

Standards Committee

Meeting Venue
**Council Chamber - County Hall,
Llandrindod Wells, Powys**

Meeting Date
Wednesday, 25 November 2015

Meeting Time
**10.00 am or the later rising of
Standards Community Sub-
Committee**



County Hall
Llandrindod Wells
Powys
LD1 5LG

For further information please contact
Elizabeth Patterson
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elizabeth.patterson@powys.gov.uk

19th November 2015

AGENDA

| | | |
|-----------|----------------|-----------------|
| 1. | MINUTES | S12-2015 |
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To authorise the Chair to sign the minutes of the previous meeting(s) of the Committee held on the following dates(s) as a correct record:

- 17th June 2015
- 7th September 2015

(Pages 3 - 12)

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| 2. | APOLOGIES | S13-2015 |
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To receive apologies for absence.

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| 3. | DECLARATIONS OF INTEREST | S14-2015 |
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To receive any declarations of interest from Members relating to items to be considered on the agenda.

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| 4. | REPORT OF THE SOLICITOR TO THE COUNCIL | S15-2015 |
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To receive the report of the Solicitor to the Council.

(Pages 13 - 22)

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MINUTES OF A MEETING OF THE STANDARDS COMMITTEE, HELD AT COUNTY HALL, LLANDRINDOD WELLS ON WEDNESDAY 17th JUNE 2015.

PRESENT: H. Rhydderch-Roberts (Chair)
J. Evans, C. Jackson, S. Jarman, R. Miller, County Councillors M. Mackenzie, P. Medlicott, K. Roberts-Jones and G. Williams.

Observers: Community Councillors C. Evans, H. Patrick, D. Pugh.

Officers in Attendance: C. Pinney (Solicitor to the Council), N. Vaughan (Professional Lead – Legal), W. Richards (Scrutiny Manager and Head of Democratic Services) and E Patterson (Scrutiny Officer).

ELECTION OF CHAIR

RESOLVED that Independent Member H Rhydderch-Roberts be appointed as Chair for her term of office.

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| 1. | APOLOGIES | S5 – 2015 |
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No apologies were received.

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| 2. | MINUTES | S6 – 2015 |
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The Chair was authorised to sign the minutes of the previous meeting held 25th February 2015 as a correct record subject to amendments to the resolution relating to Council Tax Discount namely:

- (i) ***A dispensation be granted to a Member who personally has (or has a close relative, person living with him/her or a close personal associate who has) a property in Powys available or potentially available to sell or let to make written representation to the Monitoring Officer by 5.00pm on 21st October 2014. Such Representations may not attempt to persuade Members on the outcome of the debate but may give information or scenarios that should be taken into account. Any representations received to be made available to Members eligible to participate in the debate.***

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| 3. | DECLARATIONS OF INTEREST | S7 – 2015 |
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No declarations of interest were received.

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| 4. | REPORT OF THE SOLICITOR TO THE COUNCIL | S8 – 2015 |
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The Committee received the report of the Solicitor to the Council. (Copy filed with signed minutes)

A General Standards Issues for County Councillors and Co-opted Members

A1 Code of Conduct Training

The second round of Code of Conduct training was undertaken on 27th April 2015 which was attended by 8 County Councillors and 1 Co-opted Member. 1 Co-opted Member has resigned (Church representative) and an appointment for this post has been made together with a new appointment of a further Co-opted Member (Parent Governor Representative). These two Co-opted Members received their Code of Conduct training on 26th March 2015. Thus there remain 10 County Councillors yet to undertake the Mandatory Code of Conduct Training.

It is proposed that these Members are given a date in September when a third and final training session will be available to them.

A2 Member Development

A report on Mandatory Training was considered at Council on 23rd April 2015 where it was referred back to the Democratic Services Committee for further consideration. The Democratic Services Working Group had an initial discussion regarding Mandatory Training on the 8th June 2015 and this will then be considered by the Democratic Services Committee on 9th July 2015 with a view to taking the matter back to Full Council on 15th July 2015.

