



Complete Agenda

Democratic Service
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

STANDARDS COMMITTEE

Date and Time

10.30 am, MONDAY, 14TH JUNE, 2021

Location

Virtual Meeting - Zoom

Contact Point

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(DISTRIBUTED 04/06/21)

STANDARDS COMMITTEE

Membership

Elected Members (3)

Councillors

Anne Lloyd Jones
Beth Lawton
Dewi Wyn Roberts

Independent Members (with a vote) (5)

Aled Jones
Margaret E. Jones
David Wareing
Einir Young
Hywel Eifion Jones

Community Committee Member (with a vote) (1)

Richard Parry Hughes

AGENDA

1. ELECTION OF CHAIR

*To elect a Chair for this committee.

2. ELECTION OF VICE-CHAIR

*To elect a Vice-chair for this committee.

**N.B. – The relevant regulations state:-*

“Only an independent member of the Standards Committee may be the Chairman and Vice-Chairman.”

3. APOLOGIES

To receive any apologies for absence.

4. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

5. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chair for consideration.

6. MINUTES

5 - 10

The Chair shall propose that the minutes of the previous meeting of this committee held on 22nd February, 2021 be signed as a true record.

7. THE STANDARDS COMMITTEE'S ANNUAL REPORT 2020/21

11 - 27

To submit the report of the Senior Solicitor (Corporate).

8. LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021 - CHANGES TO THE ETHICAL FRAMEWORK

28 - 34

To submit the report of the Monitoring Officer.

9. THE OMBUDSMAN'S CODE OF CONDUCT CASEBOOK

35 - 46

To submit the report of the Senior Solicitor (Corporate).

10. ALLEGATIONS AGAINST MEMBERS

47 - 49

To submit the report of the Senior Solicitor (Corporate).

STANDARDS COMMITTEE 22/02/21

Present:-

Elected Members:- Councillors Anne Lloyd Jones, Beth Lawton and Dewi Roberts

Independent Members:- Mr Aled Jones, Mr Hywel Eifion Jones, Miss Margaret E.Jones, Mr David Wareing and Dr Einir Young (Chair)

Also in Attendance: Iwan Evans (Monitoring Officer), Sion Huws (Senior Solicitor - Corporate) and Eirian Roberts (Democratic Services Officer).

1. APOLOGIES

An apology had been received from Mr Richard Parry Hughes, Community Council Member.

2. DECLARATION OF PERSONAL INTEREST

Mr Hywel Eifion Jones declared a personal interest in item 6 on the agenda – Public Service Ombudsman for Wales Consultation – New Draft Guidance on the Code of Conduct for Members of County and Community / Town Councils, as he was a member of the Adjudication Panel for Wales, a panel that was referenced in the report.

He was not of the opinion that it was a prejudicial interest, and he did not withdraw from the meeting during the discussion on the item.

3. URGENT ITEMS

No urgent matters were raised.

4. MINUTES

The Chair signed the minutes of the previous meeting of this committee held on 9 November 2020 as a true record.

5. SELF-ASSESSMENT AND WORK PROGRAMME

Submitted – the report of the Monitoring Officer inviting the committee to:-

- undertake a self-assessment of the work and outcomes of the Committee during 2019/20; and
- consider a draft work programme for 2021/22.

It was emphasised that although the self-assessment table in Appendix 1 was based on normal circumstances, the Covid situation had significantly impacted the ability to deliver the functions over the past year. Technically, a number of the functions fell within Category 4, but this did not fully reflect the situation, and it was important to note that it was the crisis that had led the Standards Committee to this situation rather than a lack of action on its part.

The Monitoring Officer was asked about his views on the Ombudsman's effectiveness in relation to the decisions on whether or not to investigate complaints. In response, it was explained that it was difficult to measure the effectiveness of the Ombudsman, although the

committee could monitor how the system was working when it discussed the Ombudsman's annual reports and quarterly letters. In response to a further question about challenging the Ombudsman's decision, it was explained that this did not generally happen, unless it was in relation to a very specific matter, or when something had been misunderstood or misinterpreted, or required further information. It was suggested that the committee could discuss this further under item 6 on the agenda.

It was noted that it would be beneficial to provide guidance on the Code of Conduct for groups that were choosing candidates for the 2022 Election, to ensure that people putting their names forward were aware of the commitments involved with becoming a councillor. In response, it was suggested that it would be useful for the committee to receive a report in November on the preparation for the May 2022 Election in relation to raising awareness of the Code of Conduct's requirements amongst prospective candidates and existing members.

It was noted that it was timely to review the overall training arrangements, and it was suggested that a report should be submitted to the committee meeting in June. It was also noted that, when circumstances allowed, it was intended to re-establish the pilot course for community councils on the Code of Conduct virtually, and to report back.

RESOLVED

- (a) To adopt the following as the committee's self-assessment of its performance in 2019/20, noting that circumstances beyond the control of the Standards Committee had meant that several actions could not be implemented this time:-

FUNCTION	ASSESSMENT (1/2/3/4)	Evidence	Further action
Promote and maintain high standards of conduct by members	1	The Chair and Vice-chair have attended the North Wales Standards Forum to share experiences with other standards committees. Submit an annual report to the Full Council The Committee has received a report on the Ethical Framework arrangements in the context of collaboration	Continue to attend and support
Assist the members to adhere to the Code of Conduct	2	The Monitoring Officer and his team provide advice and guidance at meetings, and on a one-to-one basis for members.	Resume training stages when resources permit
Advise the Council with regard to adopting or amending the Code of Conduct	No action required	No occasion has arisen to amend the Code.	
Monitor the implementation of the Code of Conduct	2	Receive regular reports of allegations against members Receive the annual reports of the Ombudsman and the	Continue to monitor, consider and promote alternative methods of receiving information

		Adjudication Panel for Wales.	<p>Receive regular reports from the Ombudsman's Code of Conduct Casebook.</p> <p>Receive annual reports on the register of interests and hospitality.</p>
Advise, train or arrange for members to receive training on matters relating to the Code of Conduct	3		Need to look at providing new training.
Granting dispensations to members	1	Applications have been considered under the new procedure.	
Deal with reports of case tribunals and any reports from the Monitoring Officer on matters referred by the Ombudsman	No action required	No hearings were required during the year	
Authorise the Monitoring Officer to pay allowances to persons assisting with an investigation	No action required	There were no occasions where such an allowance was due	
Exercise the above functions in relation to community councils	3	<p>The Monitoring Officer and his team provide advice and guidance to councillors, clerks and members.</p> <p>Adopt a training pilot on the Code of Conduct. A session has been included to pilot the content of the course.</p>	<p>A pilot course was held with Tywyn Town Council, with positive feedback. Need to consider resuming the programme virtually when resources allow.</p>

(b) Approve the following work programme for 2021/22:-

June, 2021

Annual Report
Allegations against Members
The Ombudsman's Casebook
Local Government and Elections (Wales) Act 2021
Training in general

November, 2021

**Register of Gifts and Hospitality
 Declaration of Interests Register
 The Ombudsman's Annual Report
 Allegations against Members
 Conflicts of Interests and partners outside Local Government
 Preparation for the May 2022 Election in respect of the Code of Conduct**

February, 2022

**Adjudication Panel's Annual Report
 Allegations against Members**

6 PUBLIC SERVICES OMBUDSMAN FOR WALES CONSULTATION – NEW DRAFT GUIDANCE ON THE CODE OF CONDUCT FOR MEMBERS OF COUNTY AND TOWN AND COMMUNITY COUNCILS

Submitted – the Monitoring Officer's report inviting the committee to provide comment and feedback on the Public Services Ombudsman for Wales Consultation on the new draft guidance on the Code of Conduct for Members of County and Town / Community Councils.

