



# **Standards Committee Annual Report 2018-19**

## **Foreword by the Chair**

I am pleased to present the sixth Annual Report of the Standards Committee for 2018/19. The Annual Report provides information to the Council about the work carried out by the Committee during the past 12 months and identifies particular issues that have arisen.

This sixth Annual Report covers the period from November 2018 to November 2019 and follows on from the last report presented to Council in November 2018.

The Standards Committee is committed to promoting high standards of ethical conduct among elected Members and officers in order to maintain public confidence in local government.

We are pleased to report that, once again, no serious complaints of misconduct were referred to the Standards Committee by the Ombudsman during the past 12 months and no complaints were referred for determination by the Committee under Stage 3 of the Local Resolution Protocol. The Council's proud record of never having any complaints upheld and sanctions imposed against individual Members has again been upheld, and long may this continue.

Two complaints were successfully resolved under the Local Resolution Protocol. The resolution of these complaints demonstrates that the Protocol has been successful in dealing with these types of issues locally, without the need for any referral to the Ombudsman or the Standards Committee. We are grateful to the officers and members concerned for their co-operation in resolving these complaints amicably

However, as I have mentioned previously, there is no room for complacency and it is essential that these standards are maintained. The Standards Committee will continue to proactively review all ethical standards policies and procedures as part of the forward work programme.

The training requirements for City Councillors, community councils and their clerks will continue to be monitored and reviewed as part of the Committee's forward work programme.

There have been no changes to the membership of the Standards Committee during the past year.

Finally, I would like to thank all Members of the Committee and Council officers for their advice and support throughout the last 12 months.

Phillip Westwood

Chair of Standards Committee

## 1. **Introduction**

### 1.1 **Terms of Reference**

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

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

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

- (i) The hearing and determination of "low level" complaints of misconduct at Stage 3 of the Local Resolution Protocol;
- (ii) Providing advice to the Council on the Council's Codes of Practice, including the Officers' Code of Conduct and the Whistle Blowing policy;
- (iii) Monitoring and updating the Codes of Practice as required; and
- (iv) Overseeing the Council's confidential complaints procedure;

### 1.2 **Structure and Membership**

The composition and membership of the Standards Committee is prescribed by the Standards Committees (Wales) Regulations 2001 (as amended).

The Standards Committee comprises:-

5 Independent Members (persons who have no connection with the local authority)

- Phillip Westwood (Chair)
- Andrew Mitchell (Vice Chair)
- Tracey Britton
- Kerry Watkins
- Dr Paul Worthington

3 councillor representatives:-

- Councillor Herbie Thomas
- Councillor Phil Hourahine
- Councillor Val Dudley

1 community council representative:-

- John Davies (Bishton Community Council)

The independent members serve a term of office of 4 years, although they are eligible to serve two consecutive terms of office. The Councillors are appointed annually by the Council at the AGM and replacement members can be appointed, as necessary, at any time. The community council representative continues as a member of the Committee until his term of office ends or he ceases to be a community councillor, or until he is replaced by another nominee.

### **1.3 Enforcement of the Members Code of Conduct**

The Council's Monitoring Officer is Gareth Price, the Head of Law & Standards, and the Deputy Monitoring Officer is Juliet Owen, the Chief Legal Officer.

The Monitoring Officer and Deputy Monitoring Officer are responsible for:-

- advising Standards Committee on law and procedure,
- ensuring compliance with statutory requirements (Registers of Members interest etc.)
- resolution of "low-level" complaints under Stage 2 of the Local Resolution Protocol
- investigation of complaints referred by the Ombudsman

The Public Services Ombudsman for Wales ("Ombudsman") is responsible for:-

- considering all formal complaints of breaches of the Members Code of Conduct and applying a two stage test of (1) prima facie evidence of misconduct and (2) whether the breach is so serious as to warrant any sanction
- investigating and reporting (where appropriate) any serious breaches of the Code to the Standards Committee or a Case Tribunal of the Adjudication Panel for Wales

