



CYNGOR BWRDEISTREF SIROL
RHONDDA CYNON TAF
COUNTY BOROUGH COUNCIL

GWŶS I GYFARFOD O'R CYNGOR

C.Hanagan
Cyfarwyddwr Materion Cyfathrebu a Phennaeth Dros Dro'r Gwasanaethau
Llywodraethol
Cyngor Bwrdeistref Sirol Rhondda Cynon Taf
Y Pafiliynau
Parc Hen Lofa'r Cambrian
Cwm Clydach CF40 2XX

Dolen gyswllt: Emma Wilkins - Democratic Services (01443 424110)

DYMA WŶS I CHI i gyfarfod o **PWYLLGOR SAFONAU** yn cael ei gynnal yn **Siambwr y Cyngor, Y Pafiliynau, Parc Hen Lofa'r Cambrian, Cwm Clydach, Tonypanyd CF40 2XX** ar **DYDD MAWRTH, 18FED MEDI, 2018** am **10.00 AM**.

AGENDA

Tudalennau

1. CROESO AC YMDDIHEURIADAU

2. DATGAN BUDDIANT

Derbyn datganiadau o fuddiannau personol gan Aelodau, yn unol â gofynion y Côd Ymddygiad.

Noder:

1. Mae gofyn i Aelodau ddatgan rhif a phwnc yr agendwm mae eu buddiant yn ymwneud ag ef a mynegi natur y buddiant personol hwnnw; a
2. Lle bo Aelodau'n ymneilltuo o'r cyfarfod o ganlyniad i ddatgelu buddiant sy'n rhagfarnu, mae rhaid iddyn nhw roi gwybod i'r Cadeirydd pan fyddan nhw'n gadael.

3. COFNODION

Cadarnhau cofnodion o'r cyfarfod a gynhaliwyd ar 8 Rhagfyr 2017.

ADRODDIADAU'R SWYDDOG MONITRO

4. OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU

Crynodeb o gwynion yn erbyn Aelodau o'r 1^{af} Ebrill 2017 – 31^{ain} Mawrth 2018.

9 - 12

5. PROSES BENDERFYNU LEOL AR GYFER CYNGHORAU CYMUNED A THREF – UN LLAIS CYMRU

Rhoi gwybodaeth i Aelodau a cheisio cymeradwyaeth y Pwyllgor mewn perthynas â Gweithdrefn Datrys/Penderfynu Leol Un Llais Cymru ar gyfer Cyngorau Tref a Chymuned.

13 - 22

6. OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU – COFLYFRAU'R COD YMDDYGIAD

Trafod Coflyfrau'r Cod Ymddygiad ar gyfer misoedd Ionawr, Mai, a Gorffennaf 2018 (Rhifynnau 15-17).

23 - 50

7. CYNHADLEDD SAFONAU

Derbyn adborth ar lafar o'r Nawfed Gynhadledd Safonau a gynhaliwyd yn Aberystwyth ar 14 Medi 2018.

8. RHAGLEN WAITH Y PWYLLGOR SAFONAU

Trafod Rhaglen Waith y dyfodol ar gyfer y Pwyllgor, a chytuno arni.

9. DYDDIAD CYFARFOD NESAF

10. MATERION BRYD

Trafod unrhyw faterion sydd, yn ôl doethineb y Cadeirydd, yn faterion bryd yng ngoleuni amgylchiadau arbennig.

Cyfarwyddwr Materion Cyfathrebu a Phennaeth Dros Dro'r Gwasanaethau Llywodraethol

Cylchreliad:-

Aelodau Annibynnol – M.Jehu, MBE (Cadeirydd) a J.Thomas

Y Cynghorwyr Bwrdeistref Sirol:

Y Cynghorydd M Forey and Y Cynghorydd E Webster

Y Cynghorydd Cymuned R.Butler

Mr C.Jones, Swyddog Monitro

Mr A.Wilkins, Dirprwy Swyddog Monitro

Mr C Hanagan, Cyfarwyddwr Materion Cyfathrebu a Phennaeth Dros Dro'r
Gwasanaethau Llywodraethol

Tudalen wag

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

Minutes of the Standards Committee held at the County Borough Council Offices, The Pavilions, Cambrian Park, Clydach Vale on Friday, 8th December, 2017 at 10.30 a.m.

