

AWDURDOD TÂN AC ACHUB GOGLEDD CYMRU



NORTH WALES FIRE AND RESCUE AUTHORITY

A meeting of the STANDARDS COMMITTEE will be held THURSDAY 14 JANUARY 2016 at the Fire and Rescue Headquarters, St Asaph at 2pm.

Yours faithfully

Colin Everett
Clerk

AGENDA

1. Apologies

2. Declaration of Interests

3. Notice of Urgent Matters

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B (4) of the Local Government Act, 1972.

4. Minutes of the meeting held on 4 March 2015

5. Matters arising

6. Consultation on Legislative Changes to the Ethical Regime

7. Standards Committee Annual Report

8. Reappointment of Independent Member (verbal report)

9. Urgent Matters

To consider any items which the Chair has decided are urgent (pursuant to Section 100B (4) of the Local Government Act, 1972) and of which substance has been declared under item 3 above.

PART II

It is recommended pursuant to Section 100A (4) of the Local Government Act, 1972 that the Press and Public be excluded from the meeting during consideration of the following item(s) of business because it is likely that there would be disclosed to them exempt information as defined in Paragraph(s) 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972.

None



AGENDA ITEM: 6

NORTH WALES FIRE AND RESCUE AUTHORITY STANDARDS COMMITTEE

14 January 2016

CONSULTATION ON LEGISLATIVE CHANGES TO THE ETHICAL REGIME

Report by Gareth Owens, Deputy Clerk to the Authority

Purpose of the Report

- 1 To respond to proposed legislation affecting the national model code of conduct for members and the ethical regime.

Background

- 2 At meetings in January 2014 and March 2015 the committee was informed that Welsh Government (WG) was considering amending the code of conduct to remove paragraphs
 - 6(1)c which imposes an obligation on members to report suspected breaches of the code of conduct
 - 10(2)b which creates a personal interest where ward matters conflict with a councillors duty to the authority.
- 3 Draft consultative legislation has now been published with the intention that these changes, amongst others, be brought into effect in time for the annual general meetings of local authorities in May. In addition draft consultative legislation has been published in respect of the establishment of joint standards committees and the procedures to be followed when handling complaints. A single consultation document covering both proposed statutory instruments is attached at Appendix A and a proposed response is attached at Appendix B.

- 4 The consultation formally closes on 10 January 2016 and Welsh Government officials need to act swiftly after that date in order to meet the legislative timetable. Officers have shared the draft response with WG officials already, who in return have agreed to receive the final comments of this committee provided they are made the same day as the committee meeting.

Proposed Amendments to the Code of Conduct

- 5 The draft changes to the code of conduct would, if implemented, have the effect of:
 - a. Removing the obligation on councillors under 6(1)c to report breaches of the code of conduct to the Ombudsman; and
 - b. Removing the obligation to declare an interest where ward duties appear to conflict with a councillor's obligations to the authority under 10(2)b of the code; and
 - c. Making provision for town and community councillors to notify their clerk (rather than the monitoring officer) of (changes to) their register of interests; and
 - d. Inserting the correct statutory reference in to the exemption at paragraph 12(2)(b)iv permitting members to vote on matters affecting their allowances.
- 6 There are two potential problems with the proposed changes in the legislation. Firstly, the legislation simply removes the obligation to report breaches to the Ombudsman whilst leaving intact the requirement to report suspected breaches to the Monitoring Officer. The Monitoring Officer is not able to investigate breaches unless referred to him by the Ombudsman. Neither is the Monitoring Officer under any statutory duty to refer complaints to the Ombudsman and there are good practical reasons why such an obligation should not be imposed. The proposed changes would therefore create something of a quandary that needs to be resolved.

- 7 Secondly, the removal of the requirement to declare an interest under paragraph 10(2)b may be problematic for the fire authority. As the response to the consultation makes clear resourcing decisions can be highly contentious locally and the obligation to declare an interest can help to ensure that necessary decisions are still taken. The removal of 10(2)b is balanced by existing requirement in the code (paragraph 8) to take officer advice into account and to make decisions impartially based on evidence. Nationally the ombudsman has taken a narrow interpretation of this provision (10(2)b) and the monitoring officers' professional body, Lawyers in Local Government, has also made representations seeking the removal of the paragraph.

