

**NOTES OF A MEETING OF THE MEMBER DEVELOPMENT WORKING  
GROUP HELD AT COUNTY HALL, LLANDRINDOD WELLS ON  
THURSDAY 2 JUNE, 2011**

**PRESENT:** County Councillor Miss S.J. Millington [Chair]  
County Councillors P.J. Ashton, Mrs S.C. Davies, and Mrs K.M. Roberts-Jones.

**Officers in Attendance:** Jenny Fitcher (Members Secretary), Lisa Griffiths (Organisational Development Manager), Carol Johnson (Committee Clerk), Wyn Richards (Scrutiny Services Manager)

**1. APOLOGIES**

Apologies were received from County Councillor Mrs M. Morris and A.G. Thomas, Stephen Boyd (Board Business Manager) and Shane Thomas (Member Support Manager).

The Working Group agreed that it should consider the appointment of Chair.

**RESOLVED that County Councillor Miss S.J. Millington be appointed as the Chair.**

County Councillor Miss S.J. Millington on behalf of the Working Group thanked County Councillor Mrs S.C. Davies for her hard work as Chair over the past three years.

**2. NOTES OF PREVIOUS MEETING**

- (a) The notes of the previous meeting held on 8 April, 2011 were agreed as a correct record.
- (b) Matters arising not included elsewhere on the Agenda:
  - i) Social networking – the draft guidance had been forwarded to HR and Communications for comment. Communications had advised that guidance was being drafted for staff and the two documents should reflect each other. Consequently a Member Development session on this topic had been added to the Member Development Programme for November 2011.
  - ii) Data Protection Act - Wyn Richards advised that the issue of Data Protection registration for individual Members had been passed to the Head of Legal, Scrutiny and Democratic Services to consider the legal issues. A report would be made to the Management Team. It was likely that Members would need to register individually and would be supported to do this. Once the position had been clarified a Member Development session would be arranged.

It was noted that even if a Member was registered and misused information they could still be fined. Members questioned the need for registration if this was the case. **Wyn Richards agreed to raise Members concerns at the forthcoming Member Development Support Officer Network meeting.**

County Councillor P.J. Ashton advised that he had had discussions in his group regarding information Members required on appointments to outside organisations. He advised that Members considered the following information should be included: list of appointments from Council, Cabinet etc, time commitments, location of main offices, term of office, any recompense for time. The Working Group was shown the Outside Organisation database. It was noted that information was also being collated regarding a members' commitment as a local ward councillor. Details of outside organisations from the database would be included in the Constitution.

Members discussed the suggestions regarding the content of the 2012 New Member Induction Pack.

**Agreed that details of service structures and the WLGA workbooks should be added to the New Members Induction Pack. The Working Group would review the 2008 Induction Pack and this was included in its Work Programme for 2011. Member induction DVD – Lisa Griffiths advised she could support this work.**

Lisa Griffiths advised that Health & Safety and the Premises Officer were looking at the options for Members signing in/out of County Hall. Members noted that such a system had already been introduced in the Member Support Unit. However, it was felt that the signing in/out book should be located at Reception. She advised that health and safety and fire awareness training for Members would be provided in June.

### **3. WORKSTREAM LEADS**

**The following Workstream Leads were noted and it was agreed to confirm respective roles with those Members not present:**

- Wales Charter for Member Support & Development – Councillor P. Ashton [submission of application for the Charter]
  - Member Development Programme – County Councillors Miss S.J. Millington and Mrs K. Roberts-Jones
  - Member Support services and Member Facilities - County Councillor Mrs S.C. Davies
- Personal Development Reviews [PDRs] – County Councillor E.A. Jones
- Member Champion – Councillor Mrs M. Morris
- Mentoring – Councillor Mrs M. Morris

### **4. MEMBER FACILITIES AND SUPPORT**

County Councillor Mrs K. Roberts-Jones, Portfolio Holder advised that she and officers had received numerous emails regarding the development of the Member Support Unit and facilities. She advised she would produce a briefing paper for all Members to respond to these emails.

County Councillor P.J. Ashton advised that the Council had agreed to apply for the Member Development Charter and one aspect of this was the provision of better facilities and support for Members to enable them to carry out their functions.

## **5. MEMBER DEVELOPMENT REGARDING THE NEW POLITICAL MANAGEMENT STRUCTURE**

Members noted that Clarence Meredith, Strategic Director, Law & Governance had asked if Members would identify any development sessions regarding the new political management structure.

**Agreed that when members/committees/political groups identified needs these should be considered by the Working Group.**

It was noted that a Frequently Asked Question [FAQ] log of questions raised by members would be kept by the Member Support Unit.

## **6. MEMBER DEVELOPMENT WORKING GROUP – WORK PROGRAMME**

The Working Group received the Work Programme detailing the work completed and the future programme.

It was noted that a Member was attending an Introduction to Counselling course and would report back to the Working Group on its relevance for Members, either in the current format or with some adaptations.

Members noted that County Councillor Mrs K. Roberts-Jones, Wyn Richards and Carol Johnson were meeting, the next day, with Sarah Titcombe, Organisational and Personal Development Advisor, Welsh Local Government Association [WLGA] to review the Council's draft Charter self assessment and to discuss the peer review process once a submission had been made. County Councillor P.J. Ashton considered that the Council was near to being able to make a submission and gave his apologies for this meeting.

## **7. OUTSIDE BODIES**

The Working Group received the shorter draft general guidance and agreed that reference should be made to the following

- Appointments as LEA school governors were included in the list of possible appointments but Members undertaking such roles were not expected to report back
- CRB checks.

