



Agenda

Standards Committee

Date: Thursday, 11 November 2021

Time: 5.30 pm

Venue:

To: Councillors Davies, D Wilcox, P Hourahine, D Fouweather, A Mitchell (Chair), Watkins (Vice Chair) and Worthington

Item	Wards Affected
1	<u>Apologies for Absence</u>
2	<u>Declarations of Interest</u>
3	<u>Minutes of the Previous Meeting: (Pages 3 - 8)</u>
4	<u>Ombudsman's Annual Report 20/21 (Pages 9 - 12)</u>
5	<u>Review of Ethical Framework (Pages 13 - 20)</u>
6	<u>Standards Committee Annual Report (Pages 21 - 48)</u>
7	<u>Chair's Announcements</u> To receive any announcements the Chair wishes to make.
8	<u>Complaints Update</u> The Monitoring Officer will report on any complaints received since the last meeting.
9	<u>Date of Next Meeting</u> 5:30pm on the 6 th January, 2022
10	<u>Webcast of Committee</u> Standards Committee, 11 November 2021 - YouTube

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Date of Issue: Date Not Specified

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Minutes



Standards Committee

Date: 15 July 2021

Time: 5:30pm

Venue: Microsoft Teams Meeting

Present: A. Mitchell (Chair) J. Davies, P. Worthington, R. Morgan, T. Britton, Councillor P Hourahine. Gareth Price (Head of Law and Regulation), Pamela Tasker (Governance Support Officer) Samantha Schanzer (Governance Support Officer)

Apologies: Councillor D Wilcox and K. Watkins

1. Apologies for Absence

Councillor D. Wilcox and Mr Kerry Watkins

Mr Richard Morgan was welcomed to his first Standards Committee and was introduced to the other Committee members.

2. Declarations of Interest

None

3. Minutes of the Previous Meeting: 15 April 2021

Agreed: That the minutes were a true and accurate record.

On Page 4 the Head of Law and Regulation confirmed that in relation to succession planning Mrs Gill Nurton was appointed to the Standards Committee but would not be in post until October 2021. This was confirmed at Council AGM in May 2021.

4. Matters Arising

None

5. Chairs Announcements

None

6. Complaints

The Head of Law and Regulation confirmed that since the last committee there was one further complaint received and referred to the Ombudsman regarding a city councillor which he declined to accept for investigation.

This complaint was sent back stating it was an issue of communication between 2 councillors and a matter for local resolution protocol. It was sent back to the councillor and there has been nothing heard since regarding resolution protocol.

There is one outstanding involving community councillor where the Head of Law and Regulation received the report from the Ombudsman, who did find a technical breach of the Code of Conduct as said councillor was voting on grants and failed to declare that his wife was on a committee for which a grant was to be awarded. However, the Ombudsman took the view that it was not serious enough for any action or any sanctions to be imposed. The councillor would be written to, to enforce the need for transparency but there would be no further action. Factors in the decision was that it was felt that as the other members voted in favour of the grant anyway it did not influence the decision and there was no impropriety there.

There were 3 other community council complaints still outstanding with no outcome yet. The Monitoring Officer would update the committee at the next meeting.

John Davies confirmed that he had spoken to the Ombudsman in relation to the first complaint and he was satisfied with the outcome and that it should not happen again.

The Chair requested the Monitoring Officer to explain to the committee and for the benefit of the new committee member why complaints sometimes go to the Ombudsman and not to the Standards Committee.

The Monitoring Officer confirmed that in Wales all significant complaints were sent to the Ombudsman and there was also a low-level resolution protocol to deal with low level complaints e.g., officer against councillor where there was a relationship issue and maybe a lack of respect. This was like a local mediation process to settle differences amicably.

If this cannot be done, then there was a mechanism where this could be brought to Standards Committee, but as it was a low-level complaint and the Ombudsman hasn't gotten involved, the most that could happen is the member could be censured for any breaches of the Code. This was only used when a complaint was received from another councillor or another officer. Any complaint involving a complaint from the public must be referred to the Ombudsman and any issues that were more serious such as breaches of code must go to the Ombudsman.

In theory the Ombudsman could start the investigation and refer it to the Monitoring Officer to finish the investigation and report to the Standards Committee. However, this does not usually happen. If the Ombudsman feels that its serious enough to merit investigation the witnesses will be interviewed by him and produce a report to be considered by the Standards Committee.

In relation to complaints referred to the Ombudsman where they have been turned down, the guidance explains that when the Ombudsman considers these complaints there is a 2-stage test, the first being is there any breach of the Member Code of Conduct? If not, then there is no case to answer.

Secondly public interest is then considered as to whether its worth investigating.

There is a view amongst Standards Committees in Wales that the second stage goes beyond the remit and if there is a breach the Standards Committee should be the ones to decide.

Mr Morgan asked whether the 2-stage test was in the legislation and the Monitoring Officer confirmed that it was not and was something that the Ombudsman imposed.

The Monitoring Officer explained that the Ombudsman can issue statutory guidance both to community councils and primary authorities, but it is a grey area. However, it was discussed that the imposition of sanctions was down to Standards Committees and Adjudication panels and the Ombudsman should not be filtering those cases.

Mr Davies stated that as a community council they were disappointed that the Ombudsman said there was a breach but did nothing about it. The Ombudsman suggested that if the Councillor concerned was not satisfied then it could be referred to the Monitoring Officer.

The Monitoring Officer stated that if the Ombudsman referred to them then it was perhaps a training issue.

Mr Davies stated that it clearly stated that when applying for grant money if a member and their wife was a member of the organisation then this needed to be declared as an interest.

The Monitoring Officer stated that the Councillor should have declared for the record and the Councillor involved was advised of that.

Mr Davies advised that the Councillor involved was asked to declare an interest even when it was clear that his wife was a chairman of the Committee and he was a member, but he refused to do this and this was seen as defiant, so this was the reason why it was referred.

The Chair confirmed that due processes have been followed so no further action was taken at that time.

Mr Worthington stated that transparency was the main thing and the case had gone through due process which was highlighted. It may point to an issue that maybe a reminder should be given to Community Councils on the obligations under Declaration of Interest as this was a sign of good governance.

The Monitoring Officer confirmed that they met with the community councils on a regular basis and the clerks had asked for training on how declarations of interests should be recorded and rather than send out a letter it would be more

beneficial to offer them training. The code was clear and there could have been an issue as to whether the Councillor was wrong to participate as there are some exemptions in relation to community councils and small grants where having declared the interest you can still participate so this might have been a factor.

Mr Morgan enquired as to whether the legislation would be reviewed, and the Monitoring Officer clarified that this was the guidance and the Code of Conduct that will be reviewed. The Code of Conduct in Wales was produced by Welsh Government as its devolved. The original code was 20 years old, and it was reviewed in 2016. The Welsh Local Government Association have commissioned a Mr Richard Penn -a member of the Remuneration Panel for Wales to undertake a review of the Code of Conduct to see if changes and reviews were needed. There was a plan to have this completed before the next Local Elections in 2022. The training that was held for Members may then need to be tweaked.

The Monitoring Officer informed the committee that a city Councillor complaint was received, and a formal investigation report had been received from the Ombudsman. The formal investigation completed by the Ombudsman concluded that the case needed to be referred to the Standards committee.

- Therefore, a special meeting of the Standards Committee would need to be held in the next 7-10 days.
- The first meeting held would need to decide if there was case to answer and would be strictly confidential.
- An agenda will be sent out to Committee Members which would be a Part 2 confidential report with a copy of the Ombudsman's Section 69 report which will set out the detail of the complaint, the investigation and its findings of fact and the reason why he thinks there was a breach of the Code of Conduct.
- During this private session the Committee would need to come to a decision as to whether there was a case to answer. If so, there would need to be a full hearing, the member would need to be invited and the investigating officer from the Ombudsman office to come to a decision about whether there has been misconduct and whether the Committee would impose any sanctions.

The Monitoring Officer confirmed that a guidance on the Standards Committee Hearing procedure would also be circulated with the confidential papers. It was confirmed that these confidential papers would only be circulated to members of the Standards Committee.

The Chair asked Mr Davies as to whether he was satisfied with the community clerks receiving training and Mr Davies agreed with this as it would benefit clerks and new members.

Agreed:

For the Governance Support Officer to contact the Standards Committee members with dates for a special meeting of the Standards Committee.

