

TUESDAY, 7TH JUNE 2022

TO: ALL MEMBERS OF THE STANDARDS COMMITTEE

I HEREBY SUMMON YOU TO ATTEND A MEETING OF THE **STANDARDS COMMITTEE** WHICH WILL BE HELD IN THE **CHAMBER, COUNTY HALL, CARMARTHEN, AND REMOTELY AT 10.00 AM, ON MONDAY, 13TH JUNE, 2022** FOR THE TRANSACTION OF THE BUSINESS OUTLINED ON THE ATTACHED AGENDA.

Wendy Walters

CHIEF EXECUTIVE



PLEASE RECYCLE

Democratic Officer:	Martin S. Davies
Telephone (direct line):	01267 224059
E-Mail:	MSDavies@carmarthenshire.gov.uk

Wendy Walters Prif Weithredwr, *Chief Executive*,
Neuadd y Sir, Caerfyrddin. SA31 1JP
County Hall, Carmarthen. SA31 1JP

STANDARDS COMMITTEE

MEMBERSHIP: 9 MEMBERS

Independent Members (5)

1. Mrs Mary Dodd
2. Ms Caryl Davies
3. Mrs Daphne Evans
4. Mrs Julie James
5. Mr Frank Phillips

Community Committee Member (1)

1. To be confirmed

Elected Members of the County Council (3)

1. Councillor Betsan Jones
2. Councillor Rob James
3. Councillor Gareth Thomas

AGENDA

1. APOLOGIES FOR ABSENCE.
2. DECLARATIONS OF PERSONAL INTEREST.
3. APPOINTMENT OF CHAIR AND VICE CHAIR. 5 - 6
4. TO SIGN AS A CORRECT RECORD THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON THE 8TH MARCH 2022. 7 - 10
5. REVIEW OF WHISTLEBLOWING POLICY. 11 - 32
6. PROCEDURE FOR CONDUCTING DISCIPLINARY HEARINGS. 33 - 42
7. DISPENSATION APPLICATION FROM COUNCILLOR MARTYN PALFREMAN. 43 - 54
8. DISPENSATION APPLICATION FROM COUNCILLOR CARYS JONES. 55 - 66
9. DISPENSATION APPLICATION FROM COUNCILLORS JEAN LEWIS, ANN DAVIES, TYSSEL EVANS, KIM BROOM, KEN HOWELL, GARETH THOMAS, MANSEL CHARLES, HEFIN JONES AND ELWYN WILLIAMS. 67 - 78
10. ADJUDICATION PANEL DECISION - COUNCILLOR J. BISHOP. 79 - 106
11. ANY OTHER ITEMS OF BUSINESS THAT BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR DECIDES SHOULD BE CONSIDERED AS A MATTER OF URGENCY PURSUANT TO SECTION 100B(4)(B) OF THE LOCAL GOVERNMENT ACT 1972.

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STANDARDS COMMITTEE 13/06/2022

APPOINTMENT OF CHAIR AND VICE-CHAIR		
Recommendations / key decisions required: To appoint a committee chair and vice-chair		
Reasons: The term of office of the Chair ended on the 5 th May 2022		
Relevant scrutiny committee to be consulted NA		
Cabinet Decision Required	NA	
Council Decision Required	NA	
CABINET MEMBER PORTFOLIO HOLDER:- Cllr Linda Evans		
Directorate: Name of Head of Service: Linda Rees-Jones Report Author: Robert Edgecombe	Designations: Head of Administration and Law Legal Services Manager	Tel: Email addresses: rjedgeco@carmarthenshire.gov.uk 01267 224018

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
13/06/2022**

APPOINTMENT OF CHAIR AND VICE-CHAIR

The term of office of the Chair of the committee ended on the 5th May 2022. A Chairperson must therefore be chosen by the committee

Regulations prescribe that the Chair of a Standards Committee must be one of the co-opted independent members.

It will be necessary also to select a Vice-Chair, again from amongst the independent co-opted members.

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: *LRJones*

Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

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

Signed: *LRJones*

Head of Administration and Law

- 1. Scrutiny Committee** – not applicable
- 2. Local Member(s)** - not applicable
- 3. Community / Town Council** - it is suggested that such consultation take place
- 4. Relevant Partners** - not applicable
- 5. Staff Side Representatives and other Organisations** - not applicable

CABINET PORTFOLIO HOLDER(S) AWARE/CONSULTED

NO

**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Services file	DPSC-197	County Hall, Carmarthen

Standards Committee

Tuesday, 8 March 2022

PRESENT: M. Dodd (Chair);

Independent Members:

C. Davies, D. Evans, J. James and F. Phillips;

Community Member:-

Town Councillor P. Rogers;

Councillor:

S.J.G. Gilasbey;

The following Officers were in attendance:

L.R. Jones, Head of Administration and Law;

R. Edgecombe, Legal Services Manager;

S. Rees, Simultaneous Translator;

J. Owens, Democratic Services Officer;

M.S. Davies, Democratic Services Officer.

Virtual Meeting: 2.00 pm - 3.30 pm

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF PERSONAL INTEREST

There were no declarations of personal interest.

3. MINUTES - 4TH FEBRUARY, 2022

RESOLVED that the minutes of the meeting of the Standards Committee held on the 4th February, 2022 be signed as a correct record.

4. CODE OF CONDUCT TRAINING FOR TOWN AND COMMUNITY COUNCILLORS

The Committee was reminded that arrangements for the delivery of code of conduct training to town and community councillors within the county was a task that fell within its remit. Whilst annual sessions were, in normal circumstances, usually held in County Hall, in 2020, due to the Coronavirus pandemic, these sessions had been cancelled, and training notes circulated to all town and community councils instead. In 2021 sessions had been held remotely via Zoom. Whilst feedback from attendees at these remote/virtual sessions had generally been positive several Councils had stated that they had not sent any attendees because of inadequate internet connection and/or insufficient IT skills amongst their members. These councils had expressed a preference for a return to physical face to face sessions.

The Committee was advised that whilst the holding of physical training sessions was legally possible under the current Coronavirus restrictions all employers (including the Council) were required to adopt and implement Coronavirus risk

assessments. The risk assessments for the Chamber in County Hall currently restricted its capacity to less than 25 persons. In addition, it was possible that proposed building works that may take place in County Hall later this year could mean the Council Chamber was unavailable in any event. It was noted that One Voice Wales offered similar training.

In light of the current position with regard to finding a suitable venue and ongoing limitations due to coronavirus it was suggested that the possibility of holding a hybrid [physical/virtual] training session in June/July be explored along with the possibility of recording the session for later dissemination to those unable to attend. It was further suggested that following the forthcoming elections an invitation to attend the session be extended to Councillors elected for the first time.

UNANIMOUSLY RESOLVED to endorse the suggestions outlined above in regard to code of conduct training for 2022 together with the circulated draft amended Training Presentation.

5. LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

The Legal Services Manager presented a report detailing the following provisions of the Local Government and Elections (Wales) Act 2021 which directly related to political group leaders and the working of the Standards Committee:

- a duty on the leaders of political groups to take reasonable steps to promote and maintain high standards of conduct by the members of their group;
- a duty on the leaders of political groups to co-operate with the Standards Committee in the exercise of that committee's functions;
- amending the functions of the Standards Committee to include monitoring compliance by group leaders with the above duties and advising and training them in respect of those duties;
- the introduction of a statutory requirement on Standards Committees to produce an annual report as soon as possible after the end of each financial year. The Act also prescribed that certain content be included in those reports, namely:
 - (a) a summary of what has been done to discharge the functions referred to above;
 - (b) a summary of any reports or recommendations received;
 - (c) a summary of any action taken following consideration of any reports or recommendations received;
 - (d) an assessment of the extent to which political group leaders have complied with their duties under the Act.

The report also detailed how these issues might be addressed. It was noted that the current Group Leaders had been made aware of the new duties placed upon them under the above Act.

Following a discussion, it was suggested that an informal meeting be arranged between the Chair and Vice Chair of the Standards Committee and the Group Leaders at the earliest opportunity following the forthcoming elections to discuss the new duties and a report thereon be submitted to the next formal meeting of the Standards Committee.

UNANIMOUSLY RESOLVED to endorse the approach outline above.

6. CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILS

The Legal Services Manager presented a report wherein the Committee was reminded that Town and Community Councils were annually requested to provide data regarding code of conduct compliance by their members and the responses received were combined with data held by the Monitoring Officer to provide a comprehensive overview of code compliance by these councillors covering:

1. Declarations of interest
2. Dispensation requests
3. Code of conduct complaints
4. Code of conduct training.

Whilst the majority of Town and Community Councils had consistently provided the requested data, a small minority had failed to do so, some for several years. To date the Committee had simply noted the reported data and had not really utilised it to inform its future work. Accordingly, members were asked, if they wished to continue with this exercise, whether to include a more detailed explanation for doing so in the information request letter and also include a section in this summer's training event on the subject. It was emphasised that no other Standards Committee in Wales requested such data.

Members agreed that the exercise should continue but it was suggested that there could be more focus on those Town and Community Councils which had not previously responded or had responded with a nil return in regards to declarations of interest, including interviews with clerks and perusal of minutes if necessary, to ensure compliance with the code.

UNANIMOUSLY RESOLVED to continue with the current data gathering exercise and to endorse the suggestion outlined above.

7. ADJUDICATION PANEL FOR WALES DECISIONS

The Committee considered a report recently published by the Adjudication Panel for Wales detailing its findings in two cases referred directly from the Public Services Ombudsman for Wales and two appeals from decisions of local Standards Committees.

Arising from the aforementioned cases the Legal Services Manager agreed to follow up a suggestion that members of the Committee should receive training on the process for dealing with alleged breaches of the Code of Conduct.

UNANIMOUSLY RESOLVED that the report be received.

8. ANY OTHER ITEMS OF BUSINESS THAT BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR DECIDES SHOULD BE CONSIDERED AS A MATTER OF URGENCY PURSUANT TO SECTION 100B(4)(B) OF THE LOCAL GOVERNMENT ACT 1972

There were no items of urgent business.

CHAIR

DATE

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STANDARDS COMMITTEE 13/06/2022

REVIEW OF WHISTLEBLOWING POLICY		
Recommendations / key decisions required:		
To review and agree the Council's Whistleblowing Policy for the next year		
Reasons:		
The constitution of the Council identifies this as one of the functions of the committee.		
Relevant scrutiny committee to be consulted NA		
Cabinet Decision Required	NA	
Council Decision Required	NA	
CABINET MEMBER PORTFOLIO HOLDER:- Cllr Linda Evans		
Directorate: Name of Head of Service: Linda Rees-Jones Report Author: Robert Edgecombe	Designations: Head of Administration and Law Legal Services Manager	Tel: Email addresses: rjedgeco@carmarthenshire.gov.uk 01267 224018

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
13/06/2022**

REVIEW OF WHISTLEBLOWING POLICY

The review of the Council's whistleblowing policy is listed as one of the functions of the committee in the Council's constitution.

The policy seeks to reflect best practice in implementing the protections for employees contained in the Public Interest Disclosure Act 1988.

Officers have reviewed the policy and, save for reflecting the appointment of a new Chair of Standards Committee in December 2021, no other changes are considered necessary. There have been no developments in legislation, case law or guidance which necessitate any amendment.

Since the last policy review in June 2021 a total of 5 whistleblowing complaints have been recorded. Of these 1 has been resolved. The remaining matters are ongoing. Progress of ongoing matters is being routinely monitored by officers of the Human Resources and Legal Departments.

An updated Policy is attached for approval.

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: *LRJones*

Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

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

Signed: *LRJones*

Head of Administration and Law

1. **Scrutiny Committee** – not applicable
2. **Local Member(s)** - not applicable
3. **Community / Town Council** - it is suggested that such consultation take place
4. **Relevant Partners** - not applicable
5. **Staff Side Representatives and other Organisations** - not applicable

**CABINET PORTFOLIO HOLDER(S)
AWARE/CONSULTED**

NO

**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Services file	DPSC-197	County Hall, Carmarthen

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WHISTLEBLOWING POLICY



Legal Protection for Workers with Concerns at Work:

**Employee; Casual Worker; Volunteer; Contractor;
Agency Worker: Consultant.**

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What is this about?

1. We (the 'Council') want to ensure a working environment where you (the 'worker') feel confident to raise any concerns about malpractice within the Council. However, some people are reluctant to voice their concerns because of fears about possible repercussions, or a feeling of disloyalty to colleagues. Some might consider it easier to ignore the concern rather than report what may just be a suspicion of malpractice.
2. Malpractice can include fraud, corruption, bribery, dishonesty, financial irregularities, serious maladministration because of deliberate and improper conduct, unethical activities (which may be of a criminal nature) and dangerous acts or omissions which create a risk to health, safety or the environment, criminal offences, or failure to comply with a legal or regulatory obligation.
3. Whistleblowing does not include mismanagement as this may arise from weak management, for example, rather than malpractice. Mismanagement may be dealt with under the Council's Capability Policy or Disciplinary Procedure, as appropriate.
4. This policy is intended to encourage and support you to raise serious concerns **within** the Council safely and with confidence and view this as a **duty**, rather than overlooking the problem. 'Whistle-blowing' refers to the disclosure, by workers, of malpractice as well as illegal acts or omissions at work.
5. This policy will be applied consistently to everyone irrespective of race, colour, nationality, ethnic or national origins, language, disability, religion, belief or non belief, age, sex, gender reassignment, sexual orientation, parental, marital or civil partnership status.
6. If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly

What legal protection do I have?

7. The Public Interest Disclosure Act (PIDA) 1998 gives you legal protection against dismissal and other detriments where you disclose certain types of information in the public interest, to the Council, either as your employer or (in the case of a contractor disclosing information) to the organisation that has legal responsibility for that matter.

Will I be protected if I make a public disclosure?

8. You are encouraged to raise your concerns via your line manager (para.33), the Council's dedicated Whistleblowing Officers (para.33); a confidential mailbox (para.34), Senior Officers (para.35) or a recognised Trade Union Representative

(para.36). You can also seek advice from prescribed organisations independent of the Council regarding your concerns (para.50). If you raise concerns to someone else other than those detailed within this procedure, e.g. to the local paper, depending on your disclosure and to whom it is made, you may not receive the legal protection as a 'whistleblower'. You are therefore strongly advised to seek advice before taking this action.

9. If you do take the matter outside the Council you should ensure that you do not disclose any confidential information, e.g. client case notes, given to you in confidence, unless you have consent in writing from the person to whom the information relates.

What support can I expect?

10. At all times, when raising and investigating your concerns:

- Directors and Heads of Service, will support the investigation process
- your concerns will be taken seriously
- the Council will do all it can to support you throughout the investigation, e.g. provide advocacy services, interpreters, counselling etc.

If appropriate, and after full consultation the Council may consider temporarily re-deploying you or others for the period of the investigation.

What is the Council's attitude to malpractice in the workplace?

