

STANDARDS COMMITTEE
2 OCTOBER 2017

Minutes of the meeting of the Standards Committee of Flintshire County Council held at Connah's Quay Town Council on Monday, 2 October 2017. This was also the annual joint meeting to which Town and Community Council representatives were invited to participate.

PRESENT: Edward Hughes (Chairman)

Councillors:

Patrick Heesom, Paul Johnson and Arnold Woolley

Co-opted members:

Robert Dewey, Phillipa Earlam and Ken Molyneux

APOLOGY: Jonathan Duggan-Keen

TOWN AND COMMUNITY COUNCIL REPRESENTATIVES: Councillors Brian Doleman, Christopher Owens and Andrew Griffiths of Bagillt Community Council; Councillors Klaus Armstrong-Braun and Keith Rogers of Broughton & Bretton Community Council; Mr. R. Phillip Parry of Caerwys Town Council and Halkyn and Whitford Community Councils; Councillor David Knights of Caerwys Town Council; Councillors Gwen Hardman and Owen Thomas, Mr. Alun Evans and Ms. Jean Ramsay of Cilcain Community Council; Mr. Steven Goodrum of Connah's Quay Town Council; Councillors Clive Carver and Dan Preece of Hawarden Community Council; Councillors Michael Brooke, Lynda Carter, Joe Johnson and Ted Palmer of Holywell Town Council; Mrs. Samantha Roberts of Mold Town Council; Councillors David Seddon and Debbie Seddon of Mostyn Community Council; Councillors Huw Morgan and Valmai Hughes-Parry and Ms. Helen Wade of Nannerch Community Council; Councillor John Golledge of Northop Hall Community Council; Mr. Stephen Harms of Northop Hall and Llanasa Community Councils; Councillor Alex Lewis of Sealand Community Council; and Councillor Bob Hughes of Whitford Community Council

CONTRIBUTORS: Mr. Nick Bennett, Public Services Ombudsman for Wales and Mrs. Annie Ginwalla, Investigation and Improvement Officer

IN ATTENDANCE:

Monitoring Officer, Deputy Monitoring Officer and Democratic Services Officer

27. PRESENTATION BY PUBLIC SERVICES OMBUDSMAN FOR WALES

Mr. Nick Bennett, Public Services Ombudsman for Wales (PSOW) was in attendance with Mrs. Annie Ginwalla to deliver a presentation on the work of the PSOW team in considering complaints about public services and independent care providers in Wales.

The main areas of the presentation were:

- Statistics for the last ten years - 126% increase in complaints received by the PSOW, resulting in 4,502 recommendations for improvement to public services across Wales.
- Enquiries and complaints received showed an upward trend over the past five years with a welcome reduction in the number of Code of Conduct complaints.
- Context outlined key issues including the possibility of more devolved powers for Town and Community Councils in the future.
- Code of Conduct complaints were mainly about the promotion of equality and respect and the disclosure and registration of interests.
- Complaints not upheld and those discontinued.
- Code of Conduct complaints by type of Authority showed a 53/46% split between town/community councils and county/ county borough councils.
- Flintshire facts indicated that less than 4% of Code of Conduct complaints had been made in Flintshire. It was noted that breaches of the Code of Conduct could only be determined by the Standards Committee of that authority or by the Adjudication Panel for Wales.
- Testing public interest involved a series of factors to determine whether to investigate the complaint or breach of the Code. A proportionate approach was taken to focus on what mattered to people most, with each case considered on its own merits.
- Complaints upheld - only one out of 22 complaints upheld were referred to the Adjudication Panel last year.
- Vexatious complaints.
- The future.
- New PSOW Bill - four areas where the PSOW hoped to receive additional powers.
- Conclusion

The PSOW encouraged low-level complaints between councillors to be dealt with through an adopted Local Resolution Process to enable his team to focus on more serious complaints and those generated by members of the public. Whilst such a process was in place at county level, this was optional for Town and Community Councils who were encouraged to consider adopting the model Local Resolution Protocol produced by One Voice Wales. During discussion, only four representatives indicated that a Local Resolution Procedure had been adopted by their Town/Community Council. The Monitoring Officer highlighted the importance of adopting such a procedure before any live complaints.

