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Contact Officer:
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To: Robert Dewey (Chairman)

Councillors: Patrick Heesom, Paul Johnson and Arnold Woolley

Co-opted Members:

Jonathan Duggan-Keen, Phillipa Earlam, Julia Hughes and Kenneth Molyneux
(+ 1 vacancy for a co-opted member)

27 August 2019

Dear Sir/Madam

You are invited to attend a meeting of the Standards Committee which will be held at **6.00 pm** on Monday, 2nd September, 2019 in the Clwyd Committee Room, County Hall, Mold CH7 6NA to consider the following items

Members are asked to note the start time of the meeting at 6.00pm

A G E N D A

1 **APOLOGIES**

Purpose: To receive any apologies.

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

Purpose: To receive any Declarations and advise Members accordingly.

3 **MINUTES** (Pages 5 - 10)

Purpose: To confirm as a correct record the minutes of the meeting on 1 July 2019.

4 DISPENSATIONS

Purpose: To receive any requests for dispensations.

Members of the press/public will be able to remain in the room whilst an application for dispensation is presented to the Committee and will be able to return to hear the Committee's decision. However, under Paragraph 18C Schedule 12A Local Government Act 1972 the Committee will exclude the press and public from the meeting whilst it deliberates on any application for a dispensation.

5 REPORTS FROM INDEPENDENT MEMBER VISITS TO TOWN/COMMUNITY COUNCILS

Purpose: To receive verbal reports from independent members of the Committee on their visits to the following councils:

- Mold Town Council (Robert Dewey – 26.06.19)
- Shotton Town Council (Julia Hughes – 08.07.19)
- Queensferry Community Council (Phillipa Earlam – 09.07.19)

6 REVIEW OF THE FLINTSHIRE STANDARD (Pages 11 - 20)

Purpose: To review the expected standards of behaviour contained within the Flintshire Standard/Local Resolution Procedure.

7 STANDARDS COMMITTEE FORUM FOR NORTH AND MID WALES (Pages 21 - 82)

Purpose: To provide feedback from the Standards Committee Forum for North and Mid Wales

8 PUBLIC SERVICES OMBUDSMAN FOR WALES (PSOW) CASEBOOK ISSUE 20 (JANUARY 2019 – MARCH 2019) (Pages 83 - 86)

Purpose: To inform the Committee of the latest publication of the Public Services Ombudsman's Code of Conduct Casebook.


9 UPDATE ON THE COMMUNITY ASSET TRANSFER PROGRESS (Pages 87 - 90)

Purpose: To provide an update on the Community Asset Transfer Progress.

10 **FORWARD WORK PROGRAMME** (Pages 91 - 94)

Purpose: For the Committee to consider topics to be included on the attached Forward Work Programme.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robert Robins', with a horizontal line extending to the right.

Robert Robins
Democratic Services Manager

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STANDARDS COMMITTEE **1 JULY 2019**

Minutes of the meeting of the Standards Committee of Flintshire County Council held at County Hall, Mold on Monday, 1 July 2019

PRESENT: Julia Hughes (Vice-Chair in the Chair)

Councillors:

Patrick Heesom, Paul Johnson and Arnold Woolley

Co-opted members:

Jonathan Duggan-Keen and Ken Molyneux

APOLOGIES: Rob Dewey and Phillipa Earlam

ALSO PRESENT: Flintshire County Councillor and Hawarden Community Councillor Clive Carver; and Hawarden Community Councillor Cheryl Carver attended as initiators of dispensation requests

IN ATTENDANCE:

Monitoring Officer, Deputy Monitoring Officer and Democratic Services Officer

9. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None.

10. MINUTES

The minutes of the meeting held on 3 June 2019 were approved.

Matters Arising

Minute 6: The information on Conwy County Borough Council's translation service and the sharing of costs through joint appointments of Clerks had been included in the June feedback to Town and Community Councils.

In response to comments by Councillor Johnson and the Chair, it was agreed that details of training courses for Clerks would be shared with Town and Community Councils.

Minute 7: A future item about guidance on what constituted work/activities outside the role of a Councillor would be included on the Forward Work Programme.

RESOLVED:

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

11. DISPENSATIONS

The Chair and Monitoring Officer explained the procedure in which the applicants would be permitted to speak before being asked to leave the room, along with members of the public, to enable the Committee to determine the dispensations in closed session.

Hawarden Community Council - Planning Application 060060

The Monitoring Officer presented four dispensation requests from Hawarden Community Councillors; two of which had been updated (Councillors Clive and Cheryl Carver) and a further two received following publication of the agenda (Councillors Joyce Angell and Bob Connah).

All four requests related to a planning application on the Herbert Gladstone Recreation Ground due to be considered at a meeting of the Community Council's Planning Committee. As all Hawarden Community Councillors were Trustees of the Recreation Ground, they had been advised by the Monitoring Officer, through the Clerk, that this was a personal and prejudicial interest on which they would need to seek dispensation prior to the Planning Committee meeting. The exemption provided under paragraph 12(2) of the Members' Code of Conduct did not apply to planning applications.

The applications sought different levels of dispensation. On Councillor Connah's application, the Monitoring Officer could not recall the Committee having granted a right to vote on similar dispensations in the past. He said that it was for individual Councillors to determine what level of interest to declare and whether they wished to participate when the item was considered, which could result in those meetings being inquorate. As the local Member, Councillor Carver would have the right to speak for five minutes at the County Council's Planning Committee if he was granted dispensation.

Councillors Clive and Cheryl Carver, who were in attendance, were invited to make representations.

Councillor Clive Carver clarified that the planning application had been submitted by Hawarden Rangers Football Club and that Councillor Cheryl Carver was wishing to speak in her capacity as Chair of the Planning Committee. Whilst acknowledging the precedent on previous applications, he asked that if dispensation to vote was granted to Councillor Connah, that this be extended to the other three applicants who were not seeking to vote.

In response to questions, Councillor Carver advised that 17 Members currently served on the Planning Committee whose decisions would not need to be ratified by the full Community Council. He explained the complexities of the application due to the nature of the site.

At this point, Councillor Woolley proposed the exclusion of the press and public - as provided for under the Local Government (Access to Information) Act 1985. The

Chair asked that those in the public gallery leave the room and that they would be asked back to hear the decision.

During discussion, views were expressed on whether the needs of the remaining Hawarden Community Councillors who had not sought dispensation was a material consideration and the importance of setting a precedent. It was agreed that the application form would be updated to reflect changes to the paragraphs under which dispensation could be given.

Councillor Woolley proposed that Councillor Angell be granted dispensation on the grounds requested, which was supported. He proposed that Councillor Connah be granted dispensation without voting rights, which was supported. Mr. Molyneux proposed that Councillor Cheryl Carver be granted dispensation on the grounds requested, which was supported. Councillor Johnson proposed that Councillor Clive Carver be granted dispensation on the grounds requested, which was supported. All dispensations were granted subject to the usual provisions on timescale and speaking with officers.

The members of the public and Councillors who had left the room were invited back into the meeting and informed of the decisions which would be confirmed in writing by the Monitoring Officer.

During the closing discussion, it was pointed out that the County Council Planning Committee late observation process could enable the Community Council to convene a special meeting to reach a decision, if needed.

RESOLVED:

- (a) That Flintshire County Councillor and Hawarden Community Councillor Clive Carver be granted dispensation under paragraphs (a), (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak at Flintshire County Council and Hawarden Community Council Planning Committee, but leave before the debate and vote on planning application 060060 or any application which, in the opinion of the Monitoring Officer, is similar. This allows for making verbal and written communications on the matter to officers of Flintshire County Council provided there is at least one witness when speaking to officers, thereby ensuring that there are at least three people involved in the conversation which should be minuted. The dispensation to be granted for 12 months, ceasing on 31 June 2020;
- (b) That Hawarden Community Councillor Cheryl Carver be granted dispensation under paragraphs (a), (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak at Hawarden Community Council Planning Committee, but leave before the debate and vote on planning application 060060 or any application which, in the opinion of the Monitoring Officer, is similar. The dispensation to be granted for 12 months, ceasing on 31 June 2020;
- (c) That Hawarden Community Councillor Joyce Angell be granted dispensation under paragraphs (a), (d) and (f) of the Standards Committee (Grant of

Dispensations) (Wales) Regulations 2001 to speak at Hawarden Community Council Planning Committee, but leave before the debate and vote on planning application 060060 or any application which, in the opinion of the Monitoring Officer, is similar. This allows for making verbal and written communications on the matter to officers of Flintshire County Council provided there is at least one witness when speaking to officers, thereby ensuring that there are at least three people involved in the conversation which should be minuted. The dispensation to be granted for 12 months, ceasing on 31 June 2020; and

(d) That Hawarden Community Councillor Bob Connah be granted dispensation under paragraphs (a), (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak at Hawarden Community Council Planning Committee, but leave before the debate and vote on planning application 060060 or any application which, in the opinion of the Monitoring Officer, is similar. The dispensation to be granted for 12 months, ceasing on 31 June 2020; and

(e) That the Dispensation application form be updated and brought into circulation.

12. VARIATION IN ORDER OF BUSINESS

A change in the order of business was agreed to bring forward agenda item 6 for the benefit of those in the public gallery.

13. REPORTS FROM INDEPENDENT MEMBER VISITS TO TOWN/COMMUNITY COUNCILS

The following independent members presented their verbal reports:

Mr. Jonathan Duggan-Keen - Hawarden, Whitford and Gwernaffield & Pantymwyn Community Councils

Mrs. Julia Hughes - Connah's Quay and Flint Town Councils

During her report on Connah's Quay Town Council, the Chair said it would be useful for all Town/Community Councils to put in place alternative arrangements to enable agendas and relevant information to be published in the event that the Clerk was unavailable. She also said that a member of the public enquiring about attending a meeting could be made aware if the meeting was likely to be brief and advised of procedures, for example standing when the Chair enters the room, being advised of public information sessions or why an item was exempt from the press or public.

As the Clerk of Flint Town Council had not received feedback circulated by email, the Chair asked that all feedback letters to date be posted to him. She also suggested that Clerks be asked to confirm receipt of further feedback letters sent by email.

The following points were raised which were to be fed back to Town and Community Councils:

- Providing nameplates for committee members would help observers to identify speakers;
- The importance of stating reasons when declaring interests;
- Providing clear directions to meeting venues and car parks.

After the final four visits had been undertaken (including the Chair's visit to Shotton Town Council on 8 July), an overall report would be presented to the joint meeting with Town and Community Councils on 30 September.

RESOLVED:

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

14. ITEMS FOR DEFERRAL

Due to time restrictions and to allow for agenda items to be given proper consideration, it was agreed that items 5 (Update on the Community Asset Transfer Progress) and 7 (Feedback from the Standards Forum) be deferred to September.

15. FORWARD WORK PROGRAMME

The current Forward Work Programme was considered, noting the deferral of the two items from this meeting.

The next meeting on 2 September would include the Review of Flintshire Standard and the Public Services Ombudsman Wales (PSOW) Code of Conduct Casebook. It was agreed that no training would take place to allow for a 6pm start.

The meeting on 30 September would include the overall report on visits to Town/Community Councils, the suggested item on activities outside the role of a Councillor and the Annual Report of the Adjudication Panel for Wales.

RESOLVED:

That the Forward Work Programme be noted.

16. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were two members of the public in attendance.

