

# Pecyn Dogfennau Cyhoeddus

Penallta House,  
Tredomen Park,  
Ystrad Mynach,  
Hengoed CF82 7PG

Ty Penallta,  
Parc Tredomen,  
Ystrad Mynach,  
Hengoed CF82 7PG



[www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)  
[www.caerffili.gov.uk](http://www.caerffili.gov.uk)

Am bob ymholiad ynglŷn â'r agenda hwn cysylltwch â Emma Sullivan  
(Rhif Ffôn: 01443 864420 Ebst: [sullie@caerphilly.gov.uk](mailto:sullie@caerphilly.gov.uk))

**Dyddiad: Dydd Iau, 21 Hydref 2021**

Annwyl Syr/Fadam,

Bydd cyfarfod **Pwyllgor Safonau** yn cael ei gynnal trwy Microsoft Teams ar **Dydd Iau, 28ain Hydref, 2021** am **2.00 pm** i ystyried materion a gynhwysir yn yr agenda canlynol. Mae croeso i chi ddefnyddio'r iaith Gymraeg yn y cyfarfod, a dylid rhoi cyfnod rhybudd o 3 diwrnod gwaith os ydych yn dymuno gwneud hynny.

Bydd y cyfarfod hwn yn cael ei recordio a bydd ar gael i'w weld trwy wefan y Cyngor, ac eithrio trafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig. Felly, bydd delweddau/sain yr unigolion sy'n bresennol ac/neu sy'n siarad yn ystod ar gael i'r cyhoedd trwy'r recordiad ar wefan y Cyngor yn [www.caerffili.gov.uk](http://www.caerffili.gov.uk)

Yr eiddoch yn gywir,

**Christina Harrhy**  
PRIF WEITHREDWR

## AGENDA

Tudalennau

- 1 I dderbyn ymddiheuriadau am absenoldeb.
- 2 Datganiadau o Ddiddordeb.

Atgoffi'r Cyngorwyr a Swyddogion o'u cyfrifoldeb personol i ddatgan unrhyw fuddiannau personol a/neu niweidiol mewn perthynas ag unrhyw eitem o fusnes ar yr agenda hwn yn unol â Deddf Llywodraeth Leol 2000, Cyfansoddiad y Cyngor a'r Cod Ymddygiad ar gyfer Cyngorwyr a Swyddogion.

A greener place Man gwyrddach



I gymeradwyo a llofnodi'r cofnodion canlynol:-

3 Pwyllgor Safonau ar 27 Ionawr 2020. 1 - 4

I dderbyn ac ystyried yr adroddiad(au) canlynol:-

4 Ombwdsmon Gwasanaethau Cyhoeddus Cymru - Llythyr Blynyddol 2020/2021. 5 - 18

5 Adroddiad Panel Dyfarnu Cymru. 19 - 34

**Cylchrediad:**

Cynghorwyr: C.P. Mann a Mrs D. Price

P. Brunt, J. Card, L.M. Davies, C. Finn a Mr D. Lewis

Cynghorydd Cymunedol Mrs G. Davies

**Copi er gwybodaeth yn unig i:**

Cynghorwyr Mrs J.Gale a Mrs M.E. Sargent.

A Swyddogion Priodol

**SUT FYDDWN YN DEFNYDDIO EICH GWYBODAETH**

Bydd yr unigolion hynny sy'n mynychu cyfarfodydd pwyllgor i siarad/roi tystiolaeth yn cael eu henwi yng nghofnodion y cyfarfod hynny, weithiau bydd hyn yn cynnwys eu man gweithio neu fusnes a'r barnau a fynegir. Bydd cofnodion o'r cyfarfod gan gynnwys manylion y siaradwyr ar gael i'r cyhoedd ar wefan y Cyngor ar [www.caerffili.gov.uk](http://www.caerffili.gov.uk). ac eithrio am drafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig.

Mae gennych nifer o hawliau mewn perthynas â'r wybodaeth, gan gynnwys yr hawl i gael mynediad at wybodaeth sydd gennym amdanoch a'r hawl i gwyno os ydych yn anhapus gyda'r modd y mae eich gwybodaeth yn cael ei brosesu.

Am wybodaeth bellach ar sut rydym yn prosesu eich gwybodaeth a'ch hawliau, ewch i'r Hysbysiad Preifatrwydd Cyfarfodydd Pwyllgor Llawn ar ein gwefan <http://www.caerffili.gov.uk/Pwyllgor/Preifatrwydd> neu cysylltwch â Gwasanaethau Cyfreithiol drwy e-bostio [griffd2@caerffili.gov.uk](mailto:griffd2@caerffili.gov.uk) neu ffoniwch 01443 863028.



## STANDARDS COMMITTEE

### MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN PARK ON 27TH JANUARY 2020 AT 11.00A.M.

#### PRESENT:

P. Brunt, J. Card, L.M. Davies, C. Finn and D. Lewis.

Community Councillor Mrs G. Davies

County Councillors Mrs J. Gale and C. P. Mann.

#### Together with:

R. Tranter (Head of Legal Services and Monitoring Officer), L. Lane (Head of Democratic Services and Deputy Monitoring Officer), J. Williams (Assistant Director – Adult Services), A. Jones (Complaints Officer) and A. Dredge (Committee Services Officer).

#### 1. WELCOME

The Monitoring Officer welcomed Mr J Card and Mrs L. Davies, the newly appointed Members to their first meeting of the Standards Committee.

#### 2. TO APPOINT A CHAIR OF THE STANDARDS COMMITTEE

It was moved and seconded that Mr D. Lewis be appointed as the Chair of the Standards Committee. By a show of hands this was unanimously agreed.

#### 3. TO APPOINT A VICE-CHAIR OF THE STANDARDS COMMITTEE

It was moved and seconded that Mr P. Brunt be appointed as the Vice-Chair of the Standards Committee. By a show of hands this was unanimously agreed.

#### 4. APOLOGIES

Apologies for absence were received from Councillor D. Price, it was noted that Councillor Gale was in attendance as substitute for Councillor Price.

## **5. DECLARATIONS OF INTEREST**

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

## **6. MINUTES – 9TH OCTOBER 2019**

RESOLVED that the minutes of the meeting held on the 9th October 2019, be approved as a correct record and signed by the Chair.

## **REPORTS OF OFFICERS**

## **7. COMPLAINT MADE TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES**

Consideration was given to the report from the Public Services Ombudsman for Wales on a complaint against Caerphilly County Borough Council which provided an anonymised update on the progress made to date in respect of the recommendations contained therein. The Standards Committee were also asked to consider whether the matter would benefit from further consideration by an appropriate Scrutiny Committee.

