

Standards Conference Wales 2015 – Standards and Ethics in a Changing World

The theme for this year's conference was "Standards and Ethics in a Changing World" to reflect the challenges being faced by the Welsh local government sector. The conference aimed at reinforcing the importance of promoting and maintaining high standards and conduct and the connection between good conduct, good governance and excellent service delivery. The conference also provided an excellent opportunity to share ideas, best practice and learning.

There were a total of 117 attendees at the conference from 27 organisations from across the Welsh public sector, including representatives from every principal council in Wales, many community councils, the national parks authorities and fire and rescue services.

The slides from the conference are available here:

<https://www.cardiff.gov.uk/ENG/Visiting/SCW2015/Presentations/Pages/default.aspx>

Summary of the conference presentations

The opening session started with a keynote speech from **Nick Bennett**, the Public Service Ombudsman for Wales who reflected on whether the Nolan Principles are fit for purpose in the current climate and for the next 20 years. Key points from this presentation are summarised below:

- In the current context of an ageing population, cuts in public spending, NHS/Social Services integration, potential local government reorganisation and the likely move towards further reductions in the size and level of state provision - the Nolan principles are still fit for purpose but possibly no longer sufficient.
- There needs to be leadership - effective and distributed – in addition to the principles and formal complaints machinery. Many complaints to the Public Service Ombudsman are vexatious (such as councillors 'tutting and huffing'), due to a lack of leadership.
- There is a need to "set a watchman" first before coming to the Ombudsman as their resources are limited. Everyone from frontline staff to those responsible for governance should be the watchmen.
- Nick welcomed the new Public Service Ombudsman (Wales) Bill because it allows the Ombudsman to move from being reactive to working on their own initiative. The Bill (if and when enacted) will enable them to consider

complaints about private hospitals (if services are commissioned by private citizens) and to receive complaints made orally.

Three further speakers also shared their thoughts on the Nolan Principles and their current utility.

Lyn Cadwallader - Chief Executive, One Voice Wales

- Lyn also outlined the importance of effective leadership at all levels of government.
- He welcomed the requirements of the Well-being and Future Generations Act to produce annual reports and a performance management approach for Community and Town Councils (C&TCs).
- The Welsh Government needs to define the purpose of C&TCs so that they can move forward more confidently. It is clear that C&TCs need a cultural shift including new capacities and skills so that they are able to become delivery bodies. C&TCs also need to have a clear electoral mandate and manage effective consultation as public perception of their work is low.
- While the number of complaints emanating from C&TCs has gone down in recent years, more councils need to take up training on ethics and standards.

Peter Davies, President of the Adjudication Panel Wales

- Equality and respect remain the most significant issues for standards and ethics. This means that there is a continual need for training for councillors and refresher courses.
- Internal systems need be supported by external monitoring, but are members of standards committees too close to be objective and independent?

Jan Williams, Independent Police Complaints Commissioner for Wales

- Jan also emphasised the importance of leadership. It's all about setting appropriate standards, culture, and doing the right thing every day which requires ethical behaviour. You don't simply need policies, procedures or codes but training is vital and avoiding tribalism when things go wrong.

Workshops

Five workshops were run on two occasions in the conference.

1. Social Media – Staying out of Trouble - Patrick Arran, Head of Legal, Democratic Services & Procurement, City and County of Swansea Council and Daniel Hurford, WLGA.

This workshop was structured into two parts. The first focused upon how different types of social media (e.g. Facebook, Twitter and blogging) can be used to stay in touch with the public and strategies for using it effectively. The second part concentrated on how to stay out of trouble by providing information on legal issues, and recent case law as the law of defamation can apply to social media issues.

Email and social media have been seen to change councillors' behaviour and has resulted in them posting items on social media that they would not usually have said and putting things in email that they would not have put in a 'formal' communication such as a letter.

Social media has the potential to have a significant positive effect on councillors and council life but care needs to be taken due to immediacy (once you have posted something, you can't withdraw it), issues of tone/voice, and the fluid boundaries between a person's role as a councillor and their private life.

Social media provides a two-way opportunity for the council and councillors to gain information and intelligence about the people they serve as well as putting information out there, but it must be used responsibly and the risks must be managed.

2. Whistleblowing - Sioned Wyn Davies, Legal Services Manager & Deputy Monitoring Officer, Wrexham County Borough Council with Kumi Ariyadasa, Solicitor at City of Cardiff Council.

This workshop reviewed best practice and guidance, the role of standards and ethics committees in reviewing cases, and communication approaches. It considered the role of the committee in meeting its statutory requirements and its wider role/interest in ethics and the culture of the organisation to promote standards.

There was much discussion in the workshop about the role and remit of standards and ethics committees, and whether those that were named 'standards committees' had a more restricted remit than those whose role explicitly includes ethics as well; and to what extent committees should be proactive rather than simply reactive. It was noted that some councils have added matters such as oversight of whistleblowing arrangements to the statutory functions of their standards committees, as permitted by law. The rationale for this approach being that whistleblowing is a report made in the public interest, which may raise ethical issues

and impact on public perception. Other councils have adopted different arrangements, regarding whistleblowing as purely an employment matter, and others report to Scrutiny or Audit Committees.

It was acknowledged that effective whistleblowing arrangements provide protection for Council workers as well as for the organisation. However, some organisations may be struggling with getting to grips with their whistleblowing procedures; and the culture and attitudes within those organisations need to be brought into line with the Nolan principles.

The importance of leadership, culture, and staff ownership, as well as clear procedures and training were emphasised and it was generally agreed that an alternative to line management both inside and outside the organisation should be available. Some participants suggested that whistleblowing should be handled outside of local authorities to promote objectivity, and that this should be pursued nationally, involving the Public Service Ombudsman.