7. Any other business

None

8. Date of Next Meeting:

11 November 2021 @ 5:30pm

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Report

Standards Committee

Part 1

Date: 11th November 2021

Subject Ombudsman's Annual Report 2020/2021

Purpose To report the Ombudsman's Annual letter and Annual Report and the numbers of complaints of maladministration and misconduct dealt with during 2020/21

Author Head of Law and Regulation

Ward General

Summary Following the publication of his Annual Report for 2020/21, 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 2020/21**

Action by Head of Law and Regulation

Timetable Immediate

Signed

Background

1. Following the publication of his Annual Report for 2020/21, 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. A copy of the Annual letter is attached to this Report.
3. During the financial year from April 2020 to March 2021, the Ombudsman's office intervened in 20% of complaints about public bodies, which was broadly the same as the previous year. However, the number of new complaints about local authorities decreased by 12.5% compared with the previous year. This reflects the reduction in complaints being reported by Local Authorities during the Covid-19 pandemic. The Ombudsman's office intervened in 13% of the closed case, which was again a similar to the previous year.
4. Despite the challenges caused by the pandemic, the Ombudsman's office made great strides in progressing work related to Complaints Standards and Own Initiative Investigations, following the increase in their powers to initiate investigations, without the need for any formal complaint. The investigation into Local Authority Homelessness Assessments was launched in September 2020 and the report is due in the coming months. They also commenced 4 extended Own Initiative Investigations, where they extended the scope of their work on a complaint already under investigation.
5. Local Authorities in Wales continued to submit data to the Complaints Standards Authority (CSA) during 2020/21. The data submitted for 2020/21 shows:
 - Nearly 12,000 complaints were recorded by Local Authorities
 - This equates to 3.77 for every 1000 residents.
 - Nearly half (44%) of those complaints were upheld.
 - About 75% were investigated within 20 working days.
 - About 9% of all complaints closed were referred to the Ombudsman
6. The CSA will publish data to the Ombudsman website for the first time in the coming year, marking a key achievement in the progress of this work. Training sessions have been delivered to almost all Local Authorities in Wales.
7. The Ombudsman's annual letter contains a summary of the complaints of maladministration relating to Newport in 2020/21. In total 31 complaints were made to the Ombudsman, which represents 0.20 per 1000 residents. This is a slight reduction, compared with the 37 complaints received in the previous year. The main areas of complaint were in relation to complaints handling (19%), Planning & Building Control (13%), Environmental Health (13%) and Housing (13%), Education (10%) and Roads and Transport (10%)
8. There were 5 interventions by the Ombudsman in Newport cases, with 3 cases being resolved and 2 others settled. However, there were no public interest reports issued in 2020/21 relating to findings of serious maladministration.
9. However, the Ombudsman referred a higher proportion of Code of Conduct complaints to a Standards Committee or the Adjudication Panel for Wales: 3.4% compared to 2% in the previous year. This higher referral rate was also accompanied by a sharp increase in the number of Code of Conduct complaints received.
10. The number of Code of Conduct complaints has increased nationally by 47% compared with the previous year. The Ombudsman received 535 new Code of Conduct complaints, and took forward 308 complaints for investigation. Complaints about Town and Community Council

increased by 23.7% and County and County Borough Councils complaints by 43.8%, although the Ombudsman noted that 35 separate complaints were received about 1 County Council member.

11. The Annual report notes that, within a small number of Town and Community Councils the Ombudsman is still seeing complaints which appear to border on frivolity or are motivated by political rivalry or clashes of personalities, rather than being true Code of Conduct issues. Where he receives, 'tit for tat' complaints he will engage with the Council and the Monitoring Officer of the principal authority to remind its members of their obligations under the Code and their democratic responsibilities to the communities they serve.
12. The majority of Code of Conduct complaints received during 2020/21 related to matters of 'promotion of equality and respect' (55%), 'disclosure and registration of interests' (14%) and 'integrity' (12%).
13. The Ombudsman referred a higher proportion of Code of Conduct complaints to a Standards Committee or the Adjudication Panel for Wales: 3.4% compared to 2% in the previous year. This reflected the sharp increase in the number of Code of Conduct complaints received.
14. However, in Newport only 2 complaints were referred to the Ombudsman about City Councillors in 2020/21 and 1 complaint regarding a Langstone Community Councillor. None of these complaints was accepted for investigation on the basis that there was no evidence of any serious breaches of the Code (This is in relation to the financial year 2020/21, as opposed to the higher number of complaints recorded in the Standards Committee Annual Report, over a different 12 months period).

Financial Summary (Capital and Revenue)

15. There are no financial implications.

Links to Council Policies and Priorities

16. 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

17. To note the report and the Ombudsman's annual letter and Annual Report for 2020/21

Comments of Chief Financial Officer

There are no financial implications.

Comments of Monitoring Officer

Included in the report.

Comments of Head of People and Business Change

There are no specific staffing implications or policy implications.

Fairness and Equality Impact Assessment:

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.

Background Papers

Ombudsman's Annual Report and letter 2020/21



Ombudsman
Annual Itr 20.21.pdf

A copy of the Annual Report can be found at

<https://www.ombudsman.wales/wp-content/uploads/2021/07/Annual-Report-and-Accounts-2020-21-Delivering-Justice-FINAL.pdf>

Dated: 4th November 2021



Report

Standards Committee

Part 1

Date: 11th November 2021

Subject Review of Ethical Standards Framework

Purpose To inform Committee about the outcome of the review of the Ethical Standards Framework and the recommendations set out in the final review Report.

Author Head of Law and Regulation

Ward General

Summary The Welsh Government and WLGA commissioned an independent review of the Ethical Standards Framework, to assess whether it remained fit for purpose, in readiness for the May 2022 local council elections. The review was carried out by Richard Penn between April and July 2021. The review took into account the new legislative requirements set out in the Local Government and Elections (Wales) Act 2021 and the current equality and diversity policy context.

The final Report has now been published and concludes that the current arrangements remain fit for purpose but recommends some changes to the Framework, including the Model Code of Conduct. In particular, the report recommends that the current duties could be strengthened by specific reference to the requirements of the Equality Act and that the financial threshold for declarations of gifts and hospitality should be prescribed in the Code, to provide a consistent approach. The review also recommends that the Code should expressly exclude the need to disclose Councillors' home addresses in the public register of members' interests, on the grounds of security. It is also recommended that the Code should require Councillors to self-report to the Ombudsman if they are guilty of any criminal behaviour.

The Minister for Finance and Local Government will now consider those recommendations, with a view to changing the Model Code of Conduct prior to the elections in May 2022. The new Code will then need to be formally adopted by the Council and all community councils. The recommendation is that all new declarations of acceptance of office by newly elected councillors should include an obligation to undertake mandatory Code of conduct training as well as to abide by the provisions of the Code.

In the longer term, there are recommendations to review the wider Ethical Framework by granting increased powers for the Ombudsman to refer complaints for local investigation and resolution. These wider changes will be the subject of further consultation in due course, as they would have significant implications for Standards Committee and Monitoring Officers. The suggestions is that all complains 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 complains 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.

Proposal To note the Report and recommendations of the review.

Action by Head of Law and Regulation

Timetable Immediate

Signed

Background

1. The Ethical Standards Framework for Wales was established by Part 3 of the Local Government Act 2000 to promote and maintain high standards of ethical conduct by members and officers of relevant authorities in Wales.
2. The Framework consists of ten general principles of conduct for members (derived from Lord Nolan's 'Seven Principles of Public Life'). These are included in the Model Code of Conduct for elected members, which provides a set of enforceable minimum standards for the way in which members should conduct themselves, both in terms of their official capacity and (in some instances) in their personal capacity. It also includes provisions relating to the declaration and registration of interests. The Framework has remained largely unchanged, though there have been a number of small amendments to improve the operation of the Framework over the last twenty years.
3. The Welsh Government and WLGA commissioned an independent review of the Ethical Standards Framework, to assess whether it remained fit for purpose, in readiness for the May 2022 local council elections. The review was carried out by Richard Penn between April and July 2021. The review took into account the new legislative requirements set out in the Local Government and Elections (Wales) Act 2021 and the current equality and diversity policy context.
4. The final Report has now been finalised and published. The key question was how ethical standards in local government in Wales could be enhanced, and on a practical point how the number of complaints can be reduced? This involved a review of the members Code of Conduct, the regulatory framework and whether the existing sanctions were sufficient, the role of Standards Committees and support and training for members. In conducting the review, Richard Penn engaged extensively with various stakeholder groups, including Monitoring officers, elected members, the Ombudsman and the Adjudication Panel for Wales.
5. The general consensus of opinion was that the Welsh framework continued to operate better than the English model. The framework generally, and the requirements of the Code of Conduct in particular, has been instrumental in fostering the high standards of conduct that are evident in local government in Wales. However, concerns were expressed about the continuing and recently increasing volume of complaints about the conduct of members of Community Councils. It was considered that adjustments and amendments to the current framework requiring mandatory training on the Code of Conduct for all members and the greater use of local resolution procedures would reduce the number of low level complaints that are made and the need for formal investigations.
6. The review report concluded that the current Members Code of Conduct remains fit for purpose and does not require major revision. However, the report recommends a number of possible improvements:-
 - (a) *Paragraph 17 of the Model Code that requires members, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of their authority, provide written notification to the authority's Monitoring Officer, or in relation to a Community Council, to the authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage. The Code does not specify any threshold for such declarations and a number of authorities have specified a threshold beyond which there must be a declaration. **The threshold should be specified in the Code to ensure consistency across Wales.***

Most councils have a financial threshold for registration of £25 (as in Newport), although Standards Committee have produced guidance which recommends against the acceptance of any gift and hospitality, whatever the value, if that could place a member under any perceived obligation or create an impression of improper influence. Including the prescribed financial limit in the Code would ensure a consistency of approach and would be supported.

- (b) *The law requiring the publication of the home addresses of Councillors has changed under the new legislation and Councils no longer do this. However, members are required to include their home address in their Council's Register of Interests. It is proposed that members should not be required to disclose their home addresses in the public register and that paragraph 10.2.(vi) of the Model Code of Conduct should be amended to read: 'any land (other than the principal residence) in which you have a beneficial interest and which is in the area of your authority'*

Newport has redacted that information at a local level for a number of years, on the grounds of the sensitive nature of the personal information and to ensure the personal security of Councillors. Therefore, the proposal to expressly exclude this requirement under the Code is supported.

