

# The Code of Conduct Casebook

Issue 10 October 2016

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## Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

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

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

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

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers July to September 2016, but also includes the summaries of older cases for which the standards committee or Adjudication Panel hearings were concluded during this period.

## Case summaries

### No evidence of breach

#### **Magor with Undy Community Council - Objectivity and Propriety**

##### **Case Number 201601530 - Report issued in August 2016**

A member of the public complained that a member ("the Councillor") of Magor with Undy Community Council ("the Council") had written to the Council to ask to represent it on external committees. At the time he wrote to the Council he was suspended from Council duties, following a ruling by the Adjudication Panel for Wales (APW), that he had previously breached the Code of Conduct. The complainant said that the Councillor had shown little regard for the decision of the APW and had brought his Office or Authority into disrepute.

The Ombudsman established that the Councillor had written a letter to the Council but that it made clear his intention was to serve on those committees once he returned to his duties following the suspension. There was no evidence to suggest that he had sought to undertake Council duties whilst he was suspended. The Ombudsman found that there was no evidence of a breach of the Code of Conduct.

#### **Flintshire County Council - Duty to uphold the law**

##### **Case Number 201501526 - Report issued August 2016**

Mr A complained that a member ("the Councillor") of Flintshire County Council ("the Council") may have breached the Code of Conduct for members by attempting to obtain money from him in return for support for his planning applications. Mr A said that when he refused to pay off the Councillor's mortgages or a car loan, she opposed his planning applications and failed to declare an interest in relation to her dealings with him.

Information was obtained from the Council and North Wales Police, including recordings of Police interviews with the Councillor and Mr A.

The Ombudsman found that there was no evidence to substantiate Mr A's allegations, and as such there was no breach of the Code.

#### **Caerphilly County Borough Council - Objectivity and propriety**

##### **Case Number 201601317 - Report issued in September 2016**

Mr A complained that a member ("the Councillor") of Caerphilly County Borough Council ("the Council") may have breached the Code of Conduct by deliberately providing confidential information to a member of the public (Mr B).

Information was obtained and considered from Mr A, the Councillor, the Council and various witnesses. Mr B was also interviewed.

The Ombudsman found that the information provided by Mr A appeared to be an unintentional misunderstanding and that, overall, the evidence did not suggest that the Councillor disclosed confidential information to Mr B and therefore there was no breach of the Code of Conduct.

**Langstone Community Council - Selflessness and stewardship**

**Case Number 201504048 – Report issued in September 2016**

Mr B complained that a member (“the Councillor”) of Langstone Community Council (“the Council”) may have breached the Code of Conduct for members by allegedly improperly using his influence as a councillor and former police officer to cause the Police to visit a resident, Mr A, in an attempt to “warn him off” pursuing concerns about the Councillor.

Mr A and Mr B were interviewed and information was obtained from the Police and the Councillor.

The Ombudsman found that the evidence did not suggest that there was a breach of the Code by the Councillor. The Councillor believed that he and his family were being harassed by Mr A, and the evidence did not suggest that he sought to use his status as a councillor or former police officer to influence how the Police dealt with the matter. The Ombudsman found there was no evidence of a breach of the Code.

## No action necessary

### **Isle of Anglesey County Council - Accountability and openness**

#### **Case Number 201505105 – Report issued in July 2016**

A complaint was issued claiming that a member (“the Councillor”) of the Isle of Anglesey County Council, had broken the Code of Conduct by taken part in a decision in the Orders and Planning Committee meeting (“the Committee”) even though his nephew lived near the development under discussion.

The investigation considered whether the Councillor had breached paragraphs of the Code of Conduct with regard to prejudice and personal interests.

Whilst the Ombudsman recognises that the Councillor had broken the Code by failing to declare a personal interest in the Committee’s meeting, he didn’t believe that the Councillor had a prejudicial interest based upon the evidence gathered.

The Ombudsman’s conclusion was that no action needed to be taken regarding the matters investigated.

### **Bridgend County Borough Council - Promotion of equality and respect**

#### **Case Number 201503556 - Report issued in July 2016**

The Ombudsman investigated a complaint that a member (“the Councillor”) of Bridgend County Borough Council (“the Council”) had breached the Code of Conduct for members when she called another member a “scab” at the conclusion of a Development Control Committee meeting on 8 January 2015. It was also alleged that the Councillor called the member a “b\*\*\*\*\* scab” in the Council’s Members’ Room about a week later and that she refused to apologise in full for her comments.

The Councillor’s reason for refusing to apologise was that she believed, in the absence of evidence of any dispensation granted to the Member during the miners’ strike of 1984-85, her comment was a statement of fact.

Evidence of the Member’s dispensation was presented to the Councillor during the course of the investigation and she acknowledged that she was therefore wrong to call the Member a “scab” and said that she was willing to publicly apologise to him. The Councillor accepted that her actions had breached the Code of Conduct.

In reaching his finding, the Ombudsman considered the Councillor’s acceptance that her conduct breached the Code and her offer to apologise to the member for her actions. In light of this the Ombudsman concluded that it was not in the public interest to pursue this matter further, and so no action needed to be taken in respect of the matters investigated.

### **Cwmaman Town Council – Disclosure and registration of interests**

#### **Case Number 201504239 – Report issued in August 2016**

Councillor A complained that a member (“the Councillor”) of Cwmaman Town Council (“the Town Council”) might have breached the Code of Conduct when he failed to declare an interest at a Town Council meeting

on 30 September 2015 in respect of a planning application (“the application”) and by his behaviour at the end of the meeting.

The Ombudsman investigated whether the Councillor had an interest in the application under discussion and whether his behaviour at the end of the meeting was such that it brought his office or the Town Council into disrepute and whether it could be considered disrespectful.

The Ombudsman found that the Councillor’s conduct might have breached the Code. However, the Ombudsman concluded that the matter was not in the public interest to pursue. The Ombudsman’s finding was that no action needed to be taken in respect of the matters investigated.

## Referred to Standards Committee

### **Manorbier Community Council - Disclosure and registration of interests**

#### **Case Number 201408960 – Report issued in February 2016**

The owner of a Caravan Park complained that a member (“the Councillor”) of Manorbier Community Council (“the Council”) was improperly involved in discussions at a meeting when it was resolved to recommend to the local planning authority that a planning application relating to the Caravan Park be refused. The Councillor’s house is adjacent to the Caravan Park and she had acknowledged making a number of complaints about the business over the years. The Councillor accepted that she had a personal interest in the matter, but denied that she had a prejudicial interest which would have prevented her from being involved in the decision.

The Ombudsman found that given the proximity of the Councillor’s home to the business, and the history of complaints, it was likely that she had a prejudicial interest in the planning application. He therefore considered it likely that the Councillor had breached the Code of Conduct. He recommended that his report should be referred to the Monitoring Officer of Pembrokeshire County Council, for consideration by the Council’s Standards Committee.

The Standards Committee heard the case on 20 May 2016. It found that the Councillor had breached the Code of Conduct and imposed a two month suspension. The Committee also recommended that the Councillor undertake training on the Code of Conduct within six months.

The Councillor subsequently appealed the Committee’s decision to the Adjudication Panel for Wales. The Panel agreed that the Councillor had breached the Code and increased the period of suspension to three months.

## Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding



## More information

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

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