

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

STANDARDS COMMITTEE

At: Committee Room 3 , Civic Centre, Swansea.

On: Friday, 10 October 2014

Time: 9.30 am

AGENDA

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1 Apologies for Absence.	
2 Disclosures of Personal and Prejudicial Interest.	1 - 2
3 Minutes. To approve as a correct record the minutes of the Standards Committee meeting held on 29 August 2014.	3 - 5
4 Meeting with the Chair of the Scrutiny Programme Committee. Councillor M Day – 9.35a.m.	6 - 8
5 Standards Committee Annual Report 2013/14.	9 - 26
6 Code of Conduct Casebook (for information).	27 - 38



Patrick Arran
Head of Legal, Democratic Services & Procurement
Thursday 2 October 2014

Contact: Democratic Services - 36820

STANDARDS COMMITTEE (4)

Councillors

Labour Councillors: 3

J C Bayliss	Clive E Lloyd
Phil Downing	

Liberal Democrat Councillor: 1

L Graham Thomas	
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Name	Term of Office	Name	Term of Office
Jill Burgess	19.10.2012 to 18 10.2018	Clive Walton *	22.02.2005 to 21.02.2015
Meirion Howells *	01.08.2008 to 31.07.2016	Jennifer Gomes *	05.12.2008 to 04.12.2016
Adrian Novis *	22.02.2005 to 21.02.2015		

Others:

Executive	One copy
Patrick Arran	Head of Legal, Democratic Services & Procurement – Electronic
Tracey Meredith	Deputy Head of Legal, Democratic Services & Procurement
Huw Evans	Head of Democratic Services
Mike Hawes	Head of Financial Services
Janet Hooper	Directorate Lawyer
Democratic Services	1 Copy
Archives	

Total Copies Needed – 27

NOTE:

1. * Denotes that the **period of office cannot be extended further.**
2. The **term of office for Independent Members** can be for not less than 4 nor more than 6 years. They can be reappointed for one further consecutive term but that term cannot be for more than 4 years.
3. **Members of the Local Authority** who are members of the Standards Committee will have a term of office of no more than 4 years or ending at the next ordinary local government election following their election, whichever is the shorter.
4. The Standards Committee **shall not sit if the Independent Members are outnumbered by Councillors.** A Councillor shall remove him/herself from the meeting in order for the business to be transacted.

Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

Councillors

Councillors Interests are made in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

NOTE: You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
 - i) Disclose orally both the interest concerned and the existence of the dispensation; and
 - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

Officers

Financial Interests

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A “financial interest” is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STANDARDS COMMITTEE

HELD AT COMMITTEE ROOM 3, CIVIC CENTRE, SWANSEA ON
FRIDAY, 29 AUGUST 2014 AT 9.30 AM

PRESENT: A Novis (Chair) Presided

Councillor(s)

J C Bayliss
P Downing
C E Lloyd

Independent Members:-

J Burgess M Howells
J Gomes C Walton

Officers:-

T Meredith – Deputy Head of Legal, Democratic Services and Procurement
J Tinker - Democratic Services Coordinator

17 **APOLOGIES FOR ABSENCE.**

An apology for absence were received from Councillor G Thomas.

18 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

In accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea, the following interest was declared:-

Councillor C E Lloyd declared a personal and prejudicial interest in Minute No 23 – Request for Dispensation and left prior to discussion thereof.

19 **MINUTES.**

RESOLVED that the Minutes of the Standards Committee held on 18 July 2014 be accepted as a correct record.

20 **MATTERS ARISING FROM THE MINUTES (FOR INFORMATION).**

Minute 6 – Meeting with Chairs of Regulatory Committees

It was stated that Councillor M Day, Chair of the Scrutiny Programme Committee would be attending the next meeting of this Committee on 10 October 2014.

21 **PUBLIC SERVICES OMBUDSMAN FOR WALES ANNUAL REPORT 2013/14.**

The Monitoring Officer submitted a report the purpose of which was to advise the Committee of the publication of the Public Services Ombudsman for Wales' Annual Report for 2013/14.

A full copy of this report was circulated. Section 4 of the report dealt with Code of Conduct complaints . At annex C of his report the Ombudsman provided a statistical breakdown code of conduct complaint outcomes by Local Authorities. In relation to Swansea Council there were 30 cases closed of which 22 were closed after initial consideration. The question of how the Ombudsman logging complaints was raised as previously the Standards Committee had written to the Ombudsman regarding this matter.

In relation to Community/ Town Councils of the 115 cases closed 26 related to Mumbles Community Council all of which were closed after initial consideration. Concern was expressed regarding this high number and it was suggested that this should be raised by the Ombudsman.

The Committee noted the reduction in the number of cases referred to either the authority's Standards Committee or the Adjudication Panel for Wales and that this was partly attributable to the Calver Case in 2012. The Committee felt that this was something they would like to address further with the Ombudsman.

The Committee were disappointed that this Authority had not been mentioned in the Ombudsman's Report in respect of Local Resolutions. It was queried if the decrease in the time taken in dealing with complaints was a result in an increase in staff. The indemnity cap referred to in the Ombudsman report was discussed.

It was suggested that the Ombudsman be invited to this Committee to discuss his Annual Report and any issues arising.

RESOLVED that :-

- (1) the report be noted.
- (2) The Ombudsman be invited to the meeting of Standards Committee to be held on 21 November to discuss the points raised above.

22 **EXCLUSION OF THE PUBLIC.**

The Committee were requested to exclude the public during consideration of the item of business identified in the recommendation of the report on the grounds that it involves the likely disclosure of exempt information as set out in the Exclusion paragraph of Schedule 12A of the Local Government (Access to Information) (Variation) (Wales) Order 2007, relevant to the items of business as set out in the report.

The Committee considered the Public Interest Test in deciding whether to exclude the public from the meeting for the items of business where the Public Interest Test is relevant as set out in the report.

RESOLVED that the public be excluded for the following item of business.

(CLOSED SESSION)

23 **REQUEST FOR DISPENSATION.**

The Monitoring Officer submitted a report which sought consideration of an application from Councillor C Lloyd under the Standards (Grant of Dispensation) (Wales) Regulations 2001.

RESOLVED that Standards Committee grant Councillor C Lloyd dispensation under paragraph 2 (d) of the Standards Committee (Grant of Dispensation) (Wales) Regulations 2001, as follows:-

To stay, speak and vote on any item relating to Social Services matters other than those that directly affect his grandmother who is a service user of adult social care.