Members were advised that the report dated 4th November 2019 (Appendix 1B) contains information which is likely to reveal the identity of the complainant and/or relative. The Committee were asked to consider the Public Interest Test (appendix 1A) and whether the information contained in Appendix 1B should be discussed in exempt session.

The Deputy Monitoring Officer summarised the report and advised that 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. In terms of the Council, Mr A complained about the manner in which it managed Mrs A's admission to a Council owned and managed care home. He 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.

It was explained that the complaint in respect of the Health Board, was a failure to assess Mrs A's declining dementia appropriately and they had failed to respond appropriately to a possible stroke identified by her GP. Mr A 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.

The Committee noted the conclusions of the Ombudsman in respect of the Council and the Health Board. 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 Mr 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. In terms of the Health

Board, he concluded that their 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.

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.

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.

The recommendations in relation to the Health Board are set out in paragraph 11 and the full recommendations in respect of the actions to be taken by the Council are set out in paragraph 5.12. in the Report. The Standards Committee noted that the Council wrote to Mr A on 23rd December 2019, there had been a slight delay in complying with this recommendation due to work pressures. It was explained that in relation to training and procedures, this information had been provided to the Ombudsman on 2nd July 2019, which was prior to the final report being issued.

The Standards Committee discussed the nature of the questioning likely to occur and felt that on balance they would prefer to consider the public interest test before commencing any further debate on the matter. The Monitoring Officer provided advice regarding the difference between the publicly available report and the full Ombudsman report attached at Appendix 1B which should be treated as exempt. He advised Members of the need to be mindful of the areas of questioning open to them in order to safeguard the continued anonymity of the complainant whilst in public session.

Members considered the public interest test certificate attached at Appendix 1A 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 13 of Part 1 of Schedule 12A of the Local Government Act 1972.

Having considered the report from the Public Services Ombudsman for Wales' (Appendix 1B) the Standards Committee unanimously RESOLVED that:-

- (i) the report of the Public Services Ombudsman for Wales and the progress made in respect of the recommendations contained therein, be noted;

- (ii) the matter should not be referred to an appropriate Scrutiny Committee as the Standards Committee were satisfied with the course of action being taken and the progress made regarding the Ombudsman's recommendations.

Having concluded the exempt item, the Monitoring Officer confirmed the meeting was once again open to the public.

## **8. CODE OF CONDUCT (TRAINING)**

The Monitoring Officer delivered a Code of Conduct training session to the Standards Committee. He explained that effective Local Government requires high standards of conduct and there is a need to ensure that there is public confidence in all that the Council does. Examples where Councillors had breached the Code of Conduct were provided and it was explained that Members have a legal duty to act ethically. Reference was made to the Nolan Committee in 1997, which sets out the origins of the ethical framework for standards in public life. Emphasis was placed on the need for Members to have regard to those principles derived from that Committee. Members must sign a Declaration of Acceptance and give a written undertaking to become a Member and examples of when the code applies were discussed. Members then discussed declarations of interest and the definitions of both personal and prejudicial interests were explained and when interests should be declared. The public must have confidence that decisions made are in their best interests. In concluding, the Officer advised how the Code is policed and if it is breached then complaints are made to the Ombudsman for consideration. Members were assured that any advice or further information can be obtained from the Monitoring Officer or guidance can be obtained from the Public Service Ombudsman for Wales [Link to the Public Service Ombudsman for Wales website](#)

The Chair thanked the Monitoring Officer for delivering the training session.

The meeting closed at 12.40pm.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 28th October 2021 they were signed by the Chair.

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CHAIR



## STANDARDS COMMITTEE – 28TH OCTOBER 2021

**SUBJECT: PUBLIC SERVICES OMBUDSMAN FOR WALES – ANNUAL LETTER 2020/21**

**REPORT BY: HEAD OF DEMOCRATIC SERVICES AND DEPUTY MONITORING OFFICER**

### 1. PURPOSE OF REPORT

- 1.1 To inform Standards Committee of the publication of the Annual Letter for 2020/2021 in respect of Caerphilly Council by the Public Services Ombudsman for Wales.

### 2. SUMMARY

- 2.1 To advise the Committee of the publication of the Public Services Ombudsman for Wales Annual Letter for 2020/2021.

### 3. RECOMMENDATIONS

- 3.1 It is recommended that the Standards Committee considers and notes the content of the Annual Letter which will also be presented to Council in November.

### 4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To satisfy the Council's statutory duties under the Public Services Ombudsman (Wales) Act 2019.

### 5. THE REPORT

- 5.1 The Public Services Ombudsman for Wales (PSOW) issues an Annual Letter to each Local Authority in Wales which sets out a summary of all complaints received and investigated by his office during 2020/2021 relating to that Authority. The Annual Letter issued in respect of Caerphilly is attached at Appendix 1 to this report.
- 5.2 Members will note that this letter discusses information from a year unlike any other in recent memory, and as such may not be useful for establishing trends or patterns. However, information received during this remarkable year will, bring insights on how

public services reacted in the face of unprecedented demand and the most difficult of circumstances.

- 5.3 In general during the past financial year, the Ombudsman has intervened in (upheld, settled or resolved at an early stage) the same proportion of complaints about public bodies, 20%, compared with 2019/20. The overall number of new complaints regarding local authorities decreased by 12.5% compared with last year which reflects the reduction in complaints being reported during the Covid-19 pandemic. The Ombudsman's office intervened in a similar proportion of the cases closed as in the previous year (13%).
- 5.4 However, a higher proportion of Code of Conduct complaints were referred to a Standards Committee or the Adjudication Panel for Wales: 3.4% compared to 2% in the previous year. This higher referral rate was also accompanied by a sharp increase in the number of Code of Conduct complaints received.
- 5.5 Members will note the Letter refers to Own Initiative Investigations which were progressed with the first relating to Local Authority Homelessness Assessments launched in September 2020. This has since been reported on the Ombudsman's Website <https://www.ombudsman.wales/own-initiative-reports>.
- 5.6 In addition the Ombudsman issued two new publications - 'Our Findings' and the first Equality Report. 'Our Findings' will be accessed via the PSOW website and replaces the quarterly casebooks. The first Equality Report highlights the work done to improve equality and diversity, and to ensure that the service is available to people from all parts of society.
- 5.7 All Local Authorities in Wales continued to submit data about the complaints they handled to the Complaints Standards Authority (CSA) during 2020/21. The data submitted for 2020/2021 shows: • Nearly 12,000 complaints were recorded by Local Authorities • This equates to 3.77 for every 1000 residents. • Nearly half (44%) of those complaints were upheld. • About 75% were investigated within 20 working days. • About 9% of all complaints closed were referred to PSOW. The CSA has since published the data for the first quarter of 2021/22 on the PSOW website. <https://www.ombudsman.wales/published-statistics/>
- 5.8 In relation to Caerphilly's data, a summary of the complaints of maladministration service failure is included in the Annual Letter. The data is self-explanatory and therefore no further comment is offered other than to ask the Committee to note the following.
- 5.8.1 The Ombudsman received 46 complaints relating to Caerphilly compared to 49 last year broken down as follows with the previous years' figures in brackets.

