

## **STANDARDS COMMITTEE**

**Minutes of the meeting held 16<sup>th</sup> August 2012. (9:30a.m.)**

**PRESENT :** **Independent Members**

Mr Michael Wilson (Chair);  
Mr Islwyn Jones (Vice Chair);  
Ms.Denise Harris Edwards;  
Mr Leslie Lord;  
Mrs.Dilys Shaw

### **Representing the County Council**

Councillor Ieuan Williams;

**IN ATTENDANCE :** Mr.Peter Keith Lucas, Legal Advisor;  
Committee Services Manager;

Ms A.Ginwalla, Investigator, Public Services Ombudsman for  
Wales.

Mr.Gwydion Hughes, Counsel to the Ombudsman

Mr.B.Durkin (representing himself)

Mr.D.Lewis Roberts (complainant)

**APOLOGIES:** Councillor Trefor Lloyd Hughes

### **1 DECLARATION OF INTEREST**

No declaration of interest made by a Member or Officer.

### **2. EXCLUSION OF THE PRESS AND PUBLIC**

The Chair stated that the Committee had proceeded so far on the assumption that the hearing may involve disclosures of personal information relating to both parties. Therefore, the administration had not provided papers to the press or public in advance of the hearing.

Mr.Barrie Durkin stated that he was opposed to the matter being held in private on the grounds that following the previous meeting of the Standards Committee on this subject, the County Council had included the documentation on its website. It was therefore already in the public domain. However, the situation still remained and he genuinely believed that it was

so prejudicial and unfair to the Standards Committee to have to deal with it, that he felt that the case should not proceed.

The Legal Advisor stated that there was an element in the manuscript copy of Mr.D.Lewis-Roberts' witness statement to the Ombudsman's Investigator (relating to matters in the area of another Authority many years ago) which was irrelevant to the matters before the hearing today and that it was reasonable for the Committee to proceed if the members excluded that element from their minds. If Mr.Durkin felt that the result had been prejudiced by that, he had the ability to challenge after the event by way of appeal to the Adjudication Panel for Wales.

The Committee considered that they were in a position to consider the matter fairly and to exclude that element from the manuscript report.

Mr.Gwydion Hughes, Counsel to the Ombudsman mentioned that the matters before Committee today referred to certain personal information relating to Mr.D.Lewis-Roberts and that he should also be asked his views as to the possibility of the matter being taken in public.

Mr.D.Lewis-Roberts stated that he had no objection to convening the hearing in public.

**It was RESOLVED that the meeting be held in open session.**

The Chair went on to state that from the pre-hearing papers, he understood that Mr.Durkin did not dispute the facts set out in the Ombudsman's report but that he did dispute the conclusions. The Chair also mentioned that the Legal Advisor had from the bundle of papers prepared a chronological evidence of facts relating to the events (Pages 1-5) which would avoid the necessity for the Committee to search through the bundle of papers.

Prior to the hearing, the Committee were afforded the opportunity of listening to a recording of the interview with Mr.D.Lewis-Roberts as part of the ITV programme "Wales this Week" aired on 3<sup>rd</sup> November, 2008, in response to which Mr.Durkin's remarks were made.

### **3 COMPLAINT AGAINST A FORMER COUNTY COUNCILLOR**

The hearing was conducted following a complaint against a former Councillor on an allegation that he breached the Members Code of Conduct following an investigation by the Public Services Ombudsman for Wales and his subsequent referral to the Standards Committee pursuant to Section 69 of the Local Government Act, 2000.

Upon consideration of the evidence, the Committee would decide what, if any, sanction to impose pursuant to Paragraph 9(1) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001. A copy of the procedure for Local Standards Hearings was also attached to the report.

The report referred to the Public Services Ombudsman for Wales' report and findings and also included the remit of the Standards Committee in this respect.

Having considered all submissions it was for the Committee to decide what mitigating and/or aggravating features it took into account and what weight was to be attributed to each. These matters should be included in the Committee's published decision.

Details were also provided within the report of the rights of appeal/challenge and to the statutory publication requirements.

Mr. Gwydion Hughes, Counsel to the Ombudsman was afforded the opportunity of summarising the findings contained in the report of the Public Services Ombudsman for Wales.

The allegation investigated was a complaint received on 20<sup>th</sup> April, 2010 from Mr.David Lewis-Roberts that Councillor Barrie Durkin had failed to observe the code of conduct for members of the Isle of Anglesey County Council. It was alleged that on 6<sup>th</sup> April 2010 councillor Durkin sent an e-mail to a number of persons including County Councillors, the Chair of the Recovery Board and to Council staff in which he had made derogatory remarks against Mr.D.Lewis-Roberts.

The complainant had alleged that the remarks were untrue and that in making it Councillor Durkin had breached a number of the paragraphs of the Code of Conduct for Members. The Ombudsman had subsequently received additional information from Mr.Lewis-Roberts on 27<sup>th</sup> April 2010 that Councillor Durkin had made further untrue and unsubstantiated comments about him on "The Druid of Anglesey" local blog dated 25 April 2010.

Mr.Gwydion Hughes mentioned that the Ombudsman's final report of 30<sup>th</sup> August 2011 concluded that there was prima facie evidence of a breach of the code of conduct by the then Councillor B.Durkin and that the Ombudsman referred the report to the Standards Committee for consideration. The essence of the conclusions were that the particular words used by the then Councillor B.Durkin in his e-mail of 6<sup>th</sup> April 2010 and in his post on the Druid blog on 25<sup>th</sup> April 2010, went well beyond proper substantiated criticism or comment upon the conduct of Mr.D.Lewis-Roberts whilst he had been a Councillor. Rather the words used constituted allegations of a most serious nature, that is allegations of corruption, of corruption on the part of the whole Planning Committee, and criminality effectively amounting to fraud and resulting in a substantial personal gain.

