

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in the Council Chamber, County Hall, Ruthin and by video conference on Thursday, 6 April 2023 at 10.00 am.

PRESENT

Independent Members Julia Hughes (Chair), Samuel Jones, Anne Mellor (Vice Chair) and Peter Lamb together with Councillors Bobby Feeley, Hugh Irving and Gordon Hughes

Observers – Councillors Jeanette Chamberlain-Jones, Karen Edwards and Huw Hilditch-Roberts

ALSO PRESENT

Corporate Director: Governance and Business/Monitoring Officer (GW), Interim Head of Service – Legal and Democratic Services/Deputy Monitoring Officer (LJ) and Committee Administrators (KEJ and NPH [Zoom Host])

1 APOLOGIES

There were no apologies.

2 DECLARATION OF INTERESTS

Councillor Gordon Hughes declared a personal interest in agenda item 13, Code of Conduct – Part 3 Local Government Act 2000 because he was a member of Corwen Town Council.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

4 MINUTES OF THE LAST MEETING

Minutes of the Standards Committee held on 2 December 2022 were submitted.

Accuracy – no points of accuracy were raised.

Matters Arising –

Page 9 – Item 6: Attendance at Meetings – the Committee noted that Code of Conduct training was not mandatory for Town/City/Community Councils. An online training session had been delivered to Denbigh Town Council in December 2022 and a face to face training session had been scheduled for April 2023 in Caledfryn, Denbigh which would hopefully capture the remaining members, although it would be possible to offer a further training session if required. If there were issues in respect of the way in which members addressed each other, those matters could be

pursued by those individuals either through local resolution or complaints to the Ombudsman. The Monitoring Officer/Deputy Monitoring Officer were available to provide support to Town/City/Community Councils in terms of advice, guidance and training in respect of members' obligations under the Code of Conduct.

Page 11 – Item 8: Member Training Update – the Committee had been pleased to note that all county councillors had attended the Code of Conduct training.

Page 12 – Item 9: Ethical Liaison and the Duty of Group Leaders – the Chair reported on an initial meeting with Group Leaders in January with further meetings planned. An item on Group Leaders Reports to the Standards Committee had been scheduled for the June meeting which would provide sufficient time to apprise Group Leaders in that regard. The Monitoring Officer and Chief Executive had met with Political Groups and had taken the opportunity to explain the extent of the Group Leaders duty to ensure all members understood the position. The issue had also been mentioned in the Chair's Annual Report 2021 presented to full Council.

RESOLVED that the minutes of the meeting held on 2 December 2022 be received and approved as a correct record.

5 PUBLIC SERVICES OMBUDSMAN FOR WALES - 'OUR FINDINGS'

A report was submitted by the Monitoring Officer (MO) (previously circulated) on the latest case summaries contained in the 'Our Findings' section of the Public Services Ombudsman for Wales (PSOW) website which had replaced the previous Code of Conduct Casebook. A web link to the relevant section had been provided.

The 'Our Findings' section covered all matters investigated by the PSOW and not just conduct matters. A summary of each case involving Code of Conduct complaints investigated for the period 1 November 2022 to 28 February 2023 had been provided, which had been broken down by subject matter as follows –

- Disclosure and registration of interests 2
- Promotion of equality and respect 2
- Objectivity and propriety 1

The outcomes were categorised as follows –

- Investigation discontinued 0
- No evidence of breach 1
- No action necessary 1
- Referral to a Standards Committee 1
- Referral to Adjudication Panel for Wales 2

None of the matters related to a council in Denbighshire.

The Committee noted that the matter referred to the Standards Committee had yet to be fully reported. Similarly, one of the two cases referred to the Adjudication Panel for Wales (APW) had not yet been fully reported. The one case referred to the APW that had been fully reported related to a member of St. Harmon

Community Council in Powys who had failed to declare a prejudicial interest at two meetings. The APW found that the member had breached the Code of Conduct by failing to declare her interests and by participating in the meetings. The APW also considered she had brought her authority into disrepute by her actions and had improperly used or attempted to use her position improperly to avoid a disadvantage for another person. The APW disqualified the member from being or becoming a member of any relevant authority for twelve months.

