

STANDARDS COMMITTEE – 26TH NOVEMBER 2010

FINANCE AND CORPORATE SERVICES

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

INDEX OF REPORT ITEMS

PART 1 – Doc. Code: STDS-261110-REP-FS-DM

SECTION B – MATTERS FOR INFORMATION		
Report Items	Page Nos	Wards Affected
1. Complaint of breach of Code of Conduct	2	All
2. Standards Conference Wales 2010	3-9	All
3. Training for Town and Community Councils	10	All
4. Planning Protocol	11	All

ITEM 1
PART 1 SECTION B

COMPLAINT OF BREACH OF CODE OF CONDUCT

On 6th August 2010 the Standards Committee met and received a presentation from Mrs. Katrin Shaw of the Ombudsman's office based on a report issued by the Ombudsman into a complaint of a breach of the Code of Conduct by a Councillor with Cwmllynfell Community Council.

The Standards Committee considered the complaint had been proven and issued a censure to Mr. Page.

I was advised on 3rd September 2010 by the Adjudication Panel for Wales that no appeal had been submitted against the decision of the Standards Committee. Therefore, in accordance with the procedure found in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 I have placed a statutory advertisement in the press and made a copy of the report of the Standards Committee available to the public. The report of the decision has previously been circulated to members of the Committee.

The statutory procedure is now concluded.

Background Papers

Letters received from Members.

Wards Affected

All

Officer Contact

For further information on this report please contact:-
Mr. D. Michael, Head of Legal and Democratic Services and Monitoring Officer Tel. No. 763368 or e-mail d.michael@npt.gov.uk

ITEM 2
PART 1 SECTION B

STANDARDS CONFERENCE WALES 2010

On 14th October 2010, the Chair of the Standards Committee and myself attended the Standards Conference Wales at the City Hall, Cardiff. The Conference consisted of a plenary session during the morning addressed by five speakers, followed by workshop sessions before and after lunch. The Chair and I divided the workshop sessions between us so that four were attended in all. I report below on the content of the Conference, concentrating on any factual content which might shed light on developments in the system in Wales.

Conference was first addressed in the plenary session by Paul Hoey of Standards for England. Members of the Standards Committee may be aware that the Conservative Party had announced its intention, if elected, to abolish the body known as Standards for England. It was assumed by some that, although much of the structure would be dismantled, the statutory Code of Conduct and the Standards Committees would remain. However, it has become clear quickly that the Coalition Government intends to abolish the whole system in England and replace it with a criminal offence of failing to declare an interest. Otherwise, the Government has expressed the view that behaviour short of criminal conduct should be left for the electors to deal with through the ballot box.

Mr. Hoey expressed concerns about lack of national standards in England and questioned whether the police would be geared up to prosecute in cases of non declaration. He highlighted that Standards for England received around 300 complaints a year about failure to declare and said that the Government appeared to be unaware of the frequency with which this issue was raised. He acknowledged, however, that the present system was vulnerable to misuse, and many vexatious tit for tat complaints had been received in the early years of the regime.

* Post Conference Note: the Government is now in discussion with the Local Government Association about a non statutory Code of Conduct “to hold Councillors and Local Authorities to account”. Prior to the introduction of statutory codes in England and in Wales, a non statutory code developed by the LGA was in operation.

Kate Berry, the Monitoring Officer in the City and County of Cardiff, expressed support for keeping the framework in Wales as it stands. She felt that the system would be subject to many stresses and strains over the next few years arising out of reductions in public expenditure leading the public to scrutinise closely local authority decision making in difficult areas.

Jeff Cottrell, Chair of Ynys Mon Standards Committee, spoke about his experiences as a Member of the Standards Committee and outlined recent events in his Authority, including the intervention by the Welsh Assembly Government.

Peter Tyndall, Public Services Ombudsman for Wales, spoke about the number of complaints going through the system in Wales. The number of complaints appeared to be down at the moment. For the first half of this year, he had received 129 complaints compared with 165 over a similar period last year. He had referred 15 cases to the Adjudication Panel for Wales and 9 to Standards Committees. When considering the changes in England, it was interesting to note that Mr. Tyndall acknowledged that there might be need for a debate in Wales about the functioning of the present system. He felt that we needed to ensure that the operation of the system was proportionate to the problem.

Peter Davies, President of the Adjudication Panel for Wales, spoke to the Conference about the decisions of the Adjudication Panel between October 2002 and March of this year. The Panel has two jurisdictions; firstly, acting as Case Tribunal in cases directly referred to it by the Ombudsman and, secondly, as Appeal Tribunal dealing with appeals from decisions of Standards Committees. I reproduce to Committee as an Appendix to this report, Mr. Davies' handout to the Conference. So far the Panel had only dealt with 21 references from the Ombudsman and 8 Appeals from decisions of the Standards Committees. He felt that lessons could not necessarily be learned from the English experience. Scotland had a similar system to Wales and the number of cases referred up was comparable between Wales and Scotland. Mr. Davies also acknowledged that there was a need for a debate about the present system in Wales. On a general note Mr. Davies commented on the increasing use of lawyers before the Adjudication Panel.

