

No.

STANDARDS COMMITTEE

Minutes of a Remote Meeting held on 22nd November, 2024.

The Committee agenda is available [here](#).

The recording of the meeting is available [here](#).

Present: R. Hendicott (Chair and Independent Member); Councillors R.M. Birch and J.E. Charles; G. Watkins (Independent Member) and Councillor P. Summers (Town and Community Council Representative).

ANNOUNCEMENT –

Prior to the commencement of the business of the Committee, the Principal Democratic Services Officer read the following statement: “May I remind everyone present that the meeting will be live streamed as well as recorded via the internet and this recording archived for future viewing”.

The Principal Democratic and Scrutiny Services Officer further advised all present that the hearing would be held in accordance with the procedure as outlined within the agenda and which had been forwarded to all parties, however there was potential to have to consider confidential matters under Part II in which case the livestream would cease during such deliberations and would then reconvene as soon as possible.

APOLOGIES FOR ABSENCE –

These were received from R. Alexander, G. Olphert (Independent Members) and L. Tinsley (Vice-Chair) and Councillor C.P. Franks.

DECLARATIONS OF INTEREST –

No declarations of interest were received.

REPORT RELATING TO A COMPLAINT AGAINST COUNCILLOR I. PERRY IN RESPECT OF ST. NICHOLAS AND BONVILSTON COMMUNITY COUNCIL (HLDS / MO) –

The Chair requested that all present introduce themselves. The Chair subsequently welcomed Mr. G. Hughes representing the Ombudsman and Mr. R. Harwood K.C representing Councillor Perry. Following a discussion as to the length of proceedings, Mr. Hughes suggested that the Hearing may take the majority of the

No.

day after hearing evidence from a number of witnesses throughout the day and / or if the Committee were minded to consider a sanction. In reference to the documentation that had been produced and provided for the Hearing, Mr. Hughes drew attention to video evidence that had been provided and that there was a question as to whether they would be played in public or private session, which he said was a matter for the Committee and / or Councillor Perry's Counsel.

Prior to the commencement of the proceedings, Mr. Harwood made a representation to the Chair regarding the quorum for the Committee. With five Members present, two of whom were Vale of Glamorgan Councillors, a Community Council representative and two Independent Members, the Hearing he said did not meet Regulation 4 of the Standards Committee of Wales Regulations 2001, in particular Regulation 24 which referred to quoracy.

The Monitoring Officer advised that unfortunately one of the Independent Members who had intended to sit had very recently suffered a bereavement and had subsequently advised that he was now unable to attend. Mr. Hughes in agreement with Mr. Harwood proposed that quoracy would be achieved if one of the Council Members stood down, which was agreed by Mr. Harwood.

The Chair asked all parties to leave the proceedings so that the matter could be discussed. Upon the return of the Committee, the Chair advised that Councillor Charles had agreed to stand down from the meeting and not take part in order for the hearing to be quorate in line with Regulations. Thanks were extended to Councillor Charles for agreeing to step down with all parties confirming that the hearing should now proceed.

The Monitoring Officer / Head of Legal and Democratic Services (Monitoring Officer), in presenting the report, stated it was to enable the Committee to consider allegations made against Councillor I. Perry in respect of the Ombudsman's Investigation Report, attached at Appendix B to the report, regarding a complaint against Councillor I. Perry in respect of St Nicholas and Bonvilston Community Council.

The Monitoring Officer also advised that the Standards Committee after considering representations, would be requested to make its determinations in line with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("2001 Regulations"). The issues for consideration by the Standards Committee were set out on Page 3 of the report with the allegations relating to Councillor Perry contained within the Ombudsman's Investigation Report at Appendix B to the report, namely that Councillor Perry failed to comply with Paragraphs 4(b), 4(c), 6(1)(a) and 7(1)(a) of the Code of Conduct. The Investigation Report advised that it found that Councillor Perry failed to show respect and consideration towards a member of staff at the Council, in particular, in correspondence he made via email and telephone the investigation found that the evidence was not suggestive of a breach of paragraphs 7(a) however, found that the Member's conduct was suggestive of a breach of paragraphs 4(b), 4(c) and 6(1)(a) of the Council's Code.

No.

The suggestive breaches of the Code as referenced in the Investigation report were contained in paragraphs 2.2 and 2.3 of the covering report to Committee. There were a number of agreed and disputed facts as set out in paragraphs 2.6 and 2.7 of the report which would be considered by the Standards Committee as part of the hearing.

Mr. Harwood referred to the submission of additional documents originally from October 2024 and again prior to the meeting that had been sent to Committee Members in both redacted and unredacted forms, and which included transcripts of the videos that were referred to earlier in the proceedings. The paginated bundle also included correspondence between themselves, the Ombudsman and the Council concerning the preparation of papers for the Hearing.

The Principal Democratic and Scrutiny Services Officer confirmed that Members of the Committee had received unredacted documentation, which included parts initially redacted by the Ombudsman in March 2024, as well as again two weeks prior to the Hearing in line with the terms of the procedure. The published agenda contained further redactions in line with access to information requirements for the Vale of Glamorgan Council, which had included the redaction of identifying email addresses, etc. All parties would have also received an online link to evidence presented by the Solicitor which had now also been redacted and distributed, however if elements of that information in particular video evidence was to be required they would have to be considered under Part II as prior permission had not been able to be obtained from the individuals in the videos in order for them to be able to be shown publicly.

The evening prior to the Hearing, all parties had received a link by email from the Solicitor relating to additional information that Mr. Harwood referred to as the paginated bundle. If required to be referred to and deemed necessary, that information could be displayed on-screen and in the Chamber. The Chair confirmed that he was aware that all parties had been forwarded the published bundle of papers numbered to Page 731, along with the information sent by email the day before the Hearing as referred to by the Principal Democratic and Scrutiny Services Officer. All parties also confirmed their receipt of the published bundle of papers and the additional information sent by email the day before the meeting.

Mr. Harwood made a procedural point regarding correspondence with the Ombudsman since the agenda was published. Page 62 of the supplemental bundle he said referred to correspondence between the Ombudsman and the complainant and the witnesses, the conduct of the investigation and how the decision to investigate was taken. The Ombudsman's response via email on 20th November was contained on Page 64 of the supplemental bundle which refused to disclose that material. Those were matters that went to broadening the scope of the investigation, how additional witnesses discussed matters that were not within the original complaint and the involvement of Ms. Cook in the process. Page 727 of the published bundle referred to Councillor Perry having been provided with all the documentation associated with the investigation which Mr. Harwood said was incorrect as the Ombudsman had withheld information that Mr. Harwood considered relevant to the case although the Ombudsman had not. Mr. Harwood said Committee would have to consider that matter as relevant material that had not been

No.

provided and Counsel would deal with submissions on the basis that there was relevant material that was absent.

The Chair then moved on to the second stage of the procedure in relation to the findings of fact and whether there were any significant disagreements about the facts contained in the Investigation Report.

Mr. Hughes summarised that on 11th October, 2021 the Public Services Ombudsman for Wales had received a complaint from Mrs. Jacqueline Griffin, a former locum clerk of St. Nicholas and Bonvilston Community Council, alleging that the Chair of that Council, Councillor Ian Perry, had breached the Code of Conduct applicable to members of the Council. The Ombudsman decided to investigate the complaint and advised Councillor Perry of that investigation by letter dated 14th January, 2022. Interviews were conducted and witness statements taken from Mrs. Griffin, Debbie Marles, the then Monitoring Officer for the Vale of Glamorgan Council (and at that time the effective Monitoring Officer for St. Nicholas and Bonvilston Community Council), former Community Councillor Maddie Sims and Mrs. Clare Cotterill who acted as a locum clerk for the Community Council after Mrs. Griffin had departed.

The Ombudsman had put the evidence gathered to Councillor Perry and interviewed him on two occasions on 16th March, 2023 and 4th August, 2023 and he was sent a draft copy of the report for comment upon which he did comment. On 28th February the Ombudsman issued her report upon her investigation and concluded that, in her opinion, Councillor Perry had breached Paragraph 4(b) of the Code of Conduct in that he had failed to show respect and consideration in his dealings with Mrs. Griffin and Paragraph 4(c) in that he had harassed Mrs. Griffin, identifying four aspects of his conduct that she considered established those breaches:

- Telephoning Mrs. Griffin outside of ordinary working hours (detailed in Paragraphs 80-96 of the Ombudsman's report);
- In his responses during the investigation Councillor Perry presented a benchmarking exercise which the Ombudsman considered disrespectful;
- That Mrs. Griffin had been prevented from performing certain aspects of her role; and
- By sending an email dated 5th July, 2021 to Mrs. Griffin which she interpreted as a veiled threat.

The Ombudsman also concluded that Councillor Perry had breached Paragraph 6(1)(a) of the Council's Code of Conduct in the way that he had addressed request from other Members of St. Nicholas and Bonvilston Community Council for information regarding the Council's finances, including sight of Council bank statements and reconciliations of Council expenditure against those bank statements. In this conduct he had displayed a rejection of the principles of transparency and openness that underpinned the Code of Conduct and which were directed to fostering public confidence in public life.

