



Complete Agenda

Democratic Service
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Meeting

STANDARDS COMMITTEE

Date and Time

11.00 am, MONDAY, 25TH JANUARY, 2016

Location

Ystafell Gwyrfai, Council Offices, Caernarfon, Gwynedd. LL55 1SH

Contact Point

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(DISTRIBUTED 15/01/16)

STANDARDS COMMITTEE

Membership

Elected Members (3)

Councillors

Lesley Day
Eryl Jones-Williams
Michael Sol Owen

Independent Members (with a vote) (5)

Margaret E. Jones
Jacqueline Hughes
David Wareing
Einir Young
[*vacant seat*]

Community Committee Member (with a vote) (1)

David Clay

A G E N D A

1. APOLOGIES

To receive any apologies for absence.

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. URGENT ITEMS

To note any items that are a matter of urgency in the view of the Chairman for consideration.

4. MINUTES

1 - 4

The Chairman shall propose that the minutes of the previous meeting of this committee held on 5th October, 2015 be signed as a true record (attached).

5. LOCAL GOVERNMENT BILL (WALES) 2015 PART 4

5 - 15

To consider the report of the Monitoring Officer (attached).

6. ALLEGATIONS AGAINST MEMBERS

16 - 17

To consider the report of the Monitoring Officer (attached).

7. WALES STANDARDS CONFERENCE 2015

18 - 25

To consider the report of the Monitoring Officer (attached).

8. OBSERVING MEETINGS

To receive feedback from the independent members following observation of Gwynedd Council / town and community council meetings.

STANDARDS COMMITTEE 5/10/15

Present:

Elected Members: Councillors Eryl Jones-Williams and Michael Sol Owen.

Independent Members: Ms Jacqueline Hughes, Miss Margaret E.Jones, Mr David Wareing and Dr Einir Young (Chair).

Community Committee Member: Mr David Clay.

Also Present: Iwan Evans (Monitoring Officer), Siôn Huws (Senior Solicitor), Dewi Morgan (Senior Manager – Revenue and Risk) and Eirian Roberts (Members Support and Scrutiny Officer).

Apology: Councillor Lesley Day.

1. DECLARATION OF PERSONAL INTEREST

No declarations of interest were received from any members present.

2. MINUTES

The Chair signed the minutes of the previous meeting of this committee held on 29 June, 2015 as a true record.

3. THE COMMITTEE'S MEMBERSHIP

With sadness, the Monitoring Officer noted that medical confirmation was awaited regarding Linda Byrne's situation and that it therefore appeared that there would be an empty seat on the committee. He would make a statement and arrange for that to be formalised in the coming weeks and he would advertise for a new independent member on the committee in due course.

4. APPLICATIONS FOR DISPENSATION

Submitted – the report of the Monitoring Officer requesting that the committee considered and made a decision on two applications for dispensation from members of Bethesda Community Council in relation to discussions regarding the transfer of local halls from the ownership of Gwynedd Council to the ownership of the Community Council (or other community body).

Details were given on the applications individually, namely:-

- An application from Councillor Godfrey Northam, who was the Committee Chairman of Canolfan Rachub and a member of the Committee of Canolfan Cefnfaes, for permission to speak only when the matter would be discussed.

- An application from Councillor Walter Watkin Williams, who was a member of the Committee of Canolfan Cefnfaes, for permission to speak and vote when the matter would be discussed.

The Monitoring Officer noted further:-

- That neither of the members had been appointed on the committees in question by the Community Council.
- That the Standards Committee was entitled to grant a dispensation provided that the situation fell under one (or more) of the grounds listed in the relevant regulations and that there was no reason to believe that the two applications in question did not meet the final ground on the list, namely *"the business relates to the finances or property of a voluntary organisation of whose management committee or board I am a member and I have no other interest."*
- That the fact that the applications met this ground did not mean that the dispensation would be granted automatically and the committee had to consider whether or not there was a public interest from allowing the members to participate, despite the fact that the Code of Conduct made provisions that they should not be able to do so.
- That it was unclear in both cases why these two specific members needed to speak on the matter. Councillor Northam felt that he had to participate in order to ensure that the Community Council fully understood the situation regarding the village hall; however, someone else could explain that. Councillor Northam had also noted on his form that 4 out of 13 members on the Community Council had to declare an interest in the matter; however, that would not affect quorum.
- Should these applications be approved then the committee would have to approve other similar applications in the future, and without any information regarding why the need to speak justified the granting of a dispensation, it was difficult to know what precedent was being created.

