

# Pecyn Dogfennau Cyhoeddus

## Pwyllgor Safonau

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Man Cyfarfod  
**Ystafell Bwyllgor A - Neuadd y Sir,  
Llandrindod, Powys**

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Dyddiad y Cyfarfod  
**Dydd Mercher, 4 Hydref 2017**

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Amser y Cyfarfod  
**10.00 am**

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I gael rhagor o wybodaeth cysylltwch â  
**Elizabeth Patterson**  
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Neuadd Y Sir  
Llandrindod  
Powys  
LD1 5LG

Dyddiad Cyhoeddi

## AGENDA

<b>1.</b>	<b>COFNODION</b>
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Awdurdodi'r Cadeirydd i lofnodi cofnodion cyfarfod(ydd) blaenorol y Pwyllgor a gynhaliwyd ar y dyddiad(au) canlynol fel cofnod cywir.  
([Tudalennau 1 - 22](#))

<b>2.</b>	<b>YMDDIHEURIADAU</b>
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Derbyn ymddiheuriadau am absenoldeb.

<b>3.</b>	<b>DATGANIADAU O DDIDDORDEB</b>
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Derbyn unrhyw ddatganiadau o fuddiant oddi wrth Aelodau mewn cysylltiad ag eitemau i'w trafod ar yr agenda.

<b>4.</b>	<b>ADRODDIAD CYFREITHIWR Y CYNGOR</b>
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Derbyn adroddiad Cyfreithiwr y Cyngor.  
([Tudalennau 23 - 44](#))

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD AT COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON WEDNESDAY, 28 JUNE 2017

### PRESENT

Independent Member Mrs H Rhydderch-Roberts (Chair)

Independent Members: Mrs C Jackson, Mrs J Evans, Mr S Hays and Mrs S Jarman

County Councillors S McNicholas, S Lewis, K M Roberts-Jones and K S Silk

### 1. MINUTES

The Chair was authorised to sign the minutes of the following meetings as a correct record:

- 15<sup>th</sup> February 2017
- 13<sup>th</sup> March 2017
- 15<sup>th</sup> March 2017

The Chair was authorised to sign the minutes of the meeting held on 26<sup>th</sup> May 2017 subject to the following amendments:

Under declarations of interest amend to ‘...it was noted that Councillor K Roberts-Jones *and Independent Member H Rhydderch-Roberts* had not been invited to take part in this meeting as *she they* had.....’

Under the Report of the Deputy Monitoring Officer amend to: ‘...had been invited to attend the meeting on 26<sup>th</sup> May 2017 but ~~unfortunately~~ he was unable to make that date.’

### 2. APOLOGIES

No apologies for absence were received.

### 3. DECLARATIONS OF INTEREST

No declarations of interest were received.

### 4. REPORT OF THE SOLICITOR TO THE COUNCIL

The Committee received the report of the Solicitor to the Council (copy filed with signed minutes).

**A General Standards Issues for County Councillors and Co-opted Members**

**A1 Code of Conduct Training**

Code of Conduct training was held on 16<sup>th</sup> May 2017. Training will be arranged for the three County Councillors, 1 Independent Member and 1 newly appointed County Councillor to received training over the summer.

One further Member would need to be trained in the early autumn. The Committee indicated that they expected that all Members would have received training before the next meeting of the Committee on 4<sup>th</sup> October 2017.

## **B Referral of County Councillors to Public Services Ombudsman**

### **B1 County Councillor Referrals**

6/15/CC	Referred back to the Standards Committee
8/15/CC	Referred to the Standards Committee
9/15//CC	Referred to the Standards Committee
04/16/CC	Ombudsman investigating
09/CC/2016	Investigated – no evidence of failure to comply
10/CC/2016	Investigated – no evidence of failure to comply
15/CC/2016	Investigated – no evidence of failure to comply
16/CC/2016	Investigated – no evidence of failure to comply
17/CC/2016	Investigated – no evidence of failure to comply
01/CC/2017	Ombudsman decided not to investigate
02/CC/2017	Ombudsman decided not to investigate – complainant submitted a request for a review of that decision
03/CC/2017	Complaint received – Ombudsman decided not to investigate

The outcome of the three complaints referred to the Standards Committee was noted by the Committee.

#### **6/15/CC County Councillor Gary Price**

This case was referred by the Ombudsman to the Standards Committee who heard the matter on 2<sup>nd</sup> November 2016 determining that a breach had occurred and a suspension of 5 months was imposed. Councillor Price appealed and the Adjudication Panel for Wales held an appeal hearing where it was determined that he had breached the Code of Conduct and recommended that the suspension should be for three months. The Standards Committee held an appeal review hearing and determined that the three month suspension should be imposed. The suspension runs from 27<sup>th</sup> May 2017 to 26<sup>th</sup> August 2017.

A copy of the report of the Standards Committee of 26<sup>th</sup> May 2017 was attached at **Appendix A** to the agenda papers.

Members asked if a letter of apology had been made by Councillor Price. It was confirmed that to date no letter of apology had been received. It was not clear however exactly what was meant by 'the end of the process' as stated in the decision notice from the Adjudication Panel for Wales which was when the apology was expected to be made. The Committee was concerned that this lack of clarity did not assist the Committee in its final determination i.e. was the apology due at the end of the Adjudication Panel process or now due following the Committee's final determination. The Committee also questioned if Councillor Price failed to make the required apology what would be the outcome, as it appeared that there would be no consequence of Councillor Price not apologising.

**Resolved that the Deputy Monitoring Officer contact the Adjudication Panel for Wales seeking clarity on the matter of when any such apology should be expected to be made.**

8/15/CC – County Councillor Aled Davies

This case was referred by the Ombudsman to the Standards Committee who heard the matter on 13<sup>th</sup> March 2017 determining that a breach of the Code of Conduct had occurred and imposing a suspension of 2 weeks. This decision was not appealed and the suspension ran from 11<sup>th</sup> April 2017 to 25<sup>th</sup> April 2017.

A copy of the report of the Standards Committee of 13<sup>th</sup> March 2017 was attached at **Appendix B** to the agenda papers.

9/15/CC – County Councillor Gwynfor Thomas

This case was referred by the Ombudsman to the Standards Committee who heard the matter on 15<sup>th</sup> March 2017 determining that a breach of the Code of Conduct had occurred and imposing a suspension of 4 weeks. This decision was not appealed and the suspension ran from 19<sup>th</sup> April 2017 to 8<sup>th</sup> May 2017 when the term of office came to an end.

A copy of the report of the Standards Committee of 15<sup>th</sup> March 2017 was attached at **Appendix C** to the agenda papers.

## **C Other Standards Issues**

### **Standards Conference**

It was noted that the next Standards Conference was due to be held in Spring 2018 and that the date and venue were to be confirmed.

## **D Dispensations**

### **D1 General Dispensations**

The following general dispensations were considered:

School Modernisation and School Transport Reviews.

The Council has a School Modernisation Programme which has raised a number of complex issues in relation to the Members' Code of Conduct.

The previous Standards Committee's discussion centred around the need to allow members of the public to have a voice through their elected representative on an issue of such importance to the whole community and to ensure that the democratic process was not restricted. Whilst it was confirmed that there was no problem with school governors taking part in the process it was uncommon for a Member to be solely a school governor and most members had multiple and complex interests.

The previous Committee considered that the main area of difficulty for Members arose when pecuniary interests arose which were defined as those Members who

were employed in a school,  
who had a close personal association with someone employed in a school (spouse, parent, child)  
had a contract for school transport  
Members who have children in schools who are likely to be affected by the decision or have a close personal association with a person who has children in a school likely to be affected by the decision

Since this was last discussed by the Standards Committee the following additional interest have been identified:

Members who have a pecuniary interest because of out of school transport costs

The previous Committee emphasised that a pecuniary interest did not go so far as to relate to a change of school for a child where the Member may choose to send their child to a school other than their designated school and thus incur travel expense.

