

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2014/2015**

**STANDARDS COMMITTEE  
4 NOVEMBER 2014**

**REPORT OF THE MONITORING  
OFFICER**

<b>AGENDA ITEM NO.5(b)</b>	
<b>ANNUAL REPORT OF THE PUBLIC SERVICES OMBUDSMAN FOR WALES 2013/14 – CODE OF CONDUCT COMPLAINTS</b>	

**1. Purpose of Report**

The purpose of the report is to highlight figures relating to Code of Conduct Complaints to the Public Services Ombudsman for Wales during 2013/14 as reported in his Annual Report for the year.

**2. Recommendation**

To note the information contained in the report.

**3. Background**

3.1 The Public Services Ombudsman investigates complaints that allege that members of local authorities have broken the Code of Conduct under the provisions of Part III of the Local Government Act 2000 and also relevant orders made by the National Assembly for Wales under that Act.

3.2 In circumstances where the Ombudsman decides that a complaint should be investigated, under legislation there are four findings that he can arrive at:

- (a) that there is no evidence that there has been a breach of the Authority's Code of Conduct
- (b) that no action needs to be taken in respect of the matters that were subject to investigation
- (c) that the matter be referred to the Authority's Monitoring Officer for consideration by the Standards Committee
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases)

- 3.3 In the circumstances of (c) and (d) above, the Ombudsman is required to submit his investigation report to the Standards Committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found together with any defence put forward by the Member concerned. Further, it is for them to determine whether a breach has occurred and if so what penalty, if any, should be imposed.
- 3.4 In 2013/14, 115 complaints were made against Community Councillors compared to 140 in 2012/13. There were 111 complaints against County Borough Councillors in 2013/14 compared with 150 in 2012/13.
- 3.5 As regards the nature of Code of Conduct complaints, the following table shows the areas of the Code that Members were alleged to have breached:

<b>Nature of Complaint</b>	<b>%</b>
Promotion of equality and respect	36%
Selflessness and stewardship	1%
Disclosure and registration of interests	21%
Accountability and openness	11%
Integrity	20%
Duty to uphold the law	3%
Objectivity and propriety	8%

- 3.6 Of the Code of Conduct cases considered by the Ombudsman in 2013/14, the majority were closed under the category shown below as "Closed after initial consideration". This includes decisions such as:
- there was no 'prima facie' evidence of a breach of the Code
  - the alleged breach was insufficiently serious to warrant an investigation (and unlikely to attract a sanction)
  - the incident complained about happened before the Member was elected (before they were found by the Code)

	<b>2013/14</b>	<b>2012/13</b>
Closed after initial consideration	176	283
Complaint withdrawn	12	12
Investigation discontinued	8	18
Investigation completed: No evidence of breach	10	23
Investigation completed: No action necessary	17	15
Investigation completed: Refer to Standards Committee	5	15
Investigation completed: Refer to Adjudication Panel	1	5
<b>Total Outcomes – Code of Conduct complaints</b>	<b>229</b>	<b>371</b>

**(Note:** 15 complaints were submitted to the Ombudsman's Office during 2013/14 alleging breaches of the Code by Members of Rhondda Cynon Taf County Borough - 14 were closed after initial consideration and 1 was withdrawn.

1 complaint was submitted in respect of Member of Llantrisant Community Council and this case was also closed by the Ombudsman after initial consideration).

- 3.7 It should be noted that not only had the number of Code of Conduct complaints to the Ombudsman decreased over the past year but the number of cases referred to either the Standards Committee or to the Adjudication Panel for Wales fell significantly from 20 in 2012/13 to 6 in 2013/14. This was partly attributable to the effects of the High Court judgement on the Calver case in 2012. The ruling on this case, concerning a Member's freedom of expression attracting enhanced protection under the Human Rights legislation when comments made are political in nature, has had an impact on the application of paragraph 4b of the Code of Conduct relating to treating others with respect and consideration. Taking account of the ruling that politicians need to have "thicker skins", the bar has now been raised on what the Ombudsman refers to a Standards Committee of the Panel.
- 3.8 The time targets set by the Ombudsman for Code of Conduct complaints are:
- At least 90% of all complainants to be informed within 4 weeks whether the Ombudsman will take up their complaint (from the date that sufficient information is received)
  - To conclude all cases within 12 months from the point that a decision is made to take up a complaint (i.e. to commence investigation of a complaint)
- 3.9 In respect of the first target referred to above, this was achieved 81% of the time and the Ombudsman has expressed a little disappointment that his Office had not been able to achieve the 90% target in respect of Code of conduct complaints. The Ombudsman intends to address this matter in the coming year.
- 3.10 With regard to the second target, the Ombudsman is pleased to achieve a 100% success rate for completion of Code of Conduct investigations within 12 months and in fact, 85% of investigations were completed in less than 9 months.
- 3.11 The Standards Committee will be aware that the Ombudsman had previously made clear his concerns about the levels of indemnity enjoyed by Members who are accused of a breach and the need for this to be addressed. The Ombudsman is pleased to report that good progress has been made by local authorities (which includes Rhondda Cynon Taf) in introducing an indemnity cap of £20,000 in the past year or so. However, he is disappointed that a couple of Councils, which have an insurance arrangement in place for indemnity, have stated that they are unable to fall in line due to insurance companies resisting such a ceiling. Welsh Government Ministers have previously indicated that they may consider

addressing this matter through legislation if wholesale voluntary agreement could not be secured. This is a matter which may, therefore, need to be raised again in the forthcoming year.

**Local Government Act 1972**

**As Amended by**

**The Local Government (Access to Information) Act 1985**

**Standards Committee**

**4 November 2014**

**Report of Monitoring Officer**

**BACKGROUND PAPERS**

<b>ANNUAL REPORT OF THE PUBLIC SERVICES OMBUDSMAN FOR WALES 2013/14 – CODE OF CONDUCT COMPLAINTS</b>	Mr.P.Lucas Monitoring Officer  Te: 01443 424105
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**Freestanding Matter**