

Standards Committee

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

Meeting date
Wednesday, 12 February 2020

Meeting time
2.00 pm

For further information please contact
Carol Johnson
01597 826206
carol.johnson@powys.gov.uk



County Hall
Llandrindod Wells
Powys
LD1 5LG

6 February, 2020

Mae croeso i chi siarad yn Gymraeg neu yn Saesneg yn y cyfarfod.
Rhowch wybod pa iaith rydych am ei defnyddio erbyn hanner dydd, ddau ddiwrnod
gwaith cyn y cyfarfod.
You are welcome to speak Welsh or English in the meeting.
Please inform us of which language you wish to use by noon, two working days
before the meeting.

AGENDA

1.	APOLOGIES
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To receive apologies for absence.

2.	MINUTES
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To authorise the Chair to sign the minutes of the previous meeting of the Committee held on 2 October, 2019 as a correct record.

(Pages 3 - 8)

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

4.	REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES
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To receive the report of the Head of Legal and Democratic Services.

(Pages 9 - 36)

**MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD AT
COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON
WEDNESDAY, 2 OCTOBER 2019**

PRESENT: Mr S Hays (Chair)

Independent Members: Mrs J Evans, Mrs C Moore and Mrs C Mulholland

County Councillors: S McNicholas, K M Roberts-Jones and K S Silk

In attendance: Ms D Jones (Deputy Monitoring Officer) and Miss C Johnson
[Democratic Services Officer]

1.	APOLOGIES
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Apologies were received from Mrs C Jackson.

The Committee noted that Sarah Lewis had resigned as a Councillor in September, 2019. The Committee noted that a replacement had been sought from the respective Group and the nomination would be approved by Council at its meeting on 10 October, 2019.

2.	MINUTES
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The Chair was authorised to sign the minutes of the meeting held on 5 June, 2019 as a correct record.

3.	DECLARATIONS OF INTEREST
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County Councillor K Roberts-Jones declared a personal interest in Item 4 F as she is a member of the Policy Forum which discusses and compiles policies for the Council.

4.	REPORT OF THE SOLICITOR TO THE COUNCIL
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The Committee received the report of the Solicitor to the Council (copy filed with signed minutes).

A. General Standards Issues for County Councillors and Co-opted Members

A1. Code of Conduct Training

The Committee noted that refresher training on Code of Conduct will be arranged in 2020 for all Councillors and co-opted members.

A2. Mandatory Training

A2.1 The Committee noted that four Councillors had not attended or completed the mandatory Equalities & Diversity training. The Committee noted that Councillor Harris, was due to attend the last session, but her afternoon appointment had arrived early and that Councillor Alexander was unable to complete the session due to urgent business.

Officers advised that the training would be provided by Council officers and a suitable date would need to be agreed, to ensure the four Councillors could attend. The Committee agreed that, taking this into account the training should be provided before Christmas, if possible.

RESOLVED	Reason for decision
that an email be sent from the Chair of Standards to Councillors Rosemarie Harris, Liam Fitzpatrick and Gareth Pugh who had not attended the mandatory training and to County Councillor Myfanwy Alexander who had not completed the training session in September, advising them that they need to attend the next session.	To comply with the Council policy.

- A2.2 The Committee noted that Councillor Fitzpatrick had signed in and left the mandatory Corporate safeguarding training in September. Officers advised that this training had been recorded and a self-assessment form had been developed by officers.

RESOLVED	Reason for decision
That an email be sent from the Chair of Standards to Councillor Liam Fitzpatrick requiring him to undertake the mandatory training by watching the video and completing the self-assessment form, within one month of receiving the video.	To comply with the Council policy.

The Committee agreed that Councillors should be reminded that they were required to complete mandatory development.

RESOLVED	Reason for decision
That an email be sent from the Chair of Standards to Councillors reminding them they were required to complete mandatory training in full.	To comply with the Council policy.

B. Referral of Councillors to the Public Services Ombudsman

B1. County Council Referrals

The current position regarding matters with the Ombudsman is detailed below:

02/CC/2017 Concluded no breach

01/CC/2018 Referred to APW
 08/CC/2018 Concluded not investigating
 09/CC/2018 Concluded not investigating
 12/CC/2018 Concluded no breach. Review requested.

03/CC/2019 Concluded not investigating

C. Dispensations

C1. Applications - County Councillors

No applications for dispensation have been received from County Councillors.

D. Late Payment of Expenses

A claim for payment of expenses was submitted by Councillor L George for mileage expenses (submitted on 25 September, 2019, the paperwork having previously been returned to Councillor George as it was incomplete), for mid-October 2018 to mid-November, 2018.

The Committee approved this application (which was the first one for mileage made by this Councillor) and thanked him for the explanation.

RESOLVED THAT	REASON FOR DECISION
the payment of the late claim submitted by Councillor George for mileage be paid for the period 25 October 2018 to 14 November, 2018.	To reimburse expenses incurred by Councillor George.

E. Member attendance

The Deputy Monitoring Officer reminded the Committee that as reported at the last meeting 10 Councillors had attendance levels below 60% for main Committee meetings for the period 17 May 2018 to 15 May 2019.

