

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	14 June 2023
REPORT TITLE:	Published findings by the Public Services Ombudsman for Wales for all Councils in Wales
PURPOSE OF THE REPORT:	To advise the Committee of all Wales findings published on its website by the Public Services Ombudsman for Wales for the period between 1 December 2022 and 31 May 2023.
REPORT BY:	Mared Wyn Yaxley Solicitor – Corporate Governance mwyics@ynysmon.llyw.cymru
LINK OFFICER:	Lynn Ball Director of Function (Council Business) / Monitoring Officer lbxcs@ynysmon.llyw.cymru 01248 752586

1. INTRODUCTION

As noted in a previous report (December 2022), the [Public Services Ombudsman for Wales \(PSOW\)](#) has changed the way it now publishes findings made in relation to Code of Conduct cases.

Since April 2021, Code of Conduct Casebooks are not be published and all PSOW cases are now published on the website under separate headings.

This report summarises the information published under the “[Our Findings](#)” heading on the PSOW’s website for the months of December 2022 to May 2023 in relation to Code of Conduct matters only **[ENCLOSURE 1]**.

2. BACKGROUND

The PSOW exercises “first sift” powers under Section 69 of the Local Government Act 2000, which requires them to consider complaints that members of local authorities in Wales may have broken their code of conduct. The PSOW’s jurisdiction includes county councils and town and community councils.

Having received a complaint, the PSOW applies their threshold test to determine whether or not the complaint should be investigated. The threshold test involves the PSOW being satisfied that:-

- There is evidence to suggest that the code of conduct may have been breached; and
- That the matter is sufficiently serious for it to be in the public interest for an investigation to be opened.

When an investigation is opened, the PSOW may reach one of four findings under Section 69 of the Local Government Act 2000 which are:-

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

If (c) or (d) above apply, the PSOW will then submit their report to the local standards committee or to the Adjudication Panel for Wales (APW), and it is for the committee, or a case tribunal of the APW, to conduct a hearing to consider the evidence and to make the final decision on whether or not the code of conduct has been breached and, if so, whether a penalty should be imposed, and what any penalty should be.

Standards committees have statutory authority to issue a suspension against a councillor for a period not exceeding 6 months. Standards committees have no powers of disqualification and, where there are findings of breach, will try to apply a sanction that is proportionate to the offence. This will often be a censure (public rebuke) or a recommendation of training/undertaking/mediation etc.

A case tribunal has authority to suspend a councillor for up to 12 months and to disqualify for up to 5 years.

3. QUARTERLY NEWSLETTER

In addition to the information on the website, the Ombudsman also publishes quarterly Newsletters. The first Quarterly Newsletter from the Public Services Ombudsman for Wales (dated May 2023) can be seen [here](#).

4. RECOMMENDATION

The Chair of the Standards Committee will lead a discussion on any matters of interest reported in **ENCLOSURE 1**.

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
<p>1.</p> <p>Gwynedd Council</p> <p>Case ref number 202107843</p>	<p>31/10/2022</p>	<p>The Ombudsman's office received a complaint that a member ("the Member") of Gwynedd Council ("the Council") had breached the Code of Conduct. It was alleged that the Member had behaved inappropriately when she responded in German to correspondence she received in Welsh.</p>	<p>Integrity.</p> <p>The investigation considered whether the Member failed to comply with the following provisions of the Code of Conduct:</p> <p>4(a) – Members must carry out their duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion.</p> <p>4(b) – Members must show respect and consideration for others.</p> <p>6(1)(a) – Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.</p>	<p>The Member admitted responding to 2 emails written in Welsh, in German. She expressed remorse and regret for her actions. She said that she was unaware the Council's translation services were available to her for this type of correspondence. However, the investigation found that, given the Member's length of service, she ought to have known that the Council had a translation service and that responding in German would be perceived as inappropriate. The Ombudsman therefore considered that the Member's conduct was indicative of a breach of paragraphs 4(a), 4(b) and 6(1)(a) of the Code of Conduct.</p> <p>The report on the investigation was referred to the Monitoring Officer of Gwynedd Council for consideration by the Council's Standards Committee.</p> <p>The Standards Committee concluded that the Member had breached paragraphs 4(a), 4(b) and 6(1)(a) of the Code of Conduct.</p> <p>Accordingly, the Standards Committee decided that the Member should be suspended for 1 month, be required to attend training and provide a written apology to the Complainant within 3 weeks. The Standards Committee also</p>	<p>CODE – Integrity</p> <p>CODE - Referred to Standards Committee</p>	<p>Link to Gwynedd Council's Standards Committee's report at its Hearing on 18 April 2023 is available here.</p>

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
				recommended for the Council to consider assisting Members when they receive correspondence in a language they do not understand, either by utilising its own staff or by sign-posting the Member to a relevant translation service provider.		
<p>2.</p> <p>St Harmon Community Council</p> <p>Case ref number 202106162</p>	29/11/2022	<p>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.</p> <p>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</p>	<p>Disclosure & register of interest.</p> <p>The investigation considered whether the Former Member failed to comply with the following provisions of the Code of Conduct:</p> <p>6(1)(a) – Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.</p> <p>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.</p> <p>10(1) – Members must in all matters consider whether they have a personal interest,</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>The Tribunal further concluded that the Member had breached paragraphs 7(a) and 14(1)(c) of the</p>	<p>CODE - Disclosure & register of interest</p> <p>CODE - Referred to the Adjudication Panel for Wales</p>	<p>Case discussed under a separate Agenda item (Summary of APW reports – item 7 on the Agenda, case number 2).</p> <p>Link to the APW's decision is available here.</p>

