

# CITY AND COUNTY OF SWANSEA

## NOTICE OF MEETING

You are invited to attend a Meeting of the

## STANDARDS COMMITTEE

**At:** Committee Room 5, Guildhall, Swansea

**On:** Friday, 7 July 2017

**Time:** 9.35 am

### Membership:

Councillors: J A Hale, M B Lewis and L G Thomas

Co-opted Members: J Burgess, P Crayford, G Evans and M Williams

Community Council Representative: P Crayford

## AGENDA

Page No.

- 1 Election of Chair for the Municipal Year 2017-2018.
- 2 Election of Vice Chair for the Municipal Year 2017-2018.
- 3 Apologies for Absence.
- 4 Disclosures of Personal and Prejudicial Interests.  
[www.swansea.gov.uk/disclosuresofinterests](http://www.swansea.gov.uk/disclosuresofinterests)
- 5 Minutes. 1 - 2  
To approve & sign the Minutes of the previous meeting(s) as a correct record.
- 6 Model Local Resolution Protocol for Community and Town Councils. 3 - 16
- 7 Code of Conduct Casebook. 17 - 36
- 8 Breach of Code of Conduct - Complaints made to the Public Services Ombudsman for Wales (PSOW). 37
- 9 Workplan 2017-2018 (Verbal).
- 10 Exclusion of the Public. 38 - 41
- 11 Requests for Dispensations. 42 - 53

**Next Meeting:** Friday, 6 October 2017 at 9.35 am

*Huw Evans*

**Huw Evans**  
**Head of Democratic Services**  
**Friday, 30 June 2017**

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**Contact: Democratic Services – (01792) 636923**

## CITY AND COUNTY OF SWANSEA

### MINUTES OF THE STANDARDS COMMITTEE

HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON FRIDAY,  
20 JANUARY 2017 AT 9.35 AM

**PRESENT:** M Williams (Vice Chair) Presided

<b>Councillor(s)</b> J A Hale	<b>Councillor(s)</b> C E Lloyd
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<b>Co-opted Member(s)</b> G Evans	<b>Co-opted Member(s)</b>
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**Community / Town Council Representative**  
P Crayford

<b>Officer(s)</b> Huw Evans Allison Lowe Stephanie Williams	Head of Democratic Services Democratic Services Officer Principal Lawyer
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**Apologies for Absence**  
Councillor(s): L G Thomas  
Independent Member(s): J Burgess

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

In accordance with the Code of Conduct adopted by the City & County of Swansea, no interests were declared.

19 **MINUTES.**

**RESOLVED** that the minutes of the Standards Committee held on 7 October 2016 be signed and approved as a correct record.

20 **REVIEW OF DISPENSATIONS.**

The Head of Democratic Services presented a report updating the Standards Committee on the dispensation regime and amendments to legislation.

He stated that dispensations were valid until the next Local Government Election (4 May 2017) or for a period of time specified by the Standards Committee (whichever ends sooner). All dispensations granted by the Standards Committee of the City & County of Swansea would therefore cease on 4 May 2017.

As part of this Review of Councillors Dispensation, the form had been reviewed and amended. The amended form seeks to simplify the request for dispensations by improving the guidance notes to reflect the legislative changes.

**RESOLVED** that the proposed Councillors Request for Dispensation Form – Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 (as amended) be adopted and used from 4 May 2017.

21 **BREACH OF CODE OF CONDUCT - COMPLAINTS MADE TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES (PSOW).**

The Head of Democratic Services provided a current list of outstanding Complaints made to the Public Services Ombudsman for Wales (PSOW) in relation to Breaches of the Code of Conduct.

**RESOLVED** that the report be noted.

22 **WORKPLAN 2016-2017.**

The Head of Democratic Services provided an updated work programme for 2016-2017.

There were currently no items listed for the meeting scheduled for 3 March 2017 and therefore consideration would be given to cancelling the Committee.

The Annual Meetings with Political Group Leaders and Chairs of Committees would commence following the Local Government Elections May 2017, around September / October 2017.

23 **UPDATE ON INDEPENDENT MEMBER OF STANDARDS COMMITTEE VACANCIES. (VERBAL)**

The Head of Democratic Services provided a verbal update on the current position regarding the 2 vacancies for Independent Members on the Standards Committee.

A Standards Committee Vacancy Panel had considered 2 applications, however neither candidate had been appointed. The process shall re-commence shortly.

**RESOLVED** that:

- 1) The update be noted;
- 2) Contact details of any relevant groups / businesses who may be interested in receiving details regarding the vacancies be forwarded to the Head of Democratic Services.

The meeting ended at 10.00 am

**CHAIR**

## Report of the Head of Legal, Democratic Services and Business Intelligence

Standards Committee - 7 July 2017

### MODEL LOCAL RESOLUTION PROTOCOL FOR COMMUNITY AND TOWN COUNCILS

<b>Purpose:</b>	To update the Standards Committee on the Local Resolution Protocol for Community and Town Councils as supported by One Voice Wales
<b>Policy Framework:</b>	None
<b>Consultation:</b>	None.
<b>Recommendation(s):</b>	It is recommended that Standards Committee approve and encourage the adoption of the Model Local Resolution Protocol for Community and Town Councils.
<b>Report Author:</b>	Tracey Meredith
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Tracey Meredith
<b>Access to Services Officer:</b>	Phil Couch

## 1. Background

- 1.1 The Council adopted a Local Dispute Resolution Protocol on 9 June 2011. The Protocol was recently re-adopted by Council on 22 June 2017. The Protocol provides a dispute resolution process for all Councillors which deals with Member/Member disputes. To date the Protocol has not yet been utilised.

## 2. Model Local Resolution Protocol

- 2.1 One Voice Wales have produced a Model Local Resolution Protocol for Town and Community Councils which is attached at **Appendix 1**. Issues to be considered under the process would include minor complaints between Community Councillors, minor complaints between Community Councillors and officers and Councillors alleged to have not shown respect and consideration for others.

