

## **STANDARDS COMMITTEE**

Minutes of a meeting of the Standards Committee held in Conference Room 1a, County Hall, Ruthin on Friday, 2 December 2016 at 10.00 am.

### **PRESENT**

Independent Members Julia Hughes, Anne Mellor, Ian Trigger (Chair) and Paula White together with Councillor David Jones

### **ALSO PRESENT**

Monitoring Officer (GW) and Committee Administrators (KEJ & SJ)

### **REVEREND WAYNE ROBERTS - TRIBUTE**

Members referred to the sad loss of Reverend Wayne Roberts, former member of the Standards Committee, who had recently passed away in tragic circumstances. Tribute was paid to Reverend Roberts both in terms of his contribution to meetings during his membership on the committee and his work in the wider community.

#### **1 APOLOGIES**

Councillor Barry Mellor

#### **2 DECLARATION OF INTERESTS**

No declarations of personal or prejudicial interest had been raised.

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

No urgent matters had been raised.

#### **4 MINUTES OF THE LAST MEETING**

The minutes of Standards Committee held on 16 September 2016 were submitted.

#### **Matters Arising –**

Page 9 – Item No. 6: Public Services Ombudsman for Wales (PSOW) Annual Report 2015/16 – In response to a question from the Chair regarding how people contacted the PSOW the Monitoring Officer explained that the Council's website contained information regarding complaints and provided the necessary links and contact details to enable members of the public to lodge a complaint as appropriate. The differences between the standards regime in England was also highlighted.

Page 10 – Item No. 7: PSOW – Code of Conduct Casebook – The Monitoring Officer confirmed he had written to all City, Town and Community Councils that week explaining the importance of declaring personal and prejudicial interests.

Page 10 – Item No. 8: Attendance at Meetings – The committee had agreed that a list of all City, Town and Community Councils visited over the last three years be compiled and circulated to members. The Monitoring Officer apologised for the delay and confirmed he would arrange for the list to be compiled and sent out as soon as possible. **[GW to action]**

**RESOLVED** that the minutes of the meeting held on 16 September 2016 be received and approved as a correct record.

[At this point it was agreed to vary the agenda order and consider the Standards Committee Forward Work Programme near the end.]

## **5 NORTH WALES STANDARDS COMMITTEE FORUM**

The Chair introduced the item advising of his attendance, with the Monitoring Officer, at the North Wales Standards Committee Forum held on 17 October 2016 in Llangefni. Following that meeting he had received an email from the Chair of Ceredigion Standards Committee regarding the potential for other mid Wales authorities to join the Forum. The Chair had agreed to raise the matter at the next Forum meeting to consider whether membership of the Forum could be extended beyond North Wales to accommodate those interested in joining.

The Monitoring Officer (MO) submitted the report (previously circulated) informing the committee of the matters discussed at the meeting of the Forum held on 17 October 2016 which was also attended by the Public Services Ombudsman for Wales (PSOW) who gave a presentation and answered questions, details of which had been attached to the report. [The minutes of the Forum meeting had been made available that week and were circulated at the meeting].

In presenting the report the MO drew attention to the following –

- the PSOW reiterated his support for the local resolution of complaints made by elected members about each other and believed it would be useful to extend the process to Town, City and Community Councils but it would be a matter for local standards committees to consider
- the PSOW welcomed the decrease in the number of complaints received in respect of county councillors across Wales but there had been an increase in the number of complaints relating to town and community councillors (three town and community councils having accounted for 50 of those complaints)
- it was pointed out by the PSOW that most complaints were closed after initial consideration and that numbers referred to Standards Committees or the Adjudication Panel for Wales were very low which was cause for celebration. He also reflected on the operation of his public interest test and factors to be taken into account when applying that test which he did not consider had a significant impact on that outcome

