The investigation of a complaint against Councillor Robert Lewis of Pembrokeshire County Council

A report by the Public Services Ombudsman for Wales
Case: 201203889
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Introduction

Report by the Public Services Ombudsman for Wales on the investigation of a complaint made against Councillor Robert Lewis of Pembrokeshire County Council, of a breach of the Council’s statutory code of conduct for members.

This report is issued under section 69 of the Local Government Act 2000.
Summary

The complainant said that he received a DVD anonymously which showed that Councillor Lewis had improperly used the Council’s computer system to prepare election materials for colleagues.

Councillor Lewis was interviewed and admitted that he used the Council’s computer system to prepare election materials, but said that he did not use the Council’s resources to print these articles. Councillor Lewis said that he had been wrongly under the impression that the Council’s system could occasionally be used for other purposes.

The Ombudsman referred Councillor Lewis to the Pembrokeshire Council’s Standards Committee to consider whether paragraph 7 (b) (v) has been breached, that is that the resources of the authority should not be improperly used for political purposes.
The complaint

1. Councillor Bryan said he received, anonymously, a DVD\(^1\) that appeared to show Councillor Lewis had used the Council’s computer systems to create election materials for his colleagues. On 21 January 2013, Councillor Lewis was informed that I intended to start an investigation as he appeared to have failed to observe the code of conduct for members of Pembrokeshire County Council. A copy of my investigation letter is attached at Appendix D.

Legal background

2. As required by Part III of the Local Government Act 2000 (the Act), Pembrokeshire County Council has adopted a code of conduct for members which incorporates the provisions of a model code contained in an order made by the Welsh Ministers.\(^2\) Council members are required to sign an undertaking that, in performing their functions, they will observe the Council’s code of conduct. Councillor Lewis gave such an undertaking on 6 May 2008. A copy of that declaration is attached at Appendix C.

3. Section 69 of the Act provides the authority for my investigation and the production of this report.

Investigation

4. During my investigation I have considered the following provisions of the Code of Conduct:

\[2(1)\] ... you must observe this code of conduct -
\[(d)\] at all times and in any capacity, in respect of conduct identified in paragraphs 6(1) (a) and 7.

6.1 - You must -
\[(a)\] not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

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1 Appendix A - Copy of DVD
2 Appendix B – Copy of the Council’s Code of Conduct for Members
7. - You must not -
(b) use, the resources of your authority-
(v) improperly for political purposes.”

5. A statement was obtained from Councillor David Michael Bryan. Mr Clive James, trading as Clive James Design & Print was also contacted and he confirmed that he had printed many items for councillors using a professional printing system.

6. Councillor Lewis was interviewed by my investigator. Copies of all statements and documents referred to in this report are appended.

7. I have given Councillor Lewis the opportunity to comment on a draft of this report which included my provisional views and finding. Councillor Lewis replied by e-mail to my draft report.

My guidance on the code of conduct

8. I issued guidance for members of local authorities in Wales on the model code of conduct in April 2010 (“my guidance”) and revised guidance 2012.

Events leading to the complaint

9. At the end of September 2012 Councillor Bryan received a DVD anonymously. A file within the DVD is entitled “IPG election campaigns 2008 + 2012”, which has 16 sub-files entitled thus;

“Clive Collins master”.

Created on Thursday, 26 April 2012 at 9.32am, “lewisrob” is shown as the author.

“housing”.

Created on Thursday, 5 April 2012 at 1.12pm, “lewisrob” is shown as the author.

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3 Appendix E – Councillor Bryan’s statement
4 Appendices H & I – E-mail to Mr James and response
5 Appendix K & L – Master CD of interview and transcript of same
6 Appendix M – Councillor Lewis’s response to the draft report
7 Appendix F - Extracts of the guidance
8 Appendix G1 - Please vote Clive Collins, with Mr Collins’s photograph
9 Appendix G2 - A4 “vote for leaflet” with a large photo of Councillor Simpson
“Elwyn Morse Master”. Created on Monday, 30 April 2012 at 3.18pm, “lewisrob” is shown as the author.

“Elwyn Morse Election Poster 12-AM”. Created on Monday, 30 April 2012 at 2.28pm, “lewisrob” is shown as the author.

