

Public Document Pack

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To: Julia Hughes (Chair)

Councillors: Teresa Carberry, Ian Hodge and Antony Wren

Co-opted Members:

David Wynn Davies, Councillor Ros Griffiths, Jacqueline Guest, Mark Morgan and Gill Murgatroyd

7 January 2025

Dear Sir/Madam

NOTICE OF HYBRID MEETING
STANDARDS COMMITTEE
MONDAY, 13TH JANUARY, 2025 at 6.30 PM

Please note that a training session will be held from 6.00pm to 6.30pm

Yours faithfully

Steven Goodrum
Democratic Services Manager

Please note: Attendance at this meeting is either in person in the Delyn Committee Room, Flintshire County Council, County Hall, Mold, Flintshire or on a virtual basis.

The meeting will be live streamed onto the Council's website. The live streaming will stop when any confidential items are considered. A recording of the meeting will also be available, shortly after the meeting at <https://flintshire.public-i.tv/core/portal/home>

If you have any queries regarding this, please contact a member of the Democratic Services Team on 01352 702345.

A G E N D A

1 APOLOGIES

Purpose: To receive any apologies.

2 DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

Purpose: To receive any Declarations and advise Members accordingly.

3 MINUTES (Pages 5 - 16)

Purpose: To confirm as a correct record the minutes of the meetings held on 30 September, 21 October, 4 November and 2 December 2024.

4 URGENT MATTERS AS AGREED BY THE CHAIR

Purpose: Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act 1972.

5 DISPENSATIONS (Pages 17 - 20)

Purpose: To receive any requests for dispensations.

Members of the press/public will be able to remain at the meeting whilst an application for dispensation is presented to the Committee and will be able to return to hear the Committee's decision. However, under Paragraph 18C Schedule 12A Local Government Act 1972 the Committee will exclude the press and public from the meeting whilst it deliberates on any application for a dispensation.

ITEMS FOR DECISION

6 REVIEW OF THE INDEMNITY POLICY FOR MEMBERS (Pages 21 - 48)

Purpose: To review the policy.

7 SUGGESTED AGENDA ITEMS FOR STANDARDS FORUM

Purpose: A verbal item to allow Members of the Standards Committee to put forward items for the Standards Forum.

8 SUGGESTED AGENDA ITEMS FOR THE NEXT ETHICAL LIAISON MEETING

Purpose: To ask Members for suggested topics of discussion at the next meeting between the Chair/Vice Chair of the Committee and Senior Councillors.

9 **PUBLIC SERVICES OMBUDSMAN FOR WALES CONSULTATION ON THE NOTIFICATION OF COMPLAINTS** (Pages 49 - 62)

Purpose: To consider the proposed responses to the consultation.

10 **FORWARD WORK PROGRAMME** (Pages 63 - 64)

Purpose: For the Committee to consider topics to be included on the attached Forward Work Programme.

ITEMS FOR INFORMATION

11 **FEEDBACK FROM ETHICAL LIAISON MEETING**

Purpose: To provide feedback from the Ethical Liaison Meeting.

12 **OVERVIEW OF ETHICAL COMPLAINTS** (Pages 65 - 72)

Purpose: That the Committee notes the number and type of complaints.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - RESOLUTION TO EXCLUDE THE PRESS AND PUBLIC

The following item is considered to be confidential within the meaning of Section 100A Local Government Act 1972 (as amended). The Council is under a legal duty pursuant to the Local Government Act 2000 not to disclose the information to anyone other than the members of its Standards Committee.

The report relates to a particular individual and the public interest in withholding the information outweighs the public interest in disclosing the information. The report relates to the deliberations of a Standards Committee or a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any conclusion on a matter referred to it.

13 **OUTCOME OF PUBLIC SERVICES OMBUDSMAN FOR WALES INVESTIGATION REFERENCE 202300532** (Pages 73 - 92)

Purpose: To consider the outcome of an investigation by the Public Services Ombudsman for Wales.

Please note that there may be a 10 minute adjournment of this meeting if it lasts longer than two hours

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STANDARDS COMMITTEE
30TH SEPTEMBER 2024

Minutes of the meeting of Standards Committee held as a hybrid meeting on Monday 30th September.

PRESENT: **Julia Hughes (Chair)**
Councillor: Ian Hodge
Co-opted Members: David Davies, Councillor Ros Griffiths, Mark Morgan, Gill Murgatroyd

ALSO PRESENT: Councillor Carol Ellis acting on behalf of Councillor Charles Cordery
Councillors Mike Peers and Richard Jones as witnesses
Mr Gareth Owens, Monitoring Officer as a witness

APOLOGIES: Councillor Teresa Carberry, Councillor Antony Wren and Jacqueline Guest

CONTRIBUTORS: Matthew Powell, Legal Services Manager
Claire Hardy from Geldards Solicitors
Gwydion Hughes, Barrister for the Ombudsman
Louise Morland, representative of the Ombudsman

IN ATTENDANCE: Democratic Services Manager and Team Leader – Democratic Services

30. DECLARATIONS OF INTEREST

None.

31. HEARING INTO AN ALLEGED BREACH OF THE CODE OF CONDUCT
[\(link to recording\)](#)

The Chair opened the meeting and explained the process for the hearing into an alleged breach of the code of conduct. She introduced everybody who was present.

A report from the Legal Services Manager explained the background to the hearing.

She explained that there would be times during the meeting where the Committee would need to go into private session, at which point, the live streaming of the meeting would be paused.

Councillor Ellis referred to some handwritten notes that had been made available to her from the former Clerk's PA, and asked if they could be shared with the Committee and the Ombudsman. The Barrister for the Ombudsman said that the Ombudsman's report had been prepared a year previous to the hearing and Councillor Cordery had been invited to submit any relevant information over the previous two years. He added that the document was from an unknown source and there was no statement from the PA. Councillor Ellis explained that Councillor

Cordery believed that the document had been sent to the Ombudsman but had been lost.

After an adjournment it was the decision of the Committee to not accept the document produced at the meeting. At this point Councillor Cordery withdrew from the meeting and said he would like Councillor Ellis to represent him.

The Committee heard representations from Councillor Ellis and the Barrister for the Ombudsman. Witness statements were heard from Mr Gareth Owens, the Council's Monitoring Officer and Buckley Town Councillors, Mike Peers and Richard Jones.

Following the witness statements being heard, Councillor Cordery indicated that he wished to be present in the room to be cross examined by the Barrister.

During the cross-examination Councillor Cordery withdrew from the meeting.

Following a discussion it was agreed that the meeting should be adjourned and re-convened on 21st October.

RESOLVED:

That the meeting be re-convened on 21st October.

32. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were two members of the public in attendance.

(The meeting commenced at 9.15am and ended at 6 p.m.)

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Chair

STANDARDS COMMITTEE
21 OCTOBER 2024

Minutes of the meeting of the Standards Committee of Flintshire County Council held as a hybrid meeting on Monday, 21 October 2024

PRESENT: Julia Hughes (Chair)
Councillor Ian Hodge

CO-OPTED MEMBERS:
David Wynn Davies, Councillor Ros Griffiths, Mark Morgan, and Gill Murgatroyd

ALSO PRESENT:
Councillor Andrew Parkhurst (as an observer).
Councillor Carol Ellis (representing Councillor Charles Cordery)

APOLOGIES: Councillors Teresa Carberry and Anthony Wren. Jacqueline Guest (Co-opted Member)

CONTRIBUTORS:
Clare Hardy (Independent Legal Advisor, Geldards LLP), Ywain Hughes (Legal Advisor, Public Services Ombudsman Wales), and Louise Morland (Representative, Public Services Ombudsman Wales)

IN ATTENDANCE:
Legal Services Manager, Democratic Services Manager, and Democratic Services Officer

33. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)
There were no declarations of interest.

34. HEARING INTO AN ALLEGED BREACH OF THE CODE OF CONDUCT FOR MEMBERS ([link to the recording](#)) ([link to the report](#))

In her opening statement the Chair welcomed those present to the meeting which was to resume the hearing started on 30 September 2024 into an alleged breach of the Code of Conduct for Members. She advised that the Standards Committee was required to reach a decision as to whether there had been a breach of the Code of Conduct and if so what action, if any, should be taken. The Standards Committee also needed to decide if any recommendations should be made to Flintshire County Council or Buckley Town Council.

The Chair explained the stage the hearing had reached so far and how the reconvened hearing would be conducted.

The Legal Advisor would present representations from the Public Services Ombudsman Wales. Councillor Carol Ellis would present representations on behalf of Councillor Charles Cordery.

35. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded for the remainder of the meeting as the following item is considered to be exempt by virtue of Paragraph(s) 18c of Schedule 12A of the Local Government Act 1972 (as amended).

The public interest in maintaining the exemption outweighs the public interest in disclosing the information.

At this point all present who were not members of the Standards Committee or officers advising or supporting the Committee withdrew from the meeting.

36. DECISION

The Committee considered the disputed facts following the report issued by the Public Services Ombudsman Wales into an investigation of an alleged breach of the Code of Conduct.

The Chair advised that having considered the evidence presented, the representations made on behalf of Councillor Cordery, and the advice given by the Ombudsman as to whether the findings of fact amounted to a breach of the Code of Conduct for Members, the Committee had reached the following conclusions:

- That Councillor Cordery had breached paragraph 4 (b) of the Code of Conduct: you must show respect and consideration for others;
- That Councillor Cordery had breached paragraph 8.03 of the Code of Conduct: you must when participating in meetings or reaching decisions regarding the business of your Authority do so on the basis of the merits of the circumstances involved; and in the public interest having regard to any relevant advice provided by the Authority's officers in particular by the Authority's monitoring officer.

The Chair advised that having found that Councillor Cordery had breached paragraphs 4 (b) and 8.03 of the Code of Conduct the Standards Committee had considered the mitigating and aggravating factors relating to Councillor Cordery's conduct when deciding whether a sanction should be imposed on him. The Committee had also had regard to the points made in the guidance from the Adjudication Panel for Wales that breaches involving the blatant disregard of the specific authoritative advice given, particularly by the relevant Authority's Monitoring Officer, as to the course of conduct to be taken, or the Code of Conduct, are likely to be regarded as very serious breaches.

The Standards Committee decided that the following sanction should be imposed on Councillor Cordery:

- That Councillor Cordery be suspended from being a member of Buckley Town Council for a period of 6 months.

The Standards Committee also decided to make the following recommendations:

- (a) That all Town and Community Councils within Flintshire should ensure that Councillors undertake training on the Code of Conduct within the first 3 months of a Councillor being elected or appointed;
- (b) That Town or Community Councils within Flintshire which had not signed up to the Civility and Respect Pledge should consider doing so and should discuss implementation within their Council's activities;
- (c) That all Town and Community Councils within Flintshire should ensure that the induction of new Councillors ensured that Councillors understand everything in their Council's Standing Orders; and
- (d) That Buckley Town Council offers refresher training on the Code of Conduct to all its members

The Chair advised that Officers of Flintshire County Council would arrange that notification be given to the relevant persons of the Committee's decision and recommendations.

The full written decision will be published on Flintshire County Council's website.

RESOLVED:

That Councillor Cordery be suspended from being a member of Buckley Town Council for a period of 6 months.

37. MEMBERS OF THE PRESS IN ATTENDANCE

There were three members of the public and no members of press in attendance.

(The meeting started at 9.15 am and ended at 5.00 pm)

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Chair

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STANDARDS COMMITTEE
4TH NOVEMBER 2024

Minutes of the meeting of the Cabinet of Flintshire County Council held remotely via Zoom on Monday 4th November 2024.

PRESENT: **Julia Hughes (Chair)**
Councillors: Teresa Carberry, Ian Hodge and Antony Wren.
Co-opted members: David Wynn Davies, Councillor Ros Griffiths, Jacqueline Guest, Mark Morgan and Gill Murgatroyd.

ALSO PRESENT: Town and Community Councillors and Clerks.

APOLOGIES: None.

CONTRIBUTORS: Chief Officer (Governance) / Monitoring Officer

IN ATTENDANCE: Team Leader – Democratic Services.

38. DECLARATIONS OF INTEREST

None.

URGENT ITEMS OF BUSINESS

The Chair explained that the National Standards Forum for Wales was scheduled to meet in January and any items for that meeting should be sent to the Chair.

