

STANDARDS & ETHICS COMMITTEE

29 JANUARY 2008

Present: Independent Members: Akmal Hanuk (Chairperson),
Maureen Hedley-Clarke, Anne Morgan and Paul
Stockton

Community Councillor David Suthers

County Councillors James and Owens

(Amendment to Minutes – see bold insert page 5)

ORDER OF BUSINESS

Prior to commencement of the meeting, the Chairperson advised of a change to the order of business on the Agenda.

S118 : MINUTES

The minutes of the meeting of the Standards & Ethics Committee held on 27 November 2007 were approved as a correct record and signed by the Chairperson.

S119 : APPLICATION FOR DISPENSATION

The Committee has a statutory authority to grant dispensations to Members of a relevant Authority with a personal interest in a matter, allowing them to speak and vote or to vote (depending on the nature of the interest). The Committee, at its meeting on 27 November 2007, considered an application for dispensation from Community Councillor Judith Marsh in respect of her personal interest as Community Council nominated Member of Taffs Well Quarry Liaison Committee and resolved that dispensation be granted for Community Councillor Marsh to speak but not vote at meetings of the Community Council on matters relating to the Taffs Well Quarry.

Following this decision the Council has received clarification from the Community Clerk that Community Councillor Marsh had sought

dispensation to allow her to speak and vote on matters relating to the Taffs Well Quarry Liaison Committee and not the Quarry itself; it was confirmed that Community Councillor Marsh has no personal interest in the Quarry. The Committee were requested to reconsider the application from Community Councillor Marsh on the basis of the clarification.

RESOLVED – That the dispensation granted to Community Councillor Judith Marsh on 27 November 2007 be amended and that in accordance with Section 81(4) of the Local Government Act 2000 and Regulation 2(d) and (f) of the Standards Committee’s (Grant of Dispensations) (Wales) Regulations 2001 a dispensation be granted to Community Councillor Judith Marsh to **speak and vote** at meetings of the Radyr and Morganstown Community Council or any of its Committees or Sub Committees on matters relating to Taffs Well Quarry Liaison Committee (provided that the dispensation shall not apply where Community Councillor Marsh has an interest other than the one specified).

S120 : URGENT REPORT OF THE MONITORING OFFICER – EMPLOYMENT CONDITIONS COMMITTEE BREACH OF CONFIDENTIALITY

The Monitoring Officer reported on a breach of confidentiality arising out of the deliberations of the Employment Conditions Committee (ECC) that had met in September and October 2007 to consider amongst other matters a report on the remuneration of the Chief Executive. The ECC met again on 21 January 2008 to consider another report on a related matter. The Committee was advised that all reports were discussed in exempt session as they were considered to fall within categories 1 and 3 of the Local Authorities (Access to Information) (Variation) (Wales) Order 2007 which amended Schedule 12(A) of the 1972 Local Government Act.

Following both the September 2007 and January 2008 Employment Conditions Committee meetings, the reports had been the subject of press articles which were circulated to the Committee for information.

The Committee heard that due to the nature of the reports there had been a limited distribution and at every point in the circulation of the report it was made clear that the report was confidential and not for distribution to third parties.

All elected Members of the Council are bound by the National Code of Conduct which expressly states that “Members must not disclose

information given in confidence without the express consent of the person authorised to give such consent or unless required by law to do so”.

The Committee were advised that Officers are subject to a statutory Code of Conduct which states that staff must uphold “confidentiality necessary to protect the privacy or other rights of individuals and bodies, and information should not be released to anyone other than a Member, Cardiff Council employee or other person who is entitled to reserve it or to have access to it for the proper discharge of their function”.

The Monitoring Officer advised the Committee that the Trade Unions had expressed considerable concern to the Council about the way in which the Chief Executive’s remuneration had been discussed and dealt with in the press and had asked that the Standards & Ethics Committee “review the matter in particular the unacceptable way for Councillors to deal with confidential information relating to an employment matter”.

The Committee discussed the matter in detail and unanimously agreed that due to the serious nature of the disclosure an internal investigation be pursued.

