



RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE

Minutes of the hybrid meeting of the Standards Committee held on Friday, 18 November 2022 at 10.00 am.

This meeting was live streamed, details of which can be accessed [here](#)

Standards Committee Members in attendance:-

Mr D. Bowen (Chair)

Independent Members in attendance:-

Mr J. Thomas Mrs H. John

Community Council Representative Members in attendance:-

Community Councillor Ms L. Law
Community Councillor Mr C. A. Thomas (Reserve Member)

County Borough Councillors in attendance:-

Councillor A J Ellis Councillor G Hughes

Officers in attendance:-

Mr A Wilkins, Director of Legal Services and Democratic Services
Mr P Nicholls, Service Director, Legal Services

21 DECLARATION OF INTEREST

RESOLVED – In accordance with the Members Code of Conduct, the following declaration of personal interests in a matter pertaining to the agenda was declared:-

County Borough Councillor A. Ellis in respect of agenda item 8 “I am Chair of Ynysybwl and Coed-y-cwm Community Council ”.

Reserve Member Community Councillor C. Thomas in respect of agenda item 7 “I am aware of the detail of the complaint referenced to Pontypridd Town Council”.

22 TO ELECT A CHAIRPERSON

RESOLVED to elect Independent Member Mr. D. Bowen as Chair of the Standards Committee.

23 TO ELECT A VICE-CHAIRPERSON

Members were advised that there isn't a situation where they are able to proceed with appointing a Vice Chairperson of this Committee, and consequently, it was **RESOLVED** to defer the item to the next meeting.

24 MINUTES

It was **RESOLVED** to approve the minutes of the 16th March 2022 as an accurate reflection of the meeting.

25 STANDARDS COMMITTEE WORK PROGRAMME 2022 - 2023

The Monitoring Officer provided Members with the Standards Committee's Work Programme and the proposed items for consideration by the Standards Committee during the Municipal Year 2022-2023.

The Committee were reminded of the Standards Committee's Terms of Reference, which set out the remit of the Committee to monitor, review and advise on matters relating to the Ethical code; Members Code of Conduct and associated matters of governance and probity.

Members' attention was drawn to Appendix 2 of the report, where the draft Work Programme for the Committee for the Municipal Year 2022-2023 was detailed. The Work Programme sought to reflect the ongoing priorities, standard reports and the frequency of reporting for the Committee's consideration.

Members were informed that training would be provided in relation to a mock Disciplinary Hearing to provide them with the experience they need to be able to deal with these should any arise in the future.

Following discussions, the Standards Committee **RESOLVED**:

1. To adopt the Standards Committee Work Programme for the 2022/2023 Municipal Year subject to any matters that arise during the year being able to be considered as necessary.
2. To provide Members with a mock

26 ORAL UPDATE - CODE OF CONDUCT TRAINING

The Monitoring Officer provided the Committee with an oral update in respect of the Code of Conduct training and reported that following the elections in May, 74 Elected Members have undertaken the necessary training, besides from one Member who was recently elected following a recent bi-election and will receive the training in due course.

Members were advised there has been a significant number of Community Councillors who attended Code of Conduct training, which was provided by the Monitoring Officer, however, it was suggested that he would contact the Clerks to the Community Councils to check which training they have taken up and been offered through the Community Councillors and will report back to the Committee at the next meeting.

Following consideration thereof, it was **RESOLVED**:

- 1 To note the information received.

27 PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS 2022

The Monitoring Officer provided the Standards Committee with a summary of complaints made against Members and submitted to the Public Services Ombudsman for Wales (the 'Ombudsman') for the period 1st March 2022 – 31st October 2022.

Members were reminded that in determining whether to investigate a breach of the Code of Conduct, the Ombudsman initially applies a two-stage test. At the first stage, he will aim to establish whether there is direct evidence that a breach of the Code has occurred. At the second stage the Ombudsman considers whether an investigation or a referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. This involves the consideration of a number of public interest factors such as: whether the member has deliberately sought a personal gain at the public's expense for themselves or others, misused a position of trust, whether an investigation is required to maintain public confidence in elected members and whether an investigation is proportionate in the circumstances.

The Monitoring Officer provided detail on each complaint whilst ensuring anonymity is retained and noted that Members will find the Ombudsman's comments and conclusions on each matter helpful to understand how they approach dealing with a complaint.

The Monitoring Officer drew Members 'attention to the fact there were 3 complaints made against Community Councillors and 0 complaints made against County Borough Councillors. However, none of those complaints reached the investigation stage.

The Standards Committee **RESOLVED:**

1. To note the content of the report.

28 PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2021-2022

The Monitoring Officer provided Members with a summary of matters pertaining to standards of conduct of County, Town and Community Councillors as set out in the Public Services Ombudsman for Wales' ('PSOW') Annual Report and Annual Letter to this Council for 2021-2022.

The Annual Report sets out the workload that has been dealt with by the PSOW during 2021-2022. It breaks the workload down into the number of enquiries received and the number of complaints received, and also breaks down the complaints into those received about services (public body complaints) and those received in relation to Code of Conduct Complaints (CCCs). Furthermore, This report will highlight the data relating to CCCs only (issues arising from

public services or the annual accounts section of the AR are beyond the scope of this report).

Members learned that Nick Bennett's term of office as PSOW finished in March 2022 when Michelle Morris, former Chief Executive of Blaenau Gwent CBC, took over the role.

Public Services Ombudsman for Wales received 294 new complaints about the Code of Conduct – 5% less than in 2021/22 but 27% more than in 2019/20. 58% (171) of those complaints concerned Town and Community Councils. This represents 2% more than in 2020/21 and 27% more than in 2019/20. 39% (114) of the total complaints received related to complaints about County and County Borough Councillors. This represented 17% less than in 2020/21 but 19% more than in 2019/20. Furthermore, there were 5 complaints about members of National Park Authorities and 4 related to members on Police and Crime Panels.

The Monitoring Officer noted that as in previous years, about half of the new Code of Conduct complaints that the PSOW received were about 'promotion of equality and respect' and many of these cases, categorised by the PSOW under 'respect', are lower-level complaints. Furthermore, these are the ones where the PSOW will tend to decide quickly that they will not investigate, or where they recommend that the complaint is resolved locally. However, some of these complaints and many of those categorised under 'equality' commonly involve more serious allegations of bullying or discrimination.

The Monitoring Officer reported there were 2 Code of Conduct complaints made about Members in relation to their role as RCT County Borough Councillors during the period, compared against 8 in 2020-2021. 1 complaint found no evidence of breach and another complaint was discontinued after investigation. In addition, 9 complaints were received in relation to Town and Community Councils within RCT as against 14 in the previous reporting period. Five were discontinued after investigation, 3 found no evidence of a breach and 1 was withdrawn.

Members learned that although the number of referrals is a very small proportion of all Code of Conduct complaints received, it was more than half of those the PSOW decided to investigate and also twice as many as last year and the highest number of referrals that were made since 2012/13. Furthermore, The PSOW is concerned about this increase. It suggests that the ethical standards of a small number of councillors have the potential to undermine public confidence and the reputation of local government democracy.

The Monitoring Officer reported that the PSOW has stipulated they want to see the overall number of low-level complaints about members of Town and Community Councils reduce and are concerned about the high number of referrals this year. The PSOW strongly believes that the way to overturn these trends is through training for councillors on the Code of Conduct and they would also encourage greater use of local resolution procedures. Furthermore, these procedures can deal with problems early and prevent the need for further escalation to their office, which can improve working relationships. Since not all members take up opportunities to undertake training, the PSOW is pleased that, under the Local Government and Elections (Wales) Act 2021, Town and Community Councils must now make and publish a plan about the training provision for its members and staff. The first training plans must be ready and published by 5 November 2022. The PSOW expects these plans to include

training about the Code of Conduct. The PSOW also welcomes the additional responsibilities that Group Leaders at principal councils have to promote good standards of behaviour.

Following consideration thereof, it was **RESOLVED**:

- 1 To note the matters relating to Code of Conduct Complaints reported in the Public Services Ombudsman for Wales' Annual Report and Annual Letter to this Council 2021-2022.

29 PUBLIC SERVICES OMBUDSMAN FOR WALES - RECENT INVESTIGATION OUTCOMES - 'OUR FINDINGS'

The Monitoring Officer provided Members with the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct as published by the Public Services Ombudsman for Wales (PSOW) on the 'our findings' section of her website for the period 1st April 2021 – 31st October 2022.

Members learned that the PSOW considers complaints that members of local authorities in Wales have breached the Code. There are four findings the PSOW can arrive at:

- (a) that there is no evidence of breach;
- (b) that no action needs to be taken in respect of the complaint;
- (c) that the matter be referred to the authority's Monitoring Officer for consideration by the Standards Committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales (the APW) for adjudication by a tribunal.

Furthermore, it was noted that occasionally an investigation may be discontinued, where circumstances change during the course of an investigation and it is considered that it would not be in the public interest to continue to investigate.

Members learned that until 31st March 2021 the PSOW summarised complaints that had been investigated on a quarterly basis in a publication called the Code of Conduct Casebook (the Casebook) and the final edition of the Casebook (edition 25) covered the period of January to March 2021. Furthermore, the Casebook has since been replaced by 'Our Findings', 'Our Findings' is a section on the PSOW website which includes a search tool to allow summaries of cases to be accessed by reference to the relevant organisation, matter type, dates, case reference numbers, or outcome. In terms of matter types, cases are broken down into the following categories:

- a. Integrity;
- b. Promotion of Equality and Respect;
- c. Disclosure or Registration of Interests;
- d. Duty to Uphold the Law; and
- e. Selflessness and Stewardship.

The Monitoring Officer reported that during the period 1st April 2021 – 31st October 2022 30 complaints were investigated by the PSOW, 6 of which were referred to the relevant Standards Committees and 5 of which was referred to the APW. In 9 cases it was considered that there was no evidence of a breach of

the Code, in 5 cases no action was considered necessary and 5 cases were discontinued. 11 of the matters investigated fall under the category of Integrity, 13 under Promotion of Equality and Respect, 3 under Disclosure or Registration of Interests, 2 under Duty to Uphold the Law and 1 under Selflessness and Stewardship.

The Monitoring Officer went on to describe the number of themes that can be identified through the findings that can be summarised as follows: -

- i) Comments on social media are the cause of a significant number of complaints and members need to be very careful when writing what they might consider a throw away comment which might subsequently be either misconstrued (as in a number of cases) leading to lengthy investigation (which is a distressing process) or when expressing views that are a breach of the code;
- ii) Discriminatory conduct against any protected characteristic under the Equality Act 2010 attracts severe sanctions; and
- iii) Members have a private life and provided they are clear to demarcate the boundaries of private and public action then the PSOW will not take action in respect of private matters.

In addition, there may be other messages about poor behaviour that, together with those identified above, Committee Members may feel would be useful for the wider membership of the authority to be aware of.

The Standards Committee **RESOLVED:**

1. To note and consider the contents of the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct.

30 ADJUDICATION PANEL FOR WALES - RECENT TRIBUNAL DECISIONS

The Monitoring Officer provided the Standards Committee with the report to consider recent decisions made by the Adjudication Panel for Wales (APW).

Members were referred to the appendices of the report, which detailed a number of APW decision notices, that had been issued following the conclusion of the cases.

Members noted that as previously highlighted, it may find it helpful to Consider these decisions and the approach adopted by the APW in formulating its decision and sanctions (where relevant) in light of its own role when conducting Code of Conduct hearings. Furthermore, the Committee may also wish to consider whether there are any possible messages or lessons to be learnt arising out of those decisions that could be communicated as part of future training for Members on the Code of Conduct.

The Standards Committee **RESOLVED:**

- 1 To consider the recent decisions made by the Adjudication Panel for Wales (as appended to the report); and
- 2 To determine whether there are any possible messages or lessons

to be learnt arising out of those decisions that could be communicated as part of future training for Members on the Code of Conduct.

31 DISPENSATION APPLICATIONS

The Monitoring Officer outlined the following application for dispensation for the Standards Committee's endorsement:

1. The Monitoring Officer then sought Committee's endorsement to grant dispensation to County Borough Councillor Michael Powell a dispensation to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Group), save for any specific matters that directly affect his wife, who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed by the Standards Committee on an annual basis.

Members were informed that County Borough Councillor Michael Powell's wife works in the Children's Services department as a Contact Worker. In his application Councillor Powell stated that his wife is not in a decision-making position.

The Monitoring Officer explained that any dispensation awarded cannot be used if the matter under consideration would confer a greater benefit on his wife than on other taxpayers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect his ability to act purely on the merits of the case and in the public interest if Councillor Powell were to take part in the discussion.

The Monitoring Officer continued and advised that the ground for granting dispensation was:

- (f) the participation of the member in the business to which the Interest relates is justified by the member's particular role or expertise;

The Standards Committee **RESOLVED:**

1. To grant a dispensation to County Borough Councillor Michael Powell to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Services Group), save for any specific matters that directly affect his wife who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed on an annual basis by the Standards Committee.

GROUP LEADERS' DUTIES IN RESPECT OF STANDARDS OF CONDUCT

The Monitoring Officer advised Members of the arrangements to be put in place in order to comply with the new duties of political group leaders in relation to standards of conduct and corresponding new duties placed on standards committees (introduced by Part 4 of the Local Government and Elections (Wales) Act 2021, ('the 2021 Act').

Members were informed that the 2021 Act, Part 4 introduced certain changes to the statutory ethical framework (set under Part 3 of the Local Government Act 2000), which took effect from 5th May 2022 and the legislative changes were previously reported to the Committee on 19th March 2021 and include: New duties for leaders of political groups to take reasonable steps to promote and maintain high standards of conduct by members of their group, and to co-operate with the standards committee in the discharge of its functions; and New duties for standards committees to monitor the compliance of political group leaders with their new duties; and for advising and training (or arranging training) of political group leaders in relation to those duties (referred to in paragraph (i) above); and to submit an annual report to full Council.

Furthermore, in complying with the new duties, political group leaders and standards committees must have regard to any guidance issued by the Welsh Ministers.

Members learned that key provisions of the draft statutory guidance were reported to the last Committee meeting and include the following:

The purpose of the new provisions is 'to ensure leaders of political groups in principal councils, supported by standards committees, promote and maintain high standards of conduct by the members of their group'; and notes that they 'support the Welsh Government's wider commitment to equality and diversity in public life', within the context of other initiatives seeking to ensure councils 'demonstrate an open and welcoming culture to all' and promoting 'civil, constructive and respectful political discourse'.

Furthermore, the draft guidance makes clear that 'The duty does not make leaders of a political group accountable for the behaviour of their members as conduct must be a matter of individual responsibility. However, they do have a role in taking reasonable steps in maintaining standards, setting an example, using their influence to promote a positive culture, being proactive in promoting high standards of conduct in their group and addressing issues as soon as they arise.' The draft guidance goes on to list a number of reasonable steps the group leader *may* undertake and warns that 'A leader of a political group who fails to comply with the new duty in a meaningful way, may potentially be regarded as bringing their office into disrepute, and likely to be in breach of the Code (see the Ombudsman's Guidance).'

Members were advised that in relation to the duty for political group leaders to co-operate with the standards committee, the draft statutory guidance says that

'Leaders of a political group should build good relations, and work constructively with the monitoring officer, seeking advice from them and the standards committee on matters of behaviour and conduct when required, both promoting positive behaviours and addressing inappropriate ones. Furthermore, group leaders should also report compliance with their duty to the standards committee, which can take the form of a short letter or report at a frequency agreed by the political group leaders in the council and its standards committee. Group leaders should also report any serious concerns about members' behaviour which have not been remedied by informal actions, in line with the requirement in the Code for councillors to report breaches.'

The Monitoring Officer reported that the draft guidance on the standards committee's new duty to monitor group leaders' compliance with their duties correspondingly says that 'a council's political group leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee. Moreover, the standards committee should then consider each report and provide feedback to the group leaders.'

The Committee were advised that Monitoring Officers across Wales have discussed and refined a proforma Group Leaders' Report, originally drafted by Flintshire CBC's Monitoring Officer, which was shown at Appendix 2 in the report.

Furthermore, it is proposed that a Group Leader's report be received on a biannual basis, subject to any feedback from Committee Members.

Members were advised that with regard to training for group leaders on their new duties, the draft guidance says 'At the start of each administration this should take place within six months of the election and be reviewed at least annually. Also, an overview of group leaders' new duties within the Code of Conduct training sessions delivered as part of the Member Induction Programme 2022, and further specific training sessions will be arranged in due course was included in the report.

The Committee is recommended to consider the proposed arrangements to be put in place to comply with the new statutory duties in relation to political group leaders and standards of conduct. Additionally, The Committee should note that the new statutory provisions in relation to its annual report to Council will, in future, require an assessment of group leaders' compliance with their new duties under the 2021 Act (as set out in this report) with effect from the Committee's Annual Report 2022/23, which is to be presented to Council as soon as reasonably practicable after the end of the Municipal Year.

The Standards Committee **RESOLVED:**

1. Approve the proforma Group Leaders Report, attached at Appendix 2, subject to any agreed amendments;
2. Authorise the Monitoring Officer, in consultation with the Chair, to make

any agreed amendments to the proforma Group Leaders' Report following consultation with the Group Leaders and agree its completion and return prior to the Committee meeting scheduled to be held in March 2023;

3. Agree to consider the Group Leaders' Reports at the March 2023 Committee meeting;
4. Agree the frequency on which group leaders are to be asked to report to the Committee thereafter; and
5. Agree what training should be provided to assist group leaders to comply with their new duties.

33 ORAL UPDATE - PSOW LETTER TO STANDARD COMMITTEE CHAIRS & UPDATED OMBUDSMAN GUIDANCE

The Monitoring Officer provided Members with a letter from the new Public Services Ombudsman for Wales whereby its main purpose is to notify the Standards Committee that new Code of Conduct guidance is being published by the office and this has been appended to the letter.

Members were advised that some minor changes have been made to the process of the Code of Conduct guidance, however, the Monitoring Officer has requested that the track changes be provided by the PSOW to fully understand the changes made.

The Monitoring Officer reported that Members will be advised to familiarise themselves with the new Code of Conduct guidance following any future training and it is the intention to circulate the new guidance to Clerks to the Community Councils for them to disseminate to Community Councillors.

Members were advised that the PSOW will continue to share their decisions with Monitoring Officers, as required by legislation. However, they will now be sharing the complaint and their decision in a standalone decision notice to facilitate the Monitoring Officers in sharing complaint information with Standards Committees (when they consider it appropriate to do so).

Members learned that since June, the PSOW have been trialling a fresh approach to how they inform members about complaints made against them. Their practice had been that they informed the accused member, the Monitoring Officer, and the Clerk (if a Town/Community Council) of a complaint as soon as it was received. They now inform the relevant parties at the point when they

either decline to investigate or decide to investigate the complaint. Furthermore, during the trial, they found that this approach sped up the process. It also helped to avoid unnecessary concern for members complained about, as they waited for a decision on whether the complaint should be investigated.

The Monitoring Officer outlined that whenever possible, the PSOW would like to see any concerns about a member's conduct to be resolved locally and at an early stage, as this calms situations down and prevents the need for further escalation and formal investigation by my office. Furthermore, it was noted that the PSOW and members of the public expect all members to take advantage of training which is available to them.

In response to a query raised in relation to training that is being provided, the Monitoring Officer reported that he would recommend to Chairs and Clerks of Community Councils to undertake the necessary training.

The Standards Committee **RESOLVED:**

- 1 To note the information received.

34 NATIONAL FORUM FOR STANDARDS COMMITTEE CHAIRS AND VICE-CHAIRS

The Monitoring Officer provided with an update in respect of the National Forum for Standards Committee Chairs and consider the Forum's draft Terms of Reference.

Members were advised that the Penn report commented on the variety of practice across Wales in how Standards Committees discharge their duties. At paragraph 4.4.1 the report says, "I was struck by the variation in the way that Standards Committees in Wales see their remit and at the role played by the Independent Chairs of Standards Committees. At the one extreme Standards Committees and their Independent Chairs seem to have either been given or have adopted a very limited role, meeting infrequently and only really active when there is a hearing of a case referred by the Public Services Ombudsman for Wales. At the other extreme there are Standards Committees and Chairs that see their remit much wider than this, and as leading the development and maintenance of the ethical standards framework in that local authority."

Members learned that Richard Penn, the report author, then went on to comment positively upon the work of the forum for Chairs of Standards Committees in North and Mid Wales. Furthermore, whilst acknowledging the place for local decision making, he recommends that a National Forum be established along the same lines – at paragraph 4.4.5, "I attended a meeting of this Forum and had a very useful exchange with the Chairs and Monitoring Officers who attended. Although a Forum for the Chairs of Standards Committees in South Wales no doubt would serve a similar purpose in the facilitation of exchange of information and experiences about the work of Standards Committees in that part of Wales, I suggest that there should be an all-Wales Forum ... would encourage consistency of approach and the adoption of best practice across Wales." Furthermore, The National Forum will

- a) give Standards Committee Chairs the chance to share and agree to co-

ordinate practice; b) act as a sounding board for ideas; c) create a support network for Chairs and Committees.

In addition, it will not be a formal joint committee and so will not be able to make binding decisions on behalf of the constituent Councils. Instead, each Standards Committee will retain primacy. Where an idea for common action is proposed, each Committee will need to agree to act in accordance with whatever consensus has been established within the forum.

The Monitoring Officer advised that the body will consist of 28 constituent authorities at the outset, also, a new National Park Authority is planned and there are 4 newly formed Corporate Joint Committees which must have a Standards Committee, who may also wish to join. Moreover, if constituent authorities sent any more than one representative, then the meetings would be unwieldy. Therefore, each authority will be allowed a single representative who may nominate a deputy to attend in their absence and Monitoring Officers will send one representative per region.

Members learned that previously the North and Mid Wales Forum would meet in person on a peripatetic basis being hosted by each authority in turn. However, For the time being meetings are likely to be held remotely (which would save travel) but if they resumed meeting in person then a central location would need to be found. Typically, this would mean meeting in or near Llandrindod Wells.

The Monitoring Officer outlined the draft Terms of Reference which also include proposals for how the work of the forum will be supported.

The Standards Committee **RESOLVED:**

1. That the Committee agrees the National Forum's draft Terms of Reference as set out in Appendix 1 to the report; and
2. That the proposed arrangements to support the National Forum are approved.

This meeting closed at 11.09 am

**Mr D. Bowen
CHAIR.**