**Agreed to amend the draft in light of the above and consult political groups and non-aligned Members.**

## **8. MEMBER DEVELOPMENT PROGRAMME**

**8.1** The Working Group received the evaluation summaries for the Member Development sessions:

- i) Leisure and Recreation Services 15 April, 2011
- ii) Social Care 21 April, 2011

The Working Group noted the positive responses. A concern was raised about the small numbers attending courses. However, it was noted that the attendance of 33 [45%] and 45 [61%] for the above were very good and that similar attendance rates had been achieved at previous sessions.

It was noted that a minimum level for attendance at development sessions had not been set as it was considered that this level would then become the norm. The Council had however, agreed that Members must attend all mandatory sessions. Regulatory Committee Members who do not attend such training were not allowed to sit on these Committees until the required training had been undertaken. It was noted that providing extra mandatory training sessions for such Members, if the first session was missed, incurred a cost.

Lisa Griffiths advised that Sue Harris should be contacted regarding using the Trent system to record Members' attendance at courses.

- 8.2** The Working Group noted that officers have access to training in how to make presentations etc and to a "Train the trainer" course. It was also noted that political awareness training was being provided to staff. It was further considered that training interested Members in facilitation skills would support Member Development sessions.

## **10. DATE OF NEXT MEETINGS**

- Friday 24 June, 10.00 a.m. Committee Room A

It was noted that extra meetings may need to be added to consider the Charter submission and peer review.

- Thursday 1 September, 2.00 p.m. Committee Room A
- Thursday 13 October, 10.00 a.m. Committee Room A
- Friday 25 November, 10.00 a.m. Video Conference Room

County Councillor Miss S.J. Millington  
Chair

**NOTES OF A MEETING OF THE MEMBER DEVELOPMENT WORKING  
GROUP HELD AT COUNTY HALL, LLANDRINDOD WELLS ON  
FRIDAY 24 JUNE, 2011**

**PRESENT:** County Councillor Miss S.J. Millington [Chair]  
County Councillors, Mrs S.C. Davies, and Mrs K.M. Roberts-Jones.

**Officers in Attendance:** Carol Johnson (Committee Clerk), Janet Kealey (Head of Legal, Scrutiny and Democratic Services), Wyn Richards (Scrutiny Services Manager) and Shane Thomas (Member Support Manager).

**1. APOLOGIES**

Apologies were received from County Councillors P.J. Ashton, Mrs M. Morris and A.G. Thomas and Stephen Boyd (Cabinet Business Manager) Jenny Fitcher (Members' Secretary) and Lisa Griffiths (Organisational Development)

**2. NOTES OF PREVIOUS MEETING**

(a) The notes of the previous meeting held on 2 June, 2011 were agreed as a correct record.

(b) Matters arising not included elsewhere on the Agenda:

i) Data Protection Act – Janet Kealey advised that the Information Commissioner had written to all Councils stating that Members must register as individuals. She advised that it had been agreed that information on the Data Protection Act would be provided at each Shire meeting and Members will be asked to complete registration forms at these meetings. Management Team had agreed that the annual fee, of £35 per Member, was a legitimate expense to be met by the Council.

**Agreed that information on the Data Protection Act be included in the New Member Induction Pack and that registration should be considered at the annual meetings in future years.**

ii) Health & Safety and fire safety training – as the June Member Development session was cancelled, this would now be provided in July, 2011.

iii) Outside bodies draft general guidance – amendments would be made and the revised version sent to the political groups and non-aligned Members for comment.

iv) Management structure – at a previous meeting the Working Group had agreed that information and photographs of staff in the Management Structure should be developed for Members. Shane Thomas showed a draft information sheet which would be sent to all Members and displayed in the Member Support Unit etc. Members asked that the information also be included in the staff magazine.

**Agreed that Shane Thomas would liaise with the Communications Team regarding including this information in the staff magazine.**

### **3. MEMBER DEVELOPMENT CHARTER**

Wyn Richards advised that County Councillor Mrs K.M. Roberts-Jones, Portfolio Holder Member Development, Carol Johnson and he had met Sarah Titcombe, Organisational and Personal Development Advisor, Welsh Local Government Association [WLGA] on 3 June, 2011 to review the Council's self assessment for the WLGA's Member Development Charter. Sarah had advised that she considered that the Council was in a position to submit its application once:

- i) the Member Development Strategy [2008] had been updated to reflect the recent changes in the management of the Council and the work undertaken by the Working Group and approved by the Council and
- ii) further supporting information be included in the application.

The Working Group noted that two dates - 15th and 19th September, 2011 - had been submitted to Sarah for a possible Peer Review meeting. The Review Team would visit for the whole day and would want to speak to the Leader, Chief Executive, Portfolio Holder for Member Development and a range of other Members and some officers to assess the application. The Review Team would announce its decision, as to whether the Council was successful in its application, on the day.

### **4. MEMBER DEVELOPMENT STRATEGY**

The Working Group reviewed the revised draft Member Development Strategy to reflect the recent changes in the management of the Council and the work undertaken by the Working Group and approved by the Council. The revised draft also included an Action Plan for 2011-2014.

**The Working Group agreed:**

- i) **the revised draft with some additional amendments,**
- ii) **to forward the revised draft to the political groups and non-aligned members requesting comments and**
- iii) **that the revised draft be considered for adoption by the Council on 14 July, 2011.**

### **5. MEMBER FACILITIES AND SUPPORT**

County Councillor Mrs K. Roberts-Jones advised that in response to Members' emails she had sent a briefing note to Members regarding the development of the Member Support Unit and facilities. She advised she would review the facility and support in the autumn. Shane Thomas advised that the facility was being well used and they had received positive comments. Janet Kealey advised she would be talking to the Cabinet to review their support requirements.

