

## CYNGOR SIR CEREDIGION COUNTY COUNCIL

<b><u>Report to:</u></b>	<b>Ethics and Standards Committee</b>
<b><u>Date of meeting:</u></b>	<b>11 July 2024</b>
<b><u>Title:</u></b>	<b>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</b>
<b><u>Report for:</u></b>	<b>Decision</b>

### **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