

## Standards Community Sub-Committee

---

Meeting Venue  
**Committee Room A - County Hall,  
Llandrindod Wells, Powys**

---

Meeting date  
**Wednesday, 27 June 2018**

---

Meeting time  
**10.30 am or on the later rising of  
Standards Committee**

---

For further information please contact  
**Elizabeth Patterson**  
01597 826980  
elizabeth.patterson@powys.gov.uk



County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

Issue Date  
21<sup>st</sup> June 2018

---

The use of Welsh by participants is welcomed. If you wish to use Welsh please inform us by noon, two working days before the meeting

---

### AGENDA

<b>1.</b>	<b>APOLOGIES</b>
-----------	------------------

To receive apologies for absence.

<b>2.</b>	<b>MINUTES</b>
-----------	----------------

To authorise the Chair to sign the minutes of the previous meeting of the Committee held on the following date as a correct record:

- 7<sup>th</sup> February 2018

(Pages 3 - 4)

<b>3.</b>	<b>DECLARATIONS OF INTEREST</b>
-----------	---------------------------------

To receive any declarations of interest from Members relating to items to be considered on the agenda.

<b>4.</b>	<b>REPORT OF THE SOLICITOR TO THE COUNCIL</b>
-----------	---

To receive the report of the Solicitor to the Council.

(Pages 5 - 32)

This page is intentionally left blank

## MINUTES OF A MEETING OF THE STANDARDS COMMUNITY SUB-COMMITTEE HELD AT COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON WEDNESDAY, 7 FEBRUARY 2018

### PRESENT

Independent Member Mrs H Rhydderch-Roberts (Chair)

Independent Members: Mrs J Evans, Mr S Hays, Mrs C Jackson, Mrs C Mulholland,  
Community Councillors Mrs E Morris, Mrs J Shearer and Mr H Patrick  
County Councillor K Roberts-Jones

Observers: County Councillor Mrs S McNicholas

In attendance: Mr C Pinney (Solicitor to the Council), Mr W Richards (Head of  
Democratic Services), Mrs E Patterson (Scrutiny Officer).

### 1. APOLOGIES

No apologies for absence were received.

### 2. MINUTES

The Chair was authorised to sign the minutes of the meeting held on the 4<sup>th</sup>  
October 2017 as a correct record.

### 3. DECLARATIONS OF INTEREST

No declarations of interest were received.

### 4. REPORT OF THE SOLICITOR TO THE COUNCIL

The Committee received the report of the Solicitor to the Council (copy filed with  
signed minutes).

#### A Referral of Councillors to Public Services Ombudsman

##### A1. Town and Community Councillor Referrals

The current position regarding existing matters with the Ombudsman was  
as follows:

6/17/TCC	Ombudsman decided not to investigate
7/17/TCC	Ombudsman investigating
8/17/TCC	Ombudsman investigating
9/17/TCC	Ombudsman decided not to investigate
10/17/TCC	Ombudsman decided not to investigate
11/17/TCC	Ombudsman decided not to investigate
12/17/TCC	Ombudsman decided not to investigate
13/17/TCC	Ombudsman decided not to investigate

14/17/TCC Ombudsman deciding whether to investigate or not  
15/17/TCC Ombudsman decided not to investigate  
16/17/TCC Ombudsman decided not to investigate  
01/18/TCC Ombudsman decided not to investigate

**B. Dispensations**

**B1. Applications - Town and Community Councillors**

No applications for dispensations from Town and Community Councillors had been received.

**C Ombudsman's Casebook**

The Ombudsman had published Code of Conduct Casebooks for the following period:

- July – September 2017

A copy of this Casebook was attached to the report of the Solicitor to the Council.

**D Annual Report from Adjudication Panel for Wales**

The Adjudication Panel for Wales (APW) had published its Combined Annual Report for 2014/15 and 2015/16 which can be accessed from the Adjudication Panel for Wales website.

**E. Meeting Dates.**

The Committee noted the dates of future meetings as follows:

Wednesday 27<sup>th</sup> June 2018

Friday 14<sup>th</sup> September 2018 – Standards Conference Aberystwyth University

Wednesday 3<sup>rd</sup> October 2018

**Mrs H Rhydderch-Roberts (Chair)**

## CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Community Sub - Committee  
27<sup>th</sup> June 2018

**REPORT BY:** Solicitor to the Council

**SUBJECT:** Standards Issues

**REPORT FOR:** Decision, Information and Discussion

**A Referral of Councillors to Public Services Ombudsman**

**A1. Town and Community Councillor Referrals**

The current position regarding existing matters with the Ombudsman is as follows:

7/17/TCC	Ombudsman deciding whether or not to investigate
14/17/TCC	Ombudsman not investigating
16/17/TCC	Ombudsman reviewing decision not to investigate
2/18/TCC	Complaint received – Ombudsman not investigating
3/18/TCC	Complaint received – Ombudsman not investigating
4/18/TCC	Complaint received – Ombudsman not investigating
5/18/TCC	Complaint received – Ombudsman not investigating but now subject to review
6/18/TCC	Ombudsman deciding whether or not to investigate
7/18/TCC	Complaint received – Ombudsman not investigating but now subject to review
8/18/TCC	Ombudsman deciding whether or not to investigate
9/18/TCC	Ombudsman deciding whether or not to investigate
10/18/TCC	Ombudsman deciding whether or not to investigate
11/18/TCC	Ombudsman deciding whether or not to investigate

**B. Dispensations**

**B1. Applications - Town and Community Councillors**

One application for dispensation has been received from County Councillor David Jones from Montgomery Town Council (copy attached at **Appendix A**). This was received in November 2017 and unfortunately was not included on the agenda in February 2018. The application was, in part, a continuation of a previous dispensation granted in December 2012 and the Chair and Vice-Chair agreed to grant a temporary dispensation to be formally confirmed at the next meeting of the Standards Community Sub-Committee (copy attached at **Appendix B**)

As the application for a dispensation is a continuation of the previous dispensation and there are no changes in circumstances, the Committee is asked to reaffirm the dispensation granted on 5<sup>th</sup> December, 2012 from the date of this meeting until the first meeting of the Standards Sub-Committee after the next Council elections in 2022.

The application also requests permission to speak with regards to Montgomery Show. The Clerk to the Council has confirmed that Councillor Jones has not been appointed to the Show Committee by the Town Council. However this application is already covered by the general dispensation granted by the Sub-Committee in October, 2017 relating to the membership of voluntary bodies, and therefore the Committee does need to take a decision in this respect.

<b>RECOMMENDATION:</b>	<b>REASON FOR RECOMMENDATION:</b>
(i) <b>That the Sub-Committee reaffirms the dispensation granted to Councillor Jones on 5<sup>th</sup> December, 2012, from the date of this meeting until the first meeting of the Standards Sub-Committee held after the next Council elections in 2022.</b>	<b>To determine an application for dispensation.</b>
(ii) <b>That Councillor Jones be advised that in relation to his application relating to membership of the Montgomery Show Committee, that no dispensation is required as this is already covered by the general dispensation granted by the Sub-Committee in October, 2017.</b>	

**C Delegation for urgent matters**

There are only three meetings a year of the Standards Community Sub-Committee in the diary. Extraordinary meetings of Standards Community Sub-Committee may be called where urgent matters are required to be decided. There are however matters which may not warrant the calling of an extraordinary meeting and in this case Members are asked to consider delegating authority to the Chair and Vice-Chair of Standards Community Sub-Committee together with the Monitoring Officer to take a holding decision pending confirmation of the position at Standards Community Sub-Committee. Decisions such as this will be limited to non-controversial applications for dispensation.

RECOMMENDATION:	REASON FOR RECOMMENDATION:
That the Committee delegate non-controversial applications for dispensation to the Chair and Vice-Chair of the Standards Community Sub-Committee in consultation with the Monitoring Officer to grant a temporary dispensation subject to confirmation at Standards Community Sub-Committee	To allow applications for dispensation to be decided in a timely manner but confirmed at a meeting of the Standards Community Sub-Committee.

#### D Ombudsman’s Casebook

The Ombudsman has published Code of Conduct Casebooks for the following period:

- October - December 2017
- January – March 2018

A copy of these Casebooks are attached at **Appendix C**.

Back copies of the casebooks can be accessed from the website of the Public Services Ombudsman for Wales at:

<http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx>

#### E Annual Report from Adjudication Panel for Wales

The Adjudication Panel for Wales (APW) has published its Annual Report for 2016/17.

The report can be accessed from the APW website on the following link;

<http://gov.wales/docs/apw/publications/170404-apw-annual-report-2014-2016-en.pdf>

The Adjudication Panel for Wales is an independent tribunal. Their function is to determine alleged breaches by elected and co-opted members of Welsh county, county borough and community councils, fire and national park authorities, against their authority’s statutory code of conduct.

The APW role is to form case and interim case tribunals (“Case Tribunals”) to consider references from the PSOW following the investigation of allegations that a member has failed to comply with their authority’s Code of Conduct; and

The Panel to consider appeals by members against decisions of their own authority's Standards Committee that they have breach their Authority's Code of Conduct ("Appeal Tribunals").

