

STANDARDS COMMITTEE – 1ST JULY 2011

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

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ITEM No. 1
PART 1 SECTION B

LETTER FROM POWYS STANDARDS COMMITTEE

1. **Purpose of Report**

To advise Standards Committee of an approach from Powys County Council.

2. **Background**

2.1. The Public Services Ombudsman for Wales has established for himself certain criteria which should be fulfilled prior to referring a matter to a Standards Committee or to the Adjudication Panel for Wales.

2.2. I set out below an extract from a publication from the Ombudsman's office which sets out the criteria.

"If you think that a member has, or may have breached his/her Authority's Code of Conduct, the Ombudsman may be able to investigate your complaint.

He can usually look at your complaint if:

- there is evidence that a breach actually took place; and,
- if the alleged breach would be likely to lead to the imposition of a sanction by a standards committee or the Adjudication Panel for Wales.

The Ombudsman has discretion as to whether or not to investigate a complaint of this nature. In using his discretion, the Ombudsman will take account of the outcomes of previous cases considered by standards committees across Wales, and the Adjudication Panel for Wales, and decide accordingly. He may also take into consideration any previous complaints that may have been raised about a particular member".

2.3. Following the preparation of the report to this meeting I received correspondence from Powys County Council with a request that I submit it to the Chair of Standards Committee.

- 2.4. Copies of the correspondence from Powys appear in the Annex to this report. Powys Standards Committee advocate the view that all cases should be referred to Standards Committees or, indeed, to the Adjudication Panel for Wales where the Ombudsman has decided that there is evidence of a breach of the Members' Code of Conduct i.e. the first criterion set out in paragraph 2.2. above. Powys would therefore wish the case referred to them regardless of whether the Ombudsman would consider that it was likely to attract a penalty.
- 2.5. If the Ombudsman were to act as requested by Powys he would still have to ensure that cases were properly investigated before referral to either the Standards Committee or the Adjudication Panel. In terms of logic it is fairly unlikely that any additional cases would be referred to the Adjudication Panel since, if there is any doubt about whether a penalty would be applied, then the case would be to the lower end in terms of seriousness.

3. **Recommendation**

It would not be appropriate for me to make a recommendation to Members at this point but I will discuss with Standards Committee an appropriate response to Powys reflecting the view of Members.

4. **List of Background Papers**

Letter from Powys County Council
Public Services Ombudsman for Wales – Code of Conduct Factsheet

5. **Wards Affected**

All

6. **Officer Contact**

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28 June 2011

*Dear Chair***Code of Conduct Complaints**

Please find enclosed a copy of a letter sent to the Assembly Members for Powys and the List Members for Mid and West Wales. The Powys Standards Committee feel strongly that there is an ongoing problem with the Ombudsman declining to refer matters to the Standards Committee when he has found a breach has occurred, on the grounds that the Standards Committee would not impose a sanction. The Standards Committee would wish to have an opportunity to consider cases where a breach has been found. It may be the case that the decision is to censure the Member. The Standards Committee consider censure is a sanction whereas the Ombudsman appears not to consider it as a sanction.

The Standards Committee would welcome your views on the matters raised in the letter.

Yours faithfully

Peter Swanson

Chairman – Powys County Council Standards Committee

To Assembly Members:

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28 June 2011

Dear Assembly Member

Code of Conduct Complaints

The Powys Standards Committee and Community Sub-Committee have over a period of time expressed their concern over decisions of the Ombudsman not to refer complaints to the Standards Committee or Sub-Committee, notwithstanding that the Ombudsman has concluded that a breach of the Members' Code of Conduct has occurred.

The Ombudsman claims that should such matters be referred to the County Council Standards Committee/Sub-Committee it would be unlikely a sanction would be imposed. He claims this is based on experience over a number of years.

The experience of the County Council is limited to one referral to it when its Standards Committee imposed a sanction suspending the County Councillor from meetings of the Planning Committee for a period of four months. Therefore, the Standards Committee/Sub-Committee believes that it is better placed to make judgements about whether a sanction might be applied or not and would welcome the opportunity to determine such issues locally.

In addition the Standards Committee/Sub-Committee are of the belief that general standards of conduct would improve based on a variety of sanctions which the Committee has at its disposal rather than the current position where an identified potential breach does not attract any sanction and can lead the individual Councillor to believe that they have been cleared of any breach.

Despite several attempts by the Standards Committee/Sub-Committee and myself as Chair to promote this view with the Ombudsman we have not been successful and therefore we are seeking your assistance in persuading the Ombudsman to change his stance and allow local Standards Committees to be more effective.

Yours sincerely

Peter Swanson

Chairman – Powys County Council Standards Committee