



## STANDARDS COMMITTEE – 12TH FEBRUARY 2019

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

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

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

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

### **2. SUMMARY**

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

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

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

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

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

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

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

Recommendation (a)

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

Recommendation (b)

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

Recommendation (c)

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

Recommendation (d)

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

Recommendation (e)

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

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

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

## **6. EQUALITIES IMPLICATIONS**

- 6.1 None arising from the content of the report.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 None arising from the content of the report.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 None arising from the content of the report.

## **9. CONSULTATIONS**

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

## **10. RECOMMENDATIONS**

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

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

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

## **12. STATUTORY POWER**

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

Author: Robert Tranter, Head of Legal Services and Monitoring Officer

Consultees: FOR INFORMATION ONLY

Christina Harrhy, Interim Chief Executive

Mark S. Williams, Interim Director Communities

Rhian Kyte, Head of Regeneration and Planning

Tim Stephens, Development Control Manager

Marcus Lloyd, Head of Infrastructure

Robert Hartshorn, Head of Public Protection, Community and Leisure Services

Lisa Lane, Interim Deputy Monitoring Officer

Diane Holdroyd, Chair of Standards Committee

Appendices:

Appendix 1A Public Interest Test

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