flintshire County Council to source their feedback template letter.

RESOLVED that the above mentioned points be noted.

8 STANDARDS COMMITTEE FORWARD WORK PROGRAMME

The Deputy Monitoring Officer submitted a report (previously circulated) seeking members' review of the Committee's work programme.

Discussion focused on the following –

- 1) Terms of Reference and workload capacity of Officer support of the Standards Committee.
- 2) Joint Standards Committees.
- 3) Standards Forums for North and Mid-Wales.
- 4) A standard template/form for City, Town, Community Council meetings.
- 5) Additional of the following subjects as standing items to future forward work programmes:
 - a. Monitoring Officer issues.
 - b. Dispensations and

6) Civility in Public Life update.

RESOLVED that, subject to the above inclusions, the forward work programme as detailed in Appendix 1 to the report be approved.

9 DATE OF NEXT MEETING

The next meetings of the Standards Committee were scheduled in conference room 1a, County Hall, Ruthin on:

- 5 June 2020
- 4 September 2020 and
- 4 December 2020.

10 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000

The Deputy Monitoring Officer (DMO) presented a report (previously circulated) providing an overview of complaints lodged with the Public Services Ombudsman for Wales.

The DMO reported on complaints submitted involving councils in Denbighshire, giving outline details of the nature of the complaints made and the actions taken by the Public Services Ombudsman for Wales.

It was agreed to reduce the information provided in Completed Matters sheets to those completed within the last 12 months.

The Committee were informed that their advice to the Town Councillor to avail themselves of the opportunity to undergo Code of Conduct training with the Monitoring Officer had not transpired.

RESOLVED that the Standards Committee notes the contents of the report.



Report to	Standards Committee
Date of meeting	04 September 2020
Lead Member / Officer	Gary Williams, Monitoring Officer
Report author	Gary Williams, 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 Code of Conduct Casebook produced by the Public Services Ombudsman for Wales (the Ombudsman).

2. What is the reason for making this report?

- 2.1. To inform the Committee of the most recent edition of the Ombudsman's Code of Conduct Casebook.

3. What are the Recommendations?

- 3.1. That members of the Committee note the information contained within the Code of Conduct Casebook.

4. Report details

- 4.1. The Ombudsman has since 2013 produced a Code of Conduct Casebook (the Casebook). The Ombudsman had for some time previously produced a casebook relating to the complaints he investigated in respect of alleged maladministration by public bodies. Following calls for a similar approach to be taken with regard to code of conduct complaints, the Ombudsman began publishing the Casebook in 2013.

- 4.2. The Casebook was originally published twice a year, however the Ombudsman decided to produce the casebook on a quarterly basis from April 2015. The

Casebook contains summaries of all of the cases in respect of which the Ombudsman has completed an investigation during the relevant period.

- 4.3. The production of a Casebook is intended to help Members and others in considering whether circumstances that they may be experiencing amount to a breach of the Code. This is an extension of the publication of real life examples in the Ombudsman's Guidance on the Code.
- 4.4. The casebook also assists local authority Standards Committees by giving them access to information about the way in which other Standards Committees in Wales are imposing sanctions and disposing of cases and helps 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.
- 4.5. Appendix 1 to this report contains Issue 23 of the Casebook published in January 2020 covering the period October 2019 to December 2019. Members will note that there are two case summaries in this edition of the casebook, both of which resulted in a finding that there was no action necessary. Both of these cases relate to Councillors in Merthyr Tydfil County Borough Council.
- 4.6. The first of these cases related to a situation where a Councillor who was in arrears of Council Tax on a former property failed to declare the appropriate interest and proceeded to vote on the setting of the rate of Council Tax. The Ombudsman found that the Member should have, as required by s106 Local Government Act 1992, declared that the section applied to him and not participated in the vote. The Ombudsman found that the Member had accepted that he should have declared the appropriate interest and not have voted. The Ombudsman considered that it was not in the public interest to take any further action taking into account the Member's personal circumstances at the time that the arrears had accrued, his relative inexperience, the fact that he had paid off the arrears and apologised.
- 4.7. The second case related to a potential conflict of interest between a member's employment and his acceptance of a cabinet position. The Member concerned had accepted a cabinet position despite the Monitoring Officer advising that there was a conflict of interest. The Ombudsman accepted that the Member had regard to the Monitoring Officer's advice but understood why elements of the matter would have led to the appointment being questioned by others. The

Ombudsman found that there was no further action necessary in the public interest due to the Member having resigned from his employment. The Member was reminded of the need to seek the Monitoring Officer's advice in future given the potential for conflicts of interest to arise.

- 4.8. There were no cases that found no evidence of a breach, and no cases that were referred either to a Standards Committee or to an Adjudication Panel for Wales during the period covered by this edition of the Casebook.