The Committee noted the following:

- Councillor Mackenzie's attendance level is now above the required 60% after adjustments have been made to rectify recording errors,
- Councillor Jeremy Pugh's attendance level is now above the required 60% after an adjustment was made to rectify a recording error,
- Sarah Lewis and Neil Morrison resigned as Councillors in September, 2019.

The Deputy Monitoring Officer advised that responses had been received from the other Councillors regarding their attendance levels. The Chair advised that he had considered the responses received from Councillors G Morgan and J Wilkinson, as these had contained personal information. The Committee noted that their attendance had been affected by family health reasons.

The Committee noted the following:

- Councillor L Fitzpatrick – advised that he had missed two meetings due to his attendance at friend’s funerals.
- Councillor C Mills – provided an explanation for the meetings she had missed. The Committee noted that the Group Leader had confirmed that he had not taken Councillor Mills off the Scrutiny Committee when requested, due to her other work commitments and this had affected her attendance levels.
- Councillor G Pugh – provided an explanation for the meetings he had missed and had advised that the Health and Social Housing Scrutiny Committee was a committee on which he felt he could bring little expertise. Having indicated this, he was removed from it by his Group.
- Councillor S Williams – The Group Leader provided an explanation for the meetings she had missed and commented on the changes in Committees and meeting dates over the period in question and the impact this had on working members.

The Committee thanked the Councillors for their explanations and accepted these. The Committee hoped that when Councillors consider their appointment to a Committee they are provided with a clear explanation of the role of the Committee so that they can consider whether they are able to make a meaningful contribution to the Committee.

F. Whistleblowing Policy and Procedures

The Committee noted the changes to the draft policy and procedures.

RESOLVED THAT	REASON FOR DECISION
The draft Whistleblowing Policy and Procedures be agreed.	To agree the policy.

G. Ombudsman’s Casebook

The Committee noted the Ombudsman’s Code of Conduct Casebooks for the period January – March 2019.

H. The North Wales Standards Committee Forum

The Committee received the Chairs notes and the draft minutes of the Forum meeting held on 24 June, 2019.

The Committee noted that it had been suggested that the next meeting could be hosted by Powys County Council. After discussion the Committee agreed that a meeting would be held in Neuadd Maldwyn, Welshpool, with a start time of 9.30 a.m. It was noted that the next meeting was scheduled for November, but this may not be feasible due to the availability of rooms and potential speakers.

I. Correspondence

There was no correspondence.

J. Meeting dates

The following Committee dates were noted:

Wednesday 12 February 2020

Wednesday 10 June 2020

Wednesday 7 October 2020 [rather than September as indicated in the officer's report].

Mr S Hays (Chair)

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CYNGOR SIR POWYS COUNTY COUNCIL.

**Standards Committee
12 February, 2020**

REPORT BY: Head of Legal and Democratic Services

SUBJECT: Standards Issues

REPORT FOR: Decision, Information and Discussion

A. General Standards Issues for County Councillors and Co-opted Members

A1 Code of Conduct Training

Mid-term mandatory Code of Conduct training has been arranged for 5 June, 2020. This training is for Councillors, Independent Members of Standards Committee and Town and Community Council members of the Standards Community Sub-Committee and Independent Members on Scrutiny Committees. Officers will support participants to discuss various code of conduct scenarios. If anyone is unable to attend, a further session with officers, will be provided to ensure that all undertake this mandatory development.

A2 Mandatory Training

All Councillors have now completed the Equalities and Diversity mandatory training provided by officers. As required by the Standards Committee at its last meeting, Councillor Liam Fitzpatrick has completed the mandatory Corporate Safeguarding training.

B. Referral of Councillors to Public Services Ombudsman

B1. County Councillor Referrals

B1.1 The current position regarding matters with the Ombudsman is as follows:

01/CC/2018	APW suspended for four months – 20/11/19 – 20/03/20
12/CC/2018	Concluded no breach. Review requested. – No further action and case closed
04/CC/2019	Ombudsman deciding whether or not to investigate
05/CC/2019	Not investigating
06/CC/2019	Concluded not investigating
07/CC/2019	Concluded not investigating

C Dispensations

C1 Applications - County Councillors

No applications for dispensation have been received from County Councillors.

D Late Payment of Expenses

There are no late claims for expenses.

E Independent lay Member on Standards Committee

The term of office of an Independent Member of the Standards Committee, Mrs Claire Jackson, ends on 21 June, 2020. Mrs Jackson will have completed one term of six years. Although she is eligible to be appointed for a further term of four years, she has advised that she does not wish to continue.

The Council agreed the recruitment process at its meeting on 23 January, 2020 and a copy of the report and process is attached Appendix 1.

A press release was published and adverts placed in the County Times and the Brecon and Radnor Express during the week of 3 February, 2020.

Applications will be considered by an Appointments Panel of five members:

- two of the current Independent (Lay) Members of the Standards Committee,
- one of the four county councillors sitting on the Standards Committee,
- one Town/Community Councillor sitting on the Standards Community Sub-Committee

and one lay person who will act as Chair. The Standards Committee is requested to nominate Members of the Committee to sit on the Appointments Panel.

