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Bridgend County Borough Council
Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr



Civic Offices, Angel Street, Bridgend, CF31 4WB / Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB

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Ask for / Gofynnwch am: Andrew Rees

Our ref / Ein cyf:
Your ref / Eich cyf:

Date / Dyddiad: 9 January 2015

Dear Councillor,

STANDARDS COMMITTEE

A meeting of the Standards Committee will be held in Committee Rooms 2/3, Civic Offices Angel Street Bridgend CF31 4WB on **Friday, 16 January 2015 at 2.00 pm.**

AGENDA

1. Apologies for Absence
To receive apologies for absence (to include reasons, where appropriate) from Members / Officers).
2. Declarations of Interest
To receive declarations of personal and prejudicial interest (if any) from Members / Officers in accordance with the provisions with the Members' Code of Conduct adopted by Council on 1 September 2008.
3. Approval of Minutes 3 - 6
To receive for approval the minutes of the Standards Committee of 31 July 2014.
4. Appointment of Members 7 - 8
5. Guidance on the Code of Conduct for Local Authority Members - Public Interest Test 9 - 12
6. Ombudsman Code of Conduct Casebook 13 - 30
7. Urgent Items
To consider any any item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council's Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter urgency.

Yours faithfully

P A Jolley

Assistant Chief Executive Legal and Regulatory Services

Distribution:

Independent Members:

Mr J Bevan

Mrs B Heller

Ms M Powell *

County Borough Councillors:

Councillor R D Jenkins

Councillor D R W Lewis

Town and Community

Councillors:

Councillor R J Hancock

MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD IN COMMITTEE ROOM 2/3, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON THURSDAY, 31 JULY 2014 AT 2.00PM

Present:

Independent Members:

Ms M Powell - Chairperson
Mrs B Heller
Mr J Bevan

County Borough Council Members:

Councillor R D Jenkins
Councillor D R W Lewis

Town and Community Council:

Councillor R J Hancock

Officers:

Mr P A Jolley - Assistant Chief Executive Legal and Regulatory Services and Monitoring Officer
Mrs L Griffiths - Senior Solicitor - Corporate Team
Mr M A Galvin - Senior Democratic Services Officer - Committees

63 MINUTES OF A PREVIOUS MEETING

RESOLVED: That the minutes of a meeting of the Standards Committee dated 6 May 2014 be approved as a true and accurate record.

64 APOLOGIES FOR ABSENCE

None.

65 DECLARATIONS OF INTEREST

None.

66 OMBUDSMAN ANNUAL LETTER

The Monitoring Officer presented a report, to provide Members with a copy of the Ombudsman's Annual Letter attached at Appendix A (to the report).

He advised that the Ombudsman's Office publishes an Annual Letter detailing the performance of the Authority against an average for Local Authorities in Wales and the wider public sector, which contains statistical information about complaints considered within the year.

The Monitoring Officer added that the Ombudsman's Annual Letter showed a large increase in the number of complaints relating to children's social services and planning and building control. It was the case however that no such complaints had been upheld, and timely responses had been provided in respect of these. Informal resolution continued to be successful although again, fewer cases required this than in the previous year. In terms of other areas of the Authority, he confirmed that complaints made in these areas were below average for an organisation of the size of Bridgend County Borough Council.

He further added that in respect of Model Code of Conduct cases, there had been a significant increase in complaints, although these had ultimately not been formally investigated which was a positive outcome.

Members acknowledged that although there were a number of complaints registered against Children's Social Services, this was a very prescribed area of work with social workers having demanding caseloads.

The Monitoring Officer agreed and stated that although this division were now fully staffed, previously this had not been the case, including Senior Practitioners, where not so long ago there had been a problem regarding recruitment and retention of these officers.

The Monitoring Officer further added that in view of the continued cuts in public sector funding, Social Services like other areas of the Authority, were having to change the way they were delivering services. A Member of the Cabinet Committee Corporate Parenting had advised that at the last meeting of this Committee, Officers had informed that Children's Social Services had recently recruited a number of Independent Reviewing Officers within the service, which had given in turn support to social workers in terms of concentrating more on their caseloads.

In terms of there being 10 complaints against Children's Social Services out of a total number of 100 cases having been dealt with, the Chairperson felt that it would be useful to see if there was a trend to suggest that these complaints came from a particular ward or wards, or alternatively, whether they emanated from all different parts of the County Borough.

The Monitoring Officer advised that this information could be obtained and passed onto Members outside of the meeting.

RESOLVED: That the report be noted.

67 OMBUDSMAN CASEBOOK

The Monitoring Officer submitted a report, to provide Members with a summary of cases that have been undertaken by the Ombudsman's Officer from January 2014 to March 2014.

