



Gwasanaeth Democraidd
Democratic Service
Swyddfa'r Cyngor
CAERNARFON
Gwynedd
LL55 1SH

Cyfarfod / Meeting

**CYFARFOD ARBENNIG O'R PWYLLGOR SAFONAU
SPECIAL MEETING OF THE STANDARDS COMMITTEE**

Dyddiad ac Amser / Date and Time

***10.30am, DYDD MAWRTH, 29 GORFFENNAF, 2014**

***10.30am, TUESDAY, 29 JULY, 2014**

(*Aelodau'r pwyllgor yn unig i gyfarfod yn Ystafell Glyder Fawr am 10.00am /
Committee members only to meet in Ystafell Glyder Fawr at 10.00am)

Lleoliad / Location

***Ystafell Glyder Fawr,
Swyddfa Penrallt Offices,
Caernarfon**

(*nodwch y lleoliad ogydd / please note venue)

Pwynt Cyswllt / Contact Point

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Dosbarthwyd/Distributed 21/07/14

**PWYLLGOR SAFONAU
STANDARDS COMMITTEE**

Aelodaeth/Membership

Aelodau Etholedig / Elected Members (3)

Y Cynghorwyr/Councillors
Eryl Jones-Williams
Michael Sol Owen
[sedd wag / vacant seat]

Aelodau Annibynnol / Independent Members (5)

Ms Linda Byrne
Mr Gwilym Ellis Evans
Miss Margaret E. Jones
Mr Sam Soysa
Dr Einir Young

Aelod Pwyllgor Cymunedol / Community Committee Member (1)

Y Cynghorydd / Councillor David Clay

AGENDA

1. APOLOGIES

To receive any apologies for absence

2. DECLARATION OF PERSONAL INTEREST

To receive any declaration of personal interest.

3. REPORT BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES ON AN INVESTIGATION INTO A COMPLAINT MADE AGAINST COUNCILLOR NANCY CLARKE, TYWYN TOWN COUNCIL

To consider the report of the Compliance and Language Manager
(attached).

Members are requested to bring their copy of the Ombudsman's report which was circulated with the agenda for the Special Meeting of the Standards Committee on 12th June with them to the meeting.

MEETING:	Standards Committee
DATE:	29 July 2014
TITLE:	Report by the Public Services Ombudsman for Wales on an investigation into a complaint made against Councillor Nancy Clarke, Tywyn Town Council
AUTHOR:	Compliance & Language Manager
ACTION:	Consideration of Representations and Final Determination of a Report prepared by the Public Services Ombudsman for Wales (ref. 201301629)

Background

1. Following complaints that Councillor Nancy Clarke had breached the code of conduct for members, the Public Services Ombudsman for Wales decided to investigate. The Ombudsman decided that the matter should be referred to the Monitoring Officer for consideration by the Standards Committee. The Ombudsman's report has previously been provided to the members of the Committee.

2. In accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the Regulations"), the Committee considered the Ombudsman's report in its meeting on the 12 June 2014. It came to the conclusion that Councillor Clarke should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that she has failed, or may have failed, to comply with the authority's code of conduct.

The Ombudsman's Investigation Report

3. Members are asked to consider the Ombudsman's report and any representations made by Councillor Clarke.

4. The procedure for dealing with allegations made against Councillors and referred to this Committee is set out in the Appendix to this report.

Recommendations

5. That the Committee consider the complaints against Cllr. Clarke in accordance with its Hearings Procedure and to make a determination in one of the ways open to it. The Regulations (reg.9) provide that, after hearing any representations, the Committee must come to one of the following decisions:

(a) that there is no evidence of any failure to comply with the authority's code of conduct and that therefore no action needs to be taken in respect of the matters which are the subject of the investigation;

(b) that the member has failed to comply with the authority's code of conduct but that no action needs to be taken in respect of that failure;

(c) that the member of the authority has failed to comply with the authority's code of conduct and should be censured, or

(d) that the member of the authority has failed to comply with the authority's code of conduct and should be suspended or partially suspended from being a member of that authority for a period not exceeding six months.

GWYNEDDD COUNCIL STANDARDS COMMITTEE

PROCEDURE FOR HEARINGS

BACKGROUND

1. These arrangements will be followed when the Standards Committee ('the Committee') is required to decide upon a complaint that a member has breached the Code of Conduct. If there is any conflict between this document and the provisions of Part III of the Local Government Act 2000 and relevant regulations, then the statutory provisions will prevail.

