



STANDARDS COMMITTEE

9.30 AM - FRIDAY, 18 NOVEMBER, 2016

COMMITTEE ROOM 3 - PORT TALBOT CIVIC CENTRE

PART 1

1. To receive any declarations of interest from Members
2. To receive the minutes of the previous meeting held on 27 October, 2016 (*Pages 3 - 4*)

To receive the report of the Head of Legal Services and Monitoring Officer

3. Grant of Dispensation (*Pages 5 - 10*)
4. Public Services Ombudsman for Wales Annual Letter and Report 2015-16 (*Pages 11 - 34*)
5. Public Services Ombudsman for Wales Code of Conduct Casebook (*Pages 35 - 46*)
6. Any urgent items at the discretion of the Chairman pursuant to Section 100B(4)(b) of the Local Government Act 1972

S.Phillips
Chief Executive

Civic Centre
Port Talbot

9 November, 2016

Committee Membership:

Chairman: G.T.Pullen

Vice Chairman: Mrs J.E.Howells

Independent Members: C.L.Jones and Mrs.B.Richards

NPTBC Members: D.Keogh and A.L.Thomas

Community Cttee Members: Town/Community Councillor Mrs.S.Davies

Substitutes

NPTCBC: M.Crowley

Community Cttee Member: Mrs M.Gunter

- Notes: (a) The Quorum for the Standards Committee is at least three Members including the Chairman (or in absence Vice Chairman). 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 as soon as possible, if there is a problem with attendance.*

STANDARDS COMMITTEE

(Committee Rooms 1/2 - Port Talbot Civic Centre)

Members Present: **27 October, 2016**

Chairperson: Mrs J.E.Howells

Independent Members: C.L.Jones and Mrs.B.Richards

NPTBC Members: **Councillors** D.Keogh and A.L.Thomas

Community Committee Members: Town/Community Councillor Mrs S.Davies

Officers In Attendance: I.Davies, J.Hodges and Mrs.T.Davies

Apology: G.T.Pullen

1. **MINUTES OF THE PREVIOUS MEETING HELD ON 29 JULY, 2016**

RESOLVED: that the Minutes of the previous meeting held on the 29 July, 2016, be confirmed as a correct record.

2. **ACCESS TO MEETINGS**

RESOLVED: that pursuant to Section 100A(4) and (5) of the Local Government Act 1972, the public be excluded for the following item of business which involved the likely disclosure of exempt information as defined in Paragraph 18c of Part 4 of Schedule 12A to the above Act.

3. **REFERRAL FROM THE OMBUDSMAN**

RESOLVED: that M.J. failed to comply with the Authority's Code of Conduct and should be censured.

CHAIRPERSON

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

REPORT OF HEAD OF LEGAL SERVICES D.MICHAEL

18 NOVEMBER 2016

MATTER FOR DECISION

WARD AFFECTED: BAGLAN

GRANT OF DISPENSATION UNDER SECTION 81(4) LOCAL GOVERNMENT ACT 2000 – COUNCILLOR CAROL CLEMENT- WILLIAMS

Purpose of Report

1. To consider an application for a dispensation from Councillor Clement-Williams.

Background

2. Under Section 81(4) of the Local Government Act 2000 Standards Committees may grant dispensations to a Member of a relevant authority (including a Community Council) allowing the Member to participate in any business where that participation would otherwise be prohibited by the mandatory provisions of the Members' Code of Conduct.
3. The National Assembly for Wales in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (SI No: 2279) sets out the circumstances in which these dispensations may be granted. The Standards Committee may only grant dispensations in the circumstances set out in the Regulations.
4. Under Paragraph 18 of The Code of Conduct (and the relevant Regulations) the Standards Committee may not consider granting a dispensation to an individual Member unless the Member seeking it has previously notified the

Monitoring Officer of that interest together with the relevant details.

5. In accordance with previous practice, it is suggested that any dispensation be granted until the first meeting of the Standards Committee following the Council Annual General Meeting in 2017 in order to ensure that they all come up for renewal at the same time.

Application for Dispensation - Employment

6. The Council is the largest employer in the County Borough and it is not uncommon for both Officers and Members to have family members employed by Council. Unfortunately, this can cause some problems in dealing with Council business. The Standards Committee has previously granted dispensations to cover this situation.
7. The form of application for dispensation is intended to try to cover the situation when, although strictly required in law under the Members' Code of Conduct, serial declarations affect the smooth running of Committee business in circumstances where the general public would not draw any adverse inference from the relationships being declared.
8. Often Members have family whose employment position within the organisation puts them far away from the ability to influence Council Policy and are certainly not considered decision makers. Sometimes, family members are in relatively low paid jobs which are part time or temporary in nature.
9. Hence the applications for dispensation requests permission to speak and vote on issues relating to the business of Neath Port Talbot County Borough Council, (including personnel matters), provided these matters do not directly financially advantage or disadvantage, or give other direct benefit or dis-benefit to a member of the Councillor's family who is employed by Council. The dispensation will not apply where the person employed is a senior manager of Council (i.e. by that I mean an Accountable Manager or above) or is otherwise charged with assisting in the determination of Council Policy.

10. The Member using the dispensation will understand that it cannot be used if the matter under consideration would confer a greater benefit on the employed family member than on other tax payers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect the Member's ability to act purely on the merits of the case and in the public interest if the Member were to take part in the discussion.

Standard form of Dispensation: Employment

11. "To speak and vote on issues relating to the business of Neath Port Talbot County Borough Council including relevant personnel matters provided that (a) they do not directly financially advantage or disadvantage or give other direct benefit or disbenefit to a Member or the Member's family who is employed by the County Borough Council or (b) that the employment is not as a senior manager nor is involved in assisting with the determination of Council policy. This dispensation will not apply in circumstances where a member of the public might reasonably conclude that the employment would significantly affect the Councillor's ability to act purely on the merits of the case and in the public interest."

Note: A Senior Manager is an Accountable Manager or equivalent and above.

Circumstances for granting the Dispensation: Employment

12. The circumstances are:-
13. "(d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business"

Note: this paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and was the circumstance under which applications for dispensations of this sort were previously approved.

14. Councillor Clement-Williams has advised me that her niece works at the Hillside Secure Unit, Neath.

Financial Impact

15. None

Equality Impact Assessment

16. This is not applicable

Workforce Impacts

17. Not applicable other than as described in the report.

Legal Impacts

18. These are explained in the report

Risk Management

19. Not applicable

Consultation

20. Not applicable

Recommendation

21. That the application for dispensation from Councillor Clement-Williams be approved in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 in the standard form as set out in Paragraph 11 to speak and vote and that the dispensation runs to the Standards Committee which follows the Annual Meeting 2017.

Reason for Proposed Decision

22. The statutory circumstances for granting the dispensation are set out in paragraph 13.

Implementation of Decision

23. The decision is not one to which the call in procedure applies and will come into effect immediately.

List of Background Papers

24. Email application from Councillor Clement-Williams.

Officer Contact

25. For further information on this report please contact:-

Mr. D. Michael,
Head of Legal Services and Monitoring Officer
Tel. No. 763368
E-mail d.michael@npt.gov.uk

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Neath Port Talbot County Borough Council STANDARDS COMMITTEE

18 November 2016

REPORT OF THE HEAD OF LEGAL SERVICES - D.MICHAEL

MATTER FOR INFORMATION

WARDS AFFECTED: ALL

Public Services Ombudsman for Wales Annual Letter and Report 2015/2016

Purpose of Report

1. To advise Members of the Standards Committee of the receipt of the Ombudsman's Annual Letter and the publication of his Annual Report.

