

Agenda



Standards Committee

Date: Thursday, 14 July 2022

Time: 5.30 pm

Venue: Hybrid meeting

To: A Mitchell (Chair), K Watkins (Vice Chair), G Nurton, R Morgan, P Worthington, Councillors J Davies, F Hussain, P Cockeram, D Fouweather

Item	Wards Affected
1	<u>Apologies for Absence</u>
2	<u>Declarations of Interest</u>
3	<u>Minutes of the Previous Meeting:</u> (Pages 3 - 6)
4	<u>Matters Arising</u>
5	<u>Chair's Announcements</u> To receive any announcements the Chair wishes to make.
6	<u>Forward Work Programme report</u> (Pages 7 - 14)
7	<u>Complaints</u> (Pages 15 - 18) The Monitoring Officer will report on any complaints received since the last meeting.
8	<u>Date of the Next Meeting</u> 10 th November 2022 at 5:30pm

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Date of Issue: 7th July 2022

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Draft Minutes

Standards Committee

Date: Thursday, 14th April 2022

Time: 5:30pm

Venue: Microsoft Teams Meeting

Present: A. Mitchell (Chair), K. Watkins (Vice Chair) J. Davies, P. Worthington, R. Morgan, G. Nurton, Councillors P Hourahine. Gareth Price (Head of Law and Regulation). Samantha Schanzer (Governance Support Officer), Anne Jenkins (Governance Team Leader), Leanne Rowlands (Democratic Services Manager)

Apologies: Cllr D Wilcox

Non-attendance: Cllr D Fouweather

1. Apologies for Absence

Councillor D Wilcox.

2. Declarations of Interest

None

3. Minutes of the Previous Meeting: 10th March 2022

The minutes of the meeting held on the 10th March 2022 were **accepted as a true and accurate record.**

4. Matters Arising

The Chair asked whether the Head of Law and Standards had any comments at this point regarding item 7.

The Head of Law and Standards noted the response to the Richard Penn report was included as a follow on from the previous meeting's discussion for information.

The Head of Law and Standards informed committee that he felt that Monmouthshire Standards Committee felt compelled to write to Welsh Government in an informal capacity.

The Head of Law and Standards highlighted that the letter agreed that the Code of Conduct was fit for purpose but disputed the Ombudsman's implied understanding of the behaviour of Community Council(lors) was correct. The Head of Law and Standards also highlighted Monmouthshire Standards Committee's concern regarding all complaints being referred to Monitoring Officers before going to the Ombudsman and the workload implications this would have for Monitoring Officers and Local Authorities.

Mrs Nurton felt that it was unsurprising to see the comments as it was fed back at the All Wales Standards Conference 2022. Mrs Nurton felt that the letter was well written and hoped that Welsh Government would consider the letter before consultation as it raised an important point that should be considered further.

Councillor Hourahine felt that there had been few instances of cases being referred to the Standards Committee and therefore shouldn't be too onerous a duty on Monitoring Officers to accept the new duties.

- The Head of Law and Standards confirmed that Councillor Hourahine was correct in saying there had only been one misconduct hearing in Standards Committee over the past 20 years.
- The Head of Law and Standards highlighted that a significant number of complaints do go to the Ombudsman and are not referred to Standards Committee, which the Monitoring Officers would then be responsible for investigating if the matters were referred.
- The Head of Law and Standards acknowledges that it has been a criticism by the Standards Committees across Wales that they felt the Ombudsman wields too much power regarding cases in which a breach of the Code has occurred but are not serious enough to warrant a sanction by a Standards Committee. The Head of Law and Standards acknowledged that this change would redress this complaint.
- The Head of Law and Standards informed committee that Nick Bennett, the current Ombudsman, stated at the All Wales Standards Committee that he envisaged the Ombudsman investigating serious complaints independently regardless of the change.
- The Head of Law and Standards thought that this would give authorities a chance to look at complaints locally before passing them on to the Ombudsman to refer back to Standards and was a change of process rather than the nature of extent of investigations involved.
- Councillor Hourahine asked whether the Chair and the Head of Law and Standards would draft a letter back.
- The Chair explained that this isn't a letter to be responded to so much as to discuss.

Dr Morgan felt that once Welsh Government published draft guidance and details of the process can be seen, that it would be good to comment at that stage.

- The Head of Law and Standards agreed with Dr Morgan, and noted that when Welsh Government had anything substantive, they would embark on a formal consultation exercise.

5. Chairs Announcements

None.

6. Complaints

The Head of Law and Standards highlighted that the Ombudsman has provided outlines of decision regarding 2 previous complaints.

The Head of Law and Standards highlighted that the letter involving the Llanvaches Community Councillor was not investigated by the Ombudsman as he felt the behaviour was not sufficiently serious enough to warrant it, but that the Ombudsman would be writing to the Councillor to remind them of their duty.