Oral accounts of the workshops will be given in the meeting.

Background Papers

Standards Conference documentation.

Wards Affected

All

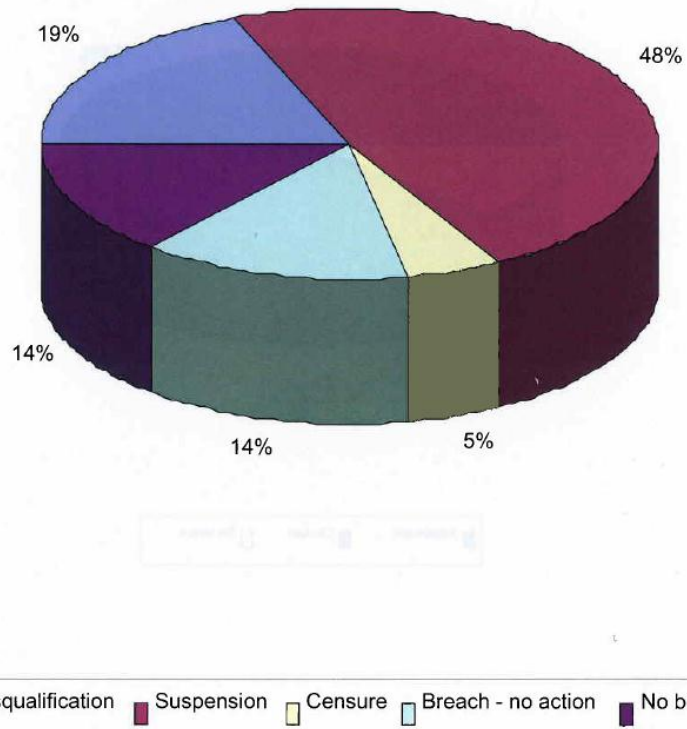
Officer Contact

For further information on this report please contact:-

Mr. D. Michael, Head of Legal and Democratic Services and Monitoring
Officer Tel. No. 763368 or e-mail d.michael@npt.gov.uk