As such, the Ombudsman had concluded that Councillor Perry's behaviour could reasonably be regarded as bringing his office or authority into disrepute and had

No.

referred the report to the Monitoring Officer which was subsequently referred to the Standards Committee for determination.

As there were no questions of points of clarification at this time, Mr. Hughes called Mrs. Jacqueline Griffin to give evidence based on her statement on Pages 189 to 193 of the published bundle. All parties agreed to take the statement as published rather than be read out in full. Mrs. Griffin confirmed that her witness statement was prepared as part of the Ombudsman investigation, was contained within the bundle of papers and was a true statement dated 30th July, 2022.

Mr. Hughes referred to a complaint which started on Page 74 of the bundle which included a number of redactions but had appended documentation on Page 77 that was prepared by Mrs. Griffin, which she confirmed was correct. Mr. Hughes asked if it was updated to form the document on Page 81 of the bundle, which Mrs. Griffin said was correct. When asked why it was updated, Mrs. Griffin said that the initial complaint had been rejected by the Ombudsman due to lack of evidence at that time but she had 14 days to re-submit the complaint. Mr. Hughes had no further questions for Mrs. Griffin.

Mr. Harwood asked if Mrs. Griffin had been a Community Council clerk since 1999. Mrs. Griffin said that she had worked for Town and Community Councils since 1999 but became a clerk in her own right in 2002. Mr. Harwood said that as such Mrs. Griffin would have been clerking for Community Councils for the current standards system, which Mrs. Griffin said was correct. Mrs. Griffin also confirmed that she was familiar with the current Code of Conduct.

Mr. Harwood said that Mrs. Griffin's original complaint on Page 77 of the published bundle had not identified any breaches of the Code of Conduct either by reference to paragraphs or using the language of the Code of Conduct, which Mrs. Griffin said was correct. Given Mrs. Griffin had experience of clerking and code of conduct, Mr. Harwood asked if Mrs. Griffin was struggling to find examples of any breaches of the Code of Conduct and as such had not included reference to them in the complaint. Mrs. Griffin said she had not thought it necessary at that point as part of the initial complaint to the Ombudsman. Mr. Harwood asked Mrs. Griffin to confirm that the Monitoring Officer had seen the September complaint prior to it being sent to the Ombudsman, which Mrs. Griffin said was correct, prior to the complaint made in September being rejected by the Ombudsman. Mr. Harwood asked who wrote the letter of rejection as it had not been made available. Mrs. Griffin was unable to recall but said that it was possibly from Miss. Fletcher.

Mr. Harwood referred to the complaints raised from Page 77 of the published bundle of papers including the length of meeting agendas and asked if that was a Code of Conduct matter, which Mrs. Griffin agreed that it was not. In terms of the Community Council's role as a consultee regarding planning matters, Mr. Harwood asked Mrs. Griffin if she would go to the Vale of Glamorgan website prior to Planning Committee meetings to look at any associated planning application documents, which Mrs. Griffin said was correct although some of the applications were very large and she would read the reports so she had an idea what matters would be discussed by the Community Council. The time taken to read the planning reports varied

No.

depending on the complexity of individual applications as some were very lengthy and some not so, but Mrs. Griffin wanted to have a flavour of the matters that the Community Council would consider. Mr. Harwood asked if Mrs. Griffin billed for the time she spent reading those application documents. Mrs. Griffin said she did not break the time down that way but certainly went through agendas and looked at items coming forward for discussion.

Mr. Harwood agreed that it was the Councillors who would agree the stance to be taken on planning matters and what representations would be taken and would be better placed than the clerk to draft and make those representations. Mrs. Griffin disagreed as some Councillors were more interested than others in planning applications and the clerk's role was to try and get a balanced view of the Council and use that to put together a view from the whole Community Council and not of one individual.

Mr. Harwood proposed that having thought through a response to a planning application that any Member of the Community Council could draft a letter with input from Councillor colleague should they wish to do so. That letter would be made public and if it did not represent the view of the Community Council then it would be picked up in due course. He suggested that there was nothing to stop an individual Councillor from making a representation on behalf of the Community Council. Mrs. Griffin drew the distinction between a letter from a Councillor and a letter on behalf of the Council. As the Council was composed of the Councillors, Mr. Harwood said there was no reason why a Councillor, in particular the Chair, could not write correspondence on behalf of the Council. Mrs. Griffin said that was not good practice and not practice she was aware of. Mr. Harwood asked if there was any legal prohibition that prevented Councillors writing letters, which Mrs. Griffin agreed was correct but good practice dictated that correspondence on behalf of Community Council was sent by the clerk. Mr. Harwood argued that Mrs. Griffin thought that was good practice but was not necessarily a Code of Conduct matter. Mrs. Griffin said it could be if a Councillor was writing letters on behalf of the Community Council that were biased then that letter would not represent the view of the whole Community Council. Mr. Harwood said that if such an occurrence were to take place the other Community Councillors could have an opportunity to challenge that view, in the same way that a letter written by a clerk could be, nether instance being a Code of Conduct matter.

Mrs. Griffin was asked by Mr. Harwood to confirm that Councillor Perry had been elected Chair of the Community Council by the other Councillors, which she agreed was correct. Mr. Harwood asked if Mrs. Griffin was also clerking for other Town and Community Councils in 2021. Mrs. Griffin confirmed she was also clerking for two other Town and Community Councils during that time, one at the start and had taken on another in June of that year. It was also confirmed by Mrs. Griffin that meetings for those Town and Community Councils were held in the evenings. In August 2021 Mrs. Griffin had also started as a locum clerk for Tywyn Town Council, having been contacted at the end of July.

Mr. Harwood asked Mrs. Griffin if when she had started the role at St Nicholas and Bonvilston Community Council that it was as a locum clerk and not as a permanent

No.

role. Mrs. Griffin said she had been approached in October 2020 to be a locum clerk once the position had been advertised and received a phone call from the Local Council Consultancy (LCC) about the position. Mr. Harwood asked if the intention was only to be in the role for a few months, which Mrs. Griffin agreed was correct. Mrs. Griffin said it was in June when she knew she would be leaving the role. Mr. Harwood asked if that was because Mrs. Griffin wanted to work elsewhere. Mrs. Griffin responded that prior to starting work for St Nicholas and Bonvilston Community Council she had done some voluntary work for a friend who then telephoned her about a position at a small Community Council in the Vale of Glamorgan. Within an hour of that call she had been contacted by the LCC asking if she would do some locum work for St Nicholas and Bonvilston Community Council and had agreed. It was all coincidentally on the same day. Mrs. Griffin subsequently put herself forward for the role at the small Community Council and was successful in being offered the position, starting there in June 2021.

At a St Nicholas and Bonvilston Community Council meeting on 7th June, 2021 Mr. Harwood in referring to Page 35 of the additional documentation said that Mrs. Griffin had said at that meeting that St Nicholas and Bonvilston Community Council would need to start advertising for a clerk as she was unable to continue after July which Mrs. Griffin said was correct. Mr. Harwood therefore said that Mrs. Griffin's reason for leaving the role at St Nicholas and Bonvilston Community Council was she had been successful in attaining another position but had not made any complaint regarding any further reasons such as how the Council or Councillor Perry had been handling matters nor made any formal complaint at that time. Mrs. Griffin said she had given notice due to the new position but had not made those complaints at that public meeting but had raised her concerns in an email to two of the St Nicholas and Bonvilston Community Councillors.

Mr. Harwood referred to an email dated 5th July, 2021 which was on Page 88 of the published bundle of papers. He asked why Mrs. Griffin had not mentioned that email in her complaint on 21st September as a matter of concern. Mrs. Griffin said that she had felt her initial complaint was enough but had been rejected by the Ombudsman and contacted the Monitoring Officer, Debbie Marles, to advise her that the complaint had been rejected. Ms. Marles had said that if the complaint were to be re-submitted then it would require a lot more detail including examples, which was what she had done. Both Mr. Harwood and Mrs. Griffin agreed that making a complaint was a serious matter. Mrs. Griffin said that she had met with the Monitoring Officer on a couple of occasions to discuss the issues, she had a number of concerns and had not wanted to make a complaint to make trouble but to express her concerns for the Community Council having regard also to the number of Councillors and clerks who were coming and going, the lack of transparency that both together were also a concern for the local community.

Mrs. Griffin was asked if the meeting with the Monitoring Officer took place before the 21st September complaint went in. She confirmed that one of the meetings was before that date and another after the first complaint was rejected.