By way of background information, the Monitoring Officer confirmed that the Ombudsman's Office publishes an annual report which contains statistical information about complaints considered in the year. The Ombudsman is aware that these have a wider interest and now provided a summary of these reports, which are available to public service providers in Wales so that opportunities for learning are maximised.

The Monitoring Officer advised that the Ombudsman's Casebook is now published on a quarterly basis and it contains the summaries of all reports issued during the quarter. A summary of cases regarding Local Authorities were attached at Appendix 1 to the report.

A Member confirmed that the Ombudsman's Casebook was useful, in that it was interesting to look at and make a comparison of the complaints made in the various different public service providers, and what action was taken to resolve these.

In terms of Local Health Boards, a Member asked if the process in relation to making a complaint was the same as was for local authorities, i.e. to complain firstly to the organisation concerned then if it did not successfully resolve the complaint, to in turn, refer it to the Ombudsman.

The Monitoring Officer confirmed this was the case.

RESOLVED: That the report be noted.

68 OMBUDSMAN LITIGATION - HEESOM v PUBLIC SERVICES OMBUDSMAN FOR WALES

The Monitoring Officer submitted a report to provide Members with a summary of the recent case Heesom v Public Services Ombudsman for Wales.

In terms of background information, the Monitoring Officer confirmed that Councillor Patrick Heesom, the appellant (H) was a long standing local councillor of Flintshire County Council who had served since 1990. In 2009, a number of allegations of misconduct were made against him by the non-elected officers of the Council. The allegations led to him standing down from the Executive but continuing to perform his duties as a Councillor. A complaint was then made about him to the Public Services Ombudsman for Wales and after an inquiry, he was found to have breached the Council's Code of Conduct. As the breaches were considered to be serious, the matter was sent by the Ombudsman to the Adjudication Panel for Wales for adjudication by a case tribunal.

He went on to state, that the Panel found that H had committed 14 breaches of the Council's Codes of Conduct by failing to show respect and consideration for Council Officers, using bullying behaviour, attempting to compromise the impartiality of officers, and conducting himself in a manner likely to bring his office or the Council into disrepute. In terms of sanction, the tribunal disqualified H from being a Member of the Council or of any other local authority for two and a half years. H challenged the tribunal's decision by bringing a statutory appeal to the High Court on the basis that the misconduct findings and the subsequent sanction were both unlawful.

The Monitoring Officer added, that whereby the Tribunal found H had committed 14 breaches of the code of conduct on an array of matters including bullying behavior and failing to show respect to other Councillors, he confirmed the Judge found, where for example, he had verbally abused two members of an appointment panel, this would amount to political expression. However, the Judge on reviewing the breaches and applying the protection of "political expression" found that all but two of the fourteen breaches, even with the greater protection afforded to politicians, had been a breach of the Code of Conduct because of the seriousness of the behaviour of H.

In view of the information outlined in the report and the outcomes relating to the case, Members stressed the importance of training for Member on the Code of Conduct.

The Monitoring Officer agreed with this including for Town and Community Councillors. He added however that such training was not enforceable.

A Member added that this training should be compulsory for local Members as this would in all probability reduce cases such as that which was subject of the report.

RESOLVED: That the report be noted.

The meeting closed at 3.30am.

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BRIDGEND COUNTY BOROUGH COUNCIL
REPORT TO THE STANDARDS COMMITTEE
16 JANUARY 2015
REPORT OF THE MONITORING OFFICER

APPOINTMENT OF MEMBERS

1. Purpose of Report

- 1.1 The purpose of the report is to inform the Committee of proposals to appoint members to fill vacancies that have arisen on the Council's Standards Committee.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 There are no direct links to the Corporate Improvement Plan and Corporate Priorities however; the role of the Standards Committee encompasses all aspects of the operation of the Authority.

3. Background

- 3.1 The Standards Committee of this Council has a current membership of six members comprised as follows: Two County Borough Councillors, one Town and Community Council Member and three Independent Members.

4. Current situation / proposal

- 4.1 Two vacancies have arisen on the Committee, one vacancy for an Independent Member and one vacancy for a Town and Community Council Member.
- 4.2 In January 2013 a Standards Committee Special Appointments Panel was appointed to consider applications received from three applicants who expressed an interest in serving as a Town and Community Member on the Committee in response to a general advert by the Council. At this time, the Panel failed to agree an appointment. There is now a risk that not appointing members to the Standards Committee will result in a reduced membership which may increase the likelihood of the Committee being inquorate.
- 4.4 At a meeting of Council on 30th April 2014, the Monitoring Officer was delegated authority to make arrangements for the recruitment and selection of a Town and Community Councillor Member and an Independent Member to the Committee.
- 4.5 Town and Community Council Member
For the vacancy of the Town and Community Council representative, it is proposed that the Monitoring Officer writes to all Town/Community Clerks inviting expressions of interest from their membership. Following the closing date, the Monitoring will then write to interested Councillors inviting them for interview by a Special Panel appointed by the Standards Committee. Following interviews, the Panel will make recommendations on appointment to Council, including the duration of any

appointment. In the event of a large number of applicants, the Monitoring Officer will call a meeting of the Standards Committee for a shortlisting process.

