

Public Document Pack
Bridgend County Borough Council
Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr



Civic Offices, Angel Street, Bridgend, CF31 4WB / Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB

Legal and Regulatory Services /
Gwasanaethau Cyfreithiol a Rheoleiddiol
Direct line / Deialu uniongyrchol: 01656 643385
Ask for / Gofynnwch am: Andrew Rees

Our ref / Ein cyf:
Your ref / Eich cyf:

Date / Dyddiad: Dydd Gwener, 20 Mawrth 2015

Dear Councillor,

STANDARDS COMMITTEE

A meeting of the Standards Committee will be held in Committee Rooms 2/3, Civic Offices Angel Street Bridgend CF31 4WB on **Dydd Iau, 26 Mawrth 2015 at 2.00 pm.**

AGENDA

1. Ymddiheuriadau am absenoldeb
To receive apologies for absence (to include reasons, where appropriate) from Members / Officers).
2. Datganiadau o fuddiant
To receive declarations of personal and prejudicial interest (if any) from Members / Officers in accordance with the provisions with the Members' Code of Conduct adopted by Council on 1 September 2008.
3. Cymeradwyaeth Cofnodion 3 - 4
To receive for approval the minutes of the Standards Committee of 16 January 2015.
4. The Code Of Conduct For Local Authority Members - Public Interest Test 5 - 10
5. Schedule of Standards Committee Meetings 11 - 12
6. Materion Brys
To consider any any item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council's Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter urgency.
7. Exclusion of the Public
The report relating to the following item is not for publication as it contains exempt information as defined in Paragraph 12 of Part 4 and Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government

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(Access to Information)(Variation)(Wales) Order 2007.

If following the application of the public interest test the Committee resolves pursuant to the Public Document Pack Act to consider this item in private, the public will be excluded from the meeting during such consideration.

8. Shortlisting Of Candidates for the Position of Town & Community Councillor and Independent Member on the Standards Committee 13 - 48

Yours faithfully

P A Jolley

Assistant Chief Executive Legal and Regulatory Services

Distribution:

Independent Members:

Mr J Bevan

Mrs B Heller

Ms M Powell *

Town and Community

Councillors:

Councillor R J Hancock

County Borough Councillors:

Councillor R D Jenkins

Councillor D R W Lewis

Town and Community

Councillors:

Councillor R J Hancock

MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD IN COMMITTEE ROOMS 2/3, CIVIC OFFICES ANGEL STREET BRIDGEND CF31 4WB ON FRIDAY, 16 JANUARY 2015 AT 2.00 PM

Present:

Independent Members

Ms M Powell - Chairperson
Mrs B Heller

County Borough Council Members:

Councillor R D Jenkins
Councillor D R W Lewis

Town and Community Council Member:

Councillor R J Hancock

Officers:

Andrew Jolley	Assistant Chief Executive Legal & Regulatory Services and Monitoring Officer
Laura Griffiths	Senior Lawyer
Andrew Rees	Senior Democratic Services Officer Committees

69. APOLOGIES FOR ABSENCE

Apologies for absence were received from the following Member of the Committee:

Mr J Bevan – Family Commitment.

70. DECLARATIONS OF INTEREST

None.

71. APPROVAL OF MINUTES

RESOLVED: That the minutes of the meeting of the Standards Committee of 31 July 2014 be approved as a true and accurate record subject to the word 'Member' being amended to 'Members' in the 5th paragraph of Minute No. 68 – Ombudsman Litigation – Heeson v Public Services Ombudsman for Wales.

72. APPOINTMENT OF MEMBERS

The Monitoring Officer reported on proposals to appoint members to fill vacancies that have arisen on the Standards Committee, namely one vacancy for an Independent Member and one vacancy for a Town and Community Council Member.

He reported that for the vacancy for the Town and Community Council representative that he write to all Town and Community Councils inviting expressions of interest from their membership and following the closing date invite candidates for interview by a Special Panel appointed by the Committee.

The Monitoring Officer reported that for the vacancy for the Independent Member the usual process of advertisement would be followed and the Special Panel will meet to consider applications and conduct interviews. Following the interviews, the Panel will make a recommendation on the appointment to Council.

RESOLVED: That the report be noted and the vacancies be also advertised on the Council's website.

73. **GUIDANCE ON THE CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS - PUBLIC INTEREST TEST**

The Monitoring Officer reported on proposals made by the Ombudsman to revise the Guidance on the Code of Conduct for Local Authority Members.

