



RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

19 NOVEMBER 2021

PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2020–2021

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 2020-2021.

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 2020-2021.

3. BACKGROUND

- 3.1 The PSOW has published his Annual Report for 2020-2021 ('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 Executive Summary is attached at Appendix 1. The full report can be accessed via the following link on the PSOW website:

<https://www.ombudsman.wales/wp-content/uploads/2021/07/Annual-Report-and-Accounts-2020-21-Delivering-Justice-FINAL.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 2020-2021. 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 increased by 47% during 2020-2021 with the PSOW receiving 535 new CCCs with 308 taken forward for investigation. The total number of complaints for the year 2018-19 was 282 and for 2019-20, 231. Of those 308 complaints 167 related to Town and Community Councils, 138 to Local Authorities, 2 to National Park authorities and 1 to a Fire Authority.
- 3.6 Whilst complaints about members of National Parks and Fire Authorities have remained low, Town and Community Council complaints have increased by 23.7% and County and County Borough Council complaints have increased by 43.8%. The PSOW has stated the latter is of particular concern. It should be noted however that there were 35 complaints made about 1 individual County Council member with several investigations ongoing in respect of those complaints.
- 3.7 Within a small number of Town and Community Councils the PSOW has stated he is still seeing complaints which appear to border on frivolity or are motivated by political rivalry or clashes of personalities rather than being true Code of Conduct issues. Where his offices receives 'tit for tat' complaints they will engage with the Council and the Monitoring Officer of the principal authority to remind its members of their obligations under the Code and their democratic responsibilities to the communities they serve.
- 3.8 As in previous years the majority of CCCs (55%) related to matters of the promotion of equality and respect; 14% related to the failure to disclose or register interests; 12% related to integrity; 4% related to accountability and openness; 5% related to failure to be objective or act with propriety; 8% related to the duty to uphold the law and 2% related to selflessness and stewardship.
- 3.9 As in previous years therefore the majority of CCCs received during 2020/2021 related to matters of 'promotion of equality and respect' (55%) and 'disclosure and registration of interests' (14%). The PSOW has noted there is an annual increase in the number of complaints where bullying behaviour is being alleged.
- 3.10 The PSOW has highlighted once again the important of Code of Conduct training to become a 'good councillor'. From his investigations he has gained an impression that many members of Town and Community Councils often do not take up training opportunities offered on the Code of Conduct. Whilst there is no statutory obligation for Members to complete training currently it is strongly advised they should do so.
- 3.11 In 2020-2021 the PSOW closed 289 cases. The most common outcome of the complaints were that they were 'closed after initial consideration'. 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.
- 3.12 24 complaints were taken forward for investigation in 2020-21 with the PSOW again directing investigative resources towards the more serious complaints

where an investigation is required in the public interest. In 14 cases an investigation was discontinued (5 cases), no evidence of breach was found or no further action was necessary (9 cases) and there were 10 referrals (to either Standards Committees or the Adjudication Panel for Wales) – a 50% increase from 2019-2020.

- 3.13 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.”

- 3.14 The above happened in 58% (14 cases) of the investigations undertaken during the period (i.e. no evidence of breach was found or investigation discontinued), a significant decrease on the previous year, where this outcome happened in 85% of cases. The PSOW has stated that whilst fewer cases are being referred to investigation, of those that are, he is finding evidence suggestive of a breach of the Code of Conduct in more cases.
- 3.15 The subjects of the Code of Conduct complaints that were closed largely mirrored the subjects of the new complaints received. The majority related to ‘disclosure and registration of interests’ and ‘promotion of equality and respect.
- 3.16 There were 6 referrals to the Standards Committees this year. At the time of writing 5 are yet to be concluded. The matter which has already been considered related to a former member of Laleston Community Council who used Council funds for personal items. The Standards Committee issued a censure, the only sanction available to it as the member had resigned. A Standards Committee also considered 2 cases which were referred to it in the previous year, relating to 2 members of Conwy Town Council who had failed to disclose an interest in business relating to a member of staff who had made a bullying complaint against them which had not been resolved at the time of the events. Both members were suspended for 1 month.

- 3.17 There were 4 referrals to the Adjudication Panel for Wales. 2 have already been considered and were previously reported to the Committee. The first concerned the conduct and behaviour of a member in relation to their failure to disclose their personal and prejudicial interests and their actions towards a member of staff. In this case the member of Merthyr Tydfil County Borough Council was suspended for 7 months. The second related to Facebook posts made by a member of Sully and Lavernock Community Council, which contained extreme and gratuitous violent references about female politicians. The member was disqualified for 15 months.
- 3.18 In 20/21 the Adjudication Panel for Wales and the Standards Committees upheld and found breaches in 100% of PSOW referrals.
- 3.19 The PSOW had stated that the increase in the number of complaints referred for further consideration in respect of potentially serious breaches of the code last year, is of concern and suggests there has been some decline in member conduct. Of the complaints referred for hearing which are yet to be determined, it is concerning that the complaints suggest disreputable conduct and that some members may have misused their positions as members.
- 3.20 Nevertheless the investigations and the outcomes of these case referrals demonstrate the importance of standards of conduct in public life and provide a helpful indication to members of all authorities as to the behaviours expected of them.
- 3.21 The PSOW is currently trialling a change in process which they anticipate will reduce the time taken to decide whether a complaint should be investigated and improve overall investigation times. Where appropriate, they also want to give members the opportunity to account for their own actions, even when we they do not refer a case for hearing because it does not meet the PSOW public interest test.
- 3.22 In 2020/21 the PSOW received 36 Code of Conduct complaints that would potentially meet the statutory definition of disclosure from employees or former employees of a council. The disclosures mostly related to allegations that the members concerned had 'failed to promote equality and respect'. Eleven complaints were investigated. Investigation is continuing into 10 complaints and 1 was discontinued as the investigation was no longer in the public interest. The 2 complaints ongoing from 2019/20 were concluded. One was referred to the Standards Committee. The former Member received a censure for misusing funds. The second was referred to the Adjudication Panel for Wales. The Member was suspended for failing to declare an interest and poor behaviour towards a member of staff.

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: Public Services Ombudsman for Wales' Annual Report
2020-2021
Public Services Ombudsman for Wales' Annual Letter –
RCT CBC 2020-2021

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