

# The Code of Conduct Casebook

Issue 13 July 2017

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## Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

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

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

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



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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 2016.

## Case summaries

### No evidence of breach

#### Powys County Council - Integrity

Case Number 201601829 – Report issued in June 2017

A complaint was received that Councillor B of Powys County Council may have breached the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as Portfolio Holder for Education, she did not take sufficient action to address the fact that a High School (“the School”) was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council’s Scheme for Financing Schools (“the Scheme”).

The Ombudsman found that Councillor B had acted in good faith in inviting the School to make a case for amending the Scheme, with the intention that the Scheme would then either be amended or enforced. Unfortunately, the School failed to provide the necessary information. Whilst Councillor B could be criticised for not pursuing the matter, there were mitigating circumstances why she could not do so personally. Accordingly, the Ombudsman found that there was no evidence that Councillor B had breached the Code.

#### Powys County Council - Integrity

Case Number 201602895 - Report issued in June 2017

A complaint was received that Councillor E of Powys County Council may have breached the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School (“the School”) he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council’s Scheme for Financing Schools (“the Scheme”).

The Ombudsman found that Councillor E had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why Councillor E reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that Councillor E had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.

#### Powys County Council - Integrity

Case Number 201601962 - Report issued in June 2017

A complaint was received that former Councillor A of Powys County Council may have breached the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School (“the School”) he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council’s Scheme for Financing Schools (“the Scheme”).

The Ombudsman found that former Councillor A had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why former Councillor A reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that former Councillor A had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.

#### **Powys County Council - Report issued in June 2017**

##### **Case Number 201601967 - Integrity**

A complaint was received that Councillor C of Powys County Council may have breached of the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School ("the School") he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council's Scheme for Financing Schools ("the Scheme").

The Ombudsman found that Councillor C had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why Councillor C reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that Councillor C had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.

#### **Powys County Council - Integrity**

##### **Case Number 201601968 - Report issued in June 2017**

A complaint was received that Councillor D of Powys County Council may have breached of the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School ("the School") he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council's Scheme for Financing Schools ("the Scheme").

The Ombudsman found that Councillor D had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why Councillor D reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that Councillor D had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.

## No action necessary

### Bridgend County Borough Council – Promotion of equality and respect

Case Number 201603705 – Report issued in April 2017

The Ombudsman considered a complaint that a member of Bridgend County Borough Council (“the Councillor”) breached the Code of Conduct for elected members (“the Code”) by manner in which the Councillor approached a member of the public undertaking her employment duties. The Ombudsman investigated that the Councillor had brought herself, her office and the Council into disrepute through her manner.

The Ombudsman found that the Councillor’s actions were in breach of the Code, in relation to the complaint that the Councillor had brought herself into disrepute through her actions. However since the Councillor apologised for her actions, the Ombudsman did not consider that the circumstances warranted any further action. Since the Councillor was acting in a purely personal capacity and there was no involvement of the Council, the Ombudsman did not consider that the Councillor had brought her office or the Council into disrepute.

The Ombudsman’s finding was that no action needed to be taken in respect of the matter investigated.

### Powys County Council – Disclosure and registration of interests

Case Number 201505874 - Report issued in April 2017

The Ombudsman considered a complaint that a member of Powys County Council (“the Councillor”) breached the Code of Conduct for elected members (“the Code”) by failing to disclose a personal and prejudicial interest at various Council meetings, during which a School Modernisation Programme was discussed and that the Councillor continued to take part in meetings following a decision by the Council’s Standards Committee not to grant him dispensation to do so.

The Ombudsman found that the Councillor’s actions were in breach of the Code, however as his involvement at the meetings he attended did not significantly alter the outcome of the Council’s discussion, it was not in the public interest to pursue the matter further.

The Ombudsman’s finding was that no action needed to be taken in respect of the matter investigated.

### Saltney Town Council - Disclosure and registration of interests

Case Number 201606253 - Report issued in May 2017

The Ombudsman considered a complaint that a member of Saltney Town Council (“the Councillor”) had breached the Code of Conduct for elected members. It was alleged that the Councillor had voted on a matter in which they had a personal and prejudicial interest without obtaining an appropriate dispensation from the County Council’s Standards Committee. The member concerned had obtained a dispensation from the Standards Committee which allowed her to speak about the matter. However, the dispensation did not allow her to vote.

The Ombudsman considered the minutes from the relevant meeting and found that it was recorded that the Councillor had voted. He also considered correspondence from the Councillor in which she

acknowledged that she should not have cast a vote at the meeting. The Councillor had also formally apologised for this error of judgement in the next Town Council meeting.

The Ombudsman accepted the explanation and apology provided by the Councillor and, whilst recognising that the intentional disregard of the Standards Committee by the Councillor was concerning, he was of the view that the Councillor's actions were of limited consequence and it was not in the public interest to pursue the matter further.

