

STANDARDS COMMITTEE

9 JANUARY 2023

Minutes of the meeting of the Standards Committee of Flintshire County Council held as a remote attendance meeting on Monday, 9 January 2023

PRESENT: Julia Hughes (Chair)

Councillors: Andrew Parkhurst and Antony Wren

CO-OPTED MEMBERS:

David Wynn Davies, Gill Murgatroyd, and Ian Papworth

APOLOGIES: Jacqueline Guest and Mark Morgan

ALSO PRESENT: Councillor Teresa Carberry and Councillor Bill Crease (as observers). Councillor David Healey (for minute no.44)

IN ATTENDANCE:

Chief Officer (Governance), Deputy Monitoring Officer, and Democratic Services Officer

Prior to the start of the meeting the Monitoring Officer provided advice on the quorum of meetings of the Standards Committee. Following guidance from the Monitoring Officer, Councillor Teresa Carberry who was present, volunteered to remain in the meeting as an observer.

42 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

Councillor Teresa Carberry declared a personal interest on agenda item 7 as she was a member of Mold Town Council. Councillor Antony Wren also declared a personal interest on agenda item 7 as he was a member of Connah's Quay Town Council.

Councillor Andrew Parkhurst declared a personal and prejudicial interest on agenda item 8: Overview of Ethical Complaints.

Councillor David Healey declared a personal interest in agenda item 4: Dispensations.

43. **MINUTES**

The minutes of the meeting held on 5 December 2022 were presented for approval.

Accuracy

Councillor Andrew Parkhurst referred to matters arising on page 5, minute 33, and sought clarification on the statement: 'that the rolling review of the Members'

Code of Conduct which was being deferred from July 2023'. The Monitoring Officer explained that it had been suggested that the review of the Members' Code of Conduct should take place in July 2023 but the committee thought that would be too soon to undertake a further review following consideration of the item at today's meeting.

As a point of accuracy the Monitoring Officer said that the reference to Minute 34 under matters arising: 'confirmation that the agreed action had been completed by the Monitoring Officer to be given at the next meeting' should actually refer to Minute 33. He also confirmed that the action had taken place.

In response to a further question from Councillor Parkhurst concerning when a review of the Flintshire Standard would take place, the Monitoring Officer agreed to recirculate the report to the Committee which sets out the agreed timetable for review of policies.

Subject to the amendments, as stated above, the minutes were approved as an accurate record as moved by David Davies and seconded by Ian Papworth.

RESOLVED:

That subject to the amendments as stated above, the minutes were approved as an accurate record

44. DISPENSATIONS

The Chair reported that one application for dispensation had been received from Councillor David Healey.

The Monitoring Officer provided background information and context. He gave an overview of the request and advised that Councillor Healey wished to represent the views of residents in his Ward who were concerned about a proposed local residential development. Councillor Healey sought dispensation to speak to and write to officers and to speak as the Local Member at the Planning Committee in relation to application FUL/000769/22 (application for erection of 70 dwellings, construction of a new vehicular access, landscaping and associated works at land at Wrexham Road, Abermorddu, Hope, Flintshire, LL12 9DG) ("the Issue")

Councillor David Healey was invited to speak on his request for dispensation. He provided further explanation of the level of dispensation sought and details about the personal and prejudicial interest which had arisen. During discussion Councillor Healey responded to the question raised by the Chair regarding his request to remain in the room during any debate.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

At this point, the Chair proposed that the meeting move into closed session - as provided for under the Local Government (Access to Information) Act 1985. This was moved by Gill Murgatroyd and seconded by Councillor Andrew Parkhurst.

RESOLVED:

That the press and public be excluded from the meeting as the item was considered to be exempt by virtue of paragraph 18C of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

Councillors David Healey, Bill Crease and Teresa Carberry were put into the virtual waiting room and the live streaming of the meeting was paused.

The Monitoring Officer provided advice to the Committee on the granting of dispensations.

Following the debate, Councillors David Healey, Bill Crease and Teresa Carberry were re-admitted to the meeting and the live streaming recommenced.

The Monitoring Officer informed Councillor Healey that the Standards Committee had resolved to grant him a dispensation under paragraphs (d), (f) and (i) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 allowing him to:

- speak to and write to officers; and
- to speak for five minutes at meetings of the Planning Committee both in relation to the above application and also any application which, in the opinion of the Monitoring Officer, was similar.

Councillor Healey was advised that when he speaks to officers about the Issue, there needs to be an independent witness present and there must be minutes taken of any such meetings.

Councillor Healey could speak at the above meetings about the Issue but should leave the meeting once he has spoken and before the matter was debated and voted on.

Before speaking at any such meetings about the Issue Councillor Healey should still declare his interest in the matter and confirm that he has a dispensation to speak about it. The same applies to any written communications with officers.

The dispensation to be granted for 12 months, ceasing on 8 January 2024

RESOLVED:

That Flintshire County Councillor David Healey be granted dispensation under paragraphs (d), (f) and (i) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak to and write to officers; and to speak for five minutes at meetings of the Planning Committee both in relation to the above application and also any application which, in the opinion of the Monitoring Officer, was similar. Councillor Healey was advised that when he speaks to officers about the Issue there needs to be an independent witness present and there must be minutes taken of any such meetings.