B Referral of Councillors to Public Services Ombudsman

B1 County Councillor Referrals

B1.1 The following matters are with the Ombudsman:

| | |
|---------|--|
| 1/15/CC | Case closed |
| 2/15/CC | Found no breach but training requirement identified regarding planning protocol training for non-Planning Committee members |
| 3/15/CC | Not investigating |
| 4/15/CC | Ombudsman referred the complaint for local resolution however, the Complainant has declined to use the local resolution process and therefore the Complaint is effectively withdrawn |
| 5/15/CC | Not investigating |
| 6/15/CC | Awaiting decision whether or not investigating |

C Other Standards Issues

At a meeting of Powys County Council held on 23rd April 2015 Independent Member Helen Rhydderch-Roberts was reappointed for a second term of officer for a period of four years expiring on 13th May 2019.

At the Annual Meeting of Powys County Council on 13th May 2015 County Councillor Kath Roberts-Jones was appointed to the Standards Committee in place of County Councillor Stephen Hayes.

D Dispensations

D1.1 Applications - County Councillors

An application for dispensation from County Councillor G Bowker was received. Cllr Bowker wished to speak and vote and meetings of the Council on discussions regarding the review of early years provision in Powys. County Councillor Bowker has a young son who is currently accessing early years provision. However, when the proposals are implemented Councillor Bowkers child will be above the age of early years provision.

| RESOLUTION | REASON FOR RESOLUTION |
|--|---|
| That no dispensation be granted to Cllr Gemma Bowker regarding matters relating to early years provision at meetings of the Council. | That she has a pecuniary interest in potential changes to the provision |

E Later payment of expenses

No applications have been received.

F Attendance

F1 County Councillor attendance statistics

Officers confirmed that a total of five Members had attendance below 60% for the period 1st December 2014 – 12th May 2015. Officers confirmed that in the following four cases mitigating circumstances were known.

- Councillor Eldrydd Jones – personal circumstances
- Councillor Kathryn Silk – personal circumstances
- Councillor Liam Fitzpatrick – personal circumstances
- Councillor Peter Harris – personal circumstances

The reasons for the following Members having attendance below 60% was not known and Members were asked to provide information for the Committee:

- Councillor Jeff Holmes 20% (had missed three meetings whilst on holiday and had missed one meeting attending a funeral)
- Councillor Keith Tampin 59% (has missed meetings in December whilst on holiday)
- Cllr R George 34% (provided details regarding his need to be in Cardiff on Tuesday and Wednesday and some Thursdays at the Assembly. He outlined his commitments in Cardiff on those days when he had missed meetings of the County Council)
- Cllr G Price 55% - no response.

The Committee accepted the reasons where given but wished to stress the importance of attending meetings of the Council.

F.2 Attendance

A new system would be introduced for agenda and minute management which would include the recording of attendance. The system allows recording as:

- Present
- Apologies
- Absent
- On other Council Business

The Committee agreed to define 'on other Council Business' as attending formal meetings where the Member has been appointed or is representing the local authority.

G Whistleblowing Policy

The Whistleblowing policy was agreed at Council on 24th April 2015.

H Standards Conference

The Standards Conference has been arranged for 20th October 2015 and will be hosted by Cardiff Council with support from the Vale of Glamorgan and Newport Councils. The County Council had been offered four places and places for Town and Community Councillors were being offered directly to Town and Community Councils.

The following people expressed an interest in attending:

Independent Member H Rhydderch-Roberts
Solicitor to the Council C Pinney
Independent Member R Miller
Independent Member C Jackson

Reserve members:
County Councillor K Roberts-Jones
County Councillor M Mackenzie
Independent Member Jackie Evans

I Ombudsman's Office

I1 New Guidance on Code of Conduct

This had been published on the website of the Public Services Ombudsman for Wales.

I2 Ombudsman's Casebook

This had been published on the website of the Public Services Ombudsman for Wales.

J The Local Government (Democracy) (Wales) Act 2013 (Commencement No 2) Order 2015

This had been published on 1st May 2015. It included an enabling power for Standards Committees to join with neighbouring Standards Committees but there was not requirement to pursue this.

K Meeting Dates

The following dates for the Standards Committee were confirmed:

Wednesday 25th November 2015

All meetings to commence at 10.00am with the option of training available afterwards.

**H Rhydderch-Roberts
Chair**

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MINUTES OF A MEETING OF THE STANDARDS COMMITTEE, HELD AT COUNTY HALL, LLANDRINDOD WELLS ON MONDAY 7TH SEPTEMBER 2015.