Background

2. In recent years the Public Services Ombudsman for Wales ("the Ombudsman") has adopted the practice of sending an annual letter to each local authority which comes within his jurisdiction. A full copy of the letter and Factsheet is reproduced for Members at Annex 1. In table E of the Factsheet the column showing the performance of this Council is the column on the left. The Annual Letter and the Annual Report referred to in paragraph 6 of this report both relate to service complaints which do not fall within the remit of Standards Committees and Code of Conduct complaints which do. Both types of complaint are referred to in this report.
3. Comparatively little commentary is required on the Annual Letter. The number of service complaints received by the Ombudsman has decreased between the financial years 2014/15 and 2015/16 (see Section A of the Factsheet). As compared with a notional local authority average of 40 complaints (adjusted for population) there were 33 complaints against this Council. This is to be welcomed. However it should be noted that we are no longer a

direct provider of general housing – a function which generally attracts some complaints.

4. The mix of service complaints is dealt with in Section B of the Factsheet. The numbers in the various categories are similar to the Welsh average overall. The numbers are slightly higher for planning and building contract and I have asked for the cases in that area to see whether there is any pattern.
5. As to time taken to respond, (Section E of the Factsheet) since there were only two cases here the figures are not statistically significant.
6. In the remainder of this report I look at the annual report of the Ombudsman for the financial year 2015/16. I have reproduced at Annex 2 an extract from the Ombudsman's report intended to give Members a flavour of the business handled by the Ombudsman's office in the year in question. It is to be noted that there is an overall decrease in the number of service complaints against county and county borough councils. The Ombudsman comments that complaints about public bodies overall may be beginning to plateau. I have however noted that the Ombudsman has recently commented that his office has seen a record number of enquiries. Overall, cuts in public expenditure create an environment in which there is a mismatch between public expectations and the service which can be provided. This will make it even more important to deal promptly with any complaints which arise and look for practical and achievable solutions.
7. I have not included coloured pie charts but a link to the on-line version of the report appears below.

http://www.ombudsman-wales.org.uk/~media/Files/AnnualReports_en/Annual%20Report%202015-16%20-%20Final%20for%20web%20English.ashx

8. The number of Code of Conduct complaints against members of county and county borough councils generally fell between the financial year 2014/15 and 2015/16. However, there was a marked increase in the number of complaints against community councils. This may be the result of substantial numbers of complaints against individual community councils. There were only two Code of Conduct complaints against Members of this

Council. I will mention Community Council complaints in the meeting.

9. Annex 3 contains the statistics for all county and county borough councils in Wales in relation to service complaints. This table deals with cases closed rather than cases received.
10. Annex 4 contains statistics relating to code of conduct complaints against members of county and county borough councils in Wales.

Financial Impact

11. There is none as this is an information report.

Equality Impact Assessment

12. None is required since this is an information report.

Workforce Impacts

13. There are none.

Legal Impacts

14. None arise from this report.

Risk Management

15. Legal Services is required to provide statistics to the insurers from time to time on Ombudsman complaints.

Consultation

16. None is required.

Appendices

17. Annex 1 - Annual Letter of the Ombudsman 2015/16
18. Annex 2 - Extract from the Ombudsman's report
19. Annex 3 - Statistics for all County and County Borough Councils in Wales in relation to service complaints
20. Annex 4 - Statistics relating to Code of Conduct complaints against Members of County and County Borough Councils in Wales

. **List of Background Papers**

21. Public Services Ombudsman for Wales Annual Report 2015/2016.

Officer Contact

22. Mr. David Michael – Head of Legal Services
E-mail d.michael@npt.gov.uk. Tel: 01639 763368

Our ref: NB/LG/MM



lucy.geen@ombudsman-wales.org.uk

matthew.aplin@ombudsman-wales.org.uk

28 July 2016

Sent by email

Dear Mr Phillips

Annual Letter 2015/16

Following the recent publication of my Annual Report I am pleased to provide you with the Annual Letter (2015/16) for **Neath Port Talbot County Borough Council**.

Overall my office's caseload has increased by 4% this year, but I am pleased to say that public body complaints fell by the same amount; only the second time in a decade this has happened. However, disappointingly the NHS in Wales was the only sector in my jurisdiction that saw a rise in complaints which now count for over a third of all public body complaints; a total increase of 51% in the last five years.

During 2015/16 we received 906 complaints against local authorities, down from 938 from the previous year.

In reference to outcomes there has been a large increase in the number of early resolutions and voluntary settlements achieved with local authorities with 81 cases in 2015/16 compared to 58 in 2014/15. I am committed to ensuring where possible, bodies from all sectors resolve complaints as quickly and effectively as possible and I am therefore pleased with these statistics.

My office has issued only one public interest report against a local authority during the past year – the same number as 2014/15. This related to failings around a council's failure to properly consider assess and identify the special educational needs of a primary school pupil.

Across all public bodies, after health (36%), housing is the second biggest area of complaint (13%) of our caseload, followed by Planning and Building Control (10%) and Social Services (9%).

The number of Code of Conduct complaints rose by 19% compared with 2014/15 (274 in 2015/16 against 231). It is disappointing to see this rise, although it is almost entirely attributable to community councils where there has been a 49% increase.

Last year I introduced a public interest test for code of conduct complaints and I am pleased to say this has helped my office in dealing with these complaints in an effective manner.

I am only too aware that we are in the run-up to the local elections where historically there is a spike in code of conduct complaints against local authority members. I have spoken previously about vexatious complaints and I would be most disappointed to see an increase in complaints of a trivial matter over the next 12 months when my office is dealing with issues of real concern across public services in my jurisdiction.

More generally my office is working in a number of ways to “turn the curve” of complaints against a backdrop of austerity and an ageing population.

During the past year, I introduced some staffing changes at my office, key amongst these was enhanced roles for a number of investigation staff to include ‘improvement officer’ duties. This places a greater emphasis on best practice, corporate cultural development, and ending cycles of poor service delivery. Whilst the new arrangements are still in their early days, I have been very pleased with the progress that has been made.

Whilst the ombudsman scheme in Wales is well respected at home and abroad, I feel strongly that we must ensure that it is future-proofed and citizen-centred.

I have been particularly pleased that the Finance Committee of the National Assembly for Wales agreed to undertake an inquiry into the powers of the Public Services Ombudsman for Wales, and that a draft Public Services Ombudsman (Wales) Bill has resulted from this. I am now keen to see the Fifth Assembly take this bill forward and introduce it as legislation as soon as is practically possible.

You will find below a factsheet giving a breakdown of complaints data relating to your local authority along with explanatory notes.

This correspondence has been copied to the Leader of the Council for consideration by the cabinet. I will also be sending a copy to your contact officer within your organisation and would again reiterate the importance of this role. Finally, a copy of all annual letters will be published on my website.

Yours sincerely



Nick Bennett

Ombudsman

Factsheet

In reference to your local authority, the number of complaints received by my office has reduced from 40 in 2014/15 to 33 in 2015/16. Two complaints were taken into investigation, up from zero in 2014/15. Of these two cases, one was responded to within a week while another took more than six weeks.

