



STANDARDS COMMITTEE

**ANNUAL REPORT
2012/13**

FOREWORD BY THE CHAIRMAN

I became Chair part way through the year covered by this report having previously been Vice Chair of the Committee. The period covered by this report has been one of change to the membership of the Committee. I would like to firstly place on record my thanks to Kevin Sibbons, Kenneth Martin and Merfyn Roberts who all reached the end of their periods of appointment during the year covered by this report. As a result of public notice of the vacancies many suitable candidates applied leading to Robert Dewey, Phillipa Ann Earlam and Edward Hughes being appointed to the Committee. Edward was subsequently appointed my Vice Chair. I am sure they will make as valuable a contribution to the work of the Committee as their predecessors. Continuity on the Committee has been provided by Chris Bretherton-Watt, Jonathan Duggan-Keen and Councillors David Cox, Hilary McGuill and Arnold Woolley.

During the year we have used our differing experiences, skills and knowledge in the discharge of the work of the Committee. The work of the Committee has concentrated on proactively promoting and maintaining high standards of conduct amongst County Councillor, Town & Community Councillors and co-opted members. It was not necessary during the year to hold a formal hearing to deal with any alleged breach of the Members' Code.

During the year there has been a lot of activity in relation to training. Normally meetings of the Committee are preceded by an informal training session on topics of relevance to the work of the Committee. Training sessions have also been arranged on the Members' Code of Conduct. Meetings of the Committee are regularly hosted by a Town or Community Council and open to all such Councils. This enables discussion of any issues or concerns they may have and to assist or advise them as to any particular approach which should be taken.

The North Wales Standards Committee Forum is a regional group set up to share experiences, knowledge and discuss any topical issues so as to assist colleagues across North Wales in resolving issues of concern and maintaining a consistent approach to common issues faced by us all.

This year's Standards Conference was hosted by the North Wales Standards Committee Forum and held in Llandudno in April. The 6 North Wales County Councils provided the bulk of speakers with additional speakers from the Public Services Ombudsman for Wales, Welsh Government, The Welsh Local Government Association, Rhondda Cynon Taf and Swansea Council. Over 100 delegates attended from all over Wales. The overall feedback was positive with the vast majority of the forms rating it as either good or excellent.

Lastly I would like to thank Gareth Owens and the other officers who have advised, arranged and attended the meetings of the Committee during the year.

Mrs Patria Jones
Chair of the Standards Committee

MEMBERS OF THE COMMITTEE

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

During the year a new representative for the Town and Community Councils was appointed. His term of office will be until the second Council meeting following the next Council elections to allow time to recruit his replacement after those elections.

During the year the Chair of the committee, Kevin Sibbons, had to stand down as he had reached the end of his term as an independent member. The Vice Chair presided over meetings for the remainder of the municipal year and was then appointed Chair.

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

Independent Committee Members

| | <u>Appointment Ends</u> |
|--------------------------|-------------------------|
| Mrs Patricia Jones | July 2014 (Chair) |
| Mr Chris Bretherton-Watt | November 2013 |
| Mr Robert Dewey | May 2017 |
| Mrs Phillipa Ann Earlam | May 2019 |
| Mr Edward Hughes | May 2019 (Vice Chair) |

Community Committee Member

Councillor Jonathan Duggan-Keen June 2017

Flintshire County Council Members

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

THE COMMITTEE'S WORK

The Committee's main role is to promote and maintain high standards of conduct by councillors and to assist them to observe the Members' Code of Conduct. It is responsible for doing so for Members of Flintshire County Council and the County's Town and Community Councils.

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

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

Frequency of Meetings

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

- 18 June 2012
- 3 September 2012
- 1 October 2012
- 5 November 2012
- 3 December 2012
- 18 February 2013
- 8 April 2013
- 13 May 2013

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

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

In October 2012 the Ombudsman published fresh guidance on the Code of Conduct. It had been updated to reflect recent decisions made by case tribunals, Standards Committees and, in particular, the High Court decision in the case of Councillor Calver.

