

# Public Document Pack

## Standards Community Sub-Committee

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Meeting Venue  
**By Zoom**

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Meeting date  
**Wednesday, 23 June 2021**

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Meeting time  
**2.00 pm– will follow the Standards  
Committee meeting**

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County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

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

17 June 2021

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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.

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### AGENDA

<b>1.</b>	<b>APOLOGIES</b>
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To receive apologies for absence.

<b>2.</b>	<b>MINUTES</b>
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To authorise the Chair to sign the minutes of the previous meetings of the Committee held on 12 February 2020, 26 February 2021 and 27 May 2021 as correct records.

(Pages 3 - 14)

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

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

(Pages 15 - 38)



**MINUTES OF A MEETING OF THE STANDARDS COMMUNITY SUB-COMMITTEE  
HELD AT COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS,  
POWYS ON WEDNESDAY, 12 FEBRUARY 2020**

PRESENT: Mr S Hays (Chair)

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

County Councillor: County Councillor K M Roberts-Jones

Town and Community Council Representatives: Councillors M Morris, J Shearer and  
H Patrick

<b>1.</b>	<b>APOLOGIES</b>
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There were no apologies for absence.

<b>2.</b>	<b>MINUTES</b>
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The Chair was authorised to sign the minutes of the meeting held on 10 October, 2019 as a correct record.

<b>3.</b>	<b>DECLARATIONS OF INTEREST</b>
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Councillor Patrick declared a personal interest in the presentation by One Voice Wales, as he is a member of the National Executive Committee [NEC] One Voice Wales.

<b>4.</b>	<b>ONE VOICE WALES [OVW]</b>
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The Chair welcomed Mr Lyn Cadwallader, Chief Executive, One Voice Wales [OVW] to the meeting. Mr Cadwallader spoke about OVW including its core aims, key activities and services and its work with the Public Services Ombudsman and the training it provided to town and community councils.

In response to questions he advised that as town and community councils were being asked to do more, larger councils were becoming more political. As a result, people had views on issues and what should be done and so raised concerns via the ombudsman complaint process.

The Chair thanked Lyn Cadwallader for his attendance.

<b>5.</b>	<b>REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES</b>
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The Committee received the report of the Head of Legal and Democratic Services (copy filed with signed minutes).

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

**A1. Town and Community Councillor Referrals**

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

- 7/17/TCC Ombudsman investigating
- 7/18/TCC Complaint received – Ombudsman not investigating but now subject to review
- 8/18/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
- 13/18/TCC Ombudsman investigating
- 15/18/TCC Ombudsman deciding whether or not to investigate
- 16/18/TCC Ombudsman deciding whether or not to investigate
  
- 02/19/TCC Ombudsman deciding whether or not to investigate
- 05/19/TCC Concluded not investigating
- 06/19/TCC Concluded not investigating
- 07/19/TCC Concluded not investigating
- 08/19/TCC Concluded not investigating
- 09/19/TCC Concluded not investigating
- 10/19/TCC Concluded not investigating
- 11/19/TCC Ombudsman investigating
- 12/19/TCC Concluded not investigating

**B. Dispensations**

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

No applications for dispensation had been received from Town or Community Councillors.

**C. Ombudsman’s Casebook**

The Ombudsman had published Code of Conduct Casebook for the period April – June 2019 and July – September 2019.

**D. Independent lay Member on Standards Committee**

The Committee noted the appointments process.

<b>RESOLVED THAT</b>	<b>Reason for decision</b>
<b>Councillor M Morris would be the Town and Community Council representative on the Appointment Panel.</b>	<b>To enable the appointments process to continue.</b>

**E. Meeting Dates**

The following Committee dates were noted:  
 Wednesday 10 June 2020  
 Wednesday 7 October 2020

**MINUTES OF A MEETING OF THE STANDARDS COMMUNITY SUB-COMMITTEE  
HELD BY TEAMS ON FRIDAY, 26 FEBRUARY 2021**

PRESENT: Mr S Hays (Chair)

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

County Councillor: County Councillor K M Roberts-Jones

Town and Community Council Representatives: Councillors M Morris, J Shearer and H Patrick

In attendance: Mr Clive Pinney, Head of Legal and Democratic Services (Monitoring Officer)

<b>1.</b>	<b>APOLOGIES</b>
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There were no apologies for absence.

<b>2.</b>	<b>DECLARATIONS OF INTEREST</b>
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There were no declarations of interest.

<b>3.</b>	<b>CONFIDENTIAL ITEM</b>
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**RESOLVED** to exclude the public for the following item of business on the grounds that there would be disclosure to them of exempt information under category 8 of The Council's Access to Information Rules.

<b>4.</b>	<b>REPORT OF THE MONITORING OFFICER</b>
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The Monitoring Officer presented a report on the Public Services Ombudsman for Wales' investigation into allegation of a breach of the Members' Code of Conduct.