(The meeting started at 6.30pm and ended at 9pm)

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Chair

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STANDARDS COMMITTEE

Date of Meeting	Monday, 2 nd September 2019
Report Subject	Review of the Flintshire Standard
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

The Council has adopted a local resolution process that also includes a statement of the standards of behaviour to which the Council aspires. This is called the Flintshire Standard. There has been a desire amongst both Members and Officers to review and restate those expectations.

Officers have reviewed the standard with Group Leaders and some amendments are suggested to expand and clarify expectations around behaviour.

RECOMMENDATIONS

1	That the amended Flintshire Standard be recommended to Council for adoption.
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REPORT DETAILS

1.00	BACKGROUND TO THE FLINTSHIRE STANDARD
1.01	In June 2013 the Council adopted a local resolution process, called the Flintshire Standard, as an alternative to referring complaints about behaviour, from Members and/or Officers, to the Public Services Ombudsman for Wales. The Flintshire Standard set out how Members should behave towards each other and Officers.
1.02	The provisions of the Code of Conduct, which, whilst possessing the virtue of brevity, do not give practical examples of what is required. The Flintshire Standard therefore expands upon the obligations that relate to behaviour

	towards others with a list of “do’s and don’ts” across a range of situations. The Standard also sets out an escalating process of mediation to be followed in the event that a Member or Officer feels its provisions have been breached.
Reviewing the Standard	
1.03	There has recently been a desire amongst both Members and Officers to review the contents of the Flintshire Standard in order to: <ul style="list-style-type: none"> • expand and clarify the guidance within it; and • restate and reinforce the behaviours expected.
1.04	Officers and Group Leaders have therefore suggested some amendments to the Flintshire Standard. These are shown in tracked changes at Appendix 1.

2.00 RESOURCE IMPLICATIONS	
2.01	The Flintshire Standard is intentionally quick and simple to operate in its early stages, so that any disputes are quickly resolved. The process is therefore not greatly demanding of time or other resources.

3.00 CONSULTATIONS REQUIRED / CARRIED OUT	
3.01	Chief Officers and Group Leaders (plus their deputies) have contributed to the preparation of the suggested amendments. The revised document will need to be considered by the Constitution and Democratic Services Committee prior to submission to Full Council for approval.

4.00 RISK MANAGEMENT	
4.01	The local resolution process contained within the Flintshire Standard is intended for use on low level complaints concerning the relationship between Councillors or Councillors and Officers. It can be invoked quickly and easily in order to catch issues before significant harm occurs to that relationship and whilst people are more willing to compromise. It is, however, extra statutory and so does not have recourse to the legislative sanctions available following a complaint to the Ombudsman. Its use must always therefore be considered carefully to ensure its suitability in light of the nature of the complaint and the surrounding circumstances.

5.00	APPENDICES
5.01	Appendix 1 – Flintshire Standard

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>There are no accessible background documents.</p> <p>Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	None

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THE FLINTSHIRE STANDARD

This document explains the standard of conduct expected from Flintshire County Councillors and co-opted members in dealing with each other and with officers. It should be read in conjunction with the Members' Code of Conduct and the Protocol on Member-Officer Relations. It adds to those documents and does not detract from them.

In each case behaviour under the Flintshire Standards will be judged objectively. That is to say, it will be judged based on what a reasonable person knowing all the facts would conclude from observing the behaviour.

Freedom of speech, particularly political expression is important within a democratic society. In exercising the right to free speech and when acting on Council business, the following standards are expected of Flintshire County Council members—~~are~~ expected to:-

Public behaviour:

- Show respect to each other and officers
- ~~Not to~~Do not make personal or abusive comments about each other or officers
- ~~Not to~~Do not ~~publish anything insulting about~~accuse each other or officers of lying or falsifying facts or documents
- ~~Not to make~~Do not make malicious allegations against each other or officers
- ~~Not to~~Do not publish or spread any false information about each other or officers
- Show respect to diversity and equality
- Do not accuse or imply that officers are acting from political motives -

Behaviour in Council and eCommittee meetings:

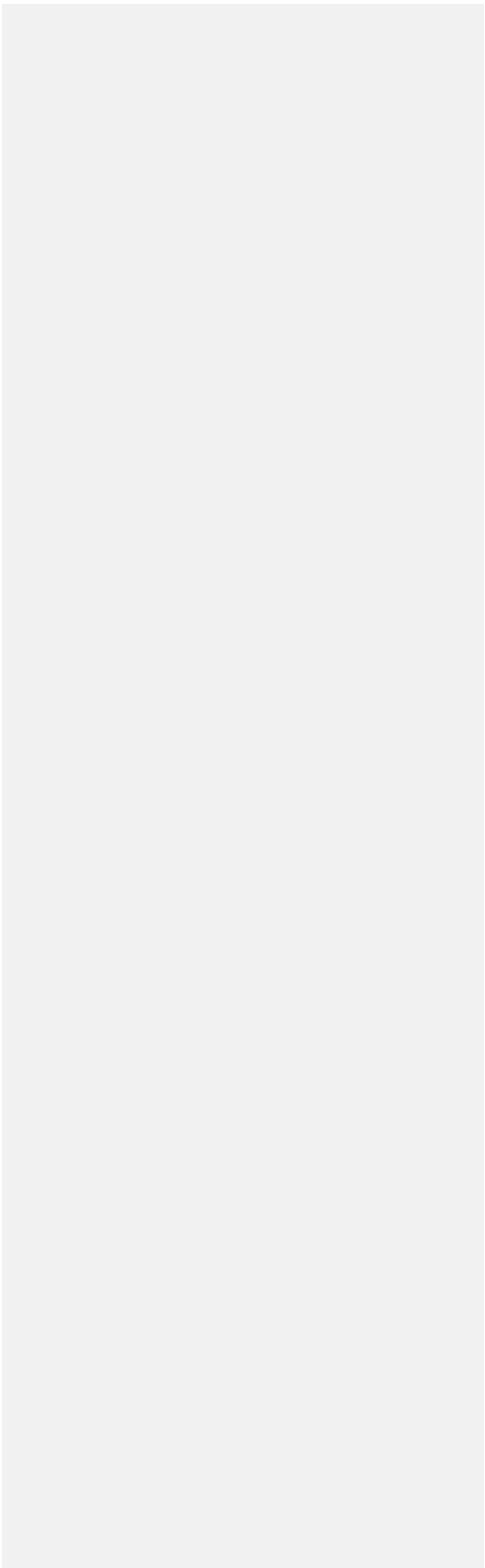
- Behave with dignity in meetings
- Show respect to and obey decisions of the Chairman
- Make points based on the issue under discussion not personal remarks about others
- Allow others to speak without interruption or heckling
- Not to use indecent language nor make ~~racial-discriminatory~~ remarks or remarks which prejudice any section of society
- Exclude officers from the scope of political remarks

Confidentiality:

- Keep the confidentiality of exempt papers and any other documents which are not public.
- Not to release confidential information to the press or the public.
- Return or securely destroy confidential papers.
- Not to use confidential information for purposes other than intended.

Local members

- Work with any joint ward member and/or members of adjoining wards for the benefit of the locality.
- If dealing with any matter relating to another ward
 - Explain to anyone seeking assistance that he/she is not the local member
 - Inform the local member, unless it would lead to a breach of confidentiality
- Ensure that officers are treated with respect at public meetings within the ward



LOCAL RESOLUTION PROCEDURE FOR COMPLAINTS ABOUT BEHAVIOUR

INTRODUCTION

1. The Flintshire Standard and the Protocol for Member-Officer Relations are important in promoting good co-operation between members and between members and officers within the Council, thereby allowing the council to fulfil its duties effectively and professionally. It is therefore important that any allegations against a member that he/she has breached the standard and/or protocol can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy way to understand the method of dealing with such allegations.
2. It is important that poor behaviour is quickly addressed and matters are handled whilst recollections are fresh. This procedure will therefore only apply to incidents or behaviour occurring in the 12 months prior to a complaint being made in writing to the Monitoring Officer.

STAGE 1 OF THE PROCEDURE

3. Any member or officer who wishes to submit an allegation under this procedure should send the complaint to the Monitoring Officer. Officers wishing to make a complaint should first consult with their Head of Service. Following receipt of the complaint the Monitoring Officer will act as follows:-
4. The Monitoring Officer will not deal with the allegation at this stage in order to preserve their ability to advise the Standards Committee later in the process. In the first place the allegation will be referred either the Deputy Monitoring Officer (or another officer nominated by the Monitoring Officer) who will advise whether the allegation falls within this procedure or whether it should be referred to the Ombudsman as an allegation of breach of the Members Code of Conduct.

N.B. The complainant has the statutory right to complain to the Public Service Ombudsman for Wales ("PSOW"). Should the complainant exercise that right then this procedure will not be used, and any efforts to resolve a complaint using this procedure will be stopped. The process will only resume if the matter is referred back for local resolution.
5. This procedure is only suitable for allegations made by officers or members of Flintshire County Council that a member has breached the Flintshire Standard or the Protocol on Member/Officer relations. It is not suitable for complaints:
 - made by members of the public;
 - which in the opinion of the Monitoring Officer allege a serious breach of the code of conduct; or
 - alleging repeated breaches of the code of conduct, or breaches where are similar to complaints that have been handled at Stage 3 of this procedure.

If the complaint is suitable for this procedure then the Deputy Monitoring Officer will give advice about how to possibly resolve the complaint. If the complaint is not suitable for this procedure then the Deputy Monitoring Officer will give advice about what (if anything) can be done.

6. If following the first stage the complainant wishes to proceed with the allegation under this procedure the matter may be referred either to a conciliation meeting under Stage 2 or to a hearing by the Standards Committee under Stage 3.

STAGE 2 OF THE PROCEDURE

7. At Stage 2 a meeting will be held between:
- the complainant;
 - the member against whom the complaint is made;
 - the Chief Executive
 - the leader of any relevant political group(s), that is to say the subject member's group leader and, if the complainant is a member, his/her group leader.

If the complainant is an officer, then it will be possible for the complainant to have a colleague or senior officer with him/her.

It is also possible for the matter to be dealt with in the complainant's absence in exceptional cases.

8. The purpose of this meeting will be to try and resolve the matter by conciliation. If deemed necessary the Chief Executive can call on the Monitoring Officer, the Deputy Monitoring Officer for advice and assistance.

STAGE 3 OF THE PROCEDURE

9. The third Stage is a hearing before the Standard Committee. The complainant will be asked to submit the substance of the complaint in writing and the member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee.
10. Both the complainant and the member have the right to appear before the Standards Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Council will not meet the costs of representation.
11. If either side wishes not to be present or fails to attend the hearing may be held in their absence.
12. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Standards Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.
13. The Committee can come to one of three conclusions, namely :-
- a) That there is no basis to the complaint.
 - b) That there is a basis to the complaint but that no further action is required. ← Formatted: Justified
 - c) That there is a basis to the complaint and that the member should be ← Formatted: Justified

censured.

In addition the Committee can make recommendations to the Council regarding changing any procedures or taking any further action.

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SUPPLEMENTARY MATTERS

14. The papers for the hearing will be exempt and it will be recommended that the hearing will take place with the press and public excluded. Publicity will not be given to the names of either the member or the complainant unless it is decided TO UPHOLD the complaint and that the member should be censured.
15. Stages 2 and 3 do not have to be following sequentially. Although it is possible for a complainant who remains dissatisfied after the conciliation meeting to ask for the matter to be referred to a hearing before the Standards Committee, it is also possible for a matter to proceed directly to the Standards Committee without going first to a conciliation meeting.
16. The aim of this procedure is to try and resolve complaints regarding members quickly and effectively. Nothing in this procedure prevents a complainant from submitting a complaint to the Public Services Ombudsman for Wales that a member has breached the Members Code of Conduct.

