

The investigation of a complaint
against Councillor Joan Watkins of
Newport City Council

A report by the
Public Services Ombudsman for Wales
Case: 202001914

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Introduction

Report by the Public Services Ombudsman for Wales on the investigation of a complaint made against Councillor Joan Watkins of Newport City Council, of a breach of the Council's statutory Code of Conduct for Members.

This report is issued under section 69 of the Local Government Act 2000.

Summary

The Ombudsman received a complaint from the Practice Manager of a GP Practice (“the Practice”) in the area of the Aneurin Bevan University Health Board (“the Health Board”), that a Member (“the Member”) of Newport City Council had failed to observe the Code of Conduct for Members.

It was alleged that the Member used their position as a member of the Council improperly when they advocated on behalf of a patient of the Practice.

The Ombudsman concluded that the Member had made 2 telephone calls to the Practice in which she sought to improperly rely on her position as a Member of the Council, and as a Council representative on the Health Board, in order to speak to an on-call doctor about the patient’s healthcare. The Ombudsman also concluded that the Member had made a complaint to the Health Board containing information which was critical of the Practice staff and did not accurately reflect the content of the telephone conversations. The Ombudsman was of the view that the complaint was an attempt by the Member to use their position to undermine the actions of the Practice and create a disadvantage for it.

The Ombudsman therefore determined that the Member may have breached paragraph 7(a) of the Council’s Code of Conduct for Members and referred his investigation report to the Monitoring Officer of Newport City Council for consideration by its Standards Committee.

The complaint

1. On 18 August **2020**, I received a complaint¹ 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 Newport City Council (“the Council”). It was alleged that Councillor Watkins used her position as a member of the Council improperly when she advocated on behalf of a patient of the Practice.

Legal background

2. As required by Part III of the Local Government Act 2000 (“the Act”), the Council has adopted a Code of Conduct for members² which incorporates the provisions of a model Code contained in an order made by the Welsh Ministers. Council members are required to sign an undertaking that, in performing their functions, they will observe the Council’s Code of Conduct. Councillor Watkins gave such an undertaking on 8 May 2017.³ When an elected member is nominated by their authority to serve on another public body on its behalf, the member is also required to comply with the Code of Conduct when they are performing in that role.

3. Section 69 of the Act provides the authority for my investigation and the production of this report.

My investigation

4. Having considered the complaint as made to me, I concluded that it was appropriate to investigate 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.

¹ Appendix 1

² Appendix 2

³ Appendix 3

5. Councillor Watkins was informed of my intended investigation on 6 October.⁴

6. During my investigation, I obtained relevant information from the Council's Monitoring Officer.⁵ My Investigation Officer has also obtained relevant documents from the Practice (including the call recordings), Aneurin Bevan University Health Board ("the Health Board")⁶ and from the complainant, Mrs Perkins.⁷ The following witnesses were interviewed:

- Mrs Perkins – Practice Manager and complainant⁸
- Ms Helen Dowsell – Care Navigator at the Practice⁹
- Mrs Leanne Elizabeth Simmons - Care Navigator at the Practice.¹⁰

7. I have put the evidence found by my investigation to Councillor Watkins, enabling her to review that evidence before responding to the questions which were put to her by my Investigation Officer during the interview held via Microsoft Teams on 1 March 2021.¹¹

8. I have given Councillor Watkins the opportunity to comment on a draft of this report which included my provisional views and finding.

My guidance on the Code of Conduct

9. I have issued guidance for members of local authorities in Wales on the model Code of Conduct ("my guidance"). An extract from my guidance that was applicable at the time of these events and which is relevant to this complaint, is included at Appendix 11.

⁴ Appendix 4

⁵ Appendix 5

⁶ Appendix 6

⁷ Appendix 7

⁸ Appendix 7

⁹ Appendix 8

¹⁰ Appendix 9

¹¹ Appendix 10

Events

10. Councillor Watkins first became a member of the Council on 8 May **2017** and was appointed as a Council representative on the Health Board at the Council's Annual General Meeting in May **2018**.¹²

11. Councillor Watkins contacted the Practice via telephone on 7 August **2020**¹³ and spoke to the Practice's Care Navigator, Mrs Simmons. Councillor Watkins introduced herself as "Councillor Joan Watkins" and said, "I actually sit on the [Health Board]". Councillor Watkins requested a conversation with the Practice's on-call doctor and initially refused to provide details of the patient for whom she was advocating, instead stating she would discuss the matter with the on-call Doctor.