- the management of resources remained an important issue for the Ombudsman who advised of an increase in complaints from the health sector with 75% of resources currently being used for consideration of health complaints – in that context he would not use his powers to investigate low level complaints in respect of elected members but would only deal with the most serious breaches including abuse of power, bullying and corruption
- following the Ombudsman's item the Forum considered its future operation and agreed it remained a useful tool for learning and sharing of practice. It was decided that the Forum would meet twice each year at a different authority in rotation and be chaired and administered by the hosting authority with the MO of the host authority in attendance. Denbighshire would host the next meeting in March/April 2017
- the Forum also considered an issue regarding the bilingual completion of the register of interests by members and it was agreed that each authority would check the situation in their own authorities. There was also a discussion on the availability of mediation training for standards committee members who may be involved in local resolution procedures. The MO was making further enquires in that regard with HR colleagues across North Wales given that a collaborative approach to training would help minimise costs.

The MO also took the opportunity to elaborate upon the questions put to the PSOW and the answers given which had been included in the appendix to the report. Members' particular attention was drawn to the following –

- some questions related to the local resolution protocol and the MO reminded members of the issues raised in the draft Local Government (Wales) Bill consulted upon previously, including the suggestion that City/Town/Community Councils become larger which may have an impact on the resources they had to support this
- it was noted that not all City/Town/Community Councils were members of One Voice Wales but it was hoped that they could all use the draft model they had produced on local resolution protocols if they wished to do so
- guidance on sanction had been issued by the Adjudication Panel for Wales which standards committees might find useful and the MO agreed to try and obtain that guidance for circulation to committee members **[GW to action]**
- there was some discussion on the new SI. i.e. suspension only within current term of office and the PSOW had advised that the issue related only to a very small number of cases. The Chair pointed out that the issue was not restricted to elected members and also occurred in other sectors where individuals were sworn into office under a particular Act – once the individual no longer held that position there was no power to enforce a sanction against them
- it was clarified that if the statutory requirement for City/Town/Community Councils to have a website was not met it was not an issue to be considered under the Code but it may amount to maladministration. The PSOW did not have proactive powers and a complaint would be needed from the public for him to investigate. Councillor David Jones referred to the declaration of interest process for City/Town/Community Councils and the MO confirmed there had been some confusion in that regard and he would check whether there was a statutory requirement for them to publish a register of interests **[GW to action]**.

Denbighshire had raised two questions with the PSOW as follows –

**(1) There is a concern that the public may lose confidence in the enforcement of the Code of Conduct if they feel that legitimate complaints have been considered not worthy of investigation. Would the Ombudsman consider referring cases that he has determined not to investigate for local investigation?**

The Ombudsman felt that the public could lose confidence if trivial complaints were investigated which was also the reason behind the public interest test. Cases had been referred for local investigation in the past but take up had been low and there was some reluctance from Monitoring Officers given the demand on their resources – however the ability to refer matters still applied and could be done if deemed appropriate. One of the factors to be taken into account was evidence of similar complaints having been made previously and when asked by the Chair how long complaints were kept on file he referred to retained knowledge in the office and that moving forward he would ensure that they kept a good feel for what was happening.

The Chair did not consider that to be a satisfactory response given that there appeared to be no robust system for retaining low level complaints with reliance on the knowledge of individual staff meaning valuable information could be lost following staffing changes. The MO referred to the forthcoming General Data Protection Regulations and provided an overview of the changes in a number of provisions within the Data Protection Act including ‘the right to be forgotten’ in particular cases with legislation around how long particular information about an individual could be retained which would also have an impact.

**(2) Does the Ombudsman consider that the setting of minimum standards and mandatory training for Clerks to Town, City and Community Councils would assist in the maintenance of high standards of conduct and the operation of Local Resolution Procedures in those Councils?**

The Ombudsman felt this would be highly beneficial but he was not something he could resource. However he would support by attending conferences and promoting the issues.

The Chair highlighted the prevailing theme from the PSOW was on local resolution. While there was some sympathy for the Ombudsman in managing the pressure on his resources the result was a greater emphasis on local resolution and the Chair stressed the importance of standards committees being in a position to contribute to that process where possible.