It was explained that the consultation had no prescribed questions, attention was drawn to the purpose of the document, and the following matters were suggested for the committee's consideration:-

- Is the guidance provided understandable and of use?
- Are there any aspects which are not as good and could be improved and how?
- Does anything else need to be included? What?

It was further noted that the Democratic Services Committee had considered the consultation at its meeting held on 18 February, and although it was generally supportive of the guidance in its content and tone, some questions had arisen in relation to the challenge of political expression, and the line between what was appropriate and inappropriate, especially in the respect and use of social media etc.

Reference was made to specific sections of the guidance, namely:-

- The two stage test used by the Ombudsman in deciding whether to investigate a complaint, or whether an investigation into a breach of the Code should continue.
- The right to political expression, where the Code could intervene, and where it crossed the line.
- The relevance of the Code to individuals, and the expectation that people holding public office should maintain high standards of conduct.
- The requirement for members who represented the Council on external bodies to comply with the Code of that body, as breaching that body's code could also mean that the member was breaching the Council's code.
- The community leadership role of members, and how sending inappropriate e-mails, or the careless and irresponsible use of social media brought the member's office into disrepute.
- The complex role and status of clerk within a community council.
- The role of the Monitoring Officer in the context of community councils.

During the discussion, the following matters were raised:-

It was noted, although the guidance included examples of breaches of the Code, that there was no reference made to the sanction applied in those cases.

It was suggested that the use of case studies and speech bubbles were a good way of highlighting parts of the document and making them relevant to people.

It was noted that the point regarding a lack of complaints investigated by the Ombudsman was raised annually in the full Council, but it was evident that less than 5% of the Ombudsman's work related to Councils, with the majority of the complaints arising in the field of health. Attention was also drawn to the fact that the Ombudsman had stated clearly in the introduction to the guidance that the number of low-level complaints submitted remained too high, and although it appeared that a very small number of members submitted these complaints, in this challenging period it was even more important that his office was used effectively, and that any investigations undertaken were proportionate and essential for the wider benefit of the public. It was also noted that the Ombudsman encouraged members to take advantage of any local arrangements for dealing with 'member against member' complaints, and a question was asked about the role of the Standards Committee and the Monitoring Officer in this respect. In response, reference was made to the Gwynedd Standard and the Council's internal resolution process for dealing with conflicts between members. It was noted that the Monitoring Officer tended to turn to the internal procedure to resolve matters between members within Gwynedd Council, and that ultimately, through this process, the matter could be escalated to the Standards Committee. Naturally, as this was outside the statutory framework, the Standards Committee's powers were limited. There had been very few occasions in Gwynedd Council where this had been relevant, and the majority of complaints were made by the public against members. Such complaints needed to be referred to the Ombudsman, although evidently, the Monitoring Officer could advise the public. The situation in relation to community councils was more challenging as they did not have the resources or the governance system to resolve problems between members. Again, where real problems arose, the Monitoring Officer could try to assist community councils to the best of his ability.

It was suggested that there was a perception among community council members that the Standards Committee could resolve conflicts, and that there was scope for the committee to be more aware of complaints so that they could be discussed, and the local resolution process could be used to respond to the problem.

It was noted that the examples in the guidance explained why the Standards Committee could not take a matter further, and it was suggested that this should be emphasised more explicitly in the committee's annual report to the full Council. In response, it was explained that the Standards Committee was sometimes viewed as a forum for the resolution of complaints, but that all external complaints, including complaints from community councils, must be referred to the Ombudsman. If there was a desire to offer a different service for community councils, it should be borne in mind that there were approximately 64 community and town councils, and approximately 700-750 community council members in Gwynedd. The resource implications as a result of offering this type of service could be significant, and care was needed not to offer a service that could not be delivered. However, it might be appropriate to disseminate the message. It was further suggested that the challenge could go beyond the 750 members, as there were former members of community councils that continued to show an interest in the work of those councils, and might possibly refer complaints to the Ombudsman.

It was emphasised that the guidance should be gender-neutral.

RESOLVED to submit the following observations in response to the consultation, and delegate the right to the Monitoring Officer to collate and convey the response on behalf of the Council:-

- That the committee welcomes the document overall, and is of the view that it is readable and very useful in terms of explaining the code. It is also believed that the use of case studies and speech bubbles is a good way of highlighting parts of the document and making it relevant to people.
- It would be useful if the examples of Code of Conduct breaches listed in the document also noted what the outcome had been, in order to give a clearer picture.
- It would be useful if the document included examples of how the public interest test has worked in practice i.e. what types of complaints have passed the threshold, and what types of complaints have failed.
- The document should be gender-neutral.

7. ALLEGATIONS AGAINST MEMBERS

Submitted - the report of the Senior Solicitor (Corporate) presenting information about the Ombudsman's decisions on formal complaints against members.

The meeting commenced at 10.30 am and concluded at 11.45 am

CHAIRMAN

Committee	Standards Committee
Date :	14 June 2021
Title	The Standards Committee's Annual Report 2020-21
Author	Senior Solicitor (Corporate)
Action :	Suggestions and approval

Background

1. The Standards Committee publishes an annual report to be presented to a meeting of the full Council. The Committee decided to do this as a means of raising the Committee's profile and of promoting its work.
2. I attach, for the Committee's attention a draft of the Annual Report for the period from 1 April 2020 to 31 March 2021.
3. The Committee is asked to approve the report.
4. The Chair of the Standards Committee will present the report to the Full Council in its next meeting. It will then also be distributed to each town and community council and published on the Council's website.

Recommendations

5. To approve the Committee's Annual Report.

**ANNUAL REPORT
OF THE
GWYNEDD COUNCIL
STANDARDS COMMITTEE
2020 - 2021**

FOREWORD BY THE CHAIR

[to follow]

Dr Einir Young
Chair of the Standards Committee

DRAFT

FOREWORD BY THE MONITORING OFFICER

[to follow]

**Iwan Evans
Monitoring Officer
Gwynedd Council**

DRAFT

INTRODUCTION

The Committee was established in 2001 under the Local Government Act 2000. The main role of the Committee is to promote and maintain high standards of conduct by the councillors and co-opted members of Gwynedd Council, and community and town councils in Gwynedd. It does so in many ways:

- Assisting the councillors and co-opted members to follow the Members' Code of Conduct
- Advising the authority regarding adopting or amending the Members' Code of Conduct
- Monitoring the implementation of the Members' Code of Conduct
- Advising, training or arranging training for councillors and co-opted members on matters relating to the Code of Conduct
- Determining complaints referred to it by the Public Services Ombudsman for Wales that members have breached the Code of Conduct
- Considering applications made by members for dispensations to allow them to participate in discussions despite them having a prejudicial interest under the Code
- Considering complaints referred to it under Gwynedd Council's local resolution procedure.
- Overseeing the Gwynedd Council Members Gifts and Hospitality Policy

COMMITTEE MEMBERS

Though the Standards Committee is one of the committees of Gwynedd Council, the majority of its membership does not have any connection with the Council or local government ('Independent Members'). It also has a member who represents the interests of the community councils ('Community Committee Member'), as well as three elected members from Gwynedd Council. The Chair and Vice-chair of the Committee must be Independent Members.

