

Pecyn Dogfennau Cyhoeddus

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

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



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Am bob ymholiad ynglŷn â'r agenda hwn cysylltwch â Helen Morgan
(Rhif Ffôn: 01443 864267 E-bost: morganh@caerphilly.gov.uk)

Dyddiad: Dydd Iau, 21 Medi 2017

Annwyl Syr/Fadam,

Bydd cyfarfod **Pwyllgor Safonau** yn cael ei gynnal yn **Ystafell Sirhywi, Tŷ Penallta, Tredomen, Ystrad Mynach** ar **Dydd Iau, 28ain Medi, 2017** am **1.30 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 cyfieithu ar y pryd yn cael ei ddarparu ar gais.

Yr eiddoch yn gywir,

Chris Burns
PRIF WEITHREDWR DROS DRO

AGENDA

Tudalennau

- 1 I dderbyn ymddiheuriadau am absenoldeb
- 2 I nodi ymddiswyddiad Mr Thenna Abbas.
- 3 I nodi a phenodiad Mr Peter Brunt.
- 4 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:-

5 Pwyllgor Safonau 0 31ain Mai 2017. 1 - 4

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

6 Llythyr Blynyddol gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru 2016-2017. 5 - 16

7 Adroddiad Chwythu'r Chwiban Blynyddol. 17 - 24

8 Model Protocol Datrysiad Lleol ar gyfer Cyngorau Tref a Chymuned. 25 - 34

Cylchrediad:

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

Mr P. Brunt, Mrs M. Evans, Mrs D. Holdroyd, Mr D. Lewis a Mr M. Stone

Cynghorydd Cymunedol Mrs G. Davies

Copi er gwybodaeth yn unig i:

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

A Swyddogion Priodol



STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN PARK
ON 31ST MAY 2017 AT 10 A.M.

PRESENT:

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

Mr T. Abbas, Mrs M. Evans and Mr. Stone

Community Councillor Mrs G. Davies

Councillors Mrs D. Price and C.P. Mann

Together with:

G. Williams (Interim Head of Legal Services and Monitoring Officer), L. Lane (Corporate Solicitor), H. Morgan (Senior Committee Services Officer)

Also in attendance for agenda item number 5:

G. Jenkins (Assistant Director - Children's Services)

1. APOLOGIES

There were no apologies for absence received.

2. DECLARATIONS OF INTEREST

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

3. MINUTES - 23RD FEBRUARY 2017

RESOLVED that the minutes of the meeting held on 23rd February 2017 (minute nos. 1 - 7, on page nos. 1 - 5), be approved as a correct record.

MATTER ARISING

4. Code of Conduct Training (minute no. 7)

The Interim Head of Legal Services and Monitoring Officer advised that following the query on the slide titled 'general rules you need to follow under the code', she had sought clarification on the statement 'do not prevent access to information'. She advised that it relates to Councillors withholding information that is readily available under FOI legislation.

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

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 4 of Schedule 12A of the Local Government Act 1972.

5. REPORT FROM PUBLIC SERVICES OMBUDSMAN FOR WALES

Consideration was given to the report from the Public Services Ombudsman for Wales relating to a complaint against Caerphilly County Borough Council and an update on the progress made in respect of the recommendation contained in the Ombudsman's report.

The Committee were reminded that they should consider where the matter would benefit from further consideration by the appropriate Scrutiny Committee. If this course of action is seen to be 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.

It was noted that 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. The report, dated 21st April 2017, was issued by the Ombudsman under Section 21 of the Public Services Ombudsman (Wales) Act 2005. Due to the sensitivity of the circumstances surrounding this case the Ombudsman has given a direction under Section 17(9) of the 2005 Act that his report is not for publication.

Mr G. Jenkins (Assistant Director - Children's Services) was present to respond to the queries raised by the Committee.

After due deliberation it was moved and seconded that for the reasons given at the meeting, and in view of due compliance with the recommendation, the Ombudsman's Report be noted and that the matter not be referred to the appropriate Scrutiny Committee. By show of hands (and in noting that there was one abstention) this was agreed by the majority present.