He stated that in determining whether to investigate a complaint regarding a Member or whether to continue an investigation of a breach of the Code of Conduct to the stage of referring the matter to the Adjudication Panel or a Standards Committee, the Public Services Ombudsman for Wales has applied a two stage test. The first stage is to establish whether there is evidence that a breach of the Code actually took place and the second test is whether the breach alleged would be likely to lead to a sanction.

The Monitoring Officer informed the Committee that whilst the local resolution processes appeared to have had the effect of resolving low level code of conduct complaints, the Ombudsman remained concerned at the number of frivolous, trivial and vexatious complaints received. To this end, the Ombudsman proposed a further public interest test is considered when deciding whether to investigate a complaint or whether to continue an investigation of a breach of the Code to the stage of referring the matter to the Adjudication Panel for Wales. The proposed new test would be incorporated into the Ombudsman's revised Guidance on the Code of Conduct for Local Authority Members and the Ombudsman had welcomed feedback on the proposal.

The Committee considered that it would be preferable for the second stage to be removed and by adding a third stage it would delay the time taken to deal with complaints of breaches of the Code of Conduct.

RESOLVED: That the Monitoring Officer write to the Ombudsman requesting the removal of the second stage of the test.

74. **OMBUDSMAN CODE OF CONDUCT CASEBOOK**

The Monitoring Officer reported on a summary of cases which had been undertaken by the Ombudsman's office from the April – September 2014. The casebook contained summaries of cases for which hearings by Standards Committees or the Adjudication for Wales had been concluded and the outcome of the hearing was known.

RESOLVED: That the report be noted and the Monitoring Officer be requested to send a copy of the Ombudsman Code of Conduct Casebook and the Guidance on the Code of Conduct for Local Authority Members – Public Interest Test to the Clerks of Town and Community Councils requesting they bring the matters to the attention of their Members at their next meetings.

The meeting closed at 2.25 pm

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT TO THE STANDARDS COMMITTEE
26 MARCH 2015

REPORT OF THE MONITORING OFFICER

THE CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS – PUBLIC INTEREST TEST

1. Purpose of Report

- 1.1 The purpose of the report is to inform Members of the Ombudsman's new public interest test.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 There are no direct links to the Corporate Improvement Plan / Other Corporate Priority.

3. Background

- 3.1 On 16th January 2015 the Committee received a report informing them of proposals made by the Ombudsman to revise the Guidance on the Code of Conduct for Local Authority Members.
- 3.2 The Ombudsman had proposed that a further public interest test be considered when deciding whether to investigate a complaint or whether to continue an investigation of a breach of the Code to the stage of referring the matter to the Adjudication Panel for Wales.
- 3.3 The Monitoring Officer provided feedback to the Ombudsman's Office regarding the proposal to revise the Guidance on the Code of Conduct for Local Authority Members. A copy of the Monitoring Officer's letter is attached as **Appendix 1**.

4. Current situation / proposal

- 4.1 The Ombudsman's Office has now issued the new test (**Appendix 2**) which has changed as a result of the comments received from Monitoring Officers. The main change is that the issue of whether a sanction is likely to be applied has been rolled into the second stage test, as one of the public interest factors to be weighed up.
- 4.2 The Ombudsman has also determined that if it is felt that no sanction is likely, he will not refer cases to the Monitoring Officer.

5. Effect upon Policy Framework & Procedure Rules

- 5.1 There is no impact on the policy framework and procedure rules.

6. Equality Impact Assessment

6.1 There are no equality implications.

7. Financial Implications

7.1 There are no financial implications.

8. Recommendation

8.1 The Committee is recommended to note the report.

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Assistant Chief Executive Legal and Regulatory Services

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CF31 4WB

Background Documents

None

Bridgend County Borough Council

Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr



Civic Offices, Angel Street, Bridgend, CF31 4WB / Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

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Gwasanaethau Cyfreithiol a Rheoleiddiol
Direct line / Deialu uniongyrchol: (01656) 642252
Ask for / Gofynnwch am: Andrew Jolley

Our ref / Ein cyf: PAJ
Your ref / Eich cyf:

Date / Dyddiad: 28th January 2015

Dear Sir

RE: CONSULTATION ON CHANGES TO THE TWO STAGE TEST

The Standards Committee of Bridgend County Borough Council has considered the proposal to add a public interest test to the existing two stage test. The Committee has requested that I write to you expressing their agreement to the use of the public interest test. The committee remains concerned however in relation to the second limb of the now three stage test. The committee would prefer a simple two stage test of 1. Is there a breach and 2. Is it in the public interest to proceed.

