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**Date: 5th February 2019**

Dear Sir/Madam,

A meeting of the **Standards Committee** will be held in the **Sirhowy Room - Penallta House, Tredomen, Ystrad Mynach** on **Tuesday, 12th February, 2019** at **10.00 am** to consider the matters contained in the following agenda. You are welcome to use Welsh at the meeting, a minimum notice period of 3 working days is required should you wish to do so. A simultaneous translation will be provided if requested.

All Committee meetings are open to the Press and Public, observers and participants are asked to conduct themselves with respect and consideration for others. Please note that failure to do so will result in you being asked to leave the meetings and you may be escorted from the premises.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Chrissy', enclosed in a large, loopy oval shape.

**Christina Harrhy**  
INTERIM CHIEF EXECUTIVE

## AGENDA

- 1 To receive apologies for absence.
- 2 Declarations of Interest.

Pages

Councillors and Officers are reminded of their personal responsibility to declare any personal and/or prejudicial interest(s) in respect of any item of business on this agenda in accordance with the Local Government Act 2000, the Council's Constitution and the Code of Conduct for both Councillors and Officers.

**A greener place Man gwyrddach**



To approve and sign the following minutes: -

3 Standards Committee held on 2nd November 2018. 1 - 6

**To receive and consider the following report(s): -**

4 Public Services Ombudsman for Wales Annual Letter 2017/18. 7 - 18

5 Annual Whistle Blowing Report. 19 - 22

6 Update on the New Independent Member for the Standards Committee (Verbal).

7 Complaint made to the Public Services Ombudsman for Wales. 23 - 50

**Circulation:**

Councillors: C.P. Mann and Mrs D. Price

Mr P. Brunt, Mrs M. Evans, Mrs D. Holdroyd and Mr D. Lewis

Community Councillor Mrs G. Davies

**Copy for information only to:**

Councillors Mrs J. Gale and Mrs M.E. Sargent.

And Appropriate Officers

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## STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN PARK  
ON FRIDAY 2ND NOVEMBER 2018 AT 10.30 A.M.

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### PRESENT:

Mrs D. Holdroyd - Chair  
D. Lewis - Vice-Chair

P. Brunt, Mrs M. Evans

Community Councillor Mrs G. Davies

Councillors Mrs J. Gale (Substitute for Cllr D. Price) and C.P. Mann

### Together with:

R. Tranter (Head of Legal Services and Monitoring Officer), L. Lane (Interim Deputy Monitoring Officer), E. Sullivan (Senior Committee Services Officer)

### Also Present:

Councillors D. V. Poole and G. Simmonds

### And:

Councillors C. Cuss, N. George, C. Gordon, B. Jones, P. Marsden, S. Morgan, L. Phipps and E. Stenner

## APOLOGIES

An apology for absence was received from Councillor Dianne Price, it was noted that Councillor June Gale was in attendance as substitute.

### 1. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

### 2. MINUTES – 13TH SEPTEMBER 2018

RESOLVED that the minutes of the meeting held on the 13th September 2018 be approved as a correct record.

## REPORT OF OFFICERS

Consideration was given to the following report: -

### 3. COMPLAINT BY A MEMBER UNDER THE COUNCIL'S LOCAL RESOLUTION PROTOCOL

The Chair explained the procedures for the meeting under the Local Resolution Protocol and referred Members to the Officer's report and appendices. A complaint had been made under the protocol by Councillor D. Poole against Councillor G. Simmonds in relation to remarks made by the latter in an exchange of emails between both Councillors culminating in the email of 28<sup>th</sup> July 2018 sent at 10:23am. It was noted that other Elected Members and Officers had been copied in to said exchange.

Councillor Poole was invited to make his representations to the Committee.

Councillor Poole referred to the exchange of emails commencing on the 27th July 2018 in relation to a perceived lack of funding within the Islwyn area that culminated with an email sent on the 28th July 2018 in which Councillors Simmonds made several remarks relating to Councillor Poole as Leader and his Cabinet Members.

The Standards Committee were advised that in this email Councillor Simmonds referred to the salary paid to Councillor Poole as Leader and to his Cabinet Members and their lack of performance in relation to the level salary received. The Member confirmed that the salary of all Councillors is set by the Independent Remuneration Panel, over which the individual Member has no control or influence. In relation to the inference of under performance or the shirking responsibilities there was no evidence to substantiate those claims. Councillor Poole advised that he met regularly with Senior Officers, the Chief Executive and opposition Group Leaders giving them the opportunity to challenge him on any matters relating to the Council and its operations. Furthermore there have been no notices of motion or questions to Council in relation to his leadership. Within the emails, further criticism was levelled at scrutiny and the financial management of the Council. Members were advised that Grant Thornton the Authority's accountants had raised no concerns in relation to the Council's financial operations and the Wales Audit Office's recent review of scrutiny had noted that scrutiny within Caerphilly County Borough was working well. The Wales Audit Office had also recognised that Caerphilly worked efficiently, effectively and economically when dealing with its resources. For these reasons Councillor Poole felt this criticism to be unjustified.