RESOLVED that:-

- (i) the contents of the Ombudsman's Report and the compliance with the recommendations contained therein be noted;
- (ii) in view of the compliance with the recommendation contained within the Ombudsman's report, the matter not be referred to the appropriate Scrutiny Committee.

The meeting closed at 10.40am

Gadewir y dudalen hon yn wag yn fwriadol



STANDARDS COMMITTEE – 28TH SEPTEMBER 2017

SUBJECT: ANNUAL LETTER FROM PUBLIC SERVICES OMBUDSMAN FOR WALES 2016-2017

REPORT BY: INTERIM HEAD OF LEGAL SERVICES AND MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To update the Standards Committee on the Annual Letter (2016-2017) from the Public Services Ombudsman for Wales regarding complaints received and investigated by the Ombudsman. The report will also be placed before Council on the 10th October 2017.

2. SUMMARY

- 2.1 To inform Members of the Public Services Ombudsman for Wales Annual Letter 2016/17.

3. LINKS TO STRATEGY

- 3.1 The duty to oversee complaints received and investigated by the Ombudsman is within the terms of reference of this Committee.
- 3.2 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 and thriving Welsh language
 - A globally responsible Wales

4. THE REPORT

- 4.1 The Annual Letter setting out a clear and concise breakdown of all complaints received and investigated by the Public Services Ombudsman for Wales during 2016/17 in relation to Caerphilly was received on 1st September 2017.
- 4.2 A copy of the Annual Letter is attached at Appendix 1 to this Report.

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 a new set of statistics regarding Ombudsman's interventions which includes all cases upheld as well as early resolution and voluntary settlements.

4.4 This data is self-explanatory and therefore no further comment is offered other than to ask the Committee to formally note the following:

4.4.1 In relation to Caerphilly, the number of complaints received by the Ombudsman was at a similar level (56 in 2015/16 compared to 54 this year).

4.4.2 The figures show that in the last year the number of complaints referred to the Ombudsman in relation to Housing is the biggest area of complaint. The data has been analysed and of the twelve complaints made in relation to Housing, six were made prematurely i.e. had been referred to the Ombudsman before exhausting the Council's Corporate Complaints Procedure and one complaint was referred out of time and the remaining five referrals were not taken into investigation. Practically, it is not possible to prevent premature referrals to the Ombudsman. The Council's Complaints Policy is available via the Council's web site and hard copy booklet readily available to the public.

4.4.3 The Annual Letter notes that there was a significant drop in Children's Social Services Complaints from 9 to 3; there were no upheld complaints this year and only 7% of cases required PSOW intervention which is the second lowest of any local authority.

4.4.4 Members will note that overall 14 premature complaints were received by the Ombudsman. This is slightly less than the Local Authority average of 15 but as mentioned there is nothing further that can be done by the Council to prevent premature referrals.

4.4.5 There were four early resolutions/interventions by the PSOW. Three of the four were social services complaints the fourth was in relation to waste collection. A summary of the cases can be found on the PSOW website www.ombudsman-wales.org.uk under the Ombudsmans Casebook.

4.4.6 **Code of Conduct Complaints**

Details of the Code of Conduct complaints for elected Members will be found at Section E of the appendix to the letter. There were 7 code of conduct complaints made against Members of Caerphilly County Borough Council during 2016/17. Six were closed after initial consideration, one found no evidence of a breach.

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. **FINANCIAL IMPLICATIONS**

6.1 None.

7. PERSONNEL IMPLICATIONS

7.1 None.

8. EQUALITIES IMPLICATIONS

8.1 None.

9. CONSULTATIONS

9.1 This Report reflects the contents of the Annual Letter and therefore has been no formal consultation on the contents of this Report. A copy of the Report has been provided to the consultees listed below.

10. RECOMMENDATIONS

10.1 It is recommended that the Committee note the report. The report will be placed before Council at the meeting to be held on 10th October 2017.

