

# 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, 17 SEPTEMBER 2021 VIA VIDEO CONFERENCE.**

Yours sincerely

G. Williams  
Head of Legal, HR 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** (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 - 14)**

To receive the minutes of the Standards Committee meeting held on 5 March 2021 (copy enclosed).

## 5 ATTENDANCE AT MEETINGS

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

**6 PROTOCOL ON MEMBER/OFFICER RELATIONS** (Pages 15 - 24)

To receive a report by the Monitoring Officer on the Protocol on Member/Officer Relations (the Protocol) that forms part of the Council's Constitution (copy attached).

**7 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT CASEBOOK** (Pages 25 - 38)

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.

**8 STANDARDS COMMITTEE FORWARD WORK PROGRAMME** (Pages 39 - 40)

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

**9 DATE OF NEXT MEETING**

The next meeting of the Standards Committee is scheduled for 3 December 2021 at 10.00 a.m.

**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.

**10 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000** (Pages 41 - 54)

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

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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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# Agenda Item 4

## STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Via video conference on Friday, 5 March 2021 at 10.00 am.

### PRESENT

Ian Trigger (Chair), Julia Hughes (Vice-Chair) and Peter Lamb together with Councillors Paul Penlington, Andrew Thomas and Gordon Hughes

**Observers** - Councillor Ann Davies, Councillor Meirick Lloyd Davies, Councillor Brian Jones, Councillor Christine Marston, Councillor Arwel Roberts and Councillor Tony Thomas.

### ALSO PRESENT

Monitoring officer (GW), Democratic Services Manager (SP) and Committee Administrator (SJ)

#### 1 APOLOGIES

Apologies were received from independent member Anne Mellor.

#### 2 DECLARATION OF INTERESTS

Councillor Paul Penlington declared a personal interest in Agenda item 12 as reference to historical complaints were included.

Councillor Ann Davies an observer at the meeting declared a prejudicial interest in Agenda item 12 with reference to ongoing investigations.

Independent member Julia Hughes reminded members that she represented Standards Committee on Flintshire County Council and the North Wales Fire and Rescue Standards Committee.

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

There were no urgent items.

#### 4 MINUTES OF THE LAST MEETING

The minutes of the Standards Committee meeting held on 04 December 2020 were submitted.

Matters arising:

Members asked the Monitoring Officer if the Code of Conduct Casebook had been made available. The Monitoring officer confirmed the update to the Casebook had still not been published.

***RESOLVED that the minutes of the Standards Committee meeting held on 4 December 2020 be confirmed as a correct record.***

## **5 ATTENDANCE AT MEETINGS**

The Chair stated that due to the current Covid-19 pandemic no physical attendance at meetings had taken place since the last Standards committee meeting. It was noted that meetings had resumed via online platforms to conduct any business.

The Chair explained that Independent member Anne Mellor had attended a meeting of the Rhuddlan Town Council and produced feedback for the committee to discuss. As Anne Mellor had been unable to attend the meeting the Monitoring Officer(MO) introduced the statement provided.

It stated,

Prior to the meeting I (Anne Mellor) reviewed the website and found it to be easy to use and navigate and it provided the contact details of the clerk. I had been sent a copy of the agenda and the meeting invitation for the meeting on the 14<sup>th</sup> January 2021. My opinion had been that the meeting was productive and had very good discussion and input from all present.

Independent Member Julia Hughes asked the MO if she could be invited to the next Cabinet and Council meeting.

The MO confirmed that the meetings of Cabinet and Full Council would be webcast for Public viewing. An invite to attend remotely would only have to be issued if the agenda contained confidential Part 2 documents as that part of the meeting was not broadcast. Members of the Standards Committee are entitled to observe the restricted part of a meeting. If members wished to attend a meeting that included Part 2 items, a request to Steve Price should be made.

Councillor Ann Davies thanked Anne Mellor for attending the Rhuddlan Town Council meeting. The thoughts were echoed by Councillor Arwel Roberts who stated the Town Council worked well and it was pleasing to hear the observations of the Standards member following the meeting.

The MO stated that Standards Members attended City, Town and Community Councils to observe the proceedings and report any findings back to Standards committee. It was deemed a verbal report would be acceptable. If observations from attendance raised any concerns, the committee could instruct the MO to support and assist the council if required.

The Chair stated he had previously attended the training provided by the MO, it had been well run and very informative.

The Chair thanked members for the discussion, it was therefor  
***RESOLVED that the above observations and discussion be noted.***

## **6 DRAFT REVISED GUIDANCE ON THE CODE OF CONDUCT**

The Monitoring Officer (MO) guided members through the report. The two versions of the guidance had been produced for: 1- members of principal Council, Fire and Rescue Authority and National Parks, 2- Members of Town, City and Community Councils.

The current Code of Conduct guidance from the ombudsman had last been revised in 2016. The Ombudsman had sought to do a refresh and consultation for its publication prior to the local elections in 2022.

The Ombudsman had released the documents included in the papers and asked for views from members. The content of the revised guidance covered a number of similar aspects with no changes made to certain elements of the current document. The Monitoring Officer guided members through some of the changes that had been noted.

- The Code had been produced to help and guide members in maintain appropriate standards of Code of Conduct when carrying out duties.
- Emphasis for members to attend training when provided had been highlighted.
- Further explanation on the Standards Committee had been included.
- The introduction of interim reports that can be presented to the President of the Adjudication Panel for Wales. From which an interim case tribunal could take place and interim outcomes pending the outcome of the investigation and the hearing.

The Chair thanked the MO for the briefing of the changes. He stated the use of social media had been observed, in his opinion the dangers of social media should be emphasised more within the report.

Julia Hughes stated the guidance paper had been an accessible read and the use of appropriate examples to aid understanding was a good introduction. It was pleasing to note that the training section had been included in the guidance. The updated document was welcomed.

The MO offered clarity on the role related to elected members on Town, City and Community Councils and County Council and their conduct when they represented the authority. In respect to school governors who was not an elected member would not be covered under the proposed revised guidance document. If an elected member sat on a school governing body, in that role they are seen as a representative of the Council and the Code of Conduct would apply to them.