4.6 Independent Member

It is proposed that the Monitoring Officer go through the usual process of advertisement and that the Special Panel will meet to consider applications and conduct interviews. Following interviews, the Panel will make a recommendation on the appointment to Council.

5. **Effect upon Policy Framework& Procedure Rules**

5.1 There is no impact on the policy framework and procedure rules.

6. **Equality Impact Assessment**

6.1 Any shortlisting and interviewing of potential members of the Standards Committee will be undertaken in accordance with equality policies. There are no other equality implications.

7. **Financial Implications**

7.1 The costs associated will be contained within existing resources.

8. **Recommendation**

8.1 The Committee is recommended to note the report.

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Background Documents

None

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT TO THE STANDARDS COMMITTEE
16 JANUARY 2015

REPORT OF THE MONITORING OFFICER

**GUIDANCE ON THE CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS -
PUBLIC INTEREST TEST**

1. Purpose of Report

- 1.1 The purpose of the report is to inform the Committee of proposals made by the Ombudsman to revise the Guidance on the Code of Conduct for Local Authority Members.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 There are no direct links to the Corporate Improvement Plan and Corporate Priorities.

3. Background

- 3.1 In determining whether to investigate a complaint regarding a Member or whether to continue an investigation of a breach of the Code of Conduct to the stage of referring the matter to the Adjudication Panel or a Standards Committee, the Public Services Ombudsman for Wales has applied a two stage test.
- 3.2 The first stage is to establish whether there is evidence that a breach of the Code actually took place. The second test is whether the breach alleged would be likely to lead to a sanction.

4. Current situation / proposal

- 4.1 Whilst the local resolution processes within County or County Borough Councils appear to have had the effect of resolving many of the low level member versus member code of conduct complaints, the Ombudsman remains concerned about the number of frivolous, trivial and vexatious complaints being received. It is therefore proposed that a further public interest test be considered when deciding whether to investigate a complaint or whether to continue an investigation of a breach of the Code to the stage of referring the matter to the Adjudication Panel for Wales.
- 4.2 The paper attached at **Appendix 1** outlines the proposed new test which will be incorporated into the Ombudsman's revised Guidance on the Code of Conduct for Local Authority Members in the New Year.
- 4.3 The Ombudsman has indicated that he would be grateful to receive feedback from Monitoring Officers regarding the proposal.

5. Effect upon Policy Framework& Procedure Rules

5.1 There is no impact on the policy framework and procedure rules.

6. Equality Impact Assessment

6.1 There are no equality implications arising from this report.

7. Financial Implications

7.1 There are no financial implications.

8. Recommendation

8.1 The Committee is recommended to note the report.

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Background Documents

None

Public Interest Test

It is my role as Public Services Ombudsman to investigate complaints that members of local authorities in Wales have breached the Code. In determining whether to investigate a complaint or whether to continue an investigation of a breach of the Code to the stage of referring the matter to the Adjudication Panel for Wales ("the Adjudication Panel) or a standards committee my office has for a number of years applied the following two stage test.

The first test which has been applied is to establish whether there is evidence that a breach of the Code actually took place. The second test is whether the breach alleged would be likely to lead to a sanction. When exercising my discretion to investigate or to refer a matter for further consideration account is taken of previous cases considered by standards committees across Wales cases are decided accordingly.

Since taking up office I have become increasingly concerned about the number low level complaints my office is receiving. Whilst the local resolution processes within county or county borough councils appears to have had the effect of resolving many of the low level member versus member complaints within those bodies, I remain concerned about the number of frivolous, trivial and vexatious complaints I am receiving from community and town council members.

I have therefore decided to expand upon the two stage test and also consider whether an investigation or a referral to the Adjudication Panel or a standards committee is required in the public interest.

When applying the public interest test I consider each of the following public interest factors set out below. These factors are not exhaustive, and not all may be relevant in every case. The weight to be attached to each of these factors, and the factors identified, will also vary according to the facts and merits of each case.

- the seriousness of the breach, for example, has the member brought their authority seriously into disrepute? The more serious the breach the more likely investigation and referral for further hearing is required.
- has the member deliberately sought personal gain for himself or another person at the public expense? If there is evidence of this I am likely to investigate and refer the matter for further hearing.
- are the circumstances of the breach such that a member has misused a position of trust or authority and caused harm to a person? If there is evidence of this I am likely to investigate and refer the matter for further hearing.

