

YM MATER DEDDF LLYWODRAETH LEOL 2000  
A RHEOLIADAU LLYWODRAETH LEOL (SWYDDOGAETHAU SWYDDOGION  
MONITRO A PHWYLLGORAU SAFONAU) (CYMRU) 2001 (FEL Y'U DIWYGIWYD)

AC  
YM MATER Y CYNGHORYDD IAIN MCINTOSH,  
AELOD O GYNGOR SIR POWYS

AC YM MATER Y CYNGHORYDD IAIN MCINTOSH  
CYN-AELOD O AWDURDOD PARC CENEDLAETHOL BANNAU BRYCHEINIOG

CYNGOR SIR CEREDIGION  
PWYLLGOR MOESEG A SAFONAU

HYSBYSIAD O BENDERFYNIAD

23 Awst 2024

Cefndir

- Ystyriodd Pwyllgor Moeseg a Safonau'r Cyngor ("y Pwyllgor") adroddiad gan y Swyddog Monitro, ynghyd â'i ddogfennau, a chafodd gyflwyniadau hefyd gan gynrychiolwyr yr Ombwdsmon, y Cynghorydd/cyn-Gynghorydd Iain McIntosh a thystion perthnasol mewn perthynas â chanfyddiadau'r ymchwiliad (cyfeirnod achos 202201445/202202498) ac unrhyw honiad bod y Cynghorydd/cyn-Gynghorydd Iain McIntosh wedi methu neu y gallai fod wedi methu â chydymffurfio â'r Codau perthnasol. Ymddygiad a gynhwysir yn adroddiad ymchwiliad Ombwdsmon Gwasanaethau Cyhoeddus Cymru dyddiedig 20 Tachwedd 2023 a gynhaliwyd o dan Adran 69 Deddf Llywodraeth Leol 2000, a gwnaeth y Pwyllgor benderfyniad terfynol.
- Yn unol â Rhan III Deddf Llywodraeth Leol 2000, mabwysiadodd Cyngor Sir Powys ac Awdurdod Parc Cenedlaethol Bannau Brycheiniog God Ymddygiad ar gyfer Aelodau, a oedd wedi'i gynnwys yn adroddiad yr Ombwdsmon dyddiedig 20 Tachwedd 2023.
- Roedd y Cynghorydd/Cyn-Gynghorydd Iain McIntosh ("yr Aelod") wedi llofnodi ymrwymïadau i gadw at y Codau Ymddygiad perthnasol.
- Mae Rhan 5 Dogfen S Cyfansoddiad Cyngor Sir Ceredigion ("y Cyngor") yn nodi'r weithdrefn ("Gweithdrefnau'r Gwrandawïadau") ar gyfer ymdrin â honiadau a wneir yn erbyn Cyngorwyr ac a gyfeirir (gan yr Ombwdsmon) at y Pwyllgor Moeseg a Safonau.
- Diben ymchwiliad yr Ombwdsmon yw penderfynu a dorrwyd y Cod Ymddygiad ac, os felly, cyfeirio'n ôl at y Pwyllgor Safonau perthnasol i'w benderfynu, ac os tybir bod hynny'n angenrheidiol, gosod sanctsiwn.
- Roedd yr Ombwdsmon wedi penderfynu y gallai'r Aelod fod wedi torri Codau Ymddygiad Priodol Cyngor Sir Powys ac Awdurdod Parc Cenedlaethol Bannau Brycheiniog, yn benodol, paragraffau 4(b) a 7(a) sy'n datgan:

"4. Rhaid ichi —

(a) gyflawni eich dyletswyddau a'ch cyfrifoldebau gan roi sylw dyladwy i'r egwyddor y dylid cael cyfle cyfartal i bawb, waeth beth fo'u rhyw, hil, anabled, cyfeiriadedd rhywiol, oedran neu grefydd;

(b) dangos parch ac ystyriaeth tuag at eraill; ”

"7. Rhaid ichi beidio — (a) yn rhinwedd eich swydd swyddogol neu fel arall, ddefnyddio neu geisio defnyddio eich swydd yn amhriodol i roi neu sicrhau mantais i chi eich hun, neu unrhyw berson arall, neu greu neu osgoi anfantais i chi eich hun, neu unrhyw berson arall;"

7. Cyfeiriodd yr Ombwdsmon ei hadroddiad o'r ymchwiliad at Swyddogion Monitro Cyngor Sir Powys ac Awdurdod Parc Cenedlaethol Bannau Brycheiniog i'w ystyried gan eu Pwyllgor Safonau perthnasol.

