



RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

18 NOVEMBER 2022

PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2021-2022

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 2021-2022.

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 2021-2022.

3. BACKGROUND AND PSOW 2021-22 ANNUAL REPORT

- 3.1 The PSOW has published his Annual Report for 2021-2022 ('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/2022/08/ANNUAL-REPORT-2021-22-Signed-Version.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 2021-2022. 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 It should be noted that Nick Bennett’s term of office as PSOW finished in March 2022 when Michelle Morris, former Chief Executive of Blaenau Gwent CBC, took over the role.

3.6 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.”

3.7 The PSOW received 294 new complaints about the Code of Conduct – 5% less than in 2021/22 but 27% more than in 2019/20. 58% (171) of those complaints concerned Town and Community Councils. This represents 2% more than in 2020/21 and 27% more than in 2019/20. 39% (114) of the total complaints received related to complaints about County and County Borough Councillors. This represented 17% less than in 2020/21 but 19% more than in 2019/20. There were 5 complaints about members of National Park Authorities and 4 related to members on Police and Crime Panels.

3.8 The table below shows the proportion of complaints received for each subject:

Subject	2021/22	2020/21	2019/20
Accountability & Openness	5%	4%	11%
Disclosure and registration of interests	11%	14%	17%
Duty to uphold the law	9%	8%	7%
Integrity	8%	12%	10%
Objectivity and propriety	11%	5%	2%
Promotion of equality and respect	51%	55%	49%
Selflessness and stewardship	5%	2%	3%

- 3.9 As in previous years, about half of the new Code of Conduct complaints that the PSOW received were about 'promotion of equality and respect'. Many of these cases, categorised by the PSOW under 'respect', are lower-level complaints. These are the ones where the PSOW will tend to decide quickly that they will not investigate, or where they recommend that the complaint is resolved locally. However, some of these complaints and many of those categorised under 'equality' commonly involve more serious allegations of bullying or discrimination.
- 3.10 There were 2 Code of Conduct complaints made about Members in relation to their role as RCT County Borough Councillors during the period, compared against 8 in 2020-2021. 1 complaint found no evidence of breach and another complaint was discontinued after investigation.
- 3.11 9 complaints were received in relation to Town and Community Councils within RCT as against 14 in the previous reporting period. Five were discontinued after investigation, 3 found no evidence of a breach and 1 was withdrawn – see Table F of Appendix 2.
- 3.12 In 2021-2022 the PSOW closed 281 cases. The most common outcome of the complaints were that they were 'closed after initial consideration'. The majority (241) 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.
- 3.13 39 complaints were taken forward for investigation in 2021-22 with the PSOW again directing investigative resources towards the more serious complaints where an investigation is required in the public interest. In 19 cases an investigation was discontinued, no evidence of breach was found or no further action was necessary. The main reasons the PSOW might decide no further action is necessary are if the councillor has acknowledged their behaviour and apologised, or has taken steps to put things right. There were 20 referrals (to either Standards Committees or the Adjudication Panel for Wales). 11 referrals were made to Standards Committees and 9 referrals to the Adjudication Panel for Wales. The Adjudication Panel for Wales and Standards Committees upheld and found breaches in all the referrals they considered in 2021/22.
- 3.14 Although the number of referrals is a very small proportion of all Code of Conduct complaints received, it was more than half of those the PSOW decided to investigate. It was also twice as many as last year and the highest number of referrals that were made since 2012/13. The PSOW is concerned about this increase. It suggests that the ethical standards of a small number of councillors have the potential to undermine public confidence and the reputation of local government democracy.
- 3.15 The PSOW has stipulated they want to see the overall number of low-level complaints about members of Town and Community Councils reduce and are concerned about the high number of referrals this year. The PSOW strongly believes that the way to overturn these trends is through training for councillors on the Code of Conduct. They would also encourage greater use of local resolution procedures. These procedures can deal with problems early and prevent the need for further escalation to their office, which can improve working relationships. Since not all members take up opportunities to undertake training, the PSOW is pleased that, under the Local Government

and Elections (Wales) Act 2021, Town and Community Councils must now make and publish a plan about the training provision for its members and staff. The first training plans must be ready and published by 5 November 2022. The PSOW expects these plans to include training about the Code of Conduct. The PSOW also welcomes the additional responsibilities that Group Leaders at principal councils have to promote good standards of behaviour.

- 3.16 In 2020/21 the PSOW received 27 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'. The PSOW investigated 11 of these complaints. So far the PSOW has closed one of those investigations. They decided in that case that no further action was necessary. The PSOW concluded investigations into 8 relevant complaints which were ongoing from 2020/21. Of these, one case was referred to a Standards Committee. The Committee decided that there was a breach of the Code of Conduct and censured the member. One case was referred to the Adjudication Panel for Wales. The Panel has not yet decided on that complaint. In three cases, investigations were discontinued. In three cases the PSOW decided that they did not need to take any action further action in respect of the matters investigated. One of the investigations opened in 2020/21 is still ongoing.

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
2021-2022
Public Services Ombudsman for Wales' Annual Letter –
RCT CBC 2021-2022

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