



RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE

Minutes of the virtual meeting of the Standards Committee held on Wednesday, 16 March 2022 at 10.00 am.

County Borough Councillors - Standards Committee Members in attendance:-

Mr M Jehu MBE (Chair)
Councillor E Webster Mr R. Butler
Mr D. Bowen Mr J. Thomas
Community Councillor C. Willis
(Reserve Member)

Officers in attendance

Mr A Wilkins, Director of Legal Services & Monitoring Officer
Mr P Nicholls, Service Director, Legal Services

10 WELCOME AND APOLOGY

The Chair welcomed Committee Members, Officers and Observers to the hybrid meeting of the Standards Committee and an apology for absence was received from Reserve Community Borough Councillor M. Forey.

11 DECLARATION OF INTEREST

In accordance with the Council's Code of Conduct, there were no declarations made pertaining to the agenda.

12 MINUTES

It was **RESOLVED** to approve the minutes of the 19th November 2021 as an accurate reflection of the meeting.

13 MATTERS ARISING

Page 13 of the minutes – The Monitoring Officer reported that the Memorandum of Understanding was agreed by Full Council following the previous meeting of the Standards Committee and has now been adopted.

14 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT CASEBOOKS

In his report, the Monitoring Officer provided the Committee with Code of

Conduct Casebook (Issues 25) produced by the Public Services Ombudsman for Wales.

Members noted that it appeared that the Ombudsman has reverted back to quarterly publication of the casebook following the previously published casebook which covered the whole of 2020.

The Monitoring Officer drew Member's attention to a case referred to Powys Standards Committee which resulted in the maximum sanction of 6 months suspension being imposed. Furthermore, this was based on findings of breaches of paragraphs 4(b) and 4(c) as the Member failed to show respect and consideration, and used bullying behaviour, towards members of the public who attended a meeting, and also that the Member's actions at the relevant meeting could reasonably be regarded as behaviour which might bring the office of member or the Council into disrepute and a breach of paragraph (6(1)(a) of the Code of Conduct. Moreover, the second case referenced in the casebook resulted in an appeal to the Adjudication Panel for Wales against the determination and sanction imposed by Wrexham Standards Committee.

Members were reminded that the details of the case in the casebook referred to the APW for determination in respect of the Member from Caerphilly County Borough Council was considered and discussed at our previous meeting.

Following consideration thereof, it was **RESOLVED**:

- 1 To note the information contained within the report.

15 PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS - 01.11.2021 - 28.02.2022

The Monitoring Officer provided the Standards Committee with a summary of complaints made against Members and submitted to the Public Services Ombudsman for Wales (the 'Ombudsman') for the period 1st November 2021 – 28th February 2022, and as agreed at the previous committee Members resolved to receive this report quarterly rather than annually so that any issues arising can be considered and acted upon in a more timely fashion.

Members learned that only one complaint had been submitted to the Ombudsman during the period. Furthermore, Members were reminded that in determining whether to investigate a breach of the Code of Conduct, the Ombudsman initially applies a two-stage test, whereby at the first stage, he will aim to establish whether there is direct evidence that a breach of the Code has occurred and at the second stage the Ombudsman considers whether an investigation or a referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. This involves the consideration of a number of public interest factors such as: whether the member has deliberately sought a personal gain at the public's expense for themselves or others, misused a

position of trust, whether an investigation is required to maintain public confidence in elected members and whether an investigation is proportionate in the circumstances.

The Monitoring Officer provided the detail of an anonymised complaint made against a Member and submitted to the Ombudsman during this reporting period and reported that the complaint did not result in an investigation. However, the complaint concerned a posting on social media. Furthermore, whilst the Ombudsman considered that the post was offensive they did not consider that it was so inflammatory, violent or shocking that it could amount to a breach of the Code and outlined that it is not the purpose of the Code to inhibit free speech and the robust expression of political differences. The post referred to highly publicised incidents regarding a group of individuals and also the individuals which the post were directed towards were all senior politicians and as such the Ombudsman stated they would be expected to have an exceptionally thick skin.

In response to a query raised in respect of the content of the learning issues received by the Committee and whether these would be conveyed to any potential new Members of the Committee coming the Elections in May, the Monitoring Officer reported that the Ombudsman had recently updated the Code of Conduct and training on this would be provided as part of the induction process.

The Standards Committee **RESOLVED:**

- 1 To note the content of the report.