Independent Members

Margaret E Jones (member since 2012)

Originally from Llandrillo yn Rhos, Margaret has spent most of her life in Chwilog. She taught at Ysgol Abersoch for 32 years, including 14 as headmistress. She is a deacon in Eglwys yr Annibynwyr Siloh, Chwilog, was Chairman of the Council of the Union of Welsh Independents for 3 years and is also a former President of the Union. She was a member of Gwynedd Community Health Council and Vice Chairman until the reorganisation in 2010. She is an active member of the Chwilog Eisteddfod and in charge of the Chairing Ceremony.

Dr Einir Young (member since 2012)

Born in the Rhondda and raised in Llanelli and Cwmtwrch Einir has been living in Gwynedd for more than thirty years. She lived in California for a while and has travelled extensively in Africa mainly, working with marginal communities in semi-arid regions. Wales is her current priority but the challenges faced by communities are similar. We need a long term vision and plan, to ensure that the actions we take are for good or prevent things from getting worse. Integration and collaboration is critical and possibly more important of all to involve everyone. These are the principles are encapsulated in the Wellbeing of Future Generations Act and as Bangor University's Director of Sustainability Einir and her Sustainability Lab team are promoting the ways of working promoted in the Act across the institution and beyond. Maintaining standards is as important to sustainability as recycling and saving energy and Einir Welcomes the opportunity to contribute to and chair Gwynedd's Standards Committee. Amongst her many interests Einir is a passionate walker and she, her sister and her dog are currently walking the Wales Coastal Path. They have reached Marloes in Pembrokeshire, but sadly the pandemic has prevented them from making further progress for the time being. They have completed the Snowdonia Slate Trail.

David Wareing (member since 2015)

In 2014 David relocated from Lancashire to Groeslon following his retirement from Merseyside Police. He served for 26 years in a variety of roles with his last posting being to the Force Operations Department at HQ. This position involved the planning and delivery of large-scale public events, public safety during major Police operations and the reduction of police support to outside agencies through greater partnership working. David specialised in risk assessment and ensuring compliance of relevant Health and Safety legislation working within the legal framework. David represented Merseyside Police on all five Safety Advisory Groups that covered the Force Area. He firmly believes that the actions of those in public office must be both transparent and accountable.

Aled Jones (member since 2016)

Aled is originally from Lampeter, Ceredigion. He read Welsh and Geography at Aberystwyth University. Having graduated in 1999, he moved to Caernarfon to work for Cymen translation company. He became a joint-owner of the company in 2007 and now heads a team of 20 members of staff and employs over 15 other freelance translators. He lives in Bangor with Tegwen, and their two children Cai and Beca. He has a keen interest in sport and can often be seen on the touchline supporting Bethesda Rugby Club and Bangor City Football Club. As a result of his work as a simultaneous translator he is privy to observe conduct and standards at all levels of governance and to identify best practice.

Hywel Eifion Jones (member since 2019)

Born and educated in the Vale of Clwyd, Eifion was a senior manager with Barclays Bank serving 34 years in numerous branches throughout North and Mid Wales. He has undertaken many public service roles including County Councillor with Ynys Mon Council and member of North Wales Police Authority. He is currently a Magistrate on North West Wales bench, and a member of Gwynedd Pension, Betsi Cadwaladr and Adra Boards. He is also a member of the Adjudication Panel of Wales which determines alleged breaches of the Code of Conduct by elected members of County and Community Councils.

Community Committee Member

Councillor Richard Parry Hughes (member since 2017)

Richard was educated at Llanaelhaearn farm and went to Pwllheli Grammar School, Glynllifon Agricultural College, and Seale Hayne College (Plymouth University). He has a degree in Farm Management. He worked for a vet partnership in Chwilog for three years and as a part-time lecturer at Glynllifon College, before buying the Upper

Penfras Llwyndyrys farm where his family had been tenants for over three hundred years. He is married to Eleri and they have three sons. A former leader of Gwynedd Council, he still farms. He has extensive experience of committees, holding positions as chair of the Wales Federation of Young Farmers' Clubs before being elected as a member of public bodies. He served as a member of Gwynedd County Council from 1992 to 1996 and was a member of Gwynedd Council from 1996 to 2008. He led Gwynedd Council from 2003 to 2008 and was the Welsh Local Government Association spokesman on Environment and Planning during this period. He is an enthusiastic member of the Llwyndyrys Drama Company and a supporter of many other local societies such as Antur Aelhaearn and Friends of Carnguwch Church. He works voluntarily as a caseworker for the Farm Community Network. He is a member of Llannor Community Council since 1992.

Gwynedd Council Members

Councillor Dewi Roberts (member since 2017)

Dewi lives in Llanengan near Abersoch with his wife Bethan, and they have 5 children who are all grown up. He was an engineer and a lecturer in engineering at Bangor Technical College before joining North Wales Police. There he worked as a Detective, locally, regionally and nationally, before retiring after 29 years of service.

He was elected in May 2017 as Gwynedd Councillor representing Abersoch. Since his election he has chaired the Democratic Service Committee, is Chair of the Care Scrutiny Committee, Chair of the Dwyfor Area Committee, a member of the Audit and Governance Committee and Chair of the Gwynedd Community Health Council.

As well as being a member of the Standards Committee, he is also a member of the Standing Advisory Council for Religious Education, the Warden of Llanengan Church and sits on the Church Parish Council. He also serves as Governor of Ysgol Abersoch and Ysgol Botwnnog.

Councillor Beth Lawton (member since 2017)

Beth lives in Brynchrug and owns a local factory. She is a County Councillor for the Brynchrug / Llanfihangel area which includes the village of Brynchrug and Abergynolwyn. She is also a Community Councillor and chair of the School Governors of Craig y Deryn. She is active on several community-based committees including the Abergynolwyn Carnival, Brynchrug Rural Fair, Tywyn Hospital Appeal Committee and many others. She is Vice-chair of the Gwynedd Council Care Scrutiny Committee and is a director of the new leisure company.

Councillor Anne Lloyd-Jones (member since 2017)

Anne lives and runs a farm tourism business in Tywyn and has represented Tywyn on Gwynedd Council since 1995 and prior to that was a member of Meirionnydd District Council for eight years. She was first elected as a member of Tywyn town Council in 1985 and became the first Lady Mayor in 1991, and again in 2004, and was Chairman of Gwynedd Council in 2009. She is the former Chairman of Gwynedd Council's Planning Committee and is a founder member of the management Board of Cartrefi Cymunedol Gwynedd. She was a member of Meirionnydd Community Health Council, and is the present Chairman of Tywyn and District Hospital Appeal Fund.

She is a member and past Chairman of Ysgol Penybryn and a member on the Governing body of Ysgol Uwchradd Tywyn.

Anne was Chairman of Mid Wales Tourism from 2001-2016, was a founder member and past President and Treasurer of the Tywyn Inner Wheel Club and has been the Treasurer of the local branch of the NSPCC since 1989.

Anne is married to John and they have three daughters and twin granddaughters.

The Monitoring Officer

The Council's Monitoring Officer, Iwan Evans, along with officers from the Legal Service and the Democratic Service support the Standards Committee in its work. The Monitoring Officer has a statutory role to ensure that the Council, its members and its officers act appropriately and lawfully.

