

# Pecyn Dogfennau



Mark James LLM, DPA, DCA  
Prif Weithredwr,  
Chief Executive,  
Neuadd y Sir, Caerfyrddin. SA31 1JP  
County Hall, Carmarthen. SA31 1JP

**DYDD MAWRTH, 28 TACHWEDD 2017**

## **AT: HOLL AELODAU'R PWYLLGOR SAFONAU**

**YR WYF DRWY HYN YN EICH GALW I FYNYCHU CYFARFOD O'R PWYLLGOR SAFONAU A GYNHELIR YN Y SIAMBR, NEUADD Y SIR, CAERFYRDDIN AM 2.00 PM, DYDD MERCHER, 6ED RHAGFYR, 2017 ER MWYN CYFLAWNI'R MATERION A AMLINELLIR AR YR AGENDA ATODEDIG.**

*Mark James* DYB

**PRIF WEITHREDWR**



**AILGYLCHWCH OS GWELWCH YN DDA**

<b>Swyddog Democrataidd:</b>	<b>Kevin Thomas</b>
<b>Ffôn (llinell uniongyrchol):</b>	<b>01267 224027</b>
<b>E-bost:</b>	<b><a href="mailto:kjthomas@sirgar.gov.uk">kjthomas@sirgar.gov.uk</a></b>
<b>Cyf:</b>	<b>AD016-001</b>



**EICH CYNGOR arleinamdani**  
[www.sirgar.llyw.cymru](http://www.sirgar.llyw.cymru)  
**YOUR COUNCIL doitonline**  
[www.carmarthenshire.gov.wales](http://www.carmarthenshire.gov.wales)

# PWYLLGOR SAFONAU

## AELODAETH: 9 AELOD

### Aelodau Annibynnol (5)

1. Mrs Mary Dodd Is-Cadeirydd y Pwyllgor
2. Mr M. Andre Morgan Cadeirydd y Pwyllgor
3. Mr Alun Williams
4. Lle Gwag
5. Lle Gwag

### Aelod Pwyllgor Cymunedol (1)

1. Lle-Gwag

### Aelodau Etholedig y Cyngor Sir (3)

1. Y Cyngorydd Susan Allen
2. Y Cyngorydd Louvain Roberts
3. Y Cyngorydd Gareth Thomas

# AGENDA

1. YMDDIHEURIADAU AM ABSENOLDEB
2. DATGAN BUDDIANNAU PERSONOL.
3. LLOFNODI FEL COFNOD CYWIR COFNODION CYFARFOD Y PWWYLLGOR A GYNHALWYD AR Y 28AIN MEDI, 2017 5 - 10
4. ADRODDIAD BLYNYDDOL Y PWYLLGOR SAFONAU - 2016/2017 11 - 20
5. CAIS AM OLLYNGIAD GAN Y CYNGHORYDD ARWEL DAVIES 21 - 30
6. CYDYMFFURFIO Â'R CÔD YMDDYGIAD GAN GYNGHORWYR TREF A CHYNGHORWYR CYMUNED 31 - 42
7. COFLYFR CÔD YMDDYGIAD 43 - 64
8. UNRHYW FATER ARALL Y GALL Y CADEIRYDD OHERWYDD AMGYLCHIADAU ARBENNIG, BENDERFYNU EI YSTYRIED YN FATER BRYN YN UNOL AG ADRAN 100B(4)(B) DEDDF LLYWODRAETH LEOL 1972

Mae'r dudalen hon yn wag yn fwriadol

Dydd Iau, 28 Medi 2017

**YN BRESENNOL:** Y Cyngorydd M.A. Morgan

**Aelodau Annibynnol:**

M. Dodd ac A. Williams

**Y Cynghorwyr:**

S.M. Allen

**Yr oedd y swyddogion canlynol yn gwasanaethu yn y cyfarfod:**

R. Edgecombe, Rheolwr y Gwasanaethau Cyfreithiol

K. Thomas, Swyddog Gwasanaethau Democraidd

**Siambwr, 3 Heol Spilman, Caerfyrddin - 2.00 - 3.10 pm**

**1. YMDDIHEURIADAU AM ABSENOLDEB**

Derbyniwyd ymddiheuriadau am absenoldeb gan y Cynghorwyr B.A.L. Roberts a G.B. Thomas

**2. DATGAN BUDDIANNAU PERSONOL.**

Ni chafwyd dim datganiadau o fuddiant personol.

**3. PENODI CADEIRYDD AC IS-GADEIRYDD**

Dywedodd Rheolwr y Gwasanaethau Cyfreithiol y byddai angen i'r Pwyllgor ystyried penodi Cadeirydd newydd yn dilyn ymddiswyddiad Mr C Downward fel Cadeirydd ac fel aelod annibynnol o'r Pwyllgor Safonau ac, yn dibynnu ar y penodiad hwnnw, Is-gadeirydd newydd.

**PENDERFYNWYD**

**3.1 Penodi Mr A. Morgan yn Gadeirydd y Pwyllgor Safonau**

**3.2 Penodi Mrs M. Dodd yn Is-gadeirydd y Pwyllgor Safonau.**

**4. LLOFNODI FEL COFNOD CYWR COFNODION CYFARFOD Y PWYLLGOR A GYNHALIWDYD AR Y:-**

**PENDERFYNWYD YN UNFRYDOL** Iofnodi cofnodion cyfarfodydd y Pwyllgor a gynhaliwyd ar 1 a 9 Mehefin 2017 yn gofnodion cywir.

**5. ADRODDIAD BLYNYDDOL OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU 2016/2017**

Ystyriodd y Pwyllgor Adroddiad Blynyddol Ombwdsmon Gwasanaethau Cyhoeddus Cymru ar gyfer 2016/17 a oedd yn ymgorffori'r Datganiad Cyfrifon.

Nododd y Pwyllgor fod y pwyntiau allweddol a godwyd yn yr adroddiad fel a ganlyn:

- Cynnydd o 13% mewn ymholiadau a chwynion yn ymwneud â chamweinyddu ledled Cymru;
- Lleihad o 14% mewn cwynion yn ymwneud â chôt ymddygiad ledled Cymru;
- Cynnydd o 19% yn nifer y cwynion yn ymwneud â chôt yr ymchwiliwyd iddynt;
- Cynnydd o 38% yn nifer yr ymchwiliadau yn ymwneud â chôt a ddatgelodd dystiolaeth o dorri'r Côt.

Gan gyfeirio'n benodol at Gyngor Sir Caerfyrddin, nodwyd bod cyfanswm o 47 o gwynion yn ymwneud â chamweinyddu wedi'u cwblhau yn ystod y flwyddyn. O'r rheiny, roedd 40 naill ai'n ymwneud ag awdurdodaeth, wedi'u gwneud yn rhy gynnar, neu wedi'u cau ar ôl derbyn ystyriaeth gychwynnol, cafodd 5 eu datrys yn wirfoddol, cafodd un ei chadarnhau, ac roedd un arall na chafodd ei chadarnhau. Roedd un gwyn yn ymwneud â'r Côt Ymddygiad a wnaed yn erbyn cynghorydd sir hefyd wedi cael ei chau ar ôl rhoi ystyriaeth gychwynnol iddi.

Gyda golwg ar gwynion yn ymwneud â'r Côt Ymddygiad yn erbyn Cyngorau Tref a Chymuned yn Sir Gaerfyrddin, roedd yr Ombwdsmon wedi delio ag 11 o gwynion yn erbyn Cyngorwyr Cymuned yng Nghyngor Tref Cwmaman (1), Cyngor Tref Cydweli (1), Cyngor Gwledig Llanelli (6), Cyngor Tref Llanelli (1) a Chyngor Cymuned Llangennech (2). Nodwyd nad oedd unrhyw un o'r achosion hyn wedi golygu cymryd unrhyw gamau disgyblu.

Cyfeiriodd Rheolwr y Gwasanaethau Cyfreithiol at y chwe chwyn a gafwyd yn erbyn Cyngor Gwledig Llanelli a dywedodd y byddai'n darparu Hyfforddiant Côt Ymddygiad ar gyfer yr Awdurdod hwnnw, ar ei wahoddiad.

**PENDERFYNWYD derbyn yr adroddiad.**

## 6. COFLYFR CÔD YMDDYGIAD

Ystyriodd y Pwyllgor y rhifyn diweddaraf o 'Goflyfr Côt Ymddygiad' Ombwdsmon Gwasanaethau Cyhoeddus Cymru a oedd yn rhoi crynodeb o'r 12 o ymchwiliadau côd yn ymwneud ag aelodau o Gyngorau Sir a Chyngorau Cymuned a gwblhawyd yn ystod y chwarter blaenorol.

O'r 12 hynny, nododd y Pwyllgor fod tri o bwys arbennig gan eu bod yn ymwneud â dau achos a gyfeiriwyd at Bwyllgor Safonau Cyngor Sir Powys ac un a gyfeiriwyd at Banel Dyfarnu Cymru, gyda chopiau o'r dyfarniadau ym mhob un o'r tri achos hynny wedi cael eu hatodi i adroddiad y Pennaeth Gweinyddiaeth a'r Gyfraith.

**PENDERFYNWYD derbyn yr adroddiad.**

## 7. HYFFORDDIANT YNGHYLCH Y CÔD YMDDYGIAD AR GYFER CYNGHORWYR SIR

Rhoddyd gwybod i'r Pwyllgor bod sesiwn hyfforddi wedi'i threfnu ar gyfer pob aelod o'r Cyngor ar Gôt Ymddygiad yr Aelodau yn dilyn yr etholiadau llywodraeth leol a gynhaliwyd ym mis Mai 2017, a bod 43 o gynghorwyr yn bresennol ynddynt.

