



## **RHONDDA CYNON TAF**

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

#### **STANDARDS COMMITTEE**

**27 NOVEMBER 2020**

### **PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2019–2020**

#### **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 2019-2020.

##### **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 2019-2020.

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

- 3.1 The PSOW has published his Annual Report for 2019-2020 ('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/2020/07/PSOW-Annual-Report-and-Accounts-2019-20.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.
- 3.4 The AR sets out the workload that has been dealt with by the PSOW during 2019-2020. 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 dropped by 18% since 2018-19. The total number of complaints for the year 2018-19 was 282 and for 2019-20, 231. Of those 231 complaints 135 related to Town and Community Councils, 96 to Local Authorities and 0 to National Park authorities.
- 3.6 The decrease relates entirely to complaints made against members of Town and Community Councils. The Ombudsman has tentatively suggested that standards of conduct of members of these bodies may be improving and/or local resolution of issues may be taking place with good effect.
- 3.7 However Members should note that in January of this year both the Chair and I undertook a visit to one of the County Borough's Community Councils, namely Llantwit Fardre, as part of a mediation session due to ongoing issues with what the Ombudsman has described as 'tit for tat' complaints being made by Members. The issues largely related to personality clashes between members rather than true Code of Conduct issues albeit one complaint was taken forward for investigation but subsequently discontinued. That Council was responsible for 18% of the total number of complaints received by the Ombudsman concerning Town/Community Councils. I am pleased to report however that since that meeting things do appear to have vastly improved.
- 3.8 As in previous years the majority of CCCs (49%) related to matters of the promotion of equality and respect; 17% related to the failure to disclose or register interests; 10% related to integrity; 11% related to accountability and openness; 2% related to failure to be objective or act with propriety; 7% related to the duty to uphold the law and 3% related to selflessness and stewardship.
- 3.9 As in previous years therefore the majority of CCCs received during 2019/2020 related to matters of 'promotion of equality and respect' (49%) and 'disclosure and registration of interests' (17%). The Ombudsman is concerned these themes continue to dominate with a year on year increase in the number of complaints where bullying behaviour is alleged particularly from Clerks or employees/contractors of Local Authorities or Town/Community Councils. The Ombudsman has highlighted that training is a key component in addressing this particularly with Town/Community Councils.
- 3.10 The most common outcome of the complaints were that they were 'Closed after initial consideration.' Of the 235 complaints in 2019-20, the majority (202) 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.
- 3.11 33 complaints were closed after full investigation in 2019-20 with the PSOW again directing investigative resources towards the more serious complaints where an investigation is required in the public interest. In 7 cases an investigation was discontinued, 9 no evidence of breach was found, 12 no further action was necessary and there were 5 referrals (to either Standards Committees or the Adjudication Panel for Wales).

- 3.12 As regards investigating complaints the Ombudsman notes the following in his report:

*“All the Code of Conduct complaints received by our office are assessed against our two-stage test. We consider whether:*

- a complaint is supported by direct evidence that is suggestive that a breach has taken place*
- it is in the public interest to investigate that matter.*

*Public interest can be described as “something which is of serious concern and benefit to the public*

*During the life cycle of an investigation, we review the evidence gathered to assess whether it remains in the public interest to continue. Where it appears that investigating a matter is no longer in the public interest, we will make the decision to discontinue that investigation. Also, sometimes when we investigate we find no evidence of a breach. Finally, when an investigation is concluded, we can determine that ‘no action needs to be taken’ in respect of the matters investigated. This will often be the case if the member has acknowledged the behaviour (which may be suggestive of a breach of the Code) and has expressed remorse or taken corrective or reparatory action to minimise the impact of it on the individual, the public or the authority concerned.”*

- 3.13 In cases which cannot be concluded in the above manner or feature serious breaches of the Code, it is necessary for the Ombudsman to refer these matters to a Standards Committee or the Adjudication Panel for Wales for consideration. As earlier set out in 2019/20 5 referrals were made (2% of all the Code complaints closed). 4 to Standards Committees and 1 to the Adjudication Panel.
- 3.14 The referrals to the Standards Committees this year featured behaviour which was considered to be disrespectful, capable of being perceived as bullying and/or disreputable behaviour. One of the cases referred involved conduct suggestive of bullying behaviour towards an employee of a contractor of the authority and led to a four month suspension. Two of the referrals featured behaviour which suggested that the members had used their positions improperly to create an advantage or disadvantage for themselves or others. At the time of writing, these two referrals were awaiting determination.
- 3.15 The referral to the Adjudication Panel for Wales concerned the conduct and behaviour of a member in their private life and considered whether the behaviour complained about was capable of impacting on and bringing the authority into disrepute. It also concerned whether that member had used their position improperly for the advantage of another. In the case of this referral, the Panel determined there were serious breaches of the Code. As a result, a member of Flintshire County Council was suspended from holding office for 3 months.
- 3.16 In 2019-20 the PSOW received five complaints which raised potential whistleblowing concerns about alleged breaches of the Code of Conduct. Most of these complaints were received from employees (or former employees) of local authorities and raised issues relating to alleged criminal offences and a perceived failure to comply with the law. Two of the complaints

were closed after an investigation did not identify evidence of a breach of the Code; 1 did not warrant any further action and 2 were continuing at the time the report was written. 3 cases which were ongoing in 2018-2019 were referred to the Standards Committees of the relevant authorities for further consideration.

**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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**27 NOVEMBER 2020**

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**Background Papers:** Public Services Ombudsman for Wales' Annual Report  
2019-2020  
Public Services Ombudsman for Wales' Annual Letter –  
RCT CBC 2019-2020

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