

## STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Conference Room 1a, County Hall, Ruthin on Friday, 4 December 2015 at 10.00 am.

### PRESENT

Independent Members Mr Ian Trigger (Chair), Paula White, Julia Hughes, Anne Mellor and Councillor W.L. Cowie.

Councillor M.Ll. Davies attended as an observer.

### ALSO PRESENT

Monitoring Officer (GW) and Administrative Officer (CIW).

Members supported a request by the Chair that agendas for future meetings of the Standards Committee be made available for Members of the Committee one week prior to the date of the meeting.

**(GW to Action)**

#### 1 ELECTION OF VICE CHAIR

**RESOLVED** – that Mrs Paula White be appointed Vice Chair of the Standards Committee.

#### 2 APOLOGIES

Apologies for absence were received from Councillors David Jones and Barry Mellor.

#### 3 DECLARATION OF INTERESTS

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

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

In accordance with the requirements of Section 100B(4) of the Local Government Act 1972, the Chair declared that he intended to include for discussion the following matter requiring urgent attention:-

1. Consultation on the Public Services Ombudsman for Wales: Three Year Strategic Plan

The Committee were informed by the MO that he had received, on the 3<sup>rd</sup> December, 2015, a consultation document in respect of Public Services Ombudsman for Wales: Three Year Strategic Plan, and that a response had been requested by the 2<sup>nd</sup> February, 2016.

The Committee agreed with the suggestion that the MO circulate the consultation document and seek responses from Members of the Committee, which would be collated and re-circulated to the Members for further consideration. The MO explained that the wording "Code of Conduct" or "Members Code of Conduct" did not appear in the document, and he intended to make reference to this in the response.

Members agreed that an item regarding the Consultation on the Public Services Ombudsman for Wales: Three Year Strategic Plan be included in the Committee's forward work programme for its meeting on the 4<sup>th</sup> March, 2016.

## **5 MINUTES OF THE LAST MEETING**

The Minutes of the Standards Committee held on the 22<sup>nd</sup> May, 2015 were submitted.

### **Accuracy:-**

Present:- Councillor D.E. Jones name be removed from the list of Members present as he had submitted an apology for absence.

Apologies:- The names of Councillors B. Mellor and D.E. Jones be included as having submitted apologies for absence.

### **Matters arising:-**

7. Visits to City, Town and Community Councils – In reply to a request from Independent Member J. Hughes (JH), it was agreed that an updated list of visits undertaken by Members of the Committee between the previous and the present meetings be provided to ensure that there was no duplication of visits to CTCC's.

In response to a question from Independent Member A. Mellor (AM) it was agreed that it might be beneficial if JH, as a Welsh speaking Member of the Committee, attended specified meetings in the area designated as Cluster 3. The MO agreed that an updated list of CTCC, including contact details and where available times and dates of meetings, be circulated to Members of the Standards Committee.

In reply to a question from Councillor W.L. Cowie regarding the role of Standards Committee Members in reporting back to the Standards Committee following their attendance at meetings, particularly in cases where a legal officer of the Council had also been in attendance. Councillor Cowie sought clarification regarding the respective roles of the Standards Committee Members and that of legal officers in such circumstances.

The MO outlined the role of the Standards Committee and its Members in the setting and observing of standards to reflect the public's perception of the manner in which the Council and its Members conducts itself. He explained that the Committee's remit was to provide support for the Monitoring Officer and Elected Members of the County, City, Town and Community Councils. The MO referred to the possible benefits of discussing issues which might arise at meetings attended

by legal officers, and assured the Committee that legal officers would not feel undermined by the attendance of Members of the Standards Committee at meetings at which they were present.

Following further discussion, it was:-

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

*(GW to Action)*

## **6 FORWARD WORK PROGRAMME**

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

Members considered the Standards Committee Forward Work Programme and agreed the following amendments and additions:-

**4<sup>th</sup> March, 2016:-**

- (a) Consideration of the draft Standards Committee Annual Report.
- (b) Consultation on the Public Services Ombudsman for Wales: Three Year Strategic Plan update.
- (c) Code of Conduct Case Book update.

Members were informed that dates for the presentation of reports to the Committee, in respect of meetings of the North Wales Standards Forum, would be included in the forward work programme following the agreement of dates for future meetings.

