



STANDARDS COMMITTEE

10.00 AM - MONDAY, 13 JANUARY 2025

***COMMITTEE ROOM 1/2 - PORT TALBOT CIVIC CENTRE**

***PLEASE NOTE VENUE**

ALL MOBILE TELEPHONES TO BE SWITCHED TO SILENT FOR THE DURATION OF THE MEETING

Webcasting/Hybrid Meetings:

This meeting may be filmed for live or subsequent broadcast via the Council's Internet Site. By participating you are consenting to be filmed and the possible use of those images and sound recordings for webcasting and/or training purposes.

PART 1

1. Welcome and Chair's Announcements
2. Declarations of Interest
3. Minutes of Previous Meeting (*Pages 5 - 8*)
4. Standards Committee Meeting with Elected Members (*Pages 9 - 12*)
5. Template for Group Leaders Annual Report (*Pages 13 - 22*)
6. Relationship between Standards Committee and Governance and Audit Committee (*Pages 23 - 28*)
7. Consultation from Public Service Ombudsman for Wales (PSOW) (*Pages 29 - 32*)

8. Town and Community Council Code of Conduct Matters
(Pages 33 - 36)
9. Independent Review of Investigation by Public Services Ombudsman for Wales into Code of Conduct Complaints
(Pages 37 - 82)
10. Adjudication Panel for Wales Annual Report *(Pages 83 - 104)*
11. Learning and Development Opportunities - Equality Act 2010
(Pages 105 - 112)
12. Forward Work Programme *(Pages 113 - 114)*
13. Urgent Items
Any urgent items at the discretion of the Chairperson pursuant to Section 100BA(6)(b) of the Local Government Act 1972 (as amended).

F.O'Brien
Chief Executive

Civic Centre
Port Talbot

3 January 2025

Committee Membership:

Chairperson: L.Fleet

Vice T.Ward

Chairperson:

Independent A.Davies and D.Lewis
Members:

NPTCBC S.Thomas and W.Carpenter
Members:

Community
Committee Councillor C.Edwards
Member:

Substitutes

NPTCBC A.Lodwig and S.Grimshaw
Substitutes:

Community
Committee Vacant
Substitute:

- Notes: (a) The Quorum for the Standards Committee is at least three Members including the Chairperson (or in absence Vice Chairperson). At least half the Members present (including the Chair) must be Independent Members. (e.g. if only two Independent Members attend, there must **only** be two other Members of the Committee present.)*
- (b) In view of the above, can all Members please inform the Monitoring Officer/Democratic Services Officer as soon as possible, if there is a problem with attendance.*

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STANDARDS COMMITTEE

(Multi-Location Meeting - Council Chamber, Port Talbot & Microsoft Teams)

Members Present:

14 October 2024

Chairperson: L.Fleet

Vice Chairperson: T.Ward

Independent Members: A.Davies and D.Lewis

NPTCBC Members: **Councillors** W.Carpenter and S.Thomas

Community Committee Members: **Councillor** C.Edwards

Officers In Attendance: C.Griffiths and T.Davies

Invitees: **Councillors** S.K.Hunt, A.Llewelyn and R.G.Jones

1. **WELCOME AND CHAIR'S ANNOUNCEMENTS**

The Chair welcomed all to the meeting.

2. **DECLARATIONS OF INTEREST**

No declarations on interest were received.

3. **MINUTES OF PREVIOUS MEETING**

Members noted an error in the minutes from the previous meeting. Councillor Wayne Carpenter was present at the meeting, but was not included in the attendance.

RESOLVED: That the minutes of the previous meeting, held 9 September 2024, be agreed as an accurate record, subject to Councillor Wayne Carpenter being noted as present.

4. **MEETING WITH GROUP LEADERS**

Members met with political group leaders (Councillors S.K.Hunt, A.Llewelyn and R.G.Jones. Councillor H.C.Clark was unable to attend) to discuss their relationship with the Standards Committee, and noted what steps were in place to assist them in discharging their duties.

Discussion took place around the use of social media and hybrid meetings, whereby it could be easy to misinterpret the style of language used, or facial expressions. Members suggested that specific training on non verbal communication (NVC) could be useful.

Members spoke to group leaders about how they recognised incivility and disrespect within their groups.

The importance of continuing to foster a good working relationship between the Standards Committee, Officers and elected Members was emphasised. It was suggested that all Members be sent out the roles and responsibilities of the Standards Committee, to further explain its remit.

RESOLVED: That the report and discussion be noted.

5. **REVIEW OF MEMBER OFFICER PROTOCOL**

The Committee discussed the draft Member Officer Protocol, as detailed at Appendix 1 to the circulated report, and gave suggestions to the Monitoring Officer on wording changes.

RESOLVED: That the updated Member Officer Protocol be commended to Full Council for approval.

6. **LOCAL RESOLUTION PROCEDURE UPDATE**

Members discussed slight changes to wording within the Local Resolution Procedure, as detailed at Appendix 1 to the circulated report, and felt it would be beneficial to include a flow chart.

RESOLVED: That the amendments to the Local Resolution Procedure, which are shown underlined within Appendix 1 to the circulated report, and discussed within the meeting, be agreed.

7. **STANDARDS COMMITTEES FORUM - WALES**

RESOLVED: That the information about the fourth meeting of the national Standards Committees Forum – Wales, as detailed within Appendix 1 to the circulated report, be noted.

8. **PUBLIC SERVICE OMBUDSMAN FOR WALES ANNUAL REPORT 2023/2024**

RESOLVED: That the content of the Public Service Ombudsman Annual Report for Neath Port Talbot County Borough Council for 2023/2024, detailed at Appendix 1 to the circulated report, be noted, as well as the steps that officers will continue to embark on as part of general improvement work.

9. **ATTENDANCE AT NPT COUNCIL AND TOWN/COMMUNITY COUNCIL MEETINGS**

RESOLVED: That the draft feedback form, in respect of the observation of Neath Port Talbot Council meetings and Town and Community Council meetings, by Members of the Standards Cttee, be approved for use (as detailed at Appendix 1 to the circulated report), and the timetable of meetings that take place, be noted.

10. **FORWARD WORK PROGRAMME**

RESOLVED: That the Forward Work Programme be noted.

11. **URGENT ITEMS**

No urgent items were received.

CHAIRPERSON



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

13th January 2025

Matter for Information

Wards Affected: All Wards

Attendance of elected members of Neath Port Talbot County Borough Council at the Standards Committee

Purpose of the Report:

1. To convene a meeting between elected members and the Neath Port Talbot Council Standards Committee to discuss the remit of the Standards Committee and how the Standards Committee can assist elected members in discharging their own personal duties.

Background:

2. As part of its 2022/2023 Annual Reports, members of the Standards Committee wished to embark on further engagement with elected members in order to dispel the myths of the

Standards Committee and it was felt arranging a meeting with a cross section of elected members would be beneficial for members to understand more about their work programme.

3. Following an approach to the respective Group Leaders, the following members have been nominated to attend Standards Committee to facilitate this discussion:
 - Cllr Saif Rahaman
 - Cllr Gareth Rice
 - Cllr Andrew Dacey
 - Cllr Bob Woolford
 - Cllr James Henton
4. Questions have been provided in advance to Group Leaders to afford the opportunity to consider the issues that the Standards Committee would like to raise, and it was thought appropriate that similar questions be provided to elected members in advance. A copy of the Terms of Reference of the Standards Committee was also provided to elected members in advance.
5. The questions are set out set out below:
 - (a) *How appropriate to you believe the Code of Conduct is??*
 - (b) *What steps do you take to ensure high standards of conduct?*
 - (c) *What do you understand the role of the Standards Committee to be?*
 - (d) *Is there any work you feel the Standards Committee should be undertaking over the next year to help you with your role?*
 - (e) *How can the Standards Committee become more active in promoting ethical conduct among Councillors / Co-opted Members?*
 - (f) *The Ombudsman, Adjudication Panel for Wales and the High Court has taken a view on politicians (and in some*

cases senior officers) having a “thick skin” and on political banter being part of the political landscape. What are your own views and how do you ensure that the line is not crossed.

- (g) What are your views on the Authority’s Code of Conduct training? How do you rate its effectiveness? How could it be improved so as to raise the ethical standards of Councillors / Co-opted Members?*
- (h) Training for Councillors / Co-opted Members is vitally important. How can the Standards Committee tackle those that do not see training as important?*
- (i) The Authority’s Local Resolution Process (LRP)(Cllr v Cllr) is capable of being used by Councillors. In the event of a dispute would you look to use the process? Do you consider the lack of referrals to the LRP demonstrates that councillors are behaving within the Code?*

Financial Impacts:

- 6. No implications.

Integrated Impact Assessment:

- 7. An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

- 8. No implications

Workforce Impacts:

- 9. No implications

Legal Impacts:

- 10. There are no legal impacts associated with this report.

Consultation:

11. There is no requirement for external consultation on this item

Recommendations:

12. That Members discuss code of conduct related matters with the elected members in attendance at the Standards Committee at this meeting.

Appendices:

13. None

List of Background Papers:

14. None

Officer Contact:

Mr Craig Griffiths
Head of Legal and Democratic Services
Telephone 01639 763767
Email: c.griffiths2@npt.gov.uk



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

14th October 2024

Matter for Decision

Wards Affected: All Wards

Group Leaders of Neath Port Talbot County Borough Council

Purpose of the Report:

1. To agree the template reporting form for Group Leaders prior to consideration at a future Standards Committee.

Background:

Duty on Group Leaders

2. The Local Government and Elections (Wales) Act 2021 (“the Act”) included some new obligations for Standards Committees. The Act imposes specific duties on political leaders to promote and maintain standards of conduct within members of their group, and to cooperate with the Standards Committee in the exercise of its functions. This requires leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups.
3. The duty does not make leaders of a political group accountable for the behaviour of their members as conduct must be a matter of individual responsibility. However, they do have a role in taking reasonable steps in maintaining standards, setting an example, using their influence to

promote a positive culture, being proactive in promoting high standards of conduct in their group and addressing issues as soon as they arise.

4. Reasonable steps the group leader *may* undertake include:
 - a. demonstrating personal commitment to and attending relevant development or training around equalities and standards;
 - b. encouraging group members to attend relevant development or training around equalities and standards;
 - c. ensuring nominees to a committee have received the recommended training for that committee;
 - d. promoting civility and respect within group communications and meetings and in formal council meetings;
 - e. promoting informal resolution procedures in the council, and working with the standards committee and monitoring officers to achieve local resolution;
 - f. promoting a culture within the group which supports high standards of conduct and integrity;
 - g. attend a meeting of the council's standards committee if requested to discuss Code of Conduct issues;
 - h. work to implement any recommendations from the Standards Committee about improving standards;
 - i. work together with other Group Leaders, within reason, to collectively support high standards of conduct within the council.
5. The purpose of the new duties is to build on and support a culture which is proactive, acts on and does not tolerate inappropriate behaviour.
6. A leader of a political group who fails to comply with the new duty in a meaningful way, may potentially be regarded as bringing their office into disrepute, and likely to be in breach of the Code.
7. A political group's internal disciplinary procedures remain a matter for that group or any associated political party's own rules on discipline. However, it is expected that the group leader will take reasonable steps to promote and maintain high standards of conduct by members within group communications and meetings as well as their 'public' conduct outside of the group setting.
8. The provision imposes an additional function on the Standards committee to monitor political leaders' compliance, and to advise, train or arranging to train leaders of political groups about matters relating to the above duties.

It is essential the leaders of a political group co-operate, and ensure the members within their group co-operate, with the monitoring officer and standards committee when an issue is referred to the standards committee.

9. Leaders of a political group should build good relations, and work constructively with the monitoring officer, seeking advice from them and the standards committee on matters of behaviour and conduct when required, both promoting positive behaviours and addressing inappropriate ones. Group Leaders should also report compliance with their duty to the standards committee. This can take the form of a short letter or report at a frequency agreed by the political Group Leaders in the council and its standards committee. Group Leaders should also report any serious concerns about members' behaviour which have not been remedied by informal actions, in line with the requirement in the Code for councillors to report breaches.

Role of Standards Committee

10. The functions of the Standards Committee include monitoring compliance by leaders of political groups with the new duty imposed on them to promote and maintain high standards of conduct by members of their group. A council's political Group Leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee to demonstrate how compliance with the duty is achieved. The standards committee should then consider each report and provide feedback to the Group Leaders. A standards committee must also provide advice and training, or arrange to train Group Leaders on the new duty. The Standards Committee may wish to meet with Group Leaders periodically to review behaviour.
11. It was agreed previously that Group Leaders would provide the Standards Committee with an annual report. The Monitoring Officer has reviewed the current draft and felt it could be benefit from some additional information and clarity and accordingly a revised version is enclosed at Appendix 1 for members of the Standards Committee to consider and amend as they see appropriate.

Financial Impacts:

12. No implications.

Integrated Impact Assessment:

13. An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

14. No implications

Workforce Impacts:

15. No implications

Legal Impacts:

16. There are no legal impacts associated with this report.

Consultation:

17. There is no requirement for external consultation on this item

Recommendations:

18. That Members agree the revised Group Leader Annual Report template included at Appendix 1 suggesting any addition or amendments as they deemed appropriate.

Appendices:

19. Appendix 1 – Group Leader Annual Report Template

List of Background Papers:

20. None

Officer Contact:

Mr Craig Griffiths
Head of Legal and Democratic Services
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The Standards Committee's Annual Report and the new Group Leaders' duty

Under the Local Government and Elections (Wales) Act 2021, political Group Leaders now have duties in relation to standards of conduct.

A leader of a political group must:

- (a) take reasonable steps to promote and maintain high standards of conduct by the members of the group and
- (b) cooperate with the Council's Standards Committee in the exercise of its functions.

Group Leaders who fail to comply with the duty maybe regarded as bringing their office into disrepute, in breach of the Code of Conduct for Members.

In addition, the 2021 Act places a duty on Standards Committees to make an annual report to their council as soon as reasonably practicable after the end of each financial year (1 April-31 March). The report must be considered by the relevant council before the end of 3 months beginning with the day on which the council receives it.

The Standards Committee's annual report must include an assessment of the extent to which Group Leaders have complied with their duties (paragraph 1 above).

The Standards Committee requires information from the Group Leaders in order to do this.

Having regard to the requirements in the 2021 Act, a template report has been drafted to assist Group Leaders and remind them of the matters to be covered in their reports to the Standards Committee. This template is included in Appendix 1.

The template does not ask, and should not include, details of individual cases. The report focuses on the type of action which has been taken in relation to each matter.

Group Leaders are asked to produce these reports once a year; however, if issues of importance arise during the year, Group Leaders should consult with the Monitoring Officer, who will inform the Chair of the Standards Committee.

Completed forms are to be forwarded by Group Leaders to the Monitoring Officer by 31st March. The Monitoring Officer will report to the Standards Committee.

The Standards Committee will use appropriate information from the Group Leaders' reports to inform its annual report to Council. The Committee's annual report will contain a short summary of the steps taken to fulfil the duty, its opinion on whether what has been done is sufficient and any future pieces of work that might be undertaken etc.

Appendix 1

Report by Group Leaders (GL) to the Standards Committee in relation to their group leader duties.

| | |
|--|--|
| Report by | |
| Political Group | |
| Period for which report applies | 1st April 2024 to 31st March 2025 |
| Number of Members in Group | |

Steps taken by the GL to promote compliance with the Code of Conduct:

Appendix 2 includes the type of matters the Standards Committee expects the Group Leaders to pay attention to and the threshold that is used by the Committee to consider if you have taken steps in relation to your duty as Group Leader.

Please consider these matters and the 10 behavioural principals in public life that are in Appendix 3 when preparing your response.

| |
|---|
| Personal Commitment |
| Use your own words to complete this section. See Appendix 2 for more information |
| |

| |
|---|
| Encouraging Members |
| Use your own words to complete this section. See Appendix 2 for more information |
| |

| |
|---|
| Working with the Standards Committee and other Group Leaders |
| Use your own words to complete this section. See Appendix 2 for more information |
| |

Consideration for this year compared to last year

A copy of the form that was received by you last year has been attached. Below, please explain what matters have improved this year

A copy of the form that was received by you last year has been attached. Below, please explain what matters you think need further attention during the next year?

Statistics:

| Number of Members in Group | Number who have attended Code of Conduct Training | Percentage |
|-----------------------------------|--|-------------------|
| | | |

Number, Source and Level of Complaints

| | Informal | Local Resolution (Stage) | | | PSOW |
|-------------|-----------------|---------------------------------|----------|----------|-------------|
| | | 1 | 2 | 3 | |
| Public | | | | | |
| Officers | | | | | |
| Councillors | | | | | |

Appendix 2

There is no need to include all the information listed below but these are examples of the type of information that you may wish to consider including as part of your response and based on the Statutory Guidance published by Welsh Government on the Local Government and Elections (Wales) Act 2021.

Personal commitment:

- demonstrated personal commitment by attending relevant development or training around equalities and standards, including the Code of Conduct;
- setting an example by demonstrating the principles of conduct in public life including specifically politeness and respect;
- used your influence to promote a positive culture;
- promoted a culture within the group which supports high standards of conduct and integrity;
- addressed issues as soon as they arose;
- promoted civility and respect within group communications and meetings and in formal meetings of the Council;
- worked to implement any recommendations from the Standards Committee about improving standards;

Encouraging group members:

- encouraged group members to attend relevant development or training, particularly around equalities and standards;, including the Code of Conduct;
- ensured nominees to a committee had received the recommended training for that committee;

Co-operation with others:

- promoted informal resolution procedures, and worked with the Standards Committee and Monitoring Officer to achieve local resolution;
- worked with the standards committee to recognise inappropriate behavioural patterns, give them consideration, and deal with these matters e.g., asking for, or suggesting appropriate training, asking to delete inappropriate message from social media pages or asking them to consider apologising.
- attended a meeting of the Council's Standards Committee if requested to discuss Code of Conduct issues;
- attended meetings with the Monitoring Officer and/or other Group Leaders as necessary to discuss matters of conduct;
- worked together with other Group Leaders to collectively support high standards of conduct within the Council;

Appendix 3

Statutory Standards of Conduct in Public Life in Wales

- ♣ Selflessness
- ♣ Honesty
- ♣ Integrity and Propriety
- ♣ Duty to uphold the law
- ♣ Stewardship
- ♣ Objectivity in Decision making
- ♣ Equality and respect
- ♣ Openness
- ♣ Accountability
- ♣ Leadership

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Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

13th January 2025

Matter for Decision

Wards Affected: All Wards

Relationship Between Standards Committee and Governance and Audit Committee

Purpose of the Report:

This report outlines the relationship between the Standards Committee and the Governance and Audit Committee (GAC) within Welsh local authorities. It examines their distinct roles, areas of overlap, and opportunities for collaboration to enhance accountability, transparency, and good governance.