<b>RESOLVED</b>	<b>Reason for decision</b>
1. <b>The Standards Community Sub-Committee should adopt and follow the procedures established for such meetings by Powys County Council as set out in Rules 18.4 of the Constitution of Powys County Council and attached as Appendix 2 to the report.</b>	<b>To comply with the requirements under the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.</b>
2. <b>That the Standards Community Sub-Committee on considering the Ombudsman's Investigation Report in Appendix 1 to the report that it considers that there is evidence which might amount to a failure to comply with the code of conduct to give the town councillor the opportunity to make representations,</b>	<b>To comply with its obligations under the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.</b>

<p><b>either orally or in writing at a future meeting in respect of the findings of the investigation and any allegation that he has failed, or may have failed, to comply with the code of conduct in accordance with the procedures adopted under 1 above.</b></p>	
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S Hays  
Chair

**MINUTES OF A MEETING OF THE STANDARDS COMMUNITY SUB-COMMITTEE  
HELD BY ZOOM ON THURSDAY, 27 MAY 2021**

PRESENT: Mr S Hays (Chair)

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

County Councillor: County Councillor K M Roberts-Jones

Town and Community Council Representatives: Councillor M Morris,  
Councillor H Pattrick and Councillor J Shearer

Mr C Pinney, Monitoring Officer, Powys County Council

Representatives of the Public Services Ombudsman for Wales:  
Ms S Cook, Assistant Investigation Manager,  
Mr L McAndrew, Investigation Officer

Witnesses called by the Public Services Ombudsman for Wales:  
Mrs L Hardwick  
Rev. P Goodband  
Rev. K Dare

<b>1. APOLOGIES</b>
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There were no apologies.

The Chair welcomed everyone to the hearing. The Sub Committee members and Council officers introduced themselves and the Chair introduced the Ombudsman's representatives and noted the witnesses in attendance.

<b>2. DECLARATIONS OF INTEREST</b>
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There were no declarations of interest.

<b>3. EXEMPT ITEMS</b>
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The Chair explained the format of the hearing.

**Stage 1 – Preliminary Procedural Issues**

The Monitoring Officer advised that Councillor Johns was not present at the hearing, was not represented and had not sent any representations. He confirmed that Councillor Johns had been given sufficient notice of the date of the hearing. The Monitoring Officer reminded the Sub-Committee that at its meeting on 26 February 2021 it had agreed to adopt the County Council's Procedure for Dealing with Allegations made against Councillors, as set out in Rule 18.4 of the Constitution of Powys County Council. He referred the Sub-Committee to paragraphs 18.4.11.1 and 18.4.11.2 which referred to the failure of a councillor to make representations and if a councillor fails to be present or be represented at a hearing, respectively. The Sub-Committee had to consider whether to continue in Councillor Johns' absence or adjourn the meeting.

The Monitoring Officer advised that Councillor Johns had been contacted via email at various stages and in one email he had advised that he had appointed a solicitor to represent him.

The Standards Community Sub-Committee considered whether or not to proceed in the absence of Councillor Johns. The Sub-Committee considered whether it should adjourn to allow Councillor Johns to be contacted by telephone to enable him to join the meeting should he wish to do so. The Sub-Committee concluded that Councillor Johns had been given sufficient notice of the date of the meeting, had ample opportunity to submit representations and had not provided any evidence of why he was unable to attend.

Accordingly, the Standards Community Sub-Committee decided to proceed in the absence of Councillor Johns.

The Sub-Committee considered whether to hold the hearing in public or private [paragraph 18.4.10 of the adopted procedures]. The Monitoring Officer referred the Sub-Committee to the revised Public Services Ombudsman Wales [PSOW] code of conduct guidance, issued May 2021, where the presumption was that hearings would be held in public unless the Sub-Committee considered that there was good reason to move into private session [paragraph 1.28]. The Sub-Committee agreed that the hearing should be held in public as there was no good reason to exclude the public and that Councillor Johns had not made any representations.

<b>4.</b>	<b>CONSIDERATION OF REPRESENTATIONS AND FINAL DETERMINATION OF A REPORT PREPARED BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES UNDER SECTION 71 (2) OF THE LOCAL GOVERNMENT ACT 2000 [REF 201907610]</b>
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## **Stage 2 – Making the Finding of Facts**

Following a complaint to the Ombudsman that the Member Councillor Johns, Knighton Town Council may have failed to comply with the Code of Conduct, the Ombudsman decided to investigate. The Ombudsman considered the complaint and concluded that there was evidence to suggest that the Member had breached the following provisions of the Code of Conduct:

- 4(b) – to show respect and consideration for others;
- 4(c) – not to use bullying behaviour or harass any person;
- 6(1)(a) - not to conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

The Standards Community Sub-Committee considered the written report of the Ombudsman’s investigation and oral submission from the Assistant Investigation Manager [“the Ombudsman’s Representative”] and witnesses. The Sub-Committee noted that Councillor Johns had not submitted any representations regarding the disputed facts and had not submitted any comments on the draft Ombudsman’s report.

In response to a question regarding the weight that should be given to the Police caution which had been accepted by Councillor Johns, the Ombudsman’s Representative advised that Councillor Johns had indicated that he only accepted the caution in respect of the abusive language he used towards the

Chair of the meeting in question. However, the Ombudsman's Representative advised that this was not clear from the evidence provided by the police in their account of the incident. She advised that the caution refers to threatening abusive and insulting words and behaviour and disorderly behaviour towards the whole meeting. The Monitoring Officer referred the Sub-Committee to the police's incident log of 18 March 2020 within their agenda papers.

The Committee withdrew to a private meeting to consider the matter of disputed facts.

After reaching their decision the Sub-Committee returned to the public meeting and the Chair announced that the Standards Community Sub-Committee had decided on the matter of disputed facts as follows:

1. Did Councillor Johns use further rude and abusive language?  
That, based on the submission of witness statements and the oral evidence of witnesses Rev. Dare, Rev. Goodband and Mrs Hardwick, Councillor Johns used offensive rude and abusive language on two occasions to an open public meeting and to Mrs Hardwick directly when he told her to "F... off" and called her "ginger".