The meeting ended at 9.50a.m.

CHAIR

Agenda Item 4

Report of the Monitoring Officer

Standards Committee – 10 October 2014

ANNUAL MEETINGS WITH POLITICAL GROUP LEADERS CHIEF EXECUTIVE , CHAIRS OF REGULATORY COMMITTEES AND SCRUTINY PROGRAMME COMMITTEE

Purpose:	To seek the views of the Political Group Leaders , Chief Executive and Chairs of Regulatory and Scrutiny Programme Committees in relation to the work of the Standards Committee and to ensure high standards of behaviour.
Policy Framework:	None
Reason for Decision:	To ensure high Standards of behaviour
Recommendation(s):	The views of the Political Group Leaders and Chairs be noted and used as a tool to improve the effectiveness of the Standards Committee

1. Introduction

- 1.1 At the meeting of the Standards Committee held on 12 April 2013, it was suggested that an annual meeting should be held with Political Group Leaders both individually and then collectively in order to ensure high standards of behaviour.
- 1.2 It was resolved that Annual meetings with Political Group Leaders be scheduled into the work plan.
- 1.3 A report was submitted to the Standards Committee on 15 November 2013, and it was agreed that the Political Group Leaders and the Chief Executive be invited to future meetings.
- 1.4 A further report was submitted to the Standards Committee on 17 January 2014 seeking clarity regarding the actual framework and expected outcomes from these meetings. It was agreed that views be sought in respect of the issues listed in Appendix A.
- 1.5 The Chief Executive and Group Leaders attended the Standards Committee on 18 March 2014 and 4 April 2014.

- 1.6 At the meeting of the Standards Committee held on 4 April 2014 it was agreed that views also be sought from the Chairs of Regulatory Committees and Scrutiny Committees.
- 1.7 The Chairs of Regulatory Committees attended the Standards Committee on 18 July 2014 .

Background Papers:-

Reports to Standards Committee held on 12 April 2013, 15 November 2013 and 17 January 2014

Appendices:-

Appendix A – Areas in respect of which views will be sought.

APPENDIX A

Suggested views regarding the following will be sought:

- How you see the role of the Standards Committee
- Your understanding of this role
- How could you help to promote standards and good governance
- How do you see the future role of the Standards Committee
- Your views regarding training in respect of the Code
- How you consider the dispute resolution process is working
- Your views in respect of the Swansea Pledge
- Your views regarding the possible merger of the Standards Committee with the Community/Town Council Standards Sub Committee.
- Do you think that incorporating the Community Council would/could bring benefits.

Report of the Head of Democratic Services

Standards Committee – 10 October 2014

ANNUAL REPORT OF THE STANDARDS COMMITTEE FOR 2013/2014

Summary:

This report sets out the work of both the Standards Committee and Community/ Town Councils Standards Sub – Committee between June 2013 to May 2014

FOR APPROVAL**1. Introduction**

1.1 Attached as **Appendix A** is the Draft Annual Report of the Standards Committee for 2013 – 2014. This is submitted to the Standards Committee for approval before being forwarded to Council on 4 November 2014.

2. Legal Implications

2.1 There are no legal implications.

3. Financial Implications

3.1 There are no financial implications.

4. For Approval.

Background papers: None.

Appendices:

Appendix A – Draft Annual Report of the Standards Committee

Report of the Chair of the Standards Committee

Council - 4 November 2014

Standards Committee Annual Report 2013-2014

Purpose:	This report sets out the work of the Standards Committee and Community / Town Councils Standards Sub Committee from June 2013 to May 2014.
Consultation:	Standards Committee, Finance and Legal
FOR INFORMATION	

1. Background

- 1.1. The Local Government Act 2000 required the Council to establish a Standards Committee to promote and maintain high standards of conduct and probity in the conduct of elected Members of the City and County of Swansea. The Standards Committee has been in operation since October 2000.
- 1.2. The tenth report of the Standards Committee up to May 2013 was presented to Council on 24 September 2013. This is the eleventh Report of the Standards Committee and covers the period from June 2013 to May 2014.

2. Membership

2.1. Standards Committee

- 2.1.1 During the period covered by this report there were nine members on the Committee. Five of these were independent members and four were Councillors. Adrian Novis and Clive Walton have been Chair and Vice Chair respectively since July 2012. At the Annual Meeting of Council held on 9 May 2013 Councillors were appointed to the Standards Committee, as shown below, together with the Independent Members:

Independent Members:	Councillors:
Jill Burgess	Phil Downing
Jennifer Gomes	Jeff W Jones
Meirion Howells	Clive E Lloyd
Adrian Novis (Chair)	Jennifer A Raynor
Clive Walton (Vice Chair)	

2.1.2 However, at the Council Meeting held on 21 January 2014, the Councillor Membership was amended as Councillor R A Clay and L G Thomas replaced Councillors J A Raynor and J W Jones.

2.2 Community / Town Councils Standards Sub Committee

2.2.1 During the period covered by this report there were seven members on the Community / Town Councils Sub Committee. Four of these were independent members and three were Community / Town Councillors. One vacancy currently remains on the Sub Committee. Clive Walton and Meirion Howells were appointed as Chair and Vice Chair respectively since November 2012. Details of membership are shown below:

Independent Members:	Community / Town Council Councillors:
Meirion Howells (Vice Chair)	Gail John
Jennifer Gomes	Philip Crayford
Adrian Novis	Vacancy
Clive Walton (Chair)	

3. The Standards Committee

3.1 The Standards Committee met seven times during the year on the following occasions: 12 July 2013, 23 August 2013, 15 November 2013, 17 January 2014, 21 February 2014, 18 March 2014 and 4 April 2014.

3.2 Detail of the work undertaken by the Committee this year is set out below.

3.3 Dispensations

3.3.1 Sixteen requests for Dispensation were reported for consideration. The dispensation form has been amended in order to ensure greater clarity of the nature of the dispensation being required.