Councillor Healey could speak at the above meetings about the Issue but should leave the meeting once he has spoken and before the matter was debated and voted on.

Before speaking at any such meetings about the Issue Councillor Healey should still declare his interest in the matter and confirm that he has a dispensation to speak about it. The same applies to any written communications with officers.

The dispensation to be granted for 12 months, ceasing on 8 January 2024.

45. CHANGES TO THE COUNCILLORS' CODE OF CONDUCT FOLLOWING THE ROLLING REVIEW

The Monitoring Officer introduced a report to agree the precise drafting of changes that were agreed in principle as part of the rolling review of the Constitution at the November 2022 meeting. He referred to the main points and explained that at the meeting in November the Standards Committee had considered, as part of its rolling review of the Constitution, whether to amend the Councillors' Code of Conduct and specifically whether to adopt the recommended changes in the Penn Review before the Welsh Government legislated for them. The Committee resolved to adopt the changes as detailed in paragraph 1.01 of the report in principle and to consider the revised drafting during this meeting. The wording necessary to implement the changes had been added to the code of conduct in draft changes for ease of reference and were shown in Appendix 1. The Committee could see the "finished version" in Appendix 2

The Chair referred to Appendix 1, page 28, paragraph 17 (2), and sought clarification on the reference to gifts and hospitality. The Monitoring Officer explained that this was a previous amendment to the Code and had been approved. The Chair also referred to page 14, Interpretation, and suggested that the wording under "relevant authority" be amended to include reference to a city town or community council.

The recommendation in the report was moved by Ian Papworth and seconded by David Davies with the addition of the above amendments,

RESOLVED:

That the proposed amendments to the Councillors' Code of Conduct be approved.

46. ROLLING REVIEW OF THE EMPLOYEES' CODE OF CONDUCT

The Monitoring Officer presented the report and provided background information. He advised that as part of the rolling review of the Constitution the Committee had to consider whether the Employees' Code of Conduct needed any amendments to keep it up to date. He explained that the Code itself was mandatory and prescribed in legislation. The Council had added explanatory text to expand and clarify the requirements under the Code.

The Monitoring Officer explained that Officers were employees of the Council and therefore in a contractual employment relationship with the Council. Unlike the Councillors' Code, compliance with the Employees' Code was maintained through

the employment relationship by managers. Senior Officers and managers had been consulted on the efficacy of the Code and had suggested updating it to deal more cogently with issues such as expected behaviours towards colleagues and public statements relating to the Council, including on social media and use of IT. The proposed changes to the Employees' Code of Conduct were shown in Appendix 1 to the report. The Committee was asked to consider recommending the proposed changes to Council for approval.

Councillor Andrew Parkhurst asked whether the Employees' Code of Conduct included all officers up to and including the Chief Executive. The Monitoring Officer explained that the Employees' Code of Conduct included all relevant employees with the exclusion of fire-fighters and teachers within the Council. In response to a further query from Councillor Parkhurst the Monitoring Officer explained that the Constitution was currently being updated and a revised edition would be available on the Council's website soon.

Gill Murgatroyd referred to page 58 of the report, paragraph 2.3, and suggested that the reference to 'disciplinary action' be changed to read 'disciplinary proceedings'. She also referred to page 63, paragraph 8.6, and sought clarification of the reference to 'DOI system'. She suggested that the wording 'The Council created an online system' be amended to read 'The Council has an online system'. The Monitoring Officer responded to the comments and agreed to the suggested changes.

Ian Papworth referred to page 68 of the report and asked whether the final sentence on paragraph 15.2: 'This is not intended to preclude Trade Unions from pursuing their legitimate industrial relations activities' should also be included in paragraph 15.4. The Monitoring Officer agreed to the amendment.

Councillor Andrew Parkhurst expressed concerns around the wording in the second part of paragraph 15.2. He suggested that the wording required amendment to ensure that it protected the Council against inappropriate comments but also allowed employees to voice legitimate concerns. He also suggested that a comparison be made with the Code of Conduct used in other councils and organisations. The Monitoring Officer responded to the comments and said a comparison could be undertaken with other councils and organisations and feedback provided to the next meeting of the Standards Committee on the matter of freedom of expression and criticism from employees.

Councillor Parkhurst referred to paragraph 2.8, page 58, and queried the use of the word 'recent'. The Monitoring Officer agreed to remove the word which was an anomaly. Councillor Parkhurst also sought clarification on Section 10 – Employees' Outside Work (page 65 of the report). The Monitoring Officer explained that Section 10 concerned employees who operated a business in their private life or had a second employment. Councillor Parkhurst raised further questions around remuneration of employees who were directors of companies or organisations which had a contractual arrangement with Flintshire County Council. The Monitoring

Officer responded to the questions raised and provided examples of circumstances covered by the Code of Conduct.

Councillor Andrew Parkhurst moved that the item be deferred to the next meeting of the Committee pending further consideration of the wording relating to employees expression of comments which may be critical of the Council. This was seconded by David Davies and when put to the vote was carried.

RESOLVED:

That the item be deferred to the next meeting of the Committee.

47. REPORTS FROM INDEPENDENT MEMBER VISITS TO TOWN AND COMMUNITY COUNCILS

The Chair provided background information and invited the Independent Members to provide verbal reports on the following visits which had been undertaken recently:

David Davies provided verbal feedback on his attendance at the meeting of Gwernaffield and Pantymwyn Community Council held on 9 November 2022. He also provided verbal feedback on his attendance at the meeting of Mostyn Community Council held on 21 November 2022.

Gill Murgatroyd gave verbal feedback on her attendance at the meeting of Whitford Community Council held on 10 November 2022. She also provided verbal feedback on her attendance at the meeting of Holywell Town Council held on 15 November 2022.

Ian Papworth provided verbal feedback on his attendance at the meeting of Connah's Quay Town Council held on 28 November 2022.

Julia Hughes provided verbal feedback on her attendance at the meeting of Mold Town Council held on 30 November 2022.

The Independent Members agreed that the visits had been positive experiences and praised the level of commitment and contributions by those in attendance. They were impressed that all meetings were well chaired and ably supported by clerks.

The following points were raised which were to be fed back to support Town and Community Councils in their procedures:

- The Independent Members noted that as a matter of good practice Declarations of Interest were standing items on all agendas. When declaring interests, Members need to be specific in whether it is a personal or personal and prejudicial interest so that everyone knows whether they intend to stay in the room. There have been examples of people leaving the room when they only had a personal interest. This is not necessary. Potentially, it deprives the Council of what might be useful information or insight and might make others reluctant to declare a personal interest because it is "the norm" when declaring any interest that one is not able to take part.

There are some exemptions in the Code which automatically downgrade personal and prejudicial interests to personal interests only:

- a Councillor has been appointed by the Council to an outside body, he or she only has a personal interest in matters affecting that body (provided the matter is not a planning, licensing or other regulatory application)
 - Town and Community Councillors (not County Councillors) can award grants of up to £500 even though they might be associated with the body being funded.
- Independent Members have no statutory right to “carry out inspections” and attend Town/Community Council meetings as though they were a member of the public. If a Town/Community Council meeting goes into closed session they should therefore be excluded from the meeting along with anybody else that isn’t a Councillor. However, this makes it difficult for the Independent Member to carry out their role. If needed to go into closed session could consideration be given to allow the Independent Member to remain in the meeting. They will be bound by the same Code of Conduct as Councillors and must respect confidential information.

The Committee intended that the feedback would be useful and acknowledged the dedication and good work undertaken by Town/Community Councillors in their voluntary roles.

RESOLVED:

That the verbal reports be received and feedback given to Town and Community Councils.

48 **OVERVIEW OF ETHICAL COMPLAINTS**

The Monitoring Officer presented the report which provided a summary of the ethical complaints alleging a breach of the Code that had been submitted to the Public Services Ombudsman for Wales (PSOW). The report provided information on the number and types of complaints being made and the outcome of consideration by the PSOW. The Monitoring Officer reported that since the last report 5 complaints had been received none of which were investigated. There were 4 complaints outstanding.

In response to question from the Chair the Monitoring Officer reported that a further 3 complaints had been notified following submission of his report to the Committee and these would be reported to the next meeting.

A summary of the complaints received during 2022/2023 was appended to the report.

The recommendation in the report was moved by Councillor Antony Wren and seconded by Gill Murgatroyd.

RESOLVED

That the number and type of complaints be noted.

49 **FORWARD WORK PROGRAMME**

The Monitoring Officer presented the Forward Work Programme for consideration.

In response to questions from Councillor Andrew Parkhurst regarding the Constitution, the Monitoring Officer explained that the Constitution and Democratic Services Committee was responsible for considering the Constitution and the Standards Committee was responsible for considering the parts relating to ethics and standards. The Monitoring Officer reiterated that the Constitution was currently being updated and a revised version would be available on the Council's website shortly. He suggested that in the meantime a message could be put on the website to inform which section was being updated and that the current text remained in place pending revision.

In response to a further question from Councillor Parkhurst, the Monitoring Officer advised that Section 11 of the Constitution covered the following areas:

- Management Structure
- duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services
- conduct
- employment
- Officer Employment Procedure Rules
- Officer Scheme of Delegation

The Chair commented that the item on the Rolling Review of the Employees Code of Conduct would need to be rescheduled onto the Forward Work Programme following the agreement to defer during the meeting. It was agreed that the item be moved to the meeting of the Committee to be held on 6 March 2023 and also that the item on Introductions be moved to the meeting in March. It was further agreed that the meeting of the Committee scheduled to be held on 8 May 2023 be rescheduled to 15 May due to the Bank Holiday to mark the coronation of King Charles 111.

The recommendation was moved by Gill Murgatroyd and seconded by Councillor Andrew Parkhurst

RESOLVED:

That the Forward Work Programme, as amended, be approved.

50 **MEMBERS OF THE PRESS IN ATTENDANCE**

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

(The meeting started at 6.30pm and ended at 9.38 pm)

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Chair