F Ombudsman's Casebook

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

- April – June 2019
- June – September 2019

A copy of the Casebooks are attached at Appendix 2.

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

<https://www.ombudsman.wales/code-of-conducts/>

G The North Wales Standards Committee Forum

On reviewing the minutes of the last two Forum meetings, it was noted that in June 2018 it was: RESOLVED to ask everyone to consult with their Standards

Committees regarding potential items for the next meeting and feedback any suggestions, through the Monitoring Officer, to the next host authority.

In light of the above the Forum Members have been asked for potential items for the next meeting, which will be collated and forwarded to the Monitoring Officer and when they would like a meeting in either March or April.

The Committee is asked to suggest potential items for the Agenda.

H Draft Local Government and Elections (Wales) Bill

The Committee should note that the draft Local Government and Elections (Wales) Bill makes two proposals that will affect the Standards Committee.

First, the Bill seeks to introduce a new duty on leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups. In doing so, a group leader must co-operate with the council's standards committee in the exercise of its functions to promote and maintain high standards of conduct. In turn, a standards committee has new functions under the Bill to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties.

Secondly, standards committees will be required to review their work periodically and report significant matters they have dealt with and any emerging trends to their council. Standards committees will be required after the end of each financial year to make an annual report to the authority describing how the committee's functions have been discharged during the financial year and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations made by the standards committee within 3 months of receipt.

I Correspondence

The President of the Adjudication Panel for Wales has issued a Practice Direction - APW/PD/01/2020. The letter and Practice Direction are attached at Appendix 3.

J Meeting dates

To note dates of future meetings as follows:
Wednesday 10 June 2020
Wednesday 7 September 2020

Contact Officer Name:	Tel:	Fax:	Email:
Clive Pinney – Head of Legal & Democratic Services	01597 826746	01597 826220	clive.pinney@powys.gov.uk

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CYNGOR SIR POWYS COUNTY COUNCIL

County Council
23 January, 2020

REPORT BY: Head of Legal and Democratic Services [Monitoring Officer]

SUBJECT: Forthcoming Independent Member vacancy on the Standards Committee

REPORT FOR: Decision

1. Background

- 1.1 The term of office of an Independent Member of the Standards Committee, Mrs Claire Jackson, ends on 21 June, 2020. Mrs Jackson will have completed one term of six years. Although she is eligible to be appointed for a further term of four years, she has advised that she does not wish to continue.

2. Appointments process

- 2.1 The County Council will therefore need to undertake an appointment process for a new Independent Member to replace Mrs Jackson in accordance with the Standards Committees (Wales) Regulations 2001 (as amended). Details of the process are provided in Appendix 1.

RECOMMENDATION TO THE COUNTY COUNCIL:	Reason for Recommendation:
That the arrangements to make an appointment to the Standards Committee be approved.	To fill a vacancy arising in June 2020.

Contact Officer:	Clive Pinney, Head of Legal and Democratic Services [Monitoring Officer]
Tel:	01597-826746
Email:	clive.pinney@powys.gov.uk

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CYNGOR SIR POWYS COUNTY COUNCIL

County Council – 23 January 2020

Arrangements to fill one vacancy arising from the completion of a term of office of an Independent (Lay) Member on the Standards Committee**1. Forthcoming Vacancy on the Standards Committee.**

- 1.1 The term of office of an Independent Member of the Standards Committee, Mrs Claire Jackson, ends on 21 June, 2020. Mrs Jackson will have completed one term of six years and although she is eligible to be appointed for a further term of four years, she has advised that she does not wish to continue.
- 1.2 The County Council will therefore need to undertake an appointment process for a new Independent Member to replace Mrs Jackson in accordance with the Standards Committees (Wales) Regulations 2001 (as amended). The Regulations and the Constitution provide that Independent Members are appointed for not less than 4 years and not more than 6 years and the convention has been to appoint for a 6 year term. Approval is sought from the County Council for officers to commence the appointments process to ensure a new Independent Member can commence their appointment from 22 June 2020.
- 1.3 The starting point under the regulations is a requirement for the Council to publish an advertisement in not less than two newspapers (which are not published by the Council) circulating within Powys advising local government electors that the Council is seeking to appoint an independent (lay) member to its Standards Committee. Such advertisement may also, if the Council considers appropriate, notify electors:
 - (a) that the chairperson and vice-chairperson of the Standards Committee are elected from independent (lay) persons; and
 - (b) the qualities and experience that may be required of independent (lay) members serving on the Standards Committee.
- 1.4 Additionally the Council can also publish such advertisement in any newspaper that it publishes or online. It is intended to publish information on the Council's website.
- 1.5 A suggested draft newspaper advertisement based on the one used on the last occasion is attached as **Appendix A** which will appear in the County Times and the Brecon and Radnor Express. Other news releases will also be made referring to the information on the Council's website.
- 1.6 The Council is also required under the regulations to:
 - (a) Establish criteria for the appointment of independent members to its Standards Committee, and
 - (b) Publish those criteria in the newspaper advertisement referred to above.