Contact Details

- Iwan Evans, Head of Legal Services and Monitoring Officer.
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- Sion Huws, Senior Solicitor (Corporate).
E-mail: sionhuws@gwynedd.llyw.cymru Tel: (01286) 679168

THE COMMITTEE'S WORK DURING 2020-2021

The Committee's work over the year has included the following (the Committee's full work programme can be seen in **Appendix 1**):

Cases heard by the Standards Committee

No complaints that elected members had breached the Code of Conduct were referred to the Committee during the year

Other Complaints

The Committee is also informed of those complaints not referred to it for decision. Summaries can be found in **Appendix 2**.

Dispensations

The Code of Conduct for Members provides that a councillor cannot participate in a discussion if he/she has a 'prejudicial interest'. However, a member has a right to apply to the Committee for permission to participate despite having this interest, i.e. dispensation.

No applications for dispensations were considered during the year.

North Wales Standards Committee Forum

The North Wales Standards Committee Forum gives representatives of all north Wales authorities' standards committees the opportunity to meet. The purpose of the forum is to enable the area's standards committees to discuss and share ideas, good practices and resources and also provide a joint opinion on a national level. The Chair and Vice—chair of the Committee attend the meetings.

Ceredigion and Powys Standards Committees are by now also members of the Forum.

THE STANDARDS COMMITTEE'S WORK PROGRAMME 2020-21

9 November 2020

- Approval of the Standards Committee's Annual Report 2019/20
- Receipt of an update on The Protocol For Holding Virtual Meetings
- Receipt of a report on allegations against members

22 February 2021

- Undertook Self-Assessment and decided on a Work Programme for the upcoming year
- Consideration of the Public Services Ombudsman For Wales Consultation – New Draft Guidance On The Code Of Conduct For Members Of County And Town And Community Councils
- Receipt of a report on allegations against members

The Committee was informed of the following decisions by the Ombudsman in relation to allegations that county and community and town councillors had breached the Code of Conduct:

Allegation	Decision
<p>Complaint no. 2019000952 An officer of a Town Council (“the Council”) complained that a member had written a disrespectful letter to a third party.</p>	<p>Following an investigation:</p> <p>The Ombudsman found that the majority of the comments made by the member were political in nature.</p> <p>However, the member’s comments to the third party recipient of the letter were considered to be disrespectful. Whilst the Ombudsman considered that those comments were suggestive of a breach of paragraph 4(b) of the Code, having taken into consideration the information provided by the recipient and the wider evidence available, he did not consider it would be proportionate or in the public interest for any further action to be taken.</p> <p>The Ombudsman did not consider that there was evidence to suggest that the content of the letter sent by the member was suggestive of a breach of paragraph 6(1)(a) of the Code.</p>
<p>Complaint no. 202000026 A complaint that a councillor had visited the complainant's property during the 'Lockdown' to ask if this was his main residence. The</p>	<p>The Ombudsman decided not to investigate. He was not persuaded, in the context of the Coronavirus pandemic, that any of the specific actions identified by the complainant amounted to a breach of the Code. Considerable public concern had been raised at the time both</p>

<p>complainant felt that the member's attitude was very aggressive and complained about his behaviour during the visit.</p>	<p>locally and nationally about traveling to and occupying second homes. There had been well-publicised national and regional Government advice stipulating no unnecessary journeys to second homes were to be undertaken.</p>
<p>Complaint no. 201907387</p> <p>A complaint that a community councillor failed to treat others with respect and made malicious and defamatory allegations against other council members.</p>	<p>The Ombudsman decided not to investigate. He was of the opinion that the member's language and the criticism she was making fell into the category of political expression. She also made her criticisms of other members in the context of the need for members to act in accordance with the Code of Conduct and her view that local democracy was undermined by what she perceived to be sub-optimal behaviour.</p>
<p>Complaint no. 20201141</p> <p>A complaint that a town councillor was responsible for the decision to withhold a grant to a local body by accusing it of acting illegally. The councillor had no legal qualifications. It was also alleged that he had provided the Clerk with a document in confidence without the permission of the Council in breach of the Code of Conduct which states that all members of the Council have the right to vote on any question at any meeting. It was claimed that he had breached the basic principles of the Code of Conduct by putting his personal agenda ahead of his responsibilities and duties to the town.</p>	<p>The Ombudsman decided not to investigate. The complainant had provided no direct evidence to prove that the member had attempted to use his position improperly to the detriment of the local body concerned, or failed to make a decision objectively. There was no suggestion that the documents were confidential or that the transfer was inappropriate.</p>
<p>Complaint nos. 202002320 and 202002705</p>	<p>The Ombudsman decided not to investigate. Although the member had provided much information about his complaint, he had</p>

<p>A complaint against a town councillor by a fellow councillor that he failed to show respect towards himself and his family and that he had been bullied the complainant.</p>	<p>submitted no direct evidence that the councillor had breached the Code of Conduct</p>
<p>Complaint no. 202002837</p> <p>A complaint that a community councillor, during a Zoom council meeting, had breached the Code of Conduct by his behaviour towards the complainant as a member of the public, and towards another councillor.</p>	<p>The Ombudsman not to investigate. The complainant had not submitted sufficient evidence to support the complaint. However, even if there was direct evidence to support the complaint, he was not persuaded that the matter would meet the two stage test.</p> <p>In relation to the behaviour towards the other member there is a clear distinction between robustly engaging in debate and engaging in personal attacks on individuals. He was not persuaded that the conduct was so excessive that it amounted to a personal attack which could amount to a breach of the Code of Conduct.</p> <p>In relation to the conduct towards the complainant, the Ombudsman did not condone the comments and considered such gestures discourteous, and reminded the Councillor to be mindful of his obligations under the Code of Conduct, and how such theatrics during public meetings could be construed by members of the public who he represents. However, even if there was direct evidence to support the complaint, he was not persuaded that this incident in isolation meet the Ombudsman's public interest test.</p>
<p>Complaint Nos.202005454 & 202005455</p> <p>Complaint by a town councillor against two fellow councillors that two payments, for gardening services, were made without being</p>	<p>No investigation</p>

approved by the Finance Committee or full Council and that the Councillors had colluded and enticed the Clerk to make these payments.

It was not for the Ombudsman to determine whether or not payments met with Financial Regulations but, rather, whether there is any evidence suggestive of a breach of the Code.

On the information provided the Ombudsman found no evidence to support the contentions made by the complainant.

Member who is subject of the complaint	
Member of community council	6
Member of Gwynedd Council	1
Member of Gwynedd Council and community council	2
Nature of the complainant	
Councillor	6
Member of the public	2
Officer	1
Nature of the allegation	
General conduct	9
Declaration of Interest	0
Conduct & Declaration of Interest	0
Outcome	
No Investigation	8

Investigation – No evidence of breaching the Code of Conduct	0
Investigation - no further steps required	1
Investigation - referral to the Standards Committee	0
Investigation - Referral to the Adjudication Panel for Wales	0

DRAFT

Agenda Item 8

MEETING	Standards Committee
DATE	14 June 2021
TITLE	Local Government and Elections (Wales) Act 2021 changes to the Ethical Framework.
AUTHOR	Monitoring Officer

1. Introduction

There is considerable history to the Local Government and Elections (Wales) Act 2021, which stems from the Local Government (Wales) Bill introduced by the former Local Government Minister Leighton Andrews in 2015. Since then, there have been several changes and developments to the aim and emphasis of the legislation. The main change is a step back from an Act, which focused, on reorganising Councils be that voluntarily or through statute.

