



STANDARDS COMMITTEE

9.30 AM - FRIDAY, 13 JULY 2018

COMMITTEE ROOM 3 - PORT TALBOT CIVIC CENTRE

PART 1

1. Appointment of Chairperson
2. Appointment of Vice Chairperson
3. Declarations of Interest
4. Minutes of Previous Meeting (*Pages 5 - 8*)
5. The Remit of the Standards Committee (*Pages 9 - 14*)
Report of the Head of Legal Services
6. Grant of Dispensations and Renewal of Grants Under Section 81(4) Local Government Act 2000 (*Pages 15 - 26*)
Report of the Head of Legal Services
7. Ombudsman Code of Conduct Casebook (*Pages 27 - 38*)
Report of the Head of Legal Services
8. Recent Decision of the Adjudication Panel for Wales (*Pages 39 - 46*)
Report of the Head of Legal Services

9. High Court Decision Concerning Standards Committees
(Pages 47 - 50)

Report of the Head of Legal Services

10. Forward Work Plan (Pages 51 - 54)

Report of the Head of Legal Services

11. Urgent Items

Any urgent items at the discretion of the Chairperson pursuant to Section 100B(4)(b) of the Local Government Act 1972

S.Phillips
Chief Executive

Civic Centre
Port Talbot

3 July 2018

Committee Membership:

Independent Members: L.Fleet, T.Ward, C.L.Jones and Mrs.B.Richards

NPTCBC Members: Councillors A.L.Thomas and S.E.Freeguard

Community Committee Member: A.Carter

Substitutes

NPTCBC Substitutes: Councillor R.W.Wood

*Notes: (a) The Quorum for the Standards Committee is at least three Members including the Chairperson (or in absence Vice Chairperson). At least half the Members present (including the Chair) must be Independent Members. (e.g. if only two Independent Members attend, there must **only** be two other Members of the Committee present.)*

(b) In view of the above, can all Members please inform the Monitoring Officer/Democratic Services Officer as soon as possible, if there is a problem with attendance.

This page is intentionally left blank

STANDARDS COMMITTEE

(Committee Room 3 - Port Talbot Civic Centre)

Members Present: **16 March 2018**

Chairperson: Mrs J.E.Howells

Independent Member: C.L.Jones

NPTCBC Members: **Councillors** A.L.Thomas and S.E.Freeguard

Community Committee Member: A.Carter

Officers In Attendance: D.Michael, C.Griffiths and T.Davies

Apologies: G.T.Pullen and Mrs.B.Richards

1. **MINUTES OF THE PREVIOUS MEETING HELD ON 12 DECEMBER, 2017**

RESOLVED: that the Minutes of the previous meeting held on 12 December, 2017, be confirmed as a correct record.

2. **GRANT OF DISPENSATIONS AND RENEWAL OF GRANTS UNDER SECTION 81(4) LOCAL GOVERNMENT ACT 2000**

At this point in the meeting Councillor A.L.Thomas withdrew from the discussion and voting thereon, in order to maintain the Quorum of the meeting (at least three Members including the Chairperson (or in absence Vice Chairperson). At least half the Members present (including the Chair) must be Independent Members. (e.g. if only two Independent Members attend, there must only be two other Members of the Committee present.).

Members considered applications received for Miscellaneous Dispensations and Standard Dispensations for School Reorganisation, as detailed in the circulated report.

Members noted that since the report had been produced, Councillor S.K.Hunt had withdrawn his application for Miscellaneous Dispensation as Vice Chair of Friends of Cefn Coed Colliery Museum, as he had resigned from his position on the Board.

Members also noted that Councillor D.Whitelock had since applied for a Standards Dispensation for School Reorganisation matters, as he has grandchildren of school age.

RESOLVED:

- (a) That the applications for dispensations set out in paragraph 1.2.2. (Councillor S.K.Hunt having withdrawn his application) be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak and vote as set out in Paragraph 1.2.1. and that the dispensation runs to the Standards Committee which follows the Annual Meeting 2018, and the following conditions be applied for the dispensations:-
- That the matter under consideration is a general report concerning the budget of the County Borough Council;
 - That the matter under consideration relates to the funding of the Cefn Coed Colliery Museum itself and not to the funding of the Friends of Cefn Coed Colliery Museum;
 - That the dispensation will only apply during periods when the Cefn Coed Colliery Museum is owned and operated by the County Borough Council.
- (b) That the applications for dispensations set out in paragraph 1.3.4. (including Councillor D.Whitelock) be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 in the standard form as set out in Paragraph 1.3.2. to speak but not vote and that the

dispensations run to the Standards Committee with follows the Annual meeting 2018.

3. **URGENT ITEM**

Because of the need to deal now with the matter contained in Minute No. 4 below, the Chairman agreed that this could be raised at today's meeting as an urgent item pursuant to Section 100B (4) (b) of the Local Government Act 1972.

Reason:

Due to the time element.

4. **MEMBERSHIP OF ADVISORY PANEL**

That Cliff Jones, Independent Member, be selected to serve on the Advisory Panel to consider applications to become Independent Members of the Standards Committee.

CHAIRPERSON

This page is intentionally left blank

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 July 2018

REPORT OF THE HEAD OF LEGAL SERVICES – C.GRIFFITHS

Matter for Information

Wards Affected: All

Remit of Standards Committee

Purpose of the Report

1. To draw to Members attention the role of the Neath Port Talbot County Borough Council's ("the Council") Standards Committee.

Background

2. Members will note that the Council has recently appointed two new independent members to the Standards Committee in accordance with the provisions of the Local Government Act 2000 and the Standards Committee (Wales) Regulations 2001 which governs the working of the Standards Committee. It was thought appropriate by the Monitoring Officer of the Council that a report be brought to Members of the Standards Committee just to confirm once again the remit of the Standards Committee and to provide a brief note on the legislative background.
3. Part III of the Local Government Act 2000 introduced a new Ethical Framework for Councils. As part of this framework, the Council has a Standards Committee. This Committee is also responsible for standards functions in relation to the Town and Community Councils (and their Members) in the area of the County Borough Council.
4. Another critical part of the Ethical Framework is the Code of Conduct for Members. One of the functions of the Standards Committee is to assist the

Council and the Town and Community Councils in securing compliance with the Code.

