

STANDARDS COMMITTEE – 15TH OCTOBER 2008

**REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES
AND MONITORING OFFICER**

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SECTION 1 – PART A – ITEMS 1 AND 2

1. Training for County Borough Council Councillors and Co-opted Members and for Members of Town and Community Councils

- 1.1. One of the statutory functions which the Standards Committee and Monitoring Officer have is to ensure that appropriate training is available to those who must comply with the Code.
- 1.2. Training sessions have already been provided for County Borough Councillors and co-opted Members of the County Borough. Many Members will be familiar with the old Code of Conduct and will have had many and diverse calls on their time in the first few months of the new Council. Accordingly while we have achieved quite good coverage of the Members there are further Members who have not as yet attended training sessions. In the recommendation at the end of this report, I address the issue of further training within the County Borough Council itself.
- 1.3. The other issue which arises is training for Members of Town and Community Councils throughout the County Borough. There are a total of nineteen Town and Community Councils in the former Neath Borough and Lliw Valley Borough areas of the County Borough but none in the former Port Talbot area. The previous Monitoring Officer had tried to make a point of visiting Town and Community Councils to speak about the Code but this exercise was never fully completed for two reasons. Firstly, these Councils tend to meet in the evenings and there were difficulties in covering them all and, secondly, the training sessions tended to displace the Council's business that evening due to the length of the session itself.
- 1.4. The Public Services Ombudsman for Wales has emphasised the benefits of training for Town and Community Councils and I would therefore put the following recommendations to you. I would have thought that the most efficient way of addressing the issue is to run a series of training sessions at two accessible locations in Neath Town Centre and Pontardawe to serve the Town and Community Councils throughout the area. I would consult with the Clerks to the Town and Community Councils to see whether they would find this beneficial.
- 1.5. **Recommendation**
 - 1.5.1. That further training sessions be held for Councillors and co-opted Members of Neath Port Talbot County Borough Council to cover any Members who have not already received training.

1.5.2. That the Monitoring Officer approach the Clerks to the Town and Community Councils offering training sessions at Neath Town Centre and Pontardawe. The number of sessions and timing to reflect the response received.

2. **Grant of Dispensations under Section 81(4) Local Government Act 2000**

2.1. **General**

2.1.1. Under Section 81(4) of the Local Government Act 2000 Standards Committees may grant dispensations to a Member of a relevant authority (including a Community Council) allowing the Member to participate in any business where that participation would otherwise be prohibited by the mandatory provisions of the Members' Code of Conduct.

2.1.2. The National Assembly for Wales in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (SI No: 2279) sets out the circumstances in which these dispensations may be granted. The Standards Committee may only grant dispensations in the circumstances set out in the Regulations. In the report which follows, I set out the circumstances or grounds on which dispensations may be granted in each case.

2.1.3. The form of the report will generally set out the dispensation, the circumstances in which it may be granted, details of the applicant for the dispensation and whether it is a re-application or a new application.

2.1.4. I will first deal with dispensations relating to employment issues if any have been received by the date of the meeting.

2.1.5. Under Paragraph 18 of The Code of Conduct (and the relevant Regulations) The Standards Committee may not consider granting a dispensation to an individual Member unless the Member seeking it has previously notified the Monitoring Officer of that interest together with the relevant details.

2.1.6. In accordance with previous practice, it is suggested that all dispensations be granted until the end of August 2009 in order to ensure that they all come up for renewal at the same time.

2.1.7. Many dispensations previously granted to cover School governorships and appointments to outside bodies are now no longer relevant due to changes in the Code.

2.2. **Employment**

- 2.2.1. Council is probably the largest employer in the County Borough. Hence, it is not uncommon for both Officers and Members to have family members employed by Council. Unfortunately, this can cause some problems in dealing with Council business especially for members who have to act under the Members' Code of Conduct. There is often disruption particularly in full Council Meetings when Members make declarations of interest in this respect.
- 2.2.2. The form of application for dispensation is intended to try to cover the situation when, although strictly required in law under the Members' Code of Conduct, serial declarations affect the smooth running of Committee business in circumstances where the general public would not draw any inference from the relationships being declared.
- 2.2.3. Often Members have family whose employment position within the organisation puts them far away from the ability to influence Council Policy and are certainly not considered decision makers. Sometimes, family members are in relatively low paid jobs which are part time or temporary in nature.
- 2.2.4. Hence all the applications for dispensations request the ability to speak and vote on issues relating to the business of Neath Port Talbot County Borough Council, including personnel matters, when the same do not directly financially advantage or disadvantage, or give other direct benefit or dis-benefit to a member of a Councillor's family who is employed by Council. The reasons given for this is that the person employed is not a senior manager of Council (i.e. by that I mean not an Accountable Manager or above) and is not charged with being involved in assisting with the determination of Council Policy.
- 2.2.5. The Member using the form appreciates that the dispensation cannot be used if the matter under consideration would confer a greater benefit on the employed family member than on other tax payers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect the Member's ability to act purely on the merits of the case and in the public interest if the Member were to take part in the discussion.