11. We take any malpractice within the Council very seriously, as we are committed to maintaining the highest standards of openness, probity and accountability. If you have serious concerns about any aspect of the Council's work then you are encouraged and expected to come forward and voice those concerns.
12. We understand that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. However, if you raise your concerns you will have nothing to fear as you will be doing your duty to your employer, your colleagues and those to whom you provide a service.
13. Harassment or victimisation of individuals, who have raised concerns, including informal pressures, will not be tolerated and will be treated as a serious disciplinary offence which will be dealt with under the disciplinary procedure.
14. We will not tolerate any attempt on the part of any worker, councillor, council contractor or supplier to apply any sanction or detriment to anybody who has reported to the Council any serious and genuine concern that they may have about apparent wrongdoing.

15. We will treat such conduct by an employee of the Council as a serious disciplinary matter, and any such conduct by a Councillor is liable to be reported as a breach of the Members Code of Conduct.
16. Where any such conduct is undertaken by any contractor or supplier of the Council we will regard that as a serious breach of contract.
17. Any such behaviour by any recipient of a Council service will be regarded as a breach of the condition under which that service is provided.

Who can blow the whistle?

18. This policy applies to:
 - Workers for Carmarthenshire County Council including all employees, centrally employed teachers and casual workers
 - Employees of contractors working for the Council on Council premises, for example, agency staff, builders, drivers
 - Those providing services under a contract or other agreement with the Council in their own premises, for example care homes
 - Voluntary workers working with the Council
 - Consultants engaged by the Council
19. However, this policy does not cover staff on the complement of locally managed schools for which local arrangements exist. In the absence of local arrangements school governing bodies are recommended to adopt the principles contained within Welsh Government's 'Procedures for Whistleblowing in Schools and Model Policy'.
20. Employees and workers of the Council's Local Authority Trading Companies (LATC) should normally raise any concerns through the LATC's own whistleblowing procedures. Where the specific concern relates to the governance arrangement, business contract or legal agreement between the LATC and the Authority or vice versa the individual may opt to raise the matter directly with the Authority using the process described in this policy.

What can I blow the whistle about?

21. You are encouraged to 'blow the whistle' where you reasonably believe malpractice has taken place or is likely to take place, in one or more of the following six areas:
 - Criminal offences
 - Breach of legal obligation
 - Miscarriages of justice
 - Danger to the health and safety of an individual
 - Damage to the environment

- The deliberate concealing of information about any of the above

22. You can raise serious concerns about any aspect of service provision or conduct of officers or Members of the Council or others acting on behalf of the Council. The event may already have occurred or it may be likely to be committed in the future. For example, your concerns might fall into one or more of the six areas of malpractice describe above that:

- is potentially unlawful, fraudulent or corrupt
- might contravene our Standing Orders, our Financial Procedure Rules, our policies, codes of conduct or other legal obligations
- could amount to improper conduct by an officer or a member
- might fall below established standards of practice
- constitutes sexual, physical or emotional abuse
- potentially endangers the health and safety of an individual
- is causing, or is likely to cause, damage to the environment
- might involve a miscarriage of justice
- is an attempt to cover up any of the above examples

23. In addition, the Council has signed up to Welsh Government's Code of Practice on Ethical Employment in Supply Chains. The Code covers:

- Modern Slavery;
- Blacklisting;
- False self-employment;
- Unfair use of umbrella schemes and zero hours contracts;
- Paying the national living wage.

You are also encouraged to 'blow the whistle' where you reasonably believe malpractice has taken place or is likely to take place and is related to the direct activities or the supply chains of the Council, and this malpractice falls within one or more of the six areas described in Para. 20 above. Further information can be found in the Council's Ethical Employment & Supply Chains Policy.

24. If your concerns fall outside the six areas illustrated above you will be advised of the correct procedure to follow as described below.

How does the policy fit in with other Council policies?

25. The Whistle-blowing Policy is intended to cover major concerns that **fall outside** the scope of other procedures **and are in the public interest**, i.e. any **serious concerns** that you have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under this policy.

26. Concerns you may have about your own employment with the authority, such as, terms and conditions of employment, health & safety, work relations, new working

practices, working environment or organisational change should be raised through the Grievance procedure.

27. Concerns you may have about allegations of bullying, harassment, victimisation or discrimination in work should be raised in line with the Council's Behavioural Standards guidance.
28. A whistle blowing issue could be entangled within a grievance or concerns about standards of behaviour, in which case the Council will need to consider the facts, assess the risks and decide how to best deal with the issue (See Appendix A Whistleblowing Flowchart).
29. This policy should be read in conjunction with the Council's Officer Code of Conduct and any corporate and/or departmental procedures for investigating concerns which may be developed from time to time and which will be drawn to the notice of employees and others to whom this policy applies.

What if I am already involved in another HR procedure?

30. Any investigation into allegations of malpractice will not influence or be influenced by any disciplinary, grievance, sickness, capability, redundancy or any other procedures that already affect you or may affect you in the future. On the other hand, any disciplinary grievance, sickness, capability, redundancy or any other procedures to which you are already subject will not be halted as a result of raising concerns.

How does this policy fit with the Members' Code of Conduct?

31. The Council has no power to deal with Code of Conduct complaints against an elected member. If you raise concerns about an elected member under this policy you will be given the appropriate legal protection against any acts of detriment and advised to make your concerns to the Public Services Ombudsman for Wales. Alternatively, the Monitoring Officer may decide to refer the matter to the Ombudsman if it is considered appropriate to do so. Details of the Ombudsman's complaints process can be found at www.ombudsman-wales.org.uk

Members

Am I covered by the PIDA?

No, this legislation provides protection to 'workers' and this does not extend to Members who hold positions of public office.

What is my role as a Member in the Whistleblowing Process?

You may witness or be approached by a 'worker' about a potential whistleblowing concern. In this situation it is not appropriate for you to seek further information or make your own enquiries and are therefore advised to speak directly to the Monitoring Officer, Deputy Monitoring Officer or Chair of Standards Committee.

What if I want to make anonymous allegations?


32. You can raise concerns anonymously, but they are much less powerful and will be considered under this policy at the discretion of the Monitoring Officer. Remember, the purpose of this policy is to protect and support you and ensure that you can raise your concerns with confidence. If you do not tell us who you are, it will be much more difficult for us to look into the matter, to support and protect you, or to give you feedback.

Is my identity kept confidential?

33. All disclosures will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated however that the investigation process may reveal the source of the information and a formal statement may be required from you as part of the evidence. If you are required to give evidence in criminal or disciplinary proceedings, we will arrange for you to receive advice about the procedure. If disclosure of your identity becomes unavoidable then the Council will support you through the process.

How do I raise a concern?

34. You should not approach or accuse individuals directly or attempt to investigate the matter yourself. Instead can raise your concerns with your line manager or if you prefer, one of the Council's dedicated Whistleblowing Officers, as shown below:



Whistleblowing Officer	Job Title/e-mail address	Phone number
 Noelwyn Daniel	Head of ICT Service NDaniel@carmarthenshire.gov.uk	01267 246270 (extension 6270)
Nigel J Evans	Practice Support Manager	01267 224694

	nevans@cararthenshire.gov.uk	(extension 4694)
Tracey Thomas	Principal Development Officer TrThomas@cararthenshire.gov.uk	01267 246202 (extension 6202)
Stefan Smith	Head of Children's Services SJSmith@cararthenshire.gov.uk	01267 246530 (extension 6530)
Nicola J Evans	Business Support Manager NJEvans@cararthenshire.gov.uk	01267 224124 (extension 4124)
Alan Howells	Business and Development Manager AEHowells@cararthenshire.gov.uk	01267 228140 (extension 5140)
Cathy Richards	Senior Safeguarding Manager CRichards@cararthenshire.gov.uk	01267 228995 (extension 2995)



You are welcome to contact me in Welsh or English

35. The person you speak to and raise your concerns will offer you some initial advice and guidance and will normally become your "**Contact Officer**". This will depend on the nature of your concerns and could be someone else with your agreement.
36. If you do not wish to raise your concerns with your line manager or one of the Council's dedicated Whistleblowing Officers you can raise your concerns through the Council's confidential Whistleblowing mailbox by emailing CEWhistleBlowing@cararthenshire.gov.uk. This mailbox is only viewed by the Monitoring Officer and Deputy Monitoring Officer in the Legal Department.
37. Alternatively, you could contact one of the people listed below, who will note your concerns and arrange for another person to be appointed as contact officer to provide you with advice and guidance:

Name	Job Title/e-mail address	Phone number
Wendy Walters	Chief Executive WSWalters@cararthenshire.gov.uk	01267 224112
Linda Rees-Jones 	Head of Administration and Law/Monitoring Officer lrjones@cararthenshire.gov.uk	01267 224010
Robert Edgecombe	Legal Services Manager/Deputy Monitoring Officer rjedgeco@cararthenshire.gov.uk	01267 224018
Chris Moore	Director of Corporate Services (including responsibility for proper administration of financial affairs) cmoore@cararthenshire.gov.uk	01267 224120
Paul Thomas 	Assistant Chief Executive (People Management) prthomas@cararthenshire.gov.uk	01267 226123

Mary Dodd	Chair of Standards Committee MDodd@carmarthenshire.gov.uk	
Helen Pugh	Head of Revenues and Financial Compliance HLPugh@carmarthenshire.gov.uk	01267 246223



You are welcome to contact me in Welsh or English

38. You may seek the support of a companion, i.e. a recognised trade union official or representative or a work colleague, to assist you in raising your concerns and accompany you at any meeting through this procedure.

Contact names	Trades Union	E-mail address	Phone number
Mark Evans	UNISON	unisoncarms1@btconnect.com	01267 224942
Mark Preece Allan Card	Unite	MAPreece@carmarthenshire.gov.uk Allan.Card@unitetheunion.org	07718925787 01646 690618
Peter Hill	GMB	Peter.Hill@gmb.org.uk	01792 467803

39. If you would prefer to contact an outside organisation instead then a list of useful contacts is given at paragraph 49 below. It is better to contact one of the external organisations listed than to overlook your concerns.

What happens after I have raised my concerns?

40. Your Contact Officer will be the person with whom you will have all future contact in respect of your concern, and if an investigation takes place (see below) s/he will be your primary contact for feedback.
41. We will need to get the details set out in writing as soon as possible. If you do not want to put your concerns in writing, then that's alright, your Contact Officer can do this for you instead and support you in expressing the background and history of your concern, giving names, dates and places where possible and the reason why you are particularly concerned about the situation. The earlier your concerns are expressed the easier it is to take action.
42. Although you are not expected to prove the truth of an allegation, you will need to demonstrate to your Contact Officer that there are reasonable and sufficient grounds for your concern.

How will we deal with your concerns?

43. Action taken by the Council will depend on the nature of the concern. The matters raised may be:
- investigated internally by an appropriate person in line with the Council's Investigation Policy;

- referred to the Police;
 - referred to the Wales Audit Office;
 - the subject of an independent inquiry.
44. In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.
45. The Contact Officer will acknowledge your concern as soon as possible and contact you within 14 calendar days of you raising your concern to:
- indicate how it is proposed to deal with the matter;
 - give you an estimate of how long it may take to provide a final response;
 - tell you whether any initial enquiries have been made; and
 - inform you whether a full investigation will take place, and if not, why not.
46. The Contact Officer will give you as much feedback as possible, but sometimes precise action will not be set out where this would infringe upon a duty of confidence owed to the Council by someone else. Time estimates and limits may be amended by agreement between you and the Contact Officer.
47. The frequency of contact between you and the Contact Officer will depend upon the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Contact Officer or the officer investigating the matter will seek further information from you.
48. When any meeting is arranged between you and the Contact Officer, you have the right, if you so wish, to be accompanied by a companion (who may be a recognised trade union representative or a work colleague who is not involved in the area of work to which the concern relates). Steps will be taken to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, we will arrange for you to receive advice about the procedure.
49. We understand that you will need to be assured that the matter has been dealt with properly and therefore, subject to legal constraints, your Contact Officer will inform you of the outcome and confirm in writing within 14 calendar days of the conclusion of the matter, i.e. whether your concerns have been upheld, what actions the Council proposes to take (subject to confidentiality constraints) and timescales for implementing. At that point you will be asked to complete a short questionnaire about your experience of the whistle blowing procedure (See Appendix B). Your feedback is important to us, as it will help us to monitor the effectiveness of this policy.

What happens if my concerns are not confirmed after an investigation?

50. If, you raise a concern using this policy but it is not confirmed by the investigation, no action will be taken against you. If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken against you in accordance with the Council's Disciplinary Procedure.
51. Remember, if you want to take independent advice at any stage, you may contact the independent charity Public Concern at Work (see paragraph 49 for details). Their lawyers can give you free confidential advice at any stage about how to raise concerns about serious malpractice at work.

What happens if I am not happy with the Council's response?

52. This policy is intended to provide you with a way to raise your concerns **within** the Council and we hope that you will be satisfied with the way that we deal with the matter. However, in the event that the issue is not resolved to your satisfaction then you are welcome to contact (assuming that they have not previously been involved in your case) the Council's Chief Executive or the independent chair of our Standards Committee. Their contact details are given at paragraph 34. As an alternative, we suggest the following possible contact points:

- The charitable organisation Public Concern at Work (See Appendix C). Telephone 020 7404 6609 or e-mail info@pcaw.co.uk or whistle@pcaw.co.uk
- The Auditor General for Wales, Public Interest Disclosure Helpline 01244 525980 or e-mail whistleblowing@wao.gov.uk or web www.wao.gov.uk/whistleblowers-hotline
- The Public Services Ombudsman for Wales. Telephone 0300 790 0203 or e-mail ask@ombudsman-wales.org.uk or web www.ombudsman-wales.org.uk
- Health and Safety Executive. Telephone 0300 003 1647 or Online form: <http://www.hse.gov.uk/contact/raising-your-concern.htm> or web www.hse.gov.uk
- Care and Social Services Inspectorate for Wales. Telephone 0300 790 0126 or e-mail cssiw.@wales.gsi.gov.uk or web www.cssiw.org.uk
- Care Council for Wales Tel: 0300 303 3444 ftp@ccwales.org.uk
- Children's Commissioner for Wales Tel: 01792 765600 or e-mail: post@childcomwales.org.uk or web www.childcomwales.org.uk
- Natural Resource Wales Tel: 0300 065 3000 Email: enquiries@naturalresourceswales.gov.uk
- The Information Commissioner's Office Tel: 0303 123 1113 or e-mail casework@ico.org.uk or web www.ico.org.uk
- Older People's Commissioner Tel: 02920 445 030 or e-mail ask@olderpeoplewales.com or web www.olderpeoplewales.com

A full list of prescribed persons can be found at:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

Who is responsible for this policy?

Policies: Whistleblowing Policy
 Adopted: March 2004
 Revised: 13th June 2022 at Standards Committee.



People Management

53. Linda Rees-Jones, the Council's Monitoring Officer and Paul Thomas, Assistant Chief Executive share overall responsibility for the maintenance and operation of this policy. Linda Rees-Jones will keep a record of concerns raised and the outcomes (in a format that does not endanger confidentiality) and will report to the Standards Committee annually.
54. This edition of the policy was agreed by the Council's Standards Committee on 15th June. The policy is reviewed annually.

What happens to your 'information' and 'personal data'?