3.4 The Public Services Ombudsman for Wales Annual Report

3.4.1 The Public Services Ombudsman for Wales (the Ombudsman) has issued his Annual Report for 2013-2014. A link and hard copy to the full report was circulated to the Standards Committee at the meeting on 29 August 2014. <http://www.ombudsman-wales.org.uk/>

3.4.2. Relevant Extracts from this Annual Report are contained in Appendix A. Section 4 of the report deals with Code of Conduct complaints. There had been a reduction in the number of complaints to the Ombudsman by 22% in 2012-2013. The Ombudsman attributed the decline in Code of Conduct complaints to the local resolution arrangements in place and would continue to refer 'low level' complaints to Authorities' Monitoring Officers to deal with locally.

3.4.3 At Annex C of his report the Ombudsman provided a statistical breakdown of outcomes by Local Authority. In relation to County Borough Councils, Swansea had 30 total cases closed of which 22 were closed after initial consideration. In relation to Community / Town Councils of the 115 cases closed 26 related to Mumbles Community Council which were all closed after initial consideration.

3.5 Complaints of Breach of the Code of Conduct

3.5.1 During the period to May 2014 the following matters were reported to the Committee for information:

a) Complaints made but not investigated by the Ombudsman under the provisions of section 69(2)

Seven cases were reported to the Standards Committee where the Ombudsman refused to investigate an alleged breach of the code of conduct following a complaint.

b) Investigations completed by the Ombudsman and reported to Standards Committee for Information where the decision was no evidence of breach or no action taken

Two cases were reported to the Standards Committee this year where the Ombudsman investigated but found that there was no evidence of any failure to comply with the Code of Conduct.

c) Investigations undertaken by the Ombudsman and reported to Standards Committee for Information where the decision was to discontinue the investigation

One case was reported to the Standards Committee where the Ombudsman had commenced an investigation and subsequently decided to discontinue that investigation.

d) Investigations under the provisions of Section 70 (4) of the Local Government Act 2000 – referred to the Standards Committee for consideration.

Breaches of the Code of Conduct may be referred to the Monitoring Officer by the Ombudsman under the provisions of Section 69 (c) and 71(2) of the Act for consideration by the Standards Committee. Where there is a finding of a breach, public reports on such cases are published on the Council's website.

No such referrals have been received during the period of this report.

4. Other matters considered by the Standards Committee during 2013-2014

4.1 Revised Guidance from the Ombudsman on the Code of Conduct

- 4.1.1 The Public Services Ombudsman for Wales (PSOW) first published guidance on the code in April 2010. A revised Guidance was issued in September 2012.
- 4.1.2 The Committee were informed that following the High Court Case of Calver – The Adjudication Panel for Wales, the Ombudsman made changes to the Guidance in relation to complaints in respect of a breach of paragraph 4 (b) p Treating others with respect and consideration.
- 4.1.3 The Committee has actively contributed to the development of the Ombudsman's guidance, by making extensive representations in relation to consultation papers and guidance.

4.2 Members Indemnity for the Code of Conduct Hearings

- 4.2.1 At the meeting held on 15 November 2013, the Committee considered this matter and decided to recommend to Council that they would consider each application and if indemnity be given it be up to a maximum of £20,000 per case and the form of indemnity be amended to reflect this. Also it was decided that clarity be sought from the Ombudsman regarding the timescale for the review of the indemnity level and procedure in respect of 'equality of arms' approach. The response from the Ombudsman was consequently circulated to Standards Members, which stated that the Ombudsman's own costs would not be allowed to exceed the level imposed by the proposed cap and that at that time no review of the level of indemnity was planned.

4.3 Annual Meeting with Political Group Leaders

- 4.3.1 At the meeting held on 15 November 2013, it was decided that Annual Meetings with the Political Group Leaders and the Chief Executive be held. The framework and expected outcomes were agreed in the following meeting and as a result it was decided that views would be sought regarding:

- How you see the role of the Standards Committee
- Your understanding of this role
- How could you help to promote standards and good governance
- How do you see the future role of the Standards Committee
- Your views regarding training in respect of the Code
- How do you consider the dispute resolution process working
- Your views in respect of the Swansea Pledge
- Your views regarding the possible merger of the Standards Committee with the Community/Town Council Standards Sub – Committee
- Do you think that incorporating the Community Council would/could bring benefits

Consequentially the Leaders of the Main Opposition Group, the Independent Group and Conservative Group attended the meeting of the Standards Committee on 18 March 2014. The Chief Executive and the Leader of the Council then attended the meeting of the Standards Committee on 4 April 2014. At this meeting it was suggested that the Chair of a Regulatory Committee and Chair of Scrutiny be also invited.

These meetings are continuing and it is the intention of the Standards Committee to consider all the responses and produce a report setting out their findings and any recommendations for improvement.

4.4 Swansea Councillor Charter & Councillor Pledge on Standards

4.4.1 The Standards Committee were consulted on the notion of a "Swansea Councillor Charter and Councillor Pledge on Standards" prior to the issue being passed to Council for adoption. The Standards Committee recommended to Council that this be formally adopted and be compulsory for all Councillors.

4.4.2 The Head of Democratic Services had subsequently provided an update to the Standards Committee regarding the number of Councillors that had actually signed up to the Pledge. It was agreed that when the Political Group Leaders attend Standards Committee they be questioned regarding this matter.

4.5 Community /Town Council Standards Sub Committee Vacancy and Merger with Standards Committee.

4.5.1 The Committee considered the appointments process regarding the vacancy of the Community Town Council Standards Sub Committee at the meeting held on 12 July 2013. However, at subsequent meetings the consequences of the Sub Committee being merged and the effect of the Standards Committee undertaking this role was considered. No steps have been taken to fill the vacancy at the present time.

4.5.2 A report was submitted to the meeting of the Standards Committee held on 17 January 2014 regarding a possible merger, the process that must be followed, together with the situation with regard to the Standards Committee throughout Wales. It was decided that views of Political Group Leaders be sought when they are invited to the Committee and depending on their views it be recommended to Council that they consider the options of this merger.

4.6 Reports "For Information"

4.6.1 A number of reports were noted by the Committee, including regular updates on the progress of ongoing Ombudsman investigations and the Ombudsman's Annual Report for 2012-2013 and Annual Standards Conference feedback.

5. The Community / Town Councils Standards Sub Committee

5.1 The Community / Town Councils Standards Sub Committee have met on two occasions since June 2013. Dates of Community / Town Councils Standards Sub Committee Meetings were as follows: 24 June 2013 and 10 October 2013.