- was the breach motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity? If a member's conduct is motivated by any form of discrimination I am likely to investigate and refer the matter for further hearing.
- is there evidence of previous similar behaviour on the part of the member? If so and the matter complained about is serious enough I am likely to investigate and refer the matter for further hearing.
- is the breach such that an investigation or referral to the Adjudication Panel for Wales or a standards committee is required to maintain public confidence in elected members in Wales? If so I am likely to investigate and if evidence of a serious breach is found refer the matter for further hearing.
- is investigation or referral to the Adjudication Panel for Wales or a standards committee a proportionate response? namely, would the cost of an investigation or hearing by the Adjudication Panel for Wales or a standards committee be regarded as excessive when weighed against any likely sanction?

My role is to investigate serious cases in order to maintain public confidence in standards in public life. If I am not satisfied that an investigation or referral to the Adjudication Panel or standards committee is proportionate in the circumstances I will decline to investigate or if, having started any investigation this becomes apparent, I will close my investigation.

Nick Bennett
Ombudsman

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT TO THE STANDARDS COMMITTEE
16 JANUARY 2015

REPORT OF THE MONITORING OFFICER

OMBUDSMAN CODE OF CONDUCT CASEBOOK

1. Purpose of Report

- 1.1 To provide Members with a summary of cases that have been undertaken by the Ombudsman's Office from April 2014 to September 2014.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 Standards are an implicit requirement in the successful implementation of the Corporate Themes.

3. Background

- 3.1 The Code of Conduct Casebook is published twice a year and contains the summaries of all reports issued under section 69(4) of the Local Government Act 2000.

4. Current situation / proposal

- 4.1 The Casebook for the period April 2014 to September 2014 is attached at **Appendix 1** and 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.

5. Effect upon Policy Framework & Procedure Rules

- 5.1 None.

6. Equality Impact Assessment

- 6.1 None.

7. Financial Implications

- 7.1 None.

8. Recommendation

- 8.1 The Committee is recommended to note the report.

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Background Documents

None

The Code of Conduct Casebook

Issue 3 October 2014

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A word from the Ombudsman

This is my first Code of Conduct Casebook as Public Services Ombudsman for Wales. I am grateful to my predecessor Peter Tyndall for creating this Casebook which was perceived to be challenging to produce. Cases where there is evidence of a breach of the code are referred to either a Standards Committee or a Tribunal convened by the Adjudication Panel for Wales. Consequently it is difficult to provide the full story of a case in our summary.

Of the fourteen cases included in this edition, seven showed no evidence of a breach, more than double the number dealt with in previous edition of the Casebook. Of those seven cases four relate to the promotion of equality and respect a further two relate to integrity.

It is of course very important that well founded Code of Conduct complaints should continue to be reported to me but it is concerning that a pattern appears to be emerging of complaints without any merit.

I take a dim view of vexatious complaints which are not founded in fact or are motivated by malice or are entirely frivolous. If I see evidence of any such behaviour I will take a hard line and investigate any member making such a complaint because if it is proven it is a breach of the code.

(Continued overleaf)


I am also concerned that during a period of public sector austerity, our finite resources are devoted to the most serious complaints and that the taxpayer's resources are devoted to areas of greatest need.

This seems to have been an issue within a minority of community councils and has broadly been resolved within county councils via the local resolution processes which county councils have adopted.

Of all of the Community Council complaints which were closed within last year over 20% related to one particular Community Council; all 26 of these cases were closed after initial consideration and were not therefore worthy of investigations and 22 of the 26 complaints closed in 2013/14 were Member v Member complaints (around half about equality and respect; the other half about integrity).

A further Community Council accounted for 7% of cases closed and all except one of those were also not worthy of investigation – that same Council accounted for 32% of Community Council Code of Conduct complaints my office received during 2011/12

As well as a period of public service austerity, we are also likely to be entering a period of public service reform for local authorities, it is vital therefore that all local representatives exercise leadership and ensure that they avoid pursuing trivial matters that may bring not just their council but their sector into disrepute. As councils face ever increasing challenges I hope we can ensure common sense for the common good.



Nick Bennett
Ombudsman

Introduction

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

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

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

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

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers April to September 2014, but also includes the summaries of older cases for which the standards committee or Adjudication Panel hearings were concluded during this period.

Case Summaries

No evidence of breach

Isle of Anglesey County Council – Promotion of equality and respect Case reference 201304372 – Report issued September 2014

A member of a Community Council (‘the complainant’) complained that a fellow member of the County Council (‘the Councillor’) breached the Code of Conduct when he completed and submitted a member’s observation form to the Isle of Anglesey County Council in response to its proposed sale of land in Cemaes Bay. In particular, the complainant alleged that the Councillor did not formally consult with the Community Council and misrepresented the views of the Council. It was also alleged that the Councillor behaved in a bullying manner towards the complainant and failed to show respect and consideration to her at a meeting of the Community Council in October 2013.

