

## **STANDARDS COMMITTEE**

**1 OCTOBER 2012**

Minutes of the meeting of the Standards Committee of Flintshire County Council held at Council Chamber, Buckley Town Council on Monday, 1 October 2012

**PRESENT: Mr Kevin Sibbons (Chairman)**

Mr Chris Bretherton-Watt, Mr Jonathan Duggan-Keen, Mr Kenneth Martin and Mr Merfyn Roberts

Councillors: Hilary McGuill and Arnold Woolley

**APOLOGIES:** Councillor David Cox, Patricia Jones and Mr. J. Woolley

**ALSO PRESENT:** Councillors R. Lloyd and A. Evans. Mr I. Jones, Mr. G. Collett, Ms. E. Snowden, Ms V. Ames, Ms J. Hough, Mr. G Roberts, Mr. R. Phillip Parry and Mr. M. Moriarty

**IN ATTENDANCE:** Head of Legal and Democratic Services, Democracy and Governance Manager and Committee Officer

### **17. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

The Chairman informed the Committee that Councillor R. Lloyd had made an application for dispensation to the Standards Committee in Item 4 of the Agenda.

### **18. MEETING WITH TOWN AND COMMUNITY COUNCIL REPRESENTATIVES**

The Chairman welcomed representatives of Town and Community Councils to discuss the following report:-

#### **CODE OF CONDUCT AND TREATING OTHERS WITH RESPECT**

The Head of Legal and Democratic Services informed Committee that he had recently received revised guidance from the Ombudsman relating to the code of conduct and treating others with respect. He explained the background to the case. A town councillor, found to be in breach of the code of conduct, took the Adjudication Panel for Wales to the High Court by way of Judicial Review and was successful. The Head of Legal and Democratic Services explained that while the court found that rude comments had been made about fellow Councillors, as the majority of the comments referred to the way the council was run, they were permissible under his rights to political expression. The Head of Legal and Democratic Services voiced his disappointment at the decision and said that revised guidance by the Ombudsman, which was based upon the case, appeared to give the right to Councillors to be rude to other Councillors, council officers and clerks. He added that the Welsh Local Government Association may be seeking to challenge this decision. The Head of Legal and Democratic Services cited a case in England whereby a councillor, alleged to have displayed rude behaviour was successfully found to be in breach of the code of conduct. The Head of Legal and Democratic Services said that he would locate the article

about the English councillor and circulate it. He added that this case could be brought to the attention of the ombudsman should any future cases emerge.

The Head of Legal and Democratic Services invited questions from those present.

Councillor H.J. McGuill commented that the revised guidance meant that councillors no longer had to treat councillors or council officers with respect. She was concerned that council meetings would subsequently be difficult to manage. The Head of Legal and Democratic Services said that a County Council or Town and Community council's rules of debate would still apply and that Chairs could exclude committee members from a meeting, but not find them in breach of the Code of Conduct. Councillor McGuill asked if this meant a councillor had the freedom to insult another councillor. The Head of Legal and Democratic Services explained that the insult would have to be based around political expression, such as a criticism of a service, policy or aspect of administration which called into question the competency of a portfolio holder in cabinet, councillor or officer.

Mr M. Roberts said that this decision would be a backwards step which could harm the culture of respect which had been established. The Head of Legal and Democratic Services replied that it would be difficult to create a voluntary agreement which outlined the higher standards of conduct as such a document might also risk being struck down by the courts. However, he added that the Standard Orders could explain more explicitly the types of conduct likely to lead to eviction in an effort to set clear expectations of the sort of behaviour that would be acceptable.

Ms J. Hough asked if the WLGA would consider mounting a challenge to the revised guidance. The Head of Legal and Democratic Services said that the Chair of WLGA had emailed all Chief Executives for feedback. He said that Pembroke had responded and that he had responded on behalf of Flintshire. The Head of Legal and Democratic Services said it was anticipated that the matter would be an agenda item at the next ACES meeting on 5 October 2012.

Councillor A.W. Woolley said that if a councillor directed personal insults to another councillor during a meeting, the Chair could eject them, but if they used an insult coupled with a political reference, the Chair would be powerless to act. The Head of Legal and Democratic Services said that good chairmanship can avoid this and suggested that rigorous enforcement of the convention that all comments be directed through the Chair could help to reduce tension and prevent arguments from becoming heated or personal.

Councillor H. J. McGuill said that the Ombudsman had previously spent a lot of time looking at complaints and she understood why the revised guidance had been put in place. She said that the new guidance, however, did not convey any sense of the respect agenda. The Head of Legal and Democratic Services said that he would be feeding this back to the Ombudsman. He said that this was only one decision and might, in the future, be tested and re-interpreted.

Ms J. Hough asked why the Adjudication Panel could not appeal. The Head of Legal and Democratic Services said that the Ombudsman was advised not to appeal as it was unlikely that they would win the case.

The Head of Legal and Democratic Services said that there was the possibility of a fourth training session for Town and Community Councillors, to be hosted by Saltney Town Council which could cover the code of conduct. Councillor R. Lloyd was asked to speak to Saltney Town Clerk to arrange the event, to be presented by The Head of Legal and Democratic Services and the Democracy and Governance Manager.

Councillor H.J. McGuill asked if a future training session could include the different roles of town and community councillors and clerks and the decision making process. The Head of Legal and Democratic Services said that they could cover the role of the clerk and expectations. He said that he and the Democracy & Governance Manager can offer advice to any councillor or clerks though if approached by a councillor then in order to get the full facts they would be likely to speak to the clerk as well.