16 ADJUDICATION PANEL FOR WALES - RECENT TRIBUNAL DECISIONS

The Monitoring Officer provided the Standards Committee with the report to consider recent decisions made by the Adjudication Panel for Wales (APW).

Members were referred to the appendices of the report, which detailed a number of APW decision notices, that had been issued following the conclusion of the cases. Of particular interest to the Committee was the case detailed at Appendix 1 of the report, which showed the scrutiny of a decision made by a Standards Committee.

Members noted that as previously highlighted, it may find it helpful to Consider these decisions and the approach adopted by the APW in formulating its decision and sanctions (where relevant) in light of its own role when conducting Code of Conduct hearings. Furthermore, the Committee may also wish to consider whether there are any possible messages or lessons to be learnt arising out of those decisions that could be communicated as part of future training for Members on the Code of Conduct.

Members discussed how there is a need to take a more active approach in dealing with such cases in the future and that it is paramount that the Community Council's take the importance of their employees more seriously as there are consequences if they fail to take appropriate action. Furthermore, Members felt that the importance of Community Council training should be stressed and made mandatory to those Councillors who are newly elected in the future.

The Standards Committee **RESOLVED:**

1. To consider the recent decisions made by the Adjudication Panel for Wales (as appended to the report); and
2. To determine whether there are any possible messages or lessons to be learnt arising out of those decisions that could be communicated as part of future training for Members on the Code of Conduct.

17 FEEDBACK FROM THE 2022 ALL WALES STANDARDS CONFERENCE

The Monitoring Officer provided Members with a copy of Richards Penn's report, commissioned by Welsh Government, in respect of his review of the Ethical Standards Framework in Wales and afforded Members of the Standards Committee the opportunity to provide feedback and discuss the recent All Wales Standards Conference, which was held virtually on 9th February 2022 which was heavily focussed on the findings of the Penn review.

Members learned that the reports findings fall into categories based on whether they would need legislation to implement. Moreover, some recommendations need primary legislation (e.g. granting the Adjudication Panel for Wales the power to restrict reporting on sensitive cases), others require secondary legislation (such as updating the code of conduct itself) and some are matters of practice that can be implemented if the relevant parties are willing to do so.

The Monitoring Officer reported that Welsh Government are currently considering the recommendations to amend the Model Code of Conduct in the short term and medium to longer term. In addition, a further update was provided by Welsh Government representatives at the Standards Conference as to potential developments in this area.

The Standards Committee found the All Wales Standards Conference to be interesting and felt that their contributions were well received.

The Standards Committee **RESOLVED:**

1. To feedback comments on the All Wales Standards Conference.

18 **NATIONAL FORUM FOR STANDARDS COMMITTEE CHAIRS AND VICE-CHAIRS**

The Monitoring Officer provided the Standards Committee with details of the report which seeks Members views on establishing a National Forum for Standards Committee Chairs and Vice-Chairs, a recommendation emanating from the Penn Review into the Ethical and Standards Framework in Wales.

The Monitoring Officer drew Member's attention to Mr Penn's report, which says he was struck by the variation in the way that Standards Committees in Wales see their remit and at the role played by the Independent Chairs of Standards Committees. Also, at the one extreme Standards Committees and their Independent Chairs seem to have either been given or have adopted a very limited role, meeting infrequently and only really active when there is a Hearing of a case referred by the Public Services Ombudsman for Wales. Furthermore, at the other extreme there are Standards Committees and Chairs that see their remit much wider than this, and as leading the development and maintenance of the ethical standards framework in that local authority.

Members learned that Mr Penn went on to comment positively upon the work of the forum for Chairs of Standards Committees in North and Mid Wales, and whilst acknowledging the place for local decision making, he recommends that a national forum be established along the same lines. Furthermore, a discussion around this recommendation took place at the All Wales Standards Conference. Monitoring Officers in Wales have agreed to consult their Standards Committees on the issue.

The Standards Committee **RESOLVED:**

1. To support the creation of an All Wales forum for Standards Committee Chairs and Vice Chairs.

19 **LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021 - STANDARDS OF CONDUCT STATUTORY GUIDANCE**

The Monitoring Officer provided the Standards Committee with the report which is to seek Members feedback on the consultation initiated by Welsh Government in relation to draft statutory guidance relating to the new duties in the Local Government and Elections (Wales) Act 2021 concerning standards of conduct, and agree a response to be submitted in response to that consultation.

Members were reminded that the 2021 Act requires leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups, and to co-operate with standards committees (to take effect from May 2022). Furthermore, it requires standards committees to produce annual reports on the exercise of their functions (due to take effect after, and in relation to, the financial year 2022/23) and

consolidates provision about investigations by the Public Services Ombudsman for Wales into the conduct of members of local government.