Adult Social Services	3	(0)
Benefits Administration	0	
Children's Social Services	9	(8)
Community Facilities, Recreation and Leisure	0	(0)
Complaints Handling	5	(5)
Covid19	0	
Education	1	(2)



Environment and Environmental Health	4	(5)
Finance and Taxation	0	(0)
Housing	13	(19)
Licensing	0	
Planning and Building Control	10	(5)
Roads and Transport	0	(4)
Various Other	1	(1)
Total	46	(49)

5.9 The Complaint Outcomes are set out in section C with 3 referrals requiring early resolution/voluntary settlement. The comparison figures with other authorities in Wales is set out in section D.

5.10 The Letter also includes a summary of the Code of Conduct complaints relating to members of the Council and Town and Community Councils. In relation to Code of Conduct complaints for Caerphilly council, two were discontinued, there was no evidence of a breach in respect of one matter and one was referred to the Adjudication Panel for Wales.

There was one referral in relation to Bedwas, Trethomas and Machen Community Council where there was no evidence of a breach.

#### 5.11 **Conclusion**

5.12 Members will note that the Ombudsman has asked Councils to take the following actions

- Present the Annual Letter to the Cabinet to assist members in their scrutiny of the Council's complaints performance and any actions to be taken as a result.
- Engage with the Ombudsman's Complaints Standards work, accessing training for your staff and providing complaints data.
- Inform the Ombudsman of the outcome of the Council's considerations and proposed actions on the above matters by 15 November.

5.13 Whilst the Ombudsman has asked that the Annual Letter be reported to Cabinet this Council's reporting process is to the Standards Committee and full Council which provides all members with the ability to review the referrals to the Public Services Ombudsman for Wales.

5.14 In relation to the work with the Complaints Standards Authority, complaints officers within Caerphilly undertook training last year which has also been rolled out to staff across all service areas and four training sessions are being held in October with approximately 80 officers attending.

5.15 The Ombudsman will be advised of the presentation of this report to the Standards committee and Council together with the outcomes.

## **6. ASSUMPTIONS**

6.1 No assumptions are necessary within this report.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

7.1 This report is for information and so there is no requirement to undertake an Integrated Impact Assessment.

## **8. FINANCIAL IMPLICATIONS**

8.1 There are no financial implications arising from this report.

## **9. PERSONNEL IMPLICATIONS**

9.1 There are no personnel implications arising from this report.

## **10. CONSULTATIONS**

10.1 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.

## **11. STATUTORY POWER**


11.1 Public Services Ombudsman (Wales) Act 2019

Author: Lisa Lane Head of Democratic Services and Deputy Monitoring Officer


Consultees: Dave Street Acting Chief Executive  
Richard (Ed) Edmunds Corporate Director Education and Corporate Services  
Mark S Williams Corporate Director for Economy and Environment  
Robert Tranter Head of Legal Services and Monitoring Officer  
Stephen Harris Head of Corporate Finance/Section 151 Officer  
Mr David Lewis – Chair of Standards Committee

Appendix 1 Annual Letter 2020/2021

Ask for: Communications

 01656 641150

Date: September 2021

 communications@ombudsman.wales

Cllr. Philippa Marsden  
Caerphilly County Borough Council

By Email only: philipamarsden@caerphilly.gov.uk

### Annual Letter 2020/21

Dear Councillor Marsden

I am pleased to provide you with the Annual letter (2020/21) for Caerphilly County Borough Council.

This letter discusses information from a year unlike any other in recent memory, and as such may not be useful for establishing trends or patterns. Information received during this remarkable year will, however, bring insights on how public services reacted in the face of unprecedented demand and the most difficult of circumstances.

During the past financial year, we have intervened in (upheld, settled or resolved at an early stage) the same proportion of complaints about public bodies, 20%, compared with 2019/20.

Regarding new complaints received relating to Local Authorities, the overall number decreased by 12.5% compared with last year. This reflects the reduction in complaints being reported by Local Authorities during the Covid-19 pandemic. My office intervened in a similar proportion of the cases closed as in the previous year (13%).

However, we referred a higher proportion of Code of Conduct complaints to a Standards Committee or the Adjudication Panel for Wales: 3.4% compared to 2% in the previous year. This higher referral rate was also accompanied by a sharp increase in the number of Code of Conduct complaints received.

During 2020/21, despite challenges caused by the pandemic, my office made great strides in progressing work related to Complaints Standards and Own Initiative Investigations. The theme and consultation period of the first wider Own

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Initiative Investigation – into Local Authority Homelessness Assessments - was launched in September 2020 and the report is due in the coming months. We also commenced 4 extended Own Initiative Investigations, where we extended the scope of our work on a complaint already under investigation.

Last year, my office also pushed ahead with two new publications – ‘Our Findings’ and our first Equality Report.

‘Our Findings’ will be accessed via the PSOW website and replaces the quarterly casebooks. Our Findings will be updated more frequently and will be a more useful tool in sharing the outcomes of investigations. Our first Equality Report highlights the work done to improve equality and diversity, and to ensure that our service is available to people from all parts of society.

Local Authorities in Wales continued to submit data about the complaints they handled to the Complaints Standards Authority (CSA) during 2020/21, as well as receiving a model complaints procedure and accessing 76 virtual training sessions.

The data submitted for 2020/2021 shows:

- Nearly 12,000 complaints were recorded by Local Authorities
- This equates to 3.77 for every 1000 residents.
- Nearly half (44%) of those complaints were upheld.
- About 75% were investigated within 20 working days.
- About 9% of all complaints closed were referred to PSOW.

The CSA will publish data to the PSOW website for the first time in the coming year, marking a key achievement in the progress of this work. Training sessions have been delivered to almost all Local Authorities in Wales, and our offer of training remains open ended and will be delivered free of charge.