Background:

Neath Port Talbot Council has a number of different Committee and decision making forums that have responsibility for accountability, transparency and good governance.

Two of relevance are the Standards Committee and GAC.

The Standards Committee has the responsibility to promote and maintain high standards of conduct among elected and co-opted members and will have a number of key responsibilities

- Oversee the Members' Code of Conduct.
- Consider complaints and referrals from the Public Services Ombudsman for Wales (PSOW).
- Provide advice, guidance, and training to members on ethical standards.

- Monitor compliance with declarations of interest, gifts, and hospitality registers.

The GAC provide independent assurance on the council's financial and operational performance, risk management, and internal controls. Its key responsibilities include

- Reviewing and approve the authority's financial statements.
- Monitor internal audit reports and risk management frameworks.
- Ensure compliance with governance standards and statutory responsibilities.
- Oversee the council's response to external audit recommendations.

Although the Standards Committee and GAC have distinct functions, there are areas where their roles intersect, including:

- Governance and Ethical Standards
 - Both committees contribute to promoting a culture of good governance and ethical behaviour through an unbiased and apolitical approach.
 - The GAC may review governance arrangements, while the Standards Committee ensures members' conduct aligns with these principles.
- Complaints and Accountability
 - The Standards Committee addresses complaints against members, while the GAC oversees complaints-handling processes for broader council services.
 - Collaborative discussions can help ensure consistency in promoting accountability.
- Training and Development
 - Both committees identify training needs: the Standards Committee for ethical behaviour and the GAC for governance and risk management. Joint training sessions can improve understanding across both areas.
- Annual Governance Statement (AGS)
 - The GAC is responsible for reviewing and approving the AGS, which often includes sections on member conduct and ethical governance.
 - Input from the Standards Committee ensures accurate representation of its work in the AGS.

Both of these Committees are unique in that they also have lay members appointed which can bring additional benefits.

- Independent Perspective: Lay members provide an unbiased viewpoint, which helps ensure that decisions are made objectively and without internal biases.
- Enhanced Scrutiny: Their involvement strengthens internal auditing processes, making it easier to identify and address issues effectively.
- Public Confidence: Including lay members can increase public trust in the governance system, as it demonstrates a commitment to transparency and accountability.

- **Diverse Expertise:** Lay members often come from various professional backgrounds, bringing a wealth of knowledge and experience that can enhance the committee's deliberations.
- **Ethical Oversight:** Lay members can ask questions and challenge established norms, promoting new ways of thinking about ethical and governance issues.

Overall, the inclusion of lay members helps create a more robust and trustworthy governance framework.

To strengthen the relationship between the Standards Committee and GAC, the following measures could be implemented.

- **Regular Liaison and Communication.** Chairs of both committees should meet periodically to discuss shared concerns and areas of overlap, such as governance issues related to member conduct.
- **Joint Reporting.** When appropriate, the Standards Committee should contribute to reports reviewed by the GAC, particularly those addressing governance and ethical issues.
- **Shared Training and Development.** Organise joint training sessions for members of both committees to enhance understanding of their roles and interdependencies.
- **Cross-Committee Representation.** Consider appointing a representative from each committee to attend the other's meetings as an observer to foster collaboration and mutual understanding.
- **Coordinated Work Plans.** Align work plans where there are common objectives, such as improving public trust and transparency.

However, given the two distinct functions, avoiding duplication will be important to ensure there are clear delineation of roles to avoid overlap and duplication of effort, particularly regarding governance and complaints-handling. While collaboration is valuable, each committee must retain its independence to fulfil its statutory duties effectively. Collaborative initiatives may require additional resources, such as time for joint meetings or shared training sessions.

To enhance the relationship between the Standards Committee and GAC, it would be proposed to:

- (1) **Introduce Regular Liaison Meetings:** Facilitate bi-annual meetings between the Chairs of both committees to discuss shared priorities.
- (2) **Develop a Collaboration Protocol:** Establish a formal protocol outlining areas for collaboration, ensuring clarity and avoiding duplication.
- (3) **Contribute to the AGS:** Ensure the Standards Committee provides input into the Annual Governance Statement to highlight its role in promoting ethical governance.

- (4) Encourage Joint Training: Coordinate training programs to address common themes such as governance, risk management, and ethical conduct.

Financial Impacts:

No implications.

Integrated Impact Assessment:

An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

No implications

Workforce Impacts:

No implications

Legal Impacts:

There are no legal impacts associated with this report.

Consultation:

There is no requirement for external consultation on this item

Recommendations:

That members of the Standards Committee endorse the proposals included in this report at steps 1 to 4 above and

Appendices:

None

List of Background Papers:

None

Officer Contact:

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Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

13th January 2025

Matter for Decision

Wards Affected: All Wards

Consultation from Public Services Ombudsman for Wales into Code of Conduct Complaints

Purpose of the Report:

To agree a response to the Public Services Ombudsman for Wales consultation in respect of not informing an accused member of a complaint until after it has been assessed.

Background:

Following the discovery of the inappropriate use of social media by a former team manager in the spring of this year, concerns were raised about the impartiality and independence of the office, particularly in relation to the handling of complaints about local councillors who may have breached the Code of Conduct for members. The Public Services Ombudsman for Wales (“PSOW”) therefore commissioned an independent review, to establish whether processes, delegations, and decisions in relation to the assessment and investigation of complaints by the Code of Conduct Team, and the former team manager, had been sound and free from political bias. Dr Melissa McCullough was appointed to lead the review.

The PSOW welcomed the report and accepted all of the recommendations and the lessons learned in the Report.

Recommendation 2 of the Report was as follows:

“(2) Accused Member not informed of complaint until after assessment: in the interests of fairness and transparency, it is recommended that the PSOW considers reverting to the previous practice of notifying the Accused Member of the complaint once it is

received. This would also protect the PSOW from criticism in that regard, which might arise from circumstances in which the Accused Member is unsighted of the complaint and learns of its existence via a third party or the media. If the PSOW decides to revert to the previous practice, the process manual will need to be amended accordingly". This issue was considered in terms of the fairness of the process.

The PSOW's current practice is that a member who is complained about ("Accused Member") is not informed about the complaint until after the assessment process has been completed and the complaint is either rejected or is deemed to have met the 2-stage test for an investigation to commence.

If it is decided not to investigate, the Accused Member is provided with a redacted copy of the statement of reasons but generally does not receive a copy of the complaint.

If it is decided to investigate, the Accused Member is provided with a redacted copy of the complaint when they are informed of the PSOW's decision to investigate the complaint.

Previous to the process referred to above, the PSOW would have notified the Accused Member of the complaint once it was received.

Prior to taking the decision to change the process, the PSOW consulted with Monitoring Officers via the Local Government Monitoring Officers' Group network to explain the reasons for the change. The chief reason was to reduce unnecessary worry for members on complaints which are not ultimately investigated. Another reason was that notification to the member of the full complaint on receipt of the complaint sometimes prompted the member to begin gathering their own evidence to defend their position and this also led to some "tit for tat" complaints being made and involved pre-assessment discussions with the Accused Member.

PSOW were of the view that changing the approach to the current one was a more efficient use of resources. After trialling this new approach for a few months, no concerns were raised by Monitoring Officers, and this process was adopted.

As part of its response to this recommendation, the PSOW is consulting on this aspect of its procedure. The responses to this consultation, together with evidence gathered on the practice of other regulatory bodies who undertake work of a similar nature to PSOW's Code of Conduct work and any resource implications for PSOW will be carefully considered before the PSOW decides whether to revert back to its previous practice.

Three questions are asked to the Standards Committee:

- Do you consider that the PSOW should continue its current practice of notifying the Accused Member of a complaint once it has been closed at the assessment stage of its process or when notifying an Accused Member of a decision to start

an investigation? If so, please outline your reasons for holding this view. What effects do you think there would be of continuing this practice?

- Do you consider that the PSOW should revert back to its previous practice of notifying the Accused Member of a complaint once it has been received? If so, please outline your reasons for holding this view. What effects do you think there would be of adopting this practice?
- Are there any other issues you wish the PSOW to consider?

View of Monitoring Officer

In respect of each question the Monitoring Officer's view is as follows

- (1) The Monitoring Officer believes the PSOW should continue its current practice of notifying the Accused Member of a complaint only after the assessment stage or when a decision to start an investigation is made. This approach minimises unnecessary stress and anxiety for members who are ultimately not subject to investigation. It also prevents premature defensive actions and potential retaliatory complaints, which can complicate and prolong the assessment process. Continuing this practice ensures a more efficient use of PSOW resources and maintains a focus on complaints that warrant further investigation.
- (2) The Monitoring Officer does not believe the PSOW should revert to its previous practice of notifying the Accused Member upon receipt of a complaint. While early notification might seem to promote transparency, it can lead to unnecessary distress for members who are not ultimately investigated. Additionally, it can prompt premature defensive actions and retaliatory complaints, which can hinder the assessment process. Maintaining the current practice allows for a more streamlined and focused approach, ensuring that only complaints that meet the criteria for investigation are brought to the member's attention.

Response of Standards Committee

Standards Committee though are asked for their opinion on each question so that a response on behalf of the Standards Committee maybe issued to the Public Service Ombudsman for Wales.

Financial Impacts:

No implications.

Integrated Impact Assessment:

An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

No implications

Workforce Impacts:

No implications

Legal Impacts:

There are no legal impacts associated with this report.

Consultation:

There is no requirement for external consultation on this item

Recommendations:

That members of the Standards Committee consider the questions raised by the Public Service Ombudsman for Wales and agree a response on behalf of the Standards Committee

Appendices:

None

List of Background Papers:

None

Officer Contact:

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13th January 2025

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR C GRIFFITHS

Matter for Decision

Wards Affected: All

Town and Community Council Code of Conduct Matters

Purpose of the Report

1. To draw to Members attention the role of the Neath Port Talbot County Borough Council's ("the Council") Standards Committee and to suggest a meeting in the 2025/2026 Civic Year with Chairs of Town and Community Councils to discuss the remit of the Standards Committee and how the Standards Committee can assist Town and Community Councillors in discharging their own personal duties

Background

2. Part III of the Local Government Act 2000 introduced a new Ethical Framework for Councils. As part of this framework, the Council has a Standards Committee. This Committee is also responsible for standards functions in relation to the Town and Community Councils (and their Members) in the area of the County Borough Council.
3. Another critical part of the Ethical Framework is the Code of Conduct for Members. One of the functions of the Standards Committee is to assist the Council and the Town and Community Councils in securing compliance with the Code.
4. Previously Standards Committee have met with Clerks of Town and Community Councils and issued a variety of questionnaires to highlight specific queries. As part of its 2024/2025 Annual Report, members of the Standards Committee wished to embark on further engagement with elected members in order to dispel the myths of the Standards Committee and it is suggested that one way to help discharge this objective could be to arrange a meeting with a cross section of Town and Community Council Chairs to further discuss how the Standards Committee can help support Town and Community Councils in the area of standards and ethical behaviour.

Financial Impact

5. There are no financial impacts associated with this Report.

Integrated Impact Assessment

6. There is no requirement to undertake an integrated impact assessment for this report.

Workforce Impacts

7. There are no workforce impacts associated with this Report

Legal Impacts

8. The Standards Committee is governed by the obligations set out in the Local Government Act 2000 and its composition and running is as set out in the Standards Committee (Wales) Regulations 2001.

Consultation

9. There is no requirement under the Constitution for external consultation on this item.

Recommendations

10. That Members agree to convene a meeting of Town and Community Council Chairs to discuss how the Standard Committee can help ensure compliance with the standards regime and ethical behaviours in Town and Community Councils.

Reason for Report

11. That Members of the Standards Committee are aware of the remit of the Standards Committee and the legislative background in which the Standards Committee operates

Appendices

12. None

List of Background Papers

13. The Constitution of Neath Port Talbot County Borough Council

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Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

13th January 2025

Matter for Information

Wards Affected: All Wards

Independent Review of Investigations by the Public Services Ombudsman for Wales into Code of Conduct Complaints

Purpose of the Report:

To enable the Committee to consider the Report of the Independent Review of Investigations by the Public Services Ombudsman for Wales into Code of Conduct Complaints published on 27 September 2024.

Background:

As part of its 2022/2023 Annual Reports, members of the Standards Committee wished to embark on further engagement with elected members in order to dispel the myths of the Standards Committee and it was felt arranging a meeting with a cross section of elected members would be beneficial for members to understand more about their work programme.

The Public Services Ombudsman for Wales (PSOW), Michelle Morris, commissioned an Independent Review in May 2024 following receipt of a substantiated complaint that a member of staff (referred to as the “Former Code Team Manager” or “FCTM”) had been making inappropriate and unacceptable social media posts of a political nature.

The aim of this review was to provide assurance as to whether the PSOW’s Code of Conduct Team processes, delegations and decisions in relation to the assessment and investigation of complaints by the Code Team and FCTM have been sound, free from political bias and that lessons are learned from what has happened.

The powers granted to PSOW, in relation to this work, are set out in the Local Government Act 2000. The Review was led by Dr Melissa McCullough who is the Commissioner for Standards for the Northern Ireland Assembly and also Commissioner for Standards for the Jersey and Guernsey States Assemblies.

The Report has now been published in full on the PSOW's website, following a period of time during which the report was embargoed from publication.

The Report is provided in full at Appendix A; together with the covering letter from the PSOW at Appendix B, confirming 'I welcome this report and accept the recommendation and lessons to be learnt', and the press release issued via email from the PSOW at Appendix C.

The following recommendations were made:

(1) Documenting the political affiliation of the Accused Member: in order to mitigate the risk of unconscious bias on the part of the IO and to underpin the fairness of the complaint assessment process, it is recommended that steps are taken to ensure that the political affiliation of the Accused Member is not recorded on the PAAF. The process manual will need to be amended accordingly, with updated instructions for the Intake Team.

(2) Accused Member not informed of complaint until after assessment: in the interests of fairness and transparency, it is recommended that the PSOW considers reverting to the previous practice of notifying the Accused Member of the complaint once it is received. This would also protect the PSOW from criticism in that regard, which might arise from circumstances in which the Accused Member is unsuspected of the complaint and learns of its existence via a third party or the media. If the PSOW decides to revert to the previous practice, the process manual will need to be amended accordingly.

(3) IO decisions not to investigate: notwithstanding the applicable provisions in the process manual and in the Decision Review Process, it is recommended that an additional review/ check mechanism is put place for the purpose of quality assuring the IO decisions in this regard, particularly around the public interest test, and as a further safeguard against the potential for unconscious bias on the part of the IO. This recommendation is supported by findings from the staff interviews. Given the volume of complaints, however, the proposed measure needs to be proportionate and it is suggested that this could be achieved by way of occasional random sampling of IO decisions.

(4) CTM's delegated authority to overrule IO proposals to investigate and IO proposals to extend the investigation or commence a new investigation against another member: notwithstanding the applicable 30 provision in the Decision Review Process, it is recommended that an additional review/check mechanism is introduced in respect of these delegated decisions, in order to mitigate the risk of unconscious bias on the part of the CTM when deciding not to agree IO proposals. It is suggested that this measure

could also be achieved by way of random sampling of CTM decisions. Also, the Scheme of Delegation should be updated to include these CTM decision-making powers.

(5) Opportunity for the Accused Member to provide comment: the review recognises that, as part of the combined PSOW and APW/standards committee process, the Accused Member has a number of opportunities to comment on the facts of the case. The review therefore found the 31 process to be demonstrably fair. That said, the PSOW may wish to consider whether there are any additional points in the process in which there would be a benefit in providing the Accused Member with the opportunity to comment further on relevant facts, particularly in advance of reaching draft conclusions/findings on whether the evidence is suggestive of a breach.

(6) Public interest factors and considerations: the review recognises the factors and considerations listed are non-exhaustive but recommends the PSOW gives consideration to developing more detailed guidance on assessing the public interest test. Additionally, the public interest factors and considerations should be reviewed regularly.

(7) Clarificatory amendments: with a view to clarifying the guidance, the review also recommends that: I. The process manual is amended to address the apparent contradiction in terminology whereby “direct evidence that a breach of the Code took place” is a requirement for a complaint to pass assessment stage (paragraphs 5.4 and 5.5) whereas an investigation can be concluded based on the finding that there is “no evidence of a breach of the Code” (paragraph 13.1(a)); II. The process manual is amended to reflect the existing practice that, when the LRO upholds a complaint review request, the reassessment/ reconsideration is undertaken by a different IO to the IO who undertook the original assessment/investigation; and III. The Scheme of Delegation is updated in light of the retitling of the LRO post to make clear that the LRO has delegated authority in respect of decisions on whether to uphold a review request that the complaint should be reassessed/reconsidered.

The Report concluded that: - “As stated in The Venice Principles, “Ombudsman Institutions have an important role to play in strengthening democracy, the rule of law, good administration and the protection and promotion of human rights and fundamental freedoms”. The PSOW is built on the principles of independence, impartiality, fairness and inclusivity. These principles must be reflected in the important work carried out by the PSOW in order to maintain public trust in its operations. This necessarily means that the assessments carried out by investigation officers who work for the PSOW should demonstrate a consistent application of a well-defined and fair process as well as excellent analysis and reasoning to ensure that their decision-making is patently impartial and non-biased. The findings of this review point towards such excellence, in both processing and complaint assessment. This should provide reassurance to the public that they can trust and have confidence in the work of the PSOW and its Code Team.”

Financial Impacts:

No implications.

Integrated Impact Assessment:

An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

No implications

Workforce Impacts:

No implications

Legal Impacts:

There are no legal impacts associated with this report.

Consultation:

There is no requirement for external consultation on this item

Recommendations:

That members of the Standards Committee note the Independent Review of investigations by the Public Services Ombudsman for Wales into Code of Conduct complaints

Appendices:

Appendix A – Independent Review of Investigations

Appendix B – Letter from the Public Service Ombudsman for Wales

Appendix C – Press Release from the Public Service Ombudsman for Wales

List of Background Papers:

None

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Independent review of investigations by the Public Services Ombudsman for Wales into Code of Conduct complaints

Review panel

Dr Melissa McCullough (Lead Reviewer)

Mr John Devitt

Mr Shane McAteer

Review summary

On 26th March 2024, the Public Services Ombudsman for Wales ("PSOW") received a substantiated complaint about social media posts made by the then Code Team Manager. A number of the social media posts were political in nature. The media became aware of the social media posts and concerns were raised about the PSOW's guiding principles of impartiality and independence, with some calling for the PSOW to be abolished.