Mr. Harwood further referred to the email dated 5th July, 2021 which was on Page 88 of the published bundle of papers which was an email from Councillor Perry and

No.

included an email from a former clerk to One Voice Wales (OVW). Mrs. Griffin explained that OVW was an organisation that worked between Town and Community Councils and Welsh Government, providing and running training courses to Town and Community Councils. Mr. Harwood read part of the email to the Committee, which said "I'm still having problems with Cllr Perry. We are trying our best with him and we are putting measures in place to help control him but he just seems to find other ways of making his voice heard." Mr. Harwood put it to Mrs. Griffin that it was not the role of the clerk to 'control' Councillors or stop their voices being heard. Mrs. Griffin said it was not but that she had not written that email. Mr. Harwood said that it had been written by the former clerk and suggested an inappropriate approach taken by the clerk. Mrs. Griffin agreed that it was not the clerk's role to run the Council but it was not the Chairman's role to run the Council either. Mr. Harwood said that the email was referring to matters that had occurred previously and that Councillor Perry felt strongly about not being 'silenced' but was not threatening to anybody. Mrs. Griffin said she could not understand why the email had been sent to her. Mr. Harwood asked if that was why that particular email was not mentioned in the original complaint, which Mrs. Griffin said was correct. Mr. Harwood proposed that the email was not something that Mrs. Griffin felt was directed at her and as such was not included as part of the complaint but subsequently included to add weight to the complaint. Mrs. Griffin said that she had taken advice from the Monitoring Officer on both submissions to the Ombudsman and provide the email as evidence of matter of concern and as evidence in support of her complaint.

Mr. Harwood then moved on to discuss the matter of telephone calls being made during the evening and on weekends between Councillor Perry and Mrs. Griffin, referring to Page 79 of the published bundle of papers and Mrs. Griffin's original complaint. In the paragraph beginning "During the Council's meeting on 7th June" Mrs. Griffin referred to a discussion with a previous clerk concerning frequency of calls from Councillor Perry "even outside what would be considered normal working hours, to the extent that I had stopped answering his calls." At that point Mr. Harwood proposed that Mrs. Griffin was not saying she was harassed, more that something someone else had claimed had not surprised her, which Mrs. Griffin said was correct. Mr. Harwood said it was not being put forward at that time as a complaint or a breach of the Code of Conduct. Mrs. Griffin said that during her second meeting with the Monitoring Officer that as part of any complaint she would have to show how various matters related to the Code which was why the report became 7 pages with appendices from the initial 4 pages that had been submitted. Examples had to be given as to how certain actions had breached the Code.

Mr. Harwood the referred Committee to Page 618 of the bundle of published papers which referred to phone calls made in December 2023 and was part of Councillor Perry's response on those calls. He picked up that on some occasions they were incoming calls from Mrs. Griffin, for example on 14th April at 18:36, or calls prompted by emails from Mrs. Griffin, which she agreed was correct. Mr. Harwood proposed that Mrs. Griffin did a lot of Council work in the evenings for the three Councils which included phone calls, emails, text messages and WhatsApp messages which Mrs. Griffin said was correct.

No.

Mr. Harwood then referred to Page 708, paragraph 2.3.12 of the bundle of published papers which listed that Mrs. Griffin had contacted Councillor Perry by email after 18:00 or at weekends on 46 occasions, which Mrs. Griffin agreed was correct but drew a difference between an email and a telephone call which were not expected to be dealt with immediately. Emails could be read at a time of the person's choosing she said whereas there was an expectation for telephone calls to be answered immediately.

Mr. Harwood then referred to Page 709, paragraph 2.3.13 of the bundle of published papers which listed 7 text messages or WhatsApp messages after 18:00 or at weekends. Mrs. Griffin said that may be correct but had not checked to see if it was correct. Mr. Harwood said that people would tend to check their messages as notifications would come up on-screen on mobile phones in the same way as if they were messages from relatives or friends, so those messages would be looked at in the evening. Mrs. Griffin said that most people checked their messages on mobile phones in the evening as they would be in work during the day and that it was still a choice to read a message at your convenience. Mrs. Griffin said she did leave her phone on all the time as she in case of family matters. It was her choice when to read or reply to received messages, but a phone call was an interruption.

Mr. Harwood proposed that Mrs. Griffin did not have fixed hours of working or non-working in place to not deal with phone calls after a certain time or on weekends. Mrs. Griffin said she was only contracted to work three and a half hours a week and never charged for time reading WhatsApp messages or texts and felt that the level of contact she experienced was a significant amount in comparison to other Councils where most other Councillors wishing to contact the clerk would do so by email. Mr. Harwood referred back to his initial question which was that Mrs. Griffin did not have any arrangement regarding fixed hours of working or non-working in place to not deal with phone calls after a certain time or on weekends to deal with Town and Community matters, which Mrs. Griffin said was correct. He proposed there were occasions where calls were made and it had not been convenient to take that call, which Mrs. Griffin said was correct. Mr. Harwood said that generally it was accepted that it was not always convenient for anyone to take telephone calls at certain times but in this case those calls were taken by Mrs. Griffin as there were no set hours in place. Mrs. Griffin said that was true and up to an individual to decide how they preferred to work, however her point was in her experience the calls had been excessive and disruptive to family life outside of normal working hours. The point made was although it did not bother her as she would not answer such calls, for other clerks it would be seen as inconvenient.. Mrs. Griffin said that if she felt like she was bothered that she would not answer the call as it lacked consideration of other people's lives. Mrs. Griffin said she had chosen to do a lot of Council work in the evenings as it fitted in with her life but that was not true for everyone. She had not liked taking Council calls in the evening and preferred to receive correspondence via email and she could consider when to read those emails and how to respond to them. Phone calls would interrupt family time in an evening. At the time Mrs. Griffin had been living with shift workers and had to take that into consideration, continuous calls could be a nuisance. Mr. Harwood said it was important to remember that at that time Covid restrictions were still in place and lots of people's lives ran differently at that time.

No.

Mr. Harwood then had no further questions for Mrs. Griffin.

Mr. Hughes said the purpose of the hearing was to make findings of fact. Mrs. Griffin had been asked about the extent to which she had or had not complained to other members of the Community Council during her time as a locum clerk and had said that she had complained to two other Members of the Community Council and asked who they were and when that had taken place. Mrs. Griffin confirmed she had raised her concerns with Councillors Maddie Sims and Philip Moss by email following the July meeting. Mr. Harwood asked what concerns had been raised by Mrs. Griffin who said it was with regard to the running of the Council, the length of the meeting agendas, important items to the community that were not being given due attention such as recruitment of the clerk and an audit which had not started and how the Chair was dealing with all the correspondence on behalf of the Community Council. Mrs. Griffin had completed eleven sets of minutes during her time as locum clerk in 18 weeks and had refused to be the responsible financial officer as she was not being provide with relevant information.

In referring to the email of 5th July listed on Page 88 of the published bundle of papers that had been discussed previously, Mrs. Griffin had told Committee that she had not known why it had been sent to her and Mr. Hughes asked why she thought it had been sent to her and what effect it had. Mrs. Griffin said she felt it was a warning shot to say not to cross Councillor Perry. She had not understood the reason for being sent the email.

Mr. Hughes had no further questions for Mrs Griffin.

The Chair invited questions from Committee Members for Mrs. Griffin.

Mr. Watkins said that in the bundle there was refence to a benchmark document that Mr. Hughes had also referred to, and asked Mrs. Griffin when she had become aware of that document. Mrs. Griffin confirmed that she became aware of that document the previous weekend to the hearing. Mr. Watkins asked if Mrs. Griffin had ever discussed that document with Councillor Perry which she said she had not, having only been aware of it on the previous Sunday evening.

Councillor Summers asked about letters being sent from the Community Council on planning or any other matters which was referenced by Mr. Harwood during earlier questioning and asked if the letters sent by Councillor Perry that had concerned Mrs. Griffin had been agreed by resolution of the Council to be sent or sent as he had chosen to send them. Mrs. Griffin said they were just sent.

As the Committee had no further questions for Mrs. Griffin, the Chair thanked Mrs. Griffin who was advised she could step down.

Mr. Harwood advised that his intention was to call former Councillor Maddie Sims to give evidence who had joined the hearing remotely. As Ms. Sims was travelling with her husband at the time, which was not objected to by all parties present, the Principal Democratic and Scrutiny Services Officer proposed that Committee wait a

No.

few minutes while Ms. Sims was able to join when stationary and the Chair called a brief recess before reconvening the session to hear from the witness.

Ms. Sims was asked to introduce herself to the Committee by Mr. Hughes, and she advised that she was now Mrs. Madeliene Palmer but had been Madeliene Sims during the time in question. Mr. Hughes said that during the course of the Ombudsman's investigation Ms. Sims had provided a witness statement on 7th November, 2022 and asked if that was correct, which Ms. Sims said was correct. Ms. Sims was asked by Mr. Hughes if she had seen a copy of that statement which was included in the published bundle of papers on Page 218, which Ms. Sims confirmed that she had as well as the completed bundle and was able to confirm that the contents of the statement were true.

Mr. Hughes had no further questions for Ms. Sims.

Mr. Harwood asked Ms. Sims if she had the statement with her. Ms. Sims said she did have the bundle but not in front of her but was able to answer questions. Mr. Harwood said he would make references to information within the bundle and could give Ms. Sims time if she needed to look them up via her phone.

Mr. Harwood said that what Ms. Sims had produced was email correspondence in November 2021 concerning her request for access to financial documentation by the Community Council, which Ms. Sims said was correct. Ms. Sims was asked by Mr. Harwood who had contacted her about the complaint, as there was a letter of complaint from Mrs. Griffin who was not on the Council and had left by November 2021, so how was it that Ms. Sims was asked to give evidence in November 2021. He asked about the first contact that Ms. Sims had received about the complaint. Ms. Sims said that her first formal approach was having received a phone call from the Ombudsman following a conversation with the clerk two months earlier after a meeting had taken place where a Councillor was unable to connect but the meeting had continued anyway.