- 1.7 A draft set of criteria (based on that used on the last occasion) is attached as **Appendix B** .
- 1.8 The regulations further stipulate that the Council must establish a Panel to:
- (a) Consider every application received;
 - (b) Apply the criteria established in considering applications;
 - (c) Make recommendations to the County Council in relation to applications.
- N.B.** Appointments of Independent (Lay) members must be made by the County Council which must have regard to the recommendations of the Panel.
- 1.9 The previous practice of such Panels has been to invite applicants to attend before the Panel for interview. There may also be need to consider a shortlisting stage in the event of there being a number of applicants.
- 1.10 The regulations go on to provide that a Panel established by the Council must not consist of more than 5 panel members one of whom must be a “lay panel member” and one of whom must be a member of a community council. In this context “lay panel member” means someone who is not or has not been a County Councillor and is not or has not been an independent member of the Standards Committee.
- 1.11 Based upon the composition of panels established previously it is suggested that the panel on this occasion comprises the following:
- Lay Panel Member (Who normally Chairs the Panel) – Lord Lieutenant or the High Sheriff
 - Chair of the Standards Committee
 - Independent ‘Lay’ Member of the Standards Committee.
 - 1 County Council representative from the Standards Committee – to be selected by the Standards Committee
 - 1 Town / Community Council representative from the Community Standards Sub-Committee – to be selected by the Sub-Committee
- 1.12 In the event of the non-availability of any member of the Panel it is suggested in accordance with past practice that the function of appointing a substitute be delegated to the Monitoring Officer in consultation with the Chair of the County Council and the Chair of the Standards Committee.
- 1.13 A provisional timetable for the appointment process in this connection is set out in **Appendix C** and is recommended for adoption by the County Council. It will be observed that this timetable anticipates that the County Council will make the formal appointment of a new Independent (Lay) Member to the Standards Committee at its Meeting in May 2020.
- 1.14 Given the obvious need to attract the widest interest and encourage as many suitable candidates as possible to apply it is suggested that the Chair and Vice Chair of the Standards Committee be authorised to take such steps as appear necessary to them to achieve these objectives. This to include (but not be limited to)

the power to (i) add to and modify the contents of the newspaper notice (subject to compliance with the regulations); (ii) undertake additional advertising/awareness raising steps; and (iii) produce additional literature/promotional material.

JOIN OUR STANDARDS COMMITTEE

The Council has a vacancy for an Independent (Lay) Member and is looking for a person who would be interested in joining the Standards Committee.

You would join four County Councillors and four other Independent (Lay) Members on the 9 person Standards Committee. You would also sit on the Standards Community Sub-Committee dealing with standards issues relating to all the town and community councils in Powys.

Independent (Lay) Members receive a co-optees allowance of £99 for a half day or £198 for a whole day. Travel expenses may also be claimed.

Further details are obtainable on the Powys County Council website: www.powys.gov.uk or to find about more about the role of the Standards Committee and obtain an application form contact:

Carol Johnson (Clerk to the Standards Committee)
Powys County Council
Llandrindod Wells
Powys
LD1 5LG
Tel (01597) 826980

e-mail: carol.johnson@powys.gov.uk

The deadline for receipt of application is 28 February, 2020.



CYNGOR SIR POWYS COUNTY COUNCIL

STANDARDS COMMITTEE

Criteria for the Appointment of Independent (Lay) Members

1. An interest in seeking to uphold and promote high ethical standards in local government.
2. Candidates should be able to demonstrate the following qualities:-
 - (a) good character;
 - (b) understanding and communication skills;
 - (c) social awareness, including an understanding of local communities within Powys;
 - (d) maturity and sound temperament;
 - (e) sound judgement.
3. Members of the Standards Committee must be able to give a commitment to serve on the Committee and its Sub-Committee as required.
4. Some knowledge of local authority or public sector business, or knowledge or experience gained within a regulatory or ethical standard area, would be an advantage.
5. The following are not eligible to serve as Independent (Lay) Members of the Standards Committee by virtue of regulations made by the National Assembly for Wales :-
 - (i) a councillor, officer, or the spouse of a councillor or officer, of Powys County Council, any other Welsh county council, a Welsh National Park Authority, or a Fire Authority or Town or Community Council in Wales.* N.B. 'Officers' includes all staff of one of these authorities including teaching staff.
 - (ii) any person who was previously a member or officer of Powys County Council (post 1996).
 - (iii) any person who, within the previous 12 months, was a member or officer of any other Welsh county council, or a Welsh Fire Authority.

*Town and Community Councillors are welcome to apply but would be required to resign from their Town or Community Council role if appointed as an Independent Member.

Provisional Timetable for Appointments Panel 2020

It is necessary to have Panel of no more than 5 Members including a Lay Member and a Community Councillor.

