

# The Code of Conduct Casebook

Issue 14 November 2017

## Contents

<a href="#">Introduction</a>	1
<a href="#">No evidence of breach</a>	3
<a href="#">No action necessary</a>	4
<a href="#">Referred to Standards Committee</a>	5
<a href="#">Referred to Adjudication Panel for Wales</a>	6
<a href="#">More information</a>	7

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## Introduction

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

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

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

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



The Code of Conduct  
**Casebook**

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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 July to September 2017.

## Case summaries

### No evidence of breach

#### Vale of Glamorgan Council – Integrity

Case Number 201606398 - Report issued in July 2017

A complaint was received that a member of the Council had sought to mislead the public, to create an advantage for herself in the election campaign, by making misleading statements in a campaign leaflet.

The investigation found that there was no intent to mislead and that once a complaint had been received that the leaflet could be misleading, it was withdrawn.

#### Llanelli Rural Council – Promotion of equality and respect

Case Number 201607211 - Report issued in August 2017

Councillor B complained that Councillor C had said Councillor B was corrupt, during a Council meeting at which the public and press were present. She said that doing so had been disrespectful and inconsiderate to her and had brought the Council into disrepute. Councillor B said this would amount to a breach of the Code of Conduct for elected members.

A number of witnesses were interviewed and whilst it was clear that Councillor B had become upset by something Councillor C had said there was not a consistent account of what was said. From the evidence gathered it was not clear that Councillor C had made the statement attributed to her by Councillor B. Further, it is not the Ombudsman's role to interfere with robust political debate and the evidence did not suggest that the actions of Councillor C went beyond that on this occasion.

#### Tywyn Town Council - Disclosure and registration of interests

Case Number 201607052 - Report issued in August 2017

Councillor A complained that Councillor B breached the Code of Conduct for members by failing to declare a personal and prejudicial interest in the matter of an adverse possession claim on a parcel of land owned and managed by the Town Council.

Councillor A alleged that Councillor B had a close personal association with the adverse possession claimant (a local farmer) despite denying having ever met him. Councillor A alleged that Councillor B concealed this in order to profit from the farmer's land claim. Councillor A also alleged that Councillor B sought to suppress the production of minutes of meetings at which the land claim was discussed.

The Ombudsman investigated whether Councillor B had improperly used her position to secure an advantage; whether she had failed to disclose a prejudicial or personal interest and whether she had brought her office into disrepute. Statements and comments were obtained from Councillor B, from the Clerk to the Council, from the farmer involved in the land claim and from the County Council's Monitoring Officer.

The Ombudsman found no evidence that Councillor B ever had a close personal association with the adverse possession claimant; no evidence that Councillor B sought to conceal and/or failed to declare a prejudicial or personal interest in the claim, and no evidence that Councillor B attempted to suppress the production or distribution of minutes. The Ombudsman concluded that Councillor B had not, therefore, breached the Code of Conduct.

## No action necessary

There are no summaries in relation to this finding

## Referred to Standards Committee

There are no summaries in relation to this finding

## Referred to Adjudication Panel for Wales

Flintshire County Council – Promotion of equality and respect  
Case Number 201601611 - Report issued in June 2017

The Ombudsman received a complaint that a former member of Flintshire County Council (“the former Councillor”) had failed to show respect and consideration for others and had used bullying and harassing behaviour. The complaint related to two emails which the former Councillor had sent to a team manager in the Council’s planning department, which had been copied to senior officers and several other Members. The investigation considered whether the former Councillor may have breached paragraphs Paragraph 4(b), 4(c), 4(d) and 7(a) of the Code of Conduct (“the Code”).

The Ombudsman concluded that the two emails were distasteful and derogatory and failed to show respect and consideration for the recipient. He also found that the emails were intimidating and malicious and that they appear to have been intended to undermine and insult the recipient. He did not, however, consider that the former Councillor’s conduct breached paragraphs 4 (d) and 7 (a) of the Code.

Whilst the former Councillor did not seek re-election at the May 2017 election, the Ombudsman considered that the potential breaches were sufficiently serious for it to be in the public interest to pursue the matter further. The Ombudsman referred the matter to the Adjudication Panel for Wales for consideration, as he considered that the former Councillor’s conduct in sending the two emails was suggestive of breaches of paragraphs 4 (b) and 4 (c) of the Code.

On 6 October, a Case Tribunal, convened by the Adjudication Panel for Wales, concluded that the former Councillor had failed to show respect and consideration for the Council officer through the two emails and in a subsequent post on social media. The Case Tribunal further concluded that, through the two emails and in a subsequent post on social media, the former Councillor had used behaviour which amounted to bullying and harassment of the Council officer. Consequently, the Case Tribunal found the former Councillor to have been in breach of paragraphs 4 (b) and 4 (c) of the Code.

The Case Tribunal decided, by unanimous decision, that the former Councillor should be disqualified for a period of 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority.

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

## More information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to [Matthew.Aplin@ombudsman-wales.org.uk](mailto:Matthew.Aplin@ombudsman-wales.org.uk) or [Lucy.John@ombudsman-wales.org.uk](mailto:Lucy.John@ombudsman-wales.org.uk) or sent to the following address:

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