A) Comparison of complaints received by my office with average, adjusted for population distribution

In total my office received **33** complaints against **Neath Port Talbot County Borough Council** during 2015-16 compared to a local authority average of **40**.

B) Comparison of complaints by subject category with LA average

Subject	2015/16 Neath Port Talbot County Borough Council	2015/16 LA Average
Adult Social Services	3	3
Benefits Administration	1	1
Children's Social Services	4	5
Community facilities, recreation and leisure	2	1
Complaints-handling	1	2
Education	3	2
Environment and Environmental Health	5	4
Finance and Taxation	3	2
Health	0	0
Housing	1	5
Planning and building control	4	9
Roads and Transport	2	3
Agriculture and Fisheries	0	0
Independent Care Providers	0	0
Various Other	4	3
Total	33	40

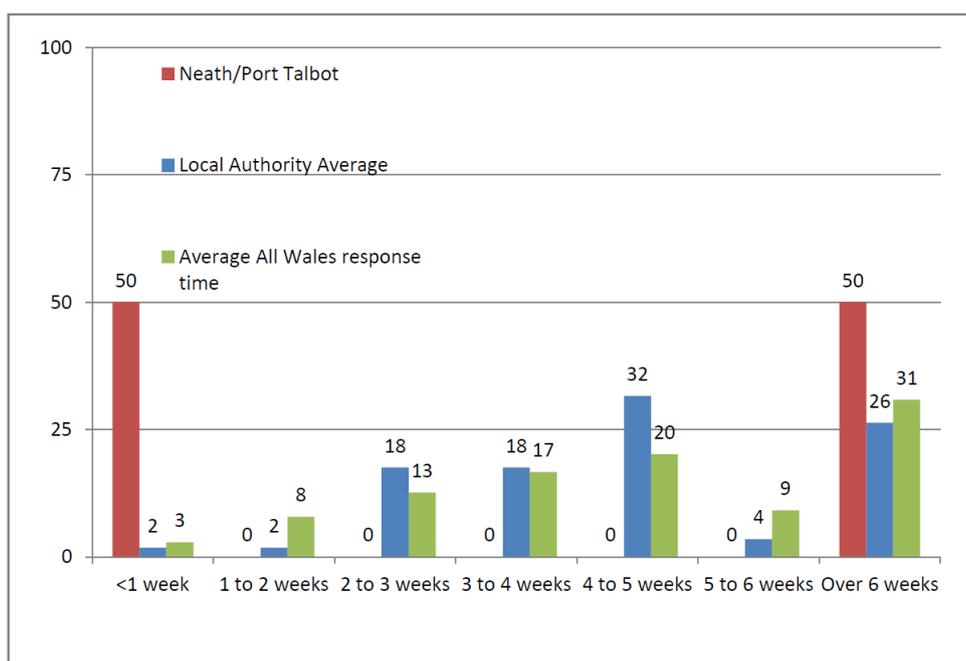
C) Complaints taken into investigation by my office

	2015/16 Neath Port Talbot	2015/16 LA Average
Number of complaints taken into investigation	2	3

D) Comparison of complaint outcomes with average outcomes, adjusted for population distribution

Complaint Outcomes	2015/16 Neath Port Talbot	2015/16 LA average
Out of jurisdiction	5	6
Premature	14	13
'Other' cases closed after initial consideration	16	16
Discontinued	0	0
Quick fix / Voluntary settlement	1	4
Section 16 – Upheld – in whole or in part	0	0
Other report upheld – in whole or in part	0	1
Other report – not upheld	1	1
Withdrawn	1	0

E) Comparison of times for responding to requests for information with average LA and average All Wales response times, 2015/16 (%)



F) Code of Conduct complaints

In total two code of conduct complaints against members of Neath Port Talbot County Borough Council were made during 2015-16. In both cases a decision was made not to investigate.

G) Summaries

Casebook 21

No summaries

[Casebook 22](#)

201406335

Casebook 23

No summaries

[Casebook 24](#)

201500136

Appendix

Explanatory Notes

Section A compares the number of complaints against the Council which were received by my office during 2015/16, with the Local Authority average (adjusted for population distribution) during the same period.

Section B provides a breakdown of the number of complaints about the Council which were received by my office during 2015/16 with the with the Local Authority average for the same period. The figures are broken down into subject categories.

Section c provides the number of complaints against the Council which were investigated by my office during 2015/16 with the Local Authority average (adjusted for population distribution) during the same period.

Section D compares the complaint outcomes for the Council during 2015/16, with the average outcome (adjusted for population distribution) during the same period. Public Interest reports issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 are recorded as 'Section 16'.

Section E compares the Council's response times during 2015/16 with the average response times for all Local Authorities and all public bodies in Wales during the same period. This graph measures the time between the date my office issued an 'investigation commencement' letter, and the date my office receives a full response to that letter from the public body.

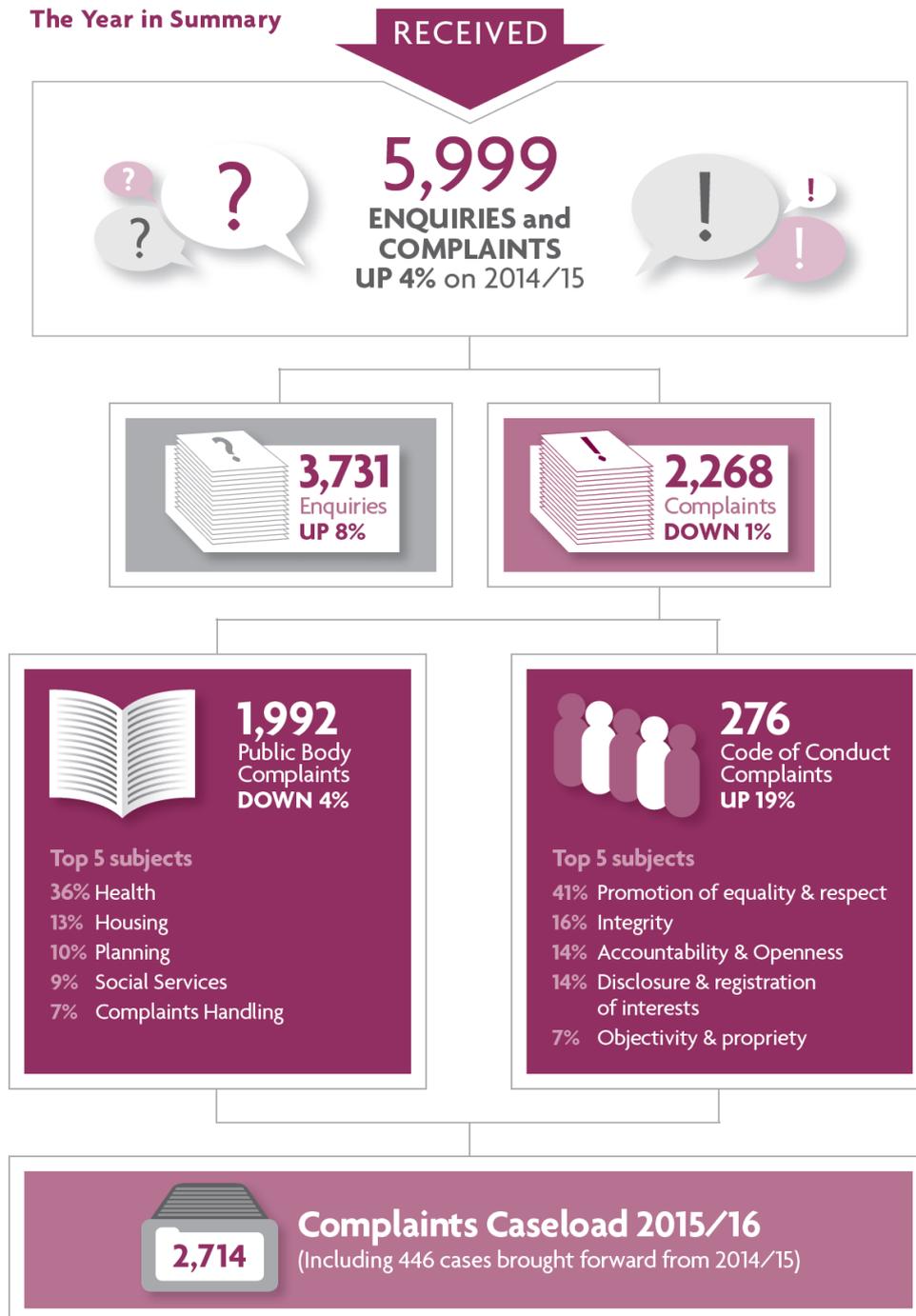
Section F provides a breakdown of all Code of Conduct complaints received against Councillors during 2015/16. Finally, Section G contains the summaries appearing in our casebook during 2015/16.