The Adjudication Panel for Wales:-

- Case Tribunals hear serious misconduct cases referred by the Ombudsman

- Interim Case Tribunals can suspend Councillors for up to 6 months pending investigation of serious complaints
- Determine appeals against Standards Committee decisions or sanctions
- Can suspend Councillors for up to 1 year or disqualify for up to 5 years

The Standards Committee

- Conduct hearings and determine complaints referred to them by the Ombudsman and the Monitoring Officer
- Can censure or suspend Councillors for up to 6 months

## **2. The Committee's work in 2018/19**

The Standards Committee is required to meet at least once annually in accordance with the Local Government Act 2000. In practice, the Committee meets on a scheduled quarterly basis and additional special meetings are arranged, as necessary, to deal with specific matters such as misconduct hearings and requests for dispensation.

Three members are required to attend for a quorum at meetings (including the independent Chair or Vice Chair) and at least half of those present must be independent. The community council representative is not "independent" for this purpose.

The Standards Committee met on 4 occasions during the past 12 months:-

- 17<sup>th</sup> January 2019
- 11<sup>th</sup> April 2019
- 11<sup>th</sup> July 2019
- 7<sup>th</sup> November 2019

### **2.1 Dispensation Applications**

There have been no applications for dispensations during the past year in accordance with the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 and Section 81(4) of the Local Government Act 2000.

Previously, most of the work of the Committee had been taken up with determining applications regarding the use of Neighbourhood Allowances. These Neighbourhood Allowances were discontinued in April 2016 as part of Council budget savings.

### **2.2 Training**

The Standards Committee has always stressed the importance of regular Member training, to ensure that Councillors keep up to date with the requirements of the Code of Conduct and any changes in the law or procedures.

It is the responsibility of each individual Councillor to ensure that they fully understand the requirements of the Code and that they comply fully with their obligations. As always,

“ignorance of the law is no excuse” and a lack of understanding or training would be no mitigation if there is any breach of the Code.

The Committee has previously recommended to the Council that it should be compulsory for all City Councillors to attend training on the Code of Conduct. A training programme for Councillors was delivered as part of the induction arrangements following the May 2017 elections, in the light of the legislative changes to the ethical standards framework and the new Members Code of Conduct adopted by the Council in May 2016. The Committee was pleased that 40 City Councillors and many community councillors attended these training sessions, and the training appeared to be well-received.

In July 2017, a letter was sent by the Chair of the Committee to the remaining 10 Councillors, with a copy to the group Business Managers, urging them to arrange a further training session as soon as possible. The Monitoring officer and Deputy Monitoring Officer then delivered a further training session on 18<sup>th</sup> January 2018, when 7 of the 10 Councillors attended. The Committee was pleased to note that 47 out of 50 City Councillors had attended the mandatory Code of Conduct training. It was agreed that no further additional training sessions were required and that no further action was necessary to compel the remaining 3 Councillors to undertake the mandatory training. However, they have been provided with electronic copies of the training presentation slides and documents and a link to the Ombudsman training video.

The Standards Committee has continued to proactively review all ethical standards policies and procedures as part of the forward work programme.

The training requirements of the community councils and their compliance arrangements has continued to be monitored and reviewed as part of the Committee’s forward work programme.

As part of this on-going review, the Committee has identified a need for refresher training, particularly for new community councillors and Clerks. This has also been identified at Liaison meetings with the community councils. Only some of the community councils subscribe to training from One Voice Wales and others are entirely dependent on Standards Committee and the Monitoring Officer to provide advice and assistance in relation to Code of Conduct compliance. Community council clerks have raised a number of procedural issues regarding maintenance of statutory registers and declarations of interest at meetings and have requested specific training on these matters. Therefore, as part of the forward work-programme for 2019/20, we will be arranging further training sessions for community councillors and their Clerks. This will be specific to community councillors as the rules relating to the register of members interests and exemptions are different to the City Council.

We will review the need for any refresher training for City Councillors in the light of responses to the Ethical Standards questionnaire. We are conscious that some Members were last trained in 2017 and there have been some changes to protocols and guidance since that time.

### **2.3 Local Resolution Protocol**

In accordance with the recommendations of the Minister for Local Government and the Ombudsman, the Council has adopted an internal procedure for dealing with “low-level”

member/member and officer/member complaints that are not sufficiently serious as to warrant formal investigation and sanction.