The Head of Law and Standards highlighted that the letter involving the Bishton Community Councillor was not investigated because the allegations were not serious enough to warrant further investigation. The Head of Law and Standards noted that the Ombudsman highlighted a potential breach but that the Ombudsman did not find it to be in the public interest to further investigate.

The Head of Law and Standards informed committee that there had been 2 further complaints involving City Councillors.

- The Head of Law and Standards noted that one was raised regarding a conflict of interest for a Councillor's involvement with one of the Council's Joint Venture companies to which he was appointed by the Council and was declared in the Councillor's Register of Member's Interests.
- The Head of Law and Standards informed committee that the second complaint was one the Council had referred itself as the Councillor concerned had committed a criminal offence and had been referred on the basis of bringing the Council and their office into disrepute.

7. Response to Richard Penn Report

See discussion regarding the letter from Monmouthshire Standards Committee discussed under Item 4 above.

8. Date of Next Meeting:

14th July 2022 at 5:30pm.

The Head of Law and Standards thanked Councillor Hourahine for his work on Standards Committee in light of the upcoming elections.

The Head of Law and Standards informed committee that Monday the 16th May 2022 had been scheduled for the Ethical Standards training for new Members.

9. Live Event

[You can watch the recorded meeting by clicking here.](#)

The meeting terminated at 6:04pm.

Report



Standards Committee

Part 1

Date: 14th July 2022

Subject Forward Work Programme 2022/23

Purpose To agree the Forward Work programme for Standards Committee.

Author Head of Law & Standards

Ward City wide

Summary The Standards Committee Annual Report for 2021/22 was received by full Council in November 2021.

The Annual Report contained a draft Forward Work programme for the next 12 months. Standards Committee are asked to approve the Work Programme, identify any further items of work that should be included and to prioritise specific items for review.

Proposal To agree the Forward Work programme and prioritise specific items for review.

Action by Head of Law & Standards and Democratic & Electoral Services Manager

Timetable Immediate

This report was prepared after consultation with:

- Chief Executive
- Strategic Directors
- Head of Finance
- Head of People, Policy & Transformation

Background

1. Terms of reference

The Local Government Act 2000 Part III requires the Council to establish a Standards Committee to carry out the following statutory functions:-

- (a) Promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) Assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) Granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) Dealing with any reports from the Monitoring Officer and hearing any complaints of misconduct or breaches of the Members' Code of Conduct referred by the Public Services Ombudsman for Wales and determining appropriate action, including the imposition of any sanctions;
- (h) The exercise of (a) to (g) above in relation to the community councils and the members of those community councils.

As from May 2022, the Standards Committee has the following additional statutory functions, in accordance with the Local Government & Elections (Wales) Act 2021

- (i) Monitoring compliance by leaders of political groups on the Council with their duties under section 52A (1) of the 2000 Act (as amended) to take reasonable steps to promote and maintain high standards of conduct by the members of their groups, and to co-operate with Standards Committee in the exercise of these functions.
- (j) Advising, training or arranging to train leaders of political groups on the Council about matters relating to those duties

Standards Committee also carries out the following additional functions, making recommendations to the Council, as appropriate:-

- (k) The hearing and determination of "low level" complaints of misconduct at Stage 3 of the Local Resolution Protocol;

- (l) Providing advice to the Council on the Council's Codes of Practice, including the Officers' Code of Conduct and the Whistle Blowing policy;
 - (m) Monitoring and updating the Codes of Practice as required; and
 - (n) Overseeing the Council's confidential complaints procedure;
2. The composition and membership of the Standards Committee is prescribed by the Standards Committees (Wales) Regulations 2001 (as amended). The Committee is comprised of 5 Independent members, 3 Councillors and 1 community council, representative. The Chair and Deputy are both independent members.
 3. The Standards Committee is required to meet at least once annually in accordance with the Local Government Act 2000. In practice, the Committee meets on a scheduled quarterly basis and additional special meetings are arranged, as necessary, to deal with specific matters such as misconduct hearings and requests for dispensation.
 4. Three members are required to attend for a quorum at meetings (including the independent Chair or Vice Chair) and at least half of those present must be independent. The community council representative is not "independent" for this purpose.
 5. **Forward work programme**
The purpose of a work programme is to enable the Committee to plan, organise and prioritise its workload. The Committee will need to plan out its projects and meetings, be clear on its aims and objectives, and properly assess at the end of the year the extent to which its aims have been achieved.
 6. The Standards Committee Annual Report, presented to Council in November 2021 contained the following draft Forward Work programme for the next 12 months.