The members agreed with the observations of the Monitoring Officer and noted that the information was patchy and vague and that the committee was unaware of the exact reasons why these applications had been submitted.

It was noted further that this committee could be inundated with similar applications as many community councils were currently discussing the transfer of assets and it was suggested that it would be beneficial to prepare an advice note for the clerks that provided an outline of the expectations. The Monitoring Officer replied that a series of courses for clerks and community council members were commencing that night and that this matter could be raised there.

RESOLVED to refuse both applications for a dispensation based on the lack of information.

5. GWYNEDD COUNCIL'S GOVERNANCE FRAMEWORK

Submitted - the report of the Senior Manager - Revenue and Risk explaining:-

- How the Governance Framework had been developed;
- The procedure for reviewing the framework and reporting on the results;

- The role of the Standards Committee within the framework.

Members raised questions regarding the Integrated Well-being, Health and Social Care Act. The Senior Manager responded to those questions and explained that the new requirements introduced by the Act would be considered in the context of the Governance Framework, but that it was not expected for many new elements to be added as the Framework had been designed to encompass all Council activities.

RESOLVED to approve the report and welcome the progress in the Standards Committee's efficiency score.

6. ALLEGATIONS AGAINST MEMBERS

Submitted for information – the report of the Monitoring Officer on formal complaints made against members.

Further to the report, the Senior Solicitor noted that the Ombudsman had now decided not to investigate complaint 2.3 of Case 201503255, and therefore, he was unaware of any complaint made against Gwynedd councillors that was currently open.

RESOLVED to note the report.

7. THE OMBUDSMAN'S ANNUAL REPORT 2014/15

Submitted for information – the report of the Monitoring Officer appending a copy of those parts of the Ombudsman's Annual Report 2014-15 relevant to code of conduct complaints.

The Ombudsman's intention to take a firmer stance in future when referring back 'lowest level' complaints to monitoring officers to be dealt with locally, was welcomed.

RESOLVED to note the report.

8. OBSERVING MEETINGS

Independent members were invited to provide feedback following their experience of observing the meetings of Gwynedd Council or town/community councils.

A member noted that no list of community council meetings was available anywhere. The Senior Solicitor replied and noted that the Council had a list of the community councils' clerks and that they had to be contacted individually. It was also suggested that the members could observe the webcasts of Gwynedd Council meetings.

Miss Margaret Jones submitted feedback after she had observed a meeting of Llanystumdwy Community Council and she noted:-

- That the Community Council met in various locations, which was to be welcomed in terms of being inclusive and considerate of the entire community.

- That there was a good range of people from the community in attendance, with the age-range between 20 and 80, and that women were present.
- That the clerk was very effective, explained everything and followed everything up.
- That the meeting was organised and very comprehensive.
- That the agenda was varied, with 12 items, including one exempt item, being considered.
- That the clerk had informed members about the training provided for them by the Monitoring Officer.
- That the Community Council reported monthly to the *papur bro* and that this was a good way of raising awareness of the Community Council's activity.

Some associated matters were discussed, namely:-

- The role of a member who witnessed a breach in the Code of Conduct. The Monitoring Officer noted that a member could ask the clerk to give guidance on the matter or contact him as the Standards Committee had a duty to promote high standards of conduct in this Council and in the community and town councils. However, it was emphasised that it was a member's own responsibility to adhere to the Code.
- Public access to Council meetings. The Monitoring Officer replied noting that there was no procedure in place for the purpose of preventing public access; however, both practically and in terms of health and safety, it was not possible to have a situation where the Council's buildings were completely open.

The meeting commenced at 11.00am and concluded at 12.05pm.

MEEETING	STANDARDS COMMITTEE
DATE	25 January 2016
TITLE	DRAFT LOCAL GOVERNMENT (WALES) BILL – WELSH GOVERNMENT CONSULTATION
AUTHOR	IWAN G D EVANS, MONITORING OFFICER.

