

Agenda



Pwyllgor Safonau

Date: Dydd Mawrth, 15 Tachwedd 2022

Time: 5.30 pm

Venue:

To: Councillors Davies, D Fouweather, A Mitchell (Cadeirydd), Watkins (Dirprwy Gadeirydd), Worthington, P Cockeram and F Hussain

Item	Wards Affected
1	<u>Ymddiheuriadau dros Absenoldeb</u>
2	<u>Datganiadau o ddiddordeb</u>
3	<u>Cofnodion y Cyfarfod Diwethaf</u> (Tudalennau 3 - 8)
4	<u>Materion yn codi</u>
5	<u>Cyhoeddiadau'r Cadeirydd</u> To receive any announcements the Chair wishes to make.
6	<u>Trafodaeth yr Arweinydd Grwp</u> (Tudalennau 9 - 12)
7	<u>Polisi Chwythu'r Chwiban</u> (Tudalennau 13 - 18)
8	<u>Cylch Gorchwyl y Fforwm Safonau Cenedlaethol</u> (Tudalennau 19 - 20)
9	<u>Adroddiad Blynyddol yr Ombwdsmon 21/22</u> (Tudalennau 21 - 28)
10	<u>Adroddiad Blynyddol y Pwyllgor Safonau</u> (Tudalennau 29 - 52)
11	<u>Diweddariad ar Gwynion</u> (Tudalennau 53 - 58)
12	<u>Dyddiad y Cyfarfod Nesaf</u> Thursday 12 January 5.30pm – Committee Room 1
13	<u>Gwe-ddarllediad y Pwyllgor</u> Standards Committee, 15 November 2022 - YouTube

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Date of Issue: 8 Tachwedd 2022



Minutes

Standards Committee

Date: 14 July 2022

Time: 5.30 pm

Venue: Council Chamber – Hybrid Meeting

Present: Councillors A. Mitchell (Chair), K. Watkins (Vice Chair) J. Davies, P. Worthington, R. Morgan, G. Nurton, Councillor D Fouweather, P Cockeram, F Hussain. Gareth Price (Head of Law and Regulation). Taylor Strange (Governance Support Officer)

Apologies: Councillor D Fouweather

1 Apologies for Absence

Councillor Fouweather.

2 Declarations of Interest

None.

3 Minutes of the Previous Meeting

The minutes of the previous meeting held on Thursday, 14th April 2022 were accepted as a true record.

4 Matters Arising

No matters arising.

5 Chair's Announcements

The Chair had no announcements to be made.

6 Forward Work Programme report

The Head of Law and Standards welcomed the committee members to the first standards meeting following the election and introduced councillor Cockeram to the well as thanking councillor Davies for his continued participation as the community council representative. The membership and terms of reference of Standards Committee was set out in the first section of the report.

The Head of Law and Standards highlighted that every year, the Standards Committee annual report to Council sets of a draft work program for the forthcoming year. However, it was for the Committee to decide what matters to raise and when to raise them.

The Head of Law and Standards noted that there were two items to consider at the next meeting in November, the first being the new requirements for the committee to meet with political group leaders within 6 months of the election to review compliance with their new duty to promote ethics within their political groups. The Head of Law and Standards noted that this has been done voluntarily for years but now it's a required duty. The second item was to consider their annual report to Council, which was now a statutory requirement and copies had to be sent to the Ombudsman and the community councils.

The Head of Law and Standards stated that there was flexibility in how this could be done informally or in a formal setting and could consist of meeting individual leaders or meeting them as part of a group, as well as having the leaders create a written document. It was also noted a governance handbook was due in May but the final version was still awaited from Welsh Government.

Regarding the reports it was noted by the Head of Law and Standards that other committees in Wales asked the leaders for a written report. The Head of Law and Standards then went on to state the number of political groups and their composition such as the requirement of two members for a group to be formed.

The Head of Law and Standards asked for clarification from the committee on how they would like this requirement to take place.

- Councillor Cockeram queried that there were 4 independents in Lliswerry rather than the three stated by the Head of Law and Standards when the breakdown of political groups was given. The Councillor also asked if a formal and informal process could occur with the leaders of the political groups. Lastly it was asked why the committee only dealt with complaints and not compliments given to the council.

The Head of Law and Standards noted only three independents of the four had grouped together. The Head of Law and Standards also went on to state that the Governance and Audit committee were responsible for both compliments and complaints under new regulations.

- G.Nurton also agreed with both a formal meeting with the leaders and a written report.
- R.Morgan also agreed with Councillor Cockeram and asked whether the first meeting the political leaders could explain their thoughts and that they fully understand what they wanted.
- The Chair also agreed with the above sentiment and asked if the meeting could take place before the Council meeting in November.
- G.Nurton also asked whether single member political groups could also be contacted to inform them that the committee is there should they need assistance.

The Head of Law and Standards stated that including these single members in a formal meeting is unlikely due to their nature of not being duty bound, however the gesture of writing to them is something that could be done.

The Chair noted that this will be arranged with the governance team as well as Law and Standards so that an appropriate response can be drafted

The Chair highlighted the range of dates to work towards in the upcoming year and to use the dates within the forward work programme as key milestones as well as dealing with issues as they would arise.

The Head of Law and Standards stated a review of the council's whistleblowing policy had been incorrectly included within the Scrutiny forward work programme and that this would be brought to the standards committee.

The Head of Law and Standards also asked for clarification of what the committee would like from the written report regarding the political group leaders as well as highlighting whether they wanted to modify the examples from other councils as well as whether the report is desired before or after the meeting with the group leaders.

- The chair recommended the report come after the first meeting with the group leaders.
- R.Morgan agreed with the chair that it would be better to speak to them first.

The Head of Law and Standards then asked whether they would like to meet the members individually whether that be on the same day in different time slots or on different days, or whether one group meeting with them all would be better suited.

The chair preferred meeting everyone together to avoid any ambiguity should the meetings be conducted separately.

Several other committee members agreed with the chair's sentiment.

- The chair asked whether community Councillors also were given the same message as regards to ethics and standards.

The Head of Law and Standards stated that they did not need to but that a review of the community council's ethics does occur, information provided by community council clerks support this as the community councils have a variety of systems set up as well. The Head of Law & Standards had delivered a presentation on standards for those community councillors attending the last Liaison group meeting, as well as handing the information from the presentation to members who could not attend. It is also noted by the Head of Law & Standards that the presentation received positive feedback as well as stating that many of the community councils subscribe to "One Voice Wales".

The Chair stated the next key item was to occur in December, which was the training review, he asked whether a meeting could be added that also included the community councils.

The Head of Law and Standards that this was unlikely due to the total size of members of the community councils, but that the information is typically circulated by the Clerks. Additional training could be provided but due to the subscription to "one voice wales" the community councils are likely to know what to do. It was stated however by December there should be more concrete information on this. As well as a hybrid training meeting that occurred with those not in attendance being sent the information from the training.

The Head of Law and Standards mentioned a lot of new training is needed for the council following the election so he informed the community council that training for them would occur on the other side of December.

The Chair would like the meeting to occur in the first half of December.

7 Complaints

The Head of Law and Standards gave a general update on the number of complaints and highlighted two specific cases from the previous meeting, one of which had been dealt with, with the other still being investigated. It was further noted two section 69 complaints in the report, neither were investigated by the Ombudsman the report in the agenda gave summaries of the complaints.

The first complaint regarded a former member of the community council, the Ombudsman did not find it in the public interest to investigate the member as he had resigned as well as not finding enough evidence to deal with the complaint.

The second complaint also involved a former community council member and concerned an altercation of a physical assault within the Member's ward which had been referred to the police. The Ombudsman concurred that the altercation occurred within the Member's private life and did not bring their office or the council.

- Councillor Davies asked about a complaint in a previous meeting, of which he highlighted his disappointment that the Ombudsman did not follow through with the complaint as he felt the harm caused to the Clerk who was the complainant was significant. Councillor Davies asked if some action could be taken on this.

The Head of Law and Standards stated the Ombudsman has the final say in what they deem should be investigated and brought to committee, and then referred to the process of how the ombudsman decides what is significant enough to refer.

- Councillor Davies found it strange that there is no right to appeal the Ombudsman decision.
- Councillor Cockeram also agreed, and highlighted why there was no process in place to sanction members of a council in reference to disbarment of their ability to be a councillor in the future.
- The Head of law and Standards referred to the Ombudsman's processes and how he takes actions, as well as stating that in that particular case the resignation of the member did not play a role in the decision not to investigate the complaint.
- R.Morgan understood there was no formal appeal but asked if there was an informal feedback that could be provided.

The Head of Law and Standards that the right to correct facts so that they are true and not missing information is permitted but the right to feedback of a decision is something that is not required.

- R.Morgan highlighted again if any form of feedback could be given.

The Head of Law and Standards noted that a customer satisfaction questionnaire may be provided. It was also noted that the Ombudsman has too much power and not enough action can be done by committees.

The Head of Law and Standards also highlighted one further new complaint involving a city councillor but that the complaint was not being considered by the Ombudsman as the councillor was not acting as a member of the council when the complaint occurred as under article 10 members do have a right to freedom of expression. The complaint concerned comments posted on a community Facebook page which was managed by the councillor in question.

The Head of Law and Standards noted 4 complaints from Langstone community council, no action was taken on the complaints by the Ombudsman, with 2 members having resigned. It was also noted in 2 of the complaints it was a dispute between members with the Head of Law & Standards highlighting the Ombudsman is unlikely to take up these disputes.

Another allegation was referred to, but that involved the private life of a councillor of which the Ombudsman does not review due to the impact not being on the councillor's role as a member of the council. Lastly, he did highlight that there are quite a few complaints from certain community councils.

The Chair referred to the next meeting on the 10th of November which was also include political group leaders.