Agree process at Council	Thur	23 January 2020
Delegate appointment of Standards Committee Panel Members to Standards Committee and Community Sub-Committee	Wed	12 February 2020
Press Notice to papers	Fri	31 January 2020
Notice in the papers (2 papers)	Fri	7 & 8 February 2020
News release and publication on the Council's website / social media – ongoing Social media promotion	Fri/Sat	7 & 8 February 2020
Re-issue of press release (if necessary)	w/c	17 February,2020
Closing date for applications	Fri	28 February 2020
Shortlisting (left longer after closing date to give time to copy pack for selection panel)	w/c	16 – 20 March 2020
Panel Sitting	w/c	30 March 2020
County Council to confirm appointment (and commencement of term of office)		14 May 2020

Term of office of Mrs C Jackson finishes on 21 June, 2020.

The Code of Conduct Casebook

Issue 21 September 2019

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 defense 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 April to June 2019.

The Code of Conduct Casebook

Issue 21 September 2019

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Case summaries

No evidence of breach

Sully and Lavernock Community Council - Disclosure and registration of interests

Case number: 201802547 - Report issued in April 2019

The Ombudsman received a complaint that a Member ("the Member") of Sully and Lavernock Community Council ("the Council") had breached the Code of Conduct. It was alleged that, despite being aware that a grievance had been submitted to the Council about his behaviour, the Member had failed to declare an interest when those matters were discussed in Council meetings.

In addition to the evidence provided by the complainant, information was also sought from the Council, the County Council and the Member. Having reviewed the information available, the Ombudsman found that there was no evidence of a breach of the Code of Conduct.

Amlwch Town Council – Promotion of equality and respect

Case Number: 201802863 – Report issued in April 2019

The Ombudsman received a complaint that a Member ("the Member") of Amlwch Town Council ("the Council") had breached parts of the Code of Conduct in his conduct towards the Council's Clerk at a meeting.

The Ombudsman investigated whether the Member had breached parts of the Code in relation to showing respect and consideration, not use bullying behavior or harass any person, and not conduct yourself in a manner which could reasonably be regarded as bringing their authority into disrepute.

The Ombudsman investigated a selection of those present at the meeting, including members of the Council and members of the public. The evidence did not support the complaint.

Under Section 69(4)(a) of the Local Government Act 2000, the Ombudsman Concluded that there was no evidence to suggest that the Member had failed to comply with the Code of Conduct

Powys County Council – Promotion of equality and respect

Case Number: 201803813 & 201803815 – Report issued in May 2019

The Ombudsman received a complaint that a Member ("the Member") of Powys County Council ("the Council") had breached the Code of Conduct. It was alleged that the Member had continuously made comments to the press about the complainant's business, which caused the complainant to feel bullied and harassed.

During the course of the investigation, information was provided by relevant parties including the complainant and the Monitoring Officer.

The Ombudsman found that there was no evidence of a breach of the Code of Conduct. The matters referred to by the complainant were accurate and in the public domain. There was no evidence which was suggestive that matters had been leaked to the press by the Member.

No action necessary

Magor with Undy Community Council – Integrity

Case Number: 201807788 – Report issued in May 2019

The Ombudsman received a complaint that a Member (“the Member”) of Magor with Undy Community Council (“the Council”) had breached the Code of Conduct when he organised the transfer of Council data to an external, electronic storage application. It was alleged that the Member acted improperly to persuade Council staff to grant access to the Council’s files, and inappropriately accessed the information which was available during the file transfer process.

Having been informed, during the course of the investigation, that the Member had resigned from the Council, the Ombudsman concluded that the complaint no longer satisfied the public interest requirements of the two-stage test and the investigation was discontinued.

Referred to Standards Committee

Cwmllynfell Community Council– Promotion of equality and respect

Case Number: 201704948 – Report issued in May 2019

The Ombudsman received a complaint that a Member (“the Member”) of the Cwmllynfell Community Council (“the Councillor”) displayed disrespectful and bullying behaviour towards the Clerk (at the time) at two meetings.

The Ombudsman found that there was evidence to suggest that the Member had failed to show respect and consideration to the former Clerk when raising matters of a personal nature, which did not relate to the performance of the Clerk’s duties, during the second meeting which was open to the public. The Member’s actions were considered to be contrary to one of the Council’s Standing Orders. The Ombudsman found also that there was evidence to suggest that the Member had displayed bullying behaviour towards the Clerk at this meeting.

The Ombudsman determined that the matter should be referred to the Monitoring Officer of Neath Port Talbot County Borough Council for consideration by that Council’s Standards Committee.

The Standards Committee determined that the Members conduct in respect of the second meeting was in breach of paragraphs 4(b) and 4(c) of the Council’s Code of Conduct. In addition, the Standards Committee found that in behaving in this way during this meeting that the Member had also brought the office of member into disrepute in breach of paragraph 6(1)(a). The Standards Committee issued a censure to the Member for the breaches of the Code found.

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding.