PRESENT

Independent Members

Mr.M.Jehu,MBE (Chair)
Mr.J.Thomas

County Borough Councillor

E.Webster

Officers in Attendance

Mr.C.B.Jones – Monitoring Officer
Mr.A.Wilkins – Deputy Monitoring Officer
Ms.K.May – Head of Democratic Services

1 APOLOGY FOR ABSENCE

An apology for absence was received from County Borough Councillor M.Forey.

2 WELCOME

The Chair welcomed both Mr.J.Thomas and County Borough Councillor E.Webster to their first meeting of this Committee.

3 DECLARATIONS OF ITNEREST

RESOLVED – to note that there were no declarations of interest made at the meeting pertaining to the agenda.

4 MINUTES

RESOLVED – to approve as accurate records the minutes of the following meetings of the Standards Committee:-

- 9th December, 2016
- 10th January, 2017
- 15th March, 2017

5 MATTERS ARISING

- (1) With reference to Minute No.10 of the meeting of the Standards Committee held on the 9th December, 2016, the Monitoring Officer advised Members of the outcome of the interviews that had taken place recently for the positions of two Independent Members (plus reserves) and one Community Council representative (plus reserve) to sit on the Standards Committee.

He reported that Mr.J.Thomas, who was in attendance at today's meeting had been successfully appointed to the position as an Independent Member and that Community Councillor R.Butler(Llantwit Fardre) had been re-appointed with Community Councillor C.Willis (Pontyclun) being appointed as the Reserve. An advertisement would be placed in the new year for an Independent Member (plus reserve) as there were no other successful candidates to fill these two posts.

- (2) With reference to Minute No.15 of the meeting of the Standards Committee held on the 9th December, 2016, it was **RESOLVED** – that when the vacant position of Independent Member (plus reserve) is filled, arrangements be made for the commissioning of joint training for Members of the Standards Committees of both Merthyr Tydfil and Rhondda Cynon Taf County Borough Councils; and in particular the delivery of a `Mock Hearing`.

6 APPLICATION FOR DISPENSATION – COUNTY BOROUGH COUNCILLOR P.JARMAN

In his report, the Monitoring Officer reported on the application that had been received from County Borough Councillor P.Jarman for dispensation to speak and vote on all matters for the duration and adoption of the 2018-19 budget process in her capacity as Leader of an Opposition Group.

Following consideration of the report, it was **RESOLVED** –

1. to grant County Borough Councillor P.Jarman a dispensation to speak and vote on all matters for the duration and adoption of the 2018-19 budget process in her capacity as Leader of an Opposition Group;
2. To acknowledge that Councillor Jarman's son works in the Streetcare Department and lives with her at her home address and she therefore be granted dispensation to speak and vote on all services affected by the Budget.

7 APPLICATION FOR DISPENSATION – COUNTY BOROUGH COUNCILLOR R.BEVAN

In his report, the Monitoring Officer outlined an application that had been received from County Borough Councillor R.Bevan for dispensation to speak and vote on all matters relating to the Community and Children's Services Group, save for any specific matters that directly affect his daughter who is

employed by the Council in the Community and Children's Services Group as the Service Manager for Access and Enablement.

Following consideration of the report, it was **RESOLVED** – to grant County Borough Councillor R.Bevan a dispensation to speak and vote on all matters relating to the Community and Children's Services Group, save for any specific matters that directly affect his daughter, who is employed by the Council in the Community and Children's Services Group as the Service Manager for Access and Enablement, with such dispensation being reviewed by the Standards Committee on an annual basis.

**M.JEHU, MBE
CHAIR**

The meeting closed at 10.55 a.m.

Tudalen wag



RHONDDA CYNON TAF

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

18 SEPTEMBER 2018

PUBLIC SERVICES OMBUDSMAN FOR WALES – SUMMARY OF COMPLAINTS AGAINST MEMBERS – 1ST APRIL 2017 – 31ST MARCH 2018

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

- 1.1 To provide Members with a summary of complaints made against Members and submitted to the Public Services Ombudsman for Wales (the 'Ombudsman') for the period 1st April 2017 – 31st March 2018.

2. RECOMMENDATIONS

- 2.1 To note the contents of the report.

