

Pecyn Dogfen Gyhoeddus

Gareth Owens LL.B Barrister/Bargyfreithiwr

Chief Officer (Governance)

Prif Swyddog (Llywodraethu)



Swyddog Cyswllt:

Maureen Potter / 01352 702322

maureen.potter@flintshire.gov.uk

At: Julia Hughes (Cadeirydd)

Y Cyngorwyr: Teresa Carberry, Andrew Parkhurst and Antony Wren

Aelodau Cyfetholedig:

David Wynn Davies, Jacqueline Guest, Mark Morgan, Gill Murgatroyd and Ian Papworth

Dydd Mawrth, 1 Tachwedd 2022

Annwyl Gynghorydd

RHYBUDD O GYFARFOD RHITHIOL
PWYLLGOR SAFONAU
DYDD LLUN, 7FED TACHWEDD, 2022 AM 6.30 PM

Bydd y sesiwn hyfforddiant ar gyfer yn cael ei chynnal o 6.00pm tan 6.30pm

Yn gywir

Steven Goodrum
Rheolwr Gwasanaethau Democratiadd

Bydd y cyfarfod yn cael ei ffrydio'n fyw ar wefan y Cyngor. Bydd y ffrydio byw yn dod i ben pan fydd unrhyw eitemau cyfrinachol yn cael eu hystyried. Bydd recordiad o'r cyfarfod ar gael yn fuan ar ôl y cyfarfod ar <https://flintshire.publici.tv/core/portal/home>

Os oes gennych unrhyw ymholiadau, cysylltwch ag aelod o'r Tîm Gwasanaethau Democrataidd ar 01352 702345.

R H A G L E N

1 YMDDIHEURIADAU

Pwrpas: I dderbyn unrhyw ymddiheuriadau.

2 DATGAN CYSYLLTIAD (GAN GYNNWYS DATGANIADAU CHWIPIO)

Pwrpas: I dderbyn unrhyw ddatganiad o gysylltiad a chynghori'r Aelodau yn unol a hynny.

3 COFNODION (Tudalennau 5 - 10)

Pwrpas: I gadarnhau, fel cofnod cywir gofnodion y cyfarfod ar 5 Medi 2022.

EITEMAU ER PENDERFYNIAD

4 GODDEFEBAU

Pwrpas: Derbyn unrhyw geisiadau am oddefebau.

Bydd aelodau'r wasg / y cyhoedd yn gallu aros yn y cyfarfod tra bydd cais am ryddhad yn cael ei gyflwyno i'r Pwyllgor a bydd yn gallu dychwelyd i glywed penderfyniad y Pwyllgor. Fodd bynnag, o dan Baragraff 18C Atodlen 12A Deddf Llywodraeth Leol 1972 bydd y Pwyllgor yn gwahardd y wasg a'r cyhoedd o'r cyfarfod tra bydd yn ystyried unrhyw gais am ryddhad.

5 EITEMAU A GODWYD GAN Y CYNGHORAU TREF A CHYMUNED

Pwrpas: I drafod unrhyw faterion moesol neu waith y Pwyllgor Safonau a godwyd gan y Cynghorau Tref a Chymuned.

6 ADRODDIADAU O YMWELIADAU AELODAU ANNIBYNNOL Â CHYNGHORAU TREF/CYMUNED

Pwrpas: Derbyn adroddiadau ar lafar gan Aelodau Annibynnol y Pwyllgor am eu hymweliadau i'r cynghorau canlynol:

- Cyngor Cymuned Llaneanuain (Julia Hughes – 10.10.2022)
- Cyngor Cymuned Northop Hall (Julia Hughes – 11.10.2022)
- Cyngor Cymuned Trelawnyd a Gwaenysgor (Gill Murgatroyd – 13.10.2022)
- Cyngor Cymuned Helygain (Gill Murgatroyd – 17.10.2022)

7 CYLCH GORCHWYL Y FFORWM CENEDLAETHOL (Tudalennau 11 - 16)

Pwrpas: Derbyn a nodi Cylch Gorchwyl y Fforwm Cenedlaethol.

8 ADOLYGIAD TREIGL O GOD YMDDYGIAD YR AELODAU (Tudalennau 17 - 40)

Pwrpas: Rydym yn adolygu pob Cod a Phrotocol o leiaf unwaith ymhob tymor o'r Cyngor er mwyn sicrhau eu bod yn berthnasol ac yn gyfoes. Hwn yw'r adolygiad ar gyfer Cod Ymddygiad yr Aelodau.

EITEMAU ER GWYBODAETH

9 CYHOEDDIAD 'EIN CANFYDDIADAU' OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU (Tudalennau 41 - 86)

Pwrpas: Ystyried crynodeb o achosion oedd a wnelont â honiadau o dorri Cod Ymddygiad yr Aelodau ('y Cod'), fel y cyhoeddwyd gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru (OGCC) yn ei gyhoeddiad "Ein Canfyddiadau" ("Ein Canfyddiadau").

10 RHAGLEN GWAITH I'R DYFODOL (Tudalennau 87 - 88)

Pwrpas: Er mwyn i'r Pwyllgor ystyried testunau i'w cynnwys ar y Rhaglen Gwaith i'r Dyfodol.

Sylwch, efallai y bydd egwyl o 10 munud os yw'r cyfarfod yn para'n hirach na dwy awr.

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 3

STANDARDS COMMITTEE

5 SEPTEMBER 2022

Minutes of the meeting of the Standards Committee of Flintshire County Council held as a remote attendance meeting on Monday, 5 September 2022

PRESENT: Julia Hughes (Chair)

Councillors: Teresa Carberry, Andrew Parkhurst and Antony Wren

CO-OPTED MEMBERS:

David Wynn Davies, Jacqueline Guest, Gill Murgatroyd, and Mark Morgan

IN ATTENDANCE:

Monitoring Officer, Deputy Monitoring Officer, and Democratic Services Officer

16 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

Councillor Andrew Parkhurst declared a personal and prejudicial interest on agenda item 7: Overview of Ethical Complaints.

Julia Hughes declared a personal interest on agenda item 8: Update on the Recruitment of a Town and Community Council Representative

17 **MINUTES**

The minutes of the meeting held on 4 July 2022 were presented for approval.

Matters arising

In response to a query from the Chair regarding the availability of links to training sessions on the Members' Page, the Monitoring Officer said it was expected that the Members' portal would be 'going live' in September and the recordings of training provided as part of the Induction process for Members would be available. Referring to training on the Code of Conduct the Monitoring Officer explained that a further training session would be provided on 12 October which although primarily for Town and Community Councillors would also provide an additional opportunity for Members to attend. The Chair asked if a progress report on the development of links to training sessions on the Members' Page could be provided to the next meeting of the Committee and also on the attendance at training events.

The Monitoring Officer provided an update on the implementation of the Code of Conduct and discussions which had taken place with the Welsh Government and Adjudication Panel for Wales around timescales for the recommendations of the Penn Review. The Chair asked if a recording of the All Wales Standards Conference 2022 was available. The Monitoring Officer said he had not yet been able to obtain a copy from Gwynedd County Council but would continue to pursue this.

The minutes were approved, subject to a minor typographical amendment on page 7 as moved by Gill Murgatroyd and seconded by Councillor Teresa Carberry.

RESOLVED:

That subject to a minor typographical amendment, the minutes be approved as a correct record.

18. DISPENSATIONS

None were received.

19. FEEDBACK FROM THE ETHICAL LIAISON MEETING

The Monitoring Officer presented a report to provide feedback from the Ethical Liaison Meeting held on 27 June 2022. He advised that the meeting had discussed and agreed how the Standards Committee should implement its new duty to comment on compliance with the Group Leaders' duty to promote good behaviour in its annual report. The Monitoring Officer explained that failure to comply with the new duty was to be regarded as a potential breach of the Code of Conduct by a Group Leader. How the Committee reported on levels of compliance was of significant importance. The notes of the Ethical Liaison Meeting held on 27 June 2022 were appended to the report.

In response to a question from Gill Murgatroyd around consultation with Group Leaders the Monitoring Officer confirmed that documentation about the proposed process had been circulated to all Group Leaders to give the opportunity to contribute and respond. Following discussion the Monitoring Officer agreed to contact the Group Leaders who had not responded to seek confirmation that they had no comment on the proposals. The Monitoring Officer reiterated that the Standards Committee had a duty to produce an Annual Report within 12 months which included comment on the levels of compliance of Group Leaders.

The recommendation in the report was moved by Jacqueline Guest and seconded by Councillor Teresa Carberry.

RESOLVED:

- (a) That the Committee implements the new duty to comment on compliance by Group Leaders with their duty to promote good behaviour as discussed and agreed at the Ethical Liaison Meeting; and
- (b) That Group Leaders be notified of the process adopted.

20. INDEPENDENT MEMBER VISITS TO TOWN AND COMMUNITY COUNCILS

The Deputy Monitoring Officer presented the report to plan and prepare for Independent Member visits to Town and Community Councils. He provided background information and advised that at the meeting of the Standards Committee held on 10 January 2022, it was agreed that a new cycle of visits would be arranged following local government elections in May 2022. At the subsequent meeting of the

Committee on 6 June 2022 it was agreed that this would feature as an item on the forward work programme.

The Deputy Monitoring Officer explained that the suggested guidelines to be adopted during visits were outlined in section 1.04 of the report. He also referred to the previous practice following the visits undertaken that Independent Members provided the Democratic Services Team with a copy of any notes taken for background information and also provided verbal feedback at the meeting.

In response to a request from Gill Murgatroyd, the Chair and Officers explained that generic feedback was provided for consistency to Town and Community Councils following visits and specific feedback provided if requested.

The Deputy Monitoring Officer responded to the request by David Davies for clarification on procedures to be followed by Independent Members if confidential items were considered during visits to Town and Community Council meetings. Councillor Andrew Parkhurst also asked whether Independent Members should or should not be present during consideration of confidential items at Town and Community Council meetings. In response the Deputy Monitoring Officer referred to the remit/purpose of the Independent Member visits which was to observe procedures, and promote standards of conduct in compliance with the Code of Conduct.

In response to a query from Mark Morgan and David Davies regarding payment of allowances and expenses for attendance at Town and Community Council meetings, the Monitoring Officer said he would raise this matter at the next meeting of Monitoring Officers to be held this week and would provide feedback to the Committee.

Recommendation (1) in the report was moved by David Davies and seconded by Mark Morgan.

Recommendation (2) in the report was moved by Jacqueline Guest and seconded by Gill Murgatroyd.

Recommendation (3) in the report was moved by Mark Morgan and seconded by David Davies.

Recommendation (4) in the report was moved by Gill Murgatroyd and seconded by Councillor Teresa Carberry.

Recommendation (5) in the report was moved by David Davies and seconded by Mark Morgan.

RESOLVED:

- (a) That it be approved that officers draw up a list of Town and Community Councils and their meeting dates for 2022/23 to send out to Independent Members for them to select which Town and Community Council meetings they are to attend;
- (b) That Town and Community Councils be written to explaining that the process of visits will be undertaken again in 2022/23;

- (c) That the reporting of visits to Town and Community Councils by Independent members of the Committee is based on workload of the Committee, except where urgent issues need to be fed back and these will be placed on the agenda for the next meeting;
- (d) That Members undertaking visits to Town and Community Councils take written notes that are suitable to be disclosed and circulated as feedback to Town and Community Councils upon request; and
- (e) That Members inform the Monitoring Officer of a visit to a Town or Community Council and send their written notes of the visit to him, as soon as possible, after a visit has taken place, for the purposes of agenda planning for the Committee.