**F. Meeting Dates.**

To note dates of future meetings as follows:

Friday 14<sup>th</sup> September 2018 – Standards Conference Aberystwyth University

Wednesday 3<sup>rd</sup> October 2018 Standards Community Sub-Committee

Contact Officer Name:	Tel:	Fax:	Email:
<i>Clive Pinney – Solicitor to the Council</i>	01597 826746	01597 826220	<a href="mailto:clive.pinney@powys.gov.uk">clive.pinney@powys.gov.uk</a>

**POWYS STANDARDS COMMITTEE / COMMUNITY SUB-COMMITTEE**

**APPLICATION FOR DISPENSATION BY MEMBER WITH PREJUDICIAL INTEREST**

I, Councillor David Jones  
of Montgomery Town COUNCIL

hereby apply to the Powys Standards Committee/Community Sub-Committee for a Dispensation to participate, as described in Section 1 below, in that business of the Council described in Section 2 below notwithstanding that I have the Prejudicial Interest(s) detailed in Section 3 below.

I make this application on the ground(s) set out in Section 4 below which I submit apply because of the reasons detailed in Section 5 below.

**SECTION 1**

How you wish to participate – please tick all relevant categories below:

Attend a meeting	<input checked="" type="checkbox"/>
Speak at a meeting	<input checked="" type="checkbox"/>
Vote at a meeting	<input type="checkbox"/>
Seek to influence a decision on a matter	<input type="checkbox"/>
Make written representations	<input type="checkbox"/>
Make oral representations	<input checked="" type="checkbox"/>
Exercise Board functions (County Councillor only)	<input type="checkbox"/>

**SECTION 2**

(A) Describe in the box below:

- i) the business in which you wish to participate; MARKET & SHOW
- ii) how your Council will deal with the matter; COUNCIL MEETINGS.
- iii) how many Members there are on your Council; NINE.
- iv) what meetings will be held to consider it, when and where they will be held; and COUNCIL MEETINGS, EVERY 4<sup>th</sup> THURSDAY.
- v) those taking part. COUNCILLORS.

• Speak on behalf of Montgomery Market Stall holders.  
• Speak with regards to Montgomery Show.

(B) If the business relates to or affects an organisation(s) please detail below:

- how were you appointed to that organisation (i.e. by appointment by the Town or Community Council or by other means), and

- I AM A MARKET STALL HOLDER.

- I AM VICE CHAIRMAN OF THE SHOW COMMITTEE, ELECTED ON BY MEMBERS.

- what is the nature of the business:
  - A Funding
  - B Planning – applications, building improvement/changes
  - C Licences – liquor/entertainment
  - D Land
  - E Management/operation of the organisation ✓
  - F General matters ✓

• MARKET TRADING .  
 • ANNUAL SHOW MATTERS .

**(C) Is the organisation a registered charity? If so, are you a Trustee of the charity?**

• NO  
 • NO

**SECTION 3**

**Detail the PREJUDICIAL interest(s) you have in the business referred to in Section 2 above. Please refer to the attached Guidance Notes (Attached) and include the relevant category reference e.g C.4 if the matter concerns a good friend of yours who stands to benefit as a result of a decision on the matter.**

A1 - MARKET TRADING .  
 C1 - MARKET TRADING .

**SECTION 4**

**Set out the GROUND(S) upon which you rely by placing a tick in the right hand column against the relevant category/ies below.**

<b>Eligible Applicant</b>	<b>Ground</b>		
County Councillors and Town and Community Councillors	(a) No fewer than half of the Members of the relevant Authority or of a committee of the Authority (as the case may be) by which the business is to be considered has an interest which relates to that business;	Speak and Vote Speak only	- ✓
× County Councillors only	(b) No fewer than half of the Members of a leader and cabinet executive of the relevant Authority by which the business is to be considered has an interest which relates to that business and either Paragraph (d) or (e) also applies;	Speak and Vote Speak only	-
× County Councillors only	(c) In the case of a County or County Borough Council, the inability of the Member to participate would upset the political balance of the relevant Authority or of the committee of the Authority by which the business is to be considered to such an extent that the outcome would be likely to be affected.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(d) The nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business;	Speak and Vote Speak only	- ✓
County Councillors and Town and Community Councillors	(e) The interest is common to the Member and a significant proportion of the general public;	Speak and Vote Speak only	- ✓
County Councillors and Town and Community Councillors	(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;	Speak and Vote Speak only	- ✓
× County Councillors only	(g) The business to which the interest relates is to be considered by an Overview and Scrutiny Committee of the relevant Authority and the Member's interest is not a pecuniary interest.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(h) The business which is to be considered relates to the finances or property of a voluntary organisation of whose Management Committee or Board the Member is a Member otherwise than as a representative of the relevant Authority and the Member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or	Speak only	✓
County Councillors and Town and Community Councillors	(i) It appears to the committee to be in the interests of the inhabitants of the area of the relevant Authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.	Speak and Vote Speak only	- ✓