3. BACKGROUND AND DETAILS OF COMPLAINTS

- 3.1 Members will note below the summary of anonymised complaints made against Members and submitted to the Ombudsman for the period 1st April 2017 – 31st March 2018.

Date Complaint Received	Complaint Re; County Borough or Community/Town Councillor	Nature of Complaint	Ombudsman Investigation Yes/No
27/4/17	Community/Town Councillor	Bullying other Community Council Members	No
27/4/17	Community/Town Councillor	Bullying other Community Council Members	No
27/4/17	Community/Town Councillor	Bullying other Community Council Members	No - Complaint Withdrawn
30/5/17	County Borough Councillor	Code of Conduct complaint - (Comments made on Social media)	No

Date Complaint Received	Complaint Re; County Borough or Community/Town Councillor	Nature of Complaint	Ombudsman Investigation Y/N
3/7/17	Community/Town Councillor	Bringing office into disrepute; Bullying (Cllr contact with Clerk led to Clerk being off work with stress)	No
20/7/17	County Borough Councillor	Failure to show respect and consideration for others – exchange of emails in respect of voting/elections	No (however apology given to complainant)
29/01/18	Community/Town Councillor	Failure to show respect and consideration for others – comments made in respect of the use of electronic devices during Council meetings	No
12/2/18	Community/Town Councillor	Bullying and harassment of individuals and complainants family – disclosing private information on social media/website	No

4. LEGAL IMPLICATIONS

4.1 There are no legal implications arising from this report.

5. CONSULTATION

5.1 There are no consultation implications arising from this report.

6. EQUALITY AND DIVERSITY IMPLICATIONS

6.1 There are no equality and diversity implications arising from this report.

7. FINANCIAL IMPLICATIONS

7.1 There are no financial implications arising from this report.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

18 SEPTEMBER 2018

REPORT OF THE MONITORING OFFICER

Background Papers: Freestanding matter

Contact: Mr. Andy Wilkins (Head of Legal – Corporate & Democratic Services) –
01443 424189

Tudalen wag



RHONDDA CYNON TAF

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

18 SEPTEMBER 2018

LOCAL RESOLUTION PROCEDURE FOR COMMUNITY AND TOWN COUNCILS – ONE VOICE WALES

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

- 1.1 To provide Members with information and seek the Committee's endorsement in respect of One Voice Wales' Local Resolution Procedure for Community and Town Councils.

2. RECOMMENDATIONS

- 2.1 That the Committee endorses the One Voice Wales Local Resolution Procedure and notes its level of adoption by Community and Town Councils within Rhondda Cynon Taf.

3. BACKGROUND

- 3.1 For some time the Public Services Ombudsman for Wales (PSOW) has been concerned about the growing number of, generally, low level complaints under the Code. His office has instituted a two stage test to carve out those cases not worthy of investigation, so that only the most serious are allocated scarce investigation resources.
- 3.2 The Ombudsman's guidance on the Code of Conduct for Community and Town Councils encourages the use of local resolution for low level complaints. This Council adopted a local protocol in January 2011 which was revised in July 2013. That protocol and associated procedures would not have been appropriate for Community and Town Councils and until recently there was no suitable precedent for them to adopt.
- 3.3 One Voice Wales have now produced a protocol, attached as Appendix 1 to this report. It is relatively simple in nature, which should make it easy to use and/or adopt to local circumstance. The procedure will only work where both parties try to make it work, and the same is true with Rhondda Cynon Taf's own local resolution process. Failure to cooperate might therefore be a factor in favour of referral to the PSOW for formal investigation.

- 3.4 The procedure is intended for use where complaints are low level and have been made by an officer (not the clerk) or another member. Serious complaints, or those made by the clerk or a member of the public are recommended for referral to the PSOW.
- 3.5 The simple nature of the document does mean that some flexibility and a willingness to make the process work will be required. Experience with our own local protocol indicates that it works best with willing participants as well. If one party refuses to cooperate then it is still open, and perhaps preferable, to refer the matter to the PSOW.
- 3.6 The Committee is therefore asked to endorse the procedure. An oral update will be provided at the meeting in respect of the current adoption rate of the procedure by Rhondda Cynon Taf Community and Town Councils.

4. LEGAL IMPLICATIONS

- 4.1 There are no legal implications arising from this report.

5. CONSULTATION

- 5.1 There are no consultation implications arising from this report.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 There are no equality and diversity implications arising from this report.

7. FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 Council officers give governance advice to town and community councils. Resources are insufficient to operate such a local resolution process for other councils. Town and community councils will therefore have to operate this process themselves. There would therefore be minimal resource implications for this Council.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

18 SEPTEMBER 2018

REPORT OF THE MONITORING OFFICER

Background Papers: Freestanding matter

Contact: Mr Andy Wilkins (Head of Legal – Corporate & Democratic Services) –
01443 424189

Tudalen wag



Un Llais Cymru



One Voice Wales

**Model Local Resolution Protocol
for Community and Town Councils**

ONE VOICE WALES

Model Local Resolution Protocol for Community and Town Councils

Background

The Public Service Ombudsman has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution. However to date there has not been a common process for Community and Town Councils to follow in dealing with such matters. To assist the sector, One Voice Wales has drawn up the following as a model protocol which any Community and Town Council can use in dealing with such complaints.

This model protocol is meant as a starting point for Community and Town councils. Individual councils may wish to add or amend this model to suit their particular needs. Councils wishing to use this process should first of all be clear about its purpose and intention, formally adopt it in its current or in a revised form and ensure that all Councillors are provided with a copy for their attention. The Council should then determine the framework through which it is operated which may require the establishment of a Committee or Panel or an extension of the terms of reference of an existing Panel or Committee such as a Complaints Panel or Committee. In the case of establishment of a new Panel it is important that terms of reference are prepared and approved by the Council. In either case it will be important for Councils to document in the terms of reference as to what will happen if there is a lack of co-operation shown by the member concerned or a breakdown occurring during the operation of the process. For example, in such cases the default position might be that the matter is referred to the Public Ombudsman for Wales.

The Local Resolution Process

Issues which should be considered under this process

Low level complaints about Members, including:

- Minor complaints from Members about Members
- Minor complaints from Officers about Members
- Members alleged to have not shown respect and consideration for others – either verbally or in writing

Issues which should not be considered under this process

Complaints which must be directed to the Public Services Ombudsman for Wales, including:

- Complaints instigated by a member of the public
- Serious complaints – breaches of the Code of Conduct/failure to disclose interests/bullying/abuse of position or trust/repeated breaches
- Complaints made by the Clerk/Proper Officer
- Vexatious, malicious or frivolous complaints
- Members' complaints about officers which should be dealt with using the Council's internal complaints process
- Repetitive low level complaints

The Process

The complaint

The complaint would need to be sent to the Clerk/Proper Officer of the Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman. If appropriate, therefore, the Clerk/Proper Officer should firstly seek an early resolution of any such dispute by liaising informally with the individual members concerned prior to the resolution process described below. It is vitally important that the 'accused' member is given full details of the complaint against them so that in the interests of natural justice they are in a position to prepare their response to the accusation.

Resolution Process

The involvement of the Chair/Vice Chair of the Council in the following process is not to adjudicate on the complaint, but to attempt to get the members/officers involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis.

The Clerk/Proper Officer will act as a facilitator for the resolution process below.

If the complaint is between Members other than the Chair of the Council, the Clerk/Proper Officer and the Chair will meet individually with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint is between Members, one of whom is the Chair of Council, but not the Vice Chair, the Clerk/Proper Officer and the Vice Chair will meet with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against a Member other than the Chair of Council, the Clerk/Proper Officer and the Chair of Council will meet with the officer and the Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against the Chair of Council, the Clerk/Proper Officer and the Vice Chair of Council will meet with the officer and the Chair to seek an agreed resolution.

If the complaint has been made by the Clerk/Proper Officer, then it is likely to be best practice that this complaint is forwarded by way of a complaint to the Ombudsman.

Possible results of the process

If an agreement is reached by Members and/or officers during this Stage then no further action is required.

If agreement cannot be reached the aggrieved Member/officer would always have the opportunity of referring the matter to the Ombudsman.

Examples of agreements might include issue of a letter of apology, a written undertaking or commitment not to breach the Code of Conduct in the future, a commitment to undertake training or an agreement that on the basis of the evidence that no further action should be taken and the matter be closed.

Time for the process

It is the intention that all of the processes can be completed as quickly as possible to resolve the issue. However exact timing will depend on the availability of individuals to attend the meetings.