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: Lisa Lane, Corporate Solicitor

Consultees: For information only

Chris Burns, Interim Chief Executive

Nicole Scammell, Acting Director of Corporate Services and Section 151 Officer

Dave Street, Corporate Director, Social Services

Christina Harray, Corporate Director Communities

Gail Williams Interim Head of Legal Services and Monitoring Officer

Councillor Dave Poole, Leader of the Council

Councillor Barbara Jones, Deputy Leader and Cabinet Member for Finance
Performance and Governance

Diane Holdroyd Chair of Standards Committee

Background Papers:

Reports to Standards Committee on 27th September 2016 – Annual Letter from PSOW 2015/16

Appendices:

Appendix 1 Annual Letter from Public Services Ombudsman 2016/17

Gadewir y dudalen hon yn wag yn fwriadol

Our ref: NB/LJ/MA



lucy.john@ombudsman-wales.org.uk

matthew.aplin@ombudsman-wales.org.uk

1 September 2017

Sent by email: Mr Chris Burns, burnsc1@caerphilly.gov.uk

Dear Mr Burns

Annual Letter 2016/17

Following the recent publication of my Annual Report I am delighted to provide you with the Annual Letter (2016/17) for **Caerphilly County Borough Council**.

Overall my office's caseload has increased by 13% this year, with public body complaints seeing a 3% increase.

Once again there has been a further rise in the percentage of health complaints, from 36% to 38%. Housing (13%), social services (9%) and planning and building control (8%) remain other significant areas of complaint.

The number of Code of Conduct complaints decreased by 14% from 2015/16 and I am particularly pleased about this as historically my office experiences a surge in complaints in the year leading up to local elections.

It is concerning that of the 18 local authorities that agreed with my office to implement recommendations, only 10 of them complied 100% within the target time set. My office will be looking closely at compliance levels over the coming year.

During 2016/17, I produced six public interest reports and one 'special report'. All but one of the investigations were health related and, worryingly, three of the cases were against the same hospital – Ysbyty Glan Clwyd run by Betsi Cadwaladr University Health Board. The special report, issued against Hywel Dda University Health Board for failing to implement my recommendations following an early resolution, was the first of its kind against a health board and underlines the need to comply with commitments made through early resolution in the same way as I would expect for recommendations arising from upheld complaints.

The remaining public interest report related to a local authority's role in overseeing the savings of looked after children.

Earlier this year I issued a thematic report entitled [Ending Groundhog Day: Lessons from Poor Complaints Handling](#). This highlighted cases from across devolved public services in Wales where investigations by public bodies have been inadequate and failed the service user. The report emphasised the need for effective governance across the Welsh public sector, robust staff training and improved methods of data collection. If you have not considered the report I would encourage you to do so.

I continue to place importance on the improvement function of my office. Last year I assigned Improvement Officers to several bodies and this will continue in 2017/18. In engaging with these bodies we hope to see ongoing improvements in complaints handling, learning and putting things right, along with the governance arrangements necessary for continuous improvement.

I am hopeful that the National Assembly will shortly be introducing new Ombudsman legislation that will help drive up standards. It is important that Wales continues to adopt best practice in complaint handling and public service improvement and does not get left behind.

In reference to your local authority the number of complaints received was at a similar level, (56 in 2015/16 compared to 54). Housing was the most complained about area again accounting for nearly a quarter of the complaints received (12). It is pleasing to see that Children's Social Services saw a significant drop (from 9 to 3). There were no upheld complaints this year and only 7% of cases required PSOW intervention which is the second lowest of any local authority.

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.

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

Yours sincerely



Nick Bennett

Public Services Ombudsman for Wales

CC: Cllr David Poole, Leader

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	12	19	2	1
Bridgend County Borough Council	44	39	2	2
Caerphilly County Borough Council	54	50	2	2
Cardiff Council	143	99	3	4
Carmarthenshire County Council	44	51	2	2
Ceredigion County Council	32	21	2	1
City and County of Swansea	52	67	3	3
Conwy County Borough Council	28	32	1	1
Denbighshire County Council	24	26	0	1
Flintshire County Council	39	43	4	2
Gwynedd Council	32	34	1	1
Isle of Anglesey County Council	24	19	0	1
Merthyr Tydfil County Borough Council	10	16	1	1
Monmouthshire County Council	18	26	1	1
Neath Port Talbot County Borough Council	38	39	0	2
Newport City Council	26	41	1	2
Pembrokeshire County Council	29	34	1	1
Powys County Council	54	37	4	1
Rhondda Cynon Taf County Borough Council	47	66	0	3
Torfaen County Borough Council	23	25	1	1
Vale of Glamorgan Council	41	35	1	1
Wrexham County Borough Council	46	38	1	1