There is now Legislation on the table that introduces a number of changes and powers in relation to the governance of Local Government in Wales. This is not to say that there are elements of the Act that are not far reaching; this is especially true in the area of Local Government franchise, Collaboration and Performance Management. It also includes provisions deriving directly from temporary arrangements put in place during the Coronavirus crisis.

2, The Act

The Act received Royal Assent on 20 January 2021. It has nine main parts that relate to Principal Councils and Town and Community Councils. The provisions will come into force during the next 12-15 months. A summary of the Act is provided at Appendix 1

3. Changes to the Ethical Framework

Part 4 of the Act contains two provisions which relate to the maintenance of standards of conduct amongst members and the functions of the Standards Committee (Appendix 2)

- A statutory duty on Leaders of Political Groups in relation to the standards of conduct of members
- Setting the annual report of the Standards Committee on a statutory basis.

4. Duties of Political Group Leaders.

(a) Group Leaders are subject to two main duties under Section 62 of the Act:

- To take reasonable steps to promote and maintain high standards of conduct by members of their group.
- Co-Operate with the Standards Committee in the exercise of it's functions

In addition the functions of the committee are extended to include:

- Monitor how Group leaders are meeting the duty
- Provide training and guidance to the leaders on their duties

- (b) The Concept of Political Groups stems from the provisions of the Local Government and Housing Act 1989 which established the requirement for political balance in appointments to Committees and Sub-Committees and other appointments. Although they generally reflect membership of Political Parties, they do not represent the same thing. They are formed through statutory arrangements in order to meet and take advantage of the system. Therefore at this juncture the following Political Groups are found:

Plaid Cymru

Independent

Llais Gwynedd

United Gwynedd Independent Group

Propel

It is also a requirement that a Group appoints a member to be Leader. The aim of the system is to inject political fairness into the allocation of seats but it also relevant for the appointment of officers to political assistants.

- (c) Thus far the direct role of Leaders in relation to the conduct of their members has been generally informal . Although Group Leaders have a clear interest in the conduct of their members it has not been incorporated in a duty of this nature. In formal terms the main role of the Leader would be to assist with internal resolution in order to maintain standards under the Officer Member Protocol or the Gwynedd Standard.

5. Discussion

This new duty which comes into force in May 2022 imposes a positive duty on Group Leaders to take steps to promote and maintain conduct. This will have to work in co-operation with this Committee which will involve establishing a relationship or direct communication with Political Group Leaders in a way which has not occurred previously It can be appreciated that this is a positive step to support standards of conduct amongst members and to avoid issues or problems developing into bigger issues. There is provision under the Act for the Minister to publish statutory guidance and regulations to implement the duty and a close eye will need to be kept on the Governments work programme.

6.Recommendation

1. **Subject to the publication of guidance by Welsh Government steps should be taken to provide training for Political Group Leaders on the requirements and how they can be met.**
2. **The Standards Committee should establish a Protocol for implementing, co-operating and monitoring implementation of the duty by December 2021 and do so in co-operation with Leaders of the current Political Groups.**
2. **These matters should be incorporated into the Committees Work Programme.**

Appendix 1

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

PART 1 - ELECTIONS

In force for the 2022 election.

- Extend the franchise to those aged 16 upwards and qualifying foreign citizens.
- The right for council officers to stand in an election without requiring them to resign if they are unsuccessful (with the exception of officers in politically restricted posts).
- The power of a Council to choose between the 'First Past the Post' and the 'single transferable vote' voting systems. **This power will come into force after the 2022 elections.**

PART 2 - GENERAL POWER OF COMPETENCE FOR LOCAL AUTHORITIES

Anticipated to be in force by October 2021

- Grants a general power of competence to Principal Councils and Eligible Town and Community Councils. A council is dependent on holding the statutory power to undertake any function and this provision provides a general power to act which is not confined to a particular function.
- However, it reflects a similar power which has been in for in England for some years. The experience in England suggests that the power does not provide such a change as might be implied by the description. Although the power gives the Councils additional flexibility it will be overridden by any statutory limits already in force or that will come into force and is accordingly constrained.

PART 3 - PROMOTING ACCESS TO LOCAL GOVERNMENT

Anticipated to be in force by May 2022

Duty to encourage public participation in matters such as decision making

- Requirement to adopt a Participation Strategy
- Requirement to adopt a Petitions Scheme
- Requirement to publish Guidelines to the Constitution
- Statutory requirement to web-cast a range of meetings.
- Provide remote attendance for members on a statutory basis - **This will be in force for May 2021.**
- Incorporate changes in matters such as publishing meeting agendas and dealing with matters such as decision notices.

PART 4 - LOCAL AUTHORITY EXECUTIVES, MEMBERS, OFFICERS AND COMMITTEES

Anticipated to be in force by May 2022

- Establish a post under the specific description of "Chief Executive" on a statutory footing with specific responsibilities.
- Allow job-sharing for Cabinet members
- Allow appointing members as Cabinet Members' assistants
- Allow job-sharing for Chairs and Vice-chairs
- Group Leaders to have statutory responsibility for the conduct of their members
- Give the Annual Standards Committee report to the Council a statutory footing.

PART 5 - COLLABORATIVE WORKING BY PRINCIPAL COUNCILS

This part is in force and draft regulations have been subject to consultation. At present, it appears that the consultation has highlighted a range of matters that are being addressed further.

- Ministerial power to establish Corporate Joint Committees. These are a new type of local government body. They will be bodies in their own right with their own legal status.
- The core membership will consist of Council Leaders
- Power to mandate - Strategic Planning, Transportation, Economic Welfare and School Improvement. The draft regulations have identified the north Wales region as the Joint-committee area.
- Two or more councils have the right to request to establish through a statutory instrument .

PART 6 - PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS

Will come into force April 2021 with some exceptions - below

- Establish the concept of statutory annual performance reports and consultation as part of the process
- Appoint a "Panel" for assessing Council performance - **Will come into effect in May 2022**
- The need to set Improvement Objectives (Best Value) is being removed
- Require that 1/3 of the members of the Audit and Governance Committee are lay members to include the Chair - **Will come into effect in May 2022**
- Establishing and naming an Audit and Governance Committee is now statutory
- Audit Committee to adopt the function of complaints procedure overview

PART 7 - MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS

In force with a few technical exceptions

- Establish a framework for a process of merging councils should such plans come forward

PART 8 - LOCAL GOVERNMENT FINANCE

In force two months following Royal Assent

- Power to require information relating to hereditaments, relevant information in determining whether a person is liable to pay non-domestic rates.
- Removal of power to provide for the Imprisonment of Council Tax Debtors which places into the Act a provision which is already in effect through Regulations.

PART 9 - MISCELLANIOUS

Anticipated to be in force by May 2022

Afford the Head of Democratic Services post statutory chief officer protection status.

- Removal of the restriction that prevents the Monitoring Officer from being the Head of Democratic Services.
- Provisions relating to merging and demerging Public Services Boards.

Atodiad 2 /Appendix 2

“52A County and county borough councils: duties of leaders of political groups in relation to standards of conduct

(1) A leader of a political group consisting of members of a county council or county borough council in Wales—

(a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and

(b) must co-operate with the council’s standards committee (and any sub-committee of the committee) in the exercise of the standards committee’s functions.

(2) In complying with subsection (1), a leader of a political group must have regard to any guidance about the functions under that subsection issued by the Welsh Ministers.