The MO confirmed that the majority of complaints received are dissolved and investigated by the Ombudsman due to a number of reasons. Within the guidance an expression of dismay from the Ombudsman on complaints made for political purposes was made. Confirmation that robust testing was adopted when investigating complaints and assessing if a complaint ought to be investigated. It was compulsory for City, Town and Community Council's to comply with the Code of Conduct.

Lay Member Peter Lamb raised the following points;

- The title on the first page should include 'guidance' in the title,

- The document referred to ‘reassurance to the public’ it was not clear what reassurance it provided,
- The word harm had been used on page 23 of the agenda pack, Mr Lamb questioned if it was the most appropriate word to use,
- The inclusion of the monetary value of £1000 in regard to use of mobile phone. It was suggested it might be best to leave out the monetary amount.

The MO thanked the Lay Member for his thoughts. In response to the points raised the MO confirmed he agreed with the point of including the word guidance within the title and would pass on the inclusion to the Ombudsman. In response to the other points raised the reassurance to the public was to emphasise the existence of the Code of Conduct provided comfort that a procedure was in place for elected members to adhere to.

The use of the word harm had been included in the broad sense to include all aspects of harm including physical harm, emotional harm, economic harm, career harm or reputational harm. It was the MO understanding the word had been used to cover all these aspects.

The comment on the monetary value of mobile phone use, would be related back to the team for consideration.

Following the discussion, the MO noted the following;

- The guidance was accessible enhanced document
- Pleased to note the emphasis on training
- The inclusion of the importance of seeking advice from the MO in any doubt
- More emphasis on the concerns around the use of social media
- To include ‘guidance’ on the title page
- To expand or re-examine the use of the word harm
- The monetary amount included may be worth considering omitting from the notes.

The MO confirmed the main points of the City, Town and Communities guidance had remained the same.

Members,

***RESOLVED*** *that the committee note the contents of the report and comment as noted above with considerations to the draft guidance.*

At this juncture (11.40 a.m.) the meeting adjourned for a 10 minute refreshment break.

The meeting reconvened at 11.50 a.m.

## 8 STANDARDS COMMITTEE TERMS OF REFERENCE

The Monitoring Officer (MO) presented the report (previously circulated), following the request to review the terms of reference from members.

The MO stated the reference to school governors within the terms of reference was directed to dispensations to Councillors, Co-opted members and Church and parent

governor representatives are the individuals who are co-opted onto Scrutiny committees. It was confirmed the Law required the authority to have Church and Education representatives who are invited to attend Scrutiny meetings when considering matters of education. They are formally co-opted members of the authority.

The MO had compared the terms of reference held by Denbighshire's Standards committee to the terms held at the other North Wales authorities and also elements of other Welsh authorities as a point of reference.

The main functions of the Standards committee had been replicated in other terms of reference as they are a function of the Standards committee regulations. One difference to note had been had been Flintshire County Council and Wrexham include the annual Whistleblowing regime as a function of the Standards committee. It was confirmed within DCC constitution the report was presented to Corporate Governance and Audit committee annually. Another report noted of difference had been a report on indemnities requests. The role currently lay with Corporate Governance and Audit Committee.

Within Flintshire County Council terms of reference, they included a report on the planning code of conduct and council's constitution in so far they relate to issues concerning members which were to be reported to Cabinet.

In response to members concerns the MO expanded on the following:

- The Standards committee had a responsibility to report annually to County Council any findings of breaches of the Members Code of Conduct by the Public Services Ombudsman for Wales.
- In the opinion of the MO it was logical for the Corporate Governance and Audit committee to receive the whistleblowing policy. As both the MO and Chief internal auditor attend each meeting.
- The MO informed members, attendance at meetings was very good. No reverence to the Standard Committee had been required.
- The MO was happy to trial a pre-meeting for any training or upskilling members before each meeting if members felt would be beneficial. The MO stated he would contact the MO in Flintshire for guidance on what they had included in some briefings.
- The MO stated he could present a report on the member/ officer protocol and an employee's code of conduct for member's reference.
- A reminder email could be distributed to all clerks about dispensations.

The Chair thanked the MO for the report and comparison information, members

***RESOLVED,***

- *The MO suggest that the Standards Committee offer to receive the Whistleblowing annual review from Corporate Governance and Audit committee.*
- *The MO present reports on the Member/ Officer protocol and the employee's code of conduct.*
- *The MO approach the MO in Flintshire about pre-meeting briefings.*
- *An email be sent to Community Clerks reminding them of the dispensation process.*

## **9 DRAFT ANNUAL REPORT OF STANDARDS COMMITTEE**

The Chair introduced the draft report of Standards Committee to be debated and presented to the County Council. It was explained that it had been 2 years since a report was presented to County Council on behalf of the Committee.

The report would be reported by the Chair to Full Council in the May County Council meeting.

The Chair noted that within point 4.6 a slight amendment was needed as a four-month suspension not three months as stated had been issued. The Monitoring Officer (MO) stated he would amend as noted.

Members requested that the Chair or Vice Chair attend the North Wales Standards Forum and its purpose. Promoting news to be shared and collaboration between authorities

Within the report members wanted to illustrate the work the Standards Committee do and the reasons why. Members suggested it may be beneficial to include some information on the length of term for Lay members.

Lay Member Peter Lamb suggested the one dispensation request that had been heard by the Committee could be included to highlight the concern that only one had been presented to members.

The MO suggested a paragraph explaining the dispensation facility exists and the importance of it. It was hoped from that members would remind members of Community Councils that the facility was available. The MO stated he would write to clerks of the committees to provide further information.

Julia Hughes suggested that under 4.5 C the Code of Conduct Case book further explanation of the role of Standards Committee be made. The MO agreed this could be expanded.

A section on the forward working of the Standards and the implications of the new Act be added along with a section that the Standards Committee will have an overview on the training schedule for the members post the election 2022.

The MO stated he would note the comments from members and amend the draft report as suggested and send to the Chair and members.

***RESOLVED that members comment on the Draft Standards Committee report and agree the Chair to present the report at the County Council meeting.***

***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.***

## **12 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000**

Councillor Paul Penlington declared a personal interest in this agenda item due to historical complaints.

Councillor Ann Davies an observer at the meeting declared a prejudicial interest and left the meeting.

The Monitoring Officer (MO) presented the confidential report (previously circulated) to provide Members with an overview of complaints lodged with the Public Services Ombudsman for Wales since 1st January 2018.