## **6. HALF DAY CONFERENCE 16 JUNE, 2011 PONTYPOOL**

County Councillors Mrs S. Davies and Mrs K. Roberts- Jones attended the above. County Councillor Mrs S. Davies provided a written report

The Working Group thanked the Members for attending.

**The Working Group agreed to add the report and papers distributed at the conference to the Members Portal.**

## **7. MEMBERS' COMMUNICATION WITH THE PUBLIC**

The Working Group noted that an issue had been raised by a Member whether guidance should be developed for Members in respect of the response times to letters/emails from the public. Members noted that correspondence regarding service issues should be referred to the service areas. It was considered that having a minimum response time could cause difficulties especially when dealing with persistent members of the public.

**The Working Group agreed that there was no need to develop guidance in respect of response times to letter/emails and that Members could use the Member Support Unit to deal with correspondence and seek advice regarding responses as needed.**

## **8. DATE OF NEXT MEETINGS**

It was noted that extra meetings may need to be added to consider the Charter submission and peer review.

- Thursday 1 September, 2.00 p.m. Committee Room A
- Thursday 13 October, 10.00 a.m. Committee Room A
- Friday 25 November, 10.00 a.m. Video Conference Room

County Councillor Miss S.J. Millington  
Chair

helenc

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**From:** Peter & Nowela Swanson [pandn@middleeaston.com]  
**Sent:** 29 June 2011 16:49  
**To:** Evans, Rebecca (Assembly Member)  
**Cc:** clarence.meredith@powys.gov.uk  
**Subject:** Re: Code of Conduct Complaints

Thank you for the reply Rebecca; I lookforward to furthur comments.  
Regards Peter

----- Original Message -----

**From:** Evans, Rebecca (Assembly Member)  
**To:** 'pandn@middleeaston.com'  
**Sent:** Wednesday, June 29, 2011 9:30 AM  
**Subject:** Code of Conduct Complaints

Dear Peter,

Thank you for your letter regarding the referral of complaints.

I have written to the Minister for Local Government, Carl Sargeant AM, seeking his views and will let you have a copy of the response as soon as I receive it.

With best wishes, Rebecca

**Rebecca Evans AM**

**Mid and West Wales**

**Email:** [rebecca.evans@wales.gov.uk](mailto:rebecca.evans@wales.gov.uk)

**Telephone:** 029 2089 8288

**Follow me on Twitter @RebeccaEvansAM**

*"Any of the statements or comments made above should be regarded as personal and not necessarily those of the National Assembly for Wales, any constituent part or connected body."*

*"Dylai unrhyw ddatganiadau neu sylwadau uchod gael eu trin fel rhai personol ac nid o reidrwydd fel datganiadau neu sylwadau gan y Cynulliad Cenedlaethol Cymru, unrhywn ran ohoni neu unrhywn gorff sy'n gysylltiedig a hi."*

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Carl Sargeant AC / AM  
Y Gweinidog Llywodraeth Leol a Chymunedau  
Minister for Local Government and Communities



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref CS/05496/11

Rebecca Evans AM  
National Assembly for Wales  
Ty Hywel  
Cardiff Bay  
Cardiff  
CF99 1NA

Rebecca.evans@wales.gov.uk

July 2011

Thank you for your letter and enclosure of 29 June on behalf of Councillor Peter R Swanson, Chairman of Powys County Council's Standards Committee in which he suggests that the Public Services Ombudsman for Wales should refer complaints to the Standards Committee or sub committee of Powys County Council.

You will be aware that the ethical framework in Wales was established by the Local Government Act 2000. The Ombudsman has an important role within that framework. Any person may make an allegation to the Ombudsman that a local government member may have breached the code of conduct. The Ombudsman has to consider whether there is sufficient evidence of a breach of the code to warrant an investigation.

It is, of course, already open to the Ombudsman to refer allegations to the Monitoring Officer for investigation and subsequent adjudication by the local standards committee, where he considers that is the appropriate course of action. That is entirely a matter for the Ombudsman to decide based on the full circumstances of the case.

The Ombudsman is an independent statutory officeholder and is responsible for the conduct of his own investigations. I have no powers to intervene. However, my officials have had informal discussions with the Ombudsman about the exercise of his discretion and I know that Mr Tyndall is keeping matters under review.

Carl Sargeant AC / AM  
Y Gweinidog Llywodraeth Leol a Chymunedau  
Minister for Local Government and Communities

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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Llinell Ymholiadau Cymraeg 0845 010 4400  
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Carl Sargeant AC / AM  
Y Gweinidog Llywodraeth Leol a Chymunedau  
Minister for Local Government and Communities



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref DPSwan001  
Ein cyf/Our ref CS/05434/11

Kirsty Williams AM  
4 Watergate  
Brecon  
Powys  
LD3 9AN

13 July 2011

Thank you for your letter and enclosure of 28 June on behalf of Councillor Peter R Swanson, Chairman of Powys County Council's Standards Committee in which he suggests that the Public Services Ombudsman for Wales should refer complaints to the Standards Committee or sub committee of Powys County Council.

You will be aware that the ethical framework in Wales was established by the Local Government Act 2000. The Ombudsman has an important role within that framework. Any person may make an allegation to the Ombudsman that a local government member may have breached the code of conduct. The Ombudsman has to consider whether there is sufficient evidence of a breach of the code to warrant an investigation.

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**Carl Sargeant AC / AM**  
Y Gweinidog Llywodraeth Leol a Chymunedau  
Minister for Local Government and Communities

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Mr Peter R Swanson  
Chairman Powys CC Standards Committee  
Middle Aston Pentre  
Montgomery  
Powys  
SY15 6TA

Our Ref: MHSwan001  
Monday, 18 July 2011

Dear Mr Swanson,

Please find enclosed copy of the response that I have now received from Carl Sergeant AM, Minister for Local Government and Communities, with regard to the Public Services Ombudsman for Wales referring complaints to the Standards Committee of Powys County Council.

