



To: Members of Standards Committee    Date: 22 November 2012  
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Dear Member of the Committee,

You are invited to attend a meeting of the **STANDARDS COMMITTEE** to be held at **10.00 am** on **FRIDAY, 30 NOVEMBER 2012** in **CONFERENCE ROOM 1A, COUNTY HALL, RUTHIN.**

Yours sincerely

G. Williams  
Head of Legal and Democratic Services

## **AGENDA**

### **PART 1: THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING**

- 1 APPOINTMENT OF CHAIR OF THE STANDARDS COMMITTEE**  
To appoint a Chair of the Standards Committee.
- 2 APPOINTMENT OF VICE CHAIR OF THE STANDARDS COMMITTEE**  
To appoint a Vice Chair of the Standards Committee.
- 3 APOLOGIES**
- 4 DECLARATION OF INTERESTS**

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

**5 URGENT MATTERS AS AGREED BY THE CHAIR**

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

**6 MINUTES OF THE LAST MEETING (Pages 5 - 8)**

To receive the minutes of the Standards Committee meeting held on 14 September 2012 (copy enclosed).

**7 ATTENDANCE AT MEETINGS**

To note the attendance by members of the Standards Committee at County, Town and Community Council and to receive their reports.

**8 PUBLIC SERVICES OMBUDSMAN FOR WALES REVISED GUIDANCE ON THE CODE OF CONDUCT FOR ELECTED MEMBERS (Pages 9 - 10)**

To consider a report by the Monitoring Officer (copy enclosed) advising members of the publication by the Public Services Ombudsman for Wales of revised guidance for elected members in respect of the Code of Conduct.

**9 NORTH WALES STANDARDS COMMITTEE**

To consider a verbal report by the Monitoring Officer detailing the issues discussed at the last meeting of the North Wales Standards Committee held on 4 October 2012.

**10 STANDARDS CONFERENCE 2013**

To receive a verbal report by the Monitoring Officer and to consider topics to be discussed at the Standards Conference 2013.

**11 ANNUAL REPORT OF THE ADJUDICATION PANEL FOR WALES 2011/2012 (Pages 11 - 16)**

To consider a report by the Monitoring Officer (copy enclosed) advising members of the issue of the Annual Report of the Adjudication Panel for Wales 2011/12.

**12 DATE OF NEXT MEETING**

The next meeting of the Standards Committee is scheduled for 10.00 a.m. on Friday 11 January 2013 in the Conference Room, Ty Nant, Nant Hall Road, Prestatyn.

**PART 2: CONFIDENTIAL ITEMS**

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item(s) of business because it is likely that exempt information as defined in paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act would be disclosed.

**13 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000 (Pages 17 - 18)**

To consider a confidential report by the Monitoring Officer (copy enclosed) providing an overview of complaints against members lodged with the Public Services Ombudsman for Wales.

**MEMBERSHIP**

Independent Members:

Mr. Wayne Roberts, Mr Ian Trigger, Ms Margaret Medley and Mrs Paula White

Town/Community Council Member

Councillor David E Jones

County Councillors

Councillor Bill Cowie

Councillor Colin Hughes

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## STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Conference Room 1, Ty Nant, Nant Hall Road, Prestatyn on Friday, 14 September 2012 at 10.00 am.

### PRESENT

C. B. Halliday (Chair), Ms M Medley, Mrs P White and G F Roberts together with Councillors David Jones and Bill Cowie

### ALSO PRESENT

The Monitoring Officer (GW), the Deputy Monitoring Officer (LJ) and the Democratic Services Officer (RAH).

The clerk of Prestatyn Town Council, Nigel Acott, attended as an observer.

#### 1 APOLOGIES

Councillor Colin Hughes had submitted his apologies for the meeting.

The Monitoring Officer (MO) also notified the Committee that the translator booked to provide simultaneous translation at the meeting had contacted Democratic Services on the morning of the meeting to say that she would be unable to attend due to a family emergency. Democratic Services did not have enough time to arrange another translator to deputise and so the meeting would proceed without provision for simultaneous Welsh translation.

#### 2 DECLARATION OF INTERESTS

No interests declared

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters were raised

#### 4 MINUTES OF THE LAST MEETING

The Committee examined the minutes of the previous meeting on 13th July 2012 for accuracy and matters arising. Ms Margaret Medley highlighted that she had been erroneously titled as 'Mrs', which was noted to be amended. The Committee approved that the minutes were otherwise accurate.

The Committee had understood from the previous meeting of the Committee that a list of the times and dates of town and community councils would be made available to the Committee, but that this had not yet been followed up. The MO confirmed that this would be looked in to and that an updated list would be circulated before the next Standards Committee meeting.