2. The Committee will have to decide on a complaint against a member either :
 - When a complaint is referred to the Monitoring Officer by the Ombudsman to investigate and then report to the Committee; or

 - When the Ombudsman refers his report to the Monitoring Officer to present to the Committee.

There are two possible steps to the procedure of considering a complaint:

THE FIRST STEP

THE FIRST MEETING OF THE STANDARDS COMMITTEE (INITIAL HEARING)

3. Following receipt of the report by the Ombudsman or the Monitoring Officer ("the Investigating Officer") :
 - A hearing will be held to decide, on the basis of the Investigating Officer's report, either:
 - (a) that there is no evidence of any failure to comply with the Code of Conduct; or
 - (b) that any person who is the subject of the investigation should be given the opportunity to make representations (orally or in writing) to the Committee
 - An officer who has not been involved in the investigation or the complaint itself ('the Advising Officer') will be present to provide legal advice to the Committee.
 - Any criteria established to assist the Committee and to ensure consistency in decisions will be considered.
 - If it is decided to give the person who is subject to the complaint ('the Member') the opportunity to make representations (i.e. hold a full hearing) the Committee will:
 - Decide whether the Investigating Officer should be asked to attend to present the report explain any matters in it.
 - Decide on a date for the hearing to offer the Member (together with two alternative dates to be kept in reserve)

THE SECOND STEP

THE FULL HEARING

If the Committee decides that the Member should be given the opportunity to make representations, the following procedure will be followed:

Before the Hearing

4. The intention is to ensure that all parties to the hearing are able to participate in the full knowledge of the matters requiring investigation and that the proceedings are fair, transparent and impartial.
5. A questionnaire will be sent to the member who is the subject of the complaint to asking him/her to confirm in writing within 14 days whether he/she:
 - wishes to submit written and/or oral representations,
 - disagrees with any finding of fact in the report of the 'Investigating Officer'
 - intends to be represented by a solicitor, barrister or any other person,
 - wishes to call any witnesses to give evidence before the committee,
 - believes that any part of the meeting/any documents should be confidential.
6. A meeting will be held between the Chair and the Advising Officer to consider whether there is sufficient information to hand for the hearing. They will decide on any further steps that are required to ensure that all the necessary information is available to the Committee, and/or any other questions regarding how the hearing should proceed. Such meetings can be held at any stage of the process, as required.
7. The Investigating Officer will be informed of the proposed hearing and ask whether he/she intends to attend.
8. The Member's responses will be sent to the Investigation Officer and ask him/her to confirm within 7 days whether he/she:
 - intends to be represented at the hearing,
 - wishes to call any witnesses to give evidence before the committee,
 - believes that any part of the meeting/any documents should be confidential.
9. It will be made clear to all parties that details should be provided beforehand of all the findings of fact that they intend to challenge and the evidence that they intend to produce.

10. The following information will be sent to members of the Committee, the member and the Investigating Officer beforehand:
 - The Investigating Officer's report.
 - The written response from the Member
 - Any further written response by the Investigating Officer.
 - An outline of the main facts of the case that have been agreed and those that have not been agreed.
 - A list of witnesses who will appear.
 - Whether the Member will be attending the hearing, and whether he/she will be represented.
 - The procedure for the hearing.
11. If the member has said that he/she will be attending the hearing, he/she will be contacted a few days beforehand to confirm his/her attendance.

The Hearing

12. The procedure at the meeting shall be as set out below, subject to the Chair making such changes as he or she thinks fit in order to ensure a fair and efficient hearing. The hearing should be kept as informal as it appears appropriate. There will be three possible stages to a hearing :

Stage 1 of the hearing - Preliminary Procedural Issues.

The Chair will welcome everyone and ensure that everybody present has been introduced. He/she will explain the practical arrangements for the day and will then explain the steps to be taken during the hearing itself.

There will be an opportunity first of all for the Committee to resolve any issues that have arisen regarding the way the hearing should be conducted, including :

- Whether public and press should be excluded from the hearing or parts of it.
- Any matters that have come to the Committee's attention after the agenda was prepared.
- Whether the hearing should proceed in the absence of any party.
- If the Member or the Investigating Officer is not present, or represented, at the hearing, the Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence hear and decide the matter in the party's absence. Alternatively it may adjourn the hearing.
- If the Standards Committee is satisfied (after receiving a medical certificate) that any party is unable, through sickness, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter

Stage 2 of the hearing – Deciding whether the Member has breached the Code of Conduct

The Committee will have to decide on any disputed facts and whether what took place constituted a breach of the Code of Conduct by the Member.