Trafododd y Pwyllgor yr angen am drefniadau hyfforddiant dilynol, er enghraifft adolygiad ymhen dwy flynedd, atgoffa aelodau am yr angen i fod yn ymwybodol o'r côd neu wahodd aelodau i fynd i hyfforddiant a ddarperir i'r Cynghorau Tref a Chymuned. Awgrymodd Rheolwr y Gwasanaethau Cyfreithiol y gellid cynnal unrhyw drafodaeth am hyfforddiant ychwanegol i aelodau yn y Flwyddyn Newydd pan fyddai ystyriaeth yn cael ei rhoi i ddarparu hyfforddiant i'r Cynghorau Tref a Chymuned.

## **PENDERFYNWYD YN UNFRYDOL**

**7.1 bod yr adroddiad yn cael ei dderbyn.**

**7.2 bod y broses o ystyried darparu Hyfforddiant Côd Ymddygiad ychwanegol i'r Cynghorwyr Sir yn cael ei gohirio tan y flwyddyn newydd pryd y byddai ystyriaeth yn cael ei rhoi i ddarparu hyfforddiant i'r Cynghorau Tref a Chymuned.**

## **8. HYFFORDDIANT YNGHYLCH Y CÔD YMDDYGIAD AR GYFER CYNGHORWYR TREF A CHYMUNED**

Derbyniodd y Pwyllgor adroddiad ar ddwy sesiwn hyfforddi a gynhaliwyd ar 29 Mehefin and 6 Gorffennaf, 2017 ynglŷn â Chôd Ymddygiad yr Aelodau ar gyfer Cynghorau Tref a Chymuned. Roedd 103 o bobl yn bresennol ynddynt a oedd yn cynrychioli ystod eang o Gynghorau o bob rhan o'r Sir.

**PENDERFYNWYD YN UNFRYDOL dderbyn yr adroddiad.**

## **9. PAPUR GWYN LLYWODRAETH CYMRU AR DDIWYGIO LLYWODRAETH LEOL**

Derbyniodd y Pwyllgor adroddiad ar Bapur Gwyn Llywodraeth Cymru o'r enw "Diwygio Llywodraeth Leol: Cadernid ac Adnewyddiad" sydd yn nodi ei gynigion ar gyfer cyflwyno ystod eang o wasanaethau cyngor ar sail ranbarthol, ond gan gadw'r 22 Awdurdod Unedol presennol. Nodwyd, tra oedd y Papur yn canolbwyntio ar ranbartholi'r gwasanaethau a ddarperir, ei fod yn cynnwys nifer o gynigion sydd â'r potensial o gael effaith arwyddocaol ar y Pwyllgor Safonau sef:

- Gosod dyletswyddau statudol penodol ar Gynghorwyr mewn perthynas â'r modd y maent yn ymgysylltu â'r cyhoedd. ('Dyletswyddau Perfformiad Rhagnodedig')
- Mae'r Pwyllgorau Safonau i gael clywed am achosion ble honnir bod Cynghorwyr wedi methu â chyflawni'r dyletswyddau hyn
- Gofyniad ar i Bwyllgorau Safonau ymgynghori â Chynghorwyr a'u hyfforddi mewn perthynas â'r dyletswyddau hyn
- Gosod dyletswyddau statudol penodol ar arweinwyr grwpiau gwleidyddol i hyrwyddo safonau ymddygiad da o fewn eu grŵp a chydweithredu â Phwyllgorau Safonau wrth weithredu eu swyddogaethau
- Gosod dyletswydd ar Gynghorwyr Tref a Chymuned i ystyried eu hanghenion am hyfforddiant a chynllunio ar eu cyfer
- Newidiadau posibl i Côd Ymddygiad yr Aelodau i adlewyrchu dyletswydd Cynghorwyr i weithredu er budd eu rhanbarth, yn ogystal â'r awdurdod lleol y maent yn aelod ohono
- Dyletswydd ar Bwyllgorau Safonau, cyn gynted ag sy'n rhesymol ymarferol ar ôl diwedd pob blwyddyn ariannol, i gyflwyno adroddiad blynyddol i'r awdurdod mewn perthynas â'r flwyddyn honno sy'n disgrifio sut y cafodd

swyddogaethau'r pwyllgor eu cyflawni yn ystod y flwyddyn ariannol honno. Mae hynny'n cynnwys gofyniad i asesu i ba raddau y mae arweinwyr grwpiau gwleidyddol ar y Cyngor wedi cydymffurfio â'u dyletswydd i hyrwyddo safonau ymddygiad da a chydweithredu â'r Pwyllgor Safonau.

## **PENDERFYNWYD YN UNFRYDOL dderbyn yr adroddiad**

### **10. Cwynion a Chanmoliaeth**

Bu'r Pwyllgor yn ystyried yr Adroddiad Diwedd Blwyddyn ynghylch Cwynion a Chanmoliaeth a oedd yn rhoi dadansoddiad o'r cwynion a'r sylwadau canmol a ddaethai i law'r Awdurdod yn ystod 2016/17.

Adroddwyd bod yr Awdurdod wedi cael 731 o gŵynion yn ystod 2016/17 o gymharu â 501 yn 2015/16, gyda'r cynnydd i raddau helaeth yn cael ei dadogi i godiad sylweddol yn nifer y cwynion yn ymwneud â'r gwasanaeth casglu gwastraff. Ymatebwyd i gyfanswm o 693 o gŵynion yn ystod y flwyddyn, gan gynnwys nifer a oedd wedi cael eu cario ymlaen o flwyddyn flaenorol y cyngor. Cododd nifer yr achosion yr ymatebwyd iddynt o fewn y cyfnod amser gofynnol i 74%, sydd yn cynrychioli gwelliant sylweddol dros 2014/15 a 2015/16. Mewn perthynas â nifer y sylwadau canmoliaethus a gafwyd, nodwyd eu bod wedi gostwng rywfaint o 542 i 515.

## **PENDERFYNWYD YN UNFRYDOL nodi'r adroddiad.**

### **11. CAIS AM OLLYNGIAD GAN Y CYNGHORYDD G SQUIRES**

Ystyriodd y Pwyllgor gais a gyflwynwyd gan y Cyngorydd Gloria Squires o Gyngor Cymuned Llanismel am ganiatáu gollyngiad yn unol â darpariaethau Rheoliadau Pwyllgorau Safonau (Caniatáu Gollyngiadau) (Cymru) i siarad a phleidleisio a chyflwyno sylwadau ysgrifenedig mewn perthynas â cheisiadau am gymorth ariannol a gyflwynwyd i'r Cyngor gan Glwb Pensiynwyr Glanyfferi a Phlwyf Unedig Llanismel.

Adroddwyd bod cais am ollyngiad wedi'i wneud oherwydd bod gan y Cyngorydd Squires fuddiant personol yn y materion hyn yn rhinwedd paragraff 10 (2) (a) (1x) (ee) yn yr ystyr bod y busnes dan sylw yn ymwneud â chlwb preifat neu gymdeithas sy'n gweithredu yn ardal yr Awdurdod lle'r oedd hi'n aelod.

Roedd buddiant y Cyngorydd Squires hefyd yn rhagfarnol gan y byddai'n rhesymol i aelod o'r cyhoedd oedd yn gwybod y ffeithiau perthnasol ystyried bod y buddiant mor arwyddocaol fel ei fod yn debygol o ddylanwadu ar farn y Cyngorwyr ynghylch budd y cyhoedd.

Gan hynny, roedd y Cyngorydd Squires wedi gofyn am ollyngiad o dan Reoliad 2 (d) (e) (f) (g) a (h) o Reoliadau Pwyllgorau Safonau (Caniatáu Gollyngiad) (Cymru) 2001.

Dywedodd Rheolwr y Gwasanaethau Cyfreithiol wrth y Pwyllgor y dylai, wrth ystyried y cais, nodi nad oedd paragraffau 2 (e) a (g) yn berthnasol yn yr achos hwn ac y byddai paragraff (h) ond yn caniatáu i'r Cyngorydd Squires siarad (ond nid pleidleisio na chyflwyno sylwadau ysgrifenedig).



Yn dilyn trafodaeth fanwl

**PENDERFYNWYD YN UNFRYDOL** fod gollyngiad yn cael ei ganiatáu o dan Reoliad 2 (d) (f) a (h) o Reoliadau Pwyllgorau Safonau (Caniatáu Gollyngiadau) (Cymru) 2001 i'r Cynghorydd Gloria Squires i SIARAD yn unig yng nghyfarfodydd Cyngor Cymuned Llanismel mewn perthynas ag unrhyw geisiadau am gymorth ariannol a ddaw oddi wrth Glwb Pensiynwyr Glanyfferi a Phlwyf Unedig Llanismel tan ddiwedd cyfnod eu tymor presennol yn y swydd.

**12. CAIS AM OLLYNGIAD GAN Y CYNGHORWYR GARETH THOMAS, JEAN LEWIS, KEN HOWELL, TYSSUL EVANS, MANSEL CHARLES, EIRWYN WILLIAMS AC ANN DAVIES**

Ystyriodd y Pwyllgor geisiadau a gyflwynwyd gan y Cynghorwyr Sir Gareth Thomas, Jean Lewis, Ken Howell, Tyssul Evans, Mansel Charles, Eirwyn Williams ac Ann Davies am ganiatáu gollyngiad yn unol â darpariaethau Rheoliadau Pwyllgorau Safonau (Caniatáu Gollyngiadau) (Cymru) i siarad a chyflwyno sylwadau ysgrifenedig yng nghyfarfodydd Cyngor Sir Caerfyrddin mewn perthynas â materion yn ymwneud â ffermio ac amaeth neu sy'n debygol o gael effaith ar y maes hwnnw.

Adroddwyd bod cais am ollyngiad wedi'i wneud gan bob Cynghorydd oherwydd y gallent, o bosibl, fod â buddiant personol mewn materion o'r fath yn rhinwedd paragraffau 10(2)(a)(i), 10(2)(a)(iv), 10(2)(b)(i) a 10(2)(b)9ii) o'r Côd Ymddygiad yn yr ystyr eu bod i gyd naill ai'n ffermio yn y Sir, yn berchen ar dir fferm sy'n cael ei ffermio gan bobl eraill, neu fod ganddynt gymdeithion personol agos a oedd yn ffermio.