8 Date of the Next Meeting

The next meeting will be held on the 10th November 2022 at 5:30pm

Mae'r dudalen hon yn wag yn

<u>Promoting Compliance With the Code of Conduct</u>					
Report by:					
Political Group:					
No. of members:		No. trained on Code:	X (Y%)		
For the period:					
<u>Number, Source and Level of Complaints</u>					
	Informal	Local Resolution (Stage)			PSOW
		1	2	3	
Public					
Officers					
Councillors					
<u>Steps taken to Promote Compliance (To Be Completed by Group Leader)</u>					
Include matters such as:					
<ul style="list-style-type: none"> - demonstrating personal commitment to and attending relevant development or training around equalities and standards; - encouraging group members to attend relevant development or training around equalities and standards; - ensuring nominees to a Committee have received the recommended training for that Committee; 					

<ul style="list-style-type: none"> - promoting civility and respect within group communications and meetings and in formal Council meetings; - promoting informal resolution procedures in the Council, and working with the Standards Committee and monitoring officers to achieve local resolution; - promoting a culture within the group which supports high standards of conduct and integrity; - attend a meeting of the Council's Standards Committee if requested to discuss Code of Conduct issues;
<ul style="list-style-type: none"> - work to implement any recommendations from the Standards Committee about improving standards; - work together with other group leaders, within reason, to collectively support high standards of conduct within the Council.

Ethics code of conduct training 16/05/2022 Attendance

Saeed Adan

Miqdad al Nuaimi

Andrew Mitchell (Chair of Standards)

Paul Bright

Paul Cockeram

Steve Cocks

Emma Corten

Bev Davies

Deb Davies

Pat Drewett

Matthew Evans

John Harris

Debbie Harvey

Tim Harvey

Gavin Horton

Jason Hughes

Farzina Hussain

Debbie Jenkins

Jason Jordan

Kerry Watkins (Member of Standards Committee)

Malcolm Linton

Stephen Marshall

Tracy McKim

Bev Perkins

James Peterson

William Routely

Meirion Rushworth

Allan Screen

Mark Spencer

Andrew Sterry

Kate Thomas

Trevor Watkins

Yvonne Forsey

Gavin Horton

Laura Lacey

Phil Hourihane (Chambers)

John James (Chambers)

Lauren James (Chambers)

Mark Howells (Chambers)

Report



Standards Committee

Part 1

Date: 15th November 2022

Subject Whistle-Blowing Policy.

Purpose To review the Council's Whistle-Blowing Policy and make any recommendation or comments regarding its effectiveness.

Author Head of Law & Standards

Ward General

Summary As part of the additional, non-statutory functions allocated by the Council, Standards Committee are responsible for reviewing the effectiveness of the Whistle-Blowing Policy and to provide advice or make recommendations.

The Whistle-Blowing Policy has now been updated and it is compulsory for all staff to undertake mandatory e-learning. The training is mandatory order to ensure that all employees understand what whistle-blowing means and how this is vital to maintaining the integrity of the Council's decision-making processes and taking action to address any wrongdoing.

A copy of the Whistle-Blowing Policy is attached to this report, which also sets out numbers of complaints received by Newport City Council in 2021/22, compared with most of the other Welsh authorities

Standards Committee are asked to review the policy and its operation and make any comments or recommendations regarding its effectiveness.

Proposal To review Whistle-Blowing policy and its operation and make any comments or recommendations regarding its effectiveness.

Action by Head of Law & Standards

Timetable Immediate

Background

1. The Public Interest Disclosure Act 1998 provides statutory protection against victimisation for employees who complain about wrongdoing on the part of their employers. The protection only applies where the person who makes the disclosure reasonably believes that:
 - (a) they are acting in the public interest, which means that protection is not normally given for personal grievances; and
 - (b) The whistle-blowing disclosure is about one of the following:
 - (i) criminal offences (this includes financial improprieties, such as fraud)
 - (ii) failure to comply with duties set out in law
 - (iii) miscarriages of justice
 - (iv) endangering someone's health and safety
 - (v) damage to the environment
 - (vi) covering up wrongdoing in any of the above categories.
2. Every public sector employer is required to have a Whistle-Blowing Policy in place which provides a clear framework to enable employees to raise concerns within the Council without fear of victimisation, discrimination or disadvantage, rather than seeking a resolution to the problem outside the Authority. However, it is acknowledged that some whistleblowing complaints which raise serious allegations about criminal behaviour or a breach of statutory duty may have to be referred to external Regulators for consideration under their statutory enforcement powers.
3. As part of the additional, non-statutory functions allocated by the Council, Standards Committee are responsible for reviewing the effectiveness of the Whistle-Blowing Policy and to provide advice or make recommendations.
4. The Council's Whistle-Blowing Policy has now been updated and published on the Intranet as part of the suite of HR policies and guidance. This updated policy was communicated to all staff through the electronic staff bulletin published on 30th September 2022. Staff were also advised that Whistle-Blowing training is now mandatory for all employees and they were provided with a link to the on-line e-learning module on the NHS eLearning website. The training is mandatory in order to ensure that all employees understand what whistle-blowing means and how this is vital to maintaining the integrity of the Council's decision-making processes and taking action to address any wrongdoing.
5. A copy of the Whistle-Blowing Policy is attached to this report. The policy applies to all employees, contractors, suppliers, elected members, and agency staff working for the Council on Council premises or carrying out duties for the Council. The policy is also commended to individual School Governing Bodies for adoption.
6. The Whistle-Blowing Policy has to be read in conjunction with the Members and Employee Codes of Conduct, as well as the Council's Disciplinary and Grievance procedures, as the duty to report wrong-doing underpins the standards of behaviour

expected from elected members and Council officers. As a 'prescribed person' under the legislation, the Ombudsman is required to report annually on whistleblowing disclosures made in the context of Code of Conduct complaints.

7. To assist with the policy review, data has been shared with 18 of the 22 unitary authorities in Wales and the Mid Wales Fire & Rescue Service, about the numbers of whistleblowing complaints submitted during 2021/22. The numbers of complaints received by each authority which submitted the data is set out in the Table below:-

Whistleblowing Notifications for 2021/2022

Council	Complaints
Blaenau Gwent County Borough Council	2
Bridgend County Borough Council	1
Cardiff County Council	3
Carmarthenshire County Council	5
Caerphilly County Borough Council	0
Ceredigion County Council	0
Flintshire County Council	1
Isle of Anglesey County Council	2
Merthyr Tydfil County Borough Council	0
Mid and West Wales Fire and Rescue Service	0
Monmouthshire County Council	1
Neath Port Talbot County Borough Council	11
Newport City Council	5

Pembrokeshire County Council	2
Rhondda Cynon Taff County Borough Council	18
Swansea Council	0
Torfaen County Council	0
Vale of Glamorgan Council	0
Wrexham County Borough Council	4

8. The highest numbers of complaints were received in Rhondda Cynon Taff County Borough Council (18) and Neath, Port Talbot (11). There were 5 whistleblowing complaints received in Newport, which is average by comparison with other similar authorities.
9. Of the 5 whistleblowing complaints submitted in Newport in 2021/22:-
 - 2 were not upheld
 - 3 members of staff resigned in response to the allegations, but would have been dismissed had they not left
10. There is one outstanding whistleblowing complaint from a former member of staff involving potential fraud in relation to the Covid-19 Test, Trace Protect service, which is still under investigation by the Chief Internal Auditor.
11. The numbers of complaints demonstrate a general awareness of the Whistle-Blowing Policy among staff and their protected rights to make a complaint. However, there is also an assurance that most of the complaints related to internal disciplinary and grievance matters and not serious allegations of illegality or malpractice.

Financial Summary

There are no financial implications

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (1-5)	Risk Probability of risk occurring (1-5)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk	Risk Owner Officer(s) responsible for dealing with the risk?

			or reduce its effect?	
Not reviewing the Whistle-Blowing Policy would reduce its effectiveness and expose the Council to risks of unlawful behaviour or malpractice	4	1	Regularly reviewing the policy and making recommendation for improving the content and its communication to staff	Head of Law & Standards and HR/OD Manager

*Taking account of proposed mitigation measures.

Links to Council Policies and Priorities

The underlying principles of protective public interest disclosure and whistle-blowing are all enshrined in the Council's corporate and well-being objectives.

Proposed action

To review Whistle-Blowing policy and its operation and make any comments or recommendations regarding its effectiveness.

Comments of Chief Financial Officer

There are no financial implications

Comments of Monitoring Officer

Set out in the Report.

Comments of Head of People Policy & Transformation

There are no specific staffing or policy implications

Fairness and Equality Impact Assessment:

- Wellbeing of Future Generation (Wales) Act
- Equality Act 2010
- Socio-economic Duty
- Welsh Language (Wales) Measure 2011

The principles of fairness and equality are embodied within the Whistle-Blowing Policy. No FEIA is required, as the Committee are just reviewing its operation and making recommendations

- There are no negative impacts in terms of equalities or social disadvantage. The whistle-blowing policy is based on fairness, transparency and equality and prevents any employee from being discriminated against by virtue of a protected disclosure.
- In terms of the sustainable development principle and 5 ways of working

Long-term – The Annual Report will assist Standards Committee in taking a long-term view about improving whistle-blowing

Prevention – The Annual Report guide will help to prevent future whistleblowing complaints

Integration – The Policy has been produced in consultation with the staff and recognised trade unions

Collaboration – The Whistle-Blowing Policy will assist staff in making complaints and facilitate the resolution of complaints, in a more collaborative way.

Involvement – The Annual Report will encourage greater involvement in reporting and resolving complaints

Background Papers

The Council's Whistle-Blowing policy.

Dated: 28th October 2022

National Standards Committee Forum **Terms of Reference (2022)**

The purpose of the Forum is to share best practice and provide a forum for problem solving across the

- 1) 22 principal councils
- 2) 3 fire and rescue authorities
- 3) 3 national park authorities

in relation to the work of Standards Committees.

The role of the forum is to share information and so any decisions will have to be made by the individual Standards Committees. There will be times when the Forum would need to make a decision about administrative matters relating to its own practices and administration of meetings.