In responding to the emphasis on local resolution and given the potential impact arising from the latest draft Local Government (Wales) Bill (due out for consultation in early 2017) members agreed the following actions suggested by the MO –

- consideration be given as to what practical actions could be undertaken in Denbighshire with regard to the local resolution process for City/Town/Community Councils – this should include training, the level of engagement between local councils and the role of the standards committee in

that regard. Given that the PSOW had welcomed the draft model template for local resolution protocols produced by One Voice Wales it was felt that model could also help inform the process. The MO was attending a meeting with Clerks of some of the largest town/community councils the following week and would gauge opinion on the appetite for the process. It was agreed that the committee would receive a report back on that work at their meeting in March

- the draft Local Government (Wales) Bill would likely include reform which would impact on both county and city/town/community councils. Members were reminded of the proposals arising from the previous draft Bill, including suggestions of minimum standards for councils and councillors reportable to standards committees. Given the potential reform issues and impact on standards committees as a result of proposals in the new draft Bill the committee agreed to receive a report back in March (providing the draft Bill had been published in time and consultation timescales were sufficient – it was accepted that a special meeting may need to be convened if necessary).

The Chair thanked the MO for his comprehensive report and bringing the most pertinent issues to the committee's attention.

**RESOLVED** that –

- (a) *the report on the matters discussed at the last meeting of the North Wales Standards Committee Forum be received and noted;*
- (b) *a report on a local resolution process for City, Town and Community Councils be submitted to the committee in March 2017 [GW to action], and*
- (c) *a report on the draft Local Government (Wales) Bill be submitted to the committee in March 2017 (timescales permitting) [GW to action].*

At this juncture (11.10 a.m.) the meeting adjourned for a refreshment break.

## **6 SELF-REGULATORY PROTOCOL**

The Monitoring Officer (MO) submitted a report (previously circulated) regarding the potential to include complaints by council officers about the conduct of elected members in the Council's Self-Regulatory Protocol as requested by the committee. A copy of the Self-Regulatory Protocol together with Protocol for Member/Officer Relations had been attached as appendices to the report.

The MO explained that the PSOW was a keen advocate of local resolution procedures and whilst the Members' Self-Regulatory Protocol usually dealt with local resolution of member complaints against other members, for officer complaints against members formal recourse had been via complaint to the Ombudsman. In reality an informal process was usually undertaken involving the relevant Head of Service and Monitoring Officer to reach a satisfactory resolution and those mechanisms had also been included in the Protocol for Member/Officer Relations in terms of how breaches should be dealt with together with reference to more formal procedures that could lead to the Standards Committee. However the

corresponding changes to the Members' Self-Regulatory Protocol to include reference to local resolution processes for officer complaints against members had not been made due to the development of local resolution being in its infancy at the time. Reference was also made to research conducted with other authorities which suggested a mixed picture in respect of the use of such procedures for issues raised by officers. The MO provided a number of examples to illustrate how complaints made by officers and members against members could be resolved.

During debate the need for more formalised mechanisms in the Self-Regulatory Protocol for officer complaints was highlighted together with the need for flexibility. Members felt that an emphasis on informal resolution in the first instance would be the best approach with formal hearing as a last resort. It was agreed that the MO review the protocol on that basis taking into account best practice from other authorities and models used, including the One Voice Wales template. The Chair also felt it would be a matter for the North Wales Standards Committee Forum to consider in order to solicit views and share local resolution procedure. The MO agreed there may be merit in having a North Wales protocol transferable to City/Town/Community Councils. It was agreed to receive a report back to the committee thereon in March.

***RESOLVED*** that the Monitoring Officer undertake a review the Self-Regulatory Protocol and report back to the committee thereon in March 2017 **[GW to action]**.

## **7 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT CASEBOOK ISSUE 10**

The Monitoring Officer (MO) submitted a report (previously circulated) informing members of the most recent edition of the Ombudsman's Code of Conduct Casebook covering the period July to September 2016 (Appendix 1 to the report).