- 2.2 Issues not to be considered would be complaints from members of the public and serious breaches of the Code.
- 2.3 The Monitoring Officer gives advice on the Code to Town and Community Councils. Resources are not available to resource the local resolution protocol and therefore it will be necessary for Town and Community Councils to operate the process themselves.

### **3. Public Service Ombudsman Wales**

- 3.1 The Public Service Ombudsman for Wales (PSOW) has on repeated occasions voiced concern about the growing number of vexatious and low level complaints made under the Code of Conduct. The introduction of the Local Dispute Resolution Protocol by all City and County Councils followed by the introduction of the two stage test now means that only the most serious of complaints will be investigated by the PSOW.
- 3.2 The PSOW has indicated his support for the Local Resolution Protocol and has advised that he would encourage Town and Community Councils to adopt the Code.
- 3.3 As with the Councillors' Code there will be a need for willing participation by Community Councillors and in the event of a lack of cooperation or breakdown during the process the default position may be a referral to the PSOW.

### **4. Equality and Engagement Implications**

- 4.1 There are no equality and engagement implications associated with this report.

### **5. Financial Implications**

- 5.1 There are no financial implications associated with this report.

### **6. Legal Implications**

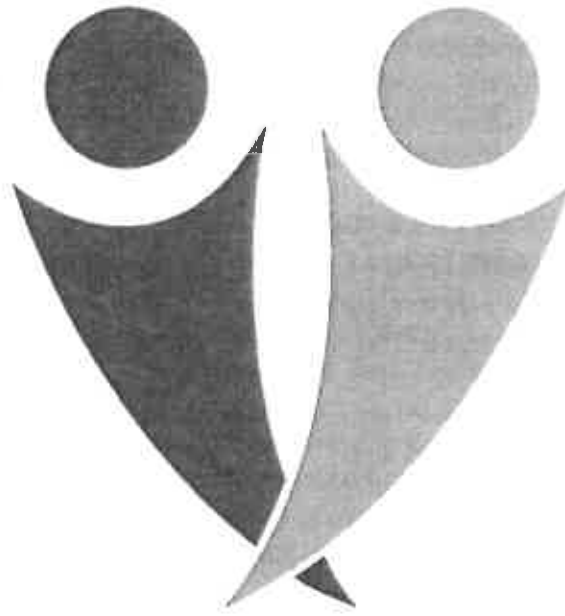
- 6.1 There are no additional legal implications associated with this report.

**Background Papers:** None

#### **Appendices:**

**Appendix 1** Model Local Resolution Protocol for Town and Community Councils

Un Llais Cymru



One Voice Wales

**Model Local Resolution Protocol  
for Community and Town Councils**

# ONE VOICE WALES

## Model Local Resolution Protocol for Community and Town Councils

### Background

The Public Service Ombudsman has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution. However to date there has not been a common process for Community and Town Councils to follow in dealing with such matters. To assist the sector, One Voice Wales has drawn up the following as a model protocol which any Community and Town Council can use in dealing with such complaints.

This model protocol is meant as a starting point for Community and Town councils. Individual councils may wish to add or amend this model to suit their particular needs. Councils wishing to use this process should first of all be clear about its purpose and intention, formally adopt it in its current or in a revised form and ensure that all Councillors are provided with a copy for their attention. The Council should then determine the framework through which it is operated which may require the establishment of a Committee or Panel or an extension of the terms of reference of an existing Panel or Committee such as a Complaints Panel or Committee. In the case of establishment of a new Panel it is important that terms of reference are prepared and approved by the Council. In either case it will be important for Councils to document in the terms of reference as to what will happen if there is a lack of co-operation shown by the member concerned or a breakdown occurring during the operation of the process. For example, in such cases the default position might be that the matter is referred to the Public Ombudsman for Wales.

### The Local Resolution Process

#### Issues which should be considered under this process

Low level complaints about Members, including:

- Minor complaints from Members about Members
- Minor complaints from Officers about Members
- Members alleged to have not shown respect and consideration for others – either verbally or in writing

#### Issues which should not be considered under this process

Complaints which must be directed to the Public Services Ombudsman for Wales, including:

- Complaints instigated by a member of the public
- Serious complaints – breaches of the Code of Conduct/failure to disclose interests/bullying/abuse of position or trust/repeated breaches
- Complaints made by the Clerk/Proper Officer
- Vexatious, malicious or frivolous complaints
- Members' complaints about officers which should be dealt with using the Council's internal complaints process
- Repetitive low level complaints



## **The Process**

### **The complaint**

The complaint would need to be sent to the Clerk/Proper Officer of the Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman. If appropriate, therefore, the Clerk/Proper Officer should firstly seek an early resolution of any such dispute by liaising informally with the individual members concerned prior to the resolution process described below. It is vitally important that the 'accused' member is given full details of the complaint against them so that in the interests of natural justice they are in a position to prepare their response to the accusation.

### **Resolution Process**

The involvement of the Chair/Vice Chair of the Council in the following process is not to adjudicate on the complaint, but to attempt to get the members/officers involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis.

The Clerk/Proper Officer will act as a facilitator for the resolution process below.

If the complaint is between Members other than the Chair of the Council, the Clerk/Proper Officer and the Chair will meet individually with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint is between Members, one of whom is the Chair of Council, but not the Vice Chair, the Clerk/Proper Officer and the Vice Chair will meet with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against a Member other than the Chair of Council, the Clerk/Proper Officer and the Chair of Council will meet with the officer and the Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against the Chair of Council, the Clerk/Proper Officer and the Vice Chair of Council will meet with the officer and the Chair to seek an agreed resolution.

If the complaint has been made by the Clerk/Proper Officer, then it is likely to be best practice that this complaint is forwarded by way of a complaint to the Ombudsman.

### **Possible results of the process**

If an agreement is reached by Members and/or officers during this Stage then no further action is required.

If agreement cannot be reached the aggrieved Member/officer would always have the opportunity of referring the matter to the Ombudsman.

Examples of agreements might include issue of a letter of apology, a written undertaking or commitment not to breach the Code of Conduct in the future, a commitment to undertake training or an agreement that on the basis of the evidence that no further action should be taken and the matter be closed.