Roedd buddiant yr aelodau hefyd yn rhagfarnol gan y byddai aelod o'r cyhoedd, o wybod yr holl ffeithiau, yn ystyried yn rhesymol fod y buddiant hwnnw mor arwyddocaol fel ei fod yn dylanwadu ar farn y Cynghorydd ynghylch budd y cyhoedd.

Gan hynny, roedd y Cynghorwyr Sir wedi gofyn am ollyngiad o dan reoliadau 2 (d) ac (f) o Reoliadau Pwyllgorau Safonau (Caniatáu Gollyngiadau) (Cymru) 2001.

Atgoffodd Rheolwr Dro Dro y Gwasanaethau Cyfreithiol y Pwyllgor eu bod yn eu cyfarfod a gynhaliwyd ar 3 Mehefin 2016 (gweler cofnod 7 ac 8) wedi caniatáu gollyngiad i'r Cynghorydd Gareth Thomas a'r Cynghorydd Jean Lewis i siarad, ond nid pleidleisio, ac i gyflwyno sylwadau ysgrifenedig mewn perthynas ag unrhyw drafodaethau yn ymwneud â ffermio yn gyffredinol tan ddiwedd eu cyfnod presennol yn y swydd yn yr Etholiadau Llywodraeth Leol ym mis Mai 2017.

Roedd y Pwyllgor wrth ystyried y cais yn ystyriol o'r sefyllfa sef bod chwech o'r saith aelod a oedd yn gofyn am ollyngiad yn aelodau o Bwyllgor Cynllunio'r Cyngor y byddai'n ofynnol iddynt ystyried ceisiadau cynllunio ar gyfer y gymuned amaethyddol. Mynegwyd barn ynghylch y posibilrwydd y byddai gwrthdaro buddiannau yn codi yn rhinwedd y ffaith eu bod yn aelodau o'r Pwyllgor hwnnw, ac ynghylch yr angen i fonitro nifer yr achlysuron/amgylchiadau y byddai unrhyw ollyngiad yn cael ei ddefnyddio. Yn dilyn trafodaeth fanwl

**PENDERFYNWYD YN UNFRYDOL ganiatáu gollyngiad o dan Reoliadau 2(d) ac (f) o Reoliadau Pwyllgorau Safonau (Caniatáu Gollyngiadau) (Cymru) i'r Cynghorwyr Sir Gareth Thomas, Jean Lewis, Ken Howell, Tyssul Evans, Mansel Charles, Eirwyn Williams ac Ann Davies i SIARAD, OND NID PLEIDLEISIO, A CHYFLWYNO SYLWADAU YSGRIFENEDIG yng nghyfarfodydd Cyngor Sir Caerfyrddin mewn perthynas ag unrhyw faterion sy'n ymwneud â ffermio ac amaeth neu sy'n debygol o gael effaith ar y maes hwnnw, tan 30 Medi 2018.**

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**CADEIRYDD**

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**DYDDIAD**

**Y PWYLLGOR SAFONAU**  
**06/12/17**

**ADRODDIAD BLYNYDDOL Y PWYLLGOR SAFONAU – 2016/2017**

**Yr argymhellion / penderfyniadau allweddol sydd eu hangen:**  
Ystyried yr adroddiad

**Y rhesymau:**

Mae'r testun dan sylw yn yr adroddiad yn rhan o gylch gorchwyl y Pwyllgor

Argymhellion / Sylwadau'r Pwyllgor Craffu:

Ddim yn berthnasol

Angen i'r Bwrdd Gweithredol wneud penderfyniad NAC OES

Angen i'r Cyngor wneud penderfyniad NAC OES

**YR AELOD O'R BWRDD GWEITHREDOL SY'N GYFRIFOL AM Y PORTFFOLIO:- Y**  
Cynghorydd E Dole (Arweinydd y Cyngor)

Y Gyfarwyddiaeth:

Y Prif Weithredwr

Enw Pennaeth y Gwasanaeth:

Linda Rees-Jones

Awdur yr Adroddiad:

Robert Edgecombe

Swyddi:

Pennaeth Gweinyddiaeth a'r  
Gyfraith

Rheolwr Dros Dro y  
Gwasanaethau Cyfreithiol

Rhifau ffôn:

01267 224018

Cyfeiriadau E-bost:

RJEdgeco@sirgar.gov.uk

**EXECUTIVE SUMMARY  
STANDARDS COMMITTEE  
6<sup>th</sup> DECEMBER 2017**

**STANDARDS COMMITTEE ANNUAL REPORT 2016/2017**

The Standards Committee is required to produce an annual report of its activities during the preceding municipal year for presentation to Full Council,

Following discussions between officers and the Chair of the Committee, the attached draft report has been prepared.

The committee is requested to consider the draft report and make such changes as it considers appropriate, prior to the presentation of the report at full council in early 2018.

**DETAILED REPORT ATTACHED ?**

**YES**

## IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Linda Rees Jones

Head of Administration and Law

Policy, Crime & Disorder and Equalities <b>NONE</b>	Legal <b>NONE</b>	Finance <b>NONE</b>	ICT <b>NONE</b>	Risk Management Issues <b>NONE</b>	Staffing Implications <b>NONE</b>	Physical Assets <b>NONE</b>
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## CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees-Jones

Head of Administration and Law

*(Please specify the outcomes of consultations undertaken where they arise against the following headings)*

**1. Scrutiny Committee**

Not applicable

**2. Local Member(s)**

Not applicable

**3. Community / Town Council**

Not applicable

**4. Relevant Partners**

Not applicable

**5. Staff Side Representatives and other Organisations**

*Not applicable*

**Section 100D Local Government Act, 1972 – Access to Information**

List of Background Papers used in the preparation of this report:

**THESE ARE DETAILED BELOW**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-155	Legal Services, County Hall

Mae'r dudalen hon yn wag yn fwriadol

# STANDARDS COMMITTEE

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## ANNUAL REPORT 2016/2017

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## **1. INTRODUCTION**

The law requires each and every County and County Borough Council in Wales to establish and maintain a Standards Committee. Such committees are responsible for overseeing standards of conduct for elected members of both the principal council and the constituent community and town councils within the principal council's area.

The Committee receives and determines applications for dispensation from elected members in relation to the Code of Conduct and adjudicates upon code complaints referred to the Council by the Public Services Ombudsman for Wales. However it should be noted that only rarely has the Committee been requested to undertake this latter function.

The Committee also receives reports in relation to complaints and compliments, and the operation of the Council's whistle-blowing policy.

## **2. PERIOD COVERED BY THIS REPORT**

This report covers the activities of the Standards Committee during the period 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017

## **3. TERMS OF REFERENCE**

The role and functions of the committee as set out in the constitution of the Council are:

- To promote and maintain high standards of conduct by councillors and co-opted members
- To assist councillors and co-opted members to observe the Members' Code of conduct
- To advise the Council on the adoption or revision of the Members' Code of Conduct
- To monitor operation of the Members' Code of Conduct
- To advise, or arrange training for councillors and co-opted members on matters relating to the Members' Code of Conduct
- To grant dispensations to councillors and co-opted members where they have a personal and prejudicial interest under the Members' Code of Conduct
- To deal with reports from the Adjudication Panel for Wales and reports from the Monitoring Officer or the Public Services Ombudsman for Wales
- The exercise of the above functions in relation to Town and Community Councils in the county
- To receive annual reports on the operation of the Council's Whistleblowing Policy



#### **4. CODE OF CONDUCT COMPLAINTS**

The Committee has not been required to adjudicate upon any Code of Conduct complaints during the period of this report.

Formal complaints about councillors who are suspected of breaching the Code of Conduct are referred directly to the Public Service Ombudsman for Wales without involving the Standards Committee. Most complaints are resolved by the Ombudsman but occasionally the Ombudsman may require the Committee to investigate and adjudicate on a complaint.

In 2016-17, however, the Ombudsman did not refer any complaints to the Committee and neither was any matter referred to the Adjudication Panel.

The Committee is kept informed by the Monitoring Officer about the number of complaints relating to Carmarthenshire councillors notified to her by the Ombudsman.

During the period covered by this report a total of 9 code complaints have been made in respect of councillors and co-opted members of councils in Carmarthenshire. This represents a significant reduction from the 14 complaints made during the previous year. The committee considers this reduction to be particularly welcome given that the period coincided with local authority elections.

#### **5. APPLICATIONS FOR DISPENSATION**

The Committee has considered 21 applications for dispensation from County and Community and Town Councillors during the year. Of these 18 were granted or partially granted and 3 refused.

The grounds upon which the Committee may grant a dispensation are set out in the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001.

The Committee continues to approach each application with a presumption in favour of granting a dispensation wherever practicable, particularly in relation to granting a dispensation to speak. The Committee may also delegate authority to the Monitoring Officer to grant similar dispensations in relation to that business. However no such delegation has been given during the period of this report.

Details of the applications that have been dealt with can be viewed as part of the minutes of the meetings of the Committee which are accessible on Carmarthenshire County Council's website [www.carmarthenshire.gov.uk](http://www.carmarthenshire.gov.uk).

A comparison between the numbers of dispensation applications received since 2009 shows the following:

YEAR	TOTAL	CCC	T/CC	GRANTED*	REFUSED	OTHER
2010/11	6	4	2	6	0	N/A
2011/12	7	6	1	7	0	N/A
2012/13	23	18	5	8	15	N/A
2013/14	27	7	20	26	1	N/A
2014/15	17	1	16	17	0	N/A
2015/16	65	5	60	62	3	N/A
2016/17	21	4	17	18	3	N/A

\* Either to speak and vote or to speak only

The significant decrease in the number of applications received in 2016/17 compared to the previous year can be accounted for by a number of dispensations previously having been granted until the end of the councillors' terms of office in May 2017.

