

# Public Document Pack



Cyngor Sir  
**CEREDIGION**  
County Council

Neuadd Cyngor Ceredigion, Penmorfa,  
Aberaeron, Ceredigion SA46 0PA  
[ceredigion.gov.uk](http://ceredigion.gov.uk)

5/07/2024

Lisa Evans

01545574177

Dear Sir / Madam

I write to inform you that a Meeting of the Ethics and Standards Committee will be held HYBRID - NEUADD CYNGOR CEREDIGION, PENMORFA, ABERAERON / REMOTELY VIA VIDEO CONFERENCE on Thursday, 11 July 2024 at 2.00 pm for the transaction of the following business:

- 1. Apologies**
- 2. Declaration of personal/prejudicial interest**
- 3. Confidential item**

The Monitoring Officer has determined that Category 8 of the Access to Information Procedure Rules applies to the following report (appendix 3 and 4 of item 4). Her view on the public interest test (having taken account of the provisions of Rule 11.8 of the Council's Access to Information Rules) was that to make this information public would disclose information relating to a particular individual and would allow information to enter the public domain before the individual has had an opportunity to make representations in respect of it. These factors in her view outweigh the public interest in disclosing the information at this stage.

Members are asked to consider these factors when determining the public interest test, which they must decide when considering whether:

- the exempt item should remain exempt, and
- to exclude the public from the meeting.

- 4. Report by Public Services Ombudsman for Wales - report into alleged breach of Llansantffraed Community Council statutory Code of Conduct for members (Pages 3 - 122)**

Appendix 3 and 4 relating to the item above is not for publication as it contains exempt information as defined in paragraph 12 of Part 4 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation) (Wales) Order 2007. If, following the application of the Public Interest Test, the Council resolves to consider this item in private, the public and press will be excluded from the meeting during such consideration, in accordance with Section 100B(2) of

the Act. Members will be requested, when dealing with the items, to consider whether to exclude the public and press from the Meeting.

Members are reminded to sign the Attendance Register

A Translation Services will be provided at this meeting and those present are welcome to speak in Welsh or English at the meeting.

Yours faithfully

A handwritten signature in black ink, appearing to read 'L Edwards', written in a cursive style.

**Miss Lowri Edwards**  
**Corporate Lead Officer: Democratic Services**

**To: Chairman and Members of Ethics and Standards Committee**  
The remaining Members of the Council for information only.

## CYNGOR SIR CEREDIGION COUNTY COUNCIL

**Report to:** Ethics and Standards Committee

**Date of meeting:** 11 July 2024

**Title:** Report by Public Services Ombudsman for Wales – report into alleged breach of Llansantffraed Community Council’s Code of Conduct for Members by Cllr Andrew Phillips

**Report for:** Decision

### **Background**

1. The Public Services Ombudsman for Wales has investigated a complaint that Cllr Andrew Phillips of Llansantffraed Community Council has breached the Code of Conduct for Members (case ref. 202208582) following a criminal conviction for driving whilst over the legal limit for alcohol

2. The Ombudsman’s report of her investigation dated 12/1/24 (**Appendix 3**) pursuant to S69 of the Local Government Act 2000 has, in accordance with s71 (2) of the Local Government Act 2000, been referred to the Council’s Deputy Monitoring Officer (DMO).

The Subject of the referral was:

Duty to uphold the law:

[Duty to uphold the law : Llansantffraed Community Council - Public Services Ombudsman for Wales](#)

3. Regulation 3 (2) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 provides that the Deputy Monitoring Officer must consider the report and make recommendations to the Standards Committee.

4. Regulation 7 of those Regulations (**Appendix 2**) provides:

“After receiving ..a report from [the Ombudsman] together with any recommendations of the monitoring officer, the Standards Committee must determine either:

a, That there is no evidence of any failure to comply with the code of conduct ..., or

b, That any person who is the subject of the investigation report 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 has failed, or may have failed, to comply with the ..... code of conduct.”

5. By Regulation 8 of the Regulations it is for the Standards Committee itself to decide the practice and procedure to be followed in exercising its functions under the Regulations.

6) In line with the requirement for openness and transparency in relation to the function and duties of the Committee, the hearing will be held in public unless the Committee resolves, having considered the public interest test, that the hearing (or any part of it) should be held in private at any stage

The Deputy Monitoring Officer has determined that Category 12 of the Access to Information Procedure Rules applies to the following:

- Appendix 3 PSOW report 202208582 12/1/24
- Appendix 4 PSOW Summary 12/5/24

Ground 12: Information relating to an individual

Ground 18C: the deliberations of the Ethics and Standards Committee in reaching any finding on a matter referred under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.

**Public Interest test:**

Whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information

The public interest will be assessed on a case by case basis having regard to all relevant factors, to ensure a proper balance is achieved between the right to know, the right to personal privacy and the delivery of effective government.