The MO reported on the ongoing complaints submitted, giving outline details of the nature of the complaints made and the actions taken by the Public Services Ombudsman for Wales. It was stated at present 4 complaints had ongoing investigations.

The MO stated that he could expand on the information including timescales provided in the report to help members illustrate any themes from complaints received.

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

**The meeting concluded at 13:00 p.m**

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<b>Report to</b>	<b>Standards Committee</b>
<b>Date of meeting</b>	<b>17 September 2021</b>
<b>Lead Member / Officer</b>	<b>Gary Williams, Monitoring Officer</b>
<b>Report author</b>	<b>Gary Williams, Monitoring Officer</b>
<b>Title</b>	<b>Protocol on Member/Officer Relations</b>

## 1. What is the report about?

- 1.1. The report is about the Protocol on Member/Officer Relations (the Protocol) which forms part of the Council's Constitution and is attached as Appendix 1 to this report.

## 2. What is the reason for making this report?

- 2.1. To inform the Committee of the content of the Protocol.

## 3. What are the Recommendations?

- 3.1. That members of the Committee note and provide any suggestions for improvement in the content of the Protocol.

## 4. Report details

- 4.1. The Code of Conduct for Elected Members requires that councillors should treat everyone, including officers of the authority, with respect and consideration and that they should not bully or harass any person. The Code of Conduct for Employees, which is the subject of a separate report, requires officers of the authority to act with political neutrality, serving all councillors in an atmosphere of mutual trust and respect.
- 4.2. The Protocol is designed to set out in more detail how the relationship between members and officers should work and to help members and officers to understand their respective roles and the framework within which they are conducted.
- 4.3. The Protocol seeks to set out what it is that members and officers can reasonably expect from each other in terms of support and respect for their respective roles. The Protocol seeks to give guidance that guards against a closeness of relationship that would become inappropriate or give the impression that officers' advice was not impartial.

- 4.4. The content of the Protocol includes guidance as to the access to be given to Councillors to information and documents and the requirement to keep local members updated about significant matters affecting their wards.
- 4.5. The Protocol also contains guidance on the provision of advice to political groups, the attendance of officers at meetings not organised by the Council and the manner in which correspondence should be conducted.
- 4.6. If any member is concerned that an officer may be in breach of the terms of the Protocol, then they should raise the matter with the relevant head of service to try and resolve the issue. This has the potential to lead to disciplinary action in appropriate cases. Similarly, if an officer raises a concern that a member has breached the terms of the Protocol, they are able to raise it with their head of service who may seek to resolve the issue with the relevant member. In more serious cases the officer may wish to refer the matter through the Council's local resolution process or make a complaint to the Ombudsman if the conduct complained of is considered to be a breach of the Code of Conduct.
- 4.7. The Committee's comments are invited as to the content of the Protocol and any suggestions for improvements to it.

**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.

## **18.3 PROTOCOL FOR MEMBER / OFFICER RELATIONS**

### **1. Introduction**

**1.1.** The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another and to promote the high standards in public office which are essential for successful local government.

**1.2.** This protocol seeks to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

**1.3.** This protocol seeks to promote greater clarity and certainty. If it is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and undue influence.

### **2. Principles**

**2.1** This Protocol is based on the following principles: -

- An understanding by both Members and Officers of the requirements of each other's functions.
- Mutual respect for each other's time and priorities.
- Courtesy and sensitivity at all times.
- Honesty and integrity in all dealings to foster co-operation and trust.
- Professional and cordial relationships avoiding over familiarity

**2.2** It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes therefore demand very high standards of personal conduct.

**2.3** The Council's Code of Conduct for Members states at paragraph 4: -

**'You must –**

- a)** carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion.
- b)** show respect and consideration for others
- c)** not use bullying behaviour or harass any person, and
- d)** not do anything which compromises or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority'.

**2.4** The statutory Code of Conduct for Officers which is incorporated in their conditions of employment, states: -

'Mutual respect between qualifying employees and members is essential to good local government and working relationships should be kept on a professional basis'. 'Qualifying employees of relevant

authorities should deal with the public, members and other employees sympathetically, efficiently and without bias'.

### **3. Roles and Responsibilities**

**3.1** Local authority Officers are employed by and are responsible to the Council as a whole. They owe a duty to each and every Member and not to a political group, even if it is in a majority. They also have a wider duty to the public as a whole.

**3.2** In carrying out their duties, Officers have the right to expect from Members:

- Respect for officer neutrality
- Respect for their person
- An understanding of their roles and workloads when making requests for assistance
- Reasonable standards of courtesy
- Respect for confidential advice and guidance.

**3.3** Members undertake many different roles. Broadly these are:

- Members are involved in scrutinising decisions and holding decision makers to account on behalf of their communities.
- Members represent their electoral division and are advocates for the citizens who live in the area.
- Members are involved in active partnerships with other organisations as community leaders.
- Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- Members help develop and review policy and strategy.
- Members monitor and review policy implementation and service quality.
- Members are involved in quasi-judicial work through their Membership of regulatory committees.
- Members express political values and support the policies of the party or group to which they belong (if any).

**3.4** In carrying out their duties Members will be supported by Officers and have the right to expect from them:

- Full, impartial advice and information.
- Accurate, well written advice in concise and easily understood formats and language to enable decisions to be taken, the decision maker(s) to be held to account and information be provided to advise individual people with enquiries, problems or grievances.
- For the above to be provided in the Member's preferred language of communication.
- Respect for their person.

- Respect for the confidential nature of information and views.

#### **4. The Relationship**

**4.1** Mutual respect is essential to good local government. Officers and Members should have good working relationships, whilst being aware that close personal relationships can damage this relationship and prove embarrassing for other Officers and Members.

**4.2** Members should not put officers under inappropriate pressure to act in accordance with the Member's wishes.

**4.3** Officers must at all times feel free to offer professional opinion and advice which may be contrary to the opinion of the Member.

**4.4** It is not acceptable for a Member to bully or harass an Officer. Any action against an Officer would be considered as bullying or harassing if the intention was to improperly or unfairly influence the Officer's opinion or actions.

**4.5** It is not appropriate for Members to raise matters relating to conduct and capability of any Officer publicly in a meeting, the press, or by other means e.g. e-mail or internet. Members should use the Council's internal procedures to resolve such issues. For the avoidance of doubt Members who are unable to resolve differences in an appropriate manner with the Officer concerned should raise the matter with the Officer's Head of Service or Corporate Director. If the Member remains dissatisfied with the response received the Chief Executive should be advised.

