

# **Standards Conference Wales 2010 - 'Theory into Practice'**

**14th October 2010,**

**Cardiff City Hall**

**Notes for the Gwynedd Council  
Standards Committee**

## **Cllr. David Clay**

The Conference was opened by Jon House, Chief Executive of Cardiff City Council and only recently appointed. In his introduction he emphasised that important Standards and Ethics are in Public life especially in the current climate.

The four primary speakers were:

### **Paul Hoey – Head of Strategic Relations - Standards for England.**

Paul discussed the imminent changes proposed in England to scrap the National Standards Authority and current arrangements - only hours before it was announced in Westminster. Standards will be left to the ballot box except that a new criminal offence will be created of "non-declaration of interest". He suggested that it would be left to Local Authorities to set up their own "Ethical framework".

### **Kate Berry – Monitoring Officer, Cardiff City and Chair, Assoc. Of Council Secretaries & Solicitors, Wales Branch.**

Kate discussed how well Standards and Ethics were promoted throughout Wales and gave some examples of the work in her own Authority.

### **Jeff Cotterell – Chair of Ynys Mon Council's Standards Committee.**

Jeff highlighted some of the challenges of his Committee and emphasised the need for Councillors to accept the requirement of "Professionalism" and accept the obligation to "learn" with training – training and training being his message.

### **Peter Tyndall – Public Services Ombudsman for Wales**

Peter gave details of his workload, the type of complaints that reach his office and the small percentage that are actually investigated. His opinion was that the system adopted in Wales was working well and whilst a review might be healthy, did not see any reason to follow in England's footsteps. At present he was experiencing a reduction in the number of complaints on the Code of Conduct as he interpreted as an improvement in attitudes to those in Public life in Wales.

There would be many challenges in the future following on from the forthcoming budget cuts and anticipated an increase in the number of complaints, especially in mal-administration from those aggrieved by cuts in services.

### **Peter Davies – President, Adjudication Panel for Wales**

Peter detailed the number of cases sent to the Adjudication Panel, the decisions and the sanctions imposed. His message was "the existing system is working so don't mess about with it."

## **Town and Community Council Issues**

This workshop was led by Ken Burton – National Training Officer for One Voice Wales.

Ken continued the theme of the One Voice Wales Conference the previous week – the need for Town and Community Councillors to be more professional and the necessity for training – training – training. He outlined how some Lead Authorities had provided training for Town & Community Councils in their area with a special mention of Powys. One Voice Wales had organised a number of training sessions offering various subjects which had been taken up by some Councils and Councillors.

The group then discussed 6 scenarios – actual examples and the issues surrounding declaring an interest – whether it be personal or prejudicial. . These attracted various opinions which only went to demonstrate how complex the question of declaration of interest is.

A very stimulating morning and some useful ideas for use with the Town & Community Councils in Gwynedd.

## **Proactive Standards and Ethics Committees**

### Being proactive

The afternoon session was led by a senior officer of Cardiff City Council and whilst not currently involved with the Standards and Ethics Committee – he had been involved with scrutiny in his previous employment at Bristol City Council.

Mr Akmal Hanuk, Chair of the Cardiff Council Standards and Ethics Committee was also present.

The Group were asked to consider 4 main points:-

1. Knowing what to discuss
2. Agenda Control
3. Capacity
4. Meeting styles and formats

### Knowing what to discuss:-

The first necessity was to know the committee's "terms of reference". Cardiff City Council has their terms printed at the top of every agenda.

Are the terms of reference relevant to the current task of the committee? Do all committee members know the terms of reference? They should not be seen as a restraint and full advantage should be taken of their wide parameters. When were they last reviewed? Do the committee think they should be reviewed?

The objective of a pro-active Standards and Ethics Committee is to "help and support" the Council and should not be seen as "policing" the Council.

If committee members are to discuss the standards and ethics of the Council, they should be fully aware of the behaviour and activity of members in the various meetings of the Council. It was suggested that some Independent members sit in on both public and non-public meetings of the Council and its Committees. [in fact this does happen on some Authorities]. They are there to “observe” e.g. Are all papers available for the public? Are the public easily catered for? Etc. etc. If there are issues that the Committee might discuss, these are then brought to the committee.

