
STANDARDS COMMITTEE 22/02/21

Present:-

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

Independent Members:- Mr Aled Jones, Mr Hywel Eifion Jones, Miss Margaret E.Jones, Mr David Wareing and Dr Einir Young (Chair)

Also in Attendance: Iwan Evans (Monitoring Officer), Sion Huws (Senior Solicitor - Corporate) and Eirian Roberts (Democratic Services Officer).

1. APOLOGIES

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

2. DECLARATION OF PERSONAL INTEREST

Mr Hywel Eifion Jones declared a personal interest in item 6 on the agenda – Public Service Ombudsman for Wales Consultation – New Draft Guidance on the Code of Conduct for Members of County and Community / Town Councils, as he was a member of the Adjudication Panel for Wales, a panel that was referenced in the report.

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

3. URGENT ITEMS

No urgent matters were raised.

4. MINUTES

The Chair signed the minutes of the previous meeting of this committee held on 9 November 2020 as a true record.

5. 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 2019/20; and
- consider a draft work programme for 2021/22.

It was emphasised that although the self-assessment table in Appendix 1 was based on normal circumstances, the Covid situation had significantly impacted the ability to deliver the functions over the past year. Technically, a number of the functions fell within Category 4, but this did not fully reflect the situation, and it was important to note that it was the crisis that had led the Standards Committee to this situation rather than a lack of action on its part.

The Monitoring Officer was asked about his views on the Ombudsman's effectiveness in relation to the decisions on whether or not to investigate complaints. In response, it was explained that it was difficult to measure the effectiveness of the Ombudsman, although the

committee could monitor how the system was working when it discussed the Ombudsman's annual reports and quarterly letters. In response to a further question about challenging the Ombudsman's decision, it was explained that this did not generally happen, unless it was in relation to a very specific matter, or when something had been misunderstood or misinterpreted, or required further information. It was suggested that the committee could discuss this further under item 6 on the agenda.

It was noted that it would be beneficial to provide guidance on the Code of Conduct for groups that were choosing candidates for the 2022 Election, to ensure that people putting their names forward were aware of the commitments involved with becoming a councillor. In response, it was suggested that it would be useful for the committee to receive a report in November on the preparation for the May 2022 Election in relation to raising awareness of the Code of Conduct's requirements amongst prospective candidates and existing members.

It was noted that it was timely to review the overall training arrangements, and it was suggested that a report should be submitted to the committee meeting in June. It was also noted that, when circumstances allowed, it was intended to re-establish the pilot course for community councils on the Code of Conduct virtually, and to report back.

RESOLVED

- (a) To adopt the following as the committee's self-assessment of its performance in 2019/20, noting that circumstances beyond the control of the Standards Committee had meant that several actions could not be implemented this time:-

FUNCTION	ASSESSMENT (1/2/3/4)	Evidence	Further action
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 has received a report on the Ethical Framework arrangements in the context of collaboration	Continue to attend and support
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.	Resume training stages when resources permit
Advise the Council with regard to adopting or amending the Code of Conduct	No action required	No occasion has arisen to amend the Code.	
Monitor the implementation of the Code of Conduct	2	Receive regular reports of allegations against members Receive the annual reports of the Ombudsman and the	Continue to monitor, consider and promote alternative methods of receiving information

		Adjudication Panel for 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>
Advise, train or arrange for members to receive training on matters relating to the Code of Conduct	3		Need to look at providing new training.
Granting dispensations to members	1	Applications have been considered under the new procedure.	
Deal with reports of case tribunals and any reports from the Monitoring Officer on matters referred by the Ombudsman	No action required	No hearings were required during the year	
Authorise the Monitoring Officer to pay allowances to persons assisting with an investigation	No action required	There were no occasions where such an allowance was due	
Exercise the above functions in relation to community councils	3	<p>The Monitoring Officer and his team provide advice and guidance to councillors, clerks and members.</p> <p>Adopt a training pilot on the Code of Conduct. A session has been included to pilot the content of the course.</p>	<p>A pilot course was held with Tywyn Town Council, with positive feedback. Need to consider resuming the programme virtually when resources allow.</p>

(b) Approve the following work programme for 2021/22:-

June, 2021

Annual Report
Allegations against Members
The Ombudsman's Casebook
Local Government and Elections (Wales) Act 2021
Training in general

November, 2021

**Register of Gifts and Hospitality
Declaration of Interests Register
The Ombudsman's Annual Report
Allegations against Members
Conflicts of Interests and partners outside Local Government
Preparation for the May 2022 Election in respect of the Code of Conduct**

February, 2022

**Adjudication Panel's Annual Report
Allegations against Members**

6 PUBLIC SERVICES OMBUDSMAN FOR WALES CONSULTATION – NEW DRAFT GUIDANCE ON THE CODE OF CONDUCT FOR MEMBERS OF COUNTY AND TOWN AND COMMUNITY COUNCILS

Submitted – the Monitoring Officer's report inviting the committee to provide comment and feedback on the Public Services Ombudsman for Wales Consultation on the new draft guidance on the Code of Conduct for Members of County and Town / Community Councils.