The Deputy Monitoring Officer' view on the public interest test (having taken account of the provisions of Paragraph 10.5 & 10.7 of the Council's Access to Information Rules) was that to make this information public at this stage would:

- would allow additional information to enter the public domain before the Member has had an opportunity to make representations in respect of it.

It is considered that due to this factor, the public interest in maintain the information outweighs the public interest in disclosing the information at this stage.

Members are asked to consider these factors when determining the public interest test, which they must decide when considering whether:

- the exempt item should remain exempt, and
- to exclude the public from the meeting.

Therefore the documents above are not for publication at this stage 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) (Wales) Order 2007:  
Information relating to an individual

If, following the application of the Public Interest Test, the Committee resolves to consider these documents in private, the public and press will be excluded from the meeting during such consideration, in accordance with Section 100B(2) of the Act.

### **Proposals:**

1)The Deputy Monitoring Officer recommends that the procedures to be adopted by the Ethics and Standards Committee in carrying out its functions and making its determination be those incorporated in Part 5 Doc. S of Ceredigion County Council's Constitution, attached to this Report (**Appendix 1**).

2). That the Committee notes the contents of the PSOW letter dated 2/5/24 (**Appendix 5**)

3 That the Committee considers the Public Interest Test, in relation to the following documents:

- Appendix 3 PSOW report 202208582 12/1/24
- Appendix 4 PSOW Summary 12/5/24

If the Committee resolves to consider these documents in private, the public and press will be excluded from the meeting during such consideration, in accordance with Section 100B(2) of the Act.

4)The Deputy Monitoring Officer further recommends that the Ethics & Standards Committee:

a) consider the report of the Public Services Ombudsman dated 12/1/24, (**Appendix 3**) and the PSOW Summary (**App, 4**),and  
b) makes its initial determination in accordance with para 7 of the Regulations as set out above (Appendix 2) and the Hearings Procedures (Appendix 1), namely that the Councillor:

a, That there is no evidence of any failure to comply with the code of conduct ..., or

b, That any person who is the subject of the investigation report 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 has failed, or may have failed, to comply with the ..... code of conduct.

#### 5) Consequential Directions

Where the Committee determines that the Councillor should be given the opportunity to make representations in accordance with regulation 7, to decide:

- a) the provisional date for a final hearing, or
- b) to grant the Deputy Monitoring Officer delegated power, in consultation with the Chair, to confirm the date of a final hearing, having regard to the responses from the Councillor (and Investigating Officer if necessary) upon availability.

#### **Recommendations:**

**That the Committee:**

- 1) **adopts the Ceredigion County Council procedures (Appendix 1) for the determination of the matter.**

#### **2) considers the public interest test, as to whether:**

- **a) Appendix 3 & 4 should remain exempt at this stage, and**
- **b) if so, whether to exclude the public and press from the meeting when considering Appendix 3 & 4**

#### **3) makes an initial determination in respect of the Ombudsman's report dated 12 January 2024 (Appendix 3) in accordance with regulation 7, either:**

**a, That there is no evidence of any failure to comply with the code of conduct .., or**

**b, That any person who is the subject of the investigation report 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 has failed, or may have failed, to comply with the ..... code of conduct.**

#### **4) Consequential Directions**

**If the Committee determines that the Councillor should be given the opportunity to make representations, to decide:**

- a) the provisional date for a final hearing, or**
- b) to grant the Deputy Monitoring Officer delegated power, in consultation with the Chair, to confirm the date of a final hearing, having regard to the responses from the Councillor (and Investigating Officer if necessary) upon availability.**

**Reasons for decision:**

To comply with the requirements under the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended).

**Wellbeing of Future Generations:**

Has an Integrated Impact Assessment been completed? If, not, please state why.

Not required

**Summary of Integrated Impact Assessment:**

Long term: n/a

Collaboration: n/a

Involvement: n/a

Prevention: n/a

Integration: n/a

**Appendices:**

Appendix 1 Hearings Procedures

Appendix 2 Hearings Regulations 2001 Regulation 7

Appendix 3 PSOW report 202208582 12/1/24-exempt

Appendix 4 PSOW Summary 12/1/24-exempt

Appendix 5 PSOW letter 2/5/24

**Contact Name:** Patricia Armstrong

**Designation:** Deputy Monitoring Officer

**Date of Report:** 3/6/24

**Acronyms:**

PSOW: Public Services Ombudsman for Wales

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## **ETHICS & STANDARDS COMMITTEE**

### **DEALING WITH COMPLAINTS REFERRED TO THE ETHICS & STANDARDS COMMITTEE & HEARINGS PROCEDURES**

#### **Introduction**

1. This document sets out the procedure that the Council's Ethics & Standards Committee will follow where it is required to make decisions about the conduct of Councillors following investigations by the Public Services Ombudsman for Wales or the Council's Monitoring Officer under Part III of the Local Government Act 2000 and any related regulations.
2. If there is any conflict between this document and any statutory requirements then those statutory requirements will prevail.
3. Subject to any express provision in the Regulations, the practice and procedure for exercising its functions under Regulations, shall be for the Ethics and standards Committee to decide.

