

## Cyngor Sir CEREDIGION County Council

**REPORT TO:** Ethics and Standards Committee

**DATE:** 13 October 2022

**LOCATION:** Hybrid

**TITLE:** The Public Services Ombudsman Code of Conduct Findings

**PURPOSE OF REPORT:** For information

The Public Services Ombudsman for Wales considers complaints relating to the Members Code of Conduct, 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. The following decisions are from 01 May 2022 to the 24 August 2022

### 1) Tywyn Town Council

**Report date**

**07/06/2022**

**Promotion of equality and respect**

Case ref number

202005528

<https://www.ombudsman.wales/findings/promotion-of-equality-and-respect-tywyn-town-council-2/>

The Ombudsman received a complaint from a Member (“the Complainant”) of Tywyn Town Council (“the Town Council”), that a Former Member of the Town Council had failed to observe the Code of Conduct for Members.

It was alleged that the Former Member had made false allegations about the Former Clerk and other Members of the Town Council, and undermined and disparaged the Former Clerk at Town Council meetings. The investigation considered whether the Former Member’s alleged conduct suggested a failure to show respect and consideration for others, and bullying and harassing behaviour, which brought the Former Member and the Town Council into disrepute.

The Ombudsman obtained information from the Monitoring Officer of Gwynedd Council (“the Council”), the Town Council, witnesses and the Former Member. During the investigation several attempts were made to obtain a formal statement from the Complainant without success. The Ombudsman’s investigation considered that although the Former Member resigned from the Town Council during the investigation, the Former Member had remained a Member of the Council and stood for re-election to the Council. However, ultimately, the Former Member was not returned by the local electorate and was therefore no longer a Member at Town or County level.

As a result, the Ombudsman was no longer satisfied that an investigation into the complaint was in the public interest, and it was decided to discontinue the investigation.

Discontinued

## **2) Langstone Community Council**

**Duty to uphold the law : Langstone Community Council Report date**

**08/06/2022**

**Duty to uphold the law**

<https://www.ombudsman.wales/findings/duty-to-uphold-the-law-langstone-community-council/>

Case ref number

202101430

The Ombudsman received a complaint that a Former Member (“the Former Member”) of Langstone Community Council (“the Community Council”) had breached the Code of Conduct. It was alleged that the Former Member was violent and abusive during an altercation outside the complainant’s property. It was also alleged that the Former Member operated an illegal waste disposal business on his property.

The Ombudsman’s investigation found that whilst an Enforcement Notice for an alleged breach of planning control had been served against the Former Member, there was no evidence to suggest the Former Member’s involvement in any official capacity in planning affairs and the matter related to the Former Member’s private capacity alone. In addition, the Former Member had an ongoing appeal against the Enforcement Notice, which had not been determined. The investigation also found there was historic animosity between both parties and that, during the altercation, both had used expletives and provocative behaviour, which culminated in the Former Member throwing a punch and the matter being reported to the Police. The Police did not take further action and the Former Member stepped down from the Council during the investigation.

The Ombudsman considered that the Former Member’s conduct was suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct and may have brought his office as member or the Community Council into disrepute. However, the Ombudsman also considered that as the matter was not sufficiently serious for the Police to take action, and the Former Member was no longer a councillor, it was unlikely that a sanction would be imposed, and it was not in the public interest to pursue the matter. The Ombudsman therefore found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

No action necessary

## **3) Montgomery Town Council**

**Promotion of equality and respect : Montgomery Town Council Report date**

**11/05/2022**

**Subject**

**CODE : Promotion of equality and respect**

Case ref number

202100773

<https://www.ombudsman.wales/findings/promotion-of-equality-and-respect-montgomery-town-council/>

The Ombudsman received a complaint that a Member (“the Member”) of Montgomery Town Council (“the Town Council”) breached the Members Code of Conduct (“the Code”) by failing to show respect and consideration for others, bullying and harassment of the Former Clerk and members of the Town Council, and malicious and vexatious complaints.

The Ombudsman investigated whether the Member’s conduct may amount to a breach of paragraphs 4(a), 4(b), 4(c), and 6(1)(a) of the Code.

The investigation found that the Town Council had experienced challenging interpersonal issues over a period of time and previous to the complaint, had undergone a Local Resolution process which identified corporate and individual situations requiring change and improvement. The Ombudsman considered that in the light of the Local Resolution findings and the Member’s right to freedom of expression as a councillor, the alleged conduct was not suggestive of a breach of the Code. The Ombudsman did not consider that complaints made by the Member had been malicious or vexatious.

