

# AWDURDOD TÂN CANOLBARTH A GORLLEWIN CYMRU



## MID AND WEST WALES FIRE AUTHORITY

NOTE: THESE MINUTES ARE SUBJECT TO CONFIRMATION BY THE STANDARDS COMMITTEE AT ITS NEXT MEETING

### COFNODION CYFARFOD Y PWYLLGOR SAFONAU

Pencadlys Y Gwasanaeth Tân, Heol Llwyn Pisgwydd  
Caerfyrddin  
14 Ionawr 2010

### MINUTES OF THE STANDARDS COMMITTEE MEETING

held at Fire Service Headquarters, Lime Grove Avenue,  
Carmarthen  
14 January 2010

10.00 – 12.15

#### **71% PRESENOLDEB/ATTENDANCE**

Presennol yn y Cyfarfod/Present at Meeting:

CADEIRYDD/CHAIR: G Morgan

AELODAU/MEMBERS: M Howells, R Martin  
Cyng/Cllrs: R Llewellyn, J Holmes

YMDDIHEURIADAU/APOLOGIES: S Fox, Cyng/Cllrs A Davies

YN BRESENNOL /IN ATTENDANCE: A Howells, J Maunder

## **1 DECLARATION BY MEMBERS OF ANY PERSONAL INTERESTS**

The Clerk made reference to the Draft Guidance on the Code of Conduct from the Public Services Ombudsman which was due to be considered in depth by Committee later on the Agenda. Under the Guidance Members were required to declare membership of their own Constituent Authorities at the start of each meeting and to record such interests in the Register of Members Interests. Members accordingly declared the following interests:

Councillor J Holmes – Member of Powys County Council  
Councillor R Llewellyn – Member of Carmarthenshire County Council  
Mr Richard Martin – Member of Ceredigion Standards Committee  
Mr Meirion Howells – Member of the City & County of Swansea Standards Committee

## **2 CHAIR'S ANNOUNCEMENTS / PERSONAL MATTERS**

Committee welcomed Councillor D R Llewellyn to his first meeting, having been appointed onto the Standards Committee in December 2009 for a 4 year term of office to replace Councillor J J J Davies.

## **3 TO RECEIVE AND CONSIDER THE MINUTES OF THE MEETING HELD ON 19<sup>th</sup> OCTOBER 2009**

The minutes of the meeting held on 19<sup>th</sup> October 2009 were received and approved as a true record.

## **4 TO RECEIVE A REPORT ON THE DRAFT GUIDANCE ON THE CODE OF CONDUCT FROM THE PUBLIC SERVICES OMBUDSMAN**

The Clerk reported that the Ombudsman had issued a consultation document on the statutory guidance that he intended issuing under Section 68 of the Local Government Act 2000 in respect of the Model Code of Conduct. It was intended that the final guidance would be published in March 2010 following a consultation period which would end on the 12<sup>th</sup> February 2010.

Consideration was given to the draft guidance together with the in depth response from the ACSes Wales Branch (Welsh Monitoring Officers) and the following areas were highlighted as being particularly relevant for Fire Authority Members:

- A point of specific concern to Fire & Rescue Authorities related to the declaration of personal interests where the decision related or was likely to relate to a public authority or body exercising functions of a public nature, where the member was in a position of management or general control. The guidance suggested that in such circumstances, it was always safer to declare an interest. It was suggested that this could mean that members would be required to declare an interest in any matter where there was, or was likely to be an interest for their home authorities (for example, determination of budgets, location of fire and emergency cover, type of

service delivered etc.). It was suggested that this could become very bureaucratic. The Clerk reported that the Guidance suggested that it was safer to declare an interest rather than not