Examples of the swear words used include, but are not limited to:  
"Fucking wankers" (Reported by Mrs Hardwick, Mr Alker, Dr Goodband and Mr Harding)  
"Fucking bastards" (Reported by Mr Alker, Ms England and Ms Williams)  
"Fucking Nazis" (Reported by Dr Goodband and Mr Harding)

The Sub-Committee accepted that evidence and unanimously decided that Councillor Johns had used further rude and abusive language over and above his admission.

2. Did Councillor Johns show aggressive, bullying and/or harassing behaviour towards Mrs Hardwick and others?

The Sub-Committee heard evidence that Councillor Johns had an aggressive manner, for example, in standing up he knocked a chair to the ground. Witnesses also reported Councillor Johns to be shouting and swearing at a public meeting. He did this twice: on the first occasion during the meeting; he then left the meeting for a short time and then came in again shouting and swearing. Examples of the swear words used are given at 1 above.

The Sub-Committee also noted that witness Mrs Hardwick reported longer term effects of being anxious and afraid and looking over her shoulder. In addition, witness Rev. Goodband also reported longer term effects. She said she has had nightmares after the incident. She also felt intimidated when seeing him.

The Sub-Committee accepted that evidence and unanimously decided that Councillor Johns had shown aggressive, bullying and/or harassing behaviour towards Mrs Hardwick and others.

The Ombudsman's Representative stated that taking the evidence into account, on balance it was the view of the Ombudsman that there was sufficient evidence to suggest that Councillor Johns used disrespectful and offensive language above and beyond the comment he admitted to in his caution. The Ombudsman considered his behaviour was outrageous and unexpected and his verbal attack on Mrs Hardwick outside the meeting was also unprovoked. The Ombudsman's Representative suggested that Councillor Johns' account lacks credibility and is not supported by the witness evidence. The Ombudsman's Representative noted that Councillor Johns acknowledged during his interview that he considered that there clearly was a breach of the code. The Ombudsman's Representative was of the view that the outrageous and offensive language used by Councillor Johns is suggestive of a breach of 4 (b) of the code of conduct, that the behaviour towards Mrs Hardwick which was unprovoked was bullying and both actions are suggestive of breach of paragraph 4 (c) of the code of conduct. The Ombudsman's Representative considered the behaviour of Councillor Johns to be particularly shocking and could have a negative impact on the reputation of Council he was representing and of the office of member which he holds. The Ombudsman therefore submitted that Councillor Johns' behaviour was suggestive of a breach of paragraph 6.1 (a) of the code of conduct. In addition, the Ombudsman's Representative noted that Councillor Johns pleaded guilty to a public order offence, which specifies he used threatening or abusive or insulting words or behaviour or disorderly conduct within sight or hearing of a person likely to be caused harassment or alarm or distress. The Ombudsman's Representative had considered carefully the members right to freedom of expression and enhanced protection when comments which are made are political in nature, be they about opposing political opinions or matters which relate to the running of a council or other local government structures. However, the Ombudsman's Representative had not seen evidence to suggest that the comments made by Councillor Johns were political in nature. It was noted that the comments were considered so egregious that Dyfed-Powys Police deemed that Councillor Johns' right to freedom of expression should be restricted, for the protection of others and issued him with a Conditional Caution which he accepted.

The Sub-Committee withdrew to a private meeting to consider whether Councillor Johns had failed to comply with the Code of Conduct. The Chair returned to the public meeting and advised that the Sub-Committee had nearly completed its deliberations and that due to the time, the meeting would adjourn for lunch. The meeting was adjourned at 13.00 until 14.00.

The meeting reconvened at 14.00 and the Sub-Committee continued its deliberation in the private meeting. After reaching a decision the Sub-Committee returned to the public meeting and the Chair announced the Sub-Committee had made the following decision:

The Sub-Committee noted that in his interview with the Ombudsman Councillor Johns, [page 151 of the agenda pack], stated "...Well clearly there has been a breach. I did it so there we are...".

The Sub-Committee considered each breach in turn:

- 4(b) Failure to show respect and consideration.

The Sub-Committee found that Councillor Johns used outrageous and offensive language which was shouted at a public meeting, some of which was addressed to individuals.

- 4(c) Not to use bullying behaviour or harassing a person.  
The Sub-Committee found that Councillor Johns:
  - has admitted, through a Police caution, to calling Mr Grierson a “fucking wanker” which could be considered bullying.
  - told Mrs Hardwick to “fuck off”, as reported by two witnesses. She, with others, had also been recipients of his invective on two occasions in the meeting room.
  - two witnesses who gave verbal evidence continue to feel fearful. The Sub-Committee consider this clearly demonstrates bullying and harassing behaviour.
  
- 6.1(a) Not to conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.  
The Sub-Committee found that Councillor Johns introduced himself to the meeting as Chair of Knighton Town Council and was there on behalf of the council. Given this introduction, attendees at the meeting would consider him to be representing the council and not there as a private individual. This was a public meeting seeking co-operation of various groups to assist in responding to the Covid-19 pandemic. The Sub-Committee found that he had also breached this section of the code.

#### **Stage 4 – Action to be taken**

The Ombudsman’s Representative was invited to make representations in light of the Sub-Committees finding that the Code of Conduct had been breached.