#### **Interpretation**

4. In this procedure:
  - (a) 'the Act' means the Local Government Act 2000 Part III
  - (b) 'the Council' means Ceredigion County Council
  - (c) 'the Code of Conduct' means the Code of Conduct for Members adopted by the Council or the town/community councils within the Council's area in 2008 (and as amended in 2016), in accordance with Section 51 of the Act.
  - (d) 'the Complainant' means any person who made any allegation which gave rise to the investigation
  - (e) Co-opted members means persons appointed by the Council to sit as independent or lay members on its Governance and Audit or its Ethics & Standards Committee
  - (f) the 'Investigating Officer' means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer
  - (g) an 'investigation report' means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under s69, 70 or s71(2) of the Act or by the Monitoring Officer under the Regulations.
  - (h) 'the Member' means any person who is the subject of an investigation into any alleged breach of the Code of Conduct

- (i) 'the Monitoring Officer' means the officer for the time being appointed by the Council under section 5 of the Local Government and Housing Act 1989
- (j) 'the Ombudsman' means the Public Services Ombudsman for Wales
- (k) 'the Regulations' means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001/2281 as amended (SI 2016/85),
- (l) 'the Standards Officer' means the officer for the time being appointed by the Council to support the work of the Ethics & Standards Committee
- (m) the 'Advising Officer' means the Monitoring Officer, Deputy Monitoring Officer the Standards Officer or some other suitably qualified person.

### Summary of the procedure

- 5) Under **section 69** of the Act, the Ombudsman may investigate any alleged breach of the Code of Conduct by members or co-opted members (or former members or co-opted members) of the Council or a community council in the Council's area.
- 6) Under **section 70(4)** of the Act, where the Ombudsman ceases such an investigation before it is completed:
  - a) they may refer the matters which are the subject of the investigation to the Monitoring Officer.
  - b) The Monitoring Officer will then investigate those matters in accordance with the Regulations before reporting and, if appropriate, making recommendations to the Ethics & Standards Committee. See detailed procedure below in section 17.
- 7) Under **section 71(2)** of the Act, where the Ombudsman decides after investigating that it is appropriate, they will:
  - a) produce a report on the outcome of the investigation and send it to the Monitoring Officer and the Council's Ethics & Standards Committee.
  - b) The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, making recommendations to the Ethics & Standards Committee.
  - c) See detailed procedure below in section 17.
- 8) The Ethics & Standards Committee will then make an initial determination (Reg. 7) either:
  - a) that there is no evidence of any failure to comply with the Code of Conduct,  
or
  - b) that the Member must be invited to make representations, either orally or in writing, in respect of the findings of the investigation and any allegation they have failed to comply with the Code of Conduct.
- 9) Where the Member is invited to make representations, the Ethics & Standards Committee will convene a hearing to consider any response made by the Member.

### **Determination of the Ethics and Standards Committee**

10) After considering any representations, the Ethics & Standards Committee must determine (Regulation 9(1)) that:

- (a) there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken in respect of matters which are the subject of the investigation;
- (b) the Member or co-opted member (or former member or co-opted member) has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
- (c) the Member or co-opted member (or former member or co-opted member) has failed to comply with the Code of Conduct and should be censured, or
- (d) the Member or co-opted member (or former member or co-opted member) has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted member of his/her authority for a period not exceeding six months.

and take any such action accordingly.

11) Where an appeals tribunal drawn from the Adjudication for Wales makes a recommendation that a different penalty should be imposed (Reg. 12), the Ethics and Standards Committee must also determine whether or not it should uphold its original determination or accept the recommendation.

### **Investigations by the Monitoring Officer (referrals under section 70(4) of the Act)**

12) Where the Ombudsman ceases their investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:-

- a) conduct an investigation; and
- b) report, and if appropriate make recommendations to the Council's Ethics & Standards Committee

13) The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as they consider appropriate in the circumstances of the case.

14) After concluding an investigation, the Monitoring Officer must:

- (a) produce a report on the findings of their investigation and, if appropriate, may make recommendations to the Ethics & Standards Committee,
- (b) send a copy of the report to the Member, and
- (c) take reasonable steps to send a copy of the report to the Complainant.

15) The Ethics & Standards Committee will consider the Monitoring Officer's report and any recommendations in accordance with the procedure set out in section 17 below.

