



RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

25 APRIL 2023

**PUBLIC SERVICES OMBUDSMAN FOR WALES – SUMMARY OF COMPLAINTS
AGAINST MEMBERS – 1ST NOVEMBER 2022 – 31ST MARCH 2023**

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 1st November 2022 – 31st March 2023.

2. RECOMMENDATIONS

- 2.1 To consider the contents of the report and provide any comments/feedback on the complaints received by the Ombudsman during the period 1st November 2022 – 31st March 2023.

3. BACKGROUND AND DETAILS OF COMPLAINTS

- 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, she 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 anonymised complaints made against Members and submitted to the Ombudsman during the reporting period 1st November 2022 – 31st March 2023:

Date Notification Received by the Ombudsman	Body & Cllr	Nature of Complaint	Ombudsman Investigation Yes/No
01/12/22	Rhondda Cynon Taf County Borough Council (County Borough Councillor)	<p>It was alleged that the Member failed to show respect and consideration and used bullying behaviour towards another Councillor when making comments on social media.</p> <p>PSOW Decision</p> <p>(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct.</p> <p>It appeared to the PSOW that the matters complained about are unlikely to amount to a breach of the Code.</p> <p>It is not uncommon for elected members to say things about political opponents which others may consider to be rude or offensive. However, it is not the purpose of the Code of Conduct to inhibit free speech and the robust expression of political differences. Councillors have a wide freedom of expression both in a personal and professional capacity. Article 10 of the European Convention on Human Rights, which affords the Member the right to free speech, means that they can say things which may be shocking or offensive to some people. Whilst the PSOW appreciated that the complainant may be personally offended by the comments, they did not consider on the evidence provided that they are sufficiently offensive, intimidating or insulting to amount to bullying behaviour (within the meaning of the Code) or a breach of the Code.</p> <p>(2) Whether an investigation is required in the public interest</p> <p>Even if the alleged breach were to be proven, an investigation would not be in the public interest. It is not uncommon for elected members to say things about political opponents which others may consider to be rude or offensive. Although PSOW accepted that discussions can sometimes become “heated”, in such cases, the Ombudsman generally concludes that during political exchanges, members need a “thicker skin”.</p> <p>PSOW concluded that, whilst the Member has made comments which could be personally offensive or rude to the complainant they were of the view that they were not so egregious as to warrant an investigation by this office</p>	No

03/02/22	Llantwit Fardre Community Council (Community Councillor)	<p>It was alleged that a Member said, “keep him off”, indicating to a member of staff that the complainant should be kept muted when they had attended to ask a question [at a Council Meeting]. The question was then read out by the Chair of the Council and the complainant said they were not given the opportunity to ask their own question which they said contravened the Council’s standing orders.</p> <p>PSOW Decision</p> <p>(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct.</p> <p>The matters which complained about are unlikely to amount to a breach of the Code. The complainant has said that they were not allowed to read their own question and this is a breach of the Standing Orders. This is not a matter for the Code of Conduct. The complainant has indicated that they will complain about the failure to follow process directly to the Council. The Member’s involvement in that alleged failing would therefore fall to be considered under that process.</p> <p>PSOW considered Member’s involvement in this matter and did not consider that it would amount to a breach of the Code of Conduct. The language used by the Member is unlikely to be considered rude, offensive, or even disrespectful. The complainant was aggrieved that they were not able to personally ask their question but acknowledged that the question was asked by the Chair on their behalf, therefore PSOW could not see that the Member’s actions were suggestive of a breach of any paragraph of the Code of Conduct.</p> <p>(2) Whether an investigation is required in the public interest</p> <p>The conduct complained about did not meet the first stage of the Ombudsman’s test, therefore, there was no need to consider the second stage of the test (public interest).</p>	No
03/02/23	Llantwit Fardre Community Council (Community Councillor)	<p>It was alleged that the member (Cllr X) conspired with two other members to prevent the complainant from speaking at a Council meeting. It was also alleged that the Member verbally attacked the complainant.</p> <p>PSOW Decision</p> <p>(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct.</p>	No

		<p>No evidence was provided to substantiate the complaint, and the Ombudsman will not investigate unless there is reasonably strong evidence to suggest that the member concerned has breached the Code.</p> <p>The complainant said that it was obvious that the three elected members had conspired to keep them from speaking but provided no evidence of any actions by the member referred to in the complaint to support that allegation. The complainant said the Member verbally attacked them but provided no information about what was said.</p> <p>(2) Whether an investigation is required in the public interest</p> <p>The conduct complained about does not meet the first stage of the test, as set out above, therefore, there is no need to consider the second stage of the test.</p>	
08/02/23	Llantwit Fardre Community Council (Community Councillor)	<p>It was alleged that the member (Cllr Y) conspired with two other members to prevent the complainant from speaking at a Council meeting. It was also alleged that the Member verbally attacked the complainant.</p> <p>PSOW Decision</p> <p>(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct.</p> <p>No evidence was provided to substantiate the complaint, and the Ombudsman will not investigate unless there is reasonably strong evidence to suggest that the member concerned has breached the Code.</p> <p>The complainant said that it was obvious that the three elected members had conspired to keep them from speaking but provided no evidence of any actions by the member referred to in the complaint to support that allegation. The complainant said the Member verbally attacked them but provided no information about what was said.</p> <p>(2) Whether an investigation is required in the public interest</p> <p>The conduct complained about does not meet the first stage of the test, as set out above, therefore, there is no need to consider the second stage of the test.</p>	No

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

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

25 APRIL 2023

REPORT OF THE MONITORING OFFICER

Background Papers: Freestanding matter

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