

AWDURDOD TÂN CANOLBARTH A GORLLEWIN CYMRU



MID AND WEST WALES FIRE AUTHORITY

**COFNODION
CYFARFOD Y PWYLLGOR SAFONAU**

Pencadlys Y Gwasanaeth Tân, Heol Llwyn Pisgwydd
Caerfyrddin
3 Ebrill 2008

**MINUTES
OF THE STANDARDS COMMITTEE MEETING**

held at Fire Service Headquarters, Lime Grove Avenue,
Carmarthen
3 April 2008

10.30am – 12 Noon

PRESENOLDEB/ATTENDANCE

Presennol yn y Cyfarfod/Present at Meeting:

CADEIRYDD/CHAIR: G Morgan

AELODAU/MEMBERS: M Howells,
Cyng/Cllrs: G Seabourne,

YMDDIHEURIADAU/APOLOGIES S Fox, P James, R Martin, J J Davies

YN BRESENNOL /IN ATTENDANCE: A Howells, J Maunder

1 DECLARATION BY MEMBERS OF ANY PERSONAL INTERESTS

None were declared

2 TO RECEIVE AND CONSIDER THE MINUTES OF THE MEETING HELD ON 9th NOVEMBER 2007

The minutes of the meeting held on 9th November 2007 were received and approved as a true record

3 TO RECEIVE A REPORT ON THE CODE OF CONDUCT (EXISTING)

The Clerk reported that the judgement of the High Court in the case of *Livingstone v the Adjudication Panel for England [2006]* placed a more limited interpretation on the extent to which the code could apply in respect of conduct in a Member's private capacity. This interpretation was contrary to the policy intention in Wales that the Code of Conduct should apply in respect of conduct in a private capacity.

As a consequence provision had been made in section 183 of the Local Government and Public Involvement in Health Act 2007 to make it clear that the Code of Conduct could include provision that applied to Members whilst acting in either their official or private capacities.

A letter had been prepared to all Authority Members which set out in more detail the background, detail and consequences of the Act. All elected Members and co-opted Members with voting rights who were in office immediately before the coming into force of section 183 on 31 January 2008 were required to give a fresh undertaking to observe their Authority's Code of Conduct for the time being, by 1 May 2008. By virtue of section 183(6)(b) of the 2007 Act, any Member that failed to give such an undertaking would cease to be a Member from the end of that day. All Members would receive the undertaking to be signed and returned to the Clerk by that date.

RESOLUTION

It was RESOLVED that the report be received and noted

4 TO RECEIVE A REPORT ON THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) WALES ORDER 2008

Members were aware from a report considered at the last meeting that the Welsh Assembly Government (WAG) had been reviewing the present Members' Code of Conduct for some time and in fact the Committee (together with other local authorities) had already been consulted on an amended draft model code in June 2005.

The Clerk presented a report which advised Members of the revised statutory Members Code of Conduct and highlighted the following key changes:

Disclosure of Personal Interests – there was a simpler approach to disclosure of interests, with greater flexibility for Members to participate in Authority business. The revised code adopted the approach used in England of a two stage test of a ‘personal and prejudicial interest’. The requirement to disclose personal interests would apply to a slightly wider range of circumstances where members may influence decisions including telephone conversations, correspondence and whilst attending meetings of other organisations. However there is now only one test in respect of action to be taken as a result of such personal interest. If it is objectively viewed as being “prejudicial” then the Member affected must take no part in relation to any decision on that matter and must withdraw from any meetings they are present at where it is discussed. There remained the option of seeking a dispensation from the Standards Committee but the wider range of dispensations effectively provided for under the new Code should make specific exceptions relatively rare. The old “halfway house” measure where Members could speak in certain circumstances but not vote had now been removed.