21 **OVERVIEW OF ETHICAL COMPLAINTS**

The Monitoring Officer presented the report which provided a summary of the ethical complaints alleging a breach of the Code that had been submitted to the Public Services Ombudsman for Wales (PSOW). The Monitoring Officer advised that the report gives the Committee an understanding of the number and types of complaints being made and the outcome of consideration by the PSOW.

The Monitoring Officer reported that since the last report 5 complaints had been received. Of the 3 cases that had been determined, none were investigated by the PSOW because they failed the 2 stage test. To speed up the processing of complaints the Ombudsman is trialling a different approach to assessing complaints whereby it reaches a decision on whether or not an investigation is needed before notifying the Monitoring Officer or Councillor. There were currently 4 complaints being investigated (3 made in 2022/23 and 1 remaining from 2021/22). The complaints being investigated were on a variety of issues with no common pattern. A list of the complaints received during 2022/2023 was appended to the report.

The recommendation in the report was moved by Councillor Antony Wren and seconded by Gill Murgatroyd.

RESOLVED

That the number and type of complaints be noted.

22 **UPDATE ON THE RECRUITMENT OF A TOWN AND COMMUNITY COUNCIL REPRESENTATIVE**

The Monitoring Officer introduced a report to inform of progress with the Recruitment of a new Town and Community Council Representative. The Standards Committee was required to include a representative of Town and Community Councils. The representative must be a Councillor who serves on a Town or Community Council and is not also a County Councillor. The Town and Community Councils were asked to nominate potential candidates. In total there were 6 candidates and each had provided a pen portrait which had been sent to all the

Councils. The Councils have been asked to nominate their first and second preference candidates. The candidate with most votes will be selected. In the event of a tie the candidate with most first preference votes will be chosen. The formal appointment will be made by Full Council on 18 October 2022.

The recommendation in the report was moved by Mark Morgan and seconded by Councillor Teresa Carberry.

RESOLVED

That the process for appointing a Town and Community Council representative be noted.

23 UPDATE ON THE CREATION OF NATIONAL FORUM FOR INDEPENDENT MEMBERS

The Monitoring Officer provided a verbal update to the Committee on whether there was sufficient support to establish a National Forum for Independent Members. He provided background information and advised that the Welsh Local Government Association (WLGA) had agreed to provide secretariat support for a National Forum for Independent Members. He outlined the proposed membership of the Forum and number of meetings to be held each year. The Monitoring Officer said he would put forward proposals to the next meeting of Monitoring Officers and would report back on the outcome of that meeting to the meeting of the Standards Committee to be held on 7 November 2022.

24 FORWARD WORK PROGRAMME

The Monitoring Officer presented the Forward Work Programme for consideration.

Gill Murgatroyd suggested that the item on Feedback on Independent Member Visits to Town and Community Councils also be included for consideration at the meetings of the Committee to be held on 7 November 2022 and 9 January 2023. This was agreed.

Following a suggestion from the Chair it was agreed that the item on the Draft Annual Report scheduled for consideration at the meeting to be held on 6 March 2023, be moved to 8 May 2023 to enable feedback from Group Leaders on the duty to promote good behaviour as discussed and agreed at the Ethical Liaison Meeting, to be included.

The recommendation was moved by Mark Morgan and seconded by Councillor Teresa Carberry.

RESOLVED:

That the Forward Work Programme, as amended, be approved.

25 **MEMBERS OF THE PRESS IN ATTENDANCE**

There were no members of the press in attendance.

(The meeting started at 6.30pm and ended at 8.03pm)

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Chair

Eitem ar gyfer y Rhaglen 7



STANDARDS COMMITTEE

Date of Meeting	Monday, 7 November 2022
Report Subject	Terms of Reference for the National Forum For Standards Committees
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The Penn Report on the Review of the Ethical Regime in Wales (“the Penn Report”) commented on the variety of practice across Wales in how Standards Committees discharge their duties. It recommended that a National Forum for the Chairs of Standards Committees should be established modelled on the forum that exists in North and Mid Wales.

All authorities in Wales have agreed to create a National Forum to share practice. Draft terms of reference for the forum have been prepared by the Monitoring Officers Group of Lawyers in Local Government (“LLG”) for agreement.

RECOMMENDATIONS

1	That the draft Terms of Reference, including representation, are agreed.
2	That the proposed arrangements to support the National Forum are approved.

REPORT DETAILS

1.00	EXPLAINING THE NATIONAL FORUM FOR STANDARDS COMMITTEES
1.01	The Penn report commented on the variety of practice across Wales in how Standards Committees discharge their duties. At paragraph 4.4.1 the report says:

	<p>“I was struck by the variation in the way that Standards Committees in Wales see their remit and at the role played by the Independent Chairs of Standards Committees. At the one extreme Standards Committees and their Independent Chairs seem to have either been given or have adopted a very limited role, meeting infrequently and only really active when there is a Hearing of a case referred by the Public Services Ombudsman for Wales. At the other extreme there are Standards Committees and Chairs that see their remit much wider than this, and as leading the development and maintenance of the ethical standards framework in that local authority.”</p>
1.02	<p>Richard Penn, the report author, then went on to comment positively upon the work of the forum for Chairs of Standards Committees in North and Mid Wales. Whilst acknowledging the place for local decision making, he recommends that a National Forum be established along the same lines - see paragraph 4.4.5</p> <p>“I attended a meeting of this Forum and had a very useful exchange with the Chairs and Monitoring Officers who attended. Although a Forum for the Chairs of Standards Committees in South Wales no doubt would serve a similar purpose in the facilitation of exchange of information and experiences about the work of Standards Committees in that part of Wales, I suggest that there should be an all-Wales Forum ... would encourage consistency of approach and the adoption of best practice across Wales.”</p>
1.03	<p>When consulted, all</p> <ol style="list-style-type: none"> 1) 22 principal Councils 2) 3 National Park Authorities; and 3) 3 Fire and Rescue Authorities <p>agreed to form a National Forum for the purposes of sharing good practice.</p>
1.04	<p>The forum will</p> <ol style="list-style-type: none"> a) give chairs the chance to share and agree to co-ordinate practice; b) act as a sounding board for ideas; c) create a support network for chairs and Committees. <p>It will not be a formal joint committee and so will not be able to make binding decisions on behalf of the constituent Councils. Instead, each Standards Committee will retain primacy. Where an idea for common action is proposed, each Committee will need to agree to act in accordance with whatever consensus has been established within the forum.</p>
1.05	<p>The body will consist of 28 constituent authorities at the outset. A new National Park Authority is planned and there are 4 newly formed Corporate Joint Committees which must have a Standards Committee, who may also wish to join. If constituent authorities sent any more than one representative, then the meetings would be unwieldy. Therefore, each authority will be allowed a single representative who may nominate a deputy to attend in their absence. Monitoring Officers will send one</p>

	representative per region (this role will rotate in North Wales in order to reduce the burden on individuals).
1.06	Previously the North and Mid Wales Forum would meet in person on a peripatetic basis being hosted by each authority in turn. For the time being meetings are likely to be held remotely (which would save travel) but if they resumed meeting in person then a central location would need to be found. Typically, this would mean meeting in or near Llandrindod Wells.
1.07	Draft Terms of Reference are attached at Appendix 1 which also include proposals for how the work of the forum will be supported.
1.08	We are anticipating holding the first meeting in November and the draft agenda will probably look something like – <ul style="list-style-type: none"> 1) Explanation of Terms of Reference, role etc; 2) Update on Penn Report; 3) Discussion of what we are each doing to implement the new duty on group leaders and how that will be reported as part of the SC annual report.

2.00	RESOURCE IMPLICATIONS
2.01	The secretariat support for the Forum is being provided by WLGA which will minimise impact on council resources. Further the working arrangements for the Forum have been designed to fit into existing structures such as meetings of LLG and so will need little extra resource.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	All Standards Committees have been consulted.

4.00	RISK MANAGEMENT
4.01	There are no issues arising from this report.

5.00	APPENDICES
5.01	Appendix 1 – draft Terms of Reference for the National Standards Committee Forum

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None

	<p>Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>
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7.00	GLOSSARY OF TERMS
7.01	<p>Adjudication Panel for Wales - the panel of lay people and lawyers from whom a case tribunal will be drawn to determine whether the Code of Conduct has been breached.</p> <p>Public Services Ombudsman for Wales - (as per standard glossary)</p> <p>Penn Report - a review commissioned by Welsh Government and conducted by Richard Penn looking into the Code of Conduct, how it is enforced, how training is undertaken and all other mechanisms to ensure high standards of ethical behaviour.</p>

National Standards Committee Forum Terms of Reference (2022)

The purpose of the Forum is to share best practice and provide a forum for problem solving across the

- 1) 22 principal Councils
- 2) 3 Fire and Rescue Authorities
- 3) 3 National Park Authorities

in relation to the work of Standards Committees.

The role of the forum is to share information and so any decisions will have to be made by the individual Standards Committees. There will be times when the Forum would need to make a decision about administrative matters relating to its own practices and administration of meetings.

- Membership – Chair, with the Vice-Chair to attend in the absence of the Chair
- Decision making will typically be by consensus but where a formal decision is required then there will be one vote per authority with the Chair of the Forum having the casting vote
- Election of Chair and Vice Chair – every two years to provide consistency
- Secretariat Support – the WLGA will send out agendas, prepare minutes and can prepare basic reports analysing practice across Wales. Officer support to prepare more extensive reports is dependent upon a monitoring officer from a council volunteering/agreeing to undertake the work
- Frequency of Meetings – 2 meetings per year following a meeting of the Monitoring Officers Group of Lawyers in Local Government
- Agendas items will be suggested by Monitoring Officers based on discussions with their Standards Committees and the Forum will also have a forward work plan to which members could contribute
- Each region will be asked to send 1 Monitoring Officer to represent the local authorities in that area, with 1 additional Monitoring Officer each for Fire & Rescue Authorities and National Park Authorities (making 6 Monitoring Officers in total)

*Each meeting could have a small agenda followed by a Training Session
Speakers from the Ombudsman's Office, Adjudication Panel for Wales and Welsh Government could address the Forum on their work*

Mae'r dudalen hon yn wag yn bwrpasol

Eitem ar gyfer y Rhaglen 8



STANDARDS COMMITTEE

Date of Meeting	Monday, 7 November 2022
Report Subject	Rolling Review of the Members Code of Conduct
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The Council must adopt a Code of Conduct that is based on the prescribed national model. It can amend the code provided the provisions are no less onerous than the model.

The Standards Committee keeps all the codes and protocols in the Constitution under rolling review to ensure they are up to date and pertinent. As the code is mandatory, clearly the key question is whether it adequately covers behaviours that would be inconsistent with the Nolan principles/unacceptable.

Welsh Government has not amended the national model code since 2016. The Penn Review recommended some changes to the code. These would require legislation to implement. Welsh Government will consult on what legislation is needed to implement the code next year.

