



City and County of Swansea

## Minutes of the Special **Standards Committee**

Remotely via Microsoft Teams

Wednesday, 30 June 2021 at 10.00 am

### Present:

#### Councillor(s)

M B Lewis

#### Councillor(s)

O G James

#### Councillor(s)

L G Thomas

#### Co-opted Member(s)

Jill Burgess

Philip Crayford

#### Co-opted Member(s)

Michaela Jones

Mike Lewis

#### Co-opted Member(s)

Margaret Williams

#### Officer(s)

Tracey Meredith

Allison Lowe

Chief Legal Officer / Monitoring Officer

Democratic Services Officer

### Also Present:

Louise Morland, Public Services Ombudsman for Wales Office

Katrin Shaw, Public Services Ombudsman for Wales Office

### Apologies for Absence

H Evans, Head of Democratic Services

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#### 1 Election of Chair for the Municipal Year 2021-2022.

**Resolved** that Jill Burgess be elected Chair for the 2021-2022 Municipal Year.

**Jill Burgess, Chair Presided**

#### 2 Election of Vice Chair for the Municipal Year 2021-2022.

**Resolved** that Mike Lewis (Co-Opted Member) be elected Vice Chair for the Municipal Year 2021-2022.

#### 3 Disclosures of Personal and Prejudicial Interests.

In accordance with the Code of Conduct adopted by the City & County of Swansea, the following interests were declared:

Councillor Philip Crayford declared a personal and prejudicial interest in Minute No. 4 "Public Service Ombudsman for Wales Referral – Alleged Breach of the Code of Conduct by a Community Councillor" and left the meeting prior to discussions on the item.

**4 Public Services Ombudsman for Wales Referral - Alleged Breach of the Code of Conduct by a Community Councillor.**

The Monitoring Officer presented a report to consider the report of the Public Services Ombudsman for Wales (PSOW) in relation to an alleged breach of the Code of Conduct by a Community Councillor, which had been referred to the Monitoring Officer for determination by the Standards Committee.

The Chair welcomed Councillor Scott to the meeting and introductions were made from all present.

The Standards Committee adopted a Standards Committee Hearing Procedure for considering alleged breaches of the Code of Conduct referrals on 18 February 2021. The process commenced with Stage 1 of the hearing – Finding of Fact.

Katrin Shaw, Chief Legal Adviser & Director of Investigations outlined the details contained in Appendix 4 of the PSOW report into the investigation of a complaint against Councillor Scott of Mumbles Community Council.

Councillor Scott agreed that the facts had been presented correctly by the PSOW.

Councillor Scott and Katrin Shaw were then asked questions by Members of the Standards Committee, which were responded to accordingly.

Councillor Scott was then given the opportunity to provide an explanation of his actions.

As Councillor Scott agreed with and confirmed the Findings of Fact in Stage 1, the Monitoring Officer informed the Committee that Stage 1 was now complete and the Committee would retire to consider their decision.

**Closed Session**

Members discussed the issues relating to the investigation.

**Open Session**

The Monitoring Officer informed Councillor Scott that the Standards Committee had deliberated the findings of fact as set out in the PSOW report. The Standards Committee then invited Councillor Scott to make any specific representations in relation to each of the sub headings under paragraph 7(b) – not to use, or authorise others to use, the resources of his authority:

- (i) imprudently
- (ii) in breach of his authority's requirements
- (iii) unlawfully.

Katrin Shaw explained that there was no formal definition in the Code of Conduct for the term "imprudent", however she outlined why the PSOW felt he had acted recklessly and without recognising his position and responsibilities.

Councillor Scott welcomed the opportunity to respond to the Committee.

Councillor Scott was asked several questions by Members of the Standards Committee, which were responded to accordingly.

The Committee retired to consider their decision as to whether Councillor Scott was in breach of the Code of Conduct.

### **Closed Session**

Members discussed the issues relating to the breach of the Code of Conduct.

### **Open Session**

On behalf of the Chair, the Monitoring Officer informed Councillor Scott that the Committee had deliberated and found that Councillor Scott was in breach of paragraphs 7(b) (i), (ii) and (iii) in that Councillor Scott had an obligation in agreeing to abide by the Code of Conduct in ensuring resources of the Council were used properly. They also considered the information contained in both the PSOW report and the Wales Audit Report in terms of paragraphs 7(b) (ii) and (iii) in terms of failure to comply with Mumbles Community Council's own Standing Orders and Financial Regulations and also in terms of paragraphs 7(b) (iii) unlawfully, in terms of acting outside Councillor Scott's remit under the Local Government Act 1972 and not having any authority to contract with CDM Planning Consultants.

