



**CYNGOR BWRDEISTREF SIROL**  
**RHONDDA CYNON TAF**  
**COUNTY BOROUGH COUNCIL**

**GWŶS I GYFARFOD O'R CYNGOR**

C.Hanagan  
Cyfarwyddwr Gwasanaeth y Gwasanaethau Democrataidd a Chyfathrebu  
Cyngor Bwrdeistref Sirol Rhondda Cynon Taf  
Y Pafiliynau  
Parc Hen Lofa'r Cambrian  
Cwm Clydach CF40 2XX

Dolen gyswllt: Emma Wilkins - Council Business Unit  
(Emma.Wilkins@rctcbc.gov.uk)

**DYMA WŶS I CHI** i gyfarfod o **PWYLLGOR SAFONAU** yn cael ei gynnal yn **Hybrid** ar **DYDD LLUN, 22AIN EBRILL, 2024** am **10.00 AM**.

Caiff Aelodau nad ydyn nhw'n aelodau o'r pwyllgor ac aelodau o'r cyhoedd gyfrannu yn y cyfarfod ar faterion y cyfarfod er bydd y cais yn ôl doethineb y Cadeirydd. Gofynnwn i chi roi gwybod i Wasanaethau Democrataidd erbyn Dydd Iau, 18 Ebrill 2024 trwy ddefnyddio'r manylion cyswllt uchod, gan gynnwys rhoi gwybod a fyddwch chi'n siarad Cymraeg neu Saesneg.

**AGENDA**

**Tudalennau**

**1. DATGAN BUDDIANT**

Derbyn datganiadau o fuddiannau personol gan Aelodau, yn unol â'r Cod Ymddygiad.

Nodwch:

1. Mae gofyn i Aelodau ddatgan rhif a phwnc yr agendwm y mae eu buddiant yn ymwneud ag ef a mynegi natur y buddiant personol hwnnw; a
2. Lle bo Aelodau'n ymneilltuo o'r cyfarfod o ganlyniad i ddatgelu buddiant sy'n rhagfarnu, rhaid iddyn nhw roi gwybod i'r Cadeirydd pan fyddan nhw'n gadael.

**2. COFNODION**

Cadarnhau cofnodion y cyfarfod a gynhaliwyd ar 29 Ionawr 2024 yn rhai cywir.

**ADRODDIAD Y SWYDDOG MONITRO****3. OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU –  
CRYNODEB O'R CWYNION YN ERBYN AELODAU - 23 IONAWR  
2024 - 31 MAWRTH 2024**

Rhoi crynodeb i'r Aelodau o'r cwynion a wnaed yn erbyn Aelodau ac a gyflwynwyd i Ombwdsmon Gwasanaethau Cyhoeddus Cymru (yr 'Ombwdsmon') am y cyfnod rhwng 23 Ionawr 2024 a 31 Mawrth 2024.

9 - 14

**4. PANEL DYFARNU CYMRU – PENDERFYNIADAU TRIBIWNLYS  
DIWEDDAR**

Rhoi cyfle i'r Aelodau drafod penderfyniadau diweddar gan Banel Dyfarnu Cymru.

15 - 38

**5. FFORWM SAFONAU CENEDLAETHOL - ADBORTH O'R CYFARFOD  
A GYNHALIWYD AR 29 IONAWR 2024**

Rhoi adborth i'r Aelodau o gyfarfod y Fforwm Safonau Cenedlaethol a gynhaliwyd ar 29 Ionawr 2024.

39 - 56

**6. Y NEWYDDION DIWEDDARAF AR LAFAR – OMBWDSMON  
GWASANAETHAU CYHOEDDUS CYMRU – ERTHYGLAU  
DIWEDDAR Y CYFRYNGAU MEWN PERTHYNAS Â  
GWEITHREDOEDD UN O'I SWYDDOGION**

Rhoi'r newyddion diweddaraf i Aelodau yn dilyn erthyglau diweddar y cyfryngau ac ymddiswyddiad y Pennaeth Ymchwiliadau.

**7. MATERION BRYG**

Trafod unrhyw faterion sydd, yn ôl doethineb y Cadeirydd, yn faterion bryg yng ngoleuni amgylchiadau arbennig.



## **RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE**

Minutes of the virtual meeting of the Standards Committee held on Monday, 29 January 2024 at 10.00 am.

### **Standards Committee Members in attendance:- Independent Members in attendance**

Mr D. Bowen ( Chair)

Mr J. Thomas

Mrs H. John

### **County Borough Councillors in attendance:- Councillor G Hopkins**

### **Community Councillor Mr C.A.Thomas**

### **Officers in attendance:-**

Mr A Wilkins, Director of Legal Services and Democratic Services

## **22 DECLARATION OF INTEREST**

In accordance with the Council's Code of Conduct, there were no declarations made pertaining to the agenda.

## **23 APOLOGY**

An apology for absence was received from County Borough Councillor A Ellis.

The Committee expressed their best wishes to Councillor Ellis, following recent surgery.

## **24 MINUTES**

It was **RESOLVED** to approve the minutes of the 13<sup>th</sup> November 2023 as an accurate reflection of the meeting.

## **25 PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS AGAINST MEMBERS - 30th AUGUST 2023 - 22nd JANUARY 2024**

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 30<sup>th</sup> August 2023 – 22<sup>nd</sup> January 2024.

As part of the report, a summary of the results of three investigations completed by the Ombudsman in relation to alleged breaches of the Code of Conduct at Rhondda Cynon Taf County Borough Council were also provided. Members

were informed that based on the circumstances of each complaint and Ombudsman findings it was determined not to be in the public interest for any further action to be taken in relation to the complaints.

Members sought clarification in respect of one of the complaints, to which the Monitoring Officer responded.

It was **RESOLVED**:

- i. To consider the contents of the report and provide any comments/feedback on the complaints received by the Ombudsman during the period 30th August 2023 – 22nd January 2024.

## **26 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 August 2023 – 22<sup>nd</sup> January 2024.

Members were reminded of the actions available to the PSOW following such breaches, before the Monitoring Officer provided detail of the investigation outcomes as outlined in Appendix 1 of the report.

**RESOLVED:**

- I. To note and consider the contents of the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct, originally published by the Public Services Ombudsman for Wales on the 'our findings' section of her website and attached as Appendix 1 to the report (for the period 1st August 2023 – 22nd January 2024).

## **27 REVIEW OF THE COUNCIL'S MEMBER - OFFICER RELATIONS PROTOCOL**

The Monitoring Officer presented his report which sought to review the Council's Member-Officer Relations Protocol, as annexed at Appendix 1 to the report and consider whether any amendments should be made to that protocol.

Members were reminded that at its November Committee meeting, Members reviewed the existing Member-Officer Relations Protocol and requested the Monitoring Officer to draft a revised protocol with potential amendments for review and consideration. Members were also provided with a suite of examples of other Member-Officer Relations Protocols from other local authorities.

The Monitoring Officer referred the Committee to Appendix 1A and 1B, which provided a proposed revised Member-Officer Relations Protocol for Members consideration. Members were advised of the intention to present the revised protocol to the Council's Democratic Services Committee for comment, before it being presented back to Standards Committee to endorse to full Council.

Members commented on the sharing of good practice and that once the protocol was adopted by Full Council, the opportunity to share the protocol across the

County Boroughs Town and Community Councils.

Committee **RESOLVED**:

- i. To review the amended version of the Council's existing Member - Officer Relations Protocol, attached at Appendix 1 to the report;
- ii. To provide comments or proposed changes to the amended version of the Council's existing Member-Officer Relations Protocol; and
- iii. To refer the revised Member-Officer Relations Protocol to the Council's Democratic Services Committee for review and comment and agree to receive any feedback from that Committee at the next Standards Committee meeting in April 2024.

**28 SUMMARY OF RESPONSES TO THE CONSULTATION ON THE RECOMMENDATIONS OF THE INDEPENDENT REVIEW OF THE ETHICAL STANDARDS FRAMEWORK (RICHARD PENN REPORT)**

For information, the Monitoring Officer provided details of the summary of responses to the consultation on the recommendations of the Independent Review of the Ethical Standards Framework (Richard Penn report).