- Membership – Chair, with the Vice-Chair to attend in the absence of the Chair
- Decision making will typically be by consensus but where a formal decision is required then there will be one vote per authority with the Chair of the Forum having the casting vote
- Election of Chair and Vice Chair – every two years to provide consistency
- Secretariat Support – the WLGA will send out agendas, prepare minutes and can prepare basic reports analysing practice across Wales. Officer support to prepare more extensive reports is dependent upon a monitoring officer from a council volunteering/agreeing to undertake the work
- Frequency of Meetings – 2 meetings per year following a meeting of the Monitoring Officers Group of Lawyers in Local Government
- Agendas items will be suggested by Monitoring Officers based on discussions with their Standards Committees and the Forum will also have a forward work plan to which members could contribute
- Each region will be asked to send 1 monitoring officer to represent the local authorities in that area, with 1 additional monitoring officer each for fire & rescue authorities and national park authorities (making 6 monitoring officers in total)

Each meeting could have a small agenda followed by a Training Session

Speakers from the Ombudsman's Office, Adjudication Panel for Wales and Welsh Government could address the Forum on their work

Mae'r dudalen hon yn wag yn

Report



Standards Committee

Part 1

Date: 15th November 2022

Subject **Ombudsman's Annual Report 2021/2022**

Purpose To report the Ombudsman's Annual letter and Annual Report and the numbers of complaints of maladministration and misconduct dealt with during 2021/22

Author Head of Law & Standards

Ward General

Summary Following the publication of his Annual Report for 2021/22, the Ombudsman has now issued the Council with his Annual letter, which sets out information relating to the numbers of complaints of maladministration and misconduct which were referred to his office during this period relating to Newport City Council and its Councillors

Proposal **To note the Report and the Ombudsman's Annual letter and Annual report for 2021/22**

Action by Head of Law & Standards

Timetable Immediate

Background

1. Following the publication of his Annual Report for 2021/22, the Ombudsman has now issued the Council with his Annual letter, which sets out information relating to the numbers of complaints of maladministration and misconduct which were referred to his office during this period relating to Newport City Council and its Councillors
2. Last year was the final year of Nick Bennett's term of office as Ombudsman, a position which he had held since 2014. He was replaced by Michelle Morris as from April 2022. The new Public Services Ombudsman for Wales is developing her Strategic Plan setting out how her office will work to continue to deliver a fair and independent complaints service, for those dissatisfied with public services, and use the learning from complaints to make improvements.
3. During the financial year from April 2021 to March 2022, the numbers of new complaints received by the Ombudsman's office about local authorities increased by 47% compared with the previous year and are now well above pre-pandemic levels. In total, the Ombudsman received 1143 new complaints of maladministration on the part of local authorities in Wales. However, the level of interventions remained broadly the same, with the Ombudsman's office intervening in 14% of complaints against local authorities compared with 13% in the previous year.
4. In Newport, there were 40 complaints of maladministration referred to the Ombudsman in 2021/22 an increase of 29% compared with the previous year. This represents 0.26 per 1000 residents. Therefore, the increase in Newport was well below the national average. There were 4 interventions by the Ombudsman in Newport cases, compared with 5 in the previous year, which resulted in the complaints being resolved or settled. However, there were no public interest reports issued in 2021/22 relating to findings of serious maladministration.
5. In 2021/22 the Council received 208 compliments, 4267 comments and 321 complaints. This is the highest number of complaints ever received and an increase of 37% compared with the previous year. However, 96% of complaints were resolved through the Council's internal complaints process. Also, the Ombudsman continues to express the view that councils should not view large numbers of complaints negatively, as it does demonstrate that the complaints procedures are transparent and effective and that the public are able to raise concerns about service delivery.
6. The main areas of corporate complaints were in relation to Refuse, waste collection and highways, complaints handling, Planning & Building Control. The Council received 50 social services complaints in 2021/2022, which was an increase of 36% compared with the previous year, but only 3 complaints were escalated to a stage 2 independent investigation, which was a decrease of 50%.
7. With regard to Code of Conduct complaints, the Ombudsman received 294 new complaints about member misconduct in 21/22, which was a 5% reduction compared with 20/21. However, the Report points out that there were an abnormally high number of complaints last year and compared to 2019/20, he received many more new Code of Conduct complaints, particularly in relation to members of Town and Community Councils. In 2021/22, there were 171 complaints about Town and Community Councillor, an increase of 2% compared with the previous year. By comparison, numbers complains against councillors at County and County Borough Councils decreased by 17%.

8. The Ombudsman's office closed slightly fewer Code of Conduct complaints than last year, but investigated a much higher proportion. They also referred twice as many complaints to the Adjudication Panel for Wales and Standards Committees compared with last year. The Report comments that this increase in investigations and referrals demonstrates that there were many more potentially serious issues that could undermine public confidence in the people who represent them.
9. In 2021/22, The Ombudsman's Office:-
 - closed 281 complaints about the Code of Conduct (a decrease of 3%)
 - completed 39 investigations (63% more than last year)
 - discontinued 19 investigations and/or decided not to take any further action. The main reason for taking no further action was that the councillors had acknowledged their behaviour and apologised, or had taken steps to put things right.
 - made 11 referrals to Standards Committees
 - made 9 referrals to the Adjudication Panel for Wales.
10. The Annual Report confirms that it was necessary for the Ombudsman to refer those complaints to maintain public confidence in those holding public office. Although they still refer a very small proportion of all Code of Conduct complaints received, it was more than half of those they decided to investigate. It was also twice as many as last year and the highest number of referrals made since 2012/13. The Ombudsman expressed concern in his commentary about this increase in referrals. It suggests that the ethical standards of a small number of councillors have the potential to undermine public confidence and the reputation of local government democracy. However, in all referrals, the Standards Committee and the Adjudication Panel upheld the complaints and found breaches of the Code, which given the Ombudsman additional assurance that the two-stage process for considering these complaints is sound.
11. As in previous years, about a half of all new Code of Conduct complaints received were about 'promotion of equality and respect' (51% of all complaints). Other areas of complaint related to disclosure and registration of interests' (11%) and 'the duty to uphold the law' (10%).
12. Many cases that are categorised under 'respect' are lower-level complaints. These are the complaints where the Ombudsman's office tend to decide quickly that they will not investigate, or where they recommend that the complaint is resolved locally, through the Local Resolution Protocol. However, some of these complaints and many of those that are categorised under 'equality' commonly involve more serious allegations of bullying or discrimination.
13. In Newport, 4 Code of Conduct complaints were referred to the Ombudsman about City Councillors in 2021/212 and 9 complaints regarding Community Councillors. 2 of the complaints against City Councillors were not accepted for investigation as there was no evidence of any breach and 1 was discontinued. There is reference in the Annual report to the one serious complaint which was referred to Standards Committee in the financial year 2021/22. Of the 9 community council complaints, 3 were discontinued, there was no evidence of any breach in 3 cases and no action was required in the other 3. The outcome of these complaints has been reported to Standards Committee throughout the year, on an anonymised basis.

14. The outcome of the one referral and misconduct hearing was reported to Council in the last Standards Committee Annual Report in November 2021. Standards Committee decided unanimously that the Councillor concerned had failed to comply with paragraph 7(a) of the Code of Conduct in that she had improperly tried to use her position as an elected Councillor and member of the Health Board to secure medical priority for a constituent, in breach of standard Practice procedure and patient confidentiality under GDPR, and also in pursuing a personal complaint about the Practice to the Health Board. The Committee considered that this was a serious breach of the Code, in view of a number of aggravating factors, in particular the failure of the Councillor to show any insight or understanding about what she had done wrong, and her deliberate and punitive act in pursuing an unfair complaint about the Practice. In order to reflect the seriousness of the misconduct, to act as a deterrent to others and to restore public trust and confidence, the Committee decided that the Councillor Watkins should be suspended from her role as a Councillor for a period of 3 months and recommended to Council that she be removed and replaced as a representative on the Health Board.

15. Whistle-blowing

The Annual Report notes that, since 1 April 2017, the Ombudsman is a 'prescribed person' for the purposes of whistle-blowing under the Public Interest Disclosure Act 1998. The Act provides protection for employees who make a whistle-blowing complaint in the public interest about alleged wrongdoing.

16. As a 'prescribed person', the Ombudsman is required to report annually on whistleblowing disclosures made in the context of Code of Conduct complaints only. In 2021/22, the Ombudsman received 27 Code of Conduct complaints that would potentially meet the statutory definition of disclosure from employees or former employees of a council. Almost a half of those disclosures (12) related to allegations that the members concerned had 'failed to promote equality and respect'. The Ombudsman investigated 11 of these complaints. The Ombudsman's office concluded investigations into 8 relevant complaints which were ongoing from 2020/21. Of these, 1 case was referred to a Standards Committee, who censured the member, and 1 case was referred to the Adjudication Panel for Wales, who have not yet decided that complaint. In 3 cases, they discontinued the investigation and in another 3 cases, they decided that they did not need to take any action further action in respect of the matters investigated.

17. Case studies

The Annual Report makes reference to a number of case studies, as examples of misconduct and sanctions:-

- Caerphilly CBC

The Councillor represented Caerphilly County Borough Council as a member of the Cardiff Capital Region (CCR) City Deal's Regional Cabinet. The complaint was that he had purchased shares in a company that had been leased premises by CCR City Deal and that he had then not declared an interest as appropriate. Following the Ombudsman's referral, the Adjudication Panel for Wales decided that the councillor had improperly used his position in attempting to gain an advantage for himself by purchasing shares in a company after receiving confidential information relating to the Cardiff Capital Region City Deal. It also found that the councillor had a personal and prejudicial interest in the company which he had failed to declare and he did

not leave a meeting when the matter was being considered by the Council. The Panel suspended the councillor 5 months for several breaches of the Code of Conduct.