Important Points to Note in preparing a process for use by the Council

The Clerk/Proper officer, Chair and Vice Chairs of Councils should consider receiving appropriate training in facilitation and mediation to be in a position to maximise the benefit of this process. Councils wishing to pursue this route should contact One Voice Wales for guidance.

Councils might want to include some guidance where complaints which are most appropriately dealt with under this process are referred back to the Council by PSOW. The PSOW could actively do this if the Council has an approved process.

It is suggested that any meetings held with a view to discussing the issues of complaints and/or resolving matters are at the very least minuted, if not recorded. This is to ensure that agreements are captured. This will also be useful in the event that matters break down or escalate and need to be referred to the PSOW. It may also be useful as evidence in the event of further similar breaches of the conduct and future conduct.

Councils need to be clear on their powers in respect of code of conduct matters. The Ombudsman has seen examples of councils who have deemed it appropriate to fully investigate a code complaint, decide that there has been a breach and some have even thought it appropriate to consider the issue of a sanction. Investigations of possible breaches of the Code are matters for the Ombudsman. The Local Government Act 2000 gives him the authority to carry out such investigations. The Council has no legal authority to undertake such investigations or to make findings of a breach of the Code of Conduct, which are decisions that can only be reached by a Standards Committee or the Adjudication Panel for Wales.



ABOUT ONE VOICE WALES

One Voice Wales is the national representative organisation for Community and Town Councils throughout Wales. The vision subscribed to by One Voice Wales is:

“Working with local councils in Wales to shape places communities want to live in”

One Voice Wales aims to support Community and Town Councils in achieving this vision and has adopted the following Mission Statement to guide its work:

“To represent the interests of Community and Town Councils; raise awareness and understanding of this primary tier of government; and work collaboratively with our partners to ensure the sector contributes fully to the goal of developing dynamic and sustainable communities in Wales.”

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RHONDDA CYNON TAF

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

18 SEPTEMBER 2018

PUBLIC SERVICES OMBUDSMAN FOR WALES – CODE OF CONDUCT CASEBOOK

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF REPORT

To receive the Ombudsman's Code of Conduct Casebook (Issues 15 - 17) produced by the Public Services Ombudsman for Wales.

2. RECOMMENDATION

2.1 To note the contents of the Ombudsman's Code of Conduct Casebook (Issues 15 - 17) published by the Public Services Ombudsman for Wales.

3. BACKGROUND

3.1 The Public Services Ombudsman for Wales produces quarterly Code of Conduct casebooks.

3.2 Issues 15 – 17 of the Code of Conduct Casebook are attached as Appendix 1 to the report.

3.3 Members should note that the Casebooks are able to be accessed via the Ombudsman's Website and the following link:

[Code of Conduct Casebooks](#)

LOCAL GOVERNMENT ACT 1972
AS AMENDED BY
THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
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18 SEPTEMBER 2018
REPORT OF MONITORING OFFICER

BACKGROUND PAPERS

Freestanding Matter

Contact: Mr Andy Wilkins (Head of Legal – Corporate & Democratic Services)
– 01443 424189

The Code of Conduct Casebook

Issue 15 January 2018

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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

penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers October to December 2017.

Case summaries

No evidence of breach

Cardiff Council – Promotion of equality and respect

Case Number 201606695 – Report issued in October 2017

A complaint was made that a member (“the Councillor”) of Cardiff Council (“the Council”) breached the Authority’s Code of Conduct for elected members when he allegedly made comments to a former Councillor on two occasions about a local religious association.

The complaint was investigated on the basis that the member may have breached paragraphs 4(a), 4(b), 4(d) and 6(1)(a), relating to equality, respect, impartiality and bringing their office or authority into disrepute.

The investigation found that there were no witnesses to either of the conversations the member had with the former Councillor. The member also strongly denied the allegations. Therefore, under section 69(4) (a) of the Local Government Act 2000, the Ombudsman’s finding was that there was no evidence that the member failed to comply with the Code of Conduct.

Merthyr Tydfil County Borough Council - Integrity

Case Number 201700102 – Report issued in October 2017

A complaint was made that a member (“the Councillor”) of Merthyr Tydfil County Borough Council (“the Council”) breached the Authority’s Code of Conduct for elected members when she made comments about a member of the public in a Facebook messenger group chat.

