

STANDARDS COMMITTEE

Friday, 11th September, 2015

PRESENT: Mr C.A. Downward (Vice-Chair presiding)

Independent Members:

M. Dodd, M.A. Morgan and A. Williams

Councillors:

S.M. Allen and B.A.L. Roberts

The following officers were in attendance:

Ms L. Rees-Jones	Head of Administration & Law
Mr R. Edgecombe	Legal Services Manager
Mrs A. Clarke	Policy Manager
Mrs M. Evans Thomas	Democratic Services Officer

Chamber, County Hall, Carmarthen : 10.00 a.m. - 11.10 a.m.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor G.B. Thomas, Mr P. Stait and Community Councillor J. Gilasbey.

The Vice-Chair informed the Committee that the Chair was suffering a period of ill health and, on behalf of the Committee, wished Mr Stait a full and speedy recovery.

2. DECLARATIONS OF PERSONAL INTEREST

No declarations of personal interest were made at the meeting.

3. TO SIGN AS A CORRECT RECORD THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON THE 29TH JULY, 2015

RESOLVED that the minutes of the meeting of the Committee held on the 29th July, 2015 be signed as a correct record.

4. VARIATION OF BUSINESS

The Committee agreed, at the Chair's invitation and in accordance with Council Procedure Rule 2 [3], to vary the order of the remaining business on the agenda.

5. REVIEW OF CORPORATE WHISTLE BLOWING POLICY

The Committee considered a report providing an annual review of the Corporate Whistle Blowing Policy, with a view to incorporating relevant information thereon within the Chair's Annual Report to the Council.

It was reported that between the 1st April, 2014 and 31st March 2015 three new whistle blowing complaints were received by the Council. This compared with one new complaint in 2013/14. These complaints were concluded as follows:-

1. One was concluded following contact with the alleged complainant;
2. One was investigated but no evidence was found to substantiate the complaint;
3. One was investigated and resulted in a formal disciplinary investigation being undertaken.

No complaints were carried over from 2013/14 and no complaints have been carried over into 2015/16.

The Council has continued to take steps to raise staff awareness of the policy and ensure managers are fully trained to recognise whistle blowing complaints and deal with them properly.

The following observations/issues were raised on the report:-

- the Committee was pleased to note the improvement in the completion rates in respect of the whistle blowing e-learning module and in particular praised the Chief Executive's Department on a 100% completion rate;

Officers were congratulated on the production of a well presented, comprehensive report.

RESOLVED that the report be received.

6. STANDARDS COMMITTEE ANNUAL REPORT 2014/2015

The Committee considered the draft Annual Report on the work undertaken by the Committee during 2014/15 and noted that, if adopted, it would be presented to either the November or December meeting of the County Council for approval.

It was noted that the section on the Annual Standards Conference had been left intentionally blank as it was felt that this could be completed following attendance at the conference.

It was pointed out that the section on whistle blowing needed to be updated and that the incorrect date had been inserted under point 2. The Legal Services Manager confirmed that these errors would be corrected and he would circulate a revised draft to members for approval prior to the report being submitted to Council.

RESOLVED TO RECOMMEND TO COUNCIL that, subject to the amendments referred to above, the Standards Committee Annual Report 2014/15 be adopted.

7. CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILLORS

At its meeting held on 13th March, 2015 the Committee considered a report detailing the level of compliance with the Code of Conduct by members of Town and Community Councils (minute 5 refers). However, as not all Town and Community Councils had responded to requests for information, there were significant gaps in the report and the Committee requested a further update report at today's meeting.

The Legal Services Manager pointed out that the figures in respect of Llansteffan & Llanybri should read 0 Code Complaints 2012/2013 and 40 Declarations 2012/2013. He also provided the Committee with the following updated information which had been received following the despatch of the agenda:-

Llanllwni: 2012/13 – 0 Code Training, 3 Declarations
2013/14 – 0 Code Training, 1 Declaration
2014/15 – 0 Code Training, 3 Declarations

Cynwyl 2012/13 – 0 Code Training, 1 Declaration
Gaeo: 2013/14 – 2 Code Training, 2 Declarations
2014/15 – 3 Code Training, 2 Declarations

RESOLVED that the report be received.

8. PUBLIC SERVICES OMBUDSMAN FOR WALES REPORT 2014/15

The Committee considered the Annual Report of the Public Services Ombudsman for Wales for the period 2014/15 which contained details of complaints of maladministration and service failure against public bodies and allegations against members of Local Authorities that they had broken the Code of Conduct.

It was reported that the overall number of maladministration complaints against public authorities had risen by 7% compared to an 8% increase the previous year. Local authorities continued to account for the largest proportion of complaints, the number of complaints recorded against them rising by 5%, compared to a 9.5% increase the previous year. Of the 2,015 maladministration complaints concluded, only 428 were taken forward and only 349 of those (82%) resulted in the complaint being upheld or partially upheld.

A total of 12 Public Interest Reports were issued, one of which related to Carmarthenshire County Council. This matter related to events that took place in 2012 and the Ombudsman's report was presented to Full Council on 24th February, 2015.

A total of 58 maladministration complaints relating to Carmarthenshire County Council were determined. Overall there was a 1% increase in Code of Conduct complaints compared to a 22% decrease in 2013/14. Code complaints against County Councillors had risen 13% whilst complaints against Community Councillors fell by 8%. Of the 239 Code complaints concluded during the year, only 34 cases were taken to investigation. Of these in 17 cases there was no evidence of breach, in 8 cases no action was needed, 1 case was referred to the Adjudication Panel for Wales and 8 were referred to local Standards Committees. A total of 15 Code complaints relating to County Councillors and Town and Community Councillors from Carmarthenshire were concluded.