2.3. **Standard form of Dispensation**

- 2.3.1. “To speak and vote on issues relating to the business of Neath Port Talbot County Borough Council including relevant personnel matters which do not directly financially advantage or disadvantage or give other direct benefit or disbenefit to a Member or the Member’s family who is employed by the County Borough Council provided that the employment is not as a senior manager nor is it involved in assisting with the determination of Council policy. This dispensation will not apply in circumstances where a member of the public might reasonably conclude that the employment would significantly affect the Councillor’s ability to act purely on the merits of the case and in the public interest.”

Note: A Senior Manager is an officer or Accountable Manager or equivalent and above.

2.4. **Circumstances for granting the Dispensation**

- 2.4.1. The circumstances are:-

“(d) the nature of the Member’s interest is such that the Member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business”

- 2.4.2. Note: this paragraph derives from Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and was the circumstance under which applications for dispensations of this sort were previously approved.

2.5. **Grant of Dispensations under Section 81(4) Local Government Act 2000**

2.5.1. **Employment**

2.5.2. **Applications**

- 2.5.2.1. I have received an application for dispensation as listed below setting out the circumstances of employment. The application in this case is to speak and vote.

2.5.2.1.1. **Councillor Mrs. B. Richards**

Her son and his partner are employed by Neath Port Talbot County Borough Council as Accounts Clerks in the Directorate of Environment.

2.6. **Reapplications**

Dispensations previously granted for which reapplications are now made are listed below setting out the circumstances of employment in each case. The applications in all cases are to speak and vote.

2.6.1. **Councillor Mrs. M. A. Lewis**

- 1) Her Niece is employed by Neath Port Talbot County Borough Council as a Physical Education Teacher in the Directorate of Education, Leisure and Lifelong Learning.
- 2) Her Daughter-in-law is employed by Neath Port Talbot County Borough Council as a support teacher in the Directorate of Education, Leisure and Lifelong Learning.

2.6.2. **Councillor A. Llewelyn**

His wife is employed by Neath Port Talbot County Borough Council as a Teacher in the Directorate of Education, Leisure and Lifelong Learning.

2.6.3. **Councillor Dr. D. Morgan**

His wife is employed by Neath Port Talbot County Borough Council as a Teaching Assistant in the Directorate of Education, Leisure and Lifelong Learning.

2.7. **Recommendation**

That the applications be granted in the form set out in Clause 3.3.1. until the end of August 2009.

2.8. **Officer Contact**

For further information on this report please contact:-

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SECTION 1 – PART B – ITEM 3

3. Association of County Secretaries and Solicitors Standards Conference September 2008.

- 3.1. On 12th September the Association of Council Secretaries and Solicitors Standards Conference was held at Aberystwyth.
- 3.2. This is an annual conference for Monitoring Officers and Chairs and Vice Chairs of Standards Committees in Wales. A variety of different speakers of some seniority addressed the conference during the day and a number of interesting points of debate arose.
- 3.3. After the formal speeches of welcome the conference was addressed by Sir Christopher Kelly who is presently Chair of the Committee on Standards in Public Life (originally known as the Nolan Committee). Although the Committee has no role in considering individual complaints, it has an overall advisory role regarding standards of public life. Sir Christopher touched on various current issues in his address. Reflecting his wide advisory remit, he dealt with the issues as various as electoral registration and the impact of freedom of information legislation on conduct and accountability in public life. He referred to a survey of public perceptions of standards which indicated that further work needed to be done to improve the perception of standards in public life.
- 3.4. Mr. Peter Davies president of the Adjudication Panel for Wales then addressed the conference. The Adjudication Panel is the body to which the Ombudsman may refer cases of breaches of the Code of Conduct. The other alternative for the Ombudsman is to refer cases to the appropriate Monitoring Officer and Standards Committee. The difference between the two approaches is the sanction which may be applied by the Adjudication Panel and that which may be applied by the Standards Committee. Mr. Davies spoke to a set of statistics which I reproduce at Annex 1.
- 3.5. Mr. Anthony Porten QC addressed the conference on a comparatively recent Court of Appeal case involving Neath Port Talbot County Borough Council and also spoke at length about personal and prejudicial interests comparing and contrasting the approach in the English and Welsh Codes. Mr. Porten particularly noted provision in the Welsh Code to which I have drawn your attention in my initial training session. That relates to potential conflict between a Member's decision making role and his or her role as a local Member. Some useful comment was made about how this provision had initially got into the Code.