It was explained that the consultation had no prescribed questions, attention was drawn to the purpose of the document, and the following matters were suggested for the committee's consideration:-

- Is the guidance provided understandable and of use?
- Are there any aspects which are not as good and could be improved and how?
- Does anything else need to be included? What?

It was further noted that the Democratic Services Committee had considered the consultation at its meeting held on 18 February, and although it was generally supportive of the guidance in its content and tone, some questions had arisen in relation to the challenge of political expression, and the line between what was appropriate and inappropriate, especially in the respect and use of social media etc.

Reference was made to specific sections of the guidance, namely:-

- The two stage test used by the Ombudsman in deciding whether to investigate a complaint, or whether an investigation into a breach of the Code should continue.
- The right to political expression, where the Code could intervene, and where it crossed the line.
- The relevance of the Code to individuals, and the expectation that people holding public office should maintain high standards of conduct.
- The requirement for members who represented the Council on external bodies to comply with the Code of that body, as breaching that body's code could also mean that the member was breaching the Council's code.
- The community leadership role of members, and how sending inappropriate e-mails, or the careless and irresponsible use of social media brought the member's office into disrepute.
- The complex role and status of clerk within a community council.
- The role of the Monitoring Officer in the context of community councils.

During the discussion, the following matters were raised:-

It was noted, although the guidance included examples of breaches of the Code, that there was no reference made to the sanction applied in those cases.

It was suggested that the use of case studies and speech bubbles were a good way of highlighting parts of the document and making them relevant to people.

It was noted that the point regarding a lack of complaints investigated by the Ombudsman was raised annually in the full Council, but it was evident that less than 5% of the Ombudsman's work related to Councils, with the majority of the complaints arising in the field of health. Attention was also drawn to the fact that the Ombudsman had stated clearly in the introduction to the guidance that the number of low-level complaints submitted remained too high, and although it appeared that a very small number of members submitted these complaints, in this challenging period it was even more important that his office was used effectively, and that any investigations undertaken were proportionate and essential for the wider benefit of the public. It was also noted that the Ombudsman encouraged members to take advantage of any local arrangements for dealing with 'member against member' complaints, and a question was asked about the role of the Standards Committee and the Monitoring Officer in this respect. In response, reference was made to the Gwynedd Standard and the Council's internal resolution process for dealing with conflicts between members. It was noted that the Monitoring Officer tended to turn to the internal procedure to resolve matters between members within Gwynedd Council, and that ultimately, through this process, the matter could be escalated to the Standards Committee. Naturally, as this was outside the statutory framework, the Standards Committee's powers were limited. There had been very few occasions in Gwynedd Council where this had been relevant, and the majority of complaints were made by the public against members. Such complaints needed to be referred to the Ombudsman, although evidently, the Monitoring Officer could advise the public. The situation in relation to community councils was more challenging as they did not have the resources or the governance system to resolve problems between members. Again, where real problems arose, the Monitoring Officer could try to assist community councils to the best of his ability.

It was suggested that there was a perception among community council members that the Standards Committee could resolve conflicts, and that there was scope for the committee to be more aware of complaints so that they could be discussed, and the local resolution process could be used to respond to the problem.

It was noted that the examples in the guidance explained why the Standards Committee could not take a matter further, and it was suggested that this should be emphasised more explicitly in the committee's annual report to the full Council. In response, it was explained that the Standards Committee was sometimes viewed as a forum for the resolution of complaints, but that all external complaints, including complaints from community councils, must be referred to the Ombudsman. If there was a desire to offer a different service for community councils, it should be borne in mind that there were approximately 64 community and town councils, and approximately 700-750 community council members in Gwynedd. The resource implications as a result of offering this type of service could be significant, and care was needed not to offer a service that could not be delivered. However, it might be appropriate to disseminate the message. It was further suggested that the challenge could go beyond the 750 members, as there were former members of community councils that continued to show an interest in the work of those councils, and might possibly refer complaints to the Ombudsman.

It was emphasised that the guidance should be gender-neutral.

RESOLVED to submit the following observations in response to the consultation, and delegate the right to the Monitoring Officer to collate and convey the response on behalf of the Council:-

- That the committee welcomes the document overall, and is of the view that it is readable and very useful in terms of explaining the code. It is also believed that the use of case studies and speech bubbles is a good way of highlighting parts of the document and making it relevant to people.
- It would be useful if the examples of Code of Conduct breaches listed in the document also noted what the outcome had been, in order to give a clearer picture.
- It would be useful if the document included examples of how the public interest test has worked in practice i.e. what types of complaints have passed the threshold, and what types of complaints have failed.
- The document should be gender-neutral.

7. ALLEGATIONS AGAINST MEMBERS

Submitted - the report of the Senior Solicitor (Corporate) presenting information about the Ombudsman's decisions on formal complaints against members.

The meeting commenced at 10.30 am and concluded at 11.45 am

CHAIRMAN