Members reported that there was evidence that the blanket dispensation granted for matters relating to the School Modernisation process was being used by Members in relation to any matters relating to schools. The previous Committee confirmed that the blanket dispensation related only to the School Modernisation process.

The previous Committee agreed broadly with the view taken by the Committee in 2010 of the need to allow members of the public to have a voice through their elected representatives on an issue of such importance to the whole community and to ensure that the democratic process was not unduly restricted subject to a limitation in respect of prejudicial interests which were pecuniary arising from employment at a school, but since then had identified additional interests as set out above.

The previous Committee agreed that a blanket dispensation should be granted to all councillors in this connection and that it should extend to issues involving school transport which were also the subject of a current review and were intrinsically linked to the school modernisation programme. It was further decided that in relation to school transport review matters the dispensation should not apply in respect of a pecuniary prejudicial interest arising from an involvement with the provision of such transport.

The previous Committee also reaffirmed that the dispensation should apply only to matters arising directly under and linked to the actual school modernisation programme/ school transport review. In other words, the dispensation should not apply in circumstances where the issue involved an individual school, pupil or transport issue unrelated to such programme/review.

<b>RESOLVED THAT:</b>	<b>REASON FOR DECISION</b>
<p>a blanket dispensation (the dispensation) in relation to school modernisation and any school transport issue be granted to all county councillors in accordance with and, subject to, the following provisions of this resolution:-</p> <p>(a) the dispensation shall relate to all prejudicial interests under the Members Code of Conduct <b>PROVIDED ALWAYS</b> that the dispensation shall not apply where the councillor (irrespective of whether or not he/she is a member of the Cabinet or Scrutiny Committee) has a pecuniary prejudicial interest other than one that relates to out of school transport costs;</p> <p>(b) “school modernisation” means any modernisation proposal being undertaken by or for the Cabinet in relation to both primary, secondary and special schools but does not include non-modernisation issues (e.g. the budget, inspection, employment matters, ICT, catering, cleaning, refurbishment, repair or property items);</p> <p>(c) “school transport issue” means any issue relating to the planning, commissioning and procurement of transport for pupils attending primary, secondary and special schools both in and outside of Powys where the Council has a duty to provide such transport but does not include interests which are specific to a particular school, route or pupil unrelated to such review;</p> <p>(d) “pecuniary prejudicial interest” means a prejudicial interest under the Members Code of Conduct which results in financial gain, or financial loss, either immediately, or in the foreseeable future, arising (in the case of school modernisation) from employment as a teacher or otherwise at a school or, (in the case of the school transport) from the Council’s provision of school transport, to:-</p> <p style="padding-left: 40px;">(i) the councillor in question; or</p> <p style="padding-left: 40px;">(ii) someone with whom the councillor lives or has a close personal association e.g. close friends, close relatives, colleagues with whom the councillor has particularly strong connections, business associates and someone with whom the councillor has been in dispute with (NB1 Councillors should note however that “close personal association”</p>	<p>To enable members to represent their constituents in matters of great significance for Powys where they do not have a conflict of interest which is pecuniary; the committee being of the view that the grant of this blanket dispensation will not damage public confidence in the conduct of the Council’s business.</p>

does not include casual acquaintances, distant relatives or people you simply come into contact with through your role as member or your work in the local community) (NB2 Pecuniary Prejudicial Interest does not include the additional out of school transport costs incurred by a parent, grandparent, guardian, carer or person having parental responsibility);

- (e) the dispensation extends to:-
  - (i) attending any meeting formal or informal (as defined in the Members Code of Conduct) including meetings of the full County Council, Cabinet, Scrutiny or other Committee or Project Board;
  - (ii) speaking and voting at such meetings; and
  - (iii) making oral or written representations and generally playing a full role in representing constituents;
- (f) the dispensation is subject to compliance with:-
  - (i) any legislative requirement;
  - (ii) any common law rule including bias/predetermination;
  - (iii) the council's constitution;
- (g) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters the dispensation;
- (h) for the avoidance of all doubt:-
  - (i) the dispensation applies to all members including those who are Decision Makers;
  - (ii) other than where a specific pecuniary prejudicial interest exists, as detailed above, the dispensation applies to all other types of prejudicial interests such as those arising from being a school governor or being the parent, grandparent, guardian, carer or person having parental responsibility for a child at a school;



<ul style="list-style-type: none"><li><b>(iii) the dispensation does not apply where directly or through someone with whom the member lives or has a close personal association a pecuniary prejudicial interest exists as defined above;</b></li><li><b>(iv) it is always a matter for the individual member to decide whether the interest is prejudicial;</b></li><li><b>(v) a member who takes advantage of the dispensation must continue to comply with the Members' Code of Conduct including the requirements in relation to:-</b><ul style="list-style-type: none"><li><b>(a) the disclosure of his/her personal and prejudicial interest at meetings and in discussions indicating the nature of such interest and confirming that he/she is participating with the benefit of the dispensation; and</b></li><li><b>(b) the giving of the requisite written notification in connection with these disclosure requirements;</b></li></ul></li><li><b>(vi) the dispensation, whilst it does not apply to any member (irrespective of whether or not he/she is a member of the Cabinet) with a pecuniary prejudicial interest, does not affect the right (under the Members' Code of Conduct) of a member who has a pecuniary prejudicial interest to speak and then withdraw from a meeting where the public are accorded the right to speak at such meeting;</b></li></ul>	
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### **Renewable Energy.**

This issue commenced with a proposal in Montgomeryshire relating to proposed large windfarms as well as an electricity sub-station and electricity pylons.

Given the extent to which these proposals affected a large part of Montgomeryshire and Northern Radnorshire, and the position in which very many County Councillors for the area found themselves, the previous Committee was asked to consider the desirability of granting Councillors (in their various roles) a blanket dispensation or dispensations to speak or speak and vote at meetings (including both formal meetings and meetings under the Members' Code involving another Member and/or officer); to

make representations in writing and orally and generally to play a full role (subject to compliance with the general law and the Council's Constitution – e.g. Planning Protocol) in representing their constituents in relation to this matter.

It was suggested that the County Councillors affected by a renewable energy development could be considered to fall into three categories in relation to this matter:

- (i) those that are on the Planning Committee or / Cabinet and could be classed as "Decision Makers" (Planning Committee members in relation to the Hub; and Cabinet members in relation to the Pylon Consultation);
- (ii) those who are "Local Members" and
- (iii) the relevant Portfolio Holder.

It was further noted that some County Councillors were also Town or Community Councillors.

In their deliberations the previous Committee took note of the following:

It had generated a considerable amount of local interest much of which opposed the development;

It was perceived that constituents would wish their local County Councillor to be free to put forward the views of the local communities in relation to this development and to clearly articulate and make public their own view irrespective of any personal and prejudicial interest a member may have under the Members Code of Conduct;

The likelihood was, given the wide spread impact of this development, that many Members would be directly and indirectly affected whether adversely or possibly beneficially resulting in them having personal and prejudicial interests under the Members' Code of Conduct;

Those Members in areas affected who wish to act as Decision Makers on either the Cabinet or Planning Committee would find difficulty in playing any significant "constituency role" in their elected division due to the difficulties caused by the likely perception that as a consequence of their role locally they had formed a "closed mind" and were "predetermined"; and

The different types of personal and prejudicial interests that could arise appeared to be diverse and it would be difficult, if not impossible, to categorise all such interests in terms of those which ought to be the subject of dispensations and those which should not.