The Ombudsman’s Representative advised that whilst it is not for the Ombudsman to say what sanction should be applied, the Ombudsman is of the view that this is a serious breach of the Code of Conduct. The Committee noted that no similar breaches elsewhere in Wales of such outrageous behaviour, particularly by a mayor of a council, had been found in the Ombudsman’s Casebook.

Councillor Johns’ actions were so serious that the police considered that it was appropriate to charge him with a Public Order Offence, for which he accepted guilt and for which he received a conditional caution. The Ombudsman’s Representative noted in mitigation that this took place at a single event, although Councillor Johns returned to the meeting and repeated the behaviour, at the meeting again and again outside in the car park. She advised that the aggravating factors are significant in that his behaviour when representing the Town Council, as a member and Mayor, had a significant impact on the witnesses and the relationship between the council and community groups. She suggested he had not shown any remorse or recognition for his behaviour suggesting that his actions had been exaggerated by the witnesses. She suggested that he had also been dishonest about his role in the events during

the course of investigation and noted that he had not apologised to the people involved and failed to make any representations or attend the hearing, which might have afforded him an opportunity to show that he had reflected on the matter and that he was remorseful. This suggests a lack of insight into his actions and a failure to co-operate with the standards committee process.

The Ombudsman's Representative referred the Sub-Committee to the Adjudication Panel for Wales [APW] Guidance on sanctions and the section on Assessing the seriousness of the breach and specifically paragraph 36. The Ombudsman's Representative advised that the reputational damage to the office and the authority was significant. The Ombudsman's Representative advised that the maximum sanction which the Sub-Committee can impose is a suspension of up to six months and that the seriousness of the breaches found, the lack of insight into the misconduct or apology to those involved would warrant the most serious of sanctions. She suggested that the comments were not political expressions and the language was so egregious. The Ombudsman's Representative also advised that any sanction would be appropriate and would not be disproportionate interference into his Article 10 rights.

The Sub-Committee withdrew to a private meeting to consider the sanction.

After reaching their decision the Sub-Committee reconvened and the Chair announced that the sanction to be applied to Councillor Johns for breaches of parts 4 (b), 4 (c) and 6 (1)(a) of the Code of Conduct.

The Chair advised that after careful consideration as to the appropriateness of a sanction and the Sub-Committee considered a sanction was appropriate.

The Sub-Committee would not expect this behaviour of any town councillor. It considered it is an aggravating factor that at the time Councillor Johns was the mayor who had experience, seniority and responsibility.

The Sub-Committee took the following into account:

- That Councillor Johns did not attend the hearing or send a representative and so the Sub-Committee did not hear any mitigation or representations.
- The Ombudsman considered this to be a very serious breach of three parts of the code of conduct.
- The Sub-Committee also assessed that this is a very serious breach. This includes the nature and extent of the breaches and the consequences of the breaches on individuals.
- There were a number of aggravating factors (taken from Adjudication Panel for Wales Sanctions Guidance):
  - ii. - seeking to unfairly blame others for the member's own actions;
  - vi. - repeated and/or numerous breaches of the Code, including persisting with a pattern of behaviour that involves repeatedly failing to abide by the Code;
  - viii. - lack of understanding or acceptance of the misconduct and any consequences;
  - xii. - the expression of views which are not worthy of respect in a democratic society, are incompatible with human dignity and conflict with the fundamental rights of others;

- xiv. - refusal to accept the facts despite clear evidence to the contrary;
- xv. - action(s) that has/have brought the relevant authority and/or public service into disrepute;
- xviii. - continuing to deny the facts, despite clear evidence to the contrary.

The Standards Community Sub-Committee was unanimous in its decision that Councillor Johns be suspended for a period of six 6 months with immediate effect.

The Chair thanked all for attending the hearing.

**Mr S Hays (Chair)**

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**CYNGOR SIR POWYS COUNTY COUNCIL****Standards Community Sub-Committee  
23 June 2021****REPORT BY: Head of Legal and Democratic Services****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 investigating
7/18/TCC	Complaint received – Ombudsman not investigating but now subject to review
8/18/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
13/18/TCC	Ombudsman investigating
15/18/TCC	Ombudsman deciding whether or not to investigate
16/18/TCC	Ombudsman deciding whether or not to investigate
02/19/TCC	Ombudsman deciding whether or not to investigate
11/19/TCC	Concluded no action
13/19/TCC	Standards Community Sub-Committee hearing held on 27 May 2021 – see minutes which are a separate item on the agenda
01/20/TCC	Ombudsman not investigating
02/20/TCC	Ombudsman not investigating
03/20/TCC	Ombudsman deciding whether or not to investigate
04/20/TCC	Ombudsman not investigating
05/20/TCC	Ombudsman not investigating
06/20/TCC	Ombudsman deciding whether or not to investigate
07/20/TCC	Ombudsman not investigating
08/20/TCC	Ombudsman deciding whether or not to investigate
09/20/TCC	Ombudsman deciding whether or not to investigate
10/20/TCC	Ombudsman deciding whether or not to investigate
11/20/TCC	Ombudsman deciding whether or not to investigate
12/20/TCC	Ombudsman not investigating
01/21/TCC	Ombudsman not investigating
02/21/TCC	Ombudsman not investigating
03/21/TCC	Ombudsman deciding whether or not to investigate

04/21/TCC Ombudsman deciding whether or not to investigate  
05/21/TCC Ombudsman deciding whether or not to investigate  
06/21/TCC Ombudsman deciding whether or not to investigate

## **B. Dispensations**

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

No applications for dispensation have been received from Town or Community Councillors.