B. Complaints Received by Subject with Local Authority average

Caerphilly County Borough Council	Complaints Received	Local Authority Average
Adult Social Services	8	4
Children's Social Services	3	4
Community Facilities, Recreation and Leisure	2	1
Complaints Handling	7	3
Education	2	3
Environment & Environmental Health	6	4
Housing	12	5
Planning and Building Control	9	7
Roads and Transport	2	3
Self Funding Care Provider	1	0
Various Other	2	3

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

Local Authority	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Early Resolution/ Voluntary Settlement	S16 Report - Upheld in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Caerphilly	20	14	17	0	4	0	0	0	0	55
Caerphilly (adjusted)	10	15	18	0	6	0	1	0	0	51

D. Number of cases with PSOW intervention

Local Authority	Number of complaints with PSOW intervention	Total number of closed complaints	% of complaints with PSOW intervention
Blaenau Gwent County Borough Council	3	12	25
Bridgend County Borough Council	5	42	12
Caerphilly County Borough Council	4	55	7
Cardiff Council	19	133	14
Carmarthenshire County Council	6	47	13
Ceredigion County Council	8	39	21
City and County of Swansea	4	54	7
Conwy County Borough Council	4	33	12
Denbighshire County Council	0	27	0
Flintshire County Council	13	41	32
Gwynedd Council	5	33	15
Isle of Anglesey County Council	3	27	11
Merthyr Tydfil County Borough Council	3	10	30
Monmouthshire County Council	3	22	14
Neath Port Talbot County Borough Council	3	38	8
Newport City Council	7	30	23
Pembrokeshire County Council	4	33	12
Powys County Council	9	53	17
Rhondda Cynon Taf County Borough Council	6	48	13
Torfaen County Borough Council	2	22	9
Vale of Glamorgan Council	9	39	23
Wrexham County Borough Council	13	47	28

E. Code of Conduct Complaints Closed

Local Authority	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Caerphilly	6	0	1	0	0	0	0	7

Appendix

Explanatory Notes

Section A compares the number of complaints against the Local Authority which were received and investigated by my office during 2016/17, 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 2016/17 with the Local Authority average for the same period. The figures are broken down into subject categories.

Section C compares the complaint outcomes for the Local Authority during 2016/17, with the average outcome (adjusted for population distribution) during the same period. Public Interest reports issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 are recorded as 'Section 16'.

Section 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 2016/17.

Feedback

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

Gadewir y dudalen hon yn wag yn fwriadol



STANDARDS COMMITTEE – 28TH SEPTEMBER 2017

SUBJECT: ANNUAL WHISTLEBLOWING REPORT

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES & S151 OFFICER

1. PURPOSE OF REPORT

- 1.1 This report provides an anonymised summary of whistleblowing investigations undertaken during the period 1st April 2016 to 31st March 2017.

2. SUMMARY

- 2.1 At the meeting held on 15th 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 1st April 2016 to 31st March 2017.

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 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).

- 4.4 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.
- 4.5 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.
- 4.6 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.
- 4.7 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.
- 4.8 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.
- 4.9 Members of the Committee received a training session on the new policy on 2nd March 2015.
- 4.10 This report contains an anonymous summary of three formal whistleblowing investigations undertaken during the course of the last financial year, for information.
- 4.10.1 Two of the investigations were undertaken by a Solicitor and one by a Head of Service. HR Officers supported each investigation.
- 4.11 One of the investigations was as a result of an anonymous complaint. The identity of the Whistleblower was not revealed in one of the other investigations.
- 4.12 Each investigation was thorough and involved interviewing appropriate officers across the Authority and reviewing a wide range of documentation. In all cases the extent of the 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'.
- 4.13 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.