The uncertainty around the timescale relating to the submission of the formal planning applications might result in there being changes to the current membership of the Cabinet and Planning Committee by the time the applications are actually considered.

The previous Standards Committee was firmly of the view that a member of the Planning Committee who had a personal and prejudicial interest in this development within the terms of the Members' Code of Conduct should not be given a dispensation to take part in the Planning Committee process regarding the Hub as "Decision Makers". Whilst it was considered neither appropriate or justified to consider granting dispensations to members of the Planning Committee in respect of their

decision making role the previous Standards Committee were of the view that if a Planning Committee Member elected to step aside from their decision making role to undertake a “Local Member” role in relation to this development such a Member should be granted a dispensation to attend meetings, speak, make representations etc. in order to effectively represent their constituents notwithstanding the existence of any personal and prejudicial interest. Additionally and irrespective of any dispensation such a Member would also remain free under the Council’s Planning Protocol to play the role of Local Member in addressing the Planning Committee under the public speaking provisions of that protocol.

Similarly where a Cabinet Member had a personal and prejudicial interest in respect of this development the previous Standards Committee were of the view that (as with Planning Committee Members) such a Member should not be granted a dispensation of any sort so as to enable him/her to undertake a decision making role. If a Cabinet Member elected to step aside from their decision making role to undertake a “Local Member” role such a Member should be granted a dispensation to attend meetings, speak, make representations etc. in order to effectively represent their constituents. Additionally and irrespective of any dispensation such a Member would, also remain free under the Council’s Planning Protocol to play the role of Local Member in addressing the Planning Committee under the public speaking provisions of that protocol.

In relation to Councillors who had a personal and prejudicial interest in a renewable energy development but were neither a Cabinet Member or a Planning Committee Member the previous Standards Committee were of the view that to avoid all doubt they should be granted dispensations in line with those referred to above for Members of the Cabinet and Planning Committee who opted to stand aside from their decision making role and play the role of “Local Member”. That is to say they should be granted dispensations in respect of all and any personal and prejudicial interests under the Members’ Code of Conduct arising directly or indirectly as a result of the proposed development to enable them to speak and vote at meetings, make oral and written representations and generally to play a full role (subject to compliance with the general law and the Council’s Constitution – e.g. Planning Protocol) in representing their constituents in relation to this matter. Members need to be aware however that whilst they may not currently be members of the Cabinet or Planning Committee if they were subsequently to become members their position on the Cabinet or Planning Committee in so far as a decision making role in relation to this development was concerned might be compromised by their previous Local Member role activities.

By way of completeness and to summarise it was emphasised that in so far as a Planning Committee Member was concerned if he/she concluded (at any point in time) that he/she had a personal and prejudicial interest in the matter then the Standards Committee’s stance was they should not sit as a decision maker and should not be granted a dispensation to do so. That Councillor could however step aside as a decision maker and declare himself/herself as acting as “Local Member” in

respect of the development. This would allow him/her (on the basis of a blanket dispensation granted by the Standards Committee) to play a full role in their local electoral division and, with the permission of the person presiding, to address the Cabinet when it discussed any consultation representations to be made on behalf of the Council. Having addressed the Cabinet he/she would then leave the room and take no part in the debate. Furthermore under the public speaking protocol the Councillor could make representations to the Planning Committee on the matter and then leave the meeting room.

In the case of a Cabinet Member concluding (at any point in time) that he/she had a personal and prejudicial interest the previous Standards Committee's view was that such a Member should not sit as a decision maker in relation to any consultation and should not be granted a dispensation to do so. Such a Member could however step aside as a Decision Maker and declare himself/herself as acting as "Local Member" in respect of the development. This would allow him/her (on the basis of a blanket dispensation granted by the previous Standards Committee) to play a full role in their local electoral division and, with the permission of the person presiding, to address the Cabinet when it discussed any consultation representations to be made on behalf of the Council. Having addressed the Cabinet he/she would then leave the room and take no part in the debate or vote. Additionally under the public speaking protocol he/she could make representations to the Planning Committee on the matter and then leave the meeting room.

The previous Standards Committee concluded that given all of the circumstances outlined above it was appropriate and would not damage public confidence in the conduct of the Council's business to grant a blanket dispensation to Councillors with personal and prejudicial interests under the Members' Code of Conduct arising out of such a development to enable them to play a non-decision making role. Such a dispensation would apply to all Councillors who are not Members or the Cabinet or Planning Committee or, if they were, had decided to step aside as decision makers as solely play the role of Local Member in relation to this matter.

#### Other Interests.

The types of interests highlighted by Members included:

- Financial/land interests
- family interests
- being a Governor of a school on the potential path of pylons
- being a member of a trust dispensing community benefits
- business under contract with a wind farm developer
- conflict between the members electoral division role and their role on behalf of the Council
- being a trustee of a charity which could be affected.

4.2.13 The previous Standards Committee decided that a blanket dispensation should be granted to all councillors including decision makers on the Cabinet and the Planning Committee provided that no dispensation would apply where, in relation to a specific planning

application or a site specific matter, a member (irrespective of whether or not he/she is a member of the Cabinet or Regulatory Committee) had a prejudicial interest which was pecuniary.

RESOLUTION THAT	REASON FOR DECISION
<p>a blanket dispensation (the dispensation) in relation to renewable energy issues be granted to all county councillors in accordance with and, subject to, the following provisions of this resolution:-</p> <p>the dispensation shall relate to all prejudicial interests under the Members Code of Conduct PROVIDED ALWAYS that the dispensation shall not apply in respect of a specific planning application or site specific matter where the councillor (irrespective of whether or not he/she is a member of the Cabinet or Regulatory Committee) has a pecuniary prejudicial interest;</p> <p>“renewable energy issues” means any question, motion, report, notification, communication, discussion, consultation, proposal, application, appeal, process or proceedings, development or works, involving, related to, concerning, or connected with, a renewable energy development including any associated :-</p> <p>Turbines, solar panels, hydro schemes, substations, pylons, overhead or underground cables or wires or any other infrastructure;</p> <p>Infrastructure transport, highway, tourism and regeneration issues:</p> <p>community benefits; and</p> <p>national or local policy, plan or guidance, white or green paper;</p> <p>“pecuniary prejudicial interest” means a prejudicial interest under the Members Code of Conduct which results in financial gain or financial loss either immediately or in the foreseeable future to:-</p> <p>the councillor in question; or</p> <p>someone with whom the councillor lives or has a close personal association e.g. close friends, close relatives, colleagues with whom the councillor has particularly strong connections, business associates and someone with whom the councillor has been in dispute with (NB Councillors should note however that “close personal association” does not include casual acquaintances, distant relatives or people you simply come into contact with through your role as member or your work in the local community);</p> <p>the dispensation extends to:-</p> <p>attending any meeting, formal or informal (as defined in the Members Code of Conduct), including meetings of the full County Council,</p>	<p>To enable members to represent their constituents in matters of great significance for Powys where they do not have a conflict of interest which is pecuniary; the committee being of the view that the grant of this blanket dispensation will not damage public confidence in the conduct of the Council’s business.</p>

**Cabinet, Scrutiny, Regulatory or other Committee;**

**speaking and voting at such meetings; and**

**(iii) making oral or written representations and generally playing a full role in representing constituents;**

**the dispensation is subject to compliance with:-**

**any legislative requirement;**

**any common law rule including bias / predetermination;**

**the council's constitution including the Planning Protocol which, inter alia, provides that a "Local Member" must never seek to lobby or improperly influence a "Decision Maker";**

**the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters the dispensation;**

**for the avoidance of all doubt:-**

**(i) the dispensation applies to all members including those who are Decision Makers such as those members who sit on the Cabinet or the Regulatory Committee;**