(3) The Welsh Ministers may by regulations make provision for the purposes of this section about the circumstances in which—

(a) members of a county council or county borough council in Wales are to be treated as constituting a political group;

(b) a member of a political group is to be treated as a leader of the group.

(4) Before making regulations under subsection (3), the Welsh Ministers must consult such persons as they think appropriate.”

“(2A) A standards committee of a county council or county borough council in Wales also has the specific functions of—

(a) monitoring compliance by leaders of political groups on the council with their duties under section 52A(1), and

(b) advising, training or arranging to train leaders of political groups on the council about matters relating to those duties.”

“56B Annual reports by standards committees

(1) As soon as reasonably practicable after the end of each financial year, a standards committee of a relevant authority must make an annual report to the authority in respect of that year.

(2) The annual report must describe how the committee’s functions have been discharged during the financial year.

(3) In particular, the report must include a summary of—

(a) what has been done to discharge the general and specific functions conferred on the committee by section 54 or 56;

(b) reports and recommendations made or referred to the committee under Chapter 3 of this Part;

(c) action taken by the committee following its consideration of such reports and recommendations;

(d) notices given to the committee under Chapter 4 of this Part.

(4) An annual report by a standards committee of a county council or county borough council in Wales must include the committee's assessment of the extent to which leaders of political groups on the council have complied with their duties under section 52A(1) during the financial year.

(5) An annual report by a standards committee of a relevant authority may include recommendations to the authority about any matter in respect of which the committee has functions.

(6) A relevant authority must consider each annual report made by its standards committee before the end of 3 months beginning with the day on which the authority receives the report.

(7) The function of considering the report may be discharged only by the relevant authority (and accordingly is not a function to which section 101 of the Local Government Act 1972 applies).

(8) In this section "financial year" means a period of 12 months ending with 31 March."

Agenda Item 9

Committee:	THE STANDARDS COMMITTEE
Date:	14 June 2021
Title:	The Ombudsman's Code of Conduct Casebook
Author:	Senior Solicitor (Corporate)
Purpose:	For information

1. Background

1.1 Appended is the latest Ombudsman's Code of Conduct Casebook. These are usually published quarterly by the Ombudsman. Members of the Standards Committee will have an opportunity in the meeting to discuss the issues set out in the Casebook

2. Recommendation

2.1 To accept the Report

Introduction

The Public Services Ombudsman for Wales considers complaints that members of relevant authorities in Wales have breached 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 January to December 2020.

The Code of Conduct Casebook

Issue 24 / April 2021

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Case summaries

No evidence of breach

There are no summaries in relation to this finding.

No action necessary

Wrexham County Borough Council – Duty to uphold the law Case Number: 201804590 – Report issued in January 2020

The Ombudsman received a complaint about a Member of Wrexham Council. It was alleged that the Members' conduct and behaviour had brought the Council into disrepute in breach of the Code of Conduct. The Ombudsman investigated the matters complained about. Information was provided by relevant parties including the Council. After careful consideration of the evidence obtained during the investigation the Ombudsman determined that it would not be in the public interest to pursue matters further and that no action should be taken in respect of the matters investigated.

Pembrey & Burry Port Town Council – Promotion of equality and respect Case Number: 201906707 - Report issued in March 2020

The Ombudsman received a complaint that a Member ("the Member") of Pembrey & Burry Port Town Council ("the Council") had breached the Code of Conduct. It was alleged that the Member did not show respect and consideration for others, used bullying behaviour, and behaved in a manner which could reasonably be regarded as bringing the Council into disrepute. During the early stages of the investigation, the Member provided an account. He said that he believed his actions to have been justified and offered an apology if his assertiveness had been perceived differently by the Complainant. The Ombudsman considered the Member's response and his offer of an apology to be sufficient to resolve the complaint. The Ombudsman, therefore, considered that no action needed to be taken in respect of the matters investigated.

St Donats Community Council – Disclosure and registration of interests Case Number: 201905525 – Report issued in March 2020

The Ombudsman received a complaint that a Member ("the Member") of St Donats Community Council ("the Community Council") had breached the Code of Conduct. It was alleged that the Member failed to declare a personal and prejudicial interest when she sat on the Interview Panel during an interview for the role of Co-opted Member of the Community Council. The Ombudsman found that the Member had a personal interest in the interview by virtue of her relationship with the applicant's estranged brother and admittance that there was tension between them. It was the Ombudsman's view that a member of the public, with knowledge of the circumstances, would regard the Member's interest as so significant as to prejudice her judgement of the public interest. The investigation established that the Member was advised by the Clerk that she was not required to declare an interest in the interview. Whilst a decision

to declare an interest is the responsibility of each individual member, it was not unreasonable for the Member to have acted upon the Clerk's advice. The investigation considered whether the Member's failure to declare a personal and prejudicial interest caused any harm and whether it affected the decision to appoint to the role of Co-opted Member. There was no documentary evidence or written record of the interviews. Therefore, the Ombudsman's decision was guided by the fact that the decision to appoint the successful applicant was taken unanimously by the Interview Panel. On the basis of the information available it was not considered that the applicant's application was adversely affected by the Member's presence and involvement in the interview process. In view of these factors it was concluded that the Ombudsman did not need to take further action in the public interest. However, he recommended to the Clerk of the Council that training on members interests and their obligations under the Code of Conduct is provided to the Council.

St Harmon Community Council – Disclosure and registration of interests Case Number: 201903933 – Report issued in March 2020

The Ombudsman received a complaint that a member ("the Member") of St Harmon Community Council had breached the Code of Conduct for members ("the Code"). It was alleged that the Member had failed to show respect and consideration to others, and that he had failed to take appropriate action in respect of a personal and prejudicial interest he had in a co-option process the Council undertook.

During the course of the investigation, information was sought from the Council as well as from a number of witnesses. The evidence gathered did not substantiate that the Member's behaviour had demonstrated a failure to show respect and consideration to others such that could be considered a breach of the Code.

The evidence suggested that the Member had failed to take appropriate action in relation to a personal and prejudicial interest he had in the co-option process. However, the Member did not influence the decision taken on co-option in any way, he had already acknowledged, accepted and apologised for his actions and he had taken steps to seek training on his obligations under the Code.

Therefore, the Ombudsman determined that no action needed to be taken in respect of the matters investigated.

Carmarthenshire County Council – Integrity Case Number: 201900874 – Report issued in March 2020

The Ombudsman received a complaint that a Member ("the Member") of Carmarthenshire County Council ("the Council") had breached the Code of Conduct. It was alleged that the Member had failed to treat members of staff at the Council with respect and consideration, had breached confidentiality, and had brought the office of Councillor into disrepute in relation to 2 incidents which occurred during the selection process for the Council's new Chief Executive. The first incident was that the Member had deliberately informed the unsuccessful candidate for the post that they had not been successful, thus circumventing the Human Resources ("HR") procedures in place. The second incident was that the Member had ignored a clear instruction that Councillors should not publicise the identity of the successful candidate for 30 minutes.

The Ombudsman interviewed a number of witnesses and found that the evidence suggested the Member had accidentally informed the unsuccessful candidate that they had not been successful and had not intended to circumvent HR procedures. The Ombudsman accepted that the Member had shown remorse and had apologised. The Ombudsman determined that no breaches of the Code had occurred as this had been a genuine error by the Member.