## **C Independent lay Member on Standards Committee**

An independent member vacancy still exists on the Committee. Interviews had been arranged for February 2020 but as a result of two members of the shortlisting/interview panel advising that they knew some applicants, the shortlisting meeting was postponed and was to be rescheduled. However, due to Covid 19 and the Council moving into business critical work, this has not taken place.

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 new timetable for the shortlisting/interview process is being developed.

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 [High Sheriff] who will act as Chair.

The Standards Community Sub-Committee is requested to nominate a Town/Community Councillor of the Sub-Committee to sit on the Appointments Panel.

## **D. Ombudsman's Casebook**

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

- October – December 2019
- January – December 2020

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: [Casebooks](#)

**E. Meeting Dates**

To note the next meeting:  
Wednesday 13 October 2021

Contact Officer Name:	Tel:	Fax:	Email:
Clive Pinney – Head of Legal and Democratic Services	01597 826746		<a href="mailto:clive.pinney@powys.gov.uk">clive.pinney@powys.gov.uk</a>

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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](http://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](mailto: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 23 January 2020

## 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 October to December 2019.

# The Code of Conduct Casebook

Issue 23 January 2020

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## Case summaries

### No evidence of breach

There are no summaries in relation to this finding.

### No action necessary

[Merthyr Tydfil County Borough Council – Duty to uphold the law](#)  
Case Number: 201805269 - Report issued in December 2019

The Ombudsman received a complaint that a Member (“the Member”) of Merthyr Tydfil County Borough Council (“the Council”) had breached the Code of Conduct by voting on the setting of the rate of council tax at a meeting of Full Council in March 2018 when he was in arrears of council tax for a former home. It is an offence under s106 of the Local Government Finance Act 1992 for a member to vote on setting the rate of council tax when they are themselves in arrears.

The relevant parts of the Code in this case are paragraphs 6(1)(a) relating to bring the authority into disrepute and paragraphs 10(1), 11(1) and 14(1)(a), (b) and (c) about the actions a member should take if they have a personal and prejudicial interest in a matter the authority is considering.

The Ombudsman obtained relevant documentary evidence, including copies of the council tax records for the property involved. He also viewed the webcast for the meeting of Full Council and interviewed the Council’s Monitoring Officer and the Member.

The Ombudsman considered that the evidence suggested that the Member had breached the Code as he accepted that he had not declared an interest and had voted on setting the council tax rate. The Member also accepted that at the time of that meeting he was in arrears of council tax for the former property. However, the Ombudsman decided that it would not be in the public interest to pursue the matter given the significant mitigating circumstances in this particular case. These included the personal circumstances that had led to the Member incurring the original debt and the fact that the member was inexperienced. He had apologised, paid off the arrears and said that it would not happen again. In view of the mitigating circumstances, the Ombudsman concluded that no further action needed to be taken

[Merthyr Tydfil County Borough Council – Disclosure and registration of interests](#)  
Case Number: 201807334 – Report issued in December 2019

The Ombudsman received a complaint that a Member (“the Member”) of Merthyr Tydfil County Borough Council (“the Council”) had breached the Code of Conduct. It was alleged that, contrary to the Monitoring Officer’s advice that a conflict of interest existed, the Member accepted a specific cabinet position. It was also alleged that the Member had failed to declare an interest in such matters.

During the investigation, information was sought on the Monitoring Officer’s advice, and the Member was interviewed. The Member explained that he had considered the advice of the Monitoring Officer and was confident that an appropriate strategy had been formulated to manage and mitigate any potential conflicts of interest. The Member said that he and the Leader of the Council had undertaken research to identify where similar scenarios had occurred in other councils and the impact it had on those authorities. The Member also produced evidence of declarations of interest that he had made.

Although the Ombudsman was satisfied that the Member had regard to the Monitoring Officer’s advice, the lack of transparency in relation to aspects of the appointment (including the timing of

the Member's resignation from employment which would have conflicted with the appointment) was of concern and caused others to reasonably question the appointment. As the Member had eventually resigned from his former employment and taken up his role the Ombudsman found that it was not in the public interest to pursue the matter further and found that no further action needed to be taken. Given the potential for a conflict of interest to arise, the Member was reminded of the need to seek advice from the Monitoring Officer in future matters.

### **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.

## Introduction

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Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- a) that there is no evidence that there has been a breach of the authority's code of conduct;
- b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers January to December 2020.

# The Code of Conduct Casebook

Issue 24 / April 2021

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## Case summaries

### No evidence of breach

There are no summaries in relation to this finding.

### No action necessary

#### **Wrexham County Borough Council – Duty to uphold the law Case Number: 201804590 – Report issued in January 2020**

The Ombudsman received a complaint about a Member of Wrexham Council. It was alleged that the Members' conduct and behaviour had brought the Council into disrepute in breach of the Code of Conduct. The Ombudsman investigated the matters complained about. Information was provided by relevant parties including the Council. After careful consideration of the evidence obtained during the investigation the Ombudsman determined that it would not be in the public interest to pursue matters further and that no action should be taken in respect of the matters investigated.