**(ii) the dispensation does NOT apply where directly, or, through someone with whom the member lives or has a close personal association, a pecuniary prejudicial interest exists;**

**(iii) other than where a specific PECUNIARY prejudicial interest exists, as detailed above, the dispensation applies in the case of all other types of prejudicial interests ;**

**it is always a matter for the individual member to decide whether the interest is prejudicial;**

**the dispensation does not affect a member's ability to exercise the right not to be a Decision Maker but, instead, play the role of Local Member;**

**(vi) a member who takes advantage of the dispensation must continue to comply with the Members Code of Conduct including the requirements in relation to:-**

- 1. the disclosure of his/her personal and prejudicial interest at meetings and in discussions indicating the nature of such interest and confirming that he/she is participating with the benefit of the dispensation; and**

- 2. the giving of the requisite written notification in connection with these disclosure requirements;**

**(vii) the dispensation, whilst it does not apply to any member (irrespective of whether or not he/she is a member of the Cabinet or the Regulatory Committee) with a pecuniary prejudicial interest, does not affect the right (under the Members Code of Conduct) of a member who has a pecuniary prejudicial interest to speak and then withdraw from a**

meeting where the public are accorded the right to speak at such meeting (as is the case currently with the Regulatory Committee).	
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### **School Governors.**

The Members' Code of Conduct provides that councillors either elected by their Council or appointed by other means as school governors have a personal interest when matters relating to education or the school where they are a governor are considered.

The Code in addition grants an exemption to Councillors who have been appointed by their Council as school governors to take a full part in discussions excluding regulatory type matters e.g. planning. It is also arguable that another exemption applies i.e. the one relating to "another public authority or body exercising functions of a public nature in which you hold a position of general control or management" as it would be difficult to argue that governing bodies are not public bodies.

This exemption, however, does not apply for those Councillors not appointed by their Council. In effect this means that they are not allowed to speak on matters relating to the school where they are a governor in the same way as those Councillors appointed by their Council. They are therefore restricted to speaking about general school policy matters only, and when that general policy matter is applied specifically to the school where they are a governor, the Code says that this is a prejudicial interest, and the Councillor must withdraw from the meeting.

A complaint was received from the Chair of a Community Council in Powys in 2012 that democracy in his opinion was being hindered by the current wording of the Code in relation to voluntary organisations and the ability of Councillors to support / raise issues relating to those organisations in the Council due to the restrictive wording in the Code. A specific example is given relating to a school governor not appointed by the Council.

As officers advising on the Code of Conduct it is difficult to argue the case for governors appointed or not appointed by their Council being treated differently by the Code of Conduct as they are currently, and it was suggested that they should all be treated equally, irrespective of how they are appointed.

The previous Committee in 2012 was considering issues in relation to charities at its meeting on 5<sup>th</sup> December, 2012. As school governing bodies are clearly public bodies, it seemed appropriate that this "type" of organisation should, in addition to charities, be considered for a blanket dispensation by the previous Standards Committee to remove the current restriction. It was further suggested that because of the type of organisation i.e. a public body, the same argument as for charities applies i.e. that granting a blanket dispensation would not damage public confidence if Councillors were fully involved in matters relating to schools. The only exception that should be considered is that used for previous

blanket dispensations i.e. where the councillor has a pecuniary prejudicial interest.

The previous Committee was therefore requested to consider the following:

- (i) granting a blanket dispensation to all councillors who are school governors appointed by their Council to take part in regulatory type matters (i.e. speak and vote);
- (ii) granting a blanket dispensation to all councillors who are school governors not appointed by their Council to take part in all matters relating to their school (including regulatory matters) (i.e. speak and vote)
- (iii) that the blanket dispensation does not apply where the Councillor has a pecuniary prejudicial interest. **(NB Pecuniary Prejudicial Interest does not include the additional out of school transport costs incurred by a parent, grandparent, guardian, carer or person having parental responsibility)**

The previous Committee considered that it would assist council business and not damage public confidence to grant a blanket dispensation to put all councillors who were school governors (irrespective of how they were appointed) on the same footing in respect of prejudicial interests relating to their role as school governors. Accordingly the previous Committee decided that councillors who were school governors otherwise than by way of appointment or nomination by their council should be granted a blanket dispensation to participate, speak and vote in respect of council business relating particularly to the schools where they are governors.

RESOLVED THAT	REASON FOR DECISION
<p>(i) a blanket dispensation be granted to councillors who are school governors appointed otherwise than by the Council to participate, speak and vote in connection with council business relating particularly to the schools where they are governors (unless that business relates to the determination of any approval, consent, licence, permission or registration).</p> <p>(ii) this blanket dispensation only relates to a prejudicial interest arising from the councillors role as a school governor and does not confer a dispensation in respect of any other type of prejudicial interest. <b>(A Pecuniary Prejudicial Interest does not include the additional out of</b></p>	<p>(i) To place all councillors who are school governors on an equal footing with regard to prejudicial interests so as to facilitate the democratic process and assist council business; the Committee being of the view that to do so will not damage public confidence in the conduct of the council's business.</p> <p>ii), iii) and iv) To define the dispensation and its duration.</p>



<p><b>school transport costs incurred by a parent, grandparent, guardian, carer or person having parental responsibility)</b></p> <p><b>(iii) this dispensation is subject to the existing blanket dispensation granted by the Committee in respect of school modernisation and school transport</b></p> <p><b>(iv) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters the dispensation</b></p>	
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### **Membership of Voluntary Organisations.**

In December 2012 the previous Standards Sub-Committee decided to grant a blanket dispensation to town and community councillors who had membership (often not through appointment by their councils) of ‘voluntary Organisations’ such as non-profit making clubs, associations, societies, groups and organisations such as football, cricket, tennis clubs, allotment associations, history or drama groups, local festivals etc in respect of prejudicial interests which arose from their role as a trustee or member of voluntary organisation where they had not been elected, appointed or nominated to that position of trustee by their Council.

The previous Standards Committee considered that this blanket dispensation should be extended to County Councillors who are Members of such Voluntary Organisations where they had been appointed other than by the County Council.

<b>RESOLVED THAT</b>	<b>REASON FOR DECION</b>
<p><b>1. a blanket dispensation be granted to all County Councillors who are elected, appointed or nominated otherwise than by the County Council as :</b></p> <p><b>(a) trustees of registered charities (including where they are directors of limited companies running the charities); and</b></p> <p><b>(b) members (at whatever level) of</b></p>	<p><b>1 To place all councillors who are trustees of registered charities or members (of whatever level) of Voluntary Organisations (howsoever elected, appointed or nominated) on an equal footing with regard to prejudicial interests so as to facilitate the democratic process and assist council business; the Standards Committee being of the view</b></p>

**Voluntary Organisations to participate, speak and vote in connection with council business relating to the charity of which the councillor is a trustee or the Voluntary Organisation of which the councillor is a member (at whatever level) including**

- (i) regulatory matters concerning the registered charity of which the councillor is a trustee or the Voluntary Organisation of which the councillor is a member; and**
- (ii) the grant, loan or other form of financial assistance of more than £500 to the registered charity of which the councillor is a trustee or the Voluntary Organisation of which the councillor is a member**

**but subject to the following:-**

- (1) that the registered charity or Voluntary Organisation must be non-profit making and the Councillor (or a close personal associate) must not be in receipt of any financial reward or remuneration from the registered charity or Voluntary Organisation**
- (2) this blanket dispensation only relates to a prejudicial interest arising from the Councillor's role as a trustee of the registered charity or member or as a member of the Voluntary Organisation and does not confer a dispensation in respect of any other type of prejudicial interest such as a pecuniary prejudicial**

**that to do so will not damage public confidence in the conduct of the council's business and therefore the Standards Committee is satisfied that the grounds in Paragraph (d) of Regulation 2 of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 are met.**

<p><b>interest.</b></p> <p><b>(3) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters the dispensation</b></p>	
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### **Lobbying.**

#### **Principles regarding applications for dispensation relating to lobbying**

The previous Standards Committee received two requests from Council to consider granting applications for dispensation for Members to discuss matters where there had been a proposal for the authority to play a lobbying role. A number of Members of the previous Standards Committee had indicated that they had interests in either one or both of the issues. It was therefore decided to discuss principles which could then be applied to the specific applications.

