

## Cyngor Sir CEREDIGION County Council

**REPORT TO:** Ethics and Standards Committee

**DATE:** 3 April 2023

**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 is a decision published since the last meeting.

### **Promotion of equality & respect : Saundersfoot Community Council**

Report date 03/03/2023

Subject Promotion of equality & respect

Outcome CODE

Case ref number 202202280

Report type CODE - Discontinued

Relevant body Saundersfoot Community Council

The Ombudsman received a complaint from a member of the public ("the complainant") that a Member of Saundersfoot Community Council ("the Council") had failed to observe the Code of Conduct for Members.

It was alleged that the Member approached the complainant and behaved aggressively towards him over a parking matter. The complainant alleged the Member had behaved in a bullying and intimidating manner and used his position to belittle and humiliate him.

The complainant said that the Member behaved in a way that was bullying and intimidating. The Member acknowledged there was an encounter but said that he did not behave poorly in the interaction. There is no other witness or CCTV evidence available. Having considered the evidence submitted from both of the parties involved, none of the information or evidence available suggested that one account should be preferred over the other. Therefore, in the absence of any independent evidence of the incident, the Ombudsman was unable to say whether the behaviour of the Member was suggestive of a breach of the Code of Conduct.

Further investigation of this matter was unlikely to yield any information which would alter the balance of evidence available and therefore it was not proportionate or in the public interest to continue the investigation.

**Objectivity and propriety : Powys County Council**

Report date 22/02/2023

Subject CODE - Objectivity and propriety

Outcome CODE

Case ref number 202101250

Report type CODE - Referred to Adjudication Panel for Wales

Relevant body Powys County Council

The Ombudsman's office received complaints that a Member of Powys County Council had breached 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.

**Promotion of equality and respect : Haverfordwest Town Council**

Report date 20/02/2023

Subject CODE - Promotion of equality and respect

Outcome CODE

Case ref number 202200117

Report type CODE - Referred to Standards Committee

Relevant body Haverfordwest Town Council

The Ombudsman received a complaint that a Member ("the Member") of Haverfordwest Town Council ("the Council") had breached the Code of Conduct for Members of the Council. The report on the investigation was referred to the Monitoring Officer of Pembrokeshire County Council for consideration by its Standards Committee.

**Disclosure & register of interest : St Harmon Community Council**

Report date 29/11/2022

Subject CODE - Disclosure & register of interest

Outcome CODE

Case ref number 202106162

Report type CODE - Referred to the Adjudication Panel for Wales

Relevant body St Harmon Community Council

The Ombudsman's office received a complaint that a former member ("the Former Member") of St Harmon Community Council ("the Council") had breached the Code of Conduct. It was alleged that the Former Member had failed to declare interests at 2 Council meetings when a report by Audit Wales was discussed.

The investigation considered whether the Former Member failed to comply with the following provisions 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.

7(a) – Members must not in their official capacity or otherwise, use or attempt to use their position improperly to confer on or secure for themselves, or any other person, an advantage or create or avoid for themselves, or any other person, a disadvantage.

10(1) – Members must in all matters consider whether they have a personal interest, and whether the Code of Conduct requires them to disclose that interest.

10(2)(c) – Members must regard themselves as having a personal interest in any business of their authority if a decision upon it might reasonably be regarded as affecting their wellbeing or financial position, or that of a person with whom they live, or any person with whom they have a close personal association.

11(1) – Where a member has a personal interest in any business of their authority and they attend a meeting at which that business is considered, they must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

11(2) – Where a Member has a personal interest in any business of their authority and they make oral representations to a member or officer of their authority they should disclose the interest at the commencement of such representations, or when it becomes apparent to them that they have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

12(1) – Where a Member has a personal interest in any business of their authority, they also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest.

14(1)(a) – Subject to sub-paragraphs (2), (2A), (3) and (4), where a member has a prejudicial interest in any business of their authority they must, unless they have obtained a dispensation from their authority's standards committee withdraw from the room, chamber or place where a meeting considering the business is being held —

i. where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and, in any event, before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

ii. in any other case, whenever it becomes apparent that that business is being considered at that meeting.

14(1)(c) – Subject to sub-paragraphs (2), (2A), (3) and (4), where a member has a prejudicial interest in any business of their authority they must, unless they have obtained a dispensation from their authority’s standards committee, not seek to influence a decision about business.

14(1)(e) – Subject to sub-paragraphs (2), (2A), (3) and (4), where a member has a prejudicial interest in any business of their authority they must, unless they have obtained a dispensation from their authority’s standards committee, not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

The Former Member admitted that she was aware that she had personal and prejudicial interests, but she did not declare them as she did not want to be made to leave the meetings. She agreed that she had addressed Council and took part in votes at both Council meetings. The Former Member said that she had no regrets about her actions.

The investigation found that the Former Member’s conduct was suggestive of a breach of paragraphs 6(1)(a), 7(a), 11(1), 14(1)(a), 14 (1)(c) and 14(1)(e) of the Code of Conduct.