**Time for the process**

It is the intention that all of the processes can be completed as quickly as possible to resolve the issue. However exact timing will depend on the availability of individuals to attend the meetings.

### ***Important Points to Note in preparing a process for use by the Council***

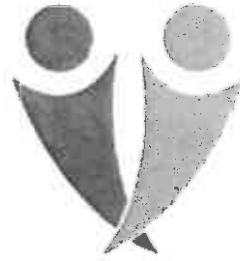
*The Clerk/Proper officer, Chair and Vice Chairs of Councils should consider receiving appropriate training in facilitation and mediation to be in a position to maximise the benefit of this process. Councils wishing to pursue this route should contact One Voice Wales for guidance.*

*Councils might want to include some guidance where complaints which are most appropriately dealt with under this process are referred back to the Council by PSOW. The PSOW could actively do this if the Council has an approved process.*

*It is suggested that any meetings held with a view to discussing the issues of complaints and/or resolving matters are at the very least minuted, if not recorded. This is to ensure that agreements are captured. This will also be useful in the event that matters break down or escalate and need to be referred to the PSOW. It may also be useful as evidence in the event of further similar breaches of the conduct and future conduct.*

*Councils need to be clear on their powers in respect of code of conduct matters. The Ombudsman has seen examples of councils who have deemed it appropriate to fully investigate a code complaint, decide that there has been a breach and some have even thought it appropriate to consider the issue of a sanction. Investigations of possible breaches of the Code are matters for the Ombudsman. The Local Government Act 2000 gives him the authority to carry out such investigations. The Council has no legal authority to undertake such investigations or to make findings of a breach of the Code of Conduct, which are decisions that can only be reached by a Standards Committee or the Adjudication Panel for Wales.*

Un Llais Cymru



One Voice Wales

## ABOUT ONE VOICE WALES

One Voice Wales is the national representative organisation for Community and Town Councils throughout Wales. The vision subscribed to by One Voice Wales is:

*"Working with local councils in Wales to shape places communities want to live in"*

One Voice Wales aims to support Community and Town Councils in achieving this vision and has adopted the following Mission Statement to guide its work:

*"To represent the interests of Community and Town Councils; raise awareness and understanding of this primary tier of government; and work collaboratively with our partners to ensure the sector contributes fully to the goal of developing dynamic and sustainable communities in Wales."*

One Voice Wales  
24c College Street  
Ammanford  
SA18 3AF  
01269 595 400

[admin@onevoicewales.org.uk](mailto:admin@onevoicewales.org.uk)

[www.onevoicewales.org.uk](http://www.onevoicewales.org.uk)

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Un Llais Cymru



One Voice Wales

**Model Brothocol Datrysiadau Lleol ar  
gyfer Cynghorau Tref a Chymuned**

# UN LLAIS CYMRU

## Model Brothocol Datrysiaidau Lleol ar gyfer Cynghorau Tref a Chymuned

### Cefndir

Mae'r Ombwdsmon Gwasanaethau Cyhoeddus wedi cytuno â'r egwyddor y dylid cyfeirio rhai cwynion yn erbyn Aelodau yn ôl i Gynghorau Tref a Chymuned i'w datrys yn lleol. Fodd bynnag, hyd yn hyn ni fu proses gyffredin i'w dilyn gan Gynghorau Tref a Chymuned wrth ddelio â materion o'r fath. Er mwyn cynorthwyo'r sector, mae Un Llais Cymru wedi llunio'r model brothocol canlynol y gall unrhyw Gyngor Tref a Chymuned ei ddefnyddio wrth ddelio â chwynion o'r fath.

Bwriedir i'r model brothocol fod yn fan cychwyn i Gynghorau Tref a Chymuned. Efallai y bydd cynghorau unigol yn dymuno ychwanegu at y model neu ei addasu i'w wneud yn addas i'w hanghenion penodol nhw. Dylai cynghorau sy'n dymuno dewis y broses ofalu yn y lle cyntaf fod ganddynt ddealltwriaeth glir o'i bwrpas a'i fwriad, ei fabwysiadu'n ffurfiol ar ei ffurf bresennol neu ar ffurf ddiwygiedig a gofalu fod pob Cynghorydd yn cael copi i'w sylw. Yna dylai'r Cyngor bennu'r fframwaith ar gyfer ei weithredu, a gall hynny olygu sefydlu Pwyllgor neu Banel neu ehangu cylch gorchwyl Panel neu Bwyllgor sy'n bod yn barod, megis Panel neu Bwyllgor Cwynion. Os mai'r bwriad yw sefydlu Panel newydd, mae'n bwysig fod cylch gorchwyl yn cael ei baratoi a'i fod yn cael ei gymeradwyo gan y Cyngor. Yn y naill sefyllfa a'r llall bydd yn bwysig i Gynghorau gofnodi yn y cylch gorchwyl beth fydd yn digwydd os yw'r aelod dan sylw'n dangos amharodwydd i gydweithredu neu os yw pethau'n mynd ar chwâl wrth geisio gweithredu'r broses. Er enghraifft, mewn sefyllfaoedd o'r fath mae'n bosib mai'r drefn ddiodyn yw cyfeirio'r mater at Ombwdsmon Gwasanaethau Cyhoeddus Cymru.

