

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Conference Room 1a, County Hall, Wynnstay Road, Ruthin LL15 1YN on Friday, 23 January 2015 at 10.00 am.

PRESENT

Independent Members Mr Ian Trigger (Chair), Councillor David E. Jones, Mrs Paula White, and County Councillor Bill Cowie.
Councillor A. Roberts attended as an observer.

ALSO PRESENT

Monitoring Officer (GW), Deputy Monitoring Officer and Solicitor (LJ) and Administrative Officer (CIW).

1 APOLOGIES

Councillors B. Mellor and Reverend Wayne Roberts.

The Monitoring Officer (MO) informed the Committee that Councillor B. Mellor had been appointed by Council as a County Council Representative on the Standards Committee. He explained that due to an administrative error an invitation to attend the meeting had not been extended to Councillor Mellor, and an apology for the oversight would be conveyed accordingly.

Members of the Committee were informed that Reverend Wayne Roberts had intimated that he would be resigning as an Independent Member of the Standards Committee. Members agreed that the MO seek clarification regarding the intentions of Reverend Roberts. In the event of a formal resignation being received Members agreed that arrangements be made to seek nominations for the vacant post, and that a letter of appreciation be sent to Reverend Roberts thanking him for his contribution to the work of the Committee.

(G. Williams and L. Jones to Action)

2 DECLARATION OF INTERESTS

No Members declared any personal or prejudicial interests in any business identified to be considered at the meeting.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No items were raised 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.

4 MINUTES OF THE LAST MEETING

The Minutes of the Standards Committee held on the 18th July, 2014 were submitted.

Matters arising:-

5. Forward Work Programme - In response to questions from Councillor D.E. Jones on progress with the provision of training for Members on the Code of Conduct, the MO explained that attendance levels at training sessions for City, Town and Community Councils (CTCC) following the 2012 Elections had not met attendance level expectations. The MO and DMO had subsequently been invited to attend meetings to speak on specific issues, and discussions had taken place with the Community Engagement Officer regarding the provision of training specifically adapted for Clerks of the respective Councils. The Chair highlighted the positive report by the MO for the Isle of Anglesey County Council, on the provision of training by Clerks, which had been considered by the North Wales Standards Forum. He felt that the adoption of such a model could be beneficial in aiding the training process.

The MO confirmed that consideration could be afforded to the development of e-learning modules which could be circulated to CTCC and supported by officers and Members of the Standards Committee.

The DMO informed the Committee that the trainer who had originally provided training had, although now retired, agreed to consider providing further courses. The MO explained that concerns had been raised by some of the smaller Community Councils regarding the cost of the training provision, and he highlighted the need to provide an explanation for the charges.

The Chair referred to the recommendation made to approach the Corporate Governance Committee for their opinion regarding Standards Committee tackling more issues which were currently covered by their Committee. The MO and DMO provided a brief summary of the response of the Corporate Governance Committee which would be incorporated into the review of the Councils Constitution.

In response to a question from Councillor W.L. Cowie regarding the provision of a checklist of all CTCC to enable Standards Committee Members to indicate their preference as to which meeting they would attend, the DMO confirmed that this would be presented to the next meeting of the Committee. The MO agreed to contact the Community Engagement Officer regarding the issue of the provision of cluster meetings.

6. Public Service Ombudsman for Wales Annual Report 2013/14 – The Chair referred to issues which Members' attention had been drawn to and made reference to paragraph 6. He felt that if a complaint was made and then dismissed without a hearing there could be a public perception of unfairness. The MO explained that only one case had arisen under the circumstances referred to.

RESOLVED – *that the Minutes be received and approved as a correct record.*
(G. Williams and L. Jones to Action)

5 FORWARD WORK PROGRAMME

The Deputy Monitoring Officer (DMO) submitted a report (previously circulated) presenting the Forward Work Programme and Review for consideration and adoption.

Members considered the Standards Committee Forward Work Programme for the forthcoming six month period and agreed the following additions:-

6th March, 2015:-

(a) Training provision for the Councillors and Clerks of the City, Town and Community Councils.

22nd May, 2015:-

(a) Training provision for the Councillors and Clerks of the City, Town and Community Councils.

(b) Consideration of the Chairman's Annual Report to Council.

RESOLVED –that the Standards Committee agree the Forward Work Programme with the inclusion of the agreed inclusions.

(G. Williams and L. Jones to Action)

6 CHAIR'S ANNUAL REPORT

A copy of a report by the Monitoring Officer (MO) had been circulated with the papers for the meeting.

The report enabled the Committee to peruse and contribute to the Chair's Annual Report prior to its presentation to full Council. The MO had been particularly keen to take into consideration the Chair and the Committee's views on the content, and set out the proposed details in section 4.