Following the presentation, Mr. Bennett and Mrs. Ginwalla responded to a number of questions from Committee Members and Town and Community Council representatives:

Low-level persistent dominating behaviour by councillors and the impact on those councils - There was an expectation to follow some

form of Local Resolution Process. If this failed, the PSOW would investigate by first considering any documented evidence of behaviour patterns and then applying the principles of the public interest test.

Consideration of whether to proceed with an investigation (Code of Conduct) and the threshold for low-level complaints - The team was given delegated authority to consider complaints and evidence of breaches to the Code before applying the subjective public interest test set by the PSOW. Further information could be requested, if needed, from a complainant. If the principles of the test were not met, the team would reject the complaint and provide written reasons. Guidance was available on the PSOW website to assist councils in respect of low-level complaints and deciding when a referral should be made.

Members against whom a complaint had been made - The PSOW team would inform the accused Member, Clerk and Monitoring Officer about the complaint.

Clarification on officer complaints - Code of Conduct refers to elected members and not officers (where a separate Code applied). An officer failing in their legal duties would be maladministration. PSOW could consider complaints about 'procedural errors' as set out in the Act.

Complaints arising from a previous complaint about an elected Member - Procedural error must be demonstrated rather than a complainant merely disagreeing with the outcome in complaints of maladministration. Nature of the complaint must be about the service received, ie from the service user, and that person must have suffered an injustice. Generally, elected Members were unable to make a complaint about their own authority. Where an elected Member was the service user, then advice could be sought from PSOW.

Options for Town/Community Councils to deal with ongoing issues arising from a complaint made to the PSOW - The council would be expected to attempt to resolve this by local resolution (if possible) in the first instance before involving the PSOW. Town and Community Councils could adopt a protocol (similar to that adopted by Flintshire County Council) to deal with long-standing vexatious complaints affecting time and resources. This again highlighted the importance of adopting a procedure prior to any live complaints.

Town/Community Councillor requesting a review of a decision - In this event, the PSOW would advise the relevant Town or Community Council of the review. Reviews must generally be received within 20 days as stated in the guidance.

Where a councillor with a personal and prejudicial interest insists on speaking on that item - This should be pursued through the Local Resolution Process if possible and (at county level) referred to the

Monitoring Officer. Unresolved complaints should be referred to the PSOW.

Local Resolution Procedures - The only two known to be existence in Wales were produced by One Voice Wales (previously circulated by the Standards Committee) and another by Denbighshire County Council. The Chief Officer agreed to circulate the latter to Town and Community Councils.

Local resolution options available - Whilst acknowledging that not all Town/Community Councils were members of One Voice Wales, it was nevertheless important to have a procedure in place particularly if Town/Community Councils were to be given more powers in the future.

Guidance sought from the Monitoring Officer on Local Resolution Procedures at Town/Community Councils - The Monitoring Officer agreed to arrange a training session for Clerks.

Responsibility on authorising financial expenditure - Members should satisfy themselves on correct spend and all accounts presented should be within the budget previously agreed. Guidance was available from Wales Audit Office on the appropriate level of detail required before authorising.

Self-referral to PSOW - It was confirmed that this opportunity had been available for some time. Mrs. Ginwalla agreed to look into why contrary advice had been given over the telephone to Councillor Carver.

Confidentiality - Following a decision by the PSOW not to investigate a complaint, confidentiality was no longer required unless the complaint was referred to a Standards Committee or Adjudication Panel. Decisions taken not to investigate further could be recorded in minutes.