Mr Geraint Roberts referred to the minutes in identifying that while the Council was obliged to pay the rates set by the Independent Remuneration Panel for Wales, members of the Council had a personal choice in determining whether they wished to claim expenses due. He suggested that members should be asked whether or not they wish to receive the remuneration that they are entitled to on an annual basis as this would give a greater opportunity for councillors to forego their entitlement should they be so inclined. The MO said he would explore this possibility with Steve Price, the Democratic Services Manager, and with the Council's Payments Department and update the Committee.

The MO confirmed that the County Council had agreed to re-appoint Councillor David Jones and Mrs Paula White to serve additional terms as members of the Standards Committee. An update was also given of the arrangements to replace Mr Clive Halliday and Mr Geraint Roberts on the Committee, as the terms of both members were due to end in and neither member would be eligible for re-appointment. The County Council had confirmed that Councillors Bill Cowie, Colin Hughes and Martyn Holland would be appointed to an appointments panel to consider applications for the two lay representative vacancies. The Deputy Monitoring Officer confirmed that adverts for these vacancies would be published in the week beginning 10th September.

**RESOLVED** – *that, subject to the above, the Minutes be received and approved as a correct record.*

## **5 ATTENDANCE AT MEETINGS**

Councillor David Jones had recently attended a chairs' meeting at County Hall and reported that members of community councils had remarked on the effectiveness of the chair. He emphasised the need for town and community councils to also conduct themselves professionally in the execution of their duties and Ms Medley noted the importance of effective training for chairs to facilitate this. The MO stated that training on the Code of Conduct had been prioritised recently but that he would look in to the possibility of training being arranged for chairs of town and community councils similar to the training offered by the Welsh Local Government Association for chairs of Denbighshire County Council (DCC) committees.

The MO said that it was possible for a representative of the Standards Committee to visit and observe a town or community council if there were recurring issues with the conduct of members, and also suggested that members of the Standards Committee remind members of town and community councils of their obligations to report breaches of the Code of Conduct. It was agreed that in the longer term, the effectiveness of town and community councils would only be guaranteed if their chairs were well trained and had confidence in DCC's procedures.

**RESOLVED** – *that the position be noted.*

## **6 NORTH WALES STANDARDS COMMITTEE**

Mr Roberts had attended the North Wales Standards Forum at Bodlondeb in Conwy on 17th July, and circulated an update of the topics discussed, including member

training, the disclosure of criminal convictions of members and public access to forums. DCC had been commended for its approach in making standards training mandatory for all members, and other councils were encouraged to do the same. The MO advised that at the latest ACSES Wales meeting of all 22 Monitoring Officers in Wales the suggestion of mandatory training had been positively received. A suggestion had also stemmed from the ACSES Wales meeting that Chairs of Standards Committees across Wales could write to non-attending members to advise of the importance of attending training events.

Mr Roberts confirmed that the North Wales Standards Forum would only be inviting Chairs of Standards Committees to future meetings, with votes to be allocated as one per local authority. Monitoring Officers would be asked to provide agendas for the Forum in future, and the MO confirmed that Monitoring Officers from North Wales local authorities would be meeting on 17th September and that the formulation of agendas would be discussed. The Chair of the Committee thanked Mr Roberts for attending the meeting of the North Wales Standards Forum in his place, and also for taking the time to write a very helpful summary.

**RESOLVED** – *that the discussions which took place at the last meeting of the North Wales Standards Committee be noted.*

## **7 CODE OF CONDUCT TRAINING EVENTS**

The Deputy Monitoring Officer (DMO) introduced a report which gave details of the Code of Conduct training events that were being offered to all town and community councils following the success of a similar event that was organised for County Councillors after the election. A list of planned events had been circulated and Members of the Standards Committee were invited to attend in order to offer the benefit of their experience to those taking part in the training. Attendance at the training events was agreed as below:

Wednesday 26th September, Llangollen	No-one available
Wednesday 3rd October, Corwen	GF Roberts
Monday 8th October, Rhyl	P White, DE Jones
Monday 22nd October, Rhyl	P White, DE Jones
Wednesday 21st November, St Asaph	M Medley, DE Jones, B Cowie
Wednesday 5th December, St Asaph	M Medley, DE Jones, B Cowie
Wednesday 12th December, Ruthin	DE Jones
Thursday 20th December, Ruthin	DE Jones

**RESOLVED** – *that the Committee notes the arrangements for Code of Conduct training and that Members attend the events agreed.*

## **8 DATE OF NEXT MEETING**

The MO confirmed that the next meeting would be held at 10am on 19th October in Prestatyn. The terms of office of the Chair, Mr Clive Halliday, and the Vice-Chair, Mr Geraint Roberts, were due to expire at the end of October, but the MO advised that they would both still be considered to be members of the Standards Committee and should attend the next meeting. Mrs Paula White stated that she would be unable to attend on 19th October and tendered her apologies in advance.

