



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

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