A Member commented on the general resource pressures by different organisations and referenced such pressure in respect of the Ombudsman. The Monitoring Officer referenced the use of the Local Resolution Protocol to reduce the escalation of complaints to the Ombudsman in the first instance and spoke of the importance of the standards committee and its role in helping to reduce the number of complaints taken to the Ombudsman.

It was **RESOLVED** to note the information contained within.

**This meeting closed at 10.35 am**

**D . Bowen  
CHAIR.**

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## **RHONDDA CYNON TAF**

### **RHONDA CYNON TAF COUNTY BOROUGH COUNCIL**

#### **STANDARDS COMMITTEE**

**22<sup>nd</sup> APRIL 2024**

### **PUBLIC SERVICES OMBUDSMAN FOR WALES – SUMMARY OF COMPLAINTS AGAINST MEMBERS – 23<sup>rd</sup> JANUARY 2024 – 31<sup>ST</sup> MARCH 2024 AND INVESTIGATION OUTCOME**

#### **REPORT OF THE MONITORING OFFICER**

#### **1. PURPOSE OF THE REPORT**

- 1.1 To provide Members with a summary of complaints made against Members and submitted to the Public Services Ombudsman for Wales (the 'Ombudsman') for the period 23<sup>rd</sup> January 2024 – 31<sup>st</sup> March 2024 and the result of an investigation completed by the Ombudsman in relation to an alleged breach of the Code of Conduct.

#### **2. RECOMMENDATIONS**

- 2.1 To consider the contents of the report and provide any comments/feedback on the complaints received by the Ombudsman during the period 23<sup>rd</sup> January 2024 – 31<sup>st</sup> March 2024; and
- 2.2 To consider the summary of an investigation completed by the Ombudsman in relation to an alleged breach of the Code of Conduct, attached at Appendix 1 to the report.

#### **3. BACKGROUND AND DETAILS OF COMPLAINTS**

- 3.1 In determining whether to investigate a breach of the Code of Conduct, the Ombudsman initially applies a two-stage test. At the first stage, she 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.

3.2 Members will note below the summary of an anonymised complaint made against a Member and reported by the Ombudsman during the period 23<sup>rd</sup> January 2024 – 31<sup>st</sup> March 2024:

Date Notification Received by the Ombudsman	Body & Cllr	Nature of Complaint	Ombudsman Investigation Yes/No
27/01/24	Rhondda Cynon Taf County Borough Council (County Borough Councillor)	<p>It was alleged by a member of the public ("the Complainant") that the Member misused their position when objecting to a planning application. The Complainant said that the Member had not spoken to the applicant or requested a site visit and that they therefore misused their position for the advantage of a resident over the applicant.</p> <p><b>PSOW Decision</b></p> <p><b>1) Whether there is evidence to suggest that there have been breaches of the Code</b></p> <p>The matters complained about are unlikely to amount to a breach of the Code. It is for individual members to determine what cause/s they wish to support. This applies to planning applications within a member's ward. The Member is entitled to form their own view as to whether to support or object to a planning application.</p> <p>The Member is not a member of the Council's Planning Committee, nor was evidence provided that they had a personal or prejudicial interest in this planning application. The decision to refuse the application was made by the Council's officers. The Member was not directly involved in the decision made.</p> <p>The Ombudsman noted the Complainant's disappointment that the Member raised concerns about the application and did not seek the applicant's views or arrange a site visit, however, this is not in itself evidence of a breach of the Code, nor is it evidence of an improper use of their position. Any dissatisfaction with the representation or lack of support the application received from the Member is a matter for the ballot box as opposed to the Code.</p> <p><b>2) Whether an investigation is required in the public interest</b></p> <p>The conduct complained about did not meet the first stage of the test, therefore, there is no need to consider the second stage of the test.</p> <p><b>Outcome</b></p> <p>The complaint should not be investigated.</p>	No



3.3 Attached at Appendix 1 to this report Members will find a summary of an investigation completed by the Ombudsman in relation to an alleged breach of the Code of Conduct by a member of Rhondda Cynon Taf CBC. This complaint related to an alleged failure to disclose relevant interests. Based on the circumstances of the complaint and PSOW findings it was determined not to be in the public interest for any further action to be taken in relation to the complaint. The Ombudsman did however remind the Member of the need to carefully consider their interests in future, and whether they needed to be declared because a failure to declare prejudicial interests appropriately can undermine the public's confidence in elected officials and their authorities.

#### **4. LEGAL IMPLICATIONS**

4.1 There are no legal implications arising from this report.

#### **5. CONSULTATION**

5.1 There are no consultation implications arising from this report.

#### **6. EQUALITY AND DIVERSITY IMPLICATIONS**

6.1 There are no equality and diversity implications arising from this report.

#### **7. FINANCIAL IMPLICATIONS**

7.1 There are no financial implications arising from this report.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**22 APRIL 2024**

**REPORT OF THE MONITORING OFFICER**

**Background Papers:** Freestanding matter

**Contact:** Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)



**Summary of a report issued under section 69  
of the Local Government Act 2000  
Case Number: 202304011**

The Ombudsman received a complaint that a Member (“the Member”) of Rhondda Cynon Taf County Borough Council (“the Council”) had breached the Code of Conduct.

It was alleged that the Member had failed to declare personal and prejudicial interests to the Council when becoming involved in a constituent’s planning application to extend their home.

Information was obtained from the Complainant, the Member and the Council’s Monitoring Officer. The Ombudsman found that while the Member appeared to have failed to declare her interest when she first became involved in the matter and when she asked the Council to call in the planning application, she subsequently followed the advice of the Monitoring Officer and withdrew her call-in request. The Member also made sure she adhered to the Code of Conduct in declaring her interest appropriately when the matter progressed.

In all the circumstances, the Ombudsman did not consider that action was needed in the public interest. The Ombudsman reminded the Member of her need to consider carefully her interests, and whether they needed to be declared in the future, because a failure to declare prejudicial interests appropriately can undermine the public’s confidence in elected officials and their authority.

Under Section 69(4)(b) of the Local Government Act 2000, the Ombudsman found that no action needed to be taken in respect of the matters investigated.

25 March 2024

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## **RHONDDA CYNON TAF**

### **RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

#### **STANDARDS COMMITTEE**

**22 APRIL 2024**

#### **ADJUDICATION PANEL FOR WALES – RECENT TRIBUNAL DECISIONS**

#### **INFORMATION REPORT OF THE MONITORING OFFICER**

##### **1. PURPOSE OF REPORT**

To allow Members the opportunity to consider recent decisions made by the Adjudication Panel for Wales (APW).

##### **2. RECOMMENDATIONS**

- 2.1 It is recommended the Committee considers the recent decisions made by the Adjudication Panel for Wales (as appended to the report); and
- 2.2 Determines whether there are any possible messages or lessons to be learnt arising out of the decisions that could be communicated as part of future training for Members on the Code of Conduct.

##### **3. BACKGROUND**

- 3.1 The ethical framework set out under Part III of the Local Government Act 2000 included the establishment of the Adjudication Panel for Wales (APW) as an independent, judicial body with powers to form tribunals to deal with alleged breaches of the Members' Code of Conduct. The operation of the Panel is governed by Regulations issued by the Welsh Government.
- 3.2 The APW issues decision notices following the conclusion of the cases it considers and in that respect Members will find copies of the following decision appended to the report:

Appendix 1 – APW/0003/2023-024/AT – Former Councillor Louise Thomas (Mumbles Community Council);

Appendix 2 - APW/0005/2023-024/AT – Councillor David Metcalfe (Cefn Community Council); and

Appendix 3 - APW/0002/2023-024/CT - Former Councillor Emma McNamara (Mumbles Community Council).

- 3.3 The Committee may find it helpful to consider such 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.
- 3.4 The Committee may also wish to consider whether there are any possible messages or lessons to be learnt arising out of APW Panel decisions that could be communicated as part of future training for Members on the Code of Conduct.

#### **4. LEGAL IMPLICATIONS**

- 4.1 There are no legal implications arising from this report.