- (c) *A 'person' is not defined either in the 2000 Local Government Act or in the Model Code of Conduct and the Public Services Ombudsman has had to rely in conducting his investigations on the definition in the Interpretation Act 1978 which is 'a body of persons corporate or unincorporate'. This has caused problems, and it is considered that a clear definition of what is meant by a 'person' on the face of the legislation or in the Model Code would be beneficial.*

This is a technical amendment, which would not change the substance of the Code.

- (d) *There is concern that the provision in Paragraph 4a of the Model Code of Conduct which requires that a member must: carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion' does not include all protected characteristics. Therefore, it is recommended that this provision should be extended to include all nine protected characteristics under the Equality Act 2010 – race, religion or belief, age, disability, sex (gender), sexual orientation, gender reassignment, marriage and civil partnership, pregnancy and maternity.*

This proposal simply reflects the extended equalities and diversity agenda and is, again supported.

- (e) *The potential for breaches of the Code of Conduct as a result of the extensive and increasing use being made by elected members of a range of social media is a matter of concern. It is proposed that the helpful guidance on the use of social media by the WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Model Code of Conduct*

This is something that the Standards Committee have considered previously and the WLGA guidance has been specifically publicised. A specific reference to the use of social media in the Code itself would help in reinforcing the message and identifying the potential breaches that can occur. Therefore, this proposal is again supported.

- (f) *Paragraph 6(1) (b) of the Code of Conduct places the obligation on elected members to report the criminal behaviour of others but not of themselves. In practice, most members have self-reported to the Public Services Ombudsman for possible breaches of the Code as a result of criminal conduct. However, there have been cases where this has not happened and it is recommended that the Code of Conduct should be appropriately amended to make this an obligation of the member to themselves report on their own criminal conduct*

This is supported, as it should be the responsibility of the individuals concerned to self-report any criminal behaviour, rather than any other member. This would avoid any obligation on the part of political Group leaders to report any of their group members, in accordance with their new duties.

7. The review report also contains some other recommendations for strengthening and improving the current Ethical Framework:
- (a) **Mandatory training on the Code of Conduct for all members of principal councils and community councils**

The report recommends that the simplest way to achieve universal mandatory training would be to include a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members in Wales are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 before they can act as a Councillor, in the same way that they are currently required to undertake to observe the Code of Conduct adopted by their authority. It may require legislation to amend the 2004 Order appropriately. The Local Government and Elections (Wales) Act 2021 includes a requirement for Community Councils to publish and keep under review a training plan for its members and officers. It is anticipated that such plans would include training on the Code of Conduct at appropriate intervals. If initial and refresher training on the Code is made mandatory for all councillors there will need to be consideration of how that training can be resourced and delivered.

It is already Council policy that all members should undertake Mandatory Code of Conduct training, but including this undertaking in their Declarations of Acceptance of office would reinforce the requirement.

(b) **Increased use of local resolution of complaints**

Most principal Councils in Wales have adopted local resolution procedures to deal with low level complaints which are made by a member against a fellow member. These arrangements are proving to be effective at resolving many of these kinds of complaints, and there is a small number of Community Councils (around 70 of the 735 Town and Community Councils in Wales) that have adopted a similar procedure using the Model Local Resolution procedure developed for their use by One Voice Wales and the Public Services Ombudsman. It is generally accepted that such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that the Ombudsman's resources are devoted to the investigation of serious complaints. Therefore, the review report recommends that consideration should be given to whether the Model Code of Conduct should be appropriately amended to require that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman. This would speed up the complaints process and to ensure that the Ombudsman's resources are devoted to the investigation of serious complaints.

This is consistent with the current approach to seeking an early resolution of complaints at a local level.

(c) **Extended powers for the Public Services Ombudsman for Wales**

There is concern that the low number of referrals to Standards Committees as a proportion of the complaints received by the Ombudsman has had an adverse impact on the ability of Standards Committees to maintain public confidence in elected members, that complainants felt their concerns were not being taken seriously and that on occasion the member complained about felt exonerated and free to continue with the conduct that had been the subject of the complaint. Greater use of the Ombudsman's discretion for referral than is the case at present would be welcomed by Monitoring Officers and Chairs of Standards Committees. The Ombudsman has expressed his concern that too much of his organisation's time is spent filtering complaints – over 400 in 2020/21 – the vast majority of which do not warrant investigation. In the Ombudsman's view local resolution of many of these low-level complaints is the key to making his work more focused and efficient, and the extension of his

power to refer complaints back for local resolution would be a beneficial change to the current framework.

Although this is broadly welcome, it 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. If there is to be greater investigation and determination at a local level, then this will significantly increase the work of the Monitoring Officer, Deputy Monitoring Officer and Standards Committee.

(d) Changes to the powers and processes of the Adjudication Panel for Wales

The review report sets out a number of proposed changes to the procedures for Adjudication Panel hearings, with restricted reporting orders and anonymity for witnesses in sensitive cases, and extended rules on disclosure of documents. There are also proposed amendment to appeals tribunal proceedings, although there is no proposed changed to the requirement for Standards Committee to reconsider any appeal decision that changed or overturned their determination. The permission to appeal process will also be tightened-up. The Panel have also requested additional sentencing powers to impose more varied sanctions. It is also suggested that the process could be simplified for Interim case tribunals to impose an interim suspension pending full hearing, where cases could result in a disqualification.

8. The review also considered the role of Standards Committees, including their role in relation to Town and Community Councils and whether the establishment of sub-committees has had any impact on the process of supporting Community Councils and dealing with complaints. The report concluded that there is a need for consistency of approach and for the remit of the Standards Committee to be generally similar across Wales, but accepting that 'one size does not fit all' and that there is a need for the local Standards Committee to reflect the specifics of the situation for the principal council concerned. The Chair of the Standards Committee should play a leadership role, along with the Chief Executive, the Monitoring Officer and the Leaders of political groups in promoting high standards of conduct across the Council. The Local Government and Elections (Wales) Act 2021 includes a number of provisions that will have implications for the work of Standards Committees which will be expected to support the political leadership of the Council in maintaining high standards of conduct by the members of their group and to make an annual report to the authority on the discharge of its functions, its assessment of standards of conduct within the authority and any recommendations for improving standards.
9. The report identifies a need for training of members of Standards Committee, not only on the Model Code of Conduct but also on how to hold Hearings to ensure openness and fairness to the member complained of, to the complainant and to any witnesses.
10. It is suggested that there should be an all-Wales Forum and the re-establishment of the annual Conference for Independent Chairs and Independent members of Standards Committees across Wales to encourage consistency of approach and the adoption of best practice across Wales.
11. The Ombudsman accepts that there is a need for more reference back to Standards Committees when he declines to investigate complaints, and that although the technicalities of how references back are managed needs careful consideration he does not believe this to be complicated. The Ombudsman considers that this informal arrangement would not require any legislative change as far as his powers are concerned but that Standards Committees would need to have additional powers to require necessary training of members and the power to require a member to make an apology to the complainant. His clear view is that the power for the Standards Committee to impose training or to require an apology to be made would be helpful to '*nip things in the bud*' at a local level.

12. There is serious concern about the extent of bullying, lack of respect or otherwise generally disruptive behaviour by some members at meetings of Town and Community Councils. The Ombudsman takes seriously any allegation that a member has bullied or harassed another member or officer and his guidance on this makes it clear that members must show other members and officers the same courtesy and consideration that they show others in their daily lives. In seeking to reduce the incidence of bullying or otherwise inappropriate behaviour, with the assistance of Monitoring Officers, the Ombudsman has engaged with a number of Town and Community Councils that have given rise to a disproportionate number of complaints in the past, and guidance prepared by One Voice Wales and the Society of Local Council Clerks aims to help Councils in avoiding or tackling bullying, harassment and inappropriate behaviour. This is an issue that may be mitigated to some extent by a requirement for mandatory training of councillors and greater use of local resolution procedures, but it is a serious problem that will continue to need to be monitored and addressed where necessary by local Standards Committees and Monitoring Officers
13. The Minister for Finance and Local Government will now consider those recommendations, with a view to changing the Model Code of Conduct prior to the elections in May 2022. The new Code will then need to be formally adopted by the Council and all community councils. The recommendation is that all new declarations of acceptance of office by newly elected councillors should include an obligation to undertake mandatory Code of conduct training as well as to abide by the provisions of the Code.
14. In the longer term, there are recommendations to review the wider Ethical Framework by granting increased powers for the Ombudsman to refer complaints for local investigation and resolution. These wider changes will be the subject of further consultation in due course, as they would have significant implications for Standards Committee and Monitoring Officers.

Financial Summary (Capital and Revenue)

15. There are no financial implications.

Links to Council Policies and Priorities

16. The Nolan principles, which underpin the ethical standards framework enshrined in the Council's corporate and well-being objectives.

Proposed Action

17. To note the report and the recommendations of the review

Comments of Chief Financial Officer

There are no financial implications.

Comments of Monitoring Officer

Included in the report.