- The guidance sought to define a “body exercising functions of a public nature” by means of various questions and from a Fire and Rescue Authority Member perspective this would appear to include a local authority, even though this was not included within the list of example bodies. The guidance meant that in future, for issues considered by the Fire and Rescue Authority that related to all home authorities, a personal interest would need to be declared by all Members.
- The guidance relating to the exemption under paragraph 12(2) of the Code of Conduct (business relating to another relevant authority of which you are also a member and another public organisation exercising functions of a public nature in which the member holds a position of general management or control) confirmed that the member would not have a prejudicial interest unless the interest was so significant that it was likely to affect the Members interest. Further guidance on what interests were likely to be so significant had been provided in the document.
- The Clerk reported that ACSeS had concerns on whether strict interpretation of the conflict between representing Ward issues and considering the wider position would have the effect of “silencing” local members which would ultimately damage the democratic process. He expressed the concerns that in the context of “ward issues” for a Fire Authority member, did this translate to “county issue”? He emphasised the importance of Fire Authority members having an adequate forum to be able to get their county views across.

The Clerk reported that ACSes members had very much welcomed the Guidance particularly the opportunity to provide a small group of its members the opportunity to attend post consultation meetings with the Ombudsman to ensure that the Guidance was improved to become an effective tool for Councillors. Members attention was drawn to the following areas:

- The Guidance was acknowledged to draw heavily from that prepared by Standards England and this had led to specific inaccuracies which would need to be rectified. For example, the section on confidentiality.
- In order to strengthen the structure of the Guidance it was suggested that parts of the Guidance would sit better as an appendix to it. The suggestion was made that the Code of Conduct flow chart (Declaring an Interest – questions to ask yourself) produced by Ceredigion, and valued as a useful aide by members, formed an Appendix.
- **TREATING OTHERS WITH RESPECT**

It was considered that specific examples were needed to illustrate this section particularly around officer/member relations. For example the Guidance needed to

give examples as to what was 'rude' or 'reasonable'.

In addition it was considered that given the increasing use of IT Web Sites and Twitter, some mention should be made of comments made through this medium as members often found it easier to be disrespectful in print rather than in a face to face situation.

- **BULLYING AND INTIMIDATION**

It was suggested that the Guidance should explain in this section that bullying/intimidating conduct was the perception of the victim not that of the Member. It was noted that the Code used the word "harass" whereas the Guidance referred to "intimidation" and consistency was sought.

- **DISCLOSING CONFIDENTIAL INFORMATION**

In this section it was considered useful if the Ombudsman could include guidance on matters reported to committee as exempt items.

- **REACHING DECISIONS OBJECTIVELY**

It was considered that the declaration that predetermination might amount to a breach of the Code did put Members in a difficult position and make them wary of speaking at meetings. There were occasions when Members could prefer to predetermine and lose their vote on an issue and there would clearly be no breach of the Code in these circumstances. It was noted that ACSeS believed that failure to reach a decision objectively was not the same as bias and that including reference to bias and predetermination in the Code of Conduct was unwise.

- **CONSIDERING ADVICE PROVIDED TO YOU AND GIVING REASONS**

The Clerk stressed the emphasis that ACSeS had felt that giving advice on this at Committee became difficult. Although Monitoring Officers always encouraged Members to consult with them beforehand to give advice, they frequently did not. They considered that it would be useful to state how Members were encouraged to take advice at an earlier stage before the actual meeting.

In addition, stating that reasons for not following advice should be recorded, it was considered that the Guidance was seeking to rewrite the Code. Legally, a Member did not always have to record reasons for taking a decision.

With regard to the reference to the Statutory officers keeping a record of their advice, ACSeS questioned the practical application of such expectations. Advice was often given on an ad hoc basis in corridors and car parks etc. It would be impossible to always anticipate when a matter was likely to be contentious or record every bit of advice that was given. In addition, following a recent case, it could be that the advice of the statutory officer would not absolve a Member from breaches of the Code.

In order to clarify this Section, there was needed a clear reference to what was a "decision" otherwise the implication was that Members may always have to give

reasons for every decision which was not a legal requirement.

- **GIFTS AND HOSPITALITY**

It would be useful to give advice on good practice to note offers of gifts which may have been declined.

Reference was made to the obligation 'to disclose a gift ceasing after three years' and the question was posed as to where the authority for that came from. This section did not make sense as there was no such provision, and clarification was needed.