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STANDARDS COMMITTEE

Date of Meeting	Monday, 2 September 2019
Report Subject	Standards Committee Forum for North and Mid Wales
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

Flintshire County Council hosted the Standards Committee Forum for North Wales on 24 June 2019. A number of matters were discussed during the meeting, which represents an opportunity to share practice between Standards Committees.

There were 3 key issues that should be considered by the Committee:

1. Nick Bennett, Public Services Ombudsman for Wales, was in attendance and presented on actions that Councils can take to tackle problem behaviour that nevertheless does not meet the 2 Stage Test for investigation;
2. The report on Local Government Ethics by the Committee on Standards in Public Life
3. Consideration of whether it would be feasible or desirable to have one or more joint Standards Committees in the North Wales region

RECOMMENDATIONS

1	That officers should contact those counties identified by the Public Services Ombudsman as representing good practice to see what improvement could be made to the Council's ethical training
2	That the Council should put in place those best practice recommendations from the report of the Committee on Standards In Public Life identified in this report
3	That the monitoring officers in all 6 Councils plus the Fire and National Parks Authority be asked to collectively prepare a more detailed analysis of how one or more Joint Standards Committees might be introduced in North Wales

REPORT DETAILS

1.00	The Standards Committee Forum for North and Mid Wales
1.01	North Wales has held a periodic forum for independent members of its Standards Committees for many years. Members will recall that recently, Ceredigion and Powys joined as well. Flintshire hosted the most recent meeting of the Forum on 24 th June 2019.
1.02	Independent Members from all 8 Councils plus the Fire Authority were present. The Public Services Ombudsman for Wales attended to give his own presentation and to join the discussion on the report from the Committee on Standards in Public Life. The draft minutes are attached at Appendix 1.
	Presentation by the Public Services Ombudsman for Wales
1.03	<p>The PSOW gave a short presentation (slides attached) on his role and his office's experience of how lower level complaints can be managed.</p> <ul style="list-style-type: none"> • The number of ethical complaints has stayed static at around 282. Of these only 36 were investigated of which 8 were referred for a hearing in 2018/2019 which shows that overall standards of behaviour are high; • Complaints against County Councillors now make up a smaller proportion of the total number of complaints – roughly only 1 third of all complaints compared to a half previously. He took this to be evidence that local resolution procedures were having an impact to divert low level complaints about county councillors that would otherwise have been referred to his office; • Statistics show that the North Wales has 22% of the population yet generates 32% of complaints so the numbers are higher than one might expect. Conversely, only 17% of the complaints are sufficiently serious to refer for a hearing, which is a lower proportion than might be expected. He therefore thinks that a higher number of low(er) level complaints are made about North Wales Councillors. • He felt that more needed to be done to remove low level complaints against town and Community Councillors especially from other councillors; • He identified that Ynys Mon, Monmouth and Swansea have done some good work to promote training especially with town and community councils
1.04	Following his presentation there was discussion and debate about how to engage with town and community councils.
	Report by Committee on Standards in Public Life (“CSPL”)
1.05	The Committee on Standards in Public Life (formerly “the Nolan Committee”) published a report on Local Government Ethical Standards in January 2019. The report studied the impact of changes made to the ethical

	regime in England by the Localism Act 2011 and compared the efficacy of the English system to the system in the other countries within the United Kingdom.
1.06	<p>The Localism Act 2011 made sweeping changes to the ethical regime in England as follows:</p> <ul style="list-style-type: none"> • The national model code of conduct was repealed • The Standards Board for England (the body created to enforce the code of conduct) was abolished • The Adjudication Panel for England was abolished • The penalties of suspension and disqualification for breaching the code of conduct were repealed • Each Council was obliged to adopt its own code of conduct and to appoint an Independent Person to assist the Standards Committee and Monitoring Officer in its enforcement • New offences of voting with a pecuniary interest were created
1.07	The report of the CSPL can be found here . I have attached as Appendix 2 a short slide presentation from a firm of solicitors who operate in this field and who were advisors to the CSPL. In short, the Committee found that the regime in England needed fundamental changes some of which required new legislation and some of which could be achieved by Councils using their existing powers.
1.08	The Committee made recommendations that relate only to the legislative changes needed and so, because of our differing legislation, most do not have any relevance in Wales. However, the Committee also made good practice recommendations which are not specific to any legislative regime and so are potentially relevant to how we operate. Within the presentation at Appendix 2 I have greyed out the recommendations and good practice suggestions that do not relate to Wales and have left in normal font those recommendations that are potentially relevant.
1.09	I have set out below the recommendations and good practice suggestions that are potentially relevant. Clearly the Council cannot change legislation but it could nevertheless adopt the recommendations voluntarily where they are not already in effect.
1.10	<p>R6 Code to require registration of gifts / hospitality over £50 or over £100 pa from a single source</p> <p>R15 LAs required annually to publish complaints data and outcomes (<i>we do this already</i>)</p> <p>R19 Parish clerks to be qualified</p> <p>R23 LAs required to ensure whistleblowing policy and website specifies named contact for external auditor (<i>we do this already</i>)</p> <p>R24 councillors to be “prescribed persons” in Public Interest Disclosure Act 1998</p> <p>BP3 LAs to review code annually (<i>we do this already</i>)</p> <p>BP4 Code readily accessible in prominent position on LA website</p>

	<p>BP5 LAs to update registers of gifts & hospitality quarterly and make accessible</p> <p>BP10 LA websites to have clear complaints guidance and info</p> <p>BP11 Standards complaints about member on clerk conduct to be made by chair or Parish (Community) Council as a whole</p> <p>BP12 MO role and resourcing to include advice, support and management of Parish (Community) Council cases (<i>we do this already</i>)</p> <p>BP14 LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports (<i>we do this already</i>)</p> <p>BP15 senior officers to meet regularly with group leaders or whips re standards</p>
	Joint Standards Committee(s)
1.11	Across the North Wales region there are 8 Standards Committees (including the Fire and Rescue Authority and National Park). Each covers similar areas of responsibility, and meets more or less frequently based on workloads. The work of the committees will share many areas of commonality and overlap. Since 2016, it has been legislatively possible to have joint Standards Committees serving two or more authorities. I have attached at Appendix 3 a presentation on the risks and issues for the creation of one or more joint Standards Committees across the North Wales region. The Forum considered the presentation and asked that the Monitoring Officers should collectively prepare a more detailed analysis for further consideration.

2.00	RESOURCE IMPLICATIONS
2.01	The recommendations/good practice suggestions from the report by the CSPL can be implemented within existing resources.
2.02	The resource implications of creating one or more joint Standards Committees as part of preparing the more detailed analysis.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The recommendations/good practice suggestions from the CSPL can be shared with Town and Community Councils as part of the feedback following visits by Independent Members. The Committee's next meeting is its annual joint meeting with local councils.
3.02	The creation of one or more joint Standards Committees will need wide consultation if it is to be taken forward, ultimately requiring the approval at Full Council/Authority of every authority wanting to take part.

4.00	RISK MANAGEMENT
4.01	The recommendations/good practice suggestions can be adopted without creating any new risks, and they may serve to reduce risk overall.
4.02	The creation of joint Standards Committee(s) could serve to reduce disparity in practice between councils, could reduce the cost of recruiting independent members and could increase the breadth of diversity and experience. It might also create the perception of distance between a joint Committee and the authorities it serves and this would need to be addressed as part of the more detailed analysis.

5.00	APPENDICES
5.01	Appendix 1 – draft minutes of the North and Mid Wales Standards Committee Forum Appendix 2 – presentation slides on report Local Government Ethical Standards by the Committee on Standards in Public Life Appendix 3 – presentation on the possibility of creating a Joint Standards Committee

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	There are no background documents. Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Committee on Standards in Public Life – a committee established by Prime Minister John Major in 1994 in the wake of the “cash for questions” scandal in Parliament. The Committee was first chaired by Lord Nolan and established the Principles of Standards in Public Life – the “Nolan Principles”.

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MINUTES OF THE NORTH WALES STANDARDS COMMITTEES FORUM MEETING HELD IN THE DELYN COMMITTEE ROOM, COUNCIL OFFICES, MOLD ON MONDAY, 24 JUNE, 2019

PRESENT

Ceredigion County Council – Hywel Jones (Chair)
Conwy County Borough Council – John Roberts (Chair) and Iain Moore (Vice Chair)
Denbighshire Council - Julia Hughes (Vice-chair) and Anne Mellor (Independent Member)
Flintshire Council – Gareth Owens (Monitoring Officer), Matthew Georgiou (Deputy Monitoring Officer), Robert Dewey (Chair), Julia Hughes (Vice Chair), Ken Molyneux (Independent Member), Phillipa Earlam (Independent Member)
Gwynedd Council - Einir Young (Chair) and Margaret E. Jones (Vice-chair)
Powys – Stephan Hays (Chair)
Wrexham County Borough Council - Neil Benson (Vice-chair) Sandra Hunt (Independent Member)
Isle of Anglesey County Council - Mike Wilson (Chair) and Islwyn Jones (Vice-chair)
Public Ombudsman for Wales – Nick Bennett

1. ELECTION OF CHAIR FOR THE MEETING

Robert Dewey, Chair Flintshire County Council Standards Committee, was elected chair of the meeting.

2. APOLOGIES

Apologies were received from:-

Ceredigion County Council - Caroline White (Vice-Chair)
Denbighshire Council - Ian Trigger (Chair)
Powys – Claire Jackson (Vice Chair) Debby Jones (Monitoring Officer)
Wrexham County Borough Council - Michael Pugh (Chair)

3. MINUTES OF THE MEETING HELD ON 29 JUNE, 2018

Submitted - the minutes of the North Wales Standards Committees Forum meeting held on 29 June 2018.

RESOLVED to accept the minutes of the meeting held on 29 June 2018 as an accurate record.

4. PRESENTATION BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES – NICK BENNETT

PSOW Code – the Ombudsman explained his new powers to

- i. Consider oral complaints
- ii. Complaints about Private Health Care
- iii. Own initiative

There have been an increasing number of service complaints especially in health, but there has been a similar increase in code complaints. There is a small office in North Wales which may grow over time. Of the large number of code complaints, the vast majority are found to be meritless. There are a relatively a small number of serious issues – 8 out of 288 referred for a hearing, which demonstrates the high standards in Wales.

Two out of three complaints were about Town and Community Councils - previously more. This was more balanced with an equal number coming from County Councils. The Ombudsman believes this shows that LRP is working but still more work is still needed in Town and Community Councils.

The 2 stage test is important, it allows more time for more serious cases and fewer vexatious complaints.

In North Wales, 32% of complaints but only 22% of the population. Only 17% were referred for hearings. There is work to do on lower level complaints.

Mr Bennett gave some examples of absurd complaints received by his office.

There has been a reduction in Member vs Member complaints at County level. This needs to be extended to Town and Community Council level.

What can the PSOW do to support local leadership? Ynys Mon, Monmouth and Swansea have done some good work to promote training and would have no problem coming to speak.