A summary of the complaints of maladministration/service failure received relating to your Council is attached.

Also attached is a summary of the Code of Conduct complaints relating to members of the Council and to the Town & Community Councils in your area.

I ask that the Council takes the following actions:

- Present my Annual Letter to the Cabinet to assist members in their scrutiny of the Council’s complaints performance and any actions to be taken as a result.
- Engage with my Complaints Standards work, accessing training for your staff and providing complaints data.
- Inform me of the outcome of the Council’s considerations and proposed actions on the above matters by 15 November.

This correspondence is copied to the Chief Executive of your Council and to your Contact Officer. Finally, a copy of all Annual Letters will be published on my website.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nick Bennett', written in a cursive style.

Nick Bennett  
Ombudsman

cc.Christina Harrhy, Chief Executive, Caerphilly County Borough Council  
By Email only: [harrhc@caerphilly.gov.uk](mailto:harrhc@caerphilly.gov.uk)

## Factsheet

### Appendix A - Complaints Received

Local Authority	Complaints Received	Received per 1000 residents
Blaenau Gwent County Borough Council	15	0.21
Bridgend County Borough Council	31	0.21
Caerphilly County Borough Council	46	0.25
Cardiff Council*	96	0.26
Carmarthenshire County Council	27	0.14
Ceredigion County Council	32	0.44
Conwy County Borough Council	32	0.27
Denbighshire County Council	32	0.33
Flintshire County Council	59	0.38
Gwynedd Council	30	0.24
Isle of Anglesey County Council	18	0.26
Merthyr Tydfil County Borough Council	15	0.25
Monmouthshire County Council	20	0.21
Neath Port Talbot Council	19	0.13
Newport City Council	31	0.20
Pembrokeshire County Council	28	0.22
Powys County Council	38	0.29
Rhondda Cynon Taf County Borough Council	40	0.17
Swansea Council	73	0.30
Torfaen County Borough Council	12	0.13
Vale of Glamorgan Council	39	0.29
Wrexham County Borough Council	43	0.32
<b>Total</b>	<b>776</b>	<b>0.25</b>

\* inc 2 Rent Smart Wales

## Appendix B - Received by Subject

<b>Caerphilly County Borough Council</b>	<b>Complaints Received</b>	<b>% Share</b>
Adult Social Services	3	7%
Benefits Administraion	0	0%
Children's Social Services	9	20%
Community Facilities, Recreation and Leisure	0	0%
Complaints Handling	5	11%
Covid19	0	0%
Education	1	2%
Environment and Environmental Health	4	9%
Finance and Taxation	0	0%
Housing	13	28%
Licensing	0	0%
Planning and Building Control	10	22%
Roads and Transport	0	0%
Various Other	1	2%
<b>Total</b>	<b>46</b>	

Appendix C - Complaint Outcomes  
 (\* denotes intervention)

County/County Borough Councils	Out of Jurisdiction	Premature	Other cases closed after initial consideration	Early Resolution/voluntary settlement*	Discontinued	Other Reports Not Upheld	Other Reports Upheld*	Public Interest Report*	Total
Caerphilly County Borough Council	8	14	20	3	0	0	0	0	45
% Share	18%	31%	44%	7%	0%	0%	0%	0%	



## Appendix D - Cases with PSOW Intervention

	No. of interventions	No. of closures	% of interventions
Blaenau Gwent County Borough Council	1	17	6%
Bridgend County Borough Council	2	30	7%
Caerphilly County Borough Council	3	45	7%
Cardiff Council	26	100	26%
Cardiff Council - Rent Smart Wales	0	2	0%
Carmarthenshire County Council	6	29	21%
Ceredigion County Council	4	31	13%
Conwy County Borough Council	5	31	16%
Denbighshire County Council	2	31	6%
Flintshire County Council	11	62	18%
Gwynedd Council	5	27	19%
Isle of Anglesey County Council	1	17	6%
Merthyr Tydfil County Borough Council	0	14	0%
Monmouthshire County Council	1	19	5%
Neath Port Talbot Council	1	17	6%
Newport City Council	5	29	17%
Pembrokeshire County Council	3	26	12%
Powys County Council	4	47	9%
Rhondda Cynon Taf County Borough Council	2	43	5%
Swansea Council	9	67	13%
Torfaen County Borough Council	0	11	0%
Vale of Glamorgan Council	5	38	13%
Wrexham County Borough Council	6	48	13%
<b>Total</b>	<b>102</b>	<b>781</b>	<b>13%</b>

## Appendix E - Code of Conduct Complaints

County/County Borough Councils	Discontinued	No evidence of breach	No action necessary	Refer to Adjudication Panel	Refer to Standards Committee	Withdrawn	Total
Caerphilly County Borough Council	2	1	0	1	0	0	4

## Appendix F - Town/Community Council Code of Complaints

Town/Community Council	Discontinued	No evidence of breach	No action necessary	Refer to Adjudication Panel	Refer to Standards Committee	Withdrawn	Total
Bedwas, Trethomas & Machen Community Council	0	1	0	0	0	0	1

## Information Sheet

Appendix A shows the number of complaints received by PSOW for all Local Authorities in 2020/2021. These complaints are contextualised by the number of people each health board reportedly serves.

Appendix B shows the categorisation of each complaint received, and what proportion of received complaints represents for the Local Authority.

Appendix C shows outcomes of the complaints which PSOW closed for the Local Authority in 2020/2021. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix D shows Intervention Rates for all Local Authorities in 2020/2021. An intervention is categorised by either an upheld complaint (either public interest or non-public interest), an early resolution, or a voluntary settlement.

Appendix E shows the outcomes of Code Of Conduct complaints closed by PSOW related to Local Authority in 2020/2021. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix F shows the outcomes of Code of Conduct complaints closed by PSOW related to Town and Community Councils in the Local Authority's area. This table shows both the volume, and the proportion that each outcome represents for each Town or Community Council.

Gadewir y dudalen hon yn wag yn fwiadol



## STANDARDS COMMITTEE – 28<sup>TH</sup> OCTOBER 2021

**SUBJECT: REPORT OF THE ADJUDICATION PANEL FOR WALES**

**REPORT BY: HEAD OF DEMOCRATIC SERVICES AND DEPUTY MONITORING OFFICER**

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

- 1.1 To advise the Standards Committee of the outcome of the investigation by the Adjudication Panel for Wales relating to Councillor David Poole.

### **2. SUMMARY**

- 2.1 To advise the Standards Committee of the decision of the Adjudication Panel for Wales relating to Councillor David Poole.

### **3. RECOMMENDATIONS**

- 3.1 Committee are asked to note the Decision of the Adjudication Panel for Wales set out at Appendix 1 to this report.

### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 To comply with the decision of the Adjudication Panel for Wales to notify the Council's Standards Committee of its decision.

### **5. THE REPORT**

- 5.1 The Committee were made aware at its meeting on 9<sup>th</sup> October 2019 that Cllr David Poole had made a self referral to the Public Services Ombudsman for Wales in relation to alleged breaches of the Code of Conduct and were advised that the Ombudsman had decided to investigate the referral. It was not appropriate to discuss the matter at that time as the matter could have been referred back to the Standards Committee for consideration.
- 5.2 Subsequently on 23<sup>rd</sup> February 2021, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in

relation to allegations made against Councillor Poole, namely that the allegations were that Councillor Poole had breached Caerphilly County Borough Council's Code of Conduct in that he; (i) Used his position to secure an advantage by deciding to buy shares in a company, IQE plc, on the basis of confidential information that he had received through his position as a Councillor at a meeting on 8 October 2018 (alleged breach of paragraph 7 (a) of the Code) and thereby brought the Authority and his office as a member into disrepute (alleged breach of paragraph 6 (1)(a) of the Code); (ii) Failed to disclose a personal interest and/or withdraw from a meeting on 18 February 2019 when a matter in which he had a prejudicial interest was being discussed, namely financial dealings with that same company (alleged breaches of paragraphs 11 (1) and 14 (1) of the Code).

5.3 A Case Tribunal was established and determined its adjudication by way of written representations at a meeting on 28 June 2021 which was conducted by video.

5.4 The Case Tribunal unanimously concluded decision that Councillor Poole ought to have been suspended from acting as a member of the authority as follows;

In respect of his breaches of paragraphs 6 and 7 of the Code, a period of five months;

In respect of his breaches of paragraphs 11 and 14 of the code, a period of two months concurrently. The Tribunal considered that the breach of paragraph 7 was the more serious matter, particularly since it gave rise to a breach of paragraph 6. The suspension was concurrent because the Tribunal considered that the breaches of paragraphs 11 and 14 effectively arose from the same facts.

The Authority and its Standards Committee are notified accordingly.

The Respondent has the right to seek the permission of the High Court to appeal the above decision. A person considering an appeal is advised to take independent legal advice about how to appeal.

#### CASE TRIBUNAL RECOMMENDATIONS

The Case Tribunal makes the following recommendation to the Authority and its standards committee;

That the Monitoring Officer re-emphasises the requirement for members to register interests as/when they arise and that the duty does not arise annually.

#### 5.5 **Conclusion**

The Standards Committee are asked to note the decision of the Adjudication Panel for Wales.

#### 6. **ASSUMPTIONS**

6.1 The content of the report represents the decision of the Adjudication Panel for Wales and as such no assumptions have been made

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

- 7.1 The content of the report represents the decision of the Adjudication Panel for Wales and as such there is no requirement for an Integrated Impact Assessment.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 The report is for noting only and as such there are no financial implications to consider.

## **9. PERSONNEL IMPLICATIONS**

- 9.1 The report is for noting only and as such there are no personnel implications to consider.

## **10. CONSULTATIONS**

- 10.1 The content of the report represents the decision of the Adjudication Panel for Wales and as such no formal consultation has been undertaken.

## **11. STATUTORY POWER**

- 11.1 Local Government Act 2000

Author: Lisa Lane Head of Democratic Services & Deputy Monitoring Officer

Consultees: Robert Tranter Head of Legal Services and Monitoring Officer

Appendix 1 Decision of the Adjudication Panel for Wales

Gadewir y dudalen hon yn wag yn fwriadol



**PANEL DYFARNU CYMRU  
ADJUDICATION PANEL FOR WALES**

**DECISION REPORT**

**TRIBUNAL REFERENCE NUMBER:** APW/003/2020-021/CT

**REFERENCE IN RELATION TO A POSSIBLE FAILURE TO FOLLOW THE  
CODE OF CONDUCT**

**RESPONDENT:** Councillor David Vincent Poole

**RELEVANT AUTHORITY:** Caerphilly County Borough Council

**1. INTRODUCTION**

- 1.1 A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.
- 1.2 The Case Tribunal determined its adjudication by way of written representations at a meeting on 28 June 2021 which was conducted by video. Its reasons for doing so were set out in the Listing Direction dated 29 April 2021 at paragraph 2.6 [A3].
- 1.3 References in square brackets within this Decision Report are to sections and pages within the bundle of Tribunal Case Papers unless otherwise stated.

**2. PRELIMINARY DOCUMENTS**

**2.1 Reference from the Public Services Ombudsman for Wales**

- 2.1.1 In a letter dated 23 February 2021, the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales (“the Ombudsman”) in relation to allegations made against the Respondent [E367]. The allegations were that the Respondent had breached Caerphilly County Borough Council’s Code of Conduct in that he;
- (i) Used his position to secure an advantage by deciding to buy shares in a company, IQE plc, on the basis of confidential information that he had received through his position as a Councillor at a meeting on 8 October 2018 (alleged breach of paragraph 7 (a) of the Code) and thereby brought the Authority and his office as a member into disrepute (alleged breach of paragraph 6 (1)(a) of the Code);
  - (ii) Failed to disclose a personal interest and/or withdraw from a meeting on 18 February 2019 when a matter in which he had a

prejudicial interest was being discussed, namely financial dealings with that same company (alleged breaches of paragraphs 11 (1) and 14 (1) of the Code).

2.1.2 The circumstances leading to the alleged breaches were as set out above and, in more detail, in the factual findings which follow below.

## **2.2 The Councillor's Written Response to the Reference**

2.2.1 Although the Respondent was interviewed as part of the Ombudsman's initial investigation, he did not respond to the Adjudication Panel's subsequent communications. A copy of the Ombudsman's Report was forwarded to him by the Adjudication Panel on 24 February 2021 by email [E383-6]. He was directed to reply to the allegations in the Report in accordance with paragraph 3 (1) of the Schedule of the Adjudications by Case Tribunals and Interim Case Tribunal's (Wales) Regulations 2001 by 17 March 2021. He did not reply to that correspondence. By a letter dated 24 March 2021 [E430], which was sent to him both by email and post, the Adjudication Panel informed him that, as a result of his failure to respond by the deadline of 17 March 2021, the case papers were being forwarded to this Case Tribunal. Again, no response was received to that communication.