The PSOW suspended the Code Team Manager on 29 March 2024 and she resigned on 3 April 2024. In May 2024, the Ombudsman commissioned this independent review to establish whether the PSOW's Code Team processes, delegations and decisions in relation to the assessment and investigation of complaints by the Code Team and former Code Team Manager ("FCTM") had been sound, free from political bias and to ensure that lessons are learned from what had happened. The review did not include an investigation of the FCTM or the incident itself.

The review examined the Code Team processes and delegations. The scope of the review also examined 673 cases where decisions not to investigate were taken plus 11 discontinued investigations, which in total accounted for the Code Team decision-making either directly by the FCTM or decision-making for which the FCTM had oversight. As part of the review, interviews were carried out with the Code Team investigation officers ("IOs"), the Director of Investigations ("DOI/CLA") and the FCTM to

establish whether the FCTM expressed her personal views on political matters in the office and/or inappropriately influenced other staff members.

The review found the PSOW's Code of Conduct processes and delegations to be appropriate, fair and impartial and free from political bias. In relation to the cases reviewed, the review found no evidence of politically biased decision-making. The cases reviewed were thoroughly analysed and the decision-making was well-reasoned, consistent, sound and fully documented for each case reviewed. The checks and balances within the process were apparent, providing further assurance of quality, non-biased decision-making. The review found the processes were impeccably followed by the IOs, including the FCTM. The review found no evidence that the FCTM expressed her personal views on political matters akin to her social media posts in the office and/or inappropriately influenced other staff members.

In order to maintain public trust in its operations, the PSOW's work, especially on standards relating to Welsh local government, should follow a well-defined and fair process and should exhibit excellent analysis and reasoning to ensure decision-making is demonstrably impartial. The findings of this review point towards such excellence, in both complaint assessments and processes. This should provide much reassurance to the public that they can trust and have confidence in the work of the PSOW and its Code Team.

Abbreviations & Acronyms

| | |
|----------------|---|
| PSOW | Public Services Ombudsman for Wales |
| DOI/COO | Director of Improvement & Chief Operating Officer |
| DOI/CLA | Director of Investigations & Chief Legal Advisor |
| LRO | Lead Review Officer |
| CTM | Code Team Manager |
| FCTM | Former Code Team Manager [1st April 2021 to 31 August 2023] |
| IO | Investigation Officer |
| PAAF | Pre-assessment and Assessment Form |
| SC | Standards Committee |
| APW | Adjudication Panel for Wales |

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Independent review of the PSOW's investigation of Code of Conduct complaints

Introduction

1. The office of the Public Services Ombudsman for Wales ("PSOW") was established in April 2006 by the PSOW Act 2005. This Act was repealed and replaced in 2019 to become the Public Services Ombudsman (Wales) 2019 Act¹ ("The 2019 Act").
2. The role of the PSOW is to 1) look into complaints that something has gone wrong with Welsh public services; 2) look into complaints that Welsh councillors have breached their Code of Conduct; and 3) work with public bodies to improve public services and standards of conduct within local government across Wales.

complaints that local councillors had breached the Code of Conduct for councillors in accordance with the Local Government Act 2000² ("LGA 2000").

5. There were a number of social media posts of a political nature made by the FCTM, including a reply post which said "F*** the Tories". Media coverage followed, as did questions and concerns about the impartiality and independence of the PSOW.
6. This independent review was commissioned by the PSOW. Its remit did not include investigating the incident or the FCTM. Rather, the review had the following scope and purpose.

Incident leading to this review

3. On 26 March 2024, the PSOW received a substantiated complaint that a member of staff (herein referred to as the "Former Code Team Manager" or "FCTM") had been making inappropriate and unacceptable social media posts of a political nature.
4. The FCTM was suspended on 29 March 2024 and resigned from her role with the PSOW on 3 April 2024. The FCTM had been, until the end of August 2023, leading the Code Team assessing and investigating

Scope and Purpose of the Review³

7. The purpose of this independent review was to look at the PSOW's processes for the assessment and investigation of complaints that members of local authorities, fire and rescue authorities, national park authorities and police and crime panels in Wales have breached their Code of Conduct. The aim of this review was to provide assurance as to whether the PSOW's Code of Conduct Team processes, delegations and decisions in relation to the assessment and investigation of complaints by the Code Team and FCTM

¹ <https://www.legislation.gov.uk/anaw/2019/3/contents>

² <https://www.legislation.gov.uk/ukpga/2000/22/part/III/chapter/III>

³ Appendix 1

have been sound, free from political bias⁴ and that lessons are learned from what has happened.

8. This review's terms of reference were focussed on the following deliverables. (attached at Appendix 1)

(1) Review of the PSOW's Code of Conduct processes and delegations to ensure that they are appropriate, fair and impartial and free from political bias.

(2) Review of decisions taken by the former team leader and her Team not to investigate Code of Conduct complaints from 1 April 2021 to 22 October 2023, to ensure that the PSOW's two-stage test was applied properly and decisions were free from political bias (673 cases).

(3) Review of the cases where the former team leader was the 'case owner' which were investigated and closed without a referral to a standards committee or the Adjudication Panel for Wales from 1 April 2019 to 22 October 2023, to ensure that there is no evidence of political bias in the handling of these cases (11 cases).

(4) Establish whether there is evidence that the team leader expressed her personal views on political matters akin to her social media posts in the office and/or inappropriately influenced other staff members, in the performance of their duties under the Local Government Act 2000.

(5) Make any recommendations which the Lead Reviewer considers appropriate and issue a final report which the PSOW will share with the Senedd's Finance Committee.

⁴ For the purposes of this review, political bias will be found where there is evidence that the decision on a case was influenced by the political affiliation of the person who made the complaint and/or the member who was complained about.

Review methodology

9. The following outlines how the various parts of this review were carried out.

Documentary review

10. Documentation examined included: the Code of Conduct Complaints Process (the process manual); the Code of Conduct Complaints Process Internal guidance note - Scheme of Delegation; the Decision Review Process; the Code of Conduct – Assessing the Public Interest factsheet; the Local Resolution Procedure and the PSOW Staff Standards of Conduct Policy.

Case review

11. There were 673 cases reviewed in which decisions were made not to investigate by the Code Team whose members were led by the FCTM. A further 11 cases, which the FCTM investigated, and which were subsequently discontinued by the DOI/CLA, were also reviewed.
12. Two members of the review team conducted the case review. We sought to calibrate our approach by reviewing thirty cases together at the start to ensure alignment in terms of the review of the documentation including key parts of the process, evidence, the two-stage test and overall review parameters for each case. Once calibrated, cases were randomly split and allocated by even and odd case numbers. Regular meetings were held throughout the review to update and discuss the cases, identify any anomalies or questions arising, and to document any themes emerging.

13. The PSOW does not purposely keep information relating to the political affiliation of members subject to the complaint. The review initially collated known political affiliations for the purpose of cross-referencing, if required, at the case review stage.
14. After all cases were reviewed, a 5% dip-sampling (n=34) was carried out by the third review team member who was not involved with the substantive case review. These represented 24 Code Team cases and 10 FCTM cases which included 5 PSOW case review decisions.

Staff interviews

15. Prior to the substantive case review, 10 members of the Code Team relating to the 673 cases being reviewed were interviewed. Once the case review was complete, the FCTM and the DOI/CLA were interviewed.
16. Interviews were undertaken on the basis of confidentiality and with the purpose of establishing whether the FCTM expressed her personal views on political matters and/or inappropriately influenced other staff members on the Code Team.
17. All interviews were recorded and transcribed for the purposes of the review. Transcripts were provided to interviewees to ensure that each interviewee was satisfied that the transcript was a true record of what they said.
18. Manual thematic analysis was carried out to identify patterns or themes emerging from the interview data. Any excerpts used in this report were approved by the maker of the statement.

Review Outcomes

Processes and Delegations Review

Introduction

19. This element of the review (i.e. the first element of the terms of reference) included an examination of the PSOW's Code of Conduct processes and delegations, specifically in terms of ensuring that they are appropriate, fair and impartial and free from political bias. In particular, this involved consideration of the 'Code of Conduct Complaints Process' document (the process manual) which 'is used to manage the intake, assessment, investigation and reporting of complaints made to the Ombudsman that there may have been a breach of the Local Authorities Model Code of Conduct' and which acts as 'a directive to staff on case management'.⁵
20. Other documentation examined included: the Code of Conduct Complaints Process Internal guidance note - Scheme of Delegation; the Decision Review Process; the Code of Conduct – Assessing the Public Interest factsheet; the Local Resolution Procedure and the PSOW Staff Standards of Conduct Policy. Arising from this exercise, various points for clarification were raised and responded to via correspondence with the Director of Investigations & Chief Legal Adviser (DOI/CLA).

Issues examined

21. As part of this element of the review, the following issues were examined and findings noted:

Documenting the political affiliation of the Accused Member

22. From the case review exercise, it was noted that the political affiliation of the Accused Member is sometimes recorded on the Pre-assessment and Assessment Form (PAAF) at the beginning of the complaint assessment process. The recording of political affiliation appears to be a consequence of the requirement in the process manual which states: 'The Accused Member's details should be added to the PAAF by linking to the relevant Council website page and taking a screenshot of the details.'⁶

This issue was discussed during the staff interviews and it was noted that the screenshot from the Council website may include details of political affiliation and this information is then captured on the PAAF as a by-product of that administrative action. There was consensus that such information is not required and should not be recorded at the assessment stage. It was also noted that, in individual cases where political affiliation is relevant to the narrative of the complaint, the position would be apparent from the case evidence or could be checked by the investigator if necessary.

⁵ Page 6 of the process manual.

⁶ Paragraph 4.2 of the process manual.

Accused Member not informed of complaint until after assessment

23. This issue was considered in terms of the fairness of the process. It was noted that the Accused Member is not informed about the complaint until after the assessment process has been completed and the complaint is either rejected or is deemed to have met the two-stage test for an investigation to commence. If it is decided not to investigate, the Accused Member is provided with a redacted copy of the statement of reasons but generally does not receive a copy of the complaint.⁷ If it is decided to investigate, the Accused Member is provided with a redacted copy of the complaint (and any response to a 'minded to' letter).⁸

24. Previous to the process referred to above at paragraph 23, the PSOW would have notified the Accused Member of the complaint once it was received. Prior to taking the decision to change the process, the PSOW consulted with Monitoring Officers via the Local Government Monitoring Officers Group network to explain the reasons for the change. The chief reason was to reduce unnecessary worry for members on complaints which are not ultimately investigated. Another reason was that notification to the member of the full complaint on receipt of the complaint sometimes prompted the member to begin gathering their own evidence to defend their position and this also led to some 'tit for tat' complaints being made. PSOW were of the view that changing the approach to the current one was a more efficient use of resources. After trialling this new approach

for a few months, no concerns were raised by Monitoring Officers, and this process was adopted.

25. Regarding this process change, the staff interviewed expressed the following views as regards to the previous approach: that such pre-assessment communications are unnecessary and can cause the Accused Member undue worry in terms of complaints which are ultimately not investigated; that it was more resource intensive for PSOW when it involved pre-assessment discussions with the Accused Member; and that notifying the Accused Member of a complaint at an early stage can give rise to 'tit for tat' complaints. Staff noted that the old approach had benefits in terms of fairness and transparency.

Decisions not to investigate

26. The review sought clarification on whether (notwithstanding the provision in paragraph 5.15 of the process manual and the Decision Review Process) there is any review/check mechanism in place in relation to IO decisions not to investigate (e.g. random sampling as part of an audit process). In that regard, from the staff interviews, it was noted that there may be merit in having a quality assurance mechanism in respect of IO decisions not to investigate on the basis of the public interest test. It was subsequently confirmed that, other than cases where there is a specific "review request" from the complainant, no random sampling takes place of the quality of IO decisions, either generally to review decisions taken or specifically in relation to the application of the public interest test. It was noted, however, that the Service Quality

⁷ Paragraphs 5.12 and 5.13 of the process manual.

⁸ A "minded to" letter is the letter sent to the complainant seeking any additional evidential material and information to support the complaint Paragraphs 7.1 of the process manual.

Officer randomly samples cases from a “service standard” perspective but this does not consider the quality of decision making.⁹

Proposals to investigate, to extend investigations and to commence Own Initiative investigations

27. The review obtained clarification on various issues in this regard. From the process manual it is apparent that the Code Team Manager (CTM) has delegated authority to overrule IO proposals to investigate and IO proposals to extend the investigation or commence a new investigation against another member.¹⁰ While this is not specifically referred to in the Scheme of Delegation, it was confirmed that, in practice, in view of the seniority of the CTM role, the CTM may overrule an IO’s proposal to investigate. The review was also advised that, if there is strong disagreement between the IO and the CTM or if the CTM considers the decision not to investigate may be a contentious one, they will refer a case up to the DOI/CLA for a view, though this practice is not outlined in the process manual/Scheme of Delegation. Further, it was confirmed that, aside from the Decision Review Process, there is no review/check mechanism in place in relation to the CTM’s decisions.
28. The review also sought clarification: on whether the IO has discretion or is required to propose an extension/OI investigation if, during the course of an investigation, other potential breaches of the Code are identified, either involving the Accused Member under investigation or another member; on what basis the CTM might not agree to the IO proposal to extend the investigation or commence a new investigation against another member; and on whether the CTM

has delegated decision-making authority in this regard (as this is not included in the Scheme of Delegation).

29. It was confirmed that, when analysing evidence gathered, it is a matter for the IO to apply their discretion/judgement on cases as to whether to recommend, on the basis of the two-stage test having been met, that an investigation should be extended to consider other possible breaches by the Member being investigated or to recommend that another Member be investigated. The review was advised that, if the CTM or the DOI/CLA disagree with such a recommendation, it will be on the grounds that the two-stage test is not met (e.g. the matter is not serious enough and/or the breach appears to be a minor/technical one). It was also confirmed that, although not specified in the Scheme of Delegation, in practice the CTM has delegated authority not to extend the investigation.
30. In terms of a partial safeguard, however, it was noted that ultimately all the investigation cases are reviewed by either the Ombudsman or the DOI/CLA before they are closed (by the Ombudsman personally if a case is referred to the APW/standards committee or by the DOI/CLA if discontinued and/or no further action/no breach is appropriate). Therefore, as part of that review exercise, other possible breaches, which meet the two-stage test, may be identified or a contrary view may be taken on any earlier decision regarding extensions, in which case the IO is instructed to include the additional matters.¹¹

⁹ Correspondence with the DOI/CLA, dated 7 August 2024.

¹⁰ See paragraphs 6.1 and 8.1 of the process manual.

¹¹ Correspondence with the DOI/CLA, dated 7 August 2024.

Opportunity for the Accused Member to provide comment

31. In assessing the fairness of the process, consideration has also been given to the opportunities which the Accused Member has to comment on the allegations against them, in particular as the facts are established during the investigation process. It was noted from the process manual that: the Accused Member is provided with all relevant evidence gathered in advance of interview and then has the opportunity to comment on this at interview; where the case is referred to the APW/standards committee, a draft report is sent to the Accused Member for comment before it is finalised; and, any comments made by the Accused Member in response to the draft report will be summarised in the final report, given due consideration and also usually included in the report appendices.¹²
32. The review was advised that: all relevant facts which are key to whether there has been a breach of the Code will be explored with the member at interview and the resultant information is used to decide what facts are/are not disputed; following interview, the evidence is analysed and disputed facts are decided on the balance of probability; the “findings on fact” are not shared with the Accused Member prior to them being issued with the draft report as applicable; the purpose of sharing the draft report, which includes an outline of the “disputed” and “non disputed” facts, is to provide the member with an opportunity to comment, including on the “facts” and the “conclusions”, before the PSOW takes a final

decision; and that the PSOW role is to refer cases where its “findings on fact” are *suggestive* of a breach (whereas, as a part of the hearing process, the APW/standards committee makes final findings on fact as to whether there has been a breach of the Code).¹³

Reassessment/reconsideration of complaints

33. The review also sought clarification on the division of responsibilities in this regard, including: whether the Lead Review Officer (“LRO”) has delegated decision-making authority on review requests that complaints be reassessed/reconsidered (as this is not clear in the Scheme of Delegation); and whether a different IO undertakes the reassessment/reconsideration when the LRO upholds a complaint review request.¹⁴ It was confirmed that the LRO has delegated decision-making authority in this area and that a different IO considers the complaint afresh when a review request is upheld.¹⁵

Other safeguards existing

34. In addition to the procedural checks and balances alluded to above, the review has noted a range of other safeguards and good practices which underpin the appropriateness, fairness and impartiality of the process. For example:
- The complainant is required to complete a disclosure declaration, including to confirm: that they agree to the details of the complaint, including their identity, being shared with the Accused Member and others as appropriate;

¹² Paragraphs 12.4, 13.8 and 13.10 of the process manual. It was also noted that, for transparency purposes, comments provided by the Accused Member which are irrelevant to the issues being investigated and therefore not included in the report appendices, are listed in a ‘Schedule of Unused Material’ which is issued with the final report.

¹³ Correspondence with the DOI/CLA, dated 7 and 9 August 2024.

¹⁴ Paragraphs 15.5 and 15.11 of the process manual.

¹⁵ Correspondence with the DOI/CLA, dated 7 August 2024.

and that they are prepared to give spoken evidence in support of their complaint (and, where the complainant provides information relating to a third party, consideration is given to the need to obtain a declaration from that third party to share this information)¹⁶;

- The PSOW's decision on whether to investigate a complaint should be reached within 6 weeks from the date on which satisfactory information is received ("DSIR")¹⁷;
- All applicable actions and decisions leading up to the decision on whether to investigate the complaint are recorded systematically on the PAAF;
- The process manual includes detailed guidance on Article 10, freedom of expression considerations;
- The reasoning behind decisions is recorded and explained throughout the process – e.g. the requirements on the IO to provide on the PAAF an explanation of each aspect of the two-stage test and to provide the complainant with a written statement of reasons for the decision not to undertake an investigation or to discontinue an investigation¹⁸;
- Investigations are conducted in private and there is an emphasis on taking care when sharing information during the investigation to maintain confidentiality where appropriate¹⁹;
- The IO is required to keep the Accused Member and the complainant updated of the

progress of the investigation at least every 6-8 weeks²⁰;

- A decision to discontinue an investigation for any reason must be approved by the DOI/ Ombudsman²¹;
- The review process is managed by the LRO who acts independently of the PSOW's Assessment and Investigation Teams in providing a "fresh pair of eyes" review and who is directly accountable to the Ombudsman²²;
- The PSOW Staff Standards of Conduct Policy includes requirements relating to fairness and impartiality including, for example, the "paramount importance that PSOW staff should be, and be seen to be, impartial and non-partisan"²³; and
- The PSOW induction for staff and training programme covers unconscious bias and training on taking decisions fairly.