**RESOLVED** – *that, subject to the above inclusions, the Standards Committee agree the Forward Work Programme.*

*(GW, CW to Action)*

## **7 DRAFT PUBLIC SERVICES OMBUDSMAN (WALES) BILL - CONSULTATION**

A copy of a report by the Deputy Monitoring Officer (DMO), which provided a copy of the draft Public Services Ombudsman Wales Bill, and sought comments from the Committee in order for a response to be compiled, had been circulated previously.

It was explained that the report would enable Members to consider the proposals and contribute to the formal consultation process.

At a recent Standards Committee meeting a business item had been presented on the Annual PSOW Report 2014/15, when reference had been drawn to the potential for extension of powers to the Ombudsman in Wales.

The reminder presented by the new PSOW had been incorporated in the report, with the Bill having been included as Appendix 1 and consultation letter as Appendix 2. The Welsh Local Government Association contribution earlier in the process had been attached as Appendix 3.

On the 21st October 2015, the Finance Committee of the National Assembly for Wales (NAW) had published a consultation seeking views of individuals and organisations on the proposals in the draft Public Services Ombudsman (Wales) Bill, intended to strengthen the powers of the PSOW. Following on from recommendations provided in a report in May, 2015, the Finance Committee's proposals in the draft Bill include giving the PSOW powers to:

- Initiate his own investigations and accept oral complaints.
- Handle complaints across public services.
- Extend the Ombudsman's jurisdiction to include private healthcare providers (in certain circumstances).

The MO confirmed that the consultation would close on the 18<sup>th</sup> January, 2016.

The effect of the proposals on Standards Committees could result in there being even greater reliance on MO's and Standards Committees to enforce the Code of Conduct and less reliance on the PSOW Office given the lack of or insufficient express reference to the Members Code of Conduct and the PSOW role, in the Bill. Members were invited to comment on Appendix 3, and the comments therein on the Members Code of Conduct.

Members of the Committee made observations and expressed the following views with regard to the draft Public Services Ombudsman Wales Bill:-

- The Chair referred to Agenda Page 28, Section 12 (1) "The Ombudsman may not investigate a matter under this Part if the person aggrieved, if any, has or had:- (c) a remedy by way of proceedings in a court of law". He highlighted the need for clarity and explained that in cases where there had been allegations of slander such matters could be dealt with by a subsequent action for defamation. However, he made reference to other matters which could be raised which would not be directly covered by subsequent actions.

The MO explained that this was the draft Bill and outlined the PSOW powers in terms of the jurisdiction of the Standards Committee with regard to the Code of Conduct, as pertained in the Local Government Act 2000. He informed Members that the current PSOW Act 2005, which the Public Services Ombudsman Wales Bill would replace, dealt with the jurisdiction in respect of complaints about service or maladministration, and provided a distinction between the two roles of the PSOW. Members were informed that the report outlined the work of the PSOW, and highlighted the possible subsequent consequences of the Bill. The MO referred to the findings of the enquiry, undertaken by the Finance Committee of the National Assembly, on the work of the PSOW.

The concerns raised by the WLGA in Appendix 3 to the report were outlined by the MO, particular reference being made to the possible consequences resulting from a lack of additional finance and resources, the effect on Code of Conduct issues and a possible retreat from the ethical agenda. The MO also expressed concern in respect of any unintended consequences arising from the legislation.

The opinion was expressed by the Chair that an increase in powers, with a static budget and staff resources, could have a detrimental impact with decisions having to be made on which complaints to investigate and the need for prioritisation. The Chair felt that under such restraints consideration might be afforded to increasing powers to Standards Committees

Chair referred to Page 46, Section 44, (1) The persons entitled to make a complaint to the Ombudsman are:- (a) a member of the public who claims or claimed to have sustained injustice or hardship". He felt that clarification was required with the provision of a definition in respect of "injustice and hardship". He made particular reference to the lack of precision and uncertainty pertaining to the persons entitled to complain.