5. This Code requires all members of these authorities to make a formal declaration to observe the Code. Failure to declare will result in a member ceasing to hold the office of Councillor.
6. The Standards Committee is required to have formal Terms of Reference which are to discharge with delegated authority the following functions:-
 - (a) To promote and maintain high standards of conduct by the Members and co-opted Members of the Authority;
 - (b) To assist members and co-opted Members of the Council to observe the Members Code of Conduct;
 - (c) To advise the Council on the adoption or revision of the Members Code of Conduct (and relevant protocols relating to Member/Officer relationships);
 - (d) To monitor the operation of the Council's adopted Members Code of Conduct throughout the Council;
 - (e) To advise, train, or arrange to train Members and co-opted Members on matters relating to the Members Code of Conduct;
 - (f) Where statutes so permit, to arrange dispensation to speak and/or vote where a Member or co-opted Member has an interest in any matters;
 - (g) To receive Local Commissioner Reports following investigations, or part investigations, in relation to allegations of breach of the Members Code of Conduct and/or
 - i. To receive and consider reports and recommendations made with regard to same, from the Monitoring Officer (when such matters are referred to that Officer) including provision with respect to the procedure to be followed by the Standards Committee; and
 - ii. Following its consideration of any such reports or recommendations, to take any action prescribed by statute or regulations made thereunder (including action against any Member or co-opted Member (or former Member or co-opted Member) of the Council who is the subject of any such report or recommendation) and to give publicity to such report, recommendation or action;

- (h) To receive, consider and implement general advice from the Local Commissioner and the Council's Monitoring Officer;
- (i) To receive from the Adjudication Panel, Interim Case Tribunals or Case Tribunals:-
 - i. Notices issued by them to Council;
 - ii. Recommendations about matters relating to the exercise of the Council's function, the Code of Conduct and the Standards Committee and make such recommendations as it thinks fit to Council relating thereto;
- (j) To be responsible for liaison between the Council and external agencies, in particular the National Assembly for Wales, the Welsh Audit Office and the local Ombudsman in connection with any matter within the Committee's terms of reference, under the provisions of the 2000 Act and Regulations made thereafter;
- (k) To make representations to the Welsh Government and National Assembly for Wales and the Welsh Local Government Association about any matter relating to the General Principles of Conduct for Members of the Council;
- (l) To consider and recommend procedures for complaints to be dealt with by the Standards Committee and to propose amendments as may be appropriate from time to time in accordance with statute etc.;
- (m) To oversee the whistle-blowing regime in particular in this respect to consider and recommend procedures in respect of the following:
 - i. Whistle-blowing arrangements
 - ii. Anti-Fraud/Corruption or malpractice strategy;
- (n) To examine any Code(s) of Conduct for Employees of the Council and to make recommendations as may be considered appropriate;
- (o) To receive progress reports from the Monitoring Officer from time to time on such matters within the purview of the Standards Committee, and to make such recommendations to Council as may be deemed appropriate;
- (p) To exercise such powers or duties as may be given to or imposed on Standards Committees from time to time by legislation;

- (q) To exercise in relation to Community Councils and their Members within the County Borough area such of the foregoing matters as are referred to in Section 56 of the Local Government Act 2000;
7. The Standards Committee of Council, hence, will have responsibility for all the same functions in relation to Town and Community Councils situated within the County Borough area.
8. The Local Government Act 2000 and the Standards Committees (Wales) Regulations 2001 provide specific rules for the composition and operation of a Standards Committee. The principal requirements are as follows:
- (a) size of the Committee between 5 and 9 members;
 - (b) if the number is even at least half the members should be Independent Members. If the number is odd, the majority must be Independent Members;
 - (c) Independent Members must be people who are not Members or Officers, or the spouses of Members or Officers, of the Council or of Town or Community Councils in its area or other bodies having a Standards Committee;
 - (d) there is also a bar on former Councillors or Officers being Independent Members of their own Council's Standards Committee, but they can be an independent member of another authority they have not served on after 12 months of ceasing to be a Member or Officer of their own Council;
 - (e) the leader, or elected mayor, or chair of a Board (within an authority operating alternative arrangements) are excluded;
 - (f) a maximum of one member of an executive can be placed on the Standards Committee;
 - (g) one member must be a Town or Community Council Member. That Town or Community Council Member cannot also be a County Borough Council Councillor;
 - (h) political balance rules do not apply;
 - (i) the quorum is 3 (2 being independent, including the chair);
 - (j) Access to Information Act rules apply;
 - (k) Monitoring Officer or representative must attend each meeting;
 - (l) Chair and Vice must be independent – Chair has casting vote;

(m) Chair and vice Chair are appointed by the Committee at its first meeting.

Financial Impact

9. There are no financial impacts associated with this Report.

Equality Impact Assessment

10. There are no equality impacts associated with this Report

Workforce Impacts

11. There are no workforce impacts associated with this Report

Legal Impacts

12. The Standards Committee is governed by the obligations set out in the Local Government Act 2000 and its composition and running is as set out in the Standards Committee (Wales) Regulations 2001.

Consultation

13. There is no requirement under the Constitution for external consultation on this item.

Recommendations

14. That Members note the remit of the Standards Committee and the legislative background in which the Standards Committee operates.

Reason for Report

15. That Members of the Standards Committee are aware of the remit of the Standards Committee and the legislative background in which the Standards Committee operates

Appendices

16. None

List of Background Papers

17. The Constitution of Neath Port Talbot County Borough Council

Officer Contact

Mr Craig Griffiths

Head of Legal Services

Telephone 01639 763767

Email: c.griffiths2@npt.gov.uk

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 July 2018

REPORT OF THE HEAD OF LEGAL SERVICES – C.GRIFFITHS

MATTER FOR DECISION

WARDS AFFECTED: ALL

GRANT OF DISPENSATIONS AND RENEWAL OF GRANTS UNDER SECTION 81(4) LOCAL GOVERNMENT ACT 2000

Purpose of Report

1.1. General

- 1.1.1. Under Section 81(4) of the Local Government Act 2000 Standards Committees may grant dispensations to a Member of a relevant authority (including a Community Council) allowing the Member to participate in any business where that participation would otherwise be prohibited by the mandatory provisions of the Members' Code of Conduct.
- 1.1.2. The National Assembly for Wales in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 sets out the circumstances in which these dispensations may be granted. The Standards Committee may only grant dispensations in the circumstances set out in the Regulations. In the report which follows, I set out the circumstances or grounds on which dispensations may be granted in each case.
- 1.1.3. The form of the report will generally set out the dispensation, the circumstances in which it may be granted and details of the applicant for the dispensation.
- 1.1.4. Under Paragraph 18 of The Code of Conduct (and the relevant Regulations) the Standards Committee may not consider granting a dispensation to an individual Member unless the Member seeking it has previously notified the Monitoring Officer of that interest together with the relevant details. In each of the requests below, the Member has notified the Monitoring Officer of that interest together with the relevant details.
- 1.1.5. In accordance with previous practice, it is suggested that all dispensations be granted until the first meeting of the Standards Committee following the Council Annual General Meeting in 2019 in order to ensure that they all come up for renewal at the same time.