On behalf of the Ombudsman, Mr.Gwydion Hughes called Mr.Dewi Francis Jones, Planning Development Manager, who provided evidence to the Committee in respect of the following:- (Full witness statement at Pages 345 – 352 of the bundle of papers)

\*The relevant planning policies and the time-line for their development and approval;

\*Identifying any planning applications for residential development of nearby land in the vicinity of Tyn-y-gongl and Brynteg and particularly Shepherd's Hill over this period;

\*Confirming against each application whether Mr.Lewis-Roberts attended the Planning Committee when the application was considered and whether he had declared an interest or withdrew from the item, and whether the decision set any sort of precedent for Mr.Lewis-Roberts' land;

\*setting out the planning history of Mr.Lewis-Roberts' land;

\*the definition of cluster and hamlet.

Mr.Gwydion Hughes and the Members of the Standards Committee were afforded the opportunity to ask questions of the Planning Development Manager.

On behalf of the Ombudsman, Mr. Gwydion Hughes then called Mr.D.Lewis-Roberts (complainant) and questions were put to him by Mr.Gwydion Hughes, Mr.Peter Keith Lucas and by the members of the Standards Committee.

The questions put to Mr.Lewis-Roberts could be summarised as follows:-

- \*his failure to register declarations of interest;
- \*his interest in 9 acres of land lying to the north of Pant y Bugail, Tyn-y-gongl and his option to purchase an additional 11 acres of land (Page 384 of papers refer);
- \*his membership of the Joint Local Development Plan which considered matters relating to housing in the countryside and the definition of clusters;
- \*distances between the call-in applications;
- \*his submission of land at Shepherd's Hill, Tyn-y-gongl on the Candidates Sites Register from developers, landowners and the general public for potential inclusion within the Joint Local Development Plan;
- \*his reasons behind calling-in approximately 9-10 applications to the Planning Committee.

Mr.D.Lewis-Roberts drew the Committee's attention to inaccuracies/ anomalies within the chronological document and discussions took place in this respect and any corrections were noted by the Committee.

Mr.Lewis-Roberts also read out a transcript of what the Head of Service(Planning and Public Protection)had said at a meeting of the Planning Committee on 2<sup>nd</sup> February 2006, as regards the definition of clusters, when the Committee were considering an application at Bwthyn ar y Bryn, Benllech (application No.1 in the bundle of papers) .

The Chair requested that the Committee be provided with copies of the transcript so that it could be considered as part of their deliberations when in private session.

When consulted about the evidence put forward by Mr.D.Lewis-Roberts today, Mr. Durkin expressed the view that he would have liked to have seen documentation within the bundle of papers regarding the purchase of the 9 acres of land. There was no evidence of how and when that land had been bought.

Mr. Durkin was then afforded the opportunity to make a verbal representation in respect of the findings of the investigation and any allegation that he may have failed to comply with the County Council's Code of Conduct.. Mr.Durkin indicated that he did not disagree with the facts presented by the Ombudsman but did disagree with how his statements had been misinterpreted.

Mr.Durkin provided detailed evidence to the Standards Committee as to why he had taken the course of action he had and as to why he considered that there was no other option available to him in order to draw the matter to the attention of the Council and the general public.

He thought that the comments he had made had been wrongly interpreted because he did not for one minute believe that the Planning Committee had been corrupt in this matter. His intentions had been honourable in that he had wanted the Council to rid itself of such disrepute and bad name.

The Legal Advisor and the members of the Standards Committee raised numerous questions with Mr. Durkin which could be summarised as follows:-

\*his recollection of events;

\*why he had made those remarks following transmission of the ITV programme;

\*whether or not he considered he was acting in his role as a County Councillor when he had sent out the letter and the entry on the Druid's blog;

\*his relationship with Senior management at the time and whether or not he considered that his complaints had been addressed by the Council;

\*that he was unaware of having being offered any training in relation to the code of conduct since his election, which was contrary to the evidence provided within the bundle of papers;

\*did he consider that he had breached the members code of conduct;

Counsel to the Ombudsman provided a short closing statement prior to the Committee going into private session.

Following reference made by Mr. Durkin to papers in their possession which were not part of the bundle of papers before today's Committee, the Committee Services Manager was requested to provide copies of those papers to the Committee as part of their deliberations when in private session.

*The Standards Committee retired into private session to consider their decision.*

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The Standards Committee returned to open session and the Chair announced that the Members had unanimously reached a decision on the matter. At the meeting the Legal Advisor read out a summary of the decisions reached which he would then type up and forward to the interested parties as soon as possible.

## **RESOLVED**

**•There is no evidence that Mr.Barrie Durkin had failed to comply with Paragraph 4(b) of the Code of Conduct for Members;**

**•There is no evidence that Mr.Barrie Durkin had failed to comply with Paragraph 6(1)(a) of the Code of Conduct for Members.**

#### **4. INDEMNITY**

Considered – Whether an indemnity should be reimbursed pursuant to Article 8(5) of the Local Authorities (Indemnities for Members and Officers)(Wales) Order 2006.

**RESOLVED** that having found no breach of conduct against Mr.Durkin, the indemnity stood and Mr.Durkin could therefore recover his legal costs under that indemnity.

**The meeting concluded at 3:00pm**

**MR MICHAEL WILSON (CHAIR)**

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