Powys raised questions about how to enforce promises made by Members as part of an Ethical process. They want more power to require compliance. Flintshire's Monitoring Officer said he had asked Welsh Government for more flexible sanction powers but this was refused.

Mike Wilson, Ynys Mon, said that the problem with Town and Community Councils is that County has no jurisdiction over them. They are trying to get the message across in order to help with local resolution. We have no investigative powers so have to accept what we're told. The PSOW agreed that soft power and influence was equally important. He said his help was not going to resolve every problem.

Einir Young, Gwynedd, said she would like the power to require an apology. Mr Bennett would like to explore this more with Welsh Government but said legislation takes a long time. Cheap solutions could be enshrined in legislation. The costs of appeals could be published – the PSOW thought this might reduce vexatious behaviour.

Conwy suggested attendance at training can be low - was there any scope for toughening obligation to attend training? Mr Bennett thinks that it is interest to attend. In Monmouthshire they have had presentations on –

1. The role of the MO
2. WLGA on future role of Town and Community Councils
3. How OVW can help
4. Role of Standards Committees
5. Introduction to WAO
6. Work of the PSOW

Flintshire asked whether there could be clarity or guidance on what amounts to bullying, which is the biggest single type of complaint. Gwynedd suggested seeking advice from HR.

Ceredigion give high profile to importance training. They had held a series of sessions where Independent Members attend. They had also had 4 area meetings to do the training. Not everyone attended but this is helping set a tone. The PSOW agreed culture is important. The Monitoring Officer at Gwynedd also does a lot of training but those who least need training are the ones who attend. There can be a flip side of over cautious behaviour and unnecessary declarations of interest.

Flintshire are developing an increasingly detailed list of expected behaviours.

Julia Hughes, Vice Chair of Flintshire and Denbighshire, described the process of visits to Town and Community Councils to better understand how meetings are working and pick up areas of good/bad practice. She explained that feedback was then given to all the clerks.

Hywel Jones, Ceredigion, asked about a report on reform of Town and Community Councils and whether there was any progress. Mr Bennett thinks that proposals for reform can give rise to a lack of clarity and accountability. However, there is potential to develop Town and Community Councils but there would need to be an improvement in behaviours.

Islwyn Jones, Ynys Mon, made the point that the Commissioner remains responsible for any service delivered (Mr Bennett agreed but stated this was not always the case). Ynys Mon have reviewed five or six of their biggest – looked at websites, minutes and Declarations of Interest with them and given specific feedback as well as a generic letter.

Flintshire asked whether the PSOW keeps records of low level complaints in order to see a pattern in the event of subsequent complaints. Mr Bennett suggested all complainants should keep a log.

Conwy raised a question regarding Social Media – Members were not attending training so were not finding out about the help that is available. Independent Members have been asked to leave some Councils as outsiders because they are a challenge to longstanding Councillors. Mr Bennett said it was important for that elections are important as a means of ensuring that there is accountability.

Powys raised a question about when matters are made public. Mr Bennett stated you cannot gag Members who choose to confirm the existence of a complaint. His office will confirm existence of an investigation. If nothing is confirmed, this leads to speculation. Rather than report matters publicly, Council could e mail Standards Committee members so that they are confidentially made aware of complaints.

5. LESSONS FROM THE COMMITTEE ON STANDARDS IN PUBLIC LIFE'S REVIEW OF THE CODE OF CONDUCT IN ENGLAND

<https://www.gov.uk/government/collections/local-government-ethical-standards>

Flintshire confirmed patchy practice on displaying the Code of Conduct – promotion of easy access is required.

Gwynedd asked to what extent there are matters which should be but have not been reported.

Ynys Mon asked whether standards might slip if there was more joint working.

6. NAME OF THE FORUM

Standards Forum for North and Mid Wales.

7. JOINT STANDARDS COMMITTEE

Ynys Mon meet informally to undertake tasks in between meetings.

Conwy have reduced their meetings so they can meet informally within the budget.

Ynys Mon has a sub-committee to consider dispensation requests. There is a 30 minute training session prior to each meeting – JH suggests sharing members across Committees.

Welsh translation would be essential.

There was a discussion considering dispensations and how to handle them with infrequent meetings of the Standards Committee.

The potential disadvantage would be cost and travel.

Training – a lay member from each of the Counties plus an elected representative from each Council.

We might want to consider different models e.g. 1, 2 or 3 options.

Gwynedd thinks the same things are common to everyone and could be shared e.g. training based around geography.

Mike Wilson, Ynys Mon, saw potential advantages (e.g. cost savings). Issues such as how Independent Members are appointed could then be considered. Ynys Mon will have an almost completely new Committee in November.

A local connection/link might be important to build confidence.

It would be interesting to see the pros and cons and whether it would then improve standards.

Robert Dewey of Flintshire wants to keep the opportunity to grant dispensations quickly.

A SWOT analysis was requested with answers to be fed back to Flintshire
Either – Yes, No or Maybe

8. WELSH AUDIT OFFICE REPORTS HAVE RECENTLY BEEN PUBLISHED IN RELATION TO TWO COMMUNITY COUNCILS WITHIN THE ISLE OF ANGLESEY

Welsh Audit Office have reported publicly on contrived audit failings dating back to 2013/14 and 2014/15. Is this a recurring pattern (of late reports) or is it a one off? In Flintshire there has been a recent public interest report where there was a history of discussion with the Town Council and that the issue was 'taken to the next level' because of a lack of resolution.

9. ANY OTHER BUSINESS

10. DATE AND LOCATION OF NEXT MEETING

It was suggested that Powys host in November at a venue in Machynlleth.

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The Role of PSOW in Code of Conduct matters Rôl OGCC mewn materion Cod Ymddygiad

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Nick Bennett

Public Services Ombudsman for Wales

Ombwdsmon Gwasanaethau Cyhoeddus Cymru

Who is the Ombudsman? Pwy yw'r Ombwdsmon?

- Est 2006 - PSOW Act 2005
- Two specific roles:
 - Complaints about public services providers in Wales
 - Complaints that members of local authorities have broken the Code of Conduct
- New PSOW Act 2019

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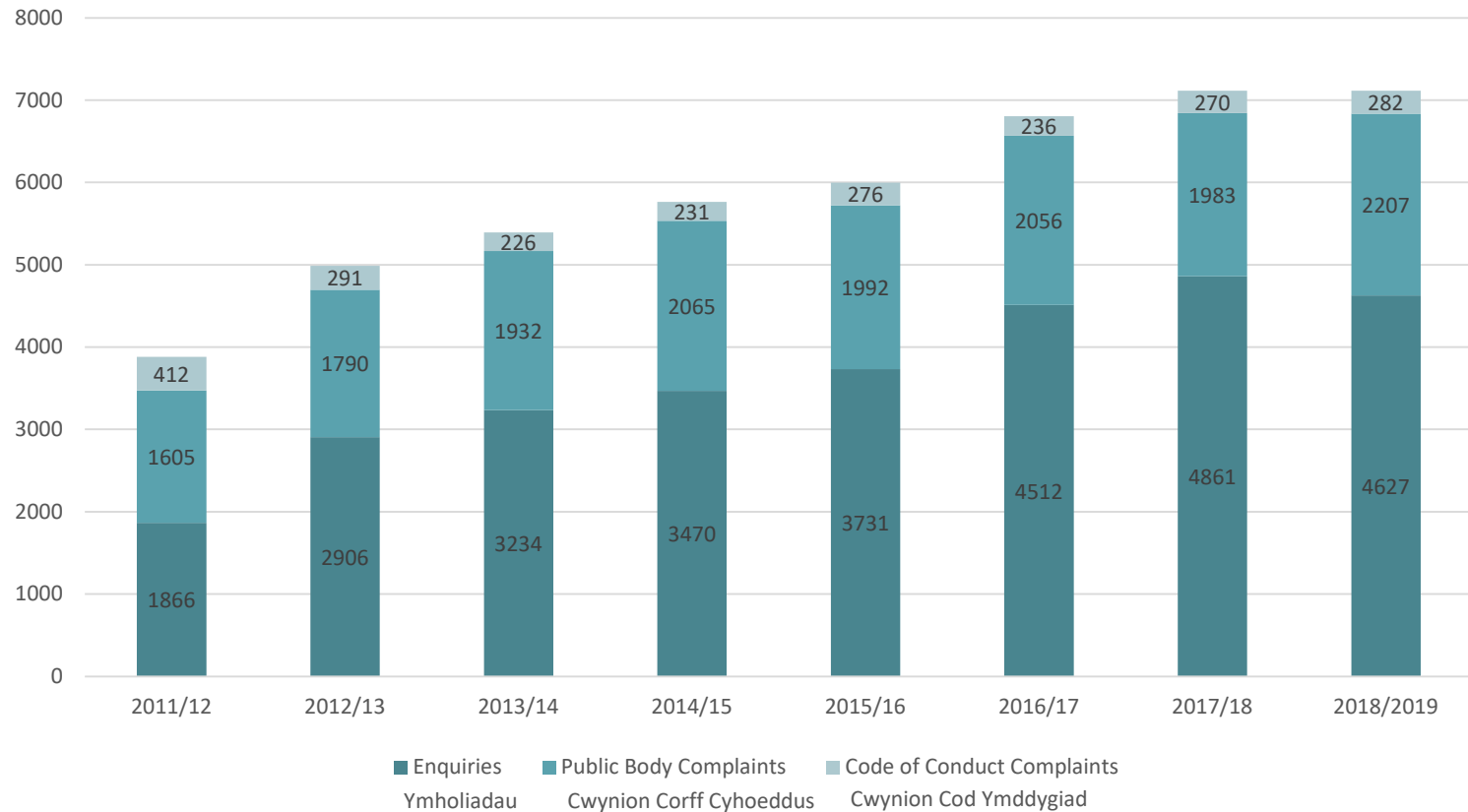
- Sefydlwyd 2006 – Deddf OGCC 2005
- Dwy rôl benodol:
 - Cwynion am ddarparwyr gwasanaethau cyhoeddus yng Nghymru
 - Cwynion bod aelodau o awdurdodau lleol wedi torri'r Cod Ymddygiad
 - Deddf OGCC newydd 2019

Trends – Enquiries & Complaints

Tueddiadau – Ymholiadau & Chwynion

Total Enquiries and Complaints received by year
Cyfanswm yr Ymholiadau & Chwynion a dderbyniwyd yn ôl blwyddyn

