

The Code of Conduct Casebook

Introduction

The Public Services Ombudsman for Wales considers complaints that members of relevant 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 defense put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers January to March 2021.

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Case summaries

No evidence of breach

There are no summaries in relation to this finding.

No action necessary

There are no summaries in relation to this finding.

Referred to Standards Committee

[Knighton Town Council – Promotion of equality and respect](#)

[Case Number: 201907610 – Report issued in January 2021](#)

The Ombudsman received a complaint from a member of the public that a Member (“the Member”) of Knighton Town Council (“the Council”) had failed to observe the Code of Conduct for members of the Council.

It was alleged that the Member shouted, and used offensive language, aimed at people present at a public meeting held to discuss the local community’s response to the coronavirus (COVID-19) outbreak. It was also alleged that the Member swore and used bullying behaviour towards the complainant. The Member had accepted a Conditional Caution from the Police for his conduct at the meeting.

The Ombudsman found that there was evidence to suggest that the Member shouted and used offensive language at the meeting and had used bullying behaviour.

The Ombudsman determined that the Member may have breached the Council’s Code of Conduct, in particular, paragraphs 4(b) and 4(c) as he failed to show respect and consideration, and used bullying behaviour, towards members of the public who attended the meeting. The Ombudsman also found that the Member’s actions could reasonably be regarded as behaviour which might bring the office of member or the Council into disrepute and a potential breach of paragraph (6(1)(a) of the Code of Conduct.

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

The Standards Committee found that the Member had breached paragraphs 4(b), 4(c), and 6(1)(a) of the Code of Conduct and suspended the Member for a period of 6 months.

Chirk Town Council – Promotion of equality and respect

Case Number: 201904568 – Report issued in January 2021

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

It was alleged that the Member had sent an email to the complainant’s employer, in which he attempted to smear her name in her workplace and to make her feel threatened and vulnerable.

The investigation considered whether the Member had breached the following paragraphs of the Code of Conduct:

- 4(b) - show respect and consideration for others.
- 4(c) - not use bullying behaviour or harass any person.
- 7(a) - not, in his official capacity or otherwise, to use or attempt to use his position improperly to confer on or secure for himself, or any other person, an advantage or create or avoid for himself, or any other person, a disadvantage.

The Ombudsman found that the Member had sent an email to the complainant’s employer in which he threatened to take legal action against the complainant. The Member also copied his email to the Education Workforce Council, which was considered to be an aggravating factor.

The Ombudsman concluded that the Member’s conduct was such that it may amount to a breach of paragraphs 4(b), 4(c) and 7(a) of the Code of Conduct. The matter was referred to the Monitoring Officer of Wrexham County Borough Council, for consideration by the Council’s Standards Committee.

Referred to Adjudication Panel for Wales

Caerphilly County Borough Council – Disclosure and registration of interest

Case Number: 201903571 – Report issued in February 2021

The Ombudsman received a self-referred complaint that a Member (“the Member”) of Caerphilly County Borough Council (“the Council”) had breached the Code of Conduct.

The Member represented the Council as a member of the Cardiff Capital Region (“CCR”) City Deal’s Regional Cabinet. It was alleged that the Member had purchased shares in a company (“the Company”) that had been leased premises by CCR City Deal, to manufacture compound semiconductors and develop applications and that he had subsequently failed to declare an interest in the Company during CCR City Deal’s Joint Committee Meetings.

The complaint was investigated on the basis that there may have been a failure to comply with the following provisions of the Code of Conduct:

- 6(1)(a) – members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- 7(a) – members must not, in their official capacity or otherwise, use or attempt to use their position to confer on or secure for themselves an advantage.
- 10(2)(viii) – members must regard themselves as having a personal interest in any business of their authority if it relates to, or is likely to affect...any body to which they have been elected, appointed or nominated by their authority.
- 11(1) – Where a member has a personal interest in any business of his authority and attends a meeting at which that business is considered, he must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration or when the interest becomes apparent.
- 14(1)(a) – Where a member has a prejudicial interest in any business of his authority, unless he has obtained dispensation from his authority's Standards Committee, he must withdraw from the room, chamber or place where a meeting considering the business is being held.

The investigation found that the Member had access to confidential information by virtue of his position on the CCR City Deal's Regional Cabinet, which enabled him to purchase shares in the Company at a low price with a reasonable expectation that he could later sell those shares at a higher value. The Ombudsman considered that his actions were not in the spirit of the Principles which underpin the Code of Conduct, in particular the principle of integrity, which expects members not to act or take decision to gain financial benefits for themselves. The Ombudsman also considered that the Member's behaviour was suggestive of a breach of paragraph 7(a) and 6(1)(a) of the Code of Conduct.

In respect of the allegation that the Member had failed to declare an interest in the Company during CCR Regional Cabinet meetings, the investigation found that the Member failed to declare an interest in the Company during a CCR Regional Cabinet meeting on 18 February 2019 and that, whilst no decisions were made about the Company during this meeting, the Member's failure to declare a personal and prejudicial interest and withdraw from the meeting was suggestive of breaches of paragraphs 11(1) and 14(1)(a) of the Code of Conduct.

The investigation concluded that the Ombudsman's report on the investigation should be referred to the President of the Adjudication Panel for Wales, for consideration of a possible breach of paragraphs 6(1)(a), 7(a), 11(1) and 14(1)(a) of the Code of Conduct.