

The Code of Conduct Casebook

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Introduction

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

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

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

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

penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers January to March 2018.

Case summaries

No evidence of breach

There are no summaries in relation to this finding

No action necessary

Llanbedrog Community Council – Disclosure and registration of interests

Case Number: 201700942 & 201702074 – Report issued in January 2018

The Ombudsman received a complaint that a member of Llanbedrog Community Council (“the Councillor”) breached the Code of Conduct by failing to declare an interest when his planning application came up for discussion at a meeting of the Community Council (“the meeting”).

The Ombudsman investigated whether the Councillor had breached parts of the Code relating to personal and prejudicial interests. Interviews were conducted with those members of the Council who were present at the meeting. The evidence indicated that the Councillor:

- declared an interest when his planning application came up for discussion
- did not take part in the discussion
- did not leave the room but as the item was so brief, he did not have an opportunity to do so.
- The members present at the meeting did not feel that the Councillor’s presence influenced their decision

The Ombudsman found that the Councillor had acted appropriately and in line with the requirements of the Code of Conduct in declaring a personal interest when his planning application came up for discussion. However, his action in not leaving the meeting room was in breach of the Code of Conduct as he would have had a prejudicial interest in the matter.

The Ombudsman considered the breach was mitigated as the Councillor took no part in the discussion and as the item was so brief, the Councillor did not have an opportunity to leave the room before the item was concluded. The Community Council was also not the final decision-maker on planning matters. He took the view that the Councillor’s actions were of limited consequence.

Under section 69(4)(b) of the Local Government Act 2000, the Ombudsman found that no action needed to be taken in respect of the complaint.

Abertillery & Llanhilleth Community Council – Integrity

Case Number: 201700261 – Report issued in January 2018

The Ombudsman received a complaint that a member (“the member”) of Abertillery & Llanhilleth Community Council (“the Council”) had breached the Code of Conduct for members. It was alleged that the member had arranged for a sum of money, intended for the Council, to be paid to a community project (“the Project”). At the time of the actions complained of the member was Chairman both of the Council and of the Project.

The Ombudsman investigated whether the member’s actions amounted to a breach of para-

graphs 6(1)(a), 7(b)(ii) and 7(b)(iv) of the Code of Conduct relating to bringing their office or authority into disrepute, and the use of the authority's resources.

The Ombudsman found that the Council had no legal right to receive the money in question, and that it could not therefore be considered to be the Council's resources. The member had therefore not breached paragraph 7(b)(ii) or paragraph 7(b)(iv). However, the member had acted improperly in the way in which he obtained funding for the Project, representing himself as acting on behalf of the Council, at the possible expense of other groups, and may therefore have been in breach of paragraph 6(1)(a) in that he had brought his office or the authority into disrepute.

The Ombudsman noted the member's inexperience as Chairman, the fact that he believed, albeit mistakenly, that he was acting in the public interest and that he obtained no personal gain from his actions. The Ombudsman concluded that, on balance, the public interest did not require that the case should be referred to a Standards Committee or Adjudication Panel for Wales, and decided that no further action needed to be taken.

Case Number: 201701904 – Disclosure and registration of interests

Llay Community Council – Report issued in January 2018

The Ombudsman received a complaint from a member of the public that the Councillor had breached the Code of Conduct ("the Code") for Llay Community Council ("the Council"). The complainant said the Councillor had, at a meeting of the Council, failed to declare a personal interest in - and participated in a discussion about - a planning application which affected the site of the Llay branch of a charitable organisation. The Councillor is the Secretary of the Social Committee of the Social Club which is licensed to operate from the charitable organisation's site.

The Ombudsman considered whether, in failing to declare a personal interest and remaining in the room, the Councillor had breached the Code. The Ombudsman took witness statements from the other councillor's present at the meeting and interviewed the Councillor. The Council unanimously voted to oppose the planning application and none of the witnesses said they felt influenced by the Councillor's presence. There was some confusion amongst councillors as to whether the Councillor should have declared an interest and withdrawn. At interview, the Councillor remained of the view that he had not been required to declare an interest and withdraw. The Council was not the determining authority and so was simply being consulted on the application.

The Ombudsman concluded that the Councillor's personal interest was prejudicial and that he should have withdrawn from the room while the application was under discussion. However, the Ombudsman found that the Councillor did not stand to personally benefit from the outcome of the planning application. The Councillor's position as Secretary of the Social Committee and the Council's role in the determination of the application were sufficiently distant from application as to mitigate their impact. The Ombudsman considered the general confusion amongst councillors and the fact that the Councillor presence had no bearing on the Council's unanimous opposition to the application.

The Ombudsman concluded that there was evidence suggestive of a breach of paragraphs 11(1) and 14(1)(a)(ii) of the Code. Whilst the Ombudsman was concerned at the apparent confusion amongst councillors generally in respect of personal interests, he considered that additional train-

ing would address this. On balance, the Ombudsman concluded that although the Councillor may have breached two paragraphs of the Code, there were mitigating circumstances and so no further action was necessary.

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:

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