

STANDARDS COMMITTEE

Minutes of a Hybrid Meeting, held on 29th July 2024 at 10.00am.

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

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

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

Also present: Councillor V.P. Driscoll and his representatives, Mr. Joseph Broadway and Mr. Garth James; Mr. Gwydion Hughes and Ms. Heather Coutanche (representing the Public Services Ombudsman for Wales' Office).

288 ANNOUNCEMENT –

Prior to the commencement of the business of the Committee, the Principal Democratic and Scrutiny 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”.

289 APOLOGIES FOR ABSENCE –

These were received from L. Tinsley (Vice-Chair) and R. Alexander (Independent Members).

290 DECLARATIONS OF INTEREST –

No declarations were received.

291 REPORT RELATING TO A COMPLAINT AGAINST COUNCILLOR V.P. DRISCOLL IN RESPECT OF THE VALE OF GLAMORGAN COUNCIL – (MO/HLDS)

The Chair requested that all present introduce themselves advising that the procedure for the hearing would be held in accordance with the procedure as outlined within the agenda and which had been forwarded to all parties.

The Chair advised that the defence's position statement had been received and was attached at Appendix 3 to the bundle of papers and the response from the Ombudsman in relation to that position was attached at Appendix 4. In considering the document it was noted that the defence had stated that if the Standards Committee wished to rely upon the evidence submitted by Mr. Tooby then Mr. Tooby

should be called as a witness. However, the Ombudsman's response had stated that they had not relied on Mr. Tooby's evidence when considering the outcome of the investigation and as such it was accepted that Mr. Tooby's evidence would not be considered.

In accepting that there were no disagreements that needed to be resolved as to how the hearing was to proceed, the Chair referred to the second stage which was in relation to the findings of fact and whether there were any significant disagreements about the facts contained in the Investigation Report.

In commenting on whether any witnesses were likely to be called, the Chair advised that they may be called if and when required. Both parties would be able to ask questions of each other and the Standards Committee Members would be afforded the same opportunity and to challenge any evidence. Mr. Broadway said he had some questions for the Ombudsman firstly having regard to the concerns raised by the Ombudsman regarding Councillor Driscoll's use of his Vale of Glamorgan email address for personal business. Mr. Broadway advised that this had been done inadvertently it being noted that Councillor Driscoll was perfectly entitled to use his Council email address for Council business but not for personal business.

Mr. Broadway then enquired of the Code of Conduct training offered to Councillors and referring to page 32 of the bundle of papers which contained training slides wished to clarify that this was the full extent of the training that was offered to Councillors. Councillor Birch advised that the mandatory training had been provided to all Elected Members following the Local Government elections and also noted that Members of the Council had previously received training in this respect following every election and as part of the induction programme. Mr. Broadway also referred to the training regarding a close personal association, it being noted that some certain types of interest were to be declared upon induction and some at later stages. Mr. Broadway referred to the fact that following an appointment as a Councillor some interests had to be registered within 28 days of appointment and other new interests within 28 days of when they arose as well as declaring interests regarding items on an agenda at Council Committee meetings. Other Members of the Committee also confirmed that Code of Conduct training was provided by the Monitoring Officer as well as training being provided to Town and Community Councils resulting in there being a number of occasions where Councillor Driscoll would have been party to training.

With regard to 3 Lombard Street, he stated that this interest was purely Councillor Driscoll's wife's interest. Councillor Driscoll received no beneficial interest from this, and that he would have only had to record this in the Register of Interests if he had a beneficial interest in it. He asked whether the Ombudsman was aware whether any further formal Code of Conduct training was provided with the Ombudsman's representative advising that the Ombudsman's Office itself would not provide such training but would provide guidance on the Code which was available online and in hard copy if required.