#### **5. CONSULTATION**

- 5.1 There are no consultation implications arising from this report.

#### **6. EQUALITY AND DIVERSITY IMPLICATIONS**

- 6.1 There are no equality and diversity implications arising from this report.

#### **7. FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There are no financial implications arising from this report.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**STANDARDS COMMITTEE**

**22 APRIL 2024**

**REPORT OF MONITORING OFFICER**

**ADJUDICATION PANEL FOR WALES – RECENT TRIBUNAL DECISIONS**

**BACKGROUND PAPERS**

**Freestanding Matter**

**Contact:** Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)

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## **NOTICE OF DECISION**

**TRIBUNAL REFERENCE NUMBER: APW/003/2023-024/AT**

**APPELLANT: Former Councillor Louise Thomas**

**RELEVANT AUTHORITIES: Mumbles Community Council  
(principal authority-City and County of Swansea).**

1. An Appeal Tribunal convened by the President of the Adjudication Panel for Wales has considered an appeal by former Cllr Louise Thomas against the decision of the City and County of Swansea's Standards Committee on 13<sup>th</sup> October 2023 that:

1.1 Former Councillor Thomas had breached Paragraphs 6(1)(a) and 6 (1)(d) of the Code of Conduct of Mumbles Community Council.

1.2 That former Councillor Louise Thomas be formally censured pursuant to Regulation 9 of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) for breaching paragraphs 6 (1)(a) and 6 (1)(d) of the Code of Conduct.

1.3 That had former Councillor Louise Thomas still been a serving Community Councillor, the Standards Committee would have imposed a 6-month suspension, which is the maximum period of suspension that the Committee could impose.

2. The Standards Committees determination followed its consideration of a report by the Public Services Ombudsman for Wales ("the Ombudsman") under the terms of sections 69(4)(c) and 71(2) of the Local Government Act 2000 dated 21<sup>st</sup> March 2023 and a determination in accordance with the 'Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001'.

3. The Standards Committee, at a hearing on 13<sup>th</sup> October 2023, considered two complaints made against the Appellant by Dr Martin O'Neill, the Chair of Mumbles Community Council that she had failed to observe the Code of Conduct by firstly submitting a series of vexatious complaints to the Ombudsman's office and secondly, had covertly recorded a confidential

session of the Council and offered to play the recording to a member of the public.

4. The Standards Committee made a number of findings of fact;
- a. Former Councillor Thomas was a member of the Council from 10<sup>th</sup> May 2021 until 6<sup>th</sup> January 2022 and again from May 2022 to 18 July 2022.
  - b. Former Councillor Thomas made nine complaints to the PSOW's office about her fellow members in seven months.
  - c. None of the complaints made by former Councillor Thomas to the PSOW's office passed the two-stage test and were therefore not investigated as no evidence of breach of the code of conduct had been presented.
  - d. Former Councillor Thomas was advised by the PSOW's office to consider the Ombudsman's Guidance, to seek guidance from the Clerk, the Monitoring Officer of Swansea Council and One Voice Wales before making complaints, and to seek training on the Code of Conduct.
  - e. Former Councillor Thomas did not seek guidance from the Monitoring Officer of Swansea Council or the Clerk of the Council prior to making any of her complaints to the Ombudsman's office.
  - f. Former Councillor Thomas recorded a confidential part of the Council's Special Meeting held on 3<sup>rd</sup> December 2021 and offered to play it to Mr. Jason Williams.
  - g. Former Councillor Thomas did not play the recording of the meeting to Mr. Williams. She shared the recording with the Police, Audit Wales and the Ombudsman's office.
  - h. Former Councillor Thomas was aware at the time she offered to play the recording to Mr. Williams that her actions were likely to amount to a breach of the Code of Conduct.
  - i. Former Councillor Thomas resigned from the Council on 6<sup>th</sup> January 2022 and again on the 18<sup>th</sup> July 2022. She no longer lives in Wales.
  - j. Former Councillor Thomas informed the Standards Committee members that she now agreed that Councillor Erasmus was not present at the vote count on Friday 6<sup>th</sup> May 2021, and she thereby agreed what had previously been a disputed fact.
  - k. Former Councillor Thomas did not attend Code of Conduct training.

5. The Appellant was granted permission to appeal to the Adjudication Panel for Wales (APW) by written decision of the President of the APW dated 26<sup>th</sup> October 2023 on a narrow ground that made it clear that the Appellant cannot challenge the factual findings of the Standards Committee or how the Standards Committee hearing was conducted. The President noted that the Standards Committee had not explained its reasoning as to why the facts that it found established, on the balance of probabilities, that the Appellant made frivolous, malicious and vexatious complaints, and whether the findings as a whole show that the appellant had breached paragraphs 6(1)(a) and 6(1)(d) of the Code of Conduct. The issue of sanction was also reopened so that the Appeal Tribunal could consider whether a censure or no action should be recommended.

6. The Standards Committee's findings were that the Appellant had breached the following paragraphs of the Code of Conduct. That you must;

- Paragraph 6 (1) (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- Paragraph 6 (1)(d) not make vexatious, malicious, or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

7. The Appeal Tribunal heard from former Councillor Thomas and Mr Leigh McAndrew on behalf of the Public Service Ombudsman for Wales. The Appeal tribunal's decision is to endorse the decision of the Standards Committee that;

7.1 Former Councillor Thomas had breached Paragraphs 6(1)(a) and 6 (1)(d) of the Code of Conduct of Mumbles Community Council.

7.2 That former Councillor Louise Thomas be formally censured pursuant to Regulation 9 of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended) for breaching paragraphs 6 (1)(a) and 6 (1)(d) of the Code of Conduct.

7.3 That had former Councillor Louise Thomas still been a serving Community Councillor, the Appeal Tribunal would have recommended that the Standards Committee impose a 6-month suspension, which is the maximum period of suspension that the Committee could impose.

8. The Authority and its Standards Committee are notified accordingly.

Signed: *R. Payne*

Date; 14<sup>th</sup> March 2024

Tribunal Judge Richard Payne  
Chairperson of the Appeal Tribunal

Sian McRobie  
Panel Member

Dean Morris  
Panel Member

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**NOTICE OF DECISION**

**TRIBUNAL REFERENCE NUMBER:**

**APPELLANT:** Councillor David Metcalfe

**RELEVANT AUTHORITIES:** Cefn Community Council (principal authority - Wrexham County Borough Council)

1. Following a decision by the Standards Committee of Wrexham County Borough Council (“the Standards Committee”) on 16 January 2024 that the Appellant breached the Code of Conduct of the Relevant Authority, and the Notice of Decision which was emailed to the Appellant on 19 January 2021 (receipt confirmed), the Appellant has made an application to appeal under Regulation 10(8) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales) Regulations 2001.
2. I have deemed the application to be in time. The Appellant’s appeal was received by the APW on 5 February 2024, within the 21-day period in which applications for permission to appeal must be received.
3. The Appellant sent a copy of the standards committee’s decision and the minutes with his appeal form.
4. I have made my decision on the basis of the following evidence:
  - a. The completed APW05 form from the Appellant seeking permission to appeal (together with the additional sheets provided as attachments to that form);
  - b. The Notice of Decision from the Standards Committee sent to the Appellant;
  - c. The minutes of the Standards Committee meeting held on 16 January 2024;
  - d. The comments of the Appellant disputing the minutes of the Standards Committee meeting held on 16 January 2024