The complaint was investigated on the basis that the Councillor may have breached paragraph 6(1)(a) of the Code, by bringing her office or authority into disrepute.

The Ombudsman considered that the Councillor’s comments were made in extremely bad taste. However, he took into account that the Facebook messenger group in which the Councillor posted her comments only consisted of three members. It was clear that the Councillor deeply regretted her actions and when she realised that the subject of her comments had become aware of what she had posted, she provided a fulsome apology.

The investigation found that, whilst the Councillor’s actions may have brought herself into disrepute, for the reasons outlined above, she had not brought her office or authority into disrepute. Therefore, under section 69(4)(a) of the Local Government Act 2000, the Ombudsman’s finding was that there was no evidence that the Councillor failed to comply with the Code of Conduct. However, the Councillor was advised of her responsibility to take care when expressing her personal opinions.

Tywyn Town Council and Gwynedd Council – Promotion of Equality and Respect

Case Number 201607353 & 201607357 – Report issued in November 2017

Councillor X complained that a member (“Councillor Y”) of Tywyn Town Council and Gwynedd Council breached the Code of Conduct for elected members by making personal allegations about her. Councillor

X provided evidence that Councillor Y made comments about her in various emails, which he had sent to members of Tywyn Town Council and Gwynedd Council.

The complaint was investigated on the basis that Councillor Y may have breached paragraphs 4(b) (failure to show respect and consideration), 4(c) (bullying and harassment), and 6(1)(a) (bringing his office or authority into disrepute).

The Ombudsman did not consider that the comments made by Councillor Y were so offensive as to amount to a breach of paragraph 4(b) of the Code of Conduct. Neither did he consider that his actions were sufficiently serious to amount to a breach of paragraph 4(c) of the Code.

In relation to paragraph 6(1)(a) of the Code, there was no evidence to suggest that Councillor Y had shared emails with members of the public. He had sent one email to a member of the press, and whilst the Ombudsman considered it was unwise for him to do so, it did not appear that the email was acted upon or shared further. That being so, the Ombudsman did not consider that the consequences of his actions were sufficiently serious to have brought his office or authority into disrepute.

Whilst the Ombudsman's finding was that there was no evidence that Councillor Y had failed to comply with the Code of Conduct, he was advised of his responsibility to be mindful of how his comments are perceived by others in future.

Llansannan Community Council – Promotion of Equality and Respect Case Number 201700953 – Report issued in November 2017

Mr X complained that a member ("the Councillor") of Llansannan Community Council ("the Community Council"), breached the Code of Conduct for members when he asked Mr X to leave a meeting of the Community Council and used the words "for your own safety," which Mr X considered to be a threat.

The complaint was investigated on the basis that there may have been a failure to comply with the following paragraph of the Code of Conduct for elected members:

- 4(b) – you must show respect and consideration for others; and
- 4(c) – you must not use bullying behaviour or harass any person.

There was no evidence to suggest that the Councillor's behaviour towards Mr X was in any way threatening and the Ombudsman was satisfied that his actions were reasonable under the circumstances.

Under Section 69(4)(a) of the Local Government Act 2000, the Ombudsman's finding was that there was no evidence that the Councillor failed to comply with the Code of Conduct.

No action necessary

Conwy County Borough Council - Disclosure and registration of interests

Case Number 201702250 – Report issued in October 2017

The Ombudsman received a complaint that a member of Conwy County Borough Council (“the Councillor”) had breached the Code of Conduct when he submitted a written objection, in an official capacity, to a planning application which the complainants had made to the Council. The Councillor lives near the application site, and could be personally affected by it.

The Ombudsman concluded that it was likely that the Councillor had breached the Code given the proximity of the development site to his home and the fact his objections were sent from his Council email address and signed off “Councillor [Name]”. However, the Ombudsman decided to take no action in this case on the basis that the Councillor had shown remorse and apologised, his explanation that he had accidentally selected his Council email address from a drop down box when writing his email was plausible, he had acted swiftly to withdraw his objection when concerns were raised, and his actions did not adversely affect the planning application, which was granted permission.

Referred to Standards Committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

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 or sent to the following address:

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

Tel: 0300 790 0203
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e-mail: ask@ombudsman-wales.org.uk (general enquiries)

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The Code of Conduct Casebook

Issue 16 May 2018

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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

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 March 2018.