**RESOLVED** – *that the Committee notes the date of the next meeting.*

## **9 CODE OF CONDUCT COMPLAINTS**

The meeting moved in to Part 2 in order to receive a confidential report from the MO which gave an overview of the complaints lodged with the Public Services Ombudsman for Wales which related to the county, town and community councils in Denbighshire, in accordance with s.100A(4) of the Local Government Act 1972. The MO gave an update of progress in the investigation of each complaint listed in the report and the Committee discussed a number of issues stemming from the complaints lodged with the Ombudsman.

The MO also clarified the new arrangements stemming from the Public Services Ombudsman for Wales's Annual Report 2011/12, which specified that cases that the Ombudsman did not intend to follow up would be referred to Monitoring Officers or Standards Committees in order to give an opportunity for a local investigation prior to the closure of a complaint.

**RESOLVED** – *that the Committee notes the contents of the report.*

The meeting concluded at 11:10am.



**Report to** : **Standards Committee**

**Date of Meeting** : **30 November 2012**

**Report Author** : **Monitoring Officer**

**Title** : **Public Services Ombudsman for Wales  
Revised Guidance on the Code of Conduct for  
Elected Members**

## **1. PURPOSE OF REPORT**

1.1 To advise Members of the publication by the Public Services Ombudsman for Wales ('the Ombudsman') of revised guidance for elected members in respect of the Code of Conduct.

## **2. BACKGROUND**

2.1 The Ombudsman has power under s68 Local Government Act 2000 to issue guidance to members of local authorities in respect of matters relating to their conduct.

2.2 In April 2010 the Ombudsman published his guidance for members of local authorities in Wales in respect of the Code of Conduct.

2.3 The Ombudsman recognised following publication of the 2010 guidance that there may be a need to issue further guidance in the future.

2.4 The Ombudsman issued revised guidance in September 2012. The guidance is statutory which means that members and Standards Committees must have regard to it in considering matters relating to conduct.

2.5 The revised guidance has been produced in two separate documents. The first of these is guidance for members of County and County Borough Councils, Fire and Rescue Authorities and National Park Authorities. The second document is guidance for members of Community Councils. These documents can be found at the following links:

- [County and County Borough Councils, Fire and Rescue Authorities and National Park Authorities](#)
- [Community Councils](#)

2.6 The Ombudsman believes that providing separate guidance for Community Councillors using examples which specifically apply to them will provide greater clarity of guidance.

- 2.7 Both versions of the revised guidance make reference to the Ombudsman's new procedure in dealing with complaints whereby he will refer matters that he is considering not investigating to Monitoring Officers and Standards Committees for local investigation.
- 2.8 The Ombudsman also makes reference to local resolution procedures such as the Self Regulatory Protocol adopted by Denbighshire County Council. In the guidance document for Community Councillors he makes clear that this is to apply to principal councils in the first instance but that it could be made available to Community Councillors in due course.
- 2.9 The revised guidance contains new more up to date examples and has some variation in both text and examples between the two versions of the document.
- 2.10 The main change to the substance of the guidance is contained within the section relating to treating others with respect and consideration.

In his previous guidance the Ombudsman made clear that robust political debate was acceptable but that it should be conducted in a respectful way which avoided personal attacks and offensive behaviour. In his revised guidance the Ombudsman has taken into account a recent High Court case which overturned an Adjudication Panel decision, on the basis that a member's freedom of expression attracts enhanced protection when his comments are political in nature. The Ombudsman indicates that the threshold beyond which he will investigate complaints of this nature must take into account the fact that members need to have a 'thicker skin' in dealing with politically motivated comments.

### **3. RECOMMENDATION**

- 3.1 That the Committee note the contents of the Ombudsman's revised guidance.

**Report to** : **Standards Committee**

**Date of Meeting** : **30<sup>th</sup> November 2012**

**Report Author** : **Monitoring Officer**

**Title** : **Annual Report of the Adjudication Panel for Wales 2011/2012**

## **1. PURPOSE OF REPORT**

- 1.1 To advise members of the issue of the Annual Report of the Adjudication Panel for Wales 2011/2012.