It had been agreed that the Chair's Annual Report should be presented on the work of the Committee, and its findings and observations, 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. This was the first Annual Report of the Chair to Full Council which covered January to December, 2014. The report would inform Members of trends, issues in respect of compliance with the Members Code of Conduct generally across the County and the work of the Committee in driving up standards of behaviour at County, Town, City and Community levels. Details of the constitution and powers of the Committee had been included in the report, particular reference being made to the appointment process and role of Independent Members.

Prior to 2014 the Committee had been instrumental in amending the Council's Code of Conduct to make training on the Code a mandatory obligation; the introduction of a Self-Regulatory Protocol, ensuring that County wide training to the County and

'Code' roadshow events was delivered by the MO and his deputy at Town, City and Community level, providing training to Chairs of Town, City and Community Councils and publicity material to assist Clerks in the communities.

During the past year the Committee had been scheduled to meet five times and had met on 4 occasions due to the October meeting being cancelled. A table included in the report provided a summary of the items under discussion. The three standing business items included on the agenda for each meeting included:-

- (i) Reports from Standards Members in respect of their attendance and observations at Committee and Council meetings whether at County or Community level.
- (ii) Overview of Complaints lodged against Members with the Public Services Ombudsman for Wales.
- (iii) Forward Work Programme. This was a new initiative to enable the Committee to adopt the same strategic approach as other Committees and to target its resources into priority areas.

Councillor W.L. Cowie questioned whether the Annual Report would detail Members reports of visits to CTCC meetings. The MO explained that, subject to approval, the report could note that routine visits to CTCC were undertaken by Members of the Committee, and if as a result of the MO or DMO had been requested to take any action this might be reported dependant of the severity of the issue raised. Councillor D.E. Jones suggested that general statistics relating to the number of visits undertaken, and their subsequent outcome, might be included in the report outlining the general health and framework of the CTCC's. Councillor Jones felt that negative reporting could creating a difficult atmosphere and be detrimental to encouraging nominations for voluntary positions on CTCC's.

The Chair questioned the reference to the Crown Prosecutors Services in Paragraph 4.2. The MO provided details of his powers of investigation, and made reference to the statistics available in relation to the number of cases not pursued. The Committee agreed that the availability of the backup power be included in the report.

During the ensuing discussion the following amendments to the Draft Annual Report were agreed:-

- Paragraph 4.1 – "The Chair of the Standards Committee" be amended to read "the Committee's report".
- Paragraph 4.3 be amended to read "Prior to 2014 the Committee has been instrumental in the Council amending its Code of Conduct to make training on the Code a mandatory obligation for County Councillors"
- The Report to make reference to the Nolan Principals and include the seven principles of public life.

- Include a note that the attendance of the Chair at the North Wales Standards Forum, which comprises the Chairs of all six Standards Committees in North Wales, and details be provided of the Forum's remit.
- It was agreed that reference to the positive and negative feedback from the community be reflected in the Annual Report.

The Committee agreed that a draft copy of the Chair's Annual Report be presented to the March, 2015 meeting for perusal prior to its submission to Council.

RESOLVED –that, subject to the above amendments, the Standards Committee:-

- (a) receives and notes the contents of the report, and
- (b) requests that a draft copy of the report be presented to the March, 2015 meeting for perusal prior to its submission to Council.

7 PUBLIC SERVICES OMBUDSMAN FOR WALES - PUBLIC INTEREST TEST

A copy of a report by the Monitoring Officer (MO), on the proposal by the Public Services Ombudsman for Wales' (PSOW) to introduce a new Public Interest Test when considering whether or not to investigate allegations that an Elected Member had breached the Code of Conduct, had been circulated previously.

The views of the Committee had been sought on the discussion paper produced by the PSOW, Appendix 1, on a proposal to introduce an additional test when considering whether or not to investigate a complaint made to him that a Member had breached the Code of Conduct. The PSOW's office had for a number of years applied a two stage test in considering whether or not to investigate an alleged breach of the Code of Conduct by a Member.

The first stage would be to establish whether there was evidence that a breach of the Code had actually taken place. The second stage would be to consider whether the alleged breach, if proved, would be likely to lead to the imposition of a sanction by a Standards Committee or the Adjudication Panel for Wales. In considering the likelihood of a sanction being imposed, the PSOW's office would take into account cases considered by Standards Committees across Wales and the action they had taken.

The PSOW had expressed concerned about the number of low level complaints received by his office and was seeking to introduce an additional test which would consider whether an investigation or a referral to a Standards Committee or the Adjudication Panel was required in the public interest. As indicated in Appendix 1 he saw his role as investigating serious cases in order to maintain public confidence in standards in public life. He would not open an investigation unless he considered it proportionate to do so, given the circumstances of the breach alleged.