12. Mrs Simmons advised Councillor Watkins that, due to confidentiality, the Practice required the name of the patient. Councillor Watkins provided the patient's name and asked Mrs Simmons to contact the patient to obtain her permission for the Doctor to speak to Councillor Watkins. Mrs Simmons advised Councillor Watkins that she would do so as soon as she had "the first opportunity" and the call ended.

13. Mrs Simmons told my office that the Practice, in line with its data protection protocol, only shares information about a patient with an advocate if it has a signed consent form. Mrs Simmons said that she contacted the patient who said she was aware that Councillor Watkins was calling on her behalf and gave permission for her to do so. Mrs Simmons said that she found Councillor Watkins to be "very demanding" and "a little bit irate" during the call. Mrs Simmons said that she managed to deal with the patient's issue directly with the patient.¹⁴

14. Councillor Watkins subsequently telephoned the Practice later that afternoon and spoke to the Practice's Care Navigator, Ms Dowsell. Councillor Watkins identified herself as "Joan Watkins" and asked whether she could expect a call from the on-call Doctor. Ms Dowsell informed Councillor Watkins that Mrs Simmons had spoken to the patient and that the Doctor was dealing with the patient's issues and referred to a telephone consultation.

¹² Appendix 5

¹³ Appendix 12

¹⁴ Appendix 9

15. Councillor Watkins said that she would like to speak to the on-call Doctor, and that she was “doing this in the capacity of sitting on the Health Board”. Ms Dowsell told Councillor Watkins that the on-call Doctor would not be able to speak to her that day as he was dealing with emergencies and that “this will be raised with the Practice Manager on Monday morning”. Councillor Watkins responded that “this will be raised with the Health Board and the Chief Executive” at the Health Board. Councillor Watkins said “this will not be the end of this matter” before ending the call.

16. Ms Dowsell told my office that she found Councillor Watkins to be “very assertive and threatening”. She said that she had acted in accordance with the Practice’s data protection protocol and that she felt Councillor Watkins was “using her position” on the Health Board “in order to obtain information about the patient” and to “pressure” her into asking the on-call Doctor to contact her. Ms Dowsell said that she felt Councillor Watkins’ reference to the Chief Executive of the Health Board was “a threat and an abuse of her position” and that she did not think Councillor Watkins “should have used her position in this way”.¹⁵

17. The Practice Manager, Mrs Perkins, stated that she was informed of Councillor Watkins’ calls on 10 August. She said she thought that Councillor Watkins was “rude and demanding to staff” and had tried to “use her position”. Mrs Perkins said there was “no medical emergency” regarding the patient and that the Doctor had decided that no treatment was required that day as the patient’s request “was for a routine ongoing problem” but said a “call back with the patient was arranged the same day”.¹⁶

18. On 20 August, Councillor Watkins made a complaint via email to the Health Board’s Primary Care Unit. Councillor Watkins stated,

“I received a telephone call from a very distressed elderly and frail lady saying she was suffering badly with what seemed to be conjunctivitis...She rang me in desperation could I help...I duly rang the surgery explained the situation and asked if I could speak to the duty Doctor...frankly they were totally unhelpful and I believe I was met with the same poor attitude that this elderly lady had

¹⁵ Appendix 8

¹⁶ Appendix 7

experienced, I could make no progress on her behalf...These receptionists who may now have the title of Care Navigators acted as a real barrier having in my view no care whatsoever for the plight the lady was in...it is my view that receptionists should not be acting as barriers to care, yes they may at times have a difficult role but on this occasion I myself found them unhelpful bordering on rude when my intention was only to try and help".¹⁷

19. On 15 September, the Health Board's Primary Care Unit responded to Councillor Watkins, stating,

"You may be aware that due to national GP recruitment issues, the majority of practices have had to adopt a multi-disciplinary team in order to continue to provide the appropriate levels of care to their registered population. Additionally, most practices navigate patients to the most appropriate healthcare professional, based on their clinical need. In this instance, the [Practice] determined that [the patient's] clinical needs could be met by the Advanced Nurse Practitioner, unfortunately this was not acceptable to [the patient] who declined care from the Advanced Nurse Practitioner. [The Doctor] was consulted and to ensure [the patient's] needs were met, she was informed to book a routine appointment with a GP, due to the ongoing nature of the problem. The [Practice] advised that [the patient] was indeed happy with this and accepted the appointment for 19th August.