The Ombudsman determined that there was evidence that the Member had ignored a clear instruction not to publicise the identity of the successful candidate, and that this may have amounted to a breach of the Code. The Member had not considered the impact on the candidates, their wider friends and families, or the staff employed by the Council with due respect when publishing the result. Further, the information had been confidential until the proper procedures to publicise it had been completed, which the Member had pre-empted. The Ombudsman determined that these actions were capable of bringing the office of Councillor into disrepute.

However, the Ombudsman was not persuaded that it would be proportionate and in the public interest to make a referral to the Standards Committee, due to the short period of time the information was disclosed before the official announcement and taking into account the opinions of the candidates that the effect on them was limited; however, he considered that it had been appropriate for the matter to be referred to him. The Ombudsman found that no action needed to be taken in respect of the matters investigated.

Llantwit Fardre Community Council – Promotion of equality and respect Case Number: 201904216 - Report issued in May 2020

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

It was alleged that the Member made several accusations against serving Community Councillors during a Community Council meeting on 24 September 2019. It was further alleged that the Member then shared a written copy of his address, in which he accused Community Councillors of bullying the former Clerk of the Community Council, with members of the press and public.

The investigation considered the following paragraphs of the Code:

- Paragraph 5(a) – disclosing confidential information.
- Paragraph 6(1)(a) – disrepute.
- Paragraph 6(1)(c) – reporting breaches of the Code to the Monitoring Officer.
- Paragraph 6(1)(d) – vexatious, frivolous or malicious complaints.
- Paragraph 8(a) – having regard to the advice of the authority’s officers.

The investigation established that the Member addressed the Community Council at its meeting on 24 September 2019, where members of the press and public were present. There was no evidence to suggest that the Member disclosed confidential information during the meeting.

The investigation found that during his address, the Member made several accusations against other members of the Council. Rather than airing his concerns in public the Member should have raised his concerns through the proper processes available for doing so. Raising accusations in such a public forum when those being accused did not have a fair opportunity to respond could amount to a breach of paragraph 6(1)(a) of the Code of Conduct. The investigation found that the Member disregarded advice from the Clerk of the Council and that his actions were in breach of paragraph 8(a) of the Code.

When deciding whether to take further action in relation to these possible breaches of the Code of Conduct, the Ombudsman carefully considered whether it was in the public interest for him to do so. The Ombudsman considered recent steps taken by Rhondda Cynon Taf's Monitoring Officer and the Chair of the Council's Standards Committee to meet with the majority of the members of the Council in February to encourage better working relationships within the Council. It was understood that a collective agreement was reached on taking a fresh approach on how to deal with situations where disagreement had previously escalated into personal attacks. The Member was present at this meeting. As the events which were considered as part of this investigation took place some months before the meeting with the Monitoring Officer and Chair of the Standards Committee, it was not in the public interest to pursue this investigation further.

**Torfaen County Borough Council – Promotion of equality and respect
Case Number: 202000681 & 202000667 - Report issued in July 2020**

The Ombudsman received complaints that an elected Member ("the Member") of Torfaen County Borough Council ("the Council") had breached the Council's Code of Conduct for Members ("the Code").

Two Police Community Support Officers ("PCSOs") complained that, on 7 June 2020, the Member approached them at Cwmbran Boating Lake ("the Lake") in an aggressive manner. They said that the Member was shouting and demanding that they dealt with people who were angling at the Lake whilst it was the closed season. They said that the Member did not accept that it was not a policing matter and identified himself as a Councillor to try and use his position to intimidate them.

The Ombudsman received an account from the Member, obtained a witness account from another Councillor who was present at the Lake, and obtained information from Gwent Police. On the balance of probabilities, the evidence indicated that the Member may have breached paragraph 4(b) of the Code by speaking to the PCSOs in a raised voice.

The investigation found that there was no dispute that the Member identified himself as a Councillor. The Member explained that he had done so to explain his knowledge of angling legislation. The Ombudsman found that the Member did contact Gwent Police to seek clarification regarding the enforcement of angling legislation and to raise a concern that the PCSOs had not spoken to, or provided advice, to the anglers as they had informed him.

The Ombudsman did not find sufficient evidence that the Member had displayed bullying and/or harassing behaviour, or that he had brought the authority into disrepute.

The Ombudsman found that, whilst the evidence suggested that the Member may have breached paragraph 4(b) of the Code, it was not in the public interest to pursue matters further.

The Ombudsman asked the Member to be mindful of how his conduct may be perceived when acting in his role as a Councillor and suggested that he complete refresher training on the Code.

Glynneath Town Council – Promotion of equality and respect
Case Number: 201904472 - Report issued in July 2020

The Ombudsman received a complaint that a Member (“the Member”) of Glynneath Town Council (“the Council”) had breached the Council’s Code of Conduct (“the Code”).

A member of the public complained that when the Member entered Glynneath Town Hall (“the Hall”) on 20 September 2019 she had been aggressive and shouted at them, and that the Member had threatened to “put paid” to their Hall Hire Agreement with the Council.

The Ombudsman obtained conflicting witness statements from 3 members of the public, as well as the complainant and the Member. On balance, the evidence obtained suggested that the Member may have breached paragraph 4(b) of the Code by shouting at the member of the public.

The Ombudsman did not find sufficient evidence that the Member had displayed bullying behaviour, or that they had brought their authority into disrepute. Furthermore, there was no supporting evidence that the Member had threatened the complainant’s future hire of the Hall, nor had the Member acted on such a threat.

The Ombudsman found that, whilst the evidence suggested that the Member may have breached paragraph 4(b) of the Code, it was not in the public interest to pursue further enquiries into the matter, given the conflicting nature of the evidence obtained.

The Ombudsman recommended to the Council that it should arrange training on the Code for its Members as soon as is practicable.

Tywyn Town Council – Promotion of equality and respect
Case Number: 201900952 - Report issued in September 2020

An officer of Tywyn Town Council (“the Council”) complained that a member had written a disrespectful letter to a third party.

The Ombudsman’s investigation considered whether the content of the letter may have breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct for members (“the Code”).

The member asserted that they were not acting in their capacity as member when writing the letter. However, the Ombudsman found that, as the letter referred to Council business, it was reasonable to conclude that the member gave the impression they were acting in their capacity as a member of the Council when they wrote the letter. The Ombudsman found that the majority of the comments made by the member were political in nature.

However, the member's comments to the third party recipient of the letter were considered to be disrespectful. Whilst the Ombudsman considered that those comments were suggestive of a breach of paragraph 4(b) of the Code, having taken into consideration the information provided by the recipient and the wider evidence available, he did not consider it would be proportionate or in the public interest for any further action to be taken.

The Ombudsman did not consider that there was evidence to suggest that the content of the letter sent by the member was suggestive of a breach of paragraph 6(1)(a) of the Code.

Mumbles Community Council – Duty to uphold the law
Case Number: 201904820 - Report issued in November 2020

The Ombudsman received a self-referred Code of Conduct ("the Code") complaint from a Member ("the Member") of a Community Council in Wales ("the Council") because they had been named in a Welsh Audit Office ("Audit Wales") Report concerning unauthorised Council expenditure. The Ombudsman considered whether the Member may have breached paragraph 7 (b) (i), (ii), (iii) of the Code for use of Council resources which was imprudent, in breach of the authority's requirements and unlawful.