### Y Broses Datrysiaid Lleol

#### Materion y dylid eu hystyried o dan y broses hon

Cwynion lefel isel am Aelodau, gan gynnwys:

- Mân gwynion gan Aelodau am Aelodau
- Mân gwynion gan Swyddogion am Aelodau
- Aelodau yr honnir iddynt fethu dangos parch ac ystyriaeth i eraill – naill ai ar lafar neu'n ysgrifenedig

#### Materion na ddylid eu hystyried o dan y broses hon

Mae'r cwynion y mae'n rhaid eu cyfeirio at Ombwdsmon Gwasanaethau Cyhoeddus Cymru yn cynnwys:

- Cwynion a wneir gan aelod o'r cyhoedd
- Cwynion difrifol – torri'r Cod Ymddygiad/methiant i ddatgelu buddiannau/bwllo/camddefnyddio swydd neu ymddiriedaeth/torri'r Cod dro ar ôl tro
- Cwynion a wnaed gan y Clerc/Swyddog Priodol
- Cwynion blinderus, maleisus neu wamal
- Cwynion Aelodau am swyddogion, y dylid delio â nhw trwy ddefnyddio proses cwynion mewnol y Cyngor

- Cwynion lefel isel ailadroddus

## **Y Broses**

### **Y gŵyn**

Byddai angen danfon y gŵyn at Clerc/Swyddog Priodol y Cyngor i gynnal didoliad cychwynnol i sicrhau fod y gŵyn ar lefel isel ac na ddylid delio â hi trwy gyflwyno cwyn i'r Ombwdsmon. Felly, os yn briodol, dylai'r Clerc/Swyddog Priodol geisio yn y lle cyntaf i gael datrysiad cynnar i unrhyw anghydfod o'r fath trwy drafod yn anffurfiol gyda'r aelodau unigol dan sylw cyn symud at y broses ddatrys a ddisgrifir isod. Mae'n hollbwysig fod yr aelod 'cyhuddedig' yn cael manylion llawn am y gŵyn yn eu herbyn fel eu bod yn enw cyfiawnder naturiol mewn sefyllfa i baratoi eu hymateb i'r cyhuddiad.

### **Proses Datrysiad**

Rôl Cadeirydd/Is Gadeirydd y Cyngor yn y broses ganlynol yw peidio dyfarnu ar y gŵyn, ond yn hytrach ceisio cael yr Aelodau/swyddogion dan sylw i gytuno sut ellid datrys y mater(ion) mewn ffordd gyfeillgar.

Bydd y Clerc/Swyddog Priodol yn gweithredu'n hwylusydd ar gyfer y broses ddatrys isod.

Os yw'r gŵyn rhwng Aelodau ac eithrio Cadeirydd y Cyngor, bydd y Clerc/Swyddog Priodol a'r Cadeirydd yn cyfarfod yn unigol â'r achwynydd a'r Aelod y gwnaed y gŵyn yn ei erbyn/herbyn i geisio cael datrysiad y gall pawb gytuno arno.

Os yw'r gŵyn rhwng Aelodau, ac os yw un ohonynt yn Gadeirydd y Cyngor, ond nid yr Is Gadeirydd, bydd y Clerc/Swyddog Priodol a'r Is Gadeirydd yn cyfarfod â'r achwynydd a'r Aelod y gwnaed y gŵyn yn ei erbyn/herbyn i geisio cael datrysiad y gall pawb gytuno arno.

Os gwnaed y gŵyn gan swyddog/gweithiwr, ond nid y Clerc/Swyddog Priodol, yn erbyn Aelod ac eithrio Cadeirydd y Cyngor, bydd y Clerc/Swyddog Priodol a Chadeirydd y Cyngor yn cyfarfod â'r swyddog a'r Aelod y gwnaed y gŵyn yn ei erbyn/herbyn i geisio cael datrysiad y gall pawb gytuno arno.

Os gwnaed y gŵyn gan swyddog/gweithiwr, ond nid y Clerc/Swyddog Priodol, yn erbyn Cadeirydd y Cyngor, bydd y Clerc/Swyddog Priodol ac Is Gadeirydd y Cyngor yn cyfarfod â'r swyddog a'r Cadeirydd i geisio cael datrysiad y gall pawb gytuno arno.

Os gwnaed y gŵyn gan y Clerc/Swyddog Priodol, mae'n debyg mai'r arfer gorau fyddai danfon y gŵyn ymlaen ar ffurf cwyn at yr Ombwdsmon.

### **Canlyniadau posib y broses**

Os ceir cytundeb gan Aelodau a/neu swyddogion yn ystod y Cam hwn nid oes angen cymryd unrhyw gamau eraill.

Os na ellir cael cytundeb byddai gan yr Aelod/swyddog a wnaeth y gŵyn y cyfle o hyd i gyfeirio'r mater at yr Ombwdsmon.

Gallai enghreifftiau o gytundebau gynnwys llythyr yn ymddiheuro, addewid neu ymrwymiad ysgrifenedig i beidio torri'r Cod Ymddygiad yn y dyfodol, ymrwymiad i

dderbyn hyfforddiant neu gytundeb na ddylid, ar sail y dystiolaeth, cymryd unrhyw gamau pellach ac y dylid cau'r mater.

**Amser ar gyfer y broses**

Y bwriad yw y gellir cwblhau'r holl brosesau cyn gyflymed ag y bo modd er mwyn datrys y mater. Fodd bynnag, bydd yr union gyfnod o amser yn dibynnu ar argaeledd unigolion i ddod i'r cyfarfodydd.



## ***Pwyntiau Pwysig i'w Cofio wrth baratoi proses i'w defnyddio gan y Cyngor***

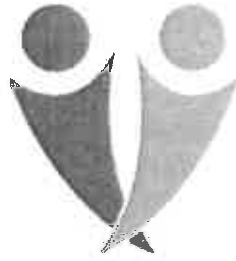
*Dylai'r Clerc/Swyddog Priodol, Cadeiryddion ac Is Gadeiryddion Cyngorau ystyried derbyn hyfforddiant priodol ar hwyluso a chyfyngu er mwyn bod mewn sefyllfa i sicrhau bod y broses hon yn gweithio ar ei gorau. Dylai Cyngorau sydd am ddilyn y llwybr hwn gysylltu ag Un Llais Cymru i gael arweiniad pellach.*

*Efallai y bydd Cyngorau am gynnwys rhai canllawiau pan mae cwynion y mae'n fwy priodol delio â nhw o dan y broses hon yn cael eu cyfeirio'n ôl at y Cyngor gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru. Gallai Ombwdsmon Gwasanaethau Cyhoeddus Cymru wneud hynny'n ddi-gwestiwn os oes gan y Cyngor broses a gymeradwywyd.*