In determining whether an investigation was in the public interest, the PSOW would consider a number of factors, as set out in Appendix 1. Not all of the factors would apply in every case and the weight to be given to each would depend on the circumstances of each case. The PSOW had made it clear that at a time of

diminishing resources he would have to prioritise the matters that his office would be investigating, and it may no longer be appropriate to apply resources to the investigation of low level complaints. In addition he would consider whether or not to continue the practice of referring cases that, although there may be evidence of a breach he had decided not to investigate, to Local MO's for investigation because of the second limb of his current test. Members' views had been sought on this point.

The MO confirmed the risk that if the PSOW's Public Interest Test was applied at too high a threshold there could be the possibility that breaches of the Code of Conduct which should be the subject of a sanction were not investigated.

The Chair understood the reasoning behind the proposed introduction of the public interest test. However, he suggested that the process could dilute the Code of Conduct and that public perception of such an approach to investigations could reduce confidence in the democratic process, if introduced solely on the grounds of the availability of resources. The Chair suggested that the utilisation of the Standards Committee, as a mechanism to deal with low level complaints, could satisfy complainants that their grievances had been deliberated.

The MO outlined the current three stage process and explained that the opportunity to deal with complaints locally may also be removed, which raised concerns that situations when they arise were not permitted to escalate. Councillor D.E. Jones referred to the importance of the consideration given to the seriousness of a breach of the Code of Conduct when deciding on the need for further action.

Members of the Committee agreed with the views expressed by the Chair that the response to the PSOW explains that the Standards Committee understands the reason for the proposed introduction of the public interest test. However, it was felt that if the only reason for not undertaking an investigation was because of the public interest test, then in those circumstances the matter should be referred to the relevant local MO for consultation with the respective Standards Committee.

The MO explained that the issue of referring Member versus Member cases for local resolution had not been an issue in Denbighshire, but had been of benefit in other Local Authorities. With regard to how beneficial the system of offering cases which the Ombudsman considered would be unlikely to attract a sanction for local investigation, the MO explained that opinion on this matter was divided. However, he felt it was useful to have the flexibility provided that MO's were not automatically expected to investigate all issues.

In reply to a question from Councillor D.E. Jones, the MO provided details of how the PSOW would consider evidence of similar behaviour on the part of a Member, depending on the nature of the complaint received, as referred to in paragraph 6 on Page 3 of the report.

During the ensuing discussion the Committee expressed its support for the proposal on Page 21. (4) with regard to action taken against those politicians who breach their code of conduct by making vexatious complaints.

Following further discussion, it was:-

RESOLVED –that the Standards Committee:-

(a) notes the proposed introduction of a Public Interest Test as set out in the paper received from the Ombudsman attached as Appendix 1 to the report, and

(b) requests that the Monitoring Officer conveys to the Ombudsman the views expressed by the Committee on the issues considered.

(G. Williams to Action)

8 NORTH WALES STANDARDS COMMITTEES FORUM

A copy of a report by the Monitoring Officer (MO) (copy enclosed) which reported the discussion at the North Wales Standards Committees Forum (NWSCF) on the 26th November 2014, which had been attended by the Public Services Ombudsman for Wales (PSOW).

The primary business of the meeting had been to meet the new Public Services Ombudsman for Wales (PSOW), Mr Nick Bennett, and to seek his views on current issues facing Standards Committees (SC) in Wales. The NWSCF had posed 13 written questions in order to structure the discussion with the PSOW. A copy of the questions put to the PSOW, together with a note of his responses, had been set out in Appendix 1 to report.

The MO summarised the report and explained that the PSOW had been keen to meet with representatives of SCs and listen to their views and concerns about current issues. He was very supportive of the work of the NWSCF and the support that the SCs in North Wales provided to each other through the Forum. The MO provided a detailed summary of the proceedings of the meeting.

The PSOW set the work of his office into the context of diminishing public resources and the need for the work of his office to maintain public confidence in the democratic process while prioritising the scarce resources at his disposal. He had stressed the dim view taken of vexatious complaints and the need for investigations conducted by his office to be proportionate with the public interest in the matter under investigation. The PSOW had been keen to support the local resolution of complaints in respect of the Code of Conduct which would increase the speed at which complaints were dealt with.

Confirmation was provided of the PSOW's intention to issue revised guidance to Local Authorities in light of a recent judgement and to simplify the guidance provided to Members, particularly in respect of the declaration of interests. A public interest test would also be introduced and this was the subject of a separate report to the SC.