In referring to the provision in the Members' Code that Members in an official capacity should not authorise others to use resources of the Council imprudently stating that it would be a fair observation that any Member would be required to

report any illegal attempts, for example for a tenant to obtain Council resources and although it was a matter of interpretation, it would read that you must not authorise others to use equipment of the Authority and therefore it would not be unethical for a Councillor to report matters of concern like that.

The Ombudsman's representative advised that it would be reasonable to conclude that the emails sent reporting an illegal activity would be Council business but that the other emails that Councillor Driscoll had sent related to personal business and not Vale of Glamorgan Council business. Mr. Broadway, in referring to the fact that a false lease had been forged, the Ombudsman's representative advised that the Internal Audit Report had not considered it to be a false lease, although he did not have a copy of the lease in front of him he further commented that there seemed to be a contradiction in terms of what had been said to the Ombudsman's Office and what had been said to the Internal Auditor.

During the questioning session Councillor Driscoll stated that at the time he had not been given any information as to what he was going to be questioned on with regard to the Internal Audit enquiries and also when he was questioned by the Ombudsman and, as he owned so many properties, he could not possibly remember everything in detail and would have needed to have looked at his paperwork. In fact, he said to remember leases and dates and times accurately was quite tricky.

The Ombudsman then commenced his representations by referring to the finding of facts in relation to the properties involved in the Investigation Report with the Ombudsman saying in relation to 50c Holton Road, it was apparent from the evidence that Councillor Driscoll owned 51% and his wife 49%, having regard to an annual return filed in 2015 with Company's House. Furthermore, it was noted that Fresh Bacon Co. Ltd. was an actual company that Councillor Driscoll had the majority of shareholding in.

Councillor Driscoll commented that in respect of the Holton Road premises, when units were vacant, he and his wife actually used them as their own office space. The Ombudsman's representative Mr Hughes also referred to the lease that was noted in the paperwork, stating that Councillor Driscoll should have kept the Council informed about who was in occupation of the premises. If a property owned by Councillor Driscoll as a freehold was let to another business entity, then that business would become the tenant and would be liable for non-domestic business rates. Furthermore, he queried the date that Councillor Driscoll occupied the premises which appeared to be different to what was provided in the evidence pack and, as such, inconsistent information had therefore been provided to the Local Authority.

Councillor Driscoll confirmed 11th March being the date he occupied the property, although he was not suggesting they were trading there and maybe the question on the application form should have asked that instead he said. However, Mr. Hughes said that it was information that Councillor Driscoll was required to present which seemed at odds. Mr. Hughes then referred to emails with Laura Collins in the Business Grants Team of the Council, which Councillor Driscoll acknowledged were on his Vale of Glamorgan email address and that should not have been the case. He asked Councillor Driscoll whether he accepted that this was personal to himself and was not Council business. The use of the Council email Councillor Driscoll said

was inappropriate, advising that he had inadvertently used it and apologised for that. Mr. Hughes then referred to the grant application and having regard to the evidence presented, suggested that Councillor Driscoll was willing to accept the surrender of the particular lease because there was a potential £10,000 grant available. Councillor Driscoll queried some of the dates as he said he did not think the grants were available on 12th March, stating that Welsh Office guidance had been sent to businesses having regard to the availability of grants for businesses during the Coronavirus pandemic. Mr. Hughes also referred to the fact that Councillor Driscoll had not informed the Council of the change of ownership and although Councillor Driscoll said that an email had been sent, there was no evidence that one had been sent and no evidence presented in the documentation or at the meeting to change this fact.

With regard to 50c Holton Road and who was occupying the premises, again Mr. Hughes said the evidence was not provided to the Local Authority. In regard to one application, Councillor Driscoll referred to a Mr. Tucker being an occupier in February 2018 but then on 1st April Councillor Driscoll applied for a grant for that property, and therefore the two versions were simply inconsistent because Councillor Driscoll had informed the Grant Office that he had been in occupation since 1st April, 2017. Also, according to Companies House records, that Councillor Driscoll was registered for 50c Holton Road which was owned by the Fresh Bacon Co. Ltd. Councillor Driscoll was a majority shareholder here and again this was not registered in the Register of Interests. Councillor Driscoll, in response, said he never thought they needed to do it as he thought the lease had stopped and he had stopped paying rent to this wife.