## **6. CODE OF CONDUCT TRAINING**

Following a review of the code of conduct training provided to Town and Community Councillors in previous years a decision was again taken to invite each Town and Community Council to send representatives to two training sessions that were held on separate evenings during June 2016. The sessions were well attended, with a total of 92 delegates attending on behalf of a number of different Councils.

## **7. WHISTLEBLOWING POLICY**

The Committee has oversight of the authority's Whistleblowing Policy. The process is regulated by the Public Interest Disclosure Act 1998, which protects against dismissal and other detriment for workers who disclose information in the public interest in prescribed circumstances to prescribed persons.

Details of the complaints dealt with during the period of this report are set out below.

New Complaints	Complaints carried over from 2015/16	Cases Concluded	Cases Continuing
3	0	2	1

The number of complaints recorded is slightly lower than in the previous year

When considering the number of complaints made under the policy, it is necessary to keep in mind that there is often some overlap with matters relating to grievance, disciplinary

matters and dignity at work. The number of whistleblowing complaints received therefore still appears to be consistent with those received by other local authorities.

The Committee reviewed the Whistleblowing Policy during the period covered by this report and made changes which reflected the experience of its operation during the year.

## **8. COMPLAINTS AND COMPLIMENTS FROM THE GENERAL PUBLIC**

In September 2016 the Committee was presented with a report on complaints and compliments received by the Council for 2015/2016. The report provided comparative data with the previous year and an analysis by department. It also summarised the targets and initiatives pursued to date and planned for the following year.

There has been a reduction in the number of complaints received compared with 2014/2015 from 573 to 501, but there are again variations between departments.

However the number of cases dealt with within the required time period fell from 66% to 62%.

The overall decrease in complaints, following on from a similar decrease in previous years, is pleasing to note and continues a very encouraging trend.

## **9. PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT FOR 2015/2016**

In September 2016 the Committee received the 2015/2016 annual report of the Public Services Ombudsman for Wales. The Ombudsman investigates complaints of maladministration and service failure and also deals with complaints against councillors in respect of alleged breaches of the Members' Code of Conduct.

### Maladministration

Maladministration complaints against public bodies in general have risen again by 4%. However, the total number of complaints against local authorities fell from 938 to 906 compared to last year, the overall increase in complaints being due to a rise in complaints against the NHS.

In relation to Carmarthenshire County Council, there was a significant (57%) reduction in the number of complaints received and the total of 40 complaints compares well with the Welsh average of 53. Of the 40 complaints received only 3 were investigated (in line with the Welsh average) and no public interest reports were issued.

The Ombudsman continues to be concerned however at the time it takes the Council to respond to requests for information.

#### Members' Code of Conduct

The Ombudsman reported a disappointing 19% increase in Code of Conduct complaints overall compared to the previous year, which is largely attributable to complaints relating to Town and Community Councillors. However the vast majority of complaints continue to be closed after initial consideration.

As indicated earlier however, the number of complaints against councillors in Carmarthenshire has fallen compared to the previous year.

### **10. CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILS**

The committee has again received a report regarding the extent to which Town and Community Councils within the County are complying with the Code of Conduct. The report contained data relating to:

- Code complaints
- Dispensation applications
- Declarations of interest
- Code training

No particular trends or patterns could be discerned from the data.

### **11. CONCLUSION**

The committee has had a very busy and full year and we are grateful for all the help and support given to us by the council's legal department. We have been very much encouraged by the effort all councillors have made to attend training sessions and the subsequent requests for dispensations.

**Y PWYLLGOR SAFONAU**  
**06/12/17**

**CAIS AM OLLYNGIAD GAN Y CYNGHORYDD ARWEL DAVIES**

**Yr Argymhellion / penderfyniadau allweddol sydd eu hangen:  
Ystyried y cais a phenderfynu arno**

**Rhesymau:**

Mae cynnwys yr adroddiad hwn yn rhan o faes gorchwyl y Pwyllgor.

Argymhellion / Sylwadau'r Pwyllgor Craffu:

Amherthnasol

Angen i'r Bwrdd Gweithredol wneud penderfyniad NAC OES

Angen i'r Cyngor wneud penderfyniad NAC OES

**YR AELOD O'R BWRDD GWEITHREDOL SY'N GYFRIFOL AM Y PORTFFOLIO:- Y  
Cyngorydd E Dole (Arweinydd)**

Y Gyfarwyddiaeth

Y Prif Weithredwr

Enw Pennaeth y Gwasanaeth:

Linda Rees-Jones

Awdur yr Adroddiad:

Robert Edgecombe

Swyddi:

Pennaeth Gweinyddiaeth a'r  
Gyfraith

Rheolwr Dros Dro y  
Gwasanaethau Cyfreithiol

Rhifau ffôn:

01267 224018

Cyfeiriadau E-bost:

RJEdgeco@sirgar.gov.uk.

**EXECUTIVE SUMMARY  
STANDARDS COMMITTEE  
06/12/17**

**APPLICATION FOR DISPENSATION BY COUNCILLOR ARWEL  
DAVIES**

An application for dispensation has been received from County Councillor Arwel Davies in respect of his role as a working farmer in the County. Councillor Davies seeks dispensation to speak and make written representations in respect of his role, but not to vote.

By virtue of paragraphs 10(2)(a)(i) and (vi) of the Members Code of Conduct Councillor Davies would have a personal interest in any Council business relating to or likely to affect the farming industry.

This interest would also be prejudicial as a member of the public would be likely to regard that interest as so significant that it would prejudice Councillor Davies's judgement of the wider public interest.

Councillor Davies requests that a dispensation be granted on two of the grounds set out in the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001, namely;

1. That his participation in any business relating to farming would not prejudice public confidence
2. That his participation in such business is justified by his particular role or expertise.

The Committee will recall considering an identical application from several other County Councillors at their meeting in September 2017, when they granted the application until the 30<sup>th</sup> September 2018.

Given that there are a number of other County Councillors who are also farmers, the Monitoring Officer requests delegated authority to grant dispensations to them (if so requested) on identical terms to those granted by the Committee at its meeting September 2017

**DETAILED REPORT ATTACHED ?**

**NO**

## IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Linda Rees Jones

Head of Administration and Law

Policy, Crime & Disorder and Equalities <b>NONE</b>	Legal <b>NONE</b>	Finance <b>NONE</b>	ICT <b>NONE</b>	Risk Management Issues <b>NONE</b>	Staffing Implications <b>NONE</b>	Physical Assets <b>NONE</b>
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## CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

*(Please specify the outcomes of consultations undertaken where they arise against the following headings)*

**1. Scrutiny Committee**

Not applicable

**2. Local Member(s)**

Not applicable

**3. Community / Town Council**

Not applicable

**4. Relevant Partners**

Not applicable

**5. Staff Side Representatives and other Organisations**

*Not applicable*

**Section 100D Local Government Act, 1972 – Access to Information**

List of Background Papers used in the preparation of this report:

**THESE ARE DETAILED BELOW**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-155	Legal Services, County Hall

Mae'r dudalen hon yn wag yn fwriadol



**APPLICATION TO THE STANDARDS COMMITTEE  
FOR DISPENSATION**

Please note that each section **MUST** be completed. Please refer to the attached  
Guidance Notes when completing the form.

**1. YOUR DETAILS**

Your full name:

ARWEL DAVIES

Name of your Council: CARMARTHENSHIRE COUNTY COUNCIL

Your address and postcode: c/o County Hall, Carmarthen, SA31 1JP

Contact telephone number(s):

Email address:

**2. DETAILS OF YOUR INTEREST**

What is the matter under consideration?

Any matter relating to or likely to affect farms or farming in the County of Carmarthenshire

What is your interest in the above matter?

I am a working farmer who farms land in the County

When will the above matter be considered?

At any time during my term of office

Are you applying for dispensation to:

Speak only:           x

Speak and vote:       

Make written  
Representations    x

Exercise Executive  
Powers                   

Tudalen 25

### 3. GROUNDS FOR DISPENSATION

Regulations issued by the National Assembly for Wales prescribe the circumstances in which the Standards Committee may grant a dispensation. These grounds for granting a dispensation are summarised below and are set out in full in the attached guidance notes. On which of the following grounds do you believe that a dispensation should be granted in this case? Please tick the appropriate box(es).

• at least half of the members considering the business has an interest	<input type="checkbox"/>
• my inability to participate would upset the political balance of the meeting to such an extent that the outcome would be likely to be affected;	<input type="checkbox"/>
• my participation would not damage public confidence	x <input type="checkbox"/>
• the interest is common to me and a significant proportion of the general public;	<input type="checkbox"/>
• my participation in the business is justified by my particular role or expertise;	x <input type="checkbox"/>
• the business is to be considered by an overview and scrutiny committee and my interest is not a pecuniary interest;	<input type="checkbox"/>
• the business relates to the finances or property of a voluntary organisation of whose management committee or board I am a member and I have no other interest	<input type="checkbox"/>
• it is appropriate to do so in all the circumstances where not otherwise possible to make reasonable adjustments to accommodate a person's disability	<input type="checkbox"/>

#### 4. INFORMATION IN SUPPORT OF YOUR APPLICATION

Please set out below the reasons why you consider that the Standards Committee should grant a dispensation in this case:

***(Please note that failure to complete this section will result in the application form being returned to you)***

I have considerable direct knowledge and experience of the issues affecting farming and those working in the industry.

Agriculture makes up an important part of the economy of the County and my constituents working in the industry, or whose families are directly connected with the industry, make up a significant part of the population of my ward.

Many of the functions of the Council relate to or directly affect the farming industry. Decisions taken by elected members relating to farming matters can have a significant impact not just upon individual farms, but also upon the wider agricultural sector and the communities that they are a key part of.