PRESENT: H. Rhydderch-Roberts (Chair)
J. Evans, C. Jackson, S. Jarman, R. Miller, County Councillors M. Mackenzie, P. Medlicott and K. Roberts-Jones.

Officers in Attendance: C. Pinney (Solicitor to the Council), N. Vaughan (Professional Lead – Legal), W. Richards (Scrutiny Manager and Head of Democratic Services) and E Patterson (Scrutiny Officer).

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| 1. | APOLOGIES | S9 – 2015 |
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Apologies for absence were received from County Councillor G. Williams.

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| 2. | DECLARATIONS OF INTEREST | S10 – 2015 |
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The following declarations of interest were made in relation to Item 3 on the agenda – application for dispensation from County Councillor A. Davies.

County Councillor P. Medlicott – a Member of the Conservative Party but an Independent Member of Powys County Council. A personal but not prejudicial interest.

Independent Member H. Rhydderch-Roberts – Member of the Conservative Party. A personal but not prejudicial interest.

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| 3. | REPORT OF THE SOLICITOR TO THE COUNCIL | 11 – 2015 |
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A1 Application for dispensation – County Councillor A. Davies

County Councillor A. Davies applied for a dispensation to attend a meeting, speak at a meeting, vote, seek to influence a decision on a matter, make written representations and make oral representations on matters relating to the school modernisation.

Cllr Davies attended the meeting to present his application. His interest is that his wife is an RE teacher at Llanfyllin High School teaching in English and Welsh to years 7 – 11. He suggested to the Committee that his wife had a job today and will have a job tomorrow and that the impact of potential changes to schools in north Powys will not affect his wife. Since submitting his application his daughter has started as a pupil at Llanfyllin High School and is in a Welsh class of 31 pupils.

He confirmed that he had received assurances off the record with undisclosed senior officers and politicians across the Council that the future of Llanfyllin High School is not in question. He was given the opportunity to disclose the identity of those who had given the assurances, but he declined to do so. He acknowledged that it was possible that changes could result in career

opportunities for his wife but that there are very many possibilities. He suggested that if he could not speak on this issue he would not be able to speak on any other tenuously related issues such as school meals as his daughter buys food from the school canteen.

He wished in addition to have a dispensation regarding school modernisation in north Powys as in his role of Group Leader and Opposition Leader he felt it is important that he is able to speak on this matter.

Members clarified a number of points with the applicant including:

- Another Member could fulfil the role of opposition leader (either a deputy from the applicant's own group or from another opposition group)
- No other Member could represent the applicant's ward as the wards in Powys are single member wards. However, at Governors meetings there are other wards that feed the High School and other Members are members of the Governing Body representing the Council (2 Members and 1 Cabinet Member). The applicant is of the view his ward is unique as it is on the furthest edge of Powys
- The applicant has applied for the dispensation as after the last Cabinet meeting he was advised he should not discuss education matters in Montgomeryshire where it might affect Llanfyllin High School
- The applicant was asked if he acknowledged he had a pecuniary interest as he had stated 'because of my pecuniary interest'. The applicant confirmed he did not consider he had a pecuniary interest as he was not a decision maker unless the matter came before the Council for a decision. The Solicitor to the Council confirmed that a pecuniary interest was not restricted to decision makers but to anyone who might seek to influence a decision.

The applicant was advised that the Committee would be discussing the position of Llanfyllin High School with the Council's Head of Schools. The applicant left the meeting whilst the Committee considered the application.

The Committee asked the Head of Schools to attend to advise on the matter of the assurance regarding the future of the Llanfyllin High School. The Head of Schools confirmed that he would be extremely disappointed and concerned if such an assurance had been made. He confirmed that he could not give any assurances regarding any member of staff in north Powys.

The Committee unanimously concluded that Cllr Davies' pecuniary interest was such that a dispensation could not be granted. The matter of representation both at the High School Governing Body and as Opposition Leader was considered and it was observed that there were other people who could fulfil these roles. The claim that assurances had been given with regard to the High School was noted as was the evidence given by the Head of Schools that no such assurance could be made.