In referring to the forged lease, Mr. Hughes suggested that Councillor Driscoll adopted a fairly cavalier approach to his Register of Interests and that he did not apply his mind carefully enough when considering such factors. Councillor Driscoll, in his defence said, that as far as he was concerned his wife's interests were not his and as he did not benefit, he did not consider they needed to be registered. He had also been involved in collecting the rent for the lease for Vale Foods, even though it was his wife's lease he did a lot of the work for his wife and signed documents with her permission.

Having regard to the second lease by Vale Foods, Councillor Driscoll again confirmed that this was a forgery. He did discuss with the tenant the issue of his electric bill and that he said that he would provide a further lease for him to make a claim off the insurance company following the floods that had damaged the property but the lease that was contained within the papers was a forgery as it did not concur with other documents that Councillor Driscoll prepared for leases for other people.

Mr. Hughes referred to Councillor Driscoll's disregard to the legalities of the situation he found himself in at the time and that in particular with regard to the lease for Vale Foods he still had a lease even though Councillor Driscoll said he was not using the property, the lease was still in place and that Councillor Driscoll would not be entitled to go into the property if the lease was still in place. There were also discrepancies in Councillor Driscoll's account of various events and that in particular he had challenged Vale Food's entitlement to a grant but had himself accepted payment of rent and therefore had lost the opportunity to forfeit the lease.

Following a short comfort break, the Committee returned with Mr. Broadway being afforded the opportunity to ask questions of the Ombudsman's representative. Mr. Broadway, in referring to the emails sent from Councillor Driscoll's Vale of Glamorgan device, stated that of 50 to 60 emails that had been sent only 4 had been sent from his Vale of Glamorgan device. With regard to the business being occupied, he asked Councillor Driscoll what he took that to mean when making an application, with Councillor Driscoll's response being there was no real clarity in the forms so I applied but I was turned down on the basis it was a fully equipped shop and that they were planning to open very shortly. With regard to Lombard Street, he said he helped his wife out by putting things in his name on emails but that the premises were entirely hers.

Mr. Hughes in response said that the Council had been told in 2018 who occupied the property and the difference in what the Council was told in that time and when the grant application was made was unsatisfactory. It was important the Council was kept informed who occupied 50c Holton Road, the Councillor used Council email addresses to chase the grant and for him it was a contrast between what was said to the Council in 2018 and what was said to the Council in the grant application which were inconsistent. Fresh Bacon Co. Ltd had been in occupation since April 2017 and at the very least he considered a cavalier attitude as to what Councillor Driscoll had informed the Council about. Again in Biglis House he stated that he said that there were no interests in it but there was a Land Registry lease which advised that Councillor Driscoll was a major shareholder in that property. Mr. Hughes readily accepted that the document produced by Mr. Tucker referred to as a forgery, was a very peculiar document. However, it was reported to have Councillor Driscoll's signature on it and there had been no suggestion to the Internal Auditor that this was fake when being questioned at the time and that there had been no further production of a lease that was given to the company as evidence. The new lease Councillor Driscoll had said had been granted in order to help Mr. Tucker with an issue with his electricity account. Mr. Broadway said that Mr. Tucker had provided a witness but would not be attending the hearing and therefore the witness statement could not be brought into the Committee as evidence. Mr. Hughes also referred to bank statements where money was going into the account in relation to the Fresh Bacon Co. Ltd. from Vale Foods and therefore this showed that Vale Foods was still running a lease with Councillor Driscoll on 6th April.