Comments of Head of People and Business Change

There are no specific staffing implications or policy implications.

Fairness and Equality Impact Assessment:

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

Background Papers

The full review report can be found at:

<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgov.wales%2Flocal-government-ethical-standards-framework-review&data=04%7C01%7CBethan.Boyd%40gov.wales%7Cc14a3756e2684c0fa47408d98d6f411e%7Ca2cc36c592804ae78887d06dab89216b%7C0%7C0%7C637696331229865545%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJB Til6Ik1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=yThktDLzIXNzRWY1UrTzraoSevgcrum4PWqvaTd%2B%2BLq%3D&reserved=0>

Dated: 4th November 2021



Standards Committee Annual Report 2020-21

Foreword by the Chair

I am pleased to present the eighth Annual Report of the Standards Committee for 2020/21. 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 2020 to November 2021 and follows on from the last report presented to Council in November 2020. This Annual Report has previously been presented to Council on a voluntary basis. However, as from May 2022, there will be 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 next year's 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.

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.

For the first time this year, Standards Committee was called upon to conduct a misconduct hearing and to impose a sanction on an elected member. This does not reflect well on the Council's reputation and, therefore, we consider that this case should act as a salutary lesson for all members regarding their position of trust and responsibility and the need to avoid using this position improperly, regardless of whether there is any element of personal gain involved. We have attached a full copy of the decision to this Annual Report and would encourage all members to read and take note of the reasons for this decision.

The training requirements for City Councillors, community councils and their clerks will continued to be monitored and reviewed as part of the Committee's forward work programme, particularly as we move towards the next round of local government elections in May 2022. The mandatory training modules for the Code of Conduct will be refined and redeveloped in readiness for the members induction programme, immediately following the elections.

During the past 12 months, two of our longest-serving independent members, Phil Westwood (the previous Chair of the Committee) and Tracey Britton, completed their second terms of office and I would like to take this opportunity to thank them for their hard work and dedication over the years. The Committee was pleased to welcome Richard Morgan, and Gill Norton as new independent members.

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 will also have 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 Baroness Wilcox of Newport
- Councillor Phil Hourahine
- 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 & Regulation, 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 2020/21

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 6 occasions during the past 12 months:-

- 7th January 2021
- 15th April 2021
- 15th July 2021
- 29th July 2021
- 22nd September 2021
- 11th November 2021

The meetings have all been conducted remotely via MS Teams, in accordance with the remote meetings Protocol adopted by the Council and the Coronavirus Meetings (Wales) Regulations 2020. Recordings of the meeting have been uploaded onto the Council web site

for public viewing. 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.

Previously, most of the work of the Committee had been taken up with determining applications for dispensation for individual Councillors to enable them to allocate their Neighbourhood Allowances to community groups and individuals within their wards. These Neighbourhood Allowances were discontinued in April 2016 as part of Council budget savings. There have been no other requests for individual Councillor dispensations over the past four years.

2.2 Training

The Standards Committee has always stressed the importance of regular Member training, to ensure that Councillors 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. Since the last Council elections in May 2017, a series of training sessions have been delivered and 47 out of the original 50 members have attended one of these sessions. The 3 remaining Councillors have been provided with electronic copies of the training presentation slides and documents and a link to the Ombudsman training video. In addition, there have been two by-elections during the previous 12 months to fill casual vacancies and the newly-elected members have also been provided with copies of the training presentations.

The training requirements of the community councils and their compliance arrangements have continued to be monitored and reviewed as part of the Committee’s forward work programme.

As part of this on-going review, the Committee has identified a need for refresher training, particularly for new community councillors and Clerks. This has also been identified at Liaison meetings with the community councils. Only some of the community councils

subscribe to training from One Voice Wales and others are entirely dependent on Standards Committee and the Monitoring Officer to provide advice and assistance in relation to Code of Conduct compliance. 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 remote training sessions 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.

As part of the forward work-programme for 2021/22, Standards Committee will be reviewing the ethical standards training modules in readiness for the next round of member induction training, following the local government elections in May 2022. The Members Code of Conduct has not been substantially revised since 2008 and there is an on-going independent review of the current Code, with a view to making any necessary changes prior to May 2022. Standards Committee have been advised that there are unlikely to be any major changes in the short term, as the existing Code is considered to be fit for purpose, but there are suggestions that the current duties could be strengthened by specific reference to the requirements of the Equality Act and that the financial threshold for declarations of gifts and hospitality should be prescribed in the Code, to provide a consistent approach. The review also recommends that the Code should expressly exclude the need to disclose Councillors' home addresses in the public register of members' interests, on the grounds of security. Standards Committee noted that the Council has redacted that information at a local level for a number of years, on the grounds of the sensitive nature of the personal information. In the longer term, there are recommendations to review the wider Ethical Framework by granting increased powers for the Ombudsman to refer complaints for local investigation and resolution.

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.

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 2020/21.

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. Other community councils have expressed an interest in their local complaints being resolved under the Council's Local Resolution Protocol and this is something that we are considering. 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. The previous Chair of Standards Committee, Phil Westwood, was originally appointed in March 2013 and, after serving two terms of office, his tenure ended in March 2021. Mrs Tracey Britton was originally appointed in October 2013 and, therefore, her two successive terms of office came to an end in October 2021.

Therefore, it was necessary for Standards Committee to agree the arrangements and process for succession planning, to appoint new replacement independent members, to succeed the current members when their respective terms of office expired. In addition, a new independent Chair of Standards Committee had to be appointed as from April 2021.

The Committee followed an open and transparent appointments process and, as required by the Regulations, the vacancies were advertised in the South Wales Argus and the Western Mail, in addition to being published on the Council website. An appointments panel was established to interview shortlisted candidates, comprising two independent members, one elected member and one Community Council representative. We received 14 applications and 5 were shortlisted for interview by the panel. Following a rigorous recruitment and interview process, Richard Morgan was recommended to replace Phil Westwood as from April 2021 and Gill Nurton was recommended to replace Tracey Britton as from October 2021. The recommendations from the appointments panel were subsequently adopted and ratified by full Council and both new independent members have now accepted and taken-up the appointments.

In April 2021, Andrew Mitchell was appointed as the new independent Chair of Standards Committee and Kerry Watkins was appointed as the new Deputy Chair.

2.5 General work

The Committee has continued to carry out review of Council policies and procedures relating to ethical standards.

We reviewed the updated Employee Code of Conduct and recommended its adoption to Council. The Employee Code of Conduct forms part of the Council's written Constitution and

is incorporated into the contracts and terms and conditions of employment of all Council staff. All staff are required to act in accordance with the Code and any breaches or failure to comply may result in disciplinary action. The Employee Code of Conduct is the staffing equivalent of the Members Code of Conduct and, taken together, form an ethical standard framework for both Council employees and elected members in order to maintain confidence in the delivery of public services. Standards Committee have previously recommended to Council the adoption of a Member/Officer protocol which provides practical guidance on the interrelationships between officers and members and the two Codes of Conduct.

The Employee Code of Conduct is subject to regular review, but was last updated back in 2017 and reported to Standards Committee in April 2018. A subsequent Corporate Governance Audit identified the need for the Employee Code of Conduct to be reviewed and updated, once again, to reflect changes in legislation, in particular data protection and GDPR changes. The revised Code of Conduct had been agreed by the Employee Partnership Forum and has been the subject of internal consultation. The Audit Report recommended that the revised Code should be agreed by Standards Committee and recommended to full Council for adoption as part of the written Constitution.

The revised Code was subsequently adopted by Council in June 2021. It has been communicated to all staff, made available on the intranet and the Employee Handbook. It has also been widely promoted and included as part of the revised staff induction training programme. In order to ensure that the revised Employee Code of Conduct is effective in maintaining standards of behaviour and integrity, there needs to be a regular process for monitoring its effectiveness. Therefore, Standards Committee will undertake a periodic review of how the Code is being applied and operated, as part of its forward work programme.

Standards Committee also considered the draft revised Guidance prepared by the Ombudsman in relation to the Members Code of Conduct, both in relation to City Councillors and Community Councils. For the most part, the changes simply updated the previous Guidance to provide further practical examples of breaches of the Code, based on previous cases investigated by the Ombudsman and determined by Standards Committees and Case Tribunals. However, the Committee noted that the current Members Code of Conduct dates back to 2008 and was last revised in 2016. Therefore, Welsh Government and the WLGA are reviewing the current code prior to the next local government elections in May 2022. In addition, the WLGA are producing on-line training modules for new Councillors in relation to Ethical Standards, which will be rolled-out as part of the induction programme in May 2022. Training on the Code will, again, be mandatory for all elected members.

The Committee subsequently received a report on the outcome of the independent review of the Ethical Standards Framework by Richard Penn. The Ethical Standards Framework for Wales was established by Part 3 of the Local Government Act 2000 to promote and maintain high standards of ethical conduct by members and officers of relevant authorities in Wales. The Framework consists of ten general principles of conduct for members (derived from Lord Nolan's 'Seven Principles of Public Life'). These are included in the Model Code of Conduct for elected members, which provides a set of enforceable minimum standards for the way in which members should conduct themselves, both in terms of their official capacity and (in some instances) in their personal capacity. It also includes provisions relating to the declaration and registration of interests. The Framework has remained largely unchanged,

though there have been a number of small amendments to improve the operation of the Framework over the last twenty years.