The types of applications coming before the previous Standards Committee were those which could either be high profile or would affect a significant proportion of residents of the county. Inevitably this would mean that a significant number of councillors would also be affected, and therefore would not be able to represent the views of their electorate. The previous Committee's view previously has been to try to ensure that as many councillors as possible could take part in such debates.

#### **RESOLVED THAT:**

**A dispensation to speak and vote should be granted if the following general principles were met:-**

- (1) That the motion / decision involves lobbying for a revocation or variation or the influencing of a decision or proposed decision that has been made or is to be made by a body other than Powys County Council; and**
- (2) Where the matter affects a significant proportion of the Council / Cabinet / Committee so as either (a) no fewer than half of the members of the Council / Cabinet / Committee which is to consider the business has a personal and prejudicial interest in that business or (b) the inability of member(s) to participate would upset the political balance of the Authority or committee**

or Cabinet such that the outcome would be likely to be affected;  
and

- (3) The issue is not one in which the Council is being consulted upon by an outside body (as those matters will be dealt with by officers and / or portfolio holders and influence / lobbying occurs as part of the consultation process).
- (4) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters the dispensation

### Spare Room Subsidy (“Bedroom Tax”)

In October 2013, a Notice of Motion to the County Council meeting on 24<sup>th</sup> October in relation to the “Bedroom Tax” was deferred as over 50% of Members present had disclosable interests which were both personal and prejudicial and therefore Members could not take part in the debate (i.e. the Member was either a private landlord, a tenant, or a member of their family or friend was a private landlord or a tenant). The Council referred the issue to the previous Standards Committee for consideration of a dispensation to enable a greater number of Members to take part in the debate.

The Notice of Motion to the County Council on 24<sup>th</sup> October 2013 stated:

*Council resolves to:*

- *Work with tenants, housing associations and advice services to mitigate the impacts of the Bedroom Tax;*
- *To share best practice with unitary authorities across Wales;*
- *To pledge that this Council will not evict a tenant who fails to pay the Bedroom Tax and instead, develop affordable repayment plans with tenants;*
- *Make representations to the UK Government and Powys MPs, calling for the abolition of the Bedroom Tax.*

It was not clear from the Notice of Motion if a pecuniary interest for private landlords would occur, however, the Notice of Motion suggested that this may be the case.

RESOLVED THAT	REASON FOR RESOLUTION
<p>(i) a dispensation be granted to all Members, irrespective of any interest (including pecuniary interest) to speak on matters relating to the Spare Room Subsidy, and</p> <p>(ii) a dispensation be granted to all Members to vote on matters relating to the Spare Room Subsidy <u>EXCEPT</u> in the</p>	<p>i) that no fewer than half of the Members of the Authority or of a committee of the Authority by which the business is to be considered has an interest which relates to that business,</p> <p>ii) that the nature of the Member’s interest is such that the Member’s participation in the business to which the interest</p>

<p><b>following circumstances:</b></p> <p><b>(a) if the Member is a private landlord and knowingly has a tenant who has moved into the private sector from the public sector due to the impact of the Spare Room Subsidy, and</b></p> <p><b>(b) if the Member is a tenant who has been affected by the Spare Room Subsidy.</b></p> <p><b>(iii) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters the dispensation</b></p>	<p><b>relates would not damage public confidence in the conduct of the relevant Authority's business.</b></p>
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### **Single Farm Payments.**

In 2013 a County Councillor requested a dispensation arising from a question which had been raised by a Member for discussion by the Cabinet or County Council relating to changes to single farm payments. A request was sent to Members of the Council to determine how many Members of the Council or families / business associates were in receipt of the payment which might lead to a personal and prejudicial interest in accordance with the Members' Code of Conduct.

It was suggested to the previous Standards Committee that it was likely that at least half of the Council might have an interest in this matter and therefore it was suggested that the previous Standards Committee should consider granting a general dispensation so that as many Members as possible could take part in the debate.

The general trend by the previous Committee for similar requests has been to grant a dispensation except where there was a pecuniary interest, so for example the committee could be minded to grant a dispensation to those members where it was their families or business associates who received the single farm payment. However, those Members who received the payment themselves might be excluded from the dispensation.

The previous Committee considered that the Notice of Motion to Council/Cabinet on this matter would affect a significant number of Councillors in such a rural area as Powys.

<b>RESOLVED THAT</b>	<b>REASON FOR RESOLUTION</b>
<b>(i) a dispensation be granted to those Members who are in</b>	<b>i) due to the rural nature of the county a significant proportion</b>

<p>direct receipt of a single farm payment (including Members whose spouse or partner is in receipt of the payment) to speak but not vote on matters relating to Single Farm Payments and having spoken to leave the room.</p> <p>(ii) a dispensation be granted to those Members who are not directly in receipt of a Single Farm Payment but whose family or close personal associates are in receipt of the payment, to speak and vote on matters relating thereto.</p> <p>(iii) the dispensation shall continue in force until the first meeting of the Standards Committee after the next ordinary council elections in 2022 unless before those elections the Standards Committee revokes, amends or alters the dispensation</p>	<p>of the Council was affected and unable to take part in a discussion on this matter, and</p> <p>ii) that no fewer than half of the Members of the Authority or of a committee of the Authority by which the business is to be considered has an interest which relates to that business,</p> <p>iii) that 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.</p>
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#### **E Applications – County Councillors**

No applications for dispensation had been received from County Councillors.

#### **F Ombudsman's Casebook**

The Code of Conduct casebooks for October 2016 – December 2016 and January 2017 – March 2017 were attached to the agenda.

#### **G Late payment of expenses**

County Councillor S McNicholas declared an interest in this item and left the room as she is a friend of the Member to which this item relates.

A claim for payment of expenses was submitted by Councillor Sarah Williams for mileage expenses (submitted on 17<sup>th</sup> May 2017 for January and February 2017).

The Committee decided to approve this application (which was the first one for mileage made by this Member) but indicated that it would be unlikely to look favourably on further applications unless there were exceptional circumstances and requested that the Member put in place appropriate systems to ensure claims were submitted within time.

<b>RESOLVED THAT:</b>	<b>REASON FOR DECISION</b>
<b>i) the payment of the late claim submitted by Cllr Sarah Williams for mileage be paid for the period January and February 2017</b>	<b>To reimburse expenses incurred by Cllr S Williams.</b>

#### **H Appointment of Independent Member**

The appointment process as approved by Council and attached to the agenda was noted. It was agreed that the appointment Panel should be drawn from the membership of the Standards Committee depending on availability in consultation with the Chair and Deputy Monitoring Officer.

#### **I Meeting Dates**

The date of the next meeting was confirmed as:

Wednesday 4<sup>th</sup> October 2017 at 10.00am.