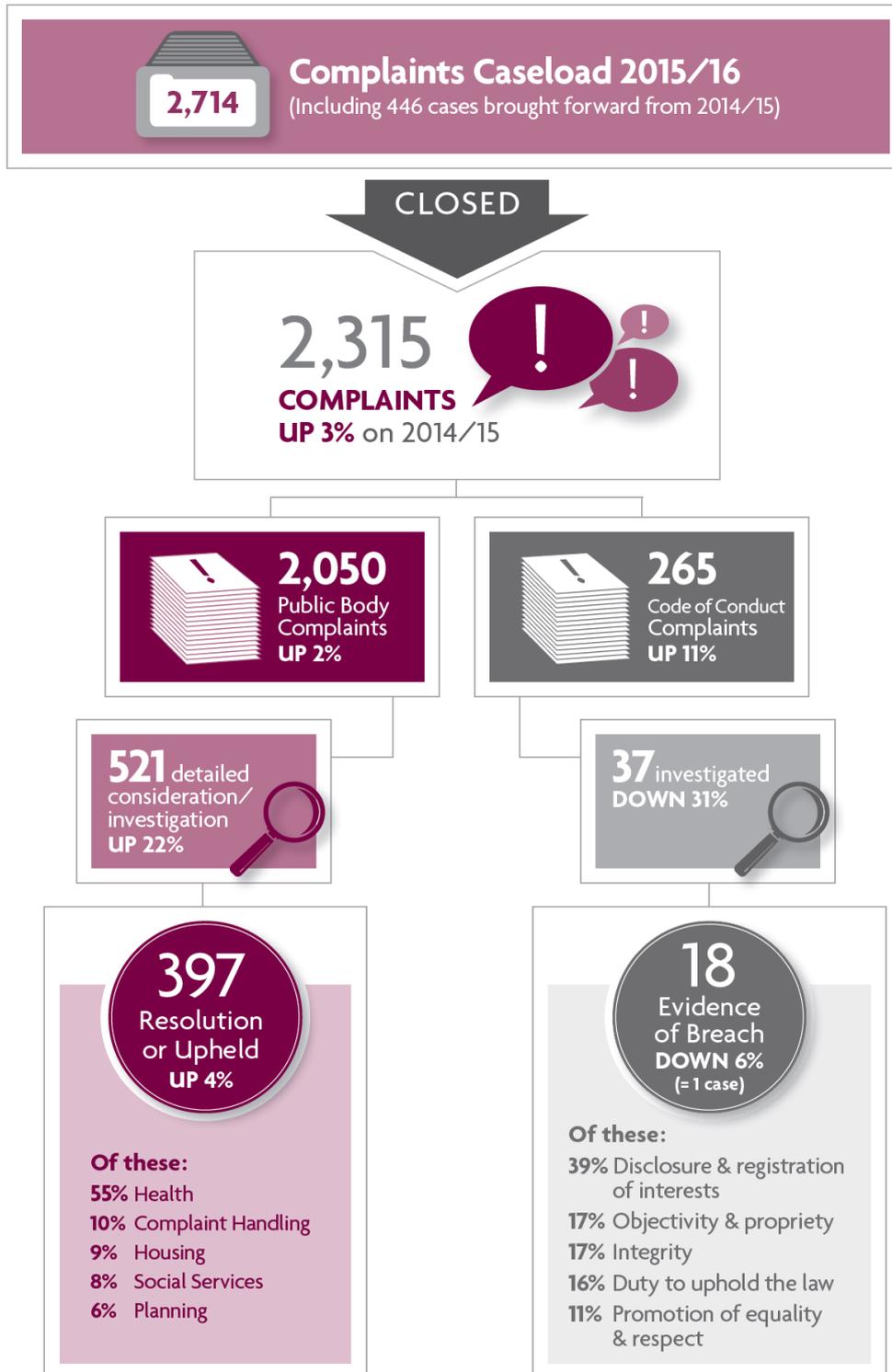
Feedback

We welcome your feedback on the enclosed information, including suggestions for any information to be enclosed in future annual summaries. Any feedback or queries should be sent to lucy.geen@ombudsman-wales.org.uk or matthew.aplin@ombudsman-wales.org.uk

4. The Complaints Service

The Year in Summary





Overall Casework

The number of enquiries and complaints (public body complaints, and complaints about the conduct of members of local authorities) totalled 5,999 during 2015/16 which is a 4% increase on the position for 2014/15. As can be seen from the chart below, comparing the position with that of five years ago, there has been a 54% increase. However, there are signs that the increases that the office has seen since the time it came into existence are beginning to plateau. I discuss the various aspects of this in greater detail below.

Total Enquiries and Complaints received by year



Enquiries

The office dealt with 3,731 enquiries during 2015/16, compared with 3,470 the previous year (an 8% increase). Compared with five years ago, this is a 100% increase. It is worth noting that February 2016 saw the highest ever number of enquiries made to this office.

An enquiry is a contact made by a potential complainant asking about the service provided, which does not, in the end, result in a formal complaint being made to me. At this point in our service we will advise people how to make a complaint to me or, where the matter is outside my jurisdiction, direct the enquirer to the appropriate organisation able to help them. Where appropriate, the Complaints Advice Team will also seek to resolve a problem at enquiry stage without taking the matter forward to the stage of a formal complaint.

We set ourselves the target of answering our main line reception calls within 30 seconds in 95% of cases. Yet again the Team performed impressively in this regard, answering 99% of calls within this timescale.

I am delighted that despite the continued increase in enquiries to this office we have maintained a prompt service at the frontline.

Public Body Complaints

For only the second time in the ten year history of the PSOW’s office (the first being in 2008/09), there was a decrease in the complaints about public service providers compared with the previous year. We received 1,992 such complaints in 2015/16 compared with 2,065 in 2014/15, being a 4% decrease. There is no real identifiable reason for this and the number of complaints received month by month during the year was erratic, varying from being low one month, to high the next. I consider the complaints received by sector in further detail below.