If as a Councillor who has a personal and prejudicial interest in farming related decisions I am unable to speak, not only would my constituents be denied democratic representation when such decisions are made but also those Councillors who do not have such an interest would be denied the benefit of my knowledge and experience.

Public confidence in the conduct of the Council's business would not be damaged by allowing me to speak in any debate or make written representations on farming related matters.

I am aware that the Committee has previously been granted dispensation in very similar circumstances and merely ask to be treated the same as them.

*(please continue on a separate sheet if necessary)*

I confirm that the information provided on this form is true to the best of my knowledge. I agree that this application and all the information contained within it may form part of a public report to the Standards Committee. I request a dispensation in respect of the above matter.

Signed:

Please return this form to the Monitoring Officer, Chief Executive's Department, Carmarthenshire County Council, County Hall, Carmarthen, SA31 1JP.

#### **Guidance notes**

- (1)** Please read through the Code of Conduct and decide which of the paragraphs is most appropriate to your case. Brief details of the relevant paragraphs are noted in the table below. If you are unsure, please contact the Monitoring Officer for advice.

**Tudalen 28**

<b>Para.</b>	<b>Type of personal interest</b>	
10(2)(a)	Council business which relates to or is likely to affect: <ul style="list-style-type: none"> <li>• your employment or business,</li> <li>• your employer, firm or company</li> <li>• a contract made between the Council and you</li> <li>• any land, lease or licence in which you have an interest</li> <li>• a public body or other association in which you have membership or hold a position of general control or management</li> </ul>	
10(2)(c)	Council business which affects your well-being or financial position, or the well-being, financial position or other interests of a person with whom you live or have a close personal association	
13	Council business which is being considered by an Overview and Scrutiny Committee and which relates to a decision of the Cabinet or another Committee of which you were a member at the time [County Council only]	

(2) The Standards Committees (Grant of Dispensations)(Wales) Regulations 2001(as amended) state that a Standards Committee may grant dispensations where:

- (a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;
- (b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- (c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;
- (d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;
- (e) the interest is common to the member and a significant proportion of the general public;
- (f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;
- (g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;
- (h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- (i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification

of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.

- (j) It is considered appropriate in all the circumstances to do so where not otherwise possible to make reasonable adjustments to accommodate a persons disability

## Y PWYLLGOR SAFONAU

## Y Dyddiad

6ED RHAGFYR 2017

CYDYMFFURFIO Â'R CÔD YMDDYGIAD GAN GYNGHORWYR  
TREF A CHYNGHORWYR CYMUNED

**Yr argymhellion / penderfyniadau allweddol sydd eu hangen:**  
Ystyried yr adroddiad

**Y rhesymau:**

Mae'r testun dan sylw yn yr adroddiad yn rhan o gylch gorchwyl y  
Pwyllgor

Argymhellion / Sylwadau'r Pwyllgor Craffu:

Ddim yn berthnasol

Angen i'r Bwrdd Gweithredol wneud penderfyniad NAC OES

Angen i'r Cyngor wneud penderfyniad NAC OES

YR AELOD O'R BWRDD GWEITHREDOL SY'N GYFRIFOL AM Y PORTFFOLIO:- Y  
Cynghorydd E Dole (Arweinydd)

Y Cynghorydd M. Stephens (Diprwy Arweinydd)

Y Gyfarwyddiaeth:

Y Prif Weithredwr

Enw Pennaeth y Gwasanaeth:

Linda Rees-Jones

Awdur yr Adroddiad:

Robert Edgecombe

Swyddi:

Pennaeth Gweinyddiaeth a'r  
Gyfraith

Rheolwr Dros Dro y  
Gwasanaethau Cyfreithiol

Rhifau ffôn:

01267 224018

Cyfeiriadau E-bost:

RJEdgeco@sirgar.gov.uk

# EXECUTIVE SUMMARY STANDARDS COMMITTEE 6<sup>TH</sup> DECEMBER 2017

## CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILLORS

As part of its role in monitoring Code compliance by Town and Community Councillors, the Committee receives reports detailing the levels of code training received, declarations of interest made, dispensation requests granted and Code complaints registered in respect of Town and Community Councils within the County.

A request for information was submitted in April 2016 to all Town and Community Councils in the County.

The attached spreadsheet sets out the information provided and allows for comparison with previous years.

As can be seen, there continue to be significant variations between councils as to the extent to which declarations of interest are made and/or dispensations sought, although there appears to be no correlation between these factors and the level of code of conduct training provided.

Similarly there appears to be no clear evidence of any correlation between the provision of code training and the incidence of code complaints.

**DETAILED REPORT ATTACHED ?**

**YES**



## IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Linda Rees-Jones

Head of Administration and Law

Policy, Crime & Disorder and Equalities <b>NONE</b>	Legal <b>NONE</b>	Finance <b>NONE</b>	ICT <b>NONE</b>	Risk Management Issues <b>NONE</b>	Staffing Implications <b>NONE</b>	Physical Assets <b>NONE</b>
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## CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

*(Please specify the outcomes of consultations undertaken where they arise against the following headings)*

**1. Scrutiny Committee**

Not applicable

**2. Local Member(s)**

Not applicable

**3. Community / Town Council**

Not applicable

**4. Relevant Partners**

Not applicable

**5. Staff Side Representatives and other Organisations**

*Not applicable*

**Section 100D Local Government Act, 1972 – Access to Information**

List of Background Papers used in the preparation of this report:

**THESE ARE DETAILED BELOW**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-155	Legal Services, County Hall

Mae'r dudalen hon yn wag yn fwriadol

Council	Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Code Training 2015/2016	Dispensations 2015/2016	Code Complaints 2015/2016	Declarations 2015/2016	Code Training 2016/2017	Dispensations 2016/2017	Code Complaints 2016/2017	Declarations 2016/2017	Comments
Abergwili	No	0	0	9	No	0	0	5	Yes	0		2	
Abernant	No	0	0	0	ND	0	0	ND	Yes	0		ND	ND = No data
Ammanford Town	No	0	1	38	ND	0	0	ND	Yes	0		16	
Betws	Yes	0	0	1	Yes	0	0	2	No	0		6	
Bronwydd	ND	0	0	ND	ND	0	1	ND	ND	0		ND	
Carmarthen Town	Yes	0	0	30	Yes	0	0	94	Yes	0		80	
Cenarth	Yes	0	0	2	Yes	0	0	0	Yes	0		ND	
Cilycwm	No	0	0	0	Yes	0	0	2	No	0		1	Clerk attended training in 2016
Cilymaenllwyd	No	0	0	4	No	0	0	2	ND	0		ND	
Cwmaman Town	No	0	0	21	No	0	1	34	No	1		29	
Cynwyl Elfed	No	0	0	10	ND	0	0	ND	No	0		27	

Council	Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015		Code Training 2015/2016	Dispensations 2015/2016	Code Complaints 2015/2016	Declarations 2015/2016		Code Training 2016/2017	Dispensations 2016/2017	Code Complaints 2016/2017	Declarations 2016/2017	Comments
Cynwyl Gaeo	ND	0	0	ND		No	0	0	0		Yes	0		1	
Dyffryn Cennen	Yes	0	0	3		ND	0	0	ND		Yes	0		16	
Eglwys Gymyn	Yes	0	0	0		ND	0	0	ND		ND	0		ND	
Gorslas	Yes	0	0	15		No	36	0	17		Yes	0		30	
Henllan Fallteg	No	0	0	4		Yes	0	0	3		Yes	0		5	
Kidwelly Town	No	5	1	78		Yes	0	0	28		Yes	1		ND	
Laugharne Town	No	0	0	5		No	0	0	3		Yes	0		11	
Llanarthne	Yes	0	0	5		ND	0	0	ND		ND	0		ND	
Llanboidy	No	0	0	1		No	9	0	17		Yes	7		34	
Llanddarog	Yes	0	0	7		No	0	0	0		Yes	0		3	
Llanddeusant	No	0	0	1		ND	0	0	ND		Yes	0		4	

Council	Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Code Training 2015/2016	Dispensations 2015/2016	Code Complaints 2015/2016	Declarations 2015/2016	Code Training 2016/2017	Dispensations 2016/2017	Code Complaints 2016/2017	Declarations 2016/2017	Comments
Llanddowror & Llanmiloe	Yes	0	0	1	Yes	0	0	4	Yes	0		3	
Llandeilo Town	No	0	1	28	ND	0	0	ND	Yes	1		ND	
Llandovery Town	Yes	0	0	12	ND	1	0	ND	No	0		16	Training materials given to all members
Llandybie	Yes	1	0	22	No	8	0	28	Yes	4		21	Training materials given to all members
Llandyfaelog	No	0	0	11	No	0	0	20	Yes	0		19	
Llanedi	ND	0	2	ND	No	0	0	32	Yes	0		21	
Llanegwad	No	0	0	12	Yes	0	0	7	Yes	0		14	
Llanelli Rural	Yes	0	3	51	Yes	0	7	52	Yes	0		45	
Llanelli Town	Yes	0	0	25	No	0	1	8	Yes	0		23	
Llanfair ar y Bryn	Yes	0	0	1	ND	0	0	ND	No	0		4	
Llanfihangel Aberystwyth	No	0	0	5	ND	0	0	ND	ND	0		ND	
Llanfihangel ar Arth	Yes	0	0	1	Yes	0	0	6	Yes	0		7	Complaint resulted in suspension of cllr in 2016