**4.6** Other than when carrying out statutory functions in respect of Members' conduct, Officers should not raise matters publicly relating to the conduct or capability of any Member either at a meeting, in the press or by other means e.g. e-mail, internet or social media.

**4.7** 'Publicly' includes in this context e-mailing large groups of people on the Council's internal e-mail system e.g. all Councillors.

#### **5 Relationships between Officers, Chairs and Cabinet Members**

**5.1** It is clearly important that there should be a close working relationship between Cabinet Members and the Director, Head of Service, any other senior officers of those services which fall under a Cabinet Member's portfolio. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members or political groups.

**5.2** Whilst the Chair of a committee or Lead Member will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in certain circumstances the Chief Executive, Corporate Director or Head of Service will be under a duty to submit a report on a particular matter.

**5.3** Whist it is the duty of officers to assist the Cabinet in the delivery of its responsibilities it is necessary for the Leader and Cabinet to observe the independence of the management function of the authority from the decision making function.

**5.4** Whilst Officers should always seek to assist any Member in discharging their responsibilities, the Officer must not in doing so, go beyond the bounds of whatever authority they have been given by their Head of Service.

**5.5** A Corporate Director, Head of Service or Lead Member will always be fully responsible for the contents of any report submitted in his/her name. Officers writing reports on behalf of Lead Members will always consult the Lead Member on the content of the report.

## **6 Officer advice to political groups**

**6.1** Directors or Heads of Service may properly be called upon to advise the chairs or spokespersons of political groups, but they should attend group meetings only in exceptional circumstances and in such a case the other political groups should be informed of the advice given.

**6.2** Certain points must be clearly understood by all those participating in this type of process, Members and Officers alike. In particular: -

- Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political group business;
- political group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- similarly, where Officers provide information and advice to the chair or spokesperson of a political group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to Members when the matter in question is considered by a decision making body.

**6.3** Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Chief Executive who will discuss them with the relevant Group Leaders.

## **7 Officer attendance at meetings not organised by the Council**

**7.1** Officers will advise formal meetings of the Council, informal meetings of Members of the Council, and other meetings organised by or on behalf of the Council.

**7.2** In no circumstances should Officers be attending public meetings of a political nature organised by politicians external to the Council in order to represent the political view or programme of the Council.

**7.3** Where any Officer or Member receives an invitation for the Council to be represented at a public meeting organised other than by the Council, they should refer that invitation to the Cabinet Support Staff who will liaise with the Leader as to the most appropriate Member representation.

**7.4** The Leader will determine whether or not the meeting is one at which the Council should be represented, and if so, which Member or Members of the Cabinet should attend.

**7.5** If no Cabinet Member is available to attend, then the Leader will determine whether to request that the meeting be rearranged or whether the organiser should be informed that no Member is available to attend.

**7.6** A Cabinet Member may require briefing and support to fulfil their role in attending such a meeting. Officers will provide advice and assistance to the Member in preparing for attendance at such a meeting.

**7.7** At some events, it will be appropriate for the Member to be accompanied by a suitably Senior Officer, such as a Corporate Director or Head of Service. At other events, it will be sufficient for other staff to accompany them.

**7.8** The relevant Head of Service/Director should be consulted by the Leader as to whether attendance by an Officer is necessary and should advise the Leader which (if any) Officer will be present.

**7.9** The foregoing provisions do not prevent appropriate Officers attending meetings of City, Town and Community Councils in accordance with the provisions of the Charter between those Councils and the County Council. Any Officer attending such a meeting should liaise with the relevant Lead Member.

## **8 Support services to Members and political groups.**

**8.1** The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore be used only on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **9 Members in their Ward Role and Officers**

**9.1** The Council accepts that Members need to be aware of significant developments within their local electoral divisions if they are to be effective in their roles as spokespersons on behalf of their local communities.

**9.2** In consequence, Senior Officers as well as the Leader, Portfolio Holders, and Chairs and Vice Chairs are expected to notify local Members of significant matters that are not the subject of a report to Council, Cabinet or Committee, but which relate specifically to the local Member's electoral division or which may have a material impact in the area of which the electoral division forms a part.

**9.3** 'Significant matters' include matters or items that are of concern to the general public and local electoral division member(s).

**9.4** In particular, the local Member(s) should, where appropriate, be invited to relevant meetings. If local Members do not attend such meeting for whatever reason, they should be advised by the convenor of the meeting (provided the meeting is convened by the Council or its officers) of any significant outcome. Similarly, local Members will also be informed of significant matters raised by the Town or Community Council within their area.

**9.5** Whenever the Council undertakes any form of consultation exercise on a local issue, the ward Members should be notified at the outset of the exercise.

**9.6** Before Officers exercise delegated powers under the Scheme of Delegation they shall consider whether their decision is likely to have a significant impact upon the Council's profile or have significant financial implications, if it is there will be a presumption in favour of referring the matter to Members.

**9.7** In any event when exercising delegated powers Officers will, where appropriate, keep the Cabinet fully informed, in particular the relevant Portfolio Holder, have regard to any comments

from the relevant Scrutiny Committee and ensure that they consult with/inform the local Member in advance.

**9.8** The Council has developed a Member Events Calendar which is accessible by all Members. An ‘event’ is an activity undertaken by the Council which is visible to members of the public, and may have an effect on them and/or their daily lives. Officers must ensure that the Calendar is populated with relevant information. Members must take responsibility to inform themselves of activity taking place within their areas by reference to the Calendar.

## **10 Members' access to information and buildings**

**10.1** Members can approach any department to request any information, explanation and advice as they may reasonably need to assist them in discharging their role as Members. A request for information may be made on behalf of a constituent, but any request for personal information should be authorised in writing by that constituent. Approaches should normally be directed to the Head of Service or another Senior Officer of the service.

**10.2** A Member should always contact beforehand any Officer that he/she wishes to see. This will ensure that the Officer is available and prepared to answer the Member’s questions in order to make the most effective use of the meeting.

**10.3** A Member should always call at reception and ask for the Officer. This is a matter of personal safety as it is essential in case of fire that the name of everyone in the building is known.