Proposed amendments to the Ethical Regime

- 8 Draft legislation has also been published proposing the following changes to the ethical regime more widely:
- a. The ability of county councils and fire authorities to establish joint Standards Committees;
 - b. Defining the term of office for councillor members of Standards Committees as one whole council term (i.e. until the next ordinary elections) with the possibility of serving only 1 additional term;
 - c. Allowing for the referral of complaints to another Standards Committee where there is a conflict of interest;
 - d. Allowing for the referral of an application for dispensation to another Standards Committee where there is a conflict of interest;
 - e. Allowing the report into a member's alleged misconduct to be kept confidential until after any hearing has been concluded;
 - f. Clarifying that a period of suspension imposed on a councillor cannot extend beyond the end of the council term;
 - g. Requiring a member wishing to appeal the decision of a case tribunal to obtain the prior permission of the President of the Adjudication Panel for Wales;

- h. Extending the power to grant a dispensation where, it appears to the committee to be in the interests of the inhabitants of the area to do so, with a general power to grant dispensation. The intention being to allow a Standards Committee to grant a dispensation to remain in the room during the debate on an item in which a member has a prejudicial interest where that member has a disability that would make it impractical to leave.
- 9 Again these proposals would appear to achieve the expressed intentions behind the legislation. However, officers think that rather than clarifying the legislation to limit a suspension to the end of a councillor's term of office, provision should be made for any unexpired period of suspension to continue in the event that councillor is re-elected.

Recommendation

- 10 That the proposed response to the consultation attached at Appendix B be submitted to Welsh Government.

**Local Government Act 2000
Part III, Conduct of Local Government Members**

Amendments to Subordinate Legislation

Consultation Response Form

Title / Name	Gareth Owens, Deputy Monitoring Officer	
Organisation	North Wales Fire and Rescue Authority	
Address	Ffordd Salesbury St Asaph Business Park St Asaph LL17 0JJ	
Email address		
Type (please tick one of the following)	County / County Borough Council	
	Community or Town Council	
	Fire and Rescue Authority	✓
	National Park Authority	
	Standards Committee	
	Local government representative body	
	Public sector body	
	Voluntary / third sector body	
	Voluntary / third sector representative body	
	Professional body	
	Business	
	Private individual	
Other (please specify):		
Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:		

Draft Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order

Register of Member's Interests

Q.1	Are any further amendments required to the Model Code to give practical effect to the provisions of the 2013 Act?	Yes	No
			✓
Comments:			

Obligation to Report Potential Breaches

Q.2	Do you agree that whilst the obligation on members to report potential breaches of the Code to the Ombudsman is removed, the obligation to report such breaches to the relevant monitoring officer should be retained?	Yes	No
			✓
<p>Comments: Monitoring officers are under no obligation to report or refer alleged breaches of the code of conduct to the Ombudsman, and it might undermine the willingness of members to seek advice if such a duty were to be imposed. Therefore retaining the obligation to report breaches of the code of conduct to the Monitoring Officer will simply create a quandary and a lack of clarity. It would be preferable if the obligation were removed altogether leaving the member with a choice as to whether to address an alleged breach of the code or not.</p> <p>In England part of the rationale for a similar obligation to report suspected breaches of the code was to provide a form of protection to any member reporting such a breach. The theory being that they themselves could be penalised for not reporting the matter thereby removing any element of choice and thus culpability for “dobbing someone in”. This obligation was later replaced by a requirement not to penalise anyone for reporting a suspected breach, and a similar approach could be taken if it was felt necessary.</p>			

Constituency Interests

Q.3	Do you agree that the omission of paragraph 10(2)(b) appropriately addresses the difficulties experienced in applying this aspect of the Code in practice?	Yes	No
			✓
Comments: Notwithstanding the obligation in paragraph 8 to make decisions impartially and on the basis of evidence, this obligation has been of benefit to the fire authority where difficult resourcing decisions can be highly emotive at a local level. So for example the closure of a fire station can be the best solution to achieve an effective and efficient use of resources but will inevitably attract huge local opposition.			

Draft Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations

Amendments to the Standards Committees (Wales) Regulations 2001

Joint Standards Committees

Q.4	Are any further amendments required to facilitate the establishment and operation of a joint standards committee (if yes, please comment below)?	Yes	No
			✓
Comments:			

Q.5	Do you agree that it is unnecessary to increase the maximum permissible number of members of a joint committee?	Yes	No
		✓	
Comments:			

Local Authority Members of Standards Committees Term of Office

Q.6	Are there any unanticipated consequences arising from the proposed change to the term of office of local authority members of standards committees (if yes, please comment below)?	Yes	No
			✓
Comments:			

Publication of Misconduct Reports - Exemption

Q.7	Do the proposed changes appropriately and sufficiently address the problems that have arisen from the publication of misconduct reports prior to standards committee hearings?	Yes	No
		✓	
Comments:			

Amendments to the Local Government investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001

Referral of Misconduct Cases

Q.8	Do these proposals make adequate and appropriate provision for the referral of misconduct reports to another authority's standards committee?	Yes	No
		✓	
Comments:			

Period of Suspension

Q.9	Do you agree that a period of suspension imposed by a standards committee should not extend beyond the end of a member's term of office?	Yes	No
			✓
Comments:			
Councillors are frequently re-elected notwithstanding findings that they have breached the code. Indeed some of the councillors who have committed the most egregious breaches portray the code as hampering their attempts to serve the community and wear any sanction as a badge of pride. It would be wrong for a councillor to receive less than the appropriate period of suspension simply because a hearing happens to take place shortly before an election. Provision should therefore be made, in the event of a suspended councillor being re-elected, for any unexpired period of suspension to take effect in the new council term.			

