
STANDARDS COMMITTEE 26/06/23

Present:-

Elected Members:- Councillors Anne Lloyd Jones, Beth Lawton and Dewi Owen.

Independent Members: Mr Aled Jones, Mr Hywel Eifion Jones (Chair), Mr Mark Jones and Mr Dave Wareing.

Also in Attendance: Iwan Evans (Monitoring Officer) and Eirian Roberts (Democracy Services Officer).

1. APOLOGIES

An apology had been received from Mr Richard Parry Hughes (Community Council Member).

2. DECLARATION OF PERSONAL INTEREST

The Chair, Mr Hywel Eifion Jones, declared a personal interest in item 6 - Review of the Ethical Standards Framework for Wales - Welsh Government Consultation, as he was a lay member on the Adjudication Panel for Wales, and the Panel was referenced in the report.

He did not believe it was a prejudicial interest, and he did not withdraw from the meeting during the discussion on the item.

3. URGENT ITEMS

None to note.

4. MINUTES

The Chair signed the minutes of the previous meeting of this committee held on 13 February, 2023 along with the Special Meeting held on 18 April, 2023 as a true record, subject to the following correction:-

Minutes of the Special Meeting 18 April, 2023

Item 3 - Allegation of a Breach of the Code of Conduct referred to the Standards Committee by the Public Services Ombudsman for Wales

Correct the first sentence of paragraph 6 to read:-

"The Committee considered the written report of the Ombudsman's investigation, the further documents that were presented beforehand by the Member and the Ombudsman in line with the Committee's pre-hearing procedure, and the evidence by the Authority confirmed that no translation provision was available when the Member received the e-mails."

5. REPORT ON THE OUTCOME OF AN INVESTIGATION OF A COMPLAINT AGAINST COUNCILLOR LOUISE HUGHES OF CYNGOR GWYNEDD

Submitted – the report of the Propriety and Elections Manager detailing the outcome of the investigation of a complaint against Councillor Louise Hughes of Cyngor Gwynedd, in

accordance with the provisions of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended).

Further to the contents of the report, it was confirmed that Councillor Louise Hughes had presented a letter of apology to the complainant by now and that the suspension period had come to an end.

Referring to the Standards Committee Decision Notice (that was attached as an appendix to the report) it was noted that the first sentence of paragraph 6 needed to be corrected to read:-

"The Committee considered the written report of the Ombudsman's investigation, the further documents that were presented beforehand by the Member and the Ombudsman in line with the Committee's pre-hearing procedure, and the evidence by the Authority confirmed that no translation provision was available when the Member received the e-mails."

The Chair thanked all the members for their input on the day, and to the Propriety and Elections Manager and the Democracy Services Officer for all their work during the process of arranging and holding the hearing.

RESOLVED to approve the report on the outcome of the investigation of a complaint against Councillor Louise Hughes of Cyngor Gwynedd, noting a minor editorial amendment, to be submitted to the Monitoring Officer, Public Services Ombudsman for Wales, Councillor Hughes and the complainant in accordance with the requirements of the Regulations.

6. REVIEW OF THE ETHICAL STANDARDS FRAMEWORK FOR WALES - WELSH GOVERNMENT CONSULTATION

Submitted – the report of the Monitoring Officer inviting the committee to consider and conclude on the responses to the Consultation and the Independent Report recommendations from the Ethical Standards Framework (Richard Penn's report) to allow them to be submitted to Welsh Government.

Members, specifically, were asked for their views on the responses to the following draft responses:-

Q4. Do you support the proposed changes to the permission to appeal procedure outlined in this recommendation? If not, what other options would you suggest?

Yes.

Comment: It seems appropriate that the Ombudsman should be able to comment on requests for permission to appeal and that the process should allow time to comment.

There should also be specific requirement that the relevant Monitoring Officer is informed immediately that an appeal has been submitted as the existence of an appeal is central to initiating a period of suspension or otherwise.

Q13. Advertising for independent members of the standards committee: Do you agree the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed?

Yes.

Comment: The cost of such adverts are high and anecdotal experience shows that most applicants come via other channels such as websites or existing networks of Independent Members. It is of more importance to ensure that able candidates from a wide range of backgrounds are attracted to the role and so WG should issue guidance on inclusive recruitment.

Q14a. Former council employees sitting as independent members on standards committees: Do you agree that the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed?

No. The strength of Standards Committee at present is that they must consist of a majority of Independent Members who can without doubt be said to be truly independent and politically impartial.

Q14b. If yes, what do you think would be a suitable period of grace between employment and appointment to a standards committee, and should this be the same for all council employees, or longer for those who previously held statutory or politically restricted posts?