At the conclusion of the presentations the Committee then went into private session to consider matters of fact. On return the Chair advised that the Committee had come to the conclusion that the Ombudsman had established the facts in relation to the emails in respect of 50c Holton Road and Bigliss House but not 3 Lombard Street and as such the Committee therefore had to move into the third stage to decide whether the Member had actually failed to comply with the Code based on the facts presented to the Committee.

At this point the Standards Committee then requested a break over lunch. On return the Standards Committee were required to decide whether the Member had failed to comply with the Code and in that instance Mr. Hughes and Mr. Broadway were invited to present their representations.

Having regard to the findings of fact the representative for the Councillor involved in the investigation confirmed that there were emails within the documents that Councillor Driscoll had accepted he had inadvertently used his Councillor email address for and that was accepted.

Mr. Hughes, in presenting his representations, took the opportunity to advise that the paragraphs in the Code of Conduct the Ombudsman referred to throughout their Investigation Report related to the Model Code whereas the Members' Code of Conduct adopted by the Vale of Glamorgan within the Constitution were different paragraph numbers. The Principal Democratic and Scrutiny Services Officer for clarity advised that the paragraph numbers relating to the Council's Code were addressed in the covering report within the agenda to the Investigation Report.

Mr. Hughes summarised the content of the Investigation report commencing with Councillor Driscoll's use of his email account for personal interests, highlighting that the first related to 8th April, 2017 to Biglis Road and the second in relation to the email of 24th April and the emails in relation to his applications for grant funding which, although may have been inadvertently used, nevertheless were suggestive of a breach of the Code. The suggested breach related to the fact that 'you must not use or authorise others to use the resources of an authority imprudently and you do not bring your authority into disrepute.' It was certainly a matter for the Committee to consider, however, he was putting these suggested breaches forward for the Committee's consideration. There were also breaches of declarations of interest and that when Councillor Driscoll became a Councillor in 2017 those interests should have been registered. The failure to keep the Council updated about the occupation of the properties also constituted a breach and again bringing the office of authority into disrepute. This he said was also reflected in the Council's Audit Report.

Mr. Broadway in response stated that there was no evidence that Councillor Driscoll sought to apply inappropriate pressure to members of the NNDR team and that there was no evidence before the Committee that any concerns were raised about any communications received from members of that team. He said the Councillor had been a Councillor for over seven years and it was unlikely that the staff would not know who he was irrespective of whether he was using his personal or private email address. He again said that it should be noted that of the 40 – 60 emails sent out only four of those were from Councillor Driscoll's Council email address and that he would suggest that this was indicative that these were emails had been inadvertently sent and that with there only being four that was evidence itself and would actually give more weight to the fact that they had been inadvertently sent.

Having regard to the email regarding the Coronavirus claim, this he said was particularly innocuous and actually related to an enquiry as to whether a grant was available or not. Councillor Driscoll had also advised the officer that there could be a potential legal claim and he was doing that in his capacity as a Councillor to advise the Council. He believed there was a duty on him to report that as it would be appropriate to not alert the Council of the potential misuse of funds and it was his view that this this would not be indicative of someone seeking to gain an advantage. It was accepted that emails had been sent from his Vale of Glamorgan account and that they should not have been sent but they were inadvertently sent.

With regard to registering an asset, Councillor Driscoll advised that the reason he did not declare one of the properties was in relation to the fact that he thought the lease had been terminated. He was unaware that the lease still existed and that there were no financial benefits to him whatsoever at that time.

Having regard to the fact that the land was still registered in Councillor Driscoll's name he said he had no idea that that still existed and as soon as he became aware of the lease, he discontinued it. He said he had no financial benefit with his wife's business and would only help her out when needed. It was his wife's property owned and signed by her; however, he did on a number of occasions offer to assist her with some business as he was more aware of the processes in place and that she had given him permission to deal with such matters. Having regard to the fact that it was his wife's property Mr. Hughes did concede that it would be difficult to find what was a beneficial interest in such scenarios and that in this instance it was not necessarily a declaration which was required unless a Council decision played a part. The Investigation Report also alleged that Councillor Driscoll was trying to gain advantage for himself by providing misleading information about the occupancy of 5 Biglis House and referred to the unusual document detailing a lease from January 2020 which Councillor Driscoll had stated had been fraudulently used. It related to the company Vale Foods who had ceased trading and the owner of that company had set up a new business called Avondale. It was furthermore implied that Councillor Driscoll had signed such a lease to make a grant application.