The Ombudsman’s Guidance recommends that when members are performing their public roles, they should afford the public, colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. In view of this, the Ombudsman recommended that members of the Town Council, as a whole, should reflect on their obligations under the Code to treat others with respect and consideration

No evidence of breach

#### **4) Pencoed Town Council**

**Integrity : Pencoed Town Council**

**Report date**

**17/06/2022**

**<https://www.ombudsman.wales/findings/integrity-pencoed-town-council/>**

**Integrity**

**Former Councillor Gordon Lewis**

**Case ref number**

**202005940**

I received a complaint that a Former Councillor of Pencoed Town Council had failed to declare a criminal conviction when he stood for election in 2018 and in doing so had breached the Code of Conduct for elected members.

My investigation found that the Former Councillor had been convicted of an offence in July 2015 and that this conviction disqualified him from standing as an elected member. The Former Councillor stood for election to Pencoed Town Council in November 2018 and could not have done so had they not made a false declaration on their nomination paper. The deception did not come to light until an article featured in a national newspaper in July 2020. The Former Councillor resigned once this information became public but had acted as a member for 1 year and 8 months when he was not eligible to do so.

I considered that the Former Councillor misled the Town Council as to their eligibility to be a Councillor and that their dishonesty, both when signing the declaration of acceptance of office and during the year and 8 months that they acted as a Councillor, was a serious abuse of office which goes against the principles that underpin the Code of Conduct. The Former Councillor did not engage with the investigation and did not give any explanation for their actions or show any remorse.

I considered the Former Member's actions were suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct and my finding was that the matter should be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal.

APW heard the case on 10 June 2022 and found that the Former Councillor had been elected on a false premise and that his declaration of acceptance of office, undertaking to abide by the Code continuation in office took place on the same false premise. APW found that the Consent to Nomination and Guidance to Candidates were so clear that it was inconceivable that the Former Councillor was unaware of the fact he was disqualified from being elected and his actions were either deliberate or as the result of extreme recklessness.

APW found that the fact that the Former Councillor was disqualified from being elected and yet continued to act as Member went to the heart of public trust in democracy and undermined the Code and standards regime. The Former Councillor continued to deal with his constituents and act on a false premise and this constituted a clear breach of paragraph 6(1)(a) of the Code. It also noted that the significant media and public attention and disquiet, would inevitably bring both the office of Member and his Authority into disrepute.

APW concluded that the Former Councillor should be disqualified for 24 months from being or becoming a member of the Council or any other relevant authority within the meaning of the Local Government Act 2000.

Referred to the Adjudication Panel for Wales

## **5) Pembrokeshire County Council**

### **Report date**

**17/06/2022**

### **Promotion of equality and respect**

Case ref number

202000660

Referred to Standards Committee

<https://www.ombudsman.wales/findings/promotion-of-equality-and-respect-pembrokeshire-county-council-2/>

The Ombudsman received a complaint that a Member of Pembrokeshire County Council ("the Council") had failed to observe the Code of Conduct for Members of the Council. It was alleged that the Member had published a post in June 2020 on the social media platform Facebook, which could be considered to be racist, and could have the potential to damage the reputation of the office of Member and of the Council.

The Ombudsman's investigation established that the Member had publicly published his post in order to raise concerns about the Council's decision to light up County Hall in support of Black Lives Matter. The Member deleted his entire Facebook profile page some weeks later. Numerous complaints about the post were made to the Council and to the Ombudsman's office, and the Member was subject to local and national Press interest, as well as considerable comment on Facebook. The Member said that he considered the post to fall within his right to free speech because he did not believe he had really offended anybody, and the complaints that were made against him were politically motivated.

The Ombudsman accepted that the Member had the right to question the Council's decision to support Black Lives Matter, however the language used by the Member was offensive and went beyond what would be expected of a councillor in a political discussion. The Member had not taken advantage of opportunities to attend equality and diversity training or social media training.

The Ombudsman determined that the Member may have breached the Council's Code of Conduct, in particular paragraph 6(1)(a) as he could reasonably be regarded as having behaved in a manner which might bring the office of member, or the Council itself, into disrepute. The Ombudsman referred his investigation report to the Monitoring Officer of Pembrokeshire County Council for consideration by its Standards Committee.

The Standards Committee decided that the Member had made the post in his capacity as Councillor and censured him for breaches of paragraphs 4(b) and 6(1)(a) of the Code. It said it would have considered a suspension had the Member been re-elected at the recent Local Government elections.