Mr. Harwood asked if as part of that call from the Ombudsman if they had mentioned emails from November 2021. Ms. Sims said she could not remember but thought that the first contact was just a request for a witness statement about her time as a Councillor. Mr. Harwood asked if the statement was in reference to her time as a Councillor generally or with regard to Councillor Perry. Ms. Sims said it was generally. Ms. Sims was asked by Mr. Harwood if the Ombudsman had been fishing for matters to look for which Ms. Sims disagreed with.

Mr. Harwood referred to the emails on Page 232 of the bundle of published papers which detailed email exchanges from Councillor Perry, Ms. Sims and other Councillors in November 2021, the first email of which was from 17th November, 2021. Mr. Harwood said the email was correspondence concerning a meeting taking place on 18th November, 2021 which Ms. Sims was not able to attend as she would be attending a birthday party instead. Ms. Sims was concerned at Mr. Harwood's view of that as she said she has a young family and associated commitments to that family and also worked full time however she was concerned about the lack of availability of information that she felt as a Councillor she was entitled to receive. As

No.

Mrs. Griffin had stated earlier on in the hearing, she had completed 11 sets of minutes in a short time, showing there were a lot of meetings taking place, including extraordinary meetings, and she had not been able to attend them all.

Mr. Harwood said that Ms. Sims went on to raise a variety of points concerning documentation for that meeting, including quotes for a war memorial, funding towards legal costs and all bank statements and approved accounts needed to be viewed by all members of the Community Council before submission to internal audit, all of which were matters to be dealt with at that meeting. Ms. Sims said that she was looking for transparency about all of those matters whether she had been able to attend or not. She wanted full transparency as a Councillor as she had been asked to provide her name, bank and personal details to be part of the joint bank account for the Community Council and was not prepared to do that before the requested information was made available. Whether able to attend that meeting or not, as a Councillor Ms. Sims felt she should still have been given access to those documents and for all the Council to review.

There were then a series of email exchanges between Ms. Sims and Councillor Perry referred to by Mr. Harwood, sent at 15:37, 23:03, 23:25 and four emails the following day which Mr. Harwood said was extensive correspondence about a meeting that Ms. Sims was not able to attend. Ms. Sims said that she had been disgusted with the tone of the responses from Councillor Perry considering all that was being requested was copies of bank statements. She was not sure how long Councillor Perry had been Chair of the Community Council at that time but knew it had been for a number of years and could not understand how it was possible to make payments for items such as poppies and not have bank statements to review. Whether she had been able to attend the meeting or not, she had hoped that the other Council Members would have picked up on that lack of transparency concerning the bank statements. Mr. Harwood said that the bank statements would not been available on the morning of the 18th November if they had not been available on the 17th November. Ms. Sims said they should have been made available in the first place and could not understand how the Chair could not have bank statements available and was perplexed as to how a bank card could have arrived in his personal details.

The Chair reminded Mr. Harwood that at this stage the purpose of the hearing was to make findings of fact and asked if there was any dispute about what had been said. Mr. Harwood said that Ms. Sims had sent eight emails on the matter for a meeting she was not able to attend, two of which were after 23:00 at night, and proposed that was the reason the exchanges were getting fraught.

Mr. Harwood repeated his previous question, in that Ms. Sims had sent eight emails on the matter for a meeting she was not able to attend, two of which were after 23:00 at night, and proposed that was understandable that the exchanges were getting fraught. Ms. Sims felt they were not fraught from her perspective but were from Councillor Perry. She had not made personal statements about where her loyalties lay which Councillor Perry had done and was clear and to the point regarding understanding the issue concerning visibility of bank statements. Mr. Harwood said there were a number of emails sent in a short space of time, late at night and the

No.

following day and nothing was being achieved as part of that process. Ms. Sims said that was Mr. Harwood's opinion and said it was a serious matter that the Councillors had not had sight of the bank statements and expected there to have been oversight of the finances which was incredibly serious and could not be ignored. Mr. Harwood proposed that email exchanges going on late into the evening where the matter was not being resolved would have irritated Ms. Sims. She replied that like the emails felt that the line of questioning was also going in circles. Councillor Perry had been the Chair for a number of years and she could not understand why there were no bank statements at all and was just trying to get to the bottom of the issue whilst the responses felt more and more defensive. No solution was ever offered.

Mr. Harwood had no further questions for Ms. Sims, neither did Mr. Hughes.

The Chair invited questions from Committee Members for Ms. Sims.

Councillor Summers referred to the meeting on the 18th November which Ms. Sims was trying to get information for as an extraordinary meeting to discuss internal audit and financial management. He asked if the Community Council had a Finance Committee. Ms. Sims replied that they did not. Councillor Summers asked if all finance matters therefore went to the whole Council. Ms. Sims said that during the time she was a Councillor she never saw any matters to do with finance at all.

Councillor Birch asked who had set up a meeting to discuss the finances and whether that was part of an ordinary run of meetings and were Councillors consulted about being able to attend or was it an arbitrary date. Ms. Sims replied that it was an arbitrary date chosen by Councillor Perry and none of the Councillors were consulted about any meeting dates.

As the Committee had no further questions for Ms. Sims, the Chair thanked Ms. Sims who was advised she could disconnect from the hearing.

Mr. Hughes confirmed that that concluded the live evidence from the Ombudsman. There was a short recess whilst Mr. Harwood consulted with his client.

On returning to proceedings, the Chair advised that the hearing would move on to the stage where the Member would then be invited to make representations to support his version of the facts. Mr. Harwood said that given the extensive written evidence and submitted representations there were no factual matters that required calling Councillor Perry.

The Chair asked if Committee in its role of determining findings of fact if there were any particular facts that needed to be discussed or whether proceedings would move on to consider whether there had subsequently been any failure to comply with the Code of Conduct. Mr. Harwood said that matters that had been agreed and matters that were in dispute were contained within the papers and evidence had been heard where both sides could make further submissions. The Chair subsequently asked if both parties were content to address the Committee on whether the Member had failed to comply with the Code of Conduct. Mr. Harwood proposed that in this case it was appropriate to merge the fact-finding element with the breach questions as

No.

there was a question of nuance and therefore may affect the Committee's interpretation of what conduct constituted a breach of the Code. As such it was appropriate rather than having a fact-finding exercise and a breach exercise to combine both aspects on this occasion. Mr. Hughes agreed with the proposal.

The Chair asked which party would go first. Mr. Harwood suggested that as it was the Ombudsman's case that possibly they should go first, which was agreed by Mr. Hughes who had no preference either way. The Chair then proposed that proceedings break for lunch to give both parties time to consider their submissions, which was agreed and the hearing was adjourned until 13:15.

On return, the Chair invited Mr. Hughes to address the Committee who put the case as it appeared in the Ombudsman's report. He began by addressing with the alleged breaches of paragraphs 4(b), being the obligation to show respect to those being dealt with and 4(c), being not to harass or bully, within the Code of Conduct. Here the Ombudsman had relied on conduct in relation to Mrs. Griffin where there were four aspects of conduct that were said to form the breaches.

The first aspect was in relation to telephone calls made out of hours. Mr. Hughes had not planned to go through every individual circumstance unless the Committee wished him to and referred to Page 286 of the published bundle of papers which showed a log of calls taken from Councillor Perry's phone of all contact between Mrs. Griffin and himself. He then referred to Page 618 of the published bundle of papers which contained Councillor Perry's comments on each example. In the report, the Ombudsman went into detail about the calls on Page 61, paragraphs 81 onwards. Each one of the calls that Councillor Perry had commented on was dealt with and an assessment made of his stance for each one. Mr. Hughes gave the example within section 81 on Page 61 where the Ombudsman noted that the call log showed that Councillor Perry attempted to call Mrs. Griffin at 16:47, 18:10 and 18:24 and he then received a missed call from Mrs. Griffin at 18:34. Councillor Perry then made further outgoing calls to Mrs. Griffin. It appeared therefore, that Councillor Perry initiated the contact.

The Chair asked what the normal expectation would be and what should have happened, and if there was an alternative approach that should have been taken. Mr. Hughes said that there was an extent to which that was a matter for the Committee to determine, but the stance in the report was that 18:00 was regarded as the end of a working day and contact after that time was potentially troublesome. He drew a distinction between people who worked in a self-employed capacity and would receive calls and email throughout the day and those working in an employed capacity with a greater expectation of working normal office hours. Mr. Hughes accepted the point that Mrs. Griffin was employed on a three and a half hour contract per week and nothing in her contract to indicate exactly when those hours would be worked and some of her work obviously included working in the evenings as part of Council meetings. Nevertheless, the stance in the report was that there was an expectation that contact would be made within ordinary working times and contact outside of those times was capable of being problematic and therefore a failure to show respect and consideration and a matter for determination by the Committee.

No.