Case summaries

No evidence of breach

There are no summaries in relation to this finding

No action necessary

Llanbedrog Community Council – Disclosure and registration of interests

Case Number: 201700942 & 201702074 – Report issued in January 2018

The Ombudsman received a complaint that a member of Llanbedrog Community Council (“the Councillor”) breached the Code of Conduct by failing to declare an interest when his planning application came up for discussion at a meeting of the Community Council (“the meeting”).

The Ombudsman investigated whether the Councillor had breached parts of the Code relating to personal and prejudicial interests. Interviews were conducted with those members of the Council who were present at the meeting. The evidence indicated that the Councillor:

- declared an interest when his planning application came up for discussion
- did not take part in the discussion
- did not leave the room but as the item was so brief, he did not have an opportunity to do so.
- The members present at the meeting did not feel that the Councillor’s presence influenced their decision

The Ombudsman found that the Councillor had acted appropriately and in line with the requirements of the Code of Conduct in declaring a personal interest when his planning application came up for discussion. However, his action in not leaving the meeting room was in breach of the Code of Conduct as he would have had a prejudicial interest in the matter.

The Ombudsman considered the breach was mitigated as the Councillor took no part in the discussion and as the item was so brief, the Councillor did not have an opportunity to leave the room before the item was concluded. The Community Council was also not the final decision-maker on planning matters. He took the view that the Councillor’s actions were of limited consequence.

Under section 69(4)(b) of the Local Government Act 2000, the Ombudsman found that no action needed to be taken in respect of the complaint.

Abertillery & Llanhilleth Community Council – Integrity

Case Number: 201700261 – Report issued in January 2018

The Ombudsman received a complaint that a member (“the member”) of Abertillery & Llanhilleth Community Council (“the Council”) had breached the Code of Conduct for members. It was alleged that the member had arranged for a sum of money, intended for the Council, to be paid to a community project (“the Project”). At the time of the actions complained of the member was Chairman both of the Council and of the Project.

The Ombudsman investigated whether the member’s actions amounted to a breach of para-

graphs 6(1)(a), 7(b)(ii) and 7(b)(iv) of the Code of Conduct relating to bringing their office or authority into disrepute, and the use of the authority's resources.

The Ombudsman found that the Council had no legal right to receive the money in question, and that it could not therefore be considered to be the Council's resources. The member had therefore not breached paragraph 7(b)(ii) or paragraph 7(b)(iv). However, the member had acted improperly in the way in which he obtained funding for the Project, representing himself as acting on behalf of the Council, at the possible expense of other groups, and may therefore have been in breach of paragraph 6(1)(a) in that he had brought his office or the authority into disrepute.

The Ombudsman noted the member's inexperience as Chairman, the fact that he believed, albeit mistakenly, that he was acting in the public interest and that he obtained no personal gain from his actions. The Ombudsman concluded that, on balance, the public interest did not require that the case should be referred to a Standards Committee or Adjudication Panel for Wales, and decided that no further action needed to be taken.

Case Number: 201701904 – Disclosure and registration of interests

Llay Community Council – Report issued in January 2018

The Ombudsman received a complaint from a member of the public that the Councillor had breached the Code of Conduct ("the Code") for Llay Community Council ("the Council"). The complainant said the Councillor had, at a meeting of the Council, failed to declare a personal interest in - and participated in a discussion about - a planning application which affected the site of the Llay branch of a charitable organisation. The Councillor is the Secretary of the Social Committee of the Social Club which is licensed to operate from the charitable organisation's site.

The Ombudsman considered whether, in failing to declare a personal interest and remaining in the room, the Councillor had breached the Code. The Ombudsman took witness statements from the other councillor's present at the meeting and interviewed the Councillor. The Council unanimously voted to oppose the planning application and none of the witnesses said they felt influenced by the Councillor's presence. There was some confusion amongst councillors as to whether the Councillor should have declared an interest and withdrawn. At interview, the Councillor remained of the view that he had not been required to declare an interest and withdraw. The Council was not the determining authority and so was simply being consulted on the application.