As you will read, the Minister informs me that it is for the Ombudsman to decide whether to refer the details of a complaint to the Standards Committee; that option is available to him should he consider that it is necessary in a particular case.

I have now written to Mr Peter Tyndall with regard to your concerns and will keep you informed of any response I receive. In the meantime please get back in touch if I can be of further assistance.

Yours sincerely,

Kirsty Williams AM /AC

*Brecon and Radnorshire  
Brycheiniog a Sir Faesyfed*

NB: Due to the provisions of the Data Protection Act I am obliged to tell you that I may need to pass your details onto a third party in order to address the matter you have raised. Please note that I will retain your details in my records so I can keep you up to date with my activities and other information I think will be of interest to you. If you do not wish me to pass on or retain your details, please let me know.

**Subject** RE: Code of Conduct matters - co2/0  
**From** Tracy Jones <t.a.jones@neath-porttaleb.gov.uk> ; on behalf of; ▶  
David Michael <d.michael@neath-porttaleb.gov.uk>  
**Date** Monday, July 4, 2011 9:57  
**To** elizabeth.patterson@powys.gov.uk

Dear Ms. Patterson,

The letter from Mr. Peter Swanson Chair of Powys County Council Standards Committee was referred to our Standards Committee on 1st July.

As Monitoring Officer I explained to our Standards Committee that the Ombudsman's office operates a twofold test when considering whether to fully investigate any matter and refer to either the Standards Committee or the Adjudication Panel. The first criterion is whether there is evidence of a breach and the second is whether that breach would be likely to attract a sanction. The Standards Committee here took the view that it was appropriate that there was some form of sifting exercise before matters were referred to them and it was appropriate for the Ombudsman to take a view of how serious the breach was.

The Standards Committee did however note that the criteria have been applied for a little while now and that it might be appropriate for the Ombudsman to review the situation to see whether the policy is effective and whether it has achieved consistency in complaint referral.

Out of courtesy I have forwarded a copy of this response together with a copy of the letters from Mr. Swanson to the Ombudsman's office.

David Michael - Head of Legal and Democratic Services

**Subject** RE: Powys Standards Committee - Code of Conduct matters  
**From** Carys Hughes <Carys.Hughes@ceredigion.gov.uk> ▶  
**Date** Monday, August 8, 2011 14:44  
**To** elizabeth.patterson@powys.gov.uk  
**Cc** Claire Jones <Claire.Jones@ceredigion.gov.uk>

Dear Liz

Our Ethics and Standards Committee considered the letters from the Chair of Powys' Standards Committee at its last meeting on 21 July 2011. The Committee asked me to forward a copy of the notes of a workshop meeting which was attended by Mr Andrew Walsh (former Director of Investigations at the Ombudsman's office) on 7 August 2009, during which the Committee raised its concerns regarding the two stage test used by the Ombudsman in deciding whether to investigate allegations of a breach of the Code of Conduct. I attach a copy of the notes for your Committee's information and would refer you to paragraph 18 in particular. Further correspondence ensued between the Council and the Ombudsman's office following the workshop, details of which are set out in minute S41 of the minutes of the Committee meeting held on 2 October 2009, a copy of which is also attached.

Many thanks

Carys Hughes  
Standards Officer  
Chief Executive's Department  
Ceredigion County Council  
Neuadd Cyngor Ceredigion  
Penmorfa  
Aberaeron  
SA46 0PA  
E-mail: Carys.Hughes@ceredigion.gov.uk  
Tel: 01545 572068

**Notes of a presentation by Mr Andrew Walsh, Director of Investigations at the Public Services Ombudsman for Wales' office, to the Standards Committee and Standards Sub-Committee on 7 August 2009**

**(9.30a.m – 10.50a.m.)**

Preliminaries

- (1) The Chair of the Standards Committee welcomed Mr Walsh, who had accepted an invitation from the Monitoring Officer to meet members of the Standards Committee and Standards Sub-Committee in order to explain and discuss the Ombudsman's procedures for investigating allegations of a breach of the Code of Conduct.
- (2) Mr Walsh thanked the Monitoring Officer for the invitation and explained that he would outline the organisational structure at the Ombudsman's office and the procedure used to investigate allegations, before referring to examples of cases which had been considered in accordance with the procedure.

Structure

- (3) Mr Walsh noted that each investigator at the Ombudsman's office was competent to investigate all cases, including maladministration complaints, Code of Conduct complaints and complaints against N.H.S bodies. There was a specialist team within the Ombudsman's office which dealt with Code of Conduct complaints. Mr Walsh advised that the Ombudsman's office used to deal with Code of Conduct complaints in the same way as maladministration complaints, but Councillors were increasingly engaging legal representation and there had been a move towards a more adversarial approach. On advice from Mr Nicholas Cooke Q.C, the Ombudsman's office had introduced a new procedure for Code of Conduct complaints.