## **6) Integrity : Gwynedd County Council**

### **Report date**

**09/05/2022**

### **Integrity**

<https://www.ombudsman.wales/findings/integrity-gwynedd-council-2/>

### Case ref number

202004473

The Ombudsman received a complaint that a Member ("the Member") of Gwynedd Council ("the Council") had breached the Code of Conduct when he shared material on his Facebook account which cast doubt on the existence of COVID-19 and about the vaccine, and when he appeared on a television show to discuss his views on COVID-19 and the vaccine.

The Ombudsman reviewed the member's Facebook activity and his appearance on the television show. The former Chief Executive of the Council was interviewed and comments were sought from the Member.

The Ombudsman found that the Member was entitled to freedom of expression and to hold and express his views regarding the COVID-19 pandemic and the COVID-19 vaccine (under Article 10 of the European Convention on Human Rights, which is incorporated into UK law by the Human Rights Act 1998). The Member's right to free speech allowed him to say things that may have been shocking or offensive to some people. The former Chief Executive's evidence suggested that the Member was not representing the 'Council's position'. The Member did not issue directions to members of the public in

contravention of the public health measures in place at the time. Therefore, the Ombudsman did not consider there to be evidence that the Member breached the Code of Conduct.

Back  
No evidence of breach

## **7) Amlwch Town Council**

**Report date**

**05/05/2022**

**Integrity**

Case ref number

202103868

<https://www.ombudsman.wales/findings/integrity-amlwch-town-council/>

The Ombudsman received a complaint that a Member (“the Member”) of Amlwch Town Council (“the Council”) had breached the Code of Conduct when, in their role as a director of a charity, they made an application for an Economic Resilience Fund grant from the Isle of Anglesey County Council (“the County Council”) without the authority of the charity and ignoring the views of other directors of the charity that it was not eligible for the grant. It was also alleged that the application made by the Member contained false information and that, once the funding was received, they attempted to transfer the funds into their personal account without authority.

The Ombudsman reviewed information received from the County Council, the Council, the Member and North Wales Police. The member said that her action, made in her personal capacity as a director of the charity, were in the interests of the charity and the community. The Member was unsuccessful in their attempt to transfer the funds into their personal bank account, and the funds were returned when the ineligibility was identified. North Wales Police confirmed that it was not investigating the allegations as the Council did not wish to pursue a complaint. This suggested that the Council was not of the view that there was any criminal or fraudulent intent on the Member’s part.

The Ombudsman also considered that the Member was not standing for re-election to the Council, the County Council or any other Town or Community Council within the County Council area. Therefore, the Ombudsman was no longer satisfied that an investigation into the complaint was in the public interest and decided to discontinue the investigation.

Discontinued

## **8) Llansantffraed Community Council**

**Report date**

**24/06/2022**

**Duty to uphold the law**

Case ref number

202004442

<https://www.ombudsman.wales/findings/duty-to-uphold-the-law-llansantffraed-community-council/>

Case ref number  
202004442

The Ombudsman received a complaint that a Member (“the Member”) of Llansantffraed Community Council (“the Council”) had breached the Code of Conduct. It was alleged that the Member was involved in an incident with a Council contractor (“the Contractor”), following which there was a Police investigation. The Member subsequently pleaded guilty to a charge of causing bodily harm by wanton and furious driving. The investigation considered whether the Member failed to comply with the following provision of the Code of Conduct:

6(1)(a) – Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

A witness account was obtained from the Clerk and information was obtained from the Police and the Court. The Member declined to cooperate with the Ombudsman’s investigation. The investigation found that the nature of the criminal offence involving the Council’s Contractor, the impact upon the young boys hurt in the incident, and the publicity surrounding the incident, which referred to the Council, suggested that the Member’s actions may have brought her office and the Council into disrepute and were suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct. The report on the investigation was referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal.

The Tribunal concluded that the Member had breached paragraph 6(1)(a) of the Code of conduct by bring their office as Councillor into disrepute. Accordingly, the Tribunal decided that the member should be disqualified for 12 months from being or becoming a member of the authority or of any other relevant authority.

Referred to APW

**Has an Integrated Impact Assessment been completed?**

**Not required**

**If, not, please state why**

**WELLBEING OF FUTURE GENERATIONS:**

**Summary:**

**Long term:**

**Integration:**

**Collaboration:**

**Involvement:**

**Prevention:**

**RECOMMENDATION (S):**

To note the contents of the report.

**Contact Name:** Dana Jones  
**Designation:** Democratic Services and Standards Officer  
**Date of Report:** 24 August 2022  
**Acronyms:**