RECOMMENDATIONS

1	That the Committee considers whether the code requires amendment.
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REPORT DETAILS

1.00	EXPLAINING THE REVIEW OF THE CODE
1.01	Under section 51 Local Government Act 2000 the Council must adopt a Code of Conduct for Councillors ("the Code") based on a national model. All Members must sign to say that they will follow the Code. The Council's

	current code is based on the national model contained within The Local Authorities (Model Code of Conduct) (Wales) Order 2008 (as amended).	
1.02	The Standards Committee keeps all the codes and protocols within the Constitution under review to ensure that they remain pertinent and up to date. Clearly, as the code is mandatory it is still “pertinent”. The review therefore should be to consider whether it remains up to date and whether it adequately addresses behaviours that might be considered to breach the Principles of Public Life or to be in some other way unacceptable.	
1.03	Experience of complaints does not suggest that there are areas of unacceptable behaviour which aren’t adequately covered by the Code. All of the Principles of Public Life are mapped to requirements under the Code and even Leadership (which hitherto featured least in the Code is now dealt with by the new duty on group leaders). It is possible that the Committee perceives some behaviours that might need to be addressed through amendments of the Code.	
1.04	The Committee will be aware that the Penn review recommended changes to the code (which are listed below). Welsh Government intends to consult on the changes which should be made to the code. Some of the suggested changes could be adopted voluntarily in anticipation of changes to the code, though they might need to be re-amended to reflect the national model in due course.	
	<u>Recommended Change</u>	<u>Commentary</u>
	i. Specify the threshold for declarations of any gift, hospitality, material benefit or advantage to ensure consistency across Wales.	This change would introduce consistency across Wales. The Council cannot achieve that without collective action on the part of other local authorities
	ii. There is agreement that the Code should not require Councillors to disclose their home address	A “work around” is currently available whereby Councillors can give less precision than their full postal address
	iii. Define a ‘person’ either in the 2000 Local Government Act or in the Code so that it is clear whether it includes incorporated bodies and even unincorporated associations	This relates to the ombudsman’s powers of enforcement (e.g. to enforce requests for information) and needs legislation.
	iv. Paragraph 4a of the Code (to have due regard to equality of opportunity for all people) should be extended to include all nine protected characteristics under the Equality Act 2010.	This could be undertaken voluntarily. Such an amendment would ultimately need to be tested in a tribunal to see whether the change was enforceable but might be a worthwhile change now to show that the Council supports people with all protected characteristics.
	v. The guidance on social media published by the	This would engage the right to freedom of political expression

	WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Code	(Article 10) and is only possible at all on the basis of clear legislation, and then any restrictions would be unenforceable to the extent that they restrict that right
	vi. 6(1)(b) of the Code of Conduct should be amended to make it an obligation on a member to report their own criminal behaviour as well as that of others (as at present)	This would require legislation. It could be adopted as a voluntary, but unenforceable, amendment.
	vii. Make training on the Code of Conduct mandatory for all members of relevant authorities by including a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004	Although it could not be enforced this has, in effect, been achieved voluntarily by all County Councillors accepting that they need to attend training on the code.
	viii. Increase the use of local resolution of complaints by requiring that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman, in order to speed up the complaints process and ensure that the Ombudsman's resources are devoted to the investigation of serious complaints.	This is achievable voluntarily, but the resources do not exist to offer local resolution on this scale. Local resolution is offered to all complaints from members or officers about County Councillors where those complaints are suitable for local resolution. There are 10 - 15 complaints about town and community councillors each year and, as Monitoring Officer, I do not have resource to offer local resolution for them all. Town and Community Council clerks probably also lack the capacity (and in some cases skills/experience) to offer local resolution.
	ix. Extend the Public Services Ombudsman for Wales' power to refer complaints back for local resolution	This would require legislation plus see note above regarding resources.

2.00	RESOURCE IMPLICATIONS
2.01	The majority of changes to the code above would be manageable within existing resources. As noted above, the reversal of the current process whereby all complaints are assessed centrally (by the Ombudsman) to a system where they are assessed locally first would require significant extra resource. As Monitoring Officer I can prepare a statutory report to Full

	Council to request extra resources but that would only increase the pressure on an already difficult budget setting process for 2023/24.
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3.00	CONSULTATIONS REQUIRED / CARRIED OUT
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3.01	None
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4.00	RISK MANAGEMENT
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4.01	Amending the code on a voluntary basis might help to set a culture of better behaviour that results in positive changes (e.g. all County Councillors have attended training on the code), and the code includes a number of such voluntary amendments. Equally, amending the Code ahead of legislative backing risks any changes being seen or treated by the Ombudsman as unenforceable. Whilst that does not actually cost the council anything it does create the chance that expectations might be built up in a way that is not deliverable with potential consequential reputational damage.
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5.00	APPENDICES
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5.01	Appendix 1 – the Code of Conduct for Councillors.
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6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
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6.01	<p>The Review of the Ethical Framework by Richard Penn</p> <p>Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>
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7.00	GLOSSARY OF TERMS
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7.01	<p>Penn Review - a review commissioned by Welsh Government and conducted by Richard Penn looking into the Code of Conduct, how it is enforced, how training is undertaken and all other mechanisms to ensure high standards of ethical behaviour.</p> <p>Principles of Public Life – The Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts etc.</p>
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Remove from Constitution

Section 19

12. **MEMBERS' CODE OF CONDUCT**

ADOPTED BY RESOLUTION OF

THE COUNTY COUNCIL

8th April 2008

to take effect from 2nd May 2008

and updated 25 November 2014

and updated 10th May 2016

THE LOCAL AUTHORITIES

(MODEL CODE OF CONDUCT) (WALES) ORDER 2008

With the determination of the amount of £10.00

for the purposes of paragraph 17 recorded in paragraph 18

PART 1

INTERPRETATION

1.(1) In this code —

“co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who —

- (i) is a member of any committee or sub-committee of the authority, or
- (ii) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” means any meeting —

- (iii) (a) of the relevant authority,
- (iv) (b) of any Cabinet or board of the relevant authority,
- (v) (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint/sub-committee of any Cabinet or board of the authority, or
- (vi) (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committee and Political Groups) Regulations 1990⁽¹⁾,

and includes circumstances in which a member of a Cabinet or board or an officer acting alone exercises a function of an authority;

“member” includes, unless the context requires otherwise, a co-opted member;

“register of members interests” (cofrestr o fuddlannau'r aelodau) means the register established and maintained under section 81 of the Local Government Act 2000;

“relevant authority” means—

- (b) a county council,
- (c) a county borough council,
- (d) a town or community council,
- (e) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004⁽²⁾ or a scheme to which section 4 of that Act applies,
- (f) a National Park authority established under section 63 of the Environment Act 1995⁽³⁾;

“you” means you as a member or co-opted member of a relevant authority; and

⁽¹⁾ S.I. 1990/1553 as amended by S.I. 1991/1389; S.I. 1993/1339; S.I. 1998/1918; and S.I. 1999/500.

⁽²⁾ 2004 c.21.

⁽³⁾ 1995 c.25.

“your authority” means the relevant authority of which you are a member or co-opted member.

(2) “(2) In relation to a community council—

(3) (a) “proper officer” (“swyddog priodol”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972(1); and

(b) “standards committee” (“pwyllgor safonau”) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.”

PART 2
GENERAL PROVISIONS

- 2.(1) Save where paragraph 3(a) applies, you must observe this code of conduct
- (a) whenever you conduct the business, or are present at a meeting, of your authority;
 - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
 - (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
 - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.
- (2) You should read this code together with the attached general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.
3. Where you are elected, appointed or nominated by your authority to serve —
- (i) (a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
 - (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
4. You must —
- (a) carry out your 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;
 - (b) show respect and consideration for others;
 - (c) not use bullying behaviour or harass any person; and
 - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —
- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
 - (b) prevent any person from gaining access to information to which that person is entitled by law.

6.(1) You must —

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must —

- (a) adhere to the Flintshire standard of conduct
- (b) cooperate with the Local Resolution Procedure
- (c) comply with any request of the Monitoring Officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority —

- (i) imprudently;
- (ii) in breach of your authority's requirements;
- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

8. You must —

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —
 - (i) the authority's head of paid service;
 - (ii) the authority's Section 151 officer;
 - (iii) the authority's monitoring officer;
 - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3

INTERESTS

Personal Interests

- 10.(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- (2) You must regard yourself as having a personal interest in any business of your authority if —
- (a) it relates to, or is likely to affect —
 - (i) any employment or business carried on by you;
 - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
 - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
 - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
 - (vi) any land in which you have a beneficial interest and which is in the area of your authority;
 - (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
 - (viii) any body to which you have been elected, appointed or nominated by your authority;
 - (ix) any —

- (aa) public authority or body exercising functions of a public nature;
- (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
- (cc) body whose principal purposes include the influence of public opinion or policy;
- (dd) trade union or professional association; or
- (ee) private club, society or association operating within your authority's area, in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

(b) or

(c) a decision upon it might reasonably be regarded as affecting —

- (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
- (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
- (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
- (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (v) anybody listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

- (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
- (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

- 11.(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you 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.
- (2) Where you have a personal interest in any business of your authority and you make —
- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or
 - (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.
- (i)
- (3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of a Cabinet or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- (4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer, from time to time but, as a minimum containing —
- (a) details of the personal interest;
 - (b) details of the business to which the personal interest relates; and
 - (c) your signature.
- (5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph

16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you 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 your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to —

(i) another relevant authority of which you are also a member;

(ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

(iii) a body to which you have been elected, appointed or nominated by your authority;

(iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;

(v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

(i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent

- with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
 - (ii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
 - (iii) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011(2), or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;
- (c) your role as a town or community councillor in relation to a grant, loan or other form of financial assistance made by your town or community council to community or voluntary organisations up to a maximum of £500.
- (3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

- 13.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority’s Cabinet, board or another of your authority’s committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the Cabinet, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.(1) Subject to sub-paragraphs (2), (2A) (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) 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;

(b) not exercise Cabinet or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) 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.

(iii)

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making

representations, answering questions or giving evidence relating to the business, whether under a statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.”

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if

—

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4
THE REGISTER OF MEMBERS' INTERESTS

***Registration of Financial and Other Interests and Memberships and
Management Positions***

- 15.(1)** Subject to sub-paragraph (4), you must, within 28 days of—
- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
 - (b) your election or appointment to office (if that is later),
- register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register of members' interests by providing written notification to your authority's monitoring officer.
- (2) Subject to sub-paragraph (4) You must, within 28 days of becoming aware of any new personal interest falling within paragraph 10(2)a, register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.
- (3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.
- (4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).
- (5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.
- (6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

Sensitive information

- 16.**(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer, asking that the information be included in your authority's register of members' interests.
- (3) In this code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Registration of Gifts and Hospitality

- 17. (1)** You must, within 28 days of receiving any gift, hospitality material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, of the existence and nature of that gift, hospitality material benefit or advantage, or in relation to a community council, your authority's proper officer
- (2) You must, provide written notification to your authority's monitoring officer, of the existence and nature of any gifts, hospitality, material benefits and/or advantages, received from the same source during any rolling 12 month period, where the total value of those gifts, hospitality, and/or material benefits is above £100
- (3) Where you have received gifts, hospitality, material benefits and/or advantages, under 17(2) you must provide written notification to your authority's monitoring officer within 28 days
- 18.** The Authority has determined that for the purposes of paragraph 17(1) the amount shall be £10.00 until further determination.

THE PRINCIPLES

The Local Government Act empowered the National Assembly to issue principles to which you must have regard in undertaking your role as a member. The Code is based on these principles which are designed to promote the highest possible standards. These principles draw on the 7 Principles of Public Life which were set out in the Nolan Report “Standards of Conduct in Local Government in England, Scotland and Wales”. Three more were added to these: a duty to uphold the law, proper stewardship of the Council’s resources and equality and respect for others.

Members elected to local authorities give generously of their time and commitment for the benefit of their communities. The principles provide a framework for channelling your commitment in a way which will reflect well on you and your authority, and which will give your communities confidence in the way that your authority is governed.

The individual sections of the Code are designed to support the implementation of the Principles. For example, the Selflessness principle is covered by Section 7 of the Code – Selflessness and Stewardship.

The current principles were set out in a statutory instrument¹ and are detailed below.

1. Selflessness

Members must act solely in the public interest. They must never use their position as members to improperly confer advantage on themselves or to improperly confer advantage or disadvantage on others.

