

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Conference Room 1a, County Hall, Ruthin on Friday, 22 February 2013 at 10.00 am.

PRESENT

Independent Members Ms Margaret Medley, Rev Wayne Roberts, Mr Ian Trigger (Chair) and Mrs Paula White, Community Councillor David Jones, and County Councillors Bill Cowie and Colin Hughes

Councillor Martyn Holland attended as an observer

ALSO PRESENT

Monitoring Officer (GW), Deputy Monitoring Officer (LJ) and Democratic Services Officer (RH)

1 APOLOGIES

No apologies were submitted

2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest were raised

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters were raised

4 MINUTES OF THE LAST MEETING

The minutes of the Standards Committee meeting held on Friday 22nd February 2013 were submitted.

Councillor David Jones pointed out that his comments in the discussion of Item 6 – Code of Conduct Training had related specifically to the training offered by One Voice Wales on finance and governance.

In a development from the previous meeting's discussion of Item 7 – North Wales Standards Committees Forum, the Monitoring Officer (MO) had been informed that the restriction on the number of places available at the Standards Conference Wales 2013 had been removed and that any member of the Standards Committee interested in attending would be able to. Councillor David Jones, Rev Wayne Roberts, Mr Ian Trigger and Mrs Paula White had previously confirmed their intention to attend the conference, and Councillor Colin Hughes said that he would inform the MO if he was also able to be in attendance.

The MO took this opportunity to notify the committee that the judicial proceedings to appoint Paul Penlington to the Council had been resolved, and that Councillor Penlington had been formally confirmed in post on 19th February. The MO was working with Councillor Penlington to ensure he would be fully trained to undertake his duties as an elected member, including training in the Code of Conduct.

RESOLVED that, subject to the above amendments, the minutes of the meeting held on 22nd February were accepted as a true and accurate record

5 ATTENDANCE AT MEETINGS

Councillor David Jones noted that he had recently attended a meeting of the Llandegla Community Council. The meeting had been well prepared, with a good agenda and a structured debate. Seven of the nine members of the Community Council had been in attendance, and a member of the public had also been present. Overall, Councillor Jones had no issues with how the Community Council conducted its business and the meeting seemed to be very well run.

Ms Margaret Medley reported that she had attended a Full Council meeting at County Hall, Ruthin, on 5th January. A number of weaknesses were observed in regard to the pattern of debate, with some councillors seemingly under-prepared and other repeating points that had already been made. Ms Medley emphasised the importance of thorough preparation for meetings to ensure a thorough but focused debate. The MO recognised Ms Medley's concerns but added that the issues discussed at the meeting concerning the Council's budget setting and the NHS Review were particularly contentious, with many councillors present wishing to speak. The Chair of the Council had been considered to have managed the meeting well in the circumstances and had been commended at the end of the meeting. The MO stated that there was no specific training on preparing for meetings, but that members had received training in financial matters and budget setting prior to the meeting, and the apparent lack of preparation was attributable in part to late changes delaying the availability of some of the reports.

The MO noted that the Welsh Government had developed proposals for Councils to broadcast public meetings and, although this was not mandatory, Denbighshire would be exploring the potential for broadcasting meetings. Some councils in Wales had already piloted this with mixed results.

RESOLVED that the feedback from members of the Standards Committee who had recently attended town, community and county council meetings was noted

6 TRAINING FOR CHAIRS AND VICE CHAIRS OF TOWN AND COMMUNITY COUNCILS

The Deputy Monitoring Officer (DMO) introduced a report which gave details of the proposed arrangements for the chairing skills training that would be offered to the Chairs and Vice-Chairs of Town and Community Councils on 16th May at County Hall, Ruthin. An external trainer recommended by the Welsh Local Government Association, Julia Wright, would deliver the training, which would focus on building

discussions and anticipating problems to work towards effective decision making. It was expected that developing chairing skills would promote the improvement of conduct and ethical standards, and contribute to the lawful discharge of local democratic functions.

Due to the anticipated demand, attendance would be limited to two places per council at a fee of £30 per head, which would allow the current or prospective Chairs and Vice-Chairs to attend. The Chair of the Standards Committee indicated his interest in attending the training but Rev Wayne Roberts would be unable to attend.

RESOLVED that

- i. members of the Standards Committee note the arrangements for delivering the chairing skills training; and*
- ii. the Chair of the Standards Committee would attend the training event*

7 MINISTERIAL LETTER REGARDING THE ETHICAL FRAMEWORK

The MO delivered a report which presented a letter from the Minister for Local Government and Communities on the Local Government Ethical Framework, and gave an overview of the letter's content and its significance for the Council. The letter referred to a number of issues covered in the 'Promoting Local Democracy' White Paper and offered an update and further guidance on the implementation of the White Paper's provisions. The Committee discussed these issues and agreed on a response that would be submitted to the Minister.

Local resolution of low-level complaints against members' conduct

The Minister had endorsed the recommendation of the Public Services Ombudsman for Wales for local authorities to adopt a resolution process for low-level member complaints, and authorities had been asked to make arrangements for the voluntary adoption of a common protocol. The MO confirmed that the Council had adopted the protocol and expressed his support for the quicker, more efficient new process for investigating issues that would not otherwise merit the attention of the Ombudsman. The MO envisioned a mediation process involving political group leaders, with an option to escalate complaints to the Standards Committee as necessary. This would be trialled with the County Council before being extended to Town and Community Councils. The Committee were advised any complaints from the public would still need to go to the Ombudsman.