1.2. Employment

- 1.2.1. The Council is the largest employer in the County Borough and it is not uncommon for both Officers and Members to have family members employed by Council. Unfortunately, this can cause some problems in dealing with Council business. The Standards Committee has previously granted dispensations to cover this situation.
- 1.2.2. The form of application for dispensation is intended to try to cover the situation when, although strictly required in law under the Members' Code of Conduct, serial declarations affect the smooth running of Committee business in circumstances where the general public would not draw any adverse inference from the relationships being declared.
- 1.2.3. Often Members have family whose employment position within the organisation puts them far away from the ability to influence Council Policy and are certainly not considered decision makers. Sometimes, family members are in relatively low paid jobs which are part time or temporary in nature.
- 1.2.4. Hence all the applications for dispensations request permission to speak and vote on issues relating to the business of Neath Port Talbot County Borough Council, (including personnel matters), provided these matters do not directly financially advantage or disadvantage, or give other direct benefit or dis-benefit to a member of a Councillor's family who is employed by Council. The dispensation will not apply where the person employed is a senior manager of Council (i.e. by that I mean an Accountable Manager or above) or is otherwise charged with assisting in the determination of Council Policy.
- 1.2.5. The Member using the dispensation must understand that it cannot be used if the matter under consideration would confer a greater benefit on the employed family member than on other tax payers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect the Member's ability to act purely on the merits of the case and in the public interest if the Member were to take part in the discussion.

Standard form of Dispensation: Employment

- 1.2.6. "To speak and vote on issues relating to the business of Neath Port Talbot County Borough Council including relevant personnel matters provided that
 - (a) they do not directly financially advantage or disadvantage or give other direct benefit or disbenefit to a Member or the Member's family who is employed by the County Borough Council or
 - (b) that the employment is not as a senior manager nor is involved in assisting with the determination of Council policy.

This dispensation will not apply in circumstances where a member of the public might reasonably conclude that the employment would significantly affect the Councillor's ability to act purely on the merits of the case and in the public interest."

Note: A Senior Manager is an Accountable Manager or equivalent and above.

Circumstances for granting the Dispensation: Employment

1.2.7. The circumstances are:-

"(d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business"

Note: this paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001. This was the circumstance under which applications for dispensations of this sort have been previously approved.

1.2.8. The Applications received are as follows:-

Councillor	Employment Dispensation
Cllr. D. Cawsey	His wife works as a Social Worker in the Intake Team within Children's Services
Cllr. C. Clement-Williams	Her niece is employed at Hillside Secure Unit Neath
Cllr. D. W. Davies	His sister-in-law is employed as a Teaching Assistant. Seconded to the directorate of Education Leisure and Lifelong Learning Development and Inclusion Services.
Cllr. O. S. Davies	His daughter is employed at Swn-y-Mor Care Home Port Talbot
Cllr. S. Freeguard	Her sister-in-law and niece are employed in Education Cleaning Service
Cllr. C.Galsworthy	Her sister in law is employed full time in the Finance Section and her Cousin's wife works in the business support team in Social Services.
Cllr. S.K. Hunt	His daughter is employed as a Teaching Assistant in Ysgol Gynradd Gymraeg Castell-nedd

Cllr. L. Jones	<ol style="list-style-type: none"> 1. Her brother in law works as an Environmental Health Officer 2. Her sister in law works as an Environmental Health Officer 3. Her brother in law works as a Service co-ordinator in SSHS (Community Care)
Cllr. S. Jones	<ol style="list-style-type: none"> 1. His cousin is employed in Property and Architectural Services in Environment Department 2. His cousin is employed as a Senior Highway Development Engineer in Environment 3. His cousin is employed as a Social Worker in Social Services department.
Cllr. A. Llewelyn	His wife is employed as a Teacher.
Cllr. J. Miller	His niece is employed as a Secretarial Support Assistant in Commissioning and Support Services of Social Services
Cllr. S. Miller	Her niece is employed as a Secretarial Support Assistant in Commissioning and Support Services of Social Services
Cllr. S. Pursey	His brother is employed in the Physical Activity and Sport Service.
Cllr. P. A. Rees	His daughter-in-law is employed as a School Clerk.
Cllr. A. Taylor	His sister-in-law works as a Teacher in Baglan Primary School.
Cllr. R. Taylor	Her sister works as a Teacher in Baglan Primary School.
Cllr. D. Whitelock	His wife is a Managing Director of Cwmafan Community Engagement Centre
Cllr. A. N. Woolcock	His niece is employed as a Training and Development Support Manager

Recommendation

- 1.2.9. That the applications for dispensation set out in paragraph 1.2.8. be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 in the standard form as set out in Paragraph 1.2.6. to speak and

vote and that the dispensations run to the Standards Committee which follows the Annual Meeting 2019.

1.3. Miscellaneous Dispensations

The Standards Committee has previously approved various dispensations to Members where they are members of voluntary organisations or organisations carrying out public functions where it is the wish of those Members to speak on Council business relating to those organisations and also, in some cases vote. All the other applications are applications for renewals. The subject of the dispensation and its extent varies in each case and therefore I have summarised the applications in the table which appears below.

Circumstances for granting the Dispensations: Miscellaneous

1.3.1. The circumstances are:-

“(d) the nature of the Member’s interest is such that the Member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business”

Note: this paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and was the circumstance under which applications for dispensations of this sort were previously approved.

1.3.2. Applications for Dispensations: Miscellaneous

Member	Subject of Dispensation	Extent of Requested Dispensation	Circumstances
Cllr. A. P. H. Davies	When One Voice Wales is under consideration in Coedffranc Community Council or NPTCBC meetings	Speak and Vote	Reg 2 (d)
Cllr. S. Freeguard	Items relating to the Abertawe Bro Morgannwg University Health Board Community Health Council provided that they do not relate to contractual terms between the Council and Abertawe Bro Morgannwg University Health Board	Speak and Vote	Reg 2 (d)
Cllr. C Galsworthy	Items relating to the Council’s Direct Services work and specifically Direct Payment as immediate family members are in recipients of direct payments	Speak and Vote	Reg 2 (d) and (e)

	provided that they do not relate to giving a financial advantage or disadvantage or give other direct benefit or disbenefit to a Member or the Member's family		
Cllr S Harris	Member of Friends of Cefn Coed Colliery Museum	Speak and Vote	Reg 2 (d)
Cllr. S. K Hunt	<p>Items relating to</p> <ul style="list-style-type: none"> • Seven Sisters Fire Cadets • Dulais Valley Silver Band (Chairman) Stephen Karl Hunt • Friends of Seven Sisters. • Cefn Coed Colliery Museum • The Friends of Seven Sisters • Glynneath Junior Tennis Club • Onllwyn Football Club. • Ynysdawley Playing Fields Association <p>provided they not relate to contractual terms or financial arrangements between the Council and the aforementioned organisations.</p>	Speak and Vote	Reg 2(d)
Cllr. S. Rahaman	Items relating to the NPT Black Minority Ethnic Community Association provided they do not relate to contractual terms or financial arrangements between the Council and NPT Black Minority Ethnic Community Association	Speak and Vote	Reg 2(d)
Cllr. P. Rees	Items relating to the programme of educational improvements at Hillside Secure Unit provided that they do not relate to contractual terms between the Council and Cefn Saeson Comprehensive School	Speak and Vote	Reg. 2 (d)
Cllr. P. D. Richards	Matters of general, commercial and retail development, subject to the condition that the	Speak only	Reg 2 (d)