39. MINUTES

The minutes of the meeting held on [2 September 2024 \(agenda item number 3\)](#) were submitted and confirmed as a correct record.

The name of Co-opted Member Ros Griffiths was to appear as Councillor Ros Griffiths.

RESOLVED:

That subject to the amendments the minutes of the meeting be confirmed as a correct record.

40. DISPENSATIONS

None submitted.

41. ITEMS RAISED BY TOWN AND COMMUNITY COUNCILS
[\(link to recording\)](#)

The Monitoring Officer introduced the item, the purpose of which was to discuss any ethical issues of the work of the Standards Committee raised by Town and Community Councils ([agenda item number 5](#)).

No issues had been raised in advance of the meeting. Town and Community Councillors were given the opportunity to raise any issues at the meeting but none were identified.

RESOLVED:

That it be noted that no issues had been raised.

42. TRAINING NEEDS FOR TOWN AND COMMUNITY COUNCILS
[\(link to recording\)](#)

The Monitoring introduced the [report \(agenda item number 6\)](#) which was to assure the Standards Committee on the assistance given to Councillors to comply with the code and training undertaken on the code for Town and Community Councils.

Town and Community Councils were also asked whether they had any unfulfilled training needs and, in case they had significant needs, their willingness to pool funds to commission training.

An e-learning module was supported and once developed would be sent to clerks so to distribute to their Members.

The recommendation in the report was supported.

RESOLVED:

- (a) That the Standards Committee confirms that it is assured on the training provided to Town and Community Councillors;
- (b) That the use of an e-learning module be supported; and
- (c) Clerks to ask their Members for ideas for training needs.

43. FORWARD WORK PROGRAMME
[\(link to recording\)](#)

The Monitoring Officer introduced the [Forward Work Programme \(agenda item number 7\)](#) which enabled the Committee to consider topics to be included.

The items listed in the Forward Work Programme were supported.

It was agreed that feedback from the additional Ethical Liaison Meeting (ELM) taking place in November should feedback in January, along with receiving suggested items for the ELM in February. The report following the meeting with Group Leaders, which takes place in March, to be reported at the meeting in April.

RESOLVED:

That subject to the above, the Forward Work Programme be noted.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 – TO
CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED:

That the press and public be excluded for the remainder of the meeting for the following items by virtue of exempt information under paragraph(s) 12 and 18c of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

**44. OUTCOME OF PUBLIC SERVICES OMBUDSMAN FOR WALES INVESTIGATION
REFERENCE 202309367**

The Monitoring Officer introduced the report which provided details of a recently concluded investigation undertaken by the Public Services Ombudsman for Wales. The detailed outcome was explained, which concluded that the Councillor was not in breach of the code. As part of the investigation the Councillor referred to their inexperience, the report therefore recommended that the Councillor undergoes training.

The Standards Committee recommended mandatory training being offered to all Councillors tackling the areas outlined in the report, with the possibility of an e-learning module in the future.

RESOLVED:

Mandatory training being offered to all Councillors tackling the areas outlined in the report, with the possibility of an e-learning module in the future.

45. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the public in attendance.

(The meeting commenced at 6.30 p.m. and ended at 7.54 p.m.)

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Chair

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STANDARDS COMMITTEE
2ND DECEMBER 2024

Minutes of the meeting of Standards Committee held as a hybrid meeting on Monday 2nd December.

PRESENT: **Julia Hughes (Chair)**
Councillor: Teresa Carberry, Ian Hodge, Antony Wren
Co-opted Members: David Davies, Councillor Ros Griffiths, Mark Morgan, Gill Murgatroyd

ALSO PRESENT: No other individuals were present.

APOLOGIES: Jacqueline Guest

CONTRIBUTORS: Matthew Powell, Legal Services Manager

IN ATTENDANCE: Democratic Services Manager

46. DECLARATIONS OF INTEREST

None were received.

47. URGENT MATTERS AS AGREED BY THE CHAIR

None were received.

48. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public are not excluded from the meeting unless confidential elements of the report are raised by members of the committee.

49. PRODUCTION OF A REPORT UNDER THE LOCAL GOVERNMENT INVESTIGATIONS (FUNCTIONS OF MONITORING OFFICERS AND STANDARDS COMMITTEES) (WALES) REGULATIONS 2001 INTO THE OUTCOME OF AN INVESTIGATION INTO ALLEGATION RELATING TO THE CONDUCT OF COUNCILLOR CHARLES CORDERY OF BUCKLEY TOWN COUNCIL

The Committee considered the report and agreed the wording.

RESOLVED:

That the report be accepted as a correct record of proceedings.

50. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press or public in attendance.

(The meeting commenced at 6pm and ended at 6.14 pm)

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Chair

FLINTSHIRE COUNTY COUNCIL APPLICATION FOR DISPENSATION TO THE STANDARDS COMMITTEE

	Enter the details as described in italics in the first column in this column
Name of Councillor <i>Your name. Each application should be made separately.</i>	Cllr Mared Eastwood
Address <i>Your home address.</i>	55, Gosmore Road New Brighton Mold Flintshire CH7 6QN
Name of Council <i>Of which Council are you a member?</i>	Flintshire County Council
Ward <i>The ward you represent.</i>	Argoed and New Brighton Ward
Item for which dispensation is being sought <i>With what matter do you wish to be involved?</i>	Planning Application Ref: COU/001072/24 Change of use from dwelling house to a children's residential care home (Class C2) at 30, Bryn Clwyd, Mynydd Isa, Mold
Level of Dispensation sought (e.g. to speak only or to speak and vote) <i>You may wish to seek dispensation for the options detailed in the opposite column. Please tick all that apply.</i>	<input type="checkbox"/> <i>To write to or speak with officers;</i> <input type="checkbox"/> <i>To write to, speak and/or answer questions at Council/Committee meetings;</i> <input type="checkbox"/> <i>To remain in the room during any debate;</i> <input type="checkbox"/> <i>To vote (please specify which meetings e.g. Council meetings, Planning Committee etc.)</i>
Relevant Paragraph under which Dispensation is requested (See overleaf)	Paragraphs d), f), i) and j)
Details of the Prejudicial Interest <i>This should be a short explanation of all the relevant facts about how your interest arises and how significant it might be. The questions are a prompt not an exhaustive list:</i> <ul style="list-style-type: none"> • <i>How does your interest arise? Will the business under discussion affect your well-being, your financial position, your family, etc?</i> • <i>What other roles or memberships do you hold that give rise to an interest?</i> • <i>Will you benefit personally from the business under discussion or is your interest purely from public service?</i> 	<p>I am the ward member for the property in question. My mother owns and lives in the house opposite, 27 Bryn Clwyd. The outcome of this matter will not affect my financial position at all</p> <p>I wish to conduct my usual role as County Councillor in relation to speaking to officers to obtain information/seek advice and providing guidance and information to the residents on Bryn Clwyd. I wish to be able to submit my own response to the consultation as local Ward member and will potentially wish to speak at the planning committee during which this matter will be considered on behalf of my residents.</p> <p>I will not have a vote on this matter as I am not on the planning committee.</p>
Details of any Position of responsibility/control held on Council (e.g. Chairman/Vice-Chairman)	Cabinet Member for Education, Welsh Language, Culture and Leisure.

Signed:

Mared Eastwood

Date: 7 January 2025

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FLINTSHIRE COUNTY COUNCIL
APPLICATION FOR DISPENSATION TO THE
STANDARDS COMMITTEE

	Enter the details as described in italics in the first column in this column
Name of Councillor <i>Your name. Each application should be made separately.</i>	<i>Faron Hadfield-Jones</i>
Address <i>Your home address.</i>	<i>36 Bryn Clwyd, Mynydd Isa. CH7 6XW</i>
Name of Council <i>Of which Council are you a member?</i>	<i>Argoed Community Council</i>
Ward <i>The ward you represent.</i>	<i>Argoed and New Brighton</i>
Item for which dispensation is being sought <i>With what matter do you wish to be involved?</i>	<i>Planning Application Ref: COU/001072/24</i> <i>Change of use from a dwelling house to a childrens residential care home (Class C2) at 30Bryn Clwyd, Mynydd Isa</i>
Level of Dispensation sought (e.g. to speak only or to speak and vote) <i>You may wish to seek dispensation for the options detailed in the opposite column. Please tick all that apply.</i>	<input type="checkbox"/> <i>To write to or speak with officers;</i> <input type="checkbox"/> <i>To write to, speak and/or answer questions at Council/Committee meetings;</i> <input type="checkbox"/> <i>To remain in the room during any debate;</i> <input type="checkbox"/> <i>To vote (please specify which meetings e.g. Council meetings, Planning Committee etc.)</i>
Relevant Paragraph under which Dispensation is requested (See overleaf)	
Details of the Prejudicial Interest <i>This should be a short explanation of all the relevant facts about how your interest arises and how significant it might be. The questions are a prompt not an exhaustive list:</i> <ul style="list-style-type: none"> • <i>How does your interest arise? Will the business under discussion affect your well-being, your financial position, your family, etc?</i> • <i>What other roles or memberships do you hold that give rise to an interest?</i> • <i>Will you benefit personally from the business under discussion or is your interest purely from public service?</i> 	<i>My interest is that I live in 36 Bryn Clwyd and the property which is subject to the planning application is one house down from my property. I am being contacted by residents in the area concerned about this application.</i> <i>I am reminding independent stating that this is a decision for the full community council. I wish to conduct my role as expected by residents, by representing their interests and concerns, and being able to discuss this issue at community council meetings. I feel I cannot vote on this matter due to interests surrounding this application.</i>
Details of any Position of responsibility/control held on Council (e.g. Chairman/Vice-Chairman)	<i>Chairperson</i>

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STANDARDS COMMITTEE

Date of Meeting	13 January 2025
Report Subject	Review of the Indemnity Policy for Members relating to Code of Conduct proceedings
Report Author	Legal Services Manager

EXECUTIVE SUMMARY

Under the Council's constitution it is a function of the Standards Committee to determine requests for representation in code of conduct proceedings under the Council's Indemnity policy. It is function of the Council to set the scheme however the Standards Committee may make recommendations in this regard. The Monitoring Officer received a general enquiry from a member concerning the Council's Indemnity for members and officers and it is considered that the provisions of the scheme which concern code of conduct cases should be reviewed to ensure the scheme remains clear and provides an appropriate level of support to members.