¹⁶ See section 3 of the process manual.

¹⁷ Paragraph 5.2 of the process manual.

¹⁸ Paragraphs 5.7, 5.11 and 11.4 of the process manual.

¹⁹ See, for example, paragraphs 5.12 and 7.8 of the process manual.

²⁰ Paragraph 7.11 of the process manual.

²¹ Paragraph 11.2 of the process manual.

²² Paragraph 7 of the Decision Review Process.

²³ Paragraph 7.1 of the PSOW Staff Standards of Conduct Policy, October 2022 (v. 3.0).

Conclusion

- 35. The review has found that, in general terms, the PSOW's Code of Conduct processes and delegations are robust in terms of safeguarding fairness and impartiality. They are systematic, well documented and supplemented with appropriate guidance and the reasoning for decisions is required to be recorded and explained as applicable.**
36. The documentary review also identified some aspects of the guidance which could benefit from clarificatory amendments and the suggestions in this regard are outlined in the recommendations at the end of this report.

Results of the Code Team Case Review

Introduction

37. This element of the review relates to terms of reference 2 and 3, and examined the decisions taken by the FCTM and her Team not to investigate Code of Conduct complaints, to ensure that the PSOW's two-stage test was applied properly and decisions were free from political bias.
38. Of the 673 cases reviewed, 584 were owned by 11 members of the Code Team with FCTM oversight and 89 were owned by the FCTM.²⁴
39. The review considered a diverse range of cases²⁵, and the vast majority (98%) of cases reviewed were against councillors from either Local Authorities or Community Councils.
40. For all of the cases reviewed, it was unnecessary to cross-reference the case with the political affiliation of the member subject to the complaint. This was because the review found no evidence that any of the case decisions were made on the basis of anything other than the evidence available, the facts established and the resultant reasoned conclusions.

Results

41. The case review examined whether the overall process was adhered to in line with the process manual. Through the documents examined, it was clear that the process was followed in each case reviewed.
42. The PAAF was present in all cases reviewed and contained initial input from the Intake Team including the address of the member complained about and any linked or previous cases on the system relating either to the complaint, complainant or the Member complained about and any precedent cases that might be applicable to it. Once received, evidence showed that the FCTM often entered relevant information on the PAAF, including her initial thoughts to provide a steer to the member of the Code Team who would be assessing the complaint. Once the FCTM completed the PAAF, she allocated the case to a member of the Code Team to carry out their assessment.
43. There was also evidence of conflicts being declared by the FCTM at this early stage (e.g. "Assessment will be overseen by [senior manager] if required, rather than [the FCTM] as there is a potential conflict of interest – [FCTM] has knowledge of/ acquainted with the Councillor").
44. The overall assessment by the allocated member of the Code Team (the IO) could be readily viewed in the documentation and included their input into the PAAF, application

²⁴ Appendix 2

²⁵ Appendix 3

of the two-stage test, decision notices (the letters sent to the complainant once the assessment is complete) and various other correspondence and meeting notes including evidence where any advice and/or guidance was sought from line management.

45. Evidence of the two-stage test being applied was found in all cases reviewed, and was articulated within the PAAF and the decision notices. The quality and content of decision notices were reviewed in detail to ensure that the outcome, decision-making and application of the two-stage test was evidentially sound and clearly reasoned.
46. The review found the application of the first part of the two-stage test, which relates to assessing whether there was direct evidence that a breach of the Code took place, was consistently carried out, documented and clearly stated in the PAAF and all decision notices reviewed. In a number of cases, where it was unclear from the complainant's submission exactly which element of the Code was alleged to have been breached or where evidence may have been missing, additional evidential material and information was requested to support the complaint in the form of a "minded to" letter sent to the complainant. On the occasions where a "minded to" letter was sent, all relevant processes including timeframes were adhered to in accordance with the existing process manual. Where the IO decided that the complaint did not meet the first stage of the test, a thorough explanation was provided to the complainant as to why, including a clear explanation that the second stage of the test was not considered due to the first not being met and, on occasions, additionally explaining why, even had it been met, it would not have been in the public interest to investigate.
47. Where the first stage of the test was met, the IO went on to apply the second stage of the test; this is where the public interest element is considered. Many factors and relevant considerations can be considered by the IO at this stage of the test. There was evidence of consistent, thorough, substantial and sound reasoning, including evidence of careful consideration and analysis in all cases reviewed when taking the various public interest factors into consideration. The review found the following public interest factors considered and evidenced by the IOs: the seriousness of the breach; whether the member deliberately sought material gain for themselves or another person at the public expense; whether the circumstances of the breach were such that a member had misused a position of trust or authority and caused harm to another; and whether the breach was motivated by any form of discrimination against any of the victim's protected characteristics. Other relevant considerations²⁶ that were taken into account in some of the cases reviewed included: the circumstances of the complaint; the extent to which the councillor was responsible for, or was to blame for, the alleged breach; evidence of previous similar behaviour by the member; whether they had been the subject of previous complaints or investigations; whether the alleged conduct was ongoing, repeated or escalating behaviour; whether the alleged conduct had caused harm or impacted on another person, group or body; and consideration of the views expressed by the complainant, or any other person affected by the alleged conduct, relating to the impact and effect.
48. The review found that where complainants sought and were granted a review, these were considered by the LRO. In every review considered, great care was taken in

²⁶ <https://www.ombudsman.wales/fact-sheets/code-of-conduct-assessing-public-interest/#Considerations>

examining the decision and explaining the process, rationale and outcome in the review decision notice.

Decision notice excerpts

49. The review highlighted many examples of excellent practice in relation to decision-making which was evident in the decision notices. A few samples are included below. For reasons of confidentiality, these examples do not include details of the complaint, and therefore, cannot be fully illustrative of the reasoning provided within the decision notices. Nonetheless, though limited in detail, they are an important inclusion.

50. Each decision notice explained the process to the complainant:

“To decide whether to investigate a breach of the Code, we apply a 2-stage test. First, we consider whether there is evidence to suggest that a breach of the Code may have occurred. Second, we consider whether it is in the public interest to investigate the matters complained about. We take into account a number of public interest factors such as:

- *the seriousness of the alleged behaviour*
- *whether the member misused a position of trust or has sought to gain, for themselves or others, at public expense*
- *whether an investigation is required to maintain public confidence in elected members*
- *whether an investigation is proportionate in the circumstances or whether, if proven, a referral to a Standards Committee or the Adjudication Panel for Wales would be appropriate.”*

51. Many decisions taken not to investigate related to the member’s right to freedom of expression (Article 10, Human Rights Act 1998). The review found this was well explained in all decisions where Article 10 was engaged.

“The Member’s comment relates to a political matter and therefore the Member would have enhanced protection under Article 10. In this case it is unlikely that the post and comment made by the Member would be considered so serious that a sanction would be considered a proportionate interference with the Member’s right to freedom of expression. It is also the case that the comment relates to political opponents, who are also expected to have a ‘thicker skin’ approach to political comments and debate.

That is not to say that the Member does not need to be mindful of the language [he/she] uses. The more egregious the language used and the less political the person is (that the comments are made about), the more likely it is that a sanction would be proportionate. Therefore, the Member may wish to discuss with their Monitoring Officer, or the leader of their political group, the type and appropriateness of the comments they make on a public forum.

As it is unlikely that a sanction would be considered a proportionate interference with the Member’s right to freedom of expression, even if a breach of the Code were proven, it is highly unlikely a sanction would be imposed on the member. In view of this an investigation would not be proportionate or in the public interest.” CT8

“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

to inhibit free speech and the robust expression of political differences. I have also previously explained that 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 Councillor X the right to free speech, means that he can say things which may be shocking or offensive to some people. Whilst I fully appreciate that you consider Councillor X's comments to be bullying in nature, I do not consider on the evidence provided that they are sufficiently offensive, egregious²⁷ or insulting to amount to bullying behaviour towards fellow members or a breach of the Code." CT6

52. All decision notices explained the rationale in relation to the application of the two-stage test. Where complainants did not provide sufficient evidence to meet the first stage of the test, the decision notice explained this in full. Additionally, where the first stage wasn't met, the decision notices often explained why, even had it been met, it would not have been in the public interest to investigate. The review also noted the reminder often provided in these types of complaints, that the Ombudsman does not condone the language or behaviour in question, and that the Councillor be mindful of their obligations under the Code.

"In light of all of the above, I find that you have not provided sufficient evidence to substantiate your complaints and demonstrate a breach of the Code. The Ombudsman will not investigate unless there is reasonably strong evidence to suggest that the member concerned has breached the Code. Accordingly, I have decided that your complaint does not meet

the first stage of the 2-stage test and, therefore, it should not be investigated." CT2

"As set out above. I am not persuaded that there is evidence of a breach of the Code of Conduct. Therefore, an investigation is not necessary. But for the avoidance of doubt, I should set out that even if I was satisfied there was a breach of the Code of Conduct, I do not think that an investigation would be proportionate and in the public interest. Even if a breach were proven, I do not consider that a likely sanction would be so significant as to mean that an investigation would be necessary or proportionate in the public interest." FCTM

"The conduct of which you complain may amount to a breach of the Code. However, in these circumstances, I am not persuaded that it would be proportionate and in the public interest to investigate your complaint. In deciding proportionality, one consideration is whether, if a breach of the code were proven, a sanction would be likely to be imposed.

Having very carefully considered the matter, I am not persuaded that it is likely that a sanction would be imposed on the member even if a breach were proven. I say this because..... While this does not excuse the behaviour, this would provide some mitigation.

That said, the Ombudsman would not condone this type of language, which is disrespectful and unprofessional, and I would take this opportunity, on the Ombudsman's behalf, to remind Councillor X of [his/her] obligations under the Code, which in respect of paragraph 6(1)(a) apply at all times. Councillor X should also bear in

²⁷ R (on the application of Calver) v Adjudication Panel for Wales [2012] EWHC 1172 (Admin)

mind that, in the event of any further complaints of this nature, the conclusions reached in respect of this complaint are likely to be considered.” CT5

53. There were examples of complainants being signposted to local resolution and provided with other useful advice.

“If you feel that there is evidence of maladministration in the Council’s handling of the matters you have raised, you may wish to complain directly. If, when you have done so, you consider that there is evidence of maladministration which has caused you personal injustice, you may contact the Ombudsman. Further information can be found here:

<https://www.ombudsman.wales/fact-sheets/complaints-against-public-bodies-our-procedure/>” CT5

54. In cases where a review of the decision not to investigate was granted, the LRO and the Code Team followed the Decision Review Process. Decision letters issued by the LRO were extremely thorough, clear and showed evidence of sound decision-making. They also set out the LRO’s role and the factors taken into account when deciding whether a case should be looked at again.

“As Lead Review Officer, I am not involved in the assessment or investigation of cases carried out by this office. Instead, I act on the Ombudsman’s behalf, and with her delegated authority, to determine whether there are grounds for her to overturn a decision previously taken on a case, and to carry out further assessment of it.

However, I must make clear that I cannot decide that a case should be looked at again simply because you may disagree with the decision made. Therefore, for me to

*consider a review request, a complainant **must** be able to demonstrate either:*

- that new and significant information has come to light which affects the decision; or,*
- that in reaching the decision we did not have proper regard to the information that was available to us.*

I must also emphasise that my role is not to re-assess your complaint about Councillor [X], but is, instead, to consider whether [the IO] properly considered your complaint, and if the decision made was reasonable, and in accordance with our statutory jurisdiction and practice when considering Code of Conduct complaints.

I have approached my review on that basis.”
LRO

“I can understand why it is difficult for you to accept the decision reached by this office not to investigate your complaint. However, I have seen no evidence of service failure in the decision itself or in how our two-stage test was applied to it. I therefore do not uphold your review request or your complaint.

The Ombudsman has a set of service standards. I have considered whether they have been met in relation to the service provided to you by this office.

Our service was clearly accessible for you to use. I consider that [the IO] communicated with you clearly, to explain how we apply the two-stage test to our assessment of Code of Conduct complaints and that he was professional in his correspondence with you. I am of the view that the decision reached in your case was both fair and transparent.” LRO

55. As well as the robust processes and sound, well-reasoned decision-making, the tone and structure of all correspondence, especially the decision notices and the review decision notices, was in compliance with the Ombudsman Guidance on House Style Requirements. For example, the service standard to provide accurate information in plain and clear language was evident in each case reviewed, as was ensuring that their communication reflects the “standards and values we hold ourselves to” which include: being respectful, demonstrating enthusiasm and pride in their job, taking responsibility, and being supportive and diverse. This consistent communication style was evidenced throughout all of the cases reviewed.

Dip sampling outcome

56. A total of 5% of the cases were reviewed as an additional check, and included 24 Code Team cases and 10 FCTM cases. This sampling exercise concurred with the findings of the substantive case review, and found no evidence that decision-making was influenced by the political affiliation of the person who made the complaint and/or the member who was complained about.

Conclusion

57. The review found all decision-making was based solely on evidence, facts and solid, well-articulated reasoning, and as such, there was no evidence of political bias. The case review found no evidence that the decision-making on any of the cases reviewed was influenced by the political affiliation of the person who made the complaint and/or the member who was complained about.²⁸

²⁸ For the purposes of this review, political bias will be found where there is evidence that the decision on a case was influenced by the political affiliation of the person who made the complaint and/or the member who was complained about.

Review of the discontinued investigation cases where the FCTM was “case owner”

58. The review examined eleven cases which the FCTM investigated, and which were subsequently discontinued by the DOI/CLA, without a referral to a standards committee or the APW to ensure that there was no evidence of political bias in the handling of these cases.
59. All of the cases reviewed were against councillors from either Local Authorities or Community Councils.
60. All of the discontinuation decisions made by the FCTM were signed off by the DOI/CLA and the Ombudsman, in line with the process manual.
61. The review of these cases was carried out using a similar process as the 673 cases reviewed above, including careful consideration of the evidence, application of the two-stage test, and assessing the reasoning for discontinuation.

Conclusion

- 62. The discontinuation decisions review found all decision-making was based solely on evidence, facts and solid, well-articulated reasoning, and as such, there was no evidence of political bias. There was no evidence that the decision-making in relation to these discontinuation cases was influenced by the political affiliation of the person who made the complaint and/or the member who was complained about.**

Staff interviews relating to the expression of personal views on political matters

63. This part of the review relates to term of reference 4, and examined whether there is evidence that the team leader expressed her personal views on political matters “akin to her social media posts” in the office and/or inappropriately influenced other staff members. The themes emerging from interviews with the Code Team, the DOI and the FCTM provide further context, and include additional themes that have fed into the “lessons learned” section later in this report.

Code Team

64. Shock was the sentiment expressed by all Code Team staff interviewed in relation to when they first heard about the incident. Every Code Team member said that they were “shocked” or “surprised” with a few stating they were “devastated” when they heard of the incident involving the social media posts by the FCTM. At least four of the Code Team were friends with the FCTM on Facebook; none of them recalled seeing the posts in question. Many were not active on Twitter.

65. The staff interviews confirmed that discussions about politics did not occur between colleagues, either in-office or remotely. Every Code Team member said they did not socialise with the FCTM outside of work and had never had a discussion with the FCTM about politics, never shared any personal political views with colleagues and had never been influenced in any way by the FCTM or anyone’s political views in the office.

“We’re just very much looking at the case and seeing what the evidence is and looking at our two-stage test and deciding whether it meets with that or not.....My experience is that nobody would think it was appropriate anyway to have those types of conversations.” CT4

“I haven’t seen anything that would lead me to give any cause for concern about her work or her demeanour in the office, or as you say I haven’t seen anything around political views in the office. From my perspective she was always very professional, and she did take the role very seriously within the office.” CT5

“I can honestly say I don’t know which way my colleagues vote. We don’t talk about politics. I don’t know what their views are and that’s how it should be.” CT7

“I remember feeling really impressed about how professional she was, and not once did she mention her political views or opinions; not once. Actually, none of us in the team have discussed that either.” CT10

“With work, it was always about the evidence and the two-stage test and whether there was direct evidence, and then whether it was in the public interest. The political parties of the members complained about, or the complainants, never really featured in any of the decision-making or even not really commented upon unless the complainant had made it specific - had expressed that it was a political spat, so to speak.” CT11

66. Another theme emerging was the respect Code Team members had for the FCTM, the work that she did, her professionalism and the support she provided to those she managed.

"We'd often have chats about cases if I was finding it difficult, and she was always I thought really professional and full of knowledge, so it was always really helpful to chat through things with her. I never thought anything other than she's assessing this against the code of conduct and our two-stage test, ever." CT3

"Yes, I mean, she took such pride in what she did. She loved her job. She was exemplary in terms of being a manager, and supportive and promoting the work we do. She clearly took a lot of pride in it and working for the organisation." CT8

"If she felt that there was an exchange worth a discussion, she would welcome that discussion. She wasn't seeking to impose her view on you. She wanted to understand your opinion, and for us to reach the right decision based on that, so I think that's an important point worth making." CT9

"She felt passionately about doing it the right way, and so I'd be very surprised if any evidence does come to light of political bias.....she would've done anything to make sure that nothing within work could impact the integrity of the process, or the decisions that we make." CT9

67. The impact on the PSOW and its staff was mentioned by many members of the Code Team. They spoke about the negative impact this incident has had on them, their work and on the reputation of the PSOW. While this theme does not relate to the FCTMs expression of any personal or political views

[ToR 4], it is included here as an important theme to provide context on the impact the incident has had which has informed the lessons learned section of the report.

"We're a small team, we work closely together, really believe in what we do, and I think that the comments that have been made about us as a team and an organisation have been unfair...and I think that's had a big impact on everyone. Scrutiny is fine when it's fair scrutiny, but it feels like some of the comments have been really unfair." CT6

"That's not nice to hear, really trashing your work, really, when you know that quite a lot of care goes into what we do." CT10

"It's a shame, because I have no doubt that the work that everybody puts in is completely impartial and is of a really good standard, so I just think it's unfortunate that it's being called into question because of the actions of one individual in that respect." CT5

"It's a specialist role, and we have specialist staff that have done it and done it well for many years, and we know how to do it. So it wouldn't be appropriate for anybody else to do that. So I think it is really important that we keep that work, and we keep doing what we're doing, and we keep upholding standards, which is what we do." CT5

68. The staff views about the Code of Conduct process were sought in order to help inform the review of processes and delegations which have been discussed above in this report. Overall, it was evident that each Code Team member was very proud to work for the PSOW, took pride in their work, and felt the processes were robust, with many

mentioning the checks and balances that are in place.