Exemptions/dispensations – A wider range of dispensations from normal impact of a prejudicial interest was provided in order to maximise the opportunity for Members to participate in Authority business, where this was appropriate. Members who came within these expanded exemptions / dispensations would be able to take a full part in the meeting including speaking and voting where this was available

Duty to uphold the law – A recent change in primary legislation following the Livingstone v Adjudication Panel for England (2006) case reinforced the requirement not to bring the Authority or Office of Member into disrepute in both the Members’ personal and official capacities. In addition the current requirement not to commit a criminal offence whilst acting in their official capacity or otherwise had been removed from the Code as it would be caught under the requirement not to bring the office or authority into disrepute. The duty to report actual or likely criminal behaviour remained, but would not apply to behaviour which was punishable by a fixed penalty.

Respect for others – the requirement not to use bullying behaviour or harass any person was now specifically included, in addition to the existing principles of behaviour

Members noted that a new requirement to pre-register Members’ interests had been enshrined in the new Code.

The Clerk reported that there were a number of other changes which Members would note as they read the new Code. However, it was important to note that the provisions of the attached code were mandatory for all Authorities to adopt.

The timescale for The Local Authorities (Model Code of Conduct) (Wales) Order 2008 (‘the 2008 Order’) was as follows:

- the Order had been made by the Minister on the 20th March 2008 and was scheduled to come into force on the 18th April 2008.
- The 2008 Order revoked the current Conduct of Members (Model Code of Conduct) Order 2001 and previous amending statutory instruments and imposed a revised Model Code.
- By virtue of s.51 (2) of the Local Government Act 2000 the Authority would have 6 months from the date 'the 2008 Order' was made in which to adopt a new Code based upon the revised model Code. It was recommended that the Authority adopted the new Code with effect from 5th May 2008 to coincide with the retirement of the existing members and the assumption of office of the newly elected members following the local government elections on 1st May 2008. In practice however, some Members would not be appointed by all constituent authorities until the end of May 2008.
- In accordance with the Local Government Act 2000 s. 52 (1), current Members must, before the end of the period of 2 months beginning with the date on which the code is adopted, sign up to the new code, in the form of an undertaking. Therefore if the Authority did adopt the Code with effect from the 5th May 2008, the current members will have until the 4th July 2008 in which to sign up to the new code. Any new members who were elected would need to sign up to the new Code before they were able to act in that office.

The Clerk made reference to Part 4, item 17 of the Code relating to the Registration of Gifts and Hospitality and stated that the upper limit had remained at the same level (i.e £10) for a number of years. It would be prudent to set the threshold having taken account of the level set by the six unitary authorities. Authorities were currently in the process of determining their thresholds and a report back to Committee would be made in due course. . In the interim it was suggested that that an upper level of £25 be set by the Authority

Training in the new Code would be undertaken in the main by the Unitary Authorities but the Fire Authority would also provide training for its own Members and would look into the provision of specific training for Standards Committee Members.

RESOLUTION

It was RESOLVED that

- i) The content of the Model Code of Conduct for Members be noted.***
- ii) The Authority be recommended to adopt the Model Code of Conduct with effect from 5 May 2008 in accordance with the Local Authorities (Model Code of Conduct) (Wales) Order 2008.***

iii) That for the purposes of paragraph 17 of the Code, the value to be specified in relation to any gift, hospitality material benefit or advantage shall be £25.and that the threshold be reviewed when details of the level set by constituent authorities is known.

5 TO REVIEW COMPLAINTS RECEIVED BY THE FIRE AND RESCUE AUTHORITY FOR THE PERIOD SEPTEMBER 2007 TO MARCH 2008

The number of complaints received for the period September 2007 to March 2008 were 15 which included 2 anonymous complaints which were not officially monitored. A total of 45 compliments were received many of which served to show the work carried out by the Service within the Community.

Members were informed that the computerised system for recording and monitoring the complaints, Respond, had now been upgraded and that this had allowed detailed reports to be produced.

A new 'We are Listening' leaflet had been agreed by the Policy Board and would be submitted to the Fire Authority on 21st April for approval. This would then be advertised on the website and hard copies to be issued to all Fire Stations.

RESOLUTION

It was RESOLVED that

The report be received and noted.