Background

1. In July 2014, the Welsh Government published the Devolution, Democracy and Delivery White Paper – Reforming Local Government, which stated the Governments' ' intention to introduce legislation to deliver local government reform. Two further White Papers were published in October 2014 and February 2015 further developing these proposals. The first Local Government (Wales) Bill was passed by the Assembly on 20 October 2015, enabling preparations to be made for the programme of local government mergers and reform.

Consultation

2. The Welsh Government is now consulting upon a second Local Government (Wales) Bill. The Bill proposes fundamental reforms to the Local Government in Wales. The key aspect of the Bill relates to the re-organisation of local authorities. However, it also contains a range of other legislative provisions relating to the governance of both County and Community Councils:

- Part 1 Local Government Areas and County Councils
- Part 2 General Power of Competence
- Part 3 Promoting Access to Local Government
- Part 4 Functions of County Councils and their Members
- Part 5 County Councils Improvement of Governance
- Part 6 Community Councils
- Part 7 Workforce Matters

The consultation is intended to provide the opportunity for comments on the proposals to be considered by the Welsh Government after the May 2016 elections. The deadline for responses is 15 February 2016.

3. Part 4 of the draft Bill proposes statutory duties upon the Members of the proposed new County Councils relating to the performance of their functions. Members would be placed under a statutory obligation to attend meetings, hold regular ward surgeries, answer correspondence, complete compulsory training courses and publish an annual report. Leaders of political groups would be required to take reasonable steps to promote and maintain high standards of conduct by Members of their group

4. Standards Committees would be given new functions to handle complaints that Councillors have breached the statutory duties imposed on them, and to monitor compliance of group leaders with the duties imposed on them and to advise on, and arrange, relevant training. Given the enhanced role of the Standards Committee, the Committee would be given a statutory duty to make an annual report to Council, describing how the Committee's functions have been discharged during the year.

5. The procedure for handing complaints about an alleged failure by a Councillor to abide by the duties imposed, is set out in Part 4 Chapter 3 of the draft Bill. The procedure requires the Monitoring Officer to refer the matter to the Chair of the Standards Committee. If the Monitoring Officer and the Chair both consider that a matter should not be investigated, no investigation may take place. If either the Monitoring Officer or the Chair considers a matter should be investigated, the Monitoring Officer must investigate it. After conducting an investigation the Monitoring Officer must provide the Standards Committee with a report of the investigation. The role of the Standards Committee and the actions it may take if a Councillor has breached a duty are prescribed.

6. Part 4 of the draft Bill is attached at the **Appendix**. Members are invited to provide comments on the provisions of Part 4 of the Bill in so far as they relate to matters within the remit of the Committee (current or proposed). Members are advised that a corporate response to the Bill is being prepared for submission to the Welsh Government.

RECOMMENDATION

Provide comments on the Part 4 of the Bill in so far as it relates to the functions of the Committee to be considered as part of the preparation of the corporate response to the Bill.

APPENDIX

Draft Local Government (Wales) Bill, Part 4

Background papers

[Consultation Documents, Draft Local Government \(Wales\) Bill](#) -

(4) In subsection (3)–

- (a) after “constitution” insert “or, as the case may be, their constitution guide”;
- (b) for the words “who requests” to the end of the subsection, substitute “on request, either free of charge or at a charge representing no more than the cost of providing the copy”.

80 Duty on county councils to publish official addresses

A county council must publish on its website, and in any other manner it considers appropriate, an official electronic and postal address for each member of the council, to which correspondence for the member may be sent.

PART 4

FUNCTIONS OF COUNTY COUNCILS AND THEIR MEMBERS

CHAPTER 1

OVERVIEW OF PART

81 Overview

In this Part–

- (a) Chapters 2 to 4 impose duties upon members of a county council which relate to their performance, and make connected provision, including for the enforcement of those duties;
- (b) Chapter 5 makes provision–
 - (i) for objectives to be set relating to the performance of an executive of a council operating executive arrangements;
 - (ii) for candidates for election as executive leader of a council to produce written manifestos;
 - (iii) for the appointment of assistants to executives where a council is operating executive arrangements;
 - (iv) for issuing guidance to elected mayors and executive leaders on equality and diversity;
- (c) Chapter 6 makes provision–
 - (i) removing the requirement for a county council to designate a head of paid service and requiring instead that a chief executive be appointed for the council, whose functions will include duties imposed under that Chapter;
 - (ii) relating to the appointment of the head of democratic services of a county council, and a council’s pay policy as it relates to that post;
- (d) Chapter 7 makes provision–
 - (i) in respect of the meetings and functions of overview and scrutiny committees;

- (ii) requiring standards committees to produce annual reports on the exercise of their functions;
- (e) Chapter 8 makes minor amendments to the 2000 Act and the Local Government (Democracy) (Wales) Act 2013 (anaw 4).

5

CHAPTER 2

DUTIES ON MEMBERS OF COUNTY COUNCILS

Performance duties

82 Members of county councils to attend meetings

- (1) A member of a county council must attend all relevant meetings.
- 10 (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) For the purposes of subsection (1), each of the following is a relevant meeting—
 - (a) a meeting of the county council of which the person is a member;
 - 15 (b) a meeting of a committee or sub-committee of the county council, if the person is a member of that committee or sub-committee;
 - (c) a meeting of any joint committee, joint board or other body of which the person is a member, if that committee, board or body is discharging any of the functions of the county council, or has been appointed to advise the council on any matter relating to the discharge of its functions;
 - 20 (d) if a county council is operating executive arrangements and the person is a member of the executive, a meeting of the executive or of a committee of the executive of which the person is a member;
 - (e) any other meeting that the person would reasonably be expected to attend in the exercise of his or her functions as a member of the county council.
- 25 (4) Subsection (1) does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.
- (5) Nothing in this section affects the operation of section 85 of the 1972 Act (vacation of office because of failure to attend meetings for six months).

83 Members of county councils to hold surgeries

- 30 (1) A member of a county council must hold a surgery at least four times in every relevant 12 month period.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) A member holds a surgery if the member makes himself or herself available for at least one hour to meet members of the public to discuss matters in private.
- 35 (4) In complying with subsection (1), the member must ensure that the location, date and time of the surgery is published on the council's website and in any other manner he or she thinks appropriate more than seven days before the day of the surgery.

(5) For the purposes of this section, a relevant 12 month period is—

- (a) the period of 12 months starting with the day on which the member assumes office as member of the council, and
- (b) each subsequent period of 12 months.

(6) For the purposes of subsection (5), any period during which a member is exercising a right to a family absence under Part 2 of the 2011 Measure is to be disregarded; accordingly, the following two periods are to be treated as consecutive—

- (a) any part of a 12 month period that falls immediately before the period of family absence, and
- (b) the period that begins immediately after the period of family absence.

84 Members of county councils to answer correspondence

- (1) A member of a county council must respond to all correspondence sent to his or her official address within 14 days of receipt.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) A member's "official address" is any address (whether postal or electronic) which is published by the council under section 80.
- (4) This section does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.

85 Members of county councils to complete training

- (1) A member of a county council must complete all compulsory training courses.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) Training is compulsory if the county council of which a person is a member has notified the person that he or she must complete it.
- (4) This section does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.

Duty to make an annual report

86 Members of county councils to make annual reports

- (1) A member of a county council must make a report—
 - (a) about his or her activities as a member of the council during the period of 12 months to which the report relates;
 - (b) setting out the results of those activities, if known to the member.
- (2) A member of a county council must submit his or her report made under subsection (1) (an "annual report") to the county council's head of democratic services in accordance with the council's standing orders made by virtue of subsection (3)(b).
- (3) A county council must specify in its standing orders—

- (a) the period to which annual reports must relate, and
 - (b) when annual reports must be submitted to the head of democratic services.
- (4) Standing orders made under subsection (3)(b) must not permit an annual report to be submitted after the end of the period of three months starting with the day of the annual meeting of the county council which follows the period to which the annual report relates.
- (5) A county council must publish the annual reports submitted by its members.