	<p>dispensation will not apply to any planning application by or transaction with the Co-operative Group, or with any subsidiary or related enterprise.</p>		
--	---	--	--

Recommendation

- (1) That the applications for renewals of dispensations set out in paragraph 1.3.2. be approved in the circumstances set out in Regulation 2 (d) and (e) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak or to speak and vote as set out in the Schedule above and that the dispensations run to the Standards Committee which follows the Annual Meeting 2019.
- (2) That the new applications be considered.

1.4. Grant of General Dispensation: School Governors

1.4.1. Previously the Standards Committee has granted a general dispensation to allow all Members to speak and vote on education matters generally but more particularly the Strategic Schools Improvement Programme. This dispensation was granted under Regulation 2 (d), (f) and (g).

1.4.2. 2 (f) and 2 (g) are as follows:-

2 (f) the participation of the Member in the business to which the interest relates is justified by the Member’s particular role or expertise.

2 (g) the business to which the interest relates is to be considered by an Overview and Scrutiny Committee of the relevant authority and the Members interest is not a pecuniary interest.

Recommendation

It is recommended that this general dispensation be further granted until the Standards Committee which follows the Annual meeting 2019.

1.5. School Reorganisation matters

1.5.1. Last year Standards Committee granted applications for dispensation from a number of members regarding School Reorganisation/School Transport matters. Since the School Transport issue has been resolved I place the application before Committee for consideration only in relation to School improvement i.e. school reorganisation.

Some of the Councillors may in future have a role in deciding school reorganisation matters due to changes in the statutory regime. It should be noted that the fact that a member has dispensation does not mean it will be automatically required. The difficulty is that, in certain areas of the County Borough a decision in relation to one school may have an effect on surrounding schools in some way i.e. a redistribution of pupils therefore the member needs to determine whether their particular interest might be prejudicial in respect of this particular decision, bearing in mind the guidance above. There may be instances where there is no such effect and it could be argued there is no interest but Members need to determine this for themselves, taking advice where necessary. The dispensation is sought to ensure that even if members do have a prejudicial interest they will still be able to speak on a matter that goes before the relevant decision making committee/cabinet/board

Standard form of Dispensation: School Reorganisation Personal Interests

1.5.2. The standard form of dispensation used in these cases would be:-

“To speak but not vote on issues which relate to school reorganisation”.

Circumstances for granting a Dispensation: School Reorganisation Personal Interests

1.5.3. The circumstances under which the dispensations were granted were as follows:-

“(d) the nature of the Member’s interest is such that the Member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business.”

Note: This paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 and was the circumstances under which applications for dispensations of this sort were previously approved.

1.5.4. The application for dispensations are as follows:-

Name	Nature of Interest	Issue	Speak or Vote
Cllr. C. Clement-Williams	Grandchild at Ysgol Bae Baglan and Grandchild at Brynhyfryd Primary School	School Reorganisation	Speak only
Cllr D. Davies	His sister-in-law is employed as a Nursery Nurse at Neath Abbey School. Seconded to the	School Reorganisation	Speak only

	directorate of Education Leisure and Lifelong Learning Development and Inclusion Service		
Cllr N. J. Davies	Child of school age	School Reorganisation	Speak only
Cllr O.S. Davies	Grandchild at Ysgol Bae Baglan Grandchild at Ysgol Gymraeg Rhosafan	School Reorganisation	Speak only
Cllr. C. Galsworthy	Child, nieces and nephews at St. Joseph's Infants Juniors and Secondary	School Reorganisation	Speak only
Cllr R. Jones	Daughter is employed as a teaching assistant at Ysgol Maes y Coed. Grandson attends Ysgol Bae Baglan	School Reorganisation	Speak only
Cllr. S. Jones	Child and nieces and nephews of School Age	School Reorganisation	Speak only
Cllr.A. Llewelyn	Child of School Age	School Reorganisation	Speak only
Cllr. J. Miller	Governor – Grandchildren of school age	School Reorganisation	Speak only
Cllr. S. Miller	Governor – Grandchildren of school age	School Reorganisation	Speak only
Cllr. R. Mizen	Grandchildren will be attending Cwm Brombil School	School Reorganisation	Speak only
Cllr. L. Purcell	Grandchildren at Crymlyn Primary School.	School Reorganisation	Speak only
Cllr. S. Rahaman	Daughters attend Central Primary School - Broad Street Site and Theodore Road Site in Port Talbot.	School Reorganisation	Speak only
Cllr. P. Rees	Daughter-in-law works as a school clerk in Dyffryn Comprehensive School	School Reorganisation	Speak only
Cllr. P. Richards	Grandson attends Blaenbaglan Primary School	School Reorganisation	Speak only
Cllr. A. J. Taylor	Children of school age	School	Speak only

		Reorganisation	
Cllr. R. L Taylor	Children of school age	School Reorganisation	Speak only
Cllr. A. Wingrave	Grandchild at Dwr y Felin Comprehensive School and at Coedffranc Primary School.	School Reorganisation	Speak only
Cllr D. Whitelock	Grandchildren of school age	School Reorganisation	Speak only

1.5.5. Recommendation

That the applications for dispensations set out in paragraph 1.5.4. be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 in the standard form as set out in Paragraph 2.5.2. to speak but not vote and that the dispensations run to the Standards Committee which follows the Annual meeting 2019.

1.6. Grant of Dispensations: Voluntary Sector Funding

1.6.1. The Policy and Resources Overview and Scrutiny Committee has scrutinised a proposed decision in relation to the funding of “third sector” bodies and this will continue by the Cabinet Board and Cabinet Scrutiny Committee and Cabinet (Finance) Sub Committee. Some Members have interests in respect of various of the bodies covered by that review.

1.6.2. Under Paragraph 18 of The Code of Conduct (and the relevant Regulations) The Standards Committee may not consider granting a dispensation to an individual Member unless the Member seeking it has previously notified the Monitoring Officer of that interest together with the relevant details.