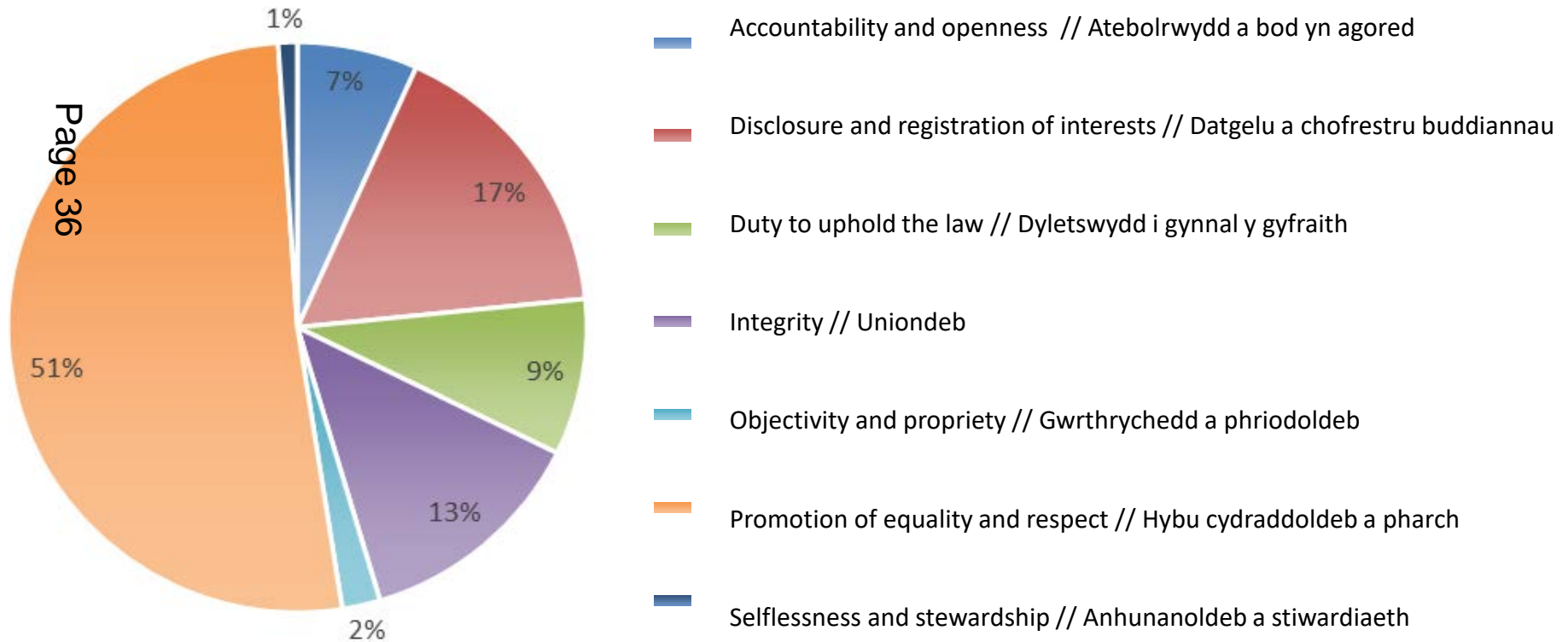
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PSOW Annual Report 2018/19

Adroddiad Blynyddol OGCC 2018/19

Nature of Code of Conduct complaints received
Natur y cwynion Cod Ymddygiad a dderbyniwyd



Outcomes Canlyniadau

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255	<ul style="list-style-type: none">• Closed After Initial consideration // Caewyd ar ôl ystyriaeth gychwynnol
2	<ul style="list-style-type: none">• Complaint Withdrawn // Tynnwyd y gŵyn yn ôl
15	<ul style="list-style-type: none">• Investigation Discontinued // Terfynwyd yr ymchwiliad
9	<ul style="list-style-type: none">• Investigation Completed: No evidence of breach //• Ymchwiliad wedi'i gyflawni: Dim tystiolaeth bod y cod wedi'i dorri
19	<ul style="list-style-type: none">• Investigation Completed: No action necessary //• Ymchwiliad wedi'i gyflawni: Dim angen gweithredu
4	<ul style="list-style-type: none">• Investigation completed: Refer to Standards Committee //• Ymchwiliad wedi'i gyflawni: Atgyfeirio at y Pwyllgor Safonau
4	<ul style="list-style-type: none">• Investigation completed: Refer to Adjudication Panel //• Ymchwiliad wedi'i gyflawni: Atgyfeirio at y Panel Dyfarnu

Types of complaints

Mathau o gwynion

190

- Town and Community Councils
Cynghorau Tref a Chymuned

91

- Local Authority
Awdurdod Lleol

1

- National Park
Parc Cenedlaethol

282

Two stage test

Prawf Dau gam

- Is there direct evidence that a breach actually took place?

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so:

- Is an investigation required in the public interest?



- A oes tystiolaeth uniongyrchol bod toriad gwirioneddol wedi digwydd?

Os felly:

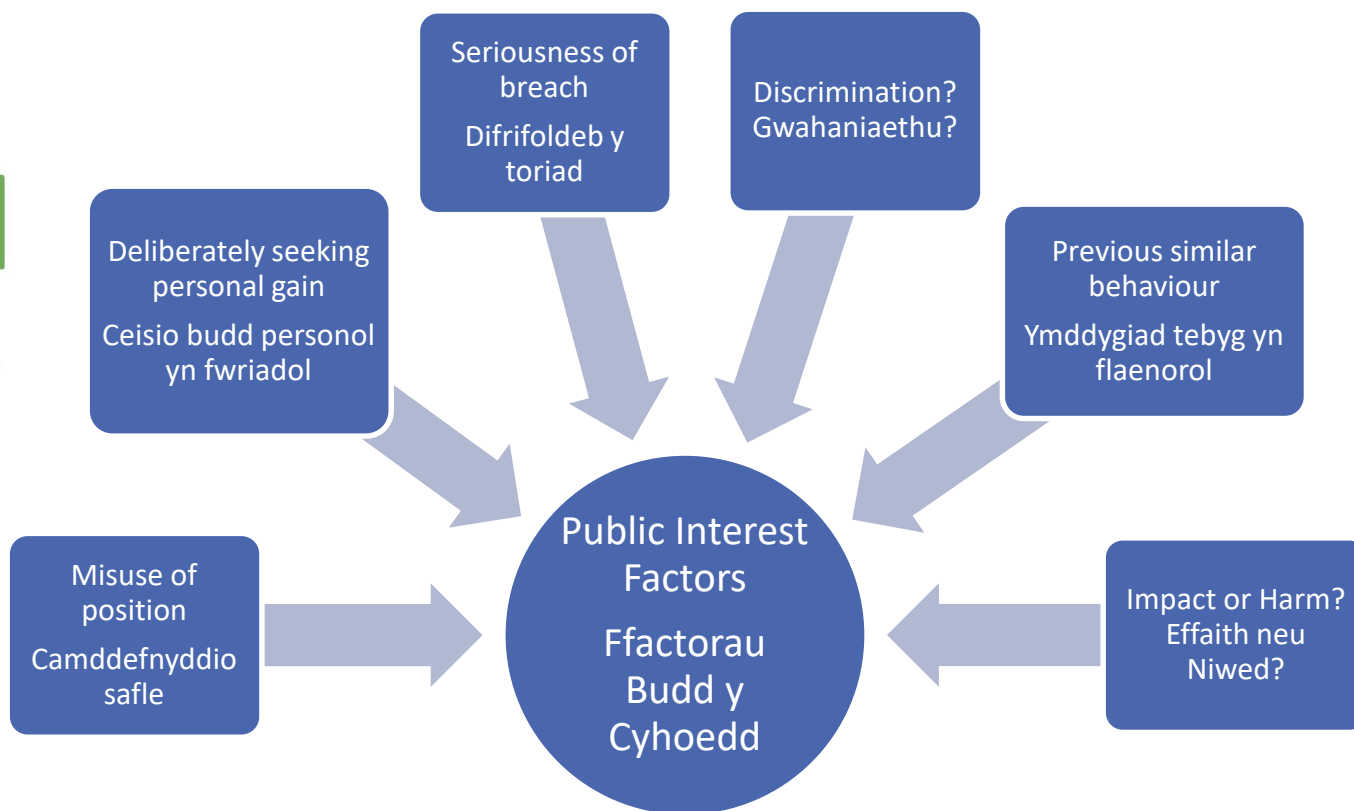
- A oes angen ymchwilio er budd y cyhoedd?

The Public Interest Test

Prawf Er Budd y Cyhoedd

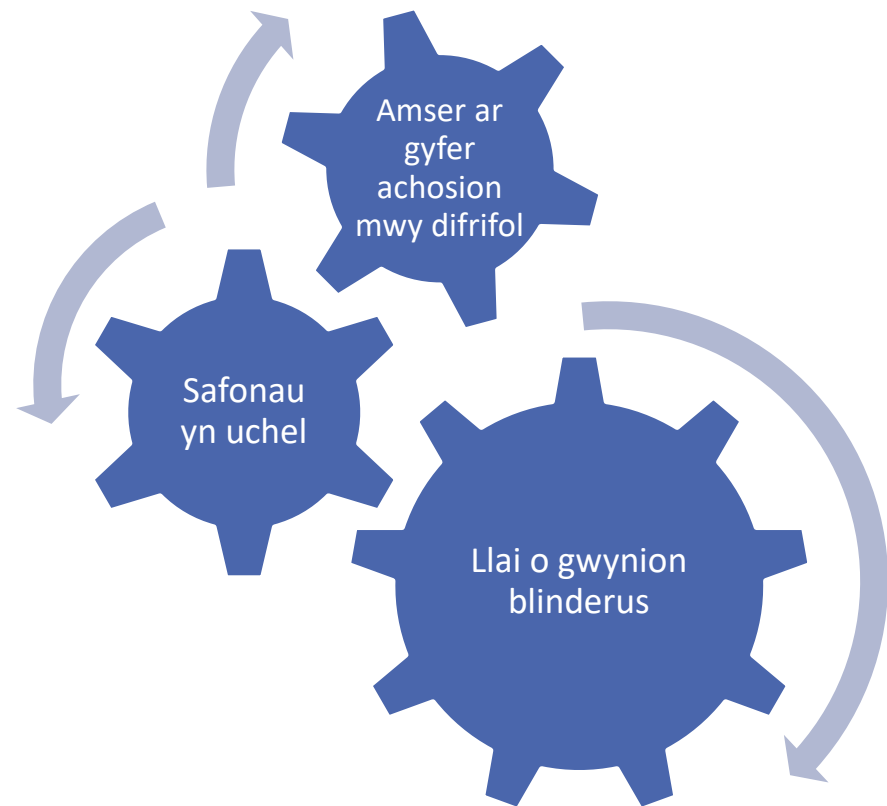
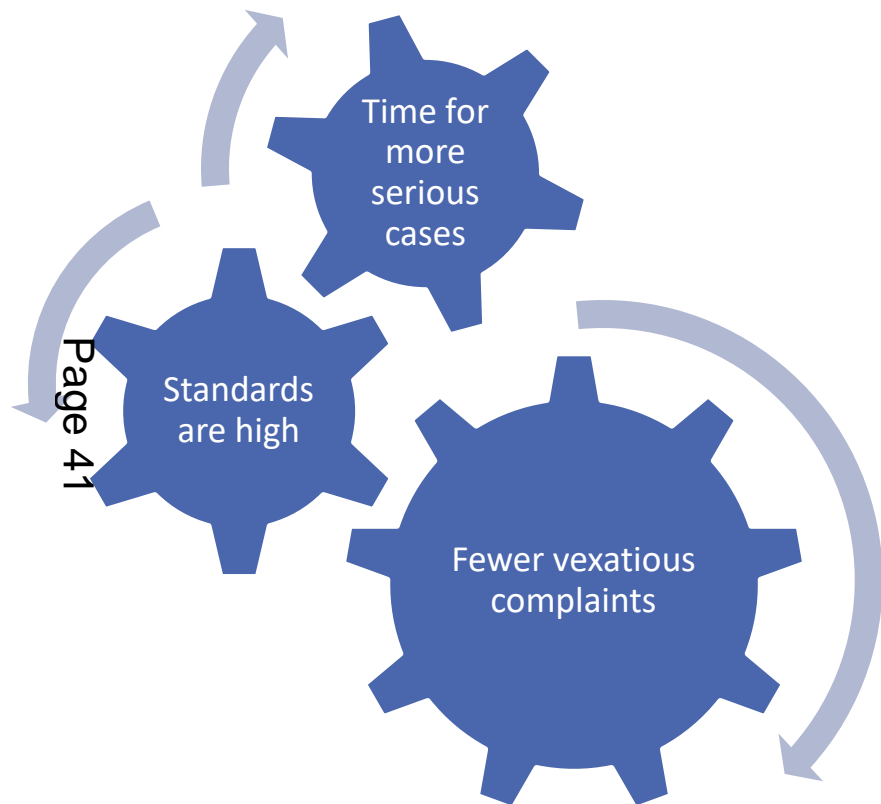
Is an investigation required in the public interest?