The [Practice] is sorry that you felt their attitude towards you was not acceptable, whilst trying to resolve your constituents [sic] concerns. As you are probably aware practices are bound by confidentiality agreements and must comply with relevant data protection legislation General Data Protection Regulation (GDPR) so unfortunately they are unable to provide you with patient information unless patient consent is gained".¹⁸

¹⁷ Appendix 6

¹⁸ Appendix 6

20. Councillor Watkins responded to the Health Board's Primary Care Unit on the same day and said,

"I am afraid I find this reply somewhat lacking given the [Practice] have not been truthful in some of their responses...In terms of [the patient] I told the Receptionists she was willing to give permission for them to speak with me, both [the patient] and I are fully cognisant...of the rules around confidentiality, she was happy to give the necessary permission...On the night she asked for my assistance she still was only offered an appointment 10 days hence".¹⁹

21. The Health Board's Primary Care Unit responded to the further complaint from Councillor Watkins on 5 October, stating,

"The Practice Manager has advised that the practice complies with data protection and General Data Protection Regulation (GDPR) rules and the following process is followed when an individual rings or attends the [Practice] to discuss a patients [sic] medical needs:

Initially, the [Practice] checks whether there is a signed consent form held in the patients [sic] electronic medical record giving permission for other individual(s) to communicate directly with the [Practice] on behalf of the patient. Where this is not in place the [Practice] would ask the person calling if the patient was with them at the time of the call, where this is the case, the staff would ask to briefly speak to the patient whereby they would make 3 checks of personal identifiable information with the patient. This would include full name, date of birth and home address including postcode. Once the staff member was confident that the information matched the [Practice] records they would ask the patient for their verbal consent to discuss their care with the person calling.

The Practice Manager advised that as there was no signed consent form in place prior to your contact, and as [the patient] was not with you at the time of the call, they were unable to discuss her care with you. Subsequently, the Practice Manager advised that the staff

¹⁹ Appendix 6

member informed you that they would contact [the patient] directly, which they did.

We appreciate that there may have been mitigating factors as to why [the patient] was unwilling to be seen by the Nurse Practitioner, and are sorry that she had a prior experience that contributed to this. The Practice Manager advised that [the patient's] request for an appointment was considered by the duty GP at the time, who considered a routine appointment clinically appropriate".²⁰

What Councillor Watkins said

22. Councillor Watkins responded to my investigation via email on 14 October. Councillor Watkins said:

"I thought perhaps if I could speak with the on call Doctor, a prescription might be arranged which I would be happy to pick up, take to the Chemist and then deliver to her...On that basis and with the sole intention of trying to help her I rang the Surgery...I asked if I could speak with the duty Doctor, and explained why but that request was denied and my message that here was a very distressed old lady in considerable discomfort was not met with the assistance I had hoped for...I made no progress with the receptionist with either my request to speak to the Dr or to try and obtain a prescription to assist her...Neither was the receptionist willing to contact the lady to obtain her consent for me to talk on her behalf...On that basis I was frustrated at clearly not going to be able to help her. I did therefore state that I felt this was unacceptable and in the capacity of sitting on the...Stake holders Health Board for [the Health Board] as an Elected Member I was going to report the matter to [the Health Board]...In the event, not being able to obtain any help for her from the surgery and knowing her appointment to be seen was some days away I felt sad , frustrated and sorry that I had to go back to her unable to offer any immediate help...and in contacting this surgery my only intention was to try and help her, sadly to no avail".²¹

²⁰ Appendix 6

²¹ Appendix 13

23. Councillor Watkins was supported at interview on 1 March **2021** by her fellow member of the Council, Councillor William Routley.