Procedure

- (4) The first step taken upon receipt of a complaint was to ensure that the complainant was prepared to give evidence and consented to the disclosure of details to the Councillor in question. The Ombudsman would not investigate anonymous complaints or cases where the complainant was unwilling to give evidence.
- (5) The Ombudsman's office would then notify the Councillor that a complaint had been made and details of the complaint would be forwarded to him/her. Mr Walsh noted the importance of providing the Councillor with the available evidence at this early stage, so that s/he could take steps to secure his/her own evidence. The Monitoring Officer would also be informed at this stage. The Ombudsman's office did not seek comments at this stage as it had not yet decided whether or not the complaint would be investigated.
- (6) The complaint would then be assessed, with reference to the following two stage test:-

- (i) Did the evidence represent or strongly suggest a significant breach of the Code, i.e. if proved, would the complaint lead to a sanction by a reasonable Standards Committee?
  - (ii) Had the complainant provided substantial evidence in support of the complaint? Mr Walsh noted that second hand evidence was not considered to be sufficient and the Ombudsman's office would not embark on a 'fishing expedition'.
- (7) If the Ombudsman's office were minded not to investigate a complaint, there were two possible courses of action. If there was likely to be further information available, a letter would be sent to the parties to advise that the Ombudsman was minded not to investigate the complaint, in order to afford them an opportunity to respond. Alternatively, the Ombudsman could decide to reject the complaint and inform the parties accordingly. Decisions were made by investigators under the Ombudsman's delegated authority and as such the complainant had a right to appeal the decision, although Mr Walsh noted that decisions were rarely overturned.
- (8) One of the difficulties faced by investigators was to balance robust political debate with the requirements of the Code. The Ombudsman took the view that the Code should not impede freedom of speech or political debate, but bullying or threatening behaviour could amount to a breach. Each case would be considered on its merits.
- (9) If the above two stage test were satisfied, the Ombudsman's office would investigate and the Councillor would be informed accordingly. The Ombudsman would still not seek the Councillor's comments at this stage, as the investigation had not yet started in earnest and full details of the evidence would not yet be known.
- (10) Once an investigation commenced, the relevant documents would be considered and relevant parties would be interviewed. The evidence would be reviewed with reference to the provisions of the Code and the Ombudsman's office would then choose either to discontinue the investigation, to conclude that there had been no breach of the Code or to continue the investigation.
- (11) If the investigation were continued, all the available evidence would be sent to the Councillor for consideration and his/her comments would be sought either by means of written questions, an interview or a combination of both.
- (12) Once a response had been received from the Councillor, the evidence would be reviewed. The Ombudsman's office could decide to discontinue the investigation at this stage but it was more likely that it would reach one of the findings set out in section 69(4) Local Government Act 2000, i.e.
- (i) No breach of the Code of Conduct
  - (ii) No further action required
  - (iii) Referral to the Monitoring Officer / Standards Committee
  - (iv) Referral to the Adjudication Panel for Wales

- (13) In the case of (iii) and (iv) above, a copy of the Ombudsman's draft report (including his provisional conclusions) would be sent to the Councillor for comment before the final version was issued.
- (14) Mr Walsh noted that the Ombudsman's office was conscious of the effect of an ongoing investigation on a Councillor and its aim therefore was to complete an investigation as quickly as possible, but without compromising on the quality of the investigation. Mr Walsh circulated some statistics relating to the number of complaints received by the Ombudsman's office.

### Case examples

- (15) A Community Councillor was the trustee of a Football Club, which had applied for planning permission. The Councillor attended the Planning Committee meeting but he was not a member of the Committee. If the Councillor had disclosed a prejudicial interest he would have been permitted by the Code to speak at the Committee meeting in the same way as a member of the public was permitted to do so. The Ombudsman held that there had been a breach of the Code, but that a standards committee was unlikely to impose a sanction as the Councillor would have been permitted to speak at the meeting in any event if he had disclosed an interest. As such, the complaint was not investigated but the Ombudsman issued a clear warning to the Councillor to consider in future whether or not he had an interest to disclose.
- (16) A Community Councillor attended a meeting at which a planning application in which the Councillor had an interest was discussed. The application had been raised without prior notice and the Councillor failed to disclose a prejudicial interest. The Councillor did not take part in the discussion and no decision was reached by the Council. The Ombudsman decided not to investigate the complaint but issued a warning to the Councillor.
- (17) A Councillor was alleged to have made bullying and discriminatory remarks prior to a Council meeting to the complainant and the complainant's associate, both of whom were members of a Tenants' Association. It was also claimed that the Councillor had made disparaging remarks about the tenants during the meeting. The Ombudsman decided to investigate as the remarks described by the complainant were considered to be inappropriate and likely to result in a sanction. The Ombudsman sought comments from each person at the meeting, none of whom considered the remarks to have been inappropriate and the Ombudsman therefore held that there was no evidence of a breach of the Code during the meeting. The Councillor denied having made remarks prior to the meeting and there were no independent witnesses to corroborate the complainant's version of events. As such, no further action could be taken.

### Questions

The following questions were raised during and at the end of Mr Walsh's presentation

- (18) Reference was made to the first limb of the two stage test, which stated that a complaint had to be 'significant' before an investigation was commenced.



Concerns were raised that members of the public would consider any breach of the Code to be important and investigating only those considered 'significant' could therefore demean public confidence in the system.

Mr Walsh noted that it would be inappropriate to commit considerable public resources to investigate minor allegations, to the detriment of other complaints. In the case of a minor breach, it was made clear to the Councillor that the Ombudsman did not condone the behaviour and that a further complaint could result in an investigation, which could take into account past conduct.

The Monitoring Officer acknowledged that a filtering mechanism was required in order to prioritise resources but queried whether a more straightforward approach would be to refer to the Ombudsman's own view as to the seriousness of the complaint, as opposed to that of a 'reasonable standards committee'. Mr Walsh agreed to discuss the issue further with the Ombudsman.

- (19) Concerns were raised that if a complaint was not considered to be sufficiently serious, then a complainant might be reluctant to report any repeat behaviour. Mr Walsh maintained the view that it was more desirable to reach a quick decision than conduct a long investigation which resulted in the same outcome. It would be impossible to commit resources to investigate every single complaint exhaustively and as such it was necessary to implement a filtering mechanism.
- (20) It was noted that the Ombudsman's office would not investigate an anonymous allegation or an allegation made by a complainant who did not wish to give evidence. Concerns were raised that serious complaints could be prematurely dismissed in this way and Mr Walsh was asked whether it would be prudent to commence an investigation into serious cases, as other witnesses and evidence might come to light.