A oes angen ymchwilio er budd y cyhoedd?



Public Interest in practice

Budd y cyhoedd yn ymarferol



North Wales

Gogledd Cymru

- 22% of the population
- 32% of the complaints
- Only 17% of the total referrals across Wales
- 22% o'r boblogaeth
- 32% o'r cwynion
- Dim ond 17% o gyfanswm yr atgyfeiriadau ledled Cymru

Recent examples of vexatious complaints

Enghreiffftiau diweddar o gwynion blinderus

Page 43

'Absurd' terrorism complaint made about councillors thrown out by Ombudsman
Cwyn 'hurt' am derfysgaeth a wnaed am gynghorwyr wedi'i wrthod gan Ombwdsmon

Examples of vexatious complaints

Enghreifftiau o gwynion blinderus

A Councillor left a one star rating on a local business without an explanation!
Gadawodd Gynghorydd radd un seren ar fusnes lleol heb roi esboniad!

Page 44

A Councillor unfriended me on Facebook so I had to set up an account in my cat's name!
Cefais fy nileu oddi ar Facebook gan Gynghorydd felly roedd rhaid i mi greu cyfrif yn enw fy nghath!

Moving forward / Symud ymlaen

- Member v Member complaints (at a county level) are now largely dealt with by an internal dispute resolution procedure
- Extension of this to Town & Community Councils
- Serious cases referred to Standards Committees or Adjudication Panel for Wales
- Erbyn hyn, ymdrinnir â chwynion Aelod yn erbyn Aelod (ar lefel siriol) yn bennaf gan weithdrefn fewnol ar gyfer datrys anghydfodau
- Ymestyn hyn i Gyngorau Tref & Chymuned
- Achosion difrifol yn cael eu cyfeirio at Bwyllgor Safonau neu Banel Dyfarnu Cymru

Local leadership?

Arweinyddiaeth Leol?

- Nolan
- Distributed leadership
- Local Standards
Committees to guide local behaviours ?
How can they support each other and exchange best practice?
- Is there appetite?
- Training and good practice –
Monmouthshire, Cardiff and Swansea

- Nolan
- Arweinyddiaeth ddosbarthedig
- Pwyllgorau Safonau Lleol i arwain ymddygiad lleol?
- Sut y gallant gefnogi ei gilydd a chyfnewid arfer gorau?
- A oes chwant?
- Hyfforddiant ac arfer da –
Sir Fynwy, Caerdydd ac Abertawe

Questions Cwestiynau

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Committee on Standards in Public Life

- Established in 1994 by then PM John Major
- Responsible for promoting the Nolan Principles
- 3rd report in 1997 on local government
- Led to Standards Board for England, AP Wales etc
- Current report – a review of effectiveness of post 2011 changes in England



Terms of reference

1. examine structures, processes and practices of local gov in England (but compared Wales, Scotland and NI) for
 - a. maintaining code of conduct for councillors
 - b. investigating alleged breaches fairly and with due process
 - c. enforcing code and imposing sanctions for misconduct
 - d. declaring interests and managing conflicts of interests
 - e. whistleblowing
2. Assess whether existing structures etc are conducive to high standards of conduct
3. Make recommendations for improvement
4. Note evidence of intimidation and make recommendations to prevent

Review

- covers 10,000 town and parish councils in England
- 353 principal English authorities
- 319 submissions
- 2 roundtable seminars
- 30 stakeholder meetings
- 5 visits to LAs
- studied 20 codes
- studied reports of LA failure
- Report launch 30th Jan 2019



Key areas and issues considered

- Codes of conduct
- Interests
- Gifts and hospitality
- Investigations and safeguards
- Sanctions
- Town and parish councils
- Role of the Monitoring Officer
- Council governance, leadership and culture



Codes of conduct

Findings

- Inconsistent
- Don't cover bullying effectively
- Problems re scope – social media, claiming to or appearing to act as a councillor
- Nolan only codes inadequate
- Need to be reviewed
- Hard to find on LA websites

Codes of conduct

Recommendations / Best Practice

R1 LGA to create new model code, in consultation with SLCC, NALC etc

BP1 LA codes to define and prohibit bullying and harassment, with examples

R3 Councillors presumed to be acting in an official capacity in their public conduct

R4 Code to apply to when cllr claims, or appears to be acting as such

BP2 Failure to co-operate with investigation to be breach of code

BP3 LAs to review code annually

BP4 Code readily accessible in prominent position on LA website

Interests

Findings

- DPIs too narrow, unclear and criminalisation is disproportionate
- Registers disclose home addresses exposing clrs to intimidation
- List of people whose interests need to be registered is too narrow
- But current list of pecuniary interests ok
- Need to include non-pecuniary interests in codes
- Unsatisfactory arrangements on registers of gifts and hospitality
- Requirements to declare DPIs and withdraw are too narrow

Interests

Recommendations / Best Practice

R18 abolish DPI criminal offences

R2 amend DPI regs so that cllr home address not registrable

R5 amend DPI regs to include unpaid directorships, trusteeships, charity / public body roles and lobbying organisations


R6 code to require registration of gifts / hospitality over £50 or over £100 pa from a single source

BP5 LAs to update registers of gifts & hospitality quarterly and make accessible

R7 abolish s31 Localism Act, code to require cllr to leave room if member of public would reasonably regard their interest as so significant that likely to prejudice their discussion or decision making

Investigations and safeguards

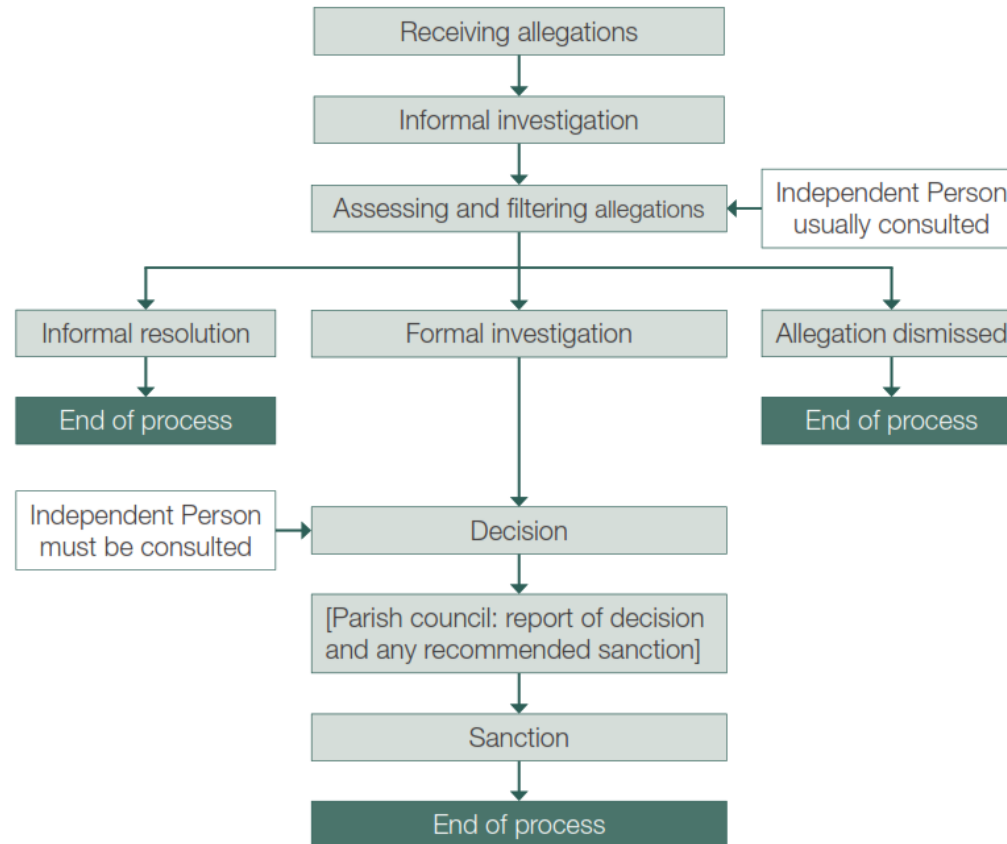
Findings

-  public interest test for filtering complaints
- No role specification, term, formal powers or legal protection for IPs
- IP views not public
- Many LAs not transparent on numbers of complaints and details of decisions
- Standards Committees should have voting independent and parish members
- No current right of appeal after hearings

Investigations and safeguards

Findings

The current investigation process



Investigations and safeguards

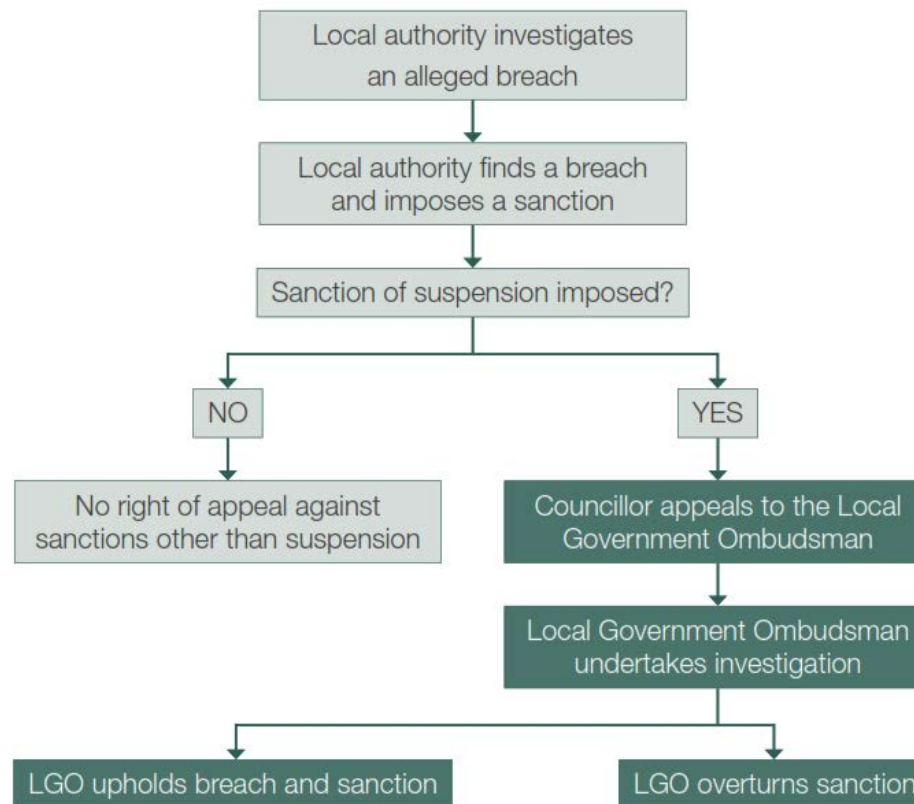
Recommendations / Best Practice

- BP6** LAs to adopt public interest test for filtering complaints
- BP7** LAs to have at least 2 IPs
- BP8** IP views on assessment
- R8** 2 year term of office for IPs, renewable once
- R9** IPs views to be recorded in decision notice and minutes
- R10** IP must agree breach and sanction on suspensions
- R11** LAs to provide legal indemnity to IPs
- R12** LAs may have voting independent and parish members on standards committees
- R13** Right of appeal to LGO if suspension
- R14** LGO power to investigate and binding sanction
- R15** LAs required annually to publish complaints data and outcomes
- BP9** LAs to publish full hearing decisions
- BP10** LA websites to have clear complaints guidance and info

Investigations and safeguards

Recommendations / Best Practice

Proposed appeals process



Investigations and safeguards

Recommendations / Best Practice

- BP6 Assessment criteria
- **CAN / SHOULD** test

Northern Ireland Local Government Commissioner for Standards public interest test

1 'CAN' we investigate your complaint?