The second aspect was in relation to the benchmarking exercise. During the course of the investigation undertaken in respect of the complaint, Councillor Perry had produced as part of his response a benchmarking exercise which the Ombudsman considered constituted evidence of a failure to show respect for Mrs. Griffin. The benchmarking exercise could be found on Page 301 of the published bundle of papers which Mr. Hughes argued was crude and self-serving, indicating the virtues of Councillor Perry in the left-hand column and that Mrs. Griffin did not have such virtues in the right-hand column. Some of the detail was quite serious argued Mr. Hughes, referring to the 4th row of the exercise which stated that Councillor Perry had the virtue of being inclusive and transparent when communicating and seeking or sharing advice with Members, but also suggested that Mrs. Griffin was not. In row 5 Councillor Perry suggested he was conscientious about being factually accurate and considerate of the well-being of others, and that Mrs. Griffin was not. There did not seem to be any basis for those assertions which were negative about the way Mrs. Griffin conducted herself professionally. The Ombudsman therefore concluded that the benchmarking exercise showed a failure to show respect and consideration for Mrs. Griffin.

The third aspect was in relation to the conduct potentially showing a failure to show respect or consideration and to constitute harassment was the suggestion that in some respects Councillor Perry sought to restrict Mrs. Griffin in the way she undertook her role. Mr. Hughes said the Committee had the evidence regarding that and would have to draw its own conclusions as to whether or not that was disrespectful or constituted harassment. It appeared particularly in relation to Mrs. Griffin's involvement in the preparation of submissions in relation to planning matters, correspondence going out from the Council in the Chari's name rather than the clerk and possibly extended to involvement in the preparation of minutes, for example a disagreement regarding the minutes of the 6th July meeting and whether a presentation formed part of the formal meeting or not.

Finally, the conduct relied upon as potentially showing both a failure of consideration and potentially harassment was the email dated 5th July which was on Page 88 of the published bundle of papers and discussed earlier in the proceedings. Mr. Hughes said that it was easily explicable as to why that email was sent to Mrs. Griffin, as she had stated in her evidence earlier, and felt it was a 'shot across the bow' and intended to put her on notice and not to cross Councillor Perry. Mr. Hughes said that email was capable of that interpretation and that the Committee would have to draw its own conclusion as to what interpretation to put on it and the context in which it was sent.

When interviewed about the matter in March, and as shown on Pages 321 and 322 of the published bundle of papers, Councillor Perry was asked if he considered that the email was a warning or bullying in nature. In response, Councillor Perry replied that he did not, that he was transparent and probably too transparent. The rest of his response however did not deal with the email at all. Towards the bottom of Page 322 and on to Page 323 Councillor Perry was brought back to the email and why he had sent it to Mrs. Griffin. Councillor Perry replied that "it was following on from the fact that she'd resigned from other councils, she'd had problems in other councils and it was just a friendly conversation and she had problems with other councils and

No.

had resigned, er, but there was no problem in our council at that time. Erm, not that I was aware of any how, so, so there was no threat, there's no warning, and it just shows I've been transparent and trusting. My trust was misplaced."

On Page 323 there was another long answer from Councillor Perry which again did not deal with the email or why it was sent at all. Mr. Hughes submitted to the Committee that Councillor Perry's answers on that issue were at the very least evasive and in fact unsatisfactory as sending such an email as part of a friendly conversation did not make sense and was a matter for the Committee to reflect on.

The Ombudsman's report considered another allegation of breach regarding Councillor Perry's interactions with former Councillor Sims, with some evidence that Councillor Perry had issue with the way Ms. Sims dealt with him. This was shown in the second interview transcript dated August 2023, as described on Page 378 of the published bundle of papers where Councillor Perry said he found Ms. Sims particularly difficult. On Page 379 Councillor Perry said "when I try and sort something out, I get all this bl**dy cr*p coming at me. I'm sorry to use that language but look at it, it's unacceptable. I've done my best but there's, there's nothing to say that the Chair should go out and try and find this stuff, alright, I've, I've gone beyond the duty of a Chair."

For the whole of Page 380 and most of Page 381, Councillor Perry is at his most animated during the interview process and suggested that Committee may conclude from that section that Ms. Sims did get under his skin. Mr. Hughes clarified that the interview had taken place a long time after that associated email correspondence had taken place. All Ms. Sims, Mr. Hughes said, was doing in the email correspondence was asking for a reconciliation of bank statements against the expenditure of the Council, a straight-forward exercise. It was clear that that was not happening, and should have been happening, shown by various audit documentation within the bundle of papers.

For example, there was an Auditor General for Wales. Audit Certificate and report on Page 186 of the published bundle of papers relating to St Nicholas and Bonvilston Community Council for the year ending 31st March, 2021, the year before the events being discussed at the hearing. There was an audit opinion of 'qualified,' however the Basis of Qualification section states "I am unable to conclude whether or not the accounting statement has been properly prepared and whether or not it properly presents the Council's receipts and payments for the year" and "the Council did not maintain proper accounting records during the year." The Statement also concluded that the Council had not met its statutory obligations to operate an adequate and effective system of internal control as required by the Accounts and Audit (Wales) Regulations 2014 and did not calculate its budget requirement in accordance with the Local Government Finance Act 1992.

The Chair said that a qualification had been given but asked where the qualification was. Mr. Harwood explained that the Auditor General would submit an opinion of either passed, qualified or failed. The Chair referred to the 'qualified' opinion which stated that no matters have come to their attention giving cause for concern that in any material respect, the information reported in the Annual Return had not been

No.

prepared in accordance with proper practices or that relevant legislation and regulatory requirements had not been met. Mr. Harwood said that the Auditor's opinion was marked as 'qualified,' rather than passed or failed. The substance was contained in the Basis of Qualification. There was no suggestion in any of the documentation that Councillor Perry had benefited financially in any way, merely that the Council was not complying with its statutory obligations in relation to maintaining its financial documentation and accounts.

Page 187 of the published bundle of papers contained the Audit Certificate for the following year, being the relevant year related to the hearing. Effectively a similar qualification was given for the year ending 31st March, 2020 with an Audit Opinion of qualified and the same Basis of Qualification as the previous year.

Mr. Harwood then referred to the accounting statements listed from Page 180 to Page 181 of the published bundle of papers which was an annual governance statement showing if a Council was complying with its governance implications. On Page 181, several of the matters are marked 'no', including:-

- We have out in place arrangements for effective financial management during the year, and the preparation and approval of the accounting statements.
- We have maintained an adequate system of internal control, including measures designed to prevent and detect fraud and corruption, and reviewed its effectiveness.
- We have taken all reasonable steps to assure ourselves that there are no matters of actual or potential non-compliance with laws, regulations and codes of practice that could have a significant financial effect on the ability of the Council/Board/Committee to conduct its business or on its finances.
- We have provided proper opportunity for the exercise of electors' rights in accordance with the requirements of the Accounts and Audit (Wales) Regulations 2014.
- We have carried out an assessment of the risks facing the Council/Board/Committee and taken appropriate steps to manage those risks, including the introduction of internal controls and/or external insurance cover where required.
- We have taken appropriate action on all matters raised in previous reports from internal and external audit.

Therefore the Council, as part of the internal audit, was unable to give an assurance that the statutory obligations had been complied with.

In an internal audit for the relevant year as shown on Page 184 of the published bundle of papers, there were further deficient accounting practices with several of the matters marked 'no', including:-

- Appropriate books of accounts have been properly kept throughout the year.
- Financial regulations have been met, payments were supported by invoices, expenditure was approved and VAT was appropriately accounted for.
- The body assessed the significant risks to achieving its objectives and reviewed the adequacy of arrangements to manage these.

No.

- The annual precept/levy/resource demand requirement resulted from an adequate budgetary process, progress against the budget was regularly monitored, and reserves were appropriate.

Items 9 and 10 at the top of Page 185 were marked a 'no' with regards:-

- periodic and year-end bank account reconciliations were properly carried out, which Mr. Harwood said was precisely Ms Sims complaint.
- Accounting statements prepared during the year were prepared on the correct accounting basis (receipts and payments/income and expenditure), agreed with the adequate audit trail from underlying records, and where appropriate, debtors and creditors properly recorded.

Mr. Harwood said that in the relevant year, the matters Ms. Sims had been complaining about were legitimate.

There was an internal audit for the subsequent year which was less relevant to the matter being considered at the hearing, shown on Page 237 of the published bundle of papers which made it clear that there had been improvement but there was a continuing problem with cash control.

Mr. Hughes then went on to discuss the emails which started on Page 233 of the published bundle of papers which began with an email from Councillor Perry to all of the St Nicholas and Bonvilston Community Councillors dated 15th November concerning costs associated with upkeep of a war memorial in the ward. The response from Ms. Sims began on Page 232 and said that Councillor Perry was proposing the wrong things in costs associated with renovation of two memorials which were serious matters but there were more pressing matters given that the wider finances were not in order. Ms. Sims specifically identified that "All bank statements and approved accounts need to be viewed by all the members of the community council before being submitted to internal audit who obviously send to external audit – To date you have not produced any of this to any of us and presented a clear financial picture of the Council".

Councillor Perry's email response less than two hours later on Pages 231 and 232 of the published bundle of papers was that he had begun to put together a file for the audit at 17:00 the previous day and by 03:00 that morning had waded through most of the work and information would need to be entered onto a spreadsheet. He also said that the Community Council had begun a Budgeting Process and concentrating on the costs associated with the war memorials as a Council for two villages.