The Standards Committee welcomed the Draft Guidance and were particularly pleased that it had been written in a clear, easy to understand style. Members were particularly grateful for the ACSeS Branch for making their comments and observations, and endorsed these, expressing thanks to Officers for their hard work in doing so.

The Clerk reported that a Seminar would be arranged once the Guidance on the Code of Conduct had been formally approved focusing on specific aspects of the Code including guidelines on the declaration of interests.

## **RESOLUTION**

*It was RESOLVED that*

*The Draft Guidance from the Public Services Ombudsman be received and the comments made by ACSeS be fully endorsed.*

## **5 TO RECEIVE THE FORWARD WORK PLAN 2010/11**

At its last meeting held on the 19<sup>th</sup> October 2009, Committee had agreed that it should consider at its next meeting its future role. This arose out of the feedback from the Wales Standards Conference held in Cardiff where it was suggested that Standards Committee's should undertake a wider role than the statutory requirement. The Authority had already extended the Committee's terms of reference by the inclusion of items such as overseeing the Authority's whistle blowing policy, protocol on relations between members and officers etc. Given the importance that was currently attached to the overall governance arrangements within Authorities and how this could often dovetail in with Conduct issues, the Clerk reported that Committee may wish to review those elements within the Code of Corporate Governance adopted by the Authority that had a particular relevance to the Committee's terms of reference. A copy of the Authority's Code of Corporate Governance was attached, with elements that were of direct relevance to the Committee highlighted for Members consideration.

With the publication of the Ombudsman's Guidance on the Code of Conduct scheduled for March 2010, one of the key areas for the Committee in 2010/11 would be ongoing training / refresher courses. It would be appropriate for

Committee to consider and develop in detail its forward work plan at its scheduled meeting on the 12<sup>th</sup> April (subject to the Ombudsman's definitive guidance having been published by that date).

On consideration of the Code of Corporate Governance, it was noted that the Statement of Assurance was signed by both the Chair of the Fire Authority and the Chief Fire Officer and that the role of the Clerk was to monitor and review the effectiveness of the Code.

The introduction listed the three fundamental principles of Corporate Governance of openness and inclusivity, integrity and accountability. The Code was divided into six principles as identified by CIPFA/SOLACE, the Clerk having highlighted for Committee's particular attention specific areas within its terms of reference and it was suggested that these areas could be further developed and considered over the forthcoming year with specific reports relating to each individual area.

## **RESOLUTION**

*It was RESOLVED that*

- i) Those elements within the Code of Corporate Governance that were relevant to the Standard Committee functions be reviewed*
- ii) The forward work plan for 2010/11 be considered at Committee's next scheduled meeting.*

## **6 TO RECEIVE THE DRAFT STANDARDS COMMITTEE ANNUAL REPORT 2009/2010**

A report on the summary of work carried out by the Standards Committee for 2009/10 was received and considered.

Reference was made to the term of office for independent members of the Standards Committee and the impending 'retirement' of both the Chair and Vice Chair in December 2010. The Clerk reminded committee that it had previously been agreed that the retirement of independent members of the committee would be on a phased basis so that expertise would not be lost at the same time whilst providing a degree of continuity. Due to the attendance record of one of the Independent members it was agreed that the Clerk write to that Member to ascertain his / her position in order to consider whether one of the new appointments should be made prior to December.

## **RESOLUTION**

*It was RESOLVED that:*

- i) The Chair present the Annual Report of the Standards Committee to the next Fire Authority meeting on 10<sup>th</sup> May 2010*
- ii) The Appointment process for the two new Independent Members be commenced as early as possible with one possibly starting prior to December.*

## **7 TO RECEIVE ITEMS OF ANY OTHER BUSINESS**

The Chairman reported that this would be the Clerk's final meeting of the Standards Committee prior to his retirement at the end of March. On behalf of all members, he thanked Mr Howells for all the hard work he had carried out on behalf of the Standards Committee, his professional and courteous advice and wished him every happiness in the future.

The Clerk responded by thanking Members for their commitment and support and expressed his pride in the achievements made by the Authority's Standards Committee which he had been involved with since its very first meeting.