Date	Topic	Information
November 2022	Annual Report to Council	<p>Review of work undertaken in the past 12 months, identifying any specific ethical standards issues facing the Council and priorities for the forthcoming year. This is now a statutory requirement</p> <p>The statutory report must describe how the Committee's functions have been discharged during the previous year and, in particular, must include a summary of any reports, actions or recommendations made or referred to the Committee. In addition the Annual Report must include an assessment of the</p>

		<p>extent to which leaders of political groups on the Council have complied with their new duties to promote and maintain high standards of conduct within their groups.</p> <p>Copies of the Annual Report must be sent to the ombudsman and all community councils.</p>
<p>As and when applications received</p> <p>Review annually</p>	<p>Dispensations</p>	<p>Granting individual and blanket dispensations to Councillors.</p> <p>Reviewing decisions annually to identify common issues and consistency of approach.</p> <p>Produce guidance to Members on any issues arising.</p>
<p>As and when required</p>	<p>Local Resolution Protocol complaints</p>	<p>Conducting hearings into any Stage 3 complaints by Members or Officers</p>
<p>Quarterly</p>	<p>Complaints of Misconduct</p>	<p>Update of numbers of complaints received and outcomes.</p> <p>Update on complaints resolved through Local Resolution Protocol.</p>
<p>By December 2022</p>	<p>Review member training and development following May 2022 elections.</p>	<p>Carry out review of new modular training developed by WLGA.</p>
<p>By December 2022</p>	<p>Review mandatory Code of Conduct training for new Councillors and undertake compliance audit</p>	<p>Carry out a review to ensure that all mandatory training has been completed and that all declarations of acceptance of office and registers of members' interests have been completed properly.</p>
<p>By March 2023</p>	<p>Ethical standards audit and community councils review</p>	<p>Check that statutory registers are being properly maintained and procedures for declarations have</p>

		<p>been completed by community councils, following the elections</p> <p>Engage with community councils to ensure compliance and to identify any training and development needs.</p>
By November 2022	Review of arrangements by Leaders of political groups to secure compliance with new duties	<p>Review compliance by leaders of political groups on the Council with their duties under section 52A of the 2000 Act to take reasonable steps to promote and maintain high standards of conduct by the members of their groups, and to co-operate with Standards Committee in the exercise of these functions.</p> <p>Advising, training or arranging to train leaders of political groups about matters relating to those duties, as necessary</p>

7. Standards Committee are asked to approve the Work Programme, identify any further items of work that should be included and to prioritise specific items for review. The Governance Team will then ensure that the Forward Work programme is updated accordingly and that the relevant items are include on the agendas for future meetings.
8. In particular, Standards Committee are asked to consider how they wish to take forward the review of compliance by Leaders of political groups on the Council with their new duties under section 52A of the 2000 Act to take reasonable steps to promote and maintain high standards of conduct by the members of their groups. The final Guidance has yet to be received from welsh government, but the gives flexibility to leaders on how they discharge their duties. They are not responsible and accountable for any misconduct on the part of their individual group members but they are responsible for promoting a positive culture and a setting good example to their group members. The Committee will need to consider how they wish to work with group leaders to fulfil this duty. There is a requirement to engage with group leaders and to review progress within 6 months of the election and group Leaders must receive appropriate advice and training to enable them to fulfil their duties. It is suggested that the Committee may wish to meet with the group leaders, either separately or collectively, at their next meeting, to agree how they should work together to fulfil these new statutory duties. This could be in the form of an annual letter from each of the group leaders (an example of which is set out in [Appendix 1](#)) or, alternatively there could be an annual review meeting with the Committee.
9. In accordance with the requirements of the Local Government (Wales) Measure 2011, each Committee is required to review annually the timing and frequency of their meetings, to ensure that they are sufficient and convenient in order to effectively conduct business. The timing of the meetings can be varied according to the availability and preferences of the majority of the Committee members, although the use of hybrid

technology and multi-location meetings should provide greater flexibility in terms of attendance.

Financial Summary

10. There are no financial implications

Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
No action taken	M	L	Work programming arrangements are in place to ensure they are timely, meaningful, informative, and transparent, balanced, monitored, and joined up.	Head of Law & Standards and Democratic and Electoral Services Manager
The process is not embraced by report authors and members	M	M	If there is proliferation of unplanned or late items, the opportunity to ensure work programming is timely, meaningful, informative, and transparent, balanced, monitored, and joined up will diminish	Head of Law & Standards and Democratic and Electoral Services Manager

*Taking account of proposed mitigation measures.

Links to Council Policies and Priorities

The Nolan principles, which underpin the ethical standards framework, are enshrined in the Council's corporate and well-being objectives.

Proposal

To consider and agree the Committee's Forward Work Programme for 2022/23.