2. Honesty

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

3. Integrity and Propriety

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

4. Duty to Uphold the Law

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

5. Stewardship

In discharging their duties and responsibilities members must ensure that their authority's resources are used both lawfully and prudently.

6. Objectivity in Decision-making

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, members must make decisions on merit. Whilst members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

7. Equality and Respect

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

8. Openness

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

9. Accountability

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

10. Leadership

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

The principles are not part of the Model Code, and failure to comply with the Principles is not of itself, therefore, indicative of a breach of the Code. However, it is likely that a failure, for example, to adhere to the principle concerning equality and respect would constitute a breach of the requirements of paragraphs 4 (a) and (b) in the Code in respect of equality of opportunity and respect.

In any event, the Principles offer a sound basis for your conduct in office and I encourage members to have regard to them at all times.

Public Services Ombudsman for Wales

Eitem ar gyfer y Rhaglen 9



STANDARDS COMMITTEE

Date of Meeting	Monday, 7 November 2022
Report Subject	Public Services Ombudsman for Wales' "My Findings" Publication
Report Author	Deputy Monitoring Officer

EXECUTIVE SUMMARY

To consider the summary of cases, related to alleged breaches of the Members' Code of Conduct (the Code), as published by the Public Services Ombudsman for Wales (PSOW) in their publication "My Findings" (My Findings).

RECOMMENDATIONS

1	That the Committee request that, having reviewed the cases summarised in the appendix to this report, the Monitoring Officer sends a communication to all members of the authority, setting out the themes identified in this report, together with a link to My Findings, so that members can access the summary of cases for their information.
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REPORT DETAILS

1.00	EXPLAINING THE PUBLIC SERVICES OMBUDSMAN FOR WALES' "MY FINDINGS" PUBLICATION
1.01	The PSOW considers complaints that members of local authorities in Wales have breached the Code. There are four findings the PSOW can arrive at: (a) that there is no evidence of breach; (b) that no action needs to be taken in respect of the complaint; (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 (the APW) for adjudication by a tribunal. It should

	<p>also be noted that occasionally an investigation may be discontinued, where circumstances change during the course of an investigation and it is considered that it would not be in the public interest to continue to investigate.</p>
1.02	<p>Prior to the 1st of April 2021 the PSOW summarised complaints that had been investigated on a quarterly basis in a publication called the Code of Conduct Casebook (the Casebook). The final edition of the Casebook (edition 25) covered the period of January to March 2021. The Casebook has since been replaced by My Findings, which includes a search tool to allow summaries of cases to be accessed by reference to the relevant organisation, matter type, dates, case reference numbers, or outcome. In terms of matter types, cases are broken down into the following categories:-</p> <ul style="list-style-type: none"> a. Integrity; b. Promotion of Equality and Respect; c. Disclosure or Registration of Interests; d. Duty to Uphold the Law; and e. Selflessness and Stewardship.
1.03	<p>In reference to (c) and (d) findings, My Findings only contains the summaries of those cases for which the hearings by the standards committee or APW have been concluded and the outcome of the hearing is known.</p>
1.04	<p>During the 1st of April 2021 and the 21st September 2022 32 complaints were investigated by the PSOW, 7 of which were referred to the relevant Standards Committees and 5 of which was referred to the APW. In 11 cases it was considered that there was no evidence of a breach of the Code, in 5 cases no action was considered necessary and 4 cases were discontinued. 13 of the matters investigated fall under the category of Integrity, 13 under Promotion of Equality and Respect, 3 under Disclosure or Registration of Interests, 2 under Duty to Uphold the Law and 1 under Selflessness and Stewardship. The appendix to this report contains a summary of all cases contained in My Findings between the 1st of April 2021 and the 21st of September 2022.</p>
1.05	<p>There are number of themes that can be identified through the findings that can be summarised as follows: -</p> <ul style="list-style-type: none"> i) Comments on social media are the cause of a significant number of complaints and members need to be very careful when writing what they might consider a throw away comment which might subsequently be either misconstrued (as in a number of cases) leading to lengthy investigation (which is a distressing process) or when expressing views that are a breach of the code; ii) Discriminatory conduct against any protected characteristic under the Equality Act 2010 attracts severe sanctions;

	iii) Members have a private life and provided they are clear to demarcate the boundaries of private and public action then the PSOW will not take action in respect of private matters.
1.06	There may be other messages about poor behaviour that, together with those identified above, would be useful for the wider membership of the authority to be aware of.

2.00	RESOURCE IMPLICATIONS
2.01	None.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	N/A

4.00	RISK MANAGEMENT
4.01	N/A

5.00	APPENDICES
5.01	Appendix 1 – PSOW My Findings Publication

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Contact Officer: Matthew Georgiou, Deputy Monitoring Officer Telephone: 01352 702330 E-mail: matthew.georgiou@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	<p>PSOW - Public Services Ombudsman for Wales is independent of other bodies and has legal powers to investigate complaints about public services and independent care providers in Wales and to investigate complaints that Members of local government bodies have broken their authority's Code of Conduct.</p> <p>APW – The Adjudication Panel for Wales is an independent tribunal whose function is to determine alleged breaches by elected and co-opted Members of Welsh County, County Borough and Community Councils,</p>

	Fire and National Park Authorities, against their authority's statutory Code of Conduct.
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Appendix One

1. Integrity: Pembrokeshire County Council

Report date

30/03/2022

Subject

CODE - Integrity

Outcome

CODE

Case ref number

202101091

Report type

CODE - No evidence of breach

Relevant body

Pembrokeshire County Council

It was alleged that a Councillor (“the Member”) posted videos on the social media platform, TikTok, which brought their office as a councillor and Pembrokeshire County Council (“the Council”) into disrepute.

The Ombudsman commenced an investigation into whether the Member may have breached paragraph 6(1)(a) of the Code of Conduct, that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

The investigation found that the Member posted a series of videos, some of which included TikTok sounds which contained expletives. The Member, who had been appointed to a school governing body, was suspended from the governing body while the matter was investigated by the Council. A number of witnesses were interviewed. Some considered the videos to be distasteful. The Council’s investigation found that the videos did not impact on the Member’s role as a governor.

The investigation found the Member was acting in his private capacity when he posted the videos. Relevant case law has established that for a breach of the “disrepute” provision to be found, a member’s conduct must impact upon their Council’s reputation and/or the role of elected member and go beyond affecting their personal reputation. While the nature of the videos may be considered distasteful by some, TikTok sounds are widely and easily available on TikTok and are often widely

reproduced by TikTok users in large quantities. TikTok is a social media platform in which users are required to be 13 years old and content of the type posted by the Member is widely and freely available without censorship. The videos were clearly intended to be humorous and to make people laugh. The videos were not directed at anyone and do not display any intent to cause harm or upset.

The Ombudsman found that there was no evidence of any failure to comply with the Code of Conduct of the relevant authority concerned.

2. Integrity : Pencoed Town Council

Report date

17/06/2022

Subject

CODE - Integrity

Outcome

CODE

Case ref number

202005940

Report type

CODE - Referred to the Adjudication Panel for Wales

Relevant body

Pencoed Town Council

I received a complaint that a Former Councillor of Pencoed Town Council had failed to declare a criminal conviction when he stood for election in 2018 and in doing so had breached the Code of Conduct for elected members.

My investigation found that the Former Councillor had been convicted of an offence in July 2015 and that this conviction disqualified him from standing as an elected member. The Former Councillor stood for election to Pencoed Town Council in November 2018 and could not have done so had they not made a false declaration on their nomination paper. The deception did not come to light until an article featured in a national newspaper in July 2020. The Former Councillor resigned once this information became public but had acted as a member for 1 year and 8 months when he was not eligible to do so.

I considered that the Former Councillor misled the Town Council as to their eligibility to be a Councillor and that their dishonesty, both when signing the declaration of acceptance of office and during the year and 8 months that they acted as a Councillor, was a serious abuse of office which goes against the principles that

underpin the Code of Conduct. The Former Councillor did not engage with the investigation and did not give any explanation for their actions or show any remorse.

I considered the Former Member's actions were suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct and my finding was that the matter should be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal.

APW heard the case on 10 June 2022 and found that the Former Councillor had been elected on a false premise and that his declaration of acceptance of office, undertaking to abide by the Code continuation in office took place on the same false premise. APW found that the Consent to Nomination and Guidance to Candidates were so clear that it was inconceivable that the Former Councillor was unaware of the fact he was disqualified from being elected and his actions were either deliberate or as the result of extreme recklessness.

APW found that the fact that the Former Councillor was disqualified from being elected and yet continued to act as Member went to the heart of public trust in democracy and undermined the Code and standards regime. The Former Councillor continued to deal with his constituents and act on a false premise and this constituted a clear breach of paragraph 6(1)(a) of the Code. It also noted that the significant media and public attention and disquiet, would inevitably bring both the office of Member and his Authority into disrepute.

APW concluded that the Former Councillor should be disqualified for 24 months from being or becoming a member of the Council or any other relevant authority within the meaning of the Local Government Act 2000.

3. Integrity : Powys County Council

Report date

12/02/2022

Subject

CODE - Integrity

Outcome

CODE

Case ref number

202104527

Report type

CODE - No evidence of a breach

Relevant body

Powys County Council

The Ombudsman received a complaint that a Member (“the Member”) of Powys County Council (“the Council”) had breached the Code of Conduct when he appeared to be driving a vehicle during a virtual meeting. The Ombudsman reviewed the audio visual recording of the meeting and obtain information from the Police. He also considered an account provided by the Member. The Ombudsman found there was no available evidence to support the allegation that the Member was driving during the virtual meeting and concluded there was no evidence of a breach of the Code of Conduct by the Member.

4. Integrity : Gwynedd Council

Report date

09/05/2022

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202004473

Report type

CODE - No evidence of breach

Relevant body

Gwynedd Council

The Ombudsman received a complaint that a Member (“the Member”) of Gwynedd Council (“the Council”) had breached the Code of Conduct when he shared material on his Facebook account which cast doubt on the existence of COVID-19 and about the vaccine, and when he appeared on a television show to discuss his views on COVID-19 and the vaccine.

The Ombudsman reviewed the member’s Facebook activity and his appearance on the television show. The former Chief Executive of the Council was interviewed and comments were sought from the Member.

The Ombudsman found that the Member was entitled to freedom of expression and to hold and express his views regarding the COVID-19 pandemic and the COVID-19 vaccine (under Article 10 of the European Convention on Human Rights, which is incorporated into UK law by the Human Rights Act 1998). The Member’s right to free speech allowed him to say things that may have been shocking or offensive to some people. The former Chief Executive’s evidence suggested that the Member

was not representing the 'Council's position'. The Member did not issue directions to members of the public in contravention of the public health measures in place at the time. Therefore, the Ombudsman did not consider there to be evidence that the Member breached the Code of Conduct.

5. Integrity : Amlwch Town Council

Report date

05/05/2022

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202103868

Report type

CODE - Discontinued

Relevant body

Amlwch Town Council

The Ombudsman received a complaint that a Member ("the Member") of Amlwch Town Council ("the Council") had breached the Code of Conduct when, in their role as a director of a charity, they made an application for an Economic Resilience Fund grant from the Isle of Anglesey County Council ("the County Council") without the authority of the charity and ignoring the views of other directors of the charity that it was not eligible for the grant. It was also alleged that the application made by the Member contained false information and that, once the funding was received, they attempted to transfer the funds into their personal account without authority.

The Ombudsman reviewed information received from the County Council, the Council, the Member and North Wales Police. The member said that her action, made in her personal capacity as a director of the charity, were in the interests of the charity and the community. The Member was unsuccessful in their attempt to transfer the funds into their personal bank account, and the funds were returned when the ineligibility was identified. North Wales Police confirmed that it was not investigating the allegations as the Council did not wish to pursue a complaint. This suggested that the Council was not of the view that there was any criminal or fraudulent intent on the Member's part.