The Ombudsman obtained evidence from the Community Council, as well as witness statements from several members of the Community Council. The Councillor was also interviewed and he advised that he discussed the proposed sale of land with some of the members of the Community Council informally at the end of a meeting in June 2013 and that the views expressed were reflected. The Councillor denied that his behaviour towards the complainant at the meeting in October 2013 was inappropriate in any way.

The Ombudsman found that the Councillor had consulted informally with a number of members of the Community Council before he completed the form. Whilst the views recorded appeared to be consistent with the views expressed, the wording used on the form by the Councillor gave the impression that he had consulted with the Community Council and that it was representative of a formal view on the matter, which was not accurate. The Ombudsman was satisfied that the Councillor did not deliberately misrepresent the views of the Council, but did advise the Councillor to exercise greater care in these circumstances in the future.

The evidence gathered from those present at the meeting in October 2013 did not support the allegations made by the complainant. The Ombudsman concluded that there was no evidence of breach in respect of the matters investigated.

Cardiff Council – Promotion of equality and respect Case reference 201304630 – Report issued September 2014

A member of the public (‘the complainant’) complained that a member of Cardiff Council (‘the Councillor’) breached the Code of Conduct by failing to show her respect and consideration during a telephone conversation with her. The complainant alleged that the Councillor’s tone had been aggressive and bullying and that he had thereby brought the office of member into disrepute. She also questioned whether the Councillor had misused his position in obtaining her telephone number thereby securing an advantage for himself or his constituent.

The Ombudsman determined that it was appropriate to investigate the complaint. The Ombudsman found the evidence from a third party who had directly witnessed the conversation to be compelling. As the Councillor was acting for a constituent, it was appropriate for him to obtain the telephone number to make the call concerned when advocating on his behalf. The Ombudsman concluded that the evidence gathered during the investigation was not suggestive of a breach of the Code of Conduct.

Aberystwyth Town Council – Promotion of equality and respect
Case reference 201306243 – Report issued August 2014

Mr T, an employee of the Council, complained about various matters in relation to behaviour by a Member of the Council ('the Councillor'). The Ombudsman investigated five complaints. Mr T alleged that the Councillor was disrespectful on various occasions, including telling lies about his conduct. He stated that the Councillor breached confidence in relation to an employment problem that the complainant was facing and wrongly told another employee not to forward his correspondence to members of the Council.

The Ombudsman found that there was insufficient evidence that the Councillor had breached the Code regarding four issues. In respect to one of the allegations, there was evidence that Mr T's accusations were correct concerning what the Councillor had said. However, on balance, the Ombudsman did not consider that a clear breach had occurred.

Mid and West Wales Fire Service – Integrity
Case reference 201304587 – Report issued July 2014

Mr S complained about the conduct of a member of the Fire Authority ('the Member'). He alleged that the Member breached the Code of Conduct by using his position as a member of the Authority improperly to write to the Chair of the Authority about a decision to reject an individual's application for employment ('the applicant'). It was also alleged that the Member had a close personal association with the applicant.

The Acting Ombudsman determined that it was appropriate to investigate whether the conduct alleged was suggestive of a breach of the Code of Conduct. Information was obtained from the Fire Authority, the applicant and the Member. The investigation identified that the Member, in his capacity as a member of the Authority, was approached for assistance by the applicant when he had failed to receive a satisfactory response from the Fire Service in respect of his employment concerns. The Member wrote to the Chair on three occasions referring to the individual concerned and the interpretation and application of recruitment policies.

The Acting Ombudsman concluded that the evidence gathered was not suggestive of a breach of the Code. The Member was entitled to raise concerns about the Fire Service or Authority that may have been brought to his attention in his capacity as an elected member, even if the concerns related to employment policies. Furthermore, the Acting Ombudsman was not persuaded by the evidence that the Member had a close personal association with the individual concerned which would have given rise to a declarable personal interest under the provisions of the Code of Conduct.

Newport City Council – Disclosure and registration of interests
Case reference 201302386 – Report issued May 2014

The Acting Ombudsman received a complaint that a member of Newport City Council (‘the Councillor’) breached the Code of Conduct for predetermining the way in which he would vote on a decision at the Planning Committee to confirm a Tree Preservation Order (“TPO”); and, that Councillor should have declared an interest when the item came up at the committee on the basis that he was told by a Council officer (“the officer”) that the Councillor requested the TPO.

The Acting Ombudsman obtained documents from the Council and spoke with the officer. Having considered the information obtained during the investigation, the Acting Ombudsman concluded that there was no evidence that the Councillor had breached the Code of Conduct.