Councillor Perry also stated that "the work required on the CC finances is being undertaken at present. It's a long, clearly thankless task... Definitely thankless. At present, the file's unfinished. I am being guided by our Internal Auditor. Our Internal Auditor has also said that we require a planning committee... The budgeting process is essential work that needs to be undertaken in December... Thus there's urgency to free up time at our meeting in December. I am expecting the consultation on the school to hit us in the coming week, which will be another wave of work, mainly hitting me."

No.

There was no response to the request for the bank statements.

That email was responded to by Sian Clarke, shown on Page 231 of the published bundle of papers, and then by Ms. Sims who said “This is community and public funds and it is my understanding that we cannot use Precept money for legal action/ judicial review and would want to know what financial regulation we are interpreting to do this. How can we have bank reconciliations as stated in your agenda if there are no bank statements? We must have had spend the last 18 months and should have oversight of this - we have paid legal fees therefore there must be a bank account and statements.”

The Chair said Committee were not there to consider the actions of the Council. Mr. Hughes agreed and said that Committee were being asked to ascertain whether Councillor Perry was in breach of the Code, and whether by withholding bank statements and resisting a bank reconciliation he may have brought himself and his office or his authority into disrepute. The Ombudsman had come to the view that that was established and had led to the Ombudsman’s finding of a breach of paragraph 6(1)(a) of the Council’s Code. By resisting the disclosure of bank statements and therefore an inability to carry out a bank statement reconciliation that potentially could be interpreted as bringing the office into disrepute.

Mr. Hughes also referred to the email at the bottom of Page 230 of the published bundle of papers from Ms. Sims at 17:00 on 17th November which again referred to bank statements. Councillor Moss responds at 20:45 the same day, saying he too seemed to want the same reconciliation that was being discussed.

On 17th.November at 10:46 there was a long email from Councillor Perry shown on Page 228 of the published bundle of papers where he explained that an Internal Auditor had access to all the financial information, that DCK Accounting Solutions were employed (in place of a clerk) who had full access to bank statements and receipt and had been employed as Councillors were not expected to have the level of knowledge or skills as those specialists.

Councillor Perry explained with regard the internal audit to prepare for the external audit, that:-

- No Bank Reconciliation has occurred - this is a "fail". The very reasonable explanation of having no bank statements will explain this. There are several months in which no payments were made because of banking issues.

Ms. Sims responded at 23:02 on the same day asking if DCK had bank statements, why could they not be produced for the following day’s meeting for transparency. More discussion on the bank statements continued in further emails. Councillor Perry’s email of 18th November at 11:01 showed some exasperation, saying that in the six years that he had been a Member of the Council, bank statements had never been distributed to Members. The penultimate paragraph stated:-

No.

- "And may I REPEAT, REPEAT, REPEAT, REPEAT, REPEAT, that there has been no bank reconciliation because we have not had access to our bank account, no access to bank statements. It's impossible to do bank reconciliation without bank statements. Why can you not understand this?????"

As such, Mr. Hughes argued that Councillor Perry's stance was still that there were no bank statements that could be provided. The emails continue through to Page 221 and it was fair to say that there was a tone of exasperation on both sides.

Mr. Hughes said that the exertion that the bank statements did not exist was maintained by Councillor Perry at interview. On Page 377 of the published bundle of papers Councillor Perry was asked about the previous emails regarding bank statements never having been distributed to Members. He replied "that was for the RFO and at the time DCK Accountancy were in charge. I mean I don't think there actually were bank statements" which was inconsistent with information on Page 469 of the published bundle of papers which contained an email from the preceding year on 26th February, 2021 where Councillor Perry had emailed bank statements to DCK Accounting Solutions. The list of attachments showed bank statements for the whole of 2020 and January 2021.

Page 467 of the published bundle of papers contained a similar email exchange dated 4th August 2021, from Councillor Perry to DCK which contained shared 7 PDF documents via OneDrive and the text of the email stated "The postman delivered the bank statements as I was writing my earlier email! Scans are uploaded and linked to this email." The statements had been requested in order to finalise the accounts without delay and receipt acknowledged on 10th August, 2021.

Therefore, as at November 2021 when Councillor Perry was refusing to produce bank statements, he did have them and had given them to DCK for both that year and the preceding year. The Ombudsman's conclusion was that there was a failure to be transparent in those circumstances and in not sharing information with other members of his Community Council was therefore capable of bringing his office into disrepute and challenged two of the underlying principles of transparency and openness within the Code.

At the end of his submission the Chair asked if Committee Members had any questions for Mr. Hughes, with no questions being asked the Chair subsequently asked Mr. Harwood to present his case.

Mr. Harwood began with a few points of context before moving on to the specific allegations. Councillor Perry had been Chair of St Nicholas and Bonvilston Community Council since July 2020, having been a Councillor since 2016. As Chair, he had inherited a variety of financial problems. It was also important to remember that the country was feeling the effect of Covid in 2021 which had an effect on people's working practices.

Mr. Harwood said it was asked whether what was being alleged amounted to breaches of the Code of Conduct. The hearing was not about whether the

No.

Community Council was properly managed, whether the accounts were qualified, whether the governance arrangements were as good as they could have been or had shortfalls. The Code of Conduct concerned individual Councillors in a regime that was incredibly onerous on those Councillors and could lead to suspension or disqualification and they could lose their role in the democratic process. The Code was about keeping Local Government on the straight and narrow and concerned the conduct of Councillors as Councillors rather than the general governance of Authorities and how they were managed.

A complaint had been made, originally in September 2021, with the subsequent Ombudsman's report in February 2024. Over two and a half years had passed over that time which had been hanging over Councillor Perry during that period and had been a process that was onerous to respond to as could be seen from the voluminous documentation associated with the hearing. The process was legally demanding and required Councillor Perry to decide how to be represented with the Ombudsman also being represented at the hearing by Counsel. The process was designed to ensure that Councillor conduct was appropriate but not a process designed to police in a heavy-handed fashion things that may have been done differently.

Appendix 9 of the published bundle of papers contained extracts from the Ombudsman's guidance, particularly dealing with questions of respect and bullying with a number of examples. Some of those examples were of situations where no breach of the Code was found. The situation at the current hearing even taking the Ombudsman's allegations at their highest came nowhere near the potential concerns in those case where there was no breach in the guidance. The Ombudsman's case set a bar for conduct that was so low that it became oppressive to Members. The Ombudsman had to demonstrate their case on the allegations that were in the report and the allegations put forward by Mr. Hughes in his opening and closing submissions.

Mr. Harwood turned to the issues in paragraph 4 of the Code of Conduct concerning respect and bullying and the matters concerning Mrs. Griffin. Firstly, with regard the question concerning the clerk's role, there had been a dispute about management and responsibilities that had not been articulated at the time. The Council was the Councillors, and they were entitled to write correspondence on behalf of the Council to implement decisions. It could be seen in the minutes that Councillors were mandated to take particular actions, for example on Page 127 of the published bundle of papers which contained the minutes of a meeting held on 10th May. 2021:

- Item 16 (c) discussed an issue regarding stiles, and it was agreed that Councillors Brown and Cockrell would work on a list, map and photographs of stiles with a scale of accessibility difficulty.
- Item 17(a) discussed that Councillor Perry agreed to speak to Mr. Paul Egan at One Voice Wales to make necessary arrangements regarding review and employment of a new clerk to the Council.
- Item 17(b) referred to defibrillator maintenance and that Councillor Cockrell would talk to the Church to discuss the possibility of moving the defibrillator onto church premises.

No.

Mr. Harwood said St Nicholas and Bonvilston Community Council was a small Community Council with a small income and individual Councillors were doing things on behalf of the community. Councillor Perry was therefore quite entitled to write letters to set out the position of the Council on planning matters and consultations and if that was not reflective of the Council position then individual Councillors could correct that, as would be the case if the clerk had written the letter.

Mr. Hughes had referred in his submissions that there had been a disagreement about minutes, but the Code of Conduct was not there to police such matters. There was no basis for concluding that anything that Councillor Perry had done was without authority and any such letters referred to by Mrs. Griffin were not included in the submissions.

Had Councillor Perry taken on matters that he should not have done, that was still a matter as to whether the Community Council was being properly governed and for Councillors to determine how matters should be taken forward and was not showing a lack of respect to any individual or undermine anyone's position or self-worth, simply a dispute about the running of the Council.

Mr. Harwood then referred to the email dated 5th July which was part of an ongoing discussion and conversation. It had been accepted by Mrs. Griffin that what had been sent in the email to One Voce Wales by the former clerk was inappropriate as it was not the job of a clerk to put measures in place to control Councillors or stop them making their voice heard. Councillor Perry had been referring to matters that had happened previously and he was not going to be silenced by what had happened on that occasion, with no threat directed to any person. He wanted to make his voice heard in his role as representing the public. It was not and should not have been interpreted as a threat and was not mentioned at all in Mrs. Griffin's original complaint. If Mrs. Griffin had thought she had been threatened that would have been a more serious matter than an evening phone call or governance dispute about correspondence. Mrs. Griffin's response at the hearing was that she did not know why she had been sent the email and now three years after the event any suggestion of it being a 'shot across the bow' would still not refer to any breach of the Code of Conduct. Mrs. Griffin had already indicated her intention to leave and had been praised by Councillor Perry as described in the 19th July meeting transcript in the additional bundle of papers. In conclusion, Mr. Harwood said there was nothing for consideration as part of the 5th July email.