The Ombudsman also considered that the Member was not standing for re-election to the Council, the County Council or any other Town or Community Council within the County Council area. Therefore, the Ombudsman was no longer satisfied that an investigation into the complaint was in the public interest and decided to discontinue the investigation.

6. Integrity : Barry Town Council

Report date

08/11/2021

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202003545

Report type

CODE

Relevant body

Barry Town Council

The Ombudsman received a complaint that a Member (“the Member”) of Vale of Glamorgan Council (“the Council”) and Barry Town Council (“the Town Council”), and the Council’s Planning Committee, had breached the Code of Conduct for Members by opening a coffee shop and wine bar without the correct change of use planning permission being in place.

The Ombudsman’s investigation found that the Member had been a joint director of the coffee shop and wine bar, and the business had opened before the Member’s change of use planning application was decided (in breach of planning control). The Ombudsman’s investigation also found that when a potential breach of the Code of Conduct regarding the situation was brought to the Member’s attention, the Member immediately resigned as a director and had no further involvement in the business. The Ombudsman concluded that, as a member of the Council’s Planning Committee, the Member had sufficient knowledge of relevant planning matters to understand the importance of adhering to planning regulations, and the Member should have considered his position, and sought advice about his role, before opening the business without correct planning permission.

The Ombudsman found that the Member’s conduct could reasonably be regarded as behaviour which might bring the office of Member of the Council into disrepute and

was therefore suggestive of a breach of 6(1)(a) of the Code of Conduct. The Ombudsman referred his investigation report to the Monitoring Officer of Vale of Glamorgan Council for consideration by its Standards Committee.

The Standards Committee of Vale of Glamorgan Council determined that the Member had breached 6(1)(a) of the Code of Conduct and suspended him for 1 month.

7. Integrity : Vale of Glamorgan Council

Report date

08/11/2021

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202003631

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Vale of Glamorgan Council

The Ombudsman received a complaint that a Member (“the Member”) of Vale of Glamorgan Council (“the Council”) and Barry Town Council (“the Town Council”), and the Council’s Planning Committee, had breached the Code of Conduct for Members by opening a coffee shop and wine bar without the correct change of use planning permission being in place.

The Ombudsman’s investigation found that the Member had been a joint director of the coffee shop and wine bar, and the business had opened before the Member’s change of use planning application was decided (in breach of planning control). The Ombudsman’s investigation also found that when a potential breach of the Code of Conduct regarding the situation was brought to the Member’s attention, the Member immediately resigned as a director and had no further involvement in the business. The Ombudsman concluded that, as a member of the Council’s Planning Committee, the Member had sufficient knowledge of relevant planning matters to understand the importance of adhering to planning regulations, and the Member should have considered his position, and sought advice about his role, before opening the business without correct planning permission.

The Ombudsman found that the Member's conduct could reasonably be regarded as behaviour which might bring the office of Member of the Council into disrepute and was therefore suggestive of a breach of 6(1)(a) of the Code of Conduct. The Ombudsman referred his investigation report to the Monitoring Officer of Vale of Glamorgan Council for consideration by its Standards Committee.

The Standards Committee of Vale of Glamorgan Council determined that the Member had breached 6(1)(a) of the Code of Conduct and suspended him for 1 month.

8. Integrity : Pembrokeshire County Council

Report date

14/09/2021

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202102047

Report type

CODE - No evidence of breach

Relevant body

Pembrokeshire County Council

The Ombudsman undertook an investigation against a Member ("the Member") of Pembrokeshire County Council ("the Council") to consider whether the Member misled him during the course of an ongoing investigation.

The Ombudsman considered whether the Member may have breached paragraph 6(1)(a) of the Code of Conduct ("the Code").

The Member had been interviewed as a witness in an ongoing investigation. Following his initial interview, information was sought from third parties which indicated that the information provided by the Member at interview was incorrect. The Member was subsequently interviewed on a second occasion and as there appeared to be discrepancies in the information provided by the Member, the Ombudsman began an investigation.

The Member provided a full statement to the Ombudsman in response to the allegation. The Ombudsman accepted the explanations provided by the Member regarding the discrepancies in his 2 interviews. Although the Ombudsman

considered that the Member could have been more clear in his interviews, he did not consider that there was a deliberate attempt on the Member's part to provide misleading information during the investigation. Therefore, the Ombudsman found no evidence of a breach of paragraph 6(1)(a) of the Code of Conduct.

9. Integrity : Caernarfon Royal Town Council

Report date

02/09/2021

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202002555

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Caernarfon Royal Town Council

The Ombudsman received a complaint from a member of Gwynedd Council and Caernarfon Royal Town Council that a Member ("the Member") of those Councils had failed to observe the Councils' Codes of Conduct for Members.

It was alleged that the Member failed to show respect and consideration to the complainant over several months, and his correspondence was suggestive of a course of conduct intended to bully and/or harass the complainant. It was alleged that the Member used, or attempted to use, his position improperly and brought his office or authority into disrepute by posting information provided to him as an elected member on Facebook, posting information which he knew was incorrect on Facebook, posting confidential information on Facebook and by being involved in a police incident. The complainant also said that the Member made vexatious, malicious or frivolous complaints to the Clerk, the Ombudsman and the police about the complainant.

The investigation considered whether the Member failed to comply with the following provisions of the Code of Conduct:

4(b) – members must show respect and consideration for others.

4(c) – members must not use bullying behaviour or harass any person.

5(a) – members must not to disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so.

6(1)(a) – members must not to conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

6(1)(d) – members must not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, their authority.

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.

During the investigation, it became apparent that the Member may have failed to comply with paragraph 6(2) of the Code of Conduct – members must comply with any request by the Ombudsman in connection with an investigation conducted in accordance with his statutory powers.

The investigation found that the Member had, over the course of several months, shared information about the complainant on Facebook and with professionals, associated with both Councils, about the complainant. The member also posted information, which should reasonably be regarded as confidential, about the complainant's family members. The investigation found that the Member approached the complainant in the street and began an altercation which required police involvement. The investigation also found that the Member made several complaints to the Clerk, the Police and to the Ombudsman, which lacked foundation and appeared to be motivated by malice or political rivalry.

The Ombudsman found that the member's behaviour was suggestive of a breach of paragraphs 4(b), 4(c), 6(1)(a), 6(1)(d), 6(2) and 7(a) of the Code of Conduct. He did not find a breach of paragraph 5(a) as the Member was not acting in his capacity as a member of the Council when he shared that information.

In relation to paragraph 6(2) of the Code of Conduct, the Ombudsman's Investigation Officer made reasonable and appropriate requests in connection with this investigation. The Investigation Officer also offered reasonable adjustments to afford the Member the opportunity to fully engage in the process. However, the Member deliberately failed to engage with my investigation in an attempt to obfuscate the process and that his actions were suggestive of a breach of paragraph 6(2) of 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.

The Tribunal concluded that the Member had breached paragraphs 6(1)(d), 6(2) and 7(a) of the Code of Conduct. Accordingly, the Tribunal decided that the Member should be suspended from the Council for a period of 9 months or, if shorter, the remainder of his term in office. The Tribunal found that the Member had not breached paragraph 4(c) of the Code of Conduct. Whilst the Tribunal concluded that the Member had, "in principle", breached paragraphs 4(b), 6(1)(a) and 7(a) of the Code of Conduct, any restriction imposed would compromise a prima facie breach of the Member's Article 10 rights, the right to freedom of speech. The Tribunal, therefore, considered that restriction was not justified.

10. Integrity : Gwynedd Council

Report date

02/09/2021

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202002215

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Gwynedd Council

The Ombudsman received a complaint from a member of Gwynedd Council and Caernarfon Royal Town Council that a Member ("the Member") of those Councils had failed to observe the Councils' Codes of Conduct for Members.

It was alleged that the Member failed to show respect and consideration to the complainant over several months, and his correspondence was suggestive of a course of conduct intended to bully and/or harass the complainant. It was alleged that the Member used, or attempted to use, his position improperly and brought his office or authority into disrepute by posting information provided to him as an elected member on Facebook, posting information which he knew was incorrect on Facebook, posting confidential information on Facebook and by being involved in a police incident. The complainant also said that the Member made vexatious,

malicious or frivolous complaints to the Clerk, the Ombudsman and the police about the complainant.

The investigation considered whether the Member failed to comply with the following provisions of the Code of Conduct:

4(b) – members must show respect and consideration for others.

4(c) – members must not use bullying behaviour or harass any person.

5(a) – members must not to disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so.

6(1)(a) – members must not to conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

6(1)(d) – members must not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, their authority.

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.

During the investigation, it became apparent that the Member may have failed to comply with paragraph 6(2) of the Code of Conduct – members must comply with any request by the Ombudsman in connection with an investigation conducted in accordance with his statutory powers.

The investigation found that the Member had, over the course of several months, shared information about the complainant on Facebook and with professionals, associated with both Councils, about the complainant. The member also posted information, which should reasonably be regarded as confidential, about the complainant's family members. The investigation found that the Member approached the complainant in the street and began an altercation which required police involvement. The investigation also found that the Member made several complaints to the Clerk, the Police and to the Ombudsman, which lacked foundation and appeared to be motivated by malice or political rivalry.

The Ombudsman found that the member's behaviour was suggestive of a breach of paragraphs 4(b), 4(c), 6(1)(a), 6(1)(d), 6(2) and 7(a) of the Code of Conduct. He did not find a breach of paragraph 5(a) as the Member was not acting in his capacity as a member of the Council when he shared that information.

In relation to paragraph 6(2) of the Code of Conduct, the Ombudsman's Investigation Officer made reasonable and appropriate requests in connection with this investigation. The Investigation Officer also offered reasonable adjustments to afford the Member the opportunity to fully engage in the process. However, the Member deliberately failed to engage with my investigation in an attempt to obfuscate the process and that his actions were suggestive of a breach of paragraph 6(2) of 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.

The Tribunal concluded that the Member had breached paragraphs 6(1)(d), 6(2) and 7(a) of the Code of Conduct. Accordingly, the Tribunal decided that the Member should be suspended from the Council for a period of 9 months or, if shorter, the remainder of his term in office. The Tribunal found that the Member had not breached paragraph 4(c) of the Code of Conduct. Whilst the Tribunal concluded that the Member had, "in principle", breached paragraphs 4(b), 6(1)(a) and 7(a) of the Code of Conduct, any restriction imposed would compromise a prima facie breach of the Member's Article 10 rights, the right to freedom of speech. The Tribunal, therefore, considered that restriction was not justified.

11. Integrity : Neath Port Talbot Council

Report date

20/07/2021

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202005795

Report type

CODE - No evidence of breach

Relevant body

Neath Port Talbot Council

The Ombudsman received a self-referred complaint that a Member (“the Member”) of Neath Port Talbot Council (“the Council”) had breached the Code of Conduct (“the Code”) in respect of comments he had made during a private Labour Party meeting during October 2019. The comments were secretly recorded and later published on social media on 5 March 2021.

The Ombudsman began an investigation of some of the comments made and considered whether the Member had breached the following paragraphs of the Code:

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(b)(v) – members must not use or authorise others to use, the resources of their authority improperly for political purposes.

In the recording, the Member commented on school reorganisation. The investigation found that comments made about the relocation of a particular school appeared to have been made in the context of a report that identified that the school was at risk of being affected by a landslide. The comments were based on independent professional advice and were therefore not likely to amount to a breach of the Code.