Independent Member J. Hughes (JH) highlighted the following issues:-

- There should be, within the framework, a commitment to provide electronic or hard copy responses.
- Support was expressed for the PSOW having powers to recover costs incurred in investigating private health services, which would help to assist in following investigations through the entire process.
- Reference was made to Page 91, WLGA Evidence. The importance of the process was highlighted and the need to ensure effective consultation and engagement. It was stressed that the process should not be rushed to coincide with the Welsh Assembly Government Elections, which could result in unintended consequences. It was felt that all alternative options should be examined in full, including any potential problematic areas.
- Concerns were raised with regard to the final paragraph on Page 96. Reference was made to the possible changes in role of the PSOW and the subsequent effects arising from the merging of Authorities. Members of the Committee supported the view that reform of the PSOW's role, and subsequent weakening of the Code, could be a retrograde step at a time when so much controversial reform was proposed within Local Government. The view was expressed that the proposed increase in the powers to the PSOW could have a detrimental effect on the public perception in respect of complaints against Councillors.

Independent Member A. Mellor felt that bolstering the role of the PSOW could provide confidence to complainants who might appreciate the involvement of an independent body, particularly with regard to complaints relating to the NHS. However, she also acknowledged a possible detrimental effect on the Code of Conduct.

In reply to a request from the Chair that consideration be afforded to the concerns raised by the Committee, the MO explained that the issues raised would be conveyed to the officer compiling the Council's response, to enable the Committee's views to be incorporated into the Council's wider response.

Paula White Independent Member expressed her appreciation for the work undertaken by the Deputy Monitoring Officer.

Following further discussion, it was:-

***RESOLVED*** –that the Standards Committee agrees that the issues raised by Members be conveyed to the officer compiling the Council's response, to enable the Committee's views to be incorporate into the wider Council response.  
**(GW to Action)**

## **8 REPORT ON ALL WALES STANDARDS CONFERENCE**

The Chair explained that he had attended the All Wales Standards Conference, and provided a detailed a summary of the meeting which included the following salient points:-

- The Conference had been well attended with representatives from every Local Authority in Wales, including many representatives from City, Town and Community Councils.
- Key note speeches had been provided by:-
  - Nick Bennett (PSOW)
  - Lyn Cadwallader (Chief Executive of One Voice Wales)
  - Peter Davies (Part-time President of the Adjudication Panel for Wales)
  - Jan Williams (Independent Police Complaints Commissioner for Wales)

The Chair referred to the speech provided by the PSOW entitled "Are the Nolan Principles Fit for Purpose". Reference was made to the possibility that they might not be fit for purpose as insufficient attention had been given to leadership, which had implied that there should be more effective training of leaders. The Chair referred to the excellent work being undertaken in this respect by Denbighshire's Monitoring and Deputy Monitoring Officer.

- Of the 231 complaints received by the PSOW over a twelve month period, which related to Code of Conduct matters, only 17 had been identified as a potential breach with only 8 referred to Standards Committees.
- The issue and number of vexatious complaints had been highlighted by the PSOW. Reference was made to the public perception regarding the classification of complaints as vexatious, and the possible adoption of a negative attitude by members of the public regarding the submission of complaints.
- The view expressed by the PSOW that vexatious complaints could arise as a result of poor leadership.

The Chair referred to the choice of workshops available and explained that he had attended the "Whistle Blowing" and "Governance and Standards" workshops. He made reference to a number of Authorities in Wales, including Cardiff and Wrexham, having named their Standards Committees "The Standards and Ethics Committee". The Chair explained that the Standards and Ethics Committee in Cardiff had been afforded responsibility to oversee and monitor the Council's whistle blowing procedure, and considered any ethical issues arising there from. The Chair felt that this approach might be considered by Full Council for adoption in Denbighshire.

In response to a question from the Chair, the MO provided details of the law governing the protection of employees who had raised concerns or submitted a complaint. He made reference to the significance of such complaints or allegations having been raised in good faith, and confirmed that there were no time restraints regarding the period of protection.

Literature provided by the Chair, which had been distributed at the workshop on Community and Town Councils Governance Standards, was circulated to Members of the Committee.

**RESOLVED** –that the Standards Committee received and noted the contents of the Chairman’s report on the meeting of the All Wales Standards Conference.

## **9 ACCESSIBILITY OF INFORMATION FROM CITY, TOWN AND COMMUNITY COUNCILS**

Independent Member Julia Hughes (JH) referred to previous discussions on the electronic publication of information from City, Town and Community Councils (CTCCs), which was now mandatory, and highlighted the need for easy access to information.