### **Investigations by the Ombudsman (referrals under section 71(2) of the Act)**

16) Where the Ombudsman completes their investigation and sends a report to the Monitoring Officer and the Council's Ethics & Standards Committee under section 71(2) of the Act, the Monitoring Officer must:

- a) consider the Ombudsman's report and,
- b) if appropriate, make recommendations to the Council's Ethics & Standards Committee.

17) The Ethics & Standards Committee will consider the Ombudsman's report together with any recommendations made by the Monitoring Officer in accordance with the procedure set out below.

### **Step 1 - Ethics & Standards Committee – Initial Determination Hearing**

18) After the Monitoring Officer has:

- a) produced an investigation report in accordance with paragraph 14; or
- b) considered the Ombudsman's investigation report in accordance with paragraph 16.

a meeting of the Ethics & Standards Committee will be convened as soon as possible.

A copy of the investigation report, together with the Monitoring Officer's recommendations (if any), will be sent to each of the members of the Ethics & Standards Committee.

19) Notice of the time and place of the meeting will be given in accordance with Part VA of the Local Government Act 1972, as amended by the Regulations.

20) If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Ethics & Standards Committee, as Advising Officer.

21) If the investigation report is produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Ethics & Standards Committee, as Advising Officer.

22) The business of the Ethics & Standards Committee Initial Determination hearing will be limited to:

- a) considering the investigation report
- b) and the Monitoring Officer's recommendations (if any) and
- c) to making an initial determination either:-
  - i. that there is no evidence of any failure to comply with the Code of Conduct, or
  - ii. that the Member should be invited to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that they have failed, or may have failed, to comply with the Code of Conduct.

### **Step 2 - After the first meeting of the Ethics & Standards Committee**

23) Where the Ethics & Standards Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the Standards Officer will accordingly notify the Member, the Complainant and the Ombudsman. See 22(c)(i) above.

24) Where the Ethics & Standards Committee decides that the Member must be invited to make representations, the Standards Officer will notify the Member of the Committee's Initial determination decision and the procedure which the Committee proposes to adopt to receive and consider any representations that they may wish to make. See 22(c)(ii) above and Step 3 below.

### **Step 3 - Preparing for the hearing to consider the Member's representations**

25) (A) The Standards Officer, in consultation with the Chair of the Ethics & Standards Committee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and to ask the Member to complete and return a questionnaire within 14 days, to confirm whether they:

- (a) Intend to attend the hearing
- (b) want to make representations, whether orally or in writing and if so, to include any written representations in his or her response
- (c) disagree with any of the findings of fact in the investigation report, and if so, which matters they disagree with and the reasons for any disagreements;
- (d) wishes to represent themselves or be represented at the hearing by a legal representative or any other person, in accordance with the Regulations
- (e) wants to give evidence to the Ethics & Standards Committee, either orally or in writing;
- (f) wants to call relevant witnesses to give evidence to the Ethics & Standards Committee, and if so to identify those witnesses, and confirm if they are witnesses of fact or character
- (g) wants any part of the meeting to be held in private, and if so, explain the reasons
- (h) wants any part of the investigation report or other relevant documents to be withheld from the public, and if so, explain the reasons;

25(B) The Investigating Officer will be expected to attend the Hearing to present the report and explain any matters within it (unless the Committee has agreed that this is not necessary).

26) The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether they will be attending the hearing. Two alternative dates should be kept in reserve.

27) The Standards Officer will send a copy of the Member's response under paragraph 25 to the Investigating Officer and will ask them to confirm in writing within 7 days whether they:

- (a) have any comments on the Member's response
- (b) want to be represented at the hearing;
- (c) want to call relevant witnesses to give evidence to the Ethics & Standards Committee; and if so to identify those witnesses
- (d) want any part of the meeting to be held in private; if so, provide reasons
- (e) want any part of the investigation report or other relevant documents to be withheld from the public; if so provide reasons

28) The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least 14 days before the hearing to:

- (a) confirm the date, time and place for the hearing;
- (b) summarise the allegation(s);
- (c) outline the main facts of the case that are agreed;
- (d) outline the main facts which are not agreed;
- (e) note whether the Member or the Investigating Officer will attend or be represented at the hearing;
- (f) list those witnesses, if any, who will be asked to give evidence;
- (g) enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
- (h) outline the proposed procedure for the hearing.
- (i) seek confirmation if they intend to attend the hearing
- (j) provide evidence upon which they intend to rely

29) The following information will be sent to the members of the Committee, the Member and the Investigation Officer in advance of the hearing (and any other relevant documents):

- Investigating Officers report
- Member's response
- Any further response from the Investigating Officer
- An outline of main facts agreed /not agreed
- List of witnesses

- Whether the member will be attending the hearing and whether they will be represented
- Procedure for the hearing.

## **Step 4 - The Hearing Procedure**

### **Principles**

30) The Ethics & Standards Committee:

- a) may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings.
- b) It must so far as appears to it appropriate seek to avoid inflexibility in its proceedings.
- c) decide factual evidence on the balance of probabilities.
- d) consider any criteria established to assist the Committee to ensure consistency in decisions.

