



**RHONDA CYNON TAF COUNTY BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**11 MARCH 2022**

**PUBLIC SERVICES OMBUDSMAN FOR WALES – SUMMARY OF COMPLAINTS  
AGAINST MEMBERS – 1<sup>ST</sup> NOVEMBER 2021 – 28<sup>TH</sup> FEBRUARY 2022**

**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 1<sup>st</sup> November 2021 – 28<sup>th</sup> February 2022.

**2. RECOMMENDATIONS**

- 2.1 To consider the contents of the report and provide any comments/feedback on the complaint received by the Ombudsman during the period 1<sup>st</sup> November 2021 – 28<sup>th</sup> February 2022.

**3. BACKGROUND AND DETAILS OF COMPLAINT**

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

- 3.2 Members will note below the summary of an anonymised complaint made against a Member and submitted to the Ombudsman during the reporting period 1<sup>st</sup> November 2021 – 28<sup>th</sup> February 2022:

| Date Complaint Received by the Ombudsman | Body & Cllr                        | Nature of Complaint  | Ombudsman Investigation Yes/No |
|--|------------------------------------|--|--------------------------------|
| 15/12/21                                 | Rhondda Cynon Taf CBC (Councillor) | <p>Cllr H complained Cllr S posted an image on Social Media comparing a group of individuals to Nazis. Cllr H believed that in doing so Cllr S breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct i.e. that they failed to show respect and consideration and caused their office or authority disrepute.</p> <p>The Ombudsman noted that the Code usually only applies when a member of a council is performing functions as a member or seeking in some way to rely upon their status as a member. Given that Cllr S's twitter profile referenced their role as Councillor the Ombudsman was of the view that they gave the impression they were acting as a representative of the Council and that the Code was fully engaged in relation to their posts on that page.</p> <p>The Ombudsman commented that when acting as an elected member and expressing political views or conducting political business, a member's freedom of expression is afforded enhanced protection, more so than an ordinary member of the public. Further, as politicians, members are likely to be afforded protection even where the language used by them may be inflammatory, provided the focus of it is political. Political comments are not confined to the Council chamber and can include comments members may make generally about their authority's policies or government policies. Political expression extends to all matters of public administration.</p> <p>The Ombudsman further noted a member's right to freedom of expression is not absolute and must be balanced against the need to protect the rights and interests of others. Freedom of expression is not limitless and the more egregious the conduct concerned, the more justified it becomes to restrict expression using the provisions of the Code of Conduct.</p> <p>In the Ombudsman's view, Cllr S's post could reasonably be considered political expression and said to benefit from the enhanced protection afforded by Article 10 of the European Convention on Human Rights (freedom of expression). Whilst the</p> | No                             |

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|  |  | Ombudsman consider that the post was offensive they did not consider that it was so inflammatory, violent or shocking that it could amount to a breach of the Code. It is not the purpose of the Code to inhibit free speech and the robust expression of political differences. The post referred to highly publicised incidents regarding the individuals. The individuals which the post were directed towards were all senior politicians and as such would be expected to have an exceptionally thick skin. |  |
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**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**

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**Background Papers:** Freestanding matter

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