The Casebook was produced on a quarterly basis and summarised the code of conduct complaints the Ombudsman had finished investigating during the relevant period. Of the 8 complaints reported, 2 related to the disclosure of interests, 2 to objectivity and propriety, and 1 each in respect of accountability and openness, duty to uphold the law, equality and respect, and selflessness and stewardship. Of the 8 investigations conducted, 4 cases resulted in a finding that there was no evidence of breach, 3 found that although there may have been a breach no action was necessary (it had not been considered in the public interest to pursue those matters further), and 1 was referred to the standards committee. No cases had been referred directly to the Adjudication Panel for Wales and none related to any elected member of any council in Denbighshire.

Members noted that the report provided an indication of the types of complaints investigated by the Ombudsman. The Chair drew attention to the case referred to the standards committee which involved a member failing to make an appropriate declaration of interest and having been improperly involved in discussions at a planning committee meeting. The standards committee found that the councillor was in breach of the code of conduct and imposed a 2 month suspension. The councillor appealed to the Adjudication Panel for Wales who agreed there had been

a breach and increased the suspension period to 3 months. It was important to remember that the outcome of an appeal could also result in a harsher sanction.

**RESOLVED** that the information contained within the Code of Conduct Casebook be noted.

## **8 ATTENDANCE AT MEETINGS**

Members had previously requested a list of City/Town/Community Councils which had been visited over the past three years. Independent Member Julia Hughes suggested it would also be useful for that list to identify where local clerks had changed over the last twelve months and those councils which had not been subject to a visit over recent times which could be taken into account by standards committee members when planning their visits **[GW to action]**.

Councillor David Jones reported upon the annual liaison meeting between representatives of the County Council and City/Town/Community Councils which was held on 16 November 2016 in County Hall, Ruthin. He gave an overview of topics discussed which included the council elections in May 2017; community resilience, county vision and a question and answer session. He also referred to a workshop session on clerks succession planning and highlighted concerns raised about the pressures placed on local councils arising from the financial audit process. Councillor Jones advised that the matter would be taken up by the Society of Local Council Clerks. Whilst not a matter for the standards committee the Chair was saddened to hear of the problem and hoped the matter could be resolved. The MO advised that there may also be implications arising from the forthcoming Local Government (Wales) Bill for local councils in that regard.

**RESOLVED** that the verbal report be received and noted.

## **9 STANDARDS COMMITTEE FORWARD WORK PROGRAMME**

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

- Local Resolution Process for City/Town/Community Councils – March
- Review of the Council's Self-Regulatory Protocol (linked to above item) – March
- Draft Local Government (Wales) Bill – March
- PSOW Code of Conduct Casebook – be included as a standing agenda item

The MO clarified that the 'Training' programmed for March involved the training produced by the Welsh Local Government Association on ethical issues for new councillors following elections in May 2017 together with any other training offered to new members as part of their induction which was under the remit of the standards committee.

Members agreed that the work programme be featured near the end of the agenda in future for ease of reference in recording items agreed during the meeting.

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

## **10 DATE OF NEXT MEETING**

Members noted the Standards Committee's next meeting had been scheduled for 10.00 a.m. on Friday 10 March 2016 in Conference Room 1a, County Hall, Ruthin.

The Chair reminded members that Denbighshire would also be hosting the North Wales Standards Committee Forum in March/April 2017.

## **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 of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.*

## **11 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 since 1 April 2014. 13 cases had not been pursued, 2 cases had been discontinued, and 3 cases had not been investigated.

The MO provided an update on the one on-going complaint. In response to questions the MO also provided some context and reasoning behind the number of complaints attributed to one local council in particular.

***RESOLVED** that the report be received and noted.*

The Chair thanked all members for their attendance and contributions and the Monitoring Officer for his guidance.

The meeting concluded at 12.20 p.m.