One of the topics considered by one Council was “Hospitality” The committee investigated how the limits were set, what consultation was instigated, they monitored the claims by members. “If the system is not monitored how do you know if the present arrangements are reasonable” If the committee monitors the whole “hospitality” issue, it provides some legitimacy to any possible queries from the press or others.

There were several other areas that delegates suggested could be “observed” including attendance and scrutiny.

This item created much of the discussion during the hour available. However, the other three bullet points did follow almost automatically.

#### Agenda Control:-

Who arranges the Agenda for the meeting? Are the Chair and independent members involved?

If the Committee is to be “pro-active” and independent members want to raise and discuss issues following their “observations”, is there an avenue for them to raise them as an agenda item at an early opportunity?

#### Capacity:-

Capacity – the time available to both committee members and officer time would dictate how proactive a committee could be.

Cardiff City Council did comment that an “investigation” into “hospitality” took them over 9 months to complete but proved to be an extremely worthwhile exercise.

#### Meeting Styles & Formats

Some Authority committees found there was an advantage in having the opportunity for “informal” discussions when looking at developing guidelines or exploring areas for “observing” etc. where minutes were not required as decisions were not being made. The suggestion was that there was an advantage in using various styles and formats to best achieve the committee’s aims.

All in all, a very thought provoking discussion brought to an abrupt end by the bell.

<b>Cllr. Margaret Griffith</b>
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The new Chief Executive of Cardiff City Council said a word of welcome.

The first speaker was **Paul Hoey**, Head of Strategic Relations, Standards for England. He did not have much good news regarding England since it was the Government's intention to abolish Standards for England as a part of the programme to build a bonfire of the quangos. There would be a measure on this in a month's time and Councils could chose to establish their own committees should they wish to. He considered lack of consistency across the country as a problem. He stated that the Government wanted to create a criminal sanction but he did not feel that this would solve every problem.

The second speaker was **Kate Berry**, Cardiff City Council Monitoring Officer and Chair of the Association of County Secretaries & Solicitors, Wales Branch. She noted that she was expressing personal opinion and not speaking on behalf of the Association. She considered a set of standards and an ethics framework to be important. Some Members felt that an election is the only standard but this was too long in her opinion. She still believed that a national framework was necessary and that electors needed to have faith in the difficult decisions made by Members.

The third speaker was **Jeff Cotterrell**, Chair of Anglesey Council Standards Committee. Personally, I found him very hard to understand since the PA system was not very good. Obviously, there was a lot of sympathy towards him in the room and from what I heard from him, it's quite easy for any council to slip down a road similar to Anglesey Council. He also questioned how many councillors acknowledged the work of the Standards Committee.

The fourth speaker was **Peter Tyndall**, Public Services Ombudsman for Wales. The main message of his talk was that it had been very easy being fair in a time of plenty but that it was a very different story during a recession. Very difficult decisions face the members during the next few years and things will need to be discussed without getting personal. He anticipated that more complaints would be made over the coming period, based on what the public had received in the past. Members need to have clear and valid reasons for their decisions. He also gave a summary of the workload of his office. He felt that some cases needed to be dealt with in much less time than having to wait for an election and that some kind of sanction was needed. He noted that the Nolan principles were the basis for everything and that it should not be forgotten why these existed in the first place. Cynicism now exists regarding the political system and things could get worse without some kind of control. It was fine to review the framework but it had to be remembered that it had a number of virtues as well.

The final speaker was **Peter Davies**, President of the Adjudication Panel for Wales. He provided a brief explanation of the background of the Panel and a summary of its work load. He would welcome a review of the framework but felt that it wasn't necessary to abolish everything as was intended in England. One of the recent clear tendencies is for solicitors to attend hearings. The intention of the Panel was to make it less formal than a court of law but this wasn't true now. Also, more expertise is being questioned and the system is more expensive because of this, with hearings taking longer. One case which is currently ongoing

would have 70 witnesses. They had to adapt their procedures to take into account these tendencies.

## **Discussion Sessions**

### **Standards Committees Hearings**

This session was presented by Peter Keith-Lucas. There wasn't enough time to go through everything, especially the proposed changes in England and its effect on Wales, if any. This often happens at workshops where too much time is spent on minor individual issues and some parts not touched at all. One of the most useful things was the decision review forms and the form for the Chair distributed at the session. These will be useful for any type of semi-judicial hearing. Should the Standards Committee need to hold a hearing in Gwynedd, then maybe it would be an idea to hold a training session using these forms beforehand.