5.2 Detail of work undertaken by the Committee during the period of this report is set out below.

5.3 Dispensations

5.3.1 There were five applications for dispensation to be considered by the Sub Committee this year.

5.4 Complaints made but not investigated by the Ombudsman under the provisions of section 69(2) and reported for information:

5.4.1 There were five case reported to the Community / Town Councils Standards Sub Committee where the Ombudsman refused to investigate an alleged breach of the code of conduct following a complaint.

5.5 Ombudsman Referral to Monitoring Officer

5.5.1 There were two cases reported to the Community / Town Council Standards Sub Committee where the Ombudsman had referred an allegation of a breach of the Code of Conduct to the Monitoring Officer to determine whether or not local investigations would be appropriate.

5.6 Investigations under the provisions of Section 70 (4) of the Local Government Act 2000 – referred to the Standards Committee for consideration.

5.6.1 Breaches of the Code of Conduct may be referred to the Monitoring Officer by the Ombudsman under the provisions of Section 69 (c) and 71(2) of the Act for consideration by the Standards Committee. Where there is a finding of a breach, public reports on such cases are published on the Council's website.

5.6.2 A referral in respect of a former Town Councillor from Gorseinon Town Council was received from the Ombudsman. Full details of the determination in relation to this matter can be found on the internet at:
<http://www.swansea.gov.uk/index.cfm?articleid=53719>

5.7 Appeals to the Adjudication Panel for Wales

An appeal against the decision of the Community/ Town Council Standards Sub Committee was made by a Community Councillor from Mumbles Community Council. The appeal was considered by the Appeal tribunal and

their decision dated 10 June 2013 was reported on their public web site. It was the unanimous decision of the Appeal Tribunal to endorse the decision of the Standards Committee and the Community Councillor had been in breach of the Code and the Community Councillor was suspended for 18 weeks.

6. Terms of Office of Independent Members of the Standards Committee and the Community / Town Councils Standards Sub Committee

- 6.1 The term of office for Independent Members can be for not less than four years and for no more than six years. They can be reappointed for one further consecutive term but that term cannot be for more than an additional four years.
- 6.2 The table below shows the dates of commencement and subsequent expiry dates of membership for all independent member of the Standards Committee.

Standards Committee: Independent Member Appointments

Independent Members	Appointment Terms	
	Start	End
Adrian Novis (Chair)	22 February 2005	21 February 2015
Clive Walton (Vice Chair)	22 February 2005	21 February 2015
Meirion Howells	1 August 2008	31 July 2016
Jennifer Gomes	5 December 2008	4 December 2016
Jill Burgess	12 October 2013	11 October 2019

- 6.3 The table below shows the dates of commencement and subsequent expiry dates of membership of the Community / Town Councillors.

Community Councillors	Appointment Terms	
	Start	End
Gail John	26 February 2008	4 May 2017
Philip Crayford	5 October 2012	4 May 2017

Background Papers:

Agendas and Minutes of the Standards Committee and Community / Town Councils Standards Sub Committee during the period June 2013 to May 2014.

Appendix

Extract of Annual Report of the Public Services Ombudsman for Wales Annual Report.

4. Code of Conduct Complaints

Headline figures

- We received 228 new complaints, **down 22%** on 2012/13.
- We referred 6 investigation reports to either a standards committee or the Adjudication Panel for Wales, **down 70%** on 2012/13.
- We closed 229 cases, **down 38%** on 2012/13.
- We had no investigations older than 12 months open at 31 March 2014.

Complaints received

The table below gives a breakdown of the code of conduct complaints received by type of authority.

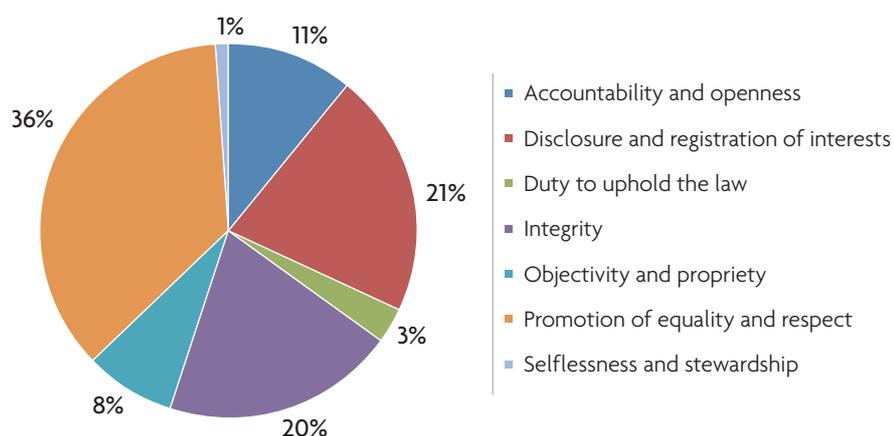
	2013/14	2012/13
Community Council	115	140
County/County Borough Council	111	150
Fire Authority	2	0
National Park	0	0
Police Authority	0	1
Total	228	291

It is particularly pleasing to see that the number of code of conduct complaints have continued to fall. The new local resolution arrangements introduced by local authorities over the past year or so is clearly having the desired effect with the decrease of 22% of complaints to this office compared with the previous year. It is now our practice under these new arrangements to refer 'low level' complaints made by one member against another, such as allegations of failures to show respect and consideration of others under paragraph 4(b) of the code, to authorities' monitoring officers to be dealt with locally.

We have also continued with the approach adopted last year of writing to the local Monitoring Officer when the Ombudsman is minded not to investigate a complaint, or, having commenced an investigation, is minded to close the case. This will arise when it is judged that even if the Standards Committee did find that there had been a breach of the Code, it would be unlikely to apply a sanction. It will then be for the Monitoring Officer to consider the matter. If they take a different view on the likelihood of the Standards Committee applying a sanction should they decide that there has been a breach of the Code, then the investigation is transferred to them for local consideration. During the past year, 16 such complaints were referred to monitoring officers, of which 1 was called in for local investigation.

Nature of Code of Conduct complaints

As in previous years, the majority of complaints received during 2013/14 related to matters of ‘equality and respect’. In 2013/14 this was 36% of the code of conduct complaints received compared to 35% in 2012/13. The next largest areas of complaint related to disclosure and registration of interests (21%), and integrity (20%).