The Committee then proceeded to Stage 3 of the hearing and considered written or verbal representations from the Investigating Officer and Councillor Scott.

Katrin Shaw highlighted the Sanctions Guidance issued by the Adjudication Panel for Wales under Section 75 (10) of the Local Government Act 2000. She also outlined the mitigating and aggravating factors that the Committee should take into account.

There were no questions from the Standards Committee for the Investigating Officer/PSOW.

Councillor Scott made a further statement to the Committee.

There were no questions from the Standards Committee for Councillor Scott.

The Committee retired to consider their decision as to whether a sanction be imposed and if so, the nature of the sanction.

### **Closed Session**

Members discussed whether a sanction be imposed and if so, the nature of the sanction.

### **Open Session**

The Chair called on the Vice Chair to announce decision of the Standards Committee.

The Vice Chair explained that in arriving at their decision as to the appropriate sanction the Standards Committee took into account the Adjudication Panel for Wales Sanction Guidance.

In assessing the seriousness of the breach the Committee took into account the fact that there was a financial impact on the Mumbles Community Council and that money was spent on a private company at a time when the expenditure on the Planning Consultants had exceeded the allocated budget. The Committee also took into account the reputational damage which had been caused to the Mumbles Community Council by the public interest report from the Auditor General. The Committee considered this to be a serious breach of the Code of Conduct.

The Committee considered the whole range of sanctions available and were mindful of the representations made by the Ombudsman both as to mitigating/aggravating circumstances and that the Ombudsman was of the view that a censure or limited form of suspension was in the public interest in this matter. The Committee also took into account the representations made by Councillor Scott and the fact that he had apologised for his actions and cooperated with the investigation by the Ombudsman.

The Committee were of the view that there were considerable mitigating circumstances. The Auditor General's public interest report highlighted that the Financial Regulations and Standing Orders of Mumbles Community Council were inadequate and had been for some time. The Committee also recognised and accepted that there was a "rolling programme" of work being undertaken by the Planning Consultancy for some time. Councillor Scott had accepted that he had been naïve in his dealings with the Planning Consultancy although the Committee felt that having been in the role of Chair for some 5 months this would have presented him with an opportunity to question the processes in place.

The Committee took into consideration that Councillor Scott was an inexperienced Councillor, was recently elected and was an inexperienced Chair appointed shortly after taking office. There was no financial gain to Councillor Scott or any personal interest. The Committee accepted that he was acting with the best interests of the constituents in mind when instructing the Planning Consultants.

Notwithstanding the considerable mitigation the Standards Committee felt it appropriate to recognise that all councillors should be aware of the Standing Orders / Financial Regulations of their Community Council and ensure that they are complied with.

Pursuant to Regulation 9 of the 2001 Regulations, the sanction imposed by the City and County of Swansea Standards Committee is that Councillor Scott is formally censured for breach of paragraph 17(b)(i)(ii) and (iii) of the Code of Conduct.

**Resolved** that:

- 1) The Standards Committee found that Councillor Scott was in breach of the Code of Conduct;
- 2) Councillor Scott receive a censure as a sanction for the breach of the Code of Conduct.

## **5 Exclusion of the Public.**

The Committee was requested to exclude the public from the meeting during the consideration of the item(s) of business identified in the recommendation to the report on the grounds that it involved the likely disclosure of exempt information as set out in the exemption paragraph of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, relevant to the item(s) of business set out in the report.

The Committee considered the Public Interest Test in deciding whether to exclude the public from the meeting for the item(s) of business where the Public Interest Test was relevant as set out in the report.

**Resolved** that the public be excluded for the following items of business.

**(Closed Session)**

## **6 Request for Dispensation.**

The Monitoring Officer outlined the report which sought consideration of an application for dispensation in relation to Councillor Robert V Smith.

In considering the granting of dispensations, the Committee sought to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest of decisions being taken by a representative group of members of the Authority.

The reasons behind the application were outlined in the report and expanded on by the Monitoring Officer during discussion on the matter.

**Resolved** that Councillor R V Smith be granted dispensation to Stay, Speak but **not** Vote on matters relating to the Appointment of Local Authority Governors.

This dispensation shall **not** apply if the Councillor is or becomes aware of any impact on a closely associated person (within the meaning of paragraph 10 (2) (c) of the Code of Conduct) that relates to and is specific to the Appointment of Local Authority Governors.

The meeting ended at 12.42 pm

**Chair**