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

- 5.1. The report has no direct impact on the corporate priorities.

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

- 6.1. There are no costs directly associated with the report.

7. What are the main conclusions of the Well-being Impact Assessment?

- 7.1. This report does not require an 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.

9. Chief Finance Officer Statement

- 9.1. There are no direct financial consequences as a result of this report.

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

- 10.1. There are no risks directly associated with this report

11. Power to make the decision

- 11.1. There is no decision required.

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The Code of Conduct **Casebook**

Issue 23 January 2020

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 defense 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 summaries of reports issued by this office for which the findings were one of the four set out above. However, 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. This edition covers October to December 2019.

The Code of Conduct **Casebook**

Issue 23 January 2020



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No evidence of breach	3
No action necessary	3
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Case summaries

No evidence of breach

There are no summaries in relation to this finding.

No action necessary

[Merthyr Tydfil County Borough Council – Duty to uphold the law](#)

Case Number: 201805269 - Report issued in December 2019

The Ombudsman received a complaint that a Member ("the Member") of Merthyr Tydfil County Borough Council ("the Council") had breached the Code of Conduct by voting on the setting of the rate of council tax at a meeting of Full Council in March 2018 when he was in arrears of council tax for a former home. It is an offence under s106 of the Local Government Finance Act 1992 for a member to vote on setting the rate of council tax when they are themselves in arrears.

The relevant parts of the Code in this case are paragraphs 6(1)(a) relating to bring the authority into disrepute and paragraphs 10(1), 11(1) and 14(1)(a), (b) and (c) about the actions a member should take if they have a personal and prejudicial interest in a matter the authority is considering.

The Ombudsman obtained relevant documentary evidence, including copies of the council tax records for the property involved. He also viewed the webcast for the meeting of Full Council and interviewed the Council's Monitoring Officer and the Member.

The Ombudsman considered that the evidence suggested that the Member had breached the Code as he accepted that he had not declared an interest and had voted on setting the council tax rate. The Member also accepted that at the time of that meeting he was in arrears of council tax for the former property. However, the Ombudsman decided that it would not be in the public interest to pursue the matter given the significant mitigating circumstances in this particular case. These included the personal circumstances that had led to the Member incurring the original debt and the fact that the member was inexperienced. He had apologised, paid off the arrears and said that it would not happen again. In view of the mitigating circumstances, the Ombudsman concluded that no further action needed to be taken

[Merthyr Tydfil County Borough Council – Disclosure and registration of interests](#)

Case Number: 201807334 – Report issued in December 2019

The Ombudsman received a complaint that a Member ("the Member") of Merthyr Tydfil County Borough Council ("the Council") had breached the Code of Conduct. It was alleged that, contrary to the Monitoring Officer's advice that a conflict of interest existed, the Member accepted a specific cabinet position. It was also alleged that the Member had failed to declare an interest in such matters.

During the investigation, information was sought on the Monitoring Officer's advice, and the Member was interviewed. The Member explained that he had considered the advice of the Monitoring Officer and was confident that an appropriate strategy had been formulated to manage and mitigate any potential conflicts of interest. The Member said that he and the Leader of the Council had undertaken research to identify where similar scenarios had occurred in other councils and the impact it had on those authorities. The Member also produced evidence of declarations of interest that he had made.

Although the Ombudsman was satisfied that the Member had regard to the Monitoring Officer's advice, the lack of transparency in relation to aspects of the appointment (including the timing of

the Member's resignation from employment which would have conflicted with the appointment) was of concern and caused others to reasonably question the appointment. As the Member had eventually resigned from his former employment and taken up his role the Ombudsman found that it was not in the public interest to pursue the matter further and found that no further action needed to be taken. Given the potential for a conflict of interest to arise, the Member was reminded of the need to seek advice from the Monitoring Officer in future matters.

Referred to Standards Committee

There are no summaries in relation to this finding.

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding.

STANDARDS COMMITTEE FORWARD WORK PROGRAMME

DATE OF MEETING	REPORT ITEMS / AREAS	REPORT AUTHOR
04 Dec 2020	Standing Item: Attendance at Meetings	N/A
	Standing Item: PSOW Code of Conduct Casebook	Gary Williams (Monitoring Officer)
	Standing Item: Standards Committee Forward Work Programme	Gary Williams (Monitoring Officer)
	Standing Part 2 Item: Overview of Complaints in Denbighshire	Gary Williams (Monitoring Officer)
	Special Standards Committee Hearing – Lessons Learned	Gary Williams (Monitoring Officer)
	Terms of Reference and Capacity of Standards Committee review	Gary Williams (Monitoring Officer)

Updated 27/08/2020 SJ

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Agenda Item 9

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

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