**Mrs H Rhydderch-Roberts (Chair)**

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## CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Committee  
4<sup>th</sup> October 2017

**REPORT BY:** Solicitor to the Council

**SUBJECT:** Standards Issues

**REPORT FOR:** Decision, Information and Discussion

**A. General Standards Issues for County Councillors and Co-opted Members**

**A1 Code of Conduct Training**

Code of Conduct training was held on the 16<sup>th</sup> May 2017. Four County Councillors and one Independent Member were unable to attend the training (one County Councillor was on other Council business). Members have been offered 5 dates in late October, early November to complete this training. A further update will be provided at the next meeting.

**B. Referral of Councillors to Public Services Ombudsman**

**B1. County Councillor Referrals**

**B1.1** The current position regarding existing matters with the Ombudsman is as follows:

04/CC/2016	Ombudsman not investigating
02/CC/2017	Ombudsman originally decided not to investigate – complainant submitted a request for a review of that decision and the Ombudsman has now decided to investigate.
04/CC/2017	Relating to eight Councillors – Ombudsman not investigating

**C Dispensations**

**C1 Applications - County Councillors**

No applications for dispensation have been received from County Councillors.

**D Ombudsman's Casebook**

The Ombudsman has published Code of Conduct Casebooks for the following periods:

- April 2017 – June 2017

A copy of this Casebook is attached at **Appendix A**.

Back copies of the casebooks can be accessed from the website of the Public Services Ombudsman for Wales at:

<http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx>

## **E Annual Letter from the Ombudsman**

The Annual Letter from the Public Services Ombudsman for Wales was received on 1<sup>st</sup> September 2017. A copy of this letter is attached at **Appendix B**.

## **F Appointment of Independent Member**

The process for appointing an Independent Member has commenced. The post has been advertised in the Brecon and Radnor and the County Times and has also been placed on the front page of the Powys County Council website. To date there have been 31 expressions of interest and 5 applications. The closing date for submitting applications is the 6<sup>th</sup> October 2017. Shortlisting will take place if necessary on the 23<sup>rd</sup> October 2017 with Interviews taking place on the 8<sup>th</sup> November 2017.

The Interview Panel has been agreed and will comprise of the following members:

Mrs S Thompson – High Sheriff  
Mrs H Rhydderch-Roberts – Chair of Standards Committee  
Mrs J Evans – Independent Member Standards Committee  
Councillor S Lewis – County Councillor Member Standards Committee  
Community Councillor Hugh Patrick – Community Councillor Member Standards Committee.

The appointment will be made at the meeting of Powys County Council on the 25<sup>th</sup> January 2018. The first meeting of the Standards Committee thereafter will be the 7<sup>th</sup> February 2018.

## **G. Appointment of Town and Community Council Representatives to the Standards Community Sub-Committee.**

G1 The Town and Community Council elections in May 2017 brought to a close the term of office for Town and Community Councillors sitting on the Standards Community Sub-Committee. A postal election (nominations followed by ballot) was held to elect three Town and Community Councillors one each to represent Brecknockshire, Montgomeryshire and Radnorshire for the new term of office.

G2 Accordingly the successful candidates are: -

Brecknockshire	Hugh Patrick (Ystradfellte CC)
Montgomeryshire	Joy Shearer (Tregynon CC)
Radnorshire	Margaret Morris (Glasbury CC)

- G3 The function of making the formal appointments to the Sub-Committee has been delegated to the Standards Committee and accordingly the Committee is requested to formally appoint the new Sub-Committee to comprise the 5 Independent Members; the 3 Community Councillors referred to above and one of the County Councillors sitting on the main Committee.
- G4 The term of office to be served by those appointed to the Sub-Committee will be the maximum term permitted by Regulations. Currently this is 5 years until May 2022.

<b>RECOMMENDED :</b>	
<p><b>1. That the Standards Community Sub-Committee comprise the undermentioned 9 Members :-</b></p> <p><b>(i) All 5 Independent (Lay) Members of the main Standards Committee.</b></p> <p><b>(ii) a County Councillor to be nominated.</b></p> <p><b>(iii) Town Councillor Hugh Pattrick (Ystradfellte Community Council) – elected by the Town and Community Councils in Brecknockshire.</b></p> <p><b>(iv) Community Councillor Joy Shearer (Tregynon Community Council) – elected by the Town and Community Councils in Montgomeryshire.</b></p> <p><b>(v) Town Councillor Margaret Morris (Glasbury Community Council ) – elected by the Town and Community Councils in Radnorshire.</b></p> <p><b>2. That the terms of office of the 5 Independent (Lay) Members be for the remainder of their terms of office as Independent Members on the main Standards Committee.</b></p> <p><b>3. That the terms of office of the County Councillor and Town and Community Councillors be for the maximum term permitted by the existing regulations or by any amending regulations (currently a maximum of five years) or until they</b></p>	<p><b>To constitute the Standards Community Sub-Committee.</b></p>

<b>cease to be Councillors or resign whichever shall first occur.</b>	
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## H. Meeting Dates

To note dates of future meetings as follows:

Wednesday 7<sup>th</sup> February 2018

Wednesday 27<sup>th</sup> June 2018

Wednesday 3<sup>rd</sup> October 2018

Contact Officer Name:	Tel:	Fax:	Email:
<i>Clive Pinney – Solicitor to the Council</i>	01597 826746	01597 826220	<a href="mailto:clive.pinney@powys.gov.uk">clive.pinney@powys.gov. uk</a>

# The Code of Conduct Casebook

Issue 13 July 2017

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## Introduction

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

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

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

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

penalty (if any) should be imposed.

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

## Case summaries

### No evidence of breach

#### Powys County Council - Integrity

Case Number 201601829 – Report issued in June 2017

A complaint was received that Councillor B of Powys County Council may have breached the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as Portfolio Holder for Education, she did not take sufficient action to address the fact that a High School (“the School”) was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council’s Scheme for Financing Schools (“the Scheme”).

The Ombudsman found that Councillor B had acted in good faith in inviting the School to make a case for amending the Scheme, with the intention that the Scheme would then either be amended or enforced. Unfortunately, the School failed to provide the necessary information. Whilst Councillor B could be criticised for not pursuing the matter, there were mitigating circumstances why she could not do so personally. Accordingly, the Ombudsman found that there was no evidence that Councillor B had breached the Code.

#### Powys County Council - Integrity

Case Number 201602895 - Report issued in June 2017

A complaint was received that Councillor E of Powys County Council may have breached the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School (“the School”) he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council’s Scheme for Financing Schools (“the Scheme”).

The Ombudsman found that Councillor E had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why Councillor E reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that Councillor E had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.

#### Powys County Council - Integrity

Case Number 201601962 - Report issued in June 2017

A complaint was received that former Councillor A of Powys County Council may have breached the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School (“the School”) he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council’s Scheme for Financing Schools (“the Scheme”).

The Ombudsman found that former Councillor A had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why former Councillor A reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that former Councillor A had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.

#### **Powys County Council - Report issued in June 2017**

##### **Case Number 201601967 - Integrity**

A complaint was received that Councillor C of Powys County Council may have breached of the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School ("the School") he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council's Scheme for Financing Schools ("the Scheme").

The Ombudsman found that Councillor C had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why Councillor C reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that Councillor C had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.

#### **Powys County Council - Integrity**

##### **Case Number 201601968 - Report issued in June 2017**

A complaint was received that Councillor D of Powys County Council may have breached of the Code of Conduct for members (relating to bringing their office or authority into disrepute) when, acting as a Governor of a High School ("the School") he did not take sufficient action to address the fact that the School was continuing to subsidise home to school transport for out of catchment pupils in contravention of the Council's Scheme for Financing Schools ("the Scheme").

The Ombudsman found that Councillor D had been acting in the genuinely held belief that the Council either knew that the School was not complying with the Scheme, or should have known from information available to it, and was taking no action. The Ombudsman could understand in those circumstances why Councillor D reached the view (rightly or wrongly) that the Council was endorsing what the School was doing. The Ombudsman concluded that Councillor D had acted in good faith on the basis of the information available to him and there was therefore no evidence that he had breached the Code.