#### **Pembrey & Burry Port Town Council – Promotion of equality and respect Case Number: 201906707 - Report issued in March 2020**

The Ombudsman received a complaint that a Member ("the Member") of Pembrey & Burry Port Town Council ("the Council") had breached the Code of Conduct. It was alleged that the Member did not show respect and consideration for others, used bullying behaviour, and behaved in a manner which could reasonably be regarded as bringing the Council into disrepute. During the early stages of the investigation, the Member provided an account. He said that he believed his actions to have been justified and offered an apology if his assertiveness had been perceived differently by the Complainant. The Ombudsman considered the Member's response and his offer of an apology to be sufficient to resolve the complaint. The Ombudsman, therefore, considered that no action needed to be taken in respect of the matters investigated.

#### **St Donats Community Council – Disclosure and registration of interests Case Number: 201905525 – Report issued in March 2020**

The Ombudsman received a complaint that a Member ("the Member") of St Donats Community Council ("the Community Council") had breached the Code of Conduct. It was alleged that the Member failed to declare a personal and prejudicial interest when she sat on the Interview Panel during an interview for the role of Co-opted Member of the Community Council. The Ombudsman found that the Member had a personal interest in the interview by virtue of her relationship with the applicant's estranged brother and admittance that there was tension between them. It was the Ombudsman's view that a member of the public, with knowledge of the circumstances, would regard the Member's interest as so significant as to prejudice her judgement of the public interest. The investigation established that the Member was advised by the Clerk that she was not required to declare an interest in the interview. Whilst a decision

to declare an interest is the responsibility of each individual member, it was not unreasonable for the Member to have acted upon the Clerk's advice. The investigation considered whether the Member's failure to declare a personal and prejudicial interest caused any harm and whether it affected the decision to appoint to the role of Co-opted Member. There was no documentary evidence or written record of the interviews. Therefore, the Ombudsman's decision was guided by the fact that the decision to appoint the successful applicant was taken unanimously by the Interview Panel. On the basis of the information available it was not considered that the applicant's application was adversely affected by the Member's presence and involvement in the interview process. In view of these factors it was concluded that the Ombudsman did not need to take further action in the public interest. However, he recommended to the Clerk of the Council that training on members interests and their obligations under the Code of Conduct is provided to the Council.

### **St Harmon Community Council – Disclosure and registration of interests Case Number: 201903933 – Report issued in March 2020**

The Ombudsman received a complaint that a member ("the Member") of St Harmon Community Council had breached the Code of Conduct for members ("the Code"). It was alleged that the Member had failed to show respect and consideration to others, and that he had failed to take appropriate action in respect of a personal and prejudicial interest he had in a co-option process the Council undertook.

During the course of the investigation, information was sought from the Council as well as from a number of witnesses. The evidence gathered did not substantiate that the Member's behaviour had demonstrated a failure to show respect and consideration to others such that could be considered a breach of the Code.

The evidence suggested that the Member had failed to take appropriate action in relation to a personal and prejudicial interest he had in the co-option process. However, the Member did not influence the decision taken on co-option in any way, he had already acknowledged, accepted and apologised for his actions and he had taken steps to seek training on his obligations under the Code.

Therefore, the Ombudsman determined that no action needed to be taken in respect of the matters investigated.

### **Carmarthenshire County Council – Integrity Case Number: 201900874 – Report issued in March 2020**

The Ombudsman received a complaint that a Member ("the Member") of Carmarthenshire County Council ("the Council") had breached the Code of Conduct. It was alleged that the Member had failed to treat members of staff at the Council with respect and consideration, had breached confidentiality, and had brought the office of Councillor into disrepute in relation to 2 incidents which occurred during the selection process for the Council's new Chief Executive. The first incident was that the Member had deliberately informed the unsuccessful candidate for the post that they had not been successful, thus circumventing the Human Resources ("HR") procedures in place. The second incident was that the Member had ignored a clear instruction that Councillors should not publicise the identity of the successful candidate for 30 minutes.

The Ombudsman interviewed a number of witnesses and found that the evidence suggested the Member had accidentally informed the unsuccessful candidate that they had not been successful and had not intended to circumvent HR procedures. The Ombudsman accepted that the Member had shown remorse and had apologised. The Ombudsman determined that no breaches of the Code had occurred as this had been a genuine error by the Member.

The Ombudsman determined that there was evidence that the Member had ignored a clear instruction not to publicise the identity of the successful candidate, and that this may have amounted to a breach of the Code. The Member had not considered the impact on the candidates, their wider friends and families, or the staff employed by the Council with due respect when publishing the result. Further, the information had been confidential until the proper procedures to publicise it had been completed, which the Member had pre-empted. The Ombudsman determined that these actions were capable of bringing the office of Councillor into disrepute.

However, the Ombudsman was not persuaded that it would be proportionate and in the public interest to make a referral to the Standards Committee, due to the short period of time the information was disclosed before the official announcement and taking into account the opinions of the candidates that the effect on them was limited; however, he considered that it had been appropriate for the matter to be referred to him. The Ombudsman found that no action needed to be taken in respect of the matters investigated.

### **Llantwit Fardre Community Council – Promotion of equality and respect Case Number: 201904216 - Report issued in May 2020**

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

It was alleged that the Member made several accusations against serving Community Councillors during a Community Council meeting on 24 September 2019. It was further alleged that the Member then shared a written copy of his address, in which he accused Community Councillors of bullying the former Clerk of the Community Council, with members of the press and public.

The investigation considered the following paragraphs of the Code:

- Paragraph 5(a) – disclosing confidential information.
- Paragraph 6(1)(a) – disrepute.
- Paragraph 6(1)(c) – reporting breaches of the Code to the Monitoring Officer.
- Paragraph 6(1)(d) – vexatious, frivolous or malicious complaints.
- Paragraph 8(a) – having regard to the advice of the authority’s officers.