Comments of Chief Financial Officer

There are no financial implications in adopting a programme of work.

Comments of Monitoring Officer

There are no legal implications in adopting a programme of work

Comments of Head of People Policy & Transformation

There are no specific staffing or policy implications in adopting a programme of work.

Background Papers

None

Dated: 5th July 2022

Appendix 1

<u>Promoting Compliance With the Code of Conduct</u>					
Report by:					
Political Group:					
No. of members:		No. trained on Code:	X (Y%)		
For the period:					
<u>Number, Source and Level of Complaints</u>					
	Informal	Local Resolution (Stage)			PSOW
		1	2	3	
Public					
Officers					
Councillors					
<u>Steps taken to Promote Compliance (To Be Completed by Group Leader)</u>					
Include matters such as:					
<ul style="list-style-type: none"> - demonstrating personal commitment to and attending relevant development or training around equalities and standards; - encouraging group members to attend relevant development or training around equalities and standards; - ensuring nominees to a Committee have received the recommended training for that Committee; 					
<ul style="list-style-type: none"> - promoting civility and respect within group communications and meetings and in formal Council meetings; - promoting informal resolution procedures in the Council, and working with the Standards Committee and monitoring officers to achieve local resolution; - promoting a culture within the group which supports high standards of conduct and integrity; - attend a meeting of the Council's Standards Committee if requested to discuss Code of Conduct issues; 					
<ul style="list-style-type: none"> - work to implement any recommendations from the Standards Committee about improving standards; - work together with other group leaders, within reason, to collectively support high standards of conduct within the Council. 					

**Summary of a report issued under section 69 of the
Local Government Act 2000
Case Number: 202005979**

The Ombudsman received a complaint that a Former Member (“the Former Member”) of Llanvaches Community Council (“the Community Council”) had breached the Code of Conduct (“the Code”) regarding matters concerning work conducted by a tree surgeon, intimidating behaviour and the disclosure of confidential information.

The Ombudsman investigated whether the Former Member’s conduct might amount to a breach of paragraphs 4(b), 4(c), 5(a), 6(1)(a) and 7(a) of the Code of Conduct (“the Code”). During the investigation the Former Member did not stand in the Local Government elections on 5 May 2022 and stood down from the Community Council.

The Ombudsman found that when the Former Member went to a public playing field and found a tree surgeon at work without an adequate cordon to ensure public safety, the Former Member expressed a concern about public safety and work being conducted on Community Council leased land. The Ombudsman found there was no evidence to suggest the Former Member’s behaviour was inappropriate or aggressive, or that abusive or offensive language or intimidating behaviour was used in breach of the Code.

The Ombudsman also found that accounts of a conversation between the Former Member and the complainant concerning the disclosure of information differed and, as there were no witnesses to the event, it was not possible to draw a conclusion on exactly what was said. Further, the subject matter of the disclosed information had also been discussed at Community Council meetings and recorded in publicly available minutes. Therefore, the Ombudsman was not persuaded that the alleged conduct was suggestive of a breach of the Code.

The Ombudsman noted that since the events the Community Council had taken steps to ensure that when similar authorised work is conducted, members are present to ensure appropriate health and safety measures to protect the public are in place.

The Ombudsman found no further action was necessary or required in the public interest.

1 July 2022

**Summary of a report issued under section 69 of the
Local Government Act 2000
Case Number: 202101430
Langstone Community Council**

The Ombudsman received a complaint that a Former Member (“the Former Member”) of Langstone Community Council (“the Community Council”) had breached the Code of Conduct. It was alleged that the Former Member was violent and abusive during an altercation outside the complainant’s property. It was also alleged that the Former Member operated an illegal waste disposal business on his property.

The Ombudsman’s investigation found that whilst an Enforcement Notice for an alleged breach of planning control had been served against the Former Member, there was no evidence to suggest the Former Member’s involvement in any official capacity in planning affairs and the matter related to the Former Member’s private capacity alone. In addition, the Former Member had an ongoing appeal against the Enforcement Notice, which had not been determined. The investigation also found there was historic animosity between both parties and that, during the altercation, both had used expletives and provocative behaviour, which culminated in the Former Member throwing a punch and the matter being reported to the Police. The Police did not take further action and the Former Member stepped down from the Council during the investigation.

The Ombudsman considered that the Former Member’s conduct was suggestive of a breach of paragraph 6(1)(a) of the Code of Conduct and may have brought his office as member or the Community Council into disrepute. However, the Ombudsman also considered that as the matter was not sufficiently serious for the Police to take action, and the Former Member was no longer a councillor, it was unlikely that a sanction would be imposed, and it was not in the public interest to pursue the matter. The Ombudsman therefore found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

8 June 2022

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