## **2. BACKGROUND**

- 2.1 The Adjudication Panel for Wales has issued its annual report for the financial year 2011/2012. The report provides an overview of the work of the Adjudication Panel and contains summaries of the cases and appeals that the Panel has dealt with over the last year. The full report can be found at [www.wales.gov.uk/apwsuite/APW-PDC/?lang=en](http://www.wales.gov.uk/apwsuite/APW-PDC/?lang=en).
- 2.2 The Adjudication Panel has two statutory functions. The first is to form case or interim case tribunals to consider reports from the Public Services Ombudsman for Wales following the investigation of allegations that a member has failed to comply with the relevant authority's Code of Conduct. The Adjudication Panel considers the most serious allegations of breaches of the Members' Code of Conduct. The second statutory function is to consider appeals from members against the decisions of local Standards Committees following a referral to those committees by the Public Services Ombudsman for Wales.
- 2.3 During 2011-12, the Panel received only 4 new referrals from the Public Services Ombudsman for Wales and had 8 cases carried over from the previous financial year 2010-11. The Panel has been kept very busy by a single case carried over from the previous year related to Flintshire County Council. The relatively low number of new referrals should not be taken as an indication of the work being done by the Panel.
- 2.4 The low number of new cases would appear to indicate that there has been a reduction in the number of serious cases that the Ombudsman feels necessary to refer to the Panel. This has however meant that new members appointed to the Panel in the autumn of 2010 have had less opportunity to sit alongside more experienced colleagues. As a result the Welsh Government has recently agreed that some of the more experienced panel members first appointed in 2002 should have a limited reappointment for a three year period to 2015 in order that the

new members can sit with original members and gain from their experience. The Panel considers that this reappointment will also help provide stability for the Panel during the transfer of its administration to the Administrative and Tribunals Unit within Welsh Government. The Panel is made up of 7 legally qualified members and 6 lay members.

- 2.5 Since its conception in October 2002 to the 31<sup>st</sup> March 2012 the Adjudication Panel has made determinations in respect of 37 cases referred to it from the Ombudsman and 10 appeals against the decisions of the Standards Committees. In respect of the cases referred directly to it, the Panel has made the following findings expressed as a percentage of the whole.

Disqualification	19%
Suspension	49%
Partial suspension	5%
Censure	5%
Breach but no action to be taken	14%
No breach	8%

- 2.6 In respect of appeals referred to it from Standards Committees during the same period the Panel has made the following decisions:

Suspension	60%
Censure	30%
No breach	10%

- 2.7 Of all the cases referred to it between October 2002 and March 2012 the most common breach found by the Panel was that of bringing the office of member or authority into disrepute. In equal second place were failing to show respect or consideration together with the failure of a member to disclose an interest and/or withdraw.
- 2.8 Of the cases referred to the Panel and those carried forward from the previous year, 6 cases have been determined during the financial year 2011-12 and summaries of those 6 cases are contained within the report.
- 2.9 There were 2 cases on appeal from Standards Committees during the relevant year. In both cases the Appeal Tribunal upheld the determination of the local Standards Committee. One of those cases however was the subject of a Judicial Review in the High Court where the Appeal Tribunal and Standards Committee decisions were overturned. This appeal related to the case of Councillor Calver of Manorbier Community Council who had been censured by his local Standards Committee in respect of the content of postings made by him on his website. The Standards Committee and Appeals Tribunal had found that these postings showed a lack of respect to individual members of the Community Council and to the Community Council as a body.

- 2.10 The High Court found that the censure imposed on Councillor Calver was an infringement of his rights to freedom of expression under Article 10 of the European Convention of Human Rights.
- 2.11 The Ombudsman has subsequently amended the guidance that he has given to members in light of this case.
- 2.12 As an annex to the report the Panel have provided a summary of the sanctions imposed by the case tribunals and appeal tribunals in the period October 2002 to March 2012. This is attached as Appendix 1 to this report.

### **3. RECOMMENDATION**

- 3.1 That members note the report.

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# Annex

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## Summary of Sanctions Imposed by Case Tribunals and Appeal Tribunals in the Period October 2002 to March 2012

Sanction	Period	No of decisions
<b>Case and Appeal Tribunals</b>		
Disqualification	3 years	1
	2 years 6 months	1
	2 years	1
	1 year 6 months	1
	1 year	3
Suspension	12 months	6
	9 months	4
	6 months	4
	4 months	1
	3 months	2
	2 months	4
	1 month	3
Partial Suspension	3 months	1
	7 weeks	1
Censure	-	5
Breach - no action	-	5
No breach	-	4
Withdrawn	-	2

Appeals	
Breach of code upheld/dismissed	9 (90%) / 1 (10%)
Sanction endorsed	7
Different sanction recommended	1 increase / 1 decrease
Not accepted/withdrawn <ul style="list-style-type: none"> <li>• Out of time</li> <li>• Not in jurisdiction</li> </ul>	1 1



By virtue of paragraph(s) 12, 13 of Part 4 of Schedule 12A of the Local Government Act 1972.

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