2.2.2 The Relevant Authority confirmed the accuracy and use of the Respondent's email addresses and the Listing Direction confirmed the Tribunal's approach in light of the Regulations (see paragraphs 2.4 and 2.5 [A4]).

2.2.3 On 4 May 2021, however, the Respondent did contact the Adjudication Panel, he apologised for his earlier failures to make contact and then set out his position in relation to the case against him [E452-3]. The extent to which the contents of the email advanced his case beyond the information already received is considered below.

## **2.3 The Ombudsman's Written Representations**

2.3.1 No further representations were made.

## **3. FINDINGS OF FACT**

3.1 The Case Tribunal found the following **undisputed** material facts:

3.1.1 The Respondent was, at all times relevant, the leader of Caerphilly County Borough Council. He had been Leader since May 2017, having become a Councillor in May 2004.

3.1.2 He received training on the Council's Code of Conduct in May 2017 and undertook to observe the Code whilst fulfilling the duties of his office [B49, 61 and 281].

- 3.1.3 In his role, he attended Cardiff Capital Region (CCR) City Deal Regional Cabinet Meetings, a joint working arrangement between 10 Councils of the Cardiff Capital Region. Amongst other things, the Cabinet decided to invest in the CSC Project, a scheme designed to breathe new economic life into south east Wales through the creation of a manufacturing hub for semi-conductors. A company, CSC Foundry Ltd ('CSC'), was incorporated as a special-purpose vehicle in July 2017 to enable the CCR to give effect to its plans for the region. All 10 interested Councils had representatives acting as directors of CSC [B201].
- 3.1.4 At a CCR City Deal Regional Cabinet Meeting on 8 October 2018, the Respondent was present when a report prepared by Monmouthshire County Council the lead authority to CSC, and marked '*Confidential Appendix 1*', was considered [B192-199]. The report contained a number of appendices [B200 and following].
- 3.1.5 The documentation contained details of the financial arrangements between CSC and IQE plc ('IQE'), a company which had been engaged to work with CSC, the Welsh Government and the CCR City Deal to transform a disused building in Newport into the hub for the manufacture of semi-conductors for which it received a £38m grant. CSC controlled and managed that grant to IQE.
- 3.1.6 Contained within the report and its appendices were information about the level of IQE's investment and factors which affected its profitability (tooling costs, capacity and productivity). The report considered that productivity was "*significantly exceeding plan*", with a likely resultant acceleration to the 'tipping point' at which IQE achieved profitability (paragraph 9 [B194]). Further, within the appendices, an independent opinion was expressed about the likely consequent trajectory of IQE's share price by a well known firm of investment consultants, GVA [B234-5];
- "Whilst IQE's share price has dipped in recent months, we have been provided with evidence from analysts and the company's chairman to suggest that the share price should increase strongly again."* [B235]
- 3.1.7 The Respondent bought shares in IQE to the value of £2,034.55 on 22 October 2018 [B345]. He subsequently informed the Ombudsman that he had made the purchase with a view to making a profit [B303]. As a result, he believed that he had personal and prejudicial interests in respect of IQE [B293].
- 3.1.8 In January 2019, the Respondent attempted to amend his Register of Interests to reflect his ownership of shares in IQE. Following advice from the Monitoring Officer, no amendment was made. He was advised that, because of the level of his shareholding and the fact that the business was based outside the Council's area, it was not necessary to make any amendment [B125, 272-4 and 288-9].

- 3.1.9 On 21 January 2019, the Respondent reinvested dividends from his IQE shares by buying a further interest to the value of £111.57 [B346]. A further reinvestment of £111.33 was made on 31 May 2019 [B347].
- 3.1.10 At a CCR City Deal Regional Cabinet Meeting which took place on 18 February 2019, the Respondent made no declaration of interest regarding IQE (paragraph 2 [B252-6]). Amongst the matters discussed at that meeting was the Welsh Audit Office Review of the Cabinet's investment decisions, such decisions having included the grant to IQE (paragraph 11 [B256]). The Respondent remained in the room throughout the meeting [B291-2].
- 3.1.11 At a CCR City Deal Regional Cabinet Meeting on 29 April 2019, the Respondent *did* declare an interest regarding IQE and left the room during discussions which concerned CSC and/or IQE ([B257-262] and [B293-4]). After the meeting, he did not contact the Monitoring Officer to inform him of any change in respect of his registered interests [B294].
- 3.1.12 On 3 June 2019, at the prompting of the Deputy Monitoring Officer, the Respondent amended his Register of Interests to include IQE ([B96-101] and [B296-7]).
- 3.1.13 At a further CCR Cabinet Meeting which took place on 10 June 2019, the Respondent followed the same course of conduct ([B263-270] and [B299]).
- 3.1.14 The Respondent's declared interest was then discussed between him, officers from the Welsh Audit Office and the Monitoring Officer on 29 August 2019.
- 3.1.15 The Respondent sold his shares in IQE on 9 September 2019 for £1,244 [B348] and amended his Register of Interests to delete IQE [B107].
- 3.1.16 On 16 September 2019, the Respondent then referred himself to the Ombudsman [B33-4]. Within the letter, he stated that he understood that, in accordance with paragraph 11 (4) of the Code, he should have notified the Monitoring Officer of his declared interest at the meeting on 29 April 2019. He also stated that;  
*"..with the benefit of hindsight, by purchasing shares in IQE, I was preventing myself becoming involved in any decisions of CCR around IQE and the hoped for wider compound semiconductor industry growth in the area."*
- 3.2 The Case Tribunal reached the following findings on the **disputed** material facts which were identified within the Annex to the Listing Direction on the balance of probabilities [A8]:

- 3.2.1 Whether the Respondent sought to benefit from information which he obtained as a result of his involvement in the meeting of 8 October 2018 by buying shares in IQE;
- 3.2.1.1 The Respondent had access to the confidential information referred to at the meeting of 8 October 2018. Although initially stating that he could not remember whether he had access, he accepted that he would have done when he was interviewed as part of the Ombudsman's investigation (see [B306] where he accepted that he would have had access it "*without a doubt*"). However, he denied that there had been anything within it which caused him to purchase the shares [B307];
- 3.2.1.2 The Respondent's motivation for purchasing the shares was stated to have been a demonstration of a 'vote of confidence' in the regeneration scheme and IQE's involvement in it. That was the reason given at interview [B303], albeit that he had also accepted that he had hoped to benefit financially. It was the reason repeated more recently in his email of 4 May 2021 [E452-3];
- 3.2.1.3 The Tribunal noted the Respondent's experience and was particularly struck by the proximity of the dates of the meeting and the share purchase, 8 and 22 October 2018 respectively. The simple message in the GVA letter was clear; that IQE's share price was likely to have seen an increase following an earlier than predicted achievement of profitability. The Respondent could have purchased shares at any point before 22 October to show a 'vote of confidence' in IQE, but only chose to do so once in receipt of that prediction;
- 3.2.1.4 The Tribunal considered that it was also noteworthy that, within his self-referral, the Respondent had appreciated that the purchase of the shares had been unwise, albeit because he considered that he was conflicted in future discussions regarding IQE, rather than because he ought not to have benefited from the contents of the confidential information that was seen.
- 3.2.1.5 Taking all of those matters into account, the Tribunal concluded that the Respondent had probably sought to benefit from the confidential information that he received in connection with the meeting of 8 October 2018 when he bought the shares.
- 3.2.2 Whether the information contained within '*Confidential Appendix 1*' was publicly available in any event and, if so, at what time;

- 3.2.2.1 There was some doubt as to what information had been made public in connection with the meeting of 8 October 2018.
- 3.2.2.2 Paragraph 1 of the minutes of the meeting suggested that there had been some technical difficulties associated with the dissemination of paperwork before the meeting [B190], but the Ombudsman's letter of 21 May 2021 made it clear that the Agenda and the report itself *had "been available for public inspection"* [E461]. The minutes made it clear, however, that certain appendices to the report were *not* published, which appeared to include the GVA report [B191]. That made sense to us given the price sensitive nature of the predictions within it.
- 3.2.2.3 The Respondent alleged that he had no advantage over anybody else when he had decided to buy the shares [B310]. He relied upon the fact that the *"information was in the public domain"* [B308] since there *"was in a press release anyway"* [B309]. In his more recent email of 4 May 2021, he stated that *"the decision to grant a loan to IQE was fully reported in the local media in 2017 and in the financial press"* and that he made the purchase a year later when his *"knowledge of the Company was out of date"* [E452]. The press report from 14 July 2017 undoubtedly covered IQE's initial involvement as the Respondent had claimed on 4 May 2021, but what it did *not* cover and/or make public was the change in the productivity projections, anticipated profitability and the likely effect on IQE's share price in 2018 [B341-3]. The Respondent pointed to no other source of such information which *he* had had been aware of before the shares were purchased.
- 3.2.2.4 Having considered all of that evidence, the Tribunal concluded that, although some information about productivity and potential profitability was made publicly available within the report to the meeting of 8 October 2018 (e.g. [B194]), the opinion in respect of its share price was *not* part of that information [B325] (see paragraph 3.1.6 above). Further, the Claimant's suggestion that that information had been made available in a press report in 2017 was not correct. The report contained considerably greater up-to-date detail and, in the case of the confidential appendices, information which was potentially price sensitive and valuable to an investor.
- 3.2.3 Whether the Respondent sought to influence any decision in which he had a prejudicial interest;
- 3.2.3.1 The Respondent was only present at one meeting between the date of his purchase of the shares and subsequent

meetings when he declared an interest, the meeting of 18 February 2019;

3.2.3.2 The subject for discussion on 18 February was not IQE itself and/or factors which may have affected its profitability or share price, but the Welsh Audit Office report into the arrangements for the CCR City Deal [B256]. There was nothing within the minutes or other evidence which suggested that the Respondent had sought to influence any decision in which he had a prejudicial interest. The meeting simply noted the contents of the report and the 'lessons' which were to have been learnt from it. Although the Tribunal did not have a copy of the Welsh Audit Office report, there was nothing to suggest that the findings may have either undermined or improved IQE's position.

#### **4. FINDINGS OF WHETHER MATERIAL FACTS DISCLOSE A FAILURE TO COMPLY WITH THE CODE OF CONDUCT**

##### **4.1 The Code of Conduct**

4.1.1 The relevant parts of the Code of Conduct were as follows;

Paragraph 6 (1)(a);

*"You must-*

*(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;"*

Paragraph 7 (a);

*"You must not-*

*(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on all secure for yourself.. an advantage..."*

Paragraph 11 (1);

*"Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest is apparent."*

Paragraph 14 (1)(a);

*"Subject to subparagraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee-*

*(a) withdraw from the room, chamber or place where a meeting considering business is being held.."*

##### **4.2 The Respondent's Submissions**

- 4.2.1 The Respondent's position in respect of the breaches alleged under the Code was as follows;
- 4.2.1.1 Paragraph 6 (1)(a);  
When interviewed, the Respondent stated that he considered that he had "*fully complied*" with that paragraph of the Code [B311].
- 4.2.1.2 Paragraph 7 (a);  
In the Respondent's letter of self-referral, he went some way to admitting a breach of paragraph 7 (a). He stated that, "*with the benefit of hindsight*", he saw that the purchase of the shares prevented him from becoming involved in any future CCR decisions involving IQE [B34]. When subsequently interviewed, however, he stated that did not think that a lay person would have regarded his actions as having been in breach of that paragraph [B310].
- 4.2.1.3 Paragraph 11 (1);  
In his letter of self-referral, the Respondent fully accepted that he "*should have notified the council's Monitoring Officer of the disclosure of the IQE interest at the meeting of CCR in April 2019*" [B34], but that was in relation to a potential breach of paragraph 11 (4). He did not address a potential breach of paragraph 11 (1).
- 4.2.1.4 Paragraph 14 (1)(a);  
When interviewed, he '*did not think*' that he had breached that paragraph, albeit that he accepted that he held a prejudicial interest as stated above [B301].

### **4.3 The Ombudsman's Report**

- 4.3.1 It was contended that;
- 4.3.1.1 Paragraphs 6 (1)(a) and 7 (a);  
The Ombudsman considered that the facts were '*suggestive*' of breaches of both paragraphs of the Code. The Ombudsman believed that the nature of the confidential information which he had access to had led him to buy the shares in IQE. That information contained indications as to the likely value of the shares and he considered that the decision to purchase after sight of the commercially sensitive information demonstrated "*extremely poor judgment on his behalf*" [B26-7].
- 4.3.1.2 Paragraph 11 (1);



The Ombudsman appeared to consider that the Respondent had a personal interest as a result of the application of the wording of paragraph 10 (2)(a)(viii) of the Code; “*any body to which you have been elected, appointed or nominated by your authority*” [B13]. It was the Ombudsman’s case that the Respondent failed to declare that interest at the meeting of 29 April 2018.

