

**SUMMARY OF PSOW INVESTIGATION OUTCOMES CONCERNING ALLEGED MEMBERS' CODE OF CONDUCT BREACHES - 30<sup>TH</sup> AUGUST 2023 – 31<sup>ST</sup> OCTOBER 2023 (NOT PREVIOUSLY REPORTED)**

**Promotion of equality & respect: Powys County Council/Bannau Brycheiniog National Park Authority**

Report date - 20/11/2023

Outcome – Referral to Standards Committee

The Ombudsman received a complaint that a Member (“the Member”) of Powys County Council (“the Council”) breached the Code of Conduct.

The report on this investigation has therefore been referred to the Monitoring Officer of Powys County Council, for consideration by the Council’s Standards Committee and to the Monitoring Officer of Bannau Brycheiniog National Park Authority, for consideration by the Authority’s Standards Committee. This summary will be updated following the Standards Committee’s decision.

**Promotion of equality & respect: Mumbles Community Council**

Report date - 10/10/2023

Outcome- Referred to the Adjudication Panel for Wales

The Ombudsman received a complaint from a member of the public that a Member (“the Member”) of Mumbles Community Council (“the Council”) had verbally abused them on social media.

The report on this investigation was referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal. This summary will be updated following the Adjudication Panel for Wales’ decision.

**Promotion of equality & respect: Wrexham County Borough Council**

Report date - 28/09/2023

Outcome - No action necessary

It was alleged that a member (“the Member”) of Wrexham County Borough Council (“the Council”) used offensive language and was intimidating and aggressive towards a member of the public.

The Ombudsman’s investigation considered whether the Member’s conduct may have reached paragraphs 4(b), 4(c) and 6(1)(a) of the Code of Conduct. Information was obtained from the Council. Witnesses, including the complainant, were interviewed. The Member was interviewed.

The Ombudsman's investigation found that there was no witness evidence, other than that of the complainant and Member, available to account for what was said during the exchange between the Member and complainant. Witness evidence was provided by members of the public which supported the Member's contention that the complainant had previous similar incidents. The investigation found that the incident was reported to the Police who determined that the incident was a clear "one word against the other" and documented that there was no supporting evidence to support either account. The Police took no further action against the Member and therefore no evidence of the allegedly poor behaviour on the part of the Member was found by the Police. On the balance of the available evidence, the Ombudsman was not persuaded that there was evidence of a breach of the Code.

Accordingly, the Ombudsman found that under Section 69(4)(a) of the Local Government Act 2000 there was no evidence of any failure to comply with the Code.

## **Disclosure & register of interest: Ffestiniog Town Council**

Report date - 13/09/2023

Outcome - No Action Necessary

The Ombudsman received a complaint that a Member ("the Member") of Ffestiniog Town Council ("the Council") had breached the Code of Conduct ("the Code") by failing to declare a personal and prejudicial interest when the Council took the decision not to support a request by local residents to oppose an application to the Land Registry Tribunal which had been made by a fellow councillor, the Member's friend. It was also alleged that the Member had subsequently sent a statement of support for his fellow councillor's application.

The Ombudsman's investigation considered whether the Member had breached the Code by failing to declare a personal and prejudicial interest, by using his position to create an advantage or disadvantage for someone and whether he had brought his office or authority into disrepute.

Information was obtained from the Council and witnesses were interviewed.

The Member acknowledged that his intention to write a statement of support for his fellow councillor's application to a Land Registry tribunal meant that he held a personal and prejudicial interest and that he should have declared the interest and not participated in discussion of those matters at council meetings.

The Ombudsman found that the actions of the member were suggestive of breaches of the Code in that he had failed to declare a personal and prejudicial interest and had made representations at council meetings when he should not have done so. However, the Ombudsman also noted that advice given by other councillors and the Clerk was not as clear as it could have been.

The Ombudsman was not persuaded that these events had, or were likely to have, an effect on the reputation of the Council as a whole, because it was unclear whether the Member's input would have affected the Council's decision and it was a limited decision affecting only a small group of people in the area.