The Member also made general comments about the Council’s school reorganisation plans. Whilst the Member clearly expressed his preliminary views on the matter, he did not appear to discount the possibility of other options. Neither did he indicate that he would not be willing to consider the advice of appropriate officers. That being so, the comments did not amount to a breach of the Code.

During the recording, the Member suggested that he would refuse funding for a proposal supported by another political party in favour of a contradicting Labour proposal and, in doing so, referred to his involvement in the repair of a cemetery road in Ystalyfera. The decision to fund the work on the road was made by the Council’s Capital Programme Steering Group. Whilst the Member was copied into correspondence, he was not involved in the decision to fund the work. As such, the Ombudsman concluded that there was no evidence to suggest that the Member misused his position in relation to this matter and there was no evidence of a breach of the Code.

The Member also made reference to “cutting out” another member when putting through a regeneration programme which that member had been campaigning about for several years. The investigation found no evidence of any deliberate action by

the Member to “cut out”, or exclude the other member from the programme. There was a failure to keep the member informed of developments, however, it was not the Member’s responsibility to do so and, in any event, a Council officer took ultimate responsibility for this oversight. There was no evidence of a breach of the Code by the Member.

The Member was informed that no evidence of breaches of the Code were found during the investigation.

12. Integrity : Saltney Town Council

Report date

15/06/2021

Subject

CODE : Integrity

Outcome

CODE

Case ref number

202004182

Report type

CODE - No evidence of breach

Relevant body

Saltney Town Council

A Member (“the Member”) of Saltney Town Council (“the Council”) self-referred to the Ombudsman as the Solicitors Regulation Authority (“the SRA”) had publicly issued a disqualification order related to their former employment as a paralegal.

The Ombudsman investigated whether the Member’s conduct may amount to a breach of paragraph 6(1)(a) of the Code of Conduct (“the Code”).

The Ombudsman obtained copies of the SRA’s decision documents and found that it had reached a finding of dishonesty against the Member on the basis that the Member had provided false information to clients on the progress of their cases.

There was no suggestion of any financial impropriety or criminal conduct on the Member's part.

The Ombudsman found that, whilst the Member may have brought themselves personally into disrepute as a result of the SRA's public decision notice, the Member's role as a paralegal was entirely related to their private life and had no connection to the Council or their role as a Councillor. Furthermore, the SRA's dishonesty finding related to the Member's inability to progress work. This being the case, the Ombudsman did not consider that the Member's actions amounted to a breach of paragraph 6(1)(a) of the Code.

13. Integrity : Gwynedd Council

Report date

09/05/2022

Subject

CODE: Integrity

Outcome

CODE

Case ref number

202004473

Report type

CODE - No evidence of breach

Relevant body

Gwynedd Council

The Ombudsman received a complaint that a Member ("the Member") of Gwynedd Council ("the Council") had breached the Code of Conduct when he shared material on his Facebook account which cast doubt on the existence of COVID-19 and about the vaccine, and when he appeared on a television show to discuss his views on COVID-19 and the vaccine.

The Ombudsman reviewed the member's Facebook activity and his appearance on the television show. The former Chief Executive of the Council was interviewed and comments were sought from the Member.

The Ombudsman found that the Member was entitled to freedom of expression and to hold and express his views regarding the COVID-19 pandemic and the COVID-19 vaccine (under Article 10 of the European Convention on Human Rights, which is incorporated into UK law by the Human Rights Act 1998). The Member's right to free speech allowed him to say things that may have been shocking or offensive to some people. The former Chief Executive's evidence suggested that the Member was not representing the 'Council's position'. The Member did not issue directions to members of the public in contravention of the public health measures in place at the time. Therefore, the Ombudsman did not consider there to be evidence that the Member breached the Code of Conduct.

14. Promotion of equality and respect : Pembrokeshire County Council

Report date

17/06/2022

Subject

CODE - Promotion of equality and respect

Outcome

CODE

Case ref number

202000660

Report type

CODE - Referred to Standards Committee

Relevant body

Pembrokeshire County Council

The Ombudsman received a complaint that a Member of Pembrokeshire County Council ("the Council") had failed to observe the Code of Conduct for Members of the Council. It was alleged that the Member had published a post in June 2020 on the social media platform Facebook, which could be considered to be racist, and could have the potential to damage the reputation of the office of Member and of the Council.

The Ombudsman's investigation established that the Member had publicly published his post in order to raise concerns about the Council's decision to light up County

Hall in support of Black Lives Matter. The Member deleted his entire Facebook profile page some weeks later. Numerous complaints about the post were made to the Council and to the Ombudsman's office, and the Member was subject to local and national Press interest, as well as considerable comment on Facebook. The Member said that he considered the post to fall within his right to free speech because he did not believe he had really offended anybody, and the complaints that were made against him were politically motivated.

The Ombudsman accepted that the Member had the right to question the Council's decision to support Black Lives Matter, however the language used by the Member was offensive and went beyond what would be expected of a councillor in a political discussion. The Member had not taken advantage of opportunities to attend equality and diversity training or social media training.

The Ombudsman determined that the Member may have breached the Council's Code of Conduct, in particular paragraph 6(1)(a) as he could reasonably be regarded as having behaved in a manner which might bring the office of member, or the Council itself, into disrepute. The Ombudsman referred his investigation report to the Monitoring Officer of Pembrokeshire County Council for consideration by its Standards Committee.

The Standards Committee decided that the Member had made the post in his capacity as Councillor and censured him for breaches of paragraphs 4(b) and 6(1)(a) of the Code. It said it would have considered a suspension had the Member been re-elected at the recent Local Government elections.

15. Promotion of equality and respect : Montgomery Town Council

Report date

11/05/2022

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202100773

Report type

CODE - No evidence of breach

Relevant body

Montgomery Town Council

The Ombudsman received a complaint that a Member (“the Member”) of Montgomery Town Council (“the Town Council”) breached the Members Code of Conduct (“the Code”) by failing to show respect and consideration for others, bullying and harassment of the Former Clerk and members of the Town Council, and malicious and vexatious complaints.

The Ombudsman investigated whether the Member’s conduct may amount to a breach of paragraphs 4(a), 4(b), 4(c), and 6(1)(a) of the Code.

The investigation found that the Town Council had experienced challenging interpersonal issues over a period of time and previous to the complaint, had undergone a Local Resolution process which identified corporate and individual situations requiring change and improvement. The Ombudsman considered that in the light of the Local Resolution findings and the Member’s right to freedom of expression as a councillor, the alleged conduct was not suggestive of a breach of the Code. The Ombudsman did not consider that complaints made by the Member had been malicious or vexatious.

The Ombudsman’s Guidance recommends that when members are performing their public roles, they should afford the public, colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. In view of this, the Ombudsman recommended that members of the Town Council, as a whole, should reflect on their obligations under the Code to treat others with respect and consideration.

16. Promotion of equality and respect : Bishton Community Council

Report date

23/03/2022

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202004326

Report type

CODE

Relevant body

Bishton Community Council

The Ombudsman received a complaint that a Former Member (“the Member”) of Bishton Community Council (“the Community Council”) had breached the Code of Conduct). It was alleged that the Member had been rude to the Clerk in a Council meeting, had ignored a request not to contact the Clerk and in doing so had bullied and harassed him. It was also alleged that the Member had failed to declare an interest in a settlement proposal.

The investigation considered the following paragraphs of the Code of Conduct:

4(b) – members must show respect and consideration for others

4(c) – members must not use bullying behaviour or harass any person

11 – disclosure of personal interests

14 – disclosure of prejudicial interests

During the course of the investigation, information from the Community Council was considered and witnesses were interviewed. The Member stood down from his role and did not participate in the investigation.

The investigation found that the Member had raised his voice to the Clerk at a meeting and offered a limited apology for his behaviour. It found that the Member did send an email to the Clerk but that this was a reply all email and at the time it was sent, a process was in place that all correspondence to the Clerk was being forwarded to the Chair. The investigation also found that the Member participated in the settlement proposal and agreement for the Clerk.

The Ombudsman considered that the Member's behaviour at the meeting and in an email was suggestive of a breach of paragraph 4(b) of the Code of Conduct but was not sufficiently serious that it would warrant any interference with his right to raise concerns about the Council's administration or that it was likely a sanction would be imposed upon him. The Ombudsman did not consider the behaviour was sufficiently serious that it was suggestive of a breach of paragraph 4(c) of the Code of Conduct.

The Ombudsman considered that, in respect of the settlement, the Member's actions were suggestive of a breach of paragraphs 11 and 14 of the Code of Conduct. However, the settlement was the outcome desired by the Clerk and as such did not disadvantage him. The vote to approve the settlement would still have been carried as it was agreed unopposed. As the Member was no longer in post and relationships in the Community Council have improved the Ombudsman did not consider that it was in the public interest to take any further action in respect of that matter.

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.

17. Promotion of equality and respect : Bishton Community Council

Report date

23/03/2022

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202003260

Report type

CODE - No action necessary

Relevant body

Bishton Community Council

The Ombudsman received a complaint that a Former Member ("the Member") of Bishton Community Council ("the Community Council") had breached the Code of

Conduct). It was alleged that the Member had been rude to the Clerk in a Council meeting, had ignored a request not to contact the Clerk and in doing so had bullied and harassed him. It was also alleged that the Member had failed to declare an interest in a settlement proposal.

The investigation considered the following paragraphs of the Code of Conduct:

4(b) – members must show respect and consideration for others

4(c) – members must not use bullying behaviour or harass any person

11 – disclosure of personal interests

14 – disclosure of prejudicial interests

During the course of the investigation, information from the Community Council was considered and witnesses were interviewed. The Member stood down from his role and did not participate in the investigation.

The investigation found that the Member had raised his voice to the Clerk at a meeting and offered a limited apology for his behaviour. It found that the Member did send an email to the Clerk but that this was a reply all email and at the time it was sent, a process was in place that all correspondence to the Clerk was being forwarded to the Chair. The investigation also found that the Member participated in the settlement proposal and agreement for the Clerk.

The Ombudsman considered that the Member's behaviour at the meeting and in an email was suggestive of a breach of paragraph 4(b) of the Code of Conduct but was not sufficiently serious that it would warrant any interference with his right to raise concerns about the Council's administration or that it was likely a sanction would be imposed upon him. The Ombudsman did not consider the behaviour was sufficiently serious that it was suggestive of a breach of paragraph 4(c) of the Code of Conduct.

The Ombudsman considered that, in respect of the settlement, the Member's actions were suggestive of a breach of paragraphs 11 and 14 of the Code of Conduct. However, the settlement was the outcome desired by the Clerk and as such did not disadvantage him. The vote to approve the settlement would still have been carried

as it was agreed unopposed. As the Member was no longer in post and relationships in the Community Council have improved the Ombudsman did not consider that it was in the public interest to take any further action in respect of that matter.

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.

18. Promotion of equality and respect : Llanvaches Community Council

Report date

14/03/2022

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202005981

Report type

CODE - No evidence of breach

Relevant body

Llanvaches Community Council

The Ombudsman received a complaint that a Member (“the Member”) of Llanvaches Community Council (“the Community Council”) had breached the Code of Conduct (“the Code”) regarding matters concerning a boundary dispute, work conducted by a Tree Surgeon and the disclosure of confidential information.

The Ombudsman investigated whether the Member’s conduct may amount to a breach of paragraphs 4(b), 4(c), 5(a), 6(1)(a) and 7(a) of the Code of Conduct (“the Code”).

