

Minutes



Standards Committee

Date: 15 July 2021

Time: 5:30pm

Venue: Microsoft Teams Meeting

Present: A. Mitchell (Chair) J. Davies, P. Worthington, R. Morgan, T. Britton, Councillor P Hourahine. Gareth Price (Head of Law and Regulation), Pamela Tasker (Governance Support Officer) Samantha Schanzer (Governance Support Officer)

Apologies: Councillor D Wilcox and K. Watkins

1. Apologies for Absence

Councillor D. Wilcox and Mr Kerry Watkins

Mr Richard Morgan was welcomed to his first Standards Committee and was introduced to the other Committee members.

2. Declarations of Interest

None

3. Minutes of the Previous Meeting: 15 April 2021

Agreed: That the minutes were a true and accurate record.

On Page 4 the Head of Law and Regulation confirmed that in relation to succession planning Mrs Gill Nurton was appointed to the Standards Committee but would not be in post until October 2021. This was confirmed at Council AGM in May 2021.

4. Matters Arising

None

5. Chairs Announcements

None

6. Complaints

The Head of Law and Regulation confirmed that since the last committee there was one further complaint received and referred to the Ombudsman regarding a city councillor which he declined to accept for investigation.

This complaint was sent back stating it was an issue of communication between 2 councillors and a matter for local resolution protocol. It was sent back to the councillor and there has been nothing heard since regarding resolution protocol.

There is one outstanding involving community councillor where the Head of Law and Regulation received the report from the Ombudsman, who did find a technical breach of the Code of Conduct as said councillor was voting on grants and failed to declare that his wife was on a committee for which a grant was to be awarded. However, the Ombudsman took the view that it was not serious enough for any action or any sanctions to be imposed. The councillor would be written to, to enforce the need for transparency but there would be no further action. Factors in the decision was that it was felt that as the other members voted in favour of the grant anyway it did not influence the decision and there was no impropriety there.

There were 3 other community council complaints still outstanding with no outcome yet. The Monitoring Officer would update the committee at the next meeting.

John Davies confirmed that he had spoken to the Ombudsman in relation to the first complaint and he was satisfied with the outcome and that it should not happen again.

The Chair requested the Monitoring Officer to explain to the committee and for the benefit of the new committee member why complaints sometimes go to the Ombudsman and not to the Standards Committee.

The Monitoring Officer confirmed that in Wales all significant complaints were sent to the Ombudsman and there was also a low-level resolution protocol to deal with low level complaints e.g., officer against councillor where there was a relationship issue and maybe a lack of respect. This was like a local mediation process to settle differences amicably.

If this cannot be done, then there was a mechanism where this could be brought to Standards Committee, but as it was a low-level complaint and the Ombudsman hasn't gotten involved, the most that could happen is the member could be censured for any breaches of the Code. This was only used when a complaint was received from another councillor or another officer. Any complaint involving a complaint from the public must be referred to the Ombudsman and any issues that were more serious such as breaches of code must go to the Ombudsman.

In theory the Ombudsman could start the investigation and refer it to the Monitoring Officer to finish the investigation and report to the Standards Committee. However, this does not usually happen. If the Ombudsman feels that its serious enough to merit investigation the witnesses will be interviewed by him and produce a report to be considered by the Standards Committee.

In relation to complaints referred to the Ombudsman where they have been turned down, the guidance explains that when the Ombudsman considers these complaints there is a 2-stage test, the first being is there any breach of the Member Code of Conduct? If not, then there is no case to answer.

Secondly public interest is then considered as to whether its worth investigating.

There is a view amongst Standards Committees in Wales that the second stage goes beyond the remit and if there is a breach the Standards Committee should be the ones to decide.

Mr Morgan asked whether the 2-stage test was in the legislation and the Monitoring Officer confirmed that it was not and was something that the Ombudsman imposed.

The Monitoring Officer explained that the Ombudsman can issue statutory guidance both to community councils and primary authorities, but it is a grey area. However, it was discussed that the imposition of sanctions was down to Standards Committees and Adjudication panels and the Ombudsman should not be filtering those cases.

Mr Davies stated that as a community council they were disappointed that the Ombudsman said there was a breach but did nothing about it. The Ombudsman suggested that if the Councillor concerned was not satisfied then it could be referred to the Monitoring Officer.

The Monitoring Officer stated that if the Ombudsman referred to them then it was perhaps a training issue.

Mr Davies stated that it clearly stated that when applying for grant money if a member and their wife was a member of the organisation then this needed to be declared as an interest.

The Monitoring Officer stated that the Councillor should have declared for the record and the Councillor involved was advised of that.

Mr Davies advised that the Councillor involved was asked to declare an interest even when it was clear that his wife was a chairman of the Committee and he was a member, but he refused to do this and this was seen as defiant, so this was the reason why it was referred.

The Chair confirmed that due processes have been followed so no further action was taken at that time.

Mr Worthington stated that transparency was the main thing and the case had gone through due process which was highlighted. It may point to an issue that maybe a reminder should be given to Community Councils on the obligations under Declaration of Interest as this was a sign of good governance.

The Monitoring Officer confirmed that they met with the community councils on a regular basis and the clerks had asked for training on how declarations of interests should be recorded and rather than send out a letter it would be more

beneficial to offer them training. The code was clear and there could have been an issue as to whether the Councillor was wrong to participate as there are some exemptions in relation to community councils and small grants where having declared the interest you can still participate so this might have been a factor.

Mr Morgan enquired as to whether the legislation would be reviewed, and the Monitoring Officer clarified that this was the guidance and the Code of Conduct that will be reviewed. The Code of Conduct in Wales was produced by Welsh Government as its devolved. The original code was 20 years old, and it was reviewed in 2016. The Welsh Local Government Association have commissioned a Mr Richard Penn -a member of the Remuneration Panel for Wales to undertake a review of the Code of Conduct to see if changes and reviews were needed. There was a plan to have this completed before the next Local Elections in 2022. The training that was held for Members may then need to be tweaked.

The Monitoring Officer informed the committee that a city Councillor complaint was received, and a formal investigation report had been received from the Ombudsman. The formal investigation completed by the Ombudsman concluded that the case needed to be referred to the Standards committee.

- Therefore, a special meeting of the Standards Committee would need to be held in the next 7-10 days.
- The first meeting held would need to decide if there was case to answer and would be strictly confidential.
- An agenda will be sent out to Committee Members which would be a Part 2 confidential report with a copy of the Ombudsman's Section 69 report which will set out the detail of the complaint, the investigation and its findings of fact and the reason why he thinks there was a breach of the Code of Conduct.
- During this private session the Committee would need to come to a decision as to whether there was a case to answer. If so, there would need to be a full hearing, the member would need to be invited and the investigating officer from the Ombudsman office to come to a decision about whether there has been misconduct and whether the Committee would impose any sanctions.

The Monitoring Officer confirmed that a guidance on the Standards Committee Hearing procedure would also be circulated with the confidential papers. It was confirmed that these confidential papers would only be circulated to members of the Standards Committee.

The Chair asked Mr Davies as to whether he was satisfied with the community clerks receiving training and Mr Davies agreed with this as it would benefit clerks and new members.

Agreed:

For the Governance Support Officer to contact the Standards Committee members with dates for a special meeting of the Standards Committee.

7. Any other business

None

8. Date of Next Meeting:

11 November 2021 @ 5:30pm