Councillor Driscoll commented that due to the fluctuation of tenancy and occupancy of a number of the premises some of the information would quickly become out of date at the time as short-term leases were provided which suited tenants at the time. Although aware that a property needed to be declared as an interest given that Councillor Driscoll had explained his involvement in that business was limited and that he provided some assistance to his wife for no financial gain. In drawing attention to the training material that had been provided by the previous Monitoring Officer of the Vale of Glamorgan, Mr. Hughes commented that it had become clear that a partner's interests only needed to be declared where a Council decision was being made and had an effect on either the financial or business interests of that partner. It was not something that Councillor Driscoll needed to declare as of right. However, he said it was important to note that one of the applications for a grant was in the name of Vale Foods and that one of the issues in relation to why Vale Foods would have wanted to have indicated they maintained some kind of benefit over the property was in relation to an outstanding insurance claim. Councillor Driscoll commented that he had never made a claim on that property under the Coronavirus grant application process.

Councillor Driscoll did accept there were some breaches of the Code which Mr. Broadway said he would argue were fairly minor. He had also co-operated throughout the investigation, and he had been open during questioning and that all the interests had been registered and NNDR payments had been made retrospectively.

Following no further representations, the Standards Committee withdrew in private to consider the matter.

On return, the Chair of the Standards Committee advised that during their deliberations it had been brought to their attention by Members of the Council on the Standards Committee that employees were instructed to answer emails from Councillors within five days. This was not disputed by Mr. Broadway, with the Chair then advising that with regard to 3 emails from Councillor Driscoll's Vale of Glamorgan email account these were considered to be breaches of the Code. Also, for failing to update the register of interests and advise the Council on the occupancy of 50c Holton Road and Biglis House. It therefore remained for the Ombudsman's representative and Councillor Driscoll's representative to make representations in relation to what sanctions the Committee could apply. The Chair stated that it was unlikely that the Committee would be considering suspension or partial suspension at this stage however, he requested to hear representations from both sides.

In commencing his representations, Mr. Hughes advised that having regard to mitigating and aggravating factors that were considered by the Adjudication Panel for Wales, he considered it important to advise the Committee that Councillor Driscoll had appeared before the Standards Committee, although being sometime previously in 2015, and had at that time been found to have breached the Code for various matters which included carrying out works on his property without planning permission and failure to disclose an interest in respect of Dinas Powys Community Council. He was at that time found to have breached the Code by the Standards Committee and suspended for one month. It was fair to say, he said, that Councillor Driscoll was an experienced Councillor and ought to have known better. He should have been fully aware of his obligations as a Member and that it was again fair to say that there was some sort of financial motive with regard to the emails that had been sent.

Mr. Hughes said it was also only fair to explain the context of seeking financial benefit in that even though the applications for grants had failed, the emails could be identified as breaches of the Code within the context of making grant applications. Mr. Hughes advised that he did not consider it his role to recommend a particular sanction to the Committee and neither would he if he was before the Adjudication Panel for Wales. He considered it to be a Committee decision and although the past history was some time ago it was an important element in relation to the context of the breaches of the Code that were being placed before the Standards Committee on this occasion and, as such, could damage the reputation of the Council.

The Chair stated that neither he nor the members of the Standards Committee were aware that Councillor Driscoll had been involved in a previous matter.