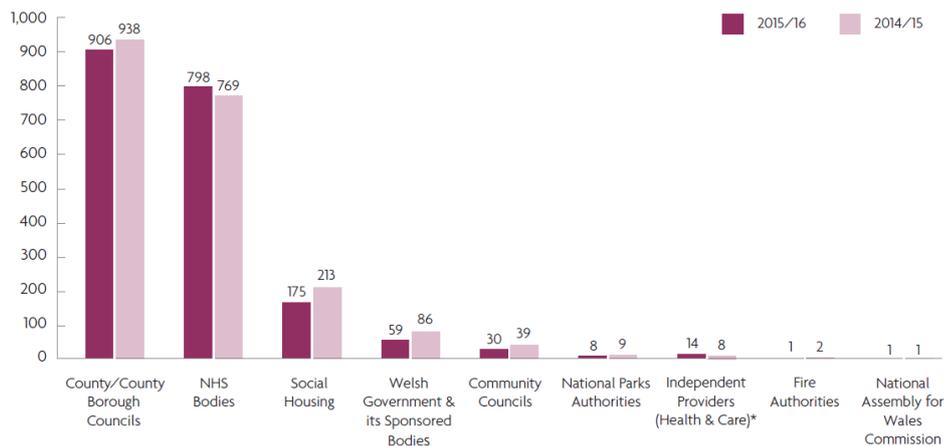
Sectoral breakdown of complaints

County councils provide the widest range of services amongst those in my jurisdiction. As usual, and as expected, it is this sector that was responsible for the most number of complaints that I received. Nevertheless, I was pleased to see a 3% decrease in the complaints about county councils over the past year, compared with 2014/15.

Indeed, there was a decrease in complaints across all sectors, with one exception. That exception was the NHS sector in Wales. This includes complaints about local health boards, NHS trusts, GPs and dentists. There was a 4% increase in complaints about health bodies compared with 2014/15 (798 compared with 769). Of the 798 health body complaints, local health boards and NHS trusts accounted for 661 of them. Within this there is a variation: there were fewer complaints about some health boards/trusts compared to last year, but a notable increase in complaints in respect of others in particular Abertawe Bro Morgannwg UHB and Betsi Cadwaladr UHB.

The chart below shows the distribution of the complaints received by sector.

Complaints by public body sector



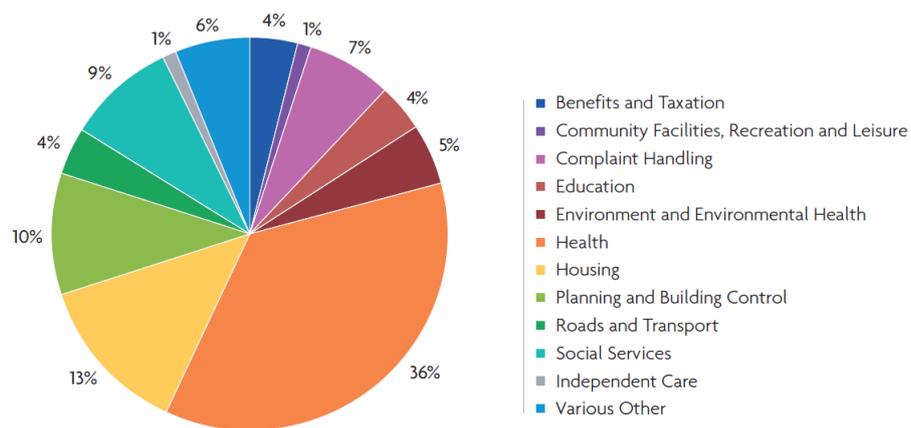
* The PSOW was able to accept complaints about independent self funded care from 1 November 2014

Complaints about public bodies by subject

Complaints to me can have many aspects to them, however, the chart below illustrates the main subject of the complaints I have received over the past year. Once again, health was the major part of the office caseload, but this year accounting for 36% of this compared with 34% in 2014/15. We have already seen that there has been an increase in complaints about NHS bodies, however, the percentage increase also arises from the fact that there have been fewer complaints about other public services. As has been the case in recent years, housing (13%) and planning (10%) are the service areas which are account for the greatest number of complaints received after health complaints.

Last year I commented on the increase being seen in relation to complaints about social services. This year there has been no significant increase in this type of complaint compared with 2014/15.

Complaints by subject 2015/16



[Note: Complaints are categorised by the main subject area of a complaint. However, complaints can also comprise other areas of dissatisfaction - for example, a 'Health' complaint may also contain a grievance about 'Complaint Handling'.]

Outcomes of complaints considered

We closed 2,050 complaints about public service providers during the past year compared with 2,015 in 2014/15, (an increase of 2%). A summary of the outcomes is set out in the table below and detailed breakdowns of the outcomes by public service provider can be found at Annex B.

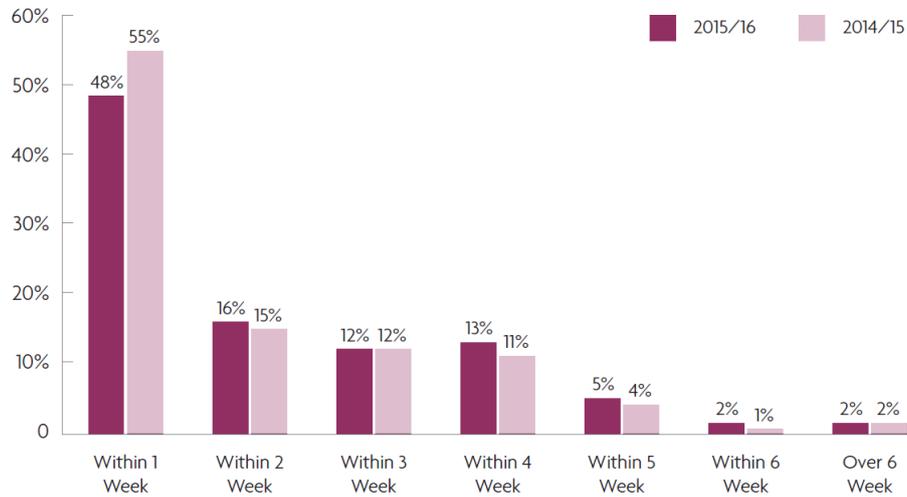
I am pleased that staff have managed to achieve this level of closure during the year, together with the fact that the number of cases on hand at the end of 2015/16 stood at 412, compared with 446 at the end of 2014/15 (which is a reduction of 8%). This is well within what I consider to be a reasonable caseload for the office to have open at any one time and this not a backlog. In addition to this, there was a 20% increase in the number of cases where we either achieved an informal resolution or took a complaint into investigation. However, there was a reduction in the number of public interest reports issued.

Complaint about a Public Body	2015/16	2014/15
Closed after initial consideration	1,488	1,564
Complaint withdrawn	41	23
Complaint settled voluntarily (includes 182 "quick fix" of cases)	227	164
Investigation discontinued	19	8
Investigation: complaint not upheld	105	71
Investigation: complaint upheld in whole or in part	163	173
Investigation: complaint upheld in whole or in part – public interest report	7	12
Total Outcomes – Public Body Complaints	2,050	2,015

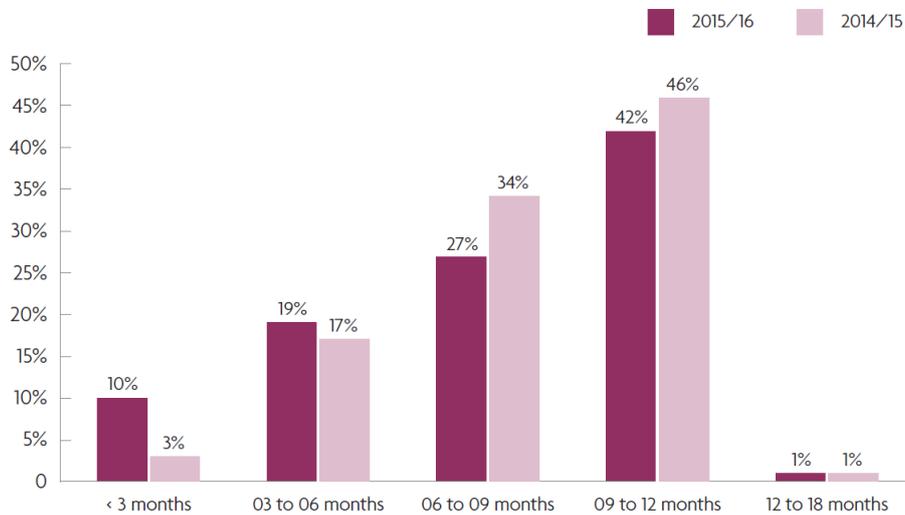
Decision times

Time taken to tell the complainant if I will take up their complaint

We set ourselves the target to tell complainants whether or not I will take up their complaint (from the date that sufficient information is received) within four weeks in 90% of cases. We just missed this target, doing so in 89% of cases (compared with 92% during 2014/15). Whilst disappointing, this is not a surprise to me in view of the continued increase in casework volume being dealt with by the Complaints Advice Team. We have been reviewing this target, and have been assessing whether a blanket four week target for all the various types of complaint consideration at this stage is now realistic and achievable in view of the level of casework. For example, at this stage, the Complaint Advice Team will endeavour to achieve, where appropriate, an early resolution to a complaint.



Similar to 2014/15, we again completed 99% of investigations within 12 months, against the 100% target we set ourselves. There were five investigations that went over 12 months. Largely these cases were complex with serious challenges which required further investigatory work. The chart below gives further details on investigation timescales.



Code of Conduct Complaints

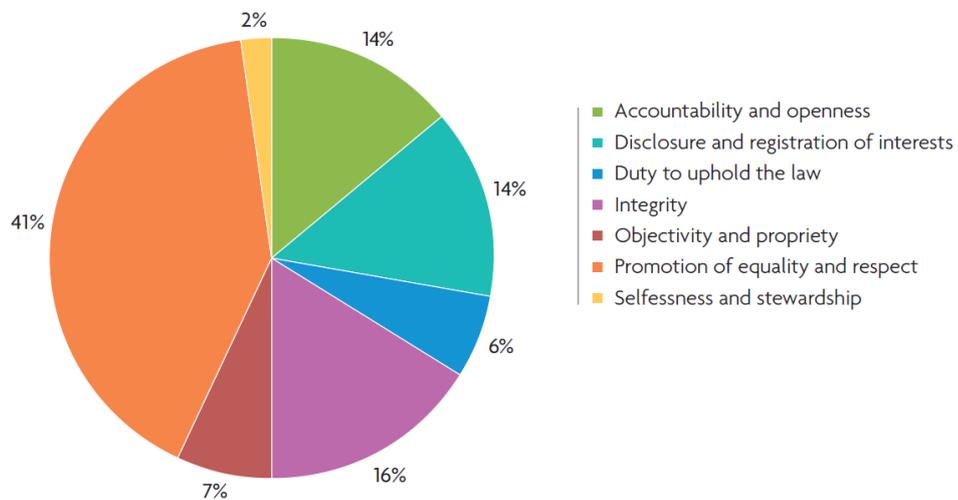
Complaints received

The number of Code of Conduct complaints rose by 19% compared with 2014/15 (274 in 2015/16 against 231). It is disappointing to see this rise, especially in relation to community councils where there has been a 49% increase.

	2015/16	2014/15
Community Council	158	106
County/County Borough Council	115	125
Fire Authority	0	0
National Park Authority	1	0
Police & Crime Panels	0	0
Total	274	231

Nature of Code of Conduct complaints

By far the majority of complaints received during 2015/16 related to matters of ‘equality and respect’, accounting for 41% of the complaints made to me (this was 35% in 2014/15). The next largest area of complaint related to ‘integrity’ at 16%, and then ‘disclosure and registration of interests’ and ‘accountability and openness’ both of which accounted for 14% of the Code of Conduct caseload.



Summary of Code of Conduct complaint outcomes

Consistent with previous years, the vast majority of these complaints (213 of them) were closed under the category 'Closed after initial consideration' (178 were closed in this way in 2014/5). This includes decisions such as:

- there was no 'prima facie' evidence of a breach of the Code
- the alleged breach was insufficiently serious to warrant an investigation (and unlikely to attract a sanction)
- the incident complained about happened before the member was elected (before they were bound by the Code), and
- with a few referred back for local resolution.

Despite the higher level of complaints received, fewer were taken into full investigation (27 in 2015/16 compared with 34 the previous year). I largely attribute this to be the result of a key change over the past year whereby I introduced a 'public interest test'. This test was developed as a result of the high number of trivial complaints received at my office, and to make clear the criteria that I will apply when considering whether a complaint should be taken into investigation or not. It also ensures that I continue to investigate serious complaints to maintain public confidence in standards of public life.

Of those 27 cases that were fully investigated, six were referred to either a standards committee or the Adjudication Panel (nine were referred in 2014/15). In such circumstances it is for these bodies to consider the evidence found, together with any defence put forward by the member concerned. It is then for them to determine whether a breach has occurred and, if so, what penalty, if any, should be imposed. Whilst at the time of writing three cases await consideration, decisions have been arrived at on the other three cases, as follows:

Hearing by:	Decision & Sanction	Nature of breach of Code
Standards Committee	Breach of Code - Councillor suspended for one month	Duty to uphold the law
Standards Committee	Breach of Code - Councillor suspended for one month	Disclosure and registration of interests
Tribunal of Adjudication Panel for Wales	Breach of Code - Councillor suspended for three months and to receive training during this time.	Disclosure and registration of interests

A breakdown of the outcomes is below:

	2015/16	2014/15
Closed after initial consideration	213	178
Complaint withdrawn	15	7
Investigation discontinued	10	20
Investigation completed: No evidence of breach	11	17
Investigation completed: No action necessary	10	8
Investigation completed: Refer to Standards Committee	3	8
Investigation completed: Refer to Adjudication Panel	3	1
Total Outcomes – Code of Conduct complaints	265	239