The Ombudsman concluded that the Councillor's personal interest was prejudicial and that he should have withdrawn from the room while the application was under discussion. However, the Ombudsman found that the Councillor did not stand to personally benefit from the outcome of the planning application. The Councillor's position as Secretary of the Social Committee and the Council's role in the determination of the application were sufficiently distant from application as to mitigate their impact. The Ombudsman considered the general confusion amongst councillors and the fact that the Councillor presence had no bearing on the Council's unanimous opposition to the application.

The Ombudsman concluded that there was evidence suggestive of a breach of paragraphs 11(1) and 14(1)(a)(ii) of the Code. Whilst the Ombudsman was concerned at the apparent confusion amongst councillors generally in respect of personal interests, he considered that additional train-

ing would address this. On balance, the Ombudsman concluded that although the Councillor may have breached two paragraphs of the Code, there were mitigating circumstances and so no further action was necessary.

Referred to Standards Committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

More information

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Case summaries

No evidence of breach

Merthyr Tydfil County Borough Council – Promotion of equality and respect

Case Number: 201704719 – Report issued in April 2018

An employee (“the Complainant”) of Merthyr Tydfil County Borough Council (“the Council”) complained that, at a staff meeting, an elected member of the Council (“the Councillor”) had made reference to some members of staff being “dead men walking”. The Complainant said that the Councillor made further comments which led some members of staff to conclude that this phrase referred to him. The Complainant said that this put him in fear for his job.

The Ombudsman investigated the complaint on the basis that the Councillor may have breached the paragraphs 4(b), 4(c), 6(1)(a) and 7(a) of the Code of Conduct for Members (“the Code”), relating to showing respect, bullying behaviour, disrepute and creating a disadvantage for others.

In the absence of any formal record of the meeting, the Ombudsman interviewed a selection of those present, as well as the Councillor, the Complainant and his manager. The Ombudsman considered what the Councillor said, his explanation of what he had meant and how his comments had been received.

The Ombudsman found that although the Councillor had used the phrase “dead men walking” there was no evidence to support the complaint that the comment was specifically directed at the Complainant or that it was intended to be seen as a threat to anybody’s job. The Ombudsman concluded that there was no evidence that the Councillor had breached the Code.

No action necessary

Chepstow Town Council – Disclosure and registration of interests

Case Number: 201703539 – Report issued in May 2018

A complaint was received that a member of Chepstow Town Council (“Councillor A”) had participated in discussions about the future ownership and management arrangements for a local public facility at a meeting of the Town Council, despite having declared a prejudicial interest in the matter.

The Ombudsman’s investigation found that it was likely that Councillor A had spoken at the meeting, despite having a prejudicial interest in the item, contrary to the requirements of paragraphs 14(1)(a), (c) and (e) of the Code of Conduct.

The Ombudsman decided that despite the fact the evidence suggested that there had been a breach of the Code, no further action should be taken. This was because Councillor A did not stand to gain personally from any decision made, the evidence suggested that he had withdrawn from the room for the vote, his preferred option was not agreed by the Council, and the Chair of the Council had indicated that he could speak. The Ombudsman did, however, remind Councillor A of his responsibilities in relation to prejudicial interests.

Trellech United Community Council – Objectivity and propriety

Case number 201700946 – Report issued in April 2018

The Ombudsman received a complaint that a Councillor (“the Councillor”) of Trellech United Community Council (“the Council”) had breached the Code of Conduct for members. It was alleged that the Councillor had breached the Code when he wrote to an adjudicator of a competition, giving the impression that he was acting as a representative of the Council, in an attempt to negatively influence the chance of a specific entry winning the competition and thereby creating disadvantage for a member of the public who would benefit if that entry was successful.

The Ombudsman investigated whether the Councillor’s actions amounted to a breach of paragraph 7(a) of the Code of Conduct which states that members must not, in their official capacity or otherwise, use or attempt to use their position improperly to create a disadvantage for another person.

The Ombudsman found that the Councillor, by writing to the adjudicator with information intended to lessen the likelihood of that specific entry winning the competition and by signing off that correspondence as a Councillor, may have breached paragraph 7(a).

The Ombudsman noted, however, that the entry subsequently won the competition, so the Councillor’s intervention did not actually cause a disadvantage to the person in question. The Ombudsman concluded that, on balance, it was not in the public interest to refer the matter to a Standards Committee or Adjudication Panel for Wales and, therefore, no further action should be taken.

Referred to Standards Committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

More information

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