Mr. Broadway in response and in referring to the list of aggravating and mitigating factors that the Adjudication Panel for Wales would take into account when considering such matters, said that in some instances the factors did not apply in the current circumstances as the Committee had not found breaches on some aspects. It was also worth highlighting he said that Councillor Driscoll was a properly minded person and had been a holder of public office for some time. He was also a Community Councillor and had been for some 16 years. His appearance before the Standards Committee previously was some 9 years ago and he had not been before the Standards Committee since. He was also an active Member of the Council and his community and referred to the support Councillor Driscoll had provided to the

community following a serious flooding incident in December 2022 when he organised over 100 volunteers to assist people affected by the flooding just before Christmas. He often litter picked within his community and sought to keep his community space clean and clear of rubbish and took pride in his community. Councillor Driscoll was also heavily involved in Dinas Powys Football Club and was assisting with fund raising for the grass roots football. He urged the Standards Committee to consider some of the breaches that arose to be seen as oversight and that there was no attempt to obtain financial gain. He said, in his view, the breaches were relatively minor and asked the Standards Committee to accept that the breaches had been undertaken as a genuine mistake rather than an attempt to make personal gain and asked the Committee to consider passing the least possible penalty that they could. He was aware that possible breaches could attract a sanction and that the penalty of censure in his view was probably more appropriate.

There being no further submissions the Standards Committee retired in private to consider the representations received.

On return, the Chair advised that having regard to the report of the Ombudsman's Investigating Officer, the representations of the Ombudsman's Representative at the meeting, the representations of Councillor Driscoll and his representative, and the mitigating and aggravating factors presented at the meeting, in accordance with the Procedure for Dealing with Allegations Made Against Councillors and Referred to the Standards Committee ("the Procedure") it was the decision of the Standards Committee that the allegations made against Councillor Driscoll in part, had been proven to the satisfaction of the Committee with it subsequently being

RESOLVED –

(1) T H A T Councillor Driscoll failed to comply with paragraph 4 (d) of the Members' Code of Conduct which states that "You must not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the authority "insofar as;

- The actions related to the use of Councillor Driscoll's Council email address on three occasions for personal interests.

(2) T H A T Councillor Driscoll failed to comply with paragraph 6 (1)(a) of the Members' Code of Conduct which states that "You must not conduct yourself in a manner which could reasonably be regarded as bringing your Council into disrepute" insofar as

- Councillor Driscoll's failure to update the Council about the occupancy of 50C Holton Road which had the potential to impact on the mutual relationship of trust that existed between the Council its elected Members, and the public.

(3) T H A T Councillor Driscoll failed to comply with paragraph 15 (1)(b) of the Members' Code of Conduct "Subject to sub-paragraph (4), you must in 28 days of your election or appointment to office (if that is later), register your personal interests, where they fall within a category mentioned in paragraph 10 (2)(a), in your authority's

register of members' interests by providing written notification to your authority's monitoring officer" insofar as

- failure to register an interest in relation to Unit 5 Biglis House which had the potential to impact on the mutual relationship of trust that existed between the Council its elected Members, and the public.

(4) T H A T, having regard to the resolutions above and the aggravating factors relating to a previous Standards Committee decision, which led to Councillor Driscoll being suspended for one month on that occasion, which included a failure to make a declaration, Councillor Driscoll be suspended from being a Member of the Vale of Glamorgan Council for a period of three months.

(5) T H A T Councillor Driscoll 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

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

(1-4) Having regard to all the evidence submitted to the meeting of the decisions of the Committee the mitigating factors presented by Mr. Joseph Broadway on Councillor Driscoll's behalf and the mitigating and aggravating factors presented by the Ombudsman's representative, Mr. Gwydion Hughes, at the meeting, and in the interests of promoting and maintaining Ethical Standards in Public Life.

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

At the end of the hearing the Chair thanked everyone for their input and for the professional manner in which they presented their cases with those present being

advised that the suspension would commence immediately after Councillor Driscoll had notified the department that he would not be submitting an appeal. If Councillor Driscoll did make an appeal, then the suspension would 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).