Members learned that the Welsh Government consultation document recognises that Councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, in order to encourage a more diverse range of people to seek elected office in local government. Standards of behaviour are key to this, and all members have a responsibility to act in a manner which respects and values all people.

The Monitoring Officer reported that the Minister for Finance and Local Government has acknowledged that the duty is not intended to be the panacea and will not cover everyone (particularly those members who do not belong to a group), but it is designed to be proportionate and helpful. Its aim is to prevent or stop inappropriate behaviour before it escalates into a breach of the Code of Conduct. Also, the Guidance emphasises that the duty does not make leaders of a political group accountable for the behaviour of their members as conduct must be a matter of individual responsibility. However, they do have a role in taking reasonable steps in maintaining standards, setting an example, using their influence to promote a positive culture, being proactive in promoting high standards of conduct in their group and addressing issues as soon as they arise. Furthermore, the draft guidance also sets out a series of reasonable steps the group leader may undertake to ensure compliance with the duty.

The Monitoring Officer explained that the group leader has a significant role to play in creating a culture of trust and mutual respect in their group, and where issues arise, the importance of resolving low-level complaints at a local level has been raised by the Ombudsman and the independent Review of the Framework. Typically, these complaints are about alleged failures to show respect and consideration for others and the making of frivolous and low level complaints. Also, the group leader should be pivotal in preventing the escalation of these complaints to the stage where more formal interventions become necessary. Furthermore, leaders of political groups should have informal discussions with members who may be showing early signs of inappropriate behaviour to 'nip this in the bud' before it becomes problematic or in danger of breaching the Code. This may include suggesting and requesting training for the members concerned, asking for social media posts to be removed, and requesting apologies where appropriate.

The Monitoring Officer continued to explain that it is essential the leaders of a political group co-operate, and ensure the members within their group co-operate, with the monitoring officer and standards committee when an issue is referred to the standards committee. Also, group leaders should also report compliance with their duty to the standards committee, whereby this can take the form of a short letter or report at a frequency agreed by the political group leaders in the council and its standards committee. Moreover, group leaders should also report any serious

concerns about members' behaviour which have not been remedied by informal actions, in line with the requirement in the Code for Councillors to report breaches.

The Committee were informed that if a member is found by the standards committee to be in breach of the Code of Conduct and is disciplined by the committee, the leader of the political group must support the action. Also, a council's political group leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee. In addition, the standards committee should then consider each report and provide feedback to the group leaders.

The Monitoring Officer reported that a Standards Committee must also provide advice and training, or arrange to train group leaders on the new duty, whereby, at the start of each administration this should take place within six months of the election and be reviewed at least annually. Also, the Standards Committee chair may wish to meet with group leaders periodically to review behaviour.

Members learned that Section 63 of the 2021 Act inserts a new section 56B into the 2000 Act which places a requirement on standards committees in each "relevant authority" to make an annual report to the authority concerned, whereby the guidance sets out, as a minimum, what the report should include.

The Committee were advised to provide any feedback in response to the consultation to the Monitoring Officer so that he is able to collate their responses. Furthermore, the Monitoring Officer suggested that we consult with the group leaders to also gauge their views on this and report back to Committee before agreeing a response to Welsh Government, to which Members were in agreement with.

The Standards Committee **RESOLVED:**

1. To consider the contents of the report and Welsh Government consultation document, which contains draft statutory guidance relating to the new duties in the Local Government and Elections (Wales) Act 2021 concerning standards of conduct.
2. Provide feedback in response to that consultation, noting the series of questions asked within the consultation document, and agree a response based on Members' feedback be submitted to Welsh Government on behalf of the Standards Committee.
3. Consult with the group leaders to gauge their views on the consultation.

20 URGENT BUSINESS

Before closing the meeting, the Chairman informed Members that this would be the last meeting of the Standards Committee that he would attend due to his term of office coming to an end in October 2022 and

wished the Committee every success in the future. Furthermore, he informed Members that it was also be Councillor Ray Butler's last meeting as he's not re-standing coming the elections in May 2022.

The Chairman wished to place on record his personal thanks to Councillor Butler for all his hard work and professional commitment to the Standards Committee over his many years of service.

Members endorsed the Chairman's comments and wished him all the very best of health and success in the future.

This meeting closed at 11.12 am

**MR. M. JEHU
CHAIR.**