Mr Walsh confirmed that the Ombudsman would not investigate in these circumstances, as the Councillor had a right to know who had made the allegation and it would not be possible in any event to guarantee anonymity. Mr Walsh noted that this did not appear to be problematic in practice as he could not recall an occasion when a complainant had been unwilling to give evidence. Mr Walsh also noted that serious complaints were likely to involve criminal offences and result in a Police investigation in any event. The Code operated to a civil standard of proof and only applied to a Councillor's private life in limited circumstances. Mr Walsh agreed to give further consideration to the possibility that some complainants might be discouraged from complaining at all because they were required to disclose their identity and give evidence.

- (21) Mr Walsh was asked whether the disadvantages of sending full details of the complaint to a Councillor before deciding whether or not to investigate might outweigh the possible benefits. It was suggested that full details could be sent to Councillors after a decision had been reached as to whether the complaint would be investigated. Mr Walsh noted that the evidence was sent to a Councillor at a very early stage for two reasons. Firstly, a Councillor had a right to be informed that a complaint had been made against him/her, even if the

Ombudsman decided not to investigate. Secondly, it was necessary to inform the Councillor at the earliest opportunity so that s/he could take steps to retain records, recollect events and be afforded an opportunity to properly defend an allegation.

- (22) Mr Walsh was asked whether there were any safeguards in place in relation to vexatious complaints. Mr Walsh advised that a member of the public could make a complaint which was vexatious, but he noted that a fellow Councillor might breach the Code by doing so.
- (23) Mr Walsh was asked whether complaints could be made by bodies (such as a Village Hall) as well as individuals, as it might be difficult in some cases to find an individual who was prepared to make a complaint. Mr Walsh confirmed that complaints could be made by a body, although he noted that individuals would have to be prepared to give evidence in support of the complaint.
- (24) Mr Walsh was asked whether lack of resources could impede fair investigation of complaints made to the Ombudsman's office. Mr Walsh advised that the Ombudsman was required to consider whether an investigation was a proper use of resources, but complaints would not be dismissed solely on account of insufficient resources. The Welsh Assembly Government was required by statute to provide the Ombudsman with the resources required to discharge his duties.

#### Closing remarks

- (25) The Chair extended her thanks to Mr Walsh on behalf of the Committee and Sub-Committee for the opportunity to discuss the above issues. Mr Walsh thanked the Committee and Sub-Committee members for their comments and confirmed that he would report details to the Ombudsman.

Extract from:

Minutes of a Meeting of the **STANDARDS COMMITTEE**  
held at Neuadd Cyngor Ceredigion, Penmorfa,  
Aberaeron on **2 October 2009**

**S41 Monitoring Officer's letter dated 17 August 2009 and the Director of Investigations' response dated 27 August 2009 regarding the Public Services Ombudsman for Wales' procedures for investigating allegations of a breach of the Code of Conduct**

The Standards Officer referred to the above correspondence and the Committee noted that the Ombudsman's office had decided to retain the reference to a 'reasonable standards committee' in the second limb of the two stage test which was applied during consideration of Code of Conduct complaints, rather than referring to the Ombudsman's own view of the seriousness of the matter. The Ombudsman felt that reference to decisions made by standards committees ensured a greater level of objectivity.

11<sup>th</sup> July, 2011.

Mr Peter Swanson  
Chair of Powys Standards Committee  
Middle Aston  
Pentre  
Montgomery  
Powys  
SY15 6TA

Dear Mr Swanson

**RE: MEMBER'S CODE OF CONDUCT**

Thank you for your letter dated 7<sup>th</sup> July 2011.

I am glad to say that we have not experienced problems of the kind described in your letter in Carmarthenshire, so it is difficult for me to comment further.

I did notice that the Ombudsman comments about the process on page 9 of his latest annual report, which may be of some assistance.

However, as far as I am aware there is currently no specific guidance to help him decide whether to refer his reports to the Monitoring Officer or to the President of the Adjudication Panel for Wales.

I am sorry that I am unable to assist further.

Yours sincerely

  
**(Jeffrey Lewis)**

**Chair of Carmarthenshire County Council Standards Committee**



CYNGOR

**Sir Ddinbych**  
**Denbighshire**  
COUNTY COUNCIL

Mr P Swanson  
Chairman – Powys County Council  
Standards Committee  
Middle Aston  
Pentre  
Montgomery  
Powys  
SY15 6TA

Eich cyf/Your ref  
Ein cyf/Our ref JK/JR  
Dyddiad/Date 19 July 2011  
Rhif union/Direct dial 01824 712569  
Rhif ffacs/Fax number 01824 706293  
e-bost/e-mail jane.kennedy@denbighshire.gov.uk

Dear Mr Swanson,

### Code of Conduct Complaints

Thank you for your letter addressed to our Chair of Standards Committee dated 4<sup>th</sup> July 2011.

I confirm that Denbighshire County Council Standards Committee debated the issues you have raised at its meeting on the 15<sup>th</sup> July 2011 and there were mixed views on whether the Committee would want to have the opportunity to impose the sanction.

The Committee did acknowledge that this is an area which affects probably most Councils, but felt that this was something that would be best debated at the Standards Committee Conference in October, which your Authority is hosting. A number of our Standards Committee members are aiming to attend the meeting.

