

The Code of Conduct Casebook

Issue 6 October 2015

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Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints 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.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

(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;

(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).

(Continued overleaf)

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers April to June 2015, but also includes the summaries of older cases for which the standards committee or Adjudication Panel hearings were concluded during this period.

Case Summaries

No evidence of breach

Pembrokeshire County Council – Accountability and openness

Case reference 201404748 – Report issued in July 2015

It was alleged that a member of Pembrokeshire County Council (“the Councillor”), used his position improperly to influence and undermine the functions of a Cross Party Disciplinary Investigation Committee. In particular it was alleged that he used “pressure” and “manipulation” to dissuade another elected member from co-operating with this Committee.

The Ombudsman commenced an investigation to determine whether there was evidence to suggest that the Councillor had breached paragraphs 6(1)(a) and 7(a) of the Code of Conduct for elected members.

Evidence was obtained from the Pembrokeshire County Council and a number of elected members. During the course of the investigation evidence which was suggestive of a further breach of the Code by the Councillor was identified. The Ombudsman decided to extend the scope of the original investigation to determine whether there was evidence that the Councillor had also used his position improperly to influence another elected member.

The Councillor was interviewed in relation to both matters and denied that he had in any way attempted to influence either member.

The Ombudsman found that the direct evidence obtained during the course of the investigation was not sufficient to support the allegation made and concluded that there was no evidence of breach in respect of all matters investigated.

Monmouthshire County Council – Disclosure and registration of interests

Case reference 201405619 - Report issued in July 2015

The Ombudsman received a complaint that a member of both Monmouthshire County Council and Abergavenny Town Council (“the Town Council”) had breached the Code of Conduct for members at a Planning meeting of the Town Council on 8 October 2014. It was alleged that the member had failed to declare an interest in the matter as a former high street shop trader when considering an item relating to an application for consent to operate as a street trader. It was further alleged that the member sought to use his position improperly by influencing the views of the members of the Planning meeting on the merits of the street trader consent. The complainant said that the member’s actions were discriminatory.

The investigation found no evidence that the accused member had an interest in the matter under consideration. In the absence of any evidence to suggest that the accused member, or someone closely associated to him, had any specific dealings with the applicant and/or link to the application,

the Ombudsman was not satisfied that an objective person would reasonably regard the factor of the member's former occupation as so significant that the member would be considered as having an interest in the matter. Furthermore, there was no evidence that the member had spoken on the merits of the application at the Planning meeting. Having considered the available information, the Ombudsman concluded there was no evidence that the member had breached the Code.

Monmouthshire County Council

Case Number: 201405619/201405638 - Report issued in July 2015

The Ombudsman received a complaint that a member of both Monmouthshire County Council and Abergavenny Town Council ("the Town Council") had breached the Code of Conduct for members at a Planning meeting of the Town Council on 8 October 2014. It was alleged that the member had failed to declare an interest in the matter as a former high street shop trader when considering an item relating to an application for consent to operate as a street trader. It was further alleged that the member sought to use his position improperly by influencing the views of the members of the Planning meeting on the merits of the street trader consent. The complainant said that the member's actions were discriminatory.

The investigation found no evidence that the accused member had an interest in the matter under consideration. In the absence of any evidence to suggest that the accused member, or someone closely associated to him, had any specific dealings with the applicant and/or link to the application, the Ombudsman was not satisfied that an objective person would reasonably regard the factor of the member's former occupation as so significant that the member would be considered as having an interest in the matter. Furthermore, there was no evidence that the member had spoken on the merits of the application at the Planning meeting. Having considered the available information, the Ombudsman concluded there was no evidence that the member had breached the Code.

Carmarthenshire County Council

Case reference 201500393/201500441 – Report issued in July 2015

A member of the public complained about a Councillor of Llanelli Rural Council ("the Council"). They said that the Councillor spoke to her in a rude and aggressive manner during a discussion outside the Trallwm Hall on 9 April. The Ombudsman investigated whether the Councillor's alleged behaviour was such that it brought the office or Council into disrepute and whether it could be considered disrespectful or bullying.

As part of the investigation, a Council officer who overheard some of the discussed was interviewed. Whilst the officer said that the nature of the discussion was not cordial, he did not hear the Councillor being disrespectful and their behaviour did not leave cause for concern. There were differing accounts of the discussion given by the Councillor and the member of the public. Independent advice was provided by the Council officer who saw nothing inappropriate in the Councillor's behaviour. The Ombudsman found there had been no breach of the code.

**Rhondda Cynon Taf County Borough Council – Disclosure and registration of interests
Case reference 201408430 – Report issued in September 2015**

A complaint was received about a member of Rhondda Cynon Taf CBC (“the Councillor”) failing to declare a personal and prejudicial interest in planning applications made by the director of a company. On 14 April 2011, at a Development Control Committee (DCC) meeting, the Councillor did not declare a personal and prejudicial interest in a planning application by the company. On 18 October 2012, an application was considered by the same applicant. The Councillor said the applicant was a family friend, she had a prejudicial interest and left the meeting. On 21 March 2013, another planning application was made by the same applicant. The Councillor said that she knew the applicant’s mother, but did not leave the meeting.

The Councillor said that at the meeting on 14 April 2011, she had not known the applicant and she opposed the application. She said at the meeting on 18 October 2012, she made a personal and prejudicial declaration, as she had publicly opposed the application and left the meeting. The Councillor said that on 21 March 2013, her interest had been personal and not prejudicial. She had not voted as the application was deferred. The Councillor said she had over declared her personal interest as she had known the applicant’s mother who had been her children’s school secretary who are now adults. She had not sought to progress any application by the director.

The Ombudsman determined that there was no evidence that the Councillor failed to comply with the Code of Conduct in accordance with S69 (4) (a).

No action necessary

There are no summaries in relation to this finding

Referred to standards committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

Llanfihangel ar Arth Community Council - Disclosure and registration of interests Case reference 201305114 Report issued in August 2015

The Ombudsman received a complaint that a member (“the Councillor”) of Llanfihangel ar Arth Community Council (“the Council”) had breached the Code of Conduct for Local Authority Members during meetings of the Statkraft Alltwalis Wind Farm Community Benefit Fund (upon which she had been nominated to sit in her capacity as a community councillor) and of the Council. It was alleged that the Councillor should have declared an interest and left the room when items relating to her husband’s building firm and an application for a wind farm to be built next to land she owned were discussed during the meetings.

The Ombudsman determined that it was appropriate to investigate whether the Councillor had breached the Code of Conduct. Evidence was obtained from the Council, the Statkraft Alltwalis Wind Farm Community Benefit Fund and persons present at the meetings.

The Ombudsman was satisfied that on balance the evidence suggested that whilst the Councillor had a personal and prejudicial interest in Council business relating to her husband’s building firm, she had appropriately declared an interest and left the room at the relevant times. The Ombudsman found that the Councillor had not been required to declare a personal interest at a number of Council meetings. However, the Ombudsman did consider that the Councillor had failed to declare a personal and prejudicial interest and to withdraw from the room whilst matters relating to the wind farm were discussed and voted on at the Council meeting of 16 January 2012.

The Ombudsman referred the matter to the Adjudication Panel for Wales for adjudication by a tribunal.

The Tribunal concluded that the Councillor had breached the Code of Conduct. Accordingly, the Tribunal decided that the Councillor should be suspended the Council for a period of three months.

The decision of the Adjudication Panel for Wales can be found [here](#).

More Information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to Matthew.Aplin@ombudsman-wales.org.uk or Lucy.Geen@ombudsman-wales.org.uk, or sent to the following address:

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