Rhondda Cynon Taf County Borough Council – Promotion of equality and respect
Case reference 201305349 – Report issued May 2014

Following a complaint made by a local authority member (‘the complainant’), the Acting Ombudsman investigated whether another member (‘the Councillor’) had breached the Code of Conduct. The complainant alleged that the Councillor had attempted to denigrate him in his local area by “blatantly declaring erroneous accusations” to a member of the public.

The Acting Ombudsman’s investigation obtained documents from the Council and statements from the member of the public, as well as two other Councillors. The Councillor also provided a response to the complaint. Having considered the available information, the Acting Ombudsman concluded that there was no evidence that the Councillor had breached the Code of Conduct.

Cardiff Council – Integrity
Case reference 201202666 – Report issued April 2014

A member of the Council (‘the complainant’) complained that a fellow member’s (‘the Councillor’) behaviour and conduct towards him, which he considered was capable of amounting to a number of breaches of the Code. He alleged that the cumulative effect of the Councillor’s behaviour towards him was harassing in nature and designed to undermine his role as member. The complainant also alleged that the Councillor failed to show respect and consideration to him and several other persons, including members of the public, officers of the Council and fellow Councillors. The complainant considered this to have happened on numerous occasions, both in person and in various written formats and that, in doing so, his conduct was also capable of bringing the role of member and the Council into disrepute. In addition, the complainant alleged that the Councillor had failed to demonstrate the principle of equality for all persons in some of his literature.

The Acting Ombudsman determined that it was appropriate to investigate whether the Councillor had failed to comply with the Code of Conduct and obtained evidence from the Council. The complainant and Councillor were also interviewed.

The report determined that many of the issues raised and views expressed by the Councillor (in various formats) appeared to be politically motivated. Furthermore, whilst the Acting Ombudsman considered that some of the comments made by the Councillor, in the various formats, were capable of stretching the boundaries of acceptable political expression, they were also capable of being considered as part of the cut and thrust of local politics.

Therefore, having reviewed the evidence gathered during the investigation, the Acting Ombudsman was not satisfied that it was sufficiently robust to enable any further action to be taken.

No action necessary

Llansantffraed Community Council – Disclosure and registration of interests

Case reference 201303799 – Report issued August 2014

The Ombudsman received a complaint that a member of Llansantffraed Community Council (‘the Councillor’) breached the Code of Conduct during the Council meeting held on 6 August 2013, by failing to declare an interest and leave the room during the discussion of a planning application.

The Ombudsman determined that it was appropriate to investigate whether the Councillor had breached the Code of Conduct and obtained evidence from the Council, the County Council’s Planning Department and the persons present at the meeting. The Councillor also submitted comments and supporting documents.

The Ombudsman was satisfied that, on balance, the evidence suggested that the Councillor had a personal and prejudicial interest in Council business relating to the planning application. This is because his farm was located within close proximity of the site and his family member lived opposite it. However, the Ombudsman felt that, on balance, the evidence did not suggest that the Councillor played an active part in discussions about the matter during the meeting. The Ombudsman found that no action needed to be taken in respect of the matters investigated.

Llanbadrig Community Council – Accountability and Openness; Promotion of equality and respect

Case references 201304536 & 201305202 – Report issued August 2014

The Ombudsman received four complaints made by a member of the Community Council (‘the complainant’) against another member of the same Council (‘the Councillor’). Firstly, the Councillor did not declare interests in a car parking matter which came before the Council. Secondly, the Councillor breached the Code by asking unfair and discriminatory questions of a female candidate at a job interview. Thirdly, the Councillor displayed potentially racist material in a shop and thereby brought the Council into disrepute. Finally, the Councillor was abusive in front of a member of the public when the alleged visited their shop on Council business.

The Ombudsman investigated all four complaints. The Ombudsman gathered substantial written material and interviewed some of the witnesses involved. The evidence was provided to the Councillor, who was also interviewed during the course of the investigation.

The Ombudsman determined an outcome for each of the allegations as follows. With regard to the car parking issue, he found that the Councillor might have breached the Code by not declaring a personal interest. However, this was marginal and he did not conclude that a definite breach had occurred. With respect to the questions at a job interview, the Ombudsman considered that a breach might have occurred and the Councillor was unwise to ask the questions that he did. However, he concluded that, even if there was a breach and the matter was referred to a standards committee, it was unlikely that the committee would impose a sanction. On both these issues, the Ombudsman found that no further action was necessary.

The Ombudsman did not find that the Councillor breached the Code regarding the display of potentially offensive materials in the shop. This was because it was his daughter that displayed the items, which she had a right to do as a business partner. Finally, the Ombudsman concluded that the Councillor breached the Code of Conduct by being very rude to the alleger. However, he did not consider that a standards committee would impose a sanction due to the isolated nature of that action and mitigation. The Ombudsman decided to take no further action but warned the Councillor about future conduct.