The Chair asked that the minutes of this meeting be distributed to all Town and Community Councils.

Gareth Roberts offered to circulate any additional Flintshire guidance to all the clerks in the area. The Chair suggested that guidance could be circulated to the North Wales Forum. The Head of Legal and Democratic Services said that he would find out what other county councils were offering in the way of training.

Mr M. Roberts said he could not anticipate training needs until issues arose. He said that it would be a great help if the monitoring officer was available to deal promptly with a matter. The Head of Legal and Democratic Services reiterated that he was happy to advise town and community councils.

The Chair asked if the Flintshire website could build up a resource area for town and community councils and post regular Q&A sections.

Councillor A. Woolley said that it was difficult to know which issues would emerge, and that information was available on the Ombudsman's web site.

The Head of Legal and Democratic Services then invited comments on the level of support available to town and community councils from the Standards Committee.

Councillor H.J. McGuill said that she preferred to contact the Head of Legal and Democratic Services in the first instance, rather than One Voice Wales. She said that she would like all town and community councils to be aware of the support available from the county council. The Head of Legal and Democratic Services said that he would write to all town and community councils on this matter.

Mr M. Moriarty asked if the Head of Legal and Democratic Services could be contacted via email. The Head of Legal and Democratic Services circulated his email address [gareth.owens@flintshire.gov.uk](mailto:gareth.owens@flintshire.gov.uk) to the group. Mr M. Moriarty asked if there was a standard form for declarations of interest at town and community councils. Mr M. Moriarty said that his town council has produced their own forms. The Head of Legal and Democratic Services asked that a copy of the

form be sent to him. Mr I. Jones said that standard forms were used at his town council. Ms. E. Snowden said that she had sent a declaration of interest form from her community council to County Council the previous week.

The Head of Legal and Democratic Services asked the committee to decide how they wished to proceed on the alternative recommendations in his report, whether they noted the advice or wished to make representations to the Ombudsman. The Democracy & Governance Manager said that he was concerned that the judgment could allow politicians to be less respectful to officers.

Councillor A. Woolley said that representations should be made and concurred with the Democracy and Governance Manager's comments.

Councillor H. J. McGuill said she was not happy with the revised guidance as she believed it went against the agenda for respect.

**RESOLVED:**

That representations be made to the Ombudsman outlining the concerns of the Committee.

**19. MINUTES**

**Matters arising**

The Head of Legal and Democratic Services confirmed that the Annual Report had now been sent out.

The Head of Legal and Democratic Services confirmed that the first training session had been held and that he would speak to other county councils at the ACES meeting on 5 October 2012 to see if they wanted a joint training session with Peter Keith Lucas.

**RESOLVED:**

That the minutes of the meeting held on 3 September 2012 were confirmed as a correct record.

**20. DISPENSATIONS**

The Chair introduced item 4 on the Agenda which related to an application for dispensation by Councillor R. Lloyd. The Head of Legal and Democratic Services advised that Councillor Lloyd be allowed to state his case, receive advice and would then be requested to leave the room whilst the matter was discussed.

Councillor R. Lloyd explained that he wished to be able to speak and vote at Planning Committee about an application within his ward for a new Scout Headquarters. He explained that he is a town councillor and county councillor for Saltney and that the town council had made the application on behalf of the

Scouts to save in planning fees. He explained that he was not a member of the Scout Association.

Councillor H. J. McGuill asked if the application had been a controversial decision for the town council. Councillor Lloyd replied that it had been a unanimous decision.

The Head of Legal and Democratic Services said that currently there was no suggestion that the application would have to go to planning committee. He advised that Councillor R. Lloyd should be allowed to correspond with the council on the application but that all communications on this matter be conducted in written format for openness. He added that the planning process was impartial and that he would not advise that Cllr Lloyd be permitted to vote on the application, in order to maintain public confidence. In light of this advice Cllr Lloyd withdrew his application for permission to remain in the room and vote on the application.

The Democracy and Governance Manager advised that as a member of the public, Councillor R. Lloyd could speak for 3 minutes at the meeting about the application and then leave the room. He advised that a dispensation could be made to allow him to speak for 5 minutes as a county council member, then withdraw and play no part in the voting process. The Head of Legal and Democratic Services also advised Councillor R. Lloyd that if granted the dispensation then he would need to declare it each time he wrote to the Council, or spoke about the matter in a Council Meeting.

Councillor R. Lloyd, at this point withdrew his request to vote and left the room so that the Committee could consider his request.

The Committee debated the matter and considered Councillor R. Lloyds's request.

Councillor R. Lloyd was asked to return to the Committee room to hear the decision.

**RESOLVED:**

That Councillor R. Lloyd to be granted dispensation by the Standards Committee to write to Council officers about planning application 049848 and to speak for 5 minutes at any subsequent Planning Committee, he would then have to withdraw from the meeting and play no part in the voting process.

**21. FORWARD WORK PROGRAMME**

The Head of Legal and Democratic Services introduced the Forward Work Programme based on suggestions from the previous meeting and asked for any further items for November, December and January meetings. No additional items were suggested. The Head of Legal and Democratic Services said that he would write a report on attendance numbers at the training sessions.

**RESOLVED:**

That the Forward Work Programme be agreed.

**22. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were no members of the public or press in attendance.

(The meeting started at 6.30 pm and ended at 7.55 pm)

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**Chair**