- Abertillery and Llanhilleth Community Council

The complainant in this case alleged that a community councillor had shown a disregard for the principle of equality. This was demonstrated by making comments about another member's hearing impairment and deliberately making it difficult for that member to participate in Council meetings. The Ombudsman referred the matter to the Adjudication Panel for Wales. The Panel decided that the councillor breached 4 paragraphs of their Council's Code of Conduct, including by not showing respect and consideration for others and by using bullying behaviour. He also breached the Code for failing to engage with the investigation. The Panel suspended the councillor for 10 months.

- Tywyn Town Council

A member of that Council had been disrespectful to the Clerk and had repeatedly undermined her. Following the Ombudsman's referral, Gwynedd Council's Standards Committee found that the member had used discriminatory language towards the Clerk relating to her gender and had used disrespectful, bullying and harassing behaviour towards her. A censure was the only sanction available to the Standards Committee as the member had resigned shortly before the hearing. However, the Committee put on record that, had the member not resigned, he would have been suspended for 6 months.

18. Promoting better practice

The Annual report contains a number of observations and recommendations for promoting better practice.

- (a) The Ombudsman wants to see the overall number of low-level complaints about members of Town and Community Councils reduce and is also concerned about the high number of referrals this year;
- (b) The Ombudsman strongly believes that the way to overturn these trends is through training for councillors on the Code of Conduct. He also encourages greater use of local resolution procedures. These procedures can deal with problems early and prevent the need for further escalation to our office, which can improve working relationships.
- (c) Since not all members take up opportunities to undertake training, the Ombudsman was pleased that, under the Local Government and Elections (Wales) Act 2021, Town and Community Councils must now make and publish a plan about the training provision for its members and staff. The first training plans must be ready and published by 5 November 2022. He expects these plans to include training about the Code of Conduct.
- (d) He also welcomes the additional responsibilities that Group Leaders at principal councils have to promote good standards of behaviour. The Ombudsman looks forward to working with Monitoring Officers and Standards Committees as they take up their additional duties.

Financial Summary

There are no financial implications

Links to Council Policies and Priorities

The Nolan principles, which underpin the ethical standards framework, and principles of good governance, are all enshrined in the Council's corporate and well-being objectives.

Proposed action

To note the report and the Ombudsman's annual letter and Annual Report for 2021/22

Comments of Chief Financial Officer

There are no financial implications

Comments of Monitoring Officer

Set out in the Report.

Comments of Head of People Policy & Transformation

There are no specific staffing or policy implications

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

The principles of fairness and equality are embodied within the Members Code of Conduct and the Ethical Framework. No FEIA is required, as the Ombudsman's Annual letter is for information purposes only.

- There are no negative impacts in terms of equalities or social disadvantage.
- In terms of the sustainable development principle and 5 ways of working

Long-term – The Annual Report will assist Standards Committee in taking a long-term view about improving ethical standards

Prevention – The Annual Report guide will help to prevent future complaints of maladministration and misconduct

Integration – The Annual Report has been produced in consultation with key stakeholders

Collaboration – The Annual Report will assist people in interacting with councils and elected members, in a more collaborative way. It will also facilitate collaboration between Standards Committee in discussing matters of common interest.

Involvement – The Annual Report will encourage greater involvement in reporting and resolving complaints

Background Papers

Ombudsman's Annual Report and letter 2021/22

A copy of the Annual Report can be found at

<https://www.ombudsman.wales/wp-content/uploads/2022/08/ANNUAL-REPORT-2021-22-Signed-Version.pdf>

Dated: 28th October 2022

Mae'r dudalen hon yn wag yn



Report

Standards Committee

Part 1

Date: 15th November 2022

Item No:

Subject Standards Committee Annual Report 2021/2022

Purpose To submit a draft of the Standards Committee Annual Report 2021/22 for comment and approval

Author Head of Law and Standards

Ward General

Summary In accordance with the Local Government & Elections (Wales) Act 2021, Standards Committee are required to make an annual report after the end of each financial year and Council is required to consider that report within 3 months.

The statutory annual report must describe how the Committee's functions have been discharged during the previous year and, in particular, must include a summary of any reports, actions or recommendations made or referred to the Committee. In addition, the annual report must include an assessment of the extent to which leaders of political groups on the Council have complied with their new duties to promote and maintain high standards of conduct within their groups.

A draft of the Annual Report for 21/22 is attached for comment and approval prior to its presentation to the next meeting of full Council on 22nd November 2022.

Proposal To comment and approve the Annual Report for presentation to full Council on 22nd November 2022

Action by Head of Law and Standards

Timetable Immediate

Background

1. Standards Committee have presented an Annual Report to the Council on a voluntary basis over the past 9 years, which provides information about the work carried out by the Committee during the previous 12 months, identifies particular issues that have arisen and sets out the forward work programme for the forthcoming year. The previous annual report was presented to Council on 26th November 2021, and covered the 12 month period from November 2020 to November 2021.
2. As from May 2022, there is now a statutory requirement under the Local Government & Elections (Wales) Act 2021 for Standards Committee to make an annual report after the end of each financial year and for full Council to consider that report within 3 months. The statutory report must describe how the Committee's functions have been discharged during the previous year and, in particular, must include a summary of any reports, actions or recommendations made or referred to the Committee. In addition the Annual Report must include an assessment of the extent to which leaders of political groups on the Council have complied with their new duties to promote and maintain high standards of conduct within their groups. Copies of the Standards Committee Annual Report must also be provided to the Ombudsman and all of the local community councils.
3. A draft of the Annual Report for 2021/22 is attached for comment and approval prior to its presentation to the next meeting of full Council on 22nd November 2022.
4. The Report confirms that, once again, no serious complaints of misconduct were referred to the Standards Committee by the Ombudsman during the past 12 months and no complaints were referred for determination by the Committee under Stage 3 of the Local Resolution Protocol.
5. The training requirements for City Councillors, community councils and their clerks will continued to be monitored as part of the Committee's forward work programme. The Committee will also be undertaking a review to ensure that all mandatory training has been completed and that all declarations of acceptance of office and registers of members' interests have been completed properly, following the May elections
6. The Annual Report also contains a draft forward work programme for the forthcoming 12 months.

Financial Summary

7. There are no financial implications.

Links to Council Policies and Priorities

8. The Nolan principles, which underpin the ethical standards framework, and principles of good governance, are all enshrined in the Council's corporate and well-being objectives

Proposed action

9. To comment and approve the Annual Report for presentation to full Council on 22nd November 2022

Comments of Chief Financial Officer

10. There are no financial implications.

Comments of Monitoring Officer

11. Included in the Report.

Staffing Implications: Comments of Head of People and Business Change

12. There are no staffing or policy implications.

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

13. The principles of fairness and equality are embodied within the Members Code of Conduct and the Ethical Framework. No FEIA is required, as the Annual Report is for information purposes only.

- There are no negative impacts in terms of equalities or social disadvantage.
- In terms of the sustainable development principle and 5 ways of working

Long-term – The Annual Report will assist Standards Committee and the Council in taking a long-term view about improving ethical standards

Prevention – The Annual Report guide will help to prevent future complaints of misconduct

Integration – The Annual Report has been produced in consultation with key stakeholders

Collaboration – The Annual Report will assist people in interacting with councils and elected members, in a more collaborative way. It will also facilitate collaboration between Standards Committees in discussing matters of common interest.

Involvement – The Annual Report will encourage greater involvement in reporting and resolving complaints

Dated: 3rd November 2022

Mae'r dudalen hon yn wag yn



Standards Committee Annual Report 2021-22

Foreword by the Chair

I am pleased to present the ninth Annual Report of the Standards Committee for 2021/22. The Annual Report provides information to the Council about the work carried out by the Committee during the past 12 months and identifies particular issues that have arisen.

This eighth Annual Report covers the period from November 2021 to November 2022 and follows on from the last report presented to Council in November 2021. This Annual Report has previously been presented to Council on a voluntary basis. However, Section 63 of the Local Government & Elections (Wales) Act 2021 has now introduced an additional statutory duty under Part 3 of the Local Government Act 2000, which requires Standards Committee to make an annual report after the end of each financial year and for full Council to consider that report within 3 months. The statutory report must describe how the Committee's functions have been discharged during the previous year and, in particular, must include a summary of any reports, actions or recommendations made or referred to the Committee. In addition, the Annual Report must include an assessment of the extent to which leaders of political groups on the Council have complied with their new duties to promote and maintain high standards of conduct within their groups. Copies of this Annual Report must also be sent to the Public Services Ombudsman for Wales and to the local community councils.

The Standards Committee is committed to promoting high standards of ethical conduct among elected Members and officers in order to maintain public confidence in local government. The Committee will continue to proactively review all ethical standards policies and procedures as part of the forward work programme.

Last year, Standards Committee was called upon for the first time to conduct a misconduct hearing and to impose a sanction on an elected member. This year, we are pleased to report that, once again, no serious complaints of misconduct were referred to the Standards Committee by the Ombudsman during the past 12 months and no complaints were referred for determination by the Committee under Stage 3 of the Local Resolution Protocol. However, as I have mentioned previously, there is no room for complacency and it is essential that these standards are maintained, particularly in the light of the significant numbers of newly elected Councillors, following the May 2022 local elections.

The training requirements for City Councillors, community councils and their clerks will continued to be monitored as part of the Committee's forward work programme. We will also be undertaking a review to ensure that all mandatory training has been completed and that all declarations of acceptance of office and registers of members' interests have been completed properly, following the May elections

There have been no changes to the independent members of the Standards Committee during the past year and John Davies continues to serve as the community council representative. However, we are pleased to welcome Councillors Paul Cockeram and Farzina Hussain as new elected member representatives.

Finally, I would like to thank all Members of the Committee and Council officers for their advice and support throughout the last 12 months.