RECOMMENDATIONS

1	To consider the provisions of the current Indemnity for members and officers in the context of code of conduct proceedings, in particular, whether the Indemnity is clear and appropriate and to make recommendations and / or consider whether further information is needed before doing so.
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REPORT DETAILS

1.00	BACKGROUND
1.01	The Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006 allows local authorities to provide indemnities to any of its members or officers in certain prescribed circumstances. In place of, or in addition to,

	<p>an indemnity the Order also permits the provision an indemnity by securing insurance. Following the 2006 Order coming into force, on 10 October 2006, the Council adopted a form of indemnity (referred to in this as the Council's Indemnity) as well as securing insurance cover. The Council's Indemnity was amended by the Council on 29 June 2011. The resolution is below, and the current Indemnity is attached to this report at Appendix A (with some recommended changes in red).</p>
1.02	<p>The Council's Indemnity says that <i>"it extends to proceedings which relate to an allegation against a Member that the Member has breached the Council's code of conduct. Under the Council's constitution it is a function of the Standards Committee to determine requests for representation in proceedings under the Indemnity policy. However, in such cases the indemnity provided shall not exceed the cover provided under the terms of the Insurance taken out by the Authority."</i></p>
1.03	<p>The Council's Indemnity also states <i>"In the case of code of conduct proceedings or other proceedings where insurance cover has been effected, cover will be limited to that provided under the terms of the insurance policy and the insurance company in question will determine the nature and extent of professional representation."</i></p>
1.04	<p>Alignment to the terms of the Insurance Policy came about a result of changes adopted by the Council to the Council's Indemnity in June 2011. This means that in code cases the Council secures insurance to provide indemnity in place of an indemnity from the Council. The Council also resolved to arrange insurance cover only for those members who request it and to recover the cost from each member on a pro-rata basis. This resolution (reproduced below) was reached because the Labour Party (and possibly other parties) provides cover for its members, and so the Council did not wish to pay for insurance where it was not needed.</p> <p><u>RESOLVED:</u></p> <p>(a) That Members support the insurance cover offered, as set out in the report, and agree the revised indemnity as set out in Appendix B; and</p> <p>(b) That the Council arranges insurance cover only for those Members who request it and recovers the cost from each Member on a pro-rata basis.</p>
1.04	<p>One effect of this is that some members that have not requested insurance, will not have cover under the policy and therefore will not fall within the scope of the Council's Indemnity, at least in so far as code cases. It appears from the Insurance Schedule at Appendix 2 that 17 members have requested cover however the Council's insurance team have confirmed that for the 24/25 cover there were 26 members. There are 29 Labour</p>

	<p>councillors. This means that 12 councillors would appear to have no cover under the Council's Indemnity for code cases, although they may hold their own insurance.</p>						
1.05	<p>Also, it means that for those members that have requested cover, the level of indemnity is limited to and governed by the Insurance Policy. A copy of the Insurance conditions can be found at Appendix 3 which sets out the "insured incidents" that are covered subject to these conditions. The monetary limit of indemnity for a single claim is £100,000. In 2016, this was £50,000, so has increased since the scheme was last reviewed. It is possible that the cost of representation in complex code cases with multiple Tribunal days could exceed the current limit. However, there have been no claims made under the current policy which might inform whether this this limit is causing an issue or not.</p> <h2 style="text-align: center;">Insured incidents</h2> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #1a3d54; color: white; padding: 5px;">What is covered</th> <th style="background-color: #1a3d54; color: white; padding: 5px;">What is not covered Please also refer to the policy exclusions on page 10</th> </tr> </thead> <tbody> <tr> <td colspan="2" style="background-color: #1a3d54; color: white; padding: 5px;">Government act legal defence</td> </tr> <tr> <td style="background-color: #e6e6e6; padding: 5px;"> <p>1 We represent the Insured person and negotiate for his/her legal rights throughout an investigation conducted by:</p> <ul style="list-style-type: none"> (a) an Ethical Standards Officer in England under the Local Government Act 2000; or (b) a Local Commissioner in Wales under Part III, Section 69 of the Local Government Act 2000; or (c) a Monitoring Officer following referral of a matter under Sections 69(4) or 71(2) of the Local Government Act 2000. <p>2 We will represent the Insured person at a hearing of a Standards Committee convened in connection with 1(c) above.</p> <p>3 We will defend the Insured person at an adjudication conducted by a Case Tribunal or Interim Case Tribunal under Section 76 of the Local Government Act 2000.</p> <p>4 We will appeal against a decision of a Case Tribunal or Interim Case Tribunal to suspend, partially suspend or disqualify the Insured person as a member of the policyholder.</p> </td> <td style="padding: 5px;"></td> </tr> </tbody> </table>	What is covered	What is not covered Please also refer to the policy exclusions on page 10	Government act legal defence		<p>1 We represent the Insured person and negotiate for his/her legal rights throughout an investigation conducted by:</p> <ul style="list-style-type: none"> (a) an Ethical Standards Officer in England under the Local Government Act 2000; or (b) a Local Commissioner in Wales under Part III, Section 69 of the Local Government Act 2000; or (c) a Monitoring Officer following referral of a matter under Sections 69(4) or 71(2) of the Local Government Act 2000. <p>2 We will represent the Insured person at a hearing of a Standards Committee convened in connection with 1(c) above.</p> <p>3 We will defend the Insured person at an adjudication conducted by a Case Tribunal or Interim Case Tribunal under Section 76 of the Local Government Act 2000.</p> <p>4 We will appeal against a decision of a Case Tribunal or Interim Case Tribunal to suspend, partially suspend or disqualify the Insured person as a member of the policyholder.</p>	
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1.06	<p>The Order permits the provision an indemnity by securing insurance in place of, or in addition to, an indemnity so the Council could (but doesn't have to) provide a direct indemnity for costs of representation in codes cases in excess of the Insurance Policy to supplement the insurance and provide indemnity to members who are not insured. This is one way that the Council might look to address the potential issues identified above.</p>						
1.07	<p>However, providing a direct indemnity for costs of representation in excess of the Insurance Policy or to members who are not insured would expose the Council to potentially significant and uncertain costs (and also potentially</p>						

	<p>expose members to recovery proceedings in more cases - see paragraph 1.11 below) and a hybrid scheme may be complex to administer. There may be more cost-effective ways to increase access to indemnity such as increasing the monetary limit under the insurance, promoting the availability of cover to members who have not requested it, or recommending that the Council covers the cost of the insurance and that members “opt out” rather than “opt in”.</p>
1.08	<p>Should members of the Standards Committee wish to consider these options further before making recommendations, consultation could be undertaken with our own members, other Welsh Local Authorities to obtain information on what they provide and with the Council’s insurance team to establish out whether the £100,000 limit could be increased and if so, at what cost, as well as understanding what the cost implication to the Council would be if it pays for cover on a “opt out” basis.</p>
1.09	<p>The Order requires the Council’s Indemnity to include reimbursement provisions in certain circumstances. In summary, these are where:</p> <ul style="list-style-type: none"> a) in the case of criminal proceedings, the member or officer is convicted of a criminal offence and that conviction is not overturned following any appeal. b) in the case of Conduct of Conduct proceedings, a finding is made the member has failed to comply with the code of conduct and that finding is not overturned following any appeal; or there is an admission by the member of that member's failure to comply with the code of conduct; and disciplinary measures (suspension or partial suspension) are taken against the member in question as a consequence. c) in the case of Conduct of Conduct proceedings, a finding is made in those proceedings that the member has failed to comply with the code of conduct and that finding is not overturned following any appeal; or there is an admission by the member of that member's failure to comply with the code of conduct; and the member is censured or no disciplinary measures are taken against that member as a consequence.
1.10	<p>In the circumstances described by (a) and (b) the member has a legal obligation to reimburse the relevant authority or the insurer (as the case may be). In respect of (c), where there is censure, or no action, the Standards Committee may determine that the member must reimburse the relevant authority or the insurer (as the case may be) and as such there is no automatic obligation to reimburse. Members of the Standards Committee may wish to consider whether the Indemnity should be updated to make this clear and suggested wording is included in red in Appendix 1.</p>
1.11	<p>In all circumstances the Order provides that the member must reimburse either the Authority or the insurer is “as the case may be”. The same applies to recovery. Therefore, there is no obligation on a member to reimburse the</p>

	<p>Council for sums expended by the insurer in relation to code of conduct proceedings. Members of the Standards Committee may wish to consider whether the Indemnity could be updated to make this clear by including the wording (“as the case may be”) as shown in red in Appendix 1.</p> <p>Given that the Council’s Indemnity is currently aligned to and limited by the Insurance Policy there will not likely be any circumstances where the Council has expended sums providing an indemnity to a member in code proceedings so the Member’s duty to reimburse the Council in these circumstances will not likely arise.</p> <p>The current Insurer, DAS, have stated in correspondence to the Monitoring Officer that they would not normally take action to recover monies from a policyholder in respect of costs and refer to the conditions section of the Insurance Policy. As such, an indemnity based on insurance may reduce the circumstances in which members are required to reimburse costs.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	N/A

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	N/A

4.00	RISK MANAGEMENT
4.01	N/A

5.00	APPENDICES
5.01	<p>Appendix 1 – the Indemnity (with suggestions in red)</p> <p>Appendix 2 – DAS insurance schedule</p> <p>Appendix 3 – insurance conditions</p>

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Indemnity Report dated 29 June 2011</p> <p>Minutes of Flintshire County Council 29 June 2011</p> <p>Contact Officer: Matthew Powell</p> <p>Telephone: 01352 702354</p>

E-mail:	matthew.powell@flintshire.gov.uk
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7.00	GLOSSARY OF TERMS
7.01	<p>Council's Indemnity – the Council's form of Indemnity to members and officers</p> <p>Insurance Policy – the insurance that covers code proceedings</p> <p>Member – a member of Flintshire County Council</p> <p>The Order - The Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006</p>

FORM OF INDEMNITY TO MEMBERS AND OFFICERS

1. This indemnity is made under S.101 of the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006, and is supplementary to the provisions of S.265 of the Public Health Act 1875 as extended by S.39 and S.44(1) the Local Government (Miscellaneous Provisions) Act 1976.

2. This Indemnity will not extend to loss or damage directly or indirectly caused by or arising from any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of any Member or Officer or any act or failure to act by the Member or Officer otherwise than in his/her capacity as a Member or Officer of the Authority.

3. This Indemnity extends to proceedings which relate to an allegation against a Member that the Member has breached the Council's code of conduct. However, in such cases the indemnity provided shall not exceed the cover provided under the terms of the Indemnity Insurance Policy taken out by the Authority.

4. Subject to paragraphs 1 to 3 above, Flintshire County Council indemnifies each Member and Officer of the Authority against any claim liability loss and/or damage in relation to any action or failure to act by any Member or Officer which:-

(a) is authorised by the Authority; or

(b) forms part of or arises from any powers conferred, or duties placed upon that Member or Officer as a consequence of any function being exercised by that Member or Officer

(i) at the request of or with the approval of the Authority; or

(ii) for the purposes of the Authority

Without prejudice to the generality of this indemnity (above) the indemnity extends to action:-

(a) taken under delegated powers;

(b) taken personally under any specific statutory provision such as Head of Paid Service, Chief Finance Officer, Monitoring Officer.

(c) taken at Partnerships, informal joint working arrangements, charitable organisations (companies (however constituted) when the Member or Officer is serving as the Council's representative on these bodies.

(For the purpose of this indemnity "Member" includes independent members of the Council's Standards Committee and any other co-opted members of committees).

5. Conditions and Limitations applying to the Indemnity

A. Good faith

A Member or Officer relying on the indemnity:-

(i) must believe that the action, or failure to act, in question was within the powers of the authority

or

(ii) where that action or failure to act comprises the issuing or authorising of any document containing any statement as to the powers of the relevant authority, or any statement that certain steps had been taken or requirements fulfilled, believed that the contents of that statement were true;

and

in either case that it was reasonable for that Member or Officer to hold that belief at the time when that Member or Officer acted or failed to act the council will provide the indemnity in relation to an act or failure to act which is subsequently found to be beyond the power of that Member or Officer in question, but only to the extent that the Member or Officer reasonably believed that the act or failure to act in question was within that Member or Officer's powers at the time at which that Member or Officer failed to act.

B. Repayment of cost

Where any indemnity is given to a Member or Officer in relation to the defence of criminal proceedings or proceedings alleging a breach of the code of conduct, then:-

- (i) in relation to criminal proceedings if the Member or Officer is convicted of a criminal offence the sums expended by the Authority or its insurers in relation to those proceedings must be reimbursed to the Authority or to the insurers (as the case may be);
- (ii) where the proceedings relate to an allegation against a Member of a breach of the code of conduct, if a finding is made that finds that the Member has failed to comply with the code of conduct (or the Member has admitted that failure) and as a consequence the member is censured, suspended, partially suspended or disqualified, then the sums expended by the Authority or its insurer must be reimbursed to the Authority or its insurers (as the case may be)
- (iii) where the proceedings relate to an allegation against a Member of a breach of the code of conduct, if a finding is made that finds that the Member has failed to comply with the code of conduct (or the Member has admitted that failure) and as a consequence the member in question is censured or no disciplinary measures are taken against that member the Authority's Standards Committee may determine that the member must reimburse the Authority or the insurer (as the case may be)

C. Level of representation

In the case of code of conduct proceedings or other proceedings where insurance cover has been effected, cover will be limited to that provided under the terms of the insurance policy and the insurance company in question will determine the nature and extent of professional representation.

D. Defamation

This indemnity does not extend to the **making** by a Member or Officer of any claim in relation to an alleged defamation of that Member or Officer.

E. General Principles

(i) The Authority will provide the Member or Officer with reasonable and proportionate access to Authority employees and Authority resources and facilities to enable the individual "Member or" Officer to properly respond to allegations of personal liability being advanced;

(ii) The Authority will allow legal representation for a Member or Officer separately from the Authority's own legal advisers (and/or the authority's insurers' legal advisers) where the interests of the Authority and the individual Officer may conflict or in such other circumstances where it is agreed between the Authority and the individual Officer that separate legal representation is appropriate.