Councillor Poole accepted that a level of criticism is expected within the political domain but the content of the email went beyond this to a point that he considered to be bullying and to which Councillor Simmonds had copied to Directors, Senior and Junior Officers and other Elected Members and this was the reason for his complaint. In relation to the standards of conduct as referred to within the protocol for public behaviour, he felt that Councillor Simmonds had failed to show respect (2.1(a)), had made personal and abusive comments (2.1(b)), by including Officers and other Members in the email had published those insulting comments (2.1(c)), had made malicious allegations in relation to him and his Cabinet colleagues (2.1(d)) and again by including Officers and other Members in the email had published false information about him and his Cabinet Colleagues (2.1(e)). Councillor Poole advised that he had been personally offended by the comments made, comments which had no supporting evidence.

He advised the Committee that the comment 'we have a cabinet with none of the talents for the cost...' particularly offensive and could personally attest to their workload, commitment and effort since their appointment. He wished it noted that since taking office this administration had received a positive Care Standards Inspectorate for Wales report in relation to its social care provision, a positive Wales Audit Report and a positive auditors report from Grant Thornton. He provided assurances that Cabinet Members received regular performance development reviews all of which had successfully evidenced their abilities to drive their portfolio performance forward.

Councillor Poole again acknowledged that politicians expected, and rightly so, a level of criticism from the public, but he expected more from a colleague with a greater knowledge of the constraints and difficulties within which an elected representative works and to make those comments without any evidence is unjust and shows a lack of respect. He restated that under normal circumstances he would not be making a complaint of this nature and had no issue with any exchange of a political nature, but the copying in of Officers was unacceptable.

The Chair thanked Councillor Poole for his representations and sought clarification as to whether it was the copying in of the Officer's that made the difference in this case and Councillor Poole confirmed that it was.

Councillor Simmonds was invited to make his representations to the Committee.

Councillor Simmonds referenced meetings he had with Mrs Lisa Lane (Interim Deputy Monitoring Officer) during the informal stage of the local resolution process in which he had advised her that he hadn't meant any insult to the Leader or the Cabinet Members by his statements but had meant them solely as a commentary on what he considered to be a withholding of information in the wider public interest.

The Councillor then referred to comments attributed in the press to Lord Touhig in relation to the level of funding in the Islwyn area (£22m) in comparison to the Rhymney Valley area (£300m) and the disparity between the two. He then referenced requests that he had made for information on pension liability for which he had yet to receive a reply after already waiting 16 months and a wait of over 4 months for a response from Councillor Barbara Jones in relation to secondary pension payments.

The Councillor went on to outline his concerns regarding the withdrawal of the Local Development Plan and then referenced educational performance levels and pupil attainment in relation to the Welsh National Average and that Caerphilly schools continue to be in the bottom quartile. Councillor Simmonds asserted that he had been asking the same question in relation to education attainment for the last 18/19 years. He advised that he had made numerous requests for performance management reports through his membership of the the Education Improvement Board which had failed to be delivered to him dispute as he understood it, them being completed on an annual basis.

The Councillor then referred to the Sport and Active Recreation Strategy currently under consultation and made several references to the fact that the strategy was un-costed. The impact that this would have in his ward should the realignment of provision take place in terms of the multiple deprivation index was explained. In terms of leisure provision he advised the committee that he had made enquiries as to how Nofio Ysgol (Swim Wales) would operate following the service realignment and had not been provided with any information.

He expressed his disappointment in the level and quality of responses he had received when requesting information and how unacceptable he found this. All the aforementioned reasons were a contributing element to the tone and wording of the email he had used in order to express his frustration. He upheld his opinion that this Cabinet have refused to act in an open and transparent way and were by their actions failing to comply with the Nolan and Local Government Acts.

Councillor Simmonds referred again to the Sport and Active Recreation Strategy and the fact that the document presented for consultation was un-costed, he affirmed his confidence in his own calculations that it would not be delivered for less than £54m while achieving only £455,000 in savings whilst pushing his ward further into the deprivation index. The Member then went on to reference senior pay awards and ongoing disciplinary proceedings.

He expressed his regret that the Cabinet had taken his comments personally and would be willing to offer an apology for this as he had intended these to be a commentary on the performance of this authority and what he believed to be a lack of openness and transparency.

In conclusion Councillor Simmonds expressed his confidence in the Performance Management Unit of the Council and again referenced his frustration in not receiving the answers to his questions and his requests for information.

The Chair thanked Councillor Simmonds for his representations and sought clarification as to why he thought it necessary to copy in Officers to his email.

Councillor Simmonds advised that this was due to the length of time he had waited for Officer responses.

As detailed within the procedure the Chair invited Cllr Poole to make his closing remarks.

In his summing up Councillor Poole advised that it would be very tempting to discuss the many points raised by Councillor Simmonds but that was not the purpose of this meeting. The Committee were here to consider the content of the emails sent and the fact that Officers had been copied in to this correspondence. Did Councillor Simmonds make personal and insulting remarks and malicious allegation which were published? Furthermore Councillor Simmonds had been given the opportunity to apologise but did not.

Councillor Poole asked the Committee to disregard the representations made by Councillor Simmonds which bore no relevance to the matter in hand and concentrate on the comments he made within the email of the 28th July 2018.

As detailed within the procedure the Chair invited Councillor Simmonds to make his closing remarks.

In his summing up Councillor Simmonds emphasised that he had been waiting months for the information and answers he requested, he again referenced the un-costed Sport and Active Creation Strategy and this own costings, the impact that the strategy would have on the deprivation index for his ward, the inequitable funding for the Islwyn area and failures in educational attainment.

He reaffirmed that he hadn't meant to insult the Leader or Cabinet but had meant his comments as a reflection on the running of the Council and the frustration borne from his inability to receive answers to his questions.