RESOLVED – That

- (1) the Monitoring Officer be instructed to carry out an internal investigation to seek to ascertain how and in what circumstances the Employment Conditions Committee report was disclosed to the press and thereafter report the outcome to the Committee;
- (2) guidance be re-issued to staff and Members concerning their obligations in respect of the handling of confidential information; and
- (3) representatives from UNISON and other interested parties be invited to attend a future meeting of the Committee to discuss the impact of such breaches.

S121 : CARDIFF UNDERTAKING

The Monitoring Officer advised that the Cardiff Undertaking had been considered and endorsed by Council at its annual meeting on 1 July 2004. This Cardiff Undertaking provides the opportunity for Members to publicly commit themselves to using their term of office to work for the Council, the

City and Citizens and to commit to the standards of conduct expected by the Council.

The Committee noted that the undertaking had never been re-endorsed at subsequent annual meetings and that no Members had signed a copy of the undertaking.

The Committee discussed the contents and appropriateness of the existing Cardiff Undertaking and made the following observations:-

- The Committee supported the continuance of the Cardiff Undertaking in line with the sentiments of good governance.
- That the undertaking should be individually signed and endorsed by all Members at the annual Council meeting.
- That further consideration should be given to the strengthening of the wording.
- There should be more emphasis on the requirement for Members to sign up to not disclose any confidential documents.
- There is no reference in the document to the National Code and it is important that this should be included.
- That any amendments to the document should be in consultation with party whips.

RESOLVED – That

- (1) the Monitoring Officer be requested to amend the wording to the Cardiff Undertaking taking into consideration the observations of the Committee and to bring back to the next meeting for approval;
- (2) subject to the agreed amendments, all Members be required to formally sign up to the Cardiff Undertaking; and
- (3) the document should be endorsed at each annual Council meeting.

**S122 : PRESENTATION BY AN OFFICER OF THE PUBLIC
OMBUDSMAN FOR WALES**

The Chairperson welcomed Andrew Walsh from the Office of the Public Ombudsman for Wales who had been invited to the meeting to give a presentation to the Committee on the role and responsibilities of the Ombudsman.

Reference was made to the Livingstone judgement which had resulted in more and more Members being represented legally, previously the Ombudsman was not in a position to respond and needed to review the way in which it responded to allegations.

A new procedure was introduced in September 2007 when a Specialist Team was established to respond to allegations against Members of principal Councils and Community Councils.

The new procedure was reviewed and modified in January 2008.

The following process was outlined for the benefit of the Committee; once an allegation is received a two stage test is carried out to determine whether the allegation is serious enough to be investigated:-

- (i) The allegation must be significant; and
- (ii) There must be substantial evidence to back up the allegation.

Assessment of the complaint is undertaken by the Specialist Team:-

- Where a decision is made not to investigate the complaint, the complainant is advised of the reason and of their right to a review of the decision.
- Where a case is high profile and considered to be borderline or there is a difference of opinion; the case would be considered by an Evaluation Panel who would decide whether the case should be investigated or not based on the information provided.

The next step at investigation stage is to:-

- Gather information;

- Formally interview witnesses;
- Advise the Monitoring Officer in writing.

The process of assessment has a number of options available, where the evidence indicates there has been a breach it will be taken further and the Member would be informed; if it were considered to be a minor breach the Assessment Panel have the option to issue their report or the matter.

It was confirmed that the seriousness of the case would dictate whether the matter would be referred to the Adjudication Panel.

In conclusion, the Committee were assured that allegations go through a rigorous and robust process, reports are available to the public once the matter has been dealt with; once the Ombudsman's report has been published it is final and there is no further action on the matter.

The Chairperson thanked Andrew Walsh for attending and for his informative presentation and responding to Members' questions.

S123 : MEETING WITH PARTY WHIPS

As part of the Committee's Work Programme, it was agreed to hold regular meetings with Party Whips to continue dialogue in order to improve practice within the Council and to invite them to put forward any areas concerns they might have.

The Chairperson welcomed Councillors Richard Cook, Cox, Cowan, Howells and Robson to the meeting. Apologies had been received from Councillors Islam and Dianne Rees.

The Chairperson invited the Whips to put forward any areas of concern they might have.

Councillor Robson welcomed the opportunity of having regular meetings with the Committee, he advised that the main area for the Whips is the conduct of proceedings in the Council Chamber and acknowledged that there were currently no issues in this respect.