(iii) the Authority will not seek to recover from an individual Member or Officer any losses incurred by the authority as a result of an action or failure to act by the Member or Officer concerned except:-

(a) where the Member or Officer involved did not reasonably believe that the act or omission in question was within his powers at the time when that act or omission took place, or

(b) where the action or failure to act constituted a criminal offence, or

(c) in the circumstances set out in section B. (ii) above.

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FIRST FOR JUSTICE

Arthur J. Gallagher Ins.Brokers Ltd
Riverside ,Cloister House
New Bailey Street
MANCHESTER
M3 5AG

POLICY SCHEDULE: Group standard
POLICY NUMBER: TT2/6682636
REASON FOR ISSUE: RENEWAL
AGENCY: CF/139145
POLICYHOLDER: FLINTSHIRE COUNTY COUNCIL
County Hall
MOLD
Clwyd
CH7 5NR

AMOUNT DUE :	PREMIUM £757.56	IPT @12.00 % £90.91	PREMIUM + IPT £848.47
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PAYABLE BY: 1/04/24
BASIS OF POLICY: No of Members 17
DATE OF ISSUE: 7/02/24

RENEWAL PROCEDURE:

Please check the information shown and ensure that it is accurate and that the policy cover suits your requirements. If any alterations or advice is required, please notify your agent.

To ensure that your policy cover is renewed, please ensure that your agent receives your renewal premium by the date shown.

ML

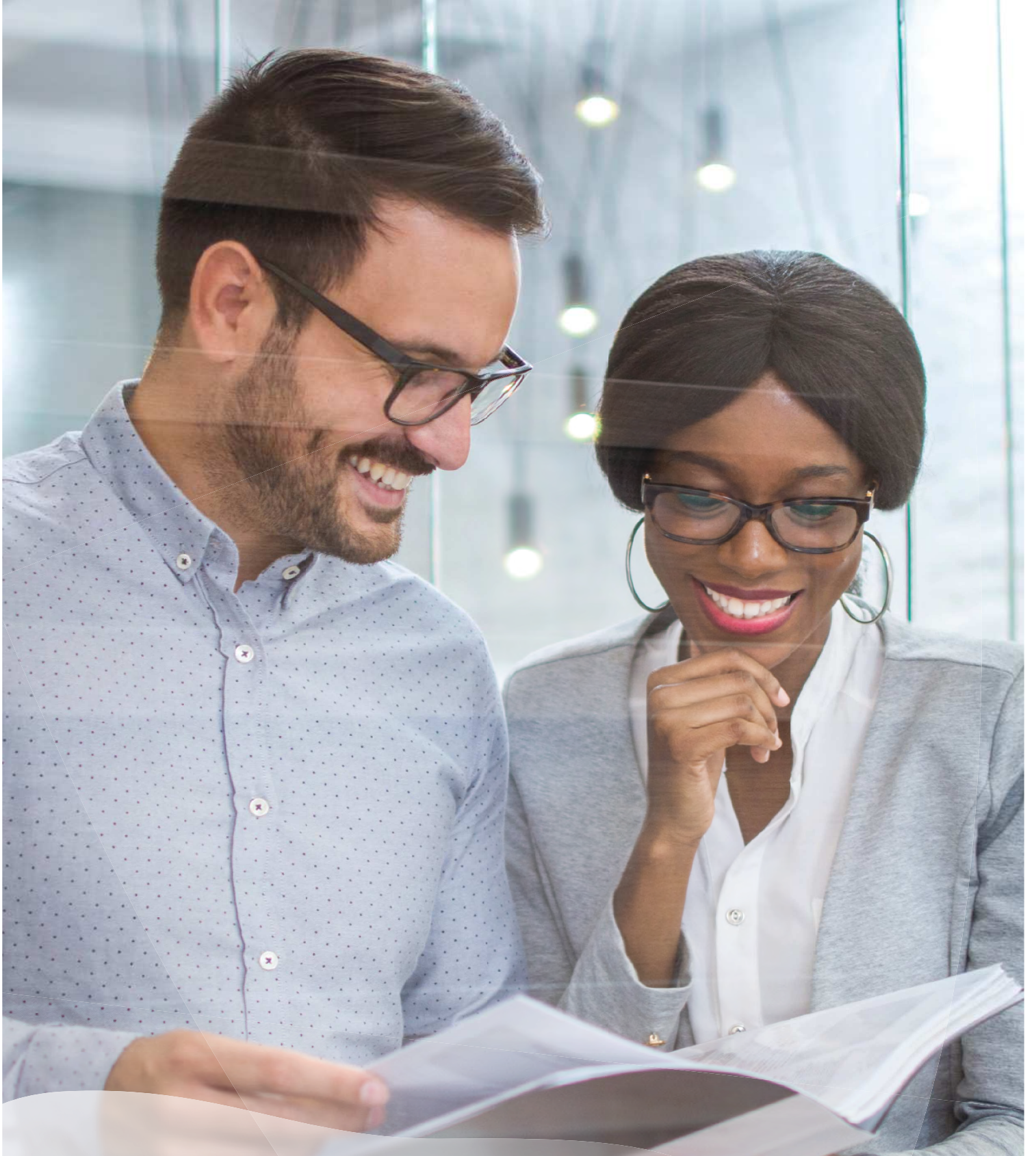


POLICY SCHEDULE: Group standard
POLICY NUMBER: TT2/6682636
POLICY WORDING REFERENCE: BESPOKE
OPERATIVE COVERS: Government Act Legal Defence Excess (if applicable)
Eurolaw & Group Assistance Services
PERIOD OF INSURANCE: From 1/04/24 to 31/03/25
LIMIT OF INDEMNITY: £100,000
ENDORSEMENTS: G053 Local Authorities Wales Order 2006

DUTY OF DISCLOSURE:

Renewal is invited on the basis of the material information you have provided at inception of insurance and subsequently and subject to any changes in cover as specified in this notice or any enclosures. We also take this opportunity to remind you of your obligation to advise us immediately of any changes which may alter the risk and thus may affect our invitation to renew and/or the terms offered.

If you are in any doubt whether a fact is material, you should disclose it. All disclosures should be in writing.



Group legal protection

Thank you for purchasing this policy. **Page 33**
This is your Policy Wording



FIRST FOR JUSTICE

Your policy schedule

Policyholder name:

Flintshire County Council

Policy number:

TT26682636

Agency name:

Arthur J. Gallagher Ins.Brokers Ltd

Commencement date from:

01/04/2024

to:

31/03/2025

Date of issue:

07/02/2024

Limit of indemnity:

£100,000

Claims helpline

0344 893 8165

Your cover

Government act legal defence

Your helpline services

The following services are only operative if marked below as included.

Eurolaw legal advice helpline:

0344 893 8165

Included

Not included

Tax advice service:

0344 893 8165

Included

Not included

Health and medical information service:

0344 893 8165

Included

Not included

Counselling helpline:

0344 893 9012

Included

Not included

Helpline services:

(Domestic, Veterinary,
Childcare & Home help):

0344 893 8165

Included

Not included

Helpline services

We provide these services 24 hours a day, seven days a week during the **period of insurance**.

All helplines apply to the United Kingdom of Great Britain and Northern Ireland unless otherwise stated. To help us check and improve our service standards, we may record all calls.

To use the Legal Advice and Group Assistance Helpline Services, **insured persons** can phone us on **0344 893 8165** quoting the policy number or the name of the scheme.

The **insured person** should not phone us to report a general insurance claim.

Eurolaw legal advice helpline	0344 893 8165	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We will give the insured person confidential legal advice over the phone on any personal legal problem under the laws of the United Kingdom of Great Britain and Northern Ireland, any European Union country, the Isle of Man, the Channel Islands, Switzerland and Norway.</p> <p>Advice about the law in England and Wales is available 24 hours a day, seven days a week. Legal advice for the other countries is available 9am-5pm, Monday to Friday, excluding public and bank holidays. If an insured person calls outside these times, a message will be taken and a return call arranged within the operating hours.</p>			

Group assistance services

Tax advice service	0344 893 8165	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We will give the insured person confidential advice over the phone on personal tax matters.</p> <p>Tax advice is provided by tax advisers 9am-5pm, Monday to Friday, excluding public and bank holidays. If an insured person calls outside these times, a message will be taken and a return call arranged within the operating hours.</p>			

Health and medical information service	0344 893 8165	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We will give the insured person information over the phone on general health issues, and non-diagnostic advice on medical matters. Advice can be given on allergies, the side-effects of drugs and how to improve overall health. We can provide information on what health services are available in your area, including local NHS dentists.</p> <p>Health and medical information is provided by a medically qualified person 9am-5pm, Monday to Friday, excluding public and bank holidays. If an insured person calls outside these times, a message will be taken and a return call arranged within the operating hours.</p>			

Counselling helpline	0344 893 9012	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We will provide all insured persons with a confidential counselling service over the phone if they are aged 18 or over (or aged between 16 and 18 and in full-time employment) including, where appropriate, onward referral to relevant voluntary and/or professional services. The insured person will pay the costs for using any services we refer them to.</p> <p>This helpline is open 24 hours a day, seven days a week.</p>			

For the following helpline services the insured person will be responsible for paying the costs for the help.

Domestic help	0344 893 8165	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We will arrange help or repairs needed if the insured person has a domestic emergency in their home such as a burst pipe, blocked drain, broken window or building damage.</p> <p>This helpline is open 24 hours a day, seven days a week.</p>			

Veterinary help	0344 893 8165	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We can help find a vet who can offer treatment if the insured person's pet is ill or injured.</p> <p>This helpline is open 24 hours a day, seven days a week.</p>			

Childcare help*	0344 893 8165	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We can help the insured person find a range of childcare options in their area if an unforeseen event occurs (such as illness or injury to the insured person) and they need to make alternative childcare arrangements.</p>			

Home help*	0344 893 8165	<input type="checkbox"/> Included	<input checked="" type="checkbox"/> Not included
<p>We can help the insured person find cleaning staff, au pairs, and housekeepers if they need assistance to run their home in a crisis (such as illness or injury to the insured person).</p>			

*We can provide the **insured person** with contact details for these services 24 hours a day, seven days a week, but most of them only work during standard office hours. Outside of these times, we will contact them for the **insured person** the next working day and call the **insured person** back.

We will not accept responsibility if the helpline services are unavailable for reasons we cannot control.

Contents

2	Your policy schedule	10	Policy exclusions
2	Claims helpline	11	Policy conditions
2	Your cover	13	Privacy
2	Your helpline services	14	How to make a complaint
3	Helpline services	15	About DAS
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6	Welcome to group legal protection		
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9	Insured incidents		
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Welcome to group legal protection

Thank you for purchasing this **DAS** Group legal protection policy.

DAS Legal Expenses Insurance Company Limited ('**DAS**') is the underwriter and provides the legal protection insurance under your policy.

To make sure that you get the most from your **DAS** cover, please take time to read the policy which explains the contract between you and **us**. If you have any questions or would like more information, please contact your insurance adviser or **us** if you have bought the policy direct from **us**.

It will help if you keep the following points in mind:

How we can help

To make a claim under this policy, the **insured person** can phone **us** on:

0344 893 8165

We will ask the **insured person** about their legal dispute and if necessary call them back at an agreed time to give them legal advice. If their dispute needs to be dealt with as a claim under this policy, **we** will give them a claim reference number. At this point **we** will not be able to tell the **insured person** whether they are covered but **we** will pass the information they have given **us** to **our** claims handling teams and explain what to do next.

If the **insured person** prefers to report their claim in writing, they can send it to **our** Claims Department at the following address: **Claims Department | DAS Legal Expenses Insurance Company Limited | DAS Parc | Greenway Court | Bedwas | Caerphilly | CF83 8DW**

Or the **insured person** can email their claim to **us** at **newclaims@das.co.uk**

When we cannot help

We will not be able to help if **we** think there is little chance of winning the case. **Insured persons** should not ask for help from a solicitor or accountant before **we** have agreed. If they do, **we** will not pay the costs involved.



