

Report



Standards Committee

Part 1

Date: 19th October 2023

Subject **Complaints Update**

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

Author Head of Law & Standards

Ward General

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

Proposal To note the report.

Action by Head of Law & Standards

Timetable Immediate

Background

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

Financial Summary

There are no financial implications

Risks

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

*Taking account of proposed mitigation measures.

Links to Council Policies and Priorities

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

Proposed action

To note the report.

Comments of Chief Financial Officer

There are no financial implications

Comments of Monitoring Officer

Set out in the Report.

Comments of Head of People Policy & Transformation

There are no specific staffing or policy implications

Fairness and Equality Impact Assessment:

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

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

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

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

Prevention – The complaints update will help to prevent future complaints

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

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

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

Background Papers

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

Dated: 13th October 2023

CODE OF CONDUCT COMPLAINTS

PSOW Reference	Council	Complainant	Alleged breach of the Code	Outcome
2021/06820	Newport City	Corporate	<p>Matter referred to PSOW by MO on two grounds:</p> <ul style="list-style-type: none"> i) Criminal conviction of a former City Councillor, which brought his office and the Council into disrepute. ii) Comments made at an Overview Scrutiny and Management Committee were an attempt to improperly use his position as a councillor to gain an advantage for himself. 	<p>PSOW decision – that the conduct the subject of the criminal conviction may amount to a breach of the code of conduct in terms of bringing his office as a councillor and the council into disrepute and referred the matter to the Adjudication Panel for Wales.</p> <p>The allegation in relation to using his position to gain an advantage for himself was not upheld on the grounds that the meeting took place before the conviction.</p>
Tribunal Ref: APW/0015/2022 - 23	Newport City Council	Corporate	Bringing office and authority into disrepute as a result of his criminal conviction for solicitor under the Sexual Offences Act on 6 th January 2022.	<p>A Case Tribunal was convened, to hear the matter on the papers only On 23 June 2023</p> <p>Decision now issued: The nature of the criminal offence and the publicity surrounding it with reference to the Council and the former Councillor reflected poorly on himself and his roll and brought both his office and the Council into disrepute. Unanimous finding by the tribunal that para 6(1)(a) of the code had been breached.</p>

				Sanction: determined that a sanction of 9 months disqualification from being or becoming a member of NCC or any other relevant authority and that NCC's standards committee be notified accordingly.
2022/10227	Newport City	Councillor	Complaint regarding an offensive private Facebook post during the pre-election period, in breach of equalities and duty to show respect and consideration for others	PSOW did not find any evidence of a breach. The post was made in a private capacity, so the only potential breach was in relation to bringing the office of Councillor into disrepute. PSOW felt that the comment may have offended some people but it came within the Councillor's Article 10 rights to freedom of expression.
2022/02284	Newport City	Public	Failure to respond to constituent's concerns about homelessness and begging in the City Centre	PSOW did not find any evidence of a breach. The Code did not require members to respond to constituents. That was a matter for the ballot box.
2022/02545	Newport City	Public	Alleged defamatory posts on a community Facebook page, which the Councillor had failed to remove. Breach of equalities duty, failure to show respect and consideration and bringing office into disrepute	PSOW did not find any evidence of breaches of the Code and, in any event, did not consider it in the public interest to intervene. The Councillor was not required to either remove the offending posts or disassociate herself from them. She could not be personally liable for other people's comments. But they

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

2022/06378	Newport City	Public	Alleged failure to respond to telephone calls made by the complainant and their support work.	The PSOW did not find any evidence of a breach. The behaviour complained of was unlikely to amount to a breach of the Code. Whilst the behaviour complained of was discourteous it was more likely to relate to the members competency in their role which is a matter for the local electorate to determine through the democratic process.
2023/00948	Langstone Community Council	Public	Alleged that Councillor drove their car at complainant in country lane.	Didn't meet first stage test for investigation. No evidence to substantiate a breach of the code of conduct. Police involved, but no evidence provided to the PSOW on which to investigate. No code of conduct breach evidenced. PSOW will not investigate.
2023/01020	Langstone Community	Public	Writing a misleading statement to support a Certificate of Lawfulness appeal Planning and Environment Decisions Wales	Didn't meet the first stage test, no evidence to substantiate a breach of the code of conduct. No investigation.
2023/01575	Langstone Community	Public	<ul style="list-style-type: none"> i) Passed information to a friend who posted on facebook; ii) Drove her car at her friend's daughter iii) Posted on facebook about police being called to complainant's house 	<p>No evidence to substantiate breaches of the code:</p> <ul style="list-style-type: none"> i) First matter not published by Councillor ii) Prior to becoming a councillor so acting as a private individual and no evidence in any event. iii) Again acting as a private individual not a councillor at the time. No investigation.

2023/01022	Langstone Community	Public	Writing a misleading statement to support a Certificate of Lawfulness appeal Planning and Environment Decisions Wales	Didn't meet the first stage test, no evidence to substantiate a breach of the code of conduct. No investigation.
2023/03455	Langstone Community	Officer	Failed to declare an interest in a committee meeting in relation to membership of another committee which was under discussion. Failed to provide a Register of Interests and disclose membership of any other committees.	Did not meet the first stage test – complaint should not be investigated. There was insufficient evidence provided to determine whether the member had a personal interest and there is no requirement for T&C Councillors to complete a Register of Interests within 28 days of taking office. Interests are declared as and when required. Not a breach of the code.
2023/03452	Langstone Community	Officer	Failed to declare an interest in a committee meeting in relation to membership of another committee that was under discussion and leave the meeting. Failed to provide a Register of Interests	No finding of any breach of the code, nor any public interest to warrant an investigation. Whilst there was sufficient evidence to suggest the member had a personal interest, it was not considered to be prejudicial and therefore did not meet the public interest threshold. Whilst no investigation was required, the PSOW indicated that they would remind the member of their duties in relation to declaring interests at meetings and updating the register of interests thereafter.
2023/03996	Newport City	Public	Member failed to take a course of action in their role in an objective manner and made a declaration without evidence to support it. In addition failed to respond to complaints 17 emails on the subject.	No investigation, no breach of the Code on the basis that the member is entitled to provide their opinion on a subject matter, and it is for all members of the Council to weigh up decisions placed before them based

				on all of the evidence. The member is not solely responsible for decision making. If a constituent no longer agrees with the members beliefs it is their choice not to vote for the member at the next election. The same principle applies to failure to respond to correspondence.
2023/02376	Newport City	Public	A variety of allegations including the Member speaking to people in a violent, discriminatory and bullying manner and spreading inaccurate information.	Insufficient evidence to find a breach of the code. The complainant provided no details of the complaint to enable the ombudsman to consider them and no evidence was provided. Ombudsman stated it is not the purpose of the Code to inhibit free speech and the robust expression of political differences. Without the complainant's view of what was said, or the nature and context of the alleged incidents, there can be no consideration of whether the comments or conduct could amount to a breach of the Code.