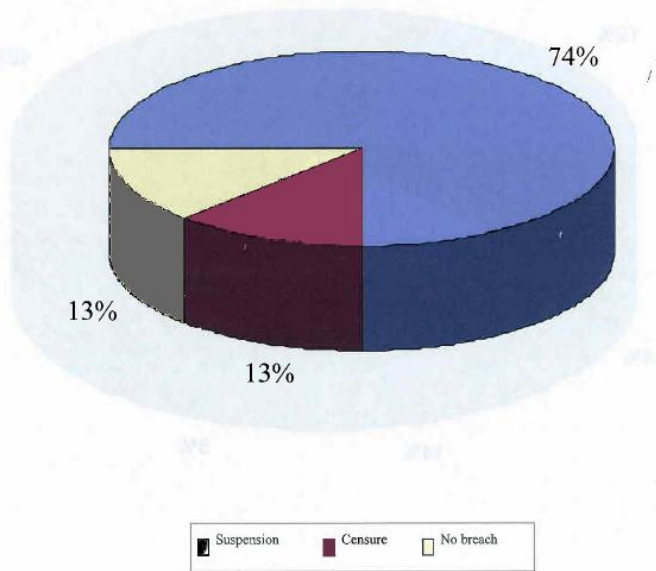
ADJUDICATION PANEL FOR WALES

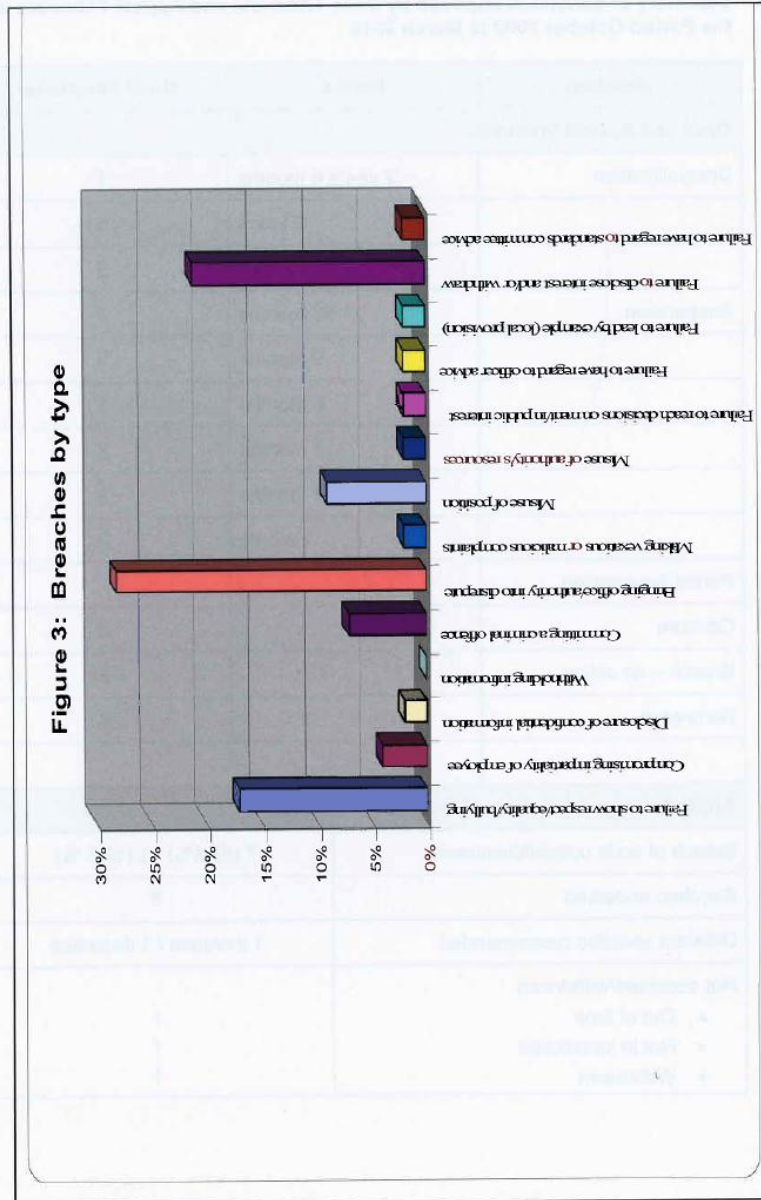
Figure 1: Case tribunal decisions October 2002 to March 2010



a

**Figure 2: Appeal Tribunal decisions –
October 2002 to March 2010**





3

Summary of Sanctions Imposed by Case Tribunals and Appeal Tribunals in the Period October 2002 to March 2010

Sanction	Period	No of decisions
Case and Appeal Tribunals		
Disqualification	2 years 6 months	1
	2 years	1
	1 year	2
Suspension	12 months	3
	9 months	3
	6 months	4
	3 months	2
	2 months	2
	1 month	2
Partial Suspension	-	-
Censure	-	2
Breach – no action	-	3
No breach	-	4
Appeals		
Breach of code upheld/dismissed	7 (87.5%) / 1 (12.5 %)	
Sanction endorsed	5	
Different sanction recommended	1 increase / 1 decrease	
Not accepted/withdrawn		
• Out of time	1	
• Not in jurisdiction	1	
• Withdrawn	1	

ITEM 3
PART 1 SECTION B

TRAINING FOR TOWN AND COMMUNITY COUNCILS

Members will know that I previously undertook training sessions which were available to both Clerks and Members of Town and Community Councils. Not all Community Councils sent representatives to these training sessions. I have noted from the Ombudsman's statements that there seem to be a substantial number of complaints against Members of Town and Community Councils.

I have therefore made arrangements for a training session specifically directed at Clerks of Community Councils. The session will be held at Civic Centre Neath from 4.30 to 6.30 on Thursday the 9th of December.

Further training will be arranged for the new Members of the Standards Committee including substitute Members.

Background Papers

N/A

Wards Affected

All

Officer Contact

For further information on this report please contact:-
Mr. D. Michael, Head of Legal and Democratic Services and Monitoring Officer Tel. No. 763368 or e-mail d.michael@npt.gov.uk

ITEM 4
PART 1 SECTION B

PLANNING PROTOCOL

It is appropriate to notify Standards Committee that the County Borough Council will shortly be invited to look at some amendments to the Planning Protocol. The Planning Protocol supplements the Members' Code in relation to particular aspects of planning law and practice.

The Protocol will be adapted to take into account revisions in England and Wales guidance from professional bodies but will also take into account some parts of the Ombudsman's guidance to Members on the Members' Code of Conduct. Of particular relevance is the question of what is known as "pre-decision" where legal rules about Members keeping an open mind on planning matters cross with particular parts of the Code.

I will speak with members of the Standards Committee generally on this topic at the meeting. My intention is to advise Members of the Standards Committee when the draft is completed and circulate it for individual comment.

Background Papers

Planning Protocol.

Wards Affected

All

Officer Contact

For further information on this report please contact:-
Mr. D. Michael, Head of Legal and Democratic Services and Monitoring Officer Tel. No. 763368 or e-mail d.michael@npt.gov.uk