8. 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 Members are asked to note the contents of this report.

11. REASONS FOR THE RECOMMENDATIONS

11.1 To receive an update on the operation of the Council's Whistleblowing Policy.

12. STATUTORY POWER

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

Author: Lynne Donovan, Acting Head of Human Resources and Organisational Development
Consultees: Nicole Scammell, Acting Director of Corporate Services & Section 151 Officer
Gail Williams, Interim Head of Legal Services and Monitoring Office
Councillor Colin Gordon, Cabinet Member for Corporate Services

Background:
Report to Policy and Resources Scrutiny Committee 11th November 2014
Report to Council 18th November 2014

Appendices:
Appendix 1 Anonymised Summary of Whistleblowing Investigations

Gadewir y dudalen hon yn wag yn fwriadol

Appendix 1

Anonymous summary of formal whistleblowing investigations undertaken during the period 1st April 2016 to 31st March 2017

	Nature of concern	Outcome
1.	<p>Allegation 1) The Authority was not complying with its statutory obligation to maintain written records.</p> <p>Allegation 2) Lack of compliance with the statutory timetable requirement.</p> <p>Allegation 3) Training not up to date.</p>	<p>The allegations were not substantiated. However, in order to improve internal practices and procedures a number of recommendation were made by the Investigating Officer :</p> <p>Allegation 2)</p> <ul style="list-style-type: none">• A document reflecting the decision making process should be produced.• An implementation and monitoring plan should be produced.• Relevant Authorities / Agencies should be informed. <p>Allegation 3)</p> <ul style="list-style-type: none">• Database records and data recording should be scrutinised and monitored to ensure that training records are accurately maintained and refresher courses are undertaken as and when indicated to ensure the Authority complies with best practice.

	Nature of concern	Outcome
2.	<p>Allegation 1) There are a number of family relationships between staff.</p> <p>Allegation 2) There is favouritism and nepotism towards family members and staff who are "favoured".</p> <p>Allegation 3) There is favouritism in the application of sickness leave in that certain employees who report sick are allowed to take annual leave as opposed to taking the day as sick whereas other employees are not.</p> <p>Allegation 4) Staff are leaving work early and special arrangements are made for them to be picked up for work by work vehicles.</p> <p>Allegation 5) Supervisors ignore their phones when they are sat in the office and also do not pick up messages that are received on their phones and respond to those messages or return the calls.</p> <p>Allegation 6) There is a lack of confidentiality amongst Supervisors</p> <p>Allegation 7) Supervisors have given employees a "dressing down" in a full office in front of other staff which is seen as inappropriate.</p> <p>Allegation 8) Rotas are manipulated to give favouritism to family members / friends.</p> <p>Allegation 9) Staff are not made aware of rotas with the result that staff often attend for the early shift because they are unaware of what shift they are on.</p> <p>Allegation 10)</p>	<p>Allegations 4, 5, 6, 8, 11, 12, 13 were not substantiated.</p> <p>Allegations 1, 3, 9 and 10 were substantiated.</p> <p>Allegations 2 and 7 were partially substantiated.</p> <p>The following recommendations were made by the Investigating Officer:</p> <p>Allegation 1) This allegation is a matter of fact. A reminder should be sent to all staff to again to draw their attention to their obligations and duties under the Code of Conduct for Employees.</p> <p>Allegation 3) Consideration to be given by the Acting Head of Human Resources and Organisational Development as to whether there should be a corporate direction in relation to the issue of sickness absence and annual leave being used where employees are off work ill.</p> <p>Allegation 9) Supervisors need to remain fair and professional at all times. Training may be required in this regard.</p> <p>Allegation 10) Whilst this allegation was substantiated, this was not considered to be a cause for concern, as information pertinent to the individuals' jobs was being cascaded. However, it is recommended that the Head of Service should implement an appropriate method of communication to ensure that relevant information is communicated through the appropriate means long term.</p> <p>Allegation 13) A formal investigation needed to be undertaken</p>