The Ombudsman was also not persuaded that the Member used his position improperly or in a way that was suggestive of a breach of the Code because, had he declared a personal and prejudicial interest, he would not have been prevented from writing the statement if he wished to do so in his personal capacity and the fact that he was a member of the Council did not give him an advantage in that situation.

The Member had not received training on the Code before the events that gave rise to the complaint. The Member signed an undertaking to abide by the Code before he took up his role. This should not have been taken lightly and should have alerted him to the fact that he was under a duty to understand the Code in order to abide by it. He has since attended training on the Code as well as several other courses and now better understands the requirements of the Code and his responsibilities as a member of the Council.

The Ombudsman found that although the Member's actions were suggestive of a breach of the Code the limited impact of his actions, the mitigation provided by the unclear advice he received and the actions he has since taken to address his understanding of his obligations, meant it would not be in the public interest to take further action.

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.

## **Disclosure & register of interest : Ffestiniog Town Council**

Report date -13/09/2023

Outcome - No Action Necessary

The Ombudsman received a complaint that a Member ("the Member") of Ffestiniog Town Council ("the Council") had breached the Code of Conduct ("the Code") by failing to declare a personal and prejudicial interest when the Council took the decisions relating to a Land Registry application which had been made by the Member.

The Ombudsman's investigation considered whether the Member had breached the Code by failing to declare the personal and prejudicial interest, by using his position to create an advantage or disadvantage for someone and whether he had brought his office or authority into disrepute.

Information was obtained from the Council and witnesses were interviewed.

The Member acknowledged that his application to a Land Registry tribunal meant that he held a personal and prejudicial interest and that he should have declared the interest and not participated in discussion of those matters at council meetings.

The Ombudsman found that the actions of the Member were suggestive of breaches of the Code. The Member had failed to declare a personal and prejudicial interest and had made representations when he should not have done. However, the Ombudsman

also noted that the advice given by other councillors and the Clerk was not as clear as it could have been.

The Ombudsman was not persuaded that the event had, or was likely to have, an effect on the reputation of the Council as a whole, because it was a limited decision affecting only a small group of people in the area.

The Ombudsman was also not persuaded that the Member used his position improperly because had he declared a personal and prejudicial interest, he could have submitted his written representations, in his private capacity, in the way the other parties had.

The Member had not received training on the Code before the events that gave rise to the complaint. The Member signed an undertaking to abide by the Code before he took up his role. This should not have been taken lightly and should have alerted him to the fact that he was under a duty to understand the Code in order to abide by it, but he has since attended training on the Code as well as several other courses and now better understands the requirements of the Code and his responsibilities as a member of the Council.

The Ombudsman found that although the Member's actions were suggestive of a breach of the Code the limited impact of his actions, the mitigation provided by the unclear advice he received and the actions he has since taken to address his understanding of his obligations, meant it would not be in the public interest to take further action.

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: Flintshire County Council**

Report date - 09/08/2023

Outcome - No Action Necessary

The Ombudsman received a complaint that a Member ("the Member") of Flintshire County Council ("the Council") made comments on social media which brought the Council into disrepute as he alleged that another member of the Council had been "bought".

The Ombudsman's investigation considered whether the Member's conduct may have breached paragraphs 4(b), 4(c) and 6(1)(a) of the Code. Information was obtained from the Council. Copies of the comments made on social media and evidence from Facebook were obtained. Witness information was obtained. The Member was interviewed.

The Ombudsman's investigation found that the Member's comments on social media were made publicly and suggested impropriety and corruption on the part of another member of the Council. The Ombudsman found that the Member's comments had the

potential to seriously damage his and the Council's reputation and considered that a member of the public would reasonably have regarded the Member's comment as an allegation of bribery or corruption on the part of a member of the Council. She found that the Member's comment therefore had the potential to affect the Council's reputation and the public's confidence in local democracy and therefore concluded that the Member's conduct could reasonably be regarded as bringing both the Council and his office as a councillor into disrepute, in breach of paragraph 6(1)(a) of the Code.

The Ombudsman also found that the Member's comment and specific reference to a member of the Council being "bought" went beyond what was reasonable and was a serious allegation to make. She found that, in making such a serious allegation, publicly on Facebook, the Member failed to show the complainant respect and consideration. The Ombudsman found that the Member's conduct was suggestive of a breach of paragraph 4(b) of the Code.

