



# Standards Committee

Annual Report 2011/2012

June 2012

# Foreword by the Chairman

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This has been my first year as Chairman of the Flintshire County Council Standards Committee. I have very much enjoyed the meetings of the Standards Committee and I am sure my colleagues on the Committee would join me in that sentiment.

We have as a group shared our experiences and knowledge and hopefully we have all increased our understanding of the need to maintain the highest possible standards at local and national government level and elsewhere in public life. In addition to attending Standards Committee meetings at Flintshire County Council, I have also attended the North Wales Standards Committee Forum which is a regional group set up to share experiences, knowledge and discuss any hot topical issues so as to assist colleagues across North Wales in resolving any particular issues of concern and to also in addition maintain a consistent approach to common themes.

The Public Services Ombudsman for Wales and his colleagues within that office are, I am happy to confirm, fairly active in attending the Association of County Secretaries and Solicitors All Wales Group and to actively liaise with different local authorities when issues are raised on standards issues.

I understand that the Ombudsman himself and the Chair of the Adjudication Panel were present last year at the All Wales Standards Conference in Llandrindod Wells on 5 October 2011. Various issues were raised at that conference which were of interest and concern to all who attended. For example:

- the subject of whether local authorities were granting indemnities to members in relation to codes of conduct allegations against them,
- the setting up of a local resolution to deal with low level of complaints by members against members,
- guidance on the Code of Conduct, in particular Section 10

The Standards Committee also attended an interesting meeting in Mold in October 2011 when we met with Town and Community Councils to discuss and air with them any areas of concerns and to assist or advise them as to any particular approach which should be taken on particular matters.

I would acknowledge the professionalism of my fellow Committee members, who when called upon to do so, are always willing to safeguard the Council's reputation and maintain the highest of standards.

I would also like to close this Foreword by thanking the retiring Monitoring Officer, Barry Davies, who retired from Flintshire County Council at the end of July 2011 and also the Interim Monitoring Officer, Anwen Jones, who continued that role until April 2012. The advice offered at all times from both was clear and dependable.

**Mr Kevin Sibbons**

Chair of the Standards Committee (May 2011 to current date)

# Members of the Committee

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Although the Standards Committee is one of Flintshire County Council's committees, it contains a majority of members who are independent of the running and the day to day operation of the Council or local government. In addition to these Independent Members the Committee includes a member who represents the interests of all the 34 Town and Community Councils within Flintshire, as well as three elected Members of Flintshire County Council.

The members and the dates when they are due to retire are set out below:-

## Independent Committee Members

	<u>Appointment Ends</u>	
Mr Kevin Sibbons	December 2012	Chair May 2011 to date
Mr Kenneth Martin	February 2013	
Mr Chris Bretherton-Watt	November 2013	
Mr Merfyn Roberts	January 2014	
Mrs Patricia Jones	July 2014	

## Community Committee Member

Councillor Diane Johnson	May 2012
(new representative to be appointed following the May elections)	

## Flintshire County Council Members

Councillor David Cox (Labour)	May 2017
Councillor Hilary McGuill (Liberal Democrat)	May 2017
Councillor Arnold Woolley (Independent)	May 2017

# The Committee's work

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The Committee's main role is to promote and maintain high standards of conduct by councillors and to assist them to observe the Members' Code of Conduct. It is responsible for doing so for Members of Flintshire County Council and the County's Town and Community Councils. The Committee has recently decided that it should further develop this role and raise its profile.

The Committee is responsible for considering and deciding upon complaints, referred to it by the Public Service Ombudsman for Wales, that members have breached the Code of Conduct.

It also considers applications made by members for dispensations to allow them to take part in discussions even though they have a prejudicial interest under the Code.

## Frequency of Meetings

During the year the Committee has met on the following occasions:

- 9 May 2011
- 11 June 2011
- 5 September 2011
- 10 October 2011
- 14 November 2011
- 5 December 2011
- 20 February 2012
- 18 June 2012

The work of the Committee has involved discussions on issues including:-

1. The Ombudsman's Guidance on the Code of Conduct

For most of the year the Committee were awaiting an updated guidance from the Public Services Ombudsman for Wales, in particular regarding certain sections of the Code of Conduct, which were giving concerns to members, eg. Section 10 2(b). However the guidance was not forthcoming until March 2012. Existing/returning Members of the Council were provided with the opportunity of refreshing their knowledge on the Code of Conduct (with the benefits of this updated guidance) in May 2012. New Members of the Council were also provided with a similar opportunity to receive full training on the whole of the Code of Conduct.

# The Committee's work

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## 2. Dispensations

The Members' Code of Conduct provides that a Councillor cannot take part in a discussion if he/she has a 'prejudicial interest' under the Code of Conduct. However, the member does have the right to make an application to the Committee for permission to take part in the discussion despite the existence of the interest, ie. a dispensation.

The Committee considered 12 applications during this period. 10 were from Flintshire County Council Members whilst the other applications were from Town and Community Council Members. All applications were granted.

## 3. Allegations Against Members

At the Standards Wales Conference in October 2011 the Ombudsman provided statistics of the type of allegations/complaints being received and sanctions imposed. This information is appended to this report (Appendix A). In the main, three areas of complaints dominate the statistical information, namely:

- allegations of failure to show respect/equality/bullying
- bringing the office/authority into disrepute
- failure to disclose an interest and/or withdraw.