<p>Not all supervisors undertake team briefings so there is a lack of communication that staff should be aware of.</p> <p>Allegation 11)</p> <p>The PDR process is not explained to staff and they are just asked to go in and sign documentation.</p> <p>Allegation 12)</p> <p>Recording data is manipulated by some staff and this is not being dealt with.</p> <p>Allegation 13)</p> <p>Sickness absence and absenteeism is not dealt with consistently because of family relationships</p>	
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	Nature of concern	Outcome
3.	<p>Allegation 1) Pupil prevented from obtaining accurate grade</p> <p>Allegation 2) A member of staff was involved in the recruitment process that appointed a member of their family to a post.</p>	The allegations were not substantiated.



STANDARDS COMMITTEE – 28TH SEPTEMBER 2017

SUBJECT: MODEL LOCAL RESOLUTION PROTOCOL FOR COMMUNITY AND TOWN COUNCILS

REPORT BY: INTERIM HEAD OF LEGAL SERVICES AND MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To advise Members of the Model Local Resolution Protocol that had been drawn up by One Voice Wales for use by any Community and Town Council when dealing with low level complaints about its members.
- 1.2 To ask Members to endorse the proposal that all Town and Community Councils in Caerphilly be requested to consider adopting the Model Resolution Protocol attached at Appendix 1 or to use the Model version to develop their own Protocol.

2. SUMMARY

- 2.1 To consider the attached Model Protocol drawn up by One Voice Wales.

3. LINKS TO STRATEGY

- 3.1 The recommended course of action arising from this report contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015 as part of the role of the Standards Committee is to promote and maintain high standards of conduct of members and co-opted members of the Authority including Community Councils and their members:

- *A resilient Wales*
- *A more equal Wales*
- *A Wales of cohesive communities*
- *A globally responsible Wales*

4. THE REPORT

- 4.1 At a recent meeting of all-Wales Monitoring Officers, One Voice Wales gave a presentation on the Model Local Resolution Protocol for Community and Town Councils which they have prepared to assist such Councils when considering low level complaints. A copy of the Model is attached at Appendix 1.
- 4.2 Members will note from the background set out in the Model document that the Public Service Ombudsman for Wales has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution. However to date there has not been a common process for Community and Town Councils to follow in dealing with such matters. To assist the sector, One Voice Wales has drawn up the attached as a model protocol which any Community and Town Council can use in dealing with such complaints.

- 4.3 The Model Protocol is meant as a starting point for Community and Town councils and is intended for use where complaints are low level and have been made by an officer (not the Clerk) or another member. Serious complaints or those made by the clerk or a member of the public are recommended for referral to the Ombudsman. Further details as to the use of process are set out in the Model. Individual Town or Community Councils may wish to add or amend the attached model to suit their particular needs.
- 4.4 The Protocol advises that a complaint would need to be sent to the Clerk / Proper Officer of the Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman. The Protocol sets out a proposed resolution process and possible results of the process together with the timing of the process with the intention that it is completed as quickly as possible to resolve the issue.
- 4.5 Members are asked to consider the recommendations set out in the report below.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 The recommendations set out in this report contribute to the Well-being Goals as set out in Links to Strategy above. It is consistent with the ways of working as identified as they promote high standards of conduct of members for Town and Community Councils.

6. EQUALITIES IMPLICATIONS

- 6.1 There are no equalities implications arising from this report.

7. FINANCIAL IMPLICATIONS

- 7.1 Whilst the Monitoring Officer provides governance advice to Town and Community Councils resources are insufficient to operate the Local Resolution Protocol on behalf of such Councils. As such Town and Community Councils will be responsible for the implementation and adoption of the Protocol individually.

8. PERSONNEL IMPLICATIONS

- 8.1 There are no personnel implications arising from this report.

9. CONSULTATIONS

- 9.1 The report reflects the views of the consultees.

10. RECOMMENDATIONS

That the Standards Committee

- 10.1 The Committee note the content of the report
- 10.2 The Committee endorse the proposal that all Town and Community Councils in Caerphilly be requested to consider adopting the Model Resolution Protocol or to use the Model version to develop their own Protocol.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To inform Members of the Standards Committee and Clerks of Town and Community Councils of the availability of the model Local Resolution Protocol.