The Code of Conduct Casebook

Issue 22 October 2019

Introduction

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The Code of Conduct Casebook

Issue 22 October 2019

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Case summaries

No evidence of breach

Caia Park Community Council - Disclosure and registration of interests

Case number: 201805133 - Report issued in July 2019

The Ombudsman received a complaint that a Member ("the Member") of Caia Park Community Council ("the Council") had breached the Code of Conduct for members, in October 2018, when they submitted an application for funding for a community project, in which they had an interest, which was above the Council's agreed limit, against the advice of the Clerk. It was alleged that the Member's behaviour could bring the Council into disrepute.

The investigation established that the Clerk had advised that the Council could consider an application for funding above the agreed limit. The Member declared an interest and there was no evidence that they sought to influence the decision making. Therefore, the Ombudsman found that there was no evidence that the Member had breached the Code of Conduct.

Powys County Council - Accountability and openness

Case Number: 201803272 – Report issued in August 2019

The Ombudsman received a complaint that a Member ("the Member") of Powys County Council ("the Council") had breached the Code of Conduct ("the Code") in relation to the connection of water supplies to two of his properties and in respect of his actions in relation to his caravan site.

An investigation was commenced to consider whether the Member had breached the part of the Code relating to disrepute. Copies of relevant documents were obtained. The evidence found by the investigation was shared with the Member before he was formally interviewed.

The Ombudsman determined there was no evidence to suggest that the Member had breached the Code.

Denbighshire County Council - Promotion of equality and respect

Case Number: 201900044 – Report issued in August 2019

The Ombudsman received a complaint about a Member ("the Member") of Denbighshire County Council ("the Council"). It was alleged that the Member's behaviour had been inappropriate and disrespectful and breached the Code of Conduct.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Monitoring Officer.

The Ombudsman found that there was no evidence to support the concerns raised and found that there was no breach of the Code of Conduct.

Prestatyn Town Council - Promotion of equality and respect

Case Number: 201900045 – Report issued in August 2019

The Ombudsman received a complaint about a Member ("the Member") of Prestatyn Town Council ("the Council"). It was alleged that the Member's behaviour had been inappropriate and disrespectful and breached the Code of Conduct.

During the course of the investigation, information was provided by relevant parties including the complainant, the Clerk to the Council and the Monitoring Officer.

The Ombudsman found that there was no evidence to support the concerns raised and found that

there was no breach of the Code of Conduct.

[Sully and Lavernock Community Council - Duty to uphold the law](#)

[Case number: 201900025 - Report issued in September 2019](#)

The Ombudsman received a complaint that a Member ("the Member") of Sully and Lavernock Community Council ("the Council") had breached the Code of Conduct when he allegedly physically attacked someone.

The Ombudsman's investigation was suspended pending the outcome of a criminal prosecution made against the Member in relation to the incident. The case was heard by the Magistrates Court; there was no direct witness evidence to the alleged incident and the Member was found not guilty. Therefore, the Ombudsman did not consider that the evidence suggested that the Member had breached the Code of Conduct in this case. The Ombudsman's finding under s69(4)(a) of the Local Government Act 2000 was therefore that there was no evidence that the Member had failed to comply with the Code.

No action necessary

[Llandrindod Wells Town Council - Promotion of equality and respect](#)

[Case number: 201803394 - Report issued in July 2019](#)

The Ombudsman received a complaint that a Member ("the Member") of Llandrindod Wells Town Council ("the Council") had inappropriately accessed the Council's computer, withheld information gathered from it from the Council and failed to declare a personal and prejudicial interest in matters the Council was considering. It also alleged that the Member had engaged in bullying behaviour towards the Clerk at two meetings, in particular.

The investigation considered whether the Member might have breached paragraphs 4(b) and (c), 5(b), 7(a), 11 and 14 of the Code of Conduct. Copies of relevant documents, including the approved minutes of the two meetings, were obtained and telephone interviews were conducted with relevant witnesses. The evidence found by the investigation was shared with the Member before he was formally interviewed.

The investigation found that the evidence did not suggest the Member had acted in a bullying manner, prevented the Council from obtaining access to information to which it was entitled or used his position improperly. The Member was entitled to comment on matters to do with the Council and had legitimate grounds for his actions.

The investigation found evidence that the Member had failed to show due respect and consideration to the Clerk at one meeting, and that he had failed to take appropriate action in respect of a personal and prejudicial interest. However, the Member had been acting in good faith and in the best interests of the Council. In addition, he demonstrated a reasonable level of personal reflection since the time of the events. The Ombudsman found that, therefore, no action needed to be taken in respect of the matters investigated

[Bridgend Town Council - Disclosure and registration of interests](#)

[Case number: 201707582 - Report issued in September 2019](#)

The Ombudsman received a complaint about a Member ("the Member") of Bridgend Town Council ("the Council"). It was alleged that the Member had failed to disclose a personal and prejudicial interest during a meeting of the Council and proceeded to participate in discussions relating to that matter. Additionally, it was alleged that the Member failed to show respect and consideration during the meeting and behaved in a bullying manner towards the Clerk to the Council.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Council.

The Ombudsman found that the evidence gathered was suggestive that the Member had failed to appropriately declare a personal and prejudicial interest at the meeting of the Council. In addition, the Member's actions in failing to leave the room and making representations were also suggestive of a failure to comply with the relevant provisions of the Code. Further, the Ombudsman determined that the evidence was suggestive that the Member failed to show respect and consideration to the Clerk during that meeting.