The Ombudsman's investigation found that a Planning Consultancy had billed the Council for work which had not been agreed, and the Planning Consultancy said it had been instructed by the Member. The Member said at the time of the events he was new to the Council and he thought the work undertaken for the Council by the Planning Consultancy had been part of a previously agreed arrangement with the Council. The Member said he had not worked with planning consultants before and he had not realised that his specific communications with them would incur additional costs. The Ombudsman's investigation found that the Member had a responsibility to fully understand the terms of the Council's arrangements with the Planning Consultancy, and the Member's actions and failure to do so, could reasonably be considered as a potential breach of paragraph 7(b) (i), (ii), (iii) of the Code.

However, the Ombudsman also found that whilst the Clerk had suggested the Member should contact the Planning Consultancy, the Member had not been provided with clear guidance on the implications of doing so, and that the Member's communications had a limited impact on the overall expenditure. In addition, Audit Wales had not engaged with the Member or the Planning Consultancy to establish what instruction it attributed to the Member.

Please Note: Summaries are prepared for all reports issued by the Ombudsman. This summary may be displayed on the Ombudsman's website and may be included in publications issued by the Ombudsman and/or in other media. If you wish to discuss the use of this summary please contact the Ombudsman's office.

Having taken into consideration the evidence available and the information provided by the Member, the Ombudsman did not consider it would be proportionate or in the public interest for any further action to be taken.

Referred to Standards Committee

Denbighshire County Council – Objectivity and propriety

Case Number: 201806601 - Report issued in September 2020

The Ombudsman received a complaint that a Member (“the Member”) of Denbighshire County Council (“the Council”) failed to observe the Code of Conduct for members of the Council. It was alleged that the member abused his position by visiting a member of the public’s place of work and complaining to her employer about a private altercation between her and a constituent in a local store car park.

The Ombudsman determined that there was evidence to suggest that the Member had conducted himself in a bullying and harassing manner, and that his actions sought to create a disadvantage for the member of the public in the eyes of her employer. The evidence also suggested that such conduct was capable of damaging the reputation of the Council and bringing it into disrepute. The Ombudsman determined that the member had failed to abide by paragraphs 4(c), 6(1)(a) and 7(a) of the Council’s Code of Conduct.

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

Laleston Community Council – Duty to uphold the law

Case Number: 201807411 - Report issued in November 2020

The Ombudsman received a complaint that a Former Member (“the Former Member”) of Laleston Community Council (“the Council”) had failed to observe the Code of Conduct for Members of the Council. It was alleged that the Former Member had misused Council funds via unauthorised cashpoint withdrawals and debit card transactions between November 2018 and January 2019.

A police investigation took place, and the Former Member subsequently resigned from the Council. The Ombudsman’s investigation established that at the time of the events the Former Member had taken on extra duties and been paid agreed allowances by the Council. It was found that the Former Member then took charge of the Council’s debit card and used it for purchases and cash withdrawals which were in excess of what he already received and could not be accounted for. The Former Member said he had accessed the Council’s finances in this way because he felt he was entitled to the funds; however, he did not provide any further information to suggest his transactions were for the benefit of the Council.

The Ombudsman determined that the Former Member may have breached the Council’s Code of conduct, in particular, paragraphs 7(a) and 7(b) i), ii), iii), iv) and vi) as he has sought to gain a personal and financial advantage via unauthorised access to Council finances, and misused Council funds. The Ombudsman also found that the Former Member’s actions and conviction 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 Bridgend County Borough Council for consideration by its Standards Committee.

Referred to Adjudication Panel for Wales

Sully and Lavernock Community Council – Integrity Case Number: 201901994 - Report issued in September 2020

The Ombudsman received a complaint that a member (“the Member”) of Sully and Lavernock Community Council (“the Council”) failed to observe the Code of Conduct for elected members. It was alleged that the Member made a series of public posts, on the social media platform Facebook, which could have the potential to damage the reputation of the Council.

The Ombudsman found that 3 public posts, dated between 10 January and 11 March 2019, which made reference to high profile female politicians, were gratuitously offensive and could reasonably be regarded as bringing the Councillor’s Office or Authority into disrepute which was suggestive of a breach of paragraph of 6(1)(a) of the Code of Conduct. The Ombudsman considered that the language used went beyond political expression and was so egregious that, should a breach of the Code of Conduct be found and a sanction imposed, it would be a proportionate interference with the Councillor’s right to freedom of expression.

The Ombudsman also found that the Councillor had failed to supply evidence he claimed to hold in respect of the privacy of the posts and that, in refusing to provide information, he had failed to comply with a request in connection with the investigation which was suggestive of a breach of paragraph 6(2) of the Code of Conduct.

The Ombudsman referred his investigation report to the Adjudication Panel for Wales for its consideration.

Committee:	THE STANDARDS COMMITTEE
Date:	14 June 2021
Title:	Allegations against members
Author:	Senior Solicitor (Corporate)
Purpose:	For information

1. Background

The purpose of this report is to inform the Committee of the Ombudsman's decisions on formal complaints against members.

2. Decisions

We have received the following decisions from the Ombudsman since the last report.

Complaint	Decision
<p>Complaint No. 202100258</p> <p>Complaint by a town councillor that a fellow councillor, as Chair of the Council's Personnel Committee, failed to treat him with respect and consideration in connection to a complaint he had submitted.</p>	<p>No investigation.</p> <p>No evidence that the complainant had been treated any differently from any other complainant. The decision to recommend the removal of the complainant from one of the council's committees was one that the Personnel Committee was entitled to take.</p> <p>No evidence that the councillor had an improper, financial, or personal interest in the outcome of the meetings as alleged.</p>
<p>Complaint No. 202101077</p> <p>Complaint by a member of the public that a community councillor had tweeted his support for extreme political views.</p>	<p>No investigation.</p> <p>No evidence – the content of the tweet differed from the allegation made against him.</p>
<p>Complaint No. 202101165</p> <p>Complaint by a member of the public that a community councillor had made four tweets that breached the council's</p>	<p>No investigation</p> <p>The tweets referred to in the complaint could reasonably be said to fall within the realms of political comment. The</p>

Social Media Policy by discriminating against women, failing to show respect and consideration and bringing the Council into disrepute.	Ombudsman was not persuaded that the content was so egregious that it would amount to a breach of the Code. Further to this, even if a breach were to be proven, he was not persuaded that any sanction which might be imposed would be a proportionate interference with the Councillor's ECHR/HRA rights. Therefore, an investigation would not be in the public interest.
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3. Analysis of the Complaints

Below is an analysis of this year's complaints (2021/22) where a decision has been received:

Member who is subject of the complaint	
Member of community council	3
Member of Gwynedd Council	
Member of Gwynedd Council and community council	
Nature of the complainant	
Councillor	1
Member of the public	2
Officer	
Nature of the allegation	
General conduct	3
Declaration of Interest	
Conduct & Declaration of Interest	
Outcome	
No Investigation	3
Investigation – No evidence of breaching the Code of Conduct	
Investigation - no further steps required	
Investigation - referral to the Standards Committee	
Investigation - Referral to the Adjudication Panel for Wales	

4. Open Cases

4.1 The situation in relation to other cases is as follows:

- **Ombudsman considering whether to investigate** **5**
- **Ombudsman investigating** **4**
- **Referred to Standards Committee** **1**

5. Referral to the Standards Committee

5.1 The Ombudsman has completed an investigation into an allegation that a member has breached the members' code of conduct, and concluded that the issues under investigation should be referred to the Monitoring Officer for consideration by the Standards Committee. This report will be presented to a special meeting of the Committee, to be arranged, to decide, in accordance with statutory procedure, whether or not the matter should proceed to a hearing.

6. Recommendation

6.1 The Committee is asked to note the information.