8. Ar 1 Mai 2024, nododd Pwyllgor Moeseg a Safonau Cyngor Sir Ceredigion (y Pwyllgor) dderbyniad gan y Swyddog Monitro :

- o drosglwyddo'r mater hwn oddi wrth Bwyllgor Safonau Cyngor Sir Powys
- o drosglwyddo'r mater hwn o Bwyllgor Safonau Awdurdod Parc Cenedlaethol Bannau Brycheiniog

9 Ar 1 Mai 2024, penderfynodd y Pwyllgor, yn unol â pharagraff 22 Gweithdrefn Gwrandawiadau, ac yn unol â Rheol 7 o Reoliadau 2021, fod y Pwyllgor hefyd yn penderfynu;

- bod tystiolaeth a allai fod yn gyfystyr â methiant i gydymffurfio â Chodau Ymddygiad Priodol Cyngor Sir Powys ac Awdurdod Parc Cenedlaethol Bannau Brycheiniog, ac
- y dylid rhoi cyfle i'r Aelod wneud sylwadau naill ai ar lafar neu'n ysgrifenedig mewn perthynas â chanfyddiadau'r ymchwiliad ac unrhyw honiad ei fod wedi methu, neu y gallai fod wedi methu, â chydymffurfio â'r Cod Ymddygiad.

## Y Gwrandawriad

10 Yn y Gwrandawriad Terfynol ar 23 Awst 2024, Cyflwynodd Swyddog Monitro'r Cyngor a oedd yn cynghori'r Pwyllgor, ei hadroddiad. Roedd yr Aelod yn bresennol o bell.

### 11 **Cam Cyntaf - Materion rhagarweiniol**

Ystyriodd y Pwyllgor faterion rhagarweiniol gan gynnwys gohebiaeth a dogfennau perthnasol a thystion yn unol â gweithdrefn Gwrandawriad y Pwyllgor (para 37).

Penderfynodd y Pwyllgor:

a) mabwysiadu gweithdrefn Cyngor Sir Ceredigion fel y nodir yn Rhan 5 Dogfen S o'r Cyfansoddiad (y "Weithdrefn Gwrandawiadau")

b) ar ôl cymhwyso'r prawf budd y cyhoedd,

i) nad oedd rhai dogfennau i'w cyhoeddi gan eu bod yn cynnwys gwybodaeth esempt fel y'i diffinnir ym mharagraffau 12 o Ran 4 Atodlen 12A Deddf Llywodraeth Leol 1972 fel y'i diwygiwyd gan y Llywodraeth Leol (Mynediad at wybodaeth) (Amrywio) ac oherwydd y ffactor hwn, mae budd y cyhoedd o ran cynnal y wybodaeth yn gorbwyso budd y cyhoedd wrth ddatgelu'r wybodaeth ar hyn o bryd.

ii) er y dylai'r gwrandawriad ddigwydd yn gyhoeddus oni bai bod rheswm da dros wahardd y cyhoedd (Gweithdrefn Gwrandawiadau para 33) a/neu resymau dilys dros beidio â gwneud hynny i hybu hyder y cyhoedd mewn

bywyd cyhoeddus (para 1.24 Canllawiau Ombwdsmon Gwasanaethau Cyhoeddus Cymru), ar ôl ystyried sylwadau gan yr Aelod, a chynrychiolydd yr Ombwdsmon, dylai gweddill y gwrandawriad (ac eithrio penderfyniadau) ddigwydd mewn sesiwn breifat, er mwyn cynnal cyfrinachedd y wybodaeth sensitif, lle'r oedd risg y datgelir gwybodaeth sensitif hebddo

c) gohirio'r penderfyniad ynghylch a ddylid clywed tystiolaeth gan dyst yr Aelod tan y cam Canfod Ffeithiau.

## 12 Ail Gam - Canfyddiadau Ffeithiol

Ystyriodd y Pwyllgor adroddiad ysgrifenedig yr Ombwdsmon, a gohebiaeth a dogfennau pellach a gyflwynwyd gan yr Aelod a'r Ombwdsmon yn unol â gweithdrefn Gwrandawriad y Pwyllgor (paragraffau 38-44). Bu'r Pwyllgor hefyd yn ystyried cyflwyniadau llafar cynrychiolydd yr Ombwdsmon, yr Aelod, a thyst ffeithiol, roedd pawb yn bresennol o bell.

13 Gwnaeth y Pwyllgor ganfyddiadau ffeithiol mewn perthynas â ffeithiau a oedd yn destun anghydfod ar gydbwysedd tebygolrwydd yn unol â gweithdrefn Gwrandawriad y Pwyllgor (paragraffau 45-51).