*Awgrymir fod unrhyw gyfarfodydd a gynhelir er mwyn trafod y cwynion a/neu i ddatrys materion yn cael eu cofnodi. Dylid gwneud hynny er mwyn sicrhau y cofnodir unrhyw gytundebau. Bydd hynny'n ddefnyddiol hefyd os yw pethau'n mynd ar chwâl neu'n gwaethygu ac os oes angen eu cyfeirio at Ombwdsmon Gwasanaethau Cyhoeddus Cymru. Gall fod yn ddefnyddiol hefyd fod tystiolaeth ar gael pe bai achosion eraill o dorri'r Cod a chamymddwyn yn digwydd yn y dyfodol.*

*Mae angen i gynghorau fod yn glir am eu grymoedd o ran materion cod ymddygiad. Mae'r Ombwdsmon wedi gweld enghreifftiau o gynghorau sydd wedi barnu ei bod yn briodol iddynt ymchwilio cwyn Cod Ymddygiad, penderfynu y torrwyd y Cod ac mae rhai hyd yn oed wedi barnu ei bod yn briodol iddynt ystyried cyflwyno cosb. Mae ymchwilio enghreifftiau posib o dorri'r Cod yn faterion i'r Ombwdsmon. Mae Deddf Llywodraeth Leol 2000 yn rhoi'r awdurdod iddo gynnal ymchwiliadau o'r fath. Nid oes gan y Cyngor unrhyw awdurdod cyfreithiol i gynnal ymchwiliadau o'r fath nac i benderfynu a gafodd y Cod Ymddygiad ei dorri, gan mai penderfyniadau yw'r rheiny sydd ond yn gallu cael eu cymryd gan Bwyllgor Safonau neu Banel Dyfarnu Cymru.*

Un Llais Cymru



One Voice Wales

## MWY AM UN LLAIS CYMRU

Un Llais Cymru yw'r corff cynrychioliadol cenedlaethol ar gyfer Cyngorau Cymuned a Thref trwy Gymru. Gweledigaeth Un Llais Cymru yw:

*"Gweithio gyda chynghorau lleol yng Nghymru i lŵio lleoedd y mae cymunedau eisiau byw ynddynt"*

Mae Un Llais Cymru yn anelu at gefnogi Cyngorau Cymuned a Thref i wireddu'r weledigaeth hon a mabwysiadodd y Datganiad Cenhadaeth canlynol i lywio ei waith:

*"Cynrychioli buddiannau Cyngorau Cymuned a Thref; codi ymwybyddiaeth a dealltwriaeth o'r haen gyntaf hon o Lywodraeth a chydweithio gyda'n partneriaid i sicrhau bod y sector yn cyfrannu'n llawn i'r nod o ddatblygu cymunedau deinamig a chynaliadwy yng Nghymru."*

Un Llais Cymru  
24c Stryd y Coleg  
Rhydaman  
SA18 3AF

01269 595 400

[gweinydd@unllaiscymru.org.uk](mailto:gweinydd@unllaiscymru.org.uk)

[www.unllaiscymru.org.uk](http://www.unllaiscymru.org.uk)

## Report of the Monitoring Officer

Standards Committee – 7 July 2017

### CODE OF CONDUCT CASEBOOK

Purpose: To update the Standards Committee on the Ombudsman's Code of Conduct Casebook

Report Author: Tracey Meredith

Finance Officer: Ben Smith

Legal Officer: Tracey Meredith

Access to Services Officer: Phil Couch

#### FOR INFORMATION

#### 1. Background

1.1 The Ombudsman has published Code of Conduct Casebooks for the periods October – December 2016 and January - March 2017 which are attached at Appendix A.

#### 2. Equality and Engagement Implications

2.1 There are no equality and engagement implications associated with this report.

#### 3. Legal Implications

3.1 There are no legal implications.

#### 4. Financial Implications

4.1 There are no financial implications.

#### FOR INFORMATION

**Background papers:** None

**Appendices:** Appendix A – Code of Conduct Casebook

# The Code of Conduct Casebook

Issue 11 January 2017

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## Introduction

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

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

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

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

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

## Case summaries

### No evidence of breach

Monmouthshire County Council – Promotion of equality and respect

Case Number 201602663 – Report issued in November 2016

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

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

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

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

## No action necessary

Tywyn Town Council – Disclosure and registration of interests

Case Number 201600999 – Report issued in November 2016

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

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

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

## Referred to Standards Committee

There are no summaries in relation to this finding



## Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

## More information

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Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed  
CF35 5LJ

Tel: 0300 790 0203

Fax: 01656 641199

e-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk) (general enquiries)

Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

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# The Code of Conduct Casebook

Issue 12 April 2017

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## Introduction

Overall I am pleased that my office received 14% less code complaints this year than in 2015/16. I believe this is due to the introduction of local resolution for county councils (low level councillor against councillor complaints being referred to the Monitoring Officer in the first instance) finally having an impact. There is also some evidence over the last 12 months of this approach being adopted by town and community councils who are attempting some form of informal resolution stage before cases are referred to my office.

Outcome	2016/17	2015/16
Closed after initial consideration	184	213
Complaint withdrawn	20	15
Investigation discontinued	10	10
Investigation completed: No evidence of breach	12	11
Investigation completed: No action necessary	16	10
Investigation completed: Refer to Standards Committee	5	3
Investigation completed: Refer to Adjudication Panel	1	3
<b>Total Outcomes – Code of Conduct complaints</b>	<b>248</b>	<b>265</b>

Out of the cases that I have seen, only six were referred either to the Standards Committee or the Adjudication Panel for Wales. This clearly shows that only the most appropriate cases are being referred, and demonstrates that the consideration of the public interest test continues to be an effective means of using 'common sense for common good'.

Despite a decrease in the overall number of code complaints received by my office, the number taken to full investigation has marginally risen. However this is balanced by the increase in the number of cases that have been discontinued or where no action is necessary - further evidence of the effectiveness of the public interest test at all stages of the investigation process.

Other changes this year include the issuing of updated Code of Conduct guidance for councillors based on changes to the Model Code of Conduct made in April 2016 and the establishing of a Code Advisory Group which has proactive oversight of the management of code of conduct complaints. This has led to a 19% increase in cases taking less than six months for a decision to be taken. I am pleased with this positive step forward which means that both complainants and accused members are receiving a timely outcome, helping to relieve the stress and inconvenience that an investigation can cause.