Referred to standards committee

Tywyn Town Council – Disclosure and registration of interests

Case reference 201301629 – Report issued May 2014

The Acting Ombudsman received a complaint from a member of the Town Council, that another member of the Council (‘the Councillor’) had breached the Code of Conduct during the Council’s Finance Committee and Council meetings held between May and September 2013. It was alleged that the Councillor should have declared an interest and left the room when items relating to Tywyn & District Chamber of Tourism and Commerce (‘the CTC’) were discussed during the meetings. It was also alleged that the Councillor made unsubstantiated comments about the CTC in an attempt to prevent it from receiving financial assistance from the Council.

The Acting Ombudsman determined that it was appropriate to investigate whether the Councillor had breached the Code of Conduct and obtained evidence from the Town Council, the County Council and persons present at the meetings.

The Acting Ombudsman was satisfied that, on balance, the evidence suggested that the Councillor had a personal and prejudicial interest in Council business relating to the CTC, because of the recent acrimonious history and her ongoing dispute with the CTC. The Acting Ombudsman felt that there was evidence that the Councillor may have sought to use her position improperly, had failed to reach decisions objectively and that her conduct could be capable of bringing her role as member, or the Council, into disrepute.

The Acting Ombudsman referred the matter to the County Council for determination by its Standards Committee. The Standards Committee found that the Councillor had breached specified paragraphs of the Code of Conduct and determined that she should be suspended for a period of three months.

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

Gwynedd Council – Accountability and Openness; Promotion of equality and respect

Case references 201300346 & 201301307 – Report issued May 2014

The Acting Ombudsman received two complaints about the conduct of a member of Gwynedd County Council (‘the Councillor’). The complainant alleged that the Councillor secretly filmed and recorded a conversation with her whilst she was performing her duties as a Civil Parking Enforcement Officer on 8 February 2013 and later posted a video of this conversation on his Facebook page. Another complainant alleged that the Councillor had behaved in a threatening manner towards him on 17 May 2013, whilst he was performing his duties as Civil Enforcement Officer. Both complainants alleged that the Councillor had failed to observe the requirements of the Code of Conduct.

The Acting Ombudsman determined that it was appropriate to investigate whether the Councillor had breached the Code of Conduct and obtained evidence from the Council as well as persons present at each incident.

The Acting Ombudsman was not persuaded that the Councillor's conduct in posting the footage of his conversation with the complainant on Facebook was capable of bringing either the role of member or the Council into disrepute. However, the Acting Ombudsman felt that it was for the Council's Standards Committee to decide whether his actions, which would amount to a departure from the Officer/Member protocol, were capable of doing so.

The Acting Ombudsman was satisfied that, on balance, the evidence obtained during the investigation of the second complaint suggested that the Councillor's conduct breached the Code of Conduct. The Acting Ombudsman referred both matters to the Council for determination by its Standards Committee.

In respect of the first complaint, the Standards Committee determined that the Councillor had failed to comply with specified paragraphs of the Code of Conduct as he had not followed the Council's internal procedures with regard to concerns about council employees and instead had raised his concerns in the public domain, causing distress to an officer of the Council. The Standards Committee believed also that, in not revealing that he was a Member of the Authority, the Councillor had showed a lack of respect and consideration to the officers of the Council by posting the footage on Facebook and naming a Council officer. The Standards Committee decided that the Councillor should be censured in respect of the breach of the Code of Conduct. The Standards Committee also resolved also that the Councillor should remove the footage and post from his Facebook page immediately and receive training on the Code of Conduct and all Council protocols relevant to the conduct of councillors.

In respect of the second complaint, the Standards Committee determined that the Councillor had failed to comply with specified paragraphs of the Code of Conduct. Taking all the circumstances of the case into consideration, the Committee concluded that his behaviour in making a threat of physical violence was neither appropriate nor proportionate. It was not the type of behaviour expected from an elected member and, as such, brought both his office and the Council into disrepute. The Standards Committee decided that the Councillor should be suspended from his role as member for a period of two months.

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

Cardiff Council – Integrity

Case reference 201202666 – Report issued April 2014

A member of the Council ('the complainant') complained about the conduct of a fellow ward member ('the Councillor'). In particular, the complainant alleged that the Councillor had used the Council's mailing system to distribute a political campaign leaflet in October 2012 and that, in doing so, his conduct was also capable of bringing the role of member and the Council into disrepute.

The Acting Ombudsman determined that it was appropriate to investigate whether the Councillor had failed to comply with the Code of Conduct in respect of this allegation and obtained evidence from the Council. The Acting Ombudsman also interviewed the complainant and the Councillor.