12. STATUTORY POWER

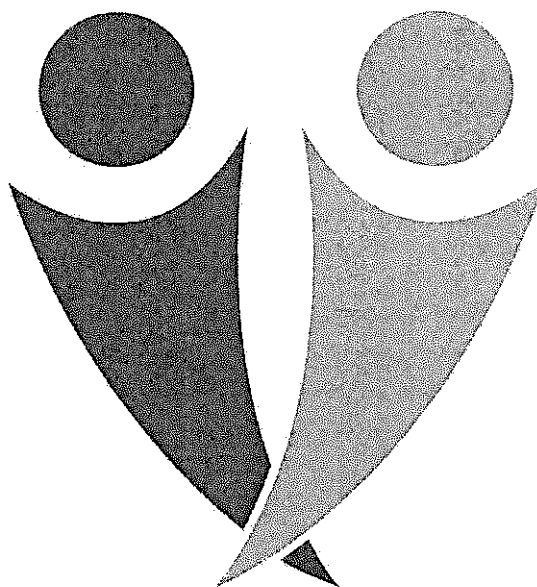
- 12.1 Local Government Act 2000.

Author: Lisa Lane, Corporate Solicitor
Consultees: Chris Burns, Interim Chief Executive
Nicole Scammell Acting Director Corporate Services and S151 Officer
Gail Williams, Interim Head of Legal Services and Monitoring Officer
Diane Holdroyd, Chair of Standards Committee
Cllr Barbara Jones, Deputy Leader and Cabinet Member for Finance, Performance and Governance

Appendices:
Appendix 1 Model Resolution Protocol from One Voice Wales

Gadewir y dudalen hon yn wag yn fwriadol

Un Llais Cymru



One Voice Wales

**Model Local Resolution Protocol
for Community and Town Councils**

ONE VOICE WALES

Model Local Resolution Protocol for Community and Town Councils

Background

The Public Service Ombudsman has agreed to the principle of referring some complaints against Members back to Community and Town Councils for a local resolution. However to date there has not been a common process for Community and Town Councils to follow in dealing with such matters. To assist the sector, One Voice Wales has drawn up the following as a model protocol which any Community and Town Council can use in dealing with such complaints.

This model protocol is meant as a starting point for Community and Town councils. Individual councils may wish to add or amend this model to suit their particular needs. Councils wishing to use this process should first of all be clear about its purpose and intention, formally adopt it in its current or in a revised form and ensure that all Councillors are provided with a copy for their attention. The Council should then determine the framework through which it is operated which may require the establishment of a Committee or Panel or an extension of the terms of reference of an existing Panel or Committee such as a Complaints Panel or Committee. In the case of establishment of a new Panel it is important that terms of reference are prepared and approved by the Council. In either case it will be important for Councils to document in the terms of reference as to what will happen if there is a lack of co-operation shown by the member concerned or a breakdown occurring during the operation of the process. For example, in such cases the default position might be that the matter is referred to the Public Ombudsman for Wales.

The Local Resolution Process

Issues which should be considered under this process

Low level complaints about Members, including:

- Minor complaints from Members about Members
- Minor complaints from Officers about Members
- Members alleged to have not shown respect and consideration for others – either verbally or in writing

Issues which should not be considered under this process

Complaints which must be directed to the Public Services Ombudsman for Wales, including:

- Complaints instigated by a member of the public
- Serious complaints – breaches of the Code of Conduct/failure to disclose interests/bullying/abuse of position or trust/repeated breaches
- Complaints made by the Clerk/Proper Officer
- Vexatious, malicious or frivolous complaints
- Members' complaints about officers which should be dealt with using the Council's internal complaints process
- Repetitive low level complaints

The Process

The complaint

The complaint would need to be sent to the Clerk/Proper Officer of the Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman. If appropriate, therefore, the Clerk/Proper Officer should firstly seek an early resolution of any such dispute by liaising informally with the individual members concerned prior to the resolution process described below. It is vitally important that the 'accused' member is given full details of the complaint against them so that in the interests of natural justice they are in a position to prepare their response to the accusation.