- 4.3.1.3 Paragraph 14 (1)(a);  
The Ombudsman’s view was that the Respondent had a prejudicial interest which ought to have led him to withdraw from the meeting on 18 February 2019 (paragraph 50 [B28]), a view shared by the Monitoring Officer ([B114] and paragraph 7 [B273]).

#### **4.4 Case Tribunal’s Decision**

- 4.4.1 On the basis of the findings of fact, the Case Tribunal unanimously found that there were failures to comply with the Code as follows:

- 4.4.1.1 Paragraph 6 (1)(a);  
The Ombudsman’s Guidance in relation to this paragraph of the Code reminded members that their actions were subject to greater scrutiny than those of ordinary members of the public [B324].

The Tribunal considered that the Respondent’s breach of paragraph 7 of the Code (below) was conduct which brought his Authority into disrepute and, in particular, his office as leader.

- 4.4.1.2 Paragraph 7 (a);  
The Ombudsman’s Guidance referred to the need for members to be mindful of the fact that the paragraph within the Code applied at all times, not just when carrying out duties as a member [B326].

Having concluded that the Respondent had used his capacity to attempt to secure a pecuniary advantage for himself when he bought the shares in IQE relying on the confidential information referred to within paragraph 3.2.2, the Tribunal concluded that he had committed a breach of paragraph 7 (a).

- 4.4.1.3 Paragraph 11 (1);  
The Tribunal had some difficulty with this allegation because of the wording of paragraph 10 of the Code.

Paragraph 10 (2)(iv) defined a personal interest to include an interest which related to a corporate body which had a

place of business or land in the authority's area *and* in which the interest exceeded the value of £25,000. The Respondent did not meet each of those conjunctive tests in relation to his shareholding in IQE. Paragraph 10 (2)(a)(ix)(bb) related to companies, societies or other bodies "*directed to charitable purposes.*" We could not see that either of those sub-paragraphs or any other within paragraph 10 (2)(a) of the Code clearly defined the Respondent's shareholding as a personal interest.

Paragraph 10 (2)(c) was more generic but it extended the definition of personal interests to include something upon which an authority's decision might have affected a member's financial position (sub-paragraph (i)). The Tribunal considered the Respondent's share interest was likely to have been covered by paragraph 10 (2)(c)(i) because any decision in relation to IQE could have affected his financial position as a shareholder.

The Tribunal did not see the relevance of paragraph 10 (2)(a)(viii) which had been raised by the Ombudsman [B13].

The next question to address was whether the Respondent had attended a meeting at which "*that business [was] considered*".

The Respondent considered that it was not; it was only the 'process' or due diligence 'system' by which the investment had been made which was considered on 18 February 2019 (see the interview [B291] and his recent email of 4 May 2021 [E453]). The Tribunal concluded, however, that the Welsh Audit Office's review of CCR's investments clearly would have encompassed an examination of the £38m grant to IQE. In its broadest sense, IQE was either directly or indirectly 'considered' at the meeting.

- 4.4.1.4 Paragraph 14 (1)(a);  
The Tribunal considered that the Respondent held a prejudicial interest paragraph 12 (1) of the Code. He accepted that that was the case, as did the Monitoring Officer. He did not withdraw from the room on 18 February 2019 when item 11 was discussed and was in breach of paragraph 14 (1) of the Code as a result.

## **5. SUBMISSIONS ON ACTION TO BE TAKEN**

### **5.1 The Respondent's Submissions**

- 5.1.1 The Respondent had made no submissions which were directly related to mitigation, although comments within his interview and his email of 4 May 2021 contained some relevant points which we considered [E452-3].

## **5.2 The Ombudsman's submissions**

- 5.2.1 The Ombudsman made submissions by a letter dated 21 May 2021 [E460-2].

## **5.3 Case Tribunal's Decision**

- 5.2.1 The Tribunal considered all of the facts of the case, the Presidential Sanctions Guidance and the parties' submissions. It considered the following points to have been of particular relevance in mitigation;

5.2.1.1 The fact that there was no record of the Respondent having committed any previous breach of the Code of Conduct;

5.2.1.2 The fact that he did seek to register an interest in January 2019, but failed to do so as a result of the Monitoring Officer's advice;

5.2.1.3 His acceptance that his purchase of IQE shares led him to hold personal and prejudicial interests;

5.2.1.4 He did not seek to influence any decision concerning IQE that was taken at the meeting on 18 February 2019;

5.2.1.5 He then left the meetings on 29 April and 10 June 2019;

5.2.1.6 He then also resigned as leader, referred himself to the Ombudsman and accepted further training.

- 5.2.2 The following aggravating features were relevant;

5.2.2.1 The Respondent was an experienced council member and, as leader, had an influential position and was expected to have set the standards of conduct for the Council;

5.2.2.2 He had used confidential, price sensitive information to attempt to secure a personal advantage on the purchase of the IQE shares;

5.2.2.3 There was a significant gap between his declaration of interest at the meeting on 29 April and the amendment of his register of interests on 3 June 2019, the latter having been prompted by the Deputy Monitoring Officer, a further potential breach of paragraph 11 (4) of the Code;

5.2.2.4 Through the interview process, he had shown no real insight into his wrongdoing and/or acceptance of guilt;

5.2.2.5 In the latter stages of the process leading to this decision, he had failed to engage with the Adjudication Panel.

5.2.3 The Case Tribunal unanimously concluded decision that the Respondent ought to have been suspended from acting as a member of the authority as follows;

5.2.3.1 In respect of his breaches of paragraphs 6 and 7 of the Code, a period of **five months**;

5.2.3.2 In respect of his breaches of paragraphs 11 and 14 of the code, a period of **two months concurrently**.

The Tribunal considered that the breach of paragraph 7 was the more serious matter, particularly since it gave rise to a breach of paragraph 6. The suspension was concurrent because the Tribunal considered that the breaches of paragraphs 11 and 14 effectively arose from the same facts.

5.2.4 The Authority and its Standards Committee are notified accordingly.

5.2.5 The Respondent has the right to seek the permission of the High Court to appeal the above decision. A person considering an appeal is advised to take independent legal advice about how to appeal.

## 6. CASE TRIBUNAL RECOMMENDATIONS

6.1 The Case Tribunal makes the following recommendation to the Authority and its standards committee;

6.1.1 That the Monitoring Officer re-emphasises the requirement for members to register interests as/when they arise and that the duty does not arise annually.



Signed.....  
John Livesey  
Chairperson of the Case Tribunal

Date...30 June 2021...

Dr G Jones  
Panel Member

Mrs S McRobie  
Panel Member