RESOLVED that the report be received.

9. REVISED OMBUDSMAN'S GUIDANCE

The Committee was advised that the Public Services Ombudsman for Wales had issued revised guidance in relation to the Code of Conduct for Member of Local Authorities in Wales.

The main areas of change from previous versions of the Guidance were as follows:-

1. An explanation of the 2 stage test employed by the Ombudsman when determining whether or not to investigate;
2. Further guidance on the use of social media and political expression;
3. Further guidance on declarations of interests.

As the guidance was published in April of this year, it was taken into account when preparing and presenting the Code of Conduct training in June.

RESOLVED that the report be received.

10. ADJUDICATION PANEL FOR WALES - DECISION NOTICE COMMUNITY COUNCILLOR HAULWEN LEWIS

The Committee was informed that on 13th August, 2015 a Case Tribunal of the Adjudication Panel for Wales was convened to consider a referral from the Public Services Ombudsman for Wales in respect of Councillor Haulwen Lewis of Llanfihangel ar Arth Community Council.

The referral related to an alleged breach of the Members Code of Conduct by Councillor Lewis at a meeting of the Community Council on the 16th January, 2012. It was claimed that Councillor Lewis failed to declare a personal and prejudicial interest when consideration was being given to a planning application for a wind farm on land adjacent to land which she owned and that furthermore she had participated in a secret ballot in relation to the application.

The Case Tribunal unanimously found that Councillor Lewis had by her conduct breached paragraphs 11(1) and 14(1)(a) of the Code. The Case Tribunal also unanimously decided that Councillor Lewis should be suspended from acting as a member of Llanfihangel ar Arth Community Council for a period of 3 months as from the 13th August, 2015.

RESOLVED

10.1 that the report be received;

10.2 that the Monitoring Officer be requested to write to all Clerks to Town and Community Councils reminding them of their role in advising members on the Code of Conduct and in particular the requirement to make declarations when necessary.

11. APPLICATION FOR DISPENSATION BY FIFTEEN COUNCILLORS FROM GORSLAS COMMUNITY COUNCIL

The Committee considered an application submitted by the Clerk to Gorslas Community Council, on behalf of Councillors Ellis Davies, Huw Davies, Terrence Davies, Dewi Wyn Edwards, Clive Green, Gavin Griffiths, Terry Jones, Tina Jukes, Brian Kirby, Nia Lewis, Simon David Martin, Aled Owen, Darren Price, Janice Ann Price, and Anthony Rees, of Gorslas Community Council, for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 to speak and vote at meetings of Gorslas Community Council in respect of matters relating to 3 recreation parks owned and maintained by the Community Council.

It was reported that a dispensation was sought as all 15 councillors have a personal interest in these matters pursuant to paragraph 10(2)(ix)(ee) of the Code in that they are members of local Welfare Association Committees which are involved in the running of those parks. The Councillors were not appointed to their roles on their roles on those committees by the Community Council.

The Councillors' interests were prejudicial as a member of the public with knowledge of the relevant facts would reasonably regard that interest as so significant that it was likely to prejudice the councillors' judgement of the public interest. For example, when the Community Council is deciding whether or not to spend monies on the parks a member of the public could reasonably conclude that the fact a councillor is a member of the relevant Welfare Association Committee would influence their view as to whether the money should be spent on the park or on some other issue unconnected with the Association. It was noted that the councillors had no direct financial interest in their respective Welfare Associations.

Following a detailed discussion, it was

RESOLVED that dispensation be granted until 11th March, 2016 to the above-mentioned 15 members of Gorslas Community Council to SPEAK AND VOTE at meetings of Gorslas Community Council in relation to any discussions regarding the three recreation parks owned and maintained by the Community Council under Regulation 2(a) of the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001.

12. APPLICATION FOR DISPENSATION BY COUNCILLOR SHAHID HUSSAIN

The Committee considered an application submitted Councillor Shahid Hussain, a member of Cwmamman Town Council, for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 to speak and vote at meetings of Cwmamman Town Council on issues relating to the relocation of Glanamman Post Office,

It was reported that a dispensation was sought as Councillor Hussain had a personal interest in the matter by virtue of paragraph 10(2)(a)(i) of the Code of Conduct as it related to and was likely to affect a business carried out by him in that the proposed site of the relocated Post Office was a petrol station owned by Councillor Hussain.

Councillor Hussain's interest was also prejudicial as a member of the public with knowledge of Councillor Hussain's business and financial interest in the issue would reasonably regard that interest as so significant as to be likely to prejudice

his judgement of the wider public interest.

Councillor Hussain requested that a dispensation be granted under regulation 2(f) of the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001 in that his participation was justified because of his particular role or expertise. Councillor Hussain submitted that his previous experience of such post office relocations and the financial implications that result is unique amongst members of the Council and that if he were unable to participate the Council would be at risk of making a decision without all the relevant information.

Following a detailed discussion, it was

RESOLVED that dispensation be granted under Regulation 2(f) of the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001 to Councillor Shahid Hussain to SPEAK BUT NOT VOTE at meetings of Cwmamman Town Council in relation to any discussions regarding the relocation of Glanamman Post Office until 4th December, 2015.

CHAIR

DATE