5. The Appellant has raised several grounds of appeal, which focus on facts and the alleged breaches of the Code of Conduct found. I am required to consider whether it has no reasonable prospect of success. I will take the Appellant's case at its highest (this means assuming his version of key disputed facts is correct for the purposes of considering his application), unless it is conclusively disproved, is entirely unsupported by reasonable argument or the evidence before me, or can reasonably be viewed as fanciful allegations.
  6. If any ground of appeal is found by me to have no reasonable prospect of success, that ground will not proceed to be considered by the Appeal Tribunal. I am required to give reasons if I find a ground of appeal has no reasonable prospect of success. The threshold is low to obtain permission to appeal – even if I take the view the ground is unlikely to succeed, unless I find there is no reasonable prospect of success, I will allow the ground to be considered by an Appeal Tribunal. Where there is a dispute about the fact-finding undertaken by a standards committee, I will consider the decision of that committee to consider whether the criticisms made have no reasonable prospect of success.
  7. If any ground does have a reasonable prospect of success, I am required to arrange for an Appeal Tribunal to be convened to hear the appeal.
  8. I note that the decision letter of the standards committee is summary in nature. The draft minutes sets out evidence was received, that submissions were made, and the sanction imposed. There is no record of the Committee's reasoning, what the submissions were, the weight placed on the evidence or submissions received or whether the Sanctions Guidance was considered. I observed that compared to the detailed decisions supplied by other Standards Committee, the letter did not enable a review of the decision making process to be undertaken by an objective reader. I reviewed the minutes of the meeting (whilst noting that the Appellant disputed their accuracy); again I noted that there was no record setting out why the Standards Committee reached the conclusion that it did.
  9. The Appellant raised the following grounds in his application for permission to appeal:
    - a. He commented on the phrase of "*cripple your business*", aspects of his hopes for the Ebenezer building and the underlying dispute over its future with the principal authority– there are not relevant to the reasons why he was found to have acted aggressively in a meeting of 4 May 2021 or failed to declare an interest in council business at the same meeting, and the details of the underlying dispute cannot be resolved in this forum. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
    - b. The Appellant complains of a presentation made in the meeting of 4 May 2021 – this is not something that can form the basis of a ground
-

of appeal. Taking his additional comments made into consideration, it appears that the Appellant asserts that there has been a “cover up” by both the community council and the principal authority regarding the Ebenezer building; again, this is not relevant as to whether the Appellant breached the Code of Conduct and the underlying dispute cannot be resolved in this forum. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**

- c. The Appellant accepts that he did not seek advice from the clerk, the monitoring officer or any other body as to whether he should declare an interest when attending the meeting on 4 May 2021; his position is that he did not need to do so and asserts that there is no need to declare something that should have been known. This is incorrect – it is necessary to declare even if known. The Appellant admits that he made no declaration and sought no advice, but this is on the basis that his interest was known. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- d. The Appellant accepts that he raised his voice at the meeting of 4 May 2021 but says that others did so. This is not an acceptable justification as the Appellant is responsible for his own conduct. There is no challenge that he conceded to the Standards Committee that he behaved aggressively. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- e. The Appellant touched on the finding that he brought his office or the relevant authority into disrepute, but does not set out any basis on which the finding can be challenged. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- f. The Appellant says that he did not use his official capacity as a councillor to improperly obtain an advantage for himself or any other, or create a disadvantage – this was found by the Standards Committee but the Appellant has failed to explain why he challenges this finding. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- g. The Appellant denies that he had a personal or prejudicial interest in the business of the authority and failed to disclose it. On his account within the application for permission to appeal alone, it is evident that the Appellant did have a personal interest in the fate of the Ebenezer building (which was financial in nature as it could lead to the insolvency of his personal business according to the Appellant) and says that he did not need to disclose it (or withdraw) as it was known. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- h. The Appellant has made no submission that the sanction imposed was inappropriate. I have closely examined all of his documents, and

no argument is made and no comment in the form set out challenging this. **It therefore is not a ground of appeal and cannot proceed to an Appeal Tribunal.**

10. An Appeal Tribunal will not be convened by the President of the Adjudication Panel for Wales. The Monitoring Officer will be notified to enable the period of suspension to commence.

Signed: 

Date: 8 February 2024

Claire Sharp  
President of the Adjudication Panel for Wales



## DECISION REPORT

**TRIBUNAL REFERENCE NUMBER:** APW/002/2023-24/CT

**RESPONDENT:** Former Councillor Emma McNamara

**RELEVANT AUTHORITY:** Mumbles Community Council

### 1. INTRODUCTION

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

1.2 The Case Tribunal determined its adjudication on the papers only and without the attendance of the parties, during a meeting on 18 March 2024, conducted by means of remote attendance technology.

1.3 By letter dated 10 October 2023, the APW received a referral from the Public Services Ombudsman for Wales ('the PSOW') in relation to an allegation made against the Respondent.

1.4 The allegation was that the Respondent had breached the Code of Conduct of the Relevant Authority by failing to comply with Paragraph 6(1)(a) of the Code of Conduct which states; '*you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*'

1.5 In summary, the details of the allegation were that the Respondent had made inflammatory comments on social media, which included a comment of a threatening nature, and that this conduct could reasonably be regarded as being disreputable and capable of undermining public confidence in the Council and in the office of member. It

was alleged that, as a Member of the Relevant Council at the time, the Respondent knew, or ought to have known, that her conduct was likely to have been linked to her role as Member during the exchange and showed a reckless disregard for the reputation of the Council, and of the office of Member.

1.6 The Respondent did not complete the standard APW response document regarding the allegation, however she provided a written submission indicating that she would not be responding any further or attending any hearings. The Respondent subsequently sent responses referencing an intention to call certain witnesses and referencing certain health issues.

1.7 Listing Directions were issued on 30<sup>th</sup> January 2024 providing a further opportunity to attend, to be represented, and to call any witnesses at any hearing. The Listing Directions also provided further opportunities to submit written responses in relation to the stages of the adjudication, including determination of the facts and as to whether there had been a failure to comply with the Code of Conduct.

1.8 The Respondent did not respond within the relevant timescales given in the Listing Directions. However, the APW office received a large number of e-mails shortly before the adjudication.

## **2. PRELIMINARY MATTERS**

2.1 The Respondent's e-mails received shortly before the adjudication indicated that she might wish to attend a future hearing, although she had originally made it clear that she would not attend any hearings. She also wished to have more time to obtain a medical report.

2.2 The Case Tribunal carefully considered these e-mails as a preliminary matter. It considered that the Respondent's indication did not comprise of a formal application to adjourn proceedings out of time, and no formal medical report had been submitted to support any such application. Furthermore, in the interests of justice and the timely and efficient discharge of the APW's functions, the Case Tribunal determined that it would not be fair, reasonable, or in the interests of any of the parties to further delay this matter's adjudication.

2.3 In all the circumstances, the Case Tribunal determined that the adjudication would proceed without further delay.

## **3. THE OMBUDSMAN'S (PSOW'S) REPORT**

3.1 The PSOW's report resulted from complaints submitted to the PSOW which stated that the Respondent had verbally abused two individuals on a publicly available

community action group Facebook page, following a post made by another Member of the Relevant Council and relating to Council business concerning himself. The exchange was subsequently deleted from Facebook and the complainants did not provide any further detail on the content of the original post. The PSOW considered that the wording of the exchange between the Respondent and the complainants suggested that the discussion related to the Relevant Council at the outset. As such, the PSOW considered the Respondent's conduct was linked to her role as Member and to the Relevant Council.

3.2 The report stated that the PSOW was not persuaded, on the balance of probabilities, that the Respondent claimed or intended to give the impression that she was acting in the role of Member during the exchange. She therefore did not consider that the Code in its entirety applied to the situation. However, the PSOW noted that the complainants were aware of her role on the Council and included her in their comments, partly because of her role as Member. Whilst the PSOW considered the complainants had used comments which were similar in nature to those of the Respondent, *'they appear to have been in direct response to her comments'*. The report recognised that the screenshots did not comprise a full record of the exchange, and that the full context was not available. It considered that the exchange suggested that the relationship between the complainants and the Respondent may already have been poor.

3.3 The PSOW noted that the Respondent had probably intended to resign at the point of the exchange and that she then did resign a few hours later. The PSOW thought this may have made her feel she no longer needed to consider her role. It was also considered that the Respondent knew, or ought to have known, that her conduct was likely to have been linked to her role as Member during the exchange. The PSOW considered that the Respondent's behaviour showed a reckless disregard for the reputation of the Council and the office of Member.

3.4 In conclusion, the PSOW considered that the language used by the Respondent was gratuitously offensive and abusive towards the complainants and as such, interfered with their rights and reputation. The PSOW acknowledged that the Respondent was no longer a Member, however she noted that it was open to her to stand again at any time. She also considered it significant that the Respondent's position on her actions was that she had made it clear that she stood by her comments, had made no apology and *"couldn't care less"* for the complaint.