The Tribunal concluded that the Member had breached paragraphs 11(1), 14(1)(a) and 14(1)(e) of the Code of conduct by failing to disclose the existence and nature of personal and prejudicial interests in relevant business, in failing to withdraw from meetings dated 1 April and 3 November 2021 and in making oral representations in respect of that business in the meetings. The Tribunal also concluded that the Member had breached paragraph 6(1)(a) of the Code of Conduct by conducting herself at such meetings in a manner which could reasonably be regarded as bringing her office or authority into disrepute. The Tribunal further concluded that the Member had breached paragraphs 7(a) and 14(1)(c) of the Code of Conduct by using or attempting to use her position improperly to avoid a disadvantage for another person and seeking to influence a decision about relevant business. 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.

### **Integrity : Gwynedd Council**

Report date 31/10/2022

Subject CODE - Integrity

Outcome CODE

Case ref number 202107843

Report type CODE - Referred to Standards Committee

Relevant body Gwynedd Council

The Ombudsman’s office received a complaint that a member of Gwynedd Council (“the Council”) had breached the Code of Conduct.

The report on the investigation was referred to the Monitoring Officer of Gwynedd Council for consideration by the Council's Standards Committee. This summary will be updated following the Standards Committee's decision.

**Promotion of equality & respect : Radyr and Morganstown Community Council**

Report date 05/12/2022

Subject CODE - Promotion of equality & respect

Outcome CODE

Case ref number 202105923

Report type CODE - No Evidence of Breach

Relevant body Radyr and Morganstown Community Council

The Ombudsman received a complaint that a Member ("the Member") of Radyr and Morganstown Community Council ("the Council") had breached the Code of Conduct.

It was alleged that the Member made racist comments to another member of the Council by making a seemingly out of context and negative reference to a political and religious figure to the Complainant who was of the same religion as that figure. The Ombudsman determined that an investigation into the comments was appropriate and considered whether the Member's conduct may have breached paragraphs 4(a), 4(b), 4(c) and 6(1)(a) of the Code of Conduct.

Information was obtained from the Council, including relevant meeting minutes and emails. Witnesses, including the complainant, and the Member were also interviewed.

The investigation found that the Member's comments could reasonably be said to fall within the realms of freedom of expression. The investigation found that the Member's explanation for his comments, the fact that he had posted previously on social media about similar issues and that he said that he did not intend to be disrespectful to the Complainant and her faith suggested that he was entitled to express his views. His comments did not go beyond what was lawful comment and did not amount to gratuitous or personal comment or hate speech. The Ombudsman was not persuaded that the comments amounted to a breach of paragraph 4(a), 4(b), 4(c) or 6(1)(a) of the Code of Conduct.

The Ombudsman found that under Section 69(4)(a) there was no evidence of any failure to comply with the Code of Conduct.

**Disclosure & register of interest - Porthcawl Town Council**

Report date 30/11/2022

Subject CODE - Disclosure & register of interest

Outcome CODE

Case ref number 202105146

Report type CODE - No Action Necessary

Relevant body Porthcawl Town Council

The Ombudsman received a complaint that a member ("the Member") of Porthcawl Town Council ("the Town Council") had breached the Code of Conduct for Members.

It was alleged that the Member had failed to declare a personal and prejudicial interest regarding an association with an employee ("the Employee") of a company which the Town Council had contracted for work. It was also alleged that the Member had allowed an inaccurate Internal Audit report to be published on the Town Council's website. The Ombudsman determined that investigation of the allegations concerning interests was appropriate, and the investigation considered whether the Member's conduct may have breached paragraphs 6(1)(a), 7(a), 11(1), 14(1)(a) and 14(1)(b) of the Code of Conduct.

Information was obtained from the Town Council, including relevant minutes and emails. Witnesses, including the complainant, and the Member were also interviewed.

The investigation found that the Member and Employee had had a short relationship in 2020, during which it was likely that the Member had a personal and prejudicial interest which they would have needed to declare and withdraw from relevant meetings where associated matters were discussed, or in approving invoices. The evidence obtained suggested that the Member had not approved invoices whilst the relationship was ongoing, and whilst they had attended several Town Council meetings, which included associated items, only one of these meetings fell within the period of the relationship. The Ombudsman determined that the Member may therefore have breached paragraphs 11(1), 14(1)(a) and 14(1)(b) of the Code of Conduct with regard to the meeting within the relevant period.

It was found that as the Member and Employee's association was neither close or acrimonious after the relationship ended, the interest was no longer personal and prejudicial. The Ombudsman's investigation also found there was insufficient evidence to suggest the Member had used their position improperly or brought their office as a member or the Town Council into disrepute in breach of paragraphs 6(1)(a) or 7(a) of the Code of Conduct.

The Ombudsman considered that in the light of the limited involvement in the Town Council's business during the relationship and the fact that the Member had reflected on their position and that they should have considered their obligations under the Code and sought advice, it was unlikely a sanction would be imposed and it was not in the public interest to take further action in respect of the matter. However, it was recommended that the Member should attend refresher training on the Code of Conduct in respect of the matters investigated.

The Ombudsman 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.

**RECOMMENDATION (S):**

To note the contents of the report.

<b>Contact Name:</b>	Lisa Evans
<b>Designation:</b>	Scrutiny and Standards Officer
<b>Date of Report:</b>	27 March 2023