Council	Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015		Code Training 2015/2016	Dispensations 2015/2016	Code Complaints 2015/2016	Declarations 2015/2016		Code Training 2016/2017	Dispensations 2016/2017	Code Complaints 2016/2017	Declarations 2016/2017	Comments
Llanfihangel Rhos y Corn	No	0	0	0		No	0	0	4		ND	0		ND	
Llanfynydd	Yes	0	0	11		ND	0	0	ND		Yes	0		3	
Llangadog	ND	0	0	ND		ND	0	0	ND		ND	0		ND	
Llangain	Yes	0	0	2		ND	0	0	ND		ND	0		ND	
Llangathen	No	0	0	6		No	0	0	4		Yes	0		6	
Llangeler	Yes	0	0	6		No	0	0	10		No	0		20	
Llangennech	ND	0	0	ND		ND	0	0	ND		No	0		9	
Llangyndeyrn	No	0	0	26		ND	0	0	ND		No	0		38	
Llangunnor	Yes	10	0	24		Yes	0	0	8		Yes	0		4	
Llangynin	No	0	0	4		No	0	0	0		No	0		1	
Llangynog	No	0	0	4		No	0	0	3		Yes	0		0	Clerk attended training in 2016

Council	Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015		Code Training 2015/2016	Dispensations 2015/2016	Code Complaints 2015/2016	Declarations 2015/2016		Code Training 2016/2017	Dispensations 2016/2017	Code Complaints 2016/2017	Declarations 2016/2017	Comments
Llanllawddog	No	0	0	2		No	0	0	1		ND	0		ND	Training notes given to Cllrs in 2016
Llanllwni	ND	0	0	ND		No	0	0	8		Yes	Yes		5	
Llannon	No	0	0	3		No	0	0	6		Yes	0		5	
Llanpumsaint	No	0	0	0		ND	0	0	ND		ND	0		ND	
Llansadwrn	No	0	0	0		No	0	0	0		ND	0		ND	
Llansawel	ND	0	0	ND		ND	0	0	ND		ND	0		ND	
Llansteffan & Llanymydd	No	0	1	38		Yes	1	0	26		Yes	0		ND	
Llanwinio	No	0	0	4		Yes	0	0	6		No	0		2	
Llanwrda	No	0	0	0		No	0	0	0		ND	0		ND	
Llanymydd	No	0	0	2		No	0	0	9		No	0		11	
Llanymrwys	No	0	0	3		No	0	0	0		ND	0		ND	

Council	Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015		Code Training 2015/2016	Dispensations 2015/2016	Code Complaints 2015/2016	Declarations 2015/2016		Code Training 2016/2017	Dispensations 2016/2017	Code Complaints 2016/2017	Declarations 2016/2017	Comments
Manordeilo & Salem	No	0	0	6		Yes	0	0	6		No	0		12	
Meidrim	No	0	0	0		No	0	0	0		ND	0		ND	
Myddfai	No	0	0	0		No	0	0	1		No	0		3	
Newcastle Emlyn Town	Yes	0	0	27		No	0	0	27		No	0		18	
Newchurch & Merthyr	No	0	0	2		No	0	0	0		ND	0		ND	
Pembrey & Burry Port Town	Yes	0	0	4		ND	0	0	ND		Yes	0		ND	
Pencarreg	No	0	0	0		ND	0	0	ND		ND	0		ND	
Pendine	No	0	0	0		No	0	0	0		Yes	0		0	
Pontyberem	ND	0	0	ND		ND	0	0	ND		No	0		6	



Council	Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015		Code Training 2015/2016	Dispensations 2015/2016	Code Complaints 2015/2016	Declarations 2015/2016		Code Training 2016/2017	Dispensations 2016/2017	Code Complaints 2016/2017	Declarations 2016/2017	Comments
Quarter Bach	Y	0	0	19		No	0	0	38		Yes	0		43	
St. Clears Town	No	0	0	17		Yes	0	0	24		Yes	0		7	
St. Ishmael	Yes	0	0	ND		No	0	0	22		ND	0		ND	
Talley	No	0	0	0		No	0	0	9		Yes	0		ND	
Trelech a'r Betws	Yes	0	0	0		No	0	0	0		No	0		0	
Trimsaran	No	0	0	2		Yes	0	0	1		Yes	0		1	
Whitland Town	Yes	1	0	7		ND	0	0	ND		Yes	0		4	

Mae'r dudalen hon yn wag yn fwiadol



**EXECUTIVE SUMMARY  
STANDARDS COMMITTEE  
06/12/17**

**CODE OF CONDUCT CASEBOOK**

The Public Services Ombudsman for Wales has now published the latest edition of his Code of Conduct Casebook, covering the period July to September 2017.

A copy of the Casebook is attached to this report.

As can be seen the majority of cases referred to resulted in no evidence of breach being found. One of those cases related to a member of Llanelli Rural Council.

The Casebook also refers to one case dealt with by the Adjudication Panel for Wales. A copy of the Adjudication Panel's decision is also attached to this report.

The committee is asked to note the report

**DETAILED REPORT ATTACHED ?**

**NO**

## IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Linda Rees Jones

Head of Administration and Law

Policy, Crime & Disorder and Equalities <b>NONE</b>	Legal <b>NONE</b>	Finance <b>NONE</b>	ICT <b>NONE</b>	Risk Management Issues <b>NONE</b>	Staffing Implications <b>NONE</b>	Physical Assets <b>NONE</b>
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## CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

*(Please specify the outcomes of consultations undertaken where they arise against the following headings)*

**1. Scrutiny Committee**

Not applicable

**2. Local Member(s)**

Not applicable

**3. Community / Town Council**

Not applicable

**4. Relevant Partners**

Not applicable

**5. Staff Side Representatives and other Organisations**

*Not applicable*

**Section 100D Local Government Act, 1972 – Access to Information**

List of Background Papers used in the preparation of this report:

**THESE ARE DETAILED BELOW**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-155	Legal Services, County Hall

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# The Code of Conduct Casebook

Issue 14 November 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 July to September 2017.



## Case summaries

### No evidence of breach

#### Vale of Glamorgan Council – Integrity

Case Number 201606398 - Report issued in July 2017

A complaint was received that a member of the Council had sought to mislead the public, to create an advantage for herself in the election campaign, by making misleading statements in a campaign leaflet.

The investigation found that there was no intent to mislead and that once a complaint had been received that the leaflet could be misleading, it was withdrawn.

#### Llanelli Rural Council – Promotion of equality and respect

Case Number 201607211 - Report issued in August 2017

Councillor B complained that Councillor C had said Councillor B was corrupt, during a Council meeting at which the public and press were present. She said that doing so had been disrespectful and inconsiderate to her and had brought the Council into disrepute. Councillor B said this would amount to a breach of the Code of Conduct for elected members.

A number of witnesses were interviewed and whilst it was clear that Councillor B had become upset by something Councillor C had said there was not a consistent account of what was said. From the evidence gathered it was not clear that Councillor C had made the statement attributed to her by Councillor B. Further, it is not the Ombudsman's role to interfere with robust political debate and the evidence did not suggest that the actions of Councillor C went beyond that on this occasion.

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

Case Number 201607052 - Report issued in August 2017

Councillor A complained that Councillor B breached the Code of Conduct for members by failing to declare a personal and prejudicial interest in the matter of an adverse possession claim on a parcel of land owned and managed by the Town Council.

Councillor A alleged that Councillor B had a close personal association with the adverse possession claimant (a local farmer) despite denying having ever met him. Councillor A alleged that Councillor B concealed this in order to profit from the farmer's land claim. Councillor A also alleged that Councillor B sought to suppress the production of minutes of meetings at which the land claim was discussed.

The Ombudsman investigated whether Councillor B had improperly used her position to secure an advantage; whether she had failed to disclose a prejudicial or personal interest and whether she had brought her office into disrepute. Statements and comments were obtained from Councillor B, from the Clerk to the Council, from the farmer involved in the land claim and from the County Council's Monitoring Officer.

The Ombudsman found no evidence that Councillor B ever had a close personal association with the adverse possession claimant; no evidence that Councillor B sought to conceal and/or failed to declare a prejudicial or personal interest in the claim, and no evidence that Councillor B attempted to suppress the production or distribution of minutes. The Ombudsman concluded that Councillor B had not, therefore, breached the Code of Conduct.

## No action necessary

There are no summaries in relation to this finding

## Referred to Standards Committee

There are no summaries in relation to this finding

## Referred to Adjudication Panel for Wales

Flintshire County Council – Promotion of equality and respect  
Case Number 201601611 - Report issued in June 2017

The Ombudsman received a complaint that a former member of Flintshire County Council (“the former Councillor”) had failed to show respect and consideration for others and had used bullying and harassing behaviour. The complaint related to two emails which the former Councillor had sent to a team manager in the Council’s planning department, which had been copied to senior officers and several other Members. The investigation considered whether the former Councillor may have breached paragraphs Paragraph 4(b), 4(c), 4(d) and 7(a) of the Code of Conduct (“the Code”).

The Ombudsman concluded that the two emails were distasteful and derogatory and failed to show respect and consideration for the recipient. He also found that the emails were intimidating and malicious and that they appear to have been intended to undermine and insult the recipient. He did not, however, consider that the former Councillor’s conduct breached paragraphs 4 (d) and 7 (a) of the Code.

Whilst the former Councillor did not seek re-election at the May 2017 election, the Ombudsman considered that the potential breaches were sufficiently serious for it to be in the public interest to pursue the matter further. The Ombudsman referred the matter to the Adjudication Panel for Wales for consideration, as he considered that the former Councillor’s conduct in sending the two emails was suggestive of breaches of paragraphs 4 (b) and 4 (c) of the Code.

On 6 October, a Case Tribunal, convened by the Adjudication Panel for Wales, concluded that the former Councillor had failed to show respect and consideration for the Council officer through the two emails and in a subsequent post on social media. The Case Tribunal further concluded that, through the two emails and in a subsequent post on social media, the former Councillor had used behaviour which amounted to bullying and harassment of the Council officer. Consequently, the Case Tribunal found the former Councillor to have been in breach of paragraphs 4 (b) and 4 (c) of the Code.

The Case Tribunal decided, by unanimous decision, that the former Councillor should be disqualified for a period of 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority.