"I think it's a very thorough - lots of checks and balances. It's a real quality product at the end of it." CT10

"I think our processes are - it's quite a rigorous process. There are lots of checks and balances and I think that's largely to make sure that inappropriate decisions aren't made and that we're considering things appropriately - that we're not biased in our decision-making, that we're treating cases fairly, that we're looking to make consistent decisions - and that sort of thing. It does mean that the process is a lengthy one and that our investigations do take an awful long time. There's a reason why those checks are in place. I think it would be dangerous for us to cut those corners to have a shorter investigation and possibly open ourselves up to other risks." CT7

"I think you have to, because if you do something that's ill-thought through or poorly thought through and you get challenged, as in a review, you've got to be able to justify why you came to that decision or what you based that decision on so that it can be considered properly by the person who needs to review, if you know what I mean. You always bear that in mind - well, I have anyway - when you're putting your PAAF and your decision notice together, because you need to be able to justify why you're thinking what you're thinking." CT8

"It's like they hand-picked people for the organisation that have the right attitude and mindset to the work, and it's clear that the team really care, are really thorough, really care about the work." CT10

DOI/CLA

69. The DOI/CLA was interviewed as part of the review. The DOI/CLA worked with the FCTM for fifteen years at the PSOW and, like the rest of the staff interviewed, expressed her disbelief and shock at the incident. She also expressed her view that the FCTM was a professional and valued member of the organisation.

"As far as I was aware, and in my experience with her, always professional, objective in her application of what we do here, and that was my experience of her. As I say, I worked very closely with her over that long period, and I would add, as well, she was always really regarded as an effective, first of all, investigator, but a really good manager, as well, of our work. She really was one of our highly valued up and coming managers, really."

"We talk about cases, and as you'll have seen from the way we set out the context, if we think somebody's political allegiance is relevant to a case, there might be reference to it, but I really didn't know what her own personal political views are. I think it's a type of office, because we are very clear about issues of disrepute, because of what we do, and I think we all keep our personal views to one side, and we know we have to apply that objectively..... It's not the sort of conversations we have in the office, or I have with staff, anyway."

FCTM

70. The FCTM was interviewed after the case review was complete. As stated previously, it was not in the scope of this review to investigate the incident or the FCTM in relation to the posts she made. However, the review felt it would be entirely appropriate to

invite the FCTM to speak to the Lead Reviewer to provide any information she felt relevant to the review, if she wished to do so; we are grateful that she engaged with the review. The following points were noted.

- The FCTM stated that this was the first time she had formally spoken to anyone about the details of the incident.
- The FCTM said that she is not very political and doesn't lean towards any political party; rather, she has strong personal views about policy issues and the impact policies have on people.
- The review learned that the FCTM implemented unconscious bias training for the PSOW, and further delivered the decision-making induction module to staff which included the topics of confirmation bias, conscious and unconscious bias, and personal bias, all of which were endorsed by the PSOW. She also said that she discussed these topics with her team regularly, including the importance of applying the code and not personal biases about the members or their political parties. She also said she recognised the importance of the will of the electorate, regardless of her own views and would often remind her team of this.
- The FCTM said that she had declared interests, as required by PSOW relating to her personal relationships with friends who

had political affiliations. She said that if any complaints were received which related to those people, she declared an interest and did not deal in any detail with that casework.

- The FCTM said she was "heartbroken" that anything she could have done could have damaged the reputation of the office. She said she had worked very hard for the organisation for fifteen years and was good at her job. She said she was not concerned by PSOW's decision to commission an independent review, stating that "Anyone can look at any of my work. I document everything. I created the PAAF, the form to keep it all logical so that anyone can see it, anyone can access it. I kept all of my notes, everything in a place where it can all be accessed. There's clear oversight from top to bottom. I introduced the - put in the Article 10 considerations up front to make sure that we considered all that at the outset...We had bi-weekly discussions as a team, and we had monthly case meetings where we went through every single case with senior managers in the room."

Conclusion

- 71. The review found no evidence that the FCTM expressed her personal views on political matters "akin to her social media posts" in the office and/or inappropriately influenced other staff members, in the performance of their duties under the Local Government Act 2000.**

Recommendations

72. The following recommended improvements, which relate to the current process, would augment the existing safeguards for ensuring the fairness and impartiality of the processes and would clarify the related guidance as applicable:

- (1) **Documenting the political affiliation of the Accused Member:** in order to mitigate the risk of unconscious bias on the part of the IO and to underpin the fairness of the complaint assessment process, it is recommended that steps are taken to ensure that the political affiliation of the Accused Member is not recorded on the PAAF. The process manual will need to be amended accordingly, with updated instructions for the Intake Team.
- (2) **Accused Member not informed of complaint until after assessment:** in the interests of fairness and transparency, it is recommended that the PSOW considers reverting to the previous practice of notifying the Accused Member of the complaint once it is received. This would also protect the PSOW from criticism in that regard, which might arise from circumstances in which the Accused Member is unsighted of the complaint and learns of its existence via a third party or the media. If the PSOW decides to revert to the previous practice, the process manual will need to be amended accordingly.
- (3) **IO decisions not to investigate:** notwithstanding the applicable provisions in the process manual²⁹ and in the

Decision Review Process, it is recommended that an additional review/check mechanism is put place for the purpose of quality assuring the IO decisions in this regard, particularly around the public interest test, and as a further safeguard against the potential for unconscious bias on the part of the IO. This recommendation is supported by findings from the staff interviews. Given the volume of complaints, however, the proposed measure needs to be proportionate and it is suggested that this could be achieved by way of occasional random sampling of IO decisions.

- (4) **CTM's delegated authority to overrule IO proposals to investigate and IO proposals to extend the investigation or commence a new investigation against another member**³⁰: notwithstanding the applicable provision in the Decision Review Process, it is recommended that an additional review/check mechanism is introduced in respect of these delegated decisions, in order to mitigate the risk of unconscious bias on the part of the CTM when deciding not to agree IO proposals. It is suggested that this measure could also be achieved by way of random sampling of CTM decisions. Also, the Scheme of Delegation should be updated to include these CTM decision-making powers.
- (5) **Opportunity for the Accused Member to provide comment:** the review recognises that, as part of the combined PSOW and APW/standards committee process, the Accused Member has a number of

²⁹ See, for example, paragraph 5.15 of the process manual.

³⁰ See paragraphs 6.1 and 8.1 of the process manual.

opportunities to comment on the facts of the case.³¹ The review therefore found the process to be demonstrably fair. That said, the PSOW may wish to consider whether there are any additional points in the process in which there would be a benefit in providing the Accused Member with the opportunity to comment further on relevant facts, particularly in advance of reaching draft conclusions/findings on whether the evidence is suggestive of a breach.

(6) Public interest factors and

considerations: the review recognises the factors and considerations listed are non-exhaustive, but recommends that PSOW gives consideration to developing more detailed internal guidance on assessing the public interest test. Additionally, the public interest factors and considerations should be reviewed regularly.

(7) Clarificatory amendments: with a view to clarifying the guidance, the review also recommends that:

- I. The process manual is amended to address the apparent contradiction in terminology whereby “direct evidence that a breach of the Code took place” is a requirement for a complaint to pass assessment stage (paragraphs 5.4 and 5.5) whereas an investigation can be concluded based on the finding that there is “no evidence of a breach of the Code” (paragraph 13.1(a));
- II. The process manual is amended to reflect the existing practice that, when the LRO upholds a complaint review request, the reassessment/reconsideration is undertaken by a different IO to the IO who undertook the original assessment/investigation; and
- III. The Scheme of Delegation is updated in light of the retitling of the LRO post to make clear that the LRO has delegated authority in respect of decisions on whether to uphold a review request that the complaint should be reassessed/reconsidered.

³¹ See, for example, paragraphs 12.4, 13.8 and 13.10 of the process manual.

Lessons Learned

73. The findings of this review should offer reassurance to the public and to elected members that the PSOW Code of Conduct processes are robust, consistently applied, fair and fit-for-purpose. As the review found no evidence of political bias in the decision-making nor any material process concerns, the main lessons learned relate to measures that might lessen the risk of this type of thing occurring again. The review recommends that the PSOW reflects on the following points:

- (1)** Whether the PSOW's Staff Code of Conduct, policies and practices relating to social media usage could be more comprehensive in relation to setting out the circumstances in which social media activity by an employee amounts to misconduct, both in their work and private lives, with consideration of current case law in relation to freedom of expression (Article 10) and other relevant precedent cases.
- (2)** Whether steps need to be taken to ensure clear information is provided as part of any PSOW recruitment processes to ensure candidates are made aware of any necessary curtailment of PSOW employees' right to freedom of expression, including activity on social media.
- (3)** Whether bias/unconscious bias assessments should be a mandatory part of the recruitment process.
- (4)** Whether mandatory refresher training on unconscious bias and on social media usage should be implemented on an annual basis.
- (5)** Whether, should similar exceptional circumstances arise, the PSOW requires any further policies or processes to be in place to support its staff.
- (6)** Whether, due to the particular challenges arising from investigating the conduct of elected members, appropriate training is in place for applicable PSOW staff in relation to resilience in managing the pressures and vulnerabilities which come with this role.

Report conclusion

74. As stated in The Venice Principles³², “Ombudsman Institutions have an important role to play in strengthening democracy, the rule of law, good administration and the protection and promotion of human rights and fundamental freedoms”. The PSOW is built on the principles of independence, impartiality, fairness and inclusivity. These principles must be reflected in the important work carried out by the PSOW in order to maintain public trust in its operations. This necessarily means that the assessments carried out by investigation officers who work for the PSOW should demonstrate a consistent application of a well-defined and fair process as well as excellent analysis and reasoning to ensure that their decision-making is patently impartial and non-biased. The findings of this review point towards such excellence, in both processing and complaint assessment. This should provide reassurance to the public that they can trust and have confidence in the work of the PSOW and its Code Team.

³² [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e)

Appendix 1: Terms of Reference

Independent Review of PSOW's Investigation of Code of Conduct Complaints

Final Version 16.05.24

Background

The office of the Public Services Ombudsman for Wales was established in April 2006 by the Public Services Ombudsman (Wales) Act 2005. In 2019 this Act was repealed and replaced by the Public Services Ombudsman (Wales) 2019 Act ("The 2019 Act"). The appointment of 'Ombudsman' is made by the Crown and the current Ombudsman, Michelle Morris, has been in post since April 2022.

The role of the PSOW is to: 1) look into complaints that something has gone wrong with Welsh public services; 2) look into complaints that Welsh councillors have breached their Code of Conduct; and 3) work with public bodies to improve public services and standards of conduct within local government across Wales.

Context

On 26 March 2024, the PSOW was informed by a member of the public that a member of staff (herein referred to as the "Former Team Leader") had been making inappropriate and unacceptable social media posts of a political nature.

The Former Team Leader was suspended on 29 March 2024 and resigned from her role with PSOW on 3 April 2024. The Former Team Leader had been, until the end of August 2023, leading

the Code Team assessing and investigating complaints that local councillors had breached the Code of Conduct for councillors in accordance with the Local Government Act 2000 ('LGA 2000').

Scope and Purpose of the Review

The purpose of the independent review is to look at the PSOW's processes for the assessment and investigation of complaints that members of local authorities, fire and rescue authorities, national park authorities, and police and crime panels in Wales have breached their Code of Conduct. The aim of this review is to provide assurance as to whether the PSOW's code of conduct processes, delegations, and decisions in relation to the assessment and investigation of such complaints have been sound, free from political bias, and that lessons are learned from what has happened.

Political bias will be found where there is evidence that the decision on a case was influenced by the political affiliation of the person who made the complaint and/or the member who was complained about.

While there is currently no evidence that the Former Team Leader expressed her personal views or influenced others in the office, PSOW recognises that any review also needs to provide assurance on the Former Team Leader's decision-

making and potential influence on others. There is no intention for this review to reassess cases afresh or to reopen cases.

Code of Conduct complaints which are not investigated

From 1 April 2021 onwards, the Code Team was responsible for the assessment of Code of Conduct complaints and making decisions on which complaints should not be investigated. Prior to this date these assessments were made in a different team, which was not managed by the Former Team Leader.

On 1 September 2023, as happens from time to time in accordance with the operational needs of the office, the PSOW rotated team leaders and the Former Team Leader moved to manage a different team in PSOW. On this occasion, the rotation occurred as a result of the retirement of a team leader who managed a Public Service Complaints Investigation Team.

From 1 September 2023 until 22 October 2023, the Code Team had no team leader, pending the new team leader taking up this role on 23 October. During the time when no team leader was in position, a more senior manager oversaw the work of the Code of Conduct Team. She was, from time to time, assisted by the Former Team Leader.

This review will consider assessment decisions taken by the Former Team Leader and the Code Team from 1 April 2021 until 22 October 2023.

The PSOW applies a two-stage test when deciding whether a complaint should be investigated. Firstly, whether the evidence provided suggests that a breach of the Code of

Conduct has occurred, and, secondly, whether an investigation is required in the public interest.

As the Former Team Leader did not manage the Team which took assessment decisions on Code of Conduct cases before 1 April 2021, this review will not consider assessment decisions taken before 1 April 2021.

Code of Conduct complaints – cases which are investigated

Decisions to start an investigation under section 69 of the LGA 2000 are taken by the Director of Investigations/Chief Legal Adviser.

Decisions to discontinue an investigation before its completion are taken by the Director of Investigations/Chief Legal Adviser.

On completion of an investigation, the PSOW's role is to decide which of the following findings under s69(4) of the LGA 2000 is appropriate:

- (a) that there is no evidence of any failure to comply with the code of conduct;
- (b) that no action needs to be taken in respect of the matters which are the subject of the investigation;
- (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned for consideration by its standards committee, or;
- (d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a tribunal.

Decisions that there is no evidence of a breach of the Code (as outlined in (a) above) or that no action needs to be taken in respect of the matters investigated (as outlined in (b) above) are taken by the Director of Investigations/Chief Legal Adviser.

Cases which the Former Team Leader investigated during the period from 1 April 2019 (when the Former Team Leader became responsible for the oversight of Code of Conduct work) until 23 October 2023 and which the Former Team Leader either decided to discontinue or close because there was no evidence of a failure to comply with the code or no action needed to be taken, will be considered as part of this review. Although the Former Team Leader did not make the final decision on these cases, all cases which the Former Team Leader investigated whilst in a management role overseeing Code of Conduct casework for PSOW, will be considered as part of this review.

Decisions to refer a matter for hearing to a standards committee or the Adjudication Panel for Wales under (c) or (d) above, are taken by the Ombudsman.

These cases are then subject to an independent hearing, in which the investigation may be challenged and scrutinised and witnesses may be called before the relevant standards committee or Adjudication Panel for Wales reaches a decision on whether the councillor complained about has breached the Code of Conduct, and if so, whether a sanction should be imposed.

A councillor may appeal against decisions taken by a standards committee to the Adjudication Panel for Wales.

A councillor may appeal against decisions taken by the Adjudication Panel for Wales to the High Court.

The Adjudication Panel for Wales and standards committees are independent of the Ombudsman and take decisions on cases independently of the Ombudsman. Cases referred to either a standards committee or the Adjudication Panel for Wales have already been reviewed by those bodies. Decisions of those bodies are appealable: that is, there is a statutory mechanism in place which allows a councillor subject to a decision of those bodies to seek a further review of those decisions. The Ombudsman has no power to alter a decision of a standards committee or the Adjudication Panel for Wales. The only way in which such decisions can be challenged or altered is via the statutory appeal process. Accordingly, the review will not include these cases.

Lead Reviewer

Dr. Melissa McCullough

Melissa McCullough is the Commissioner for Standards for the Northern Ireland Assembly (since 2020) and also the Commissioner for Standards for the Jersey and Guernsey States Assemblies (since March 2023). Melissa moved to Belfast from the United States in 1994 and obtained a PhD from Queen's University Belfast, Faculty of Medicine in 1997. She has worked as an academic in law, ethics, and professionalism in the UK and Ireland since 2005. Melissa also holds the Advanced Professional Certificate in Investigative Practice, a Master's degree in Bioethics and Applied Ethics and a Bachelor of Laws degree. Melissa served as a ministerial appointed non-executive director on the Health and Social Care Board in Northern Ireland from 2009 until 2020 and is currently a member of the BMJ Ethics Committee.

Review Team

Mr. John Devitt

John Devitt is a Senior Policing Oversight Specialist & Independent Professional Investigator. John is a former Scotland Yard Detective and Senior Investigator for the Office of the Police Ombudsman for Northern Ireland. John has extensive major crime investigation knowledge and experience. He has, over his long career, undertaken some of the most challenging, complex, and sensitive investigations nationally and internationally. John currently sits as an Advisory Panel Member for the charity Inside Justice which reviews and investigates alleged miscarriages of justice. John also supports the Northern Ireland Assembly Commissioner for Standards with her ethics and standards current case work. He has been a member of the Institute of Professional Investigators since 1992.

Mr. Shane McAteer

Shane McAteer is the Clerk of Standards at the Northern Ireland Assembly and has worked as a senior public official for over 20 years, with experience in supporting the development and scrutiny of public policy and legislation and in providing procedural advice, policy analysis, and professional support to elected representatives. Shane has particular experience in advising elected representatives on Code of Conduct requirements and in supporting the adjudication of complaints against elected representatives. He has expertise in conduct/workplace investigation and holds the Advanced Professional Certificate in Investigative Practice. In addition, Shane has prior experience as a Third Sector CEO.

Evidence Gathering

The Review Team will each be provided access to the case management database. Aside from what is available on the case management database, the Review Team will also gather any and all written correspondence, documentation, and communications relating and relevant to the scope and purpose of the review including email, telephone, digital and hard copy information. The Review team may deem it necessary to interview team members and staff and other relevant third parties as may become apparent throughout the review.

Deliverables

The Ombudsman has appointed Melissa McCullough to lead this independent review and report on their findings.