Appeals to the Adjudication Panel for Wales

Q.10	Do you agree that the proposed procedure for an application for permission to appeal a standards committee determination is appropriate?	Yes	No
		✓	
Comments:			

Amendments to the Local Authorities (Grant of Dispensations) (Wales) Regulations 2001

Referral of Dispensation Applications

Q.11	Do you agree that the proposed procedure for the referral of a dispensation application to another authority's standards committee is appropriate?	Yes	No
		✓	
Comments:			

Criteria for Granting Dispensations - Disability

Q.12	Do you agree that it is appropriate to provide a general dispensation category in the Regulations?	Yes	No
		✓	
Comments:			

Dispensations Other Amendments

Q.13	Do you agree these amendments are appropriate?	Yes	No
		✓	
Comments:			

Other

Q.14	We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to comment upon them.
Comments:	
These comments have been submitted on behalf of, and following consideration by, the Standards Committee of NWFRA.	



AGENDA ITEM: 6

NORTH WALES FIRE AND RESCUE AUTHORITY STANDARDS COMMITTEE

14 JANUARY 2016

THE STANDARDS COMMITTEE'S ANNUAL REPORT TO THE FIRE AND RESCUE AUTHORITY

Report by Colin Everett, Clerk to the Authority

Purpose of Report

- 1 Members are asked to approve the attached draft report which will be presented to the Authority at its March meeting.

Background

- 2 As a matter of good corporate governance the Standards Committee provides the Fire and Rescue Authority with an annual report on its activities during each financial year.
- 3 Consequently the Committee's eleventh annual report is attached for Members' consideration.

Recommendation

- 4 Members are asked to approve the Standards Committee's Annual Report to be presented to the Authority at its March meeting.



ANNUAL REPORT OF THE STANDARDS COMMITTEE OF NORTH WALES FIRE AND RESCUE AUTHORITY

Background

This is the Standards Committee's eleventh annual report to the Fire and Rescue Authority and spans the period from April 2015 to March 2016. Legislation requires that Standards Committees meet at least annually.

The Terms of Reference of the Standards Committee provide a remit to promote and maintain high standards of conduct by members of the Authority and to oversee the whistle-blowing policy for complaints against members of the Authority. Also, where statute permits, to receive reports and complaints about members and to conduct or oversee investigations and to make recommendations to the authority.

Membership

Anthony Young's term of office on the Standards Committee comes to an end on 31 March 2016. Following the introduction of the Standards Committees (Wales) (Amendment) Regulations 2006, an independent member can be reappointed for a maximum of one further term of up to four years. There is no legal requirement to advertise a vacancy if it is intended to make a reappointment.

Mr Young has indicated that he wishes to be reappointed and this will be submitted for approval at the Authority meeting on 21 March 2016.

Therefore, the current membership is as follows:

Independent members

Celia Blomeley 01/01/2014 - 31/12/17

Jane A Eyton-Jones 01/01/2014 - 31/12/17

David Morris 01/09/14 - 31/08/18

Antony P Young 01/04/16 - 31/03/20

Fire and Rescue Authority members

Councillor Brian Dunn (18/06/12 onwards)

Councillor Jim G Evans (18/06/12 onwards)

Attendance and Issues

The Standards Committee met on 14 January 2016 and the following members attended:

Jane A Eyton-Jones (Chair)
David Morris (Deputy Chair)
Celia Blomeley
Antony P Young
Cllr Jim Evans, Anglesey County Council
Cllr Brian Dunn, Flintshire County Council.

At that meeting, members received an update on legislative changes to the ethical regime. It was noted that draft consultative legislation had been published with the intention that changes to the code of conduct be brought into effect in time for the annual general meetings of local authorities in May. In addition draft consultative legislation had been published in respect of the establishment of joint standards committees and the procedures to be followed when handling complaints. Members approved a response for submission to the Welsh Government.

Complaints against members of the Fire and Rescue Authority

There were no complaints about FRA members during this period.

Financial Implications

The budget for the Standards Committee is part of the committee services heading which covers all Authority costs. Following the approval of the members' remuneration scheme on 18th June 2012, independent members are now entitled to claim remuneration based on meetings and events attended. To date, no such claims have been made. Travel allowances amounting to £???.?? have been paid to independent members.

Conclusion

The Standards Committee recommends that the North Wales Fire and Rescue Authority notes its report.