1.6.3. Some Members requested the Standards Committee to grant a dispensation allowing them to participate in meetings relating to the review. Members who are appointed to bodies by the Council are required to declare the appointment but their personal interest is not a prejudicial interest under the Members’ Code of Conduct. Other Members however are members of such organisations in their own right or have other interests. Their interests may be both personal and prejudicial requiring them to leave the meeting.

1.6.4. The interests in relation to which a dispensation is sought are as follows:-

<u>Name of Member</u>	<u>Nature of Interest</u>
Cllr. Linet Purcell	Cllr. Purcell is a member of the National Trust; the Wildfowl and

	Wetlands Trust, the Royal Society for the Protection of Birds (RSPB) and the Dogs Trust
--	---

1.6.5. The circumstances in which Standards Committee may grant dispensations are set out in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001. The circumstances are set out below:-

- (c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;
- (d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;
- (g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;
- (h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business;

1.7. Recommendation

That Standards Committee considers the applications for dispensation set out in paragraph 1.1.6. in the circumstances set out in Regulation 2 (c), (d), (g) and (h) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak only and that the dispensations cover all matters related to the funding for the voluntary/third sector such dispensations to run to the Standards Committee which follows the Annual Meeting 2019.

1.8. Background Papers

Exchange of emails on grant of dispensations for 2018/19.

1.9. Wards Affected

All

1.10. **Officer Contact**

For further information on this report please contact:-

Mr Craig Griffiths
Head of Legal Services
Tel. No. 01639 763767
E-mail c.griffiths2@npt.gov.uk

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 July 2018

REPORT OF THE HEAD OF LEGAL SERVICES –C.GRIFFITHS

Matter for Information

Wards Affected: All

Summary of cases undertaken by the Public Service Ombudsman for Wales

Purpose of the Report

1. To provide Members with a summary of cases that have been undertaken by the Public Service Ombudsman for Wales (“the Ombudsman”).

Background

2. The Ombudsman publishes a Code of Conduct Casebook quarterly which contains the summaries of all reports issued under section 69(4) of the Local Government Act 2000 relating to breaches of the Members Code of Conduct to which all elected members of County Borough Councils and Town and Community Councils must comply.
3. Members will note that where the Ombudsman decides that a complaint against a County Borough Councillor or Town and Community Councillor should be investigated, there are four findings to 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).

4. 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.
5. The Code of Conduct Casebook (attached as Appendix 1) 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. The Casebook covers October to December 2017.

Financial Impact

6. There are no financial impacts associated with this Report.

Equality Impact Assessment

7. There are no equality impacts associated with this Report

Workforce Impacts

8. There are no workforce impacts associated with this Report

Legal Impacts

9. The ethical framework of Members is as derived from the Local Government Act 2000 and the Members Code of Conduct is as set out in the Constitution of Neath Port Talbot County Borough Council ("the Council") as created by the Conduct of Members (Model Code of Conduct) (Wales) Order 2001. The powers of the Public Services Ombudsman for Wales are as defined in the Local Government Act 2000 and the Public Service (Ombudsman) Wales Act 2005 (as amended)

Consultation

10. There is no requirement under the Constitution for external consultation on this item.

Recommendations

11. That Members note the findings in the Public Service Ombudsman for Wales Code of Conduct Casebook

Appendices

12. Appendix 1 – Public Service Ombudsman for Wales Code of Conduct Casebook

List of Background Papers

13. The Constitution of Neath Port Talbot County Borough Council incorporating the Members Code of Conduct

Officer Contact

Mr Craig Griffiths

Head of Legal Services

Telephone 01639 763767

Email: c.griffiths2@npt.gov.uk

This page is intentionally left blank

The Code of Conduct Casebook

Issue 15 January 2018

Contents

Introduction	1
No evidence of breach	3
No action necessary	5
Referred to Standards Committee	6
Referred to Adjudication Panel for Wales	7
More information	8

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 2017.

Case summaries

No evidence of breach

Cardiff Council – Promotion of equality and respect

Case Number 201606695 – Report issued in October 2017

A complaint was made that a member (“the Councillor”) of Cardiff Council (“the Council”) breached the Authority’s Code of Conduct for elected members when he allegedly made comments to a former Councillor on two occasions about a local religious association.

The complaint was investigated on the basis that the member may have breached paragraphs 4(a), 4(b), 4(d) and 6(1)(a), relating to equality, respect, impartiality and bringing their office or authority into disrepute.

The investigation found that there were no witnesses to either of the conversations the member had with the former Councillor. The member also strongly denied the allegations. Therefore, under section 69(4) (a) of the Local Government Act 2000, the Ombudsman’s finding was that there was no evidence that the member failed to comply with the Code of Conduct.

Merthyr Tydfil County Borough Council - Integrity

Case Number 201700102 – Report issued in October 2017

A complaint was made that a member (“the Councillor”) of Merthyr Tydfil County Borough Council (“the Council”) breached the Authority’s Code of Conduct for elected members when she made comments about a member of the public in a Facebook messenger group chat.

The complaint was investigated on the basis that the Councillor may have breached paragraph 6(1)(a) of the Code, by bringing her office or authority into disrepute.

The Ombudsman considered that the Councillor’s comments were made in extremely bad taste. However, he took into account that the Facebook messenger group in which the Councillor posted her comments only consisted of three members. It was clear that the Councillor deeply regretted her actions and when she realised that the subject of her comments had become aware of what she had posted, she provided a fulsome apology.

The investigation found that, whilst the Councillor’s actions may have brought herself into disrepute, for the reasons outlined above, she had not brought her office or authority into disrepute. Therefore, under section 69(4)(a) of the Local Government Act 2000, the Ombudsman’s finding was that there was no evidence that the Councillor failed to comply with the Code of Conduct. However, the Councillor was advised of her responsibility to take care when expressing her personal opinions.

Tywyn Town Council and Gwynedd Council – Promotion of Equality and Respect

Case Number 201607353 & 201607357 – Report issued in November 2017

Councillor X complained that a member (“Councillor Y”) of Tywyn Town Council and Gwynedd Council breached the Code of Conduct for elected members by making personal allegations about her. Councillor

X provided evidence that Councillor Y made comments about her in various emails, which he had sent to members of Tywyn Town Council and Gwynedd Council.

The complaint was investigated on the basis that Councillor Y may have breached paragraphs 4(b) (failure to show respect and consideration), 4(c) (bullying and harassment), and 6(1)(a) (bringing his office or authority into disrepute).

The Ombudsman did not consider that the comments made by Councillor Y were so offensive as to amount to a breach of paragraph 4(b) of the Code of Conduct. Neither did he consider that his actions were sufficiently serious to amount to a breach of paragraph 4(c) of the Code.