The case of Calver v Adjudication Panel for Wales was the first legal challenge to the Code of Conduct and ethical regime in Wales. Councillor Calver successfully overturned a decision of a case tribunal to uphold the decision of Pembrokeshire Standards Committee to censure him for a breach of the Code.

The High Court upheld his challenge because the finding and penalty infringed his freedom of political expression as guaranteed by Article 10 of the European Convention on Human Rights. The Ombudsman then issued amended guidance giving very wide leeway to Councillors to challenge other Councillors and officers.

It is appropriate that officers, especially senior officers, can be challenged by Councillors and yet there are minimum standards of behaviour that must be observed. Following comments about the amended guidance, which appeared to impose very little restraint, the Ombudsman has issued revised guidance that balances both the legal requirements and the need for acceptable standards of behaviour.

2. Dispensations

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

The Committee considered seven applications during this period all from Flintshire County Council Members. In each case the committee considered the nature of the councillor's interest and the extent to which their participation might undermine public confidence in the impartiality of the decision making process. Where applications were granted safeguards were put in place to ensure transparency and openness were not harmed. For example, where Councillors were allowed to contact officers this could be in writing only so that there was a record of the communication.

In addition a database of requests and decisions on dispensation was created. This enables the Committee to see how it has decided previous applications thereby ensuring greater consistency and fairness.

3. Allegations Against Members

During the course of the year six allegations were made against County Councillors. All were resolved without the need for investigation.

Only one complaint was made against a Town and Community Councillor. Again it was resolved without the need for investigation.

Whilst the level of complaints was slightly higher than in previous years, the number of complaints taken forward for investigation was lower than the Wales average.

There was one complaint against a County Councillor which was being heard by a case tribunal at the start of the year. That hearing was not concluded during the year.

4. Local Resolution of Complaints

There was a long standing debate about whether the Council should adopt a local procedure for resolving low level complaints. The Local Government Minister made his view clear that if such a procedure was not adopted then he would legislate making the adoption mandatory. The Council therefore began to research the different options available. This work was not concluded within the year.

5. Indemnity

Likewise, Welsh Government's concern about the impact of indemnities for Councillors also increased during the year. It was perceived that unlimited indemnities were encouraging ever greater use of legal representation with the unintended consequence that case tribunals were becoming increasingly legalistic and complex. There was also concern that where Councils did not have insurance to cover the indemnities then the cost was falling directly on the public purse.

Whilst Flintshire has had an insurance policy to cover any indemnities granted since 2011 they are not subject to an upper limit on expenditure.

The Council is waiting to see how the debate develops before deciding whether to cap indemnities thereby potentially restricting the ability of Councillors to defend themselves.

6. Review of Codes and Protocols

The Committee is responsible for the codes and protocols within the Council's Constitution. It must ensure that they are effective and remain both up to date and relevant.

To ensure that this work was undertaken in a structured way the Committee adopted a rolling programme of reviews. This will see all protocols reviewed within a 3 year period. Due to its importance the Code of Conduct for Councillors will be reviewed every year.

7. Training

Following the County, Town and Community Council elections in May 2012 a programme of training on the Code of Conduct was put in place. In total six sessions were held covering 43 Councillors in all.

In addition, a regular programme of training sessions prior to each meeting of the Standards Committee was established. This enables the Committee to keep up to date and improve its skills and experience.

Useful Contacts

- Gareth Owens, Monitoring Officer - Tel No. 01352 702344
- E-mail: gareth.legal@flintshire.gov.uk
- Peter Evans, Deputy Monitoring Officer - Tel No. 01352 702304
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- Public Services Ombudsman for Wales - www.ombudsman-wales.org.uk
- Adjudication Panel for Wales - www.adjudicationpanelwales.org.uk