Resolution Process

The involvement of the Chair/Vice Chair of the Council in the following process is not to adjudicate on the complaint, but to attempt to get the members/officers involved to come to an agreement as to how the issue(s) could be resolved on an amicable basis.

The Clerk/Proper Officer will act as a facilitator for the resolution process below.

If the complaint is between Members other than the Chair of the Council, the Clerk/Proper Officer and the Chair will meet individually with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint is between Members, one of whom is the Chair of Council, but not the Vice Chair, the Clerk/Proper Officer and the Vice Chair will meet with the complainant and Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against a Member other than the Chair of Council, the Clerk/Proper Officer and the Chair of Council will meet with the officer and the Member subject of the complaint to seek an agreed resolution.

If the complaint has been made by an officer/employee, but not the Clerk/Proper Officer, against the Chair of Council, the Clerk/Proper Officer and the Vice Chair of Council will meet with the officer and the Chair to seek an agreed resolution.

If the complaint has been made by the Clerk/Proper Officer, then it is likely to be best practice that this complaint is forwarded by way of a complaint to the Ombudsman.

Possible results of the process

If an agreement is reached by Members and/or officers during this Stage then no further action is required.

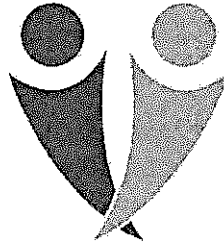
If agreement cannot be reached the aggrieved Member/officer would always have the opportunity of referring the matter to the Ombudsman.

Examples of agreements might include issue of a letter of apology, a written undertaking or commitment not to breach the Code of Conduct in the future, a commitment to undertake training or an agreement that on the basis of the evidence that no further action should be taken and the matter be closed.

Time for the process

It is the intention that all of the processes can be completed as quickly as possible to resolve the issue. However exact timing will depend on the availability of individuals to attend the meetings.

Un Llais Cymru



One Voice Wales

ABOUT ONE VOICE WALES

One Voice Wales is the national representative organisation for Community and Town Councils throughout Wales. The vision subscribed to by One Voice Wales is:

“Working with local councils in Wales to shape places communities want to live in”

One Voice Wales aims to support Community and Town Councils in achieving this vision and has adopted the following Mission Statement to guide its work:

“To represent the interests of Community and Town Councils; raise awareness and understanding of this primary tier of government; and work collaboratively with our partners to ensure the sector contributes fully to the goal of developing dynamic and sustainable communities in Wales.”

One Voice Wales
24c College Street
Ammanford
SA18 3AF
01269 595 400
admin@onevoicewales.org.uk
www.onevoicewales.org.uk

Important Points to Note in preparing a process for use by the Council

The Clerk/Proper officer, Chair and Vice Chairs of Councils should consider receiving appropriate training in facilitation and mediation to be in a position to maximise the benefit of this process. Councils wishing to pursue this route should contact One Voice Wales for guidance.

Councils might want to include some guidance where complaints which are most appropriately dealt with under this process are referred back to the Council by PSOW. The PSOW could actively do this if the Council has an approved process.

It is suggested that any meetings held with a view to discussing the issues of complaints and/or resolving matters are at the very least minuted, if not recorded. This is to ensure that agreements are captured. This will also be useful in the event that matters break down or escalate and need to be referred to the PSOW. It may also be useful as evidence in the event of further similar breaches of the conduct and future conduct.

Councils need to be clear on their powers in respect of code of conduct matters. The Ombudsman has seen examples of councils who have deemed it appropriate to fully investigate a code complaint, decide that there has been a breach and some have even thought it appropriate to consider the issue of a sanction. Investigations of possible breaches of the Code are matters for the Ombudsman. The Local Government Act 2000 gives him the authority to carry out such investigations. The Council has no legal authority to undertake such investigations or to make findings of a breach of the Code of Conduct, which are decisions that can only be reached by a Standards Committee or the Adjudication Panel for Wales.