Overall I am encouraged that we are starting to see movements towards councils taking more ownership of low level complaints and attempting to resolve these on a local level, meaning that my office's time and resources are being used for only the more serious cases. I anticipate that this will continue to be something we will focus on and encourage going forward. However whilst I am fully supportive of this approach, it is still important that the more serious allegations of breach of the Code of Conduct are brought to me for investigation and, where appropriate, referred to the Standards Committee or Adjudication Panel for Wales remembering that the authority to make a determination of breach and/or sanction rests solely with them.

I hope that by continuing to work collaboratively over the coming year we can improve standards in public life, whilst building public confidence and promoting good governance in our democratic institutions.



Nick Bennett  
Ombudsman

## Case summaries

### No evidence of breach

#### Powys County Council – Disclosure and registration of interests

Case Number 201506050 - Report issued in February 2017

The Ombudsman considered a complaint that a member of Powys County Council (“the Councillor”) breached the Code of Conduct for members when he approached another member in the Council’s Members’ Lounge on 25 January 2016 to discuss matters in which he may have had a personal and prejudicial interest.

Both members recalled a different version of events and, as there were no other witnesses to the conversation, it was impossible to reconcile the different accounts. In view of this, it was not considered in the public interest to pursue the matter further. The Ombudsman was that there was no evidence that the

Councillor failed to comply with the Code of Conduct.

#### Llangefni Town Council – Promotion of Equality and Respect

Case Number 201603639 - Report issued in March 2017

Councillor A complained that Councillor B of Llangefni Town Council might have breached the Code of Conduct due to her conduct towards the Clerk to the Council.

The Ombudsman investigated whether Councillor B had breached parts of the Code which concern respect and consideration, bullying and harassment, and disrepute.

The Ombudsman found that there was no evidence to suggest that Councillor B had breached the Code in relation to two elements of the complaint. He found that no action needed to be taken in respect of one element of the complaint.

#### Rhondda Cynon Taf County Borough Council - Promotion of Equality and Respect

Case Number 201604869 - Report issued in March 2017

Mr A alleged that Councillor X of Rhondda Cynon Taf County Borough Council (“the Council”) breached the Code of Conduct for members by improperly using his influence as a Councillor to direct the Council’s Highways and Streetcare Services to clear an overgrown lane to the rear of Mr A’s property. Mr A alleged that Councillor X’s decision to involve Streetcare Services was taken in the pursuit of a personal vendetta against him. As such, Councillor X knowingly misused Council resources for private, vexatious purposes. The Council’s Streetcare Supervisor was interviewed and information was obtained from the Council in regard to a complaint response letter it issued to Mr A about Councillor X’s conduct. The Council’s letter stated that its investigation had established that Councillor X had applied inappropriate pressure on the Streetcare Team to carry out the work.

The Ombudsman found that, contrary to what was stated in the Council’s letter to Mr A, there was no evidence to suggest that Councillor X exerted any undue influence on the Council’s Streetcare team to carry out this work. The Ombudsman also found that the letter’s suggestion that Councillor X had

acted improperly was not based on any formal investigation or on any evidence of improper conduct provided by the Streetcare Team. The Ombudsman found, therefore, that there was no evidence of a breach of the Code.

## No action necessary

### Conwy County Borough Council – Objectivity and propriety Case Number 201602422 - Report issued in February 2017

During the course of another investigation, it came to light that a member of Conwy County Borough Council (“the Councillor”) had disclosed an email, which contained sensitive and personal information about the author, to another Councillor and to a member of the public. The Ombudsman decided to investigate the matter.

During the investigation the author of the email was interviewed and expressed that she had not intended the email to be shared. The member the public with whom the email was disclosed was also interviewed and confirmed he had received the email from the Councillor and, with his permission, passed it to another Councillor. The Councillor confirmed that he had shared the email but said that he did so because he was concerned for the welfare of the author and was not sure how best to approach it. The Councillor apologised for not considering whether the personal data should have been protected but said he was under considerable stress at the time of the events.

The investigation found that the evidence was suggestive of a breach of the Code of Conduct. However, given that, to some extent, the Councillor acted out of concern for the author of the email, the stress that he was under at the time of the events and the apology made for his actions, it would not be in the public interest to take any further action on this occasion.

### Aberystwyth Town Council – Promotion of equality and respect Case Number 201504876 - Report issued in February 2017

Mr A complained that Councillor X of Aberystwyth Town Council (“the Council”) had breached the Code of Conduct for members (“the Code”) by telling a member of the public about Mr A’s suspension. The Ombudsman investigated whether Councillor X had breached those parts of the Code which concern respect and consideration, the disclosure of confidential information and disrepute.

Information was obtained from the Council, Ceredigion County Council and another public body. Mr A, four other witnesses and Councillor X were interviewed. Councillor X admitted that he had told a member of the public about Mr A’s suspension.

The Ombudsman found that there was evidence to suggest that Councillor X had breached the Code by not showing respect and consideration for others, disclosing confidential information and bringing his office as a member and the Council into disrepute. However, he determined that it was not in the public interest to pursue this matter and that no further action was required.

### Prestatyn Town Council – Disclosure and registration of interests Case Number 201605412 - Report issued in February 2017

The Ombudsman considered a complaint that a member of Prestatyn Town Council (“the Councillor”) breached the Code of Conduct for elected members by failing to disclose a personal and prejudicial interest at two meetings in relation to a planning application.

The Ombudsman found that the Councillor had a personal and prejudicial interest in the application as the

proposed development was likely to impact upon access to his business. There was no evidence that the Councillor declared an interest in any of the meetings. He aired his concerns relating to access/egress to his business during the second meeting.

In deciding on the appropriate finding, the Ombudsman considered the impact of the Councillor's actions. He was not persuaded that the Councillor sought to influence a decision by his actions. He also noted that the Town Council was merely considering whether to submit observations on the application. It was not deciding whether the application should be approved. It was therefore the Ombudsman's view that the Councillor's actions were of limited consequence and it was not in the public interest to pursue the matter further.