55. The proper handling of personal information by Carmarthenshire County Council is very important to the delivery of our services, undertaking our legal obligations as an employer and maintaining public confidence. Personal data is any information that relates to a person who can be directly or indirectly identified from the information. The terms 'information' and 'personal data' are used and have the same meaning. To ensure that the Council treats your information correctly, we seek to adhere in full to the requirements of Data Protection legislation. The Human Resources – People Management and Legal Services privacy notices have therefore been produced to explain as clearly as possible what we do with your personal data and are available to view on the Council's website.

If you require this publication in an alternative format, such as large print, Braille or on audiotape please telephone 01267 224651.

WHISTLEBLOWING FLOWCHART

Worker raises a concern with his/her line manager, a more senior manager or a dedicated Whistleblowing Officer. This individual normally becomes the 'Contact Officer', but it can be someone else with the worker's consent

The Contact Officer explores concerns with individual and considers whether they fall within 1 or more of the 6 categories of protected disclosure (see right hand box) and in the public interest

- Protected disclosure:
- Criminal offences
 - Breach of legal obligation
 - Miscarriages of justice
 - Danger of Health and safety of an individual
 - Damage to the environment
 - Deliberately concealing information about the above

If yes

If no

Notify the Monitoring Officer in Administration and Law that a whistleblowing complaint has been made and seek advice on how to proceed.

If the concerns relate to a worker's own employment with the authority **and** is a '**protected disclosure**' the principles of the whistleblowing procedure are to be followed alongside the relevant HR Policy and procedure.

If the concerns relate to a worker's own employment with the authority **and is not a protected disclosure**, the individual should be advised to speak to their **line manager** in line with the Council's Grievance or Behavioural Standards guidance, as appropriate.

- The concerns may be:
- Investigated internally in line with the Council's Investigation Policy
 - Referred to the police
 - Referred to the Wales Audit Office
 - Subject of an independent enquiry.

The Contact Officer will acknowledge the individual's concerns and within 14 days:

- indicate how the matter will be dealt with
- give an estimated time for examining the concerns
- advise if there have been any initial enquiries;
- confirm if a full investigation will take place, and if not, why not.

The Contact Officer will agree with the worker the type and frequency of contact to feedback on the progress of investigation, confirming data protection and confidentiality restrictions in the process

The Contact Officer will notify the individual of the outcome of the complaint along with a copy of the feedback form within 14 calendar days of conclusion of the investigation

The Contact Officer will notify the Monitoring Officer the outcome of the complaint.

Policies: Whistleblowing Policy
 Adopted: March 2004
 Revised: 13th June 2022 at Standards Committee.



People Management

CONFIDENTIAL - WHISTLEBLOWING PROCEDURE FEEDBACK FORM

We have recently concluded an investigation into your concerns raised under the Council's Whistleblowing Policy. We would welcome your feedback in relation to how the matter was handled as this will assist us when dealing with future cases and when reviewing the policy. Your reply will be treated as confidential and will be retained by the Monitoring Officer.

1. **To whom did you report your concern?**
- Line Manager
 - Whistleblowing Officer
 - Trade Union Rep
 - Other (please specify)

.....

2. **Were you satisfied with the way in which your concern was dealt with by that person?**
- Yes
 - No

3. **If no, please explain why:**

.....

.....

4. **Were you aware of the Whistleblowing Policy at the time you raised your concern?**
- Yes
 - No

5. **If yes, where did you see a copy of the Whistleblowing Policy?**
- Line Manager
 - Whistleblowing Officer
 - Trade Union Rep
 - Intranet
 - Other (please specify)

6. **Were you advised of how the concern was being dealt with and the outcome?**
- Yes
 - No

7. **Overall, are you satisfied with the way your concern has been managed within the Whistleblowing Policy?**
- Yes
 - No

8. **If no, please explain why:**

.....

Thank you for completing this questionnaire. Please return it to the Monitoring Officer via the Council's confidential Whistleblowing mailbox: CEWhistleBlowing@carmarthenshire.gov.uk. This mailbox is only viewed by the Deputy/Monitoring Officer in the Legal Department.

Appendix C

WHISTLEBLOWING CASE STUDIES

The following case studies have been produced by Public Concern at Work (PCaW), the whistleblowing charity, which advises individuals on their whistleblowing dilemmas and organisations on their whistleblowing arrangements.

They are examples of whistleblowing concerns that individuals have raised in other organisations.

Case 1 – Fraud in the NHS

The Story

Tim coordinated training for an NHS Trust. He was concerned that his boss was hiring a friend of his to deliver training on suspicious terms which were costing the Trust over £20,000 a year. More courses were booked than were needed and the friend was always paid when a course was cancelled. Although Tim asked his boss to get a credit note as with other training contracts, he never did. Tim also couldn't understand why the friend was paid for training sessions delivered by NHS staff. One day when the boss was out, Tim saw the friend enter the boss' office and leave an envelope. His suspicions aroused, Tim peeked inside and saw that it was filled with £20 notes, amounting to some £2,000. Unsure what to do, Tim called Public Concern at Work. Tim said his boss had lots of influence in the Trust and he was unsure who to tell, particularly as the Trust was being restructured and none of the directors were secure in their posts. Tim also recognised that the cash in the envelope was so brazen that there could be an innocent explanation.

What PCaW advised

PCaW advised Tim that the options were either to go to a director of the Trust or to the NHS Counter-Fraud Unit. Either way, we advised Tim to stick to the facts and focus on specific suspect arrangements and payments. We also said he should avoid the temptation to investigate the matter himself. Tim said he felt much better and would decide what to do over the holiday he was about to take.

What happened

On his return, Tim raised his concerns with a director at the Trust, who called in NHS Counter Fraud. Tim's suspicions were right: his boss and the trainer pleaded guilty to stealing £9,000 from the NHS and each received 12 month jail terms suspended for two years.

Case 2 - Involving a Regulator

The Story

Ian worked as a safety inspector at an amusement park. He was responsible for maintaining one of the park's most popular rides. Every morning he would carry out a safety inspection on the ride and, if it passed, he would sign the ride off as safe in the log. During one inspection, he noticed that pins on the axles which kept the carriages stable had become loose. Ian thought this presented a serious risk and notified his managers.

After what Ian felt was not a thorough examination, the Operations Manager cleared the ride as safe. Ian was unhappy with this and the next day, as no corrective action had been taken, he again could not sign off the ride as safe. Again the Operations Manager overruled Ian and he was assigned to other rides. Ian contacted us the same day. He was

anxious that the weekend was coming up and that the park would be extremely busy. He was also worried that if he pursued the issue any further he would be dismissed.

What PCaW advised

PCaW advised Ian that they could contact the Health and Safety Executive (HSE) on his behalf and relay the information that he had given us without giving his name. However, it was more than likely that they would want to speak to him, if they felt that the situation was potentially serious. PCaW said they would explain Ian's anxieties about his position and ask the HSE to bear this in mind. Although he was unsure whether he would speak to the HSE, he asked us to make the initial contact. The HSE agreed that the situation sounded potentially serious. However, they told PCaW that they would need to speak to Ian. PCaW explained Ian's fears that if the HSE suddenly turned up to inspect this particular ride, his employers would easily put two and two together and he would be out of a job. The HSE assured us that if they were to carry out an inspection, it could be done in such a way as not to make Ian's role apparent. We went back to Ian and, after talking things through, he agreed that he would speak to the HSE.

What happened

Shortly afterwards the HSE made a 'routine' visit to the park during which they inspected the ride, along with several other rides. As a result of the inspection, the ride was suspended and the repairs were carried out.

Case 3 – Theft in a care home

The story

FA worked as a care assistant in an old people's home. He and some of his colleagues were worried that SM, one of the managers, might be stealing cash from the residents. SM, looked after residents' pocket money and kept a record of when sums were paid out. FA was fairly sure that money was recorded as being given out to particular residents when they had received none.

After a while, he thought he had to raise the concern as the amount involved was adding up. After he raised his concerns with the owners of the home, an investigation quickly found FA was right, SM was dismissed and the police were called in. Relations within the home were tense as some of SM's friends strongly objected to the whistleblowing. Within weeks, FA was suspended over allegations that he had mistreated the residents. He rang us.

What PCaW advised

We advised that he should bite his lip and deal with these allegations squarely. Although the investigation found they had no substance, the owners decided to transfer FA to another home. FA was very unhappy and rang us again. We helped him draft a letter to the owners explaining that he wanted to stay at that home and that transferring him after he had blown the whistle would give out the wrong messages to other staff.

What happened

The owners reconsidered and FA stayed at the home. When FA rang to tell us that SM had been convicted of stealing £1400 from the residents, he said the atmosphere in the home was now much improved.

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STANDARDS COMMITTEE 13/06/2022

PROCEDURE FOR CONDUCTING DISCIPLINARY HEARINGS		
Recommendations / key decisions required: To approve the procedures to be followed by the Committee in the event of being required to conduct a disciplinary hearing into an alleged breach of the Members Code of Conduct.		
Reasons: The Public Services Ombudsman for Wales may refer a matter to the Standards Committee to determine instead of to the Adjudication Panel for Wales		
Relevant scrutiny committee to be consulted NA		
Cabinet Decision Required	NA	
Council Decision Required	NA	
CABINET MEMBER PORTFOLIO HOLDER:- Cllr Linda Evans		
Directorate: Name of Head of Service: Linda Rees-Jones Report Author: Robert Edgecombe	Designations: Head of Administration and Law Legal Services Manager	Tel: Email addresses: rjedgeco@carmarthenshire.gov.uk 01267 224018

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
13/06/2022**

PROCEDURE FOR CONDUCTING DISCIPLINARY HEARINGS

Part 3 Local Government Act 2000 (the Act) enables the Public Services Ombudsman for Wales to require Standards Committees to determine whether a councillor or co-opted member has breached the code of conduct, where the Ombudsman considers that the facts of the alleged breach to not warrant an immediate reference to the Adjudication Panel for Wales.

The attached draft procedure reflects similar procedures adopted by other Councils and the procedures adopted by the Adjudication Panel for Wales and aims to set out clearly to the committee, officers, and councillors and their representatives, the process that will be followed in the event that a disciplinary breach is referred to the committee for consideration.

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: *LRJones*

Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

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

Signed: *LRJones*

Head of Administration and Law

1. **Scrutiny Committee** – not applicable
2. **Local Member(s)** - not applicable
3. **Community / Town Council** - it is suggested that such consultation take place
4. **Relevant Partners** - not applicable
5. **Staff Side Representatives and other Organisations** - not applicable

CABINET PORTFOLIO HOLDER(S) AWARE/CONSULTED

NO

**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Services file	DPSC-197	County Hall, Carmarthen

CARMARTHENSHIRE COUNTY COUNCIL
Standards Committee Hearing Procedure
For Code of Conduct Referrals

This document sets out the procedure for the Standards Committee to follow where it is required to make a decision as to the conduct of a councillor, town/community councillor or co-opted member following a referral by the Public Service Ombudsman for Wales.

1. Background

1.1 The Standards Committee (the Committee) may be required to determine a complaint referred to the Committee by the Public Service Ombudsman for Wales (PSOW) under Part 3 Local Government Act 2000 (the Act). This may arise as the result of either:

- (a) The PSOW ceasing an investigation and referring the matter to the Monitoring Officer under section 70(4) of the Act and the Monitoring Officer then investigating the matter and reporting the conclusion of his/her investigation to the Committee or,
- (b) The PSOW undertaking an investigation and then referring the matters which are the subject of the investigation to the Monitoring Officer under section 71(2) of the Act for reporting to the Standards Committee.

1.2 The following procedure has been agreed by the Standards Committee to comply with the legislative requirements and laws of natural justice.

2. Initial Determination

2.1 Upon receipt of a report from either the Monitoring Officer or the PSOW, together with any recommendations of the Monitoring Officer, the Standards Committee must meet and make an initial determination that either:

- (a) There is no evidence of any failure to comply with the Code of Conduct; or
- (b) That any person who is the subject of the investigation should be given the opportunity to make representations to the Committee, either orally or in writing, in respect of the findings of the investigation.

2.2 If the Committee decides that a person should be given the opportunity to make representations under paragraph 2.1(b) above, the Committee will request arrangements to be made for a Committee Hearing to be held in accordance with the procedure set out below.

3. Arrangements prior to Hearing

- 3.1 The Investigating Officer shall provide a written report as to the results of their investigation and include copies of all relevant evidence relied upon. A copy of the Investigation Report will be sent to the Committee and to the Councillor concerned.
- 3.2 Having made an initial determination in accordance with paragraph 2.1 the Committee will write to the Councillor to notify him/her of the Committee's decision. If the Committee determine that there is no evidence of a failure to comply with the Code that will be confirmed to the Councillor and the Investigating Officer.
- 3.3 In the event that the Committee determine that a Hearing is required the Committee will proceed to the second stage which will either involve a hearing of the case at a further meeting or, by agreement with all parties, the Committee proceeding by way of written evidence and representations only.
- 3.4 The Committee will write to the Councillor setting out further steps. This will include a summary of the possible sanctions open to the Committee and inviting a written response to the following:
 - (a) Clarification as to whether the Councillor wishes to make written representations or proceed by way of an oral Hearing;
 - (b) Clarification as to whether the Councillor will be represented and if so, by whom;
 - (c) Details as to which areas of the Investigation Report are disputed and not disputed and if possible with brief reasons;
 - (d) Details of any witnesses which the Councillor proposes to call at the Committee Hearing and a summary of the evidence they will give;
 - (e) Details of any written evidence upon which the Councillor proposes to rely including any documentation listed within the unused material schedule served by the Investigating Officer;
 - (f) An indication as to whether the Councillor intends to make representations to the Committee as to whether members of the public should be excluded from the Committee Hearing and grounds for doing so;
 - (g) Any dates of unavailability to attend a Committee Hearing to include unavailability dates of witnesses and legal representation;
 - (h) Any other information that the Committee feels appropriate at this stage.
- 3.5 The Committee will also write to the Investigating Officer requesting:
 - (a) That the Investigating Officer attend the Committee Hearing to present the Investigation Report or to ask if the Investigating Officer wishes to

- attend the Committee Hearing for this purpose Clarification as to whether the Investigating Officer will be represented and if so, by who;
- (b) Any dates of unavailability to attend a Hearing to include unavailability dates of any witnesses and legal representation;
 - (c) Any other information that the Committee feels appropriate at this stage.

3.6 Following the receipt of both the Councilor's and the Investigating Officer's response a date, time and location for the Hearing will be confirmed and all parties notified at least 21 days prior to the hearing.

4. The Monitoring Officer

4.1 The Committee Hearing will have the support of legal and democratic service assistance and advice. Legal advice will be provided by either the Monitoring Officer, the Deputy Monitoring Officer or another suitably qualified lawyer.

4.2 In the event that the Monitoring Officer has investigated a complaint then he/she will attend the Committee Hearing in that capacity and will not be the legal advisor to the Committee hearing. In such cases, the Deputy Monitoring Officer or another suitably qualified lawyer will be present to advise the Committee Hearing.

5. Pre-Hearing review

5.1 Where the Committee considers that a pre-hearing review is appropriate notice of at least 14 days will be given to the Councillor, who may attend with or without any representation. The pre-hearing review will be held in private session unless the Committee directs otherwise.

5.2 The purpose of the pre-hearing review would be to consider any directions which may be required to facilitate a Hearing including directions relating to evidence, location of hearing, timings and narrowing of any issues.