31) The Member or the Investigating Officer may be represented or accompanied whether or not legally qualified but if in any particular case the Ethics & Standards Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.

32) The Ethics & Standards Committee may take legal advice from a Council officer appointed for this purpose at any time during the meeting or while they are considering the outcome. The substance of any legal advice given to the Committee will be shared with the Member and the Investigating Officer if they are present.

33) The hearing will be held in public unless the Ethics & Standards Committee is persuaded that there is a good reason to exclude the public.

34) The intention is that all parties to the hearing are able to participate in the full knowledge of the matters under investigation, ensuring that the proceedings are fair, transparent and impartial.

35) The procedure at the meeting shall be as set out below, subject to the Chair making such changes as they think fit in order to ensure a fair and efficient hearing.

### Introduction

36) The Chair of the Ethics & Standards Committee will introduce those persons present and will explain the manner and order of proceedings including any physical arrangements.

### First stage: Preliminary procedural issues

37)The Ethics & Standards Committee will then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process. Including:

- a) Whether public or press should be excluded from the hearing or parts of it
- b) Any new matters arising since the agenda was prepared
- c) If any new evidence or matter is raised that could have been raised before the hearing, the assumption will be that it will not be allowed unless there is good reason to do so.
- d) whether there is good reason hearing should proceed in absence of any party, reasons offered for any absence and to satisfy itself that all parties were properly notified of the hearing date. Alternatively, to adjourn the hearing.
- e) To make arrangements to dispose of the matter fairly, in the event that the Committee is satisfied that any party (after receiving medical evidence) is unable to attend and is likely to be unable to attend for a long time.
- f) No cross-examination of witnesses will be allowed. Questions must be directed through the Chair.

Second stage: Making findings of fact-

38)The Ethics & Standards Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.

39)If there is a disagreement as to the facts:-

- (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report.
- (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Ethics & Standards Committee's permission and the Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer and question any witness through the Chair.
- (c) the Member will then be invited to present their case and make representations in support his or her version of the facts.
- (d) the Member may call any necessary witnesses to give evidence, with the Ethics & Standards Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.

40)At any time, the Ethics & Standards Committee may question any of the people involved or any of the witnesses through the Chair.

41)If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, they must give good reasons for



not mentioning it before the hearing. If the Investigating Officer is not present, the Ethics & Standards Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:

- (a) continue with the hearing, relying on the information in the investigation report
- (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
- (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if they are not already.
- (d) The Investigating Officer, followed by the Member, will have an opportunity to sum up.

42) At the conclusion of the representations as to matters of fact, the Ethics & Standards Committee will retire to deliberate in private on the representations along with the Advising Officer.

43) The Committee will also consider if it is required to proceed to the third stage. It is a majority decision.

44) The Ethics & Standards Committee will reconvene as a public meeting and the Chair of the Ethics & Standards Committee will announce their findings of fact. The Member, Investigating Officer and witnesses will be invited back to the meeting.

#### Third stage: Deciding whether the Member has failed to comply with the Code

45) The Ethics & Standards Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.

46) The Ethics & Standards Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Committee has found, the Member has failed to comply with the Code of Conduct.

47) The Ethics & Standards Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to whether or not, based on the facts the Committee has found, they have failed to comply with the Code of Conduct.

48) The Ethics & Standards Committee may, at any time, question anyone involved on any point they raise in their representations.

49) The Member will be invited to make any final relevant points and offer any mitigation.

50) The Ethics & Standards Committee will retire to deliberate in private along with the Advising Officer on the representations and decide on the balance of probabilities whether or not the Member has failed to comply with the Code of

Conduct. This will be a majority decision. The Advising Officer will not take part in any vote.

51) The Ethics & Standards Committee will reconvene as a public meeting and the Chair of the Ethics & Standards Committee will announce the decision whether there is a breach of the Code. This will be a majority decision. The Advising Officer will not take part in any vote.

Fourth stage: Action to be taken

52) If the Ethics & Standards Committee decides that the Member has not failed to comply with the Code of Conduct, it will

- a) formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.
- b) The Ethics & Standards Committee can still consider whether to make any recommendation to the Council to avoid similar situations occurring again

53) If the Ethics & Standards Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:

- (a) whether or not the Committee should apply a sanction; and
- (b) what form any sanction should take.

54) The Ethics & Standards Committee will retire along with the Advising Officer to deliberate in private on the representations, to consider sanctions.

55) The available Options are that:

- a) no action needs to be taken in respect of the failure to comply with the Code of Conduct,
- b) the Member should be censured or
- c) the Member should be suspended or partially suspended from being a member or co-opted member of his or her authority for a period not exceeding six months.

This will be a majority decision. The Advising Officer will not take part in any vote.