The Ombudsman obtained documents which demonstrated that the boundary dispute had been resolved, and the Member had declared an interest and not been involved in, or sought to influence, the Community Council’s decision regarding a formal request to plant saplings on the boundary. Interviews were undertaken with the complainant, the Tree Surgeon, and another Community Council Member. The

Ombudsman found that the Tree Surgeon had removed branches from a tree on Community Council leased land without authorisation, the Member had a legitimate reason to question the work being carried out, and he had not used abusive or offensive language. During the investigation it was established that the disclosure of confidential information was being considered as part of another complaint.

The Ombudsman did not consider that the Member's conduct concerning the boundary dispute or towards the Tree Surgeon was suggestive of a breach of the Code. However, he recommended that the Member should reflect on how he speaks about others and on his obligations under the Code to treat others with respect and consideration.

19. Promotion of equality and respect : Pembrokeshire County Council

Report date

08/10/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202004458

Report type

CODE - Discontinued

Relevant body

Pembrokeshire County Council

The Ombudsman received a complaint that a Member ("the Member") of Pembrokeshire County Council ("the Council") had failed to observe the Code of Conduct for Members. It was alleged that the Member had made threatening comments about a member of the public, which could have brought the Council into disrepute. The Ombudsman decided to discontinue the investigation because the investigation established that the comments were made wholly in the Member's personal capacity and the tone and comments exchanged with the member of the public who made the complaint were of a similar tone and content to those the Member had made. In view of this, the Ombudsman concluded that it was no longer in the public interest for him to continue the investigation.

20. Promotion of equality and respect : Sully and Lavernock Community Council

Report date

12/07/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202000622

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Sully and Lavernock Community Council

The Ombudsman received a complaint from an employee of Sully and Lavernock Community Council ("the Council") that a Member ("the Member") of the Council had failed to observe the Code of Conduct for Members.

It was alleged that, during an incident on a Council playing field concerning Council equipment, the Member verbally abused and bullied the employee and subjected the employee's father to abuse and provocation.

The Ombudsman concluded that the Member used abusive and offensive language towards the employee in front of other members and the employee's father, in an attempt to insult, belittle and undermine the employee. The Ombudsman concluded that the Member's actions were suggestive of bullying and provocation.

The Ombudsman determined that the Member's behaviour may have breached the Council's Code of Conduct, in particular 4(b) and 4(c) in a failure to show respect and consideration to others, and not to use bullying behaviour. The Ombudsman also found that the Member's conduct could reasonably be regarded as behaviour which might bring the office of Member of the Council into disrepute and was therefore also suggestive of a breach of 6(1)(a) of the Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of Vale of Glamorgan Council for consideration by its Standards Committee.

The Member resigned shortly before the Standards Committee Hearing. The Standards Committee of Vale of Glamorgan Council determined that the Former Member had breached paragraphs 4(b), 4(c) and 6(1)(a) of the Code of Conduct and the Former Member received a censure.

21. Promotion of equality and respect : Gwynedd Council

Report date

05/10/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202002960

Report type

CODE - No action necessary

Relevant body

Gwynedd Council

The Ombudsman received a complaint that a Member (“the Member”) of Gwynedd Council (“the Council”) had breached the Code of Conduct (“the Code”).

It was alleged that the Member posted a homophobic comment on Facebook. The Member was not acting in his official role as a member when he posted the comment, therefore, the investigation considered whether the Member breached paragraph 6(1)(a) of the Code, which says that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

The information gathered during the investigation showed that in October 2020, the complainant’s newly appointed employee posted on Facebook, “think I work for the

best boss” and tagged the complainant. The Member, posting from his personal Facebook account, replied, “do you suck for a living?”.

The employee was contacted as part of the Ombudsman’s investigation, however, he did not provide the Ombudsman with a completed witness statement. The evidence gathered was put to the Member and he was interviewed as part of the investigation. During interview, he said that there was no homophobic intent behind his comment and, whilst he accepted in hindsight that his comment could be perceived as homophobic, he said that his intention was to point out his view that the employee was “creeping up” to his employer.

Whilst the Ombudsman appreciated why the complainant and others had interpreted the comment as homophobic, he did not consider the Member’s explanation to be wholly implausible given that “sucking up” is a term commonly used to describe sycophantic behaviour.

The Member said that he regretted his actions and that faced with the same circumstances again, he would not have commented on the Facebook post. He also said that he was willing to apologise to the complainant and his employee for the offence that he had caused, which the Ombudsman encouraged him to do.

The Ombudsman did not consider it in the public interest to take any further action in relation to this matter.

22. Promotion of equality and respect : Abertillery & Llanhilleth Community Council

Report date

02/08/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

201906362

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Abertillery & Llanhilleth Community Council

The Ombudsman received a complaint that a Member (“the Member”) of Abertillery & Llanhilleth Community Council (“the Council”) had breached the Code of Conduct.

It was alleged that the Member had shown a disregard for the principle of equality, by making comments about another member’s hearing impairment and deliberately making it difficult for that member to participate in Council meetings.

The investigation considered whether the Member failed to comply with the following provisions of the Code of Conduct:

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.

4(b) – members must show respect and consideration for others.

4(c) – members must not use bullying behaviour or harass any person.

During the investigation, it became apparent that the Member may have failed to comply with paragraphs 6(1)(a) (members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute) and 6(2) of the Code of Conduct (members must comply with any request by the Ombudsman in connection with an investigation conducted in accordance with his statutory powers).

Five witnesses were interviewed during the investigation: all were members of the Council. The investigation found that the evidence suggested that the Member had directly discriminated against another member by making discriminatory remarks about her disability during and immediately after a Council meeting on 30 October 2019, and by deliberately making it difficult for her to participate at Council meetings. The Ombudsman concluded that the Member’s behaviour was suggestive of a serious breach of paragraph 4(a) of the Code of Conduct.

The Ombudsman considered that the Member’s comments about the other member’s disability were a clear attempt to intimidate and undermine her. He

considered that the Member's behaviour was also suggestive of a breach of paragraph 4(b) of the Code of Conduct.

The Member denied that his actions breached the Code of Conduct, but he refused to be interviewed so that he could provide an account for the specific actions complained about. The other member said that she felt distressed and intimidated after the meeting on 30 October. Witnesses have also described the other member as being visibly upset during Council meetings. On balance, I consider that the Member behaved in a way that is suggestive of a breach of paragraph 4(c) of the Code of Conduct. The Ombudsman was also of the view that it would be reasonable to regard such conduct as capable of bringing the Member's office or authority into disrepute and was therefore suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct.

In relation to paragraph 6(2) of the Code of Conduct, the Ombudsman's Investigation Officer made reasonable and appropriate requests in connection with this investigation. The Investigation Officer took extra steps, causing a delay in the process, to appease the Member and to help him feel comfortable with the process. The Investigation Officer also took steps to make reasonable adjustments to afford the Member the opportunity to fully engage. My view is that the Member deliberately failed to engage with my investigation in an attempt to obfuscate the process and that his actions were suggestive of a breach of paragraph 6(2) of 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.

The Adjudication Panel for Wales concluded that the Member had breached paragraphs 4(a), 4(b), 4(c), 6(1)(a) and 6(2) of the Code of Conduct and suspended him for 10 months. It also recommended that the Member should undertake further training on the Code of Conduct, undertake Equality and Diversity training and provide the Complainant with a full written apology.

23. Promotion of equality and respect : Llantwit Fardre Community Council

Report date

30/07/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202002984

Report type

CODE - No evidence of breach

Relevant body

Llantwit Fardre Community Council

The Ombudsman received a complaint that a Former Member of Rhondda Cynon Taf County Borough Council (“the Council”) and Llantwit Fardre Community Council (“the Community Council”) had breached the Code of Conduct for Members (“the Code”) in using the term “Pikies” during a community WhatsApp group discussion.

The Ombudsman investigated whether the Former Member’s conduct may have breached paragraphs 4(a), 4(b) and 6(1)(a) of the Code. During the investigation the Member resigned from both the Council and Community Council. The Ombudsman’s investigation found that the community WhatsApp group was comprised of members of a village hall committee and at the time of the exchange the Former Member was not a Council or Community Council representative on the committee or WhatsApp group. The Ombudsman found the Former Member was not acting in his public role during the exchange and therefore paragraphs 4(a) and 4(b) of the Code were not engaged when he made the post in his private capacity, and these provisions of the Code were not engaged when the Former Member made his comment on WhatsApp.

The Ombudsman considered that had the Former Member been a Council or Community Council representative, his conduct could be suggestive of a breach of paragraph 6(1)(a) of the Code. However, the Ombudsman was not persuaded there was a sufficient link to the Former Member’s role to suggest the comment would affect the reputation of the Former Member’s office or authority. This being the case, the Ombudsman did not consider that the conduct was suggestive of a breach of paragraph 6(1)(a) of the Code.

24. Promotion of equality and respect : Rhondda Cynon Taf County Borough Council

Report date

30/07/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202002418

Report type

CODE - No evidence of breach

Relevant body

Rhondda Cynon Taf County Borough Council

The Ombudsman received a complaint that a Former Member of Rhondda Cynon Taf County Borough Council (“the Council”) and Llantwit Fardre Community Council (“the Community Council”) had breached the Code of Conduct for Members (“the Code”) in using the term “Pikies” during a community WhatsApp group discussion.

The Ombudsman investigated whether the Former Member’s conduct may have breached paragraphs 4(a), 4(b) and 6(1)(a) of the Code. During the investigation the Member resigned from both the Council and Community Council. The Ombudsman’s investigation found that the community WhatsApp group was comprised of members of a village hall committee and at the time of the exchange the Former Member was not a Council or Community Council representative on the committee or WhatsApp group. The Ombudsman found the Former Member was not acting in his public role during the exchange and therefore paragraphs 4(a) and 4(b) of the Code were not engaged when he made the post in his private capacity, and these provisions of the Code were not engaged when the Former Member made his comment on WhatsApp.

The Ombudsman considered that had the Former Member been a Council or Community Council representative, his conduct could be suggestive of a breach of paragraph 6(1)(a) of the Code. However, the Ombudsman was not persuaded there was a sufficient link to the Former Member’s role to suggest the comment would affect the reputation of the Former Member’s office or authority. This being the case, the Ombudsman did not consider that the conduct was suggestive of a breach of paragraph 6(1)(a) of the Code.

25. Promotion of equality and respect : Pembroke Dock Town Council

Report date

23/04/2021

Subject

CODE : Promotion of equality and respect

Outcome

CODE

Case ref number

202000789

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Pembroke Dock Town Council

The Ombudsman received a complaint that a Former Member of Pembroke Dock Town Council (“the Council”) had failed to observe the Code of Conduct for Members of the Council. It was alleged that the Former Member had published a post on the social media platform Facebook, which could be considered racist and could have the potential to damage the reputation of the Council.

The Ombudsman’s investigation established that the Former Member had “liked” and “shared” the Facebook post, and that there had been a short delay before he took the post down. The investigation found that the Former Member had misled a local newspaper by stating that his Facebook account had been “hacked”, but had corrected this within 48 hours. It also found that the Former Member resigned as a member of the Council and was interviewed by police, who took no further action.

The Former Member said that he had not recognised the racist overtones when he shared the post, and was not a racist person. He apologised for any offense he might have caused. The Former Member accepted that he had the opportunity to attend Code of Conduct training which would have included training on equality issues. He had not attended, due partly to his disability, but accepted that he had not requested training in a manner more accessible to him.

The Ombudsman determined that the Former Member may have breached the Council’s Code of Conduct, in particular, paragraphs 4(a) and 4(b), as he may have

failed to have due regard to the principle of equality of opportunity for all people while carrying out his duties, and may not have shown due respect and consideration for others. The Ombudsman also found that the Former Member's actions could reasonably be regarded as behaviour which might bring the office of member, or the Council itself into disrepute, which may amount to a potential breach of paragraph 6(1)(a) of the Code of Conduct.