It was agreed that the Monitoring Officer would periodically update the Committee on the numbers and types of complaints determined at officer level under Stages 1 and 2 of the Protocol, but maintaining the anonymity of both the complainant and the Councillor concerned.

Two complaints were received under the Local Resolution Protocol in 2018/19. The first complaint concerned the behaviour of a Councillor at a Licensing Panel hearing and a lack of respect for the Chair. Following a mediation meeting between the Chair and the Councillor, facilitated by the Monitoring Officer under Stage 2 of the Protocol, the member apologised for his behaviour. It was acknowledged that this was due to frustration about other members not understanding licensing protocols. Therefore, it was agreed by the Chair that further licensing training should be arranged for panel members. The complaint was resolved amicably, without the need for any referral to Standards Committee.

The second complaint concerned allegations of lack of respect and consideration for IT support officers dealing with telephone requests regarding computer problems. Again the matter was resolved by the Monitoring Officer following a Stage 2 mediation meeting, when the Councillor apologised unreservedly for any upset caused to the staff. The Councillor was frustrated by a perceived lack of response to her IT problems and this was impacting on her ability to discharge her role. The service manager agreed an escalation process for dealing with any future concerns about IT support.

The resolution of these complaints demonstrates that the Protocol has been successful in dealing with these types of issues locally, without the need for any referral to the Ombudsman or the Standards Committee. We are grateful to the officers and members concerned for their co-operation in resolving these complaints amicably.

One Voice Wales has developed a similar Local Resolution Protocol for community councils, in conjunction with the Ombudsman, and further guidance has been provided. Those local community councils who are members of One Voice Wales have adopted this protocol within their councils. The responsibility for resolving these minor complaints rests with the community council clerk, the Chair and Vice-Chair. Other community councils have expressed an interest in their local complaints being resolved under the Council's Local Resolution Protocol and this is something that we are considering.

#### **2.4 Revised Ethical Standards Framework and Procedures.**

The Local Authorities (Model Code of Conduct) (Wales) Amendment Order 2016 was made on 27<sup>th</sup> January 2016 and came into force on 1<sup>st</sup> April 2016. The Order amended the Model Code of Conduct for elected members of the Council and co-opted members with voting rights. Newport City Council formally adopted the new Code at its Annual General Meeting held on 17<sup>th</sup> May 2016.

The Local Government Democracy (Wales) Act 2013 transferred responsibility for maintaining the register of members' interests for community councils from the Council's

Monitoring Officer to the “Proper Officer” of the community council as from 1<sup>st</sup> May 2016. However, Standards Committee still has the responsibility for ensuring that community councils continue to comply with these requirements.

As part of the ethical standards review of community councils carried out in 2018, 12 out of the 14 community councils responded to the questionnaire and confirmed their compliance with the requirements of the legislation. Standards Committee was pleased to note that all of the councils who responded had formally adopted the new Model Code within the prescribed timescale, all their members had signed an undertaking to abide by the Code and the community council clerks ( as designated “Proper Officers”) has made satisfactory arrangements for publishing the register of members’ interests. The community councils were also publishing electronic copies of agendas and minutes on their website, in accordance with sections 55-57 of the 2013 Act.

Standards Committee will continue to monitor compliance as part of its on-going review of the community councils. As part of the forward work-programme, we will also be reviewing the Council’s practices and procedures for declarations and registration of interests.

## **2.5 Succession Planning**

There have been no changes to the membership of the Standards Committee during last year.

John Davies from Bishton Community Council was confirmed as the community council representative by the Council on 28th November 2017.

## **2.6 General work**

The Committee has continued to carry out review of Council policies and procedures relating to ethical standards.

The Committee considered the Welsh Local Government Association Social Media Guidelines for Councillors. This provided comprehensive guidance and advice on both the pitfalls and the positive impact of using social media. It detailed how members could communicate and engage better with the public through the use of social media. However, Councillors need to be mindful that anything that they publish on social media is also subject to the Code of Conduct, particularly the duty to show respect and consideration for others. Members at other Welsh local authorities have been found guilty of breaches of the Code and have been sanctioned by the Adjudication Panel for comments that they have posted on social media.