Andrew Mitchell (Chair of Standards Committee)

1. **Introduction**

1.1 **Terms of Reference**

The Local Government Act 2000 Part III requires the Council to establish a Standards Committee to carry out the following statutory functions:-

- (a) Promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) Assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) Granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) Dealing with any reports from the Monitoring Officer and hearing any complaints of misconduct or breaches of the Members' Code of Conduct referred by the Public Services Ombudsman for Wales and determining appropriate action, including the imposition of any sanctions;
- (h) The exercise of (a) to (g) above in relation to the community councils and the members of those community councils.

As from May 2022, the Standards Committee also has the following additional statutory functions, in accordance with the Local Government & Elections (Wales) Act 2021

- (i) Monitoring compliance by leaders of political groups on the Council with their duties under section 52A (1) of the 2000 Act (as amended) to take reasonable steps to promote and maintain high standards of conduct by the members of their groups, and to co-operate with Standards Committee in the exercise of these functions.
- (j) Advising, training or arranging to train leaders of political groups on the Council about matters relating to those duties

Standards Committee also carries out the following additional functions, making recommendations to the Council, as appropriate:-

- (k) The hearing and determination of "low level" complaints of misconduct at Stage 3 of the Local Resolution Protocol;

- (ii) Providing advice to the Council on the Council's Codes of Practice, including the Officers' Code of Conduct and the Whistle Blowing policy;
- (iii) Monitoring and updating the Codes of Practice as required; and
- (iv) Overseeing the Council's confidential complaints procedure;

1.2 Structure and Membership

The composition and membership of the Standards Committee is prescribed by the Standards Committees (Wales) Regulations 2001 (as amended).

The Standards Committee comprises:-

5 Independent Members (persons who have no connection with the local authority)

- Andrew Mitchell (Chair)
- Kerry Watkins (Vice Chair)
- Dr Paul Worthington
- Richard Morgan
- Gill Nurton

3 councillor representatives:-

- Councillor Paul Cockeram (replacing Baroness Wilcox of Newport as from May 2022)
- Councillor Farzina Hussain (replacing Councillor Phil Hourahine as from May 2022)
- Councillor David Fouweather

1 community council representative:-

- John Davies (Bishton Community Council)

The independent members serve a term of office of 4 years, although they are eligible to serve two consecutive terms of office. The Councillors are appointed annually by the Council at the AGM and replacement members can be appointed, as necessary, at any time. The community council representative continues as a member of the Committee until his term of office ends or he ceases to be a community councillor, or until he is replaced by another nominee.

1.3 Enforcement of the Members Code of Conduct

The Council's Monitoring Officer is Gareth Price, the Head of Law & Standards, and the Deputy Monitoring Officer is Liz Bryant, the Assistant Head of Legal Services

The Monitoring Officer and Deputy Monitoring Officer are responsible for:-

- advising Standards Committee on law and procedure,
- ensuring compliance with statutory requirements (Registers of Members interest etc.)
- resolution of "low-level" complaints under Stage 2 of the Local Resolution Protocol

- investigation of complaints referred by the Ombudsman

The Public Services Ombudsman for Wales (“Ombudsman”) is responsible for:-

- considering all formal complaints of breaches of the Members Code of Conduct and applying a two stage test of (1) prima facie evidence of misconduct and (2) whether the breach is so serious as to warrant any sanction
- investigating and reporting (where appropriate) any serious breaches of the Code to the Standards Committee or a Case Tribunal of the Adjudication Panel for Wales

The Adjudication Panel for Wales:-

- Case Tribunals hear serious misconduct cases referred by the Ombudsman
- Interim Case Tribunals can suspend Councillors for up to 6 months pending investigation of serious complaints
- Determine appeals against Standards Committee decisions or sanctions
- Can suspend Councillors for up to 1 year or disqualify for up to 5 years

The Standards Committee

- Conduct hearings and determine complaints referred to them by the Ombudsman and the Monitoring Officer
- Can censure or suspend Councillors for up to 6 months

2. The Committee’s work in 2021/22

The Standards Committee is required to meet at least once annually in accordance with the Local Government Act 2000. In practice, the Committee meets on a scheduled quarterly basis and additional special meetings are arranged, as necessary, to deal with specific matters such as misconduct hearings and requests for dispensation.

Three members are required to attend for a quorum at meetings (including the independent Chair or Vice Chair) and at least half of those present must be independent. The community council representative is not “independent” for this purpose.

The Standards Committee met on 5 occasions during the past 12 months:-

- 6th January 2022
- 10th March 2022
- 14th April 2022
- 14th July 2022
- 15th November 2022

The meetings have all been conducted in accordance with Sections 46 and 47 of the Local Government and Elections (Wales) Act 2021 and the Council’s published arrangements for “hybrid” or multi-location meetings. The earlier Committee meetings were conducted

remotely via MS Teams and recordings of the meeting were uploaded onto the Council web site for public viewing. Since May 2022, the Committee meetings have been conducted on a “hybrid” basis, with some members present in person and others joining remotely, and the meetings have been broadcast live. Standards Committee will continue to operate effectively under these new arrangements and will continue to fulfil its statutory functions.

2.1 Dispensation Applications

There have been no applications for dispensations during the past year in accordance with the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 and Section 81(4) of the Local Government Act 2000.

Standards Committee are able to grant special dispensation for individual members to speak and/or vote on a particular matter where they would otherwise be disqualified because of a “personal interest” under the Code.

There have been no requests for individual Councillor dispensations over the past four years.

2.2 Training

(a) Code of Conduct training.

The Standards Committee has always stressed the importance of regular Member training. This is particularly important for newly-elected Councillors, following the May 2022 local elections, although long-serving Councillors should still undertake refresher training to ensure that they keep up to date with the requirements of the Code of Conduct and any changes in the law or procedures.

It is the responsibility of each individual Councillor to ensure that they fully understand the requirements of the Code and that they comply fully with their obligations. As always, “ignorance of the law is no excuse” and a lack of understanding or training would be no mitigation if there is any breach of the Code.

The Committee has previously recommended to the Council that it should be compulsory for all City Councillors to attend training on the Code of Conduct. The independent review of the Ethical Standards Framework in Wales, commissioned by Welsh Government and carried out by Richard Penn, recommended that the declaration of acceptance of office for all councillors should be amended to include a commitment to undertake training as well as to abide by the Code. This recommendation was fully supported and endorsed by Standards Committee. Unfortunately, Welsh Government did not implement these recommendations prior to the May 2022 elections and, therefore, the commitment to training is still not embodied within the member declaration of acceptance of office. However, we hope that this change will be considered and implemented in due course, to reinforce the need for compulsory training.

In the meantime, it remains the policy of Newport City Council that all members should undertake mandatory Code of Conduct training. The Committee were pleased to note the commitment given by the political group leaders, as part of their new duty to promote and maintain high standards of ethical conduct within their respective groups, to encourage as many members as possible to undertake the training.

In readiness for the member induction training following the May 2022 local government elections, Standards Committee carried out a review of the ethical standards training modules. Although the WLGA had developed an on-line training module, the Committee considered that a hybrid, workshop-based training session would be more appropriate, specifically geared towards how the Code operated in practice at a local level. A series of presentation slides and training materials were produced and those documents were subsequently saved to a shared folder, so that all City Councillors could access them for refresher purposes. An induction training session on the Code of Conduct was then arranged for 16th May 2022, delivered by the Monitoring and Deputy Monitoring Officer supported by the Chair and Vice-Chair, which was very well attended. The Committee was pleased to see that 34 members attended the training remotely and a further 10 attended in person. The training was well-received and the feed-back was positive. The Committee was also reassured that all elected members had completed their declarations and registers of members' interests within the prescribed timescales.

However, we will be periodically reviewing members training and development, to identify and address any further training needs, and we will also be carrying out compliance audits to ensure that all registers of members' interests are up to date, as part of our forward work programme.

The training requirements of the community councils and their compliance arrangements will also continue to be monitored and reviewed as part of the Committee's forward work programme. The Monitoring Officer delivered Code of Conduct induction training for community councillors and their Clerks at a Community Council Liaison meeting on 23rd June 2022, together with an update on the new legislative changes under the Local Government and Elections (Wales) Act 2021 which impacted on community councils. The presentation slides were also circulated for all community council clerks, so that they could circulate the information to all of their community councillors. An initial review of the community councils has also provided an assurance that new community councillors have all completed their declarations and registers of members' interests within the prescribed timescales and that these registers are being properly maintained and published by the clerks, as proper officers. Again, the Committee will continue to undertake compliance audits on a periodic basis as part of its forward work programme.

Some of the Community Councils have arranged for training on the Code of Conduct through One Voice Wales. Those other community councils who are not members of One Voice Wales have identified a need for further refresher training, particularly for new community councillors and Clerks. Community council clerks have raised a number of procedural issues regarding maintenance of statutory registers and declarations of interest at meetings and have requested specific training on these matters. Therefore, as part of the forward work-programme, we will be arranging further training for community councillors and their Clerks. This will be specific to community councillors as the rules relating to the register of members interests and exemptions are different to the City Council.

Standards Committee members received refresher training from the Monitoring Officer on the existing Code of Conduct and Ethical Standards Framework in July 2021, as part of the induction for the new independent members.

(b) General Induction training

The general programme of member induction training, following the May elections, was overseen by Democratic Services Committee. However, we received regular updates on the programme, in view of the underlying ethical standards issues, particularly in relation to areas such as Planning Committee protocols, and corporate governance training. We were impressed with the comprehensive nature of the training programme, the fact that it was member-centred and tailored to individual needs and the flexible way in which the training was made available. In total, there were over 32 training modules, developed through the WLGA, some of which were mandatory for members serving on particular committees such as Planning and Licensing, and they were available via e-learning modules, other remote platforms and also face-to-face workshops. It was also encouraging to learn that a national competency and development framework is being developed for Councillors, to ensure that they continue to receive training which is appropriate to their particular requirements.

2.3 Local Resolution Protocol

In accordance with the recommendations of the Minister for Local Government and the Ombudsman, the Council has adopted an internal procedure for dealing with “low-level” member/member and officer/member complaints that are not sufficiently serious as to warrant formal investigation and sanction.