Summary of Code of Conduct complaint outcomes

Of the Code of Conduct cases considered in 2013/14, the majority were closed under the category shown below as ‘Closed after initial consideration’. This includes decisions such as:

- there was no ‘prima facie’ evidence of a breach of the Code
- the alleged breach was insufficiently serious to warrant an investigation (and unlikely to attract a sanction)
- the incident complained about happened before the member was elected (before they were bound by the Code).

Complaint about a public body	2013/14	2012/13
Closed after initial consideration	176	283
Complaint withdrawn	12	12
Investigation discontinued	8	18
Investigation completed: No evidence of breach	10	23
Investigation completed: No action necessary	17	15
Investigation completed: Refer to Standards Committee	5	15
Investigation completed: Refer to Adjudication Panel	1	5
Total Outcomes – Code of Conduct complaints	229	371

(A detailed breakdown of the outcome of Code of Conduct complaints investigated, by local authority, during 2013/14 is set out at Annex C.)

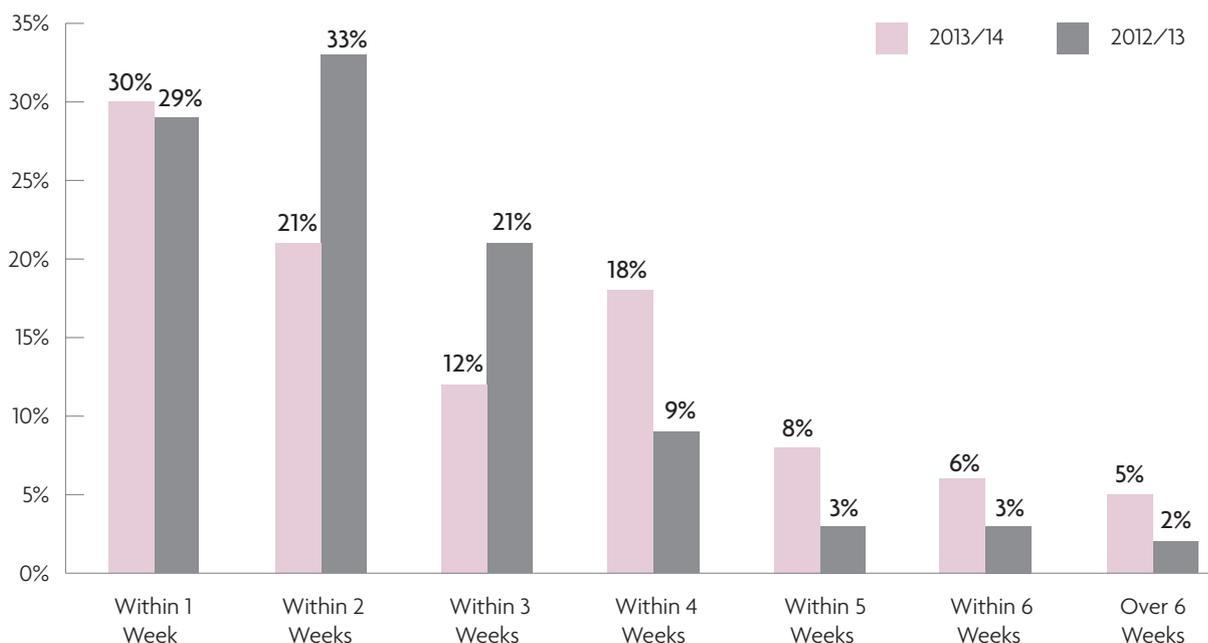
Not only have the number of code of conduct complaints to the office decreased over the past year, notable is the reduction in the number of cases referred to either an authority's standards committee or to the Adjudication Panel for Wales, which fell significantly from 20 in 2012/13 to 6 in 2013/14. This is partly attributable to the effects of the High Court judgement on the Calver case in 2012. The ruling on this case, concerning a member's freedom of expression attracting enhanced protection under the Human Rights legislation when comments made are political in nature, has had an impact on the application of paragraph 4b of the Code of Conduct relating to treating others with respect and consideration. Taking account of the ruling that politicians need to have 'thicker skins, the bar has now been raised on what the Ombudsman refers to a Committee or the Panel.

Decision times

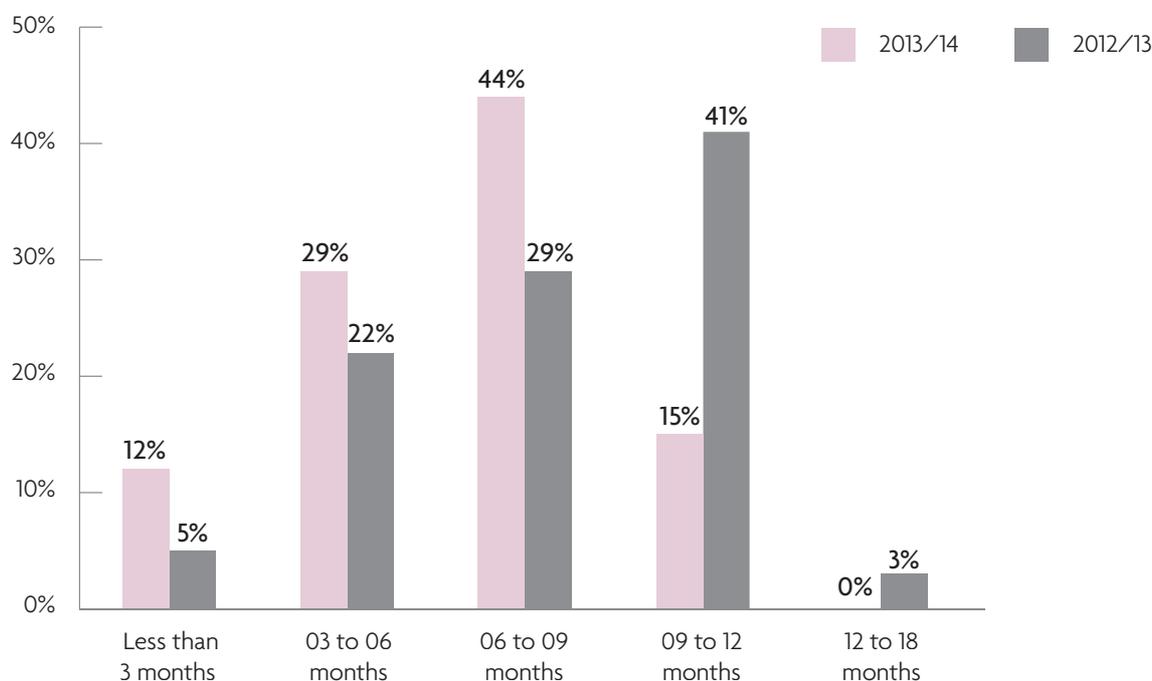
Below are the decision times for code of conduct complaints. The time targets set for code of conduct complaints are similar to those for complaints about public bodies, that is:

- at least 90% of all complainants to be informed within 4 weeks whether Ombudsman will take up their complaint (from the date that sufficient information is received)
- to conclude all cases within 12 months from the point that a decision is made to take up a complaint (that is, to commence investigation of a complaint).