In deciding what action to take the Ombudsman considered the custom and practice of declaring interests within the Council at the relevant time, the mitigation provided by the Member and recent evidence confirming a significant improvement in working relationships within the Council. The Ombudsman concluded that it would not be in the public interest to take matters further and that no action should be taken in respect of the matters investigated.

[Bridgend Town Council - Disclosure and registration of interests](#) [Case number: 201707583 - Report issued in September 2019](#)

The Ombudsman received a complaint about a Member ("the Member") of Bridgend Town Council ("the Council"). It was alleged that the Member had failed to disclose a personal and prejudicial interest during a meeting of the Council and proceeded to participate in discussions relating to that matter. Additionally, it was alleged that the Member had used his position improperly in an attempt to gain an advantage for himself or his close personal associates.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Council.

The Ombudsman found that the evidence gathered was suggestive that the Member had failed to appropriately declare a personal and prejudicial interest at the meeting of the Council. In addition, the Member's actions in failing to leave the room and making representations are also suggestive of a failure to comply with the relevant provisions of the Code. However, the Ombudsman was not persuaded that the evidence was suggestive that the Member used his position in an attempt to gain an advantage as suggested.

In deciding what action to take the Ombudsman considered the custom and practice of declaring interests within the Council at the relevant time and the mitigation provided by the Member. The Ombudsman concluded that it would not be in the public interest to take matters further and that no action should be taken in respect of the matters investigated.

[Trefeurig Community Council - Disclosure and registration of interests](#) [Case number: 201806748 - Report issued in September 2019](#)

The Ombudsman received a complaint that a Member ("the Member") of Trefeurig Community Council ("the Council") had breached the Code of Conduct. It was alleged that, during a discussion about a planning application for a local development, the Member failed to declare an interest in the matter.

During the course of the investigation, information was provided by relevant parties including the complainant, and the Clerk to the Council.

The Ombudsman found that no action needed to be taken in respect of the matters investigated.

Referred to Standards Committee

[Prestatyn Town Council - Promotion of equality and respect](#) [Case number: 201700947 – Report issued in July 2019](#)

The Ombudsman received a complaint that a Member ("the Member") of Prestatyn Town Council

("the Council") may have used threatening and abusive behaviour towards a fellow member of the Council and behaved in an aggressive and confrontational manner at two Council meetings in November 2016 and May 2017.

The Ombudsman obtained relevant information about the matter from the Council and interviewed a number of witnesses. The Member was interviewed and provided his response to the complaint. Having considered the evidence the Ombudsman found that there was evidence to suggest that the Member may have breached the Code of Conduct and referred the matter for consideration by the Council's Standards Committee.

The Standards Committee determined that the Member failed to show respect and consideration to Police Officers who were in attendance at the meeting in November 2016 and towards his fellow member in the meeting in May 2017. In addition, the Standards Committee found that the Members behaviour at both meetings was capable of bringing the Council into disrepute.

The Standards Committee decided that on the basis of the findings reached that the Member should be suspended from office of member of the Council for a period of four months.

[Neath Town Council - Promotion of equality and respect](#)

[Case number: 201707990 – Report issued in July 2019](#)

On 21 March 2018, I received a complaint that a member of the Council ("the Member") failed to observe the code of conduct for members of Neath Town Council ("the Council"). It was alleged that the Member had commented that a Neath resident had deserved to be murdered.

The investigation found that the Member's unsolicited comments about the victim were both disrespectful and distasteful and, whilst it may have been the member's private opinion, there was no reason for it to have been expressed publicly. In view of the effect of the Member's comments on the citizens of Neath Town Council, many of whom believe that the Member is no longer a suitable representative, and the effect on the reputation of the Town Council itself, the Ombudsman concluded that the Member may have breached paragraph 6(1)(a) of the Code of Conduct.

The Ombudsman determined that the matter should be referred to the Monitoring Officer of Neath Port Talbot County Borough Council for consideration by that Council's Standards Committee. The Standards Committee found that the Member had breached the Code of Conduct and she was suspended for four months.

Referred to Adjudication Panel for Wales

[Mathern Community Council - Promotion of equality and respect](#)

[Case number: 201802799 – Report issued in July 2019](#)

During a public hearing of the Adjudication Panel For Wales held on 19 July 2018, a member of Mathern Community Council ("the Member") made a statement which he followed up with a letter to the Adjudication Panel. Both the statement and the letter contained language either the same as or similar to language which the Adjudication Panel had advised him would amount to a breach of the Code of Conduct.

The Ombudsman decided to investigate whether the Member's actions amounted to a breach of paragraph 6(1)(a) of the Code of Conduct on the basis that the matter had come to his attention as a result of the investigation which was being heard by the Adjudication Panel for Wales on 19 July.