It was agreed that the Monitoring Officer would periodically update the Committee on the numbers and types of complaints determined at officer level under Stages 1 and 2 of the Protocol, but maintaining the anonymity of both the complainant and the Councillor concerned.

No complaints were formally determined under Stages 1 and 2 of the Protocol and no complaints were referred to Standards Committee under Stage 3 during 2021/22.

One Voice Wales has developed a similar Local Resolution Protocol for community councils, in conjunction with the Ombudsman, and further guidance has been provided. Those local community councils who are members of One Voice Wales have adopted this protocol within their councils. The responsibility for resolving these minor complaints rests with the community council clerk, the Chair and Vice-Chair. The Monitoring Officer and Deputy Monitoring Officer will continue to provide advice and assistance to community council clerks in relation to the local resolution of minor complaints.

2.4 Succession Planning

In accordance with the Standards Committee (Wales) (Amendment) Regulations 2006, independent members are appointed for a period of four years, but they can be re-elected

for a second term of office. However, after a consecutive period of 8 years' service, their term of office automatically comes to an end.

There have been no changes to the independent members of the Standards Committee during the past year and John Davies continues to serve as the community council representative. However, we were pleased to welcome Councillors Paul Cockeram and Farzina Hussain as new elected member representatives, following the local elections in May 2022.

Andrew Mitchell continues to serve as the independent Chair of Standards Committee and Kerry Watkins continues as the Deputy Chair.

2.5 General work

(a) Much of the work of the Standards Committee during the past 12 months involved reviewing member training and development and relevant Council policies and procedures in readiness for the local election in May 2022, to ensure that legislative requirements continued to be met and that member induction programmes were properly developed. The work that we carried out in relation to member training and development is set out in section 2.2 of this report.

In addition, we considered the requirements for member exit surveys and candidate surveys and how these could usefully be combined with a further ethical standards audit. We received reports on the various surveys being carried out both before and after the local elections, in relation to the reasons for members not standing for re-election, an ethnicity survey of candidates to improve diversity. The candidates' survey is being carried out nationally by Data Cymru and we still await the results of that review. In addition, retiring Councillors were also invited to make comments about how they could have been better supported and whether their training and development could have been improved. We considered that it would also be beneficial to include within that local survey a series of questions about ethical standards, to assess what the outgoing members thought about the clarity of the policies and procedures, how well they understood the Code of Conduct and how easy it was for them to comply with the requirements in terms of declarations and registration of interests. Members were also given an opportunity to comment on the underlying relationships between officers and members and general ethical behaviour within the Council. Unfortunately, very few retiring members completed the questionnaire, but we were gratified that the comments were generally positive and no major issues were identified. We appreciated that it was difficult to comment on training and other issues, when some of their experiences dated back some considerable time. Therefore, as part of the forward work programme, we intend to carry out further surveys of the new Councillors and their assessment of the quality of the induction training that they received, together with an ethical standards compliance audit, to ensure that policies and procedures are being properly implemented. We will also be working closely with the individual group leaders to ensure that members training and development needs are being properly met.

Standards Committee considered the consultation on draft Guidance issued by the Minister for Finance and Local Government under section 52A (2) of the Local Government and Elections (Wales) Act 2021. The legislation introduced a number of new duties for leaders of political groups on the Council and Standards Committee in relation to the promotion and

maintenance of high standards of conduct. The following additional duties are set out in sections 62 and 63 of the 2021 Act (amending Part 3 of the Local Government Act 2000, insofar as it applies in Wales):-

- (i) Duty on the part of group leaders to take reasonable steps to promote and maintain high standards of conduct by the members of their groups;
- (ii) Duty to co-operate with the Council's Standards Committee (and any sub-committee) in the exercise of the Standards Committee's functions;
- (iii) Duty of Standards Committee to monitor group leaders' compliance with these duties, and provision of advice and training;
- (iv) Duty of Standards Committee to make an annual report to full Council.

The draft guidance was designed to support leaders of political groups understand and discharge their duties in relation to high standards of conduct, whilst recognising that they will wish to and should be encouraged to develop their own approach in line with their wider statutory obligations, local circumstances, and best practice. The guidance also provides advice to Standards Committees on the discharge of their monitoring, training and reporting duties. The Minister requested comments, in particular, about whether the draft guidance is sufficiently clear about what is expected of both leaders of political groups and Standards Committees in a way that can be easily understood.

It was unfortunate that the duties came into effect as from 5th May 2022 but the consultation period did not end until 16th May. Therefore, Standards Committee considered that the draft guidance had been issued too late and it would have been helpful if the consultation had taken place in sufficient time for the final guidance to have been issued before the duties took effect. In general, the guidance was helpful, although the Committee felt that further advice would have been useful in terms of how the new group leader duties would be enforced, in practice. The draft guidance set out examples of what reasonable steps group leaders can take to discharge this duty, including a commitment to training, local resolution and establishing a good working relationship with other group leaders and Standards Committee. However, the guidance was not intended to be prescriptive and allows considerable flexibility and discretion in developing a personal approach. We comment further in Section 2.5(b) of this Report on what steps we have taken to monitor compliance with these duties and the provision of advice and training.

Section 63 of the 2021 Act inserts a new section 56B into the 2000 Act which places a requirement on Standards Committee to make an annual report to the relevant authority. In the case of a principal council, the requirement to report to "the authority" in this context includes any community councils in its area. The draft guidance set out those matters that should be included within the annual report. We were satisfied that the format of this Annual Report to full Council meets most of the requirements of the 2021 Act. The only difference is that the statutory report needs to be in relation to the previous financial year, while the current report (presented in November) reflects on the previous 12 calendar months. In terms of the future work programme, it may be advisable to bring the annual reporting year more into line with the financial year. Also, the guidance recommends that the Standards

Committee annual report is also submitted to each of the local community councils and a copy is sent to the Ombudsman. The annual report also needs to set out how the Committee is discharging its new duties in relation to monitoring group leaders' compliance with their new duties, and the provision of advice and training to group leaders.

Standards Committee members attended the virtual All Wales Standards Committee Conference on 9th February and the matters debated at the conference were discussed at our subsequent meeting in March 2022. The conference was well-attended by representatives from all across the country and was highly commended by all those who attended, who felt that it was extremely beneficial to share common experiences and best practice. The presentations from Richard Penn regarding his independent review of the Ethical Standards Framework in Wales, and also from Nick Bennett the Public Services Ombudsman for Wales in relation to the work of his office, were very informative. Other speakers included the independent chair of Gwynedd's Standards Committee and Peter Egan from One Voice Wales, who spoke about ethical standards in relation to town and community councils. The conference was concerned, however, that Welsh Government were not minded to implement some of the changes recommended by Richard Penn and a motion was passed at the conference encouraging them to do so. Unfortunately, this did not materialise before the May 2022 elections and the Committee felt that this was a missed opportunity. Although the review had concluded that the Ethical Standards framework in Wales was still fit for purpose, there were some improvements that could usefully have been made at this time, such as the inclusion of updated equalities duties within the Code and the commitment to mandatory training within the declarations of acceptance of office.

However, some Standards Committees raised specific concerns about the wider recommendations of the Richard Penn report to grant increased powers for the Ombudsman to refer complaints for local investigation and resolution. The suggestion is that all complaints should be referred for local resolution first before being considered by the Ombudsman and that the Ombudsman will have greater powers to refer some of the less serious complaints back to the Monitoring Officer for local investigation and reporting to Standards Committees. The powers of Standards Committees would also be extended to include the power to require members to apologise and undertake further training. This would represent a significant change to the previous regulatory framework, where all complaints had to be investigated and referred by the Ombudsman, before Standards Committee could impose any sanctions. Some local authorities were concerned that these changes would have significant workload implications for Standards Committee and Monitoring Officers. However, we did not feel that these changes would be unduly onerous given the nature and level of complaints that were received locally, and we remain generally supportive of the recommendations.

It was agreed that the Conference should become an annual event and that regular networking meetings should be established at an all-Wales level for Chairs of Standards to meet and discuss matters of common interest. As a Committee, we wholeheartedly supported this initiative and gave a commitment to participate in these networking meetings. We subsequently agreed draft terms of reference for this National Standards Committee Forum, comprising Chairs of Committees (with Vice-Chairs being able to substitute) and meeting twice a year. The meetings will also be attended by monitoring officers from each of the regions, together with officers from the Fire & Rescue and National Parks authorities.

The meetings will be supported by the WLGA and will include speakers and training sessions.

We reviewed the Council's updated Whistle-blowing Policy to ensure that it remained effective. Every public sector employer is required to have a Whistle-Blowing Policy in place under the Public Interest Disclosure Act 1998, which provides a clear framework to enable employees to raise public interest concerns about wrongdoing within the Council without fear of victimisation, discrimination or disadvantage. The Council's Whistle-Blowing Policy has now been updated and published on the Intranet as part of a suite of HR policies and guidance. This updated policy was communicated to all staff through the electronic staff bulletin published on 30th September 2022. Staff have also been advised that Whistle-Blowing training is now mandatory for all employees and they have been provided with a link to the on-line e-learning module on the NHS e-Learning website. The training is mandatory order to ensure that all employees understand what whistle-blowing means and how this is vital to maintaining the integrity of the Council's decision-making processes and taking action to address any wrongdoing. The Whistle-Blowing Policy has to be read in conjunction with the Members and Employee Codes of Conduct, as well as the Council's Disciplinary and Grievance procedures, as the duty to report wrong-doing underpins the standards of behaviour expected from elected members and Council officers. As a 'prescribed person' under the legislation, the Ombudsman is also required to report annually on whistleblowing disclosures made in the context of Code of Conduct complaints.