- Is the person you are complaining about a councillor?
- Did the conduct occur within the last six months?
- Is the conduct something that is covered by the code?

2 'SHOULD' we investigate your complaint?

- Is there evidence which supports the complaint?
- Is the conduct something which it is possible to investigate?
- Would an investigation be proportionate and in the public interest?⁵³

Sanctions

Findings

- Lack of serious sanctions:-
 - Prevents enforcement of lower level sanctions
 - Damages public credibility
 - Makes cost of investigations disproportionate to outcome
 - Removes means of LAs containing reputational damage
- Credibility of current regime undermined by lack of serious sanctions
- Party group discipline can fill the gap but lacks transparency, consistency and checks on impartiality of a standards system
- Suspension preserves the ballot box which is insufficient in itself
- Legal uncertainty of premises bans

Sanctions

Recommendations / Best Practice

R16 LA power to suspend without allowances for up to 6 months

R17 Government / legislation to put beyond doubt lawfulness of premises bans

R18 decriminalise DPs (see interests)



Town and parish councils

Findings

- Parish councils are highly dependent on the skills, experience and support of clerks – evidence of substantial difficulties where clerks are inexperienced, untrained, feel isolated and poor member behaviour
- **15% of PCs experience serious behaviour issues, 5% dysfunctional**
- PCs should report complaints, not the clerk
- Some MOs decline or lack resources to provide advice or accept parish complaints
- Variation in parish codes is a burden on the principal authority and confusing for dual hatted members
- PCs can ignore sanctions recommended by principal authority hearing
- PCs can take lawful protective steps short of sanctions

Town and parish councils

Recommendations / Best Practice

R19 Parish clerks to be qualified

BP11 standards complaints about member on clerk conduct to be made by chair or PC as a whole

BP12 MO role and resourcing to include advice, support and management of PC cases

R20 PCs to adopt parish version of principal authority code of conduct

R21 Parish councillor sanctions to be determined by principal authority only

Role of the Monitoring Officer

Findings

- MO is the lynchpin for upholding standards
- Can be conflicts of interest in MO being involved in investigation of senior members
- Confidence and support of chief executive is crucial to ensure MO has ability to upholds standards
- Some MOs have been forced to resign because of unwelcome advice or decisions
- Whistle-blowers could be deterred from reporting concerns to a private audit firm
- Whistle-blowers should be able to report concerns to councillors

Role of the Monitoring Officer

Recommendations / Best Practice

BP13 LA should have investigation conflict procedures, including use of MOs from other LAs

R22 statutory protection for MOs etc to extend to all disciplinary action, not just dismissal

R23 LAs required to ensure whistleblowing policy and website specifies named contact for external auditor

R24 councillors to be “prescribed persons” in Public Interest Disclosure Act 1998



Council governance, leadership and culture

Findings

- LAs now have complex governance – joint ventures, owned companies, LEPs
- Increased risk of conflicts of interest, lack of transparency
- 3 common threads in corporate failure:-
 - Unbalanced relation between members and officers
 - Lack of understanding of governance processes and scrutiny
 - Culture of fear or bullying
- Visible leadership essential in embedding ethical culture
- Early induction for councillors vital to set ethical tone

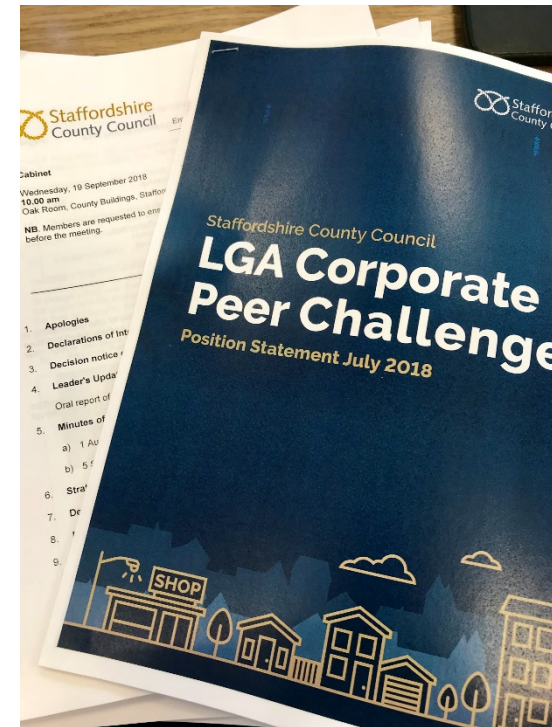
Council governance, leadership and culture

Recommendations / Best Practice

BP14 LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports

BP15 senior officers to meet regularly with group leaders or whips re standards

R26 LGA peer reviews to include standards processes



Where now?

- Detailed and challenging report
- Some recommendations require primary legislation, some changes to regulations
- **Many best practice points can be implemented now by LAs**

	Recommendation	Action
BP1	LA codes to define and prohibit bullying and harassment, with examples	Revise code
BP2	Failure to co-operate with investigation to be breach of code	Revise code
BP3	Review code annually	Build into Standards Committee business cycle
BP4	Code readily accessible in prominent position on website	Home page link
BP5	Update registers of gifts & hospitality quarterly and make accessible	Home page link, send out update forms to members every 3 months
BP6	Public interest test for filtering complaints	Revise arrangements
BP7	At least 2 IPs	Joint recruitment campaign?
BP8	IP views on assessment	Revise arrangements
BP9	Publish full hearing decisions	Revise arrangements
BP10	Clear complaints guidance on website	Home page link

	Recommendations	Action
BP11	Standards complaints about member on clerk conduct to be made by chair or PC as a whole	Refer to ERNLCA
BP12	MO role and resourcing to include advice, support and management of PC cases	Include in budget round, involve s151 officer
BP13	LA should have investigation conflict procedures, including use of MOs from other LAs	Revise arrangements, agree other MO use protocol
BP14	LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports	Ensure s151 officer aware, identify relevant related bodies and raise with them, brief Council reps, monitor compliance
BP15	Senior officers to meet regularly with group leaders or whips re standards	Raise with Ch Exec and s151 officer, Ch Exec to arrange (involve SC chair)

Where now?

- LLG, SLCC, ADSO, NALC group on code (all cover Wales and England)
- Association of Drainage Authorities might be interested in code (covers Wales and England)
- LGA ambivalent, but new leader being elected to replace Lord Porter
- Whitehall MCLG appears to want to reduce recommendations to best practice
- Even if interested, has Westminster Government the capacity or focus, post Brexit?
- **Failure to implement 6 months suspension will undermine whole system**



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CYD-BWYLLGOR (AU)
SAFONAU
JOINT STANDARDS
COMMITTEE(S)

Gareth Owens

Cyflwyniad/Introduction

- » **Trafodaeth am ddichonoldeb cyd-bwyllgor(au)**
- » **Edrych ar**
 - » Manteision posibl
 - » Anfanteision posibl
 - » Ffactorau llwyddiant
- » **Mapio ffyrdd posibl o weithio**
- » **Discussion piece on feasibility of joint committee(s)**
- » **Look at**
 - » Potential advantages
 - » Potential disadvantages
 - » Success factors
- » **Map out possible ways of working**

Cefndir/Background

- » **Adran 53 a 54 o Ddeddf Llywodraeth Leol 2000**
- » **Mae'n rhaid sefydlu Pwyllgor Safonau**
- » **Pwrpas**
- » **(a) hyrwyddo a chynnal safonau ymddygiad uchel gan aelodau ac aelodau cyfetholedig yr awdurdod, a**
- » **(b) cynorthwyo aelodau ac aelodau cyfetholedig yr awdurdod i gadw at god ymddygiad yr awdurdod**
- » **Deddfwriaeth 2016 wedi galluogi Cyd-bwyllgorau**
- » **Section 53 and 54 Local Government Act 2000**
- » **Must establish a Standards Committee**
- » **Purpose**
- » **(a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and**
- » **(b) assisting members and co-opted members of the authority to observe the authority's code of conduct**
- » **2016 legislation enabled Joint Committees**



Sefyllfa Bresennol/Current Position

- » **Cyfarfodydd dros y 12 mis diwethaf**
- » **Meetings over last 12 months**

CeCC	CoCBC	DCC	Fire/Tan	FCC	GCC	PCC	WCBC	YMC
5	3	5	2	10	4	3	4	7*

- » **0 o wrandawiadau ar draws y rhanbarth cyfan**
- » **Anawsterau recriwtio**
- » **Anghenion wedi lluosio o ran adnoddau**
- » **Sgiliau a phrofiad cyfredol (“oriau hedfan”)**
- » **0 hearings across whole region**
- » **Recruitment difficulties**
- » **Multiplication of resourcing needs**
- » **Currency of skills and experience (“flying hours”)**

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*gan gynnwys Cyfarfodydd Panel Goddefebau

*including Dispensation Panel Meetings

Dichonoldeb/Feasibility

- » **Beth ym marn yr aelodau fyddai'r**
 - » Manteision posibl?
 - » Anfanteision posibl?
- » **Pe baem yn cael Cydbwyllgorau, sawl un ddylem ei gael?**
- » **Pa broblemau fyddai'n rhaid i ni eu datrys er mwyn i Gydbwyllgorau fod yn llwyddiannus e.e. lleoliad, iaith, cefnogaeth ysgrifenyddol a phroffesiynol??**
- » **What do members think would be the**
 - » Potential benefits?
 - » Potential disadvantages?
- » **If we were to have Joint Committees, how many should there be?**
- » **What issues would we need to resolved in order for Joint Committees to be successful e.g. location, language, secretarial and professional support?**



Ffactorau llwyddiant/Success factors

- » **Pa broblemau fyddai'n rhaid i ni eu datrys er mwyn i gydbwyllgorau fod yn llwyddiannus e.e. amledd, lleoliad, iaith, cefnogaeth ysgrifenyddol a phroffesiynol?**

- » **Sut fyddai'r cydbwyllgorau newydd yn gweithredu**
 - » Adlewyrchu gwahaniaethau rhwng gwahanol gynghorau
 - » Magu hyder

- » **What issues would we need to resolved in order for JC's to be successful e.g. frequency, location, language, secretarial & professional support?**

- » **How would the new JC's operate to**
 - » Reflect differences between different councils
 - » Instil confidence

Camau nesaf (?)/ Next steps (?)