This is your group legal protection policy

- 1 This policy, the policy schedule and any endorsement shall be considered as one document.
- 2 This policy will cover the **insured person**. We agree to provide the insurance in this policy in accordance with the operative covers shown in the policy schedule on page 2 of this policy document as long as:
 - (a) the premium has been paid; and
 - (b) the **date of occurrence** of the insured incident happens during the **period of insurance** and within the **countries covered**; and
 - (c) any legal proceedings will be dealt with by a court, or other body which **we** agree to, in the **countries covered**; and
 - (d) for civil claims it is always more likely than not that the **insured person** will recover damages (or other legal remedy which **we** have agreed to) or make a successful defence.
- 3 For all insured incidents, **we** will help in appealing or defending an appeal as long as the **insured person** tells **us** within the time limits allowed that they want **us** to appeal. Before **we** pay the **costs and expenses** for appeals, **we** must agree that it is always more likely than not that the appeal will be successful.
- 4 If an **appointed representative** is used, **we** will pay the **costs and expenses** incurred for this.
- 5 The most **we** will pay for all claims resulting from one or more event arising at the same time or from the same originating cause is shown as the limit of indemnity in the policy schedule (refer to page 2 of this policy document).

The meaning of words in this policy

The following words have these meanings wherever they appear in this policy in **bold**:

appointed representative	The lawyer or other suitably qualified person, who has been appointed to act for the insured person in accordance with the terms of this policy.
costs and expenses	All reasonable and necessary costs chargeable by the appointed representative on a standard basis. Also the costs incurred by opponents in civil cases if the insured person has been ordered to pay them, or pays them with our agreement.
countries covered	England and Wales.
date of occurrence	For complaints made against an insured person in England, the date of occurrence is when an Ethical Standards Officer is assigned to investigate a complaint the Local Government Act 2000. For complaints made against an insured person in Wales the date of occurrence is when a Local Commissioner commences an investigation under Part III, Section 69 of the Local Government Act 2000.
insured person	Any elected, appointed or co-opted member of the policyholder .
period of insurance	The period for which we have agreed to cover the insured person .
the policyholder	As shown in the policy schedule.
we, us, our, DAS	DAS Legal Expenses Insurance Company Limited.

Insured incidents

What is covered	What is not covered Please also refer to the policy exclusions on page 10
Government act legal defence	
<p>1 We represent the insured person and negotiate for his/her legal rights throughout an investigation conducted by:</p> <ul style="list-style-type: none"> (a) an Ethical Standards Officer in England under the Local Government Act 2000; or (b) a Local Commissioner in Wales under Part III, Section 69 of the Local Government Act 2000; or (c) a Monitoring Officer following referral of a matter under Sections 69(4) or 71(2) of the Local Government Act 2000. <p>2 We will represent the insured person at a hearing of a Standards Committee convened in connection with 1(c) above.</p> <p>3 We will defend the insured person at an adjudication conducted by a Case Tribunal or Interim Case Tribunal under Section 76 of the Local Government Act 2000.</p> <p>4 We will appeal against a decision of a Case Tribunal or Interim Case Tribunal to suspend, partially suspend or disqualify the insured person as a member of the policyholder.</p>	

Policy exclusions

We will not pay for the following:

- 1 A claim where the **insured person** has failed to notify **us** of the insured incident within a reasonable time of it happening and where this failure adversely affects the prospect of successfully recovering damages (or getting any other legal remedy that **we** have agreed to) or of making a successful defence.
- 2 An incident or matter arising before the start of this policy.
- 3 **Costs and expenses** incurred before **our** written acceptance of a claim.
- 4 Fines, penalties, compensation or damages which the **insured person** is ordered to pay by a court or other authority.
- 5 A claim intentionally brought about by the **insured person**.
- 6 A claim relating to written or verbal remarks which damage the **insured person's** reputation.
- 7 A dispute with **us** not otherwise dealt with under Condition 8.
- 8 **Costs and expenses** arising from or relating to a judicial review.
- 9 A legal action that the **insured person** takes which **we** or the **appointed representative** have not agreed to or where the **insured person** does anything that hinders **us** or the **appointed representative**.
- 10 Any claim caused by, contributed to by or arising from:
 - ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from burning nuclear fuel;
 - the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear part of it;
 - war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, military force or coup, or any other act of terrorism or alleged act of terrorism defined in the Terrorism Act 2000;
 - pressure waves caused by aircraft or any other airborne devices travelling at sonic or supersonic speeds.
- 11 Apart from **us**, the **insured person** is the only person who may enforce all or any part of this policy and the rights and interests arising from or connected with it. This means that the Contracts (Rights of Third Parties) Act 1999 does not apply to this policy in relation to any third party rights or interest.
- 12 Any claim where an **insured person** is not represented by a law firm, barrister or tax expert.

Policy conditions

- 1 **The policyholder** must:
 - (a) keep to the terms and conditions of this policy;
 - (b) notify **us** immediately of any alteration which may materially affect **our** assessment of the risk.
- 2 **The insured person** must:
 - (a) keep to the terms and conditions of this policy;
 - (b) take reasonable steps to keep any amount **we** have to pay as low as possible;
 - (c) try to prevent anything happening that may cause a claim;
 - (d) send everything **we** ask for, in writing;
 - (e) give **us** full details of any claim as soon as possible and give **us** any information **we** need.
- 3 **(a)** **We** can take over and conduct in the name of the **insured person**, any claim or legal proceedings at any time. **We** can negotiate any claim on behalf of the **insured person**.
 - (b)** The **insured person** is free to choose an **appointed representative** (by sending **us** a suitably qualified person's name and address) if:
 - (i)** **we** agree to start legal proceedings and it becomes necessary for a lawyer to represent the interests of the **insured person** in those proceedings; or
 - (ii)** there is a conflict of interest.
 - (c)** In all circumstances except those in **3(b)** above, **we** are free to choose an **appointed representative**.
 - (d)** An **appointed representative** will be appointed by **us** to represent the **insured person** according to **our** standard terms of appointment, which may include a 'no-win, no-fee' agreement. The **appointed representative** must co-operate fully with **us** at all times.
 - (e)** **We** will have direct contact with the **appointed representative**.
 - (f)** The **insured person** must co-operate fully with **us** and the **appointed representative** and must keep **us** up-to-date with the progress of the claim.
 - (g)** The **insured person** must give the **appointed representative** any instructions that **we** ask for.
- 4 **(a)** The **insured person** must tell **us** if anyone offers to settle a claim.
 - (b)** If the **insured person** does not accept a reasonable offer to settle a claim, **we** may refuse to pay further **costs and expenses**.
 - (c)** The **insured person** must not negotiate or agree to settle a claim without **our** approval.
 - (d)** **We** may decide to pay the **insured person** the amount of damages that the **insured person** is claiming or is being claimed against them instead of starting or continuing legal proceedings.
- 5 **(a)** The **insured person** must tell the **appointed representative** to have **costs and expenses** taxed, assessed or audited, if **we** ask for this.
 - (b)** The **insured person** must take every step to recover **costs and expenses** that **we** have to pay and must pay **us** any **costs and expenses** that are recovered.

- 6 If an **appointed representative** refuses to continue acting for the **insured person** with good reason, or if the **insured person** dismisses an **appointed representative** without good reason, the cover **we** provide will end at once, unless **we** agree to appoint another **appointed representative**.
- 7 If the **insured person** settles a claim or withdraws their claim without **our** agreement, or does not give suitable instructions to an **appointed representative**, the cover **we** provide will end at once and **we** will be entitled to re-claim any **costs and expenses** paid by **us**.
- 8 If there is a disagreement about the handling of a claim and it is not resolved through **our** internal complaints procedure the Financial Ombudsman Service may be able to help. This is a free complaint resolution service for eligible complaints. (Details available from www.financial-ombudsman.org.uk)

Alternatively, there is a separate arbitration process available that can be used to settle any dispute with **us**. The arbitrator will be a jointly agreed barrister, solicitor or other suitably qualified person. If there is a disagreement over the choice of arbitrator, **we** will ask the Chartered Institute of Arbitrators to decide. The arbitrator will decide who will pay the costs of the arbitration. For example, costs may be split between the parties or one party may pay all the costs.

- 9 **We** may require the **insured person** to get, at their own expense, an opinion from an expert, that **we** consider appropriate, in the merits of the claim or proceedings, or on a legal principle. The expert must be approved in advance by **us** and the cost agreed in writing between the **insured person** and **us**. Subject to this **we** will pay the cost of getting opinion if the expert's opinion indicates that it is more likely than not that the **insured person** will recover damages (or obtain any other legal remedy that **we** have agreed to) or make a successful defence.
- 10 You can cancel this policy by telling **us** within 14 days of taking it out, or at any time afterwards as long as you tell **us** at least 14 days beforehand. **We** can cancel this policy at any time as long as **we** tell you at least 14 days beforehand.

Subject to the terms of business between you and the person who sold you this policy, you may be entitled to a partial refund of the premium.

It is important to note that charges may apply to any refund subject to the individual terms of business between you and the person who sold you this policy. Please contact them directly for full details of charges.

- 11 **We** will, at **our** discretion, void the policy (make it invalid) from the date of claim, or alleged claim, and/or **we** will not pay the claim if:
 - (a) a claim an **insured person** has made to obtain benefit under this policy is fraudulent or intentionally exaggerated, or
 - (b) a false declaration or statement is made in support of a claim.
- 12 **We** will not pay any claim covered under any other policy, or any claim that would have been covered by any other policy if this policy did not exist.
- 13 This policy will be governed by English law.
- 14 All Acts of Parliament within the policy wording shall include equivalent legislation in Scotland, Northern Ireland, the Isle of Man or the Channel Islands as the case may be.

Privacy

When you purchase and use a DAS product **we** will process personal information about you and anyone else whose details are provided to **us** to provide you with a service or a claim.

We process your personal information in accordance with **our** Privacy Notice. You can find **our** Privacy Notice online at www.dasinsurance.co.uk/legal/privacy-statement. Alternatively you can make a request for a printed copy to be sent to you by contacting dataprotection@das.co.uk

How to make a complaint

We always aim to give you a high quality service.

If you think we have let you down, you can contact us by:

- phoning **0344 893 9013**
- emailing **customerrelations@das.co.uk**
- writing to the **Customer Relations Department | DAS Legal Expenses Insurance Company Limited | DAS Parc | Greenway Court | Bedwas | Caerphilly | CF83 8DW**
- completing our online complaint form at **www.dasinsurance.co.uk/complaints**

Further details of our internal complaint-handling procedures are available on request.

If you are not happy with the complaint outcome or if we've been unable to respond to your complaint within 8 weeks, you may be able to contact the Financial Ombudsman Service for help. This is a free complaint resolution service for eligible complaints. (Details available from **www.financial-ombudsman.org.uk**)

You can contact them by:

- phoning **0800 023 4567** (free from mobile phones and landlines) or **0300 123 9123**
- emailing **complaint.info@financial-ombudsman.org.uk**
- writing to **The Financial Ombudsman Service | Exchange Tower | London | E14 9SR**

Further information is available on their website:

www.financial-ombudsman.org.uk

Using this service does not affect your right to take legal action.

About DAS

Registered Address:

**DAS Legal Expenses Insurance Company Limited |
DAS Parc | Greenway Court | Bedwas | Caerphilly | CF83 8DW**

Registered in England and Wales | Company Number 103274 |
Website: www.dasinsurance.co.uk

DAS Legal Expenses Insurance Company Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority (FRN202106) and the Prudential Regulation Authority.

Financial Services Compensation Scheme

We are covered by the Financial Services Compensation Scheme (FSCS). Compensation from the scheme may be claimed if **we** cannot meet **our** obligations. This will be dependent on the type of business and the circumstances of the claim. More information on the compensation scheme arrangements can be found on the FSCS website, www.fscs.org.uk

Your important information

Claims helpline

Call **0344 893 8165**

when you need to make a claim

Your helpline services

Eurolaw legal advice helpline

Included Not included

Call **0344 893 8165**

when you require legal advice

Tax advice service

Included Not included

Call **0344 893 8165**

when you require tax advice

Health and medical information service

Included Not included

Call **0344 893 8165**

when you require the health and medical information service

Counselling helpline

Included Not included

Call **0344 893 9012**

for confidential counselling

Helpline services

(Domestic, Veterinary, Childcare & Home help)

Included Not included

Call **0344 893 8165**

for the helpline services





STANDARDS COMMITTEE

Date of Meeting	Monday, 13 th January 2025
Report Subject	Public Services Ombudsman for Wales Consultation on the notification of complaints
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

When a complaint is made to the Public Services Ombudsman for Wales (PSOW) her staff assess it against the 2-stage test, in order to determine whether it should be investigated or not. Currently the PSOW does not notify the accused councillor that a complaint has been received until after this initial assessment. Until a few years ago, that was not the case, and councillors were notified of a complaint as soon as one was received.