In relation to paragraph 6(1)(a) of the Code, there was no evidence to suggest that Councillor Y had shared emails with members of the public. He had sent one email to a member of the press, and whilst the Ombudsman considered it was unwise for him to do so, it did not appear that the email was acted upon or shared further. That being so, the Ombudsman did not consider that the consequences of his actions were sufficiently serious to have brought his office or authority into disrepute.

Whilst the Ombudsman's finding was that there was no evidence that Councillor Y had failed to comply with the Code of Conduct, he was advised of his responsibility to be mindful of how his comments are perceived by others in future.

Llansannan Community Council – Promotion of Equality and Respect Case Number 201700953 – Report issued in November 2017

Mr X complained that a member ("the Councillor") of Llansannan Community Council ("the Community Council"), breached the Code of Conduct for members when he asked Mr X to leave a meeting of the Community Council and used the words "for your own safety," which Mr X considered to be a threat.

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

- 4(b) – you must show respect and consideration for others; and
- 4(c) – you must not use bullying behaviour or harass any person.

There was no evidence to suggest that the Councillor's behaviour towards Mr X was in any way threatening and the Ombudsman was satisfied that his actions were reasonable under the circumstances.

Under Section 69(4)(a) of the Local Government Act 2000, the Ombudsman's finding was that there was no evidence that the Councillor failed to comply with the Code of Conduct.

No action necessary

Conwy County Borough Council - Disclosure and registration of interests

Case Number 201702250 – Report issued in October 2017

The Ombudsman received a complaint that a member of Conwy County Borough Council (“the Councillor”) had breached the Code of Conduct when he submitted a written objection, in an official capacity, to a planning application which the complainants had made to the Council. The Councillor lives near the application site, and could be personally affected by it.

The Ombudsman concluded that it was likely that the Councillor had breached the Code given the proximity of the development site to his home and the fact his objections were sent from his Council email address and signed off “Councillor [Name]”. However, the Ombudsman decided to take no action in this case on the basis that the Councillor had shown remorse and apologised, his explanation that he had accidentally selected his Council email address from a drop down box when writing his email was plausible, he had acted swiftly to withdraw his objection when concerns were raised, and his actions did not adversely affect the planning application, which was granted permission.

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

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 sent to the following address:

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 (general enquiries)

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

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 July 2018

REPORT OF THE HEAD OF LEGAL SERVICES – C.GRIFFITHS

Matter for Information

Wards Affected: All

Recent decision of the Adjudication Panel for Wales relating to Members Code of Conduct Breaches

Purpose of the Report

1. To draw to Members attention a recent decision of the Adjudication Panel for Wales as the subject matter of this reports falls within the remit of the Standards Committee.

Background

2. On the 10th January 2018 the Adjudication Panel for Wales published its findings in the case of former Conwy County Borough Council member Dr Stuart Anderson. The matter had been referred to the Panel by the Public Services Ombudsman for Wales in July 2017 as a result of complaints that Dr Anderson had:
 - (a) Made unfounded allegations against council staff;
 - (b) Had involved himself in an issue in which he had a prejudicial interest;
 - (c) Had widely circulated personal comments about a senior officer;
 - (d) Had attempted to compromise the impartiality of an officer;
 - (e) Had shared confidential information.
3. The Panel found that Dr Anderson had breached the Members Code of Conduct on 9 separate grounds and disqualified him from office for 18 months.

4. A copy of the Adjudication Panel for Wales' decision is attached at Appendix 1 for information.
5. The decision, although not setting out in full detail the allegations against Dr Anderson, provides useful guidance on the interpretation of key parts of the Code.
6. The reason for bringing it to Members attention today is that it provides some useful guidance with some practical examples on how the Adjudication Panel for Wales feels the Members Code of Conduct maybe breached and the possible consequences this might have.

Financial Impact

7. There are no financial impacts associated with this Report.

Equality Impact Assessment

8. There are no equality impacts associated with this Report

Workforce Impacts

9. There are no workforce impacts associated with this Report

Legal Impacts

10. The ethical framework of Members is as derived from the Local Government Act 2000 and the Members Code of Conduct is as set out in the Constitution of Neath Port Talbot County Borough Council ("the Council") as created by the Conduct of Members (Model Code of Conduct) (Wales) Order 2001.

Consultation

11. There is no requirement under the Constitution for external consultation on this item.

Recommendations

12. That Members note the report of the Adjudication Panel for Wales regarding compliance with the Members Code of Conduct

Appendices

13. Appendix 1 – Decision of the Adjudication Panel for Wales of the 10th January 2018

List of Background Papers

14. The Constitution of Neath Port Talbot County Borough Council incorporating the Members Code of Conduct

Officer Contact

Mr Craig Griffiths

Head of Legal Services

Telephone 01639 763767

Email: c.griffiths2@npt.gov.uk

This page is intentionally left blank

NOTICE OF DECISION

TRIBUNAL REFERENCE NUMBER: APW/002/2017-018/CT
RESPONDENT: Former Councillor Stuart Anderson
RELEVANT AUTHORITY(IES): Conwy County Borough Council

1. A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.
2. In a letter dated 31 July 2017, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”) in relation to allegations made against Former Cllr Dr Stuart Anderson. During the investigation, the Ombudsman became aware of further allegations about Former Cllr Dr Anderson. The allegations referred to the Adjudication Panel for Wales were that Former Cllr Dr Anderson had breached Conwy County Borough Council’s Code of Conduct by making a number of unfounded allegations against staff, had involved himself in an issue which he had a prejudicial interest, had widely circulated personal comments about a senior officer, had attempted to compromise the impartiality of an officer and shared information which should reasonably have been regarded as confidential.
3. At a hearing on 9 – 10 January 2018 at Mold County and Family Court, Law Courts, Civic Centre, Mold, Flintshire CH7 1AE, the Case Tribunal found by unanimous decision that Former Cllr Dr Anderson failed to comply with the Conwy County Borough Council’s Code of Conduct as follows:
 - 4.1 Paragraph 4(a) of the Code of Conduct states that you must carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion.
 - 4.2 The Case Tribunal found that Former Cllr Anderson breached this paragraph in his treatment of Officer X. In numerous emails, Former Cllr Dr Anderson challenged Officer X’s capacity to fulfil his role in numerous emails to a variety of persons on the ground that he showed signs of “early dementia” and, later due to his disability without any objective evidence regarding his medical condition or internal personnel information held by the Council. Former Cllr Dr Anderson relied on his status as a retired doctor to justify speculation about Officer X and his health, and disclosed confidential medical information about Officer X again to a variety of persons, including members of the public. It was clear Former Cllr Dr Anderson’s view was that Officer X should not be employed in his role due to his disability.