**10.4** Officers should always ensure that, bearing in mind the reasonable calls of their other duties, they respond to a reasonable request for information relevant to a member’s work or a request for a meeting.

**10.5** Contact between Members and Officers should only take place at agreed offices or other meeting locations. Members and Officers should not arrange meetings at their respective homes.

**10.6** Telephone contact between Members and Officers should be restricted to normal office hours. Only exceptionally should Members and Officers contact each other outside these times and such contact should be restricted to Directors and Heads of Service.

**10.7** Members are entitled to have access to the Council Chamber, Committee rooms and all other public areas of the Council’s buildings.

**10.8** Members who are not in pursuit of their duties as a Councillors have the same rights of access to Council buildings and premises as any other member of the public.

**10.9** A Member has the right to enter “staff only” areas only with the express authorisation of the relevant Corporate Director or Head of Service.

## **11 Members' rights to inspect Council documents.**

**11.1** In addition to their rights under the Freedom of Information Act 2000, Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the Member is a member of the committee or subcommittee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This statutory right does not extend to information falling within paragraphs 12 to 18, 23, 24, and 26 of Part 4 of Schedule 12A of the Local Government Act 1972. However, the common law right (see below) could override this restriction in certain cases.

**11.2** The common law right of Members is much broader and is based on the principle that any Member has a *prima facie* right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.

**11.3** The exercise of this common law right depends upon the Member’s ability to demonstrate that he/she has the necessary “need to know”. In this respect a Member has no right to “a roving commission” to examine documents of the Council. Mere curiosity is not sufficient. Contents of personal files e.g. social service assessments, adoption and child protection papers, SEN statements, personnel files will definitely not be available for access under a right to know except in limited cases e.g. the 372 Member who sits on adoption and fostering panel. If a Member’s motive for seeing documents is indirect, improper or ulterior access will be refused. The crucial question is the determination of the “need to know”. This question must initially be determined by the particular Head of Service whose department holds the document in question (with advice from the Head of Legal, HR and Democratic Services). In the event of a dispute, the question falls to be determined by the Head of Legal, HR and Democratic Services and on appeal to the Chief Executive.

**11.4** In some circumstances (e.g. a cabinet or committee member wishing to inspect documents relating to the functions of that committee) a Member’s “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms and in the light of data protection legislation.

**11.5** Further and more detailed advice regarding Members’ rights to inspect Council documents may be obtained from the Head of Legal, HR and Democratic Services.

**11.6** Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member’s duties as a Member of the Council. The Council’s Code of Conduct for Members states at paragraph 5: -

**‘You must not:**

**(a)** disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so’.

**12 Correspondence, including e-mail.**

**12.1** Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member.

**12.2** This restriction will not normally apply to Cabinet matters where the Cabinet as a whole will need to be informed of matters which will be of concern to all or several Cabinet Members.

**12.3** Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of ‘silent copies’ should not be employed.

**12.4** E-mail should not be used by Officers or Members in such a way that it may be regarded as intimidating or exerting influence e.g. a Member copying to all Members a critical e-mail addressed to an Officer before that Officer has had the opportunity to respond.

**12.5** Official letters on behalf of the Council should be sent out either in the name of the appropriate portfolio holder or in the name of the appropriate Officer.

**12.6** Lead Members will be advised by their Senior Officers as to when a response from themselves rather than an Officer is the more appropriate.

**12.7** Letters which create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

### **13 Press releases**

**13.1** From time to time Members will be called upon to provide comments for the press relating to the work of the Council.

**13.2** No remark will be attributed to a Member who has not first cleared that remark.

### **14 Breaches of the Protocol.**

**14.1** Breaches of this protocol may lead to disciplinary action in the case of Officers or, in the case of Members, an allegation to the Ombudsman that they have breached the Code of Conduct, or reference to the Council's Standards Committee.

**14.2** If a Member should be dissatisfied with the conduct of an Officer, he/she should in the first place discuss the matter with the relevant Head of Service in order to try to resolve the matter. The Council's disciplinary procedures will not necessarily be relevant and/or appropriate in all circumstances but the relevant Head of Service will resort to these procedures in appropriate cases. When dealing with a matter the Head of Service could, depending on the circumstances, consult with the Chief Executive, the Monitoring Officer, the Chairman of the Council or the leader of the relevant political group.

**14.3** Similarly, if an Officer is dissatisfied with the conduct of a Member he/she should also raise the matter with his/her Head of Service in order to try to resolve the matter with the Member without the need to resort to the formal procedures that could lead to the Standards Committee.

**14.4** Should the Officer continue to be dissatisfied, he/she can refer his complaint to the procedure adopted by the Council for the local resolution of complaints about Members and this ultimately could lead to reprimand by the Standards Committee. However, this does not supersede the Officer's right, as any other individual, to make an official complaint that a Member has breached the code of conduct to the Public Services Ombudsman for Wales.



<b>Report to</b>	<b>Standards Committee</b>
<b>Date of meeting</b>	<b>17 September 2021</b>
<b>Lead Member / Officer</b>	<b>Gary Williams, Monitoring Officer</b>
<b>Report author</b>	<b>Gary Williams, Monitoring Officer</b>
<b>Title</b>	<b>Public Services Ombudsman for Wales – Code of Conduct Casebook</b>

## 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. The latest issue of the casebook covers the entire calendar year of 2020.
- 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 24 of the Casebook published in April 2021 covering the period January 2020 to December 2020. Members will note that there are thirteen case summaries in this edition of the casebook, ten of which resulted in a finding that no action was necessary, two of which were referred to a Standards Committee, and one that was referred to the Adjudication Panel for Wales.
- 4.6. Of the cases in which no action was considered necessary, seven related to issues of equality and respect, two to the duty to uphold the law and one in respect of the disclosure of interests. Members will see that in each of these cases, the Ombudsman's office conducted an investigation and concluded for a variety of reasons that it was not in the public interest to take any further action against those against whom complaints were made.
- 4.7. Of the cases referred to a Standards Committee, one related to a member of Denbighshire County Council. The Committee has conducted a hearing into this matter, the outcome of which is the subject of an appeal. The other case referred to a Standards Committee involved a member of a community council in South Wales who was alleged to have misused a debit card belonging to that community council. The member had resigned from their position and been investigated by the Police. The matter was referred to the relevant standards committee on the basis that the member's actions amounted to a breach of paragraph 7 of the Code and could be considered to have brought the community council into disrepute.
- 4.8. The one case that was referred to the Adjudication Panel for Wales involved a Councillor from Sully and Lavernock Community Council in the Vale of Glamorgan. The Councillor concerned was alleged to have made a series of social media posts about high profile female politicians that were gratuitously offensive and could be considered to bring the Council into disrepute. The comments were considered to be such that they went beyond political expression and that the imposition of a sanction would be a proportionate interference with the Councillor's right to freedom of expression. The Adjudication Panel for Wales disqualified the Councillor from holding office for a period of 15 months.