- 3.6. Conference was also addressed by Mr. Peter Tyndall who is the Public Services Ombudsman for Wales. Mr. Tyndall spoke about his role in implementing and interpreting the new Code of Conduct and reflected on the type of complaints brought before the Ombudsman.
- 3.7. The Conference concluded with three Monitoring Officers sharing their experience of the new Code together with some workshop sessions on particular issues.

CASES DEALT WITH BY APW 2007-2008

AUTHORITY	ALLEGED BREACHES (2001 CODE)	SANCTION
Pembrokeshire National Park (010/2005)	7(a) Misuse of position (No breach) 10 Failure to disclose personal interest (No breach) 15(2) Failure to disclose personal interest and/or withdraw (No breach)	No action
Ynys Môn County Council (004/2005)	7(a) Misuse of position (No breach) 8(a) Failure to reach decision on merit and in the public interest (No breach) 15(3) Failure to disclose personal interest and/or withdraw (partial breach)	No action
St Brides Major Community Council (006/2006)	5(1)(b) Bringing office/authority into disrepute 15(3) Failure to disclose personal interest and/or withdraw	Suspension 6 months
Sully Community Council (007/2006)	5(1)(b) Bringing office/authority into disrepute	Suspension 6 months
City & County of Swansea (001/2007)	4(a) Failure to show respect 5(1)(b) Bringing office/authority into disrepute 7(c) Misuse authority's resources 8(d) Failure to lead by example	Disqualification 2 years 6 months
Merthyr Tydfil County Borough Council (004/2007)	5(1)(b) Bringing office/authority into disrepute 7(a) Misuse position 15(2) Failure to disclose personal interest and/or withdraw	Disqualification 12 months
Conwy County Borough Council (003/2007)	4(a) Failure to show respect 4(b) Compromising the impartiality of authority's employee 5(a) Disclosure of confidential information (No breach) 5(1)(b) Bringing office/authority into disrepute 7(a) Misuse of position	Suspension 12 months

CASES RECEIVED BY AUTHORITY

COUNTY COUNCILS	COMMUNITY COUNCILS	NATIONAL PARKS
Blaenau Gwent (2)	Aberffraw	Brecon Beacons
Caerphilly	Clydach	Pembrokeshire
Cardiff	Coedfranc	
Conwy	Dunvant	
Flintshire	Llangennith	
Merthyr	St Brides Major (2)	
Monmouthshire	Sully	
Newport	Taffs Well	
Rhondda Cynon Taf		
Swansea (2)		
Ynys Môn		

SANCTIONS – OCTOBER 2002 – MARCH 2008

Disqualification	2 years 6 months	1
	2 years	1
	1 year	1
Suspension	12 months	2
	9 months	2
	6 months	4
	3 months	1
	2 months	2
	1 month	2
Reprimand/Censure	-	2
Breach – no action	-	1

Breakdown of Breaches of the 2001 Code of Conduct

15%	4(a)	Failure to show respect
5%	4(b)	Compromising the impartiality of authority's employee
2%	5(a)	Disclosure of confidential information
10%	6(1)(a)	Criminal convictions
25%	6(1)(b)	Bringing office/authority into disrepute
2%	6(1)(e)	Making vexatious or malicious complaints
10%	7(a)	Misuse of position
2%	7(c)	Misuse of authority's resources
2%	8(a)	Failure to reach decisions on merit and in the public interest
2%	8(b)	Failure to have regard to officer advice
2%	9(d)	Failure to lead by example (local code provision)
20%	16(2) & (3)	Failure to disclose personal interest and/or withdraw
3%	20	Failure to have regard to standard committee advice

ADJUDICATION PANEL ENGLAND

Final Decisions Issued	Length of Sanction	(from Jan '03 to 31.08.08)
Disqualification	5 years	4
	4 years and 6 months	1
	4 years	7
	3 years	9
	2 years	19
	18 months	10
	15 months	5
	1 year	121
	9 months	3
	6 months	7
	5 months	1
	3 months	4
	2 months	2

ADJUDICATION PANEL ENGLAND

Final Decisions Issued	Length of Sanction	(from Jan '03 to 31.08.08)
Suspension	1 year	12
	9 months	7
	6 months	8
	5 months	2
	4 months	4
	3 months	12
	2 months	4
	1 month	4
	19 days	1
	1 week	11
	5 days	1
Partial Suspension		4
Reprimanded		2

THE STANDARDS COMMISSION FOR SCOTLAND

SANCTION	2003/04	2004/05	2005/06	2006/07
Censure	0	2	1	1
Suspension	3	2	4	5
Disqualification	0	0	0	0
TOTAL	3	4	5	6