» **Camau nesaf posibl:**

- » Trafodaeth am ddichonoldeb gyda
 - » Pwyllgorau Safonau
 - » Cynghorwyr e.e. Arweinydd, Cadeirydd ac ati
 - » Swyddogion e.e. Prif Weithredwr

» **Cael Swyddogion Monitro i lunio cylch gorchwyl ar y cyd**

» **Possible next steps include**

- » Discussion of feasibility with
 - » Standards Committees
 - » Councillors e.g. Leader, Chair etc
 - » Officers e.g. Chief Executive
- » **Task Monitoring Officers with drawing up joint terms of reference**

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STANDARDS COMMITTEE

Date of Meeting	Monday 2 September 2019
Report Subject	Public Service Ombudsman for Wales Casebook Issue 20 (January - March 2019)
Report Author	Deputy Monitoring Officer

EXECUTIVE SUMMARY

The Public Service Ombudsman for Wales (PSOW) considers complaints that Members of local authorities in Wales have broken the Code of Conduct (the Code). There are four findings the PSOW can arrive at:

- (a) that there is no evidence of breach;
- (b) that no action needs to be taken in respect of the complaint;
- (c) that the matter be referred to the authority's Monitoring Officer for consideration by the Standards Committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales (the APW) for adjudication by a tribunal.

The PSOW summarises the complaints that he has investigated on a quarterly basis in the Code of Conduct Casebook (the Casebook). In reference to (c) and (d) findings, the Casebook only contains the summaries of those cases for which the hearings by the Standards Committee or APW have been concluded and the outcome of the hearing is known. This edition covers January to March 2019.

This edition highlights that two complaints were investigated by the PSOW during this time, of which both were findings of no action necessary. There were no findings of no breach, no referrals to Monitoring Officers for consideration by their Standards Committees and there were no referrals to the APW for adjudication by a tribunal.

RECOMMENDATIONS

1	To note the findings of those complaints that were investigated by the PSOW during January to March 2019, as summarised in issue 20 of the Casebook.
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REPORT DETAILS

1.00	BACKGROUND
1.01	<p>The PSOW considers complaints that Members of local authorities in Wales have broken the Code. The PSOW investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act. Where the PSOW decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the PSOW can arrive at, namely:</p> <ul style="list-style-type: none">(a) that there is no evidence that there has been a breach of the authority's Code of Conduct;(b) that no action needs to be taken in respect of the matters that were subject to the investigation;(c) that the matter be referred to the authority's Monitoring Officer for consideration by the Standards Committee;(d) that the matter be referred to the President of the APW for adjudication by a tribunal (this is usually only the more serious cases)
1.02	<p>In terms of findings (c) and (d) it is for the Standards Committee or tribunal to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.</p>
1.03	<p>The Casebook contains summaries of reports issued by the PSOW for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, the Casebook only contains the summaries of those cases for which the hearings by the Standards Committee or APW have been concluded and the outcome of the hearing is known. This edition (issue 20) covers January to March 2019. There were no referrals under findings (c) or (d) during this period.</p>
1.04	<p>The summary of the findings in this edition of the Casebook, are as follows:-</p> <p><u>No action necessary</u></p> <p><u>Pembroke Dock Town Council - Promotion of equality and respect</u> <u>Case Number: 201706079</u></p>
1.05	<p>The PSOW received a complaint that a Member (the Member) of Pembroke Dock Town Council (the Council) had breached the Code. It was alleged that the Member had acted in a disrespectful and bullying manner towards the previous Clerk to the Council, both in Council meetings and when communicating with her by email, between 2014 and her resignation from the Council in 2017.</p>
1.06	<p>The PSOW investigated whether the Member's actions amounted to a</p>

	breach of the parts of the Code that concern showing respect and consideration, bullying and harassment, bringing the Council into disrepute and a Member's duty to disclose an interest in any Council business.
1.07	Information was sought from the Council, Pembrokeshire County Council and the Member. Interviews were also undertaken with relevant witnesses. Having considered the evidence, the PSOW concluded that he was not persuaded that the Member acted in a disrespectful or bullying manner towards the Clerk at meetings or when communicating with her by email. He also decided that the evidence was not suggestive of a breach of the Code that the Member had brought the Council into disrepute. The PSOW further concluded that it was likely that the Member may have breached the Code when failing to declare a personal interest at meetings.
	<u>Saltney Town Council - Promotion of equality and respect</u> <u>Case Number: 201800177 & 201800178 & 201800179 & 201800180</u>
1.08	The PSOW received a complaint that Members (the Members) of Saltney Town Council (the Council) had breached the Code of Conduct by engaging in an argument with other councillors in front of members of the public, following a Town Council meeting.
1.09	The PSOW commenced an investigation on the basis that there may have been breaches of paragraphs 4(b), 4(c) and 6(1) (a) of the Code.
1.10	The PSOW found that the behaviours complained about were below the standard that he would expect from Elected Members but that their behaviour was petty and immature and therefore to take further action and use further public resources would not be in the public interest.

2.00	RESOURCE IMPLICATIONS
2.01	None

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	N/A

4.00	RISK MANAGEMENT
4.01	N/A

5.00	APPENDICES
5.01	None

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>https://www.ombudsman.wales/wp-content/uploads/2019/06/Code-of-Conduct-Jan-March-2019-UPLOAD-.pdf</p> <p>Contact Officer: Matthew Georgiou, Deputy Monitoring Officer Telephone: 01352 702330 E-mail: matthew.georgiou@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>APW – The Adjudication Panel for Wales is an independent tribunal whose function is to determine alleged breaches by elected and co-opted members of Welsh County, County Borough and Community Councils, Fire and National Park Authorities, against their authority’s statutory Code of Conduct.</p> <p>PSOW - Public Services Ombudsman for Wales is independent of other bodies and has legal powers to investigate complaints about public services and independent care providers in Wales and to investigate complaints that members of local government bodies have broken their authority’s Code of Conduct.</p>



STANDARDS COMMITTEE

Date of Meeting	Monday, 2 September 2019
Report Subject	Update on the Community Asset Transfer Progress
Report Author	Gareth Owens

EXECUTIVE SUMMARY

In 2014 the Council launched its Community Asset Transfer Scheme (CATS) to enable local Councils and community groups to take on assets which it was unsustainable for the Council to maintain and operate. Since then 13 assets have transferred and 68 applications are in progress against a total asset base of 253.

Ethically there are potential difficulties during the negotiation of the transfer and subsequently where Councillors are involved in the management of the newly transferred asset. However, there are mechanisms within the Code and ways of working which can ease those potential difficulties.

RECOMMENDATIONS

1	That the Committee is assured that the mechanisms within the code of conduct/dispensation process are satisfactory for managing any potential ethical issues arising from the Community Asset Transfer Scheme.
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REPORT DETAILS

1.00	EXPLAINING THE ETHICAL ISSUES ASSOCIATED WITH CATS
1.01	Since 2014 the Council has transferred 13 assets to community groups, including high profile assets such as Holywell Leisure Centre and Connah's Quay Baths under not proceeded. There were 240 assets remaining which are potentially suitable for transfer.
1.02	A County Councillor who is a member of a Town/Community Council or community group that wishes to take a transfer of the asset has a personal interest in any discussions/negotiations with County Council officers relating to the transfer. It is possible that the personal interest may also be prejudicial. This could make it difficult for the Councillor to participate in the transfer process.
1.03	Likewise where a Councillor is a member of the Town/Community Council or community group that has taken a transfer of an asset then s/he will have a personal interest in any funding applications or planning applications relating to the asset. Again such an interest may well also be prejudicial. This may prevent the Councillor from participating in debate on a public asset in their community.
1.04	<p>Within the Code there are a number of provisions that can ease the difficulties. Paragraph 12 (2) of the Code provides that a Councillor's interest is only ever personal (i.e. it is not considered prejudicial) where</p> <ol style="list-style-type: none">1) A Councillor was appointed as the authority's representative on the management group of the asset; and2) The asset is owned or run by another public authority or a body exercising functions of a public nature <p>Paragraph 12(3) of the code also permits town and community Councillors to consider grant funding applications of up to £500 for community or voluntary organisations.</p>
1.05	The Standards Committee also has the power to grant dispensations. It has developed a "standard" form of dispensation for Councillors involved in CATS that permits them to negotiate with council officers provided at least 3 people are present and the meeting is minuted. This ensures that there can be no collusion/coercion and that there is an audit trail of such meetings.
1.06	The Monitoring Officer and Deputy Monitoring Officer have provided advice to Councillors on how to progress transfers in a manner compliant with the Code of conduct.
2.00	RESOURCE IMPLICATIONS
2.01	The Council has sufficient resources to manage the ethical issues associated with CATS.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None.

4.00	RISK MANAGEMENT
4.01	The key ethical risk associated with CATS is that a Councillor might seek to influence a decision on the terms of an asset transfer in favour of a community group of which s/he is also a member. Equally, there may be the fear or impression of undue influence/advantage on the part of a “competing” community group also seeking a transfer of the same asset. Transparency is clearly the best way to manage such risks and the code/dispensation process ensures that this will happen.
4.02	The Council also avoided the creation of competition between community groups for assets by insisting on combined/collaborative bids where more than one group was interested in an asset. The transfer process was therefore structured in a way that reduced competition and promoted access to the widest number of people.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None. Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: Gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Terms are explained with in the body of the report.

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FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME 2019/20

Date of Meeting	Topic	Notes/Decision/Action
29 June 2020	<ul style="list-style-type: none"> • Training • Dispensations 	
1 June 2020	<ul style="list-style-type: none"> • Training • Dispensations • Protocol for Members in their dealings with contractors/developers. • Members Code of Conduct 	
27 April 2020	<ul style="list-style-type: none"> • Training • Dispensations 	
30 March 2020	<ul style="list-style-type: none"> • Training • Dispensations 	
2 March 2020	<ul style="list-style-type: none"> • Training • Dispensations 	
3 February 2020	<ul style="list-style-type: none"> • Training • Dispensations 	
6 January 2020	<ul style="list-style-type: none"> • Training • Dispensations • Confidential Reporting Procedure 	

2 December 2019	<ul style="list-style-type: none"> • Training • Dispensations • Protocol on Member/Officer relations 	
4 November 2019	<ul style="list-style-type: none"> • Training • Dispensations 	
30 September 2019 Joint Meeting with T&CC	<ul style="list-style-type: none"> • Training • Dispensations • Town and Community Council Visits by Independent Members • Overview of All Visits to Town and Community Councils • The Role of a Councillor • Annual Report of the Adjudication Panel for Wales 	<p>Verbal Update</p> <p>Report by Gareth Owens</p> <p>Report by Robert Robins/Gareth Owens</p> <p>Report by Matt Georgiou</p>
2 September 2019	<ul style="list-style-type: none"> • Dispensations • Town and Community Council Visits by Independent Members • Review of the Flintshire Standard • Feedback from the North and Mid Wales Standards Forum • Update on Community Asset Transfers • PSOW Code of Conduct Casebook Issue 20 (Jan 19 – March 19) 	<p>Verbal update</p> <p>Report by Gareth Owens</p> <p>Report by Gareth Owens/Matt Georgiou</p> <p>Report by Gareth Owens</p> <p>Report by Matt Georgiou</p>
To be scheduled –		
Information on the dispensations process at Gwynedd Council and Wrexham County Borough Council. Item to consider the frequency of reporting on the Overview of Ethical Complaints.		

Code of Conduct complaints in Flintshire.

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