#### **4. THE RESPONDENT'S SUBMISSIONS**

4.1 The Respondent provided submissions to the PSOW during the investigation. She said that the screenshots provided by the complainants were not contemporaneous or a true picture of the exchange and omitted what she said were the disgusting and horrific personal comments made about her by the complainants. She said she had a copy of the full thread of comments but did not wish to share them due to their personal nature.

4.2 The PSOW's report also recorded that the Respondent said that she used her own personal Facebook profile during the exchange and made clear in her comments that she was no longer a member of the Council. As a result, she believed that her conduct could not be reasonably regarded as bringing her office or authority into disrepute.

4.3 The Respondent said that she informed the PSOW that at the time of the relevant events, she had been under an extreme amount of emotional pressure due to health issues. In response to the draft version of the report however, she had said she stood by her comments and made no attempt to; *"justify, excuse or mitigate for them"*. She said she was proud to stand up to behaviour which she felt had been demonstrated and made *"no apologies for doing so."* She also said that she *"couldn't care less for this complaint and reply in the spirit of the contempt it deserves."*

4.4 The Respondent did not understand why she was subject to a PSOW investigation as she was a member of the public and no longer a Member.

4.5 She considered that the complainants used the relevant community action group Facebook page to *"hijack most threads"* and to belittle those who disagreed with them. She said she had originally blocked one of the complainants as she felt harassed by her before this incident but unblocked the complainant to carry out the relevant social media exchange.

4.6 The Respondent said she tried to resign several times. This was because she considered that there was a toxic culture of bullying and misogyny at the Relevant Council, and she no longer wanted to be a part of the relevant political group. She also considered that the group had not checked her suitability as a candidate for office. However, the Chairperson of the Relevant Council had refused to accept her resignation. The Respondent said she had also been extremely unwell at that time.

4.7 The Respondent then provided background information about a historical dispute with one of the complainants on social media. She recognised that she should have ignored the comments made about her on the thread which led to the incident. She said that she no longer engaged with social media and had exercised restraint in not responding to certain on-line comments. Finally, she provided full details of confidential, on-going serious health issues.

4.8 Regarding her resignation from the Council, she said the Council had experienced IT problems at the relevant time and that other Members were aware that she had left the Council prior to the time given in the PSOW's Report. However, the Respondent did not provide an indication as to the time and date when she considered that she had resigned. She also stated that there had been procedural irregularities as regards the 'acceptance of office' form, as it was not signed in the presence of the Council's clerk.

4.9 Finally, the Respondent submitted e-mail evidence shortly before the adjudication to the effect that the complainants wished to withdraw the complaint. The e-mail indicated that the Respondent had recently reached out to the complainants and personally

apologised for her behaviour on the relevant night and had acknowledged that it was unacceptable and should not have happened.

## **5. THE FINDINGS OF FACT**

### **UNDISPUTED FACTS**

5.1 The Case Tribunal noted the following undisputed material facts;

5.1.1 The Respondent signed a declaration of acceptance of office and undertaking to observe the Code of Conduct on 11 May 2022.

5.1.2 The Respondent completed training on the Code of Conduct on 11 May 2022.

5.1.3 Councillor Rob Marshall posted on the local community Facebook page. In his post, Councillor Marshall commented on the Relevant Council's handling of a complaint it received against him, the Council meeting of 16 August 2022, an alleged failure of some members to declare interests in that meeting and the alleged treatment he had received from other members of the Council.

5.1.4 The Respondent engaged in a conversation on Facebook with Mr Gary Davies and Miss Heather Davies on 3 September 2022. The conversation took place in the comments of Councillor Marshall's post about the Council.

5.1.5 The comments were made on the local community Facebook page that was public and referred to the Council and therefore could be viewed by members of the public.

5.1.6 The Respondent used the following expletive and offensive language during the exchange on Facebook on 3 September: *"cunt"*, *"FUCK YOU"*, *"pair of twisted cunts"*, *"fuck off"*, *"tory fuckers"*, *"Nazi bitch"*, *"Fuck off you tory nonce"*.

5.1.7 The Respondent made a comment of a threatening nature to Miss Davies, where she stated, *"I will shit on your doorstep"*.

5.1.8 Screenshots of certain comments made by the Respondent are timed and dated as being taken on Saturday 3 September between 20:38 and 21:08.

5.1.9 The Respondent resigned as a member of the Council in an e-mail she sent to the Clerk of the Council.

5.1.10 The comments complained about were deleted from Facebook and can no longer be accessed.

### **DISPUTED FACTS**

5.2 The disputed material facts are as follows;

5.2.1 Was the Respondent a member of the Council when she made the comments complained about?

5.2.2 Was the Respondent acting in her capacity as a councillor when she made the comments complained about?

5.2.3 Did the Respondent use language of a similar nature to that used by Mr Davies and Miss Davies?

### **The Case Tribunal's determination**

5.3 The Case Tribunal found the following in relation to the Disputed Facts: -

5.3.1 It noted that the Respondent had disputed the exact timing of her resignation and had commented about her previous on-going wish to resign from the Relevant Council and that she felt she had been prevented from doing so. The Respondent had not however provided any evidence to show that she had formally resigned prior to the social media incident which is the subject of the relevant complaint. Certain screenshots of the comments made by the Respondent were timed as being taken at 20.38 and 21.08 on the relevant date. However, it is likely that the exchange took place over a different and rather longer timeline on the relevant evening.

5.3.2 The PSOW asserted that the resignation took place just after 01.00 on the following date, however there was no supporting evidence to confirm this point. In the absence of any clear evidence to the contrary, however, the Case Tribunal concluded that, on the balance of probabilities, the Respondent was still a Member of the Council when she made the relevant comments.

5.3.3 The Ombudsman noted that the Respondent's Facebook account appeared not to refer to her Member status. The Report also accepted that during the relevant exchange the Respondent had suggested that she was not a Member of the Council and stated that she was "*nothing to do with mcc...*" and was "*not part of mcc*". The Case Tribunal noted however that the Respondent contradicted this during the exchange by stating; "*it is taking away from what we as elected representatives are here to do which is work for the benefit of our communities.*"

5.3.4 The PSOW also noted that the Respondent's comments related to a post by another Member of the Council which clearly discussed Council business. In the PSOW's Report, it noted that this suggested that the discussion was related to the Council at the outset. Nevertheless, the PSOW was not persuaded, on the balance of probabilities, that the Respondent claimed to or intended to give the impression she was acting in the role of Member during the exchange. The Case Tribunal agreed for the following reasons.

5.3.5 Firstly, it noted that the PSOW's report stated that the name documented on Facebook was 'Emma McNamara' with no reference to her Member role. It does not go

on to explain whether it had considered the Respondent's Facebook profile, to check whether this referenced the role. Nevertheless, on the available evidence the Case Tribunal concluded that the exchange was conducted on Facebook in the Respondent's personal capacity.

5.3.6 The Case Tribunal noted that the Respondent only referred to her Council role once the original complainant raised her status as follows; *"Its the end of the line for you with MCC"* and *"...this lady is on MCC"*. The Case Tribunal considered that on the balance of probabilities, the Respondent's reference to the Council was in response to this. It noted however that the social media debate which preceded the exchange was no longer available. It therefore considered it likely that it had not seen the entire exchange. Whilst it had no reason to doubt that it had indeed emanated from a post relating to the business of the Relevant Council, it considered that the exchange itself largely related to historical and personal animosity between the parties and had only loosely and incidentally referenced the business Relevant Council.

5.3.7 The PSOW Report was clear that the original post which led to the exchange had been about Council business. From this, the Case Tribunal had to assume that the PSOW's representative had originally seen the entire social media thread, however it was no longer available and had since been deleted. In conclusion, however, the Case Tribunal concurred with the PSOW's finding that the Respondent was not acting in her capacity as a Member when she made the relevant comments.