The review was carried out between April and July 2021 to assess whether the Framework remains fit for purpose. The review took into account the new legislative requirements set out in the Local Government and Elections (Wales) Act 2021 and the current equality and diversity policy context. The final Report concluded that the current arrangements remain fit for purpose but recommends some changes to the Framework, including the Model Code of Conduct. In particular, the report recommends that the current duties could be strengthened by specific reference to the requirements of the Equality Act and that the financial threshold for declarations of gifts and hospitality should be prescribed in the Code, to provide a consistent approach. The review also recommends that the Code should expressly exclude the need to disclose Councillors' home addresses in the public register of members' interests, on the grounds of security. Standards Committee noted that the Council has redacted that information at a local level for a number of years, on the grounds of the sensitive nature of the personal information. It is also recommended that the Code should require Councillors to self-report to the Ombudsman if they are guilty of any criminal behaviour.

The Minister for Finance and Local Government will now consider those recommendations, with a view to changing the Model Code of Conduct prior to the elections in May 2022. The new Code will then need to be formally adopted by the Council and all community councils. The recommendation is that all new declarations of acceptance of office by newly elected councillors should include an obligation to undertake mandatory Code of conduct training as well as to abide by the provisions of the Code.

In the longer term, there are recommendations to review the wider Ethical Framework by granting increased powers for the Ombudsman to refer complaints for local investigation and resolution. These wider changes will be the subject of further consultation in due course, as they would have significant implications for Standards Committee and Monitoring Officers. The suggestions is that all complains 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 complains 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.

With regard to the Ombudsman's Annual Report for 20/21, the Committee noted that nationally the number of Code of Conduct complaints had increased by 47% compared with the previous year. The Ombudsman received 535 new Code of Conduct complaints, and took forward 308 complaints for investigation. Complaints about Town and Community Council increased by 23.7% and County and County Borough Councils complaints by 43.8%, although the Ombudsman noted that 35 separate complaints were received about 1 County Council member. The Annual report noted that, within a small number of Town and Community Councils the Ombudsman is still seeing complaints which appear to border on frivolity or are motivated by political rivalry or clashes of personalities, rather than being true

Code of Conduct issues. Where he receives, ‘tit for tat’ complaints he will engage with the Council and the Monitoring Officer of the principal authority to remind its members of their obligations under the Code and their democratic responsibilities to the communities they serve.

The majority of Code of Conduct complaints received during 2020/21 related to matters of ‘promotion of equality and respect’ (55%), ‘disclosure and registration of interests’ (14%) and ‘integrity’ (12%).

The Ombudsman referred a higher proportion of Code of Conduct complaints to a Standards Committee or the Adjudication Panel for Wales: 3.4% compared to 2% in the previous year. This reflected the sharp increase in the number of Code of Conduct complaints received.

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 3 complaints were referred to the Ombudsman about City Councillors during the last year and 8 complaints were made regarding community councillors. One of these complaints against a City Councillor resulted in an Ombudsman report, a Standards Committee hearing and a finding of misconduct, which is set out in more detail below. The other two complaints were not accepted for formal investigation on the basis that they did not disclose any evidence of a breach of the Members Code of Conduct. The one complaint related to a neighbour dispute and the Ombudsman determined that the member concerned was acting in a private capacity, while the other complaint concerned a failure to reply to e-mails and this was not considered to be a breach of the Code

With regard to the complaints about community councillors, one was not accepted for formal investigation as it related to the way in which the Chair of the community council had chaired a particular meeting. The Ombudsman did not consider that the behaviour of the Chair constituted a breach of the members Code of Conduct. Two other complaints were not accepted for formal investigation on the basis that, although the behaviour of the community councillors concerned had shown a lack of respect and consideration for others and was, therefore, a breach of the ethical standards of behaviour set out in the Code, the breaches were not serious enough to warrant further action and it was not in the public interest to impose any sanctions. However, the Ombudsman wrote to the two community councillors to remind them of their obligations under the Code and to warn them about not being abusive and disrespectful towards members of the public in future and not to bring their office into disrepute.

A number of complaints were made about the Chair of another community council, involving her participation in a decision to co-opt a new member, a failure to adhere to social

distancing rules at meetings during Covid-19 restrictions, failure to give proper notice of council meetings, the Council's processes for written questions at meetings, and the way in which the resignation of the previous clerk was handled. The Ombudsman declined to accept any of these complaints for investigation on the basis that they were governance and employment matters, which fell outside the Members Code of Conduct.

The remaining 4 complaints about community councillors are still under investigation and awaiting a decision from the Ombudsman. However, Standards Committee shared the concern expressed by the Ombudsman about the increases in numbers of frivolous complaints which appear to be motivated by clashes of personalities, rather than being true Code of Conduct or ethical standards issues.

2.7 Standards Committee hearing

In July 2021, Standards Committee received a report from the Ombudsman in accordance with Section 71(2) of the Local Government Act 2000, following his investigation into a complaint from the Isca Medical Centre in Caerleon that Councillor Joan Watkins had improperly used her position as a member of the City Council and a representative on the Health Board when she advocated on behalf of a patient.

Standards Committee meeting on 29th July 2021 considered the Ombudsman's investigation report and made an initial determination that that there was a case to answer in terms of the alleged breach of the Members Code of Conduct. Therefore, the Committee decided that the matter should proceed to a full hearing and that Councillor Watkins should be given the opportunity to make representations in respect of the allegations. The full hearing was held remotely on 22nd September 2021, when Councillor Watkins appeared in person to answer the allegations, supported by Councillor William Routley. A full copy of the Standards Committee determination is attached at Appendix 1.

Standards Committee decided unanimously that Councillor Watkins 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

- (a) Councillor Watkins should be suspended from her role as a Councillor for a period of 3 months; and
- (b) a recommendation should be made to the Council that Councillor Watkins be removed and replaced as a representative on the Health Board.

No appeal was made against our determination, which therefore came into effect on 18th October 2021. The determination has been published on the Council website and public notice has been given that the decision is available for public inspection and copying, as required by the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001) (as amended).

This was the first time that the Council's Standards Committee has ever been called upon to conduct such a hearing and to impose any sanction on an elected member. This does not reflect well on the Council's reputation and, therefore, we consider that this case should act as a salutary lesson for all members regarding their position of trust and responsibility and the need to avoid using this position improperly, regardless of whether there is any element of personal gain involved.

3. Forward Work Programme for 2019/20

Date	Topic	Information
November 2021	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.</p> <p>Summary of numbers of complaints received and outcomes.</p>
As and when applications received Review annually	Dispensations	<p>Granting individual and blanket dispensations to Councillors.</p> <p>Reviewing decisions annually to identify common issues and consistency of approach.</p> <p>Produce guidance to Members on any issues arising.</p>
As and when required	Local Resolution Protocol complaints	Conducting hearings into any Stage 3 complaints by Members or Officers
Quarterly	Complaints of Misconduct	<p>Update of numbers of complaints received and outcomes.</p> <p>Update on complaints resolved through Local Resolution Protocol.</p>
By March 2022		

	Review member training and development in readiness for 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 September 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 September 2022	Ethical standards audit and community councils review	<p>Check that statutory registers are being properly maintained and procedures for declarations have been completed by community councils, following the elections</p> <p>Engage with community councils to ensure compliance and to identify any training and development needs.</p>
By September 2022	Review of arrangements by Leaders of political groups to secure compliance with new duties	<p>Review compliance by leaders of political groups on the Council with their duties under section 52A of the 2000 Act 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.</p> <p>Advising, training or arranging to train leaders of political groups about matters relating to those duties, as necessary</p>

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

Appendix 1

Standards Committee Hearing Notice of Determination



Date: Wednesday, 22 September 2021

Time: 3.00 pm

Venue: Microsoft Teams Meeting

Attendance: A. Mitchell (Chair), J. Davies, T. Britton, R. Morgan, P. Worthington, Councillor D. Wilcox, Councillor P Hourahine.

Apologies: K. Watkins (Vice Chair), Councillor Fouweather

1. The Standards Committee of Newport City Council ("the Council") considered a report by the Public Services Ombudsman for Wales ("the Ombudsman") regarding an alleged breach of the Council's statutory Code of Conduct for Members by Councillor Joan Watkins. The report was referred to the Standards Committee by the Ombudsman for determination in accordance with Section 71(2) of the Local Government Act 2000 ("the 2000 Act").
2. On 18 August 2020, the Ombudsman received a complaint from the Practice Manager of Isca Medical Centre ("the Practice"), Mrs Caroline Perkins, that Councillor Joan Watkins had failed to observe the Code of Conduct for members of the Council. It was alleged that Councillor Watkins had improperly used her position as a member of the Council when she advocated on behalf of a patient of the Practice.
3. The Ombudsman conducted an investigation into the complaint in accordance with section 69 of the 200 Act. The Ombudsman concluded that Councillor Watkins may have breached paragraph 7(a) of the Council's Code of Conduct for Members and his investigation report dated 13th July 2021 (Case: 202001914) was referred to the Standards Committee for consideration.
4. Standards Committee meeting on 29th July 2021 considered the Ombudsman's investigation report and made an initial determination that that there was a case to answer in terms of the alleged breach of the Members Code of Conduct. Therefore, the Committee decided that the matter should proceed to a full hearing and that Councillor Watkins should be given the opportunity to make representations in respect of the allegations.
5. At the hearing on 22nd September 2021, the Ombudsman was represented by Leigh McAndrew, the Investigating Officer, and by Sinead Cook, Assistant Investigation Manager. Councillor Watkins appeared in person and was accompanied and supported by her colleague Councillor William Routley. The Standards Committee was advised on matters of law and procedure by the Council's Head of Law and Regulation and Monitoring Officer.

