



RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE

Minutes of the hybrid meeting of the Standards Committee held on Friday, 19 November 2021 at 10.00 am.

County Borough Councillors - Standards Committee Members in attendance:-

Mr M Jehu MBE (Chair)
Councillor M Forey Councillor E Webster
Mr D. Bowen Mr R. Butler
Mr J. Thomas

Officers in attendance

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

1 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 Councillor C. Willis.

2 Declaration of Interest

In accordance with the Council's Code of Conduct, Councillor R. Butler declared the following personal interest in Item 4 of the agenda 'I am a Community Councillor for Llantwit Fardre Community Council, which is referenced throughout the report. I will not take part in this item but will remain in the meeting whilst the items are being discussed'.

3 Minutes

It was **RESOLVED** to approve the minutes of the 24th September 2021 as an accurate reflection of the meeting.

4 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.

The Monitoring Officer advised the Committee that they 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 and 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.

In relation to a query raised regarding point 4.4.1.2 of Appendix 1 of the report whereby it is concluded that this was the more serious breach of the Code, the Monitoring Officer reported that the sanctions would be where you would consider the severity of the breach in question.

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.

5 PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS - 01.04.2021 - 31.10.2021

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 April 2021 – 31st October 2021.

Members were reminded that in determining whether to investigate a breach of the Code of Conduct, the Ombudsman initially applies a two-stage test. At the first stage, he will aim to establish whether there is direct evidence that a breach of the Code has occurred. 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 drew Members' attention to the Ombudsman's comments and conclusions on each matter which they would find helpful to understand how they might approach dealing with a complaint, should one come before the complaint for consideration, and noted that there were zero complaints made against County Borough Members during the period.

(Note: Having previously declared an interest (Minute No. 2), Community Councillor R. Butler did not participate in this item.)

The Standards Committee **RESOLVED:**

- 1 To note the content of the report.

6 **DISPENSATION APPLICATIONS**

The Monitoring Officer outlined the following applications for dispensation for the Standards Committee's endorsement:

1. The Monitoring Officer sought Committee's endorsement to grant dispensation to County Borough Councillor P. Jarman to speak and vote on all matters for the duration and adoption of the 2022-23 Budget process in her capacity as Leader of the Opposition.

It was explained that County Borough Councillor P. Jarman's son works in the Streetcare Department and lives with her at her home address and therefore, Councillor Jarman sought a dispensation to speak and vote on all services affected by the Budget. In her application for dispensation, Councillor Jarman stated that by virtue of being Leader of the Opposition Group, her participation in the Budget process is justified.

The Monitoring Officer continued and advised that one of the grounds for granting dispensation was:

"(f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise"

2. The Monitoring Officer sought Committee's endorsement to grant dispensation to County Borough Councillor Bevan to speak and vote on all matters relating to the Community and Children's Services Group, save for any specific matters that directly affect his daughter who is employed by the Council as the Service Manager Community and Children's Services Group as the Programme Manager – Assistive Technology, with such dispensation being reviewed by the Standards Committee on an annual basis.

Members were informed that Councillor Bevan acknowledged that any dispensation awarded cannot be used if the matter under consideration would confer a greater benefit on the employed family member than on other taxpayers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect his ability to act purely on the merits of the case and in the public interest if he were to take part in the discussion.

In his application for dispensation Councillor Bevan further states that by virtue of being a Cabinet Member his participation in matters relating to the Community and Children's Services Group is justified.

The Monitoring Officer continued and advised that two of the grounds for granting a dispensation were:-

“(d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business”; and

“(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise.”

3. The Monitoring Officer then sought Committee's endorsement to grant dispensation to County Borough Councillor Michael Powell a dispensation to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Group), save for any specific matters that directly affect his wife, who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed by the Standards Committee on an annual basis.

Members were informed that County Borough Councillor Michael Powell's wife works in the Children's Services department as a Contact Worker. In his application Councillor Powell stated that his wife is not in a decision-making position.

The Monitoring Officer explained that any dispensation awarded cannot be used if the matter under consideration would confer a greater benefit on his wife than on other taxpayers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect his ability to act purely on the merits of the case and in the public interest if Councillor Powell were to take part in the discussion.

The Monitoring Officer continued and advised that the ground for granting dispensation was:

(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

The Standards Committee **RESOLVED:**

1. To grant County Borough Councillor Pauline Jarman a dispensation to speak and vote on all matters for the duration and adoption of the 2022-23 Budget process in her capacity as Leader of the Opposition;
2. To grant County Borough Councillor Robert Bevan a dispensation to speak and vote on all matters relating to the Community and Children's Services Group, save for any specific matters that directly affect his daughter, who is employed by the Council in the Community and Children's Services Group as the Programme Manager – Assistive Technology, with such dispensation being reviewed by the Standards Committee on an annual basis; and
3. To grant a dispensation to County Borough Councillor Michael Powell to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Services Group), save for any specific matters that directly affect his wife who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed on an annual basis by the Standards Committee.

7 PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2020 - 2021

The Monitoring Officer provided Members with a summary of matters pertaining to standards of conduct of County, Town and Community Councillors as set out in the Ombudsman Annual Report and Annual Letter to this Council for 2020-2021.

The Committee were informed that the number of Code of Conduct Complaints had increased by 47% during 2020-2021 with the PSOW receiving 535 new complaints with 308 taken forward for investigation. The total number of complaints for the year 2018-19 was 282 and for 2019-20, 231. Of those 308 complaints 167 related to Town and Community Councils, 138 to Local Authorities, 2 to National Park authorities and 1 to a Fire Authority.

Members learned that Within a small number of Town and Community Councils the PSOW has stated he is still seeing complaints which appear to border on frivolity or are motivated by political rivalry or clashes of personalities rather than being true Code of Conduct issues. Where his offices receives 'tit for tat' complaints they will engage with the Council and the Monitoring Officer of the principal authority to remind its members of their obligations under the Code and their democratic responsibilities to the communities they serve.

Members were informed that as in previous years the majority of CCCs (55%) related to matters of the promotion of equality and respect; 14% related to the failure to disclose or register interests; 12% related to integrity; 4% related to accountability and openness; 5% related to failure

to be objective or act with propriety; 8% related to the duty to uphold the law and 2% related to selflessness and stewardship. The PSOW has noted there is an annual increase in the number of complaints where bullying behaviour is being alleged.

The Monitoring Officer reported that the PSOW has highlighted once again the importance of Code of Conduct training to become a 'good councillor', and from his investigations he has gained an impression that many members of Town and Community Councils often do not take up training opportunities offered on the Code of Conduct. Whilst there is no statutory obligation for Members to complete training currently it is strongly advised they should do so.

Members noted that 24 complaints were taken forward for investigation in 2020-21 with the PSOW again directing investigative resources towards the more serious complaints where an investigation is required in the public interest. In 14 cases an investigation was discontinued (5 cases), no evidence of breach was found or no further action was necessary (9 cases) and there were 10 referrals (to either Standards Committees or the Adjudication Panel for Wales) – a 50% increase from 2019-2020.

Furthermore, in 58% (14 cases) of the investigations undertaken during the period (i.e. no evidence of breach was found or investigation discontinued), a significant decrease on the previous year, where this outcome happened in 85% of cases. The PSOW has stated that whilst fewer cases are being referred to investigation, of those that are, he is finding evidence suggestive of a breach of the Code of Conduct in more cases.

Members were advised that in 20/21 the Adjudication Panel for Wales and Standards Committees upheld and found breaches in 100% of Ombudsman referrals.

The Monitoring Officer reported that the PSOW had stated that the increase in the number of complaints referred for further consideration in respect of potentially serious breaches of the code last year, is of concern and suggests there has been some decline in member conduct. Of the complaints referred for hearing which are yet to be determined, it is concerning that the complaints suggest disreputable conduct and that some members may have misused their positions as members.

In response to a query raised in relation to the rise in the number of CCCs during 2020-21 and the decline in Members Conduct, the Monitoring Officer responded that this could be due to the fact that Members of the public potentially have had more interaction with Councillors and Local Authorities than they have done so previously during this period in light of the pandemic and the public and communities accessing council services via councillors, however, the evidence suggests that not all of these complaints were valid.

A Member raised concerns regarding the number of CCCs relating to matters of the promotion of equality and respect as in previous years and commented that it would be interesting to see the statistics of how many of those who committed the breaches did not undertake the relevant training which had been strongly advised. In response, the Monitoring Officer reported that he would raise this with the Ombudsman as it would be a useful tool to determine the underlying cause of this. He also noted that there is a review being undertaken by Welsh Government into the Ethical Standards Framework in Wales whereby training and mandatory training may form part of this process.

In response to a query raised in relation to the Annual Letter received from the Ombudsman to the Council for 2020-2021 requesting that the Authority informs him of the outcome of the Council's considerations and proposed actions contained within the letter by 15th November 2021, the Monitoring Officer commented that a report had been presented to Cabinet in response of the letter and he is able to share their considerations of the report to the Committee so that Members have the opportunity to align their responses with the report before being submitted to the Ombudsman. Furthermore, the Monitoring Officer reported that he had been in contact with the Ombudsman who is be able to extend the deadline for the purpose of receiving comments from the Committee.

It was reported that the number of complaints received by the Ombudsman for our Authority is in the bottom quartile of the aggregate population, whereby only 5% required a PSOW intervention.

The Chair thanked the officer for the detailed update and the Standards Committee **RESOLVED:**

1. To agree with the principle that code of conduct training should become a mandatory requirement and noted Welsh Government had conducted a review into the ethical and standards framework which resulted in a similar proposal being recommended by the individual who conducted the review.
2. To receive the considerations of the report from Cabinet before being submitted to the Ombudsman.
3. To note the matters relating to Code of Conduct Complaints reported in the Public Services Ombudsman for Wales' Annual Report and Annual Letter to this Council 2020-21.

2 REVIEW OF THE ETHICAL STANDARDS FRAMEWORK IN WALES

The Monitoring Officer advised Members of the publication of the report into Welsh Government's commissioned independent review of the Ethical Standards Framework in Wales.

Members were reminded that as reported at the Committee's meeting in March 21 Welsh Government confirmed they would be reviewing the

ethical Framework and the model Code of Conduct following the coming into force of the Local Government & Elections (Wales) Act 2021.

Members were informed that the Ethical Standards Framework for Wales Was established by Part 3 of the Local Government Act 2000 to promote And maintain high standards of ethical conduct by members and officers of relevant authorities in Wales, and that a 'relevant authority' is a county or county borough council (referred to as "a principal council"), a community council, a fire and rescue authority and a National Park authority in Wales.

Members learned that the key components of the ethical framework include the statutory Members' Code of Conduct, which sets out the duties imposed on all elected and co-opted Members; and the statutory provisions relating to Standards Committees, established to promote and maintain high standards of conduct by the Members and co-opted Members of the authority. Furthermore, the Framework consists of ten general principles of conduct for members (derived from Lord Nolan's 'Seven Principles of Public Life'), which are included in the Conduct of Members (Principles) (Wales) Order 2001. Also, the Local Authorities (Model Code of Conduct) (Wales) Order 2008 provides for a set of enforceable minimum standards for the way in which members should conduct themselves, both in terms of their official capacity and (in some instances) in their personal capacity which includes provisions relating to the declaration and registration of interests. The Framework has remained largely unchanged, though there have been a number of small amendments to improve the operation of the Framework over the last twenty years.

The Monitoring Officer reported that an independent review of the Framework was undertaken by Richard Penn between April and July 2021 to assess whether the Framework remains fit for purpose, whereby the review took into account the new legislative requirements set out in the Act and the current equality and diversity policy context.