The PSOW is now consulting on whether to resume its previous practice or whether to continue with the current approach.

RECOMMENDATIONS

1	That the proposed responses to the consultation at Appendix 2 are approved in principle.
2	That the Chief Officer Governance is given delegated authority to amend the proposed response in consultation with the Chair of this Committee, to reflect the outcomes of consultation with councillors.

REPORT DETAILS

1.00	EXPLAINING THE COMPLAINT TO THE PSOW
1.01	When the Public Services Ombudsman for Wales receives a complaint, her staff assess whether it should be investigated, applying the so called “two stage test” to establish whether there is sufficient evidence and public interest to justify an investigation.
1.03	Previous practice was to notify the accused councillor as soon as a complaint is received. That practice was changed some years ago and now a councillor only finds out about a complaint once the assessment has been completed and the Ombudsman has decided whether to investigate or not. The rationale for making that change is set out in the consultation paper itself.
1.04	In response to widespread press coverage of inappropriate comments by an ex-Ombudsman employee, the PSOW commissioned an independent review. That review was to establish whether processes, delegations, and decisions in relation to the assessment and investigation of complaints by the Code of Conduct Team, and the former team manager, had been sound and free from political bias.
1.05	The second recommendation of that review was “(2) Accused Member not informed of complaint until after assessment: in the interests of fairness and transparency, it is recommended that the PSOW considers reverting to the previous practice of notifying the Accused Member of the complaint once it is received. This would also protect the PSOW from criticism in that regard, which might arise from circumstances in which the Accused Member is unsuspected of the complaint and learns of its existence via a third party or the media...”.
1.06	The chief reason the PSOW changed its process was to reduce unnecessary worry for members on complaints which are not ultimately investigated. Only about 15% of complaints “pass” the 2-stage test and proceed to investigation. Another reason was that notification to the member of the full complaint on receipt of the complaint sometimes prompted the member to begin gathering their own evidence to defend their position and this also led to some “tit for tat” complaints being made.
1.07	The PSOW has issued a consultation paper which is attached at Appendix 1. In it, she asks a specific series of questions which, along with suggested responses, are attached at Appendix 2. The deadline for responses is 31 st January 2025.
1.08	All councillors have been sent a copy of this report and appendices. They have been asked for their views but clearly consultation over the Christmas period is not ideal. They have been given the deadline of Wednesday 22 nd January 2025 to respond, hence seeking delegated authority to amend the proposed responses in Appendix 2 in light of comments received.

2.00	RESOURCE IMPLICATIONS
2.01	None arising directly from the report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	All councillors have been asked for their views on the consultation questions.

4.00	RISK MANAGEMENT
4.01	The balance of risk between the two different approaches seems fairly evenly balanced. The accused councillor may feel as though they have lost an opportunity to influence a significant process as it relates to them under the current process. Conversely, the majority of complaints do not proceed to investigation so there is a risk of causing anxiety and potentially generating unnecessary correspondence on a complaint that won't proceed, by reverting to the previous practice.

5.00	APPENDICES
5.01	Appendix 1 – PSOW consultation paper Appendix 2 – proposed responses to the consultation questions

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: Gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	None.

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Ombwdsmon
Ombudsman
Cymru · Wales

PSOW Consultation on its practice of not informing an Accused member of a complaint until after it has been assessed

The consultation will close on 31 January 2025, 23:59.

Recommendation 2 of Dr Melissa
McCullough's
[Independent Review](#)

If you need this document in another format,
please contact us at
communications@ombudsman.wales

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.

This document is also available in Welsh.

Introduction

Following the discovery of the inappropriate use of social media by a former team manager in the spring of this year, concerns were raised about the impartiality and independence of the office, particularly in relation to the handling of complaints about local councillors who may have breached the Code of Conduct for members.

The Public Services Ombudsman for Wales (“PSOW”) therefore commissioned an independent review, to establish whether processes, delegations, and decisions in relation to the assessment and investigation of complaints by the Code of Conduct Team, and the former team manager, had been sound and free from political bias.

Dr Melissa McCullough¹ was appointed to lead the review.

¹ Dr Melissa McCullough is the Commissioner for Standards for the Northern Ireland Assembly (since 2020) and also the Commissioner for Standards for the Jersey and Guernsey States Assemblies (since March 2023).

Key Findings from the Independent Review

The Review concluded that:

- The PSOW's Code of Conduct processes and delegations are robust, in terms of safeguarding, fairness and impartiality. They are systematic, well documented and supplemented with appropriate guidance and the reasoning for decisions is required to be recorded and explained, as applicable.
- All decision-making is based solely on evidence, facts, and solid, well-articulated reasoning and, as such, there was no evidence of political bias. The case review found no evidence that the decision-making on any of the cases reviewed was influenced by any political affiliation of the person who made the complaint and/or the member who was complained about.
- There was no evidence that the former team manager expressed her personal views on political matters “akin to her social media posts” in the office and/ or inappropriately influenced any other staff members, in the performance of their duties under the Local Government Act 2000.

The review made recommendations to improve the current safeguards for ensuring fairness and impartiality. Lessons learned were also identified to lessen the risk of this type of thing happening again in the future.

PSOW Response

The Public Services Ombudsman for Wales welcomed the report and accepted all of the recommendations and the lessons learned in the Report.

Recommendation 2 of the Report was as follows:

“(2) Accused Member not informed of complaint until after assessment: in the interests of fairness and transparency, it is recommended that the PSOW considers reverting to the previous practice of notifying the Accused Member of the complaint once it is received. This would also protect the PSOW from criticism in that regard, which might arise from circumstances in which the Accused Member is unsighted of the complaint and learns of its existence via a third party or the media. If the PSOW decides to revert to the previous practice, the process manual will need to be amended accordingly”.

This issue was considered in terms of the fairness of the process. The PSOW’s current practice is that a member who is complained about (“Accused Member”) is not informed about the complaint until after the assessment process has been completed and the complaint is either rejected or is deemed to have met

the 2-stage test for an investigation to commence. If it is decided not to investigate, the Accused Member is provided with a redacted copy of the statement of reasons but generally does not receive a copy of the complaint. If it is decided to investigate, the Accused Member is provided with a redacted copy of the complaint when they are informed of the PSOW’s decision to investigate the complaint.

Previous to the process referred to above, the PSOW would have notified the Accused Member of the complaint once it was received. Prior to taking the decision to change the process, the PSOW consulted with Monitoring Officers via the Local Government Monitoring Officers’ Group network to explain the reasons for the change. The chief reason was to reduce unnecessary worry for members on complaints which are not ultimately investigated. Another reason was that notification to the member of the full complaint on receipt of the complaint sometimes prompted the member to begin gathering their own evidence to defend their position and this also led to some “tit for tat” complaints being made and involved pre-assessment discussions with the Accused Member. PSOW were of the view that changing

the approach to the current one was a more efficient use of resources. After trialling this new approach for a few months, no concerns were raised by Monitoring Officers, and this process was adopted.

Code of Conduct Complaints data

The PSOW publishes annual complaints data in its [Annual Reports](#).

During [2023/24](#), we assessed 311² complaints about the Code of Conduct, of which 48 (approximately 15%) were investigated and 263 were closed at the assessment stage of our process (approximately 85%).

In line with our Key Performance Indicators³ we aim to close cases at the assessment stage of our process or take decisions to start investigations within 6 weeks of having all the information we need from a complainant.

PSOW's response to this recommendation

As part of its response to this Recommendation, the PSOW is consulting on this aspect of its procedure.

This consultation seeks the views of Monitoring Officers, One Voice Wales, the WLGA, members of county and county borough councils, community & town councils, fire and rescue authorities, national park authorities and police and crime panels in Wales via these representative groups, the President of the Adjudication Panel for Wales and local standards committees.

The responses to this consultation, together with evidence gathered on the practice of other regulatory bodies who undertake work of a similar nature to PSOW's Code of Conduct work and any resource implications for PSOW will be carefully considered before the PSOW decides whether to revert back to its previous practice.

² Closed Code of Conduct Complaints – Page 28 of PSOW's Annual Report for [2023/24](#)

³ Key Performance Indicators are shown on Page 128 of PSOW's Annual Report for [2023/24](#)

Consultation Questions

1. Do you consider that the PSOW should continue its current practice of notifying the Accused Member of a complaint once it has been closed at the assessment stage of its process or when notifying an Accused Member of a decision to start an investigation?

If so, please outline your reasons for holding this view.

What effects do you think there would be of continuing this practice?

2. Do you consider that the PSOW should revert back to its previous practice of notifying the Accused Member of a complaint once it has been received?

If so, please outline your reasons for holding this view.

What effects do you think there would be of adopting this practice?

3. We have asked these specific questions to help us respond to Recommendation 2 of the Independent Review. If you have other comments to make about this specific Recommendation, please outline them for us.

How to Respond

Please submit your comments by **31 January 2025** by emailing responses to communications@ombudsman.wales.

Privacy Statement

For this consultation we may publish a summary of the responses but will remove personal data before publication. We will not publish individual responses. Read more about what we do with personal data in our [Privacy Notice](#).

Public Services Ombudsman for Wales

1 Ffordd yr Hen Gae

Pencoed

CF35 5LJ

Tel: 0300 790 0203

Website: www.ombudsman.wales

Email: ask@ombudsman.wales

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

Consultation Questions and Proposed Responses

1. Do you consider that the PSOW should continue its current practice of notifying the Accused Member of a complaint once it has been closed at the assessment stage of its process or when notifying an Accused Member of a decision to start an investigation? If so, please outline your reasons for holding this view.

What effects do you think there would be of continuing this practice?

Proposed response: *The current practice does spare councillors the worry of knowing about a complaint which is statistically unlikely to proceed to investigation. Equally, it removes the opportunity for councillors to make representations on a decision that could potentially affect them.*

Clearly, councillors have the opportunity to explain their actions during any subsequent investigation, but the timescale for an investigation are much longer. They may therefore need to put up with a longer period of uncertainty and anxiety under the current practice.

Conversely, I appreciate that an accused councillor, on being notified of a complaint, may seek to engage in dialogue and correspondence with PSOW employees. This will, no doubt, be a draw on capacity and elongate the assessment stage to the distress of the complainant.

The arguments seem to be very finely balanced. Given that the process needs to be managed within limited resources as quickly as possible then whichever option delivers those outcomes should be favoured.

2. Do you consider that the PSOW should revert back to its previous practice of notifying the Accused Member of a complaint once it has been received?

If so, please outline your reasons for holding this view.

What effects do you think there would be of adopting this practice?

Proposed response: *No, see response above.*

3. We have asked these specific questions to help us respond to Recommendation 2 of the Independent Review. If you have other comments to make about this specific Recommendation, please outline them for us.