Under section 69(4)(b) of the Local Government Act 2000, the Ombudsman's finding was that no action needed to be taken in respect of the matters investigated. However, the Councillor was advised to reflect upon his actions and to attend training on the Code of Conduct.

#### **Mumbles Community Council - Disclosure and registration of interests Case Numbers 201602616 - Report issued in March 2017**

Mr A complained that Councillor X as a member of a charitable organisation breached the Code of Conduct for members ("the Code") by failing to disclose a personal and prejudicial interest when invoices from that organisation relating to storage costs were presented to the Council for payment. The Ombudsman investigated the complaint.

The Ombudsman also considered whether Councillor X may have used or attempted to use their position improperly to confer on or secure for themselves or another person an advantage by failing to declare their interest.

The Ombudsman found no evidence that the member obtained an advantage for themselves or the charitable organisation. The Ombudsman took into consideration that, whilst Councillor X's membership of the charitable organisation gave rise to a personal interest, their membership alone did not give rise to a prejudicial interest.

It was established that Councillor X held no position of authority at the charitable organisation. The Ombudsman therefore did not consider it to be in the public interest to pursue the matter any further, because there was no personal gain for the member in failing to declare their interest. Accordingly, the Ombudsman's finding was that no further action needed to be taken in respect of the matters investigated.

#### **Mumbles Community Council - Disclosure and registration of interests Case Numbers 201602617 - Report issued in March 2017**

Mr A complained that Councillor H, as a member of a charitable organisation, breached the Code of Conduct for members ("the Code") by failing to disclose a personal and prejudicial interest when invoices from that organisation relating to storage costs were presented to the Council for payment. The Ombudsman investigated the complaint.

The Ombudsman also considered whether Councillor H may have used or attempted to use their position



improperly to confer on or secure for themselves or another person an advantage by failing to declare their interest.

The Ombudsman found no evidence that the member obtained an advantage for themselves or the charitable organisation. The Ombudsman considered that Councillor H's position within the charitable organisation gave rise to both a personal and prejudicial interest.

It was established that Councillor H held an elevated position within the charitable organisation. The Ombudsman did not consider it to be in the public interest to pursue the matter any further, because there was no personal gain for the member in failing to declare their interests, and they have since apologised and retrospectively declared any such interests. Accordingly, the Ombudsman's finding was that no further action needed to be taken in respect of the matters investigated

#### **Mumbles Community Council - Disclosure of interests**

##### **Case Number 201602618 - Report issued in March 2017**

Mr A complained that Councillor F, as a member of a charitable organisation, breached the Code of Conduct for members ("the Code") by failing to disclose a personal and prejudicial interest when invoices from that organisation relating to storage costs were presented to the Council for payment. The Ombudsman investigated the complaint.

The Ombudsman also considered whether Councillor F may have used or attempted to use their position improperly to confer on or secure for themselves or another person an advantage by failing to declare their interest.

The Ombudsman found no evidence that the member obtained an advantage for themselves or the charitable organisation. The Ombudsman considered that, Councillor F's position within the charitable organisation, gave rise to both a personal and prejudicial interest.

It was established that Councillor F held an elevated position within the charitable organisation. The Ombudsman did not consider it to be in the public interest to pursue the matter any further, because there was no personal gain for the member in failing to declare their interests and they have since accepted that they do have an interest. Accordingly, the Ombudsman's finding was that no further action needed to be taken in respect of the matters investigated.

#### **Mumbles Community Council - Disclosure of interests**

##### **Case Number 201602619 – Report issued in March 2017**

Mr A complained that Councillor Z, as a member of a charitable organisation, breached the Code of Conduct for members ("the Code") by failing to disclose a personal and prejudicial interest when invoices from that organisation relating to storage costs were presented to the Council for payment. The Ombudsman investigated the complaint.

The Ombudsman also considered whether Councillor Z may have used or attempted to use their position improperly to confer on or secure for themselves or another person an advantage, by failing to declare their interest.

The Ombudsman found no evidence that the member obtained an advantage for themselves or the charitable organisation. The Ombudsman took into consideration that, whilst Councillor Z's membership of the charitable organisation gave rise to a personal interest, their membership alone did not give rise to a prejudicial interest.

It was established that Councillor Z held no position of authority at the charitable organisation. The Ombudsman therefore did not consider it to be in the public interest to pursue the matter any further, because there was no personal gain for the member in failing to declare their interest. Accordingly, the Ombudsman's finding was that no further action needed to be taken in respect of the matters investigated.

#### Mumbles Community Council - Disclosure of interests Case Number 201602620 – Report issued in March 2017

Mr A complained that Councillor M, as a member of a charitable organisation, breached the Code of Conduct for members ("the Code") by failing to disclose a personal and prejudicial interest when invoices from that organisation relating to storage costs were presented to the Council for payment. The Ombudsman investigated the complaint.

The Ombudsman also considered whether Councillor M may have used or attempted to use their position improperly to confer on or secure for themselves or another person an advantage, by failing to declare their interest.

The Ombudsman found no evidence that the member obtained an advantage for themselves or the charitable organisation. The Ombudsman took into consideration that, whilst Councillor M's membership of the charitable organisation gave rise to a personal interest, their membership alone did not give rise to a prejudicial interest.

It was established that Councillor M held no position of authority at the charitable organisation. The Ombudsman therefore did not consider it to be in the public interest to pursue the matter any further, because there was no personal gain for the member in failing to declare their interest. Accordingly, the Ombudsman's finding was that no further action needed to be taken in respect of the matters investigated.

#### Mumbles Community Council – Disclosure of interests Case Number 201602621 - Report issued in March 2017

Mr A complained that Councillor G, as a member of a charitable organisation, breached the Code of Conduct for members ("the Code") by failing to disclose a personal and prejudicial interest when invoices from that organisation relating to storage costs were presented to the Council for payment. The Ombudsman investigated the complaint.

The Ombudsman also considered whether Councillor G may have used or attempted to use their position improperly to confer on or secure for themselves or another person an advantage by failing to declare their interest.