The investigation established that the Member addressed the Community Council at its meeting on 24 September 2019, where members of the press and public were present. There was no evidence to suggest that the Member disclosed confidential information during the meeting.

The investigation found that during his address, the Member made several accusations against other members of the Council. Rather than airing his concerns in public the Member should have raised his concerns through the proper processes available for doing so. Raising accusations in such a public forum when those being accused did not have a fair opportunity to respond could amount to a breach of paragraph 6(1)(a) of the Code of Conduct.

The investigation found that the Member disregarded advice from the Clerk of the Council and that his actions were in breach of paragraph 8(a) of the Code.

When deciding whether to take further action in relation to these possible breaches of the Code of Conduct, the Ombudsman carefully considered whether it was in the public interest for him to do so. The Ombudsman considered recent steps taken by Rhondda Cynon Taf's Monitoring Officer and the Chair of the Council's Standards Committee to meet with the majority of the members of the Council in February to encourage better working relationships within the Council. It was understood that a collective agreement was reached on taking a fresh approach on how to deal with situations where disagreement had previously escalated into personal attacks. The Member was present at this meeting. As the events which were considered as part of this investigation took place some months before the meeting with the Monitoring Officer and Chair of the Standards Committee, it was not in the public interest to pursue this investigation further.

### **Torfaen County Borough Council – Promotion of equality and respect Case Number: 202000681 & 202000667 - Report issued in July 2020**

The Ombudsman received complaints that an elected Member ("the Member") of Torfaen County Borough Council ("the Council") had breached the Council's Code of Conduct for Members ("the Code").

Two Police Community Support Officers ("PCSOs") complained that, on 7 June 2020, the Member approached them at Cwmbran Boating Lake ("the Lake") in an aggressive manner. They said that the Member was shouting and demanding that they dealt with people who were angling at the Lake whilst it was the closed season. They said that the Member did not accept that it was not a policing matter and identified himself as a Councillor to try and use his position to intimidate them.

The Ombudsman received an account from the Member, obtained a witness account from another Councillor who was present at the Lake, and obtained information from Gwent Police. On the balance of probabilities, the evidence indicated that the Member may have breached paragraph 4(b) of the Code by speaking to the PCSOs in a raised voice.

The investigation found that there was no dispute that the Member identified himself as a Councillor. The Member explained that he had done so to explain his knowledge of angling legislation. The Ombudsman found that the Member did contact Gwent Police to seek clarification regarding the enforcement of angling legislation and to raise a concern that the PCSOs had not spoken to, or provided advice, to the anglers as they had informed him.

The Ombudsman did not find sufficient evidence that the Member had displayed bullying and/or harassing behaviour, or that he had brought the authority into disrepute.

The Ombudsman found that, whilst the evidence suggested that the Member may have breached paragraph 4(b) of the Code, it was not in the public interest to pursue matters further.

The Ombudsman asked the Member to be mindful of how his conduct may be perceived when acting in his role as a Councillor and suggested that he complete refresher training on the Code.

**Glynneath Town Council – Promotion of equality and respect**  
**Case Number: 201904472 - Report issued in July 2020**

The Ombudsman received a complaint that a Member (“the Member”) of Glynneath Town Council (“the Council”) had breached the Council’s Code of Conduct (“the Code”).

A member of the public complained that when the Member entered Glynneath Town Hall (“the Hall”) on 20 September 2019 she had been aggressive and shouted at them, and that the Member had threatened to “put paid” to their Hall Hire Agreement with the Council.

The Ombudsman obtained conflicting witness statements from 3 members of the public, as well as the complainant and the Member. On balance, the evidence obtained suggested that the Member may have breached paragraph 4(b) of the Code by shouting at the member of the public.

The Ombudsman did not find sufficient evidence that the Member had displayed bullying behaviour, or that they had brought their authority into disrepute. Furthermore, there was no supporting evidence that the Member had threatened the complainant’s future hire of the Hall, nor had the Member acted on such a threat.

The Ombudsman found that, whilst the evidence suggested that the Member may have breached paragraph 4(b) of the Code, it was not in the public interest to pursue further enquiries into the matter, given the conflicting nature of the evidence obtained.

The Ombudsman recommended to the Council that it should arrange training on the Code for its Members as soon as is practicable.

**Tywyn Town Council – Promotion of equality and respect**  
**Case Number: 201900952 - Report issued in September 2020**

An officer of Tywyn Town Council (“the Council”) complained that a member had written a disrespectful letter to a third party.

The Ombudsman’s investigation considered whether the content of the letter may have breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct for members (“the Code”).

The member asserted that they were not acting in their capacity as member when writing the letter. However, the Ombudsman found that, as the letter referred to Council business, it was reasonable to conclude that the member gave the impression they were acting in their capacity as a member of the Council when they wrote the letter. The Ombudsman found that the majority of the comments made by the member were political in nature.

However, the member's comments to the third party recipient of the letter were considered to be disrespectful. Whilst the Ombudsman considered that those comments were suggestive of a breach of paragraph 4(b) of the Code, having taken into consideration the information provided by the recipient and the wider evidence available, he did not consider it would be proportionate or in the public interest for any further action to be taken.

The Ombudsman did not consider that there was evidence to suggest that the content of the letter sent by the member was suggestive of a breach of paragraph 6(1)(a) of the Code.

