



Report of the Monitoring Officer

Special Standards Committee – 30 June 2021

Public Service Ombudsman for Wales Referral – Alleged Breach of the Code of Conduct by a Community Councillor

Purpose:	To consider the report of the Public Service Ombudsman for Wales (PSOW) in relation to an alleged breach of the Code of Conduct by a Community Councillor which has been referred to the Monitoring Officer for determination by the Standards Committee
Policy Framework:	Terms of Reference of the Standards Committee; Local Government Act 2000; Local Government Investigations (Functions of Monitoring Officer and Standards Committee)(Wales) Regulations 2001; Local Government (Standards Committee, Investigations, Dispensation and Referral)(Wales)(Amendment) Regulations 2016
Consultation:	None
Recommendation(s):	It is recommended that the Standards Committee: 1) Consider the evidence contained within the report and make findings of fact and determine whether the Councillor is in breach of the Code of Conduct and if so to determine the appropriate sanction to be imposed.
Report Author:	Tracey Meredith
Finance Officer:	Ben Smith
Legal Officer:	Tracey Meredith
Access to Services Officer:	Rhian Millar

1. Background

- 1.1 Mumbles Community Council has adopted a Code of Conduct for members which incorporates the provisions of the model code contained in an order made by Welsh Ministers.

1.2 The terms of reference of the Standards Committee as set out in the Constitution include:

17 (g) to consider allegations of breaches of Code of Conduct made against Members.

1.3 At their meeting on 18 February 2021 the Standards Committee approved the Standards Committee Hearing Procedure which is attached at Appendix 1.

2. PSOW Investigation

2.1 Pursuant to his powers under s 69 Local Government Act 2000, the PSOW has investigated an allegation of a breach of the Code of Conduct relating to Councillor Ian Gorn Scott of Mumbles Community Council and referred the matter to the Monitoring Officer for determination by the Standards Committee.

2.2 In his report of 18 December 2020 the PSOW Investigating Officer found that Councillor Scott directed CDN Planning Consultancy to undertake work which he was not lawfully able to authorise and that his actions were therefore suggestive of a breach of paragraph 7(b) (i)(ii) and (iii) of the Code namely:

- not to use, or authorise others to use, the resources of his authority-
 - (i) imprudently
 - (ii) in breach of the authority's requirements
 - (iii) unlawfully

2.3 At their meeting of the 19 March the Standards Committee determined that there was sufficient evidence to proceed to the next stage of the process and that Councillor Scott be given an opportunity to respond to the allegation and the investigation report from the PSOW.

2.4 Councillor Scott was written to on 24 March by the Monitoring Officer and has subsequently confirmed that he wishes to have an oral hearing but will not be represented. Councillor Scott has indicated that he will not be calling any witnesses and has requested the documentation included at Appendices 8 and 9 be inserted into the bundle.

2.5 The PSOW has also advised that they will be in attendance to present their report.

2.6 Standards hearings are held in public unless the Committee is satisfied that it is appropriate to exclude the public for the discussion of exempt information under the Local Government Act 1972 Schedule 12A.

- 2.7 The Committee will note that several of the documents contained in the PSOW investigation report have been redacted as they contain personal information about third parties which would be exempt under paragraphs 12 and 13 of Schedule 12A. Councillor Scott has advised that he is content for the hearing to be in public. The PSOW has also advised that they are content that the hearing is held in public. All parties should take care not to disclose any personal information when addressing the Committee or when making representations to the Committee.

3. Matters to be considered

- 3.1 The Standards Committee will need to consider Stage 1 – Finding of Fact and consider whether there are any significant disagreements as to the facts contained within the PSOW investigation report. The PSOW Investigation Report together with the appendices attached (A to L) are at Appendix 4.
- 3.2 Having made your findings of fact (or if there is no disagreement on the facts) you will then need to consider whether the Councillor has breached the Code of Conduct. Contained within your papers is an extract of the PSOW Guidance which highlights paragraph 7(b) of the Code.
- 3.3 Should the Committee decide that, on the evidence, there is a breach of the Code then the Committee will need to consider the appropriate sanction. The Adjudication Panel for Wales Sanction Guidance is attached at Appendix 10.
- 3.4 Should the Committee decide that, on the evidence, there is no breach of the Code then that will be the end of the adjudication.

4. Legal Implications

- 4.1 The duties and powers of the Monitoring Officer and the Standards Committee in relation to any misconduct complaints referred by the PSOW are set out in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.

5. Financial Implications

- 5.1 There are no financial implications associated with this report.

6. Equality and Engagement Implications

- 6.1 There are no equality and engagement implications associated with this report.

Background papers: None

Appendices:

Appendix 1 – Standards Committee Hearing Procedure

Appendix 2 – Letter PSOW dated 18/12/20

Appendix 3 – Schedule of Unused Material

Appendix 4 – PSOW Investigation Report dated 18/12/20 (together with appendices A – L)

Appendix 5 – Letter from the Monitoring Officer to Councillor Scott dated 24/3/21

Appendix 6 – Email from Cllr Scott to Monitoring Officer dated 3/5/21

Appendix 7 – Letter from the PSOW dated 9/6/21

Appendix 8 – Cllr Scott Self-Referral form to PSOW undated

Appendix 9 – PSOW letter to Cllr Scott dated 19/11/19

Appendix 10 – Adjudication Panel Wales Sanction Guidance

Appendix 11 – Model Code of Conduct