56) The Ethics & Standards Committee will reconvene and the Chair of the Ethics & Standards Committee will announce its decision.

57) After making a decision the Ethics & Standards Committee will instruct the Standards Officer to:

- a) confirm the decision and
- b) the reasons for the decision in writing, and to send a copy of the written decision (including details of the Member's right of appeal) to the Member,

the Complainant and the Ombudsman as soon as reasonably practicable, and in accordance with the Regulations

### **Miscellaneous Matters**

#### **Failure to make representations / attend the hearing**

58) If the Member fails to make representations, the Ethics & Standards Committee may:

- a) unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
- b) give the Member a further opportunity to make representations

59) If a party fails to be present or represented at a hearing, the Ethics & Standards Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence -

- a) hear and decide the matter in the party's absence; or
- b) adjourn the hearing.

#### **Illness or incapacity**

60) If the Ethics & Standards Committee is satisfied that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Ethics & Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter.

#### **Suspension**

61) A period of suspension or partial suspension (suspended from doing part of their Council work) will commence on the day after:

- a) the expiry of the time allowed to lodge a notice of appeal to an appeals tribunal under the Regulations (i.e. within 21 days of receiving notification of the Ethics & Standards Committee's determination);
- b) receipt of notification of the conclusion of any appeal in accordance with the Regulations;
- c) a further determination by the Ethics & Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last.

#### **Referral to an Appeals Tribunal**

62) Where the Ethics & Standards Committee determines that the Member has failed to comply with the Code of Conduct, the Member may appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales. Leave to appeal is required in accordance within the Regulations.

63) An appeals tribunal may:

- a) endorse the decision of the Ethics & Standards Committee,
- b) refer a matter back to it recommending it impose a different penalty,
- c) or overturn the decision.

64) If:

- a) the Ethics & Standards Committee determines that the Member failed to comply with the Code of Conduct;
- b) the Member appeals to an appeals tribunal drawn from the Adjudication Panel for Wales; and
- c) the said tribunal refers the matter back to the Ethics & Standards Committee with a recommendation that a different penalty be imposed,

the Ethics & Standards Committee shall meet as soon as reasonably practicable to consider the recommendation of the appeals tribunal and will determine whether or not it should uphold its original determination or accept the recommendation.

65) After making its determination the Ethics & Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the Adjudication Panel for Wales as soon as reasonably practicable.

#### **Publication of the Ethics & Standards Committee's report**

66) The Ethics & Standards Committee will cause to be produced within 14 days after:

- a) the expiry of the time allowed to lodge a notice of appeal under the Regulations, or
- b) receipt of notification of the conclusion of any appeal in accordance with the Regulations, or
- c) a further determination by the Ethics & Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last, a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant.

67) Upon receipt of the report of the Ethics & Standards Committee, the Monitoring Officer shall:

- a) for a period of 21 days publish the report on the Council's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available,
- b) supply a copy of the report to any person on request if they pay such charge as the Council may reasonably require, and

- c) not later than 7 days after the report is received from the Ethics & Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by sub-paragraphs (a) and (b) above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

### **Costs**

68) The Ethics & Standards Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

### Legislation

Local Government Act 2000-Part III:

<https://www.legislation.gov.uk/ukpga/2000/22/part/III/chapter/III>

Code of Conduct for Members:

Legal & Governance Services/Democratic Services

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**WELSH STATUTORY INSTRUMENTS**

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**2001 No. 2281****Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001****Functions of the Standards Committee**

7. After receiving a report and any recommendations from the monitoring officer, or a report from a Local Commissioner in Wales together with any recommendations of the monitoring officer, the Standards Committee must determine either:

- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned and must notify any person who is the subject of the investigation, any person who made any allegation which gave rise to the investigation and the Local Commissioner in Wales accordingly; or
- (b) that any person who is the subject of the investigation 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 relevant authority's code of conduct.

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WELSH STATUTORY INSTRUMENTS

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**2016 No. 85**

The Local Government (Standards Committees,  
Investigations, Dispensations and Referral)  
(Wales) (Amendment) Regulations 2016

**Amendments to the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001**

**3.—**(1) The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 are amended as follows.

(2) In regulation 2 (interpretation) in the appropriate place insert—

““community sub-committee” (*“is-bwyllgor cymunedol”*) means a sub-committee appointed by a Standards Committee of a local authority under section 56 of the 2000 Act;”;

““joint committee” (*“cyd-bwyllgor”*) means a committee established by two or more relevant authorities under section 53(1) of the 2000 Act;”;

““section 54A sub-committee” (*“is-bwyllgor adran 54A”*) means a sub-committee appointed by a Standards Committee under section 54A(1) of the 2000 Act;”;

““Standards Committee” (*“Pwyllgor Safonau”*) means—

- (a) a Standards Committee of a relevant authority;
- (b) a joint committee;
- (c) a section 54A sub-committee; or
- (d) a community sub-committee;”.