CHAPTER 3

BREACHES OF DUTIES UNDER CHAPTER 2

Possible breach of performance duties

87 Complaints about a member's non-compliance with duties

- (1) A person may make a complaint about a possible breach by a member of a county council of a duty imposed by section 82, 83, 84 or 85 to the monitoring officer of that council.
- (2) A complaint under subsection (1) must be made in writing.

88 Deciding whether to investigate possible breach of performance duties

- (1) If the monitoring officer of a county council—
- (a) receives a complaint under section 87, or
 - (b) otherwise has reason to believe that a member has breached a duty under section 82, 83, 84 or 85,
- he or she must refer the matter to the chair of the standards committee of the county council.
- (2) The monitoring officer and the chair of the standards committee must together consider whether or not the matter should be investigated.
- (3) When considering whether a matter should be investigated, the monitoring officer and the chair of the standards committee must consider—
- (a) in cases where the monitoring officer has received a complaint under section 87—
 - (i) whether the complaint is frivolous or vexatious, and
 - (ii) whether the complaint relates to the same, or substantially the same, facts as a complaint that has already been disposed of, and
 - (b) in all cases, whether it is appropriate for the matter to be investigated.
- (4) If either the monitoring officer or the chair of the standards committee consider that a matter should be investigated, the monitoring officer must investigate the matter.
- (5) If the monitoring officer and the chair of the standards committee both consider that a matter should not be investigated, no investigation may take place; and, in cases where the monitoring officer has received a complaint under section 87, the monitoring officer must as soon as practicable take reasonable steps to—
- (a) notify the person who made the complaint that the matter will not be investigated,

and

- (b) give reasons for that decision.
- (6) The monitoring officer and the chair of the standards committee may, for the purpose of deciding whether to investigate a matter, make such enquiries as they think necessary.

Possible breach of duty to make annual report

89 Deciding whether to investigate possible breach of duty to make annual report

- (1) This section applies where the head of democratic services for a county council considers that a member of the county council may have breached the duty under section 86.
- (2) The head of democratic services may –
- (a) notify the monitoring officer of the council, who may investigate the matter;
- (b) if the head of democratic services is also the monitoring officer of the council, investigate the matter (in the exercise of his or her functions as monitoring officer).
- (3) When considering whether to conduct an investigation under this section, the monitoring officer must consult the chair of the standards committee of the county council on whether it is appropriate for the matter to be investigated.

Investigations, reports and sanctions

90 Investigation by monitoring officer

- (1) This section applies if the monitoring officer of a county council investigates a matter under section 88 (possible breach of performance duties) or 89 (possible breach of duty to make annual report).
- (2) The monitoring officer must give the member who is the subject of the investigation an opportunity to respond to the matter being investigated.
- (3) The monitoring officer may –
- (a) ask any person for information relating to the matter being investigated, and
- (b) ask any person to assist him or her in conducting the investigation.

91 Monitoring officer's report

- (1) After conducting an investigation under section 88 or 89, the monitoring officer of a county council must –
- (a) provide the standards committee of the county council with a report on the investigation,
- (b) make any recommendations to the standards committee that the monitoring officer considers appropriate,
- (c) send a copy of the report, and any recommendations made, to the member of the county council who was the subject of the investigation, and
- (d) if the investigation results from a complaint under section 87, take reasonable steps to send a copy of the report, and any recommendations made, to the person who made the complaint.

- (2) The standards committee must allow the monitoring officer to appear before it for the purpose of presenting the report and any recommendations made.
- (3) The Welsh Ministers may by regulations make provision about the publicity to be given to reports and recommendations provided under this section.

5 **92 Consideration of matter by standards committee**

- (1) This section applies if the standards committee of a county council receives a report from a monitoring officer under section 91.
- (2) The standards committee must determine whether there is any evidence of a breach of the duty in question.
- 10 (3) If the standards committee determines that there is no evidence of a breach of the duty, it must—
 - (a) notify the member who is the subject of the report, and
 - (b) if the report results from a complaint under section 87, take reasonable steps to notify the person who made the complaint.
- 15 (4) If the standards committee determines that there is evidence of a breach of the duty, it must give the member who is the subject of the report written notice that he or she may make representations to the standards committee, either orally or in writing, in respect of the report.
- 20 (5) The standards committee may, for the purposes of exercising its functions under this section—
 - (a) ask the monitoring officer to attend before it for the purposes of assisting it, and
 - (b) ask any person for information, or invite any person to make representations to it.
- (6) The monitoring officer may not unreasonably refuse a request made under subsection (5).
- 25 (7) The standards committee must determine the period within which a member may make representations under subsection (4); but the period must not be less than 28 days starting with the day on which the member is given notice under that subsection.

