

The Code of Conduct Casebook

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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).

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 2016, 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

Langstone Community Council – Disclosure and registration of interests

Case reference 201503565 – Report issued in June 2016

Mr A complained that a member (“the Councillor”) of Langstone Community Council (“the Council”) may have breached the Code of Conduct by being involved in a decision to fund work to an area owned by Newport City Council (“the City Council”) which originated in a proposal made by his wife. The Ombudsman considered whether the Councillor had breached the provisions of the Code relating to prejudicial interests, disrepute and seeking to create an advantage.

Information was obtained and considered from Mr A, the Councillor and the Council. Mr A and the Councillor were interviewed.

The Ombudsman found that while the Councillor’s wife was involved in the proposal to tidy up the land, the Councillor’s interest in the matter was not so significant as to have amounted to a prejudicial interest given that any benefit to him and his family from the land being tidied up would have been slight. The money was to be paid to the City Council to do the work, so there was no financial advantage to the Councillor and his family. There was therefore nothing to stop him participating in the decision making. It followed that there was no advantage and that he had not brought the Council into disrepute. The Ombudsman found there was no evidence of a breach of the Code.

Radyr and Morganstown Community Council – Promotion of equality and respect

Case Reference 201506371 – Report issued in June 2016

The Ombudsman investigated a complaint that a member (“the Councillor”) of Radyr and Morganstown Community Council (“the Community Council”) may have breached the Code of Conduct for members when she:

- a) telephoned the Clerk of the Community Council, putting pressure on her to change minutes of meeting;
- b) passed a note to a member of the public asking four members of the public to leave an Extraordinary General Meeting; and
- c) produced her own version of the 28 January minutes of the meeting.

With regard to the first complaint the Ombudsman found that the versions of what was said during the telephone call differed significantly and as such it was impossible to substantiate the allegation made. With regard to the second complaint the Ombudsman found that, whilst the Councillor’s actions were ill-advised, it did not amount to a breach of the Code.

Finally, with regard to the third complaint there was no evidence to suggest that the minutes of meeting produced by the Councillor were inaccurate and members had the opportunity to challenge and correct them. Furthermore, the Ombudsman was not of the view that poor quality minutes could be indicative of the Councillor bullying the Clerk or compromising her impartiality. That being so he concluded that

her actions did not breach the Code.

**Radyr and Morganstown Community Council - Promotion of equality and respect
Case Reference 201506372 – Report issued in June 2016**

The Ombudsman investigated a complaint that a member (“the Councillor”) of Radyr and Morganstown Community Council (“the Community Council”) may have breached the Code of Conduct for members when he called a meeting of the Community Council in February 2016 and issued his own agenda for that meeting.

The Ombudsman concluded that there was no evidence that the Councillor failed to show respect and consideration for the Chair. The Ombudsman also concluded that the Councillor appeared to be demonstrating a counter view which was widely supported amongst his colleagues. His actions, under the circumstances appeared reasonable and did not amount to a breach of the Code.

**Radyr and Morganstown Community Council – Report issued in June 2016
Case Reference 201506373 - Promotion of equality and respect**

The Ombudsman investigated a complaint that a member (“the Councillor”) of Radyr and Morganstown Community Council (“the Community Council”) may have breached the Code of Conduct for members when he disclosed confidential information at a meeting of the Community Council, held on 15 October 2015.

The Ombudsman concluded that there was no evidence to suggest that the Councillor disclosed confidential information.

No action necessary

Llantwit Major Town Council – Promotion of Equality and Respect

Case reference 201503287 – Report issued in June 2016

Mrs A complained that a former member (“the Councillor”) of Llantwit Major Town Council (“the Council”) may have breached the Code of Conduct when he approached her on the green near her home and started shouting at her and behaved in a nasty and aggressive way. The Ombudsman investigated whether the Councillor’s alleged behaviour was such that it brought his office or the Council into disrepute and whether it could be considered disrespectful.

The Ombudsman found that, on balance, the Councillor’s conduct may have breached the Code. However, the Ombudsman said that the matter was not in the public interest to pursue as the Councillor had resigned as a member of the Council. The Ombudsman’s finding was that no action needed to be taken in respect of the matters investigated.

Llanelli Rural Council – Promotion of Equality and Respect

Case reference 201500401 & 201505296 – Report issued in June 2016

The Ombudsman investigated a complaint that a member (“the Councillor”) of Llanelli Rural Council (“the Council”) had breached the Code of Conduct for members when she obstructed another member’s pathway and acted in a threatening manner towards her.

The evidence and witness statements were contradictory and suggested that both councillors were involved in the altercation on 8 April 2015. Therefore, the Ombudsman instigated an investigation into both Councillors’ behaviour, at his own initiative.

It was found that the paragraphs of the Code relating to respect and consideration and harassment and bullying were not engaged as neither member was acting in their public capacity at the time.

It was also found that both Councillors may have breached the paragraph of the Code concerning disrepute. However it was not in the public interest to refer the Councillors to the Standards Committee or the Adjudication Panel for Wales on this occasion.

Both Councillors were advised to carefully consider their future conduct and that, in the event of any subsequent breach of the Code, the Ombudsman would be entitled to take into account any earlier likely breach and refer to it in any subsequent report as evidence of a pattern of behaviour.

Kidwelly Town Council – Promotion of equality and respect

Case Reference 201401250 – Report issued in June 2016

The Ombudsman investigated a complaint that a member (“the Councillor”), at the time, of Kidwelly Town Council, breached the Code of Conduct for members when he behaved inappropriately at a function. It was alleged that he was very drunk, made an inappropriate comment of a sexual nature regarding a number of women at the event, including a 19 year old woman. It was also alleged that he

later touched the young woman in a sexually inappropriate way.

The Ombudsman found that the Crown Prosecution Service (“CPS”) pursued a case of sexual assault but subsequently offered no evidence as the young woman concerned agreed to accept the Councillor’s formal and public apology that he was intoxicated and as a result may have behaved inappropriately.

If proven, the allegation of sexual assault would be serious enough to bring both the Councillor and his Authority into disrepute. However, the evidence was not conclusive and for a number of reasons it was considered it would be unlikely that the Adjudication Panel for Wales would apply a disqualification, the only sanction available to it because the Councillor was no longer a member of the Authority concerned, in this case. In light of this it would not be proportionate to refer the case to the Adjudication Panel for Wales.

The Ombudsman’s finding was that no action needed to be taken in respect of the matters investigated.

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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