The Chair queried if any training or support needs for Denbighshire had been identified in any of the cases. The MO advised that the training provided already covered the matters set out in those cases. He also highlighted that discrimination complaints were taken seriously by the PSOW and investigated. However, having applied the proper tests, there was no evidence of a breach in this case.

RESOLVED that the contents of the report be noted.

6 ATTENDANCE AT MEETINGS

The Chair reported on her attendance at a hybrid meeting of Denbighshire's County Council held at 10am on Tuesday, 16 December 2022 in the Council Chamber, Ruthin and remotely via video conference, and which had been live streamed.

The Chair had attended to present the Standards Committee Annual Report 2021 and had also taken the opportunity to observe the proceedings. The meeting had been well attended by members, with 3 apologies, and no public present other than herself as an observer. Declarations of interest appeared on the agenda and a statement read out with no declarations on this occasion. The meeting had been well chaired through the medium of Welsh with simultaneous translation, and officers supported as appropriate with the Chair reminding councillors of protocols as necessary. All attendees had been introduced, all items had been proposed and seconded, and the voting systems explained. Code of Conduct training was also mentioned. The meeting closed at 12.10pm with a 15-minute break during the meeting. In conclusion, it had been an excellent meeting overall, respectful, with plenty of business covered, and had been well run and well supported.

Following the Chair's presentation of the Annual Report to Council, there had been a positive debate and appropriate questions. The Chair provided feedback on the matters raised and responses given by the Monitoring Officer, in brief –

- Vexatious Complaints – the response referred to the requirement under the Code of Conduct that members not make vexatious complaints and the Ombudsman's two stage test to filter out complaints unsuitable for investigation
- Legal Representation and Qualification – members who appeared before the Committee could, but were not required, to be legally represented and there was no requirement for Committee members to be legally qualified, although they received training in respect of hearing procedures and sanctions. Reference was made to the Appeals Panel for Wales having a legally qualified President
- Dispensations – an explanation was given as to the existence of dispensations, the appropriate regulations and criteria as well as some examples of the sort of issues for which dispensations may be sought

- Member Training – covered the provision in the Council's Code of Conduct for mandatory training and the recommendation from the Penn Report that training should be mandatory.

No further attendance at meetings had taken place by other members. It was clarified that traditionally, it had been independent lay members who attended meetings given there may be an inference of bias for county councillors who it was also recognised had many other meetings to attend. The community councillor representative had attended to observe other meetings in the past. In terms of future attendance, the Deputy Monitoring Officer (DMO) advised that members had previously agreed a more strategic approach to planning visits. No councils had been identified that would specifically benefit from a visit and the next stage involved cross checking the record of attendances provided by the Chair with the Standards Committee minutes over the last term to avoid any repeat attendances. In the meantime, the DMO had contacted all lay members with a list of town/community councils and there had been some commitment to attend a number of meetings going forward. The DMO agreed to share a more strategic list with members as a matter of some urgency. The Chair added that consideration would also be given to councils that had new clerks and whether they would benefit from a visit. She was also pleased to note plans for a separate training session for clerks later in the year and welcomed further feedback following that session.

The Chair thanked officers for the update and looked forward to receiving the strategic list when it was available to continue with observations at meetings. She also offered support to any new members undertaking visits for the first time.

RESOLVED that the verbal report from the Chair be noted together with the update from the Deputy Monitoring Officer on progress with future attendance at meetings.

7 DISPENSATION REQUESTS

Consideration of dispensation requests from Town/City/Community Councils and at county level was a standing item on the agenda.

Members noted that no dispensation requests had been received.