The applicant was invited back to the meeting to hear the decision.

| RESOLVED THAT: | REASON FOR RESOLUTION |
|--|---|
| <p>i) a dispensation is not granted to Councillor Aled Davies in relation to his personal and pecuniary interest in the review of secondary education in Montgomeryshire.</p> | <p>i) that the nature of Councillor Davies' interest is such that under 10 (2) (c) (i) (b) a decision on the matter might reasonably be regarded as affecting his well-being or financial position, or that of a person with whom he lives, to a greater extent than the majority of in all other cases, other council tax payers, rate payers or inhabitants of the authority's area.</p> |

The applicant asked what sanctions he would incur if he did not have regard to the decision. He was advised that he would potentially be at risk of being reported to the Ombudsman for a breach of the Code of Conduct. The Ombudsman can refer matters to either the Standards Committee or the Adjudication Panel for consideration. The maximum sanction of the Standards Committee is a six month suspension whilst the maximum sanction of the Adjudication Panel is a five year disqualification from office.

B. Appointment of Independent Member

Mr R. Miller Independent Member's second term of office comes to an end on 26th January 2016. The Committee was asked to make arrangements for the appointment of a replacement Independent Member.

Recommended that:

- i) The following members were appointed to the Panel for the Appointment of an Independent Member of the Standards Committee:**

Independent Member S. Jarman (substitute Independent Member Clare Jackson)

County Councillor Member K. Roberts-Jones (substitute County Councillor Member M. Mackenzie)

Community Council Member – this appointment be delegated to the Chair of Standards Committee and Monitoring Officer.

- ii) That the timetable for the appointment be approved subject to the Panel meeting being held on the week commencing 7th December rather than 30th November 2015.**

**H Rhydderch-Roberts
Chair**

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S15-2015

CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Committee

11th November 2015

REPORT BY: Solicitor to the Council

SUBJECT: Matters appertaining to Standards Issues

REPORT FOR: Decision, Information and Discussion

A. General Standards Issues for County Councillors and Co-opted Members

A1 Code of Conduct Training

Further Code of Conduct training was arranged for the eleven Members who had yet to attend mid-term refresher training (ten who had not yet attended and a newly elected Member). This was held on 23rd September 2015 and seven Members attended. Arrangements will be made for the remaining four Members to receive this refresher training by means of the Members providing written responses to 3 or 4 questions considered at the refresher training sessions.

A2 Member Development

The County Council on 15th July, 2015 approved the arrangements for mandatory and non-mandatory training. The only amendment to the report was to delete a provision requiring a Member who failed to attend / complete a "mandatory development" in the timescale set out in the document to appear before Council to apologise and agree to complete the required development in a timescale required by the Standards Committee.

A3 Council Constitution

The final sections of the new Council Constitution was approved at the County Council meeting on 15th July, 2015 and the new Constitution in its entirety came into force on 1st September, 2015 following an internal publicity campaign to raise the awareness of officers to various sections of the new Constitution over the summer.

B. Referral of Councillors to Public Services Ombudsman

B1. County Councillor Referrals

B1.1 The following matters are with the Ombudsman:

| | |
|---------|--------------------------------------|
| 1/14/CC | Ombudsman discontinued investigation |
| 6/15/CC | Ombudsman investigating |

C. Other Standards Issues

None.

D Dispensations

D1. Applications - County Councillors

No applications for dispensation have been received.

E. Attendance

Responses have been received from County Councillors M. Alexander and G. Price. Copies of these responses will be circulated at the meeting.

F. Appointment of Independent Member

The term of office for Independent Member R. Miller finishes on 25th January 2016. The appointment process for his replacement commenced with approval of the process at County Council on 21st October 2015. Advertisements appeared in the Brecon and Radnor on 29th October 2015 and the County Times on the 30th October 2015 and were placed on the Powys County Council website at the same time. Press releases were also sent.

Fifty two expressions of interest were received and this resulted in twenty three applications. Shortlisting of these applications will take place on 27th November 2015 and interviews will take place on 10th December 2015.

Confirmation of the appointment will be taken to the meeting of Powys County Council on 20th January 2016 for the appointment to be taken up on 26th January 2016.

