

REPORT OF MONITORING OFFICER

SUBJECT: ANNUAL REPORT 2021/22

Terms of reference of the Standards Committee

- (a) to keep under review the Authority's Code of Conduct and to make recommendations to the Authority as to any changes it considers desirable;
- (b) to monitor the operation of the Authority's Code of Conduct;
- (c) to provide advice and training for Members of the Authority on matters relating to its Code of Conduct;
- (d) to consider any reports relating to Members of the Authority issued by the Monitoring Officer under Section 70 (4) or by the Local Commissioner for Wales under Section 71 (22) (b) of the Local Government Act 2000 and any recommendations of the Adjudication Panel for Wales and to take such action thereon as it considered appropriate;
- (e) to receive and take action on any reports issued to it by a Case Tribunal under Section 79 of the Act;
- (f) to consider and make recommendations to the Authority as to the actions which should be taken on any report from a Case Tribunal under Section 80 of the Act;
- (g) to consider requests from Members of the Authority for dispensations under the Standards Committee's (Grant of Dispensations) (Wales) Regulations 2001,
- (h) the monitoring of the Authority's complaints procedure in relation to allegations of maladministration and the making of recommendations thereto and
- (i) to make recommendations to the Authority from time to time with regard to any proposed additions to or revisions of these Terms of Reference.

Coronavirus

As anticipated at the last annual meeting of the Standards Committee on 24th February 2021 the current arrangements for the holding of meetings remotely are continuing for the time being at least. Whilst there seems to be a desire for some meetings particularly the meetings of the Development Management Committee to revert to face to face meetings there seems to be a general consensus that virtual meetings are useful and effective particularly when the technology is improving all the time and Members have become familiar with it.

Training

Training on the procedure to be adopted when applying for a dispensation followed the last annual meeting of this Committee on the 24th February 2021.

On 1st October 2021 a training seminar was presented by Mrs Bethan Evans, a very experienced and well regarded external training consultant. The topics covered were wide ranging and included a section on the procedure to be adopted if the Ombudsman referred a complaint back to the Standards Committee for resolution which had been highlighted as a training need at a previous meeting. The seminar was well received by all attending Members.

Going forward, with the local government elections in May this year we have arranged joint training between the NPA and Pembrokeshire County Council for new Members on the code of conduct but it is intended that the training will be available to all Members including the independent members of the Standards Committee. I understand that the event will be on the 17th May 2022 and will again be presented by Mrs Bethan Evans.

I had hoped to be able to update Members on training to be provided by the Complaints Standards Authority but although there is a section on their website alluding to training for organisations they are not yet able to offer it and there is no indication when that situation might change. Accordingly the review of the complaints procedure is still outstanding but it is intended to defer that until the recommendations made in the report provided for the Welsh Government by Mr Richard Penn have been consulted upon and implemented. I have included a section on this report later.

Referrals from the Ombudsman

I have received no referrals from the Ombudsman to instigate an investigation by the Standards Committee in the past year since the last meeting of this Committee.

Local resolution Protocol

I have received no Member to Member complaints so the local resolution protocol has not had to be invoked.

Complaints

In my last report I anticipated that Judicial Review proceedings were likely to be launched with regard to an application for planning permission which was refused by the Development Management Committee. However no letter before action was received nor any proceedings issued, and the time limits for taking such action have long since expired. I have spoken with the Director of Planning and Park Direction and have been advised that no applications for judicial review are anticipated at the present time.

I am currently dealing with one complaint which includes a possible allegation of a breach of the code of conduct but complaints in the past year have related primarily to planning issues and the way in which applications have been dealt with and progressed and issues relating to enforcement of alleged breaches of planning control.

At present there are no discernible trends which might need addressing.

Dispensations

No applications for dispensations have been received from Members in the current year.