4.3 Paragraph 4(b) of the Code of Conduct states that you must show respect and consideration for others.

4.4 The Case Tribunal found that Former Cllr Dr Anderson breached this provision on a number of occasions. His conduct in relation to Officer X showed a lack of respect and consideration, even after he was warned by council officers to cease circulating assertions about his health. The Case Tribunal did not find that Former Cllr Dr Anderson had failed to show respect and consideration to Ms Doran as according to her own evidence he had not been abusive or unduly critical of her. The Case Tribunal did find that Former Cllr Dr Anderson had acted towards Ms Hughes without respect or consideration in his email of 14 March 2016 which referred to her and another as being found “in flagrante” and said she had fabricated evidence. The email was sent to third parties. This was a very serious allegation against a legal officer of the Council and Former Cllr Dr Anderson did not follow the proper process to raise such concerns. The Case Tribunal did find that Former Cllr Dr Anderson, by calling the head teacher of a Conwy school a ‘psychopath’ on two occasions without any evidence other than the comments of his friend Mr Griffiths failed to show the head teacher respect and consideration.

4.5 Paragraph 4(c) of the Code of Conduct states that you must not use bullying behaviour or harass any person.

4.6 The Case Tribunal found that Former Cllr Dr Anderson did bully and harass Officer X by repeatedly speculating about his health and circulating confidential information about his health. Former Cllr Dr Anderson continued to do so, despite warning that it was not appropriate to widely circulate such information and speculation. The Case Tribunal noted the impact upon Officer X, and concluded it was more likely than not that Former Cllr Dr Anderson’s conduct contributed towards the early retirement of Officer X. It found Former Cllr Dr Anderson’s conduct was offensive, insulting and humiliating towards Officer X, undermined him to others, affected his confidence and may have adversely affected his health. The conduct was also repeated and upset Officer X.

4.7 Paragraph 4(d) of the Code of Conduct states that you must not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

4.6 The Case Tribunal found that Former Cllr Dr Anderson sought to compromise the impartiality of Ms Doran by instructing her to persuade Mr Davies to take action and to access his emails. The veiled threat that if Ms Doran did not do so, action may be taken against the Council was improper and designed to force Ms Doran to do as Former Cllr Dr Anderson wished and achieve an outcome he wished in respect of the leadership of a school.

4.7 Paragraph 5(a) of the Code of Conduct states that you must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so.

4.8 The Case Tribunal found that Former Cllr Dr Anderson breached this paragraph by disclosing information about Officer X’s health to third parties (when not required to do so by law and without his consent), circulating a

dossier prepared by Mr Griffiths regarding a school which contained confidential employment information (when not required to do so by law and without the consent of the school or those named within), and circulating a letter from Mrs A containing information about her health (when not required to do so by law and without her consent). The Case Tribunal concluded Former Cllr Dr Anderson as a former doctor and the quasi-employer of Council employees ought reasonably have regarded the information as confidential.

4.9 Paragraph 6(1)(a) of the Code of Conduct states that you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute

4.10 The Case Tribunal found that Former Cllr Dr Anderson brought the role of elected member into disrepute by means of his conduct towards Officer X, allegations against Ms Hughes, seeking preferential treatment for his close personal associate Mr Griffiths and calling in a decision to remove Mr Griffiths from his role on a school governing body when he had a prejudicial interest, circulating confidential information, and making numerous written and oral representations on behalf of Mr Griffiths when Former Cllr Dr Anderson had a prejudicial interest.

4.11 Paragraph 7(a) of the Code of Conduct states that you must not in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage.

4.12 The Case Tribunal found that Former Cllr Dr Anderson did breach this paragraph as he undertook a campaign to seek justice for Mr Griffiths, seeking preferential treatment for him and seeking to circumvent the official processes to deal with the issue. The Case Tribunal judged Former Cllr Dr Anderson to have failed to recognise the fact that his prejudicial interest meant it was improper to actively campaign on behalf of Mr Griffiths, particularly when his personal and prejudicial interest had not been declared (except on one occasion).

4.13 Paragraph 14(1)(c) of the Code of Conduct states that where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee, not seek to influence a decision about that business

4.14 The Case Tribunal found that Former Cllr Dr Anderson had both a personal and prejudicial interest in relation to his close personal associate Mr Griffiths, which he failed to declare except at a meeting of the scrutiny committee of 16 May 2016 when seeking to influence the decision of the Council in emails, during meetings and in his call to Ms Doran.

4.15 Paragraph 14(1)(d) of the Code of Conduct states that where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee, not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business.

4.16 The Case Tribunal found that Former Cllr Dr Anderson had both a personal and prejudicial interest in relation to his close personal associate Mr

Griffiths, which he failed to declare except at a meeting of the scrutiny committee of 16 May 2016, when making written representations about the decision regarding Mr Griffiths.

5. Former Cllr Dr Anderson should be disqualified for 18 months from being or becoming a member of the Conwy County Borough Council or of any other relevant authority within the meaning of the Local Government Act 2000, with effect from the date of this notice.

6. Conwy County Borough Council and its Standards Committee are notified accordingly.

7. The Respondent has the right to seek the leave of the High Court to appeal the above decision.

Signed: 

Date: 10 January 2018

Claire Sharp
Chairperson of the Case Tribunal

Siân Jones
Panel Member

Juliet Morris
Panel Member

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 July 2018

REPORT OF THE HEAD OF LEGAL SERVICES – C.GRIFFITHS

Matter for Information

Wards Affected: All

Update on recent High Court Decision regarding Members Code of Conduct

Purpose of the Report

1. To provide the Committee with information about a recent High Court judgement concerning the lawfulness of sanctions imposed by a Town Council against a Councillor following a complaint about her conduct

Background

2. A recent case regarding the role of a Standards Committee has recently made its way to the High Court and it was felt appropriate by the Monitoring Officer that a report on its outcome be provided to the Standards Committee for Members information. It is rare for there to be a judicial review in respect of Standards Committee remits and a summary of the same is set out below.
3. The case was R (on the application of Harvey) v Ledbury Town Council 2018. Although it relates to a Town Council in England, its findings are very much applicable in Wales.
4. A summary of the case is as follows:
 - (a) Councillor Harvey was a member of Ledbury Town Council and came into conflict with the town clerk who brought a grievance alleging that Councillor Harvey had bullied, intimidated and harassed staff. The grievance was heard by a panel of senior councillors. Councillor Harvey did not attend, stating that she did not recognise the authority of the Panel, and she requested that the matter be properly investigated under the standards procedure.