6. Public Notice of Hearings

6.1 Notice of any Committee Hearing will be given in accordance with statutory requirements.

7. Public Access to Hearings

7.1 The Committee will consider whether the case should be considered in public or private in accordance with the relevant statutory rules and with legal advice from the legal officer.7.2 The PSOW or the representative officer/s of the PSOW and the Monitoring Officer are entitled to attend the Hearing whether or not the Hearing is held in private.

- 7.3 The Committee may permit any other person to attend the Hearing which is held in private upon receiving legal advice.
- 7.4 The Committee may exclude from a Hearing, or any part of it, any person whose conduct is disruptive or is likely to disrupt the Hearing in accordance with the Council Procedure Rules as set out in the Constitution of the City and County of Swansea.

8. Failure of a Party to attend a hearing

- 8.1 If a Councillor fails to attend or be represented at a Hearing of which he/she has been notified, the Committee may:
- (a) Determine the matter in the Councillor's absence unless it is satisfied that there is good reason for the absence; or
 - (b) Adjourn the hearing.
- 8.2 Before deciding to determine a matter in the absence of the Councillor, the Committee will take legal advice and consider any written representations submitted by the Councillor or his/her representative in response to the notice of Hearing.

9. Procedure at the Hearing – Preliminary Matters

- 9.1 Where requested the Hearing will be conducted in Welsh in order to comply with statutory requirements and Welsh Language Standards. A translation service will be provided for any person attending the Hearing that requires it.
- 9.2 Witnesses will not be allowed to sit in the public gallery prior to being called to give evidence by the Committee. A designated waiting area will be available to witnesses until they are called.
- 9.3 The Committee may limit the number of witnesses to be called, where it is considered, this would not detract from a fair hearing. This may, for example, be where the Committee considers that there are too many character witnesses being called or where witnesses are simply repeating previous evidence given to the Hearing which is not in dispute.
- 9.4 Where evidence is being given by way of written statement and the witness is not being called to give oral evidence, the Committee may at any stage during the proceedings require the attendance of any person making a written statement.
- 9.5 At the commencement of the Hearing the Chair will introduce each of the Members of the Committee present and everyone else involved in the Hearing. The Chair will also explain the order of proceedings that the Committee proposes to adopt and obtain confirmation from everybody taking

part in the Hearing that they understand the procedure. The procedure to be followed is at the discretion of the Committee which will aim to conduct the Hearing in such manner as it considers most appropriate and suitable to be able to clarify all issues before it and to ensure a fair and just Hearing to take place. The Committee will, as far as possible, try to avoid formality in its proceedings. After the Chair has explained the order of proceedings, the Committee will first seek to resolve any procedural issues or disputes arising from any direction which has been given.

10. Procedure at the Hearing – Determining the factual Issues

- 10.1 The Committee should then move on to consider whether or not there are any significant disagreements as to the facts contained in the Investigating Officer's report.
- 10.2 If there are no disagreement as to the facts the Committee can move to the next stage of the Hearing.
- 10.3 If however there is disagreement as to the facts, the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the Report. Alternatively, the Investigating Officer may simply chose to invite the Committee to consider all the evidence contained within the Investigation Report and not make any further comment.
- 10.4 With the Committee's permission the Investigating Officer may call witness evidence in support. The Committee will allow the Councillor an opportunity to question any witness called by the Investigating Officer.
- 10.7 The Councillor will then have the opportunity to make representations to support his/her version of the facts and with the Committee's permission may call witness evidence in support. The Committee will allow the Investigating Officer an opportunity to question a witness called by the Councillor.
- 10.8 At the conclusion of the Councillor's evidence the Councillor will be afforded an opportunity to sum up his or her case. At any time, the Committee may ask questions any of the people who are involved in the hearing or who are giving evidence. The Legal Advisor to the Committee, may with the permission of the Chair, also ask questions of people involved in the hearing or who are giving evidence.
- 10.9 The Committee will then retire to consider their decision on the factual issues in dispute.
- 10.10 Once a decision on the disputed factual issues is reached the meeting will be re-convened and the Chair will announce the Committee's findings.

11. Stage 2 – Whether the facts demonstrate a breach of the Code

- 11.1 Based on the facts as found the Committee will then consider whether the Councillor has breached the Code of Conduct. This stage does not provide the Councillor or the Investigating Officer an opportunity to re-examine the facts of the case.
- 11.2 The Committee will receive verbal or written representations from the Investigating Officer.
- 11.3 The Councillor will then be invited to make any relevant representations.
- 11.4 The Committee will then retire to consider their decision as to whether the Councillor is in breach of the Code of Conduct.
- 11.5 Once a decision is reached the meeting will be re-convened and the Chair will announce the Committee's findings.

12. Stage 3 – Consideration of Sanctions

- 12.1 In the event that the Committee determines that there has been a breach of the Code by the Councillor, the Committee will then consider any written or verbal representations from the Investigating Officer and the Councillor as to whether or not the Committee should impose a sanction and if so, what form any sanction should take. The Councillor will be afforded an opportunity at this stage to rely on either written or oral evidence as to character/mitigating factors that the Committee should take into account before making a decision on sanction.
- 12.2 The Committee may question the Investigating Officer and/or the Councillor and, if appropriate, take legal advice in order to make an informed decision as to any sanction.
- 12.3 The Committee will then retire to consider their decision as to whether to impose a sanction and if so, the nature of the sanction.
- 12.4 Once a decision is reached the meeting will be re-convened and the Chair will announce the Committee's decision.

13. Written Decision

- 13.1 The Committee will announce its decision on the day and provide a short written decision on the day. A full written decision, with reasons supporting the decision, will be issued within 10 working days of the end of the hearing and notified to the PSOW, the Councillor and the person who made the original allegation (if known).

14. Appeals

- 14.1 Where the Committee decides that a person has failed to comply with the Code of Conduct that person may appeal to the Adjudication Panel for Wales as per the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended).

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STANDARDS COMMITTEE 13/06/2022

DISPENSATION APPLICATION FROM COUNCILLOR MARTYN PALFREMAN

Recommendations / key decisions required:

To consider the application from Councillor Palfreman and decide whether or not to grant the dispensation sought

Reasons:

The consideration of dispensation applications is one of the functions of the Committee

Relevant scrutiny committee to be consulted NA

Cabinet Decision Required NA

Council Decision Required NA

CABINET MEMBER PORTFOLIO HOLDER:- Cllr Linda Evans

Directorate:

Name of Head of Service:

Linda Rees-Jones

Report Author:

Robert Edgecombe

Designations:

Head of Administration and
Law

Legal Services Manager

Tel:

Email addresses:

rjedgeco@carmarthenshire.gov.uk

01267 224018

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
13/06/2022**

**DISPENSATION APPLICATION
FROM COUNCILLOR MARTYN PALFREMAN**

A dispensation application has been received from County Councillor Martyn Palfreman to speak and make written representations in respect of matters relating to the provision of Health and Social Care services.

Councillor Palfreman has a personal and prejudicial interest in Council business relating to this issue as he undertakes work as a consultant for public bodies (including this authority) advising on these issues.

Details of Councillor Palfreman's personal interest, the grounds upon which he seeks dispensation, and supporting information are set out in his application.

Should the committee decide to grant Councillor Palfreman a dispensation it has an absolute discretion as to how long it should last, save that it will automatically terminate at the end of the Councillor's current term of office.

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: *LRJones*

Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

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

Signed: *LRJones*

Head of Administration and Law

1. **Scrutiny Committee** – not applicable
2. **Local Member(s)** - not applicable
3. **Community / Town Council** - it is suggested that such consultation take place
4. **Relevant Partners** - not applicable
5. **Staff Side Representatives and other Organisations** - not applicable

**CABINET PORTFOLIO HOLDER(S)
AWARE/CONSULTED**

NO

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

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

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Services file	DPSC-197	County Hall, Carmarthen

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**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: Martyn James Palfreman

Name of your Council: Carmarthenshire County Council

Your address and postcode: 24 Parc Howard Avenue, Llanelli SA15 3JY

Contact telephone number(s): 07878 358894

Email address: MPalfreman@carmarthenshire.gov.uk

2. DETAILS OF YOUR INTEREST

What is the matter under consideration?

The provision of social care services in Carmarthenshire and across the South West Wales Region

What is your interest in the above matter?

I am Director of a private consultancy organisation, Martyn Palfreman Consulting Ltd., and in this role I provide support to public and third sector organisations in Wales relating to strategy, service delivery and leadership development. Although I provide support in a range of service areas, a priority focus for my business is Health and Social Care, reflecting my professional knowledge and experience.

I also am an Associate with [Practice Solutions Ltd](#) and [Hugh Iwin Associates](#) (HICO) which also provide similar services to organisations across Wales. I also work periodically with similar organisations on an ad hoc basis.

I am currently engaged in two time-limited contracts between Carmarthenshire County Council and Practice Solutions Ltd., as follows:

- Supporting partners on the West Wales Regional Partnership Board (including the County Council) with implementation of a regional social value forum (the Innovations Forum), required under Part 2 of the Social Services and Wellbeing (Wales) Act. This involves working with commissioners and providers across the West Wales region and developing a programme for the forum. The work will be completed by 31 March 2023.
- Supporting the County Council with a baseline assessment of age-friendly practice across a range of services to support an application by the Council to join the World Health Organisation's Network of Age Friendly Cities and Communities. This project is currently at inception stage and is expected to be completed by Autumn 2022.

When will the above matter be considered?

This matter may be considered periodically by the County Council, Cabinet and relevant scrutiny committees

Are you applying for dispensation to:

Speak only:	X	Speak and vote:	<input type="checkbox"/>
Make written Representations	X	Exercise Executive Powers	<input type="checkbox"/>

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;	X
• my participation would not damage public confidence	X

• 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
• 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)

From 2013 to 2021 I was employed by the Council as its Head of Regional Collaboration, with responsibility for the management and coordination of the strategic multi-agency health and care partnership in West Wales (the West Wales Care Partnership or WWCP). As such I gained considerable knowledge and experience in the challenges posed by the integration of health and social care services across West Wales, including in Carmarthenshire.

Since leaving the Council I have worked as a consultant in the private sector, including working on projects commissioned by the Council as detailed in section 2 of this application.

I believe that I can bring a wealth of relevant knowledge and experience to any debate or discussion regarding the provision of health and care services in the County which would be of significant benefit to my fellow councillors.

As a councillor I do not hold any position in the authority which has the delegated power to make decisions regarding these services. I am not a cabinet member, nor am I a member of the Health and Social Care Scrutiny Committee. My involvement in Council business of this nature will therefore be limited to participation in any debate at Full Council or representing the interests of my constituents when they have difficulties in relation to the health and care services they receive.

I therefore seek a dispensation allowing me to speak and make written representations in relation to such matters subject to the following;

- Any dispensation not applying on any occasion where the Council or Committee were specifically discussing any work in which I was, had been or potentially could be, directly involved through my business or associated professional activities
- That following completion of the contracts mentioned above, I will not be actively seeking contracts, or to be engaged in commissioned work of this nature, with Carmarthenshire County Council

(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:

Date:

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.

Para.	Type of personal interest	
10(2)(a)	Council business which relates to or is likely to affect: <ul style="list-style-type: none"> • your employment or business, • your employer, firm or company • a contract made between the Council and you • any land, lease or licence in which you have an interest • a public body or other association in which you have membership or hold a position of general control or management 	
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

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STANDARDS COMMITTEE 13/06/2022

DISPENSATION APPLICATION FROM COUNCILLOR CARYS JONES		
Recommendations / key decisions required: To consider the application from Councillor Jones and decide whether or not to grant the dispensation sought		
Reasons: The consideration of dispensation applications is one of the functions of the Committee		
Relevant scrutiny committee to be consulted NA		
Cabinet Decision Required	NA	
Council Decision Required	NA	
CABINET MEMBER PORTFOLIO HOLDER:- Cllr Linda Evans		
Directorate: Name of Head of Service: Linda Rees-Jones Report Author: Robert Edgecombe	Designations: Head of Administration and Law Legal Services Manager	Tel: Email addresses: rjedgeco@carmarthenshire.gov.uk 01267 224018

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
13/06/2022**

**DISPENSATION APPLICATION
FROM COUNCILLOR CARYS JONES**

A dispensation application has been received from County Councillor Carys Jones to speak and make written representations in respect of matters relating to Llanstephan green.

Councillor Jones is also a member of Llanstephan and Llanybri Community Council and seeks dispensation in relation to both her roles.

Councillor Jones has a personal and prejudicial interest in Council business relating to this issue as she lives near the green in Llanstephan. Councillor Jones was granted a dispensation to speak and make written representations on this issue on the 21st January 2021 until the end of her (then) term of office.

Should the committee decide to grant Councillor Jones a dispensation it has an absolute discretion as to how long it should last, save that it will automatically terminate at the end of the Councillor's current term of office.

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: *LRJones*

Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

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

Signed: *LRJones*

Head of Administration and Law

1. **Scrutiny Committee** – not applicable
2. **Local Member(s)** - not applicable
3. **Community / Town Council** - it is suggested that such consultation take place
4. **Relevant Partners** - not applicable
5. **Staff Side Representatives and other Organisations** - not applicable

**CABINET PORTFOLIO HOLDER(S)
AWARE/CONSULTED**

NO

**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Services file	DPSC-197	County Hall, Carmarthen

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**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: Anne Carys Jones

Name of your Council: Carmarthenshire County Council; Llansteffan and Llanybri Community Council.

Your address and postcode: Y Garth, The Green, Llansteffan, Carmarthen SA33 5LW

Telephone number(s): 07970 902996

E Mail Address: acarysjones@carmarthenshire.gov.uk; carysjones@cym.ro

2. DETAILS OF YOUR INTEREST

What is the matter under consideration?

PARKING (and other matters regarding use) ON THE GREEN, LLANSTEFFAN: The Green is the strip of land that runs parallel to the beach at Llansteffan. Cars have parked on The Green for many years. Most of The Green is owned by the County Council. One strip of the land is owned by the Community Council. The Green is registered as a Village Green, therefore there is no parking right on it. An official complaint has been lodged by a local resident to the Community Council for "allowing" parking on Village Green land. Both councils face a major dilemma when trying to solve Llansteffan's parking problems. Work is ongoing to resolve this.

What is your interest in the above matter?

I live in the row of houses that runs parallel to The Green. Y Morfa recreation grounds are located behind the house.

No one from the house parks on The Green - we have private parking and a garage.

When will the above matter be considered?

The official complaint was lodged in November 2019, and was discussed at the Community Council meeting on December 16th 2019 when the Community Council voted to seek legal advice before further discussion. The County Council is also in the process of seeking legal opinions. I have been a Community Councillor for the Llansteffan ward of Llansteffan and Llanybri Council since May 9th 2022 and will be expected to continue to bridge between the two councils on this issue. In light of the recently won Leader grant (see below) the need for this dispensation is increasingly important.