**Mumbles Community Council – Duty to uphold the law**  
**Case Number: 201904820 - Report issued in November 2020**

The Ombudsman received a self-referred Code of Conduct ("the Code") complaint from a Member ("the Member") of a Community Council in Wales ("the Council") because they had been named in a Welsh Audit Office ("Audit Wales") Report concerning unauthorised Council expenditure. The Ombudsman considered whether the Member may have breached paragraph 7 (b) (i), (ii), (iii) of the Code for use of Council resources which was imprudent, in breach of the authority's requirements and unlawful.

The Ombudsman's investigation found that a Planning Consultancy had billed the Council for work which had not been agreed, and the Planning Consultancy said it had been instructed by the Member. The Member said at the time of the events he was new to the Council and he thought the work undertaken for the Council by the Planning Consultancy had been part of a previously agreed arrangement with the Council. The Member said he had not worked with planning consultants before and he had not realised that his specific communications with them would incur additional costs. The Ombudsman's investigation found that the Member had a responsibility to fully understand the terms of the Council's arrangements with the Planning Consultancy, and the Member's actions and failure to do so, could reasonably be considered as a potential breach of paragraph 7(b) (i), (ii), (iii) of the Code.

However, the Ombudsman also found that whilst the Clerk had suggested the Member should contact the Planning Consultancy, the Member had not been provided with clear guidance on the implications of doing so, and that the Member's communications had a limited impact on the overall expenditure. In addition, Audit Wales had not engaged with the Member or the Planning Consultancy to establish what instruction it attributed to the Member.

Please Note: Summaries are prepared for all reports issued by the Ombudsman. This summary may be displayed on the Ombudsman's website and may be included in publications issued by the Ombudsman and/or in other media. If you wish to discuss the use of this summary please contact the Ombudsman's office.

Having taken into consideration the evidence available and the information provided by the Member, the Ombudsman did not consider it would be proportionate or in the public interest for any further action to be taken.

## **Referred to Standards Committee**

### **Denbighshire County Council – Objectivity and propriety Case Number: 201806601 - Report issued in September 2020**

The Ombudsman received a complaint that a Member (“the Member”) of Denbighshire County Council (“the Council”) failed to observe the Code of Conduct for members of the Council. It was alleged that the member abused his position by visiting a member of the public’s place of work and complaining to her employer about a private altercation between her and a constituent in a local store car park.

The Ombudsman determined that there was evidence to suggest that the Member had conducted himself in a bullying and harassing manner, and that his actions sought to create a disadvantage for the member of the public in the eyes of her employer. The evidence also suggested that such conduct was capable of damaging the reputation of the Council and bringing it into disrepute. The Ombudsman determined that the member had failed to abide by paragraphs 4(c), 6(1)(a) and 7(a) of the Council’s Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of the Council for consideration by its Standards Committee.

### **Laleston Community Council – Duty to uphold the law Case Number: 201807411 - Report issued in November 2020**

The Ombudsman received a complaint that a Former Member (“the Former Member”) of Laleston Community Council (“the Council”) had failed to observe the Code of Conduct for Members of the Council. It was alleged that the Former Member had misused Council funds via unauthorised cashpoint withdrawals and debit card transactions between November 2018 and January 2019.

A police investigation took place, and the Former Member subsequently resigned from the Council. The Ombudsman’s investigation established that at the time of the events the Former Member had taken on extra duties and been paid agreed allowances by the Council. It was found that the Former Member then took charge of the Council’s debit card and used it for purchases and cash withdrawals which were in excess of what he already received and could not be accounted for. The Former Member said he had accessed the Council’s finances in this way because he felt he was entitled to the funds; however, he did not provide any further information to suggest his transactions were for the benefit of the Council.

The Ombudsman determined that the Former Member may have breached the Council’s Code of conduct, in particular, paragraphs 7(a) and 7(b) i), ii), iii), iv) and vi) as he has sought to gain a personal and financial advantage via unauthorised access to Council finances, and misused Council funds. The Ombudsman also found that the Former Member’s actions and conviction could reasonably be regarded as behaviour which might bring the office of member or the Council into disrepute and a potential breach of paragraph (6(1)(a) of the Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of Bridgend County Borough Council for consideration by its Standards Committee.

## **Referred to Adjudication Panel for Wales**

### **Sully and Lavernock Community Council – Integrity Case Number: 201901994 - Report issued in September 2020**

The Ombudsman received a complaint that a member (“the Member”) of Sully and Lavernock Community Council (“the Council”) failed to observe the Code of Conduct for elected members. It was alleged that the Member made a series of public posts, on the social media platform Facebook, which could have the potential to damage the reputation of the Council.

The Ombudsman found that 3 public posts, dated between 10 January and 11 March 2019, which made reference to high profile female politicians, were gratuitously offensive and could reasonably be regarded as bringing the Councillor’s Office or Authority into disrepute which was suggestive of a breach of paragraph of 6(1)(a) of the Code of Conduct. The Ombudsman considered that the language used went beyond political expression and was so egregious that, should a breach of the Code of Conduct be found and a sanction imposed, it would be a proportionate interference with the Councillor’s right to freedom of expression.

The Ombudsman also found that the Councillor had failed to supply evidence he claimed to hold in respect of the privacy of the posts and that, in refusing to provide information, he had failed to comply with a request in connection with the investigation which was suggestive of a breach of paragraph 6(2) of the Code of Conduct.

The Ombudsman referred his investigation report to the Adjudication Panel for Wales for its consideration.