The decision of the Panel 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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Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

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

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## **DECISION REPORT**

**TRIBUNAL REFERENCE NUMBER:** APW/001/2017-018/CT

### **REFERENCE IN RELATION TO AN ALLEGED BREACH OF THE CODE OF CONDUCT**

**RESPONDENT:** Former Councillor Alison Halford

**RELEVANT AUTHORITY:** Flintshire County Council

## **1. INTRODUCTION**

1.1 A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.

1.2 The Case Tribunal determined its adjudication on the basis of the papers only, at a meeting on 6 October 2017 at the APW Office, Government Buildings, Spa Road East, Llandrindod Wells, Powys, LD1 6HA.

## **2. PRELIMINARY MATTERS**

### **2.1. Reference from the Public Services Ombudsman for Wales**

In a letter dated 22 June 2017, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”) in relation to allegations made against former Councillor Halford (“the Respondent”). The allegations were that the Respondent had breached Flintshire County Council’s Code of Conduct by the sending of communication which allegedly failed to show respect and consideration for others and, used bullying and harassing behaviour.

### **2.2. Method of determination.**

2.2.1. The Panel gave full consideration to the question of whether to proceed to determine the case that day or whether to adjourn the matter in order to provide a further opportunity for the Respondent to engage in the adjudication process.

2.2.2. The Panel firstly considered the relevant Regulations. The Adjudication by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 as amended, Regulation 2 states that the Respondent; “must deliver to the Registrar [of the Adjudication Panel for Wales] a written reply acknowledging receipt of the notice [of the reference to the Panel] and stating [amongst other matters]:-

(a) Whether or not that person intends;

- (i) to attend or be represented at the hearing, or
- (ii) to dispute the contents of the report and, if so, on what grounds”.

2.2.3. The Panel noted that the Registrar had forwarded the written notice of the referral to the Respondent on the 4<sup>th</sup> July, 2017 by special delivery. The package enclosed a copy of the Ombudsman’s report and a form entitled; “Respondent’s Response to the Reference”.

2.2.4. A further reminder was sent to the Respondent on 21<sup>st</sup> July, 2017 making it clear that; “if you do not collect the package, it may affect your ability to respond by the deadline to the allegations. The panel may decide in the absence of any response from you to make a decision without any hearing taking place.” It also stated; “it is your opportunity to set out your defence” and “if you require more time to respond, you can make an application to the President for more time...more time can be granted if the President considers it to be in the interests of justice to do so, but there is also a public interest in dealing with your case promptly.” No response was received from the Respondent however.

2.2.5 The Panel noted that Listing Directions were sent to the parties on 8<sup>th</sup> September, 2017, providing a further opportunity to make written submissions, the covering letter providing the Respondent the opportunity to confirm a preference for an oral hearing. The Respondent replied by e-mail on 17<sup>th</sup> September, stating that she would be abroad on the 6<sup>th</sup> October, 2017.

2.2.6 The Tribunal bundle was sent to the Respondent by special delivery on the 13<sup>th</sup> September, 2017. The Registrar then sent a reminder to the Respondent on the 18<sup>th</sup> of September, 2017 regarding the contents of the letter dated 8<sup>th</sup> September, 2017.

2.2.7 The Panel further noted that the Respondent wrote an e-mail to the Registrar on the 20<sup>th</sup> September, however the Panel considered that the letter did not address the requirements of regulation 3 of the 2001 Regulation, apart from stating; “Of course, I accept that it is virtually impossible to find against the decision of the PSOW”. The Panel did not consider that this necessarily evidenced an acceptance by the Respondent of the contents of the Ombudsman’s report however. The Panel further determined that, although the Respondent made the comment; “As it is the decision of the PSOW to send me to a tribunal at least I should be afforded the opportunity to attend it. As before, I expect that the hearing will be in N Wales as travel is no longer easy for me,” the e-mail failed to confirm whether the Respondent would actually attend or be represented at a hearing and failed to clarify whether or not she disputed the contents of the Ombudsman’s report.

2.2.8. The Panel finally noted that on the 26<sup>th</sup> September, 2017, the Registrar provided yet a further opportunity for the Respondent to engage in the process and to apply for an extension of time to submit the form; “Respondent’s Response to the Reference” which was originally due to be returned no later than the 25<sup>th</sup> July, 2017. The letter made it clear that; “If you do confirm that you wish to apply for an



extension and provide reasons, with evidence, the Panel will consider this application on 6<sup>th</sup> October, 2017. However, in the absence of such application, consideration and determination of the matter may proceed on that day.”

2.2.9. No such application or further correspondence was received from the Respondent, nor had the Respondent made arrangements to collect either the package containing the Ombudsman’s report or the package containing the Tribunal bundle from the Post Office as of the 6<sup>th</sup> October, 2017.

2.2.10. In all the circumstances, the Panel decided that the Respondent had failed to properly and meaningfully engage with the adjudication process to date, despite the Adjudication Panel for Wales providing several opportunities to do so over a period of three months and concluded that there was no realistic prospect of her doing so in the future. The Panel considered that it was in the public interest to determine cases promptly and not to delay proceedings indefinitely. It therefore decided that it would proceed to finally determine the matter on the papers on the 6<sup>th</sup> October, 2017.

### **2.3 Town or Community Council status**

2.3.1. In the Listing Directions dated 8<sup>th</sup> September, 2017, the Tribunal required the Monitoring Officer of Flintshire County Council to establish whether or not the Respondent is/was a Town Councillor as well as previously being a County Councillor and if so, of which Town or Community Council.

2.3.2. The Monitoring Officer of Flintshire County Council duly confirmed in writing that the Respondent was also a former Councillor of Hawarden Community Council.

### **2.3. Code of Conduct Training**

2.3.1. In the Listing Directions dated 8<sup>th</sup> September 2017, the Tribunal also required the Monitoring Officer to confirm the date(s) on which the Respondent attended any Code of Conduct training.

2.3.2. The Monitoring Officer of Flintshire County Council duly confirmed in writing that the Respondent had not attended Code of Conduct training since the local government elections in 2012.

## **3. FINDINGS OF FACT**

3.1 The Case Tribunal found the following material facts:

3.1.1 At the relevant time, former Councillor Halford was a member of Flintshire County Council.

3.1.2 The Respondent signed an undertaking on 14<sup>th</sup> May 2012 to the effect that she would observe the County Council’s Code of Conduct.

3.1.4. Flintshire County Council had been required to respond to a number of complaints regarding traveller encampments on various sites in Flintshire during the early part of 2016, which generated a huge amount of e-mail correspondence.

3.1.5. Mr M Jones (“the Officer”) was a team leader responsible for planning enforcement at Flintshire County Council.

3.1.6. The Officer had received an e-mail from a member of the public on 26<sup>th</sup> April, 2016 and he responded that day by lengthy telephone call to the member of the public. The Officer was not responsible for nor leading on the matter however and the lead officer assumed the role of corresponding with the member of the public, with other members of the public and with councillors.

3.1.7. The Respondent forwarded an e-mail to the Officer’s Head of Service and copied it to the Officer and six councillors at 4.15pm on 27 April, 2016. It stated;

“Andy, my resident has raised a genuine concern about Jones & would like an answer. Who us [sic] protecting him?”  
He’s arrogant, lazy, mentally challenged & has been useless for years. Why do you not call him to account. He is not worthy of his salary. Alison.”

3.1.8 The Respondent forwarded an e-mail to the Officer and copied it to a councillor and the Officer’s Head of Service at 4.32pm on 5 May, 2016. It stated;

“Mark, I’m sure you [sic] aware I don’t rate you at all & I have made this clear to your senior officers. What about surprising this member of the public who does contribute to your salary & actually get back to him. Of course, this may be something of a record for you but you must be accountable to someone just for once. Alison Halford.”

3.1.9. The Respondent was acting in her official capacity as a councillor when sending these e-mails.

3.1.10. The Respondent posted a “tweet” on social media on 27 March 2017 which referred to the Ombudsman’s investigation in the following terms; -“My sin; ticking off LAZY officer. Ugg!”

3.1.11. The impact of the e-mail dated 27<sup>th</sup> April 2016 upon the Officer was that he felt insulted, absolutely devastated and horrified.

3.1.12. The impact of the e-mail dated 5<sup>th</sup> May 2016 upon the Officer (and read by the Officer before reading the e-mail dated 27<sup>th</sup> April 2016), was to cause worry, stress and upset to the Officer.

3.1.13. The e-mails led to the Officer seeking medical, counselling and occupational health support. They have also served to affect the Officer’s confidence in relation to dealing with certain councillors. He has also been off work with stress.

## **4. FINDINGS OF WHETHER MATERIAL FACTS DISCLOSE A FAILURE TO COMPLY WITH THE CODE OF CONDUCT**

### **4.1 The Ombudsman's Report**

The Ombudsman's Report appended a number of statements, including statements from the Officer, other officers and a councillor as well as a large number of background e-mails. The Ombudsman concluded that there was evidence suggestive of breaches of Paragraphs 4(b) of Flintshire County Council's Code of Conduct: "you must...show respect and consideration for others", and Paragraph 4(c) of the Code of Conduct; "you must...not use bullying behaviour or harass any person".

### **4.2 Paragraph 4(b) of the Code**

4.2.1. The Guidance issued by the Public Services Ombudsman for Wales and relevant at the time of the alleged breaches stated; "Recent case law has confirmed that council officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to unwarranted comments that disenable them from carrying out their duties or undermine public confidence in the administration. That said, the officers who are in more senior positions, for example Chief Executives or Heads of Service, will also be expected to have a greater degree of robustness."

4.2.2. It goes on to say: "I expect members to afford colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives."

4.2.3. Also: "When considering such complaints I will take into account the specific circumstances of the case, whether in my view, the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what has been said".

### **4.3 Paragraph 4(c) of the Code**

4.3.1. The Guidance issued by the Ombudsman and relevant at the time of the alleged breaches stated in this regard; "Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health."