Yours sincerely

Jane Kennedy  
Acting Head of Corporate Governance and Monitoring Officer

**Jane Kennedy**  
*Pennaeth Llywodraeth Gorfforaethol Gweithredol*  
*Acting Head of Corporate Governance*

Neuadd y Sir, Ffordd Wynnstay, Rhuthun Sir Ddinbych, LL15 1YN  
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helenc

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**From:** Eiddwen Merritt [Eiddwen.Merritt@ceredigion.gov.uk]  
**Sent:** 09 August 2011 07:15  
**To:** dylan.john@blaenau-gwent.gov.uk; andrew.jolley@bridgend.gov.uk; perkid@caerphilly.gov.uk; willige@caerphilly.gov.uk; Carys Hughes; Claire Jones; DLThomas@cararthenshire.gov.uk; LRJones@cararthenshire.gov.uk; Iwan.davies@conwy.gov.uk; ceri.williams@conwy.gov.uk; dilyannphillips@gwynedd.gov.uk; murrayandrews@monmouthshire.gov.uk; roberttranter@monmouthshire.gov.uk; d.michael@npt.gov.uk; gareth.price@newport.gov.uk; lisa.abraham@newport.gov.uk; jonathan.evans@newport.gov.uk; huw.miller@pembrokeshire.gov.uk; laurence.harding@pembrokeshire.gov.uk; claire.inclendon@pembrokeshire.gov.uk; clarence.meredith@powys.gov.uk; janet.kealey@powys.gov.uk; Paul.J.Lucas@rhondda-cynon-taff.gov.uk; d.daycock@mawwfire.gov.uk; Rod.Jones@swansea.gov.uk; Lynda.willis@torfaen.gov.uk; delyth.harries@torfaen.gov.uk; PHEvans@valeofglamorgan.gov.uk; Dmarles@valeofglamorgan.gov.uk; LAAnnis@valeofglamorgan.gov.uk; trevor.coxon@wrexham.gov.uk; gary1.williams@wrexham.gov.uk; lynnbball@anglesey.gov.uk; lboxcs@anglesey.gov.uk; mwjcs@anglesey.gov.uk; ca-powell@southwales-fire.gov.uk; shelley.bosson@gwent.pnn.police.uk; police.authority@dyfed-powys.pnn.police.uk; kelvin.dent@north-wales.police.uk; johnp@pembrokeshirecoast.org.uk; davidp@pembrokeshirecoast.org.uk; elizabeth.thomas@ombudsman-wales.org.uk; j.maunder@mawwfire.gov.uk; iwan.jones@eryri-npa.gov.uk; duncanforbes@btconnect.com; skingdavies@tiscali.co.uk; julie@flatjam.co.uk; IKinloch@aol.com; ianmed@tiscali.co.uk; smith.sycamores@btinternet.com; Police.Authority@south-wales.pnn.police.uk; E.Weale@cardiff.gov.uk; rhiannon.edwards@breconbeacons.org; jane.kennedy@denbighshire.gov.uk; carys.kennedy@merthyr.gov.uk; janet.hooper@swansea.gov.uk; chris.b.jones@rhondda-cynon-taff.gov.uk; kateberry1@live.co.uk; melanie.clay@cardiff.gov.uk; HSaunders@cardiff.gov.uk; ca-powell@southwales-fire.gov.uk; Admin@acses.org.uk; Barry\_Davies@flintshire.gov.uk; Amanda\_Haslam@flintshire.gov.uk; s-chapman@southwales-fire.gov.uk

**Subject:** FW: Update on the code for the ACSes Group

Please find enclosed for your attention a note from Katrin at the Ombudsman's Office. We can no doubt discuss at our next meeting but do please forward any observations on this in the meantime.

Many thanks,

Claire

**From:** Katrin Shaw [mailto:Katrin.Shaw@ombudsman-wales.org.uk]  
**Sent:** 08 August 2011 13:12  
**To:** Claire Jones  
**Cc:** Eiddwen Merritt  
**Subject:** Update on the code for the ACSes Group

Dear Claire,

Peter has been contacted by some of the Monitoring Officers recently in relation to their authorities proposals for their Standards Committees to deal with low level members vs member code complaints. Although we've responded to the specific enquiries he thought it would be helpful if we updated everyone generally on the issue.

As you may know he has sought the views of the Welsh Government and the WLGA on the possibility of enhancing the role of standards committees within the current legislative framework. He is supportive of the proposal that whenever possible issues are resolved locally in the first instance, and only referred to him if they are not capable of local resolution. The extent to which it is feasible to do so is dependent upon the Welsh Government's view on the future of the Code and whether legislation is proposed in the near future.

09/08/2011

As the Code is currently drafted, Peter could not require members to utilise any local protocol before complaining to him, but subject to the Welsh Government's position he would strongly encourage them to do so and consider any complaints where members had not sought to resolve issues first in this context, and it would in all likelihood inform his decision as to whether or not to investigate. This is analogous to Peter's approach in cases of maladministration where we often seek to achieve local resolution where this is possible, to avoid the need for a formal investigation.

Where any complaints are of a more serious nature, for example, if a failure to declare an interest had allegedly tainted a planning decision or where there is an accusation of bullying supported by evidence to that effect, Peter is of the view that it would be most appropriate for such complaints to be referred to this office.

We will update the ACSes group more generally when the Welsh Government gives a view on the way forward.

Regards

Katrin Shaw

--

Ymwadiad:

Er y cymerir pob gofal posib i sicrhau cywirdeb unrhyw wybodaeth a chynghor a roddir yn yr ohebiaeth hon, ni dderbynnir atebolrwydd am unrhyw golledion a all godi o unrhyw gamgymeriadau sy'n gynwysedig ac fe'ch atgoffir o'r angen i chi ofyn am gynghor proffesiynol eich hun.