As agreed at the previous meeting she provided a detailed summary of the voluntarily audit undertaken to assess the accessibility of information from the websites of the following nineteen City, Town and Community Councils (CTCCs):-

Denbigh, Derwen, Dyserth, Efenected, Gwyddelwern, Henllan, Llanarmon yn Ial, Llanbedr D.C., Llandegla, Llandrillo, Llandyrnog, Llanelidan, Llanfair D.C., Llanferres, Llangollen, Llangynhafal, Llanrhaeadr, Llantysilio, Llanynys.

The areas examined and information sought from the audit included:-

- The provision of a website and its accessibility
- Availability of the minutes of the previous meeting
- Details of the date, time and venue of next meeting, and access to agendas
- Provision of regular updates

JH explained that with regards to areas to be examined, she had included columns pertaining to bilingual provision and any general notes.

The following salient points were highlighted from the exercise undertaken:-

- A number of Councils were failing to meet the mandatory requirements. However, it was noted that there was also a lot of good practice.
- There should be a requirement for all CTCC’s to have a link to the Denbighshire website.
- Some websites were out of date.
- The need to ensure that website links were correct and updated.
- Not all websites were bilingual, and the importance of the provision of information bilingually was highlighted.
- In some instances websites were currently under development.

- A number of websites had standard agendas which never changed.
- In some instances electronic forms were provided for contact purposes.
- There being benefits by providing multiple means of accessing information.
- A need to note that much of the work is undertaken on a voluntary basis.
- The need for clarification in respect of mandatory and desirable provision.
- Consideration be afforded to the provision of training for Clerks of CTCC's.

The Committee were informed by the MO that concerns had been raised regarding the availability of resources with respect to the provision and maintenance of websites, particularly for smaller rural Councils. He also explained that Clerks to CTCC's were only paid for a specified number of hours.

With the approval of Members, the MO agreed that the outcome of the discussions in respect of the audit undertaken by JH be forwarded to the Community Engagement Manager, who liaised on a regular basis with CTCC's and could convey the views expressed to the respective Councils and the matters could be addressed on a semi aspirational basis. He also outlined the remit of the Standards Committee and explained that the issues discussed were not necessarily Code of Conduct matters.

Councillor W.L. Cowie referred to the approach adopted by St Asaph City Council with regard to the bilingual policy and the provision of information through the medium of Welsh. At the request of Councillor Cowie, the MO agreed to contact the Lead Officers on the Welsh Language Standards in Denbighshire, with a view to liaising and providing advice and assistance to the Clerk of St Asaph City Council in respect of the Welsh Language Policy.

The importance of specifying the timescales involved was highlighted, as information provided in the report would be subject to change following its production.

The Chair thanked JH for the hard work undertaken in producing the information, which would enable the Committee to monitor trends and make suggestions for future improvements. The Committee confirmed that it would receive a written update report at its meeting in March, 2016, as specified in the Committee's forward work programme.

**RESOLVED** – *that the Standards Committee:-*

- receive and note the contents of the report presented by Independent Member Julia Hughes,*
- the outcome of the discussions in respect of the audit be forwarded to the Community Engagement Manager, who would be requested to liaise with the City Town and Community Council's in respect of the matters raised.*
- the Monitoring Officer contact the Lead Officers on the Welsh Language Standards in Denbighshire, with a view to providing advice and assistance to the Clerk of St Asaph City Council in respect of the Welsh Language Policy, and*
- a written update report be presented to the March, 2016 meeting of the Committee.*

**(GW to Action)**

## 10 ATTENDANCE AT MEETINGS

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

Councillor W.L. Cowie had attended a meeting of the St Asaph City Council. He confirmed that he had not encountered any problems and had been satisfied with the manner in which the meeting had been conducted.

Independent Members Anne Mellor (AM) and Julia Hughes (JH) attended a meeting of Aberwheeler Community Council on the 7<sup>th</sup> October, 2015 and the following matters were highlighted:-

- No areas of concern had been identified, and both Independent Members confirmed that they were satisfied with the manner in which the meeting had been conducted.
- The Local County Council representative had attended the meeting and had been extremely helpful and informative.

Independent Member Julia Hughes (JH) attended the Special County Council meeting on the 7<sup>th</sup> October, 2015, which had been well attended, and no issues of concern were raised.

Independent Member Julia Hughes (JH) attended the following meetings and the following points and issues were highlighted:-

Bodelwyddan Town Council:-

- There had been no information available on the website, which required updating. However, the Clerk had been very responsive, positive and helpful.
- Support was provided by the Clerk for the Chair and Members during the meeting.