4.3.2. It also states; "When considering allegations of bullying and harassment I will consider both the perspective of the alleged victim, and whether the member

intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied.”

4.3.3. Finally: “You need to ensure that your behaviour does not cross the line between being forceful and bullying...the greater the power difference between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.”

#### **4.4 Case Tribunal’s Decision**

4.4.1 On the basis of the findings of fact, the Case Tribunal found by unanimous decision that the Respondent had failed to comply with Flintshire County Council’s Code of Conduct and had been acting in her official capacity at the relevant time so that the requirements of the Code of Conduct were fully engaged.

4.4.2 In relation to **Paragraph 4(b)** of the Code of Conduct, the Case Tribunal found that the Respondent breached the requirement to treat others with respect and consideration. The comments made in the Respondent’s e-mails dated 27<sup>th</sup> April and 5<sup>th</sup> May 2016 as well as the “twitter” message of 27<sup>th</sup> March 2017 were completely unwarranted and would have adversely affected the Officer’s ability to properly carry out his role, the planning enforcement role being a challenging and often unpopular role. The Respondent’s conduct towards the Council’s professional officer displayed a total lack of courtesy and consideration. The Respondent had not previously criticised or questioned the professionalism of the Officer to senior management. The comments were wholly gratuitous and unjustified and as senior officers and councillors were copied into the e-mails, the Case Tribunal considered that they were calculated to intimidate or undermine the officer whose job was already under threat due to restructuring.

4.4.3. In relation to **Paragraph 4(c)** of the Code of Conduct, the Case Tribunal found that, although falling short of repeated harassment, the Respondent intended to bully and had the effect of bullying the Officer. The comments made in the Respondent’s e-mails dated 27<sup>th</sup> April and 5<sup>th</sup> May 2016 as well as the “twitter” message of 27<sup>th</sup> March 2017 were personal comments which were highly offensive, extremely insulting, malicious and unwarranted. The Case Tribunal found the use of the words “mentally challenged” particularly shocking. The Officer was singled out unfairly, particularly as there was no indication that the Respondent had any previous complaints or concerns about his competence or responsiveness to members of the public. The Respondent had clearly been aware or should have appreciated by the 5<sup>th</sup> May, 2016 that the Officer was not responsible for dealing with temporary traveller encampments, as the Chief Executive forwarded an e-mail to the Respondent on 27<sup>th</sup> April, 2016 at 12.36pm stating that another officer would provide a full update and that the other officer; “is managing the case and will have the latest information”. This therefore constituted bullying behaviour and behaviour which fell well below the standard of behaviour expected of a Member, let alone an experienced politician.

## **4.5 Other Paragraphs of the Code of Conduct**

4.5.1. It was noted that the Ombudsman did not consider that the Respondent's conduct breached paragraphs 4(d) and 7(a) of the Code, however he does not provide clarification as to how he reached that conclusion.

4.5.2. The Case Tribunal was somewhat surprised that the Ombudsman had not investigated the question of whether there had been a breach of paragraph 4(a) of the Code bearing in mind that the Officer is registered as disabled.

4.5.3. The Case Tribunal also noted that the Ombudsman had not investigated the question of whether there had been a breach of paragraphs 6(1)(a) and 6(2) of the Code.

4.5.4. In the circumstances, the Case Tribunal makes no findings in relation to these paragraphs of the Code.

## **5. DECISION ON ACTION TO BE TAKEN**

### **5.1 Matters taken into account**

5.1.1. The Case Tribunal considered all the facts of the case and in particular the serious nature of the breaches of paragraphs 4(b) and 4(c) of the Code of Conduct, in accordance with Section 79 of the Local Government Act 2000. It also had regard to guidance issued by the Adjudication Panel for Wales in relation to sanctions and to the sanctions imposed in previous cases.

5.1.2. The Case Tribunal was mindful of the fact that the aims of the sanctions guidance are directed towards upholding and improving the standard of conduct expected of local members, endorsing the role of the Code of Conduct, and maintaining public confidence in local democracy. The action is designed to discourage or prevent future non-compliance by members in general as well as the individual member.

5.1.3. In this case, the Tribunal was unanimous in concluding that imposition of a formal sanction was appropriate and noted that suspension was not an option as the Respondent was no longer a Councillor. The Case Tribunal considered that the facts leading to the breaches of the Code in this instance rendered the Respondent unfit for public office in view of the deliberate, blatant and repeated abuse of her position to bully, intimidate and maliciously undermine the confidence of a member of staff who did not hold a senior position, using wholly inappropriate language to do so.

### **5.2 Mitigating Factors**

There is no doubt that there was considerable pressure upon the Respondent from members of the public in her electoral division relation to traveller encampments at the relevant time and that she would have experienced frustration

at not being able to ensure immediate resolution of the issues and it appears that the Officer bore the brunt of her frustration.

### **5.3 Aggravating Factors**

5.3.1. The Case Tribunal received details of a Case Tribunal which found a previous breach by the Respondent of paragraphs 6(1)(a) and 6(2) of the Code in 2010. No sanction was imposed on that occasion. The decision report stated;-"the Tribunal accepts the assurances given that Cllr Halford fully appreciates the seriousness of this matter and that there will be no repetition." It was also noted that the conclusion at that time was that this was an isolated breach of the Code of Conduct. The Respondent neither fulfilled her commitment to the 2010 Case Tribunal, nor heeded the lessons from that previous investigation and adjudication.

5.3.2. The breach of the Code was blatant and deliberate or extremely reckless.

5.3.3. The case bundle revealed that the Respondent failed to co-operate with the Ombudsman's investigating officer and challenged the Ombudsman's investigation and the adjudication to the end, showing no regard for the formal processes in place in Wales to determine complaints of breach of the Code of Conduct.

5.3.4. The Respondent persisted in her bullying behaviour despite having been made aware that the Officer was not responsible for dealing with the issue in question and should not therefore have been criticised in any way for any perceived failure to address it, let alone in the terms used by the Respondent.

## **6. ARTICLE 10**

6.1. Article 10 of the European Convention on Human Rights ("ECHR") was fully considered by the Case Tribunal during its deliberations both in relation to breach and sanction. Article 10 states as follows:-

- (1) Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers...
- (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...the protection of the reputation or rights of others..."

6.2. The Case Tribunal adopted the three stage approach used by Wilkie J in the case of Sanders v Kingston No (1) [2005] EWHC 1145 in its deliberations as follows:-

- (1) Can the Panel as a matter of fact conclude that the Respondent's conduct amounted to a relevant breach of the Code of Conduct?

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- (2) If so, was the finding of a breach and imposition of a sanction prima facie a breach of Article 10?
- (3) If so, is the restriction involved one which is justified by reason of the requirement of Article 10(2)?

As the Case Tribunal had determined (1) in the affirmative, it then went on to consider (2) and (3) and determined as follows.

6.3 The Case Tribunal was satisfied that in this instance, the contents of the e-mails of 27<sup>th</sup> April and 5<sup>th</sup> May, 2016 and the “twitter” message of 27<sup>th</sup> March 2017, did not consist of “political expression” which attracts enhanced protection under Article 10 of the ECHR. The contents were no more than gratuitous, abusive and offensive personal comments, divorced from any political debate. Had they been made in the context of political debate, the comments were so outrageous and unfair, the Panel concluded that the interference with the Article 10 rights would still have been lawful and justified.

## **7. DECISION OF THE CASE TRIBUNAL ON THE ACTION TO BE TAKEN**

7.1 The Case Tribunal considered the facts of the case and the nature of the breaches. It decided that the imposition of no sanction was not an option, bearing in mind the aims of the sanctions guidance and in view of the serious nature of the Code breaches and the severe impact which these had upon an employee of the Council who, relative to the Respondent, was not in a position of seniority or power.

7.2 The Case Tribunal had found that these were blatant and deliberate or reckless breaches of the Code, which did not stop at one e-mail but which continued after the Respondent became, or should have become aware, that the Officer did not have responsibility for dealing with the traveller encampment in question. This was further exacerbated by a “twitter” message posted in March 2017 which showed a complete lack of insight or remorse as to her behaviour and as to the further impact it might have on the Officer.

7.3. The comments about the Officer would impact not only on the rights and interests of the employee of the Council but also upon the public interest in good administration, recognising the fact that officers are entitled to conduct their duties with dignity and without the risk of gratuitous attacks upon their reputation.

7.4. In all the circumstances, the Case Tribunal considered that disqualification was an entirely justified and proportionate sanction. The Case Tribunal considered that it was a particularly serious example of bullying and that the disqualification had to be sufficiently long to enable the Respondent to properly reflect upon her actions before considering re-entering local politics. The sanction is no more than is proportionate and necessary in the circumstances.

7.5. In the case of *Heesom v the Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin), the High Court reduced the period of disqualification


imposed by the Tribunal from two years and six months to 18 months' disqualification. That case related to a series of incidents involving a number of officers in relation to paragraphs 4(b) and 4(c) of the Code of Conduct which took place over a period of some two years.

The Case Tribunal concluded that although the present case related to one officer and three incidents over a relatively short period of time, the cases were comparable in seriousness. In the present case the Panel considered that the bullying behaviour was particularly blatant and egregious.

7.6. In all the circumstances, the Case Tribunal concluded by unanimous decision that Former Cllr Halford should be disqualified for 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority within the meaning of the Local Government Act 2000.

7.7. The Case Tribunal directs that Flintshire County Council and its Standards Committee are notified accordingly.

7.8. The Case Tribunal duly notes that the Respondent has the right to seek the permission of the High Court to appeal the above decision. A person considering an appeal is advised to take independent legal advice about how to appeal.

Signed: 

Date: 23 October 2017

Claire Jones  
Chairperson of the Case Tribunal

Glenda Jones  
Panel Member

Juliet Morris  
Panel Member