Given the latter set of allegations, this would seem to emphasise the need to ensure Members are provided with consistent advice regarding declarations of interest. The County Council were notified by the Ombudsman that he had received 9 complaints in relation to Code of Conduct matters, 6 were against Flintshire County Councillors and 3 against Councillors of Town and Community Councils. In all cases the Ombudsman decided not to investigate. In last year's Annual Report it was reported that there were two cases referred to the Adjudication Panel for Wales for determination. One of those is still sub judice and yet to be concluded. In addition, although the Standards Committee was not directly involved, another case was referred to the Adjudication Panel for Wales which involved a Town and Community Councillor which resulted in a suspension of the Councillor concern to the end of his term of office.

The Standards Committee received one referral from the Ombudsman's Office in February 2012 whereby they were asked to determine a matter against a Town Councillor following an investigation by the Ombudsman's Investigating Officer. The Standards Committee sat on 7 March 2012 to hear all the evidence. Although it was the decision of the Standards Committee that there had been a breach of the Code of Conduct, given all the circumstances it was decided not to impose any further sanction upon the Councillor concerned. Under a revised procedure introduced at the beginning of 2012 the Ombudsman may now offer to the Monitoring Officer/Standards Committee, the opportunity to mitigate specific cases referred to them by the Ombudsman. Flintshire County Council received one such case in which it was decided not to investigate.

# The Committee's work

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## 4. Local Protocol

A debate has been ensuing for most of the year between all local authorities and in conjunction with the Welsh Government and the Ombudsman's Office as to whether it would be good practice to have a local protocol at local authority level to deal with member on member complaints if they were of a low level. A number of local authorities in Wales, eg Swansea, Gwynedd and others have in fact adopted their own individual local protocols for resolution of these types of matters. It was hoped that the Welsh Government would provide a draft protocol which could be adopted across Wales which would provide a consistent approach for all councils in attempting to deal with these types of matters. The Ombudsman however was of the view that he would not make it compulsory for local authorities to use such a procedure. This matter has yet to be considered fully or thoroughly by Flintshire County Council as they had been awaiting a draft protocol from the Welsh Government. No doubt that this will become a topic for further discussion in the year to come.

## 5. Indemnity

Again due to cases being heard by the Adjudication Panel the topic of providing an indemnity to councillors who are being investigated by the Ombudsman and who may subsequently appear before the Adjudication Panel did become an issue during the course of 2011/12. Again the practice across Wales differs in various authorities with no consistent approach being provided. However there was consensus by all local authorities at the Standards Conference 2011 that there should no longer be an unlimited indemnity provided by local authorities to councillors and that a cap of a suitable and sensible level should be imposed in any appropriate case. The subject of insurance to cover such costs was another issue of concern. A number of councils have arranged that there be insurance cover should councillors wish to take up the insurance to cover them in situations where they may be taken to adjudication panel on allegations of code of conduct. However not all councillor have taken up the insurance. Others attached to specific political groups may have their own insurance cover. There is also concern that insurance companies themselves will not continue to provide this cover as it may no longer suit their business to do so.

# The Committee's work

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## The Wales Standards Committee Conference

The Committee was represented at the Wales Standards Conference 2011 in Llandrindod Wells by a number of members of Town and Community Councils. Presentations were given amongst others Peter Davies, President of the Adjudication Panel for Wales, Peter Tyndall, Public Services Ombudsman for Wales, Reg Kilpatrick of the Welsh Government on local resolution and Kate Perry the Chair of ACSeS.

The day long event was of use and interest covering the main topics which appear on the preceding pages of this report.

At the end of the day a case study was presented by Peter Keith-Lucas of Bevan Brittan in conjunction with members of the audience taking character roles in a mock hearing reflecting a typical situation where a declaration of interest may arise and how councils and standards committees need to approach these situations and what factors they will need to consider.

All who attended the meeting thought it was useful and beneficial to share and exchange information with other local authorities and to find out how they approach different matters. It was also useful and everyone took away some information which they could discuss with their wider standards committee members for improving any procedures or adopting such things as a local resolution, which would it was felt, increase and improve standards of members.

## Useful Contacts

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<b>Public Services Ombudsman for Wales</b>	<a href="http://www.ombudsman-wales.org.uk">www.ombudsman-wales.org.uk</a>
<b>Adjudication Panel for Wales</b>	<a href="http://www.adjudicationpanelwales.org.uk">www.adjudicationpanelwales.org.uk</a>

# Appendix One

## Summary of Sanctions Imposed by Case Tribunals and Appeal Tribunals in the Period October 2002 to March 2011

Sanction	Period	No of Decisions
<b>Case and Appeal Tribunals</b>		
Disqualification	2 years 6 months	1
	2 years	1
	1 year 6 months	1
	1 year	3
Suspension	12 months	5
	9 months	3
	6 months	4
	4 months	1
	3 months	2
	2 months	4
	1 month	2
Partial Suspension	3 months	1
	7 weeks	1
Censure	-	2
Breach – no action	-	5
No breach	-	4
Withdrawn	-	2
<b>Appeals</b>		
Breach of code upheld/dismissed		
Sanction endorsed		
Different sanction recommended		
Not accepted		
• Out of time	1	
• Not in jurisdiction	1	



Failure to show respect/equality/bullying	20%
Compromising impartiality of an employee	3%
Disclosure of confidential information	3%
Withholding information	3%
Committing a criminal offence	5%
Bringing office/authority into disrepute	26%
Making vexatious or malicious complaints	1%
Failure to cooperate with the Ombudsman	1%
Misuse of position	10%
Misuse of authority's resources	1%
Failure to reach decisions on merit/in public interest	1%
Failure to have regard for officer advice	4%
Failure to lead by example (local provision)	1%
Failure to disclose interest and/or withdraw	20%
Failure to have regard to standards committee advice	1%

### Breaches by type October 2002-March 2011