(3) In regulation 3 (functions of monitoring officers) after paragraph (2) insert—

“(3) Subject to paragraph (4), the monitoring officer of a relevant authority may make arrangements to make a report, or recommendations, in accordance with paragraphs (1)(b) and (2) to the Standards Committee of another relevant authority.

(4) The monitoring officer of a relevant authority (“A”) may not make arrangements under paragraph (3) to make a report, or recommendations, to the Standards Committee of another relevant authority (“B”) unless the chairperson of the Standards Committee of A has consented in writing.”

(4) In regulation 5 (restrictions on disclosure of information), in paragraph (1)—

- (a) at the end of sub-paragraph (e) insert “or”;
- (b) omit sub-paragraph (f).

(5) In regulation 6 (reports), at the end of paragraph (a) insert “or, in accordance with arrangements made under regulation 3(3), to the Standards Committee of another relevant authority”.

(6) For regulation 7 (functions of the standards committee) substitute—

“7.—(1) After receiving a report and any recommendations from a monitoring officer, or a report from the Public Services Ombudsman for Wales together with any recommendations of a monitoring officer, a Standards Committee must determine either:

- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned and give notice to that effect to:
    - (i) the person who is the subject of the investigation;
    - (ii) the person or persons making the allegation which gave rise to the investigation; and
    - (iii) the Public Services Ombudsman for Wales; or
  - (b) that a person who is the subject of the investigation must be invited to make representations, either orally or in writing, in respect of the findings of the investigation and of any allegation of a failure to comply with the relevant authority's code of conduct.
- (2) A Standards Committee may make arrangements for the functions specified in paragraph (1) to be exercised by the Standards Committee of another relevant authority.”
- (7) After regulation 7 (functions of the standards committee) insert—

**“Reports or Recommendations referred to another Standards Committee**

- 7A.—**(1) Where a monitoring officer under regulation 6 (reports) or a Standards Committee under regulation 7 (functions of the Standards Committee) makes arrangements under regulation 3(3) or 7(2), the monitoring officer or Standards Committee making such arrangements must give the notice described in paragraph (2) to:
- (a) the person or persons who is or are the subject of investigation;
  - (b) the person or persons making the allegation of misconduct giving rise to the investigation; and
  - (c) the Public Services Ombudsman for Wales.
- (2) The notice to which paragraph (1) refers must include the following:
- (a) a statement that the matter has been referred to another relevant authority's Standards Committee for determination;
  - (b) the name of the other relevant authority; and
  - (c) the reason why the matter has been referred to the Standards Committee of the other relevant authority.”
- (8) In regulation 8 (procedure and powers of standards committee)—
- (a) in paragraph (5), for “the relevant authority” substitute “a relevant authority”;
  - (b) in paragraph (6), in sub-paragraph (b) omit “or (b)”.
- (9) In regulation 9 (determinations of the standards committee)—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (c), for “the relevant authority” substitute “a relevant authority”;
    - (ii) in sub-paragraph (d), after “six months” insert “or, if shorter, for the remainder of that person's term of office”;
  - (b) for paragraph (3) substitute—
 

“(3) After making a determination in accordance with paragraph (1) or (2) the Standards Committee must notify:

    - (a) the person or persons who is or are the subject of the investigation;
    - (b) the person or persons making the allegation of misconduct giving rise to the investigation;
    - (c) the Public Services Ombudsman for Wales; and

- (d) where the Standards Committee has made its determination pursuant to arrangements with the monitoring officer or Standards Committee of another relevant authority, the Standards Committee of that authority.”;
- (c) after paragraph (4) insert—
  - “(5) Notice given under paragraphs (3) and (4) must include reasons for the determination.”
- (10) In regulation 10 (right of appeal)—
  - (a) in paragraph (1), after “that person may” insert “seek permission to”;
  - (b) in paragraph (2)—
    - (i) for “The appeal” substitute “The application for permission to appeal”;
    - (ii) for the words from “to this address” to “CF10 3NQ” substitute “to the president of the Adjudication Panel for Wales”;
  - (c) in paragraph (3)—
    - (i) for “notice of” where it first appears substitute “notice seeking permission to”;
    - (ii) for sub-paragraph (b) substitute—
      - “(b) whether or not permission to appeal is granted, the person seeking permission to appeal consents to the appeal being conducted by way of written representations.”;
  - (d) after paragraph (3) insert—
    - “(4) An application for permission to appeal is to be decided by the president of the Adjudication Panel for Wales or a member of the panel nominated by the president of the Adjudication Panel to exercise this function.
    - (5) Unless the president or the person nominated considers that special circumstances render a hearing desirable, the decision on whether to grant permission to appeal is to be made in the absence of the parties.
    - (6) The president of the Adjudication Panel for Wales or the nominated panel member may, in writing, request further information from the parties.
    - (7) The further information requested in paragraph (6) must be submitted to the president of the Adjudication Panel for Wales or the nominated panel member within a period of 14 days from the date on which the request for further information is received.
    - (8) In reaching a decision on whether to grant permission to appeal, the president of the Adjudication Panel for Wales or the nominated panel member must have regard to whether the appeal or part of it has a reasonable prospect of success.
    - (9) The president of the Adjudication Panel for Wales or the nominated panel member must decide whether to grant permission to appeal and give notice of the decision no more than 21 days after receipt of the application for permission to appeal, or where further information has been requested under paragraph (6), no more than 14 days after the end of the period specified in paragraph (7).
    - (10) The president of the Adjudication Panel for Wales or the nominated panel member must notify the decision in paragraph (8) to:
      - (a) the person seeking permission to appeal;
      - (b) the Public Services Ombudsman for Wales; and
      - (c) the Standards Committee which made the determination that is the subject of the application for permission to appeal.