The Committee acknowledged the need for a process for resolving low-level complaints, and the importance of the role of the Committee in this process. The Chair asked how the level of complaints would be delineated to determine referral, and the MO suggested that the process was intended to address minor complaints such as allegations of disrespect between members. The MO would consult with the Ombudsman to establish precedent in how specific cases had been handled in the past, which would inform the referral process.

The Committee agreed to respond to confirm their support for the local resolution process and to detail the arrangements in place.

Voluntary cap on indemnities

The White Paper had recommended the introduction of a voluntary cap of £20,000 offered by local authorities as an indemnity to cover legal costs incurred by members subject to misconduct proceedings. The MO explained that the procedure in Denbighshire required an application for an indemnity to be submitted to the Corporate Governance Committee, but that there were no restrictions in place to limit the sums that could be paid. The MO emphasised the importance of members being able to defend themselves against Code of Conduct allegations, but noted the Welsh Government's concern at the potential for legal costs to spiral. The Council would be obliged to recoup any money paid under the indemnity if a censure is upheld, and the Council would have no flexibility in exercising this.

The Ombudsman had indicated that he would be prepared to agree to a mutual cap on legal costs, and the Committee agreed that, as the cap would apply equally, this would probably be considered proportionate under Article 6 of the European Convention on Human Rights, which protected the right to a fair trial. It was, however, agreed to seek to clarification from the Minister.

The Committee noted that although the cap on indemnities allowed for a generous sum to be allocated, it was considered to be important that members were offered support to exercise their role, which sometimes involved speaking on contentious subjects with the inherent risk of censure.

The Committee agreed to support the introduction of a cap on indemnities payable to members in respect of legal costs, to be placed at £20,000.

Amendment of Code of Conduct

The Minister indicated his intention to amend the Code of Conduct to remove paragraph 6(1)(c) – the obligation to report any breaches of the Code of Conduct to the Ombudsman – which would facilitate the introduction of the local resolution process for low-level member complaints. Accordingly, if members reported a breach of the Code of Conduct through the new process, the Code of the Conduct itself would no longer be considered to have been breached in respect of failure to report directly to the Ombudsman.

Paragraph 10(2)(b) – the obligation for members to declare a personal interest in a decision that might affect their constituents – would also be removed. The literal interpretation of the paragraph would inhibit the representative role of an elected member, and the Minister considered that even without this paragraph, the Code of Conduct made specific provision for members to take decisions objectively.

The Committee agreed to support these amendments to the Code of Conduct.

Calver Judgement

The Minister advised that the Ombudsman had revised his guidance to take account of the judgement in *R (Calver) v The Adjudication Panel for Wales*. The MO had delivered a presentation on the impact of the case when the Standards Committee met in December.

Vexatious Complaints

The Minister had requested that arrangements were made to make members aware of the problem of vexatious, malicious and frivolous complains as part of their training. The training delivered to County, Town and Community Councils had made provision for this.

Social Media

The Minister drew attention to the Ombudsman's guidance on the use of social media and the potential issues that can be caused. The MO said that members would be expected to conduct themselves as they would in exercising their duties when using social media, and the Committee acknowledged both the advantages and disadvantages of using social media.

Register of Interests

The MO explained that the Local Government Act 2000 required a register of members' interests (such as employment, properties, memberships, companies) to be kept. The Deputy Monitoring Officer (DMO) said that a register was maintained but that the ICT department were looking in to a way of publishing this through the Council's website. The Council occasionally receives Freedom of Information requests, so this would improve access to the public and make the process more efficient. The DMO stated that members would be informed of requests made under the Freedom of Information Act 2000 if the information related to them specifically, but not if the information was already in the public domain. The MO added that members would still be required to declare any interests as appropriate at Council meetings.

The MO agreed to summarise the discussion and seek comments from the Chair, before submitting this as a formal response to the Minister's letter.

RESOLVED that the Committee

- i. Supported the Minister's recommendations in respect of the local resolution framework, the voluntary cap on indemnities and the amendments to the Code of Conduct; and*
- ii. Agreed that the Monitoring Officer would respond to the Minister's letter to advise of the Committee's support, and give an update of the Council's progress in implementing the provisions of the White Paper.*

It was noted that the next meeting of the Standards Committee was scheduled for 12th April 2013. The Standards Conference Wales 2013 would be held in Llandudno on 19th April.

9 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000

The MO introduced a confidential report, circulated prior to the meeting, which provided an overview of complaints made against members lodged with the Public Services Ombudsman for Wales since 1st April 2012.

The MO advised that a case involving a member failing to disclose a personal interest in a business item had been postponed pending the outcome of an unrelated court case involving the member. This had now been resolved and the MO would bring a report on the case to the next meeting.

Another case concerning a complaint of a lack of respect and consideration shown involved an individual who was no longer a councillor. The MO stated that he would bring a full report on the circumstances of the case to the next meeting.

RESOLVED that report be received and noted

The Chair thanked the members of the committee and the officers present for their contribution and attendance at the meeting.

The meeting concluded at 11.25 a.m.