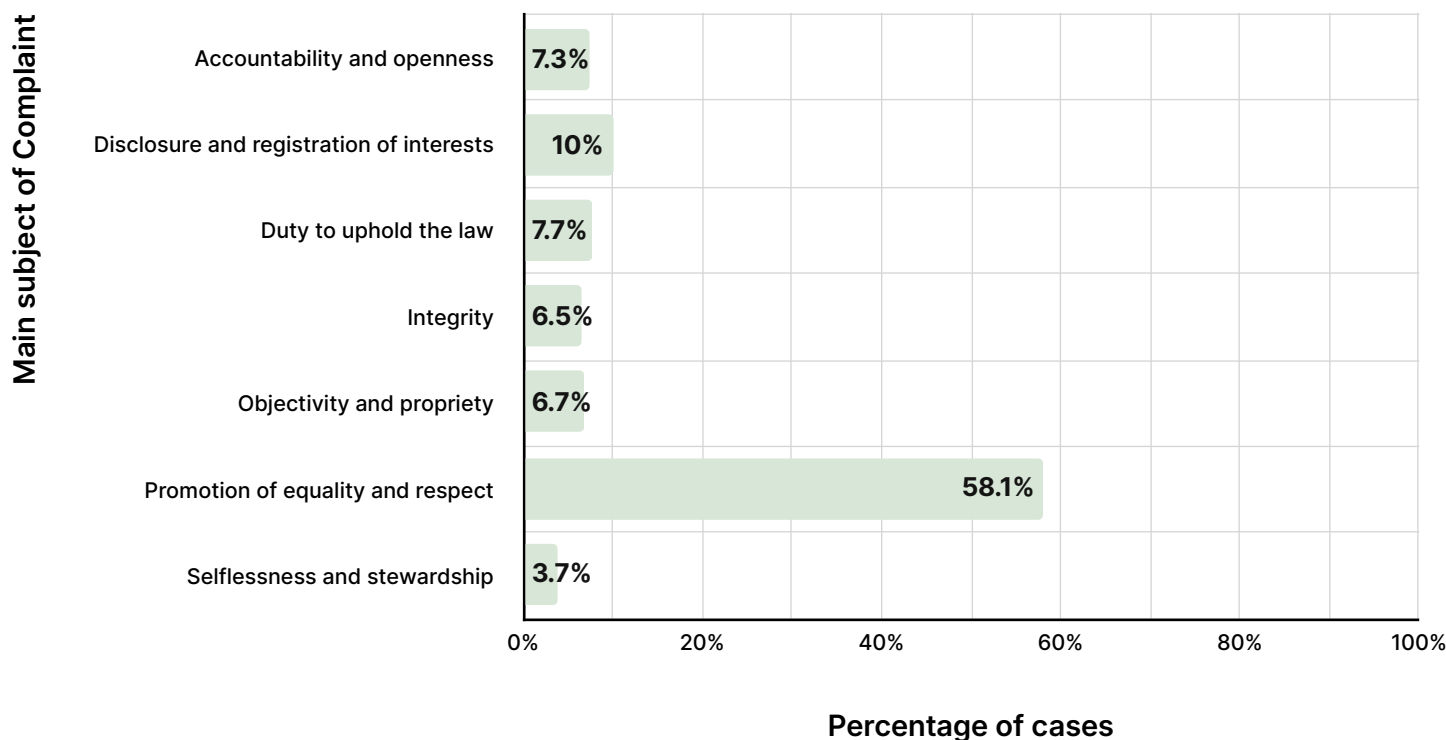
The PSOW considers that Dr. McCullough should have a wide scope for comment and should seek to:

1. Review the PSOW's Code of Conduct processes and delegations to ensure that they are appropriate, fair, impartial, and free from political bias.
2. Review the decisions taken by the former team leader and her team not to investigate Code of Conduct complaints from 1 April 2021 to 22 October 2023, to ensure that the PSOW's two-stage test was applied properly and decisions were free from political bias (673 cases).
3. Review cases where the former team leader was the 'case owner' which were investigated and closed without a referral to a standards committee or the Adjudication Panel for Wales from 1 April 2019 to 22 October 2023, to ensure that there is no evidence of political bias in the handling of these cases (11 cases).
4. Establish whether there is evidence that the team leader expressed her personal views on political matters akin to her social media posts in the office and/or inappropriately influenced other staff members, in the performance of their duties under the Local Government Act 2000.
5. Make any recommendations which Dr. McCullough considers appropriate and issue a final report which the PSOW will share with the Senedd's Finance Committee. In the event that Dr. McCullough considers it necessary to widen the scope of this review, she will inform and agree this with the Ombudsman.

Appendix 2: Number of cases reviewed by case owner

| Code Assessment Team | Number of Cases Reviewed |
|----------------------|--------------------------|
| CT 1 | 11 |
| CT 2 | 15 |
| CT 3 | 91 |
| CT 4 | 6 |
| CT 5 | 30 |
| CT 6 | 116 |
| CT 7 | 68 |
| CT 8 | 95 |
| CT 9 | 49 |
| CT 10 | 19 |
| CT 11 | 84 |
| FCTM | 89 |
| Total | 673 |

Appendix 3: Percentage of cases reviewed by subject





**Ombwdsmon
Ombudsman**
Cymru • Wales

Your ref:

Our ref: MAM/mdm

Date: 25 September 2024

Ask for: Marilyn Morgan



01656 641152



Marilyn.morgan@ombudsman.wales

CONFIDENTIAL

By email only

Independent Review of investigations by the Public Services Ombudsman for Wales into Code of Conduct complaints

I am pleased to share with you a copy of the final report and press statement which will be published on PSOW's website on **Friday 27 September**. These documents remain under embargo until publication and the contents should remain confidential until that time.

I commissioned this Independent Review in May 2024 following public concern about PSOW's work on Code of Conduct complaints which may be made about Elected Members in Local Government in Wales. The powers granted to PSOW, in relation to this work, are set out in the Local Government Act 2000. The Review was led by Dr Melissa McCullough who is the Commissioner for Standards for the Northern Ireland Assembly and also Commissioner for Standards for the Jersey and Guernsey States Assemblies.

I welcome this report and accept the recommendations and lessons to be learnt.

If you have any questions or wish to discuss the report then please contact Marilyn.Morgan@ombudsman.wales to arrange a convenient time.

Yours sincerely

Michelle Morris
Public Services Ombudsman

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holwch@ombwdsmon.cymru
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1 Ffordd yr Hen Gae, CF 35 5LJ
Rydym yn hapus i dderbyn ac
ymateb i ohebiaeth yn y Gymraeg.

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0300 790 0203
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We are happy to accept and respond
to correspondence in Welsh.

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From: communications <communications@ombudsman.wales>
Sent: 20 September 2024 13:16
To: communications
Subject: Independent Review finds the Public Services Ombudsman for Wales' decision making to be appropriate, fair and free from political bias

Having trouble viewing this message? [Open in browser](#)



Ombwdsmon
Ombudsman
Cymru · Wales

Press Release

Under embargo until 00:01, 27/09/24

Mae'r neges hwn hefyd ar gael [yn y Gymraeg](#).

Independent Review finds the Public Services Ombudsman for Wales' (PSOW's) decision making to be appropriate, fair and free from political bias. The Review concludes that this should provide reassurance to the public that they can have trust and confidence in the work of the Public Services Ombudsman for Wales and its Code of Conduct Team.

Background

Following the discovery of the inappropriate use of social media by a former team manager in the spring of this year, concerns were raised about the impartiality and independence of the office, particularly in relation to the handling of complaints about local councillors who may have breached the Code of Conduct for members.

The Ombudsman therefore commissioned an independent review, to establish whether processes, delegations, and decisions in relation to the assessment and

investigation of complaints by the Code of Conduct Team, and the former team manager, had been sound and free from political bias.

Dr Melissa McCullough* was appointed to lead the review.

Key Findings from the report

The Review concluded that:

- The PSOW's Code of Conduct processes and delegations are robust, in terms of safeguarding, fairness and impartiality. They are systematic, well documented and supplemented with appropriate guidance and the reasoning for decisions is required to be recorded and explained, as applicable.
- All decision-making is based solely on evidence, facts, and solid, well-articulated reasoning and, as such, there was no evidence of political bias. The case review found no evidence that the decision-making on any of the cases reviewed was influenced by any political affiliation of the person who made the complaint and/or the member who was complained about.
- There was no evidence that the former team manager expressed her personal views on political matters "akin to her social media posts" in the office and/or inappropriately influenced any other staff members, in the performance of their duties under the Local Government Act 2000.

The review made recommendations to improve the current safeguards for ensuring fairness and impartiality. Lessons learned were also identified to lessen the risk of this type of thing happening again in the future.

PSOW Response

The Public Services Ombudsman for Wales welcomes this report and the confirmation that decision making, in respect of Code of Conduct complaints, is free from political bias.

This review recognises the excellent work done by the Code of Conduct Team and we are pleased that the Independent Reviewer has stated that it should provide reassurance, to the public and elected members, that they can trust and have confidence in the work of PSOW.

All the recommendations are accepted, and the lessons learned will be used to further strengthen internal policies and practices, recruitment, and training.

Notes

- *Dr Melissa McCullough is the Commissioner for Standards for the Northern Ireland Assembly (since 2020) and also the Commissioner for Standards for the Jersey and Guernsey States Assemblies (since March 2023). Melissa

moved to Belfast from the United States in 1994 and obtained a PhD from Queen's University Belfast, Faculty of Medicine in 1997. She has worked as an academic in law, ethics, and professionalism in the UK and Ireland since 2005. Melissa also holds the Advanced Professional Certificate in Investigative Practice, a Master's degree in Bioethics and Applied Ethics and a Bachelor of Laws degree. Melissa served as a ministerial appointed non-executive director on the Health and Social Care Board in Northern Ireland from 2009 until 2020 and is currently a member of the BMJ Ethics Committee.

- The Ombudsman is available for pre-recorded interviews on Thursday 26 September and can consider live interviews on Friday 27 September.
- For further information or to make media interview requests, please contact communications@ombudsman.wales or call 0300 790 0203 (option 3).
- For more information about the Public Services Ombudsman for Wales, visit www.ombudsman.wales

About us

We have three main roles:



We investigate complaints about public services.



We consider complaints about councillors breaching the Code of Conduct.



We drive systemic improvement of public services and standards of conduct in local government in Wales.

We are committed to supporting the Welsh language and its speakers. You can find more information on how we comply with the Welsh language standards on our website [here](#).



Want to learn more about our work?

[Visit our website](#)



Would you rather we did not contact you with our news?
Let us know at communications@ombudsman.wales.

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 JANUARY 2025

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR C GRIFFITHS

Matter for Information

Wards Affected: All

**The Annual Report of the Adjudication Panel for Wales for 2023 -
2024**

Purpose of the Report:

1. To inform Members of the Standards Committee of the Annual Report of the Adjudication Panel for Wales for the year 2023/2024 and the work undertaken by the Panel over that year.

Background:

2. The Adjudication Panel for Wales (APW) has, in relation to breaches of the Members Code of Conduct, two statutory functions, namely:
 - (i) dealing with serious breaches of the code (case referrals) and

- (ii) considering appeals by Members against decisions by local authority standards committees that they have breached the code
- 3. The APW is required to publish an annual report. It's most recent report covers the financial year 2023/2024
- 4. The annual report appears at Appendix 1 of this report
- 5. The report, which is split into 5 sections deals with both the administration of the APW's work, and the outcomes of the cases it has adjudicated upon. Section 1 outlines the basis, functions and procedure of the APW whilst Section 2 deals with the performance and progress of the APW. The report also notifies local authorities of a newly appointed President of the APW, Judge Meleri Tudur. Section 3 deals and outlines the cases on which the APW has adjudicated.
- 6. The report notes in Section 2 that the APW has dealt with a relatively low number of cases for 2023/2024 and therefore seeks to compare the last 5 years to identify patterns and trends. The mainstay of their work has been in case referrals although appeals have remained a significant contributor. Interestingly, over the 5-year period the report shows approx. 77% of cases (whether referrals or appeals) leading either to Member disqualification or suspension. It also shows 12% of Member appeals being refused. The remaining 12% represent cases which have been dismissed by the APW.
- 7. The report also breaks down the breach investigations into the various code obligations, with peaks being demonstrated in the areas of respect/equality/bullying, and of bringing the office of the Member or the authority into disrepute. Failure to declare interests and the misuse of position have also made significant contributions to their work.

8. Turning to the case summaries at section 3, the 6 cases adjudicated upon are all reported. Members will note that all reports are purposefully anonymised. There is 50/50 split in these cases between community councils and primary authorities, for example Newport City Council and Powys County Council.
9. Most notable amongst these cases are those concerning Powys County Council, St Harmon Community Council, and Newport City Council which have all led to significant periods of disqualification being imposed.
10. In the Powys matter, several breaches of the code were alleged to have arisen following the Member engaging in what was described as sustained misconduct. This included making unfounded allegations of corruption and other complaints in respect of Powys Council and individual officers. Amongst other things the Member was referred to the Public Services Ombudsman for Wales and was asked only to communicate with officers at Head of Service level. Despite this the Member continued to send large numbers of emails to fellow Members and officers making further complaints. A single point of contact was established for the Member in the authority, but despite this and warnings that their behaviour may be considered intimidating, the Member continued to make unfounded complaints. Further, at a full meeting of Council the Member made derogatory remarks about the Council and officers, specifically naming one officer, saying that were not worth what they were paid. At the adjudication hearing the APW unanimously found 7 breaches of the code by the Member and imposed a disqualification of 18 months on the Member.

11. In the St Harmon Community Council case, a period of 15 months disqualification was imposed upon the former Member of that authority. This followed 2 alleged breaches of the code of bringing their own office and the Councils reputation into disrepute and acting in a way either to secure advantage for themselves or cause disadvantage to another. This case concerned a report by Audit Wales about poor governance on the part of that authority including that of the Member (who was the Chairman) The APW found that the Member had sought to mislead Audit Wales as to their failings, which related to Council expenditure and had given differing accounts of their involvement. As well as reputation findings (bringing his and the authority's reputation into disrepute) the APW also found that the member had sought advantage for themselves by presenting a more positive image of the Councils governance and accounting practices.
12. Finally, in the Newport case, the Members disqualification for 9 months followed their conviction for soliciting. This conviction had generated significant publicity, thus affecting both the Members reputation and that of the authority.
13. In respect of its appellate function, the APW endorsed the standards committee for Mumbles Community Council concerning their findings that a Member had made complaints of a frivolous, malicious and vexatious nature. They found on the balance of probabilities that the complaints were of a frivolous, malicious and vexatious nature and upheld the imposition of a censure on the Member.
14. In another separate ruling, the President of the APW declined permission to appeal to a Member (in case reference APW/005/2023-024/AT) against a standards committee determination on the basis that it stood no reasonable prospect of success.

15. The remaining elements of the report, namely sections 4 & 5 deal with the business priorities and expenditure of the APW.

Financial Impact:

16. There are no impacts associated with this Report.

Integrated Impact Assessment:

17. There are no impacts associated with this Report.

Valleys Communities Impacts:

18. There are no impacts associated with this Report.

Workforce Impacts:

19. There is no workforce impacts associated with this Report

Legal Impacts:

20. The ethical framework of Members is as derived from the Local Government Act 2000 and the Members Code of Conduct is as set out in the Constitution of Neath Port Talbot County Borough Council (“the Council”) as created by the Conduct of Members (Model Code of Conduct) (Wales) Order 2001.

Consultation:

21. There is no requirement under the Constitution for external consultation on this item.

Recommendations:

22. That Members note the Annual report of the APW for the year 2023/2024.

Appendices:

23. Appendix 1 - Annual Report of the APW for 2023/2024

List of Background Papers:

24. The Constitution of Neath Port Talbot County Borough Council incorporating the Members Code of Conduct

Officer Contact:

Michael Shaw

Principal Solicitor and Deputy Monitoring Officer

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Adjudication Panel for Wales Annual Report

Year 2023 – 2024

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Foreword

This is my ninth and final report as President of the Adjudication Panel for Wales (“APW”). The report covers the period 1 April 2023 – 31 March 2024.

We aim to ensure that the Panel serves the public interest by dealing with any disputes both efficiently and effectively. We make every effort to ensure that all those involved in the dispute feel that the dispute has been fairly resolved within as short a timescale as is reasonable. We are conscious that the public must have confidence that any breaches of the Code of Conduct will be dealt with fairly in order to uphold trust and confidence in local democracy.

I am conscious that my opening words to the foreword in the last annual report promised that it would be my last report; there is many a slip ‘twixt cup and lip as the proverb puts it. Or in other words, things do not always go as planned and my retirement as President was one of those things. I am delighted to welcome my successor, Judge Meleri Tudur, to the Panel. It is a time of great change for justice in Wales and I have no doubt that Judge Tudur will lead the Panel successfully through its next phase with effect from 1 July 2024.

This past year has been busy for the APW; there is no underlying theme to be drawn from the cases we have considered this year. However, it is important to recognise that a tiny minority of councillors find themselves dealing with the APW. Out of 1254 councillors, slightly over 0.5% ended up having their cases considered by the APW. More were dealt with at a local level, either through local resolution or by standards committees. By any measure, this demonstrates that the overwhelming majority of councillors comply with the Code of Conduct or if there is a breach, it is minor and easily rectified. I thank all of those involved in standards work, including the often unsung monitoring officers and clerks to the council, and One Voice Wales who assist in training councillors on the Code of Conduct, for their time and effort helping members understand their duties.

It has been noted that more councillors are failing to respond to references by the Ombudsman to the Panel. By failing to respond, councillors are effectively not disputing the reference, which is more likely to result in a decision made on paper. As the process is adversarial, if councillors choose not to take part, there is no-one to cross-examine witnesses and no hearing to observe, though it is open to the Panel to hold a hearing anyway in order for its members to ask questions or hear oral submissions. The principle of open justice is met in such circumstances by the publication of the full decision report, setting out the reasons for the decision and the evidence relied upon. The unanswered question is why councillors are choosing not to respond; is it because they have resigned and erroneously believe that will end the process? Or because they accept the Ombudsman’s report? Or for some other reason? This may be an area for future exploration by the Standards Forum, Public Services Ombudsman for Wales or indeed the Panel itself.

Any questions or comments arising as to any aspect of the workings of the Panel, or as to the contents of the Report, are most welcome and should in the first instance be addressed to the Registrar.

Claire Sharp
President, Adjudication Panel for Wales

Section 1 – About Us

In this section:

- Basis for the APW
- The APW's Function
- The APW's Regulations
- The APW's Process
- Members of the APW
- Appointments
- Training
- Contacting the APW
- Accessing the APW

Basis for the APW

The Adjudication Panel for Wales (APW) is an independent tribunal that has been set up to determine alleged breaches against an authority's statutory Code of Conduct by elected and co-opted members of Welsh county, county borough and community councils, fire and national park authorities.

The APW was established under Part III of the Local Government Act 2000.