## 14 Cyfnod 3 - Cod Ymddygiad ar gyfer Aelodau

Canfu'r Pwyllgor ar sail tebygolrwydd bod ymddygiad yr Aelod wedi torri'r paragraffau canlynol o God Ymddygiad Cyngor Sir Powys ar gyfer Aelodau a Chod Ymddygiad Cyngor Parc Cenedlaethol Bannau Brycheiniog ar gyfer Aelodau:

"4 Rhaid i chi-;

(b) ddangos parch ac ystyriaeth tuag at eraill

"7. Rhaid ichi beidio — (a) yn rhinwedd eich swydd swyddogol neu fel arall, ddefnyddio neu geisio defnyddio eich swydd yn amhriodol i roi neu sicrhau mantais i chi eich hun, neu unrhyw berson arall, neu greu neu osgoi anfantais i chi eich hun, neu unrhyw berson arall;"

## 15 Camau i'w cymryd /Sanctsiynau

Yn unol â gweithdrefn Gwrandawriad y Pwyllgor (paragraffau 52-56), penderfynodd y Pwyllgor:

a) Mewn perthynas â'r mater sy'n ymwneud â Chyngor Sir Powys', penderfynodd y Pwyllgor, yn unol â hynny, arfer ei bŵer o dan Reoliad 9 Rheoliadau Ymchwiliadau Llywodraeth Leol (Swyddogaethau Swyddogion Monitro a Phwyllgorau Safonau) (Cymru) 2001, fel y'u diwygiwyd, y dylid ceryddu'r Aelod.

b) Mewn perthynas â'r mater sy'n ymwneud ag Awdurdod Parc Cenedlaethol Bannau Brycheiniog, penderfynodd y Pwyllgor, yn unol â hynny, arfer ei bŵer o dan Reoliad 9 Rheoliadau Ymchwiliadau Llywodraeth Leol (Swyddogaethau Swyddogion Monitro a Phwyllgorau Safonau) (Cymru) 2001, fel y'i diwygiwyd, y dylid ceryddu'r Aelod.

## 16 Apêl

17 Ar yr adeg hon yn y trafodion nid oes hawl i apelio yn erbyn penderfyniad y Pwyllgor Moeseg a Safonau, gan fod y cyfnod apelio o 21 diwrnod wedi dod i ben ar y 3/10/24

18 Yn unol â Rheoliadau Ymchwiliadau Llywodraeth Leol (Swyddogaethau Swyddogion Monitro a Phwyllgorau Safonau) (Cymru) 2001 (fel y'u diwygiwyd) ("y Rheoliadau") a pharagraff 67 Gweithdrefn Gwrandawiadau, hysbysir yr Aelod, yr Achwynydd ac Ombwdsmon Gwasanaethau Cyhoeddus Cymru o benderfyniad y Pwyllgor gan yr Hysbysiad o Benderfyniad hwn.

Llofnodi

Caryl Davies  
Cadeirydd, ar ran Pwyllgor Moeseg a Safonau Cyngor Sir Ceredigion

Dyddiedig 4 Hydref 2024

**IN THE MATTER OF THE LOCAL GOVERNMENT ACT 2000  
& THE LOCAL GOVERNMENT (FUNCTIONS OF MONITORING OFFICERS &  
STANDARDS COMMITTEES(WALES) REGULATIONS 2001 (AS AMENDED)**

**AND  
IN THE MATTER OF COUNCILLOR IAIN MCINTOSH,  
A MEMBER OF POWYS COUNTY COUNCIL**

**AND IN THE MATTER OF COUNCILLOR IAIN MCINTOSH  
A FORMER MEMBER OF BANNAU BRYCHEINIOG NATIONAL PARK AUTHORITY**

**CEREDIGION COUNTY COUNCIL  
ETHICS & STANDARDS COMMITTEE**

**NOTICE OF DETERMINATION**

**23 August 2024**

**Background**

1. The Council' Ethics & Standards Committee ("the Committee") considered a report of the Monitoring Officer, together with its enclosures, and also received submissions from the Ombudsman' representatives , Councillor/former Councillor Iain McIntosh and relevant witnesses in respect of the findings of the investigation (case reference 202201445/202202498) and any allegation that Councillor/former Councillor Iain McIntosh had failed or may have failed to comply with the respective Codes of Conduct of contained in the investigation report of the Public Services Ombudsman for Wales dated 20 November 2023 undertaken under Section 69 of the Local Government Act 2000, and the Committee made a final determination.
2. In accordance with Part III of the Local Government Act 2000, Powys County Council and Bannau Brycheiniog National Park Authority, respectively adopted a Code of Conduct for Members, which was contained within the Ombudsman report dated 20 November 2023.
3. Councillor/Former Councillor Iain McIntosh ("the Member") had signed undertakings to abide by the respective Codes of Conduct.
4. Part 5 Document S of the Ceredigion County Council' ("the Council") Constitution sets out the procedure ("the Hearings Procedures") for dealing with allegations made against Councillors and referred (by the Ombudsman) to the Ethics & Standards Committee.
5. The purpose of the Ombudsman investigation is to decide whether there has been a breach of the Code of Conduct and if so to refer back to the relevant Standards Committee for determination, and if deemed necessary, to impose a sanction.