### **Code of Conduct**

Again, there was no time to go through all of the Ombudsman's comments. This was a shame because no discussion had taken place on the section on personal interests, something I myself had an interest in. Two fashionable terms are used these days – virtuous circle and spiral of despair. In the first instance, a high standard of conduct exists. This does not mean that there is no criticism, but that the criticism is constructive. The second instance leads to continuous problems with conduct. The first is obviously the ideal. The Ombudsman went through a few of the headings of the Code of Conduct but a number of the headings were not discussed. Again, it may be beneficial to use the slides for training at some point.

All in all, I felt that I had benefited from attending the conference.

**Morning Workshop – Guidance on the Code of Conduct**

The workshop was presented by Kate Berry, Cardiff Monitoring Officer and Peter Tyndall, The Ombudsman. The intention was to explain the guidance on the code of Conduct but unfortunately, due to lack of time, the part on declaration of interest was not reached.

A discussion was held on some of the aspects of the code and guidelines. A number of the attendees were not happy with the test set by the Ombudsman to decide which complaints should be investigated. Specifically, there was discontent regarding his standpoint that he would not investigate should he be of the opinion that the offence would not lead to a sanction by the Standards Committee. A number of attendees stated that they had difficulty with this aspect and that the matter should be referred to the Standards Committee to be decided. Others stated that this meant that some cases of breaching the code went without penalty. The Ombudsman argued that it is better for matters to be turned down by him than to burden Standards Committees; that it ensures consistency and that not conducting an investigation is not the same as stating that a breach has not taken place.

It was also interesting to hear that Monitoring Officers are expected to inform the Ombudsman of any additional information that has not been taken into consideration – especially when he sends a letter stating that he does not intend to investigate a complaint.

**Afternoon Workshop – Engaging with new social media**

This workshop concentrated on the new electronic methods of communication e.g. *Facebook, Twitter* etc. The presenter was an avid supporter of these communication methods and was well informed regarding their potential. I felt that the methods were being ‘sold’ to us as a means of contributing towards the work of the Council and I did benefit from learning more about them.

But, bearing in mind that it was a conference on standards, the aspect relating to how the contents of the communication could be controlled or monitored and what steps could be taken should a member misuse the new media was very disappointing. The presenter had not given much thought to this aspect of the topic and I got the impression that there wasn’t much that could be done if a Councillor was determined to use the new media to breach the Code of Conduct. From this perspective, the workshop wasn’t very beneficial.

**General Impressions of the Day**

All in all, I found the day beneficial – especially the morning session with the different speakers. It would have been good to have an opportunity for questions during this session (I think that this was the intention but there was no time). The attendance at the conference was good, although weak from the North, and the programme order meant that a number had left before the last session. At the end, there was an opportunity for a panel discussion with Jeff Cotterell (Chair of Anglesey County Council Standards Committee), Kate Berry and Peter Tyndall. For me, the most notable thing to come out of this closing session

was the message that legal competency on its own is not enough for a Monitoring Officer and that a number of other skills are also needed!

## Siôn Huws

### **Workshop - 'Standards and Ethics Committees Hearings'**

This was run by Peter Keith-Lucas, an ex local government Chief Executive and Head of Legal Services, who is now a partner with Bevan Brittan LLP Solicitors. The main points arising from this workshop were:

- The cost of holding an investigation (£5-10K) and therefore the importance of being a proactive committee.
- The importance of the pre- hearing process in order to ensure that the committee concentrates only on the relevant matters at the hearing itself.
- A written procedure for investigating an allegation and for the hearing (including a 'script' for the Chairman)
- PK-L favoured having a panel of 4 drawn from the committee as it would be less formal and threatening. It would also allow the Committee to re-hear a case if necessary.
- The importance of conveying 'learning points' to the Council after the hearing, since the Committee's primary function is to improve conduct.

### **Workshop - 'So You Want to be a Monitoring Officer?'**

This was held by Cardiff Council's deputy Monitoring Officer. The workshop was rather disappointing with regards to learning anything new. However, the main points arising from the workshop were:

- That it is not easy being a Monitoring Officer!
- That dealing with problems arising during committee meetings can be especially difficult.
- The need for training for officers who wish to be monitoring officers or who are required to act on behalf of the monitoring officer.
- That ACSeS Wales (which represents chief legal officers and monitoring officers) is considering developing training of this kind.