**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 24 / April 2021

## Introduction

The Public Services Ombudsman for Wales considers complaints that members of relevant authorities in Wales have breached 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 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 January to December 2020.



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## Case summaries

### No evidence of breach

There are no summaries in relation to this finding.

### No action necessary

#### **Wrexham County Borough Council – Duty to uphold the law** **Case Number: 201804590 – Report issued in January 2020**

The Ombudsman received a complaint about a Member of Wrexham Council. It was alleged that the Members' conduct and behaviour had brought the Council into disrepute in breach of the Code of Conduct. The Ombudsman investigated the matters complained about. Information was provided by relevant parties including the Council. After careful consideration of the evidence obtained during the investigation the Ombudsman determined that it would not be in the public interest to pursue matters further and that no action should be taken in respect of the matters investigated.

#### **Pembrey & Barry Port Town Council – Promotion of equality and respect** **Case Number: 201906707 - Report issued in March 2020**

The Ombudsman received a complaint that a Member ("the Member") of Pembrey & Barry Port Town Council ("the Council") had breached the Code of Conduct. It was alleged that the Member did not show respect and consideration for others, used bullying behaviour, and behaved in a manner which could reasonably be regarded as bringing the Council into disrepute. During the early stages of the investigation, the Member provided an account. He said that he believed his actions to have been justified and offered an apology if his assertiveness had been perceived differently by the Complainant. The Ombudsman considered the Member's response and his offer of an apology to be sufficient to resolve the complaint. The Ombudsman, therefore, considered that no action needed to be taken in respect of the matters investigated.

#### **St Donats Community Council – Disclosure and registration of interests** **Case Number: 201905525 – Report issued in March 2020**

The Ombudsman received a complaint that a Member ("the Member") of St Donats Community Council ("the Community Council") had breached the Code of Conduct. It was alleged that the Member failed to declare a personal and prejudicial interest when she sat on the Interview Panel during an interview for the role of Co-opted Member of the Community Council. The Ombudsman found that the Member had a personal interest in the interview by virtue of her relationship with the applicant's estranged brother and admittance that there was tension between them. It was the Ombudsman's view that a member of the public, with knowledge of the circumstances, would regard the Member's interest as so significant as to prejudice her judgement of the public interest. The investigation established that the Member was advised by the Clerk that she was not required to declare an interest in the interview. Whilst a decision

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to declare an interest is the responsibility of each individual member, it was not unreasonable for the Member to have acted upon the Clerk's advice. The investigation considered whether the Member's failure to declare a personal and prejudicial interest caused any harm and whether it affected the decision to appoint to the role of Co-opted Member. There was no documentary evidence or written record of the interviews. Therefore, the Ombudsman's decision was guided by the fact that the decision to appoint the successful applicant was taken unanimously by the Interview Panel. On the basis of the information available it was not considered that the applicant's application was adversely affected by the Member's presence and involvement in the interview process. In view of these factors it was concluded that the Ombudsman did not need to take further action in the public interest. However, he recommended to the Clerk of the Council that training on members interests and their obligations under the Code of Conduct is provided to the Council.

## **St Harmon Community Council – Disclosure and registration of interests Case Number: 201903933 – Report issued in March 2020**

The Ombudsman received a complaint that a member ("the Member") of St Harmon Community Council had breached the Code of Conduct for members ("the Code"). It was alleged that the Member had failed to show respect and consideration to others, and that he had failed to take appropriate action in respect of a personal and prejudicial interest he had in a co-option process the Council undertook.

During the course of the investigation, information was sought from the Council as well as from a number of witnesses. The evidence gathered did not substantiate that the Member's behaviour had demonstrated a failure to show respect and consideration to others such that could be considered a breach of the Code.

The evidence suggested that the Member had failed to take appropriate action in relation to a personal and prejudicial interest he had in the co-option process. However, the Member did not influence the decision taken on co-option in any way, he had already acknowledged, accepted and apologised for his actions and he had taken steps to seek training on his obligations under the Code.

Therefore, the Ombudsman determined that no action needed to be taken in respect of the matters investigated.

## **Carmarthenshire County Council – Integrity Case Number: 201900874 – Report issued in March 2020**

The Ombudsman received a complaint that a Member ("the Member") of Carmarthenshire County Council ("the Council") had breached the Code of Conduct. It was alleged that the Member had failed to treat members of staff at the Council with respect and consideration, had breached confidentiality, and had brought the office of Councillor into disrepute in relation to 2 incidents which occurred during the selection process for the Council's new Chief Executive. The first incident was that the Member had deliberately informed the unsuccessful candidate for the post that they had not been successful, thus circumventing the Human Resources ("HR") procedures in place. The second incident was that the Member had ignored a clear instruction that Councillors should not publicise the identity of the successful candidate for 30 minutes.

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The Ombudsman interviewed a number of witnesses and found that the evidence suggested the Member had accidentally informed the unsuccessful candidate that they had not been successful and had not intended to circumvent HR procedures. The Ombudsman accepted that the Member had shown remorse and had apologised. The Ombudsman determined that no breaches of the Code had occurred as this had been a genuine error by the Member.

The Ombudsman determined that there was evidence that the Member had ignored a clear instruction not to publicise the identity of the successful candidate, and that this may have amounted to a breach of the Code. The Member had not considered the impact on the candidates, their wider friends and families, or the staff employed by the Council with due respect when publishing the result. Further, the information had been confidential until the proper procedures to publicise it had been completed, which the Member had pre-empted. The Ombudsman determined that these actions were capable of bringing the office of Councillor into disrepute.