The Ombudsman found that the member of the Council, at whom the comment was aimed, was clear that he did not suffer any lasting anxiety or loss of reputation as a result of the Member's comments. The Member also apologised publicly and privately to the member of the Council about whom he made the comments. The Ombudsman found that the evidence was not suggestive of bullying and harassment within the meaning of the Code and therefore did not consider there was evidence of a breach of paragraph 4(c) of the Code.

In considering whether further action was required in the public interest, the Ombudsman took into account the events which have taken place since the comment on social media was made. The Member publicly apologised for the comment and the apology was accepted. The member subject to the comments said that he suffered no lasting anxiety or loss of reputation as a result of the Member's comments and wished to withdraw his complaint. In view of this, the Ombudsman did not consider that it was in the public interest for any further action to be taken. However, the Ombudsman noted that had the Member not publicly apologised and had the member subject to the comments taken a different view on the matter, further action would have been taken. The Member was reminded of his need to take care when posting on social media. The Ombudsman also noted that any complaints of a similar nature be made in the future, this decision will be kept on record and taken into account in any future cases.

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

## **Promotion of equality & respect: Monmouthshire County Council**

Report date - 20/10/2023

Outcome – No Action Necessary

The Ombudsman received a complaint that a member ("the Member") of Monmouthshire County Council ("the Council") may have breached the Code of Conduct by the comments the Member made in a public Council meeting about a missing person. It was alleged that the comments were insensitive to the missing person's family.

The Ombudsman's investigation considered whether the Member's conduct may have breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct. Information was obtained from the Council. Witnesses, including the complainant, were interviewed. The Member was interviewed. Information was obtained from the Police.

The Ombudsman's investigation found that the Member had been asked for help by a constituent, who was also related to the missing person. The Police did not share any information with the Member about the missing person. The Ombudsman found that the Member's explanation that he was acting on behalf of his constituent in making the comments appeared reasonable. However, the Ombudsman found that the Member should have been mindful of the sensitive and upsetting nature of the matter. The complainant found the Member's comments upsetting and distressing to hear and the Ombudsman noted that the comments were made in a full Council public meeting. She considered that the public nature of the comments and references to the missing person could be considered as disrespectful to the family of the person who was missing. The Ombudsman found that discussing such a sensitive and upsetting matter as part of Council business may have failed to show respect and consideration to the complainant and accordingly, were in breach of paragraph 4(b) of the Code.

The Member said that he was representing his constituent in making the comments and that his comments were made as part of a political point. This meant that careful consideration of the enhanced protection councillors have, which permits the use of language in political debates which might, in non-political contexts be regarded as inappropriate or unacceptable had to be carefully considered. In view of this, the Ombudsman was not persuaded that the conduct was likely to have brought the Member's office of councillor or his Authority into disrepute (in breach of paragraph 6(1)(a) of the Code of Conduct).

The Ombudsman acknowledged that the Member was asked for help by a constituent and had explained that he was trying to help his constituent in making the comments complained about. It was noted that the Member had not received information which he had been asked to keep confidential and his comments were made as part of a political debate. In view of this, the Ombudsman did not consider that further action was needed in the public interest. The Ombudsman reminded the Member of the need to be mindful when commenting on sensitive matters in any future council meetings.

The Ombudsman found that under Section 69(b) of the Local Government Act 2000, my finding is that no action needs to be taken in respect of the matters investigated.

## **Promotion of equality & respect: Buckley Town Council**

Report date - 29/09/2023

Outcome – Referred to Standards Committee

The Ombudsman received a complaint from the Former Clerk of Buckley Town Council ("the Council") that a Member ("the Member") of the Council had breached the Code of Conduct. It was alleged that the Member had called for the Former Clerk's

resignation at a Council meeting which was attended by Councillors, staff and members of the public.

The report on the investigation was referred to the Deputy Monitoring Officer of Flintshire County Council for consideration by the Council's Standards Committee. This summary will be updated following the Standards Committee's decision.