An overview was provided by JH which included the following areas of concern:-

- The meeting had not been managed in the most effective manner
- Members were not respectful of the Chair of fellow Councillors during proceedings. This had a detrimental effect on the management of the meeting, and Members not having applied protocol appropriate to the responsibility of their positions as Town Councillors and representatives of the local residents.
- The difficulty in recruiting people to the voluntary positions was acknowledged, with only one application having been received for two vacant positions on the Town Council.

Following a brief discussion the Committee requested that the MO write to the Clerk of Bodelwyddan Community Council highlighting the issues raised by Independent Member J. Hughes, and the subsequent concerns expressed by the Standards Committee following consideration of her report.

Nantglyn Community Council - 6<sup>th</sup> October, 2015:-

- A good example of how a meeting should proceed was provided.
- The Council had a good, informative and well-constructed website.
- An e-mail was sent to the Clerk to obtain the details of the venue, agenda and minutes for the next meeting.
- The Clerk to the Council had been very helpful.
- There was no check by the Clerk, in respect of Declarations of Interest, with regards to a Member of the Council who arrived late.
- Members of the Council participated in all agenda items in a supportive and constructive manner.
- The Chair managed the meeting well and was supported by the Clerk, and business was conducted in the correct orderly manner.
- Planning Applications had been addressed carefully and dealt with appropriately.
- The Chair introduced JH to the Council Members and commented that he was surprised that he had not been made aware of the intention of the Standards Committee. JH outlined the purpose of the visits to provide support to the respective Councils, and raise the profile of the Standards Committee to avoid being a remote body.
- Feedback on the proceedings of the meeting had been provided by JH.

The Committee were informed that a Member of the Community Council had expressed the view that he had not been made aware of the intentions of the Standards Committee, and that following discussions with the MO, his understanding had been that the role of the Standards Committee related to issues pertaining to the Code of Conduct and not Governance matters. In response to concerns expressed regarding questions relating to the website, JH had referred to the introduction of the recent legislation.

Members were informed that following the meeting JH had forwarded an e-mail to the Clerk of the Community Council, which was read out at the meeting, summarising the role, remit and main duties of the Standards Committee.

In reply to concerns raised by Members of the Standards Committee regarding CTCC's being made aware of the role of the Standards Committee, the MO agreed to write to CTCC's enclosing details of the role and remit of the Standards Committee. The MO provided confirmation that it was not mandatory for Members of the Standards Committee to visit or attend CTCC meetings.

The Chair informed the Committee that he and the Monitoring Officer had attended a meeting of Clerks and Community Councillors on the 25<sup>th</sup> November, 2015. Details of the items covered, and the proceedings, was provided by the Chair. Confirmation was provided that the meeting had been well chaired and no issues of concern were raised.

The MO informed the Committee that questions relating to the provision of training, and training providers, had been raised in terms of possible duplication of provision. He explained that the Chief Executive had requested that the holistic programme of

training be examined in conjunction with other providers. The MO made reference to his responsibility in terms of the level, frequency and standard of training provision with regard to the Code of Conduct. The Chair expressed the view that the level of training provided by Denbighshire had been excellent.

Following further discussion, it was:-

**RESOLVED** – *that the Standards Committee:-*

- (a) *receives and notes the feedback submitted from recent meetings attended by Members of the Committee.*
  - (b) *requests that the Monitoring Officer writes to City Town and Community Councils enclosing details of the role and remit of the Standards Committee, and*
  - (c) *agrees that the Monitoring Officer write to the Clerk of Bodelwyddan Town Council highlighting the issues raised by Independent Member J. Hughes, and the subsequent concerns expressed by the Standards Committee.*
- (GW to Action)**

## **11 DATE OF NEXT MEETING**

Members noted the time, date and venue of the next meeting of the Standards Committee, and it was:-

**RESOLVED** – *that the next meeting of the Standards Committee be held on Friday, 4<sup>th</sup> March, 2015 in Conference Room 1a, County Hall, Ruthin.*

## **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**

### **12 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. The tables included in Appendix 1 provided an overview of complaints lodged since the 1<sup>st</sup> April, 2015.

The DMO confirmed that none of the nine cases referred to in the report had been pursued by the PSOW.

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

Meeting concluded at 12.50 p.m.