

**RHONDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2013 – 2014**

**STANDARDS COMMITTEE**  
**25<sup>th</sup> April 2014**

**REPORT OF**  
**THE MONITORING OFFICER**

<b>AGENDA ITEM NO. 4(d)</b>	
<b>CODE OF CONDUCT AND LOCAL INVESTIGATIONS – REFERRALS BY OMBUDSMAN TO MONITORING OFFICER</b>	

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**1. PURPOSE OF THE REPORT**

- 1.1 To provide an update in respect of cases where the Public Services Ombudsman for Wales (the ‘Ombudsman’) has decided that Member conduct may have breached the Code but has recommended no further action and refers the matter to the Monitoring Officer for consideration as to whether it should be dealt with by a local investigation.

**2. RECOMMENDATIONS**

- 2.1 Members note the contents of the report.

**3. BACKGROUND**

- 3.1 At the Standards Committee meeting on the 3<sup>rd</sup> December 2013, the Monitoring Officer reported the outcome of a referral to him from the Ombudsman (Minute 25 refers).
- 3.2 In that matter, the Ombudsman was not persuaded that if he did investigate and the Councillor was found by the Standards Committee to have breached the Code that a sanction would be imposed. The Ombudsman was, therefore, not minded to investigate the complaint due to this failure to satisfy his ‘two-stage test’.
- 3.3 In accordance with his procedures, the Ombudsman referred the matter to the Monitoring Officer to decide whether he felt local investigation of the complaint was appropriate. Having consulted with the Chairman at that time, the Monitoring Officer confirmed to the Ombudsman that in this instance he did not feel local investigation was appropriate.
- 3.4 Members were also advised of the updated Ombudsman’s guidance as regards local investigations in which the Ombudsman confirmed the following:-

*If, whilst assessing a complaint or during an investigation I consider that the second limb of the two stage test has not been met, I will invite the Monitoring Officer (in conjunction with the Standards Committee) to consider whether a local investigation is appropriate. If so, I will formally refer the investigation to them under section 70(4) of the Local Government Act 2000.*

- 3.5 In order to establish a procedure for dealing with such referrals in future at the Standards Committee meeting held on 24<sup>th</sup> January 2014, Members resolved that, in the event of the Ombudsman referring a complaint to the Monitoring Officer for local investigation, he discuss the matter with the Chairman of the Standards Committee and if it is considered the case does not warrant investigation, the Ombudsman be advised accordingly but should any concerns be raised, the matter be referred to the Standards Committee for an urgent decision on whether or not to investigate locally.
- 3.6 The Monitoring Officer also confirmed he would obtain information regarding current practice across Wales in dealing with such matters, ascertain from the Ombudsman's Office whether the new procedures are to be formally adopted and that an updated report would be presented for Committee Members' consideration.
- 3.7 The Ombudsman's Office has now confirmed that it is likely the guidance will be revised further to state that the Monitoring Officers may consult with Standards Committees rather than having to do so.
- 3.8 The Ombudsman will take several issues into account when deciding whether to pursue a case, such as the reliability of witnesses and remorse, but if Monitoring Officers feel that there should be a referral back to the Standards Committee then they should inform the Ombudsman of that.
- 3.9 It was also confirmed that if Committee Members wanted a report on a particular issue before it had been referred to Standards Committee, or if the Chair is consulted on any possible referral back, then the Committee is not prevented from dealing with the matter should it be formally referred back to it for investigation subsequently by the Ombudsman.
- 3.10 As regards Local Authorities across Wales, some Monitoring Officers make the decision themselves (or in consultation with the Chair) as to whether to refer a matter to the Standards Committee and a couple have referred the matter back to the Committee to determine.
- 3.11 Therefore, pending the publication of revised guidance by the Ombudsman, it is proposed to continue to deal with such referrals as resolved by the Committee and set out above.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

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**Background Papers:**      Freestanding matter

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