“Housing”. Created on Monday, 30 April 2012 at 11.47am, “lewisrob” is shown as the author.

“Jim front”. Created on Thursday, 22 March 2012 at 10.10am, “lewisrob” is shown as the author.

“VoteJim Codd”. Created on Wednesday, 4 April 2012 at 3.08pm and was last saved by “lewisrob”.

“voteJimCoddback”. Created on Wednesday, 4 April 2012 at 3.36pm and was last saved by “lewisrob”.

“Ken Cards”. Created on Monday, 23 April 2012 at 7.32am and was last saved by “lewisrob”.

“Lyndon cards”. Created on Friday, 13 April 2012 at 7.48am and was last saved by “lewisrob”.

“Please Vote poster”. Created on Monday, 16 April 2012 at 11.59am, “lewisrob” is shown as the author.

“Red Bull2 poster”. Created on Tuesday, 1 May 2012 at 7.33am, “lewisrob” is shown as the author.

10 Appendix G3 – A4 “vote” election leaflet with a large photograph of Councillor Morse
11 Appendix G4 – A4 “vote” election leaflet with a large photograph of Councillor Morse
12 Appendix G5 – A4 “Please vote John George” poster
13 Appendix G6 – A4 “Please vote Jim Codd” leaflet and photograph
14 Appendix G7 – Four “vote for” leaflets with Mr Codd’s photograph
15 Appendix G8 – Four election leaflets with Mr Codd’s photograph and four “sorry that I missed you” notes
16 Appendix G9 – Four election leaflets with Councillor Rowland’s photograph and four “sorry that I missed you” notes
17 Appendix G10 – Four election leaflets with Councillor Frayling’s photograph and four “sorry that I missed you” notes
18 Appendix G11 – A4 poster “Please vote for Rob Lewis” and Councillor Lewis’s photograph
19 Appendix G12 – Identical to Appendix E11
“Pearl“. Created on Tuesday, 6 March 2012 at 11.39am, “lewisrob” is shown as the author.

“Vote for Pearl back“. Created on Monday, 2 April 2012 at 8.23am, “lewisrob” is shown as the author.

“p stock 2“. Created on Friday 30 March 2012 at 12.07pm, “lewisrob” is shown as the author.

“stock2“. Created on Friday, 30 March 2012 at 12.15pm, “lewisrob” is shown as the author.

10. There are additional files and they are entitled:

“candidate_sheet_2012“. Created on Monday, 16 January 2012 at 5.23pm, “lewisrob” is shown as the author.

“1st group meeting 2012“. Created on Friday, 20 April 2012 at 12.42pm, “lewisrob” is shown as the author.

“Group_2012“. Created on Monday, 7 May 2012 at 9.20am, “lewisrob” is shown as the author.

“How it stands_2012“. Created on Wednesday, 4 April 2012 at 1.44pm “lewisrob” is shown as the author.

“Count List_2012“. Created on Wednesday, 25 April 2012 at 10.55am, “lewisrob” is shown as the author.

20 Appendix G13 – A4 poster with Councillor Llewelyn’s photograph and manifesto
21 Appendix G15 – A4 “please vote for” leaflet and Councillor Stock’s photograph
22 Appendix G16 – Two “please vote for” leaflets and Councillor Stock’s photograph
23 Appendix G17 – List of candidates in different colours to denote political affiliation
24 Appendix G18 – Six invitations to the Independent Group’s meeting on 8 May 2012
25 Appendix G19 – Details wards and candidates, divided into “Independents”, “Labour”, Uglies” and “Tories”
26 Appendix G20 – List of wards colour coded, with ticks and “still to sign”
27 Appendix G21 – List of wards colour coded candidates and initials of winning candidate
11. The “Properties” feature of the files shows that “lewisrob” was either the author or the last person to have saved them. In each instance the company field for the computer contains the name “PCC”.

**What Councillor Lewis said**

12. On Thursday 7 March 2013, Councillor Lewis was interviewed and said that he was recently aware of the Council’s IT guidance notes for members and of the limitations imposed by the Council’s Code of Conduct.