Proposed response: *no additional comments.*

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FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME 2024/25

Date of Meeting	Topic	Notes/Decision/Action
June 2025	<ul style="list-style-type: none"> • Training • Election of chair and vice chair • Dispensations • Annual Report • Forward Work Plan 	
April 2025	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Rolling Review of the Officers' Code of Conduct – last reported May 23 • Planning Protocol • Forward Work Plan 	The Planning Protocol will be reviewed this month if not consider in March
March 2025	<ul style="list-style-type: none"> • Rolling Review of Protocol on Member/Officer relations – last reported in June 2024 • Rolling Review of Flintshire Standard • Planning Code of Practice • Training • Dispensations • Feedback from Standards Forum • Feedback from ELM • Forward Work Plan 	<p>Assuming that the national work to produce a model LRP has concluded , which is unlikely.</p> <p>If we review the member/officer relations protocol then the Planning Protocol will be postponed to April</p>
January 2025	<ul style="list-style-type: none"> • Training • Dispensations 	

	<ul style="list-style-type: none"> • Indemnity Policy for Members • Overview of Ethical Complaints • Suggested agenda items for Standards Forum • Suggested items for ELM • Outcome of PSOW Investigation • Forward Work Plan 	Report by Matt Powell
<p>November 2024 Joint meeting with T&CCs</p>	<ul style="list-style-type: none"> • Training • Dispensations • Items raised by Town and Community Councils • Training needs for Town and Community Councils • Outcome of PSOW Investigation Reference 202309367 • Forward Work Plan 	<p>Verbal Report Report by Gareth Owens Report by Gareth Owens</p>
<p>September 2024</p>	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Public Services Ombudsman for Wales Annual Report for the year 2023/24 • Code of Conduct Complaint: Update on Hearing Arrangements • Feedback from Independent Member Visits to Town and Community Councils • Feedback from Independent Member Attendance at Meetings of the County Council • Forward Work Plan 	<p>Report by Gareth Owens Report by Gareth Owens</p> <p>Report by Matt Powell</p>
<p>Reports to be scheduled – National Standards Conference</p>		



STANDARDS COMMITTEE

Date of Meeting	Monday 13 th January 2025
Report Subject	Overview of Ethical Complaints
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

This report shows a summary of the ethical complaints alleging a breach of the Code that have been submitted to the Public Services Ombudsman for Wales (PSOW). As per the Committee's resolution, the complaints distinguish between different Councils and Councillors whilst still remaining anonymous.

The report gives the Committee an understanding of the number and types of complaints being made, and the outcome of consideration by the PSOW. Since the last report (2nd September 2024) 5 complaints have been received of which none have been investigated. An investigation into a complaint dating back to 2023 has been concluded as is the subject of a separate report on this agenda.

RECOMMENDATIONS

1	That the Committee notes the number and type of complaints.
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REPORT DETAILS

1.00	NUMBER OF COMPLAINTS
1.01	<p>The attached spreadsheet at Appendix A lists in summary form the complaints received during 2022/2023, 2023/2024 and 2024/2025. Each entry lists:</p> <ul style="list-style-type: none"> the Ombudsman's reference number (year/4 digit reference) the type of Council (Community, County or Town) the complainant (Councillor, officer, public) the provisions which are alleged to have been breached the decision at each of the 3 stages of investigation
1.02	<p>Since the last report:</p> <p>a) 4 new complaints 2024/04339, 202405369, 202405794, 202406270 and 202406271 were made but were not investigated</p>

	<p>b) Complaint 2023/00532 has been concluded and is the subject of a separate report;</p> <p>c) Complaints 2023/07129, 2023/07130, 2023/07895, 2023/09254 and 2024/01984 are still being investigated.</p>
1.03	<p>Of the 5 complaints received since the last report none have been investigated. 2 relate to the same community councillor and both relate to social media complaints which were felt to be offensive. This community councillor has been the subject of previous similar complaints. The social media posts skirt the boundaries of what is permissible with respect to race and religion. The PSOW has noted in one such decision (<i>italics added by me for emphasis</i>)</p> <p>“Everyone has the right to freedom of expression under Article 10 of the European Convention on Human Rights ... When acting as an elected member ... a member’s freedom of expression is afforded enhanced protection, more so than an ordinary member of the public. <i>Further, as politicians, members are likely to be afforded protection even where the language used by them may be inflammatory.</i> The right to free expression protects both popular and unpopular expression, including speech that others may not agree with, and which might shock or offend others. Political comments are not confined to the Council chamber and can include comments members may make generally about ... government policies and political matters.</p> <p>... Where a complaint relates to the conduct of a councillor who is exercising their right to freedom of expression under Article 10 of the European Convention on Human Rights, the Ombudsman must carefully consider whether an investigation and any sanction which might ultimately be imposed on the member would be a proportionate interference with those rights. <i>Case law on this issue has found that such interference is only likely to be proportionate if the language used was extremely serious and outrageous. As outlined above, the right to freedom of expression is to entitle a person to say things which everyone does not agree with, or which may offend and shock other people. I consider that, while the Member’s comments may have offended some, he had an Article 10 right to express his views.</i> As such, any finding of a breach of the Code would amount to a disproportionate interference with the Member’s right to freedom of expression.”</p>
1.04	<p>So, whilst the councillor appears to have controversial views and to be attracting a lot of complaints, it is to be noted that he has the right to say such things even if they are regarded as offensive. Such comments might be regarded as worthy of investigation if they</p> <ol style="list-style-type: none"> 1) Are directly insulting to a specific person or persons; 2) They incite violence; 3) They are otherwise regarded as being egregious, extremely serious or outrageous
1.05	<p>5 complaints are still under investigation (though 2 relate to the same incident and simply reflect that the councillor is dual hatted). With the conclusion of 1 further investigation, it is good to see that the number of outstanding cases has fallen from 7 since September.</p>

1.06	This report is correct as at the date of preparation (December 2024). If we are notified of the outcome of any complaints after this date, they will be included in the next quarterly report.
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2.00	RESOURCE IMPLICATIONS
2.01	None associated with the complaints recorded in this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None.

4.00	RISK MANAGEMENT
4.01	None

5.00	APPENDICES
5.01	Appendix A - Number of complaints.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Public Services Ombudsman for Wales – the Ombudsman investigates service complaints and alleged breaches of the code. The Ombudsman will only investigate an alleged breach of the Code if there is clear evidence of a breach and it is in the public interest to do so.

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PSOW Reference	Type of Council	Councillor	Complainant	Alleged breach	Outcome by stage		
					Gatekeeper	Investigation	Hearing
2023/00482	County	A	Public	It was alleged that the Member called the First Minister "Führer" on Facebook and this was a slur comparing the Labour party with the Nazi party. It is alleged that the Member's claim that he simply used the German word for leader was not credible.	PSOW did not investigate. The Member clearly identified himself on Facebook as a Councillor therefore the PSOW was satisfied that the Code of Conduct was engaged. The language used by the Member, calling the First Minister "Führer", is offensive and not language that the Ombudsman would condone. Given the context, the explanation that it was a simple translation of the word "leader" lacks credibility. It is likely that the language used is suggestive of a breach of paragraph 4(b) of the Code of Conduct. An investigation into this matter would not be in the public interest. It is not uncommon for elected members to say things about political opponents which others may consider to be rude or offensive. However, it is not the purpose of the Code to inhibit free speech and the robust expression of political differences.		
2023/02636	Town 2	C	Public	It was alleged that the Member was in breach of the requirement not to bully or harass any person by engaging in intimidating behaviour towards a staff member, when they questioned them on whether minutes that had been prepared, accurately reflected a Council meeting and in a separate incident at a meeting where he told them they were not to be trusted.	When assessing matters concerning Council Officers, it is necessary to consider if the allegations are supported by evidence that a member has gone beyond what might be regarded as reasonable challenge. The PSOW assessed the comments the Member is alleged to have made when questioning the meeting minutes and was not persuaded that what the Member is alleged to have said could be considered to have passed the threshold of reasonable challenge. Whilst the Member has made comments which could be considered offensive or rude to the staff member, they were not so serious that, even if a breach of the Code were proven, a sanction would be a proportionate interference with the Member's right to freedom of expression. The Complainant also alleged that the Member told the staff member that she was not to be trusted. The Ombudsman's Guidance to members on the Code states that harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, that may happen once or be part of a pattern of behaviour. Having considered the information provided, the PSOW not persuaded the Member's comment was so serious that it would be likely to amount to a breach of the Code of Conduct.		
2023/01712	County	D	Councillor	It was alleged that the Member behaved inappropriately during Council meetings, by making inappropriate gestures and shouting.	PSOW did not investigate. Evidence was not provided to substantiate the complaint. The conduct complained about does not meet the first stage of the test, as set out above, therefore, there is no need to consider the second stage of the test.		
2023/02892	Community 2	E	Councillor	It was alleged that the Member made disrespectful comments towards a member of the public in response to a speech made by the member of the public during a Community Council meeting. It was also alleged that the Member was corrupt, that they were a member of a clique of councillors who voted for each other and did not allow others to put suggestions forward. The Complainant said that they felt unsupported by the Community Council and that nothing was achieved by the Community Council because of the behaviour of the clique of councillors.	PSOW did not investigate. The matters complained about were unlikely to amount to a breach of the Code. It was alleged that the Member accused the member of the public of "waffling about nature" and suggested that they and others who supported them had brought the situation upon themselves. Whilst the Complainant may have been offended by the Member's comments, the PSOW did not consider that the Member's comments were sufficiently offensive, intimidating or insulting to amount to a breach of the Code. In relation to the allegation of corruption, no evidence was provided to substantiate the complaint.		
2023/03339	County	D	Public	It was alleged that the Member failed to declare a personal and prejudicial interest in a planning application that was considered by the Authority's Planning Committee in June 2023, and that they made inappropriate comments during the Planning Committee's consideration of the matter.	PSOW did not investigate. (1) The Complainant said that the Member was friends with the Director of the housing development company ("the Director"), who had submitted the planning application and that their friendship was public knowledge. A series of photographs and screenshots provided in support of the complaint showed that the Member had posted their thanks to the housing development company for its support on various local initiatives and events on more than one occasion. The Director was not named in any of the posts, and the PSOW not persuaded that they demonstrated a close personal relationship between the Member and the Director. The Complainant said that the Member had assisted the Director in marketing homes on behalf of the housing development company. However, the evidence provided in support of the complaint demonstrated that the Member had shared information about a housing scheme by a property management company. The PSOW did not consider that they demonstrated a close personal association between the Member and the Director as it is not uncommon for elected members to share information that may be of interest to their electorate on their		
2023/03774	County	F	Public	It was alleged that the Member had breached the Code of Conduct ("the Code") because they failed to give adequate advice to the complainant about action they should take regarding damage to his car caused by driving over a large pothole. The complainant also indicated they were unhappy that the Member had failed, as an official, to respond to his enquiries.	PSOW did not investigate. The Member did provide advice, as asked, and while the PSOW noted the complainant did not like the response, his follow up email to the Member contained language that could also be considered discourteous. If the Member decided not to respond further, because he had already shared the advice he was given, that is a matter for him, and he was under no obligation to respond further.		
2023/03046	Town 1	G	Public	It is alleged that the Councillor has failed to disclose matters to the relevant authorities despite that being part of their bail conditions, and that they have also broken their bail conditions by approaching their estranged spouse and their property. It is alleged that the Police are aware, and all incidents are due to be heard in court in August 2023.	Investigation concluded	The member was convicted of various criminal offences and was sentenced to a suspended prison term. As a consequence the members is disqualified from standing for public office for 5 years under election law. The code had been breached but no further action is required	
2023/00532	Community 1	B	Councillor	Breach of the Code relating to declarations of interest and not declaring a personal and prejudicial interest on a planning application.	Investigation concluded	The Councillor was found to have breached paragraphs 4(b) respect and 6(1) a disrepute of the code but no action needed to be taken in light of their acceptance that their behaviour was ill judged & poor, and apparent remorse.	
2023/06712	Community 1	H	Councillor	It was alleged that at a Community Council meeting in November 2023 a member of the Community Council made a statement which was threatening and appeared to be directed at other members and the Member had nodded in agreement. The Complainant also said there appeared to be an association between the Member, a local business which had a retrospective planning application before the Community Council and a private group on social media. The Complainant said the Member had been involved in setting up the Facebook Group which had organised community activities receiving donations for refreshments from the business. The Complainant said that when the retrospective planning application came before the Community Council for discussion in March 2023 no interests were declared, and the Member did not "recurse" [sic] himself despite being a member of Flintshire County Council's Planning Committee.	The PSOW did not investigate because there was no evidence as to the nature of the statement, why the statement appeared to be directed at other councillors nor of the link between the councillor, the FB group and the business. Councillors are able to consider planning applications at both community and county council. This is one of a series of 4 complaints (06712 - 06715) from the same councillor about other members of the community council.		
2023/06713	Community 1	I	Councillor	It was alleged that at a Community Council meeting in November 2023 a member of the Community Council made a statement which was threatening and appeared to be directed at other members and the Member had nodded in agreement. The Complainant also said there appeared to be an association between the Member, a local business which had a retrospective planning application before the Community Council and a private group on social media. The Complainant said the Member had been involved in setting up the Facebook Group which had organised community activities receiving donations for refreshments from the business. The member passed on an invitation from the business to tour its premises. The Complainant said that when the retrospective planning application came before the Community Council for discussion in March 2023 no interests were declared.	The PSOW did not investigate because there was no evidence as to the nature of the statement, why the statement appeared to be directed at other councillors nor of the link between the councillor, the FB group and the business. In addition, The information presented suggested that the business approached the Member with an invitation for the Community Council, which he then shared with the Clerk. That approach is not in itself suggestive of a personal interest but, following advice from the Clerk, and other member's responses, the Member subsequently advised the business that the Community Council would decline the invitation. This is one of a series of 4 complaints (06712 - 06715) from the same councillor about other members of the community council.		
2023/06714	Community 1	J	Councillor	It was alleged that at a Community Council meeting in November 2023 a member of the Community Council made a statement which was threatening and appeared to be directed at other members and the Member had nodded in agreement. The Complainant also said there appeared to be an association between the Member, a local business which had a retrospective planning application before the Community Council and a private group on social media. The Complainant said the Member had been involved in setting up the Facebook Group which had organised community activities receiving donations for refreshments from the business. The Complainant said that when the retrospective planning application came before the Community Council for discussion in March 2023 no interests were declared.	The PSOW did not investigate because there was no evidence as to the nature of the statement, why the statement appeared to be directed at other councillors nor of the link between the councillor, the FB group and the business. This is one of a series of 4 complaints (06712 - 06715) from the same councillor about other members of the community council.		