Decision times for informing complainants we will take up their complaint



Decision times for concluding code of conduct investigations



In respect of the first target, we actually achieved this 81% of the time, and it is a little disappointing that we have not been able to achieve the 90% target in respect of code of conduct complaints and that we were unable to sustain our performance in 2012/13. This will be a matter that we will be looking to address in the year to come therefore.

With regard to the second target, and on a much more positive note, we are particularly pleased that we achieved a 100% success rate for completion of code of conduct investigations within 12 months. When looking back on previous Annual Reports it can be seen that our performance on code of conduct cases has been improving year on year. It is especially pleasing when comparing the position to three years ago when only 63% of code investigations were concluded in under 12 months. Against that position, the fact that over the past year 85% of investigations were completed in less than 9 months is even more gratifying.

Standards Committee and Adjudication Panel for Wales's Hearings – Indemnity Cap

The PSOW has previously made clear concerns about the levels of indemnity enjoyed by members who are accused of a breach and the need for this to be addressed. This is particularly of concern when considering the best use of public money, especially when all publicly funded organisations are working within a very difficult financial climate. By having unlimited indemnity, it is possible for cases before tribunals to last for months or even longer, with counsel being engaged at very considerable cost. Following discussions with the WLGA a proposed ceiling of £20,000 was agreed. Good progress

has been made by local authorities in introducing such a cap over the past year or so. However, it is disappointing that a couple of councils who have an insurance arrangement in place for indemnity have stated that they are unable to fall in line due to insurance companies resisting such a ceiling.

Welsh Government Ministers had previously indicated that they may consider addressing this matter through legislation if wholesale voluntary agreement could not be secured. This is a matter which may therefore need to be re-raised in the forthcoming year.

Annex C

Code of Conduct Complaints:

Statistical Breakdown of Outcomes by Local Authority

COUNTY/COUNTY BOROUGH COUNCILS

County/County Borough Councils	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Blaenau Gwent	2		1					3
Bridgend	4							4
Caerphilly	4			2			1	7
Cardiff	5		1				1	7
Carmarthenshire	1						3	4
Ceredigion	2							2
Conwy	1							1
Denbighshire	2						2	4
Flintshire	2	2						4
Gwynedd	4							4
Isle of Anglesey	1			1				2
Monmouthshire	1	2						3
Newport	8							8
Pembrokeshire	3			1		1		5
Powys	1		2					3
Rhondda Cynon Taf	14						1	15
Swansea	22	2	5	1				30
The Vale of Glamorgan							1	1
Torfaen	5			1				6
Wrexham	1							1
Total	83	6	9	6	1	1	9	114

COMMUNITY/ TOWN COUNCILS

Community/ Town Councils	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Aberffraw Community	1							1
Ammanford Town	1							1
Bangor City	1							1
Bargoed Town	1							1
Blaengwrach Community		1		1				2
Blaenrhedol Community	1							1
Bridgend Town	1							1
Brymbo Community	1							1
Caldicot Town	1							1
Cefn Community			1	2				3
Coity Higher	1							1
Colwinston Community					2			2
Connah's Quay Town	1							1
Cowbridge with Llanblethian Town	3							3
Cwmbran Community	1							1
Forden Community		1						1
Glynneath Town	1							1
Goldcliff Community	1							1
Gorseinon Town					1			1

COMMUNITY/ TOWN COUNCILS (CONTINUED)

Community/ Town Councils	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Gresford Community	2							2
Hay-on Wye Town	1							1
Hirwaun & Penderyn Community	2							2
Holyhead Town	1							1
Kidwelly Town	1							1
Killay Community	1							1
Knighton Town	2							2
Laleston Community	1							1
Langstone Community	2							2
Llanbadrig Community	1							1
Llandrindod Wells Town	2			1		1		4
Llandudno Town	3							3
Llanelli Rural							2	2
Llanfaelog Community				5				5
Llanfynydd Community [Carmarthenshire]	3							3
Llangennith, Llanmadoc & Cheriton Community	2							2
Llangwm Community [Pembrokeshire]	1							1

COMMUNITY/ TOWN COUNCILS (CONTINUED)

Community/ Town Councils	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Llantrisant Community	1							1
Llanwrtyd Wells Town	1							1
Mathry Community	1							1
Montgomery Town	1							1
Mumbles Community	26							26
Nelson Community	2							2
Old Radnor Community	1							1
Old St. Mellons Community Council	1							1
Pembrey & Burry Port Town	1							1
Penmaenmawr Town	1			1				2
Pennard Community	2							2
Porthcawl Town	1							1
Prestatyn Town	8						1	9
Rogiet Community	1			1				2
St Florence Community	2							2
Sully Community					1			1
Talgarth Town	1							1
Trellech United Community	1							1
Total	93	2	1	11	4	1	3	115

The Code of Conduct Casebook

Issue 2 May 2014

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A word from the Ombudsman

The Code of Conduct Casebook was introduced by my predecessor, Peter Tyndall, as a mechanism for focussing attention on the work of this office in investigating complaints about alleged breaches of the Code of Conduct applicable to all councillors, in whatever capacity they may be serving and irrespective of the Council on which they sit. Mr Tyndall has now moved to a new post as the Ombudsman and Information Commissioner for Ireland and, thus, it falls to me as the Acting Public Services Ombudsman for Wales to provide the introduction for this second edition.