However, the Ombudsman was not persuaded that it would be proportionate and in the public interest to make a referral to the Standards Committee, due to the short period of time the information was disclosed before the official announcement and taking into account the opinions of the candidates that the effect on them was limited; however, he considered that it had been appropriate for the matter to be referred to him. The Ombudsman found that no action needed to be taken in respect of the matters investigated.

## **Llantwit Fardre Community Council – Promotion of equality and respect Case Number: 201904216 - Report issued in May 2020**

The Ombudsman received a complaint that a Member ("the Member") of Llantwit Fardre Community Council ("the Council") had breached the Code of Conduct.

It was alleged that the Member made several accusations against serving Community Councillors during a Community Council meeting on 24 September 2019. It was further alleged that the Member then shared a written copy of his address, in which he accused Community Councillors of bullying the former Clerk of the Community Council, with members of the press and public.

The investigation considered the following paragraphs of the Code:

- Paragraph 5(a) – disclosing confidential information.
- Paragraph 6(1)(a) – disrepute.
- Paragraph 6(1)(c) – reporting breaches of the Code to the Monitoring Officer.
- Paragraph 6(1)(d) – vexatious, frivolous or malicious complaints.
- Paragraph 8(a) – having regard to the advice of the authority's officers.

The investigation established that the Member addressed the Community Council at its meeting on 24 September 2019, where members of the press and public were present. There was no evidence to suggest that the Member disclosed confidential information during the meeting.

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The investigation found that during his address, the Member made several accusations against other members of the Council. Rather than airing his concerns in public the Member should have raised his concerns through the proper processes available for doing so. Raising accusations in such a public forum when those being accused did not have a fair opportunity to respond could amount to a breach of paragraph 6(1)(a) of the Code of Conduct. The investigation found that the Member disregarded advice from the Clerk of the Council and that his actions were in breach of paragraph 8(a) of the Code.

When deciding whether to take further action in relation to these possible breaches of the Code of Conduct, the Ombudsman carefully considered whether it was in the public interest for him to do so. The Ombudsman considered recent steps taken by Rhondda Cynon Taf's Monitoring Officer and the Chair of the Council's Standards Committee to meet with the majority of the members of the Council in February to encourage better working relationships within the Council. It was understood that a collective agreement was reached on taking a fresh approach on how to deal with situations where disagreement had previously escalated into personal attacks. The Member was present at this meeting. As the events which were considered as part of this investigation took place some months before the meeting with the Monitoring Officer and Chair of the Standards Committee, it was not in the public interest to pursue this investigation further.

## **Torfaen County Borough Council – Promotion of equality and respect Case Number: 202000681 & 202000667 - Report issued in July 2020**

The Ombudsman received complaints that an elected Member ("the Member") of Torfaen County Borough Council ("the Council") had breached the Council's Code of Conduct for Members ("the Code").

Two Police Community Support Officers ("PCSOs") complained that, on 7 June 2020, the Member approached them at Cwmbran Boating Lake ("the Lake") in an aggressive manner. They said that the Member was shouting and demanding that they dealt with people who were angling at the Lake whilst it was the closed season. They said that the Member did not accept that it was not a policing matter and identified himself as a Councillor to try and use his position to intimidate them.

The Ombudsman received an account from the Member, obtained a witness account from another Councillor who was present at the Lake, and obtained information from Gwent Police. On the balance of probabilities, the evidence indicated that the Member may have breached paragraph 4(b) of the Code by speaking to the PCSOs in a raised voice.

The investigation found that there was no dispute that the Member identified himself as a Councillor. The Member explained that he had done so to explain his knowledge of angling legislation. The Ombudsman found that the Member did contact Gwent Police to seek clarification regarding the enforcement of angling legislation and to raise a concern that the PCSOs had not spoken to, or provided advice, to the anglers as they had informed him.

The Ombudsman did not find sufficient evidence that the Member had displayed bullying and/or harassing behaviour, or that he had brought the authority into disrepute.

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The Ombudsman found that, whilst the evidence suggested that the Member may have breached paragraph 4(b) of the Code, it was not in the public interest to pursue matters further.

The Ombudsman asked the Member to be mindful of how his conduct may be perceived when acting in his role as a Councillor and suggested that he complete refresher training on the Code.

## **Glynneath Town Council – Promotion of equality and respect Case Number: 201904472 - Report issued in July 2020**

The Ombudsman received a complaint that a Member ("the Member") of Glynneath Town Council ("the Council") had breached the Council's Code of Conduct ("the Code").

A member of the public complained that when the Member entered Glynneath Town Hall ("the Hall") on 20 September 2019 she had been aggressive and shouted at them, and that the Member had threatened to "put paid" to their Hall Hire Agreement with the Council.

The Ombudsman obtained conflicting witness statements from 3 members of the public, as well as the complainant and the Member. On balance, the evidence obtained suggested that the Member may have breached paragraph 4(b) of the Code by shouting at the member of the public.

The Ombudsman did not find sufficient evidence that the Member had displayed bullying behaviour, or that they had brought their authority into disrepute. Furthermore, there was no supporting evidence that the Member had threatened the complainant's future hire of the Hall, nor had the Member acted on such a threat.

The Ombudsman found that, whilst the evidence suggested that the Member may have breached paragraph 4(b) of the Code, it was not in the public interest to pursue further enquiries into the matter, given the conflicting nature of the evidence obtained.

The Ombudsman recommended to the Council that it should arrange training on the Code for its Members as soon as is practicable.

## **Tywyn Town Council – Promotion of equality and respect Case Number: 201900952 - Report issued in September 2020**

An officer of Tywyn Town Council ("the Council") complained that a member had written a disrespectful letter to a third party.

The Ombudsman's investigation considered whether the content of the letter may have breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct for members ("the Code").

The member asserted that they were not acting in their capacity as member when writing the letter. However, the Ombudsman found that, as the letter referred to Council business, it was reasonable to conclude that the member gave the impression they were acting in their capacity as a member of the Council when they wrote the letter. The Ombudsman found that the majority of the comments made by the member were political in nature.

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However, the member's comments to the third party recipient of the letter were considered to be disrespectful. Whilst the Ombudsman considered that those comments were suggestive of a breach of paragraph 4(b) of the Code, having taken into consideration the information provided by the recipient and the wider evidence available, he did not consider it would be proportionate or in the public interest for any further action to be taken.