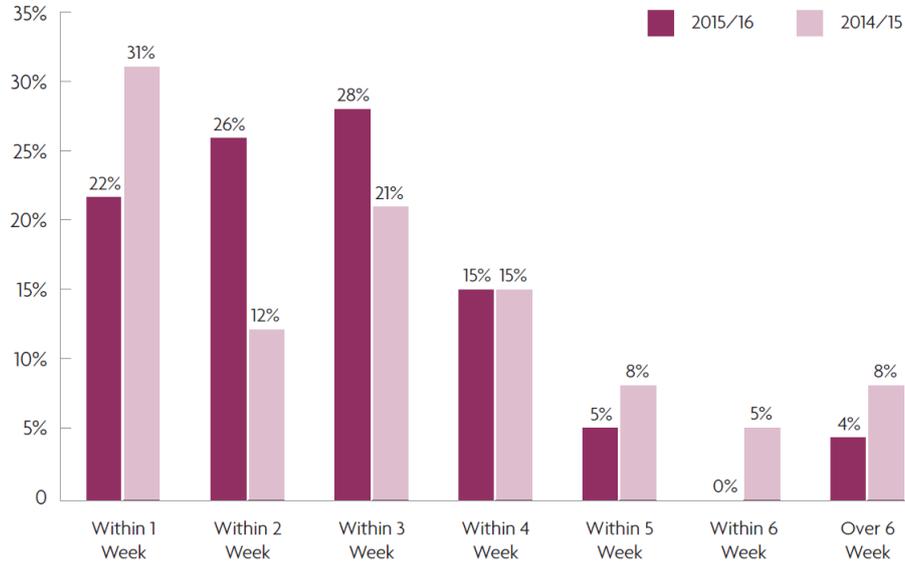
A detailed breakdown of the outcome of Code of Conduct complaints investigated, by authority, during 2015/16 is set out at Annex C.

Decision times

Time taken to tell the complainant if I will take up their complaint

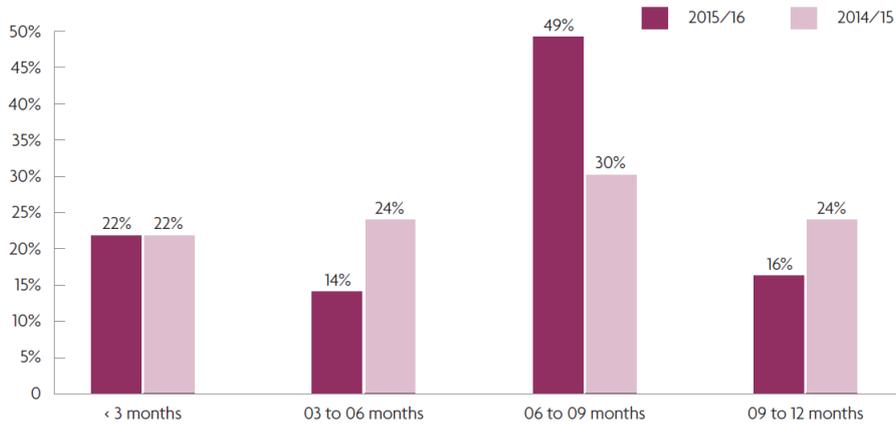
In respect of Code of Conduct complaints, 91% of complainants were informed within four weeks of whether I would take up their complaint (from the date that sufficient information is received). I'm particularly pleased that we surpassed our 90% target in this regard. Last year I reported that we achieved the four week target in 79% of cases and that I would work with my staff during this past year to ensure that we advise both the complainant and the accused member promptly as to whether I will take the matter into investigation or not. In addition to this improvement against the four week target, it is also worth noting that 96% had been informed within five weeks. My staff and I are always mindful of the fact that being the subject of a complaint can be a stressful and serious matter for the member being complained about.

Further details on these decision timescales are shown below.



Decision times for concluding Code of Conduct investigations

Comparing performance against 2014/15, in addition to the improvement in meeting the four week target, as discussed above, I am also pleased that there was an improvement on closing investigations within twelve months. Furthermore, as the chart below shows, during the past year 85% of Code of Conduct investigations were completed within 9 months, compared with 76% in 2014/15.



County/County Borough Councils

County/ County Borough Council	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report - Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Blaenau Gwent	3	8	5	1	1		1			19
Bridgend	4	18	17		1				2	42
Caerphilly	10	17	24		2		1	1	1	56
Cardiff	15	46	58		20		2	1	1	143
Carmarthenshire	8	12	18		8		2	3		51
Ceredigion	7	12	6	1	5		2			33
Conwy	3	5	10		2					20
Denbighshire	7	10	17	2	1		2	1	1	41
Flintshire	4	18	14		2		3			41
Gwynedd	7	4	11	1	4		1	1		29
Isle of Anglesey	2	14	12				4	1		33
Merthyr Tydfil	1	5	5	1	4				1	17
Monmouthshire	7	7	9				1			24
Neath Port Talbot	5	14	16		1			1	1	38
Newport	1	10	14	1	4		1	4		35
Pembrokeshire	6	17	17		4		1		1	46
Powys	13	20	16		5		7	1	1	63
Rhondda Cynon Taf	9	11	19		3					42
Swansea	12	9	19		2		1		1	44
Torfaen	2	4	9		1			1		17
Vale of Glamorgan	6	14	19		3					42
Wrexham	6	17	21		8	1	2		1	56
Total	138	292	356	7	81	1	31	15	11	932

County/County Borough Councils

County/County Borough Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Blaenau Gwent	3							3
Bridgend	9							9
Cardiff	14		1				2	17
Carmarthenshire	3	3	1	1				8
Conwy	2							2
Denbighshire	5							5
Flintshire	1							1
Gwynedd	6							6
Isle of Anglesey	1	1						2
Monmouthshire	4		1	1				6
Neath Port Talbot	2							2
Newport	2							2
Pembrokeshire	5		1	2				8
Powys	13							13
Rhondda Cynon Taf	3		1					4
Swansea	11							11
Torfaen	5		1					6
Vale of Glamorgan	6					1		7
TOTAL	95	4	6	4		1	2	112

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Neath Port Talbot County Borough Council

STANDARDS COMMITTEE

18 NOVEMBER 2016

REPORT OF THE HEAD OF LEGAL SERVICES - D.MICHAEL

MATTER FOR INFORMATION

WARDS AFFECTED: ALL

Public Services Ombudsman for Wales Code of Conduct Casebook

Purpose of Report

1. To draw to the attention of members of Standards Committee recent decisions reported by the Public Services Ombudsman for Wales

Background

2. As a supplement to the Annual Letter sent by the Public Services Ombudsman for Wales to all local authorities, the Ombudsman now reports on the outcome of complaints submitted to him. Attached to this report in Annex 1 is the Ombudsman's Code of Conduct Casebook issued last month.
3. The Casebook summarises cases where the Ombudsman's officers found no evidence of a breach of the Code and where no action was necessary in which case complaints were not referred to either the local Standards Committee or the Adjudication Panel for Wales. This edition of the Casebook also contains a summary of one case which was referred to the Standards Committee of Pembrokeshire County Council and was subsequently the subject of an appeal to the Adjudication Panel for Wales

Financial Impact

4. There is none as this is an information report.

Equality Impact Assessment

5. None is required since this is an information report.

Workforce Impacts

6. There are none

Legal Impacts

7. None arise from this report

Risk Management

8. This is not relevant

Consultation

9. None is required.

Appendices

10. Annex A – Public Services Ombudsman for Wales Code of Conduct Casebook October 2016.

List of Background Papers

11. None other than that referred to in the report.

Officer Contact

12. Mr. David Michael – Head of Legal Services
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The Code of Conduct Casebook

Issue 10 October 2016

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Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- (a) that there is no evidence that there has been a breach of the authority's code of conduct;
- (b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- (c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers July to September 2016, but also includes the summaries of older cases for which the standards committee or Adjudication Panel hearings were concluded during this period.