G. Late payment of expenses

Applications for late payment of expenses has been received from:

- Independent Member Andrew Weale which is a claim for mileage expenses submitted on 4th June 2015 for February 2015
- County Councillor E. Michael Jones which is a claim for mileage expenses submitted on 9th September 2015 for May 2015 and broadband expenses submitted on 9th September 2015 for June 2015
- County Councillor P. Ashton which is a claim submitted on 9th November 2015 for expenses associated with his role as Chair of Council during July 2015.

A copy of the applications will be available at the meeting.

H Standards Conference

The Standards Conference took place in Cardiff on 20th October 2015. Reports from delegates are attached at **Appendix A**

I Standards case – For information

[Kelton v Wiltshire Council \[2015\] EWHC 2853 \(Admin\) \(Admin Ct\):](#)

K applied for judicial review of the Council's decision to grant permission to developers for a residential development that included some affordable housing. K contended that M, a councillor on the Council's planning committee, was automatically disqualified from participating in the committee's decision because **he was a director of a housing company, S Co, which had an interest in the affordable housing part of the development**, and that M had a disclosable pecuniary interest. K also argued that the decision was tainted by apparent bias.

The court held, granting the application, that M had no direct pecuniary or proprietary interest in the planning application so as to be automatically disqualified from participating in the decision. The committee's decision did not lead to M obtaining any benefit and there were too many contingencies between the committee's decision and any benefit to him as a director of S Co for the rule to have any purchase.

But M's participation in the planning decision gave rise to an appearance of potential bias. S Co's position was superior to that of any other interested affordable housing providers because of its previous involvement and its prospects of winning the contract when the affordable housing part was tendered. Because of that, M's private interests were engaged as a director, not just his interests in the cause of affordable housing. In all these circumstances it was wrong for M to have participated in the meeting. (9 October 2015)

J. Ombudsman's Office

J1 Fact sheets for interviewees

The Ombudsman has recently published the following Factsheets for:

- Code of Conduct complaints – fact sheets for interviewees and
- Code of Conduct complaints – fact sheets for Member interviewees

These can be accessed at:

<http://www.ombudsman-wales.org.uk/en/publications/Factsheets.aspx>

J2 Ombudsman's Casebook

The Ombudsman has published Code of Conduct Casebooks for the period April 2015 – June 2015. Copies of the Casebooks can be accessed from the website of the Public Services Ombudsman for Wales at:

<http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx>

J3 Review of the Ombudsman's Powers.

The Welsh Assembly's Finance Committee has been undertaking a review of the powers of the Ombudsman and a Draft Bill has recently been issued. It is unlikely that the final Bill will be tabled until following the Assembly elections in 2016.

<http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=204>

The Draft Bill focusses on the Ombudsman's original submission such as own-initiative investigations, investigating private suppliers e.g. in health, oral complaints and setting of complaints standards. Although the Bill will eventually repeal the 2005 Act, however the conduct of local government members and employees does not feature in the Draft Bill. The Welsh Local Government Association have advised that they are in contact with the Ombudsman's office as to the significance of this.

K. Meeting Dates

K1 To note dates of future meetings as follows:

Wednesday 24th February 2016

Wednesday 29th June 2016

Wednesday 5th October 2016

All meetings to commence at 10.00am with the option of training available afterwards.

| Contact Officer Name: | Tel: | Fax: | Email: |
|--|--------------|--------------|--|
| <i>Clive Pinney – Solicitor to the Council</i> | 01597 826746 | 01597 826220 | clive.pinney@powys.gov.uk |

Standards Conference Wales, Cardiff 2015

Nick Bennett, Public Services Ombudsman Wales

Led the address by making the point that *Leadership* was the key Nolan Principle relevant for today. Complaints from the public had dropped, but the Chairperson of a Town and Community Council spoke about her difficulty managing a councillor in her team and the effect of the decision in Heesom¹ in councillors being able to complain about the conduct of others. This formed a theme of the conference which was picked up in both the sessions I attended.

Community Councils – Governance and Standards Workshop Led by Lyn Cadwallader, Chief Executive One Voice Wales, looking at proposed new WG tests of competency, democracy, capability, capacity and Governance.