There is also a Council policy that all members have to adhere to regarding the use of IT and data security.

We were referred to a particular complaint to the Ombudsman about the use of a Facebook site by a ward Councillor as a means of communicating with his constituents. There was concern that the Councillor was using social media for political purposes and was blocking



some local residents from responding. However, the Ombudsman took the view that this was a private Facebook account being used by the Councillor in a private capacity and he was not improperly using the Council's IT systems as part of his role as an elected member.

The Committee considered that the use of social media should be covered in more detail at future ethical standards training.

We were advised that an Ethical Standards Questionnaire had been sent to members and senior officers in 2011 to assess the culture within the organisation and the relationship between officers and members, to identify any areas of concern and need for improvement. The response had been limited, with only 18 completed questionnaires being returned out of the 68 people canvassed. The responses had indicated that there was a general understanding of the members and officer codes of conduct and satisfaction with the level of training provided. However, some of the comments suggested that there were concerns regarding relationships between officers and members, particularly in relation to behaviour and criticism at Council and Planning Committee meetings.

We felt that there was a need to carry out a further Ethical Standards audit, particularly in the light of the revised Protocol for Officer/Members relations which we issued last year. It was felt that the general behaviour in meetings had improved since 2011 but, in view of the time that had elapsed since the last review, it was opportune to repeat the exercise. Therefore, the Committee agreed a form of simple questionnaire with a free text section at the end for comments, which was circulated to all Councillors, Strategic Directors and Heads of Service and also those other staff who came into regular contact with elected members, such as planning and licensing staff. In an effort to generate a better response than last time, the Chair of Standards Committee met with the Group Leaders of the main political Groups to get their support for this initiative and to encourage their members to respond to the questionnaire.

The questionnaires were distributed in July but, at the time of writing this report, only 13 responses had been received, which is extremely disappointing. We are currently reviewing the responses to try to identify any issues and any follow-up actions will be picked up as part of our forward work programme.

The Committee also considered the Local Government Ethical Standards Report for England – as review by the Committee on Standards in Public Life of the ethical standards framework in England. It was interesting to note the general conclusion that the changes in England have been detrimental to good standards in public life and the recommendation that they move to a similar system to Wales, with the Ombudsman having statutory powers of enforcement. The deregulation of the framework in England and the move to self-regulation by councils, with no effective powers of sanction, did not have the necessary transparency and independence to maintain public confidence.

The Committee again wrote to all of the community council clerks to ensure that proper arrangements are in place to maintain and publish the registers of members' interests. Sections 55-57 of the Local Government (Democracy) (Wales) Act 2013 Act require Community Councils to publish certain information electronically (i.e. on a website). This includes the public register of members' interests, information about the council's clerk and Members, Minutes of council meetings and any audited statement of the council's accounts.

Community Councils are also required to publish public notices electronically, and to make certain information about their meetings and proceedings available electronically.

Responses were received from 12 out of the 14 local community councils and each council confirmed that proper arrangements were in place to publish the registers and other information, to meet the requirements of the legislation.

The Committee has also considered reports on revised Sanctions Guidance issued by the Adjudication Panel for Wales and the Ombudsman's Annual letter for 18/19. The Guidance sets out the approach taken by case, appeal and interim case tribunals of the Adjudication Panel for Wales in order to reach fair, proportionate and consistent decisions on the sanctions that should be applied in relation to an individual's breach of the local Code of Conduct. As such, it provides useful guidance to Standards Committee on the approach it should take in relation to any misconduct hearings, following the referral of a complaint by the Ombudsman, and the principles to be followed when considering the proportionality of any sanction.

With regard to the Ombudsman's report for 18/19, the Committee noted that nationally the number of Code of Conduct complaints had increased by 4% in the past year, although there was a 14% increase in Code of Conduct complaints involving Town and Community Councils. As in previous years, the majority of Code of Conduct complaints received during 2018/19 related to matters of 'promotion of equality and respect'. These accounted for 51% of complaints. 'Disclosure and registration of interests' (17%), 'Integrity' (13%), 'Duty to uphold the law' (9%) and 'Accountability and openness' (7%) were the other common subjects of complaints.