Are you applying for dispensation to:

Speak only: ✓

Speak and vote:

Make written representations ✓

Exercise Executive Powers

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	<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;	<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"/>

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)

PARKING ON THE GREEN, LLANSTEFFAN - BACKGROUND:

The Green is the strip of land that runs parallel to the beach at Llansteffan. Cars have parked on The Green for many years - there is evidence of parking on it going back to the '50s and perhaps as far back as the '30s. There is an official Car Park at the southern end of The Green, owned by the County Council, which has 88 car parking spaces. During the summer, or on Bank Holidays, a total of approximately 250-300 cars will be looking for parking to access the beach/facilities/chips/shop.

Most of The Green is owned by the County Council, which is the strip that runs from the Car Park to the Football Field at the northern end of The Green. One strip of land affected by the parking is owned by the Community Council - approximately 10% - which includes the entrance to the northern strip. The Green is registered as a Village Green, therefore there is no parking right on it. For the past 5 years Camper Vans has been staying on the northern strip of The Green - up to 10-12 on some nights, and this has caused a number of unofficial complaints. Over the years the Community Council and the County Council have tried to address the problem of enforcing the parking ban for large vehicles/all vehicles, but this would create serious parking problems in Llansteffan. Both councils are now working together to seek solutions.

WHY NOW?

An Official Complaint was lodged in 2019 to the Community Council by a local resident for "allowing" parking on Village Green land.

Enforcing the parking ban on The Green would mean that:

- Up to 200 cars would be looking for parking places when the Car Park is full;
- Camper Vans taking the space of 2 cars in the Car Park;
- Cars parking along the narrow roads and obstructing access for emergency vehicles;
- Cars parking on the grounds of Y Morfa, which is the recreational land of the village, owned by the County Council;
- Cars parking on private property land/entrances in the village.

(a number of the above already occur on fine days)

It is therefore clear that a solution must be found to these parking problems, not just moving the problem to another part of the village. The Official Complaint means that the matter can no longer be avoided, and the County Council and I have been diligent on this issue since 2019. Over the past two years the County Council has made progress on the legal issues surrounding The Green and sought to identify the problems in resolving the conflict between Village Green status and the historic use made by the community – including parking. This work is now drawing to a close and both councils and the community must consider the implications thoroughly before reaching any decision on the way forward.

MY PART AS A COMMUNITY COUNCILLOR:

I was a Community Councillor for some thirteen years before standing down when I was elected as a County Councillor in 2017. Since 2017 the Community Council has been through an extremely turbulent period, with only one councillor having now been in post throughout the term. Three members are completely new, and four have been councillors for less than two years. Many of the community councillors have very little knowledge of the history of discussing the parking on The Green. The clerk is also fairly inexperienced.

(Cont/d...)

I have been present as an observer at all but one Community Council meeting since 2017 and I am fully conversant with the issues. I have taken my seat on the Community Council this time in order to lend experience and stability to the council, and I was elected Chair for the year 2022-2023. Although I am a County Councillor, I continue to see my role as one of presenting information and offering support to the Community Council so that both councils can work hand-in-hand on issues where appropriate. However, it is vital that I identify any potential conflict of interest and declare those interests and/or withdraw as appropriate.

LEADER GRANT:

In March this year the County Council was successful in winning a Leader grant to appoint an expert consultant to create a social and economics assessment of Llansteffan's needs as a strategic tourism centre. The intention is to create an assessment of the resources currently available and the potential for formalising and improving those resources through consultation with the community and other stakeholders. It is hoped to create fair proposals for the future that support the community in coping with the tourism industry, while offering visitors suitable and adequate resources. This work is likely to commence in May, and the County Council will work closely with Llansteffan and Llanybri Community Council to promote and complete the consultation. It is therefore important that I am able to continue to work to bridge between the two councils through this process.

MY INTEREST:

I live in the row of houses facing The Green and the beach, therefore it could be argued that this issue would affect my convenience, or the value of my house. Cars have driven on The Green in front of my house since I have been living there - 30 years - and neither I or anyone from my home has ever complained. We have private parking and a garage behind the house, therefore parking is not a problem for us. Almost everyone who lives on The Green owns a garage/parking space at the rear.

The Green in front of my house is very narrow, and cars will drive past rather than park as parking would create a barrier to other cars. It is fair to say that my house is one of the houses least affected by parking on The Green. I have no business interest or other interest in this matter.

The welfare of everyone living on The Green is important here. Some enjoy parking on The Green and others object. Those who live on roads slightly back from the beach are also affected - some of them, again, much more than me.

The parking, or any changes to the parking, affects everyone in the village in one way or another, and therefore I feel that I would not be doing my job if I completely disengaged from the matter. I think the public would be disappointed if I couldn't continue to contribute to ensuring that everything is discussed and decided between the two councils in an open and transparent manner.

It's important to say that I do not have an opinion regarding parking on The Green. The parking has not bothered me, but I have been aware all along that the day would come when the problems would have to be faced and an arrangement sought to solve the problem. I have had time to consider the implications of various possible new arrangements, and have identified them so that the community and the County Council can consider all options thoroughly.

Eventually a plan will have to be found that solves the parking problem on The Green. I believe I have an impartial contribution to make in promoting the process, without influencing, while ensuring that everyone considers all possibilities and implications - for the sake of the amenity of residents and visitors alike.

This is important to me as there is a risk that the complainant brings court action against the Community Council and/or the County Council. I do not want to see any further delays or complacency in trying to move this issue forward, which would be detrimental to the councils and the community as a whole.

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:



Date:

16 / 05 / 2022

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

Notes for Guidance

- (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.

Para.	Type of personal interest	
10(2)(a)	Council business which relates to or is likely to affect: <ul style="list-style-type: none"> • your employment or business • your employer, firm or company • a contract made between the Council and you • any land, lease or licence in which you have an interest • a public body or other association in which you have membership or hold a position of general control or management 	
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:

- 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;
- 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;
- 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;
- 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

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DISPENSATION APPLICATION		
FROM COUNCILLORS JEAN LEWIS, ANN DAVIES, TYSSEL EVANS, KIM BROOM, KEN HOWELL, GARETH THOMAS, MANSEL CHARLES, HEFIN JONES and ELWYN WILLIAMS		
Recommendations / key decisions required:		
To consider the application from the above councillors and decide whether or not to grant the dispensation sought		
Reasons:		
The consideration of dispensation applications is one of the functions of the Committee		
Relevant scrutiny committee to be consulted NA		
Cabinet Decision Required	NA	
Council Decision Required	NA	
CABINET MEMBER PORTFOLIO HOLDER:- Cllr Linda Evans		
Directorate: Name of Head of Service: Linda Rees-Jones Report Author: Robert Edgecombe	Designations: Head of Administration and Law Legal Services Manager	Tel: Email addresses: rjedgeco@carmarthenshire.gov.uk 01267 224018

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
13/06/2022**

DISPENSATION APPLICATION

**FROM COUNCILLORS JEAN LEWIS, ANN DAVIES,
TYSSEL EVANS, KIM BROOM, KEN HOWELL, GARETH THOMAS,
MANSEL CHARLES, HEFIN JONES and ELWYN WILLIAMS**

A group dispensation application has been received from 9 County Councils to speak, vote and make written representations in respect of farming and agricultural matters generally.

These councillors would have a personal and prejudicial interest in Council business relating to this issue as they are either actively engaged in farming activities, are close personal associates of those that do, or own or rent agricultural land used for farming activities.

Information regarding each councillor's personal interest, the grounds upon which they seek dispensation, and supporting information are set out in the attached application.

All these councillors (apart from Cllr. Elwyn Williams) have previously been granted dispensation to speak and make written representations on these issues in 2017, 2018 and 2019 and have used the dispensations granted to participate in debates in Full Council.

The councillors suggest that should dispensation be granted, it be subject to the caveat outlined in the application, as on previous occasions.

Should the committee decide to grant these councillors a dispensation it has an absolute discretion as to how long it should last.

If dispensations are granted the committee may wish to consider granting delegated authority to the Monitoring Officer to grant dispensation to other councillors with such interests in farming and agriculture, on the same terms as granted by the committee. This is something the committee has done previously in 2019.

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: *LRJones*

Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

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

Signed: *LRJones*

Head of Administration and Law

1. **Scrutiny Committee** – not applicable
2. **Local Member(s)** - not applicable
3. **Community / Town Council** - it is suggested that such consultation take place
4. **Relevant Partners** - not applicable
5. **Staff Side Representatives and other Organisations** - not applicable

CABINET PORTFOLIO HOLDER(S) AWARE/CONSULTED

NO

Section 100D Local Government Act, 1972 – Access to Information List of Background Papers used in the preparation of this report:

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Services file	DPSC-197	County Hall, Carmarthen

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**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: Cllrs: Jean Lewis; Ann Davies; Gareth Beynon Thomas; Ken Howell; Hefin Jones; Arwel Davies; Mansel Charles; Tyssul Evans and Kim Broom

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?

Farming and Agricultural matters generally

What is your interest in the above matter?

We are all are either actively engaged in farming activities, own agricultural land which is rented out for farming activities or have close personal associates who are actively engaged on farming activities or own agricultural land. Further information is contained in the supporting statement below.

When will the above matter be considered?

Such matters may be considered at any time during the next 5 years, either at Full Council, Cabinet or council committees.

Are you applying for dispensation to:

Speak only:

Speak and vote: x

Make written Representations x

Exercise Executive Powers

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;	x <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;	x <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"/>

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)

Information regarding the interests of each of the Cllrs. Is set out below

Cllr. Jean Lewis

Councillor Lewis is the owner of agricultural land and actively engaged in the running of the family's farming business

Cllr. Ann Davies

Councillor Davies is actively engaged in the running of the family farm and her family owns and rents agricultural land in the County

Cllr. Arwel Davies

Councillor Davies is the owner of agricultural land and actively engaged in the running of the family's farming business. He also rents agricultural land.

Cllr. Tyssel Evans

Councillor Evans owns agricultural land in the County which is rented out for farming activities by other farmers.

Cllr. Kim Broom

Councillor Broom is actively involved in the running of the family smallholding

Cllr. Ken Howell

Councillor Howell is the owner of farm land

Cllr. Gareth Thomas

Councillor Thomas owns farm land and works as a farmer

Cllr. Mansel Charles

Councillor Charles is the owner of farm land and is a working farmer

Cllr. Hefin Jones

Councillor Jones is the owner of agricultural land and a shareholder in a farming business. He is also involved in the following Glastir agri-environment schemes – Glastir woodland creation and management, Glastir advanced, Glastir Small Grants schemes.

Cllr Elwyn Williams

Councillor Williams owns and rents out agricultural land

General Information in support of the request.

Agriculture makes up an important part of the economy of the County and members of the public working in the industry, or whose families are directly connected with the industry, make up a significant part of the population of many parts of Carmarthenshire.

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 Councillors who have a personal and prejudicial interest in farming related decisions are unable to speak, not only would farming communities in the County 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 their expert knowledge.

Public confidence in the conduct of the Council's business would not be damaged by allowing these Councillors to speak in any debate or make written representations on farming related matters if any dispensation were to be caveated in the way suggested below.

The 10 applicants represent just under a third of their Plaid Cymru group on the Council and their inability to participate in any farming or agricultural matters would distort the political balance of the Council to such an extent that it could affect the outcome of key policy and other decisions.

Some of these councillors represent constituencies that are heavily affected by agricultural decisions and policies in terms of economy, employment and language etc. As such it is felt that it unfairly disadvantages those constituencies where their elected councillor is denied a vote on such issues

All the applicants (apart from Cllr. Elwyn Williams) have previously been granted dispensation to speak and make written representations (but not vote) in respect of these interests, most recently in March 2019 and before this in 2018 and 2017.

If dispensations are granted it is accepted that they should be subject to the caveat (as on previous occasions) that they relate only to Council business regarding agriculture and farming in general and to not apply to council business that relates directly to the specific farm or agricultural land or activity which gives rise to the councillors personal interest

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:

Date:

26 / 05 /22

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.

Para.	Type of personal interest
10(2)(a)	Council business which relates to or is likely to affect: <ul style="list-style-type: none"> • your employment or business, • your employer, firm or company • a contract made between the Council and you • any land, lease or licence in which you have an interest • a public body or other association in which you have membership or hold a position of general control or management
10(2)(b)	Council business in which there may be a conflict between your decision-making role and your role in representing constituents in your ward
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 state that a Standards Committee may grant dispensations where:

- 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;
- 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;
- 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.

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STANDARDS COMMITTEE 13/06/2022

ADJUDICATION PANEL DECISION – COUNCILLOR J BISHOP		
Recommendations / key decisions required: To note the decision of the Adjudication Panel and identify any points of learning		
Reasons: Decisions of the Adjudication Panel provide helpful guidance on the implementation of the code of conduct and the conduct of disciplinary hearings.		
Relevant scrutiny committee to be consulted NA		
Cabinet Decision Required		NA
Council Decision Required		NA
CABINET MEMBER PORTFOLIO HOLDER:- Cllr Linda Evans		
Directorate: Name of Head of Service: Linda Rees-Jones Report Author: Robert Edgecombe	Designations: Head of Administration and Law Legal Services Manager	Tel: Email addresses: rledgeco@carmarthenshire.gov.uk 01267 224018

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
13/06/2022**

ADJUDICATION PANEL DECISION – CLLR J BISHOP

The Adjudication Panel for Wales (APW) deals with the more serious code of conduct breach cases referred directly to it by the Public Services Ombudsman for Wales (PSOW) and any appeals made from decisions by local Standards Committees.

In February 2022 the APW considered the case of Councillor Jonathan Bishop of Taff’s Well and Nantgarw Community Council. Councillor Bishop was accused of breaching the code in the following ways;

- Using inappropriate language in email correspondence to or regarding a council officer and a fellow councillor
- Submitted false or misleading expenses claims
- Submitted a letter during the proceedings which purported to have come from a third party but had in fact been written by Councillor Bishop himself.

The Panel found all the allegations proven. Having regard to the seriousness of the breaches and the mitigation put forward by Councillor Bishop, the Panel concluded that he should be disqualified from office for 12 months.

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: *LRJones*

Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

<p>I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below</p> <p>Signed: <i>LRJones</i> Head of Administration and Law</p>	
<p>1. Scrutiny Committee – not applicable</p> <p>2. Local Member(s) - not applicable</p> <p>3. Community / Town Council - it is suggested that such consultation take place</p> <p>4. Relevant Partners - not applicable</p> <p>5. Staff Side Representatives and other Organisations - not applicable</p>	
<p>CABINET PORTFOLIO HOLDER(S) AWARE/CONSULTED</p>	<p>NO</p>

Section 100D Local Government Act, 1972 – Access to Information		
List of Background Papers used in the preparation of this report:		
Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Services file	DPSC-197	County Hall, Carmarthen

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**PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES**

DECISION REPORT

TRIBUNAL REFERENCE NUMBER: APW/001/2021-022/CT

**REFERENCE IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE
CODE OF CONDUCT**

Respondent:

Councillor Jonathan Bishop

Relevant authority:

Taff's Well and Nantgarw Community Council

Representation and attendance:

Respondent: In person, supported by Mr F Bishop,
his father

Public Services Ombudsman for Wales: Mr G Hughes, counsel

1. INTRODUCTION

1.1 A Case Tribunal, convened by the President of the Adjudication Panel for Wales, considered a reference in respect of the above Respondent which had been made by the Public Services Ombudsman for Wales ('the Ombudsman').