Councillor Watkins made the following points at interview:

- She had “transgressed” in relation to paragraph 7(a) of the Code of Conduct as she was concerned about an elderly lady who was in distress due to her eye condition and that the lady had told her that she could not see. Her only intention was to try and help the patient.
- She wanted to speak to the on-call Doctor in order to obtain a prescription for the patient which she herself would have taken to the Chemist.
- She accepted that the Practice staff were acting in accordance with the Practice’s data protection policies.
- Her role on the Health Board was to meet stakeholders and bring issues for discussion and, at times, for investigation.
- On reflection, she accepted that she should not have said she was acting in the capacity of sitting on the Health Board and that she was really doing it in the capacity of a friend to the patient. She acknowledged that it was wrong of her to say this.
- In relation to her comments and her manner during the telephone call, she said she was acting “in the moment”, and that the Practice staff felt she “came on too strong”.
- In complaining to the Health Board, her intention was that it would speak with the Practice and “ensure that [it] was offering a service that was appropriate and effective and proper”.
- Her description of the Care Navigators (in her complaint to the Health Board) as “unhelpful, bordering on rude” and “a real barrier” was her view at the time of making the complaint but, on reflection, she “may have come on too strong in that respect”.

- In hindsight, she would have acted differently and, rather than telephone the Practice, she would have helped the lady to go to A&E.
- In hindsight, she may have worded her complaint to the Health Board differently.
- She said she was sorry if she was too forceful on the telephone and if she caused offence and said this was not her intention.
- She said if she did breach paragraph 7(a) of the Code of Conduct it was absolutely a mistake on her part.
- She said she would be more than happy to offer an apology to the Practice.
- Councillor Routley, speaking at the end of the interview on Councillor Watkins' behalf, said he had provided training to Councillor Watkins, that lessons had been learned and, going forward, patients making a complaint of this nature to her would be advised to go to A&E. Councillor Routley repeated that Councillor Watkins had acted "in the moment".

Councillor Watkins' comments on the draft report

24. In an email dated 7 July, Councillor Watkins repeated that her intention had been to help a vulnerable and distressed old lady. She said that, on reflection, she should not have stated her status as a Councillor or a member of the Health Board. She again said that she had acted "in the moment". Councillor Watkins accepted that her manner "may have been quite forceful" and said she had "offered apology for that". Councillor Watkins referred to her own historical issues with the Practice relating to her healthcare and said that "the history there is very negative". She said she had "learned lessons" to take forward.²²

²² Appendix 14

Undisputed facts

25. Councillor Watkins made 2 telephone calls to the Practice on 7 August 2020 to discuss the care and treatment of a patient.
26. 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.
27. Councillor Watkins was attempting to assist an elderly patient.
28. The Care Navigator, Mrs Simmons, found Councillor Watkins to be very demanding during the first call. Mrs Simmons dealt with the patient directly.
29. 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.
30. The Practice Staff were acting in accordance with the Practice's data protection policies.
31. Councillor Watkins made two complaints to the Health Board's Primary Care Unit, on 20 August and 15 September. The Health Board did not uphold either of Councillor Watkins' complaints.
32. Councillor Watkins said she had historical issues with the Practice relating to her own healthcare.

Disputed facts

33. Was Councillor Watkins acting "in the moment" when contacting the Practice via telephone and making her complaint to the Health Board?
34. Did Councillor Watkins exaggerate the behaviour of the Practice's staff when making her complaint to the Health Board?

Analysis of evidence

Disputed facts

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

35. I accept that Councillor Watkins was acting “in the moment” during her initial telephone call to the Practice. However, at the end of the first telephone call, Mrs Simmons informed Councillor Watkins that she would contact the patient at “the first opportunity”. Councillor Watkins appeared to be aggrieved that she could not speak to the on-call Doctor at that time.

36. Councillor Watkins then made a further telephone call to the Practice in which she was informed that the Doctors were dealing with the patient’s issues. It was at this point that Councillor Watkins said she was “doing this in the capacity of sitting on the Health Board”. Councillor Watkins was then told that the on-call Doctor would not be able to speak to her as he was dealing with emergencies, to which Councillor Watkins responded that she would raise the matter “with the Health Board and the [Health Board’s] Chief Executive”. I do not accept that her responses were “in the moment” or indeed that she was still concerned for the safety and health of her constituent when she responded in this manner, given that this was the second call she had made and she had been advised that the Practice was dealing with the patient.

37. Further, at the time of the telephone calls, Councillor Watkins had been a Council representative on the Health Board for more than 2 years. It was inappropriate for Councillor Watkins to have made this statement, advocating for individual patients in such a way does not appear to form part of her role (see paragraph 23). Councillor Watkins accepted at interview that she should not have said she was “acting in the capacity of sitting on the Health Board”.