2023/06715	Community 1	K	Councillor	It was alleged that at a Community Council meeting in November 2023 a member of the Community Council made a statement which was threatening and appeared to be directed at other members and the Member had nodded in agreement. The Complainant also said there appeared to be an association between the Member, a local business which had a retrospective planning application before the Community Council and a private group on social media. The Complainant said the Member had been involved in setting up the Facebook Group which had organised community activities receiving donations for refreshments from the business. The Complainant said that when the retrospective planning application came before the Community Council for discussion in March 2023 no interests were declared. The Complainant also said the business was aware of private discussions within the Council and he alleged that the member had disclosed confidential information. In addition, the Complainant	The PSOW did not investigate because there was no evidence as to the nature of the statement, why the statement appeared to directed at other councillors nor of the link between the councillor, the FB group and the business. In addition, With regard to the exchange on FB there was no evidence to suggest what social media platform or group this was on or what capacity the Member was acting in at the time, and the PSOW did not consider that the information presented suggested a close personal association. In respect of the disclosure of private information, no evidence was presented to support this. This is one of a series of 4 complaints (06712 - 06715) from the same councillor about other members of the community council.		
2023/07069	Community 1	I	Councillor	It was alleged that the Member made a statement at a Community Council meeting in November 2023 which was designed to intimidate, threaten and stifle debate. The Complainant said the statement was aimed at her, and if the Member had a legitimate reason to question the integrity of a Member, they should do this through the appropriate procedure. The Complainant also said the Member had misled her and the Clerk about his reason for not attending a Local Resolution meeting about the matter and his behaviour lacked respect.	PSOW did not investigate. Evidence had not been provided to substantiate the complaint, Whilst the Complainant said the statement appeared to be aimed at her, no evidence was presented to support this or to indicate what the statement was about. The PSOW thought the statement could be reasonably said to fall within the realms of freedom of expression . This is one of a series of four complaints (07069 - 07072) from the same councillor. The complaints relate to the same meeting as complaints 06712 - 06715.		
2023/07070	Community 1	H	Councillor	It was alleged that at a Community Council meeting in November 2023, the Accused Member declared an interest in a Policing item and another Member then made a statement which was designed to intimidate, threaten and stifle debate. The Complainant said the statement was aimed at her, and if the Accused Member had a legitimate reason to question the integrity of a member, they should do this through the appropriate procedure. The Complainant also said she had agreed to seek Local Resolution but had had no communication as to why the Accused Member did not wish to engage in the process, and his behaviour lacked respect.	PSOW did not investigate. Evidence had not been provided to substantiate the complaint, Whilst the Complainant said the statement appeared to be aimed at her, no evidence was presented to support this or to indicate what the statement was about. The PSOW thought the statement could be reasonably said to fall within the realms of freedom of expression . This is one of a series of four complaints (07069 - 07072) from the same councillor. The complaints relate to the same meeting as complaints 06712 - 06715.		
2023/07071	Community 1	K	Councillor	see 2023/07070	PSOW did not investigate. Evidence had not been provided to substantiate the complaint, Whilst the Complainant said the statement appeared to be aimed at her, no evidence was presented to support this or to indicate what the statement was about. The PSOW thought the statement could be reasonably said to fall within the realms of freedom of expression . This is one of a series of four complaints (07069 - 07072) from the same councillor. The complaints relate to the same meeting as complaints 06712 - 06715.		
2023/07072	Community 1	J	Councillor	see 2023/07070	PSOW did not investigate. Evidence had not been provided to substantiate the complaint, Whilst the Complainant said the statement appeared to be aimed at her, no evidence was presented to support this or to indicate what the statement was about. The PSOW thought the statement could be reasonably said to fall within the realms of freedom of expression . This is one of a series of four complaints (07069 - 07072) from the same councillor. The complaints relate to the same meeting as complaints 06712 - 06715.		
2023/07136	Community 1	I	Councillor	It was alleged that at a community council meeting in November 2023, the Member showed bullying and threatening behaviour to members of the Community Council and breached the Code of Conduct ("the Code"). The Complainant said that if the Member had a legitimate complaint about any member of the Community Council, he should have raised it outside of the meeting using the complaints procedure. The Complainant also said that the Member made no attempt to agree to a meeting via the Local Resolution policy.	PSOW did not investigate - whilst the Complainant said the Member had shown bullying and threatening behaviour to members of the Community Council, the context and nature of the behaviour, what was said, to whom and when was not provided. The PSOW considered the available draft minutes of the meeting, and it is recorded that in relation to a policing matter, the Member said comments had been made on social media against himself and he had sought legal advice, however no details or explanation of what he was referring to were given. The PSOW did not consider the nature of the Member's recorded comments to be unreasonable. The comments referred to could be reasonably said to fall within the realms of freedom of expression and whilst they may have caused offence to the Complainant or others, the PSOW did not consider they are extreme or that the Member's conduct could amount to a breach of the Code. The Ombudsman generally regards this sort of behaviour in a council meeting as a matter for the Chair of that meeting to address. This complaint is made by a 3rd councillor and relates to the same meeting as complaints 06712 - 06715.		
2023/07129	County	L	Public	During Storm Babet the councillor is alleged to have abused their power to secure sandbags for their family when no one else was given sandbags.	Under investigation		
2023/07130	Town 3	L	Public	As above - the councillor is dual hatted.	Under investigation		
2023/09254	Town 4	M	Public	It is alleged that the Councillor has breached the code of conduct and abused their position as a councillor.	Under investigation		

PSOW Reference	Type of Council	Councillor	Complainant	Alleged breach	Outcome by stage		
					Gatekeeper	Investigation	Hearing
2023/09367	County	A	Councillor	Alleged breaches of paragraphs 6(1)a (disrepute), 7a (securing improper advantage for self or others) and 9(b) (avoid accepting gifts +/- or hospitality that appear to place one under improper obligation)		PSOW found there was a very clear appearance that acceptance of the offer of a donation from a local business person might place councillors under an improper obligation, in other words that the business person may have been expecting something improper in return for a generous financial donation. The offer was rejected so the code was not breached. Member recommended to undertake further training	
2023/07895	County	B	Officer	Alleged breaches of paragraphs 4(b) respect, 6(1)a disrepute, 8(a) decision making on the merits and 11 + 14 disclosure of interests	Under Investigation		
2023/10251	County	C	Public	It was alleged that the Member used aggressive and threatening language when corresponding with the Complainant's legal representative about a planning application. It was also alleged that the Member took 8 months to respond to a query, and shared confidential information.	The member's response lacked courtesy but wasn't disrespectful. No evidence was supplied by the complainant to support the alleged breach of confidence.		
2023/10322	County	D	Public	The Complainant said the Member: Refused to meet to discuss the application even though they are his constituent. Presented false information to a Community Council meeting about the planning application and used a mocking and condescending tone in discussing it, tried to sway the opinion of the Council's Planning Committee during a site visit about the planning application and spoke against the planning application at a council meeting and claimed he had been unable to view the site.	A member is entitled to choose whether or not to meet a resident. There comments at the Planning Committee were reasonable. No evidence was supplied by the complainant in relation to the other allegations and so they were not considered		
2024/01189	Community 1	E	Public	It was alleged that the Member had breached the Code of Conduct ("the Code") regarding a parking matter. The Complainant said that when they parked their vehicle on a road near the Member's driveway, the Member subsequently parked 2 of his own vehicles so close to the Complainant's vehicle that they were blocked into a tight space and needed help to move their car. The Complainant said the Member's conduct was deliberate, selfish, chauvinistic and malicious and when they got home, they reported the matter to the Police. The Complainant also said that the Member's correspondence with the Council's Monitoring Officer about the incident contained "lies and hubris".	PSOW did not investigate - the cllr's actions appeared to be in a private capacity and of insufficient gravity to amount to bringing the office of councillor into disrepute		
2024/00325	Community 2	F	Public	The member had posted a message on Facebook saying that the President Jo Biden was making a mistake allowing Islam in to the country.	The member's comment was capable of causing offence. It was not sufficiently extreme to justify interfering with the member's freedom of political speech under Article 10 freedom of political expression.		
2024/01984	County	G	Public	Cllr alleged to have revealed complainant's personal data to a neighbour, resulting in abuse.	Under investigation		
2024/01739	Community	H	Public	Cllr alleged to have used abusive language towards the complainant in the pub.	The council was acting in a private capacity and not on council business. The behaviour was "a fleeting outburst" that would not affect confidence in their role as a councillor.		
2024/04339	Community 2	F	Public	It was alleged that the Member had made racist posts on Facebook. The complainant said the Member had assumed that a person of colour was an illegal immigrant and that they incited violence.	PSOW did not investigate		
2024/04339	Community 2	F	Public	Cllr posted comment on FB the Member assuming that a person of colour was an illegal immigrant and that he incited violence	PSOW did not investigate because the offending posts were not supplied. The complaint therefore failed the stage 1 test		
2024/05369	Community 2	F	Public	It was alleged that the Member made inappropriate comments on Facebook, which were "at best misguided and at worst racist and intended to stir hatred."	PSOW did not investigate. The PSOW considered that (given the riots) the Member's comments could be considered to be recklessly made with no knowledge of the immigration status of the person in the article. However, the Member did not appear to encourage any explicit action to be taken against any specific individual, or against immigrants more generally. While he asked people to contact their MP to express negative views about immigration, this was not targeted at anyone in particular, and in itself is not a violent or aggressive act.		
2024/06270	County	I	Public	It was alleged that the member had made unsubstantiated comments about their planning application and used insulting and inappropriate language. The Complainant also alleged that the Member failed to respond to correspondence or meet with them to discuss the application	The members' language at committee did not breach what was permitted under Article 10 freedom of political expression. Whilst the Complainant's disappointment that the Member objected to their application and did not respond to correspondence or seek their views on the application is noted, this is not in itself evidence of a breach of the Code.		
2024/06271	County	J	Public	It was alleged that the member had made unsubstantiated comments about their planning application and used insulting and inappropriate language. The Complainant also alleged that the Member failed to respond to correspondence or meet with them to discuss the application	The members' language at committee did not breach what was permitted under Article 10 freedom of political expression. Whilst the Complainant's disappointment that the Member objected to their application and did not respond to correspondence or seek their views on the application is noted, this is not in itself evidence of a breach of the Code.		
2024/05794	Town 1	k	Public	It was alleged that the member had brought their office into disrepute by leaving 3 sacks of building rubble on the pavement outside a property which they owned thereby preventing the pavement being resurfaced	PSOW had not seen any evidence to suggest a link to political matters or the Member's role or authority, and as such was not persuaded the evidence is suggestive of, or capable of amounting to, a breach of paragraph 6(1)(a) or 7(a) of the Code		

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