However Members will be aware of the general dispensation given to those Members who are also County Councillors at Pembrokeshire County Council (PCC). This was granted on 28th June 2017 and enables Members to take part in matters under discussion which relate to PCC although of course the dispensation does not relieve Members of their duty to comply with the Code of Conduct.

This dispensation runs until the local government elections on the 5th May 2022. It will need to be renewed from the date Members are appointed to the NPA. Accordingly the Committee is invited to agree to renew the dispensation and a recommendation to that effect is contained in the appropriate section later in this report.

Independent Review of the Ethical Standards Framework

The current ethical standards framework was largely created by the Local Government Act 2000.

In 2021 the Welsh Government commissioned Richard Penn a former Chief Executive of a large unitary authority to review the framework. He consulted widely including speaking with me on 2nd June 2021 and has reported in accordance with his terms of reference. His report has been published by Welsh Government who have committed to considering his findings and consulting on their implementation.

The report concludes that the current arrangements remain fit for purpose but recommends some changes to the Framework including the Model Code of Conduct. In particular it recommends that the current duties could be strengthened by specific reference to the Equalities Act 2010 and the financial threshold for the declaration of gifts and hospitality should be prescribed in the Code to provide a consistent approach. The review also recommends that the Code should expressly exclude the need to include disclosure of home addresses in the register of interests on the grounds of security. It also recommends that Members / Councillors should be under a duty to self-report to the Ombudsman if they are guilty of criminal behaviour. Mandatory training for Members is also recommended.

The Minister of Finance and Local Government will now consider those recommendations with a view to changing the Model Code of Conduct prior to the elections in May 2022.

In the longer term there are recommendations to review the wider ethical framework by granting increased powers for the Ombudsman to refer complaints for local investigation and resolution (in effect a filtering process) first before being considered by the Ombudsman. Further that the Ombudsman could be given greater powers to enable him to refer some of the less serious complaints back to Monitoring Officers for local investigation and reporting to Standards Committees. The powers of those Committees would also be extended to require Members to apologise and to undertake further training. This would represent a significant change to the previous regulatory framework and could potentially have resource implications for the NPA. One proposal which has been raised with the Chairman of the Standards Committee

is the suggestion of the creation of a National Forum for Independent Members of Standards Committees. This may be a useful forum for Independent Members to discuss any unusual situations which may arise, particularly looking forward if the role of Standards Committees were to be extended as recommended in the report.

[Independent Review of the Ethical Standards Framework in Wales](#)

Annual report of the Ombudsman

[Annual Report and Accounts 2020-21 - Delivering-Justice](#)

There were two complaints relating to NPAs and Fire Authorities.

There has been a general reduction in complaints but Code of Conduct complaints have increased to 14% of the total which is an increase of 47% compared to last year, although there have been 11% fewer complaints about local authorities. It is suspected that Town and Community Councils are still generating a disproportionate number of Code of Conduct complaints.

The spread of complaints from 2019/ 20 to this year is very similar with complaints regarding planning and building control being 7% in both years.

The Code of Conduct breaches showed again that complaints about the promotion of equality and respect accounted for 55% of complaints followed by 14% (from 17%) relating to disclosure and registration of interests. Incidentally there were 36 complaints about one County Councillor.

3%, from 2% of complaints relating to the Code of Conduct were referred to local Standards Committees.

The Ombudsman no longer provides a separate section for summaries of Code of Conduct complaints. However having reviewed the case book I could find no Code of Conduct matters but quite a number relating to planning and in particular the handling by local authorities of enforcement of breaches of planning control many of which concerned delay. I note that the NPA is currently seeking to recruit a Senior Enforcement Officer.

RECOMMENDATIONS:

- 1. That this report is noted.**
- 2. That the general dispensation granted to Local Authority Members on 28th June 2017 be renewed from the date of their appointment to the NPA to the next local authority elections in 2027.**
- 3. That Members authorise the NPA to support the creation of a forum for Independent Members of the Standards Committee.**

Author: Michael Kent, Monitoring Officer