Politically restricted officers should not be able to serve as Independent Members. In respect of other officers, the position is more nuanced but it is suggested that this should not be allowed. If, despite this view, WG wishes to allow them to be eligible then the period of grace for former employees should be long to minimise the perception that former employee is still affected by prior association with the Council. The period of grace could be set as a fixed period say 5 years or could be flexible based on (multiples of) length of their service with or without a minimum.

Q16. Standards committees' summoning witnesses and sanctions: Should standards committees have the power to summon witnesses?

Yes.

Comment: The same considerations apply here as to Question 5. Without its own powers of contempt, the mechanism to issue a witness summons would need an enforcement route, perhaps the power to seek a warrant from the Magistrates.

Q21. Do you have any other comments you wish to make on the matters raised in this consultation, including for those Report Recommendations where no specific question has been posed?

Yes

Comment:

There are two recommendations which require legislative change by Welsh Government for which there are currently no proposals for action. The Council would wish to see legislative action to support the following recommendations:

- 1) Presently there is no proposal to make it mandatory for a councillor to report their own criminal behaviour, which seems illogical when there is an obligation on others to do so.*
- 2) A provision within the code that training is mandatory would lend strength in any attempt to persuade that councillor to attend. Furthermore, should attempts to*

persuade the councillor to attend prove to be unsuccessful then such a provision would at least provide a sound basis on which to tackle their recalcitrance.

The Council (on a majority view) would therefore support the inclusion of an obligation to undertake training within the declaration of acceptance of office, which would seem a suitable mechanism. Equally, the model code could include an obligation to undertake training. This could either be training on the code itself or to undertake any training that the council defines as necessary to allow more local discretion.

Note there was a view expressed that if a councillor was specifically elected on a platform that he/she they would not undertake training then it would be wrong to impose any punishment for failing to attend.

Further, a comment was made that clerks are an important part of the governance structure for town and community councils. Whilst there has been a provision requiring training of councillors, there was no similar obligation in respect of clerks and there should be.

- 3) *An issue had been raised recently about the powers of the Ombudsman to make referrals where a councillor is also on another relevant authority (i.e. an authority with its own standards committee). Currently, there was no express power for the Ombudsman to refer cases to more than one authority at a time. This may/may not be necessary depending on whether the finding of the standards committee in a principal authority would also be binding on a relevant authority such as a park or fire authority.*

E.g. when a councillor is suspended by a county council for actions in their private life which brings their office into disrepute. The councillor also serves on a fire authority. Those actions might also bring their office on the fire authority into disrepute as well. Does the suspension from the county council also automatically suspend the councillor at the fire authority or would the fire authority's own standards committee need to listen to hear the issue? The latter seems the more likely position.

If the Fire and Rescue Authority would need to hold its own hearing, then the PSOW might usefully be given the power to make a referral to several authorities at once (which might be implied using the statutory interpretation rules that the singular also means the plural). Conversely, if it is deemed that the ruling of the principal council's standards committee does affect the fire authority then this could helpfully be defined in the legislation as to extent of a suspension and what the term 'suspension' means as it is not technically defined in any piece of legislation.

Points arising from the discussion:-

- Q16 - A member suggested that enforcing a witnesses' attendance in a hearing was quite heavy-handed. The cases are not criminal, and even if it was possible to force someone to attend a hearing, you cannot force them to give evidence. Despite this, the Committee was generally of the view that the enforcement right should be there as a back-up if needed.
- Q21(1) - In response to a question, it was explained that the existence of criminal matters was very sensitive, personal data in terms of protection, and so it would not be appropriate to let political group leaders know that a councillor had reported on

their own criminal behaviour. Letting the Monitoring Officer know about the criminal matter on a very careful 'need to know' basis would be appropriate

- Q21(2) - It was noted that members should be strongly advised that they attend the Code of Conduct training, but that it is up to the member if they decide to take advantage of the offer or not, and if they do not receive it, then that could be held against them in a case of breach of Code in the future.

The provision of training for new members of Cyngor Gwynedd was praised following the elections in May 2022, but disappointment was expressed that not everyone had taken advantage of this opportunity.

It was noted that recently, there had been many references to bullying in the press, and it was suggested that this element should be included in the training. In response, it was explained that a part of the training dealt with matters of respect, anti-bullying etc. In terms of the general situation in Cyngor Gwynedd, it is believed that these messages are currently permeating through, but there was never room for complacency in situations like this.

It was emphasised that the training should be mandatory, and although there is no way to force anyone, everyone, from county councillors to town and community councillors, should realise how important it is and commit to it.