5.3.8 Finally, regarding the third disputed fact, the Case Tribunal considered the language used by the complainants was relevant only to the issue of mitigation and only if this stage of the adjudication were to be reached. Nevertheless, for the avoidance of doubt, it considered that on the balance of probabilities, the Respondent had used language which may have been of a broadly similar nature to that used by the complainants. This would have contributed to the appalling tone of the 'debate', albeit on the available evidence, it was likely that the Respondent's language had been more extreme. The PSOW also stated that the complainants' comments appeared to have been in direct response to the Respondent's comments. Again however, in the absence of the full social media thread, it is not possible or necessary to determine who started the unpleasant and unedifying exchange.

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

6.1 The relevant provisions of the Code, overarching Principles, the European Convention on Human Rights ('ECHR') and PSOW Guidance on the Code of Conduct for Members are as follows.

### **The Code of Conduct for Members**

6.1.1 The relevant part of the Code are as follows; Paragraph 2(1)(d) of the Code states; *'... You must observe this code of conduct at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.'* Paragraph 6(1)(a) of the Code states; *"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.'*

### **Article 10 ECHR**

6.1.2 Article 10 of the ECHR states as follows;

*'1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers....*

*2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others...'*

### **The Nolan Principles**

6.1.3 The Principles governing the conduct of elected and co-opted members of local authorities in Wales, which reflect and expand the 'Nolan Principles' include the principles of 'Integrity' and of 'Leadership' as follows; *'Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority'.*

### **The Ombudsman's Guidance on the Code of Conduct**

6.1.4 With regard to Paragraph 6(1)(a) of the Code, the Ombudsman's Guidance states as follows: -

*'2.31...As a member, your actions and behaviour are subject to greater scrutiny than those of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on the public perception of your office as a member, or your Council as a whole.*

*2.32 When considering whether a member's conduct is indicative of bringing their or their authority into disrepute, I will consider their actions from the viewpoint of a reasonable member of the public. It is likely that the actions of those members in more senior positions, such as the Chair of a Council, will attract higher public expectations and greater scrutiny than ordinary members. It is more likely, therefore, that inappropriate behaviour by such members will damage public confidence and be seen as bringing both their office and their Council into disrepute. This does not mean that inappropriate behaviour by ordinary members can never bring their council into disrepute.*



*2.33 Dishonest and deceitful behaviour will bring your Council into disrepute, as may conduct which results in a criminal conviction, especially if it involves dishonest, threatening or violent behaviour, even if the behaviour happens in your private life.*

*2.34 Whilst you have the right to freedom of expression, making unfair or inaccurate criticism of your Council in a public arena might be regarded as bringing your Council into disrepute. Similarly, inappropriate emails to constituents or careless or irresponsible use of social media might bring the office of member into disrepute, bearing in mind the community leadership role of members. Cases considered by the Adjudication Panel have shown that such behaviour will often be viewed as a serious breach of the Code.'*

### **The Case Tribunal's determination**

6.2 The Case Tribunal's findings as to whether the material facts disclosed a failure to comply with the Code of Conduct are as follows: -

6.2.1 On the basis of the findings of fact, the Case Tribunal found by unanimous decision that the Respondent had not failed to comply with Paragraph 6(1) of the Code for the following reasons.

6.2.2 The Case Tribunal's starting point was that, in accordance with Paragraph 2(1)(d) of the Code, Members must observe the Code at all times and in any capacity as regards behaviour which could reasonably be regarded as bringing a Member's office or authority into disrepute. The Code can therefore apply in principle, regardless of whether a Member is acting in her/his private capacity, as poor behaviour by a Member in her/his private life can impact on the reputation and integrity of a Council.

6.2.3 The Case Tribunal was also mindful of the significant rise in complaints to the Ombudsman concerning the use of social media and the impact this may have on the reputation of Councils and the office of Member as highlighted in the Ombudsman's Guidance which states as above; *'inappropriate emails to constituents or careless or irresponsible use of social media might bring the office of member into disrepute, bearing in mind the community leadership role of members.'*

6.2.4 The relevant social media exchange in this case represented the worst possible manifestation of the use of social media. The Case Tribunal considered that Respondent's comments involved reprehensible language and grossly unpleasant insults and a threat. This could not be condoned in any circumstances, and whether or not there had been any provocation.

6.2.5 The key question for determination in this case however is whether the manifestly appalling behaviour for which the Respondent was responsible in her private capacity, could reasonably be regarded as bringing her office as Member, or the Relevant Authority into disrepute.

6.2.6 The Case Tribunal noted that the exchange occurred over a certain period on a particular evening on a public community action group Facebook site. The group had a large number of members. The Case Tribunal also noted that the Respondent is likely

to have resigned from being a Member shortly following the exchange. Unfortunately, there was no available evidence as to the length of time the exchange remained public. The Case Tribunal considered that on the balance of probabilities, however, the exchange had come to the attention of some members of the public as well as the complainants. It accepted that one of the complainants had been approached by a member of the public asking “...if the accusations were true.” The Case Tribunal also noted however that the exchange was of limited duration on a specific date. There was no evidence to show that the exchange was reported in the press or that it had reached any audience beyond the community action group.

6.2.7 It was likely that any members of the public viewing the posts would have been aware of the Respondent’s role as a Member of the Relevant Council. Nevertheless, due to the exchange's nature, the Case Tribunal considered the immediate thought of anyone reading it was that this was a particularly unpleasant private dispute being aired in public. As above, it considered that business of the Relevant Council was only loosely and incidentally referenced in the exchange, albeit Council business may have been the initial impetus for the exchange. It also considered the Respondent’s specific reference to the Council within that exchange where she stated that she was; “*nothing to do with mcc...*” and was “*not part of mcc*”, was likely to have been prompted by the complainants’ reference to the role.

6.2.8 Finally, the Case Tribunal considered that it was likely that the Respondent had felt it necessary to resign shortly after the exchange as she had realised that the behaviour was incompatible with her role as Member. It accepted that it was likely that she had tried to resign previously and had been uncomfortable about continuing in the role, however it considered it likely that the exchange had been the final determining factor. This may have been an acknowledgement of a potential Code breach. On the balance of probabilities however, the Case Tribunal considered that, due to the limited timescale of the exchange, the fact that it was a single incident, that there was no press report of the incident and a swift resignation by the following morning, the impact of the incident would have been limited and contained. It also concluded that any members of the public viewing the exchange would have seen this for what it was, as an extremely undignified and unpleasant personal exchange, with little or no relevance to the Relevant Council or her official or political role as Member.

6.2.9 Finally, as the Case Tribunal had determined that the Code of Conduct was not engaged in this case, it was not necessary to go on to consider the provisions of Article 10 of the ECHR. Nevertheless, it wished to note for the avoidance of doubt that it considered freedom of expression to be a fundamental right, including the right to forcefully express views, particularly in a political context. The Case Tribunal considered that the comments in question were so offensive, extreme and gratuitous however, that had there been a finding of a breach of the Code, the protections offered to politicians by the ECHR to freely express views would not have applied.

6.2.10 In conclusion, this decision was a finely balanced one, however the Case Tribunal concluded that the conduct of the Respondent on social media brought herself into disrepute in her personal capacity. Neither the Respondent nor the complainants could be said to have acted in a dignified or appropriate manner. On the specific facts of this case however, it concluded that it was not conduct which could also reasonably be regarded as bringing the Respondent's office or authority into disrepute.

6.3 Mumbles Community Council and its Standards Committee are notified accordingly.

Signed

A handwritten signature in black ink, appearing to be 'C Jones', written over a light blue horizontal line.

Date: 10/04/2024

C Jones Chairperson of the Case Tribunal

S Hurds Panel Member

G Jones Panel Member

Tudalen wag



## **RHONDDA CYNON TAF**

### **RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

#### **STANDARDS COMMITTEE**

**22 APRIL 2024**

### **NATIONAL STANDARDS FORUM - FEEDBACK FROM MEETING HELD ON 29<sup>TH</sup> JANUARY 2024**

#### **REPORT OF THE MONITORING OFFICER**

##### **1. PURPOSE OF REPORT**

To provide Members with feedback from the meeting of the National Standards Forum held on 29<sup>th</sup> January 2024.