The lack of dispensation requests had been a cause of concern for some time and the Monitoring Officer confirmed the issue was highlighted during training sessions. That message would continue to be reiterated at every opportunity given there would likely be individuals who would benefit from the ability to take a dispensation.

RESOLVED that the position be noted.

8 STANDARDS COMMITTEE ANNUAL REPORT

A report was submitted by the Deputy Monitoring Officer (previously circulated) presenting the draft Standards Committee Annual Report for consideration prior to submission to full Council. The report detailed the Committee's work during 2022.

The Standards Committee had previously agreed that an annual report on its work be presented to all council members as part of the Committee's drive to increase standards of ethical behaviour and compliance with the Members Code of Conduct.

The Deputy Monitoring Officer (DMO) guided members through the report content and during debate the following amendments had been agreed by the Committee –

- reference to the May 2022 council elections be included to reflect the change in committee membership of elected members and composition of the Committee
- in light of the Penn Review and Welsh Government's (WG) response to consider the operation of the local resolution protocol and assessment of its impact, to include reference to the Council's local resolution process and its likely review following the WG's statutory guidance to Standards Committees
- paragraph 4.3 – to revisit the formatting of the bullet points within the tables for consistency, with some having full stops and others not
- paragraph 4.4 (b) – to add 'county councils' to the reference to 'town, city and community councils' in relation to complaints lodged against members
- paragraph 4.5 – to remove the yellow highlight at 4.5
- paragraph 4.6 – the reference to 'North Wales Standards Forum' be amended to 'North and Mid Wales Standards Forum'
- paragraph 4.10 – there was some discussion on the Group Leaders Duty and obligations on the Standards Committee to report in that regard. The report needed to reflect work in 2022 but reference to the approach be included describing the positive and collaborative nature in which Group Leaders were approaching that task, and setting out the future process with a view to fully reporting back thereon in the next Annual Report
- reference to be included in the report to the involvement of the Council in discussions with colleagues across Wales with a view to achieving a level of consistency in relation to the gifts and hospitality threshold.

The Chair thanked the DMO for her hard work in preparing the draft report and work to prepare an amended draft to incorporate the Committee's amendments. It was agreed that the Chair and Vice-Chair approve the final draft and a suitable date be confirmed with the Chair to present the report to Council.

RESOLVED that the Standards Committee –

- (a) *note the contents of the report, and*
- (b) *subject to the above comments/amendments being incorporated into the report, and subsequent approval of the final draft by the Chair and Vice-Chair, recommend its presentation by the Chair to the full Council.*

9 NATIONAL STANDARDS FORUM UPDATE

The Chair and Vice Chair reported on their attendance at the National Standards Forum Committee held on 27 January 2023. The notes of the meeting, including the presentation received from the Public Services Ombudsman for Wales (PSOW), had been previously circulated with the agenda. [Given the number of acronyms in

the notes, the Monitoring Officer (MO) agreed to feedback on the need for either a glossary of the terms or for the abbreviation to be set out in full in the first instance.]

The Chair and Vice Chair elaborated on the items discussed, and responded to questions raised thereon, which covered the election of the Chair and Vice-Chair, Role and Terms of Reference, implementation of the new duty on Group Leaders and how it would be reported as part of the Standards Committee Annual Report, a presentation from Guest Speaker Michelle Morris, PSOW and an update on the Penn Report from Lisa James, Welsh Government. Under AOB there was an action to establish the practice for Standards Committee in Wales to produce Members Annual Reports and to develop training for Chairs and Vice Chairs of Standards Committees. It had been considered an excellent forum, very worthwhile and useful for information sharing. It was noted that MOs in North Wales would agree a representative to attend each meeting going forward and feedback to their Group.