The Acting Ombudsman determined that, on balance, the inclusion of the request for support for a campaign (both physical and financial support) was highly suggestive that the leaflet drafted and distributed by the Councillor was “political” in nature. The Acting Ombudsman concluded that the evidence gathered during the investigation in respect of this issue was suggestive that the Councillor had used the Council’s mailing resources improperly for political purposes, contrary to the requirements of the Code of Conduct.

The Acting Ombudsman determined that her report on this investigation should be referred to the Monitoring Officer of Cardiff County Council, for consideration by the Council’s Standards Committee. The Standards Committee determined that the Councillor had failed to comply with the Code of Conduct. However, given the circumstances and, in particular, the full apology given by the Councillor following the issue of the report, as well as his repayment of the postage costs incurred, no further action should be taken in respect of this failure.

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

Colwinston Community Council – Disclosure and registration of interests Case reference 201301409 – February 2014

A member of the public (‘the complainant’) complained that a member of Colwinston Community Council (‘the Councillor’) breached the Code of Conduct. Specifically, the complainant said that the Councillor failed to declare a personal and prejudicial interest at a Community Council meeting in August 2012 concerning a planning application, the site of which was near his home and would have affected him detrimentally if the County Council had approved it. In addition, the Councillor took part in discussions leading to plans that might make the site less easy to develop in future.

The Acting Ombudsman considered that the Councillor might have breached the Code of Conduct for failing to declare the interest and contributing to Community Council decisions, the outcome of which might have put him at an advantage. During the investigation, the Councillor was interviewed and written evidence relating to the complaint was considered. The Acting Ombudsman also considered the fact that the Community Council Chairman had indicated to the Councillor that he did not need to declare an interest.

The Acting Ombudsman decided that the Councillor’s actions were indicative of four breaches of the Code. These concerned using his position to gain an advantage, failure to declare a personal interest, not withdrawing from the meeting despite having a prejudicial interest and seeking to influence a decision whilst having a prejudicial interest. The Acting Ombudsman referred the matter to the Standards Committee of the Vale of Glamorgan Council.

The Standards Committee found that the Councillor had breached the Code of Conduct. It issued him with a censure and asked him to attend training. The decision of the Standards Committee can be found [here](#).

Colwinston Community Council – Disclosure and registration of interests
Case reference 201301594 – February 2014

A member of the public ('the complainant') complained that a member of Colwinston Community Council ('the Councillor') breached the Code of Conduct. Specifically, the complainant said that the Councillor failed to declare a personal and prejudicial interest at a Community Council meeting in August 2012 concerning a planning application, the site of which was near his home and would have affected him detrimentally if the County Council had approved it. In addition, the Councillor took part in discussions leading to plans that might make the site less easy to develop in future.

The Acting Ombudsman considered that the Councillor might have breached the Code of Conduct by failing to declare the interest and contributing to Community Council decisions, the outcome of which might have put him at an advantage. The Councillor was interviewed and written evidence relating to the complaint was considered. The Acting Ombudsman also considered the fact that the Community Council Chairman had indicated to the Councillor that he did not need to declare an interest.

The Acting Ombudsman decided that the Councillor's actions were indicative of four breaches of the code. These concerned using his position to gain an advantage, failure to declare a personal interest, not withdrawing from the meeting despite having a prejudicial interest and seeking to influence a decision whilst having a prejudicial interest.

The Acting Ombudsman referred the matter to the Standards Committee of the Vale of Glamorgan Council. The Standards Committee found that the Councillor had breached the Code. It issued him with a censure and asked him to attend training.

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

Sully Community Council – Integrity
Case reference 201204263 – February 2014

A member of the Community Council complained that the Chairman of the Council had banned him from e-mailing the Clerk of the Council, and had subsequently failed to be open with the Council about his action. The complainant believed that he had been placed in a position where he was unable to conduct Council business effectively and that this situation had arisen from questions he had posed about the Council's handling of maintenance issues. He said that this had brought him into conflict with the Chairman and that other members had been made aware of the difficulties between the two.

The complainant believed that he was not being allowed to fully participate in Council meetings and said that he had received e-mails from the Chairman which he found offensive and personal. He said that these e-mails had been copied to other members and that, on occasions, members of the public had been made aware of the difficulties between them.

The Acting Ombudsman decided to investigate the complaint as there appeared to be evidence of potential breaches of the Code of Conduct in relation showing respect to others and not to bring their office or authority into disrepute. The Acting Ombudsman decided that the matter would be referred to the Monitoring Officer of the Vale of Glamorgan County Council for determination by its Standards Committee.

The Standards Committee found multiple breaches of specified paragraphs of the Code of Conduct. The Committee decided that the Chairman should be suspended from office for 6 months and should attend training on the Code of Conduct.

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

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding. The Ombudsman has referred one report to the Adjudication Panel for Wales; the summary for this report will be available following the publication of the Panel's Decision Notice.

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 James.Merrifield@ombudsman-wales.org.uk or sent to the following address:

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