It was suggested that the sentence *'The Council (in the opinion of the majority) would therefore support the inclusion of a commitment to complete training within the job acceptance statement...'* wasn't robust enough, but it was also noted that it was a step forward, since there wasn't any commitment at all at the moment.

Conversely, it was noted that training shouldn't be made completely mandatory. However, members should be notified of the importance of the Code and the fact that failure to attend training could be held against them in any case of breach of Code in the future. In response, it was explained that:-

- When signing the job acceptance statement, the individual is committing to the post of councillor and to the Code, and so the baseline was set there.
 - Should the statement be adapted so that the individual also commits to receiving training on the Code, a question would then arise of what the consequences of not conforming would be.
 - It is not believed to be possible to force someone to attend training, but there would be consequences in terms of, maybe the Code of Conduct, or a matter of referring the point to the Standards Committee for response, and that the political group leaders would also have a duty to place pressure on members to attend training.
 - That one of the first questions asked by the Ombudsman after receiving a complaint was what training on the Code had the member in question received.
 - That anything that is mandatory raises a question regarding the enforcement behind it, but that this statement was at least a commitment to attend training on the Code.
- Q21(3) - Strongly agreed with the draft response. It was noted that the current situation wasn't making sense to the public, and that it was important to ensure that people had confidence in the standard of training and councillor conduct.

The Monitoring Officer was asked to include elements of the above discussion regarding how mandatory training would work in practice, declaration of crimes and enforcing witnesses in the response to the Consultation.

The Chair then noted that he wished to draw attention to the following draft response:-

Q6. Should there be any changes in the procedure for referring appeal decisions back to standards committees?

No

Comments: it is an established practice that appeals tribunals should refer cases back to the primary decision maker for reconsideration. Whilst it would be a "brave" Standards Committee that dared disagree with the Panel, the proposed change would remove the right for them to choose to do so which would be a diminution of their freedom of action.

The Chair noted:-

- That he did not have strong feelings on the matter, but in any other field of law, anyone that would attend an appeal would expect that the decision of the appeal would stand.
- Although standards committees have the right to ignore an appeal decision, that the Adjudication Panel for Wales discuss more regularly than standards committees and that they can also ensure consistency across Wales on the matter.
- That councillors can feel that there is no point attending appeals if the standards committee can ignore the decision on the appeal.
- That a standards committee that decides to ignore an appeal decision would have to submit very strong reasons for doing so.

In response, it was explained:

- That the appeals procedure in these cases were similar to judicial reviews where the appeal body (e.g. appeal tribunal) reviews the decision-making body's decision (e.g. standards committee) and gives their opinion on the case, but that the final decision on the matter is in the hands of the decision-making body.
- That it is therefore inevitable that the standards committee must come to an opinion on the matter, whilst addressing the appeal tribunal's comments.
- That there needs to be very strong reasons to come to a different conclusion than the appeal tribunal, and that it was essential that the reasoning for doing so was clearly recorded, to show that the appeal decision had received due attention, but on balance, that the committee remains of the opinion that the original decision should stand.

The Monitoring Officer was asked to make an addition to the draft response to make it clear that very strong reasoning was needed to go against the appeal tribunal's opinion and that that is given out to the public and the relevant councillor at the time.

It was noted that the fact that the standards committee had the last word on the matter was welcomed.

RESOLVED to approve the draft responses to the Welsh Government Consultation on the Review of the Ethical Standards Framework for Wales (in Appendix 2 of the report), for submission to the Welsh Government, with the following addition:-

- To include elements of the committee's discussion regarding how mandatory training would work in practice, declaration of crimes and enforcing witnesses.
- In addition, to note under C6 (*procedure to refer appeals decisions back to the standards committee*) that it was essential that the rationale for disagreeing with the appeal tribunal opinion was clearly recorded, to demonstrate that the appeal decision had received due attention, however on balance, that the committee continued to believe their original decision should stand.

7. SELF-ASSESSMENT AND WORK PROGRAMME

Submitted – the report of the Monitoring Officer inviting the committee to:-

- undertake a self-assessment of the work and outcomes of the committee during 2022/23, and:-
- consider a draft work programme for 2023/24.

RESOLVED

- (a) To adopt the following as the Standards Committee's self-evaluation of its performance in 2022/23.