93 Standards committee's determination

- 30 (1) After the period determined under section 92(7) for making representations has ended, the standards committee must determine whether the member who is the subject of the report under section 91 has breached the duty in question.
- (2) If the standards committee determines that the member has breached the duty, it may decide to—
 - (a) censure the member,
 - 35 (b) suspend or partially suspend the member from being a member of the county council for a period not exceeding six months, or
 - (c) take no further action.
- (3) The standards committee must—
 - (a) notify the member of its determination under this section, and of any action that will follow, and

- (b) if the report results from a complaint under section 87, take reasonable steps to notify the person who made the complaint of those matters.
- (4) The Welsh Ministers may by regulations make provision about the publicity that is to be given to any determination under this section and to any action taken against a member.
- 5 (5) The Welsh Ministers must by regulations make provision conferring rights of appeal on members of a county council against any determination of a standards committee under this section.

CHAPTER 4

FURTHER PROVISION ABOUT DUTIES ON MEMBERS

10 *Regulations and guidance relating to Chapters 2 and 3*

94 Regulations

- (1) The Welsh Ministers may by regulations make further provision about the way in which a possible breach of a duty imposed by Chapter 2 is to be dealt with.
- (2) Regulations under subsection (1) may, in particular, make provision –
- 15 (a) about matters to be taken into account in considering whether a possible breach of a duty should be investigated;
- (b) about matters to be taken into account in determining whether a member has breached a duty;
- 20 (c) enabling a monitoring officer or a standards committee to refer a possible breach of a duty, or any other matter that comes to the monitoring officer or the standards committee's attention in the course of an investigation, to the monitoring officer or the standards committee of another relevant authority;
- (d) about procedures to be followed by a monitoring officer or a standards committee;
- (e) about the disclosure of information;
- 25 (f) enabling sums to be paid to persons by way of expenses and allowances or costs;
- (g) about how appeals are to be made, considered and determined.
- (3) For the purposes of subsection (2)(c), a "relevant authority" means –
- (a) a county council;
- (b) a fire and rescue authority;
- 30 (c) a National Park authority for a National Park.

95 Guidance

A person exercising functions under Chapter 2 or 3 must have regard to any guidance issued by the Welsh Ministers.

Related amendments

35 96 Standards committee to provide training

In section 54 of the 2000 Act (functions of standards committees), before subsection (3)

insert—

“(2B) A standards committee of a county council in Wales also has the specific function of advising, training or arranging to train members of the council on matters relating to the duties imposed by sections 82 to 86 of the Local Government (Wales) Act 2017 (duties to attend meetings, hold surgeries, answer correspondence, complete training and make annual reports).”

97 Amendments to the 2011 Measure

(1) The 2011 Measure is amended as follows.

(2) Section 5 is repealed.

(3) In section 7, after subsection (1), insert—

“(1A) A local authority must—

(a) consider whether it should be compulsory for its members to complete any training under section 85 of the Local Government (Wales) Act 2017, and

(b) in exercising its functions under subsection (1), secure the provision of any training which it is compulsory for a member to attend under section 85 of that Act.”

Role of leaders of political groups on county councils

98 Duties of leaders of political groups in relation to standards of conduct

(1) The 2000 Act is amended as follows.

(2) After section 52 insert—

“52A County councils: duties of leaders of political groups in relation to standards of conduct

(1) A leader of a political group consisting of members of a county council in Wales—

(a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and

(b) must co-operate with the council’s standards committee (and any sub-committee of the committee) in the exercise of the standards committee’s functions.

(2) In complying with subsection (1), a leader of a political group must have regard to any guidance issued by the Welsh Ministers.

(3) The Welsh Ministers may by regulations make provision for the purposes of this section about the circumstances in which—

(a) members of a county council in Wales are to be treated as constituting a political group;

(b) a member of a political group is to be treated as a leader of the

group.