1.2 References in square brackets within this Decision Report are to pages within the bundle of Tribunal Case Papers unless otherwise stated. A separate bundle had been produced for public and/or press access in accordance with paragraph 5.21 of the Listing Direction of 6 October 2021 [8].

Events prior to the Hearing

1.3 A substantial amount of additional material was produced by the Respondent after the Preliminary Hearing and in breach of the timetable set in the Listing Direction. The documentation was addressed by the Tribunal in the email of 1 November 2021 [2485] and the hearing bundle was compiled accordingly. That evidence has been referred to below where necessary (see Section G [2504-2959]).

- 1.4 On 3 February 2022, a further 25 documents were submitted together with a further document headed 'Submission on behalf of Mr FW Bishop'. Mr Hughes had not seen a copy of the latter document until the hearing itself but, once he had time to consider it, he did not object to its use.
- 1.5 In advance of the hearing, the Respondent had requested a postponement due to the unavailability of Dr Matthews. Her evidence had been provided in writing (her report of 10 March 2021 [523-527]) and was only relevant to the Third Stage of the hearing. The Tribunal considered that it was unlikely that the evidence was to have been challenged to any significant degree by the Ombudsman and that her inability to attend in person was not a great disadvantage to him. It was also unclear when she might have been able to attend. She was on maternity leave. The Tribunal nevertheless permitted the Respondent to renew his application at the hearing, which he did not.
- 1.6 Yet further, there was an application made by the Respondent, in his capacity as the stated Editor-in-Chief of Crocels News LLC (one of the Crocels group of companies discussed in more detail below), for disclosure of the press bundle which was prepared in accordance with paragraph 5.21 of the Listing Direction [8]. That application was also dismissed. The Respondent had, of course, received a copy of the complete bundle and the Tribunal explained that members of the accredited press were only entitled to access to those documents referred to during the hearing, if and when they were referred to and adduced into evidence. That matter was not raised again at the hearing either.
- 1.7 Finally, a number of late attempts were made by the Respondent's father to file an amended witness statement which were also dismissed. The matter was not raised again during the hearing.
- 1.8 These applications were time consuming, largely wholly unnecessary and/or in breach of the clear directions given at the Preliminary Hearing and in the Listing Direction.

The hearing

- 1.9 The hearing was held by the Case Tribunal on 7, 9 and 10 February 2022 by video conference (CVP). The hearing was open to the public, save for the receipt of evidence and submissions at Stage Three. It was conducted in English, except the evidence of Reverend Gethin Rhys which was given in Welsh.
- 1.10 Adjustments to the hearing were made to accommodate the Respondent's disabilities as discussed, agreed and recorded in the Listing Direction of 6 October, paragraph 5.20 [7].
- 1.11 The hearing proceeded in accordance with the timetable discussed at the Preliminary Hearing, although the Respondent had to be urged to

restrict his questioning of the Ombudsman's witnesses to matters which were relevant to the issues before the Tribunal.

- 1.12 Further, The Respondent's father had to be asked by the Tribunal not to prompt the Respondent's answers during his evidence on more than one occasion. The Respondent himself asked his father to leave the room that they had both been occupying so that he could give his evidence without interruption. He acceded to that request.
- 1.13 Finally, both the Respondent and his father wrote a number of emails to the Tribunal during the hearing in which further evidence was adduced and/or challenges were made to the findings at Stage One and/or Two. They have been referred to below where necessary.

2. PRELIMINARY DOCUMENTS

2.1 Reference from the Ombudsman

2.1.1 In a letter dated 31 March 2021 with an enclosed Report ([1776-7] and [16-61]), the Adjudication Panel for Wales received a referral from the Ombudsman in relation to allegations made against the Respondent. The allegations were that he had breached Taff's Well and Nantgarw Community Council's ('the Authority's') Code of Conduct by using language which had demonstrated a failure to show respect and/or which had constituted bullying and harassment and that he had submitted expenses claims in which false evidence was provided, thereby demonstrating a lack of integrity and honesty.

2.1.2 The actual allegations considered by the Tribunal were in three groups, identified within paragraphs 115, 124 and 125 of the Ombudsman's Report [56-58]. The details were that;

2.1.2.1 The Respondent used language in correspondence, both to the Clerk to the Council on 25 September [128] and 31 December 2019 [140] and 21 January [115] and 3 February 2020 [346, 349 & 350], and the Chairman, Councillor Fowler, on 11 September 2019 [370-1], which showed a lack of respect and/or consideration for the recipients and, in the case of Mrs Williams, had amounted to bullying and harassment;

2.1.2.2 The Respondent submitted expenses claims for Mr Edwards' support and attendance at Council meetings on 30 October [144-5] and 27 November 2019 [146-7]. It was alleged that Mr Edwards was never paid for such attendances, that the Respondent gave false evidence in relation to such claims and that they were not made in compliance with the relevant guidance and principles. Further, the Respondent indicated a desire to recover payment on behalf of his father for support that he

provided at another meeting and allegedly supplied false information about his father's relationship with a company with which he was involved. In those instances, it was alleged that he failed to act with honesty and integrity;

2.1.2.3 Following Mr Edwards's interview by the Ombudsman on 28 February 2020, a witness statement was sent to him for approval [399-400]. By a letter dated 2 March 2020 purportedly from Mr Edwards and apparently signed by him [824], he objected to the draft witness statement. The Ombudsman alleged that the Respondent had in fact written the letter, a matter which he refused to explain when interviewed. It was alleged that he had thereby, attempted to interfere with the course of the investigation.

2.2 The Councillor's Written Response to the Reference

2.2.1 The Respondent responded to the allegations on numerous occasions in correspondence and interview, the relevant parts of which have been set out below in respect of each allegation. The main sources of his responses were;

- The Ombudsman's interview on 21 October 2020 [436-514];
- His, response to the Ombudsman's report of 18 May 2021 [1732-1766].

2.3 The Ombudsman's Written Representations

2.3.1 In a letter dated 17 June 2021, further representations were made by the Ombudsman [1769-1774].

3. EVIDENCE

3.1. The Case Tribunal heard the following witnesses give evidence at the First Stage of the hearing;

- Councillor Alun Fowler, who gave evidence in accordance with his statement [371-3];
- Mrs Williams, former Clerk to the Authority, who gave evidence in accordance with her two statements [107-112];
- Mrs Cook, the Ombudsman's investigating officer, who explained the reasoning contained within paragraphs 97-8 of the Ombudsman's report [52];
- Mr F Bishop, the Respondent's father, who gave evidence in accordance with his statements [423-5, 2948-2950 and 2951-2959];
- The Respondent, who confirmed the accuracy of the evidence which had given at interview [437-504] and in response to the Ombudsman's report [1736-1752].

3.2 The Tribunal heard submissions and argument at the First Stage from both parties.

- 3.3 The Case Tribunal heard the following witness give evidence at the Third Stage of the hearing;
- Reverend Gethin Rhys;
 - Mr F Bishop again.
- 3.4 The Tribunal heard further submissions and argument at the Second and Third Stages from both representatives.

4. FINDINGS OF FACT

- 4.1 Having considered the evidence and both parties' submissions (including the Respondent's father's written submissions), the Case Tribunal found the following material facts on the balance of probabilities. The Tribunal approached its task by addressing the three factual areas identified within paragraph 2.1.2 above.

Language used in correspondence (paragraph 2.1.2.1)

- 4.2 In respect of the correspondence sent to, or in respect of, Mrs Williams, the Tribunal was satisfied that the following were sent by the Respondent;
- 4.2.1 An email dated 24 September 2019 to Mrs Williams, in which he described her as "*penny-pinching*" [758-760];
 - 4.2.2 A further email of 15 October 2019 to her in which he suggested that, if she could not calculate his entitlement to mileage expenses, she should "*redesign the form or use a calculator*" [739-740];
 - 4.2.3 A letter to Mrs Williams on 31 December 2019, in which he suggested that she should undertake a CILCA course "*so I can enjoy the same quality of service I get from the Clerk of Cam Parish Council*" [140];
 - 4.2.4 An email dated 20 January 2020 [115] in which he questioned the level of Mrs Williams' salary;
 - 4.2.5 An email of 21 January 2020 [114] which was sent to Mrs Williams and others in which he questioned her training once again;
 - 4.2.6 Several emails of 3 February 2020 in which he accused Mrs Williams of being a "*bully, always trying to force your position on a council made up of brain-dead sycophants who would eat poison if the chair or clerk suggested it*" [346], referred to her as "*a disgrace*" [349] and as "*part of the axis of evil that bullies me, trying to stop me getting allowances I'm entitled to*" [360].
- 4.3 There were a considerable number of additional pieces of correspondence which were written in a similar tone but which did not contain quite the same character of language. Mrs Williams had only worked 14 hrs/week and had found that much of her time was absorbed by issues raised by the Respondent in 2019/2020.

- 4.4 In respect of Councillor Fowler, the Tribunal was satisfied that two emails were sent by the Respondent on 11 September 2019 in which he stated as follows [384-5];

*“FUCK OFF YOU NOSEY FUCKING BASTARD!!!!
LEAVE ME ALONE YOU HARASSING CUNT!”*

and later that day

*“YOU ARE A FUCKING COUNCILLOR NOT AN OFFICER!!!!
FUCK OUT OF MY PRIVATE LIFE YOU FUCKING TWAT!!!!!”*

- 4.5 Although the reasons for the use of his language has been considered subsequently, there was no doubt that the communications referred to above were written and sent by him.
- 4.6 The Tribunal was also satisfied that they were sent by the Respondent whilst acting in his capacity as a councillor (see paragraph 2.2 of the Annex to the Listing Direction [14]); there was no personal capacity or reason in which the Respondent would have been communicating with Councillor Fowler or Mrs Williams that was drawn to the Tribunal’s attention. The emails themselves concerned his expenses claims in respect of his attendance at Council meetings. The Respondent confirmed in evidence that the emails were sent from an account which he used for all matters relating to the holding of public office and we noted that they had been signed by him in his official capacity, as ‘Councillor Jonathan Bishop’.
- 4.7 As part of the Respondent’s submissions and evidence on those issues, he raised two matters;

4.7.1 Automatism;

The Respondent alleged that he lacked capacity to act as a councillor when he sent the emails which were the subject of the allegations.

The Tribunal noted that the legal defence of automatism, a defence to certain criminal charges, had not been raised by him before. He had previously referred to the emails to Councillor Fowler having been written whilst in a state of ‘meltdown’.

The Tribunal understood automatism to have been a state in which a defendant would not have known of his actions and had therefore acted involuntarily. We understood the Respondent’s description of his ‘meltdowns’ to have been an emotional reaction to an event which was magnified by the effects of his disability.

The Tribunal did not consider that the defence of automatism applied here, either as a matter of law or on the facts. Although the Respondent's emails had possibly reflected a magnified or exaggerated emotional response, which we will consider below, there was no evidence that it was written and/or sent involuntarily, unwittingly, unknowingly or without intent.

- 4.7.2 Justification of use and/or lack of offence, relying upon the decisions of *DPP-v-Collins* [2006] UKHL 40, *Chambers-v-DPP* [2012] EWHC 2157 (Admin), *Calver-v-APW and PSOW* [2012] EWHC 1172 (Admin) and *Connolly-v-DPP* [2007] EWHC 237 (Admin);

The arguments put forward by the Respondent at the First Stage were really of relevance to the Second Stage of the hearing. Nevertheless, since they were raised here, the Tribunal addressed them here.

These authorities did not assist the Respondent. The case of *Chambers* concerned a defendant who had Tweeted a threat to an airport which was asserted to have been of a menacing character within the meaning of s. 127 of the Communications Act 2003. 'Menace' was not the issue in this case. Similarly, the Respondent argued that the emails were not grossly offensive, as had been argued in *Collins*. That statutory test (also within s. 127 (1)) was not in play here. We were only really concerned with whether the emails had been sent and had been offensive so as to have breached the Code and, although that latter question was really part of the Second Stage, we had no hesitation in concluding that the words used had been offensive as they were normally to have been understood.

Calver and many of the other cases had to be considered in the context of the Respondent's Article 10 rights (see the Second Stage below).

For the avoidance of doubt at this stage, we were satisfied that Councillor Fowler had found the emails offensive; he had said so in his first email of complaint of 13 September 2019 [70], in his witness statement to the Ombudsman [372], specifically at paragraph 7, and in his oral evidence to the Tribunal. The case of *Connolly* did not assist the Respondent.

Expenses claims; Mr Edwards (paragraph 2.1.2.2)

- 4.8 The Respondent is disabled and receives the highest level of Personal Independence Payment, suggesting significant daily living and mobility needs. He was signed off work by his GP because of his disabilities.
- 4.9 The Respondent receives support and assistance in respect of some of the activities that he undertakes. Although he did not provide details of

his disabilities to Councillor Fowler, Mrs Williams or any other member of the Council, he asked the Authority that he be permitted to bring a carer to support him in meetings of the Council, which was permitted as a reasonable adjustment.

- 4.10 The Respondent is involved in a number of companies registered at Companies House. He confirmed in evidence that he was a Director of four such companies, one of which is Crocels Community Media Group CIC ('CCMG CIC'). The other two Directors are corporate bodies of which he is also the sole Director, Jonathan Bishop Ltd and Crocels Press Ltd. The Respondent further stated that CCMG CIC employed Jason Barrett and Melissa Hulbert. The relevance of the Company and/or those employees has been discussed below.
- 4.11 In 2019, the Respondent submitted expenses claims for Mr Edwards who had supported him at two Council meetings on 30 October [144-5] and 27 November [146-7]. The claims were in the sums of £166.65 (2½ hours support) and £116.66 (1¾ hours support) respectively, charged at the rate of £55.55/hr. The Respondent signed each claim himself although he stated that the paperwork had been prepared by Melissa Hulbert, a CCMG CIC employee.
- 4.12 On 25 September 2018 [138] and 27 March 2019 [136], the Authority adopted the Independent Remuneration Panel for Wales' ('the IRPW') Report which set out the principles for the reimbursement for such support through councillors' expenses claims; Determination 46 enabled such expenses to have been recovered if they were the "*reimbursement of additional actual costs*"..*"on production of receipts for the carer"*.
- 4.13 During the Respondent's interview, he stated that Mr Edwards was employed by Crocels on a zero hours contract [458] and had been since 2014 [464] and was paid for his attendance at the meetings "*when he asked to be*" ([460] and [462]). A record of such payments was said to have been "*on the accounts*" [460]. In his response to the Ombudsman's report, he further stated that Mr Edwards had been "*served P60 and P11D documentation*" [1750].
- 4.14 In further evidence produced in the final weeks before the hearing by the Respondent, there were several documents entitled 'Payroll Earnings' bearing Crocels' name and purporting to evidence several payments that had been made to Mr Edwards between 30 October 2019 and 3 April 2020 [2507-2509]. A payslip from 30 October showed a payment in respect of 2½ hours work paid at £14.55/hr, a total of £36.38 (not £55.55/hr charged to the Authority [144]) [2507]. The payslip for 27 November was in the same amount, reflecting another 2½ hours of work [2507], not 1¾ hours claimed of the Authority [147]. Again, the rate was different. Both payslips purported to show that the payments had been made on the dates that the support had actually been provided at both meetings. The Respondent confirmed that they

were highly likely to have been the actual dates of payment during his evidence to the Tribunal.