The following points were raised during the ensuing debate –

- a number of the issues discussed at the meeting related to the Penn Report which would be further discussed by the Committee under the next agenda item when responding to the Welsh Government's consultation thereon
- more complaints had been received by the PSOW during April 2021 to March 2022 than in the last decade; just under 300 complaints, 240 complaints not taken forward to investigation, 20 complaints passed to Standards Committees. The correlation between breaches of the Code of Conduct and councillors not undertaking regular training was also highlighted, emphasising the importance of training. The PSOW had agreed to review the changes to the reporting system which had made it difficult for MOs to provide information to Standards Committees and looked forward to working with the forum going forward
- the reasoning behind the majority of complaints received by the PSOW not being investigated was discussed taking into account capacity and the introduction of the public interest test. There was an acknowledgement that low level misbehaviour still had a detrimental impact both on organisations and public confidence and the role of the local resolution process was highlighted in that regard. The issue had been recognised in the Penn Report.
- Chairs and Vice Chairs could attend the forum but if neither could attend it was likely any request for a further representative would be looked upon favourably
- agendas for the forum should be set by Standards Committees and members were encouraged to raise items with the MO. It was suggested that future items should include: monitoring the response to the Welsh Government's consultation on the Penn Review and viewpoint of other local authorities; continual information sharing and good practice on implementation of the Group Leaders duty, and the provision of Standards Committees to the Corporate Joint Committees given the various options available. As an aside, it was noted there had been no recent talks on the possibility of joint Standards Committees and the MO confirmed that if and when any approaches or recommendations were made, the matter would be brought before the Standards Committee
- the forum would meet twice a year, with the next meeting to be arranged for late June/early July.

RESOLVED that the verbal report on the meeting of the National Standards Forum held on 27 January 2023 be received and noted.

10 WELSH GOVERNMENT CONSULTATION ON THE PENN REVIEW

The Deputy Monitoring Officer submitted a report (previously circulated) presenting the consultation on the recommendations of the Penn Review and sought the Committee's views on the Welsh Government's response and 21 questions raised in the consultation, prior to collating the views of the wider Council membership and key officers involved in the Local Government Ethical Standards Framework.

The Monitoring Officer (MO) and Deputy Monitoring Officer (DMO) delivered a PowerPoint Presentation on the document to facilitate the debate and inform and contribute to the Council's response. The presentation included some background to the review and its conclusions; elaborated on the 12 recommendations and other related matters; guided members through the consultation questions, and reported on the next steps in the consultation process with a final response considered at the Committee's next meeting and submission of comments by 23 June 2023.

With regard to Recommendation 2 and register of interests, the changes had been made in terms of members providing only a street name or postcode in order to provide a greater level of protection. It was highlighted that, in some cases, the postcode/street name would identify only one property. The MO agreed to look into the matter further and ascertain whether, given the changes to the regulations, the provision not to disclose an address in particular circumstances, still existed.

During a lengthy debate, the Committee responded to the questions as follows –

Q1 – agreed to the change to the Code to reflect the Equality Act 2010 definitions of protected characteristics

Q2 – agreed to the Adjudication Panel for Wales (APW) being able to issue Restricted Reporting Orders to be used proportionally in the interests of fairness and protection of witnesses

Q3 – agreed there should be express legal provision to enable the APW to protect the anonymity of witnesses

Q4 – agreed to support the changes to the permission to appeal procedure outlined in the recommendation to streamline the process but proposed that a timescale be included to ensure the process was completed within a reasonable period of time

Q5 – supported there being an express power for the APW to summon witnesses to appeal tribunals but commented on the difficulties of enforcing such a provision

Q6 – most members did not recognise the benefit of the APW referring appeal decisions back to the Standards Committee, particularly given the same Committee would be reviewing the same case and would likely prolong the overall process for the appellant, although one member felt there could be some flexibility given that every case was different. One member considered there to be value in referring the

matter back to the Standards Committee in order to reflect on the merits of the reasons given to reconsider their decision and retain local control and responsibility

Q7 – agreed there should be express provision to enable part or all of tribunal hearings to be held in private; that provision to be used proportionally in the interests of justice