There were 5 whistleblowing complaints received in Newport in 2021/22, which is average by comparison with other similar authorities. Of the 5 whistleblowing complaints submitted in Newport in 2021/22, 2 were not upheld and 3 members of staff resigned in response to the allegations, but would have been dismissed had they not left. Standards committee were satisfied that the numbers of complaints demonstrate a general awareness of the Whistle-Blowing Policy among staff and their protected rights to make a complaint. We were also assured that most of the complaints related to internal disciplinary and grievance matters and not serious allegations of illegality or malpractice. However, we will continue to undertake a periodic review of how the whistle-blowing is being applied and operated, as part of our forward work programme.

(b) Group Leaders duty

Section 52A(1)(a) of the 2000 Act (as amended by the 2021 Act) requires that a leader of a political group consisting of members of a county council or county borough council in Wales, must take reasonable steps to promote and maintain high standards of conduct by the members of the group. A "group" for this purpose is defined as 2 or more members who give notice to the Proper Officer that they wish to be treated as a group for the purposes of political balance requirements and the allocation of seats on Council Committees. It should be noted that opposition Group Leaders are only entitled to receive a senior salary under the IRP determinations if their group represents not less than 10% of the overall Council membership (which means a minimum of 6 Councillors, as from May 2022, when the Council was increased to 51 members). The guidance makes it clear that this duty does not make leaders of a political group accountable for the behaviour of their members, as conduct is a matter of individual responsibility. However, they do have a role in taking reasonable steps in maintaining standards, setting an example, using their influence to promote a

positive culture, being proactive in promoting high standards of conduct in their group and addressing issues as soon as they arise. A leader of a political group who fails to comply with the new duty in a meaningful way, may potentially be regarded as bringing their office into disrepute, and likely to be in breach of the Code.

Section 62(3) of the 2021 Act amends section 54 of the 2000 Act to extend the specific functions of a Standards Committee to include monitoring compliance by leaders of political groups with the new duty to promote and maintain high standards of conduct by members of their group. The draft Guidance issued by Welsh Government suggests that the political group leaders and Standards Committee should agree on the form and frequency of a report from each group leader to the Committee, which would then consider each report and provide feedback to the group leaders. Standards Committee must also provide advice and training, or arrange to train group leaders on the new duty. At the start of each administration this should take place within six months of the election and be reviewed at least annually. The guidance also suggests that the Standards Committee chair may wish to meet with group leaders periodically to review behaviour.

The Standards Committee met with leaders of all four political groups on the Council – Labour, Conservative, Newport Independents Party and Lliswerry Independents group – in November 2022, to agree how this duty should be monitored and the nature and frequency of the information that should be submitted to the Committee. We discussed the following matters:-

- demonstrating personal commitment to and attending relevant development or training around equalities and standards;
- encouraging their group members to attend relevant development or training around equalities and standards;
- demonstrating personal commitment to and attending relevant development or training around equalities and standards;
- encouraging group members to attend relevant development or training around equalities and standards;
- ensuring nominees to a Committee have received the recommended training for that Committee;
- working to implement any recommendations from the Standards Committee about improving standards;
- working together with other group leaders, to collectively support high standards of conduct within the Council.

We were pleased with the level of commitment demonstrated by the group leaders and the general levels of training undertaken by the members of their groups in relation to the Code of Conduct and also other compulsory training for Planning and Licensing Committees and Equalities. However, further Code of Conduct training sessions would be beneficial for those Councillors who were unable to attend the induction training in 16th May. There did not appear to be any significant issues in terms of standards of behaviour or complaints that needed to be addressed. Therefore, we did not require a formal written report from the group leaders and we agreed that we should meet at least annually to review these matters and more frequently, either individually or collectively, to address any specific issues or concerns that may arise. We were satisfied that the group leaders had demonstrated an awareness of

their duties and responsibilities and were taking reasonable steps to promote and maintain high standards of ethical conduct within their respective groups.

(c) Ombudsman's Annual Report

With regard to the Ombudsman's Annual Report for 2021/2022, the Committee noted that the Ombudsman received 294 new complaints about member misconduct in 21/22, which was a 5% reduction compared with 20/21. However, the Report points out that there were an abnormally high number of complaints last year and, compared to 2019/20, the Ombudsman received many more new Code of Conduct complaints, particularly in relation to members of Town and Community Councils. In 2021/22, there were 171 complaints about Town and Community Councillor, an increase of 2% compared with the previous year. By comparison, numbers complains against councillors at County and County Borough Councils decreased by 17%.

The Ombudsman's office closed slightly fewer Code of Conduct complaints than last year, but investigated a much higher proportion. They also referred twice as many complaints to the Adjudication Panel for Wales and Standards Committees compared with last year. The Report comments that this increase in investigations and referrals demonstrates that there were many more potentially serious issues that could undermine public confidence in the people who represent them.

The Annual Report confirms that it was necessary for the Ombudsman to refer those complaints to maintain public confidence in those holding public office. Although they still refer a very small proportion of all Code of Conduct complaints received, it was more than half of those they decided to investigate. It was also twice as many as last year and the highest number of referrals made since 2012/13. The Ombudsman expressed concern in his commentary about this increase in referrals. It suggests that the ethical standards of a small number of councillors have the potential to undermine public confidence and the reputation of local government democracy. However, in all referrals, the Standards Committee and the Adjudication Panel upheld the complaints and found breaches of the Code, which given the Ombudsman additional assurance that the two-stage process for considering these complaints is sound.

As in previous years, about a half of all new Code of Conduct complaints received were about 'promotion of equality and respect' (51% of all complaints). Other areas of complaint related to disclosure and registration of interests' (11%) and 'the duty to uphold the law' (10%). Many cases that are categorised under 'respect' are lower-level complaints. These are the complaints where the Ombudsman's office tend to decide quickly that they will not investigate, or where they recommend that the complaint is resolved locally, through the Local Resolution Protocol. However, some of these complaints and many of those that are categorised under 'equality' commonly involve more serious allegations of bullying or discrimination.

In Newport, 4 Code of Conduct complaints were referred to the Ombudsman about City Councillors in 2021/2022 and 9 complaints regarding Community Councillors. 2 of the complaints against City Councillors were not accepted for investigation as there was no evidence of any breach and 1 was discontinued. There is reference in the Annual report to the one serious complaint which was referred to Standards Committee in the financial year

2021/22. The outcome that referral and the subsequent misconduct hearing was reported to Council in the last Standards Committee Annual Report in November 2021. Standards Committee decided unanimously that the Councillor concerned had failed to comply with paragraph 7(a) of the Code of Conduct in that she had improperly tried to use her position as an elected Councillor and member of the Health Board to secure medical priority for a constituent, in breach of standard Practice procedure and patient confidentiality under GDPR, and also in pursuing a personal complaint about the Practice to the Health Board. In order to reflect the seriousness of the misconduct, to act as a deterrent to others and to restore public trust and confidence, the Committee decided that the Councillor should be suspended from her role as a Councillor for a period of 3 months and recommended to Council that she be removed and replaced as a representative on the Health Board. Of the 9 community council complaints, 3 were discontinued, there was no evidence of any breach in 3 cases and no action was required in the other 3. The outcome of these complaints has been reported to Standards Committee throughout the year, on an anonymised basis.

2.6 Ombudsman complaints

The Ombudsman advises the Monitoring Officer of complaints made against elected members of Newport City Council and community councillors and the outcome. The Monitoring Officer updates the Committee at each meeting about the numbers of on-going complaints being referred to and considered by the Ombudsman's office. This information is provided on a general basis, without disclosing precise details of individual complaints, to avoid any issues about pre-determination in case the complaints are reported to the Standards Committee for determination.

The Committee was advised that 6 complaints were referred to the Ombudsman about City Councillors during the last 12 months between November 2021 and November 2022 and 5 complaints were made during this period about community councillors. At the time of presenting this annual report to Council, only 1 complaint remains outstanding and that relates to an on-going Ombudsman investigation into a complaint against a former City Councillor involving a criminal conviction and whether he brought his office and the Council into disrepute. All of the other 10 complaints have not been accepted for investigation.

One of the complaints about a City Councillor involved an alleged breach of confidence following the disclosure of a resident's personal e-mail address, a failure to show respect and to respond to constituent's enquiries. The Ombudsman did not consider that the unintended disclosure was serious enough and in the public interest to investigate and did not consider that the tone of the councillor's e-mails were rude or disrespectful. The way in which councillors represent their constituents is not a Code of Conduct issue but a matter for the ballot box. The Ombudsman came to a similar finding in relation to another complaint about a Councillor not responding to a constituent's concerns about homelessness and begging in the City Centre.

Another complaint about a City Councillor did not constitute a breach of the Code as there was no conflict of interest in that member representing the council on an outside body, and the appointment had been properly declared in the register of members' interests.

A further complaint about another Councillor concerned an offensive private Facebook post during the pre-election period, in breach of equalities and duty to show respect and consideration for others. The Ombudsman did not find any evidence of a breach because he post was made in a private capacity and, therefore, the only potential breach was in relation to bringing the office of Councillor into disrepute. The Ombudsman felt that the comment may have offended some people, but it came within the Councillor's Article 10 rights to freedom of expression. A similar complaint was made about an offensive post on a community Facebook page which a ward councillor had failed to remove. The Ombudsman did not find any evidence of breaches of the Code and, in any event, did not consider it in the public interest to intervene. The Councillor was not required to either remove the offending posts or disassociate herself from them. She could not be personally liable for other people's comments, but they were removed from the site quickly, in any event.

One of the community council complaints involved an alleged conflict of interest and failure to declare a personal interest. The Ombudsman accepted that the community councillor should have declared that his wife was a member of a committee that was applying for grant funding, but he did not consider that this was a serious breach and did not affect the outcome of the decision. Nevertheless, he wrote to the councillor concerned to remind him of the need to disclose any such personal interests in the future.

