



RHONDDA CYNON TAF

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

20 SEPTEMBER 2019

PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2018–2019

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

To provide 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 2018-2019.

2. RECOMMENDATION

- 2.1 That the Committee notes the matters relating to Code of Conduct Complaints reported in the Public Services Ombudsman for Wales' Annual Report and Annual Letter to this Council 2018-2019.

3. BACKGROUND

- 3.1 The PSOW has published his Annual Report for 2018-2019 ('AR') pursuant to Paragraph 14 of Schedule 1 of the Public Services Ombudsman (Wales) Act 2005. The AR has been combined with the annual accounts for the PSOW as it was last year. The purpose of the AR is to report on the performance of the PSOW's office over the year, provide an update on developments and to deliver any key messages arising from their work carried out during the year.

- 3.2 The AR is attached at Appendix 1 and can be accessed via the following link on the PSOW website:

<https://www.ombudsman.wales/wp-content/uploads/2019/07/Annual-Report-and-Accounts-2018-2019-Final-ENG.pdf>

- 3.3 The PSOW also issues an Annual Letter (AL) to each Local Authority in Wales with a summary of complaints received by his office that relate specifically to that Local Authority. The AL is attached as Appendix 2 to this report and can be accessed via the following link on the PSOW website:

<https://www.ombudsman.wales/wp-content/uploads/2019/08/Rhondda-Cynon-Taf.pdf>

- 3.4 The AR sets out the workload that has been dealt with by the PSOW during 2018-2019. 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). 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).
- 3.5 The number of CCCs has risen by 4% since 2017-18. The total number of complaints for the year 2017-18 was 270 and for 2018-19, 282. Of those 282 complaints 147 related to Town and Community Councils, 102 to Local Authorities and 1 to a National Park. As in previous years the majority of CCCs (51%) related to matters of the promotion of equality and respect; 17% related to the failure to disclose or register interests; 13% related to integrity; 7% related to accountability and openness; 2% related to failure to be objective or act with propriety; 9% related to the duty to uphold the law and 1% related to selflessness and stewardship.
- 3.6 The 4% increase in CCCs overall is again primarily due to a 14% increase in complaints regarding Town and Community Councillors. The PSOW has noted a number of these complaints are from Clerks or staff members of such councils. These complaints often pose some evidential difficulties and therefore need to be considered in the context of the relevant case law. Such complaints are often indicative of a breakdown in the employment relationship, as opposed to true Code of Conduct issues. However where the PSOW has found conduct suggestive of a failure to show respect and consideration or bullying and harassing behaviour he has referred such behaviour for consideration by the appropriate Standards Committee. The PSOW has also committed to assisting the representative organisations in production of guidance for employees of Town and Community Councils to assist them in understanding his role and jurisdiction and in distinguishing between employment and conduct matters.
- 3.7 Further statistical data is contained at pages 13 to 14 of the AR and detailed data at pages 23 to 25 of the AR. As can be seen from the figures above in general terms the nature of the complaints were weighted towards those around equality and respect, followed by failure to register or declare interests and then issues related to integrity, which mirrors the position last year.
- 3.8 The most common outcome of the complaints were that they were 'Closed after initial consideration.' Of the 308 complaints in 2018-19, the majority (255) were closed under this outcome. These include decisions where there is no 'prima facie' evidence of a breach of the Code and it is not in the public interest to investigate.
- 3.9 36 complaints were closed after full investigation in 2018-19 with the PSOW again directing investigative resources towards the more serious complaints where an investigation is required in the public interest.
- 3.10 In 2018-19 the PSOW received seven complaints which raised potential whistleblowing concerns about alleged breaches of the Code of Conduct. Most of these complaints were received from employees of local authorities and raised issues relating to alleged criminal offences and a perceived failure

to comply with equality duties, as set out in law. The remainder were received from staff or former staff of Town and Community Councils and raised concerns primarily relating to the duty to comply with the law in the context of financial impropriety and confidentiality of information. Two of the complaints did not meet the PSOW criteria for investigation. Two were subsequently discontinued as the circumstances were such that the continuation of the investigation was no longer in the public interest. Investigations in respect of the remaining three complaints are continuing.

- 3.11 Of the cases the PSOW investigated and closed this year, four cases were referred to the Adjudication Panel for Wales. A significant percentage focus on the principle of the promotion of equality and respect. This is not representative of a wider decline in member conduct. Two of referrals made featured a single serious allegation of disrespectful behaviour towards a fellow member. The third related to the way in which that particular member responded to the complaint and its subsequent investigation. The fourth referral was made due to disreputable conduct of a member which came to the Ombudsman's attention as a result of his investigation. These matters are yet to be determined by the Adjudication Panel for Wales.

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

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Background Papers: Freestanding matter

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