It is pleasing that the number of complaints we have received concerning alleged breaches of the code of conduct has fallen. It is too early to tell whether this is a long term trend and whether we will again receive a high number of complaints during an election year, but this may partly be down to local resolution processes which have now been in operation across Wales for some time. There are for those taken into investigation by this office four possible outcomes, as detailed more fully in the Introduction to this Casebook; namely, no evidence of breach of the code or no action needed and referral to an authority's standards committee or the Adjudication Panel for Wales. Given the sheer volume of work that is undertaken by Council Members, it is very pleasing to note that the numbers of members who are complained about are relatively few, leading to the conclusion that the vast majority of such work is undertaken without any adverse issues arising. This is undoubtedly to the benefit of constituents.

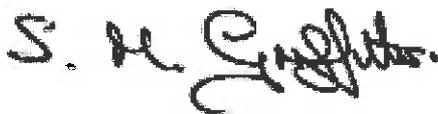
(Continued overleaf)

Reviewing the complaints which have arisen in the last six months, it is noteworthy that there are three main areas that give rise to disputes.

The first relates to the difficulty that councillors may have differentiating between activities undertaken in their official role and things done in a private capacity. It can be a difficult line to draw. More significantly, constituents may only see the official persona and always expect their councillors to behave in a manner befitting the role and not act in any way that might bring their office into disrepute.

The second theme relates to the relationship between councillors themselves and between councillors and officers. It is to be expected that councillors will be passionate about pursuing the interests of their constituents but it may be that there is a legitimate difference of opinion between fellow councillors or between councillors and officers as to how this is best to be achieved. Naturally, it is crucial that forceful lobbying does not step over the mark into bullying or harassment, either of which would involve a breach of the Code.

Finally, councillors should always be aware of the divide between, on the one hand, their actions as a councillor representing their constituents and, on the other hand, their political activities. This distinction can be crucially important in relation to the use of council facilities which will be legitimate when acting as a councillor but unacceptable when being utilised for political purposes.



Professor Margaret Griffiths
Acting Ombudsman

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 the summaries of all reports issued by this office for which the findings were one of the four set out above. 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 2013 to March 2014, 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

Blaenau Gwent County Borough Council – Promotion of equality and respect Case reference 201305131 – March 2014

The Ombudsman received a complaint that, following a meeting of the Council on 21 November 2013, a Councillor (‘the complainant’) felt he had been bullied by another Councillor. The complainant stated that the Councillor had clenched his fist and threatened to “sort him out”. The complainant stated that he had felt in fear of being punched.

During the course of the investigation, information was received from the Council and witnesses were interviewed. While there was evidence of a heated discussion between the complainant and the Councillor at the end of the meeting, there was no evidence to support the complaint that the complainant had been threatened by the Councillor.

Having reviewed the evidence, the Ombudsman concluded that there was no evidence that the Councillor had breached of the Code of Conduct.

Cardiff County Council - Promotion of equality and respect Case reference 201204852 – February 2014

A member of Cardiff County Council (‘the complainant’) complained about the conduct of a fellow Councillor. The complainant stated that the Councillor had failed to show him respect and consideration during a coffee break at the meeting of the full Council in October 2012; in failing to do so, the Councillor had brought the role of member and the Authority into disrepute. The complainant also complained about the language used by the Councillor to describe him when corresponding with members of the public by email in February 2013.

During the course of the Ombudsman’s investigation, information was obtained from the Council and a number of elected members who were in the vicinity at the time of the alleged incident.

The evidence obtained in relation to the incident during the coffee break did not support the allegation made. Further, the Ombudsman was mindful that the complainant was not specifically named in the emails sent to the members of the public by the Councillor. In the absence of any specific reference to the complainant, the Ombudsman was unable to conclude, on balance, as to who was being referred to in the emails. The Ombudsman concluded that the evidence gathered during the investigation did not suggest that the Councillor had breached the Code of Conduct.

Powys County Council – Accountability and openness
Case reference 201204510 – November 2013

Mr G complained that a member of Powys County Council built properties on his land without planning permission and that, when the member in question accepted a position on the Brecon Beacon's National Park Authority planning committee, he breached the Code of Conduct. Mr G said that planning history for this site was complex and the Council had sought legal advice.

The Councillor said that he had erected a house in 2007 on the basis of approved planning permission. He had purchased his property in 2000 and included copy of planning permission for the erection of motel units and private accommodation issued in 1994. The Councillor said that, where possible, his wife or agent took the lead so that his position was not compromised, although this would not obviate his requirement to abide by the Code. He said that his property, was outside the boundaries of the National Park and he was not a member of Powys Council's Planning, Taxi Licensing and Rights of Way Committee.

The Ombudsman found that there was no evidence to suggest the Councillor had been involved in planning decisions relating to his land, and that there was no evidence of a breach of the Code of Conduct.

No action necessary

Torfaen County Borough Council – Disclosure and registration of interests Case reference 201306694 – March 2014

A member of Torfaen County Borough Council referred herself to the Ombudsman for consideration of a potential breach of the Code of Conduct to the Ombudsman. The Councillor said that she may have breached the Code by failing to declare a personal and prejudicial interest in a small schemes grant payment she made in November 2013. The Councillor explained that she considered whether she had a personal interest when making the application for a grant for an organisation within which she is a member, but following discussions with an officer of the Council concluded that she did not.

The matter was highlighted by the relevant scrutiny committee and, having considered the matter further, the Councillor felt it was appropriate to make a self referral. The Councillor accepted full responsibility for the potential breach and made unreserved apologies in respect of her actions.

The circumstances of the grant were considered and it was determined that, by reason of the Councillor's regular attendance at meetings and her membership of the organisation, she had a personal interest and that this interest would also be prejudicial. It therefore followed that her conduct, in failing to declare these interests, suggests of a breach of the Code of Conduct.

However, having taken into consideration the Councillor's conduct in referring this matter, her acceptance of responsibility and apology, the Ombudsman determined that no action should be taken in respect of the matters investigated.

The City and County of Swansea – Promotion of equality and respect Case reference 201203127 – November 2013

A complaint was made by Mr X about a member of the City and County of Swansea. Mr X complained that the Councillor had bullied and harassed fire officers, visited fire stations without permission, solicited confidential information from fire brigade officers and involved himself in Fire Brigade Union business.

Having conducted an investigation, the Ombudsman found that the complaints that had been made were serious and called into question the Councillor's behaviour towards officers within the fire service.