Referring to the benchmark exercise, Mr. Harwood said that was part of Councillor Perry's response to the allegations that had been made against him. The table of Page 301 of the published bundle of papers set out attributes that Councillor Perry felt he met but the entries for Mrs. Griffin were left blank, with no crosses or comments included. The Ombudsman's position was that a Councillor facing investigation could not be critical of those who had made allegations against them. The re-drafted objection from Mrs. Griffin talked of Councillor Perry's total disrespect, his failure to have the best interests of the electorate and community at heart and seemed to be intent on pursuing his own self-interests. Those were serious allegations and far more critical of Councillor Perry than the benchmarking exercise

No.

had been with regards Mrs. Griffin which the Ombudsman had sought to argue. The exercise, in terms of the Code, was not a breach but a defence of the allegations that had been made against them. Mrs. Griffin was unaware of the apparent lack of respect to her until she had read the published bundle of papers within the last week.

Mr. Harwood turned to the matter concerning contact times raised by Mrs. Griffin. The Ombudsman's report proceeded on an entirely false basis that there was a cut-off time for communications with clerks. Mrs. Griffin said she never suggested there were times that she would not take calls on Community Council business after a certain time or deal with matters on a weekend. There would of course be times when it would not have been convenient to take a call, but there were no agreed cut-off points, therefore accepting that there would be communications at different times. As such, the premise of the Ombudsman's report that there were normal working hours where Mrs. Griffin should not have been contacted outside of was wrong and had no factual basis behind it.

The Community Council held evening meetings as most would do. Mrs. Griffin managed several Councils on that basis and was engaging extensively in communications with Councillor Perry during evenings and weekends. There were phone calls, some of which had been initiated by Mrs. Griffin, and a lot of emails, texts and WhatsApp discussions, where there was an option to look at a message as it arrived even if a choice was made not to act upon it. Mrs. Griffin had said she was not bothered about taking calls in the evenings and suggested that it may have been awkward for someone else in that situation. There was an allegation from the Ombudsman that there was a breach of the Code of Conduct by a Councillor who had made calls that were received or initiated by the clerk when there were no set working hours that had been agreed, and as such a failure in the Ombudsman's case to recognise the realities of local government in this context. Mr. Hughes had sought to draw a distinction between people who were employed and self-employed as to when they would take phone calls. Community Councillors were often volunteers and had day jobs of their own and would fit in community work in the evening. It was a lifestyle that involved engagement with the public, other Councillors and the public and each would engage when it was convenient for them.

The period being considered was during the pandemic when people's days were quite different during lockdown or when restrictions had been imposed, and as such people worked different hours to previous work hours, but that did not constitute a lack of respect to someone to call someone or engage in communications where there was no arrangement not to communicate during certain times of day and it was not raised in Mrs. Griffin's original complaint.

Mr. Harwood then turned to the final allegation concerning financial documents, arguing that there were two misapprehensions in the way the Ombudsman had put their position.

Firstly, the matter at hand did not concern the financial governance of the Community Council and whether that was done well and effectively. Councillor Perry had become the Chair in July 2020 and inherited a situation that was clearly not well administrated previously. He subsequently had issues trying to solve those matters

No.

and had been issued with qualified accounts rather than fails. None of that was a Code of Conduct matter.

The second misapprehension in the Ombudsman's case concerned disclosure of bank statements and materials. What was not made clear in the Ombudsman's report that what was being complained about took place over a period of 30 hours, not a matter of months, with Ms. Sims asking for documentation to be produced immediately for a meeting the following day. What was clear was that Councillor Perry at that time trying to sort out the Council's finances, explaining on Page 231 of the published bundle of papers that he had begun putting together a file for the audit at 17:00 the previous day and waded through most of the work by 03:00. He then explained why there were problems and difficulties in getting hold of material. Whilst trying to do that work and prepare for the meeting, the email exchange took place with Ms. Sims requesting a variety of documents and making a number of criticisms as part of the discussion, with lengthy emails being sent by both parties. It was therefore not at all surprising that matters were fraught on all sides.

That exchange was about the production of material at short request for a meeting which Ms. Sims was able to attend, which was for her to decide when determining her diary. It had not helped the debate to be demanding material in advance of the meeting when she was not going to be attending herself. It was shown in the records that Internal Audit had been able to do their work and report and for the Auditor General to issue their certificate. Matters were being addressed and it was not a situation where there was a withholding of material, but a dispute amongst Councillors about producing information for the next day. Nothing there brought the Council or individual Councillors into disrepute.

Turning to how the process had come about, Mr. Harwood said that the initial complaint to the Ombudsman by Mrs. Griffin, as an experienced Clerk, had not identified any breaches of the Code of Conduct, having been initially rejected by the Ombudsman. Mrs. Griffin's second complaint a few months later contained a variety of new allegations and references to the Code. We know now, which we had not known before, that the previous Monitoring Officer had not only suggested going to the Ombudsman but had looked at the original complaint. That original complaint had been dismissed by the Ombudsman, however that correspondence had not been seen. The revised complaint was made following a meeting between Mrs. Griffin and the Monitoring Officer.

The Ombudsman's powers under Section 69 are to investigate the case which came to their attention as a result of an investigation. That was not a mechanism for a complaint being made against a Councillor, then enabling the Ombudsman to conduct a free-ranging investigation to try and find any other complaint against that Councillor. It seemed that the Ombudsman had looked for other parties to find something to complain about amongst those parties. The matters that Ms. Sims had complained about in November 2021 were not part of Mrs. Griffin's complaint at all. Mrs. Griffin had left the Community Council by that stage and Ms. Sims had said that the Ombudsman had contacted her about the Council generally. Therefore, that investigation had become a free-ranging exercise that gave the impression of looking

No.

to find something. The Ombudsman had declined to provide any of that material as to how the investigation had spread and who had spoken to whom.

The second problem in the way that the Ombudsman's investigation was carried out concerned the involvement of Sinead Cook who was the Code Team Manager and head of the team responsible for Code investigations from before this complaint had been made and until Autumn of last year.

The Chair however, advised that the Committee were fully aware of that matter, and read the information in the additional bundle of papers and that this issue had been noted as not relevant for the Committee..

Mr. Harwood appreciated that the Committee had read the information and he took it that the Committee were aware of the issue and that the abuse on social media had been directed towards Independent Councillors as well as Conservatives.

In respect of the present investigation, Mr. Harwood said that the Ombudsman had written on 2nd May to give an explanation of Ms. Cook's involvement but had not explained Ms. Cook's involvement in the decision to investigate on this occasion, which would have had to have involved a consideration of a potential breach of the Code and a question of public interest. The reasonable conclusion was that the position of Ms. Cook would have been important in terms of influencing whether or not an investigation took place. It was acknowledged by the Ombudsman that Ms. Cook was involved not only in regular oversight of Ms. Fletcher's work but also in the evaluation of the evidence in the 2nd May letter.

This was a case where questions of breach involved how what was said was interpreted and then what the effect was of what was said. As Mr. Hughes had said earlier, that was a matter of nuance, were matters influenced by judgement, by opinion and by bias. The opinion of the Ombudsman in her letter dated 2nd.May as contained on Page 66 of the additional bundle of papers accepted that the Standards Committee would want to assure itself of the independence, impartiality and integrity of the investigation and was a matter for Committee.

The investigation, Mr. Harwood said, fell below the examples given by the Ombudsman of matters that were not a breach of the Code and at the most were matters, with the exception of the November correspondence about who should be responsible for writing a letter, were not a subject of complaint or dispute within the Council at the time they had happened.

Mr. Harwood argued that those were matters that fell far below amounting to a breach of the Code of Conduct in any of the allegations put forward by the Ombudsman and concluded his submissions at that time.

The Chair asked if Committee Members present had any questions for Mr. Harwood.

Councillor Summers asked if it could be explained why Councillor Perry in his statement to the Ombudsman said that it was not appropriate for the Chair to answer questions asked by a Councillor, contained in bullet point 4 on Page 53 of the

No.

published bundle of papers. Ms. Sims was not a former Councillor at the time and surely a Councillor was entitled to ask a reasonable question of the Chair and expect an answer.

Mr. Harwood said that Councillor Perry did answer the questions within the relevant correspondence in November. Mr. Harwood said it had to be taken in context and was in reference to Page 48 of the published bundle of papers concerning Appendix 10 which started at Page 604.

Councillor Summers said it was in reference to the previously discussed email correspondence and the exchanges between Ms. Sims and Councillor Perry as the requested financial information. Councillor Perry appeared to be dismissing Ms. Sims' questions as something he did not have to answer. Mr. Hughes found the reference in question on Page 615 of the published bundle of papers.

Mr. Harwood argued that what Councillor Perry was saying was in reference to the financial questions being asked by Ms. Sims, not that it was not for a Chair to ask questions from a Councillor as it had been summarised on Page 53. It was not a blanket statement as in the Ombudsman's summary, merely in reference to the financial questions being asked at that time.