FUNCTION	ASSESSMENT (1/2/3/4)	EVIDENCE	FURTHER STEPS
1. Promote and maintain high standards of conduct by members	1.	The Chair and Vice-chair have attended the North Wales Standards Forum to share experiences with other standards committees. Submit an annual report to the Full Council The Committee had received a report on the Local Government and Elections (Wales) Act 2021	Continue to attend and support
2. Assist the members to adhere to the Code of Conduct	2.	The Monitoring Officer and his team provide advice and guidance at meetings, and on a one-to-one basis for members.	Organise further courses to be held on the Code of Conduct during the coming year.
3. Advise the Council on the adoption or revision of the Code of Conduct	1.	No occasion had arisen to revise the Code.	
4. Monitor the operation of the Code of Conduct	3.	Receive regular reports of allegations against members Receive the annual reports of the Ombudsman and the Adjudication Panel for	Continue to monitor and consider alternative methods of receiving information.

		Wales	<p>Receive regular reports from the Ombudsman's Code of Conduct Casebook.</p> <p>Receive annual reports on the register of interests and hospitality.</p>
5. Advise, train, or arrange for members to receive training on matters relating to the Code of Conduct	3.	Induction training was arranged for all members of Cyngor Gwynedd following the elections.	Set a specific requirement to proceed with the training in the work programme for next year.
6. Granting dispensations to members	1.	No applications had been considered under the new procedure.	
7. Deal with reports of case tribunals and any reports from the Monitoring Officer on matters referred by the Ombudsman	1.	One hearing was held during the year regarding a Member of a Town and Community Council	
8. Authorise the Monitoring Officer to pay allowances to persons assisting with an investigation	No action required.		
<p>9. Monitor the compliance of Leaders of Political Groups on the Council and their duties under Section 52A(1) of the Local Government Act 2000.</p> <p>Advise, train or arrange for the Council's Political Group Leaders to receive training on matters relating to those duties.</p>	3.	<p>A briefing session was conducted with Political Group Leaders regarding the new duty.</p> <p>The Protocol to implement the duty was agreed.</p>	Proceed to develop the system, together with the system to report back to committee.
10. Exercise the	2.	The Monitoring Officer	Need to restore

above functions in relation to community councils		<p>and his team provide advice and guidance to councillors, clerks and members.</p> <p>A substantial engagement project was undertaken by the Chair and the Town and Community Member that led to a report with specific recommendations and a work plan.</p>	the programme on a virtual basis next year.
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(b) To approve the following work programme for 2023/24:-

26 June, 2023

Annual Report

Allegations against Members

The Ombudsman's Casebook

Welsh Government Consultation on the Response to the Penn Report

6 November, 2023

Register of Gifts and Hospitality

Declaration of Interests Register

The Ombudsman's Annual Report

Allegations against Members

Review of the Protocol for Political Group Leaders

Review Internal Solution Arrangements

To accept the Report from the Wales Standards Forum

Report on Arrangements to deal with communication following hearings.

19 February, 2024

Adjudication Panel's Annual Report

Allegations against Members

Self-assessment and Work Programme

The Committee's Annual Report

8. THE STANDARDS COMMITTEE'S ANNUAL REPORT 2022-23

Submitted - the report of the Propriety and Elections Manager appending a draft of the committee's annual report for 2022/23. The committee's observations and approval of the document were invited.

Attention was drawn to the fact that this year, for the first time, referring to the political groups' leaders' new duty to undertake an element of responsibility for promoting good behaviour and co-operate with the Standards Committee. It was noted:-

- That it was early days in terms of this procedure, but that the work had taken place in terms of encouraging members to take part in Code of Conduct training along with establishing the procedure and agreeing on protocol for implementing the new duty for the future.
- That we need to move on to do further work on the duty and to develop the communication order surrounding it more extensively as the arrangements move forward.
- That a part of the procedure is reactive to circumstances that arise around members' behaviour matters. That there would need to keep an eye on the situation,

and should a situation arise, the Protocol set a clear procedure for approaching Leaders to discuss any specific concerns that arise.

In a response to a question, the Monitoring Officer confirmed that he was satisfied that the leaders had complied with their new duties during the year and there was a basis to move on to build on this work during the coming year.

In response to a question, it was confirmed that there was an intention to hold meetings with leaders quite regularly. It was also noted that there was an intention to arrange informal meetings between all Standards Committee members, the Leaders and the Chief Executive, possibly, to discuss the new duty on a practical level and the best way forward. It was emphasised that there was no intention to discuss individual cases.

The Monitoring Officer was asked to move forward to arrange the meeting and discuss the programme with the Chair.

RESOLVED to approve the Annual Report of the Standards Committee for 2022-23 to be submitted to the full Council on 6 July, 2023, subject to minor amendments to the members' biographies.

9. ALLEGATIONS AGAINST MEMBERS

Submitted – the report of the Propriety and Elections Manager presenting information about the Ombudsman's decisions on formal complaints against members.

RESOLVED to note the information.

The meeting commenced at 10.30 am and concluded at 12.00 pm

CHAIR