The Monitoring Officer outlined that the final report of the Ethical Standards Framework in Wales concludes the current arrangements are fit for purpose but recommends some changes to the Framework, including the Model Code of Conduct.

Members learned that the findings fall into categories based on whether They would need legislation to implement and 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). Furthermore, 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 will now consider The recommendations to amend the Model Code of Conduct in the short

term and any legislative change will be subject to a technical consultation with a planned implementation ahead of next May's Local Elections. Furthermore, Welsh Government say action to address other recommendations in the report will be taken forward in partnership with key stakeholders in the medium to longer term.

The Monitoring Officer noted that there had been a duplication of this item within the reports received by the Committee and therefore ensured that Members had received the correct report prior to the meeting.

The Standards Committee **RESOLVED:**

1. To defer this item at the next meeting of the Committee to allow Members an appropriate opportunity to consider the report prior to its consideration by Committee.

9 MEMORANDUM OF UNDERSTANDING

The Monitoring Officer provided Members with a draft Memorandum of Understanding for Members comment and feedback to the Democratic Services Committee before its presentation to full Council.

Members were informed that the Democratic Services Committee have proactively been undertaking work to promote and encourage diversity in democracy through the Diversity in Democracy Working Group and at a meeting of the Democratic Services Committee on the 10th May 2021, Members received and supported the interim report of the Diversity in Democracy working group and its resulting recommendations. Furthermore, Full Council subsequently endorsed the 16 recommendations outlined by the working group and also committed to becoming a Diverse Council.

The Monitoring Officer reported that within its interim report, the working group took forward a recommendation in respect of the creation of a 'Memorandum of Understanding' namely; "*To consider introducing a 'statement of understanding' for Members outlining their duties as a Councillor including the need to have mutual respect within the Council Chamber*", whereby the intended outcome of the statement would be a demonstration of mutual respect to other people with varying political opinions and a show of working together for the benefit of its communities. Furthermore, a draft Memorandum was presented to the Democratic Services Committee on the 27th September, to which Members agreed for its presentation to the Council's Standards Committee for further comment and feedback.

The Committee learned that the Memorandum would provide an opportunity for Members to publicly commit to using their term of office to work for the Council, the County Borough and its citizens, and to commit to the standards of conduct expected by the Council. Furthermore, it is considered its adoption would strengthen standards and ethical arrangements within the Council and would support and sit alongside the

Council's Code of Conduct for Members, the Standards of Conduct Expected by Members Local Resolution Policy and Member-Officer Protocol.

A Member queried whether the Memorandum of Understanding would be issued to the Community and Town Councils as an amendment of their Code of Conduct. In response, the Monitoring Officer reported that there is a Community Liaison Committee within RCT whereby he would be able to inform the Committee of the report and also write letters to each Community/Town Council clerk asking them to consider and sign up to this.

In response to query raised in relation to undertaking the necessary training and whether there should be a set time scale in doing so, the Monitoring Officer reported that he would feedback these comments as part of the Committees findings.

The Monitoring Officer outlined the work of the Democratic Services Committee Diversity working group which looks to improve the equality and diversity across the County Borough and within the local democracy setting. Also, he advised the Committee of the importance of their role during the current climate and suggested that they may find it beneficial to meet with the group for their own learning requirements and would be happy to arrange this session for them.

Following discussions, the Committee agreed for the Diversity working group to present to Committee to discuss the current issues within Equalities and Diversity in the forthcoming future.

The Standards Committee **RESOLVED:**

1. To include the Memorandum of Understanding from the Diversity in Democracy Working Group on a future agenda of the Community Liaison Committee and write a letter to each Community/Town Council clerk asking them to consider and sign up.
2. To feedback comments on the Memorandum of Understanding as part of the Committee's findings
3. To invite the Diversity working group to present to Committee.

This meeting closed at 11.00 am

**MR. M. JEHU
CHAIR.**