The Ombudsman considered that a reasonable person would conclude that the Member actions affected the reputation of both the Office of Member and the Authority of which he is a member and that they may amount to a breach of paragraph 6(1)(a) of the Code of Conduct. The Ombudsman also considered that any restriction of the Member's right to freedom of expression under article 10 of the Human Rights Act, would be necessary for the protection of the rights and interests of others.

The Ombudsman referred the matter to the Adjudication Panel for Wales. However, on 17 July 2019 the Adjudication Panel determined that the matter did not come to the Ombudsman's attention as a result of the investigation heard on 19 July 2018 as that investigation concluded on 20 December 2017 (when the matter was referred to the Adjudication Panel for Wales) and determined it would therefore not consider the case. No further action was taken.

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16 January 2020

Dear Monitoring Officer

Adjudication Panel for Wales – Practice Direction - APW/PD/01/2020

I write to you to advise that the President of the Adjudication Panel for Wales ('the Panel') has issued a Practice Direction in relation to the processes of the Panel, a copy is enclosed for your information. The Practice Direction is also available on our website at <https://adjudicationpanel.gov.wales/practice-direction>.

The President of the Panel makes this direction under section 61(2) of the Wales Act 2017. It has been approved by the Welsh Ministers under section 61(4) of the same Act, following consultation with the President of the Welsh Tribunals under section 61(8).

Please contact me if you have any questions in regard to the Practice Direction or the APW more generally.

Yours sincerely

Leon Mills
Registrar to the Panel

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

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Adjudication Panel for Wales: Practice Direction 1

Response to a reference from the Public Services Ombudsman for Wales
(“PSOW”)

1. The President of the Adjudication Panel for Wales (‘the Panel’) makes this direction under section 61(2) of the Wales Act 2017. It has been approved by the Welsh Ministers under section 61(4) of the same Act, following consultation with the President of the Welsh Tribunals under section 61(8).

Response to a reference from the PSOW

2. Following a reference to the President of the Adjudication Panel for Wales by the PSOW under section 71(3) of the Local Government Act 2000, a case tribunal (“the tribunal”) will be convened (either a full case tribunal or an interim case tribunal depending on the terms of the reference). The regulations governing the procedures of the tribunal are set out in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (as amended) (“the Regulations”). The Regulations refer to “the accused person”; for the avoidance of doubt, this refers to a member of a relevant authority who is the subject of a reference to the President by the PSOW and in this Practice Direction such a person is referred to as “a member”.
3. The Schedule to the Regulations (“the Paragraphs”) sets out in detail the procedures to be followed.

Paragraph 3 states:

“(1) An accused person must deliver to the registrar a written reply acknowledging receipt of the notice and stating—

(a) whether or not that person intends

(i) to attend or be represented at the hearing, or

(ii) to dispute the contents of the report and, if so, on what grounds;

(b) the name and address and the profession of any person who is to represent him or her and whether such address is to be his or her address for service for the purposes of the adjudication; and

(c) whether that person wishes the hearing to be conducted in English or Welsh.

(2) Such reply shall be signed either by the accused person or by his or her nominated representative and shall be delivered to the address for the tribunal specified in the notice given under paragraph 2(c) above not later than 21 days after the date on which the notice was received or by such later date as the tribunal may allow.

(3) If no reply is received by the registrar within the specified time or any extension of time allowed by the tribunal, or if the accused person states in his

or her reply that he or she does not intend either to attend or be represented at the hearing or to dispute the contents of the report, the tribunal may determine the adjudication without a hearing.”

4. In order to comply with the obligation imposed upon her/him by paragraphs 3(1) and (2) of the Schedule as set out above, a member must complete in full the response form provided by the Panel and return it to the Panel, or provide a written reply containing all the information required by Paragraph 3(1) and (2), within 21 days of receipt of the notice of the reference from the Registrar. Statements such as “*to be confirmed*” or “*to be provided*” are not a full response and will not be regarded as complying with the requirements of Paragraph 3.
5. The failure to complete in full the response form, or to return a fully completed response form or written reply compliant with Paragraph 3, may trigger the application of Paragraph 3(3). The same may occur if a member declares that they do not intend to attend or be represented at a hearing. The tribunal may at its discretion then determine the reference without a hearing.
6. From the date hereof, when a response that is not fully compliant with Paragraph 3 is received or no response is received at all, the tribunal will determine the reference without a hearing, unless the tribunal considers that it is, in all the circumstances, in the interests of justice to hold a hearing. The tribunal will not direct that a second or further opportunity is given to provide a full response, unless it believes that it is in the interests of justice to do so. The onus will be on a member to persuade the tribunal that it is in the interests of justice to be given another opportunity to provide a response.
7. Paragraph 3(2) of the Schedule provides that a response shall be filed by a member or her/his representative within 21 days of the receipt of the notice of reference but it also empowers the tribunal to extend the time for a member to file a full response “*to such later date as the tribunal may allow*”. From the date hereof, applications for extensions of time must be made within the initial 21 day response window (unless this is not possible for good reason), and must be supported by evidence explaining why the extension is required and would be in the interests of justice.

Date: 1 January 2020

Signed:

Claire Sharp

President of the Adjudication Panel for Wales