The Forum considered an item on the provision of Code of Conduct training to CTCCs, and they had been informed of the Isle of Anglesey County Council approach to provide tailored training to the clerks to CTCCs to enable them to be the first line of advice in respect of Code of Conduct issues. The approach had resulted in a development of the relationship between clerks and the MO and

following the training several clerks had taken the opportunity to contact the MO to discuss issues concerning their Councils. A discussion had ensued on the merit of other Authorities taking a similar approach to the provision of training to CTCCs. The following responses were provided to questions from Councillor W.L. Cowie:-

- The Chair agreed to seek the views of the NWSCF regarding the attendance of County Councillors at NWSCF meetings.
- The MO agreed to provide clarification regarding the attendance of Members of the Standards Committee at meetings of CTCC meetings, during consideration of Part II business items. Confirmation was provided that Members of the Standards Committee would be entitled to attend any meetings of the County Council CTCC, during consideration of Part II business items.

The MO responded to questions from Councillor D.E. Jones and explained that Community Council meetings, local Council meetings, were public meetings and could be attended by any member of the public. Councillor Jones also highlighted comments relating to the availability of sufficient resources for clerks of Town and Community Councils to operate a local resolution protocol.

Following further discussion, it was:-

RESOLVED –that the Standards Committee:-

- (a) receives and notes the contents of the report, and
- (b) the Monitoring Officer to provide clarification regarding the attendance of Members of the Standards Committee at meetings of CTCC meetings, during consideration of Part II business items.

(G. Williams to Action)

9 ATTENDANCE AT MEETINGS

Members of the Committee were invited to feedback from the County, City, Town and Community Council meetings that they had recently attended, and Members took the opportunity to offer a summary of how the respective Councils had operated.

Mrs P. White had attended the January, 2015 meeting of Rhuddlan Town Council. She explained that the meeting had been lively with the Town Councillors endeavouring to do their best for the Community of Rhuddlan. The agenda had been substantial and Mrs White had vacated the meeting prior to consideration of the Part II business items.

Councillor W.E. Cowie had attended a meeting of Denbigh Town Council on the 12th January, 2015. Councillor Cowie explained that the meeting had progressed well with Members complying with etiquette. He had been impressed with the manner in which the business of the meeting had been conducted, and commented on the professionalism of the Chair.

Councillor Cowie had also attended a meeting of Rhyl Town Council on the 21st January, 2015. Councillor Cowie had been very impressed with the organisation of

the meeting, and felt that the procedures adopted could be utilised as an example of how meetings should be conducted.

The Chair had attended a meeting of Ruthin Town Council on the 20th October, 2014. He expressed concern regarding the lack of notice advertising the meeting, and the subsequent difficulty in locating its venue. The Chairing of the meeting had been brisk with the level of debate not always relating to the level of importance of the matter under consideration. In summing up the Chair confirmed that the atmosphere of the meeting in general had been good.

The Chair also attended a meeting of County Council held on the 17th December, 2014, and it was felt that there had been a lack of assertive Chairing during the proceedings. He commented on the proceedings which related mainly to the issue of Local Government Reform, and the MO explained that the lead during the meeting had been taken by the Chief Executive as he had been the author of the main report.

In reply to concerns raised by Councillor D.E. Jones regarding the importance of Member etiquette during the webcasting of meetings, the MO explained that guidance on webcasting had been provided for Elected Members.

RESOLVED – *that the Standards Committee receive and note the feedback submitted from recent meetings attended by Members of the Committee.*

10 DATE OF NEXT MEETING

Members noted that the next meeting of the Standards Committee would be held on Friday, 6th March, 2015 at 10.00 a.m. in Conference Room 1b, County Hall, Ruthin.

RESOLVED – *that the Standards Committee noted that the next meeting of the Committee be held on Friday, 6th March, 2015.*

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 item(s) of business on the grounds that they involve 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.*

PART II

11 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000

A copy of a confidential report by the Monitoring Officer (MO), which provided an overview of complaints lodged with the Public Services Ombudsman for Wales, had been circulated with the papers for the meeting.

The Standards Committee had previously requested to be regularly informed of the level of complaints lodged with the Public Services Ombudsman for Wales (PSOW). The tables incorporated in Appendix 1 provided an overview of complaints lodged since the 1st April, 2012.

It was confirmed by the MO that Case Reference numbers 251,253 and 254 had now been completed. He explained that the PSOW had now provided confirmation that Case Reference number 252 had been closed in April, 2014. There had been no record of notification of the decision having been forwarded to Denbighshire, and an apology for the oversight had been received from the PSOW Office.

RESOLVED –*that the Standards Committee receive and note the contents of the report.*

Meeting ended at 12.40 p.m.