

STANDARDS & ETHICS COMMITTEE

22 NOVEMBER 2011

Present: Independent Members: Maureen Hedley-Clarke, Deirdre Jones, Paul Stockton and Richard Tebboth.

Community Councillor John Hughes

Apologies: Akmal Hanuk (Chairperson) County Councillors Davies, Islam and Wakefield

In the absence of the Chairperson the meeting was Chaired by Paul Stockton (Vice-Chairperson).

S16 : DECLARATIONS OF INTEREST

The Chairperson reminded Members of their responsibilities under Part III of the Members' Code of Conduct, to declare any interests in general terms and complete "personal interest" forms at the start of the meeting and then, prior to the commencement of the discussion of the item in question, specify whether it is a personal or prejudicial interest. If the interest is prejudicial, Members would be asked to leave the meeting, and if the interest is personal, but not prejudicial, Members would be invited to stay, speak and vote.

S17 : MINUTES

The Minutes of the meeting of the Standards and Ethics Committee held on 27 September 2011 were approved as a correct record and signed by the Chairperson.

S18 : ALL WALES STANDARDS CONFERENCE 2011

The Committee received an update on the key issues raised at the Standards conference Wales 2011 which took place on 5 October 2011 in Llandrindod Wells, Powys. The Conference was entitled 'Improving Standards'. Attendees from Cardiff included Independent Members Maureen Hedley-Clarke and Richard Tebboth, Community Councillor John Hughes together with Melanie Clay, Monitoring Officer and Nichola Poole Democratic Services Manager.

The Committee was advised that the format of the Conference had been different to that of previous years in that the afternoon session had included a mock hearing which had replaced the traditional workshop sessions. Community Councillor John Hughes participated in the proceedings as a Member of the Hearing Panel.

The morning session had included a number of short presentations focussing on the topic 'What changes would you make to the existing Members' Code of Conduct?'

Questions focussed around the following 6 key themes:-

- Indemnity/legal representation/associated costs;
- Local resolution versus independent investigations;
- National threshold for investigations;
- Legislation and whether or not Code should be amended;
- Responsible use of standards systems;
- Training.

Richard Tebboth advised that from the perspective of a new Independent Member of the Standards and Ethics Committee he had found the conference invaluable.

Following a brief discussion it was

RESOLVED – That a letter be sent on behalf of the Standards and Ethics Committee to Powys County Council commending them for delivering an excellent conference and to advise them of the positive feedback from Members of the Committee.

S19 : PROCESS FOR DEALING WITH COMPLAINTS AGAINST MEMBERS (LOCAL PROTOCOL)

Legislation sets out a statutory regime whereby complaints relating to breaches of the Member Code of Conduct are referred to the Public Services Ombudsman for Wales ('the Ombudsman').

The Standards and Ethics Committee had previously agreed to look at developing a local protocol and/or procedure for the informal determination of complaints made by Members against other Members in line with the Member Code of Conduct and this proposal has been included as an item on the Committee's agreed Work Programme. This issue was also raised in a question at Council on 22 September 2011, which made specific reference to a system that had been put in place by Rhondda Cynon Taff County Borough Council for dealing with such complaints.

The Committee noted that to date four local Authorities namely Gwyneth, Rhondda Cynon Taff, Swansea and Torfaen had developed their own local protocols for the determination of minor complaints 'in house' without the need for referral to the Ombudsman. The Ombudsman is known to be supportive of this type of informal approach to resolve minor matters locally to avoid the need for formal investigation, however, it should be noted that any complaints that cannot be resolved under informal processes would still need to be considered by the Ombudsman.

The Committee discussed the information presented in the report and made the following observations:-

- It was highlighted that different Authorities across Wales would have

different issues and may need to take a different approach. The Committee was advised that discussions are currently ongoing between the Ombudsman, the Welsh Local Government Association (WLGA) and the Wales Branch of the Association of Council Secretaries and Solicitors (ACSeS) in relation to the development of such informal, local resolution policies and procedures within Wales. The Ombudsman and WLGA have proposed that WLGA lead on a working group to develop a consistent approach with a pilot scheme for local resolution of complaints on an all-Wales basis, to be adopted by all 22 local Authorities.