Q8 – agreed that the requirement to provide not less than seven days' notice of the postponement of a hearing should not be retained in order to provide greater flexibility. However, reasonable notice should be given

Q9 – agreed there should be a wider range of powers available to the APW with the current powers available being too restrictive

Q10 – agreed to support interim case tribunal suspensions in extreme circumstances

Q11 – in relation to the operation of APW and disclosure, the Committee supported a requirement to make available unused material held by the Public Services Ombudsman for Wales (PSOW) and MOs in the interests of natural justice

Q12 – agreed to the need to raise awareness of the Ethical Standards Framework and to work with others as appropriate in that regard

Q13 – whilst noting there were merits to advertising for lay members in the local newspaper, it was agreed that it should not be a mandatory requirement provided a variety of other means were used in order to reach a wide and diverse audience

Q14 – agreed the lifelong ban on former council employees being independent members of their previous employer's Standards Committee be removed, with a 12-month grace period between employment and appointment for most employees, and a longer period for those formerly holding statutory or politically restricted posts

Q15 – agreed the lifelong ban on serving as an independent member on the Standards Committee of the Council to which a councillor was elected should be removed, with most members agreeing one council term would be a suitable grace period, with one member advocating a lesser grace period or none at all

Q16 – agreed the Standards Committee should not have the power to summon witnesses given that power could not be enforced

Q17 – agreed that the sanctions a Standards Committee can impose should be added to; suggesting powers to direct training be undertaken rather than the current recommendation, and an increase in the suspension period of up to one year

Q18/19/20 – considered the current bilingual provision to be sufficient with any changes having a neutral impact on the Welsh Language

Q21 – noted the document was first published and last updated on 24 March 2023.

The Chair thanked the MO and DMO for the presentation and the DMO agreed to keep the Committee updated with issues emanating from the Penn Review.

RESOLVED that the Committee's initial views on the consultation as detailed above be collated and included in the final response for consideration by the Committee at their next meeting.

11 STANDARDS COMMITTEE FORWARD WORK PROGRAMME

The Standards Committee Forward Work Programme was presented for consideration and members discussed the following –

- the final formal response to the Welsh Government's consultation on the Penn Review would be brought to the next meeting of the Committee in June
- following the outcome of the consultation on the Penn Review, the Welsh Government's response would be shared with members when available; it was suggested a summary version and overview of the key changes would be useful
- in terms of the future item on 'Joint meeting with Town, City and Community Councils', the Deputy Monitoring Officer would raise the issue at an upcoming liaison meeting scheduled with clerks and report back to the next meeting
- with regard to the future item on 'Review of the size and composition of the Standards Committee' it was suggested it may be for Democratic Services Committee to consider in the first instance and the Monitoring Officer would raise the issue with the Democratic Services Manager regarding timescales with a view to bringing a report back to the Committee in September or December
- in relation to the future item 'Monitor the Regional Working arrangements', it was suggested that greater clarity on the position with regard to Corporate Joint Committees should be available by September
- the Chair asked that, in future, the items scheduled for the current meeting be retained on the forward work programme submitted with the agenda.

RESOLVED that, subject to the above, the Standards Committee's Forward Work Programme be agreed.

12 DATE OF NEXT MEETING

Members noted that the Standards Committee's next meeting had been scheduled for 10.00 am on Friday 16 June 2023.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Local Government Act 1972.

13 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000

The Monitoring Officer (MO) submitted a confidential report (previously circulated) providing an overview of complaints against members lodged with the Public Services Ombudsman for Wales (PSOW) since 1 April 2022.

The MO provided a summary of each of the seven complaints lodged, which had not been investigated, together with the reasons therefore. Given the change in reporting arrangements it was noted there may be complaints lodged with the PSOW which would not be known until a decision had been made as to whether or not the complaint would be investigated.

RESOLVED that the report be received and noted.

The meeting concluded at 1.20 pm.