##### **2. RECOMMENDATIONS**

- 2.1 To note the feedback from the meeting of the National Standards Forum held on 29<sup>th</sup> January 2024, attached at Appendix 2.
- 2.2 To consider whether there are any items the Committees wishes to put forward as suggestions for consideration by the National Standards Forum at its future meetings.

##### **3. BACKGROUND AND INAUGURAL NATIONAL FORUM MEETING**

- 3.1 As reported to the Committee [at its meeting](#) in November 2022 a National Forum for Standards Committee Chairs and Vice-Chairs has been established. The terms of reference for the Forum are attached at Appendix 1. By sharing best practice it is anticipated the Forum will help to raise standards across all authorities in Wales.
- 3.2 The third meeting of the Forum took place on 29<sup>th</sup> January June 2023. The Agenda and feedback and actions arising from the meeting can be found attached at Appendix 2A and 2B respectively.
- 3.3 The meeting considered the following items:

- Presentation by Michelle Morris - Public Services Ombudsman for Wales – Code of Conduct Update.
- Corporate Joint Committees (CJCs) and Joint Standards Committees. Presentation by Iwan Gwilym Evans, Gwynedd.
- Resourcing of Standards Committees.
- Local resolution protocols, how do they operate in your area and are they effective.
- Items raised by the Monitoring Officers Group:

Whether, in light of the duty to report on the performance of the Group Leader's duty, authorities allow group leaders to sit on their Standards Committee and, if so, how they manage any perceived conflict of interest between a group leader assessing their own performance and the performance of their political opponents;

Progress on adopting the agreed common threshold of £25 for the registration of gifts and hospitality;

Do authorities have any guidance on the use of social media over and above that published by the WLGA; and

Whether authorities encourage their town & community councils to sign the civility and respect pledge - <https://www.slcc.co.uk/news-publications/civility-respect-pledge/> .If they do not whether they would consider doing so.

3.4 The next meeting of the forum will in June 2024.

#### **4. FINANCIAL IMPLICATIONS**

4.1 The support for the Forum will be provided by the WLGA and voluntarily by monitoring officers within the constituent local authorities.

#### **5. CONSULTATION IMPLICATIONS**

5.1 The Committee is invited to make suggestions as to future items the forum may wish to consider as part of its future work programme.

**LOCAL GOVERNMENT ACT 1972**  
**AS AMENDED BY**  
**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**  
**STANDARDS COMMITTEE**  
**22 APRIL 2024**  
**REPORT OF MONITORING OFFICER**

**BACKGROUND PAPERS**

[NATIONAL FORUM FOR STANDARDS COMMITTEE CHAIRS – DRAFT TERMS OF REFERENCE – 18 NOVEMBER 2022](#)

**Contact:** Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)

Tudalen wag



## **National Standards Committee Forum** **Terms of Reference (2022)**

The purpose of the Forum is to share best practice and provide a forum for problem solving across the

- 1) 22 principal Councils
- 2) 3 Fire and Rescue Authorities
- 3) 3 National Park Authorities

in relation to the work of Standards Committees.

The role of the forum is to share information and so any decisions will have to be made by the individual Standards Committees. There will be times when the Forum would need to make a decision about administrative matters relating to its own practices and administration of meetings.

- Membership – Chair, with the Vice-Chair to attend in the absence of the Chair
- Decision making will typically be by consensus but where a formal decision is required then there will be one vote per authority with the Chair of the Forum having the casting vote
- Election of Chair and Vice Chair – every two years to provide consistency
- Secretariat Support – the WLGA will send out agendas, prepare minutes and can prepare basic reports analysing practice across Wales. Officer support to prepare more extensive reports is dependent upon a monitoring officer from a council volunteering/agreeing to undertake the work
- Frequency of Meetings – 2 meetings per year following a meeting of the Monitoring Officers Group of Lawyers in Local Government
- Agendas items will be suggested by Monitoring Officers based on discussions with their Standards Committees and the Forum will also have a forward work plan to which members could contribute
- Each region will be asked to send 1 monitoring officer to represent the local authorities in that area, with 1 additional monitoring officer each for fire & rescue authorities and national park authorities (making 6 monitoring officers in total)

*Each meeting could have a small agenda followed by a Training Session  
Speakers from the Ombudsman's Office, Adjudication Panel for Wales and Welsh Government could address the Forum on their work*

Tudalen wag

## National Standards Committee Chairs Forum - Wales

Monday 29<sup>th</sup> January 2024 @ 2pm, via Teams

### Agenda

1. Apologies for absence.
2. Chairs Announcements
  - a. Welcome new Panel Advisor, Justine Cass, Deputy Monitoring Officer and Solicitor, Legal Services, Torfaen County Borough Council.

3. Notes of the previous meeting 30 June 2023.

NOTE 7 Richard Penn Review update.

The responses were being analysed and the results would be published during the autumn.

[https://www.gov.wales/sites/default/files/consultations/2023-11/wg48234-summary-reponses\\_0.pdf](https://www.gov.wales/sites/default/files/consultations/2023-11/wg48234-summary-reponses_0.pdf)

<https://www.gov.wales/written-statement-responses-consultation-review-local-government-ethical-standards-framework>

4. Michelle Morris - Public Services Ombudsman for Wales – Update.
5. Corporate Joint Committees (CJCs) and Joint Standards Committees. Presentation by Iwan Gwilym Evans, Gwynedd.

6. Resourcing of Standards Committees, Action 6 of previous meeting notes.

Specifically,

a. Resourcing of Standards Committees. Chair and Davina Fiore to discuss the possibility of raising the issue of budgets with the Monitoring Officer group.

b. payments to Co-opted Members.

c. <https://www.gov.wales/independent-remuneration-panel-wales-draft-annual-report-2024-2025> This is linked to the discussions at the previous meeting on workloads and item 6b on the agenda.

Chairs may wish to discuss report -

- i. in the context of the changes proposed (e.g. hourly rate) and non-changes (i.e. no increase in rates for independent members).
  - ii. The general application of the guidance and are they being applied consistently to Standards Committee members i.e., how the guidelines on remuneration are applied.
- Whether the Chairs have input into future IRPW reports e.g. could a representative from the IRPW be invited to a future meeting.

7. Local resolution protocols, how do they operate in your area and are they effective. Reflections. – All
8. Items raised by the Monitoring Officers Group.
  - a. Whether, in light of the duty to report on the performance of the Group Leader's duty, authorities allow group leaders to sit on their Standards Committee and, if so, how they manage any perceived conflict of interest between a group leader assessing their own performance and the performance of their political opponents.
  - b. Progress on adopting the agreed common threshold of £25 for the registration of gifts and hospitality.
  - c. Do authorities have any guidance on the use of social media over and above that published by the WLGA.
  - d. Whether authorities encourage their town & community councils to sign the civility and respect pledge - <https://www.slcc.co.uk/news-publications/civility-respect-pledge/> . If they do not whether they would consider doing so.
9. Training for Standards Committee Chairs.
10. Any other business.
11. Date of next meeting 24<sup>th</sup> June 2024.

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**Standards Committees Chairs Forum - Wales**  
**Monday, 29<sup>th</sup> of January 2024 @ 2pm, via Teams**  
**Notes**

**1. Chairs Announcements**

- a) Welcome new Panel Advisor, Justine Cass, Deputy Monitoring Officer and Solicitor, Legal Services, Torfaen County Borough Council.

**2. Notes from the previous meeting – 30<sup>th</sup> of June 2023.**

- Notes shared with Standards Committees would be in the public domain, and must be published as they are received, to ensure that any issues raised on individual ongoing cases or potential cases to assist with the process/problem solving/best practise were anonymised to ensure individual members and councils could not be identified.

**3. Michelle Morris, Public Services Ombudsman for Wales – Update**

**Code of Conduct Cases 2023/24.**

- Increase in the number of cases since last year – 18% Increase – 116 Open Cases
- Increase in Closed Cases
  - Pre-Assessment +18%
  - Assessment +2%
  - Investigation +32%

- Challenge of “Aged Cases” (over 12 months)
  - Quarter (15 cases) of investigations at end of December '23
  - Target to halve by end of the financial year.