## No action necessary

### Bridgend County Borough Council – Promotion of equality and respect

Case Number 201603705 – Report issued in April 2017

The Ombudsman considered a complaint that a member of Bridgend County Borough Council (“the Councillor”) breached the Code of Conduct for elected members (“the Code”) by manner in which the Councillor approached a member of the public undertaking her employment duties. The Ombudsman investigated that the Councillor had brought herself, her office and the Council into disrepute through her manner.

The Ombudsman found that the Councillor’s actions were in breach of the Code, in relation to the complaint that the Councillor had brought herself into disrepute through her actions. However since the Councillor apologised for her actions, the Ombudsman did not consider that the circumstances warranted any further action. Since the Councillor was acting in a purely personal capacity and there was no involvement of the Council, the Ombudsman did not consider that the Councillor had brought her office or the Council into disrepute.

The Ombudsman’s finding was that no action needed to be taken in respect of the matter investigated.

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

Case Number 201505874 - Report issued in April 2017

The Ombudsman considered a complaint that a member of Powys County Council (“the Councillor”) breached the Code of Conduct for elected members (“the Code”) by failing to disclose a personal and prejudicial interest at various Council meetings, during which a School Modernisation Programme was discussed and that the Councillor continued to take part in meetings following a decision by the Council’s Standards Committee not to grant him dispensation to do so.

The Ombudsman found that the Councillor’s actions were in breach of the Code, however as his involvement at the meetings he attended did not significantly alter the outcome of the Council’s discussion, it was not in the public interest to pursue the matter further.

The Ombudsman’s finding was that no action needed to be taken in respect of the matter investigated.

### Saltney Town Council - Disclosure and registration of interests

Case Number 201606253 - Report issued in May 2017

The Ombudsman considered a complaint that a member of Saltney Town Council (“the Councillor”) had breached the Code of Conduct for elected members. It was alleged that the Councillor had voted on a matter in which they had a personal and prejudicial interest without obtaining an appropriate dispensation from the County Council’s Standards Committee. The member concerned had obtained a dispensation from the Standards Committee which allowed her to speak about the matter. However, the dispensation did not allow her to vote.

The Ombudsman considered the minutes from the relevant meeting and found that it was recorded that the Councillor had voted. He also considered correspondence from the Councillor in which she

acknowledged that she should not have cast a vote at the meeting. The Councillor had also formally apologised for this error of judgement in the next Town Council meeting.

The Ombudsman accepted the explanation and apology provided by the Councillor and, whilst recognising that the intentional disregard of the Standards Committee by the Councillor was concerning, he was of the view that the Councillor's actions were of limited consequence and it was not in the public interest to pursue the matter further.

The Ombudsman's finding was that no action needed to be taken in respect of the matters investigated. However, the Councillor was advised that this matter would be taken into account if any future complaints of a similar nature were received.

**Torfaen County Borough Council – Promotion of equality and respect**  
**Case Number 201601551 – Report issued in June 2017**

The Ombudsman received a complaint that a member of Torfaen County Borough Council had breached the Code of Conduct by using inflammatory and disrespectful language on a public social media page. During the course of the investigation an election took place and the member concerned was not re-elected. The Ombudsman decided that it was not in the public interest to take further action on the matters which were investigated.

## Referred to Standards Committee

### Powys County Council - Integrity

#### Case Number 201504317 – Report issued in October 2016

Councillor X of Powys County Council referred himself to the Ombudsman on the advice of the Council's Monitoring Officer on the basis that he may have breached the members' Code of Conduct.

Councillor X, who manages a livestock farm, reported that he may have brought his office and the authority into disrepute when he was prosecuted by Powys County Council under the Cattle Identification (Wales) Regulations 2007 (for failing to maintain accurate cattle records) and the Animal By-Products (Wales) Regulations 2014 (for failing to promptly dispose of animal carcasses). Councillor X pleaded guilty to six charges and received a criminal conviction.

The Ombudsman obtained evidence from Powys County Council and Councillor X was formally interviewed. The Ombudsman found that there was evidence to suggest that Councillor X may have breached the Code of Conduct and referred the matter for consideration by the Council's Standards Committee.

On 13 March 2017, the Council's Standards Committee found that Councillor X had breached the members' Code of Conduct. He was suspended from being a Councillor for two weeks and it was recommended that he undertake additional training on the Council's Code of Conduct.

The decision of the Standards Committee can be found [here](#).

### Powys County Council – Integrity

#### Case Number 201504433 – Report issued in October 2016

Councillor Y of Powys County Council referred himself to the Ombudsman on the advice of the Council's Monitoring Officer on the basis that he may have breached the Code of Conduct.

Councillor Y, who manages a livestock farm, reported that he may have brought his office and the authority into disrepute when he was prosecuted by Powys County Council under the Cattle Identification (Wales) Regulations 2007 for failing to maintain accurate cattle records. Councillor Y pleaded guilty to eight charges and received a criminal conviction.

The Ombudsman obtained evidence from Powys County Council and Councillor Y was formally interviewed. The Ombudsman found that there was evidence to suggest that Councillor Y may have breached the Code of Conduct and referred the matter for consideration by the Council's Standards Committee.

On 15 March 2017, the Council's Standards Committee found that Councillor Y had breached the members' Code of Conduct. He was suspended from being a Councillor for four weeks and it was recommended that he undertake additional training on the Council's Code of Conduct.

The decision of the Standards Committee can be found [here](#).

## Referred to Adjudication Panel for Wales

Cardiff Council – Promotion of equality and respect

Case Number 201502858

The Ombudsman received a complaint from the Monitoring Officer of Cardiff Council (“the Council”) on behalf of a member of Cardiff Council. The Monitoring Officer said that another member of the Council (“the Councillor”) had brought the Council into disrepute by the manner in which he conducted himself following a court hearing at Cardiff Civil Justice Centre (“the Court”) on 23 July 2015. The investigation considered whether the Councillor had breached the Code of Conduct (“the Code”).

The focus of the investigation was on whether an alleged comment made by the Councillor regarding a Council restructure was directed towards a Council officer in a threatening manner. At interview, the Councillor accepted that he made the comment, but he said that the comment was directed towards his constituent whom he was representing at the Court hearing. He accepted that it was overheard by others.

The Ombudsman’s Director of Investigations decided to refer the investigation report to the President of the Adjudication Panel for Wales (“the Panel”) because the evidence gathered suggested that the Councillor did not show the Council officer respect and consideration in breach of the Code. He also considered that if the Panel was satisfied that the Councillor’s comment amounted to threatening behaviour towards the Council officer, his conduct was also suggestive of a breach of the Code.

The Panel decided that the Councillor had not brought either the office of Councillor or the Council into disrepute, as his conduct was not in a public area of the Court and was witnessed by only a few people. The Panel decided that the Councillor failed to show respect and consideration to the Council officer and did use bullying behaviour towards the Council officer.

The Panel concluded that the Councillor had breached the Code of Conduct and should be suspended as a member of the Council for a period of one month, or, if shorter, the remainder of his term of office.

The decision of the Adjudication Panel for Wales can be found [here](#).

## 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](mailto:Matthew.Aplin@ombudsman-wales.org.uk) or [Lucy.John@ombudsman-wales.org.uk](mailto:Lucy.John@ombudsman-wales.org.uk) or sent to the following address:

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Further information about the service offered by the Public Services Ombudsman for Wales can also be found at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

Our ref: NB/LJ/MA



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1 September 2017

Sent by email: Mr Jeremy Patterson, [jeremy.patterson@powys.gov.uk](mailto:jeremy.patterson@powys.gov.uk)

Dear Mr Patterson

### **Annual Letter 2016/17**

Following the recent publication of my Annual Report I am delighted to provide you with the Annual Letter (2016/17) for **Powys County Council**.

Overall my office's caseload has increased by 13% this year, with public body complaints seeing a 3% increase.

Once again there has been a further rise in the percentage of health complaints, from 36% to 38%. Housing (13%), social services (9%) and planning and building control (8%) remain other significant areas of complaint.

The number of code of conducts complaints decreased by 14% from 2015/16 and I am particularly pleased about this as historically my office experiences a surge in complaints in the year leading up to local elections.

It is concerning that of the 18 local authorities that agreed with my office to implement recommendations, only 10 of them complied 100% within the target time set. My office will be looking closely at compliance levels over the coming year.

During 2016/17, I produced six public interest reports and one 'special report'. All but one of the investigations were health related and, worryingly, three of the cases were against the same hospital – Ysbyty Glan Clwyd run by Betsi Cadwaladr University Health Board. The special report, issued against Hywel Dda University Health Board for failing to implement my recommendations following an early resolution, was the first of its kind against a health board and underlines the need to comply with commitments made through early resolution in the same way as I would expect for recommendations arising from upheld complaints.

The remaining public interest report related to a local authority's role in overseeing the savings of looked after children.

Earlier this year I issued a thematic report entitled [Ending Groundhog Day: Lessons from Poor Complaints Handling](#). This highlighted cases from across devolved public services in Wales where investigations by public bodies have been inadequate and failed the service user. The report emphasised the need for effective governance across the Welsh public sector, robust staff training and improved methods of data collection. If you have not considered the report I would encourage you to do so.

I continue to place importance on the improvement function of my office. Last year I assigned Improvement Officers to several bodies and this will continue in 2017/18. In engaging with these bodies we hope to see ongoing improvements in complaints handling, learning and putting things right, along with the governance arrangements necessary for continuous improvement.

I am hopeful that the National Assembly will shortly be introducing new Ombudsman legislation that will help drive up standards. It is important that Wales continues to adopt best practice in complaint handling and public service improvement and does not get left behind.

In reference to your local authority, the number of complaints has increased marginally from 53 in 2015/16 to 54 cases in 2016/17. Planning and Building Control (12) and Housing (11) were the largest subject areas of complaint, followed by Environment and Environmental Health (7). PSOW intervention was required in 17% of cases.

As you are aware my Improvement Officer (IO) will continue to work with your contact officer on good complaint handling and I look forward to discussing progress with you later this year.

You will find below a factsheet giving a breakdown of complaints data relating to your Local Authority. This year we have included a new set of statistics regarding Ombudsman interventions. These include all cases upheld by my office as well as early resolutions and voluntary settlements.

This correspondence has been copied to the Leader of the Council for consideration by the cabinet. I will also be sending a copy to your Contact Officer within your organisation and would again reiterate the importance of this role. Finally, a copy of all annual letters will be published on my website.

Yours sincerely



Nick Bennett

Public Services Ombudsman for Wales

CC: Cllr Rosemarie Harris, Leader

Debby Jones, Contact Officer





## Factsheet

### A. Complaints Received and Investigated with Local Authority average adjusted by population

Local Authority	Complaints Received	Average	Complaints Investigated	Average
Blaenau Gwent County Borough Council	12	19	2	1
Bridgend County Borough Council	44	39	2	2
Caerphilly County Borough Council	54	50	2	2
Cardiff Council	143	99	3	4
Carmarthenshire County Council	44	51	2	2
Ceredigion County Council	32	21	2	1
City and County of Swansea	52	67	3	3
Conwy County Borough Council	28	32	1	1
Denbighshire County Council	24	26	0	1
Flintshire County Council	39	43	4	2
Gwynedd Council	32	34	1	1
Isle of Anglesey County Council	24	19	0	1
Merthyr Tydfil County Borough Council	10	16	1	1
Monmouthshire County Council	18	26	1	1
Neath Port Talbot County Borough Council	38	39	0	2
Newport City Council	26	41	1	2
Pembrokeshire County Council	29	34	1	1
Powys County Council	54	37	4	1
Rhondda Cynon Taf County Borough Council	47	66	0	3
Torfaen County Borough Council	23	25	1	1
Vale of Glamorgan Council	41	35	1	1
Wrexham County Borough Council	46	38	1	1

### B. Complaints Received by Subject with Local Authority average

<b>Powys County Council</b>	<b>Complaints Received</b>	<b>Local Authority Average</b>
Finance and Taxation - Finance and Taxation	3	2
Adult Social Services	1	4
Benefits Administration	2	1
Children's Social Services	3	4
Community Facilities, Recreation and Leisure	1	1
Complaints Handling	4	3
Education	4	3
Environment & Environmental Health	7	4
Health	1	0
Housing	11	5
Planning and Building Control	12	7
Roads and Transport	2	3
Various Other	3	3

### C. Comparison of complaint outcomes with average outcomes for Local Authorities, adjusted for population distribution

	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Early Resolution/ Voluntary Settlement	S16 Report - Upheld in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
<b>Powys</b>	4	18	22	0	7	0	2	0	0	53
<b>Powys (adjusted)</b>	7	11	14	0	5	0	1	0	0	38

**D. Number of cases with PSOW intervention**

<b>Local Authority</b>	<b>Number of complaints with PSOW intervention</b>	<b>Total number of closed complaints</b>	<b>% of complaints with PSOW intervention</b>
Blaenau Gwent County Borough Council	3	12	25
Bridgend County Borough Council	5	42	12
Caerphilly County Borough Council	4	55	7
Cardiff Council	19	133	14
Carmarthenshire County Council	6	47	13
Ceredigion County Council	8	39	21
City and County of Swansea	4	54	7
Conwy County Borough Council	4	33	12
Denbighshire County Council	0	27	0
Flintshire County Council	13	41	32
Gwynedd Council	5	33	15
Isle of Anglesey County Council	3	27	11
Merthyr Tydfil County Borough Council	3	10	30
Monmouthshire County Council	3	22	14
Neath Port Talbot County Borough Council	3	38	8
Newport City Council	7	30	23
Pembrokeshire County Council	4	33	12
Powys County Council	9	53	17
Rhondda Cynon Taf County Borough Council	6	48	13
Torfaen County Borough Council	2	22	9
Vale of Glamorgan Council	9	39	23
Wrexham County Borough Council	13	47	28

**E. Code of Conduct Complaints Closed**

<b>County/County Borough Council</b>	<b>Closed after initial consideration</b>	<b>Discontinued</b>	<b>No evidence of breach</b>	<b>No action necessary</b>	<b>Refer to Standards Committee</b>	<b>Refer to Adjudication Panel</b>	<b>Withdrawn</b>	<b>Total Cases Closed</b>
Powys	16	0	1	0	3	0	2	22

## **Appendix**

### **Explanatory Notes**

Section A compares the number of complaints against the Local Authority which were received and investigated by my office during 2016/17, with the Local Authority average (adjusted for population distribution) during the same period.

Section B provides a breakdown of the number of complaints about the Local Authority which were received by my office during 2016/17 with the Local Authority average for the same period. The figures are broken down into subject categories.

Section C compares the complaint outcomes for the Local Authority during 2016/17, with the average outcome (adjusted for population distribution) during the same period. Public Interest reports issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 are recorded as 'Section 16'.

Section D provides the numbers and percentages of cases received by the PSOW in which an intervention has occurred. This includes all upheld complaints, early resolutions and voluntary settlements.

Section E provides a breakdown of all Code of Conduct complaint outcomes against Councillors during 2016/17.