

MEETING	STANDARDS COMMITTEE
DATE	13, April, 2010.
SUBJECT	RECENT DEVELOPMENTS IN THE FIELD.
AUTHOR	DILYS PHILLIPS, MONITORING OFFICER.

Paragraph 10(2)(b) - Members Code of Conduct.

1. Paragraph 10(2)(b) of the Code of Conduct states as follows :-

“You must regard yourself as having a personal interest in any business of your authority if a member of the public might reasonably perceive a conflict between your role in taking a decision upon that business on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division.”

2. The above paragraph has caused problems of interpretation ever since it was included in the Code in 2008. Members may recall that it was discussed at the Standards Conference in Aberystwyth in September of that year when the conclusion was reached that the intention of the paragraph was to ensure that members of the cabinet, in taking decisions under delegated powers did not do so in order to favour matters within their own wards.
3. Subsequently a complaint was made in relation to a planning matter against a member from Ceredigion Council, and after the Ombudsman had published a report, the complaint was sent to the Adjudication Panel for Wales for consideration. The Panel’s full decision was published on the 18th March. It is clear from the decision that the Adjudication Panel decided that the paragraph is not restricted to members of the cabinet exercising delegated powers, but is also relevant to the position of a local member on a Planning Committee.
4. Briefly, in the Ceredigion case the councillor had declared in his manifesto that he would oppose development on a particular site and he had made comments to the press regarding the matter. When the matter came before the Planning Committee the Councillor voted against the development.
5. The Adjudication Panel decided that this was contrary to paragraph 10(2)(b) of the Code because a member of the public could perceive conflict between the councillor’s role as local member and his role in making a decision on behalf of the authority. Specifically the public could have come to the reasonable conclusion that he voted against the planning

application because he was influenced more by matters within his ward than by the interests of the Council as a whole.

6. This decision has far reaching implications for the role of local member and the interpretation of the Code of Conduct. It revives uncertainty regarding the circumstances in which local members will be prevented from voting on matters within their wards.
7. As a consequence the society which represents monitoring officers has written to the Welsh Assembly Government asking them to review this paragraph of the Code. It is understood that the Ombudsman will issue specific guidance on this paragraph and the society has pressed upon him the need for early publication of this so that members and officers can have some certainty in interpreting the Code.

Standards Conference 2011.

8. Confirmation has been received that the conference will be held this year in Llandrindod on the 5th October. The draft programme includes presentations from a panel in the morning followed by a workshop to consider the Code of Conduct before lunch and a mock hearing after lunch. The organisers of the conference would be glad to receive any other suggestions along with offers of assistance for the mock hearing.

Paragraph 8(a) of the Members Code of Conduct.

9. This paragraph of the Code says (inter-alia) that members must when reaching decisions have regard to any relevant advice provided by statutory officers. A question arose in a case which the Ombudsman was investigating in Swansea Council regarding what constituted relevant advice and specifically whether if an element of the advice was incorrect, would it mean that the advice was not relevant.
10. As a result of the Ombudsman's decision to discontinue his investigation in that case, the society which represents monitoring officers in Wales has taken counsel's opinion on how this paragraph should be interpreted in relation to having regard to officer's advice. I shall provide a full report on this to the next meeting of the Committee.

Recommendation.

11. The Committee is asked to note the recent developments and to offer any observations.