The Ombudsman did not consider that there was evidence to suggest that the content of the letter sent by the member was suggestive of a breach of paragraph 6(1)(a) of the Code.

## **Mumbles Community Council – Duty to uphold the law Case Number: 201904820 - Report issued in November 2020**

The Ombudsman received a self-referred Code of Conduct ("the Code") complaint from a Member ("the Member") of a Community Council in Wales ("the Council") because they had been named in a Welsh Audit Office ("Audit Wales") Report concerning unauthorised Council expenditure. The Ombudsman considered whether the Member may have breached paragraph 7 (b) (i), (ii), (iii) of the Code for use of Council resources which was imprudent, in breach of the authority's requirements and unlawful.

The Ombudsman's investigation found that a Planning Consultancy had billed the Council for work which had not been agreed, and the Planning Consultancy said it had been instructed by the Member. The Member said at the time of the events he was new to the Council and he thought the work undertaken for the Council by the Planning Consultancy had been part of a previously agreed arrangement with the Council. The Member said he had not worked with planning consultants before and he had not realised that his specific communications with them would incur additional costs. The Ombudsman's investigation found that the Member had a responsibility to fully understand the terms of the Council's arrangements with the Planning Consultancy, and the Member's actions and failure to do so, could reasonably be considered as a potential breach of paragraph 7(b) (i), (ii), (iii) of the Code.

However, the Ombudsman also found that whilst the Clerk had suggested the Member should contact the Planning Consultancy, the Member had not been provided with clear guidance on the implications of doing so, and that the Member's communications had a limited impact on the overall expenditure. In addition, Audit Wales had not engaged with the Member or the Planning Consultancy to establish what instruction it attributed to the Member.

Please Note: Summaries are prepared for all reports issued by the Ombudsman. This summary may be displayed on the Ombudsman's website and may be included in publications issued by the Ombudsman and/or in other media. If you wish to discuss the use of this summary please contact the Ombudsman's office.

Having taken into consideration the evidence available and the information provided by the Member, the Ombudsman did not consider it would be proportionate or in the public interest for any further action to be taken.

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## Referred to Standards Committee

### **Denbighshire County Council – Objectivity and propriety**

**Case Number: 201806601 - Report issued in September 2020**

The Ombudsman received a complaint that a Member ("the Member") of Denbighshire County Council ("the Council") failed to observe the Code of Conduct for members of the Council. It was alleged that the member abused his position by visiting a member of the public's place of work and complaining to her employer about a private altercation between her and a constituent in a local store car park.

The Ombudsman determined that there was evidence to suggest that the Member had conducted himself in a bullying and harassing manner, and that his actions sought to create a disadvantage for the member of the public in the eyes of her employer. The evidence also suggested that such conduct was capable of damaging the reputation of the Council and bringing it into disrepute. The Ombudsman determined that the member had failed to abide by paragraphs 4(c), 6(1)(a) and 7(a) of the Council's Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of the Council for consideration by its Standards Committee.

### **Laleston Community Council – Duty to uphold the law**

**Case Number: 201807411 - Report issued in November 2020**

The Ombudsman received a complaint that a Former Member ("the Former Member") of Laleston Community Council ("the Council") had failed to observe the Code of Conduct for Members of the Council. It was alleged that the Former Member had misused Council funds via unauthorised cashpoint withdrawals and debit card transactions between November 2018 and January 2019.

A police investigation took place, and the Former Member subsequently resigned from the Council. The Ombudsman's investigation established that at the time of the events the Former Member had taken on extra duties and been paid agreed allowances by the Council. It was found that the Former Member then took charge of the Council's debit card and used it for purchases and cash withdrawals which were in excess of what he already received and could not be accounted for. The Former Member said he had accessed the Council's finances in this way because he felt he was entitled to the funds; however, he did not provide any further information to suggest his transactions were for the benefit of the Council.

The Ombudsman determined that the Former Member may have breached the Council's Code of conduct, in particular, paragraphs 7(a) and 7(b) i), ii), iii), iv) and vi) as he has sought to gain a personal and financial advantage via unauthorised access to Council finances, and misused Council funds. The Ombudsman also found that the Former Member's actions and conviction could reasonably be regarded as behaviour which might bring the office of member or the Council into disrepute and a potential breach of paragraph (6(1)(a) of the Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of Bridgend County Borough Council for consideration by its Standards Committee.



# The Code of Conduct Casebook

Issue 24 / April 2021

## Referred to Adjudication Panel for Wales

### Sully and Lavernock Community Council – Integrity

**Case Number: 201901994 - Report issued in September 2020**

The Ombudsman received a complaint that a member ("the Member") of Sully and Lavernock Community Council ("the Council") failed to observe the Code of Conduct for elected members. It was alleged that the Member made a series of public posts, on the social media platform Facebook, which could have the potential to damage the reputation of the Council.

The Ombudsman found that 3 public posts, dated between 10 January and 11 March 2019, which made reference to high profile female politicians, were gratuitously offensive and could reasonably be regarded as bringing the Councillor's Office or Authority into disrepute which was suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct. The Ombudsman considered that the language used went beyond political expression and was so egregious that, should a breach of the Code of Conduct be found and a sanction imposed, it would be a proportionate interference with the Councillor's right to freedom of expression.

The Ombudsman also found that the Councillor had failed to supply evidence he claimed to hold in respect of the privacy of the posts and that, in refusing to provide information, he had failed to comply with a request in connection with the investigation which was suggestive of a breach of paragraph 6(2) of the Code of Conduct.

The Ombudsman referred his investigation report to the Adjudication Panel for Wales for its consideration.

## **STANDARDS COMMITTEE FORWARD WORK PROGRAMME**

**PLEASE NOTE AGENDA TO BE CIRCULATED 1 WEEK IN ADVANCE OF MEETING**

<b>DATE OF MEETING</b>	<b>REPORT ITEMS / AREAS</b>	<b>REPORT AUTHOR</b>
<b>3 December 2021</b>	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)
	Employee Code of Conduct	Gary Williams (Monitoring Officer)
	Training Programme for Post-Election 2022	Gary Williams (Monitoring Officer)
<b>4 March 2022</b>	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)
<b>17 June 2022</b>	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)
<b>16 Sept 2022</b>	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)
<b>2 Dec 2022</b>	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)

Updated 06/08/21 SJ

# Agenda Item 10

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

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