General Rules of Procedure

- Members of the Committee can ask questions of anybody present, at any time.
- No cross-examination by the parties will be allowed, but questions can be directed through the Chair.
- The Committee will decide factual evidence on the balance of probabilities.
- If any new matter or evidence is raised that could have been raised during the 'pre-hearing' process, the assumption will be that it should not be allowed unless there is good reason to do so.

The procedure will be as follows:

- The Investigating Officer will be invited to present his/her report.
- He/she may call witnesses to give evidence, with the Committee's permission.
- The Committee may ask questions to the Investigating Officer and/or any witnesses.
- The Member may ask questions (through the chair) to the Investigating Officer and/or any witnesses.

- The Member will be invited to present his/her case
- He/she may call witnesses to give evidence, with the Committee's permission
- The Committee may ask questions to the Member and/or any witnesses.
- The Investigating Officer may ask questions (through the chair) to the Member and/or any witnesses.
- The Investigating Officer and the Member will be given an opportunity to sum up.

- The Committee will retire to consider its decision.
- If the Committee decides that the Member has breached the Code it will consider generally what kind of sanction would be appropriate in the circumstances.
- If the Committee decides that the member did not breach the code of conduct, it can still consider whether or not to make general recommendations to the Council to avoid similar situations arising in the future.
- Once the decision is reached and the meeting reconvened, the Chairman will announce the Committee's decision.

Stage 3 of the hearing – Deciding what action should be taken.

If the Committee decides that a member has breached the code:

- The Chair will give an indication of the kind of sanction the Committee is considering and will invite representations from the parties.
- The Committee will retire to consider whether the member should be punished, and if so, what punishment should be imposed, and if there are any general recommendations that should be made to the Council.
- In respect of imposing a sanction, the Committee will decide either that:
 - (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct,
 - (b) the Member should be censured or
 - (c) the Member should be suspended or partially suspended from being a member or co-opted member of his or her authority for a period not exceeding six months,
- Once a decision is made and the meeting reconvened the Chairman will announce the decision.

After the Hearing

13. A written decision will be provided in the form of a Decision Notice shortly after the hearing.
14. The Committee shall cause to be produced and distributed a report on the outcome of the investigation in accordance with the Regulations. The Monitoring Officer on receipt of the report shall publish the report as required by the Regulations.

Gwynedd Standards Committee Hearing Questionnaire

Compliant made against: [name and authority]

Ombudsman's Case Reference: []

1.	<p>Do you intend to attend the Standards Committee to be held on [date of hearing] ?</p> <p>Yes / No</p> <p>If not, please explain why:</p>
2.	<p>Are there any matters in the Ombudsman's Report with which you disagree?</p> <p>Yes / No</p> <p>If so, please note what they are:</p>

3.	<p>Do you wish to submit any representations or documents to the Committee?</p> <p>Yes / No</p> <p><i>*Any representations or documents should be submitted to the Monitoring Officer when returning this questionnaire, or by [two weeks before hearing] at the latest. Late evidence will not be allowed to be presented unless there is good reason for doing so.</i></p> <p>If possible list the documents below:</p>
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<p>4.</p>	<p>Will you be asking any witnesses to speak on your behalf at the hearing?</p> <p>Yes / No</p> <p>If you are, please note who they are and on which points they will be speaking.</p>
<p>5.</p>	<p>Do you believe that any parts of any documents that will be before the Committee should be kept from the public or that any part of the hearing should be held in private?</p> <p>Yes / No</p> <p>If you do, please explain the reasons:</p>

6.	<p>Will anyone be presenting your case on your behalf?</p> <p>Yes / No</p> <p>If so, please give their name(s) and confirm whether or not they are a solicitor or barrister:</p>
7.	<p>If you are to be represented by a solicitor/barrister, do you wish to make an application for an indemnity under the Council's policy? (See attached document for details of the policy).</p> <p>Yes / No</p>
8.	<p>Do you or your representatives or witnesses have any access problems or any other requirements (e.g. wheelchair access?)</p> <p>Yes / No</p> <p>If so, please provide details</p>

Signed..... **Dated**.....

Please complete this questionnaire and return it to: The Monitoring Officer, Gwynedd Council, Stryd y Jêl, Caernarfon, Gwynedd, LL55 1SH