38. I do not accept that Councillor Watkins was acting “in the moment” when she made her complaint to the Health Board. Councillor Watkins’ complaint was made 13 days after the telephone calls, by which time Councillor Watkins would have had significant opportunity to reflect on the matter.

Did Councillor Watkins exaggerate the behaviour of the Practice staff when making her complaint to the Health Board?

39. It is of concern that, despite the call recordings reflecting that the Practice adhered to its procedures and its staff were firm but remained polite and courteous to Councillor Watkins, Councillor Watkins' complaint indicated that Mrs Simmons and Ms Dowsell were unhelpful and had a poor attitude. Councillor Watkins' complaint also suggested that the Practice did not contact the patient which it clearly did that day.

40. Councillor Watkins said that she "may have come on too strong" in her complaint that Mrs Simmons and Ms Dowsell were "unhelpful, bordering on rude" and "a real barrier". I am of the view that Councillor Watkins' comments were unfair and untrue. Councillor Watkins is in a position of some authority with the Health Board and therefore her comments would have carried considerable weight. It is fortunate that the Practice was able to retain the call recordings. It appears to me that the complaint to the Health Board was punitive action because the Practice did not defer to Councillor Watkins and act as she would have liked it to.

Conclusions

41. Members are bound by the full extent of the Code of Conduct when they act, claim to act or give the impression that they are acting in the role of member or as a representative of their authority.

42. I am satisfied that Councillor Watkins was acting in her capacity as a Councillor when she contacted the Practice, and when she made her complaint to the Health Board, as she introduced herself at the start of the initial telephone call as "Councillor Joan Watkins" and said that she sat on the Health Board. She said she was acting in her capacity as sitting on the Health Board in her second telephone call to the Practice. Councillor Watkins' complaint to the Health Board was sent from her Council email account and signed off as "Joan Watkins Cllr". In any event, paragraph 7(a) of the Code of Conduct applies to members at all times.

43. Whilst it is positive that Councillor Watkins offered to make an apology to the Practice during the interview, she has had ample opportunity to do so since her contact with the Practice. Moreover, she does not require direction from me to make such an apology.

44. Councillor Watkins said that her only intention in contacting the Practice was to try and help an elderly patient. Whilst I accept that Councillor Watkins was trying to be helpful, in the telephone calls she was forceful in wanting to speak to the on-call Doctor and initially refused to provide any details as to who she was acting on behalf of or what the purpose of her call was. She also said that she would approach the Chief Executive of the Health Board regarding the Practice's refusal to put her through to the on-call Doctor, despite being informed that the Doctor was dealing with the patient's issues. It is difficult to see how Councillor Watkins' comments were helpful to either the Practice or the patient at the time. Furthermore, whilst I understand that the patient contacted Councillor Watkins in distress, it is unlikely that conjunctivitis (see paragraph 18) could have been considered an urgent medical matter.²³ I am of the view that Councillor Watkins attempted to use her position to seek an advantage for her constituent over other patients of the Practice, whose needs may have been more urgent, and that her actions on 7 August were suggestive of a breach of paragraph 7(a) of the Code of Conduct.

45. It is an aggravating factor that this incident occurred during the ongoing coronavirus Covid-19 outbreak, when healthcare providers were facing unprecedented pressures. Councillor Watkins said that she had issues with the Practice relating to her own healthcare prior to this incident, which, in my view, may have influenced her behaviour towards the Practice. Whilst that may have been the case, as Councillor Watkins was acting in her official position as a member of the Council and its representative on the Health Board during the exchanges, she should have been mindful of the need to act fairly and appropriately in her role. Councillor Watkins' attempts to use her position as a Council representative on the Health Board to encourage the Practice staff to act outside of its procedures is suggestive of a breach of paragraph 7(a) of the Code of Conduct.

46. Councillor Watkins' complaint to the Health Board contained information which was critical of the Practice staff and did not accurately reflect the content of the telephone conversations. I am of the view that 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 her actions were suggestive of a breach of paragraph 7(a) of the Code of Conduct.

²³ Appendix 15

Finding

47. My finding under section 69 of the Local Government Act 2000 is that my report on this investigation should be referred to the Monitoring Officer of the Council for consideration by its Standards Committee.



Nick Bennett
Ombudsman

13 July 2021

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