Bwriedir y neges ebost hon, ac unrhyw atodiadau iddi, at sylw'r person(au) y'i danfonwyd atynt yn unig. Os nad chi yw'r derbynnydd y cyfeiriwyd y neges hon ato ef neu hi, neu'r person sydd gyfrifol am drosglwyddo'r neges hon iddo ef neu hi, mi ddylech hysbysu'r anfonwr ar eich union. Oni bai mai chi yw'r person neu gynrychiolydd y person y cyfeiriwyd y neges hon at ef neu hi nid ydych wedi eich awdurdodi i, ac ni ddylech chi, ddarllen, copio, dosbarthu, defnyddio na chadw'r neges hon nac unrhyw gyfran ohoni.

O dan y Ddeddf Amddiffyn Data 1998 a Deddf Rhyddid Gwybodaeth 2000 gellir datgelu cynnwys y neges ebost hon.

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09/08/2011

## **NOTES OF A MEETING OF THE CHAIRS AND VICE-CHAIRS OF THE SCRUTINY COMMITTEES HELD AT COUNTY HALL, LLANDRINDOD WELLS ON FRIDAY 14<sup>th</sup> JULY 2011**

**PRESENT:** County Councillor J. G. Morris (Chair)  
County Councillors R. G. Brown, J. H. Brunt, Mrs L. V. Corfield, Miss M. Davies, Mrs M. Mackenzie, T. J. Van-Rees.

Officers in Attendance: Jeremy Patterson (Chief Executive), Clarence Meredith (Strategic Director – Law and Governance), Wyn Richards (Scrutiny Services Manager), Lisa Richards (Senior Committee Clerk), Liz Patterson (Committee Clerk).

### **1. Apologies**

Apologies for absence were received from County Councillor Miss A. Holloway.

### **2. Member Support Redesign**

The Chief Executive outlined that the requirements of the Local Government Measure and the Council's move to the Cabinet meant that the role and support of Scrutiny Committees needed to be reviewed. The Chief Executive advised the meeting that he had spoken informally to a number of Members involved in Scrutiny and two common messages have been identified; Members felt that Scrutiny could do much more for the Council and Scrutiny Members needed greater support from the Officer Team.

### **3. Scrutiny aspirations**

The meeting discussed the current role and perception of Scrutiny and opportunities for the future. The meeting felt that currently both Board/Cabinet Members and Officers view Scrutiny in a negative light. They see it as a process for finding fault and apportioning blame. The meeting considered that although holding to account was important, Scrutiny also had a key role in delivering the Council's objectives. Scrutiny can support the Cabinet in delivering the Council's objectives by reviewing progress, looking at current support mechanisms for the Cabinet and offering possible alternatives to Cabinet.

The meeting considered that Scrutiny and their role could be strengthened if an approach akin to Parliamentary Select Committees was adopted. In particular the Joint Chairs wanted to develop a process of Scrutiny Officers briefing them on reports before meetings and assisting the Committee in developing questions. This process would entail the Chairs and Vice-Chairs receiving dedicated briefings from Scrutiny Officers on the Committee work plan and agenda.

It was agreed that the new process would be trialled in September by the Children, Social Care & Health Scrutiny Committee, but others would also follow the model if they chose to.



The Chair and Vice-Chair would receive briefings, the reports would be subject to analysis and commentary by the Scrutiny Officers and the Committee would have a pre meeting prior to the Public meeting to consider questions and order of business.

### Financial and Performance Management

The Scrutiny Services Manager outlined potential options for providing specialist support on performance management and financial management. Currently Scrutiny Committees receive either the same or an abridged version of the report, which is considered by Cabinet. The reports are also prepared by the same officer. This practice presents problems and the meeting agreed that specialist independent support for financial and performance management was essential.

### Future Work.

The meeting considered potential areas of work for the Committees which was in addition to current work plans but was not exhaustive. It was agreed that the Committees would consider the items listed below at their next meetings.

### Environment and Crime and Disorder Committee

- Highways
- Waste
- Welshpool Gyratory System
- Community Safety Funding Reductions
- Police Commissioners

### Modernisation and Improvement

- Links between the Change Plan and the Medium Term Financial Plan (MTFP)
- Change Plan Performance Management
- Timeliness and Robustness of Performance and Financial Management Data
- Local Service Board

### Learning and Leisure

- Brecon High School
- School Standards
- Management of school budgets

### Children, Social Care and Health

- Financial Support and Management
- Standby Arrangements
- Supporting People pilots

### Joint Chairs Strategic Financial Overview

- Cross Border Partner Activity
- Common Scrutiny Themes

#### **4. Scrutiny training**

Options for Scrutiny training were discussed including the need for bespoke Scrutiny Training for administration Members, opposition Members and the Cabinet. It was noted that it was important that the Cabinet understood the role and function of Scrutiny. It was agreed that officers would look at training options for the Autumn session.

**County Councillor J. G. Morris**  
**CHAIR**

**Subject** Re: Standards Committee - attendance  
**From** cllr.phil.pritchard@powys.gov.uk  
**Date** Saturday, July 2, 2011 10:19  
**To** elizabeth.patterson@powys.gov.uk

Dear Elizabeth, Re;my meetings attendances.

11.11.2010 County Council. This was a special meeting with very little notice. Whilst I was at the meeting of Council that decided it, I was still not able to attend due to already committed to a family appointment that had been in my diary for a number of months.

2.12.2010 Principle Scrutiny. Pain from my replacement knee prevented me leaving the house.

28.4.2011. County Council. I had a previously arranged domestic appointment that I had to attend.

12.1.2011. Montgomeryshire. I was ill in bed with flu. Please note that there was a flu pandemic throughout the country at this time.

7.3.2011 Principle Scrutiny and 9.3.2011 Montgomeryshire, Due to sickness, (Flu) again a bout of flu all over the country.

13.4.2011 Montgomeryshire. Problems and pain from my replacement knee prevented me from leaving the house

Best Regards Phil Pritchard