The Chair thanked both Members for their statements and the meeting stood adjourned to allow the Committee to deliberate in private on the representations received.

The meeting was reconvened at 12.10pm.

The Chair announced the decision of the Standards Committee as follows:-

We consider that there is a basis to the complaint made by Councillor Poole against Councillor Simmonds. We feel it was unfortunate that Councillor Simmonds used the language he did in his email to the Leader of the 28th July 2018. Whilst we have heard that Councillors Simmonds did not intend to cause offence to the Leader and his Cabinet, nevertheless he did. We would advise Councillor Simmonds that he takes more care in his wording of future emails and to whom the emails are copied to. In the circumstances we feel and expect Councillor Simmonds to offer an apology to all those who received the email of the 28th July 2018 at 10.23am. We expect that the apology should be made in writing within 7 days of today's date, with a copy to the Monitoring Officer.

The meeting closed at 12.30pm.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the next meeting they were signed by the Chair.

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CHAIR

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## STANDARDS COMMITTEE – 12TH FEBRUARY 2019

**SUBJECT: PUBLIC SERVICES OMBUDSMAN FOR WALES ANNUAL LETTER  
2017/18**

**REPORT BY: HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

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### **1. PURPOSE OF REPORT**

- 1.1 To inform the Standards Committee of the Public Services Ombudsman for Wales Annual Letter (2017/18) regarding complaints received and investigated by the Public Services Ombudsman for Wales.

### **2. SUMMARY**

- 2.1 To advise Standards Committee of the Public Services Ombudsman for Wales Annual Letter (2017/18).

### **3. LINKS TO STRATEGY**

- 3.1 The function of overseeing complaints received and investigated by the Ombudsman contributes to the following Well-being goals within the Well-being of Future Generations Act (Wales) 2015 as it supports the provision of higher quality and more effective services to the public across all service areas

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

### **4. THE REPORT**

- 4.1 The Annual Letter which sets out a clear and concise breakdown of all complaints received and investigated by the Public Services Ombudsman for Wales during 2017/18 for Caerphilly was received on 15<sup>th</sup> October 2018. A copy of the Annual Letter is attached at Appendix 1 to this report.
- 4.2 The Annual Letter was presented to full Council on 13<sup>th</sup> December 2018 in a report containing the same detail as set out in this report which is referred to as a background paper.

- 4.3 Members will note that the fact sheet attached to the Annual Letter gives a detailed breakdown of complaints data relating to Caerphilly. This includes statistics regarding Ombudsman's interventions which includes all cases upheld as well as early resolutions and voluntary settlements.
- 4.4 The data is self-explanatory and therefore no further comment is offered other than to ask Standards Committee to note the following:-
- 4.3.1 In relation to Caerphilly the number of complaints received by the Ombudsman has reduced in the past year by 26% from 54 to 40.
- 4.3.2 Complaints relating to Housing have dropped this year from 12 to 8 as well as complaints concerning Adult Social Services which have dropped from 8 to 5.
- 4.3.4 However Planning and Building Control complaints have been noted as remaining high at 10; this is compared to 9 complaints received last year. This data has been analysed and it has been noted two complaints were referred to the Ombudsman on 3 and 2 separate occasions respectively which accounts for 5 out of the 10 complaints. The remaining 5 complaints included one premature referral i.e. had been referred to the Ombudsman before exhausting the Council's Corporate Complaints Procedure.

#### **4.5 Code of Conduct Complaints**

Members will note that in respect of Caerphilly County Borough Councillors 4 complaints were received all of which were closed after initial consideration. In respect of Town and Community Councils one complaint was received which was also closed after initial consideration.

### **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 This report contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act in that the overseeing of the complaints received and investigated by the Ombudsman enables departments to focus on areas of concern, to improve services and to monitor performance to ensure that any issues raised are identified and dealt with so as to be avoided in future.

### **6. EQUALITIES IMPLICATIONS**

- 6.1 There are no equalities implications associated with this report.

### **7. FINANCIAL IMPLICATIONS**

- 7.1 There are no financial implications associated with this report.

### **8. PERSONNEL IMPLICATIONS**

- 8.1 There are no personnel implications associated with this report.

### **9. CONSULTATIONS**

- 9.1 This Report reflects the contents of the Annual Letter and therefore there has been no formal consultation on the content of the Report. A copy of the Report has been provided to the

consultees below.

## **10. RECOMMENDATIONS**

10.1 it is recommended that Standards Committee note the content of the report.

## **11. REASONS FOR THE RECOMMENDATIONS**

11.1 To satisfy the Council's statutory duties under the Public Services Ombudsman (Wales) Act 2005.

## **12. STATUTORY POWER**

12.1 Public Services Ombudsman (Wales) Act 2005

Author: Robert Tranter, Head of Legal Services and Monitoring Officer  
Consultees: Christina HARRY, Interim Chief Executive  
Dave Street, Corporate Director of Social Services and Housing  
Mark S Williams, Interim Director of Communities  
Ed Edmunds, Corporate Director for Education and Corporate Services  
Lisa Lane, Deputy Monitoring Officer  
Diane Holdroyd, Chair of Standards Committee

Background papers: Report to Council 13<sup>th</sup> December 2018 - Public Services Ombudsman for Wales Annual Letter 2017/2018

Appendices:

Appendix 1 Annual Letter of the Public Services Ombudsman for Wales 2017/18

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Our Ref: NB/CW/MA



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[Matthew.aplin@ombudsman-wales.org.uk](mailto:Matthew.aplin@ombudsman-wales.org.uk)

15 October 2018

Councillor Dave Poole

Sent by email: [davidpoole@caerphilly.gov.uk](mailto:davidpoole@caerphilly.gov.uk)

### **Annual Letter 2017/18**

Following the recent publication of my Annual Report, I am delighted to provide you with the Annual Letter (2017/18) for **Caerphilly County Borough Council**.

Despite a challenging complaints context, I am delighted to be able to report positive progress in the activities of the office over the past year.

Four public interest reports have been published in the past year, but none related to local authorities.

A new Public Services Ombudsman Bill has been introduced to the National Assembly and is currently at the second stage in the legislative process. This means that Members have agreed the general principles of the Bill and a Financial Resolution was agreed on 17 July 2018. This new legislation will help drive up public service standards as it is important that Wales continues to adopt best practices in complaints handling and public service improvement. If the Bill progresses I will be engaging with public bodies in Wales in preparation for the introduction of the new powers within the Bill.

### **Overview of complaints**

Overall the number of complaints and enquiries received by my office has increased by 5% this year, this is attributed to an 8% rise in enquiries.

This year my office saw a 4% decrease in public body complaints. Despite complaints against NHS bodies increasing by 7%, we have seen a 10% reduction in complaints against councils.

After Health, which comprises 41% of all complaints, housing (11%), social services (9%) and planning and building control (8%) remain significant areas of complaint.

The number of Code of Conduct complaints increased by 14% in the past year, this is attributed to a 33% increase in Code of Conduct complaints involving Community Councils. Many of these complaints have arisen following changes in the membership of councils.

42% of Code of Conduct complaints received were with regards to the promotion of equality and respect, 19% were with regards to disclosure and registration of interests and 16% were with regards to integrity.

We are pleased to report that the number of complaints received by the Ombudsman concerning Caerphilly has reduced in the past year by 26% from 54 to 40. We are pleased to see that complaints regarding Housing have dropped this year from 12 to 8 as well as complaints concerning Adult Social Services which have dropped from 8 to 5. However, we would like to draw your attention to Planning and Building Control which still remains high with 10 complaints.

You will find below a factsheet giving a breakdown of complaints data relating to your Local Authority. This year we have included a new set of statistics regarding Ombudsman interventions. These include all cases upheld by my office as well as early resolutions and voluntary settlements.

Please would you present my annual letter to the Cabinet to assist Members in their review of the Council's performance.

This correspondence has been copied to the Chief Executive of the Council and to your Contact Officer within your organisation. I 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

Public Services Ombudsman for Wales

CC: Christina Harray, Interim Chief Executive  
Andrea Jones, Contact Officer

## Factsheet

### A. Complaints Received and Investigated with Local Authority average adjusted by population

| Local Authority                          | Complaints Received | Average | Complaints Investigated | Average |
|--|---------------------|---------|-------------------------|---------|
| Blaenau Gwent County Borough Council     | 10                  | 17      | 0                       | 0       |
| Bridgend County Borough Council          | 40                  | 36      | 1                       | 1       |
| Caerphilly County Borough Council        | 40                  | 45      | 1                       | 1       |
| Cardiff Council                          | 109                 | 90      | 5                       | 3       |
| Carmarthenshire County Council           | 25                  | 46      | 3                       | 1       |
| Ceredigion County Council                | 35                  | 18      | 5                       | 1       |
| City and County of Swansea               | 62                  | 61      | 1                       | 2       |
| Conwy County Borough Council             | 36                  | 29      | 3                       | 1       |
| Denbighshire County Council              | 20                  | 24      | 3                       | 1       |
| Flintshire County Council                | 50                  | 39      | 6                       | 1       |
| Gwynedd Council                          | 29                  | 31      | 2                       | 1       |
| Isle of Anglesey County Council          | 29                  | 17      | 2                       | 0       |
| Merthyr Tydfil County Borough Council    | 13                  | 15      | 2                       | 0       |
| Monmouthshire County Council             | 16                  | 23      | 0                       | 1       |
| Neath Port Talbot County Borough Council | 35                  | 35      | 2                       | 1       |
| Newport City Council                     | 37                  | 37      | 2                       | 1       |
| Pembrokeshire County Council             | 34                  | 31      | 0                       | 1       |
| Powys County Council                     | 39                  | 33      | 3                       | 1       |
| Rhondda Cynon Taf County Borough Council | 36                  | 60      | 0                       | 2       |
| Torfaen County Borough Council           | 15                  | 23      | 0                       | 1       |
| Vale of Glamorgan Council                | 30                  | 32      | 4                       | 1       |
| Wrexham County Borough Council           | 41                  | 34      | 3                       | 1       |

**B. Complaints Received by Subject**

| <b>Caerphilly County Borough Council</b>     | <b>Complaints Received</b> |
|--|----------------------------|
| Adult Social Services                        | 5                          |
| Children s Social Services                   | 6                          |
| Community Facilities. Recreation and Leisure | 2                          |
| Complaints Handling                          | 1                          |
| Education                                    | 1                          |
| Environment and Environmental Health         | 3                          |
| Health                                       | 1                          |
| Housing                                      | 8                          |
| Planning and Building Control                | 10                         |
| Various Other                                | 3                          |

**C. Comparison of complaint outcomes with average outcomes for Local Authorities, adjusted for population distribution**

| <b>County/County Borough Councils</b> | <b>Out of Jurisdiction</b> | <b>Premature</b> | <b>Other cases closed after initial consideration</b> | <b>Early Resolution/Voluntary settlement</b> | <b>Discontinued</b> | <b>Other Report - Not upheld</b> | <b>Other Report Upheld - in whole or in part</b> | <b>Public Interest Report</b> | <b>Total Cases closed</b> |
|---------------------------------------|----------------------------|------------------|---|--|---------------------|----------------------------------|--|-------------------------------|---------------------------|
| Caerphilly                            | 6                          | 7                | 22  | 2  | 0                   | 1                                | 1  | 0                             | 39                        |
| Caerphilly (adjusted)                 | 8                          | 13               | 16  | 6  | 0                   | 1                                | 1  | 0                             | 45                        |



**D. Number of cases with PSOW intervention**

|  | <b>No. of complaints with PSOW intervention</b> | <b>Total number of closed complaints</b> | <b>% of complaints with PSOW interventions</b> |
|--|---|--|--|
| <b>Local Authority</b>                   |   |  |  |
| Blaenau Gwent County Borough Council     | 3   | 11                                       | 27   |
| Bridgend County Borough Council          | 5   | 39                                       | 13   |
| Caerphilly County Borough Council        | 3   | 39                                       | 8  |
| Cardiff Council                          | 37  | 123                                      | 30   |
| Carmarthenshire County Council           | 1   | 24                                       | 4  |
| Ceredigion County Council                | 4   | 35                                       | 11   |
| City and County of Swansea               | 11  | 62                                       | 18   |
| Conwy County Borough Council             | 4   | 32                                       | 13   |
| Denbighshire County Council              | 1   | 15                                       | 7  |
| Flintshire County Council                | 11  | 47                                       | 23   |
| Gwynedd Council                          | 1   | 26                                       | 4  |
| Isle of Anglesey County Council          | 2   | 26                                       | 8  |
| Merthyr Tydfil County Borough Council    | 3   | 13                                       | 23   |
| Monmouthshire County Council             | 1   | 14                                       | 7  |
| Neath Port Talbot County Borough Council | 4   | 31                                       | 13   |
| Newport City Council                     | 8   | 34                                       | 24   |
| Pembrokeshire County Council             | 3   | 32                                       | 9  |
| Powys County Council                     | 6   | 38                                       | 16   |
| Rhondda Cynon Taf County Borough Council | 6   | 36                                       | 17   |
| Torfaen County Borough Council           | 1   | 16                                       | 6  |
| Vale of Glamorgan Council                | 3   | 32                                       | 9  |
| Wrexham County Borough Council           | 8   | 41                                       | 20   |

**E. Code of Conduct Complaints Closed**

| <b>County/County Borough Councils</b> | <b>Closed after initial consideration</b> | <b>Discontinued</b> | <b>No evidence of breach</b> | <b>No action necessary</b> | <b>Refer to Standards Committee</b> | <b>Refer to Adjudication Panel</b> | <b>Withdrawn</b> | <b>Total</b> |
|---------------------------------------|---|---------------------|------------------------------|----------------------------|-------------------------------------|------------------------------------|------------------|--------------|
| Caerphilly                            | 4   |                     |                              |                            |                                     |                                    |                  | 4            |

**F. Town / Community council Code of Conduct Complaints**

| <b>Town/Community Council</b> | <b>Closed after initial consideration</b> | <b>Discontinued</b> | <b>No evidence of breach</b> | <b>No action necessary</b> | <b>Refer to Standards Committee</b> | <b>Refer to Adjudication Panel</b> | <b>Withdrawn</b> | <b>Total</b> |
|-------------------------------|---|---------------------|------------------------------|----------------------------|-------------------------------------|------------------------------------|------------------|--------------|
| Caerphilly TC                 | 1   |                     |                              |                            |                                     |                                    |                  | 1            |

## **Appendix**

### **Explanatory Notes**

Section A compares the number of complaints against the Local Authority which were received and investigated by my office during 2017/18, 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 Local Authority which were received by my office during 2017/18. The figures are broken down into subject categories.

Section C compares the complaint outcomes for the Local Authority during 2017/18, with the average outcome (adjusted for population distribution) during the same period.

Section D provides the numbers and percentages of cases received by the PSOW in which an intervention has occurred. This includes all upheld complaints, early resolutions and voluntary settlements.

Section E provides a breakdown of all Code of Conduct complaint outcomes against Councillors during 2017/18.

Section F provides a breakdown of all Code of Conduct complaint outcomes against town or community councils.

### **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 [catrin.wallace@ombudsman-wales.org.uk](mailto:catrin.wallace@ombudsman-wales.org.uk) or [matthew.aplin@ombudsman-wales.org.uk](mailto:matthew.aplin@ombudsman-wales.org.uk).

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## STANDARDS COMMITTEE – 12TH FEBRUARY 2019

**SUBJECT: ANNUAL WHISTLEBLOWING REPORT**

**REPORT BY: CORPORATE DIRECTOR – EDUCATION & CORPORATE SERVICES**

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### 1. PURPOSE OF REPORT

- 1.1 This report provides an anonymised summary of whistleblowing investigations undertaken during the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018.

### 2. SUMMARY

- 2.1 At the meeting held on 15<sup>th</sup> February 2016, the Committee agreed that annual reports would be presented to the Standards Committee containing information in relation to the numbers of whistleblowing reports issued.
- 2.2 This report provides the details of three whistleblowing investigations undertaken during the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018.

### 3. LINKS TO STRATEGY

- 3.1 The recommendations set out in this report contribute to the following Well-being goals within the Well-being of Future Generations Act (Wales) 2016:
- A more equal Wales
- 3.2 The Authority has an obligation to maintain and monitor the standards of conduct throughout the Council's workforce and to maintain appropriate arrangements for good governance. This policy is contained within the Council's Constitution.

### 4. THE REPORT

- 4.1 The Whistleblowing Policy provides a method for employees to raise concerns about the running of the Council without fear of victimisation. All employees have access to this policy.
- 4.2 The Policy forms part of the Officer's Code of Conduct and is found within the Council's Constitution.
- 4.3 The terms of reference of the Standards Committee includes a responsibility to oversee the whistle-blowing regime.
- 4.4 Members may recall that a Whistleblowing Commission was set up in February 2013 by the leading Whistleblowing Charity - Public Concern at Work (PCaW). Their remit was to review the effectiveness of whistleblowing in UK workplaces, and to make recommendations for change. The Commission was an independent body made up of industry and academic

experts and chaired by the Right Honourable Sir Anthony Hooper (former appeal court judge).

- 4.5 In late November 2013, it published its findings, with the primary recommendation being for the Secretary of State to adopt a Code of Practice that could be taken into account in whistleblowing cases before courts and tribunals. The Commission had published a draft Code which sets out clear standards for organisations across all sectors to enable them to have clear whistleblowing arrangements. The Code of Practice is designed to help regulators assess and inspect whistleblowing arrangements. The Code of Practice was designed to be adopted by organisations that are looking to achieve the highest standards in ensuring that workers are encouraged to speak up and when they do, that they are listened to.
- 4.6 Officers worked with the Charity Public Concern at Work, who were identified as being able to support best practice in this area. As a consequence the Council has been able to access guidance, resources and support from Public Concern at Work to develop a new Whistleblowing Policy reflective of current guidance and regulations.
- 4.7 Additionally the Council has access to an ongoing facility provided for employees to access the confidential support helpline provided by Public Concern at Work. This enables individuals to make contact in a confidential manner, should they wish to seek independent advice.
- 4.8 In line with the findings of the Commission, the Council's Policy was reviewed and an amended policy adopted by the Council in December 2015. The new policy was written in plain English, to encourage a wide understanding by employees. The policy was heavily based around the model policy provided by Public Concern at Work and was developed by the Council with the support of the Improving Governance Programme Board.
- 4.9 Following the adoption of the revised policy by the Council it was uploaded to HR Support Portal and a communication plan undertaken to increase awareness across the wider organisation. Communication with regard to this policy continues across the Council.
- 4.10 Members of the Standards Committee received a training session on the new policy on 2<sup>nd</sup> March 2015.
- 4.11 This report contains an anonymous summary of two formal whistleblowing investigations undertaken during the course of the financial year 2017/2018, for information.
  - 4.11.1 Both of the investigations were initially undertaken by a Solicitor. HR Officers initially supported each investigation. One of the anonymous complaints received was forwarded to Children's Services for consideration in accordance with the Council's agreed Safeguarding procedure.
- 4.12 Both of the investigations were as a result of anonymous complaints.
- 4.13 The one investigation concluded in accordance with the Council's Whistleblowing Policy was as thorough as it could be based on the limited information of the anonymous complaint and involved interviewing appropriate officers and reviewing documentation. The extent of this investigation was proportionate and the allegations were all considered on the basis of the civil burden of proof i.e. 'on the balance of probabilities'.
- 4.14 Recommendations from whistleblowing investigations are monitored for implementation by the Council's Monitoring Officer.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 Having considered the five ways of working, they will not be affected by the contents of this report.

## **6. EQUALITIES IMPLICATIONS**

6.1 There are none arising from the report, it is for information only.

## **7. FINANCIAL IMPLICATIONS**

7.1 There are none arising from the report, it is for information only.

## **7. PERSONNEL IMPLICATIONS**

8.1 There are none arising from the report, it is for information only.

## **9. CONSULTATIONS**

9.1 There are no consultations that have not been included in the report.

## **10. RECOMMENDATIONS**

10.1 The Committee are asked to note the contents of this report.

## **11. REASONS FOR THE RECOMMENDATIONS**

11.1 To update the Committee with regards to the operation of the Council's Whistleblowing Policy during the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018 in accordance with its terms of reference.

## **12. STATUTORY POWER**

12.1 Local Government Act 2000.  
Public Interest Disclosure Act 1998.  
Employment Act 2008.

Author: Lynne Donovan, Head of People Services

Consultees: Richard Edmunds, Corporate Director – Education & Corporate Services  
Robert Tranter Head of Legal Services and Monitoring Officer  
Lisa Lane, Interim Deputy Monitoring Officer  
Councillor Colin Gordon, Cabinet Member for Corporate Services

Appendices:

Appendix 1 Anonymised Summary of Whistleblowing Investigations

Background: Report to Standards Committee – 15<sup>th</sup> February 2016 – Annual Whistleblowing Report  
Report to Policy and Resources Scrutiny Committee 11<sup>th</sup> November 2014 – draft Whistleblowing Policy  
Report to Council 18<sup>th</sup> November 2014 – draft Whistleblowing Policy

**Anonymous summary of formal whistleblowing investigations undertaken during the period  
1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018**

|    | <b>Nature of concern</b>   | <b>Outcome</b>   |
|----|--|--|
| 1. | Registers were being deliberately marked incorrectly to show pupils as present when it was known they were off-site, in order to boost attendance figures. It was also alleged that the Head Teacher and the attendance clerk were complicit in this practice. | The allegation was not substantiated.  |
| 2. | A member of staff was bullying pupils and was displaying unprofessional behaviour.   | The investigation commenced in accordance with the Whistleblowing Policy but the concerns were then referred for consideration in accordance with the Council's agreed Safeguarding procedure. |





## STANDARDS COMMITTEE – 12TH FEBRUARY 2019

**SUBJECT: COMPLAINT MADE TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES**

**REPORT BY: HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

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### **1. PURPOSE OF REPORT**

- 1.1 To note the contents of the report from the Public Services Ombudsman for Wales on a complaint against Caerphilly County Borough Council.
- 1.2 To receive an update on the progress made to date in respect of the recommendations contained in the Ombudsman's report and action to be taken regarding outstanding recommendations.
- 1.3 To consider whether the matter would benefit from further consideration by the appropriate Scrutiny Committee. If Committee considers this course of action is appropriate a report setting out the reason for referral will be presented to the relevant Scrutiny Committee along with the report from the Ombudsman. The Chair of Standards Committee (or a nominee) will be invited to attend the respective Scrutiny Committee when the report is presented.

### **2. SUMMARY**

- 2.1 To note the Ombudsman's Report and to consider whether or not to refer the matter to the appropriate Scrutiny Committee.
- 2.2 To receive an update on the actions taken in respect of the recommendations contained in the Ombudsman's report.

### **3. LINKS TO STRATEGY**

- 3.1 The Authority is under a statutory duty to consider reports from the Ombudsman and to give effect to their recommendations. The duty to oversee this is within the terms of reference of this Committee.
- 3.2 Monitoring of the Council's corporate complaints, including referrals to the Ombudsman contributes to the following Well-Being goals within the Well-being of Future Generations Act (Wales) 2015 as it supports the provision of higher quality and more effective services to the public across all service areas. Compliance with recommendations made by the Ombudsman enables departments to focus on areas of concern, to improve services and to monitor performance, ensure that any issues raised are identified and dealt with so as to be avoided in the future.

- A prosperous Wales
- A resilient Wales

- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities and thriving Welsh language
- A globally responsible Wales

#### **4. THE REPORT**

- 4.1 Since 1st April, 2006 the Public Services Ombudsman for Wales ("the Ombudsman") has had jurisdiction under the Public Services Ombudsman (Wales) Act 2005.
- 4.2 There are two forms of report - a Section 16, which is the form of report, which needs to be formally considered by the Authority and Section 21 where the Ombudsman feels that a public report is not required and the matter has been satisfactorily resolved.
- 4.3 The report dated 10th December, 2018 has been issued by the Ombudsman under Section 21 of the Public Services Ombudsman (Wales) Act 2005. A copy of the full anonymised report is annexed at Appendix 1B for members' consideration. However as the detail in the report contains information which is likely to reveal the identity of the complainant members are asked to consider the Public Interest Test in appendix 1A as to whether this information contained in Appendix 1B should be considered and discussed in exempt session.
- 4.4 Notwithstanding the full report an anonymised summary of the complaint and recommendations is set out below.
- 4.5 Mr. A. complained that, having granted conditional planning permission for a local housing development, the Local Planning Authority, failed to properly discharge the associated planning conditions, resulting in his property being subject to the risk of contamination and flood water. Mr. A. also complained that there was a failure to adequately respond to his complaint.
- 4.6 The investigation found that there had been missed opportunities to ensure that the planning conditions had been met or consider taking enforcement action. The investigation also found that the Council had failed to fully respond to Mr. A.'s complaint. The complaint was partly upheld.
- 4.7 As a result the Ombudsman made the following recommendations
- 4.8.1 Within three months of the date of the report, the LPA
- a) Apologises to Mr. A. for the failings identified in this report.
  - b) Arranges a meeting with the Land Drainage Authority, the Highways Authority, Dwr Cymru/Welsh Water and NRW to formulate an action plan to address the outstanding drainage works on the site and consider the environmental impact of the attenuated flow of water. If it is not possible to address the drainage matter, the LPA contacts Mr. A. and provides him with a detailed explanation why.
  - c) In the event an action plan is drawn up, provides Mr. A. with the details of the action plan and keeps him updated on the progress.
  - d) Upon receipt of relevant evidence of Mr. A.'s concerns regarding discharge the Environmental Health Department investigate Mr. A.'s concerns and provide an outcome of the investigation to Mr. A. in due course.
  - e) Requests the Environmental Health Department to undertake sampling from the stream and liaise with the water regulator at NRW and advise Mr. A. of the outcome of the investigations.

- 4.9 The Council's Planning Department accepted the findings and agreed to implement the recommendations, and at the time of writing this report the following progress has been made regarding the recommendations. Members will receive a verbal update at the meeting should this be necessary.

Recommendation (a)

The Head of Regeneration and Planning has written to the complainant in accordance with this recommendation.

Recommendation (b)

At the time of writing this report a meeting has been arranged for 6<sup>th</sup> February 2019 between relevant officers and Dwr Cymru/Welsh Water. NRW have been invited, but declined to attend on the basis that as the particular water stretch is managed by the Council, rather than NRW, their input would not be relevant at this time. However, they have advised that they are happy to assist with the investigations set out in recommendations (d) and (e) below.

Recommendation (c)

This is subject to the outcome of recommendation (b).

Recommendation (d)

To date no information has been received from Mr. A. in order to progress this recommendation.

Recommendation (e)

Samples have been taken from the stream in accordance with this recommendation and at the time of writing this report, the results are awaited.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 This report contributes to the Well-being goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act in that the Monitoring of the Council's corporate complaints including referrals to the Ombudsman contributes and supports the provision of higher quality and more effective services to the public across all service areas. Compliance with recommendations made by the Ombudsman enables departments to focus on areas of concern, to improve services and to monitor performance, ensure that any issues raised are identified and dealt with so as to be avoided in the future.

## **6. EQUALITIES IMPLICATIONS**

- 6.1 None arising from the content of the report.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 None arising from the content of the report.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 None arising from the content of the report.

## 9. CONSULTATIONS

- 9.1 This report reflects the contents of the Ombudsman's Report and therefore there has been no formal consultation on the format of this report. A copy of this report and appendix has been provided to the consultees listed below.

## 10. RECOMMENDATIONS

- 10.1 That the Committee notes the contents of the report of the Public Services Ombudsman for Wales and the progress made to date in respect of the recommendations contained therein together with any action to be taken regarding outstanding recommendations.
- 10.2 To consider whether the matter should be referred to the appropriate Scrutiny Committee, the grounds for referral are where in the opinion of the Standards Committee there has been a serious failure in service delivery that would benefit from further consideration by the appropriate Scrutiny Committee. If Committee considers this course of action is appropriate a report setting out the reason for referral will be presented to the relevant Scrutiny Committee along with the report from the Ombudsman. The Chair of Standards Committee (or a nominee) will be invited to attend the respective Scrutiny Committee when the report is presented.

## 11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To satisfy the Council's statutory duties under the Public Services Ombudsman (Wales) Act 2005.

## 12. STATUTORY POWER

- 12.1 Public Services Ombudsman (Wales) Act 2005, Local Government Act 1974.

Author: Robert Tranter, Head of Legal Services and Monitoring Officer  
Consultees: FOR INFORMATION ONLY  
Christina Harrhy, Interim Chief Executive  
Mark S. Williams, Interim Director Communities  
Rhian Kyte, Head of Regeneration and Planning  
Tim Stephens, Development Control Manager  
Marcus Lloyd, Head of Infrastructure  
Robert Hartshorn, Head of Public Protection, Community and Leisure Services  
Lisa Lane, Interim Deputy Monitoring Officer  
Diane Holdroyd, Chair of Standards Committee

Appendices:

Appendix 1A Public Interest Test

Appendix 1B **EXEMPT** Report of Public Services Ombudsman for Wales 10<sup>th</sup> December, 2018



## STANDARDS COMMITTEE – 12TH FEBRUARY 2019

### PUBLIC INTEREST TEST – EXEMPTION FROM DISCLOSURE OF DOCUMENTS PARAGRAPH 13 SCHEDULE 12A LOCAL GOVERNMENT ACT 1972

**SUBJECT: APPENDIX 1B – REPORT FROM THE PUBLIC SERVICES  
OMBUDSMAN FOR WALES**

**REPORT BY: INTERIM DEPUTY MONITORING OFFICER**

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I have considered grounds for exemption of information contained in the document referred to above and make the following recommendations to the Proper Officer:-

**EXEMPTIONS APPLYING TO THE REPORT:**

Information which is likely to reveal the identity of an individual. (paragraph 13)

**FACTORS IN FAVOUR OF DISCLOSURE:**

There is a public interest in the way in which the Council deals with complaints which are referred to the Ombudsman for determination.

**PREJUDICE WHICH WOULD RESULT IF THE INFORMATION WERE DISCLOSED:**

The report issued by the Public Services Ombudsman for Wales at Appendix 1B contains information which is likely to identify the complainant.

**MY VIEW ON THE PUBLIC INTEREST TEST IS AS FOLLOWS:**


That paragraph 13 should apply. My view on the public interest test is that the anonymity of the individual concerned must be maintained on the basis that the report contains information which is likely to reveal the identity of the complainant and the need to protect the individuals' privacy outweighs the need for the information to be made public.

This information is not affected by any other statutory provision, which requires the information to be publicly registered.

On that basis I feel that the public interest in maintaining the exemption does outweigh the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.

**RECOMMENDED DECISION ON EXEMPTION FROM DISCLOSURE:**

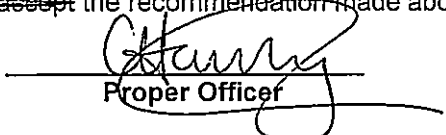
On that basis I feel that the public interest in maintaining the exemption does outweigh the public interest in disclosing the information and that the information should be exempt.

Signed:  Date: 4<sup>th</sup> February, 2019

Post: Interim Deputy Monitoring Officer

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I accept/~~do not accept~~ the recommendation made above.

Signed:  Date: 5/2/19

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By virtue of paragraph(s) 13 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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