- It was suggested that if the Council should adopt an informal process, there would be benefit in depoliticising the process to avoid political points scoring.
- Reference was made to the different models set up in the four Authorities mentioned in the report, it was suggested that progress of these should be monitored to gain knowledge of the outcomes.
- With regard to local protocols, information was sought as to whether the complaints would still need to go to the Ombudsman in the first instance. It was clarified that currently the Legislation in Wales requires complaints to be reported to the Ombudsman however, he has accepted that there is a need for a local protocol to deal with low level complaints. If working to a local protocol it must be with the acceptance that Members would accept the outcome and not refer it to the Ombudsman.
- A Member enquired whether separate discussion would have to take place with the 22 Local Authorities, the Monitoring Officer reiterated that it had been proposed that the WLGA lead on a Working Group to develop a consistent approach with a pilot scheme for local resolution of complaints on an all-Wales basis to be adopted by all 22 local Authorities. It was suggested that Cardiff should play an active part in feeding into the Working Group.
- In response to a query about Community Councils it was confirmed that there is the same expectation on Community Councils as they also have to sign up to the Code.

The following observations had been received from Councillor Tim Davies who was unable to attend the meeting:-

- Councillor Davies referred to paragraph 8 of the previous report on the Standards Conference and supports the comments of the Ombudsman with regard to local protocols for Member v Member complaints.
- Councillor Davies urged the Committee to take this matter on board as soon as possible and if necessary to have a special meeting to discuss the options available and to get information on best practice from other Authorities.

- With regard to the expression of interest from a Member not on the Standards and Ethics Committee to be involved in the process, the Monitoring Officer suggested that for wider consultation this matter should be taken via Group Leaders and Party Whips.
- It was suggested that this matter should form part of the discussion with Group Leaders and Party Whips at the Committee's January meeting.
- It was suggested that in parallel to discussions with Leaders and Whips that the views of the Committee be put forward to the WLGA Working Group and to request the Monitoring Officer to bring back a timeline for the process.

RESOLVED – That

- (1) The report be noted and the taking forward of a local protocol for determination of Member to Member complaints under the Code of Conduct be supported;
- (2) The Monitoring Officer be requested to put forward the representations made by the Committee to the WLGA led working group on the development of any all-Wales scheme and to report back to a future meeting together with timescales and to feed into the quarterly meeting of the Wales branch of the Association of Council Secretaries and Solicitors ACSeS.

S20 : MONITORING OFFICER'S VERBAL UPDATE

- (i) Local Government (Wales) Measurement 2011

The Monitoring Officer advised that the Guidance was still not available for reporting to Committee at this meeting. The Council had been told that the Guidance should be available in December 2011 once received the Guidance will be reported to the earliest possible meeting as it is a consultation document.

- (ii) Community Council Charter

It was anticipated that the Charter would be reported to the Executive in December 2011.

RESOLVED – That the update be noted.

S21 : FORWARD PLAN

The Committee discussed the items scheduled for the January 2012 meeting, it was noted that subject to confirmation of availability the Leaders and Whips would be invited to attend the meeting of the Standards and Ethics Committee on 31 January 2012; topics for discussion would include:-

- (i) Local Protocol for dealing with complaints;
- (ii) Standards and Relationships – Feedback on Progress;
- (iii) Member Development.

Due to the volume of business proposed for the Agenda in January 2012 the Committee agreed to move the following items to March 2012:-

- Social Media
- Planning Processes

The Committee tasked Officers to write to the Leaders and Whips to ascertain their availability to attend the Standards and Ethics Committee on 31 January 2012 and to advise them of the above topics for discussion at the meeting.

RESOLVED – That the Forward Plan as amended at the meeting be agreed and the actions discussed be progressed.

S23 : DATE OF NEXT MEETING – 31 January 2012