### **Referrals & Hearings**

- 11 concluded to end of December '23
- 9 pending, 2 Adjudication Panel for Wales (APW) including 1 Appeal.
- Anticipate further referrals before end of the financial year.

Points of Interest – APW granted Interim Suspension (July 2023) – final report will be with Panel next month.

### **Questions and comments**

- The dynamics of the situation – “aged cases” and increase in number of current cases, balancing with an increase in health board cases, challenge in terms of staffing resources. Is that likely to slow down progress?
  - It was a challenge, and the increase of maladministration cases was 5% - a smaller figure but in the context of a much larger case load. It was a challenge to look at the best use of resources. Finance Committee in the Senedd had agreed to recommend an increase in budget for two extra members of staff, which will be hopefully agreed in the draft budget. Must focus on the most serious cases, there is an impact and a judgement call to be made.
- Is there anything more that Standards Committees can do in terms of helping with the PSOW workload?
  - Local resolution is important, particularly if there are patterns emerging locally where perhaps things can be “nipped in the bud” – Group Leaders have a role in this with having conversations about appropriate behaviours.
- If a hearing is conducted and a decision made with a sanction given on a LA councillor, if the complainant doesn't agree – what is the process for the Standards Committee?



- The issue with this case is that the PSOW has not investigated it before going to the Standards Committee. The normal process would be for the PSOW to investigate and refer to the Standards Committee to conduct the hearing. PSOW will confirm the process to the LA with this case.
- The recently circulated PSOW newsletter for Q3 was very useful, particularly the links.
- There was positive feedback from a Local Authority in terms of their engagement with PSOW who had been most helpful and supportive with two recent hearings.
- In a recent case there was a hearing concerning a community councillor, and the outcome was a decision to suspend him. After this, the councillor said he was a community councillor at a neighbouring community council– the decision was to just suspend him for the community councillor that the complaint had been raised. Was this the wrong decision?
  - The circumstances mentioned previously in a different case would have been different, and if the Standards Committee had sought advice from the PSOW team, their advice would be correct.

#### **4. Corporate Joint Committees (CJCs) and Joint Standards Committees – Iwan Gwilym Evans**

- See attached presentation.



CJC\_Overview-Biling  
ual - Fforwm Forum.p

#### **Questions and comments**

- Powys and Ceredigion are one CJC – there seems to be a duplication of effort and cost. What are your thoughts on two separate Standards Committees?

- The regulations mean that a Standards Committee must be established going forward, reflects the approach Welsh Government are taking of CJs as a developing body who may have more influence.
- Members are allocated to the National Park Authorities, the formation of the CJs had the thoughts about the powers that the CJC Standards Committee has. Some of their members are allocated to the Authorities and Standards Committees do not have the same powers of sanction.
  - Will have the same powers as a local authority Standards Committee but will only deal with issues relevant to the member CJC.

**ACTION: PowerPoint slides to be circulated to the Chairs. IE, CT**

**ACTION: Consider how the Forum engages with the emerging CJC Standards protocols and groups before the next meeting. CW, JC, CT.**

## **5. Resourcing of Standards Committees**

- Resourcing issues to ensure they are fit for purpose to undertake the work that is required.
- Missed the opportunity to respond to this year's IRPW report but want to look at how we engage going forward. Standards committee co-opted members not consulted as part of IRPW stakeholder engagement. Payments to co-opted members did not seem to be a focus for the IRPW.
- The determination around the interpretation of remuneration is different across Councils as well as different levels of support e.g., provision of IT equipment and an email address. Do we want to map out the differences between councils?
- Do we want to engage with the issue, if we do, do we ask someone from IRPW to come along, mapping to feed into a future report?

## **Comments**

- Fully support the thoughts in terms of engaging with the IRPW. The way forward is to do some mapping to ensure there is an understanding of issues.

- Consistency with the application of remuneration and support was important to ensure it attracted people to the role. Monitoring vacancies might be an indicator the IRPW would consider as part of their work.
- Monitoring officers interested in changes going forward, in terms of hourly rates etc. ensure that there are different scenarios in the mapping exercise.
- Head of Democratic Services (HoDS) in Swansea was consulted by the IRPW – supported the hourly rate. It would be an additional hour – if it went over the 8 hours day rate, it would allow additional payment over the full day rate. Up to the HoDS to say how long the meeting lasts, if the HoDS said 8 hours but the meeting only lasts 30 minutes, the HoDS is still obliged to pay 8 hours to ensure there was no detriment to the members who might otherwise have cleared their diary resulting in lost opportunity costs or additional costs incurred.

**ACTION: Issue to be highlighted with Monitoring Officers at their national governance group meeting. JC, CT.**

**ACTION: Response to the 2024/25 report from IRPW, what the role ought to be in future consultations and discussions. Need to ensure the forum is a part of the discussion for the future All.**

**ACTION: Issue of the hourly rate – how attendance is regarded and funded – consistency across Wales would be welcomed, need to give this consideration All.**

**ACTION: The broader question, how does the forum engage going forward? The mechanism rather than the practicalities All.**

**ACTION: Invite Chair of the IRPW to the next meeting CT.**

**ACTION: Julia Hughes to share mapping template with the Forum JH.**

6. **Local resolution protocols, how do they operate in your area and are they effective?**

- Feedback from council said that local resolution had not been used often, in situations when it had been used it was a mediation type meeting resulting in an apology or a handshake, and both parties moved forward. Some members did not want to go down the local resolution route and had decided to be civil with each other. Within group Leaders interest to involve themselves in this process to fulfil their duties. It works if both parties want to make it work.
- Recommended to 26 town and community councils in VoG and all but one had adopted the protocol. It seemed to be working well.
- A lot depends on local politics in the area, whether the constitution includes a clear process for a local resolution protocol and the dynamics of local relationships. Issues sometimes increased around elections and it's not always easy to progress matters using a local protocol.
- If it's not possible to resolve matters informally and they eventually result in a hearing, that can be a difficult process to manage involving time and expense. The informal resolution option was preferable where possible.
- Some local resolution schemes did not allow for an appeal.

## **7. Items raised by the Monitoring Officers Group - JC**

- a) Group Leaders duty to promote good standards – potential for perceived conflict of interest, assessing their own performance and the performance of their political opponents if they were to join their Standards Committee.
- A scenario referenced where this was put this forward to the MO. Two examples which are very different, on one standards committee – county councillor on the standards committee, became a group leader and said it was now a conflict of interest for him and stood down. Another standards committee which has a group leader on the committee, not considering standing down.
  - Personal view that it is a conflict of interest. The person of interest in another council, does not turn up to meetings, does not send apologies and does not send a sub. A letter has been sent to the group leader by the chair noting this.

**ACTION: Ongoing, place on agenda of next meeting.**

- b) Progress on adopting the agreed common threshold of £25 for the registration of gifts and hospitality. Not perceived as an issue.
- Two of the committees have agreed £25, constitutional democratic committee decided to stick at £10.
- c) Do authorities have any guidance on the use of social media over and above that published by the WLGA.

**ACTION Circulate the link to WLGA guidance CT.**

<https://www.wlga.wales/social-media-and-online-abuse>

**ACTION WLGA Cyber training details to be made available CT.**

- d) Whether authorities encourage their town & community councils to sign the civility and respect pledge. If they do not whether they would consider doing so.
- Flintshire hold joint Standards Committee meetings once a year with Town and Community Councils. They are beneficial and attendance is encouraged and promoted.

## **8. Training for Standards Committee Chairs**

- Email about two training sessions.
- Generic chairing skills session – 12<sup>th</sup> February 2pm-4pm
- Training around how to conduct hearings – external provider who is able to facilitate the training on behalf of the WLGA. Ideally, we would like to deliver this training before the end of this financial year. Alternatively, we may need to arrange it in April.

## **9. AOB**

- Are members of Standards Committees required to be DBS checked?
  - The Chairs in attendance are not required to have a DBS check for their role.

**ACTION Update on the rules for DBS checks to be provided at the next meeting JC.**

**10. Date of next meeting**

- Monday, 24<sup>th</sup> of June 2024.