The Ombudsman's finding was that no action needed to be taken in respect of the matters investigated. However, the Councillor was advised that this matter would be taken into account if any future complaints of a similar nature were received.

**Torfaen County Borough Council – Promotion of equality and respect**  
**Case Number 201601551 – Report issued in June 2017**

The Ombudsman received a complaint that a member of Torfaen County Borough Council had breached the Code of Conduct by using inflammatory and disrespectful language on a public social media page. During the course of the investigation an election took place and the member concerned was not re-elected. The Ombudsman decided that it was not in the public interest to take further action on the matters which were investigated.

## Referred to Standards Committee

### Powys County Council - Integrity

#### Case Number 201504317 – Report issued in October 2016

Councillor X of Powys County Council referred himself to the Ombudsman on the advice of the Council's Monitoring Officer on the basis that he may have breached the members' Code of Conduct. Councillor X, who manages a livestock farm, reported that he may have brought his office and the authority into disrepute when he was prosecuted by Powys County Council under the Cattle Identification (Wales) Regulations 2007 (for failing to maintain accurate cattle records) and the Animal By-Products (Wales) Regulations 2014 (for failing to promptly dispose of animal carcasses). Councillor X pleaded guilty to six charges and received a criminal conviction.

The Ombudsman obtained evidence from Powys County Council and Councillor X was formally interviewed. The Ombudsman found that there was evidence to suggest that Councillor X may have breached the Code of Conduct and referred the matter for consideration by the Council's Standards Committee.

On 13 March 2017, the Council's Standards Committee found that Councillor X had breached the members' Code of Conduct. He was suspended from being a Councillor for two weeks and it was recommended that he undertake additional training on the Council's Code of Conduct.

The decision of the Standards Committee can be found [here](#).

### Powys County Council – Integrity

#### Case Number 201504433 – Report issued in October 2016

Councillor Y of Powys County Council referred himself to the Ombudsman on the advice of the Council's Monitoring Officer on the basis that he may have breached the Code of Conduct. Councillor Y, who manages a livestock farm, reported that he may have brought his office and the authority into disrepute when he was prosecuted by Powys County Council under the Cattle Identification (Wales) Regulations 2007 for failing to maintain accurate cattle records. Councillor Y pleaded guilty to eight charges and received a criminal conviction.

The Ombudsman obtained evidence from Powys County Council and Councillor Y was formally interviewed. The Ombudsman found that there was evidence to suggest that Councillor Y may have breached the Code of Conduct and referred the matter for consideration by the Council's Standards Committee.

On 15 March 2017, the Council's Standards Committee found that Councillor Y had breached the members' Code of Conduct. He was suspended from being a Councillor for four weeks and it was recommended that he undertake additional training on the Council's Code of Conduct.

The decision of the Standards Committee can be found [here](#).

## Referred to Adjudication Panel for Wales

Cardiff Council – Promotion of equality and respect

Case Number 201502858

The Ombudsman received a complaint from the Monitoring Officer of Cardiff Council (“the Council”) on behalf of a member of Cardiff Council. The Monitoring Officer said that another member of the Council (“the Councillor”) had brought the Council into disrepute by the manner in which he conducted himself following a court hearing at Cardiff Civil Justice Centre (“the Court”) on 23 July 2015. The investigation considered whether the Councillor had breached the Code of Conduct (“the Code”).

The focus of the investigation was on whether an alleged comment made by the Councillor regarding a Council restructure was directed towards a Council officer in a threatening manner. At interview, the Councillor accepted that he made the comment, but he said that the comment was directed towards his constituent whom he was representing at the Court hearing. He accepted that it was overheard by others.

The Ombudsman’s Director of Investigations decided to refer the investigation report to the President of the Adjudication Panel for Wales (“the Panel”) because the evidence gathered suggested that the Councillor did not show the Council officer respect and consideration in breach of the Code. He also considered that if the Panel was satisfied that the Councillor’s comment amounted to threatening behaviour towards the Council officer, his conduct was also suggestive of a breach of the Code.

The Panel decided that the Councillor had not brought either the office of Councillor or the Council into disrepute, as his conduct was not in a public area of the Court and was witnessed by only a few people. The Panel decided that the Councillor failed to show respect and consideration to the Council officer and did use bullying behaviour towards the Council officer.

The Panel concluded that the Councillor had breached the Code of Conduct and should be suspended as a member of the Council for a period of one month, or, if shorter, the remainder of his term of office.

The decision of the Adjudication Panel for Wales can be found [here](#).



## More information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to [Matthew.Aplin@ombudsman-wales.org.uk](mailto:Matthew.Aplin@ombudsman-wales.org.uk) or [Lucy.John@ombudsman-wales.org.uk](mailto:Lucy.John@ombudsman-wales.org.uk) or sent to the following address:

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