- 4.15 When interviewed by the Ombudsman's investigators, Mrs Cook and Ms Jones, on 28 February 2020, Mr Edwards stated that he had known the Respondent since he was 7, they had been at school together and were friends. He stated that he had worked for the Respondent voluntarily and was not self-employed [406]. He stated that he did not receive payments in respect of specific items of work which may have been undertaken, but had merely received some money when he had needed it for help or support and no receipts were provided [407].
- 4.16 Having heard evidence from Mrs Cook and in view of the fact that the Respondent himself did not challenge the accuracy of his own notes of interview, we considered that the transcript of Mr Edwards' interview at [402-420] was likely to have been a reasonably accurate account of what he had said in response to Mrs Cook's questions. It was important to note that the Respondent had not been present.
- 4.17 In a subsequent letter purporting to have been from Mr Edwards dated 2 March 2020, he stated that he had not been paid for the support that he had provided [824]. That was a letter which the Respondent told us in evidence, *he* had drafted for Mr Edwards to read, approve and sign (see, further, below).
- 4.18 In his response to this allegation, the Respondent stated that Mr Edwards had been paid at the rate of £14/hour [1740]. In evidence, he explained the difference in rates (£14 and £55.55) on the basis that, although CCMG CIC had paid Mr Edwards at the lower rate, there were additional costs and expenses involved which had entitled it claiming the higher rate. Those costs, which were identified as direct costs, indirect costs and surplus, were not elaborated upon, save that Mr Edwards' alleged membership of the Association of Christian Counsellors was said to have been one.
- 4.19 The Tribunal referred to the list of disputed facts within paragraph 2 of the Annex to the Listing Direction of 6 October 2021. The Tribunal was satisfied that;
- 4.19.1 Mr Edwards was not employed by CCMG CIC in any formal capacity, as he stated in interview. No contract, P60, P11D or other documentation which might have evidenced his employment was produced;
- 4.19.2 The invoices and claims submitted by the Respondent for Mr Edwards' support at the two meetings did not reflect any contractual indebtedness or formal liability to Mr Edwards, as was also stated in interview. The Respondent's evidence, that payments had been made to him on 30 October and 27 November as suggested by the payslips [2507], was starkly in contrast both with Mr Edwards' evidence to the investigation and, more importantly, the Respondent's *own* evidence, since he had

drafted Mr Edwards' letter of 2 March 2020 in which he denied having received any payment [824];

4.19.3 The invoices and claims, on their face, had the appearance of establishing proof of such indebtedness and, to that extent, they were misleading.

4.20 After the Tribunal had delivered its factual findings at the First Stage of the hearing, the Respondent stated that he wanted to appeal because Mr Edwards had been an employee of Crocels. A few minutes later, he sent the following email;

"I would like to appeal the decision that Graham Edwards was not properly employed on the grounds that there is no P60, P11D nor contract of employment, all of which are untrue.

These records are currently at Crocels's Berkeley office in Gloucestershire and with the accountant in Belfast (with the exception of the CoE in the case of the latter which Graham Edwards has likely lost his copy of).

There is a case currently before the Tax Tribunal on whether my disability is a reasonable excuse for not filing the P11D(b) on time, but the fact this case is live proves P11D information exists."

4.21 After the Tribunal had moved on to hear submissions at the Second Stage of the hearing and before its judgment in that respect, the Respondent sent a further email which enclosed two further documents;

4.21.1A handwritten receipt for payments purportedly made to Mr Edwards, two of which related to the 30 October and 27 November 2019. The documents stated that the payments of £36.38 had been made on 3 April and 27 April 2020;

4.21.2 Co-Operative bank statements for an account under the name 'Crocels DCMS Limited' (a former name of CCMG CIC) which evidenced salary payments to Mr Edwards on the same dates and in the same sums.

4.22 The email itself read as follows;

"I thought it would help the Tribunal in its deliberations to have copies of redacted bank statements showing Graham Edwards being paid and for there to be signed by Graham Edwards matching "receipts" that also correspond with the payroll entries already submitted.

A special general meeting was held of Crocels Community Media Group C.I.C. today and the members agreed unanimously to release this information.

Crocels was never asked to provide this information and it would have been a breach of the Companies and Fraud Acts for me to misuse my position as director of Crocels CMG CIC (GBL) to disclose company information for personal gain.

Unfortunately, Graham Edwards's PAYE records are in Gloucestershire, along with his contract of employment, so I am not able to provide this at this time."

- 4.23 In light of that information, the Tribunal considered whether it ought to re-visit and/or re-consider any of its factual findings.
- 4.24 The Tribunal considered that the Respondent had had ample opportunity to produce all and any relevant documentation to both the Ombudsman during his investigation and to the Tribunal in advance of the hearing in accordance with the Listing Direction (paragraph 5.21 (c) [8]). The findings within paragraph 4.19.1 above stood; no such documentation had ever been produced. Yet further, even if contractual documentation could have been produced evidencing some form of employment relationship between Mr Edwards and CCMG CIC, we considered it unlikely to have subverted our findings that there had been no liability or indebtedness to him in respect of his attendance at the meetings on 30 October and 27 November 2019. Even on the Respondent's case, there was no liability to him in the *actual* sum claimed (see, further, paragraph 4.27 below).
- 4.25 The Tribunal noted that the receipts purported to show payment dates long after those on the other documentation [2507], which the Respondent had confirmed had been accurate in evidence. They were also inconsistent with the account given in interview in October 2020 in which he had stated that Mr Edwards had not even been paid *then* [468-9]. In evidence, he asserted that he had been confused when questioned by Mrs Cook and had meant that Mr Edwards had never been paid *as an employee*, which was itself inconsistent with what was said in the emails written during the course of the hearing (paragraphs 4.20 and 4.22 above).
- 4.26 This drip-fed disclosure created a web of greater confusion and cast yet more doubt upon the veracity of the Respondent's overall account.
- 4.27 In the Respondent's final submissions at the Third Stage of the hearing, he stated that the claims submitted to the Authority had included an element of 'surplus' which Crocels would have applied to charitable purposes within the community. Whatever the purpose of the surplus, the submission was an implicit acceptance that the claims had exceeded any actual indebtedness to Mr Edwards.
- Expenses claims; Mr Bishop (paragraph 2.1.2.2)
- 4.28 Mr Frederick Bishop is the Respondent's father and also provides him with care and support. He supported and accompanied the Claimant at a Council meeting in the first half of 2019.
- 4.29 In a series of emails in September 2019, the Respondent enquired as to how to progress an expenses claim in respect of his father's support at that meeting. Mrs Williams gave guidance [150-1] and raised a query in

respect of his role; she specifically asked whether he was employed by Crocels [173].

- 4.30 In reply, on 4 September 2019, the Respondent stated that his father “*is engaged by and paid by Crocels to support me*” [172]. It was stated that his hourly rate was £53.20 plus VAT and that an internal timesheet was to have been completed to support an expenses claim in respect of his attendance. Mrs Williams then asked for details of the arrangement between the Company and the Respondent’s father and how the hourly rate was calculated [171-2]. The Respondent replied with Crocels’ pay rates, but he sensed that Mrs Williams had been suggesting that a conflict of interest had existed and then stated that his father would forgo his claim and that “*the most experienced mentor at Crocels*” would support him instead going forward [170].
- 4.31 The Respondent’s father subsequently provided a statement to the Ombudsman in which he said that he did not get paid to attend any Council meeting whilst supporting his son and that he was not employed by Crocels and knew nothing about the Company or its employees (paragraph 3 of the statement of 19 August 2020 [423], which he confirmed in evidence). He subsequently stated in evidence that he had been a ‘member’ and had made decisions for/within the Company.
- 4.32 During his interview with the Ombudsman, the Respondent stated that his father had not wanted to have been paid [446], was not employed by Crocels [462] and had received no payment [470]. He stated that his email of 4 September 2019 had not been correct [469].
- 4.33 Emails which were produced subsequently threw more light on the issue; on 3 September, the Respondent had asked his father for the dates of his support “*so Jason [Mr Barrett, another CCMG CIC employee] can prepare the claim for me as he has done when you’ve worked for Access to Work. It would be Specialist Mentor (ASC) and Jason would invoice Taff’s Well Community Council for using Crocel’s invoice and time sheet...Jason can get the exact hours from the minutes of the meeting on the council’s website – you just need to indicate the dates you attended*” [2803]. His father responded “*Not happy about this there is a tax issue for me we are pushing our luck*” [2802]. In evidence, the Respondent candidly stated that he believed that his father’s use of the expression ‘pushing our luck’ referred to the possibility that a retrospective claim for unpaid carer’s help at a council meeting may have been in breach of the Code of Conduct.
- 4.34 Taking all of this evidence together, the Tribunal concluded that the Respondent had intimated a claim in respect of his father which would not have been by way of reimbursement, for which there had been no genuine indebtedness and which was always going to have been something of a ‘try on’. Even his father saw it as such. In fact, it appears

to have been his email of 4 September [2802] which caused the Respondent not to progress the matter.

Mr Edwards' letter of 2 March 2020 (paragraph 2.1.2.3)

- 4.35 Following Mr Edwards' interview on 28 February 2020 [401-420], the Ombudsman's investigators drafted a witness statement based upon the evidence which he had given and sent it to him for approval [399-400].
- 4.36 On 2 March 2020, a letter was written in reply which purported to have been written and signed by Mr Edwards [824]. The letter stated that the witness statement was "*not a fair reflection of what I said*" and was described as a "*misrepresentation*". It was asserted that the matter had been referred to the Deputy Chairman of Crocels who was to have conducted an investigation. The right to have the matter referred to the Information Commissioner was also reserved.
- 4.37 The Ombudsman believed that the letter had been written by the Respondent himself and not Mr Edwards because of the similarity between its tone and content and other documentation (for example, the Respondent's email of 4 March [829]). Similarities in format and typeface were also highlighted (for example, the letter of 31 December 2019 [763]).
- 4.38 The Respondent was asked about the matter in interview in October 2020, but he declined to answer the question as to whether he had drafted the letter, despite it having been put on a number of occasions [465-6]. He merely stated that Mr Edwards "*was supported under the whistleblowing procedure*".
- 4.39 In reply to the Ombudsman's report in May 2021, the Respondent subsequently stated that the letter had been composed *with* Mr Edwards as a reasonable adjustment [1743] and during his evidence at the hearing, he then stated that he had drafted the letter as Mr Edwards' line manager, with him physically present. He had then read and signed it.
- 4.40 For the sake of completeness, the Respondent's closing submissions included challenges to some of the items in the list of undisputed facts within the Listing Direction [13], matters which were raised for the first time. He challenged the following paragraphs;
- 1.3 He stated that he had disclosed details of his disability within the expenses claims by reference to 'ASC Support' [145-6] which, he said, referred to Autism Spectrum Condition. The Tribunal did not consider that to have been a disclosure of details of his condition so as to have subverted the accuracy of paragraph 1.3 but it was irrelevant to our findings in any event;

1.5 The Respondent made the point that one of the Crocels companies had been co-founded by others. Again, this was irrelevant to our findings but did not render paragraph 1.5 wrong as it was worded;

1.6 He denied that Mr Edwards had been a longstanding friend. Mr Edwards had given that evidence to the Ombudsman in interview [403] which we had accepted (see paragraph 4.16 above);

He also made submissions in relation to paragraphs 1.7 and 1.9, but did not challenge their factual accuracy.

5. FINDINGS OF WHETHER MATERIAL FACTS DISCLOSE A FAILURE TO COMPLY WITH THE CODE OF CONDUCT

5.1 The Code of Conduct

5.1.1 The Respondent had agreed to observe the Authority's Code of Conduct, most recently on 29 May 2019 [91-2], and stated that he knew of its provisions [446].

5.1.2 The Authority had adopted the Model Code of Conduct approved by the National Assembly in 2001 on 15 May 2008 [88]. The Ombudsman conducted his investigation under the 2016 Model Code which was only adopted in 2021. This matter was addressed and determined within paragraph 5.5.2 of the Listing Direction [5]. The relevant parts of the 2016 Code were as follows;

Paragraph 4 (b) and (c);

"You must-

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person;"

Paragraph 6 (1)(a);

"(1) You must –

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;"

Paragraph 7 (a);

"You must not –

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;"

Paragraph 9 (a);

"You must –

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;"

5.1.3 Although paragraph 7 of the Code had not been addressed by the Ombudsman in his report, it was considered relevant by the Tribunal and had been addressed at the Preliminary Hearing and in other correspondence.

5.1.4 The Tribunal considered further submissions from the Ombudsman and the Respondent and also took account of the Guidance from the Ombudsman on the Code of Conduct (August 2016).

5.2 The Respondent's position

5.2.1 The Respondent made certain concessions in relation to the emails he had been sent to Councillor Fowler on 11 September 2019 and in relation to the allegations under paragraph 4 of the Code; he stated that he had had a '*melt-down*' and used language that he would not normally have used ([95-9] and [1737]). He described the words used as British slang ([448-9], [454] and [502]). He did not expressly concede that it had amounted to a breach of the Code.

5.2.2 The Respondent also repeated his submissions on the law (see paragraph 4.7.2. above) and referred to a self-written article '*Internet Trolling and Cyberstalking*' [2835-2849] and asserted, relying upon paragraph 6 and the cases of *Morris* and *King* cited within it, that Councillor Fowler's feelings were not wounded [2836]. He further stated that, since Councillor Fowler had acted *ultra vires* in sending him the email which provoked the response because he had had no power to intervene between him and the Clerk, his emails in response ought to have been ignored.

5.2.3 In relation to his communications with Mrs Williams, he considered them to have been justified and was unrepentant ([449] and [471]). Relying upon the decision in *Scottow-v-CPS* [2020] EWHC 3421 (Admin), he considered that the words had not been grossly offensive.

5.2.4 In relation to the expenses issues, the Respondent had, at the First Stage of the hearing, submitted that he considered that the word 'receipt' in the IRPW Report was equivalent to a 'bill'. That submission was probably best considered in the context of the Second and/or Third Stage.

5.3 The Ombudsman's position

5.3.1 It was succinctly contended by Mr Hughes that;

5.3.1.1 The emails to Councillor Fowler caused the Respondent to have breached paragraph 4 (b) of the Code of Conduct;

- 5.3.1.2 The emails to Mrs Williams caused a breach of paragraphs 4 (b) and (c);
 - 5.3.2.3 The expenses claims made on behalf of Mr Edwards and his father brought about breaches of paragraphs 6 (1)(a), 7 (a) and 9 (a);
 - 5.3.3.4 The letter purporting to have been from Mr Edwards, but written by the Respondent, caused a breach of paragraph 6 (1)(a). Mr Hughes submitted that the facts could have also supported an allegation under paragraph 6 (2) but did not pursue one since it had not been raised before.
- 5.3.2 Mr Hughes urged the Tribunal to consider the cases of *Heesom-v-PSOW* [2014] EWHC 1504 (Admin), paragraphs 39-42, and *Calver* (above), paragraphs 33 and 39-61 ,in respect of the matters in paragraphs 5.3.1.1 and 5.3.1.2; he submitted that, although the Respondent's Article 10 rights to freedom of expression were engaged, insofar as it was necessary to interfere with them in order to make findings of breaches of the Code, it was proportionate and justified to do so in order to protect the rights of others, Councillor Fowler and Mrs Williams.