Councillor Birch, in referring to Page 615 of the published bundle of papers which said Councillor Perry having sought advice from One Voice Wales regarding the finances, asked why, having been Chair since 2020 that Councillor Perry had not sought advice from fellow Councillors in dealing with the financial situation he had inherited by November 2021. There seemed to be no co-operation between Councillor Perry and the other Members of the Community Council as he was working on matters until 03:00. It was stated that he had answered the emails but at no point did Councillor Perry say he would make that information available to Councillors or answer their reasonable request for information. Having been a Town Councillor for 25 years and sat on and chaired Finance Committees, if such a request were to be made then it would be answered in order to show that money was being properly used and accounted for. There were apparently also verbal conversations that were not recorded and as such the emails alone did not tell the whole story. The Committee had no access to the information and she would have expected all parties to have brought that information to Committee in order to tell a complete story. Councillor Birch asked why the information was never made available to Members of the Community Council that they were perfectly entitled to receive and ask for.

Mr. Harwood emphasised that Committee would need to be concerned as to were the complaints and allegations made by the Ombudsman and the matters the Ombudsman had brought to Committee's attention were breaches, and not an exercise in finding other breaches, although he appreciated that context may be important. Councillor Perry had become the Chair in 2020 and following a high level of co-operation as shown in the Committee minutes was re-elected as Chair by the Members of the Community Council in 2021. It had also been shown in Committee minutes that different Councillors had taken on different responsibilities for certain matters. Mr. Hughes had taken Committee through the details of various audits that

No.

had shown that things had not been done properly but there was a degree of improvement. What happened three years ago was that there was a debate about producing documents in advance of a meeting the following day, not a dispute about whether Councillors should ever have been access to that information and as such was not therefore a breach of the Code of Conduct. It was to Councillor Perry's credit that he was working until 03:00 to complete work for the Community Council. The Ombudsman's report entirely overlooked that a series of matters were raised in that email correspondence for the following evening, not about issues of general access.

Councillor Summers asked if Mr. Harwood was suggesting that the situation with Ms. Sims asking for information was the only time that information was asked for. Mr. Harwood said he did not think there was evidence about requests for bank statement more generally and was not able to make a submission on material that was not available. The allegation from the Ombudsman was in regard to the 30-hour period in November as contained in the available material.

Councillor Summers then referred to the use of the telephone and the timing of telephone calls. There had been discussion earlier in the hearing concerning the difference between phone calls, emails, WhatsApp messages, etc., and the expected response to such. Mr. Harwood said in his summary that there had been no agreement in place about timings of contact and Councillor Summers asked was it not the responsibility of the employer to put forward such an agreement with the employer being the Community Council in this case, represented by Councillor Perry as the Chair.

Mr. Harwood said that two points followed Councillor Summers question. Firstly, with any business, operation, Council or Local Authority etc., there may or may not be some form of protocol about calls or contact at certain times. In this case it was clear that there was not, and that communications out of office hours had probably increased since the pandemic. Secondly, Committee were concerned with breaches of the Code of Conduct, and it was not a question whether the Community Council had a protocol about when contact could be made in any form or how such contact should be responded to and therefore not what the hearing was to determine. As a matter of fact, there was never any protocol or objection to the generality of there being communications in the evening or at weekends and that was happening in both directions. If it were inconvenient, someone would say so and matters would be dealt with when it was convenient and was a long way from a breach of the Code of Conduct.

Mr. Watkins (Committee Member) in referring Mr. Harwood to a point raised at the end of his submission concerning the Ombudsman and her conduct of the complaint asked if there were issues concerning the way in which the Ombudsman had conducted her enquiry, would those matters not be for a judicial review rather than for a Standards Committee.

Mr. Harwood disagreed and said that the matter was for Standards Committee. There was a statutory process where Committee would consider reports made by the Ombudsman and decide on any findings or sanctions. Any appeal would then go

No.

to the Adjudication Panel for Wales and then a route through to the High Court. If a process were conducted unlawfully at some stage, then the normal remedy to resolve that was to resolve it was in the course of the process. That reflected two well-established principles, the first being a citizen being entitled to challenge the lawfulness of a public Authority's action in defence of their own interests unless statute indicated that route was not available to them, and secondly that judicial review was a remedy of the last resort. The expectation of the High Court was that issues should be sought to be resolved within the process taking into account lawfulness, or that the person concerned wins or the issue was resolved as part of those proceedings. Were the Ombudsman's investigation to be legally flawed through either the investigation expanding beyond the legal bounds of Section 69 or at least an appearance or reason for bias, the current process would be stretched out and costs to all parties would be extended. As such, they were matters for the Standards Committee and accepted in the 2nd May Ombudsman's letter as shown on Page 66 of the additional bundle of papers concerning the independence, impartiality and integrity of the investigation.

Mr. Watkins referred to page 55 of the published bundle of papers which he thought both parties were in agreement with and would help the Committee, specifically paragraph 64 of the Ombudsman's report concerning "issues with the running of meetings and the management of debates are also issues for the Council as a whole to address. It is not for my Office to ensure the smooth running of a local community council and it is a matter for Council members to decide what issues are to be considered at meetings. Further, I consider that it is for the public to consider whether the Council is serving it effectively and there are steps to take if it does not consider that is the case." Mr. Watkins said that it was the Committee's duty to look at the way the Community Council was conducted, which both Mr. Harwood and Mr. Hughes agreed was correct.

As there were no further points raised from any party, the Chair advised that the Committee would deliberate privately and advise all parties of the decision of the Standards Committee in due course. All parties left the hearing at this time.

EXCLUSION OF PRESS AND PUBLIC –

RESOLVED – T H A T under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 4 of Schedule 12A (as amended) of the Act, the relevant paragraphs of the Schedule being referred to in brackets after the minute heading.

All parties returned to the hearing following the deliberations of the Standards Committee for the Committee's decision. The Chair advised that the Standards Committee had considered the matter, that action was required and that a censure would not be sufficient. The Standards Committee had come to the view that Councillor Perry would be suspended for a period of two months. Standards

No.

Committee also recommended that Councillor Perry undergo refresher training in respect of the Code of Conduct prior to his return to duties.

The Monitoring Officer explained that under Paragraph 13 of the Procedure the period of suspension or partial suspension will commence on the day after:

- the expiry of the time allowed to lodge a notice of appeal to an appeals tribunal under the Regulations (i.e. within 21 days of receiving notification of the Standards Committee's determination);
- receipt of notification of the conclusion of any appeal in accordance with the Regulations;
- a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations, whichever occurs last.

RESOLVED –

(1) T H A T Councillor Perry failed to comply with paragraph 4(c) of the Code of Conduct “*you must not use bullying behaviour or harass any person*” in relation to the sending of the email of the 5th July to Mrs. Griffin.

(2) T H A T Councillor Perry failed to comply with paragraph 4(b) of the Code of Conduct “you must show respect and consideration for others” in email correspondence with former Councillor Sims.

(3) T H A T Councillor Perry failed to comply with paragraph 6(1)(a) of the Code of Conduct you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute” in respect of his actions in relation to requests for information from former Councillor Sims and Council Members which in the Standard Committee's view demonstrated a lack of respect and transparency.

(4) T H A T having regard to the resolutions above Councillor Perry be suspended for three months from being a Member of the St Nicholas and Bonvilston Community Council and that prior to the end of the suspension period Councillor Perry attends Code of Conduct training with the Monitoring Officer.

(5) T H A T Councillor Perry be advised of his right to appeal against the Committee's determination within a period of 21 days of receiving notification, by giving notice in writing to:

The Registrar
Adjudication Panel for Wales
Government Buildings
Spa Road East
Llandrindod Wells
Powys
LE1 5HA

No.

and that the notice of appeal must specify:

- the grounds for appeal, and
- whether or not the person giving notice of the appeal consents to the appeal being conducted by way of written representations.

(6) T H A T, subject to an appeal (if any) the findings of the Standards Committee as detailed in Resolutions (1) – (4) above be publicised in accordance with the requirements of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended.

Reasons for decisions

(1) Mrs. Griffin was clear in her evidence of how she perceived the comments in the email sent to Councillor Perry on the 5th July. In considering the totality of the evidence the Committee found that the content of the email sent to Mrs. Griffin on the 5th July was in their view intended to intimidate her.

(2) Councillor Perry's actions in relation to the email requests from former Councillor Sims demonstrated a lack of respect towards former Councillor Sims.

(3) Councillor Perry's actions in relation to requests from former Councillor Sims and other Members of the Community Council in regard to their legitimate questions also lacked respect and transparency. Former Councillor Sims' and Members' requests for information relating to the Community Council's finances, including bank statements, were in the Standard Committee's view, perfectly reasonable and legitimate in relation to their roles as Councillors of the Community Council. Councillor Perry's failure to provide appropriate responses or information, along with the defensive tone of the responses evidenced a lack of transparency in his dealings with former Councillor Sims and other Members, which could bring his office or authority into disrepute.

(4) Having regard to the resolutions of the Committee as outlined in Resolutions (1), (2) and (3) above.

(5&6) To comply with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended.