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**Date: 20th January 2020**

Dear Sir/Madam,

A meeting of the **Standards Committee** will be held in the **Sirhowy Room - Penallta House, Tredomen, Ystrad Mynach** on **Monday, 27th January, 2020** at **11.00 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'.

**Christina Harrhy**  
INTERIM CHIEF EXECUTIVE

## AGENDA

- 1 To Appoint a Chair of the Standards Committee.
- 2 To Appoint a Vice Chair of the Standards Committee.
- 3 To receive apologies for absence.

Pages

A greener place Man gwyrddach



4 Declarations of Interest.

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.

To approve and sign the following minutes: -

5 Standards Committee held on 9th October 2019.

1 - 4

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

6 Complaint Made To The Public Services Ombudsman For Wales

5 - 58

7 Code of Conduct (Training).

**Circulation:**

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

Mr P. Brunt, J. Card, L.M. Davies, C. Finn 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 9TH OCTOBER 2019 AT 2.00 P.M.

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PRESENT:

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

Independent lay members: P. Brunt, C Finn

Councillor Mrs D. Price

Together with:

R. Tranter (Head of Legal Services and Monitoring Officer), L. Lane (Head of Democratic Services and deputy Monitoring Officer ), T Stephens, Planning Services Manager, C. Evans (Committee Services Officer)

### 1. APOLOGIES

Apologies for absence were received from Councillors C Mann, M. Sargent and Mrs M. Evans.

### 2. DECLARATIONS OF INTEREST

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

### 3. MINUTES – 12TH FEBRUARY 2019

RESOLVED that the minutes of the meeting held on the 12th February 2019 be approved as a correct record and signed by the Chair.

## REPORTS OF OFFICERS

### 4. PUBLIC SERVICES OMBUDSMAN FOR WALES ANNUAL LETTER 2018/19

The report informed members of the Standards Committee of the publication of the Public Services Ombudsman for Wales Annual Report and Annual Letter (2018/19) in respect of Caerphilly County Borough Council by the Public Services Ombudsman for Wales.

It was noted that the Public Services Ombudsman for Wales (PSOW) issues an Annual Letter to each Local Authority in Wales which sets out a clear and concise breakdown of all complaints received and investigated by the PSOW during 2018/19 specifically related to the Authority. The Annual Letter in respect of Caerphilly was appended to the report at Appendix 1.

The Committee noted that the number of complaints received by the Public Services Ombudsman for Wales in respect of Caerphilly had increased this year to 65, compared to the 40 received last year. Of the 65 complaints received, 26 were made prematurely (an increase of 19 from last year), 6 were out of jurisdiction, and 26 cases were closed after initial consideration (an increase of 4 from last year). In addition, it was noted that there were 9 early resolutions and 1 complaint upheld/ partially upheld.

The report also detailed that in respect of Code of Conduct complaints received by the Ombudsman, 3 complaints related to Caerphilly County Borough Councillors , all of which were closed after initial consideration. In respect of Town and Community Councillors 4 complaints were received, in relation to Darran Valley Community Council, all of which were closed after initial consideration.

The Monitoring Officer also referred the Standards Committee to the Annual Letter which detailed the introduction of the Public Services Ombudsman (Wales) Act 2019 , which affords new powers aimed at improving access to the office of the PSOW; providing a seamless mechanism for complaint handling when a patient's NHS care is inextricably linked with private healthcare; allowing the PSOW to undertake own initiative investigations when required in the public interest and ensuring that complaints data from across Wales may be used to drive improvement in public services for citizens in Wales.

The Standards Committee thanked the Officers for the report and discussion ensued.

A Committee Member sought clarification on table C of the report (Appendix 1, Page 12) and the complaints categorised as out of jurisdiction. Officers explained that there could be a number of reasons such as complaints received outside of 12 month complaint period or complaints about, for example, a refusal of a planning permission which has been sent directly to the Ombudsman but should follow the statutory process of lodging a formal appeal to the Planning Inspectorate Wales.

Discussions took place around the increase in the number of complaints and interventions and the reasons for this. Officers explained that there has been an increase in the number of complaints received, which could be due to the impact of austerity measures on services, culture changes and heightened awareness of the complaint process. Further discussions took place around practices in neighbouring authorities and it was noted that there are similar increases in complaints received; however the areas for complaints vary depending on the Authority.

Members were advised that as part of this Council's reporting process the Annual Letter would be presented to the next meeting of Council.

Having fully discussed its content the Standards Committee unanimously noted the report.

## **5. EXEMPT MATTER**

Members considered the public interest test certificate from the Proper Officer and concluded that on balance the public interest in maintaining the exemption outweighed the public interest in disclosing the information and it was moved and seconded that the public interest test be accepted and the meeting move into exempt session.

RESOLVED that In accordance with Section 100A(4) of the Local Government Act 1972 the public be excluded from the remainder of the meeting because of the likely disclosure to them of exempt information as identified in paragraph of Part 13 of Part 1 of Schedule 12A of the Local Government Act 1972.

**6. COMPLAINT MADE TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES – UPDATE ON COMPLIANCE WITH THE RECOMMENDATION.**

The report provided the Standards Committee with an update on compliance against a recommendation from the Public Services Ombudsman for Wales, following the receipt of a complaint.

Following consideration and discussion it was moved and seconded that the recommendation in the report be approved. By a show of hands this was unanimously agreed.

RESOLVED that for the reasons contained in the Officers report, the recommendation at paragraph 3.1 be endorsed.

Having concluded exempt business, the Monitoring Officer confirmed that the meeting was once again in open session.

**7. ANY OTHER BUSINESS – OMBUDSMAN REFERRAL**

The Monitoring Officer outlined to members that following media reports on the matter they would no doubt be aware that Councillor David Poole has recently made a self referral to the Public Services Ombudsman for Wales in relation to alleged breaches of the Code of Conduct and advised the Committee that the Ombudsman has decided to investigate the referral. He further advised that whilst it would not be appropriate to discuss the details of the matter due to the ongoing investigation, by way of information at this stage, dependant on the outcome of the investigation the Ombudsman could refer the matter back to the Standards Committee for further consideration.

The Committee duly noted the update.

**8. RETIREMENT OF MRS D. HOLDROYD AND MRS M. EVANS**

Before closing the meeting, the Monitoring Officer thanked the Chair, Mrs Holdroyd for her dedicated service and hard work over her term of office both as a lay member and Chair of the Committee and wished her well for the future. These sentiments were echoed by the Committee who also expressed their gratitude to her and her professionalism throughout her term. As this was also the last meeting of Mrs Evans, who was unfortunately unable to attend the meeting, the Monitoring Officer, with the endorsement of the Committee agreed he would write on their behalf to express their appreciation to Mrs Evans.

The meeting closed at 2.44 pm

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

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CHAIR

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## STANDARDS COMMITTEE – 27<sup>TH</sup> JANUARY 2020

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

**REPORT BY: HEAD OF DEMOCRATIC SERVICES AND DEPUTY 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.
- 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. RECOMMENDATIONS

- 3.1 That the Committee notes the contents of the report of the Public Services Ombudsman for Wales and the progress made in respect of the recommendations contained therein.
- 3.2 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.

#### 4. REASONS FOR THE RECOMMENDATIONS

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

#### 5. THE REPORT

- 5.1 The report by the Public Services Ombudsman for Wales has been issued under Section 21 of the Public Services Ombudsman for Wales Act 2005. There are two forms of report under the 2005 Act - 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.
- 5.2 The report dated 4<sup>th</sup> November 2019 is attached 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 and/or relative, 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.
- 5.3 Notwithstanding the position regarding the full report, a summary of the complaint is outlined as follows and for completeness includes details of the complaint and outcome in respect of both the Council and the Health Board.
- 5.4 Mr A complained to the Ombudsman about the way in which the Council and the Health Board handled his late mother (Mrs A's) care. He had many concerns.
- 5.5 As against the Council, Mr A complained about the manner in which it managed Mrs A's admission to a Council owned and managed care home, and complained that it had failed to undertake appropriate capacity assessments or assessments under Deprivation of Liberty Safeguarding (DoLS) arrangements (procedures for those who lack capacity). Mr A was concerned that the professionals involved in his mother's care had not had adequate access to Mrs A's records to enable them to make the correct decisions and assessments.
- 5.6 As against the Health Board, he complained that it had failed to assess Mrs A's declining dementia appropriately and had failed to respond appropriately to a possible stroke identified by her GP. Mr A also considered that the Health Board failed to undertake appropriate assessments for NHS Funded Continuing Healthcare ("CHC funding") and about the way a POVA1 referral was handled following Mrs A's admission to hospital. Mr A claimed that wet sores on Mrs A's body and how they had been allowed to develop had not been investigated under the POVA process. He further questioned the arrangements for Mrs A's transfer to a different hospital shortly before her death. Mr A also complained about the manner the Council and the Health Board had dealt with his complaints about Mrs A's care.
- 5.7 The Ombudsman concluded that the Council's care home was an appropriate setting for Mrs A when she was placed there and **did not uphold** this complaint. He also determined that the decision not to convene a formal POVA meeting was appropriate in the overall circumstances of Mrs A's case and so **did not uphold** this element of Mrs A's complaint. Further, the Ombudsman found that Mrs A's care was not compromised at the Council's care home by the lack of full access to Mrs A's records as complained about.
- 5.8 The Ombudsman concluded that the Health Board's investigation, diagnosis and management of Mrs A's dementia was appropriate. He **did not uphold** this element of the complaint or the complaint about the delay in assessing Mrs A's eligibility for CHC funding. He considered the delay appropriate in order to allow for Mrs A's condition to stabilise. The Ombudsman also found it was necessary to transfer Mrs A to a specialist setting for those dealing with dementia shortly before her death as she was medically fit for discharge and required dementia assessment.



- 5.9 The Ombudsman found that the assessments, services and treatments provided to Mrs A by the Council and the Health Board, following the diagnosis of a probable stroke by her GP, were inadequate. This element of the complaint against both public bodies was **upheld**. Similarly, the Ombudsman also **upheld**, as against both bodies, Mr A's complaint about the failure to assess Mrs A's mental capacity with sufficient promptness, or to assess her appropriately under DoLS processes. Finally, the Ombudsman found shortcomings in how both the Council and the Health Board had handled Mr A's complaints. He found there had been inappropriate delays in responding to Mr A and so upheld this complaint.
- 5.10 The Ombudsman recommended that the Council and the Health Board apologise to Mr A for the failings identified. He also recommended that the Council amend its procedures (and training related to such) to ensure staff involved in arranging admissions to care homes were aware of the need to consider the capacity of the individual concerned to agree to the admission. Otherwise, staff should be aware of the need to ensure DoLS processes were followed for those persons lacking capacity.
- 5.11 In relation to the Health Board the Ombudsman recommended that it review its current approach to assessing suitability of care home placements to ensure that complex care needs are adequately assessed and that care plans are developed collaboratively with multi-disciplinary teams where required. He also recommended a review of its current practice in primary and community care services in relation to capacity assessment for those diagnosed with dementia.
- 5.12 The full recommendations in respect of the actions to be taken by the Council were as follows:-
- 5.12.1 Within one month of the date of the final version of this report both the Council and the Health Board apologise to Mr A for their respective shortcomings identified in this report.
- 5.12.2 In relation to the Council, I also recommend, if it has not done so already, that it implements the following recommendations within three months of the issuing of the final version of this report:
- a) To amend its training and procedures to ensure that all staff (including residential home managers and social workers) involved in admissions to residential or nursing care (whether long-term, short-term or respite) are aware of the need to consider the capacity of the person concerned to agree to the admission and then to act in accordance with the Mental Capacity Act 2005 if the person lacks capacity.
  - b) To amend its training and procedures to ensure that all staff (including residential home managers and social workers) involved in admissions to residential or nursing care (whether long-term, short-term or respite) are aware of the need to consider the potential need for DoLS authorisation, both before and during any admission to a home, in accordance with the Mental Capacity Act 2005.
- 5.13 Members are advised that the Council wrote to Mr A on 23<sup>rd</sup> December 2019, there was a slight delay in complying with this recommendation due to work pressures.
- 5.14 With regard to training and procedures, this information was provided to the Ombudsman on 2<sup>nd</sup> July 2019 which was prior to the final report being issued
- 5.15 **Conclusion**

Members will note the information provided in respect of compliance with the recommendations.

## **6. ASSUMPTIONS**

6.1 No assumptions are necessary in respect of the content of this report.

## **7. LINKS TO RELEVANT COUNCIL POLICIES**

7.1 The Authority is under a statutory duty to consider reports from the Ombudsman and to give effect to their recommendations. Their duty to oversee this is within the terms of reference of this Committee.

7.2 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

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

8.1 This report contributes to the Well-being goals as set out in 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.

## **9. EQUALITIES IMPLICATIONS**

9.1 There are no equalities implications arising from this report.

## **10. FINANCIAL IMPLICATIONS**

10.1 There are no financial implications arising from this report

## **11. PERSONNEL IMPLICATIONS**

11.1 There are no personnel implications arising from this report.

## **12. CONSULTATIONS**

12.1 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.

### 13. STATUTORY POWER

13.1 Public Services Ombudsman (Wales) Act 2019, Local Government Act 1972.

Author: Lisa Lane Head of Democratic Services and Deputy Monitoring Officer  
[lanel@caerphilly.gov.uk](mailto:lanel@caerphilly.gov.uk)

Consultees: FOR INFORMATION ONLY  
Christina HARRY, Interim Chief Executive  
Dave Street, Director for Social Services and Housing  
Jo Williams Assistant Director – Adult Services  
Nicola Broom – Customer Services Manager Social Services  
Robert Tranter, Head of Legal Services and Monitoring Officer

Appendices:

Appendix 1A Public Interest Test

Appendix 1B **EXEMPT** Report of Public Services Ombudsman for Wales 4<sup>th</sup> November 2019

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**STANDARDS COMMITTEE – 27<sup>TH</sup> JANUARY 2020**

**PUBLIC INTEREST TEST - EXEMPTION FROM DISCLOSURE OF DOCUMENT  
PARAGRAPH 13 SCHEDULE 12A LOCAL GOVERNMENT ACT 1972**

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

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

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 and/or the relative the subject of the report.

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

That paragraphs 13 should apply. My view on the Public Interest Test is that the anonymity of the individuals concerned must be maintained on the basis that the report contains information which is likely to reveal the identity of the complainant and/or the relative the subject of the report and the need to protect the individuals privacy outweighs the need for the information to be made public. This approach is also expected by the Ombudsman.

The 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 outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide upon 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 outweighs the public interest in disclosing the information, and that the report should be exempt.

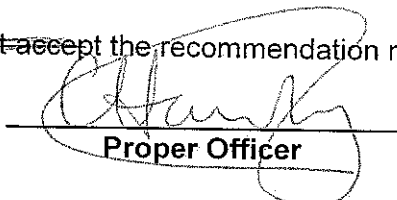
**Signed:** 

**Date:** 20<sup>th</sup> January 2020

**Post:** Head of Legal Services and Monitoring Officer

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

**Signed:**

  
Proper Officer

**Date:** 20/1/20 2020

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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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