**SECTION 5**

Detail in full the reasons why you submit the grounds selected in Section 4 apply in the case of your application and justify the grant of the dispensation you seek

I would like to speak on behalf of Montgomery Market stall holders, with regards to any matters which may affect them.

I would like to speak on behalf of Montgomery Show committee, with regards to any matters which may affect them.

Applicant's home address:	[REDACTED]
	MONTGOMERY. POWYS. SY15 6HZ.
Applicant's telephone number:	[REDACTED]
Applicant's fax number:	[REDACTED]
Applicant's E Mail address:	[REDACTED]

SIGNED: [REDACTED]

DATED: 21 / 11 / 17

**This form fully completed, signed and dated should be returned to:**

**Mrs Elizabeth Patterson, Committee Clerk, Legal, Scrutiny and Democratic Services, County Hall, Llandrindod Wells, Powys, LD1 5LG.**

**Tel No: 01597 826980**

**Fax No: 01597 826220**

**E-Mail: [Elizabeth.patterson@powys.gov.uk](mailto:Elizabeth.patterson@powys.gov.uk)**

**From whom further information and advice may be obtained.**

David Powell, Strategic Director - Resources /  
Cyfarwyddwr Strategol - Adnoddau

Councillor D Jones  
Offa Farm  
Montgomery  
Powys  
SY15 6HZ

**Atebwch os gwelwch yn dda /Please reply to:**

Gwasanaethau Craffu / Scrutiny Services  
Cyngor Sir Powys County Council  
Neuadd y Sir/ County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

*Ffôn/ Tel:* 01597-826980

*Ffacs/ Fax:* 01597-826220

*E-bost/Email:* elizabeth.patterson@powys.gov.uk

*Eich cyf/Your ref:*

*Ein cyf / Our ref:*

*Dyddiad/Date:* 26 April 2018

*Os yn galw gofynnwch am / If calling please ask for:*

*Liz Patterson*

Dear Councillor Jones

### **Application for Dispensation - 2018**

Please find attached details of your dispensation. This has been agreed by the Chair and Vice-Chair of the Standards Community Sub-Committee until it can be taken to the June meeting of the Committee for confirmation.

<b>RESOLVED</b>	<b>REASON FOR DECISION</b>
<p>i) that a dispensation be granted to Councillor D Jones to speak at meetings of Montgomery Town Council regarding the Thursday and Saturday markets and then withdraw from the meeting.</p> <p>ii) that this dispensation only relates to the prejudicial interest arising from Councillor Jones' being a market stall holder and does not confer dispensation in respect of any other type of prejudicial interest.</p> <p>iii) that this dispensation shall continue in force until the next Standards Community Sub-Committee after the ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters this dispensation..</p>	<p>i) to allow Councillor Jones to speak on matters relating to the Montgomery markets as his expertise as a market trader would be valuable and providing Councillor Jones did not vote on matters relating to the Montgomery markets there would be no damage to public confidence.</p> <p>ii) and iii) to define the dispensation and its duration.</p>

This dispensation will remain effective until the date of the next Standards Community Sub-Committee after the Town and Community Council elections in 2022.

If you have any queries please do not hesitate to contact me.

Yours sincerely

*C Pinney*

Clive Pinney  
Solicitor to the Council  
Cc Clerk to Montgomery Town Council

# The Code of Conduct Casebook

Issue 15 January 2018

## Contents

<a href="#">Introduction</a>	1
<a href="#">No evidence of breach</a>	3
<a href="#">No action necessary</a>	5
<a href="#">Referred to Standards Committee</a>	6
<a href="#">Referred to Adjudication Panel for Wales</a>	7
<a href="#">More information</a>	8

## 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](mailto: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  
Fax: 01656 641199

e-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk) (general enquiries)

Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

# The Code of Conduct Casebook

Issue 16 May 2018

## 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>	6
<a href="#">Referred to Adjudication Panel for Wales</a>	7
<a href="#">More information</a>	8

## 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

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

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 sent to the following address:

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

Tel: 0300 790 0203  
Fax: 01656 641199

e-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk) (general enquiries)

Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

This page is intentionally left blank