

Appendix 1

Duty to uphold the law : Llandovery Town Council

Report date

27/10/2022

Subject

Duty to uphold the law

Outcome

CODE

Case ref number

202100012

Report type

CODE - Referred to Standards Committee

Relevant body

Llandovery Town Council

The Ombudsman received a complaint that a Member (“the Member”) of Llandovery Town Council (“the Council”) had breached the Code of Conduct. The Member had been convicted of drug driving and it was reported in a newspaper that she did not intend to stand down as Mayor.

The investigation considered whether the Member failed to comply with paragraph 6(1)(a) of the Code of Conduct in that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

The Ombudsman considered the Member’s conviction and the fact that her sentence fell short of automatic disqualification as outlined in Section 80A of the Local Government Act 1972. The Ombudsman also considered the account provided by the Member.

The Ombudsman considered whether further action was needed in the public interest and the overriding purpose of the ethical standards regime in Wales, which is to uphold standards of conduct in public life and maintain confidence in local democracy. The Ombudsman was of the view that the Member’s conviction and the press coverage that followed which referred to the Council, the Member’s membership of the Council and her position as Mayor, could be regarded a conduct

that was capable of bringing her Council and/or her office as a councillor into disrepute and was suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct.

The report on the investigation was referred to the Monitoring Officer of Carmarthenshire County Council for consideration by its Standards Committee.

The Standards Committee concluded that the member had breached paragraph 6(1)(a) of the Code of Conduct. Accordingly, the Standards

Committee decided that the Member should be suspended to 2 months and be required to attend Code of Conduct training within 6 months.

Promotion of equality & respect : Llanvaches Community Council

Report date

01/07/2022

Subject

Promotion of equality & respect

Outcome

CODE

Case ref number

202005979

Report type

CODE - No evidence of breach

Relevant body

Llanvaches Community Council

The Ombudsman received a complaint that a Former Member (“the Former Member”) of Llanvaches Community Council (“the Community Council”) had breached the Code of Conduct (“the Code”) regarding matters concerning work conducted by a tree surgeon, intimidating behaviour and the disclosure of confidential information.

The Ombudsman investigated whether the Former Member’s conduct might amount to a breach of paragraphs 4(b), 4(c), 5(a), 6(1)(a) and 7(a) of the Code of Conduct

("the Code"). During the investigation the Former Member did not stand in the Local Government elections on 5 May 2022 and stood down from the Community Council.

The Ombudsman found that when the Former Member went to a public playing field and found a tree surgeon at work without an adequate cordon to ensure public safety, the Former Member expressed a concern about public safety and work being conducted on Community Council leased land. The Ombudsman found there was no evidence to suggest the Former Member's behaviour was inappropriate or aggressive, or that abusive or offensive language or intimidating behaviour was used in breach of the Code.

The Ombudsman also found that accounts of a conversation between the Former Member and the complainant concerning the disclosure of information differed and, as there were no witnesses to the event, it was not possible to draw a conclusion on exactly what was said. Further, the subject matter of the disclosed information had also been discussed at Community Council meetings and recorded in publicly available minutes. Therefore, the Ombudsman was not persuaded that the alleged conduct was suggestive of a breach of the Code.

The Ombudsman noted that since the events the Community Council had taken steps to ensure that when similar authorised work is conducted, members are present to ensure appropriate health and safety measures to protect the public are in place.

The Ombudsman found no further action was necessary or required in the public interest.

Accountability & openness : Llanigon Community Council

Report date

01/07/2022

Subject

Accountability & openness

Outcome

CODE

Case ref number

202100842

Report type

CODE - No Action Necessary

Relevant body

Llanigon Community Council

The Ombudsman received a complaint that a member (“the Member”) of Llanigon Community Council (“the Council”) had breached the Code of Conduct.