Two of the other complaints both involved members of Langstone Community Council. They involved alleged disrespectful and bullying behaviour towards the Clerk and other community councillors and a failure to show respect and consideration. The Ombudsman found no evidence of any breach because the Councillor was entitled to make a complaint against the Clerk and to complain about other Councillors criticising his attendance record. This did not amount to bullying or disrespectful conduct. With regard to the counter-allegation, the Ombudsman found that was no failure to show respect and commented that councillors need to have "thicker skins" when it comes to personal criticism. Councillors do not have to agree with one another and they can be robust in their disagreement, provided that their language is not gratuitously offensive.

These "tit-for-tat complaints appear to be motivated by clashes of personalities, rather than being true Code of Conduct or ethical standards issues and Standards Committee shares the concern expressed by the Ombudsman about the increases in numbers of these unnecessary complaints.

The Ombudsman received a complaint that a Former Member ("the Former Member") of Llanvaches Community Council ("the Community Council") had breached the Code of Conduct ("the Code") regarding matters concerning work conducted by a tree surgeon, intimidating behaviour and the disclosure of confidential information. The Ombudsman found there was no evidence to suggest the Former Member's behaviour was inappropriate or aggressive, or that abusive or offensive language or intimidating behaviour was used in breach of the Code. The subject matter of the disclosed information had also been discussed at Community Council meetings and recorded in publicly available minutes. Therefore, the Ombudsman was not persuaded that the alleged conduct was suggestive of a breach of the Code

The Ombudsman received a complaint that a Former Member ("the Former Member") of Langstone Community Council ("the Community Council") had breached the Code of

Conduct. It was alleged that the Former Member was violent and abusive during an altercation outside the complainant's property. It was also alleged that the Former Member operated an illegal waste disposal business on his property. The Ombudsman's investigation found that whilst an Enforcement Notice for an alleged breach of planning control had been served against the Former Member, there was no evidence to suggest the Former Member's involvement in any official capacity in planning affairs and the matter related to the Former Member's private capacity alone. The Ombudsman considered that the Former Member's conduct was suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct and may have brought his office as member or the Community Council into disrepute. However, the Ombudsman also considered that as the matter was not sufficiently serious for the Police to take action, and the Former Member was no longer a councillor, it was unlikely that a sanction would be imposed, and it was not in the public interest to pursue the matter. The Ombudsman therefore found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

3. **Forward Work Programme for 2022/23**

Date	Topic	Information
November 2022	Annual Report to Council	<p>Review of work undertaken in the past 12 months, identifying any specific ethical standards issues facing the Council and priorities for the forthcoming year. This is now a statutory requirement</p> <p>The statutory report must describe how the Committee's functions have been discharged during the previous year and, in particular, must include a summary of any reports, actions or recommendations made or referred to the Committee.</p> <p>In addition the Annual Report must include an assessment of the extent to which leaders of political groups on the Council have complied with their new duties to promote and maintain high standards of conduct within their groups.</p> <p>Copies of the Annual Report must be sent to the ombudsman and all community councils.</p>
	Dispensations	

As and when applications received Review annually		Granting individual and blanket dispensations to Councillors. Reviewing decisions annually to identify common issues and consistency of approach. Produce guidance to Members on any issues arising.
As and when required	Local Resolution Protocol complaints	Conducting hearings into any Stage 3 complaints by Members or Officers
Quarterly	Complaints of Misconduct	Update of numbers of complaints received and outcomes. Update on complaints resolved through Local Resolution Protocol.
By January 2023	Review member training and development following May 2022 elections.	Carry out review of new modular training developed by WLGA in relation to any revised Code of Conduct and updated guidance from the Ombudsman.
By December 2022	Review mandatory Code of Conduct training for new Councillors and undertake compliance audit	Carry out a review to ensure that all mandatory training has been completed and that all declarations of acceptance of office and registers of members' interests have been completed properly.
By March 2023	Ethical standards audit and community councils review	Check that statutory registers are being properly maintained and procedures for declarations have been completed by community councils, following the elections Engage with community councils to ensure compliance and to identify any training and development needs.
By November 2022	Review of arrangements by Leaders of political groups to secure compliance with new duties	Review compliance by leaders of political groups on the Council with their duties under section 52A of the 2000 Act to take reasonable

		<p>steps to promote and maintain high standards of conduct by the members of their groups, and to co-operate with Standards Committee in the exercise of these functions.</p> <p>Advising, training or arranging to train leaders of political groups about matters relating to those duties, as necessary</p>
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4. Helpful Information

4.1 Can I attend Meetings of the Standards Committee?

Yes, all of our meetings are open to the public, except for specific items where personal or confidential information is likely to be disclosed and the public interest requires that these meetings are conducted in private, for example hearings into misconduct complaints

Dates of forthcoming meetings, agendas, reports and minutes are available on our own webpage on the Council website which can be accessed by clicking here: [Standards Committee Webpage](#)

4.2 Who do I contact if I want to know more?

If you wish to find out more about the Standards Committee or make a comment or suggestion, please visit our website: [Standards Committee Webpage](#) where you will find an online contact form or email us at info@newport.gov.uk

Andrew Mitchell
Chair of the Standards Committee;

Gareth Price
Head of Law & Regulation and Monitoring Officer

Liz Bryant
Assistant Head of Legal Services and Deputy Monitoring Officer

Pamela Tasker/Samantha Schanzer
Governance Officers

Mae'r dudalen hon yn wag yn

Report



Standards Committee

Part 1

Date: 15th November 2022

Subject Complaints Update

Purpose To update Standards Committee on Code of Conduct complaints made to the Ombudsman.

Author Head of Law & Standards

Ward General

Summary The report provides an update of complaints made to the Ombudsman about City and Community Councillors, the nature of the complaints and the outcomes.

Proposal To note the report.

Action by Head of Law & Standards

Timetable Immediate

Background

1. All complains made to the Public Services Ombudsman for Wales about alleged breaches of the Members Code on Conduct by City and Community councillors are reported to Standards Committee for information.
2. Where the Ombudsman has decided not to accept the complaints for investigation or they are still under investigation, then they are reported on a strictly confidential and anonymised basis and neither the identity of the member nor the complainant is disclosed.
3. However, details of the allegations, the nature of the complaints and the outcomes, including the reasons for the Ombudsman's decision, are all reported to Committee, for information purposes and to identify any specific areas of concern or matters that may require further clarification or training.
4. The attached Schedule sets out those complaints that have been submitted to the Ombudsman since the last meeting, together with details of complaints still under investigation.

Financial Summary

There are no financial implications

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (1-5)	Risk Probability of risk occurring (1-5)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Failure to receive regular updates on numbers of complaints and their outcome will reduce the effectiveness of the Committee's role in improving ethical standards	3	1	Receiving regular updates and reviewing the outcome of the cases will enable the Committee to take a more effective role in improving ethical standards.	Head of Law & Standards and Assistant Head of Legal Services

*Taking account of proposed mitigation measures.

Links to Council Policies and Priorities

The underlying Nolan principles are all enshrined in the Council's corporate and well-being objectives.

Proposed action

To note the report.

Comments of Chief Financial Officer

There are no financial implications

Comments of Monitoring Officer

Set out in the Report.

Comments of Head of People Policy & Transformation

There are no specific staffing or policy implications

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

No FEIA is required, as the Committee are just receiving this report for information.

- There are no negative impacts in terms of equalities or social disadvantage.
- In terms of the sustainable development principle and 5 ways of working

Long-term – The complaints update will assist Standards Committee in taking a long-term view about ethical standards

Prevention – The complaints update will help to prevent future complaints

Integration – The complaints update has been prepared on the basis of information provided by the Ombudsman's office

Collaboration – The complaints update should facilitate the resolution of complaints, in a more collaborative way.

Involvement – The complaints update will facilitate greater involvement on the part of Standards Committee in identifying and addressing any trends or issues.

Background Papers

Confidential correspondence with the Ombudsman's office regarding individual complaints.

Dated: 28th October 2022

CODE OF CONDUCT COMPLAINTS

PSOW Reference	Council	Complainant	Alleged breach of the Code	Outcome
2021/06820	Newport City	Corporate	Criminal conviction of a former City Councillor, which brought his office and the Council into disrepute.	Still under investigation
2022/10227	Newport City	Councillor	Complaint regarding an offensive private Facebook post during the pre-election period, in breach of equalities and duty to show respect and consideration for others	PSOW did not find any evidence of a breach. The post was made in a private capacity, so the only potential breach was in relation to bringing the office of Councillor into disrepute. PSOW felt that the comment may have offended some people but it came within the Councillor's Article 10 rights to freedom of expression.
2022/02284	Newport City	Public	Failure to respond to constituent's concerns about homelessness and begging in the City Centre	PSOW did not find any evidence of a breach. The Code did not require members to respond to constituents. That was a matter for the ballot box.
2022/02545	Newport City	Public	Alleged defamatory posts on a community Facebook page, which the Councillor had failed to remove. Breach of equalities duty, failure to show respect and consideration and bringing office into disrepute	PSOW did not find any evidence of breaches of the Code and, in any event, did not consider it in the public interest to intervene. The Councillor was not required to either remove the offending posts or

				disassociate herself from them. She could not be personally liable for other people's comments. But they were removed from the site quickly, in any event.
2022/02641	Langstone community	Councillor	Alleged disrespectful and bullying behaviour towards the Clerk and other community councillors	PSOW found no evidence of any breach. The Councillor was entitled to make a complaint against the Clerk and to complain about other Councillors criticising his attendance record. This did not amount to bullying or disrespectful conduct.
2022/03726	Newport City	Public	Refusal to take up objection to planning application on behalf of the complainant because of declared friendship with applicant. Alleged conflict of interest.	PSOW did not find any breach. The Councillor had properly declared a personal interest in the planning application because of the close association with the applicant. The complainant could have objected in person or asked another ward Councillor to speak on her behalf at Planning Committee
2022/04331	Langstone Community	Public	Alleged failure to show respect and consideration to another community councillor.	PSOW did not find any breach. There was no failure to show respect and councillors need to have "thicker skins" when it comes to personal criticism. Councillors do not have to agree with one another and they can be robust in their disagreement, provided that their

				language is not gratuitously offensive.
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