On behalf of those present, the Chairman thanked Mr. Bennett and Mrs. Ginwalla for their attendance and detailed presentation.

28. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

No declarations of interest were made.

29. MINUTES

The minutes of the meeting of the Committee held on 4 September 2017 were submitted.

RESOLVED:

That the minutes be signed by the Chairman as a correct record.

30. DISPENSATIONS

The Deputy Monitoring Officer circulated copies of a dispensation request submitted by Councillor Geoff Collett after publication of the agenda. Councillor Collett wished to speak for five minutes as local Member at the forthcoming Planning Committee meeting on planning application 056742. He had declared a personal and prejudicial interest on the item as his home was adjacent to the proposed development. It was confirmed that (d) and (f) were the relevant paragraphs under which dispensation was sought.

As Councillor Collett was not a member of the Planning Committee, he would not be entitled to vote and having declared a personal and prejudicial interest, would only be permitted to speak for three minutes. If granted, the dispensation would allow him an additional two minutes to speak on the item and fully represent his constituents.

Following discussion, Councillor Arnold Woolley felt that this was a reasonable request and proposed that dispensation be granted. This was supported by the Committee.

RESOLVED:

That Councillor Geoff Collett be granted dispensation under paragraphs (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak for five minutes as local Member at Planning Committee on planning application 056742, or any application which, in the opinion of the Monitoring Officer, is similar. Councillor Collett is to leave the meeting after speaking, before the application is debated and voted on. The dispensation to be granted for 12 months, ceasing on 2 October 2018.

31. REVIEW OF DISPENSATIONS

The Deputy Monitoring Officer presented an update on the review of dispensations following discussion at the previous meeting where the Committee determined which dispensations should continue to have effect and which should be cancelled.

At that meeting, the Committee agreed to extend several dispensations until this meeting to enable the Deputy Monitoring Officer to write to those Members to ask if they wished for a further extension. As a consequence, Councillor Veronica Gay had requested an extension of her dispensation in respect of the Community Asset Transfer of the Community Centre, Library and Youth Centre to 1 October 2018. In relation to members of Argoed Community Council who were represented on 'MIFFY', it was reported that the Clerk had confirmed that these dispensations were no longer required.

The Monitoring Officer clarified that Members who had previously been granted dispensation could re-apply in similar terms if they wished. Councillor Patrick Heesom commented that this should be made clear to the those involved.

RESOLVED:

That the dispensation granted to Councillor Veronica Gay by the Committee on 4 July 2016 in respect of the Community Asset Transfer of the Community Centre, Library and Youth Centre should continue until 1 October 2018.

32. MEETING OF THE NORTH WALES STANDARDS COMMITTEES FORUM

It was confirmed that Rob Dewey would attend the Forum on 24 November 2017 and that the Chairman was unavailable on that date. In response to a query by Councillor Patrick Heesom, the Monitoring Officer explained that the Forum meetings were usually attended by the Chairs and Vice-Chairs of Standards Committees, providing a networking opportunity for those independent members. He agreed to check whether Council Members were able to attend as observers.

Members were reminded that they could contact the Monitoring Officer to submit any items for the meeting by 13 November 2017.

33. FORWARD WORK PROGRAMME

The Committee received the current Forward Work Programme for consideration. The November meeting currently had no items of business and would be cancelled unless any dispensation requests were received.

The Chief Officer gave a brief update on the appointment of a lay member on the Committee to be advertised jointly with the Fire Authority. As previously suggested, the advertisement would emphasise the beneficial nature of the work of the Committee to appeal to a broader range of applicants. It was anticipated that interviews would be held in late November 2017 to enable the Committee to consider recommendations from the joint interview panel in December before consideration by full Council on 12 December. The Monitoring Officer agreed to notify the Committee when the recruitment information pack was made available.

RESOLVED:

That the Forward Work Programme be noted.

34. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

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

(The meeting started at 6pm and ended at 7.35pm)

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Chairman