You will be aware of the concern across Wales of this limb of the test. The committee remains concerned that it is their role to determine whether or not a sanction should apply and that consideration should be left to the committee. The public interest test should be sufficient to weed out the vexatious and frivolous complaints.

I am aware that you sought quick responses to the proposal and I apologise if this response is later than you wished for. The matter has been put to the earliest committee.

Yours sincerely

P. A. Jolley
Assistant Chief Executive
Legal & Regulatory Services & Monitoring Officer

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It is my role as Public Services Ombudsman to investigate complaints that members of local authorities in Wales have breached the Code. In determining whether to investigate a complaint; or whether to continue an investigation of a breach of the Code to the stage of referring the matter to the Adjudication Panel for Wales ("the Adjudication Panel) or a standards committee I apply a two stage test: first, the evidential test; followed by the public interest stage test.

The first evidential test is whether there is evidence that a breach of the Code actually took place. If that evidential test is met and there is evidence of a breach I then go on to consider whether an investigation or a referral to the Adjudication Panel or a standards committee is required in the public interest.

When applying the public interest test I consider each of the following public interest factors set out below. These factors are not exhaustive, and not all may be relevant in every case. The weight to be attached to each of these factors, and the factors identified, will also vary according to the facts and merits of each case.

- the seriousness of the breach, for example, has the member brought their authority seriously into disrepute? The more serious the breach the more likely investigation and referral for further hearing is required.
- has the member deliberately sought personal gain at the public expense? If there is evidence of this I am likely to investigate and refer the matter for further hearing.
- are the circumstances of the breach such that a member has misused a position of trust or authority and caused harm to a person? If there is evidence of this I am likely to investigate and refer the matter for further hearing.
- was the breach motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity? If a member's conduct is motivated by any form of discrimination I am likely to investigate and refer the matter for further hearing.
- is there evidence of previous similar behaviour on the part of the member? If so and the matter complained about is serious enough I am likely to investigate and refer the matter for further hearing.
- is the breach such that an investigation or referral to the Adjudication Panel for Wales or a standards committee is required to maintain public confidence in elected members in Wales? If so I am likely to investigate and if evidence of a serious breach is found refer the matter for further hearing.
- is investigation or referral to the Adjudication Panel for Wales or a standards committee a proportionate response? namely:
 - is it likely that the breach would lead to a sanction being applied to the member? I will take account of the outcomes of previous cases considered by

the Adjudication Panel for Wales and standards committees across and decide accordingly.

- would the cost of an investigation or hearing by the Adjudication Panel for Wales or a standards committee be regarded as excessive when weighed against any likely sanction?

My role is to investigate serious cases in order to maintain public confidence in standards in public life. If I am not satisfied that an investigation or referral to the Adjudication Panel or standards committee is proportionate in the circumstances I will decline to investigate or if, having started any investigation this becomes apparent, I will close my investigation.

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT TO THE STANDARDS COMMITTEE
26 MARCH 2015

REPORT OF THE MONITORING OFFICER

SCHEDULE OF STANDARDS COMMITTEE MEETINGS

1. Purpose of Report

1.1 The purpose of the report is to seek approval for the schedule of meetings for the period June 2015 to March 2016.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

2.1 The Corporate Plan identifies the need for Committees to improve equality of access and the communication of the outcome of their meetings.

3. Background

3.1 Agreement for the schedule of meetings will allow internal management planning for the production and presentation of reports and inform the general public of the future dates of meetings.

4. Current situation / proposal

4.1 The proposed schedule of meetings for the period outlined in paragraph 1.1 above is as follows:

- Thursday 18 June 2015
- Thursday 17 September 2015
- Thursday 17 December 2015
- Thursday 17 March 2016

4.2 The meetings proposed above are planned to be held in Committee Rooms 1, 2 and 3, commencing at 2.00pm.

5. Effect upon Policy Framework & Procedure Rules

5.1 There is no impact on the policy framework and procedure rules.

6. Equality Impact Assessment

6.1 There are no equality implications.

7. Financial Implications

7.1 There are no financial implications.

8. Recommendation

8.1 Members are requested to note the report.

Contact Officer: P A Jolley
Assistant Chief Executive Legal and Regulatory Services

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Background Documents

None

By virtue of paragraph(s) 12 of Part 4 of Schedule 12A of the Local Government Act 1972.

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of the Local Government Act 1972.

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