However, it was pleasing to note that none of these complaints related to Newport City Councillors or local Community Councils.

## **2.7 Ombudsman complaints**

The Ombudsman advises the Monitoring Officer of complaints made against elected members of Newport City Council and community councillors and the outcome. The Monitoring Officer updates the Committee at each meeting about the numbers of on-going complaints being referred to and considered by the Ombudsman's office. This information is provided on a general basis, without disclosing precise details of individual complaints, to avoid any issues about pre-determination in case the complaints are reported to the Standards Committee for determination.

The Committee was advised that 3 complaints were referred to the Ombudsman about City Councillors in 2018/19. However, none of these complaints was accepted for investigation on the basis that there was no evidence of any serious breaches of the Code. It was a common theme that these complaints concerned the way in which Councillors dealt with their constituents and alleged failures to respond to communications received from their constituents. Provided that there is nothing unethical in their behaviour, the manner in which elected members discharge their representational role and how they respond to their constituents is not a matter for the Ombudsman or Standards Committee.

No complaints were referred to the Ombudsman regarding alleged breaches of the Code by local community councillors in 18/19.

No complaints were referred to Standards Committee in 2018/19 for hearing and determination.

### 3. Forward Work Programme for 2019/20

Date	Topic	Information
November 2019	Annual Report to Council	<p>Review of work undertaken in the past 12 months, identifying any specific ethical standards issues facing the Council and priorities for the forthcoming year.</p> <p>Summary of numbers of complaints received and outcomes.</p>
<p>As and when applications received</p> <p>Review annually</p>	Dispensations	<p>Granting individual and blanket dispensations to Councillors.</p> <p>Reviewing decisions annually to identify common issues and consistency of approach.</p> <p>Produce guidance to Members on any issues arising.</p>
As and when required	Local Resolution Protocol complaints	Conducting hearings into any Stage 3 complaints by Members or Officers
Quarterly	Complaints of Misconduct	<p>Update of numbers of complaints received and outcomes.</p> <p>Update on complaints resolved through Local Resolution Protocol.</p>
By January 2020	Member training and development	Carry out review of community council training, re-assessing the need for training for new councillors and refresher training for existing members. Arrange training sessions for community councillors and Clerks, as necessary.

By January 2020	Ethical standards survey.	Complete the ethical standards survey of Councillors and senior officers and identify any areas of concern and any need for further training or guidance.
By March 2020	Ethical standards audit	Check that statutory registers are being properly maintained procedures for declarations are being followed  Review Gifts and Hospitality Protocol and Protocols for hearings and recommend amendments, as necessary.
Annually	Review of community councils	Check that statutory registers are being properly maintained procedures for declarations are being followed  Engage with community councils to ensure compliance and to identify any training and development needs.  Review adoption of Local Resolution Protocols by community councils.
By September 2020	Review of Council Policies, Protocols and procedures relating to ethical standards	(a) Gifts and Hospitality  (b) Planning Protocol  How they are implemented, communicated to staff, training and compliance monitoring.

#### **4. Helpful Information**

##### **4.1 Can I attend Meetings of the Standards Committee?**

Yes, all of our meetings are open to the public, except for specific items where personal or confidential information is likely to be disclosed and the public interest requires that these meetings are conducted in private, for example hearings into misconduct complaints

Dates of forthcoming meetings, agendas, reports and minutes are available on our own webpage on the Council website which can be accessed by clicking here: [Standards Committee Webpage](#)

#### **4.2 Who do I contact if I want to know more?**

If you wish to find out more about the Standards Committee or make a comment or suggestion, please visit our website: [Standards Committee Webpage](#) where you will find an online contact form or email us at [info@newport.gov.uk](mailto:info@newport.gov.uk)

Phillip Westwood  
Chair of the Standards Committee;

Gareth Price  
Head of Law & Regulation and Monitoring Officer

Juliet Owen  
Chief Legal Officer and Deputy Monitoring Officer

Pamela Tasker  
Governance Officer