The APW's Function

The Code of Conduct for an authority provides its members with a set of standards expected of them in public life. The code of conduct covers various requirements as to how members should conduct themselves and includes requirements in relation to equality, personal and prejudicial interests, confidential information, their authority's resources and the need to avoid bringing their office or authority into disrepute.

The APW has two statutory functions in relation to breaches of the Code of Conduct:

- to form case or interim case tribunals ("Case Tribunals") to consider **references** from the Public Service Ombudsman for Wales (PSOW), following the investigation of allegations that a member has failed to comply with their authority's Code of Conduct; and
- to consider **appeals** from members against the decisions of local authority standards committees that they have breached the Code of Conduct ("Appeal Tribunals").

The APW's Regulations

The APW operates in accordance with its procedural regulations and other associated legislation. The regulations ensure that all cases heard by the APW are treated fairly, consistently, promptly and justly. They ensure that everyone who comes before the APW clearly understands the steps they must take so that the facts of the dispute and the relevant arguments can be presented effectively to the APW. They also ensure that every party to a case understands the arguments of the other party and can respond to them.

APW's procedures are governed by the following legislation:

- The Local Government Act 2000 (as amended);
- The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (as amended), and
- The Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales) Regulations 2001 (as amended)).

The APW's Process

Anyone wishing to respond to a reference from the PSOW or to make an application for permission to appeal to the APW must complete and send the relevant form to the APW.

At an APW hearing the panel is composed of a legally qualified chairperson and 2 lay members. Legally qualified members can also sit as a lay member. APW hearings are normally held in public and take place near to the authority area.

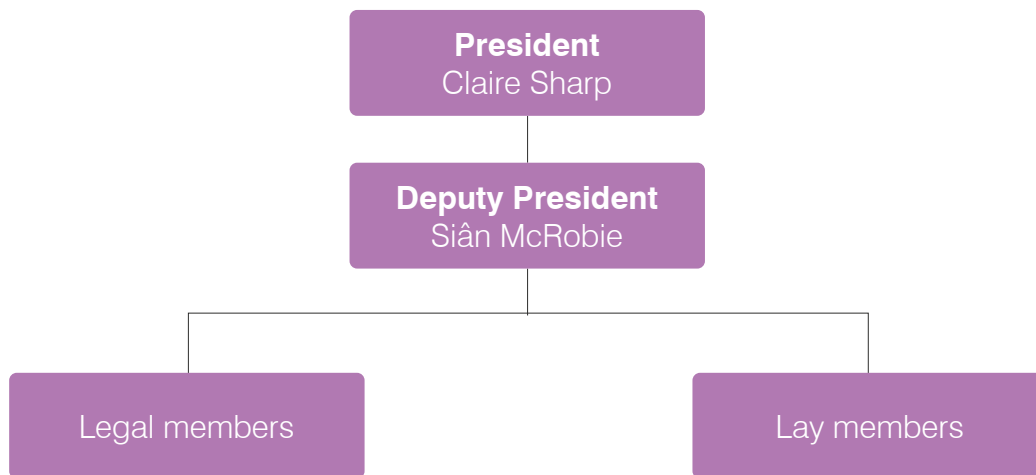
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

Full information and guidance about the APW and its procedures, are provided on the website for the APW. Alternatively, please contact the APW administration for further information or if you would like to receive publications in a different format. The contact details can be found on page 6.

Members of the APW

Appointments to the APW are made by the First Minister after consideration of recommendations made by the Judicial Appointments Commission.

| | |
|-------------------------|--|
| President | The President has judicial responsibility for the APW and its members. |
| Deputy President | The Deputy President supports the President and fulfils the duties of President if the President is unable to carry out her duties, either temporarily or permanently. |
| Legal Members | Legal members are qualified lawyers and have responsibility for conducting proceedings at hearings and advising the administration on matters of law. Legal members write APW decisions and give directions where necessary. |
| Lay Members | Lay members have a wide range of knowledge and experience relevant to the work of the APW. |
| Administration | The day-to-day administration is largely delegated to the administration which deals with all the preliminary paperwork and the processing of applications to the APW. The administration consults the President and/or legal members on all legal points arising during the preliminary pre-hearing stages of the proceedings and sends rulings and directions in writing to the parties. The administration acts as a point of contact for chairpersons, members and APW users and attends hearings to help with the efficient running of proceedings. |



Appointments

During this period, we have appointed 2 new legal members, who are due to be appointed President and Deputy President in the following financial year.

Contacting the APW

To contact the APW Administration:

APW Address: Registrar to the Panel
 Adjudication Panel for Wales
 Welsh Tribunals Unit
 PO BOX 100
 Llandrindod Wells
 LD1 9BW

APW Telephone Helpline: 03000 259805

APW E-mail: adjudication.panel@gov.wales

Accessing the APW

The APW is happy to communicate with you in Welsh or English. If a Welsh speaker is not immediately available then we will arrange for a Welsh-speaking member of staff to phone you back.

You can choose to have your hearing conducted in Welsh or English. If your first language is not Welsh or English and you wish to speak in your first language during the hearing, we can arrange for an interpreter to be present. If you need a sign language interpreter to attend the hearing, we will arrange this.

If you or anyone you are bringing to the hearing has any other access requirements that may affect our arrangements for the hearing, provisions will be made.

To enable arrangements for interpreters or to make provisions for any additional needs of attendees, sufficient notice must be given to the administration.

Section 2 – Performance and Progress

In this section:

- Numbers and statistics
- Hearings Data
- Onward appeals
- Achievement against key performance indicators
- Complaints

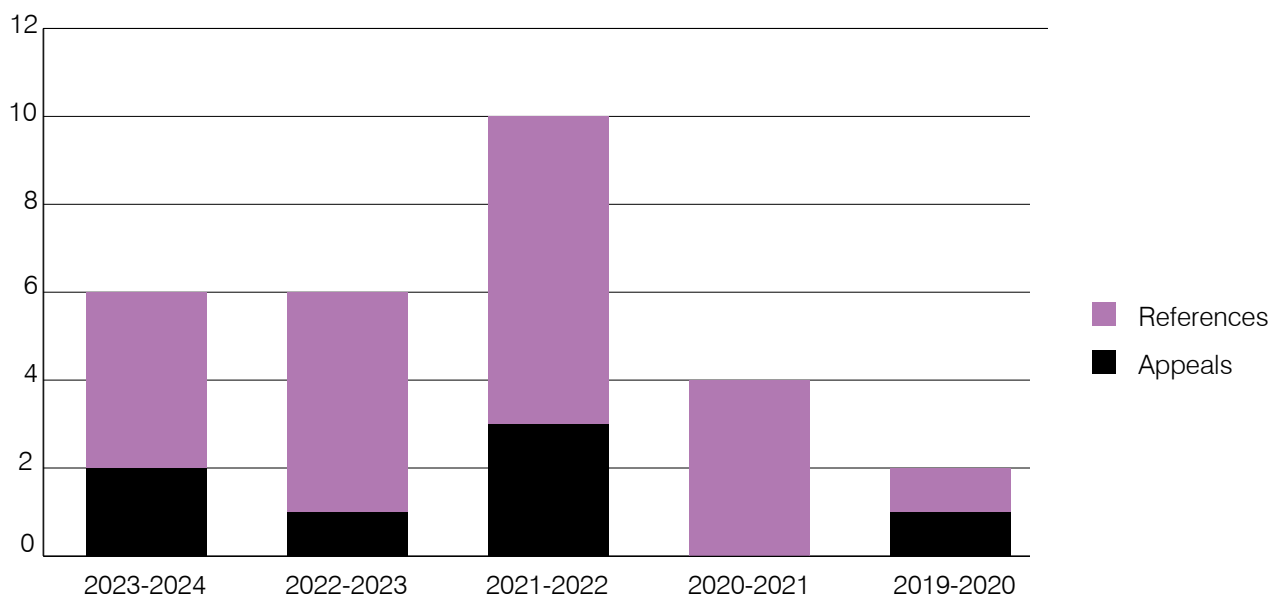
Numbers and Statistics

A Tribunal year runs from April to March. As the numbers of cases received are relatively low, figures are given for a 5-year period to allow for comparison.

The following statistics are collated:

- Number of references and appeals received
- Type of applications received and registered
- Number of applications finalised
- Outcome of applications.

Graph 2.1: Number of references and appeals received by year April 2019 – March 2024



Graph 2.2: Number of references and appeals decided by year April 1919 – March 2024

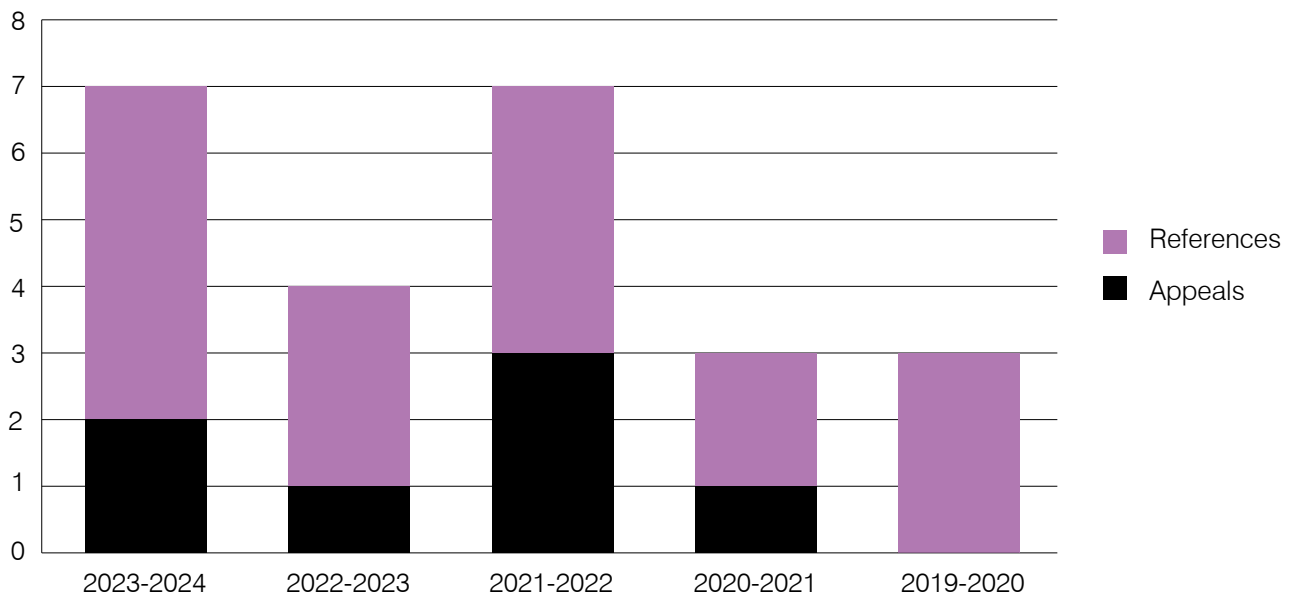
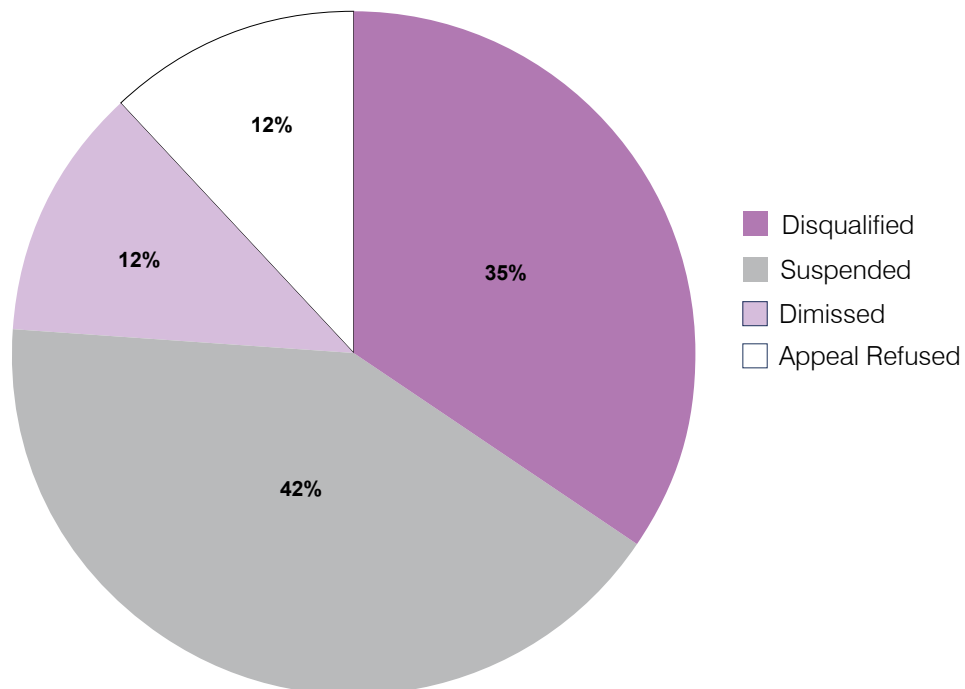
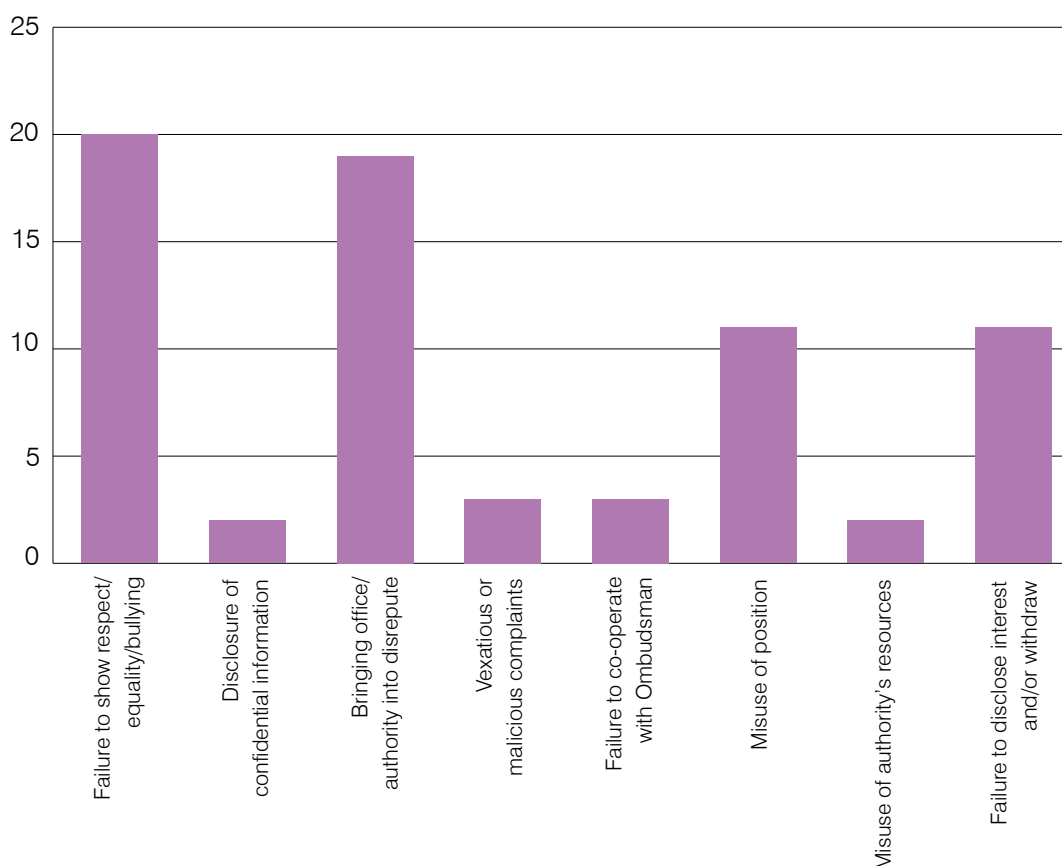


Chart 2.3: Outcomes of references and appeals April 2019 – March 2024

The chart below shows the outcome of references and appeals decided by the Adjudication Panel over the last 5 years.



Graph 2.4: Breaches by type April 2019 – March 2024



Hearings data

During 2023-2024:

| Type | Length (in days) |
|-----------|------------------|
| Reference | 5 hearing days |
| Appeal | 1 hearing day |

0 listing conferences took place in relation to these cases.

Onward appeals

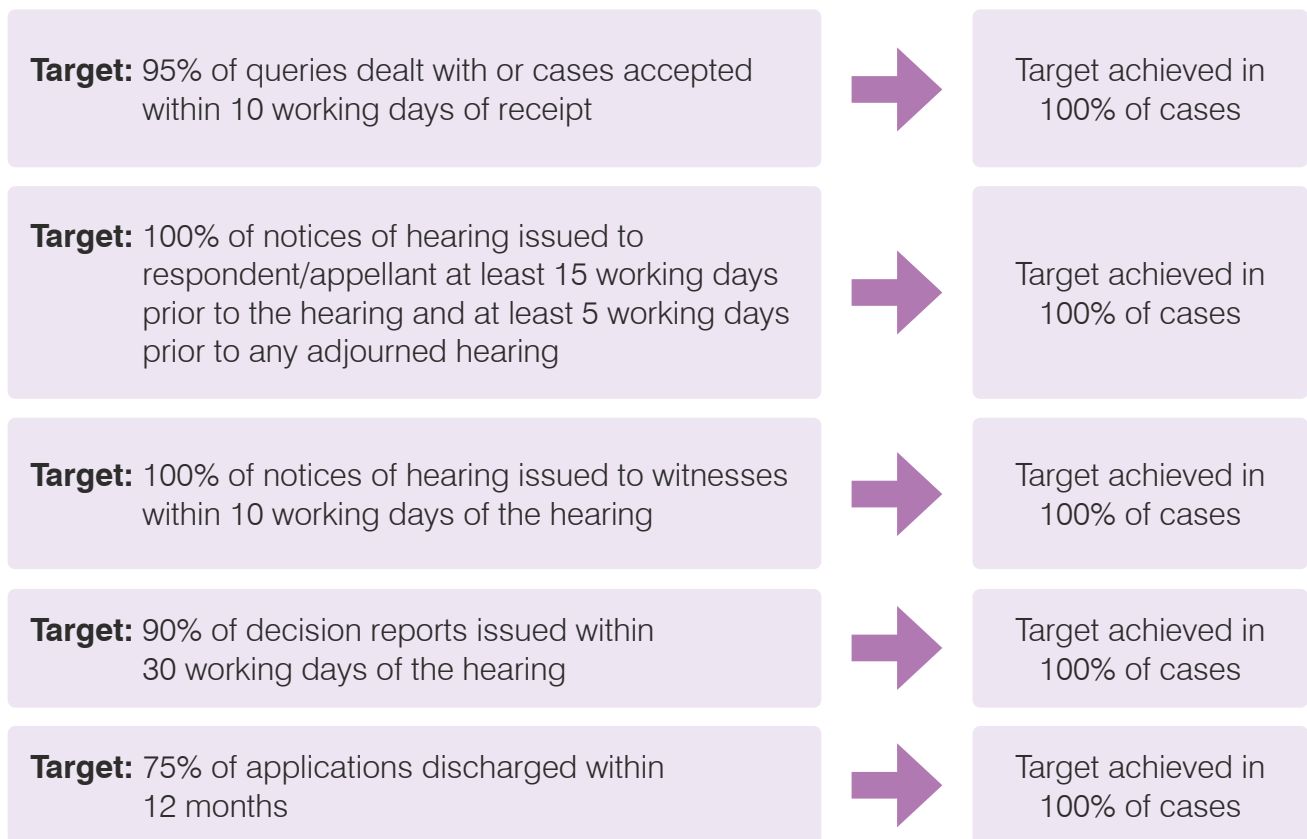
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

Achievement against key performance indicators

To monitor how effectively services are delivered, we have key performance indicators aimed at measuring two key aspects of our business; the speed of our service and the quality of service through customer satisfaction.