13. Councillor Lewis said he had no knowledge of files saved by the QuarkXpress (R) 7.31 system and that items were sent to Clive James Design & Print for printing who used this system. He said “…you know I quite willingly admit to the fact that I assisted some of my colleagues… to put together stuff but that was then forwarded to Clive James who then prepared it professionally…” He denied that Council equipment was used for printing and explained that the file format had been set by the printer.

14. Councillor Lewis said that “PCC” represented Pembrokeshire County Council and that “lewisrob” referred to him. He agreed that he was responsible for files where it showed that he had been either the author or the last person to have saved them. The files were for his colleagues’ electioneering purposes and the Council’s computer system was used. He explained that at the time he had been secretary of the Independent Group and had helped members who had used him as a “sounding board”.

15. Councillor Lewis said that the different colours in the “candidate_sheet_2012” file denoted political affiliation. The “1st group meeting 2012” file was created in his role as secretary. Councillor Lewis agreed that the file “Group 2012”, is divided into named political parties and laughed in response to the comment that the “Uglies” would need an explanation. He agreed that he used the Council’s computer system to create the file “how it stands 2012” with the words “still to sign”. He said that the

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29 Appendix L & L1 – Working copy of Master Tape and transcript of interview
30 Appendix F1 – Council’s “IT for Members Guidance Note”, paragraphs 5 and 11
31 Appendix G17
32 Appendix G18
33 Appendix G19
34 Appendix G20
file “Count_List 2012” was created after the election and showed the successful candidates and their affiliations. Councillor Lewis admitted he had used the Council’s computer system to create these files.

16. Councillor Lewis said that he could not now justify the use of the Council’s computer system and said, “But at the time I must say I, you know officers have a period of time per day that they’re allowed to use the computer for other use, and I was of a similar understanding, but I’m obviously wrong, I know that.” He said that as a Cabinet Member he was at the Council offices all day, similar to officers who have access to their computers for personal use, “I was of the wrong view that I might be able to use the machine for other purposes occasionally.” He now accepted that was not the case. Councillor Lewis said that this information passed to Councillor Bryan had been stolen from his computer.

17. On 12 September, Councillor Lewis responded to the draft version of this report and said that appendices G17, G18, G19, G20 and G21 were prepared when he was secretary of the Independent Group. In his opinion the documents should be construed as matters that related to the preparation of relevant political structures required for the running of an authority. He asked my investigator whether these documents could be deemed as appropriate computer usage, directly connected to the running of the Council. Councillor Lewis also asked for my investigator’s views on publicity surrounding this matter, as Councillor Bryan had alerted the press who had subsequently published an account from the “stolen files”. Councillor Lewis said that this matter has been published on http://jacobwilliams.com under the heading “Partygate”, whilst the importance of keeping the investigation confidential had been emphasised to him.

18. On 9 October, Councillor Lewis drew my investigator’s attention to an anonymised letter of my findings to a former Councillor which arose from this investigation, on a website known as, www.oldgrumpy.com. He said that this article speculates about the findings of this investigation, and draws conclusions and attention to the “Partygate” article, with a link to the website. Councillor Lewis asked for my investigator’s thoughts on these matters, who thanked Councillor Lewis for bringing this to his attention.

35 Appendix G21
36 Appendix M
37 Appendix N – Milford Mercury’s article dated 9 August 2012
Disputed facts

19. Are appendices G17, G18, G19, G20 and G21\textsuperscript{38} appropriate usage of the Council’s computer systems?

Analysis of evidence

20. I do not agree that appendices G17 – G21 can be construed as appropriate usage of the Council’s computer systems, they do not have a bearing on Council business, they are party political. My guidance on the Code of Conduct,\textsuperscript{39} the Council’s Code of Conduct for Members\textsuperscript{40} and the Council’s “IT for Members Guidance Note” \textsuperscript{41} makes it clear the policy in relation to the use of the Council’s computer systems.

21. The preparation of election material (appendices G1 – G16) for members is not Council business. Councillor Lewis assisted colleagues in the preparation of their election materials and employed the Council’s computer system for this purpose.

22. Each file in its “Properties” feature recorded that Councillor Lewis was either the author, or the person to have last saved the file. The “Company” is recorded as “PCC”, the Council. Councillor Lewis admitted that he had used the Council’s computer system to assist his colleagues.

23. I am aware that Councillor Bryan’s initial complaint against a former Councillor was reported in the Milford Mercury.\textsuperscript{42} Councillor Lewis was not mentioned in this article. I view both Councillor Jacob Williams’s and the “Old Grumpy” websites content and the publicity to be political in nature. From the comments made by “Old Grumpy”, the author is aware of the past investigation of a former Councillor and from what I have seen there is no reference to this investigation.

\textsuperscript{38} For descriptions please see footnotes on page 8
\textsuperscript{39} Appendix F
\textsuperscript{40} Appendix B
\textsuperscript{41} Appendix F1
\textsuperscript{42} Appendix N
Conclusions

24. The 21 files that Councillor Lewis created or saved whilst using the Council’s computer systems are political in nature. Councillor Lewis admitted that he used the Council’s computer systems to create or save election literature for colleagues and other documents for his party’s political purposes.

Finding

25. My finding under section 69 (4) (c) of the Local Government Act 2000 is that my report on this investigation should be referred to the Monitoring Officer of Pembrokeshire County Council, for consideration by the Council’s Standards Committee.

Peter Tyndall
Ombudsman

19 November 2013
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G6  “Jim front”. A4 “Please vote” leaflet with Mr Codd’s photograph. The author is Councillor Lewis, created 22 March 2012 at 10.10am.

G7  “VoteJim Codd”. Four “please vote” leaflets with Mr Codd’s photograph. Created on 13 April 2012 at 3.08pm and last saved by Councillor Lewis.

G8  “VoteJimCoddback”. Four “please vote” leaflets with Mr Codd’s photograph and four notes “sorry that I missed you today”. Created on 4 April 2012 at 3.36pm and last saved by Councillor Lewis.

G9  “Ken Cards”. Four “please vote” leaflets with Councillor Rowlands’s photograph and four notes “sorry that I missed you today”. Created 23 April 2012 at 3.09pm and last saved by Councillor Lewis.

G10 “Lyndon cards”. Four “please vote” leaflets with Councillor Frayling’s photograph and four notes “sorry that I missed you today”. Created 13 April 2012 at 7.46am and last saved by Councillor Lewis.

G11 “Please Vote poster”. A4 “Please vote” poster with a large photograph of Councillor Lewis. The author is Councillor Lewis, created 16 April 2012 at 11.59am.

G12 “RedBull2 poster”. A4 “Please vote” poster with a large photograph of Councillor Lewis. The author is Councillor Lewis, created 1 May 2012 at 7.33am.

G13 “Pearl”. A4 manifesto with Councillor Llewellyn’s photograph. The author is Councillor Lewis, created 6 March 2012 at 11.39am.

G14 “Vote for Pearl back”. Two “Why vote for Pearl?” leaflets with Councillor Llewellyn’s manifesto. The author is Councillor Lewis, created 2 April 2012 at 8.23am.
G15 “p stock 2”. Two “please vote for” leaflets, with Councillor Stock’s photograph and his manifesto. The author is Councillor Lewis, created 30 March 2012 at 12.07pm.

G16 “stock2”. 2 “please vote for leaflets with Councillor Stock’s photograph. The author is Councillor Lewis, created 30 March 2012 at 12.48pm.

G17 “candidate_sheet_2012”. Dated 30 January 2012, a list of candidates coloured to denote political affiliation. The author is Councillor Lewis created 16 January 2012 at 5.23pm.

G18 “1st group meeting 2012”. Six invitations to the inaugural Independent Group’s meeting. The author is Councillor Lewis, created 20 April 2012 at 12.42pm.


G20 “how it stands_2012”. List of Wards, colour coded and the term “still to sign”. The author is Councillor Lewis, created 4 April 2012 at 1.44pm.

G21 “Count List_2012”. List of Wards, with the initials of the winning candidate. The author is Councillor Lewis, created 25 April 2012 at 10.52am.

H 6 February 2013, email to Mr James (printer).

I 6 February 2013, response from Mr James.

J Letter dated 1 March 2013 to Councillor Lewis and pre-interview disclosure.

K Master CD of Councillor Lewis’s interview.

L Working copy of Master CD
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