The Ombudsman found no evidence that the member obtained an advantage for themselves or the charitable organisation. The Ombudsman took into consideration that, whilst Councillor G's membership of

the charitable organisation gave rise to a personal interest, their membership alone did not give rise to a prejudicial interest.

It was established that Councillor G held no position of authority at the charitable organisation. The Ombudsman therefore did not consider it to be in the public interest to pursue the matter any further, because there was no personal gain for the member in failing to declare their interest. Accordingly, the Ombudsman's finding was that no further action needed to be taken in respect of the matters investigated.

## Referred to Standards Committee

Powys County Council – Objectivity and propriety

Case Number 201501199 – Report issued in June 2016

The Ombudsman investigated a complaint that a member (“the Councillor”) of Powys Council (“the Council”) may have breached his authority’s Code of Conduct. The complaint arose in relation to correspondence he had sent which incorrectly and unfairly portrayed the content of a Grievance Appeal Hearing.

The Ombudsman found that as the Councillor had sent the correspondence in his private capacity there was no evidence he had breached the section of the Code relating to showing respect and consideration for others. However the Ombudsman found evidence that the Councillor may have broken the code by bringing his office into disrepute and he referred the matter for consideration by the Council’s Standards Committee.

On 2 November 2016, the Council’s Standards Committee found that the Councillor had breached the Code. He was suspended from being a Councillor for five months.

The Councillor appealed this decision to the Adjudication Panel for Wales (“the Panel”). On 17 March 2017, the Panel found that the Councillor had breached the Code. The Panel referred the Councillor to the Council’s Standards Committee with a recommendation that the Councillor should be suspended for a period of three months.

## Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

## More information

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Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed  
CF35 5LJ

Tel: 0300 790 0203

Fax: 01656 641199

e-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk) (general enquiries)

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## Breach of Code of Conduct

### Complaints made to the Public Services Ombudsman for Wales (PSOW) – 7 July 2017

<b>Name</b>	<b>Date Received</b>	<b>Ombudsman Reference</b>	<b>Description</b>	<b>Current Status</b>	<b>Update</b>
Mumbles Community Council	09 August 2016	201602617	Alleged Breach of the Code of Conduct	Ombudsman Investigating	No action but Code of Conduct Training to be provided
Mumbles Community Council	09 August 2016	201602618	Alleged Breach of the Code of Conduct	Ombudsman Investigating	No action but Code of Conduct Training to be provided
Mumbles Community Council	09 August 2016	201602620	Alleged Breach of the Code of Conduct	Ombudsman Investigating	Letter 09.11.16 not investigating
Mumbles Community Council	09 August 2016	201602621	Alleged Breach of the Code of Conduct	Ombudsman Investigating	No action but Code of Conduct Training to be provided
City & County of Swansea	30 November 2016	201605187	Alleged Breach of the Code of Conduct	Initial letter received 30 November 2016	Letter 13.01.17 not investigating
Mumbles Community Council	02 February 2017	201606254	Alleged Breach of the Code of Conduct	Initial letter received 2 February 2017	Letter 15.05.17 discontinued
City & County of Swansea	16 March 2017	201607431	Alleged Breach of the Code of Conduct	Initial letter received 16 March 2017	Letter 22.03.17 not investigating
Gorseinon Town Council	09 March 2017	201607210	Alleged Breach of the Code of Conduct	Initial letter received 09 March 2017	Letter 04.04.17 not investigating
City & County of Swansea	11 April 2017	2017/0107	Alleged Breach of the Code of Conduct	Initial letter received 11 April 2017	Letter 23.05.17 not investigating
Gorseinon Town Council	10 May 2017	20170076	Alleged Breach of the Code of Conduct	Initial letter received 10 May 2017	Letter 12.05.17 not investigating
City & County of Swansea	08 June 2017	20170141	Alleged Breach of the Code of Conduct	Initial letter received 08 June 2017	Letter 16.06.17 not investigating

# Agenda Item 10

## Report of the Head of Legal, Democratic Services & Business Intelligence

### Standards Committee – 7 July 2017

#### EXCLUSION OF THE PUBLIC

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.				
<b>Policy Framework:</b>	None.				
<b>Reason for Decision:</b>	To comply with legislation.				
<b>Consultation:</b>	Legal.				
<b>Recommendation(s):</b>	It is recommended that:				
<b>1)</b>	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.				
	<table border="1"><thead><tr><th>Item No.</th><th>Relevant Paragraphs in Schedule 12A</th></tr></thead><tbody><tr><td>11</td><td>12 &amp; 13</td></tr></tbody></table>	Item No.	Relevant Paragraphs in Schedule 12A	11	12 & 13
Item No.	Relevant Paragraphs in Schedule 12A				
11	12 & 13				
<b>Report Author:</b>	Democratic Services				
<b>Finance Officer:</b>	Not Applicable				
<b>Legal Officer:</b>	Tracey Meredith – Head of Legal, Democratic Services & Business Intelligence (Monitoring Officer)				

#### 1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

#### 2. Exclusion of the Public / Public Interest Test

- 2.1 In order to comply with the above mentioned legislation, Cabinet will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government



Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

### **3. Financial Implications**

- 3.1 There are no financial implications associated with this report.

### **4. Legal Implications**

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
  - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
  - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
  - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

**Background Papers:** None.

**Appendices:** Appendix A – Public Interest Test.

## Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
<b>12</b>	<b>Information relating to a particular individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. His view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. His view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. His view on the public interest test was that:</p> <ul style="list-style-type: none"> <li>a) Whilst he was mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</li> <li>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</li> </ul> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

No.	Relevant Paragraphs in Schedule 12A
15	<p><b>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. His view on the public interest test was that whilst he is mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them he was satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
16	<p><b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b></p>
	<p>No public interest test.</p>
17	<p><b>Information which reveals that the authority proposes:</b>  <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b>  <b>(b) To make an order or direction under any enactment.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
18	<p><b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. His view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis he felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

# Agenda Item 11

By virtue of paragraph(s) 12, 13 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

Document is Restricted