Case summaries

No evidence of breach

Magor with Undy Community Council - Objectivity and Propriety

Case Number 201601530 - Report issued in August 2016

A member of the public complained that a member ("the Councillor") of Magor with Undy Community Council ("the Council") had written to the Council to ask to represent it on external committees. At the time he wrote to the Council he was suspended from Council duties, following a ruling by the Adjudication Panel for Wales (APW), that he had previously breached the Code of Conduct. The complainant said that the Councillor had shown little regard for the decision of the APW and had brought his Office or Authority into disrepute.

The Ombudsman established that the Councillor had written a letter to the Council but that it made clear his intention was to serve on those committees once he returned to his duties following the suspension. There was no evidence to suggest that he had sought to undertake Council duties whilst he was suspended. The Ombudsman found that there was no evidence of a breach of the Code of Conduct.

Flintshire County Council - Duty to uphold the law

Case Number 201501526 - Report issued August 2016

Mr A complained that a member ("the Councillor") of Flintshire County Council ("the Council") may have breached the Code of Conduct for members by attempting to obtain money from him in return for support for his planning applications. Mr A said that when he refused to pay off the Councillor's mortgages or a car loan, she opposed his planning applications and failed to declare an interest in relation to her dealings with him.

Information was obtained from the Council and North Wales Police, including recordings of Police interviews with the Councillor and Mr A.

The Ombudsman found that there was no evidence to substantiate Mr A's allegations, and as such there was no breach of the Code.

Caerphilly County Borough Council - Objectivity and propriety

Case Number 201601317 - Report issued in September 2016

Mr A complained that a member ("the Councillor") of Caerphilly County Borough Council ("the Council") may have breached the Code of Conduct by deliberately providing confidential information to a member of the public (Mr B).

Information was obtained and considered from Mr A, the Councillor, the Council and various witnesses. Mr B was also interviewed.

The Ombudsman found that the information provided by Mr A appeared to be an unintentional misunderstanding and that, overall, the evidence did not suggest that the Councillor disclosed confidential information to Mr B and therefore there was no breach of the Code of Conduct.

Langstone Community Council - Selflessness and stewardship

Case Number 201504048 – Report issued in September 2016

Mr B complained that a member (“the Councillor”) of Langstone Community Council (“the Council”) may have breached the Code of Conduct for members by allegedly improperly using his influence as a councillor and former police officer to cause the Police to visit a resident, Mr A, in an attempt to “warn him off” pursuing concerns about the Councillor.

Mr A and Mr B were interviewed and information was obtained from the Police and the Councillor.

The Ombudsman found that the evidence did not suggest that there was a breach of the Code by the Councillor. The Councillor believed that he and his family were being harassed by Mr A, and the evidence did not suggest that he sought to use his status as a councillor or former police officer to influence how the Police dealt with the matter. The Ombudsman found there was no evidence of a breach of the Code.

No action necessary

Isle of Anglesey County Council - Accountability and openness

Case Number 201505105 – Report issued in July 2016

A complaint was issued claiming that a member (“the Councillor”) of the Isle of Anglesey County Council, had broken the Code of Conduct by taken part in a decision in the Orders and Planning Committee meeting (“the Committee”) even though his nephew lived near the development under discussion.

The investigation considered whether the Councillor had breached paragraphs of the Code of Conduct with regard to prejudice and personal interests.

Whilst the Ombudsman recognises that the Councillor had broken the Code by failing to declare a personal interest in the Committee’s meeting, he didn’t believe that the Councillor had a prejudicial interest based upon the evidence gathered.

The Ombudsman’s conclusion was that no action needed to be taken regarding the matters investigated.

Bridgend County Borough Council - Promotion of equality and respect

Case Number 201503556 - Report issued in July 2016

The Ombudsman investigated a complaint that a member (“the Councillor”) of Bridgend County Borough Council (“the Council”) had breached the Code of Conduct for members when she called another member a “scab” at the conclusion of a Development Control Committee meeting on 8 January 2015. It was also alleged that the Councillor called the member a “b***** scab” in the Council’s Members’ Room about a week later and that she refused to apologise in full for her comments.

The Councillor’s reason for refusing to apologise was that she believed, in the absence of evidence of any dispensation granted to the Member during the miners’ strike of 1984-85, her comment was a statement of fact.

Evidence of the Member’s dispensation was presented to the Councillor during the course of the investigation and she acknowledged that she was therefore wrong to call the Member a “scab” and said that she was willing to publicly apologise to him. The Councillor accepted that her actions had breached the Code of Conduct.

In reaching his finding, the Ombudsman considered the Councillor’s acceptance that her conduct breached the Code and her offer to apologise to the member for her actions. In light of this the Ombudsman concluded that it was not in the public interest to pursue this matter further, and so no action needed to be taken in respect of the matters investigated.

Cwmaman Town Council – Disclosure and registration of interests

Case Number 201504239 – Report issued in August 2016

Councillor A complained that a member (“the Councillor”) of Cwmaman Town Council (“the Town Council”) might have breached the Code of Conduct when he failed to declare an interest at a Town Council meeting

on 30 September 2015 in respect of a planning application (“the application”) and by his behaviour at the end of the meeting.

The Ombudsman investigated whether the Councillor had an interest in the application under discussion and whether his behaviour at the end of the meeting was such that it brought his office or the Town Council into disrepute and whether it could be considered disrespectful.

The Ombudsman found that the Councillor’s conduct might have breached the Code. However, the Ombudsman concluded that the matter was not in the public interest to pursue. The Ombudsman’s finding was that no action needed to be taken in respect of the matters investigated.

Referred to Standards Committee

Manorbier Community Council - Disclosure and registration of interests

Case Number 201408960 – Report issued in February 2016

The owner of a Caravan Park complained that a member (“the Councillor”) of Manorbier Community Council (“the Council”) was improperly involved in discussions at a meeting when it was resolved to recommend to the local planning authority that a planning application relating to the Caravan Park be refused. The Councillor’s house is adjacent to the Caravan Park and she had acknowledged making a number of complaints about the business over the years. The Councillor accepted that she had a personal interest in the matter, but denied that she had a prejudicial interest which would have prevented her from being involved in the decision.

The Ombudsman found that given the proximity of the Councillor’s home to the business, and the history of complaints, it was likely that she had a prejudicial interest in the planning application. He therefore considered it likely that the Councillor had breached the Code of Conduct. He recommended that his report should be referred to the Monitoring Officer of Pembrokeshire County Council, for consideration by the Council’s Standards Committee.

The Standards Committee heard the case on 20 May 2016. It found that the Councillor had breached the Code of Conduct and imposed a two month suspension. The Committee also recommended that the Councillor undertake training on the Code of Conduct within six months.

The Councillor subsequently appealed the Committee’s decision to the Adjudication Panel for Wales. The Panel agreed that the Councillor had breached the Code and increased the period of suspension to three months.

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

More information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to Matthew.Aplin@ombudsman-wales.org.uk or Lucy.Geen@ombudsman-wales.org.uk or sent to the following address:

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Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

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