Stage 1 – Preliminary procedural issues

6. Apologies for absence were received from Kerry Watkins (Vice Chair) and Councillor David Fouweather.
7. There were no declarations of interest.
8. The Chair asked Councillor Watkins whether she wished to ask the Committee to exclude the press and public from all or part of the hearing and whether she considered that any of the agenda papers should be kept confidential at this stage. The Ombudsman's representatives had already indicated in advance of the hearing that they saw no reason for the hearing to be conducted in private or for the papers to be kept confidential. Councillor Watkins confirmed that she did not wish to exclude the press and public as she had nothing to hide and she had no objection to the investigation report and background papers being made public. Therefore, the hearing was conducted in public in accordance with the Council's remote meetings Protocol, save for those parts of the hearing where the Standards Committee retired in private to deliberate. The public parts of the meeting were recorded and uploaded onto the Council's website for public viewing. The Ombudsman's investigation report and the other background papers previously circulated with the meeting agenda as Part 2 documents were also made available on the Council website for public inspection.
9. The Chair confirmed that everyone had received a copy of the hearings procedure and understood the process that the Committee would follow in determining the matter.

Stage 2 – Findings of Fact

10. The Chair asked Councillor Watkins to confirm whether there were any disputed facts, as identified in the Investigating Officer's report. The investigation report identified two potential areas of disputed fact:-

“Was Councillor Watkins acting “in the moment” when contacting the Practice via telephone and making her complaint to the Health Board?”

“Did Councillor Watkins exaggerate the behaviour of the Practice’s staff when making her complaint to the Health Board?”
11. The Chair advised Councillor Watkins that the Committee had taken the preliminary view that these were not disputed facts, as such, as there did not appear to be any issue regarding what events took place and what was said. These were matters of record, as a full transcript of the telephone conversations was included at Appendix 12 to the investigation report and her written complaints to the Health Board were also well documented. The identified matters of dispute appeared to relate to her state of mind and intention which, in turn were more relevant to whether she had breached the Code of Conduct and, if so, the seriousness if such a breach.
12. The Chair explained to Councillor Watkins that she would still have the opportunity to make representations regarding these matters at subsequent stages of the hearing. On that basis, Councillor Watkins confirmed that the facts, as set out in the Investigating Officer's report were all agreed.

13. Therefore, the Committee proceeded to Stage 3 of the hearing, on the basis of the following undisputed facts:-
- (a) Councillor Watkins made 2 telephone calls to the Practice on 7th August 2020 to discuss the care and treatment of a patient;
 - (b) Councillor Watkins was acting in her capacity as a member of the Council and as a Council-appointed representative to the Health Board when advocating on behalf of the patient;
 - (c) Councillor Watkins was attempting to assist an elderly patient;
 - (d) The Care Navigator, Mrs Simmons, found Councillor Watkins to be very demanding during the first call. Mrs Simmons dealt with the patient directly.
 - (e) The Care Navigator, Ms Dowsell, found Councillor Watkins to be threatening during the second call and felt that Councillor Watkins was attempting to use her position as a member of the Health Board improperly and threateningly.
 - (f) The Practice Staff were acting in accordance with the Practice's data protection policies.
 - (g) Councillor Watkins made two complaints to the Health Board's Primary Care Unit, on 20th August and 15th September 2020. The Health Board did not uphold either of Councillor Watkins' complaints.
 - (h) Councillor Watkins had historical issues with the Practice relating to her own healthcare.

Stage 3 – Did the Member fail to follow the Code?

14. The Committee invited representations from Mr McAndrew as to whether, on the basis of the undisputed and agreed facts, Councillor Watkins had failed to comply with the Code of Conduct.
15. Mr McAndrew submitted that the relevant issue was whether Councillor Watkins had failed to comply with the following provision of the Code of Conduct:
- 7(a) – not to, in an official capacity or otherwise, use or attempt to use her position improperly to confer on or secure for herself, or any other person, an advantage or create or avoid for herself, or any other person, a disadvantage.*
16. Although paragraph 7(a) of the Code applies to all members at all times, and not just when they were acting in an official capacity, Mr McAndrew submitted that Councillor Watkins was acting at all times in her capacity as a Councillor. She had introduced herself as a Councillor during the telephone calls to the Practice and, in the second call, had stated that she was acting in her capacity as a member of the Health Board. The subsequent complaints to the Health Board about the Practice were also made in her capacity as a Councillor and were sent from her official Councillor E-mail account.
17. Mr McAndrew accepted that Councillor Watkins was initially trying to be helpful when she contacted the Practice on behalf of an elderly patient but she was

forceful in the way that she spoke to the Care Navigators. She also threatened to approach the Chief Executive of the Health Board regarding their refusal to put her through to the on-call Doctor. He submitted that it was difficult to see how Councillor Watkins' comments were helpful to either the Practice or the patient. Although the patient had contacted the Councillor in distress, her conjunctivitis could not have been considered as a medical emergency. Therefore, he submitted that Councillor Watkins had improperly used her position as a Councillor and member of the Health Board to try to seek an advantage for her constituent over other patients of the Practice, whose medical needs may have been more urgent, and that her actions constituted a breach of paragraph 7(a) of the Code of Conduct.

18. Councillor Watkins had stated during the investigation that she had experienced her own personal issues with the Practice previously about her own healthcare and Mr McAndrew submitted that this may have influenced her behaviour towards them.
19. As a member of the Council and its representative on the Health Board, Councillor Watkins should have been mindful of the need to act fairly and appropriately in her role. Mr McAndrew submitted that Councillor Watkins' attempts to use her position as a Council representative on the Health Board to pressurise the Practice staff into acting outside of their standard procedures was, again, a clear breach of paragraph 7(a) of the Code of Conduct.
20. Councillor Watkins had admitted at interview that she should not have said she was "acting in the capacity of sitting on the Health Board", as advocating for individual patients in this way was not part of her representational role. Mr McAndrew submitted that this was effectively an admission that she had attempted to improperly use her position in breach of the Code of Conduct.
21. Although he accepted that Councillor Watkins was acting "in the moment" during her initial telephone call to the Practice, Mr McAndrew submitted that her subsequent threat to raise the matter with the Chief Executive of the Health Board could not be regarded as a spontaneous response or in the best interests of the patient, as the Practice had already contacted her directly.
22. Furthermore, he submitted that Councillor Watkins was certainly not acting "in the moment" when she subsequently made her first complaint to the Health Board 13 days after the telephone calls. In view of the time which had elapsed, she had a significant opportunity to reflect and consider her actions. The complaints made by Councillor Watkins about the Practice were inaccurate and did not reflect the true nature and content of the telephone conversations. The call recordings confirmed that the Practice had properly adhered to its standard procedures and the staff were firm but remained polite and courteous. However, Councillor Watkins' complaints suggested that the staff had been unhelpful and had a poor attitude. Councillor Watkins also complained that that the Practice had not contacted the patient, when they had clearly done so. Mr McAndrew submitted that Councillor Watkins' complaints were unfair and untrue. In fact, Councillor Watkins had admitted in interview that she "may have come on too strong" in her complaint about the staff.
23. Mr McAndrew submitted that Councillor Watkins' complaint to the Health Board was a punitive act because the Practice did not defer to her wishes. In his view, the complaint was an attempt by Councillor Watkins to use her position in the Health Board to undermine the actions of the Practice and create a disadvantage

for it and that these actions constituted a breach of paragraph 7(a) of the Code of Conduct.