The Standards Committee of Pembrokeshire County Council determined that the Former Member had breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct. The Former Member was given a censure.

26. Promotion of equality and respect : Tywyn Town Council

Report date

17/12/2021

Subject

CODE Promotion of equality and respect

Outcome

CODE

Case ref number

201906873

Report type

Referred to Standards Committee

Relevant body

Tywyn Town Council

The Ombudsman received a complaint from the Chair of the Personnel Committee of Tywyn Town Council ("the Council") that a Member ("the Member") of the Council had failed to observe the Council's Code of Conduct for Members.

It was alleged that the Member had been disrespectful to the Clerk of the Council ("the Clerk") and had repeatedly undermined her. The complaint related to correspondence sent by the Member to the Clerk and correspondence sent by the Member about the Clerk.

The Ombudsman concluded that the Member's correspondence included derogatory personal comments which were disrespectful and that comments about the Clerk's experience were intended to undermine the Clerk. The Member also used gendered language when commenting on the Clerk.

The Ombudsman determined that the Member may have breached the Council's Code of Conduct, in particular, paragraphs 4(a), 4(b) and 4(c) as the Member failed to 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; a failure to show respect and consideration, and bullying or harassing behaviour of the Clerk. The Ombudsman also found that the Member's actions could reasonably be regarded as behaviour which might bring the office of Member or the Council into disrepute and a potential breach of paragraph (6(1)(a) of the Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of Gwynedd Council for consideration by its Standards Committee.

The Standards Committee censured Councillor Stevens as he resigned from the Council prior to the hearing. It said it would have suspended him for the fullest period possible and asked him to reflect on his behaviour.

27. Disclosure and registration of interests : Grovesend and Waungron
Community Council

Report date

01/04/2022

Subject

CODE: Disclosure and registration of interests

Outcome

CODE

Case ref number

202100010

Report type

CODE - No action necessary

Relevant body

Grovesend and Waungron Community Council

The Ombudsman received a complaint that a Member (“the Member”) of Grovesend and Waungron Community Council (“the Community Council”) had breached the Code of Conduct. It was alleged that the Member had failed to declare a personal and prejudicial interest when considering a planning application for a housing development adjacent to their property. It was also alleged that, when work started on the housing development, the Member hindered lorries from entering the site and threatened the development contractor with a solicitor’s letter, saying she was acting on behalf of the Community Council.

The investigation considered the following paragraphs 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 advantage or disadvantage themselves or any other person.

11 – Members must disclose the existence and nature of a personal interest before participating in any business of their authority to which it relates.

14 – Members must, unless they have obtained dispensation from their authority’s standards committee, withdraw from a meeting which is considering any business of their authority in which they have a prejudicial interest and not seek to influence a decision about that business

During the course of the investigation, information from the Community Council and the development contractor was considered and witnesses were interviewed.

The investigation found that when the planning application came before the Community Council as part of a consultation process the Member was advised incorrectly that she did not need to declare an interest. The Ombudsman found that as the Member lived adjacent to the housing development and ran a business from her property, it was likely that she had both a personal and prejudicial interest in the planning application, and, therefore, she may have breached paragraphs 11 and 14 of the Code of Conduct.

The investigation found that whilst the Member may have influenced other members at the meeting, the Community Council as a whole submitted its objections to the planning application. However, the planning application was ultimately agreed by the County Council, and the development went ahead. Therefore, the Member's participation and the objection to the planning application from the Community Council did not cause a disadvantage to the applicant. The Ombudsman also considered that the evidence gathered during the investigation did not support the allegation that the Member had hindered lorries and threatened the contractor with a solicitor's letter or suggested that the Member had used her position improperly or brought her office as a member or the Community Council into disrepute in breach of paragraphs 6(1)(a) or 7(a) of the Code of Conduct.

The Ombudsman determined that the incorrect advice provided some mitigation for the Member's actions and, as the conduct did not affect the outcome of the planning application, it was unlikely a sanction would be imposed, and it was not in the public interest to pursue the matter. The Ombudsman therefore 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.

28. Disclosure and registration of interests : Conwy Town Council

Report date

12/05/2021

Subject

CODE : Disclosure and registration of interests

Outcome

CODE

Case ref number

202004765

Report type

CODE - Discontinued

Relevant body

Conwy Town Council

An Officer of Conwy Town Council complained that a Member had breached the Code of Conduct for Members when they failed to declare a personal and prejudicial

interest in Council business and leave the room while that business was discussed at two Conwy Town Council meetings. The Member had previously been suspended for one month by the Standards Committee for similar conduct.

The Ombudsman considered whether the Member may have breached paragraphs 6(1)(a), 11(1), and 14(1)(a)(ii) of the Code of Conduct.

The Member resigned from Conwy Town Council during the course of the Ombudsman's investigation. The Ombudsman decided to discontinue the investigation as it was no longer in the public interest to pursue the matter further.

29. Disclosure and registration of interests : Conwy Town Council

Report date

12/05/2021

Subject

CODE : Disclosure and registration of interests

Outcome

CODE

Case ref number

202004764

Report type

CODE - Discontinued

Relevant body

Conwy Town Council

An Officer of Conwy Town Council complained that a Member had breached the Code of Conduct for Members when they failed to declare a personal and prejudicial interest in Council business and leave the room while that business was discussed at two Conwy Town Council meetings. The Member had previously been suspended for one month by the Standards Committee for similar conduct.

The Ombudsman considered whether the Member may have breached paragraphs 6(1)(a), 11(1), and 14(1)(a)(ii) of the Code of Conduct.

The Member resigned from Conwy Town Council during the course of the Ombudsman's investigation. The Ombudsman decided to discontinue the investigation as it was no longer in the public interest to pursue the matter further.

30. Duty to uphold the law : Llansantffraed Community Council

Report date

24/06/2022

Subject

CODE : Duty to uphold the law

Outcome

CODE

Case ref number

202004442

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Llansantffraed Community Council

The Ombudsman received a complaint that a Member ("the Member") of Llansantffraed Community Council ("the Council") had breached the Code of Conduct. It was alleged that the Member was involved in an incident with a Council contractor ("the Contractor"), following which there was a Police investigation. The Member subsequently pleaded guilty to a charge of causing bodily harm by wanton and furious driving. The investigation considered whether the Member failed to comply with the following provision 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.

A witness account was obtained from the Clerk and information was obtained from the Police and the Court. The Member declined to cooperate with the Ombudsman's investigation. The investigation found that the nature of the criminal offence involving the Council's Contractor, the impact upon the young boys hurt in the incident, and the publicity surrounding the incident, which referred to the Council, suggested that the Member's actions may have brought her office and the Council into disrepute and were suggestive of a breach of paragraph 6(1)(a) of 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.

The Tribunal concluded that the Member had breached paragraph 6(1)(a) of the Code of conduct by bring their office as Councillor into disrepute. 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.

31. Duty to uphold the law : Bodelwyddan Town Council

Report date

06/09/2021

Subject

CODE : Duty to uphold the law

Outcome

CODE

Case ref number

202100504

Report type

CODE - No action to be taken

Relevant body

Bodelwyddan Town Council

The Ombudsman received a complaint that a Member (“the Member”) of Bodelwyddan Town Council (“the Council”) had breached the Code of Conduct (“the Code”) when they shared confidential CCTV images on the Council’s Facebook page in a post published in March 2021.

The Ombudsman investigated whether the Member’s actions may have amounted to a breach of paragraphs 5(a) and 6(1)(a) of the Code.

The Ombudsman obtained relevant information from the Council and considered the Member’s comments. The Ombudsman found that the Member had published a mostly obscured image from the Council’s CCTV footage on the Council’s Facebook page. As the CCTV images should reasonably be considered to be confidential and should not be shared publicly in this way, the Ombudsman considered that the

Member's actions may be capable of amounting to a breach of paragraphs 5(a) and 6(1)(a) of the Code.

However, the Council had provided no training on the Code, the use of its social media, or the use of its CCTV to the Member. Moreover, the Council had no policies or procedures in place in relation to the use of its social media or the use of its CCTV. The Member had also apologised to their fellow Council members and removed the image quickly when requested. The Ombudsman therefore did not consider any further action to be necessary. He did, however, suggest that the Member seek training on the Code as soon as possible and that the Council should promptly consider whether it has appropriate CCTV, data protection, and social media policies and/or procedures in place.

32. Selflessness and stewardship : Newport City Council

Report date

13/07/2021

Subject

CODE : Selflessness and stewardship

Outcome

CODE

Case ref number

202001914

Report type

CODE - Referred to Standards Committee/APW

Relevant body

Newport City Council

The Ombudsman received a complaint from the Practice Manager of a GP Practice ("the Practice") in the area of the Aneurin Bevan University Health Board ("the Health Board"), that a Member ("the Member") of Newport City Council had failed to observe the Code of Conduct for Members.

It was alleged that the Member used their position as a member of the Council improperly when they advocated on behalf of a patient of the Practice.

The Ombudsman concluded that the Member had made 2 telephone calls to the Practice in which she sought to improperly rely on her position as a Member of the Council, and as a Council representative on the Health Board, in order to speak to an on-call doctor about the patient's healthcare. The Ombudsman also concluded that the Member had made a complaint to the Health Board containing information which was critical of the Practice staff and did not accurately reflect the content of the telephone conversations. The Ombudsman was of the view that the complaint was an attempt by the Member to use their position to undermine the actions of the Practice and create a disadvantage for it.

The Ombudsman therefore determined that the Member may have breached paragraph 7(a) of the Council's Code of Conduct for Members and referred his investigation report to the Monitoring Officer of Newport City Council for consideration by its Standards Committee.

The Standards Committee concluded that the Member had breached paragraph 7(a) of the Code of Conduct and suspended her for 3 months. It also recommended to the Council that she be removed from her position on the Health Board.

Mae'r dudalen hon yn wag yn bwrpasol

FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME 2022/23

Date of Meeting	Topic	Notes/Decision/Action
3 July 2023	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Any reports back from visits to T&CCs • Rolling review of Members Code of Conduct • Forward Work Plan 	Verbal
8 May 2023	<ul style="list-style-type: none"> • Training • Dispensations • Annual Report • Draft Annual Report • Any reports back from visits to T&CCs • Forward Work Plan 	Verbal
6 March 2023	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Any reports back from visits to T&CCs • Forward Work Plan 	Verbal
9 January 2023	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Any reports back from visits to T&CCs • Rolling Review of Officers Code of Conduct • Forward Work Plan 	Verbal

<p>7 November 2022 Joint meeting with T&CCs</p>	<ul style="list-style-type: none"> • Training • Dispensations • Rolling review of Members Code of Conduct • Items raised by Town and Community Councils • Any reports back from visits to T&CCs • Terms of Reference for the National Forum • Public Services Ombudsman for Wales’ “My Findings” Publication • Forward Work Plan 	<p>Report by Gareth Owens Verbal Verbal Report by Gareth Owens</p> <p>Report by Matt Georgiou</p>
<p>5 September 2022</p>	<ul style="list-style-type: none"> • Training • Dispensations • Feedback from Ethical Liaison Meeting • Independent Member Visits to Town and Community Councils • Update on Recruitment of a Town and Community Council Representative • Overview of Ethical Complaints • Update on the Creation of National Forum for Independent Members • Forward Work Plan 	<p>Report by Gareth Owens Report by Matt Georgiou Report by Gareth Owens</p> <p>Report by Gareth Owens Verbal Report by Gareth Owens</p>
<p>Reports to be scheduled - Survey on the Production of Councillor Newsletters November 2023 – Protocol on Member/Officer relations</p>		