To measure the speed of our service, we have a series of primary performance indicators based on the time taken to process an application – from receipt to the hearing or disposal (see below).

Speed of our service 2023-2024



Complaints

The APW received and concluded 0 formal complaints during the reporting period.

Section 3 – Case summaries

In this section:

- References
- Interim Matters
- Appeals

References

[APW/015/2022-023/CT](#)
[Newport City Council](#)

The allegations were that the former councillor had conducted himself in a matter which could reasonably be regarded as bringing his office or the relevant authority into disrepute. The former councillor had been convicted of the criminal offence of soliciting (having pleaded guilty), and significant publicity had surrounded the conviction.

The case tribunal unanimously found that the former councillor had breached paragraph 6(1) (a) of the Code of Conduct; while the conviction arose from behaviour in his private capacity, the former councillor had failed to promote confidence in the role of councillor or the work of the relevant authority in preventing such activities. The Tribunal found that the former councillor's behaviour had brought both his office and the authority into disrepute. The case tribunal did not find additional breaches of paragraph 6(1)(a) by the councillor's failure to inform the relevant authority of his intention to plead guilty or his failure to resign immediately.

The case tribunal unanimously concluded that the former councillor should be disqualified for nine months from being or becoming a member of a relevant authority.

[APW/001/2023-024/CT](#)
[St Harmon Community Council](#)

The allegations were that the former councillor had conducted himself in a matter which could reasonably be regarded as bringing his office or the relevant authority into disrepute. It was also alleged that he had also acted in such a way as to create an advantage for himself or avoid a disadvantage for himself.

Audit Wales had submitted a report on the relevant authority, in which it criticised both the council and individuals, including the former councillor who was the chair. Audit Wales found that the former councillor had attempted to mislead it to cover up poor governance at the council and reduce the likely criticism of his own conduct. This was done in connection with the expenditure of council money; the former councillor was found to have failed to explain how a document incorrectly purported to be the original tender notice was provided to Audit Wales. The tribunal did not find that the former councillor had created the notice, but did find that he gave wholly different accounts about what had happened and had attempted to mislead Audit Wales. The Tribunal also found that the former councillor had misled Audit Wales about whether a document had been approved by the Council after it had been amended.

The case tribunal unanimously found that the former councillor's efforts to mislead Audit Wales brought both his office and the relevant authority into disrepute, and that he had done so in order to benefit himself and present a more positive picture of the council's governance and accounting practices. The tribunal found that the conduct was deliberate and was both a breach of paragraphs 6(1)(a) and 7(a) of the Code of Conduct. The case tribunal unanimously concluded that the former councillor should be disqualified for 15 months from being or becoming a member of a relevant authority.

APW/013/2022-023/CT
Powys County Council

The allegations were that the former councillor had breached several paragraphs of the Code of Conduct through sustained misconduct.

The former councillor had sent a large volume of emails to various members and officers within the relevant authority on a number of issues, making allegations of corruption and other complaints. As a result, the council provided the former councillor with a detailed written response (finding that the complaints were without merit) and asked her not to repeat such allegations without evidence to support them. The former councillor was directed to the Public Services Ombudsman for Wales and asked not to contact anyone below the level of Head of Service in the council to manage her correspondence.

The former councillor ignored the advice, and continued to send large numbers of emails to a variety of members and officers, making similar complaints, and demanding answers on the same day as sending her emails. The council gave the former councillor a single point of contact to deal with her correspondence and reminded that her behaviour could be viewed as harassment. The former councillor was told that substantial time and resources were being incurred by the council dealing with her repeated complaints and her behaviour was seen as intimidating. The former councillor continued making complaints and demanding responses, while refusing to accept the answers given.

The former councillor at a full Council meeting publicly made derogatory comments about the council and officers, and specifically named one, saying that he was not worth what he was paid and that he had bullied her. In addition, the former councillor was found to have disclosed confidential information provided to her as a councillor to third parties and other members on at least three occasions.

The case tribunal unanimously found that the former councillor had breached paragraphs 4(b), 4(c), 5(a), 6(1)(a), 6(1)(d), 7(b)(i) and 7(b)(iv) of the Code of Conduct. It unanimously concluded that the former councillor should be disqualified for 18 months from being or becoming a member of a relevant authority.

APW/0002/2023-024/CT
Mumbles Community Council

The allegations were that the former councillor had conducted herself in a matter which could reasonably be regarded as bringing her office or the relevant authority into disrepute.

The former councillor had abused two individuals on a public Facebook page. It appeared that there was a link to her role as a councillor from the wording of the exchange, and the exchange was later deleted. The former councillor also resigned from her role as councillor a few hours after the posts on Facebook. The language used by the former councillor was gratuitously offensive and abusive towards the individuals.

The case tribunal found that the former councillor had not intended to give the impression that she was acting in the role of councillor when abusing the two individuals, and she had acted in her personal capacity. It concluded that the exchange largely related to historical and personal animosity between those involved, and while the language could not be condoned in any circumstances, it did not bring the office of councillor or the relevant authority into dispute. This finding was because due to the nature of the exchange, a reasonable reader would conclude that a particularly unpleasant private dispute was being aired in public. It was a single incident followed by a swift resignation and with no press attention.

The case tribunal unanimously found that there had been no breach of paragraph 6(1)(a) of the Code of Conduct.

Interim matters

In addition, the Panel dealt with an interim case tribunal. Details are not provided within this report as a full case tribunal will be dealing with the case in the coming financial year.

Appeals

APW/003/2023-024/AT Mumbles Community Council

An appeal was received against the determination of the standards committee that the former councillor had breached the Code of Conduct. The grounds of appeal were limited to whether the facts as found at the standards committee meeting established on the balance of probabilities that the former councillor had made frivolous, malicious and vexatious complaints, whether the findings as a whole showed that the former councillor had breached paragraphs 6(1)(a) and 6(1)(d) of the Code of Conduct, and if a breach of the Code of Conduct was found, whether the sanction of censure was endorsed.

The appeal tribunal unanimously found that the facts found by the standards committee did establish that the facts found at the standards committee meeting established that the former councillor had made frivolous, malicious and vexatious complaints. The complaints were found to be complaints about council decisions and made without seeking any advice about the Code of Conduct in order to understand that it was not appropriate to complain about council decisions in such a way. The appeal tribunal further found that the remaining complaints had been malicious and vexatious, as well as frivolous, as the former councillor failed to follow the guidance she had received and wasted the Ombudsman's time and resources on complaints that were made without sufficient grounds. The complaints were not made in the public interest. The appeal tribunal also noted that the former councillor was willing to breach confidentiality knowingly and flagrantly.

The appeal tribunal unanimously found that the former councillor had breached both paragraphs 6(1)(a) and 6(1)(d) of the Code of Conduct, and endorsed the censure imposed by the standards committee. It added that it was concerned that the former councillor had repeatedly mentioned her appointment as a current Justice of the Peace but had behaved in a way found to be inappropriate for someone holding a judicial office.

APW/005/2023-024/AT

One application for permission to appeal was refused by the President on the basis that it had no reasonable prospect of success.

Section 4 – Business Priorities

In this section:

- Business priorities for 2024-2025

It is important that the APW continues to develop in order to deliver the best possible service for our customers. This section is about how the APW will build on its achievements through focusing on business priorities and our commitment to our customers.

Business Priorities 2024-2025

- Plan and deliver an all-members training event;
- Continue to deliver an effective and efficient service, meeting key performance indicators;
- Following the outcome of the Law Commission report on Welsh tribunals and the review of the Ethical Framework, and the Welsh Government White Paper in response, action any changes as required by the legislature.

Section 5 – Expenditure

In this section:

- Expenditure for 2023-2024

Expenditure for 2023-2024

| Content | Amount |
|--|----------------|
| Members Fees and Expenses (proceedings and training) | £33,593 |
| Tribunal events (hearing and other costs) | £270 |
| Total | £33,863 |

Rounded to the nearest £1

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Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

13th January 2025

Matter for Information

Wards Affected: All Wards

Overview of learning and development in respect of Equality Act 2010

Purpose of the Report:

This report outlines the current support and training opportunities available to elected members in Wales to enhance their understanding and application of the Equality Act 2010. Ensuring elected members are equipped with knowledge of their legal duties and responsibilities under the Act is essential for fostering equality, diversity, and inclusion in public service.

Background:

The Equality Act 2010 places specific duties on public authorities, including councils and elected members, to:

- Eliminate unlawful discrimination, harassment, and victimisation.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between different groups in the community.

Learning and development opportunities supports members by:

- Promoting compliance with the Public Sector Equality Duty (PSED).
- Ensuring informed decision-making that considers equality impacts.
- Reducing the risk of legal challenges and reputational damage.
- Supporting the development of inclusive policies and practices.

Current opportunities include:

- **Local Authority Training**
 - Many Welsh councils include Equality Act training as part of their induction and ongoing member development programs. This training typically covers:
 - The provisions of the Equality Act 2010 and the Public Sector Equality Duty.
 - Practical application of equality impact assessments in decision-making.
 - Case studies of equality-related issues, such as accessible services and tackling discrimination.
 - This Council facilitated training for members in the following ways:
 - Advice on equality obligations including in Code of Conduct training and need to ensure equality
 - Specific training on the Public Sector Equality Duty and how consideration to equality matters should be embedded in decision. The Council has an Integrated Impact Assessment which accompanies decision making to highlight consideration of these factors.
 - Ongoing support to elected members from equality officers.
- **Welsh Local Government Association (WLGA)**
 - The WLGA provides tailored training and guidance to elected members, on complying with the Equality Act 2010 and the need to ensure protected characteristics are considered. The programme includes general equalities awareness, as well as more specific training on topics such as unconscious bias; awareness training in relation to specific protected characteristics; health and wellbeing as well as Welsh language awareness and Integrated Impact Assessment training.
 - Workshops on implementing the Equality Act in council policies and practices.
 - E-learning modules addressing key topics, such as, Introduction to the Equality Act 2010, understanding unconscious bias and Inclusive community engagement.
- **Online and External Training Resources**
 - Members are forwarded information from a range of resources to address equality issues, specifically, Equality and Human Rights Commission (EHRC) offers resources, webinars, and practical guidance on compliance with the Equality Act and PSED. Academi Wales also provides leadership programs emphasising equality, diversity, and inclusion in decision-making and governance.
- **Strategic Equality Plan**
 - Councils in Wales have a legal duty to develop equality objectives and produce a Strategic Equality Plan. Our plan (approved and owned by the

Full Council) has been produced to meet this requirement and to reflect and delivery on the determination to promote genuine equality of opportunity, tackle discrimination and create a fairer more equitable Neath Port Talbot

- **Public Services Ombudsman for Wales (PSOW)**
 - The PSOW provides regular updates, case studies, and guidance on handling complaints involving breaches of the Equality Act or associated standards, helping members understand their responsibilities. Attached at Appendix 1 is an extract from the guidance from the PSOW Handbook for Elected Members

To help members achieve compliance a number of sources of support are available.

- **Monitoring Officers and Legal Team.** Monitoring Officers and council legal teams provide advice on the application of equality duties in decision-making and governance. Support in understanding equality impact assessments and their importance in policy development.
- **Equality Officers or Teams. The Council has dedicated** Equality Officers who offer guidance on how to integrate equality considerations into members' roles and training and workshops tailored to local equality priorities.
- **Peer Mentoring and Networks.** Both this Council and the WLGA facilitate mentoring schemes or member networks to share best practices in promoting equality and discuss challenges and practical solutions to embedding inclusion. This Council helps facilitate a personal development and training review for elected members and affords training to elected members to help them conduct this review with their fellow Councillors.

Comprehensive and accessible Equality Act training is essential for equipping elected members with the knowledge and skills to comply with their legal duties and promote equality in their work. Learning and development is an important element of our work, not only in helping us meet our equality objectives but also as a key feature in the personal development of employees and Elected Members.

Financial Impacts:

No implications.

Integrated Impact Assessment:

An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

No implications

Workforce Impacts:

No implications

Legal Impacts:

The Equality Act 2010 brought together and replaced previous anti-discrimination legislation, simplified and strengthened the law, removed inconsistencies and made it easier to understand for everyone. By implementing the Act our aim is to work towards creating a fairer society, improving public services, addressing entrenched inequalities and ultimately improving people's lives. The council, along with other public bodies, is required under the Act to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and foster good relations amongst and between people of different protected groups (known as the Public Sector Equality Duty).

Consultation:

There is no requirement for external consultation on this item

Recommendations:

That members of the Standards Committee note the current learning and developing opportunities that afforded in respect of the Equality Act 2010.

Appendices:

Appendix 1- Extract of guidance from PSOW

List of Background Papers:

None

Officer Contact:

Mr Craig Griffiths
Head of Legal and Democratic Services
Telephone 01639 763767
Email: c.griffiths2@npt.gov.uk

concluded that even if enhanced protection had applied, the comments were so extreme and egregious that a finding of a breach of paragraph 6(1)(a) of the Code would nevertheless have been justified.

2 General obligations under the Code of Conduct

2.1 It is your responsibility to consider which provisions of the Code may apply at any given time and to act in accordance with your obligations under those provisions of the Code. I have referred to each paragraph below to provide you with some guidance on your general obligations.

Equality See paragraph 4(a)



2.2 **You must carry out your duties with due regard to the principle that there should be equality of opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion.** This obligation underpins the principle that members must have due regard to the need to promote equality of opportunity for all people.

2.3 You should at all times seek to avoid discrimination. There are four main forms of discrimination:

- Direct discrimination: treating people differently because of their gender, race, disability, sexual orientation, age or religion.
- Indirect discrimination: treatment which does not appear to differentiate between people because of their gender, race, disability, sexual orientation, age or religion, but which disproportionately disadvantages them.
- Harassment: engaging in unwanted conduct on the grounds of gender, race, disability, sexual orientation, age or religion, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.
- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

- 2.4 The Equality Act 2010 (as amended) reinforces the importance of this part of the Code. It imposes positive duties to eliminate unlawful discrimination and harassment and to promote equality. Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply if you do something in your official capacity in a discriminatory manner.
- 2.5 You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code.
- 2.6 You must also be mindful that, at all times, including when acting in your private capacity, you must not act in a way that would bring your authority into disrepute. It is likely that engaging in behaviour which could be considered to be in breach of the Equality Act in your private capacity would fall into this category.

Example 5

A member of a County Council was a member of the Council's Recruitment Panel to appoint a new Chief Executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room the member said "good candidate, shame he's black".

The Adjudication Panel for Wales found that paragraph 4(a) of the Code had been breached and that the member had brought the office of member and his authority into disrepute, in breach of paragraph 6(1)(a) of the Code.

Example 6

A member of a County Borough Council sent numerous emails challenging the capacity of an officer of the Council to fulfil their role due to an unsubstantiated allegation of ill-health and a known disability, without objective medical evidence. The Adjudication Panel found that the failure to understand and appreciate the officer's right to privacy, and the wide dissemination of private medical information and speculation about the

progression of the condition demonstrated a failure to adhere to the principle that there should be equality of opportunity for all people, regardless of disability. Through his actions, it was clear that the member's view was that the officer should not be employed in his role due to his disability. The Panel found the member was in breach of paragraph 4(a) (equality of opportunity) of the Code.

Treating others with respect and consideration

See paragraph 4(b)



- 2.7 When undertaking your role as a member, you must show respect and consideration for others.** I expect members to afford the public colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. This does not mean you cannot participate in robust debate with political opponents, but it must be measured.
- 2.8** Article 10 of the (ECHR) provides a right to freedom of expression and information, subject to certain restrictions. Freedom of expression is a right which applies to all information and ideas, not just those that are found favourable. However, it is a right that may be restricted in certain circumstances, for example, for the protection of the rights and interests of others.
- 2.9** Your freedom of expression as an elected member attracts enhanced protection when comments you make are political in nature. Therefore, the criticism of opposition ideas and opinion is considered to be part of democratic debate, and it is unlikely that such comments would ever be considered to be a breach of the Code.
- 2.10** “Political” comments are not confined to those made within a council chamber and, for example, include comments members may generally make on their authority’s policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that I will investigate a complaint about comments made in this context and I will take the view that the offended member needs a “thicker skin”, as has been stipulated by the High Court.

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| Meeting Date | Agenda Item |
|--------------|---|
| January 2025 | Independent Review of Investigation by PSOW into Code of Conduct Complaints |
| | Adjudication Panel for Wales Annual Report |
| | Agree the template for Group Leaders Annual Report |
| | Engagement with Elected Members – Additional Session |
| | Relationship with Standards Committee and Governance and Audit Committee |
| | Consultation from Public Service Ombudsman for Wales |
| | Invite Chairs of Community/Town Council to discuss their duties under the Code of Conduct |
| | Learning and Development Opportunities – Equality Act 2010 |
| | |
| April 2025 | Review of Code of Conduct |
| | Attendance of Town/Community Councillors |
| | Declarations of Interest and Dispensation Updates |
| | Conflict Resolution Training |
| | Provision of Case Studies on Ethical Behaviour |
| | Group Leader Duties |
| | Member Training and Development |
| | Candidates for Council and guidance to be issued |
| | Standards Committee Annual Report |

As Needed:

- Ombudsman Code of Conduct Casebook
- Complaints from Public Service Ombudsman
- Dispensation Reports
- Code of Conduct Updates
- Case Law Update

- CJC Updates
- Member Training