It was alleged that the Member had:

- Behaved in a disrespectful, aggressive, and very intimidating manner towards the complainant in a Council meeting on 9 December 2020.
- Bullied and intimidated the Clerk.
- Discriminated towards female Members by not including them in correspondence and discussions.
- Failed to consult full Council when taking decisions.
- Failed to discuss the Clerks wages.
- Failed to conduct virtual Council meetings during the COVID-19 pandemic.
- Delayed having a Council website and subsequently made one himself, which was in accessible to the public, and for which he claimed a fee from the Council for maintaining.
- Refused to provide receipts when claiming expenses.

The investigation considered whether the Member failed to comply with the following provisions of the Code of Conduct:

- 4(b) – [The Member] must show respect and consideration for others.
- 4(c) – [The member] must not use bullying behaviour or harass any person.
- 6(1)(a) – [The Member] must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- 7(a) – [The member] must not in their official capacity or otherwise, use or attempt to use their position improperly to confer on or secure for themselves, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage.
- 9(a) – [The Member] must observe the law and their authority’s rules governing the claiming of expenses and allowances in connection with their duties as a member.

Witness accounts were obtained from all members of the Council, the Clerk, and a County Councillor. Documentation provided by the Clerk and the Monitoring Officer of Powys County Council was also reviewed.

The Member was not re-elected at the May 2022 elections and the evidence was inconsistent. The Ombudsman did not consider that it was in the public interest to take further investigative steps. She took the decision that no action needed to be taken in respect of the matters investigated.

Promotion of equality & respect : Sully and Lavernock Community Council

Report date

04/07/2022

Subject

Sully and Lavernock Community Council

Outcome

CODE

Case ref number

202104219

Report type

CODE - No Action Necessary

Relevant body

Promotion of equality & respect

An employee of Sully and Lavernock Community Council (“the Council”) complained that a Former Member (“the Former Member”) used bullying and disrespectful language towards him during a telephone conversation in September 2021.

The Ombudsman investigated whether the Former Member’s conduct was suggestive of a breach of paragraphs 4(b), 4(c), and 6(1)(a) of the Code of Conduct (“the Code”).

The employee complained about the Former Member’s behaviour to the Police and the Ombudsman on the day of the telephone conversation. The Former Member resigned from the Council on the same day. The Former Member denied the allegations to the Police, who took no further action.

The Former Member refused to be interviewed and did not wish to participate in the Ombudsman’s investigation. However, the Former Member confirmed that a telephone conversation occurred but said that the Code did not apply at the time as they had resigned from the Council. The Ombudsman therefore determined the investigation on the evidence available and concluded, on the balance of probabilities, that the Former Member was a Member at the time of the telephone call and had directed offensive language towards the employee which could be considered disrespectful and bullying.

The Ombudsman concluded that the Former Member’s conduct was suggestive of a breach of paragraphs 4(b), 4(c), and 6(1)(a) of the Code. However, as the Former Member had resigned from the Council and had not been elected to any Council at the May 2022 elections, the Ombudsman did not consider it to be in the public interest for any further action to be taken.

Duty to uphold the law : Merthyr Tydfil County Borough Council

Report date

12/07/2022

Subject

Duty to uphold the law

Outcome

CODE

Case ref number

202200667

Report type

CODE - Discontinued

Relevant body

Merthyr Tydfil County Borough Council

The Ombudsman received a complaint from an Officer (“the Complainant”) of Merthyr Tydfil County Borough Council (“the Council”), that a Member of the Council had failed to observe the Code of Conduct for Members.

It was alleged that during the recent election campaign the Member had removed a political leaflet from a member of the public’s letterbox, replaced it with his own leaflet, and taken the removed item away. The investigation considered whether the Member’s alleged conduct brought the Member and the Council into disrepute.

The Ombudsman obtained information from the Council's Monitoring Officer, including video footage of the incident. The Council confirmed that whilst the matter had been reported to the Electoral Commission and the Police, it had been established that the matter was not an electoral or Royal Mail offence and both bodies had declined to take any further action.