24. The Committee then invited Councillor Watkins to respond to the representations from the Investigating Officer and give reasons why she did not consider that she had breached the Code of Conduct
25. Councillor Watkins submitted that this was a vexatious and retaliatory complaint by the Practice. She was not a close personal friend of the lady concerned, but they had met through a befriending service where Councillor Watkins worked as volunteer. The lady was very vulnerable and elderly and she suffered from an eye condition. The lady was very distressed when she spoke to Councillor Watkins about not being able to get an appointment with the Practice for her eye condition and Councillor Watkins had offered to help. The Practice had only offered her an appointment with the Nurse in 9 days' time and no medical treatment. Councillor Watkins had met the lady in Caerleon a few weeks earlier and she seemed to be distressed as the Practice Nurse had just referred her to an optician.
26. The first telephone call to the Practice was between 5.00-5.30 pm on a Friday evening and Councillor Watkins wanted to speak to the doctor to ask for a prescription for the lady. She only wanted to support an elderly lady, who lives on her own. Councillor Watkins said that she was incredibly disappointed by the response, although she accepted that, with hindsight, she may have over-reacted. Councillor Watkins had worked in the Health Service herself for 42 years and the Practice knew her well.
27. Councillor Watkins stated that she had taken the decision to complain to the Health Board about the Practice in her capacity as a local Councillor because she felt that the staff had been unhelpful and the Doctor could have helped by giving a prescription for the lady, which Councillor Watkins could have picked-up for her. If she came-on too forcefully, then she would apologise but she would not apologise for trying to help an elderly lady who was in distress.
28. In support of Councillor Watkins, Councillor Routley stated that, in his view, she was not guilty of breaching the Code of Conduct as she was simply trying to help this elderly lady and not secure any personal gain or advantage for herself. She was just trying to speak to the Doctor to get a prescription for the lady.
29. Councillor Routley reiterated that, in his view, this was a retaliatory complaint by the Practice against Councillor Watkins. She had previously been hospitalised and had an appointment with the Practice for the Doctor to prescribe her morphine for pain relief. However, when she turned up for the appointment, the receptionist sent her to see the Practice Nurse, even though she was aware that the Nurse was unable to issue a prescription for morphine. Councillor Watkins had insisted on seeing the Practice Manager but, instead she was sent to the Practice Nurse, which made her feel very upset, particularly as she was still in pain. Following this incident, there had been accusations on social media that Councillor Watkins had been "bad mouthing" the Practice, which was untrue.
30. Councillor Routley stated that Councillor Watkins had made the telephone calls to the Practice on behalf of a constituent, who she had met through her befriending service. She was an elderly lady, who had poor eyesight and balance problems, not just conjunctivitis, and Councillor Watkins was concerned about her welfare. Councillor Watkins had worked for over 40 years as a Nurse and,

therefore, had medical expertise. Councillor Watkins was not using her position for any personal gain or advantage.

31. However, Councillor Routley stated that Councillor Watkins had apologised and had learned that her enthusiasm had been misinterpreted. She had acted “in the moment” and had been given training to ensure that she did not get involved in these types of complaints in the future.
32. Mr McAndrew clarified that, although Councillor Watkins may have acted “in the moment” during the first telephone call to the Practice, her subsequent complaint to the Health Board was made 13 days after the event.
33. The Committee then retired to consider in private whether Councillor Watkins had breached the Code of Conduct. In reaching their decision, the Committee had regard to the Investigating Officer’s report and background documents, the agreed and undisputed facts and also the submissions made by Mr McAndrew and by Councillor Watkins and Councillor Routley.
34. The Committee found that paragraph 7(a) of the Code of Conduct was engaged in this matter and that Councillor Watkins was, at all material times, holding herself out as acting as a Councillor and also a representative member of the Health Board. Councillor Watkins admitted that she was pursuing this matter on behalf of a constituent in her ward, she referred to herself as “Councillor Watkins” throughout her telephone conversations with the Practice staff and also complained in her official capacity to the Health Board. Furthermore, she also sought to rely upon her position as a member of the Health Board to unduly influence the Practice and subsequently admitted that she should not have said she was acting in this capacity. The Committee did not consider that it was part of Councillor Watkins’ representational role to act as an advocate for individual patients in this way and, therefore, she was attempting to use her position, both as an elected member and as a member of the Health Board, for an improper purpose and in breach of the Code of Conduct.
35. The Committee accepted that Councillor Watkins’ motives when she first contacted the Practice were well-intended and that she was trying to help an elderly constituent about whom she was genuinely concerned. The Committee also accepted that Councillor Watkins was not seeking to secure any personal gain or advantaged in her actions, at that time. However, the Committee found that Councillor Watkins had improperly tried to use her position as a Councillor and member of the Health Board to unfairly obtain medical priority for her constituent over other patients of the Practice who had more urgent medical needs. Despite being elderly and vulnerable, the lady was suffering from conjunctivitis and she had been properly assessed by the Practice in terms of priority for an appointment and a prescription. In trying to use her position to circumvent this process, Councillor Watkins had breached paragraph 7(a) of the Code of Conduct.
36. The Committee also found that, in seeking to obtain an advantage for her constituent in terms of medical treatment, Councillor Watkins also attempted to use her position to improperly pressure the Practice staff into departing from their standard operating procedures, both in terms of patient confidentiality and medical assessment. Insisting on speaking to the Doctor about a confidential medical issue, without the appropriate authority, was a clear breach of GDPR and trying to secure preferential medical treatment for a patient with a non-urgent eye-condition was wholly inappropriate. Given her significant experience in the

Health service and as an elected member, Councillor Watkins should have been well aware that this was an abuse of her position.

37. The Committee accepted that Councillor Watkins had acted “in the moment” when she first telephoned the Practice late on a Friday evening on 7th August 2020. However, the Committee found that this could not explain or excuse her subsequent behaviour. Having been told that the Practice would contact the patient directly to sort out an appointment and medication, then that should have been the end of the matter. The Committee found it significant that Councillor Watkins appeared to take no steps to contact the lady afterwards to see whether the matter had been resolved to her satisfaction. Instead, she pursued what could only be described as a personal grievance against the Practice.
38. Both Councillor Watkins and Councillor Routley referred to this complaint as being “vexatious” and “retaliatory” and they also referred to previous personal issues between Councillor Watkins and the Practice regarding her own healthcare. The Committee did not accept that this complaint against Councillor Watkins was, in any way, a retaliatory act on the part of the staff at the Practice. Conversely, the Committee found that, in pursuing her subsequent complaints against the Practice, Councillor Watkins was influenced by her previous disagreement with the staff. The Committee considered that Councillor Watkins was not making these complaints on behalf of the patient, but on her own account and she was pursuing her own personal grievance because of the earlier incident and also because the staff had failed to defer to her when she originally contacted them about this patient.
39. Councillor Watkins had not sought the authority or consent of her constituent to make these complaints on her behalf and, indeed, there was no evidence that she had even contacted the lady to check whether her issues had been resolved. It was some 13 days later, on 20th August 2020, when Councillor Watkins submitted her first written complain to the Health Board. That was clearly a considered and deliberate act, not a spontaneous reaction “in the moment”. Furthermore, her follow-up response on 15th September 2020 was 38 days after the original incident. By that stage, such a complaint would have secured no benefit or advantage for the patient as she would, by now, have received an appointment at the Practice. Therefore, based on the balance of evidence, the Committee concluded that Councillor Watkins’ motivation in pursuing this complaint was more about her own grievances against the Practice. By using her position as a Councillor and a member of the Health Board to make such a complaint, Councillor Watkins had not only attempted to create a disadvantage for the Practice but had also sought to secure an advantage for herself in terms of a successful outcome to her complaint. The Committee decided that that this abuse of her position constituted a clear breach of paragraph 7(a) of the Code of Conduct.
40. The Committee also concluded that the nature and content of the complaints made by Councillor Watkins to the Health Board were a blatant misrepresentation of the truth and grossly exaggerate the issues. The Committee had regard to the written transcript of the telephone conversations included within the documentary evidence and considered that they did not substantiate the personal accusations made by Councillor Watkins in her written complaint. The Practice staff had properly adhered to their standard procedures and, although they were firm with Councillor Watkins, they remained polite and courteous throughout. There was no evidence to suggest that they were in any way “rude” or “unhelpful”, as alleged or at all. In addition, Councillor Watkins had complained that the Practice had not contacted the patient, when they had clearly

done so. Therefore, the Committee concluded that Councillor Watkins' complaints about the Practice staff were unfair and untrue. She had subsequently admitted that she may have "come on too strong" in her complaint about the staff. In making a complaint that she knew was exaggerated and, therefore, unfair and untrue, Councillor Watkins was again improperly using her position in a retaliatory manner as retribution against the Practice staff. The Committee again decided that these actions constituted a breach of paragraph 7(a) of the Code of Conduct.

41. The meeting then reconvened and the Chair announced the unanimous decision of the Committee that Councillor Watkins had failed to comply with paragraph 7(a) of the Code of Conduct.

Stage 4 – Determination of sanction

42. The Committee invited representations from Mr McAndrew as to the appropriate sanction that the Ombudsman would consider should apply in this case, and whether there were any other cases of a similar nature that may provide guidance to the Committee in terms of sanction.
43. Mr McAndrew referred the Committee to the Adjudication Panel for Wales Sanctions Guidance. He also referred the Committee to two similar determinations by the Standards Committees of Wrexham County Borough Council and Denbighshire County Council. Copies of all these documents had been circulated in advance of the meeting.
44. Mr McAndrew submitted that, with regard to any mitigating factors, Councillor Watkins had initially attempted to assist an elderly constituent and she had also subsequently undertaken further training and learned her lessons. However, she had improperly relied upon her position as a Councillor and member of the Health Board, even if she was trying to help her constituent.
45. Mr McAndrew further submitted that there were aggravating factors in this case. This was not a "one-off" incident; she had made two telephone calls to the Practice and a written complaint to the Health Board 13 days afterwards, which was inaccurate and unfairly criticised the staff. Also, this was in the middle of the Covid-19 outbreak, when the Health service was under severe pressure. The two complaints were exaggerated and, although she relied upon the fact that she was acting "in the moment", she had the opportunity for reflection prior to the second call and certainly before the subsequent complaint 13 days later.
46. He submitted that the breach was also more serious because of the consequences of what she was trying to pressure the staff into doing, which would have required them to act outside of data protection and also prioritise a non-urgent medical case during a pandemic.
47. Because this breach also involved abuse of her position as a representative member of the Health Board, Mr McAndrew submitted that the Committee may wish to consider a partial suspension from her role on the Health Board.
48. Mr McAndrew referred the Committee to the similar cases of improper use of a Councillor's position contrary to paragraph 7(a) of the Code and the sanctions imposed by the Wrexham and Denbighshire Standards Committees. In the Denbighshire case, the member concerned had been suspended for a period of 2 months, although he acknowledged that there were other breaches of the Code

of Conduct that were taken into consideration in that case. In the Wrexham case, the Councillor had been suspended for 3 months, although there were other breaches of paragraph 4(b) and (c) of the Code, involving a failure to show respect and alleged bullying, that were the subject of an appeal. Nevertheless, the Ombudsman was satisfied that the sanctions were fair and reasonable for cases of this nature.