The Ombudsman found that, whilst it was appropriate for Mr X to make the referral because it raised serious concerns about what the Ombudsman described as the Councillor's potentially divisive, manipulating and disrespectful behaviour, no further action should be taken in this matter. The Ombudsman decided that, whilst the evidence did not exonerate the Councillor, it did show that, in the majority of the incidents complained of, he was not acting in his official capacity, and the evidence available was not sufficiently conclusive to show that he had brought his office or authority into disrepute.

With respect to the remaining issues, the evidence was contradictory and lacked independent corroboration. Finally, consideration was also given to the Councillor's Article 10 human rights insofar as he was entitled to raise any concerns about the fire authority that had been brought to his attention in his capacity as a Member. The Ombudsman decided that no further action was necessary.

Referred to standards committee

Pembrokeshire County Council – Duty to uphold the law Case reference 201203889 – November 2013

An individual stated that they had anonymously received a DVD that appeared to show that a Councillor had used the Council's computer system to create election materials for colleagues. An examination of the DVD showed that the Councillor had been either responsible for the creation, or had been the user to have last 'saved' 21 documents of a political nature on the Council's computer system. This appeared to be a breach of the paragraph of the Code of Conduct which states that the resources of the authority must not be used for political purposes.

The Councillor was interviewed and admitted that he had helped colleagues prepare their election material, but was clear that Council equipment had not been used for printing these items. The Councillor said that some files had been created in his role as Secretary and he then believed that he could occasionally use the Council computer for other purposes. He accepted that this was not the case. The Councillor stated that the information received by the complainant had been stolen from his computer.

The Ombudsman decided that the matter should be forwarded to the Monitoring Officer for consideration by the Council's Standards Committee. It concluded that the Councillor had breached the Code of Conduct and determined that he should be suspended for two weeks. The decision of the Standards Committee can be found [here](#).

Gwynedd Council – Promotion of equality and respect Case reference 201100986 – April 2012

The Ombudsman received a complaint that, on 6th July 2011, a Councillor had posted in his blog that the complainant had taken satisfaction at a third party's resignation as a Councillor. The Councillor had also said that the complainant intended to retire as a head teacher and would stand for election as a Councillor for a particular ward.

The complainant said that the suggestion that he intended to retire and stand for election were untrue. The complainant said he had no intention of retiring, and had chaired the meeting when the Member complained about had been nominated to represent a party during the forthcoming 2012 elections.

The complainant alleged that the Councillor had brought his office into disrepute. The complainant considered that the Councillor had created a disadvantage for the complainant in his professional capacity by spreading rumours about his alleged intended retirement which could create difficulties should he seek further employment. The complainant stated that the blog could have caused difficulties for him with his governing body, and confusion amongst his school staff and pupils' parents.

The Ombudsman found that the evidence suggested that the Councillor had breached the Code of Conduct and referred his report to the Monitoring Officer of Gwynedd Council for consideration by the Council's Standards Committee. It concluded that the Councillor had breached the Code of Conduct and determined that he should be suspended for three months.

The Councillor subsequently submitted an appeal against the decision of the Standards Committee to the Adjudication Panel for Wales. The tribunal upheld the decision of the Standards Committee. The decision of the Adjudication Panel for Wales can be found [here](#).

Pentyrch Community Council – Selflessness and stewardship Case reference 201002530 – January 2012

The chairman of Pentyrch Community Council made a complaint against a Councillor in relation to concerns that his manner of conducting council business was inappropriate and constituted bullying and harassment of the Clerk and the Chairman himself. It was said that the Councillor made unreasonable demands and frequently asked for actions to be taken which were in conflict with the standing orders of the Community Council. This behaviour had gone on for around three years. It was also alleged that he had failed to declare a personal interest in matters that arose in Council business.

The Community Council provided extensive written record of the exchanges between itself and the Councillor, and he was given an opportunity to respond.

The Ombudsman's decided that there was evidence of multiple breaches of the Code of Conduct, and referred his report to the appropriate Standards Committee for consideration. The Standards Committee of Cardiff City Council found that breaches had occurred as outlined above. However, by the time of the hearing, the Councillor was no longer a member. As such, a censure was issued, and the Standards Committee commented that, had he still been a serving member, it would have applied a six month suspension as it viewed the breaches very seriously.

The Councillor submitted an appeal against the decision of the Standards Committee to the Adjudication Panel for Wales. The tribunal upheld the decision of the Standards Committee, having considered the implications of Article 10 of the Human Rights Act. The decision of the Adjudication Panel for Wales can be found [here](#).

Referred to Adjudication Panel for Wales

Llandrindod Wells Town Council – Promotion of equality and respect Case reference 201202775 – April 2013

A member of the Council ('the complainant') complained that a former Councillor ('the accused member') pursued a course of conduct towards him which would amount to harassment. The accused member approached the County Council about a naked photograph the complainant had taken of himself and sent to a fellow pupil while both were still at school. The incident had occurred three years before the complainant was elected and no criminal action was taken. The Council investigated the matter and advised the accused member that it had no child protection concerns.

The accused member conducted a survey of members of the public which included a description of the events which appeared to falsely accuse the complainant of committing a sexual offence against a minor. This caused significant reputational damage to the complainant and forced him to speak publicly about a historical private matter.

It appeared that the accused member may have breached a number of paragraphs of the Code of Conduct in his pursuit of the complainant and in misleading members of the public about the event. This matter, and the subsequent Police Information Notice issued to the accused member by the police under the Protection from Harassment Act 1997 (PHA), were widely reported in the local press. This appeared to amount to a further breach of the Code of Conduct.

The accused member indicated that he conducted his survey because he felt that the complainant had breached the Code of Conduct. However, as he did not report this alleged breach of the Code of Conduct to this office, this also appeared to be a breach of the Code of Conduct.

The accused member resigned from his post and refused to engage in the investigation process. The Ombudsman took the view that this may have been an attempt to frustrate the investigation process, which itself may also amount to a breach of the Code of Conduct.

As the evidence gathered suggested that the accused member may have breached multiple paragraphs of the Code of Conduct, the Ombudsman referred his report to the President of the Adjudication Panel for Wales for adjudication by a tribunal.

The tribunal decided that the Councillor had breached the Code of Conduct and that he should be disqualified for a period of three years. The decision of the Adjudication Panel for Wales can be found [here](#).

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 James.Merrifield@ombudsman-wales.org.uk or sent to the following address:

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