Lyn looked at the white paper Reforming Local Govt: Power to Local People. There was concerns about the effect on councils who would not have a large enough budget to fulfil the criteria; for example employing clerks with the requisite qualifications and those clerks who had many years experience felt devalued. We talked about good governance, and the Chairperson spoke in more detail about her difficulties; in protecting an individual's rights to freedom of speech, it appeared that the process of democracy was being undermined in this council. We talked about the **importance of good Charing** and training, asking an Independent Member of the Standards Board to attend and use of mediation. Afterwards I spoke to this lady and it became apparent that the clerk was being undermined and there was a concern about the position if she were to go to an employment tribunal; the town council would have to pay damages if she were successful on a constructive dismissal claim. It appeared that it was difficult to remove a councillor even where there appeared to be mental health problems (is this right?).

One Voice Wales www.onevoicewales.org.uk has a lot of training materials and resources for councillors; we would do well to advertise this and raise their profile to members.

Local Complaints Resolution – Practicalities Workshop Not much to be learnt here, our model is more advanced. Unfortunately this was a lecture rather than a workshop with little time for discussion and reflection.

¹ **Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin)**

A number of principles can be derived from Strasbourg;

- i) The enhanced protection applied to all levels of politics, including local.
- ii) Article 10 protected not only the substance of what was said, but also the form in which it was conveyed. In a political context, the immoderate, offensive, exaggerated and aggressive may be tolerated where it would not otherwise be. Article 10 protected the right to make incorrect but honestly made statements; it did not protect statements which the publisher knew to be false.
- iii) Politicians were subject to wider limits of acceptable criticism. They were expected to be more thick-skinned and tolerant to comment than ordinary citizens.

Report on Standards Conference Wales 2015

Cardiff 20th October 2015

The theme of the Conference was “**Standards and Ethics in a Changing World**”.

The key note speech was from the recently appointed Ombudsman for Wales, Nick Bennett.

The title of his speech was “Are the Nolan Principles fit for purpose in the current climate and for the next 20 years?”

His main argument was that we are and will be operating in more challenging circumstances over the next two decades in terms of the pressure on public services with the growing aging population and shrinking budgets. This will lead inevitably to more difficult and controversial decision making by Councillors which could put the Nolan principles to the test.

He seemed to conclude that the principles will remain as valid in the future as they are today.

The workshop following up on the theme led by the ombudsman came to similar conclusions and that the primary area for concern in practice was the application and robustness of the principles particularly in relation to Town and Community councils. It was felt that because of the sheer number of town and community councils in some of the geographically larger areas enforcing the standards in the principles becomes difficult. It then came down to a practical discussion of how to communicate and educate at the local level.

There was a lengthy discussion (off the main topic) about the future role of Standards Committees initiated by a Chair of another Authorities Standards Committee who said that they had very little to discuss at their meetings and that the Ombudsman was not sending cases back to them viewing any breeches as too trivial to warrant further action. It was quite evident, as in the last conference, that Powys does have one of the most proactive Committees.

On a personal level I felt that the debate degenerated from the question originally put to a list of grievances from some of the delegates so it was not as helpful as it could have been. In retrospect it was probably not the most useful topic to debate as very few people could argue that the Nolan Principles are not an enduring set of values.

The second workshop I attended was entitled “**Local Complaints Resolution-Practicalities**”

This was led by the Director of Legal Services for RCT. They have been using their local resolution process since 2011. The process they use is attached. The result seems to have been that from having a number of issues to deal with initially they have had none in the last year, possibly indicating that the process itself has acted as a deterrent for vexatious complaints and encouraged more appropriate behaviour between county councillors.

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16th November 2015 Report regarding October Standards Conference

I attended the **Social Media – Staying out of Trouble** Workshop with Clive Pinney. Our session was led by Daniel Hurford it was very well attended. The message was that although social media is increasing becoming is a very useful tool you need to be extremely careful as to what is posted on any of the sites you may use. Guidance was made available in paper form. Clive subsequently emailed a link to all members of Council for information.

The second workshop was **Community Councils – Governance and Standards**

This workshop was led by Ewan Evans from Gwynedd and Lyn Cadwallader of One Voice Wales who gave us a power point presentation. Which did not give a great deal of time for discussion. I think several of the councillors in the room were very nervous about taking on services as most town and community councillors were volunteers without the relevant qualification or experience to manage large contracts.

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