49. The Committee then invited Councillor Watkins to respond on the question of sanctions and any mitigating factors that she wanted the Committee to take into consideration. She stated that she had made two telephone calls to the Practice and remembered asking if the Doctor could call her back. She never intended to take the Doctors away from any emergency care. She was well aware of the difficulties faced by the Practice during the Covid-19 pandemic. She had been told, anecdotally, that this lady had been referred to the Nurse and she needed to see an optician. The lady was 80 years old and very frail and fragile. Councillor Watkins stated that she had worked for 30 years as a District Nurse and 10 years as a Community Nurse and all she wanted to do was help. She was willing to apologise if she had been too forceful but she had acted "in the moment" as it was late on a Friday evening.
50. Councillor Watkins stated that she thought she had made the complaint to the Health Board earlier than 13 days after the incident. She did take time to reflect but she felt that she had been let down by the Practice. Councillor Watkins confirmed that there was "history" between her and the Practice Manager. She had arrived at the Practice for an appointment with her GP, following her release from hospital, and had been referred to the Nurse even though she could not prescribe morphine for pain relief.
51. Councillor Watkins stated that, as a Councillor, you have to stand up for your constituents. She was clearly calling the Practice as a Councillor on behalf of this constituent, and she was not a personal friend for whom she was seeking any special favours. She only referred to herself as a "Councillor" when she was not making any progress with the staff. If she had come across too forcefully, then she will apologise. She had learned her lesson from this experience and there had subsequently been two further instances where constituents had raised concerns about the Practice with her but she had refused to get involved.
52. Mr McAndrew replied that this was an unfortunate response and demonstrated a lack of insight by Councillor Watkins. The incident had taken place 30 months ago but she had made no apology to the Practice. The decision regarding the medical priorities and the appropriate treatment for this lady had been a clinical matter for the Practice to determine. The lady was suffering from conjunctivitis and was offered an appointment in 9 days, which was within the good practice standard of 10 days, as stated on NHS Direct.
53. Councillor Watkins responded that the lady was suffering with conjunctivitis but she could not see and that was affecting her mobility.
54. Councillor Routley submitted that Councillor Watkins did not believe that she could approach the Practice to apologise while the Ombudsman was investigating this complaint, which she now understood was a misconception. However, she had been given additional training and had been spoken to about her perception, which was clearly different, but she understood that now.

55. Mr McAndrew clarified that the draft report was issued to Councillor Watkins in June 2021 and it was clear from that draft that she could approach the Practice directly to apologise, but she had still failed to do so. There was also documentary evidence that the complaint was made on 20th August 2020, 13 days after the incident, and not any earlier as Councillor Watkins had thought.
56. The Committee then retired to consider its decision, having regard to the submissions made at the hearing, the other similar cases cited by the Investigating Officer and the Sanctions Guidance document produced by the Adjudication Panel for Wales.
57. In reaching a decision on the appropriate level of sanction, the Committee followed the five step process set out in the Sanctions Guidance. The first step was to assess the seriousness of the breach and its consequences. The Committee had regard to the fact that Councillor Watkins' actions were quite deliberate and not inadvertent. It was also not one isolated incident but a continuing course of conduct over a number of weeks. Even though there was no element of personal gain involved, it was clear that Councillor Watkins was using her position to pursue a personal grievance against the Practice. The Committee also attached significant weight to the fact that Councillor Watkins had demonstrated a lack of insight and awareness about what she had done and had expressed no remorse. She had stated that she would apologise if she had been too forceful, but failed to understand that it was not just her manner that was inappropriate but her reliance on her position as a Councillor and member of the Health Board. The Committee also considered that the actual and potential consequences of the breach were significant. There would have been serious implications for the Practice staff if they had breached patient confidentiality and deferred to Councillor Watkins requests and also if her unfair complaint against them had been upheld. Her abuse of her position as a Councillor and member of the Health Board also had significant reputational harm for the Council and undermined public confidence. Having regard to these considerations, the Committee found that this was a serious breach of the Code of Conduct.
58. In considering the broad nature of the sanction to be imposed, the Committee considered all of the sanctions available to it, beginning with the sanctions of least impact. The Committee did not consider that No Action was appropriate given the serious nature of the breach.
59. The Committee considered that a Censure was not appropriate given the serious nature of the breach and their concern that there was an apparent lack of understanding and awareness about Councillor Watkins' conduct.
60. The Committee decided that a suspension was the most appropriate sanction in view of the seriousness of the breach. It was considered that a temporary suspension from her role was required to reinforce the seriousness of what Councillor Watkins had done, to act as an effective deterrent and to restore public confidence.
61. The Committee then considered any relevant mitigating or aggravating circumstances and how these might affect the period of suspension. The Committee accepted that there were mitigating factors in relation to the original telephone call from Councillor Watkins, in that she was not seeking any personal gain or benefit, she was trying to help an elderly patient who was in distress and she had acted "in the moment". However, in the light of the Committee's findings that she was no longer acting "in the moment" during the second call to the

Practice and when she pursued the later complaints to the Health Board and also the finding that this was more of a personal grievance, then there were no mitigating factors in relation to these actions.

62. The Committee considered that there were a number of aggravating factors in this case. Firstly, Councillor Watkins had demonstrated a complete lack of understanding about the misconduct and its consequences. She was still unfairly trying to blame others, suggesting that this was a “vexatious and retaliatory” complaint by the Practice staff and that her actions had been “misinterpreted”. Both she and Councillor Routley repeatedly referred to a previous issue that she had with this Practice about her own healthcare and suggested that this had motivated the staff to make this complaint about her. However, the Committee had found that it was Councillor Watkins complaints about the Practice that were deliberate and retaliatory and that she had been motivated to make this complaint because of her personal grievance against the Practice and also because the staff had failed to defer to her when she contacted them about the elderly patient. This was a deliberate and punitive act and using her position as a Councillor and Health Board member to further this complaint was a serious abuse of trust and power. This was compounded by the fact that Councillor Watkins had deliberately exaggerated the conversation with the Practice staff in her complaint and had unfairly misrepresented the facts.
63. The Committee also considered that it was an aggravating factor that Councillor Watkins was an experienced Councillor and someone with considerable experience of working in the Health Service. Therefore, she should have been aware of the potential seriousness of the actions that she was pressurising the Practice staff into taking, in relation to patient confidentiality and breaches of GDPR and also in terms of clinical care priorities. It was a further aggravating factor that this incident took place during the ongoing Covid-19 pandemic and lock-down, when the Health Service was facing unprecedented pressures.
64. Finally, the Committee considered that Councillor Watkins failure to apologise for her actions was another aggravating factor in this case. Although Councillor Routley maintained that Councillor Watkins was unaware that she could have apologised to the Practice while the Ombudsman’s investigation was ongoing, the draft report had been issued months ago and there was a clear indication that an apology would have been appropriate. Although Councillor Watkins stated at the hearing that she would be prepared to apologise if she had been too “forceful”, this was not a fulsome and complete acknowledgement of her inappropriate conduct
65. For these reasons, the Committee decided that the aggravating factors in this case far outweighed any mitigation. The Committee then proceeded to consider the appropriate length of the suspension in light of these aggravating and mitigating factors. The Committee noted that the Sanctions Guidance document advised that a period of suspension of less than one month was unlikely to achieve the objectives of the sanctions regime. The Committee also had regard to the periods of suspension of 3 months and 2 months respectively imposed in the Wrexham and Denbighshire cases for similar breaches of paragraph 7(a). Although the Committee acknowledged that there were other breaches of the Code of Conduct taken into consideration in these cases, it was considered that the aggravating factors in Councillor Watkins’ case meant that the suspension should be at the upper level of that scale.

66. Therefore, the Committee determined that a fair and proportionate level of suspension in this case was 3 months, having regard to the seriousness of the conduct, the deterrent effect of the sanction and the need to restore public trust and confidence. In addition, the Committee considered that Councillor Watkins' flagrant abuse of her position on the Health Board meant that she should not continue in this role. Therefore, the Committee decided to recommend to the Council that Councillor Watkins be removed and replaced as a representative on the Health Board.
67. After a length deliberation, the meeting was reconvened and the Chair announced the unanimous decision of the Committee that:
 - (a) Councillor Watkins be suspended from her role as a Councillor for a period of 3 months; and
 - (b) that a recommendation be made to the Council that Councillor Watkins be removed and replaced as a representative on the Health Board.
68. The Chair confirmed that a written record of the Committee's decision would be prepared and sent to the parties, setting out the relevant findings of fact and the reasons for the decision.