- 6 The Ombudsman had determined that the Member may have breached both the Powys County Council and the Bannau Brycheiniog National Park Authority' respective Codes of Conduct, in particular, paragraphs 4(b) and 7(a ) which provide:
- “4. You must —
- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others; ”
- “7. You must not — (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;”
7. The Ombudsman referred her investigation report to the Monitoring Officers of Powys County Council and the Bannau Brycheiniog National Park Authority' for consideration by their respective Standards Committee.
8. On 1 May 2024, the Ceredigion County Council Ethics & Standards Committee (the Committee) noted the acceptance by the Monitoring Officer :
- of the transfer of this matter from the Powys County Council Standards Committee
  - of the transfer of this matter from the Bannau Brycheiniog National Park Authority Standards Committee
- 9 On the 1 May 2024 the Committee, in accordance with para 22 of the Hearings Procedure, and in accordance with Rule 7 of the 2021 Regulations the Committee also determined that;
- that there was evidence which might amount to a failure to comply with the Powys County Council and the Bannau Brycheiniog National Park Authority respective Codes of Conduct, and that
  - the Member should be given the opportunity to make representations either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

## The Hearing

- 10 At the Final hearing on 23 August 2024, the Council's Monitoring Officer who was advising the Committee, presented her report. The Member was present remotely.
- 11 **First Stage- Preliminary issues**  
The Committee considered preliminary issues including correspondence and relevant documentation and witnesses in accordance with the Committee's Hearing procedure (para 37).

The Committee decided:

- a) to adopt the Ceredigion County Council's procedure as set out in Part 5 Document S of the Constitution (the "Hearings Procedure")
- b) following application of the public interest test,
- i) that some documentation was not for publication as they contain exempt information as defined in paragraphs 12 of Part 4 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation) and that due to this factor, the public

interest in maintain the information outweighs the public interest in disclosing the information at this stage.

- ii) that notwithstanding that the hearing should take place in public unless there was good reason to exclude the public (para 33 Hearings Procedure) and/or valid reasons for not doing so to promote public confidence in public life (para 1.24 PSOW Guidance), having taken into account of representations by the Member, and the Ombudsman' representative, the remainder of the hearing (save for decisions) should take place in private session, in order to maintain the confidentiality of the sensitive information, without which there was a risk of sensitive information being disclosed

- c) to defer the decision as to whether to hear evidence from the Member' witness until the Finding of Fact stage.

## **12 Second Stage - Findings of Fact**

The Committee considered the Ombudsman's written report, and further correspondence and documents submitted by the Member and the Ombudsman in accordance with the Committee's Hearing procedure (paras 38-44). The Committee also considered the oral submissions from the Ombudsman' representative, the Member, and a witness of fact, who all attended remotely.

- 13 The Committee made findings of fact in relation to Disputed facts on balance of probabilities in accordance with the Committee's Hearing procedure (paras 45-51).

## **14 Stage 3 - Code of Conduct for Members**

The Committee found on balance of probabilities that the Member' conduct had breached the following paragraphs of both the Powys County Council' Code of Conduct for Members and the Bannau Brycheiniog National Park Authority Council' Code of Conduct for Members:

"4 You must-;

- (b) show respect and consideration for others

"7. You must not — (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;"

## **15 Action to be taken /Sanction**

In accordance with the Committee's Hearing procedure (paras 52-56), the Committee decided that:

a) In respect of the matter relating to Powys County Council', the Committee accordingly decided to exercise its power under Regulation 9 Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended, that the Member should be censured.

b) In respect of the matter relating to Bannau Brycheiniog National Park Authority, the Committee accordingly decided to exercise its power under Regulation 9 Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended, that the Member should be censured.

## **16 Appeal**

17 At this stage in the proceedings there is no right of appeal against the decision of the Ethics & Standards Committee, as the 21-day appeal period expired on the 3/10/ 24

18 In accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) (“the Regulations”) and para 67 of the Hearings Procedure, the Member, the Complainant and the Public Services Ombudsman for Wales are notified of the Committee’s decision by this Notice of Determination.

Signed

Caryl Davies  
Chair, on behalf of the Ceredigion County Council Ethics & Standards Committee

Dated 4 October 2024