5.4 Case Tribunal's Decision

- 5.4.1 On the basis of the findings of fact, the Case Tribunal unanimously found that there were failures to comply with the Code of Conduct as follows:

Language used in correspondence (paragraph 2.1.2.1 and paragraphs 4 (b) and (c) of the Code)

- 5.4.2 The emails of 11 September 2019 to Councillor Fowler were a **breach of paragraph 4 (b)** of the Code in that they demonstrated a clear lack of respect. The words used may well have derived from British slang as the Respondent asserted, but that did not mean that they were not offensive and disrespectful.
- 5.4.3 The Tribunal's views in respect of the Respondent's submissions on the caselaw had already been covered within paragraph 4.7.2 to some extent, but not in relation to his Article 10 rights. In that respect, the Tribunal was satisfied that the communications to Councillor Fowler tipped the balance firmly in favour of an interference with those rights. We recognised that Article 10 enabled the Respondent to say or write things which "*right thinking people consider dangerous and irresponsible or which shock or disturb*" (*Calver*, paragraph 55) and that councillors and other politicians in Councillor Fowler's position ought to have thicker skins than ordinary members of the public (paragraph 58 of *Calver* and 39 of *Heesom*), but we did not consider that the Respondent's views had been part of any political debate and/or that the enhanced level of protection considered in *Calver* ought to have applied. The emails were "*little more than an expression of personal anger*" (paragraph 52 of *Calver*).

- 5.4.4 The Tribunal did not accept the proposition that Councillor Fowler had acted *ultra vires* when he had written to the Respondent. We did not consider that he had acted outside of his powers by writing to a fellow councillor about an expenses claim and/or about his communications with the Clerk. It was part of his duties under the *Good Councillors Guide* to ‘*share responsibility for financial management*’ (Part 7 [2906]) and to ensure ‘*good working relationships*’ were maintained with ‘*mutual respect and understanding*’ (part 8 [2910]). Even if he had, it did not enable the Respondent’s emails in reply to have been ignored for the purposes of the Code of Conduct.
- 5.4.5 In the series of emails which the Respondent had sent to Mrs Williams including, but not limited to, those set out in paragraphs 4.2, he had been gratuitously critical, undermining, disparaging and rude. The emails demonstrated a clear lack of respect and consideration and the Respondent was in **breach of paragraph 4 (b)** in that respect too.
- 5.4.6 The Tribunal took time to consider the emails against the words used in *Calver* (paragraph 33). We recognised that there were no “*bright lines*” to the balancing exercise that we undertook (paragraph 46). We were also aware of the need for people in Mrs Williams’ position to have had relatively thick skins too (*Heesom*, paragraph 42), but that point played less well in respect of a civil servant than it did for a politician; it was a “*legitimate public aim of the State to protect public servants from unwarranted comments that have, or may have, an adverse effect on good administration*” (*ibid*). Here, it was not so much the contents of a single email to Mrs Williams which had concerned us, but it was the consistent rudeness and repeated criticism over a period of time which she had had to face which placed the Respondent in breach of the Code.
- 5.4.7 In respect of paragraph 4 (c), bullying and harassment was described in the Ombudsman’s Guide to the Code of Conduct as “*repeated behaviour which upsets or annoys people*” and/or “*offensive, intimidating, malicious, insulting or humiliating behaviour*”. That accorded with our understanding of the words as they were commonly applied through other legislation (for example, s. 26 of the Equality Act 2010). Having considered the communications against that test, we were satisfied that the Respondent was also in **breach of paragraph 4 (c)**. We repeat our findings in respect of the Respondent’s Article 10 rights.

Expenses claims (paragraph 2.1.2.2)

- 5.4.8 The IRP’s Report’s requirement for expenses claims to have been by way of “*reimbursement of additional actual costs*” to be met upon “*production of receipts from the carer*” clearly presupposed the existence of a contractual liability to that effect. The Respondent argued that no pre-existing liability had to exist before a claim could have been made, but the Tribunal considered that the approved IRPW guidance [136] was very clear; it was designed to cover “*the reimbursement of actual costs [parenthesis added]*”. Mrs Williams’ evidence also supported that interpretation. No receipts from the carer, Mr Edwards, had ever been

produced until the final day of the hearing. Even then, they were inconsistent with other evidence (see paragraphs 4.21-4.26 above). The Respondent's alternative submission, that 'receipts' equated to 'bills' in his mind, was inconsistent with his primary case and lacked credibility.

5.4.9 The Respondent had sought to create the impression of a formal, settled employment relationship having existed between Crocels and Mr Edwards or, at the very least, that some kind of contractual liability to pay for the support rendered at the meetings had been created. The Tribunal found there to have been no such relationship or liability. Further and more importantly, Mr Edwards was not in fact paid, as both he and the Respondent (in the form of Mr Edwards' letter of 2 March 2020 which was drafted by him) stated. Yet further, even if a liability had existed, it had not existed for the sum claimed from the Authority, as the Respondent's submissions at the Third Stage of the hearing confirmed.

5.4.10 The expenses claim was misleading and the Claimant had brought his office into disrepute by making it in **breach of paragraph 6 (1)(a)** of the Code. The claim was also an attempt to gain a financial advantage which rendered him also in **breach of paragraph 7 (a)** in the absence of a liability to forward the claim to Mr Edwards in whole or in part. Further, it demonstrated a failure to follow the Authority's rules concerning the claiming of expenses and he was in **breach of paragraph 9 (a)**.

5.4.11 The Respondent also intimated an expenses claim in respect of his father which, when questioned, was not proceeded with. His account in respect of his father's role and relationship with Crocels (4 September 2019 [172]) was inaccurate, as he subsequently conceded [469]. His actions, in the preparatory steps *towards* an expenses claim, did not, however bring his office into disrepute. He was testing the water. We considered that he had **not been in breach of paragraph 6 (1)(a)** of the Code of Conduct. His father's email of 4 September [2802] appeared to have been an implicit acceptance of the fact that such a claim might have been improper but, since he did not actually submit one, the Tribunal was not satisfied that he had attempted to confer an advantage upon himself or anyone else. He was also therefore **not in breach of paragraph 7 (a)**. He had also not failed to observe the Authority's rules regarding the claiming of expenses and was **not in breach of paragraph 9 (a)**.

Mr Edwards' letter of 2 March 2020 (paragraph 2.1.2.3)

5.4.12 The Respondent had not been present at Mr Edwards' interview on 28 February 2020. He could not have known what had been said. He nevertheless drafted the letter of 2 March 2020 in which Mr Edwards purported to deny the accuracy of the account which he had given. It was reasonable to conclude that the Respondent had become involved because Mr Edwards' draft statement had contained evidence which was damaging and inconsistent with his own.

5.4.13 That was a serious matter; Mr Edwards had given an account to an investigation into the Respondent's conduct and here was the Respondent himself attempting to influence and/or change that evidence. At the very start of the Ombudsman's investigations, he was written to in the following terms [104-5];

"The Ombudsman's investigations are conducted in private. You are therefore asked not to contact or discuss the details of the complaint with any potential witnesses or persons who may be involved in the matter, whether directly or indirectly, to avoid any prejudice to the investigation. Conduct of this kind may amount to a breach of the Code."

5.4.14 His conduct in relation to the drafting of the letter brought his office into disrepute and he was in **breach of paragraph 6 (1)(a)** of the Code of Conduct. The Ombudsman's Guidance to this paragraph specifically prohibited councillors from engaging "*in any behaviour that may prejudice an investigation undertaken by me* [the Ombudsman]". His assertion that he had been writing the letter as Mr Edwards' line manager under Crocels' Whistleblowing Policy (which had never been produced) was no defence.

6. SUBMISSIONS ON ACTION TO BE TAKEN

6.1 The Respondent's Submissions

6.1.1 Evidence and submissions at this point were heard and received in closed session in accordance with paragraphs 5.11 and 5.12 of the Listing Direction [6]. In order to enable the parties to understand some of the personal evidence which was accounted for, the Tribunal has done little more than refer to the sources of that evidence below and the mitigation that it provided.

6.1.2 The Tribunal received character evidence from Reverend Gethin Rhys who spoke of the Respondent's philanthropic work in Treforest and elsewhere through and on behalf of Crocels. It was pleasing to hear that he had not experienced the type of loss of control which had been exhibited in the emails to Councillor Fowler.

6.1.3 In terms of his autism and mental health generally, the Respondent stated that recent modifications to his medication by Dr Macaulay had significantly improved the control of his irritability and reactivity. His father echoed that point.

6.1.4 In relation to other matters, the Respondent stated that he now had a good working relationship with the Authority, with a new Chairman and Clerk now in place, and continued to have a fruitful relationship with his colleagues on Cam Parish Council in England. His ability to attend meetings remotely reduced the stress that he experienced.

6.1.5 In relation to the allegation under paragraph 4 (c) of the Code, the Respondent had previously argued that bullying and harassment were new concepts for which he had not received training (see paragraph 5.5.2 of the Listing Direction), although he has received training on the 2016 Code now.

6.2 Case Tribunal's Decision

6.2.1 The Case Tribunal considered all the facts of the case and the Sanctions Guidance issued by the President of the Adjudication Panel for Wales under s. 75 (10) of the Local Government Act 2000. It also considered the Nolan Committee's Principles for Public Life from which the National Assembly for Wales' core principles were derived. Those principles set standards of conduct and behaviour which were expected of councillors in the Respondent's position and which included honesty, integrity, respect and openness, all of which had been brought into focus here.

6.2.2 First, the Case Tribunal had to assess the seriousness of the breaches and their consequences.

6.2.3 It considered that the Respondent's conduct on 11 September 2019 towards Councillor Fowler and, over a longer period, to Mrs Williams had shown a lack of respect and been unacceptable. It was clear that Mrs Williams had been particularly upset by this (paragraph 11 of her first statement [111] and paragraph 2 of her second [112] and her letter of resignation [838-9]), following over forty years' work in local government.

6.2.4 In relation to the expenses issues as stated above, the Respondent's closing submissions at Stage Three indicated an awareness that what had been claimed on behalf of Mr Edwards had been more than his indebtedness. Irrespective of the intended use of the 'surplus' which CCMG CIC would have acquired if the claims had been paid, the submission was the clearest admission yet that the claims had *not* been limited to a liability owed to Mr Edwards.

6.2.5 Finally, in relation to the letter purportedly written by Mr Edwards, as we said in paragraph 5.4.13 above, we considered that to have been a serious matter for the reasons set out therein.

6.2.6 In terms of the broad sanction that was appropriate in the circumstances, the Tribunal considered that the option of disqualification was most applicable.

6.2.7 The Tribunal had started by considering whether it could take no action or impose a partial suspension but, in the case of the former, it considered the conduct had been too serious and, in the case of the latter, there was no particular aspect of the Respondent's conduct which made a partial suspension appropriate. As to a suspension

generally, the lack of contrition and/or apparent insight into his wrongdoing left the Tribunal with a sense of concern in relation to the Respondent's future conduct. Further, as a result of s. 76 (5) of the Local Government Act, any suspension would have been limited to 4 May 2022, the date upon which the Respondent's term of office ended, which we considered would not have adequately reflected the nature of the wrongdoing.

6.2.8 The Tribunal then considered both mitigating and aggravating features and, in particular, those matters set out within paragraph 42 of the President's Sanctions Guidance.

6.2.9 The Tribunal was informed that the Respondent had no prior record of misconduct with the Ombudsman or the relevant Monitoring Officer.

6.2.10 In the Respondent's mitigation in relation to the complaint concerning the emails to Councillor Fowler, the Tribunal noted two matters in particular; first, that there had been a certain level of acceptance of wrongdoing at first (see his email of 13 September [95]). Unfortunately, however, that contrition appeared to have evaporated by the time of the hearing, with him continually asserting that the Councillor would not have been upset by the words used. He had nevertheless attended further training on the Code.

6.2.11 Secondly, there was the medical evidence in relation to his disability which had to be considered and, in particular, the matters which were said to have contributed to what he described as a 'meltdown'; see Dr Rajput's report, following assessments in April and June 2020 [650-1] and the specific reference to 'meltdowns' when overwhelmed in Dr Matthews' report of 10 March 2021 [525]. Those were important mitigating factors and we recognised that the style and content of those emails to Councillor Fowler had been markedly different from hundreds of others that had been before us.

6.2.12 We were encouraged by the effects of the Respondent's altered medication and pleased to hear about his current relationships with the Authority and his colleagues at Cam Parish Council. Nevertheless, the Respondent had been a councillor, on and off, since 2003 and the emails had been unacceptable. We were concerned about a repeat of similar conduct in the absence of any clear insight or acceptance of his wrongdoing.

6.2.13 It could not have been said, however, that the series of emails which had been written to Mrs Williams had been the product of the same impulsive 'meltdown'. The Respondent had embarked upon a campaign to denigrate and demean and, although his condition may have prevented him from appreciating the effect of his conduct upon someone in Mrs Williams' position, the Tribunal was concerned that his lack of contrition or awareness may lead to a repeat of the same or similar conduct.

- 6.2.14 The Tribunal considered that the Respondent's lack of training in respect of paragraph 4 (c) of the Code was a poor point. We did not consider that a councillor, who was otherwise bound by and aware of the Code, ought to have needed formal training in order to prevent him from engaging in a course of conduct which amounted to bullying or harassment.
- 6.2.15 Nor did the medical evidence explain or justify the Respondent's wrongdoing in relation to the expenses issues and/or his involvement in the composition of Mr Edwards' letter. These matters were serious and had required care, pre-meditation and an intention to mislead. There was nothing in the medical evidence to suggest that such traits were a feature of his disability.
- 6.2.16 It was, the Tribunal considered, also rather a shame that the Respondent's father had approached the matter in such a combative and non-conciliatory manner. Rather than, for example, accepting that his son had been ill advised or hot headed in some respects (for example, to have written some of his emails to Councillor Fowler and/or Mrs Williams), he accused the former of having made "*false malicious lies*" and suggested that the Respondent had never "*questioned the clerks qualifications or tried to undermine*" her [2948]. Despite the representative support which he had provided, we could not and did not blame the Respondent himself for his father's stance.
- 6.2.17 The Case Tribunal considered whether and how to adjust the sanction in order to achieve an appropriate deterrent effect and to maintain public confidence in the standards expected in public life. It concluded by unanimous decision that Councillor Bishop should be **disqualified for 12 months** from being or becoming a member of the Authority or any other relevant authority within the meaning of the Local Government Act 2000.
- 6.2.18 The Authority and its Standards Committee are notified accordingly.
- 6.2.19 The Respondent has the right to seek the permission of the High Court to appeal the above decision. Any person considering an appeal was advised to take independent legal advice about how to appeal.

7. CASE TRIBUNAL RECOMMENDATIONS

7.1 The Case Tribunal did not consider it appropriate to make recommendations to the Authority in the case given the nature of the sanction imposed and the surrounding circumstances.



Signed.....
Mr J Livesey
Chairperson of the Case Tribunal

Date...14 February 2022.....

Dr G Jones
Panel Member

Mr R Payne
Panel Member

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