As a result, the Ombudsman was no longer satisfied that an investigation into the complaint was in the public interest, and it was decided to discontinue the investigation.

Integrity : Bridgend Town Council

Report date

19/07/2022

Subject

Integrity

Outcome

CODE

Case ref number

202102372

Report type

CODE - No Action Necessary

Relevant body

Bridgend Town Council

It was alleged that a Councillor ("the Member") disclosed confidential information on Facebook when she shared information about a discussion which took place in a private council session and that this may amount to breach of the Code of Conduct.

The investigation considered the following paragraphs of the Code of Conduct:

- 5(a) Members must not – 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.
- 6(1)(a) Members must not – conduct [themselves] in a manner which could reasonably be regarded as bringing [their] office or authority into disrepute.
- 7(a) Members must not – in [their] official capacity or otherwise, use or attempt to use [their] position improperly to confer on or secure for [themselves], or any other

person, an advantage or create or avoid for [themselves], or any other person, a disadvantage.

During the course of the investigation, information from the Community Council was considered, including meeting minutes. Witnesses were also interviewed.

The investigation found that the Member posted a comment on her personal Facebook account. The content of the comments related to Council matters and her role within the Council. The Ombudsman considered that the Member gave the impression she was relying on her status as a member and therefore that the Code of Conduct was fully engaged in relation to the comment.

The Ombudsman found that the meeting discussions and the minutes of the meeting were confidential and sharing that information could be suggestive of a breach of paragraph 5(a) of the Code of Conduct. However, the Ombudsman found that during the full Council meeting that took place, some information was shared during the public element of the meeting and was documented in the minutes of the meeting which were shared publicly. Therefore, the Ombudsman did not consider that there was evidence suggestive of a breach of paragraphs 6(1)(a) and 7(a) of the Code of Conduct. The Ombudsman was satisfied that, in view of the information which was in the public domain, the impact of the substance of the comment being shared was limited. The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000, no action needed to be taken in respect of the matters investigated.

Promotion of equality & respect : Ceredigion County Council

Report date

03/08/2022

Subject

Promotion of equality & respect

Outcome

CODE

Case ref number

202106365

Report type

Code - No Action Necessary

Relevant body

Ceredigion County Council

The Ombudsman received a self-referred complaint from a Member (“the Former Member”) of Ceredigion County Council (“the Council”), that they had breached the Council’s Code of Conduct for members.

The Member said that during a discussion at a public Council meeting about Welsh Ambulance Service NHS Trust (“WAST”) provision in Ceredigion, they had made inappropriate comments about “incomers” to the county and “immigrants” being allowed into Wales by the Welsh Government and the potential impact on those services. The Ombudsman’s investigation considered whether the Former Member’s conduct may have breached paragraphs 4(a), 4(b) and 6(1)(a) of the Council’s Code of Conduct.

Information was obtained from the Council including a transcript of what the Former Member had said in the meeting, minutes of Council meetings, and comments from the Former Member. The Ombudsman found that following the incident the Former Member had stepped down from their political party to sit as an independent member. During the investigation the Former Member stood in the election on 5 May 2022 and was not returned by the local electorate.

In comments to the Council and the Ombudsman, the Former Member said the remarks had been inappropriate and taken in a way not intended. The Ombudsman found that the Former Member’s remarks did not extend to gratuitous or personal comment or hate speech and would not have been interpreted as representative of the views of the Council. As such, they would not have amounted to a breach of paragraphs 4(a) or 6(1)(a) of the Code of Conduct. The Ombudsman determined, however, that they could be considered divisive and disrespectful, and suggestive of a breach of paragraph 4(b) in failing to show respect and consideration for others.

The Ombudsman considered that, as the Former Member’s role was ultimately decided by the local electorate and they were no longer a member of the Council, any sanction which could be given if a breach of the Code of Conduct was found by the Council’s Standards Committee would be limited and therefore it was not in the public interest to take any further action in respect of the matter.

The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

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