- (b) However, the Panel upheld the grievance in her absence, and the town council then resolved to impose a number of restrictions on Councillor Harvey, including that she should not sit on any committees, sub-committees, panels or working groups nor represent the council on any outside body, and that all communications between her and its clerk and deputy clerk should go through the mayor.
- (c) Councillor Harvey referred herself to the Monitoring Officer of Herefordshire Council as a Code of Conduct complaint. Herefordshire Council advised the Town Council that the complaint was sufficiently serious to require further investigation, and so it was making arrangements for the complaint to be investigated by an external investigator. The Monitoring Officer advised the Town Council that although these allegations were made under the grievance procedure, they were in fact allegations that a member had failed to comply with the authority's Code of Conduct and so had to be dealt with in accordance with the standards regime (for English authorities this regime is made under s.28(6) of the Localism Act 2011).
- (d) Nonetheless, the town council maintained its restrictions on Councillor Harvey; and subsequently decided that the restrictions should not only continue, but should also be expanded to prevent her from communicating with all staff.
- (e) The external Code of Conduct investigation was then concluded; and Herefordshire Council advised that the investigator had found no breach by Councillor Harvey of the Town Council's Code of Conduct and so it would be taking no further action on the standards complaint.
- (f) Councillor Harvey then applied for judicial review to challenge the Town Council's decision to impose sanctions under its grievance procedures on the basis that (1) the restrictions were 'ultra vires' (unlawful) as they constituted sanctions which could only be imposed as a result of a standards process; and (2) the decision making process was unfair, substantively and procedurally.
- (g) The town council argued that its decision was not ultra vires, because it said that the standards regime set under the Localism Act 2011 did not prohibit it from instigating proceedings under its grievance procedure where what was in issue was a matter involving internal relations between its employees and staff. It also rejected the complaints that its decision making process was substantively and procedurally unfair.
- (h) The High Court judge ruled in favour of Councillor Harvey on both grounds of challenge. The judge said the Town Council's decision must be quashed.
- (i) Although the case related to a Town Council and the standards regime applicable in England, the key points from the case are relevant here in Wales, those being that:

- i. The council were not able to sanction Councillor Harvey other than going through the procedural safeguards of a Code of Conduct process. The council's restrictions on Councillor Harvey (continued even after she was found not to have been in breach of the code) were an unlawful sanction; and
 - ii. The conduct of the grievance
5. This case makes clear that a council cannot run a grievance procedure against a councillor alongside, or as an alternative to, a standards regime procedure, and that complaints regarding a councillor's conduct have to be dealt with under the authority's standards arrangements.
6. It also provides a reminder that any process must be fair and in accordance with the principles of natural justice, i.e. the right to a fair hearing by an unbiased and impartial body requires that individuals should have been given prior notice of the allegations made against them, a fair opportunity to answer them, and the opportunity to present their own side of the story. The right to a fair hearing is also guaranteed by Art.6(1) European Convention on Human Rights.
7. It should be noted that the issue of Councillor Harvey's conduct was not in dispute in this case, rather it was the process used to consider it.
8. Notwithstanding this judgment, it is clear that local authorities must continue to be mindful of their responsibilities to protect their employees from bullying, intimidation and harassment, since the authority may be liable for the actions of its councillors (this was established in the case of *Moores v Bude-Stratton Town Council* [2000] EAT 313/99). However, the proper course for the investigation of behaviour of councillors is under the Code of Conduct and the statutory standards framework; and authorities must ensure that any hearing is fair and any informal action is proportionate in all the circumstances of the case.

Financial Impact

9. There are no financial impacts associated with this Report.

Equality Impact Assessment

10. There are no equality impacts associated with this Report

Workforce Impacts

11. There are no workforce impacts associated with this Report

Legal Impacts

12. The ethical framework of Members is as derived from the Local Government Act 2000 and the Members Code of Conduct is as set out in the Constitution of Neath Port Talbot County Borough Council (“the Council”) as created by the Conduct of Members (Model Code of Conduct) (Wales) Order 2001.

Consultation

13. There is no requirement under the Constitution for external consultation on this item.

Recommendations

14. That Members note the decision of High Court in the recent judgement relating to the role of a Standards Committee.

Appendices

15. None

List of Background Papers

16. R (on the application of Harvey) v Ledbury Town Council 2018
(<http://www.bailii.org/ew/cases/EWHC/Admin/2018/1151.html>)

Officer Contact

Mr Craig Griffiths

Head of Legal Services

Telephone 01639 763767

Email: c.griffiths2@npt.gov.uk

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 July 2018

REPORT OF THE HEAD OF LEGAL SERVICES – C.GRIFFITHS

Matter for Decision

Wards Affected: All

Standards Committee Forward Work Plan

Purpose of the Report

1. To agree the Forward Work Plan for Neath Port Talbot County Borough Council's ("the Council") Standards Committee.

Background

2. The Council's Democratic Services Sections now provides forward work programmes for each of the Council's decision making forums, whether it be full Council, Cabinet, Scrutiny Meetings or Committees.
3. It was felt important therefore for Members to have a potential forward work plan and for a discussion to be had at the Standards Committee meeting of the 13th July 2018 what items they might wish to consider having reports prepared on for Standards Committee meetings for the coming year and what areas they wish the Standards Committee to give consideration to in line with the remit of the Standards Committee set out in the report to Standards Committee of the 13th July 2018..
4. The Head of Legal Services and Monitoring Officer has provided an indication of matters at this stage which will be reported to Members in the coming year, which are set out as follows

Standards Committee	Matters for Agenda
23 rd November 2018	<ul style="list-style-type: none">• Ombudsman Annual Report• Code of Conduct Update• Discussion of training regime

	<p>undertaken by County Borough Councillors and to identify areas of need that should be recommended to the Council's Democratic Services Section</p> <ul style="list-style-type: none"> • Discussion of training regime that should be provided to Town and Community Councillors and Clerks on Code of Conduct issues
29 th March 2018	<ul style="list-style-type: none"> • Code of Conduct Update • Feedback on training regimes for County Borough Councillors and Town and Community Councillors

Financial Impact

5. There are no financial impacts associated with this Report.

Equality Impact Assessment

6. There are no equality impacts associated with this Report

Workforce Impacts

7. There are no workforce impacts associated with this Report

Legal Impacts

8. The Standards Committee is governed by the obligations set out in the Local Government Act 2000 and its composition and running is as set out in the Standards Committee (Wales) Regulations 2001.

Consultation

9. There is no requirement under the Constitution for external consultation on this item.

Recommendations

10. That Members agree a Forward Work Plan for the Neath Port Talbot County Borough Council Standards Committee and approve the items for discussion

set out in paragraph 4 of this report and any other items that they may wish to add to the Forward Work Plan.

Reason for Report

11. That Members agree a Forward Work Plan to ensure that the Standards Committee adequately discharges its functions in accordance with the Local Government Act 2000

Appendices

12. None

List of Background Papers

13. The Constitution of Neath Port Talbot County Borough Council

Officer Contact

Mr Craig Griffiths

Head of Legal Services

Telephone 01639 763767

Email: c.griffiths2@npt.gov.uk

This page is intentionally left blank