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
		<p>and took part in votes at both Council meetings. The Former Member said that she had no regrets about her actions.</p>	<p>and whether the Code of Conduct requires them to disclose that interest.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>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.</p> <p>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.</p>		

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
			<p>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.</p> <p>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.</p> <p>14(1)(a) – Subject to subparagraphs (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 —</p>			

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
			<p>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;</p> <p>or</p> <p>ii. in any other case, whenever it becomes apparent that that business is being considered at that meeting.</p> <p>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.</p> <p>14(1)(e) – Subject to sub-paragraphs (2), (2A), (3) and (4), where a member has a prejudicial interest in any</p>			

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
			<p>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.</p>			
<p>3. Porthcawl Town Council Case ref number 202105146</p>	<p>30/11/2022</p>	<p>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.</p> <p>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</p>	<p>Disclosure & register of interest</p> <p>The investigation considered whether the Member's conduct may have breached paragraphs:</p> <p>6(1)(a) - Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.</p> <p>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</p>	<p>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.</p>	<p>CODE - Disclosure & register of interest</p> <p>CODE - No Action Necessary</p>	<p>The case shows that the PSOW continues to use the two stage test i.e.</p> <ol style="list-style-type: none"> (1) the evidential test - is there direct evidence that a breach of the Code took place; and (2) the public interest test – considering if an investigation or a referral to the Adjudication Panel or a standards committee is required in the public interest.

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
		<p>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.</p> <p>Information was obtained from the Town Council, including relevant minutes and emails. Witnesses, including the complainant, and the Member were also interviewed.</p>	<p>person, a disadvantage.</p> <p>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.</p> <p>14(1)(a) – 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.</p> <p>14(1)(b) - Where a member has a personal interest in any business of their authority, they should not exercise executive or board functions in relation to that business.</p>	<p>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.</p> <p>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.</p> <p>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.</p>		<p>The PSOW was satisfied that the Member may have breached paragraphs 11(1), 14(1)(a) and 14(1)(b) of the Code of Conduct; but considered there was insufficient evidence of a breach of paragraphs 6(1)(a) or 7(a) of the Code of Conduct. However, the case 'failed' on the second stage i.e. it was considered that a sanction was unlikely and so it was not in the public interest to take further action.</p> <p>The PSOW made a recommendation that the Member should attend refresher training on the Code of Conduct in respect of the matters investigated.</p>
4.	05/12/2022	The Ombudsman	Promotion of equality &	Information was obtained from the	CODE -	Only limited

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
<p>Radyr and Morganstown Community Council</p> <p>Case ref number 202105923</p>		<p>received a complaint that a Member (“the Member”) of Radyr and Morganstown Community Council (“the Council”) had breached the Code of Conduct.</p> <p>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.</p>	<p>respect.</p> <p>Considering breaches of paragraphs:</p> <ul style="list-style-type: none"> - 4(a) - must carry out duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion; - 4(b) – must show respect and consideration for others; - 4(c) – must not use bullying behaviour or harass any person; - 6(1)(a) – must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. 	<p>Council, including relevant meeting minutes and emails. Witnesses, including the complainant, and the Member were also interviewed.</p> <p>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.</p> <p>The Ombudsman found that under Section 69(4)(a) there was no evidence of any failure to comply with the Code of Conduct.</p>	<p>Promotion of equality and respect</p> <p>CODE - No Evidence of Breach</p>	<p>information is provided in the case summary. However, it shows that the PSOW continues to use the two stage test i.e.</p> <ol style="list-style-type: none"> (1) the evidential test - is there direct evidence that a breach of the Code took place; and (2) the public interest test – considering if an investigation or a referral to the Adjudication Panel or a standards committee is required in the public interest.
<p>5.</p> <p>Haverfordwest</p>	<p>20/02/2023</p>	<p>The Ombudsman received a complaint that a Member (“the</p>	<p>Promotion of equality and respect.</p>		<p>CODE - Promotion of equality &</p>	<p>No details provided.</p>

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
Town Council Case ref number 202200117		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.			respect CODE - Referred to Standards Committee	A link to Pembrokeshire County Council’s Standards Committee’s homepage is here . No Hearing has taken place to date.
6. Powys County Council Case ref number 202101250	22/02/2023	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.	Objectivity and propriety		CODE - Objectivity and propriety CODE - Referred to Adjudication Panel for Wales	No case reported upon to date. A report will be presented to the Standards Committee when the APW publishes its decision. A link to the APW’s decision homepage is available here .
7. Saundersfoot Community Council	03/03/2023	The Ombudsman received a complaint from a member of the public (“the complainant”) that a Member of	Promotion of equality & respect.	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	Promotion of equality & respect CODE - Discontinued	Only limited information is provided in the case summary. However, it shows that the PSOW

ENCLOSURE 1 (December 2022 – May 2023)

Name of Council	Report date	Summary of Complaint	Relevant Provision of Code	Decision Summary	Report Type	Learning points for members
Case ref number 202202280		<p>Saundersfoot Community Council (“the Council”) had failed to observe the Code of Conduct for Members.</p> <p>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.</p> <p>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.</p>		<p>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.</p> <p>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.</p>		<p>continues to use the two stage test i.e.</p> <p>(1) the evidential test - is there direct evidence that a breach of the Code took place; and</p> <p>(2) the public interest test – considering if an investigation or a referral to the Adjudication Panel or a standards committee is required in the public interest.</p>

ENCLOSURE 1 (December 2022 – May 2023)