There had been improvements in the process for Council questions and answers to the written questions were now received in advance with the opportunity to ask supplementary questions, this had lessened the time taken at Council.

Councillor Robson had a concern about the voting for school governors at Council, particularly in cases where there was more than one nomination, an example was given where a school nominates a governor that wishes to re-stand and the political Whips also put forward a nomination, Members present at the meeting would normally vote in favour of the Whips' nomination. A discussion was held in respect of the process for the nomination of school governors, it was clarified during the discussion that in circumstances such as the example given there was an option for school governors to co-opt a person but there was no option for an unlimited number of co-opted Members. However the reality is that there are a large number of schools that are unable to appoint school governors due to lack of interest.

Councillor Howells advised the Committee that the relationship between the Whips is amicable, they meet on a monthly basis and there are currently no issues in the way they work together as groups.

The Chairperson asked the Whips' view on whether they supported Member sign up to the Cardiff Undertaking and advised that the main issue for the Committee was that Members should adhere to the Code of Conduct, especially during election periods. It was generally accepted that Members should sign up to the Undertaking. The Whips confirmed they generally supported the Undertaking but that the wording should be tightened up and be in plainer English.

Member Development

The Chair invited the Whips to put forward their views on Member Development and Training. A number of observations were put forward:-

- Kate Berry advised that a Member Development Strategy was being developed and would be reported to the Executive in March to set up training post May election. An Induction Programme was being planned between May to July.

A Member Working Group had been set up to support longer term training. This will come back to the Whips for discussion in March to enable the training to be put in place before the election takes place.

- Councillor Howells advised that the Whips agree that all Members

both new and existing Members should receive training; at the last election in 2004 it was his view that there was too much information for the new Members to take in; it is now intended to programme more specific tailored training.

- Councillor Cox advised that his experience when being a new Member was that there appeared to be reluctance by some Members to attend external training courses because of negative press coverage.
- The Chairperson advised that the Committee would fully support Members in training and development and are keen to receive the observations put forward by the Whips.
- There should be tailored training specific to Members needs; it was the view that new Members would need more basic training than older serving Members; it was also suggested that there might be an opportunity for mentoring.
- It was suggested that a role for the Standards & Ethics Committee would be to have a quality check on how training is differentiated and how it is adapted to the needs of the individual Members. It was also suggested that Officers be asked to put in place a mechanism to allow monitoring to take place of the training.
- It was suggested that a Member of the Standards & Ethics Committee should sit on the Panel with Members when the packs for Member Development were being put together.
- Training on the role of Members who represent the Council on outside bodies would be helpful.

Reference was made to comments in the previous meeting with Whips about Members' support. Councillor Howells confirmed that Member Services had been undertaking a review of the service provided. A process is being developed to ensure Councillors are equipped to do their jobs. At the moment there are no outstanding issues relating to Members' support.

S124 : MONITORING OFFICER'S VERBAL UPDATE

The Monitoring Officer provided the Committee with a verbal update on the

following topics.

- (i) Member Development – following discussion on the way forward, it was noted that a programme of training would be developed for both existing and new members post May 2008 elections. It was suggested that this training should be relevant and tailored to Members' individual needs.
- (ii) Whistleblowing – the Committee were advised that discussions had taken place with the Communications Service area regarding the introduction of a poster campaign to raise awareness of the whistleblowing policy and procedure within staff. It had been suggested that a DVD should be produced to help promote the issue.

Following discussions the Committee agreed that the production of a DVD was too expensive, and requested that a sample poster be brought back to the next Committee for comment.

- (iii) Planning Code of Practice – it was noted that an update would be provided to the March meeting of the Committee.
- (iv) Ethical Audit – the Committee undertook an ethical audit in 2007 and were committed to undertaking a further review after 12 months. The Monitoring Officer advised that this would be placed on the agenda to give the Committee an opportunity of deciding the most appropriate way forward.
- (v) Governance Programme – the Committee were advised that the Council is required to provide a statement on Corporate Governance and work was currently being undertaken in this regard. It is intended that training will be provided for senior officers on the decision making process and this would be used as the model for the Members post election.

S125 : WORK PROGRAMME 2007/08

RESOLVED – That the Work Programme for 2008/09 be updated as agreed by the Committee at the meeting.