

The Code of Conduct Casebook

Issue 5 July 2015

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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).

(Continued overleaf)

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 April to June 2015, 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

Torfaen County Borough Council – Promotion of equality and respect

Case reference 201406095 – Report issued June 2015

The Ombudsman received a complaint that a member of Torfaen County Borough Council (“the Councillor”) had breached the Code of Conduct by making a comment on a social media which the complainant felt implied that he had retired early because of a link to paedophilic activity.

The Councillor explained that it had not been his intention to imply that the subject of the posting had been the complainant and that the individual in question had been one of his family members. The Councillor also maintained that the link to paedophilic activity had been a misinterpretation which he had sought to clarify by amending the reference.

The Ombudsman concluded that there was no evidence that the Councillor had breached the Code.

Penmaenmawr Town Council – Integrity

Case reference 201306326 – Report issued April 2015

A number of individuals complained that a member of Penmaenmawr Town Council (“the Councillor”) had breached the Code of Conduct for members by arranging for false information to be included in the Council’s financial accounts and by failing to declare an interest and taking part in discussions about council business relating to a local Community Transport Group (“the Group”) and a community centre. The complainants said that the Councillor’s company audits the accounts belonging to the Group and Community Centre.

The Ombudsman determined that it was appropriate to investigate whether the Councillor had breached a number of parts of the Code. Evidence was obtained from the Clerk to the Council, from the Treasurer of the Group and a member of the public involved in the running of the community centre. The Councillor also submitted his comments on the complaint.

Having considered the evidence, the Ombudsman found that there was nothing to suggest that the entry included in the Council’s financial accounts was unusual. Furthermore, the Ombudsman was not satisfied that the Councillor had an interest in the matters due to the lack of a formal business relationship between his company and the Group and community centre. The Ombudsman therefore concluded that there was no evidence that the Councillor had breached the Code.

No action necessary

Tywyn Town Council – Integrity

Case reference 201400682 – Report issued June 2015

The Ombudsman received a complaint that a member of Tywyn Town Council (“the Councillor”), who was also the Chairman of the Tywyn & District Chamber of Tourism and Commerce (“the CTC”), had breached the Code of Conduct by using his position to obtain a pecuniary advantage for himself and another through his membership of the Gwynedd Experience Group (“the Group”). He complained that the Councillor had breached the Code on a number of occasions during Council and Finance Committee meetings by failing to declare a prejudicial interest and leave the room during discussions of Group matters and the financial donation to the CTC. He also complained about the Councillor’s behaviour towards the members and two guest speakers during a Council meeting.

The Ombudsman determined that it was appropriate to investigate whether the Councillor had breached paragraphs 4(b), 4(c), 6(1)(a), 7(a), 10(1), 11(1), 14(1)(a), 14(1)(c) and 14(1)(e) of the Code of Conduct. Evidence was obtained from the Clerk to the Council, members of the Group and members of the Council present at the relevant meetings. A formal interview was carried out with the Councillor.

The Ombudsman concluded that there was no evidence that the Councillor had used his position within the Group to gain an advantage for himself or anybody else. The evidence fully explained how he had become involved in carrying out work on behalf of the Group to ensure that it could obtain funding under a local community scheme for the benefit of Tywyn.

The evidence confirmed that the Councillor had failed to declare an interest in Group matters and had participated in discussions on one occasion and failed to withdraw from the room on another occasion when the financial donation to the CTC was discussed. However, the Ombudsman did not consider that the Councillor’s interest in Group matters was so significant that it would have been likely to prejudice his judgement on these matters. Whilst the Councillor had been inconsistent in the action that he had taken when the financial donation to the CTC had been discussed, this may have been due to the advice which he said he received and the fact that he was previously not asked to leave, when having a dispensation to speak in relation to the 2013 donation. For these reasons, the Ombudsman did not believe it would be in the public interest to take any further action on these matters as the use of resources would be excessive when weighed against any likely sanction.

Finally, the Ombudsman concluded that there was insufficient evidence that the Councillor’s behaviour during a Council meeting amounted to a breach of the Code. There was no specific evidence that the Councillor had made any comments that could be considered offensive or that went beyond political expression. There was also insufficient evidence to conclude that the Councillor had put any undue pressure on the members during that meeting.

Carmarthenshire County Council & Llansteffan & Llanybri Community Council – Disclosure of registration and interests

Case reference 201401709 & 201403143 – Report issued June 2015

Various complaints were made that a member of both Carmarthenshire County Council and Llansteffan & Llanybri Community Council (“the Councillor”) had a personal and prejudicial interest in a planning application for a wind turbine. It was said that the Councillor had driven dangerously on his approach to the site visit, attended the site visit and later addressed the planning meeting in relation to the application.

The Councillor was interviewed. He admitted that he had known the applicant for a number of years and he had sought advice from the Monitoring Officer in this matter. He denied that he had driven dangerously and said that the police had not investigated this allegation. The Councillor said he had declared an interest at planning meetings where the application was considered. He admitted that he addressed the planning committee at the site visit, whilst members of the public were excluded. He said that after he addressed the later meeting he left.

In relation to the Councillor’s involvement at the planning meetings it was found that he had not breached the Code of Conduct in accordance with section 69 (4)(a) Local Government Act 2000 (LGA).

Whilst at the site visit, it was considered that the Councillor may have breached the following paragraphs of the Code: 11 (a) failed to declare a personal interest, 14 (1) (a) failed to withdraw from the meeting and 14 (1)(e) made oral representations when having a prejudicial interest. No further action was considered necessary under section 69 (4) (b) of the LGA.

Llanfynydd Community Council – Integrity

Case reference 201403492 – Report issued June 2015

The Ombudsman received a complaint that a member of Llanfynydd Community Council (“the Councillor”) failed to declare an interest in a planning application on five separate occasions between 2010 and 2014, despite living in a property neighbouring the proposed development.

The investigation found that a personal and prejudicial interest existed, and that the accused member not only failed to declare an interest, she also participated in discussions relating to the proposed development.

The Ombudsman, having considered the available information, found that whilst the evidence was suggestive of a breach of the Code, given that the accused member had subsequently attended training on the Code and had a better understanding of her obligations, and it was unlikely that in the event that the Council’s Standards Committee found a breach of the Code existed it would impose a greater sanction, it was not in the public interest to refer the matter further. The Ombudsman therefore concluded that no further action should be taken.

Referred to standards committee

Rhondda Cynon Taf County Borough Council – Promotion of equality and respect Case reference 201304589 – Report issued January 2015

Mr B complained about the conduct of a member of Rhondda Cynon Taf County Borough Council (“the Councillor”). Mr B said that on 12 December 2012, he attended a Development Control Committee meeting to object to his neighbour’s planning application. In response to Mr B’s objection, the Councillor said that Mr B had received an official police caution for firearm offences by threatening a Council officer with a shotgun. Mr B said this was untrue and that he had not been convicted or cautioned for any firearm offence and that this had no bearing on the application. South Wales Police confirmed that Mr B had not been convicted of firearm offences and in particular, he had not been cautioned for such an offence.

On 13 April 2015, the Standards Committee agreed that the Councillor had breached paragraphs 4(b) (treating others with respect and consideration) and 6 (1(a) (brought his office into disrepute) of the code.

The Standards Committee imposed a two month period of suspension for each breach of the code to run consecutively, equating to a four months period of suspension for the Councillor.

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding.

More Information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to Matthew.Aplin@ombudsman-wales.org.uk or Lucy.Geen@ombudsman-wales.org.uk, or sent to the following address:

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