(11) If permission to appeal is refused the notice given under paragraph (9) must also include the reasons for that decision.

(12) If permission to appeal is granted the president of the Adjudication Panel for Wales or the nominated panel member must refer the matter to an appeals tribunal.”

(11) In regulation 11 (appeals), in paragraph (2)—

- (a) for “the deputy president” substitute “a nominated panel member”;
- (b) for “or deputy president” substitute “or the nominated panel member”.

By virtue of paragraph(s) 12 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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of the Local Government Act 1972.


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Our ref: 202208582/EF/CH

Ask for: Emily Fletcher

 01656 641183

Date: 2 May 2024

 Emily.Fletcher  
@ombudsman.wales

Patricia Armstrong  
Deputy Monitoring Officer  
Neuadd Cyngor Ceredigion  
Penmorfa  
Aberaeron  
Ceredigion  
SA46 0PA

**By email only**  
patricia.armstrong@ceredigion.gov.uk

Dear Ms Armstrong

**Code of Conduct complaint made against Councillor Andrew Phillips of  
Llansantffraed Community Council by Ms Elin Prysor**

I write further to my report on the investigation of a complaint about Councillor Andrew Phillips dated 12 January 2024 and my decision to refer the matter for consideration by the Council's Standards Committee (our case reference 202208582).

The Committee members will be aware of events regarding social media posts made by a former employee of PSOW, Sinead Cook. I personally took the decision to refer this matter to the Standards Committee for consideration, I recognise however, that the Committee will want to assure itself of the independence, impartiality and integrity of my investigation as part of the hearing process. I have therefore set out below a note outlining my role as decision maker and the role of my staff during the investigation of this case, which I hope is helpful.

As the Committee will be aware from my Report, the complaint was investigated on my behalf by Emily Fletcher, Investigation Officer in our Code of Conduct Team. Ms Sinead Cook, Code Team Manager, was Ms Fletcher's manager from the date of receipt of the complaint (30 March 2023) until 31 August 2023. As the Code Team Leader, Ms Cook was responsible for the file allocation and regular oversight of Ms Fletcher's progression of the case until the end of August.

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On 1 September 2023, as happens from time to time in accordance with the operational needs of our office, we rotated our team leaders and Ms Cook moved to manage a different team in PSOW. On this occasion, the rotation occurred as a result of the retirement of a team leader who managed a Public Service Complaints Investigation Team.

On 23 October 2023, Mrs Annie Ginwalla became the manager of the Code of Conduct Team. Annie Ginwalla (and formerly, Sinead Cook) reports to and is line managed by Ms Claire Beynon, Head of Service Improvement. Following Councillor Phillips' interview with Ms Fletcher and Rachel Pillinger (Investigation Officer), the evidence gathered was analysed by Emily Fletcher, Investigation Officer, Claire Beynon and Katrin Shaw, Chief Legal Adviser and Director of Investigations.

I, as Ombudsman considered and approved the draft report for issue to Councillor Phillips on 13 November 2023.

Following receipt of Councillor Phillips' comments on my draft report, his comments were considered by Emily Fletcher, Annie Ginwalla and Katrin Shaw before I considered and approved the final report for issue to Councillor Phillips and to you as Deputy Monitoring Officer for consideration by the Standards Committee. As you are aware, I decided that the evidence gathered during my investigation was suggestive of a breach of the Code of Conduct and that the matter should be referred to the Standards Committee to decide whether Councillor Phillips breached the Code and if so, what sanction, if any should be imposed.

Please would you bring this letter to the attention of the members of the Standards Committee.

A copy of this letter has been provided to Councillor Phillips.

Yours sincerely

*Michelle Morris*

**Michelle Morris**

Ombwdsmon Gwasanaethau Cyhoeddus / Public Services Ombudsman

Cc Councillor Andrew Phillips