

The Code of Conduct Casebook

APPENDIX 1

Issue 11 January 2017

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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 October to December 2016.

Case summaries

No evidence of breach

Monmouthshire County Council – Promotion of equality and respect

Case Number 201602663 – Report issued in November 2016

The Ombudsman received a complaint that during a debate condemning hate crime at a Council meeting on 28 July 2016, a member of Monmouthshire County Council (“the Councillor”) spoke to defend and justify racially offensive language when, in his view, it was used without malice. Furthermore, the Councillor used examples of such language during his speech and caused offence.

The investigation found that Members have a duty to consider any motion proposed, subjecting it to critical analysis and scrutiny. The extent to which that function is exercised should not be restricted by the nature of the motion in question, no matter how sensitive, and the enforcement of such a restriction would unjustifiably affect a member’s freedom of expression.

The Ombudsman found that during his address, the Councillor stated that he supported the motion but requested a definition of the term hate crime. At no point did the Councillor suggest that racism, xenophobia or hate crime should be tolerated. The Ombudsman also found that whilst the Councillor’s examples were clumsily worded, there was no evidence that he used overtly racist, xenophobic or hateful language, nor were his comments directed at one person or a group of people.

The Ombudsman found that there was no breach of the Code of Conduct.

No action necessary

Tywyn Town Council – Disclosure and registration of interests

Case Number 201600999 – Report issued in November 2016

A complaint was made that Former Councillor X failed to declare a personal and prejudicial interest at a meeting of the Ynysymangwyn Caravan Park Committee on 16 March 2016. Former Councillor X's interest arose as the owner of a nearby caravan park.

On 10 February, the Monitoring Officer had advised the Former Councillor that he had a prejudicial interest in this Committee. The Former Councillor subsequently applied for a dispensation from the Council's Standards Committee to attend these meetings, which was rejected.

The Ombudsman invited the Former Councillor for interview, but on 4 October he tendered his resignation as a Councillor. The Ombudsman considered that the Former Councillor's conduct may have breached elements of the Code in relation to having regard to advice given by the Monitoring Officer; having a personal interest at meetings; declaring a personal interest and withdrawing from the meeting. However, in view of Former Councillor X's resignation, no further action was required.

Referred to Standards Committee

There are no summaries in relation to this finding

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 or Lucy.John@ombudsman-wales.org.uk or sent to the following address:

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