(4) Before making regulations under subsection (3), the Welsh Ministers must consult such persons as they consider appropriate.”

(3) In section 54 (functions of standards committees), after subsection (2) insert—

“(2A) A standards committee of a county council in Wales also has the specific functions of—

(a) monitoring compliance by leaders of political groups on the council with their duties under section 52A(1), and

(b) advising, training or arranging to train leaders of political groups on the council about matters relating to those duties.”

CHAPTER 5

EXECUTIVES OF COUNTY COUNCILS

99 Objectives to be met by council executives

In the 2000 Act, at the appropriate place insert the following section—

“15A Duty to set objectives etc. in relation to discharge of functions

(1) As soon as practicable after an elected mayor or, as the case may be, executive leader of a local authority is elected, he or she must set objectives to be met by the executive in the discharge of functions which, under executive arrangements, are the responsibility of the executive.

(2) An elected mayor or executive leader must keep objectives set under this section under review, and may revise the objectives at any time.

(3) As soon as is reasonably practicable after 31 March in each year, the elected mayor or the executive leader of a local authority must prepare a report on the extent to which objectives set under this section have been achieved.

(4) An elected mayor or executive leader must arrange for the publication of—

(a) objectives set under this section, and

(b) reports prepared under subsection (3).”

100 Manifestos: election of executive leader

(1) In paragraph 2 of Schedule 1 (leader and cabinet executives, Wales) to the 2000 Act—

(a) insert—

“(1A) The executive arrangements—

(a) must include provision requiring a candidate for election as the executive leader to prepare a written manifesto, and provision for ensuring that copies of the manifesto are made available before the election to the other members of the authority;

Agenda Item 6

Committee :	STANDARDS COMMITTEE
Date:	25 January 2016
Title	Allegations against members
Author:	Monitoring Officer
Action:	For Information

1. Background

The purpose of this report is to present information to the Committee regarding formal complaints made against members. The report is based on information received from the Ombudsman and the case references are his.

2. Complaints

2.1 Case No. 201503255

Date received: 02/09/15

Complaint

The councillor had terminated a telephone call made to the complainant in relation to an incident where damage was caused to the complainant's property.

Decision

No investigation.

Insufficient information provided to substantiate the complaint and the Ombudsman will not investigate unless there is reasonably strong evidence to suggest a breach of the code.

2.2 Case No. 2665/201504570

Date received: 18/11/15

Complaint

That the councillor's behaviour had been discriminatory and aggressive towards a local group during a meeting of the town council while discussing an application for funding for that group.

Decision

No investigation.

From the evidence available it did not appear that the matters alleged constituted a breach of the code. The councillor was entitled to ask questions and request verification of details for applicants for funding from the council as part of his duties as an elected member.

2.3 Case No. 7294/201504586

Date received: 18/11/15

Complaint

A complaint, by a fellow town councillor, that the councillor had used his camera to bully and harass him on two separate occasions and that he had abused him verbally on several occasions.

Decision

No investigation.

At the time of some of the alleged conduct, the individual was not acting as a councillor but as a private individual. The Code of Conduct only applies when a councillor is acting as a private individual in very specific circumstances, which did not appear to apply in this case. The complainant was unable to provide supporting evidence in respect of the other aspects of the complaint.

3. Recommendation

The Committee is asked to note the information.

Agenda Item 7

MEEETING	STANDARDS COMMITTEE
DATE	25 January 2016
TITLE	Wales Standards Conference 2015
AUTHOR	IWAN G D EVANS, MONITORING OFFICER.

Background

The Wales Standards Conference 2015 was held in Cardiff in October 2015 and attended by both myself and members of the Committee.

Cardiff City Council who hosted the event have prepared a report of the Conference which is attached at the Appendix .

As you will note from the report there were wide ranging presentations and workshops in relation to standards and ethics which raised a number of interesting and perhaps challenging issues. The Committee is asked to consider the report and any key issues or messages which it can draw.

RECOMMENDATION

To accept the report.

APPENDIX

Report of Wales Standards Conference 2015.

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 to 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, Head of Legal Services, 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