3. Community Councils – Governance and Standards - Iwan Evans, Monitoring Officer, Gwynedd Council and Lyn Cadwallader, Chief Executive, One Voice Wales.

This workshop looked at the proposed new Welsh Government tests of competency; democracy, capability, capacity and governance. The practical implications of those tests were considered. This reflected on the significant variation in terms of population and resource and staff capacity which existed across the sector in Wales. There was a perception that the achievement of these thresholds would present different challenges to different authorities.

Developing from that discussion the role of partnerships and joint working as a vehicle for developing capacity was discussed and the discussion highlighted examples of joint arrangements which were already effective or being developed. The discussion also reflected the fact that where joint arrangements were being developed issues of governance and accountability were being encountered and responses and solutions being found.

The discussions also drew us to the current financial challenges and the role Community Councils might have in participating or providing services in lieu of or with the County Councils. There were concerns about the speed of the changes taking place and the ability of Community Councils to respond particularly if this involved changes to the precept. There was a clear feeling that dialogue was needed around expectations and capacity.

The groups also considered issues around governance and the Code of Conduct. A discussion theme which came out was around the experience of some Councils around difficult members and the impact they could have on the transaction of

business. Local resolution processes at a Community Council level could be considered but there needed to be an acknowledgment that they were mostly small organisations trying to deal with these issues.

4. Local Complaints Resolution – Practicalities - Mel Jehu MBE, Chair of Rhondda Cynon Taf County Borough Council Standards and Ethics Committee and Paul Lucas, Director of Legal and Democratic Services, Rhondda Cynon Taf County Borough Council.

The workshop reviewed the experience of RCT Standards Committee in implementing a Local Resolution Procedure for low level Member on Member complaints.

It was noted that the introduction of the Protocol had led to an improvement in Member's behaviour: No new cases had been received since April 2013. The importance of firm action from Standards Committee Members in dealing with hearings and complaints under the Local Protocol was stressed. A key outcome was a better understanding of what could be considered a legitimate complaint and where to draw the threshold level of the cut and thrust of political debate.

There was much discussion in the workshop about the possible extension of a local resolution procedure to town and community councils.

A key issue was the lack of sanction (other than censure) to deal with persistent low level behaviour from Members who refused to engage with the local resolution process. The inherent powers of a Council to regulate behaviour as set out in the 2001 case of R v Broadland District Council ex parte. Lansley was also discussed in this context.

Finally, it was noted that the Local Government (Wales) Bill was likely to expand the role of Standards Committees to regulate the performance of Members i.e. attendance at meetings and training.

5. Are the Nolan Principles fit for purpose in the current climate and for the next 20 years? - Nick Bennett, Public Services Ombudsman and Delyth Jones, Monitoring Officer, Conwy County Borough Council.

This workshop continued the discussion from the morning session.

Common themes at the conference

There are multiple leaders who act on ethics in an organisation. These include the Leader of the council and other party group leaders, party whips, the chief executive, monitoring officer and the standards committee. They *all* have a role to play in trying to improve the ethical culture of councils. The Code of Conduct is an important backstop, but it is important for the leaders to work informally by setting an example for others to follow and working closely with individuals (in party groups especially).

When unethical behaviour does occur, conference attendees raised concerns about the type of sanctions available (their severity), how these were applied and the 'power' of censure as a sanction. Linked to this point, councils were keen to hear the different ways in which councils have successfully dealt with 'rogue' individuals.

There was also discussion on the role of Standard and Ethics Committees after the Calver judgement which has raised the threshold of what is regarded as being unethical conduct of councillors. A number of questions were posed:

- Should committees be more assertive in drawing their own line of what is not acceptable behaviour?
- Should committees be more proactive in 'looking for work' in trying to improve the ethical culture of organisations?
- At what point do Standards and Ethics Committees risk losing our independence?

Ultimately, prevention is better than cure and training is therefore crucial in disseminating the various messages of ethical behaviour. There was discussion on whether training could be made available in different formats to suit the learning styles of councillors and whether training could be made mandatory. What other methods, beyond training, are available to promote good conduct between councillors?

The conference featured interesting debates on Community and Town Councils. Given the possibility that C&TCs will be given more responsibilities, there was a concern that the support they receive on ethical issues varies across principal councils. More thought needs to be given to ensuring that C&TCs are kept fully in the loop and properly supported. The conference heard that clerks seemed to have little recourse when treated inappropriately by members, especially since the Calver case which suggested that politicians are entitled to be robust in a political context.

Three-quarters of complaints to the Public Service Ombudsman are closed after initial consideration. It is important, therefore, that councillors understand this and that the exercise of examining complaints locally and by the Ombudsman is costly and using scarce resources.

The behaviour of the large majority of councillors is high and instances of corruption in Welsh local government are rare. More should be done to share this fact proactively, although there are concerns that the media may not be interested in a 'good news' story such as this.

Good practice examples

It is important to have regular events, such as this conference, to share 'good practice' between local councils. Examples included:

- Cardiff Council requires all councillors to annually sign the 'Cardiff Undertaking' which reinforces the Members' Code of Conduct and forms part of the ethical code binding upon all Cardiff County Councillors.
- Chairs of Standards and Ethics Committees in North Wales meet on a regular basis to share knowledge, but this doesn't happen in South Wales.
- Members of Ceredigion's Standards Committee have visited all Community Councils in their area.
- Councils have different ways of conducting local resolutions. In RCT, the whole council is involved rather than just three Independent members in Cardiff. Which process is working better and why?
- There is variety in the extent of training conducted for members of Committees. RCT use structured role-play in their training of members and this has received positive feedback.
- There is a wide variety in the number of complaints resolved locally across Wales. There have been no cases in RCT since March 2013.

December 2015

