

Dear Clerk,

Re: Webcasting of Standards Committee Hearings

I am writing to you to seek the views of Town and Community Councils following a matter which has been raised in relation to Standards Committee Hearings in Pembrokeshire and which was discussed by the Standards Committee on the 4th December 2018. The Committee duly tasked me to contact all Town and Community Councils as part of a consultation exercise.

As you are aware, there is a general presumption that Pembrokeshire County Council webcasts its official meetings and the question has been raised as to whether Standards Committee Hearings should be webcast. For information, Standards Committee general business, such as dealing with applications for dispensation to speak/speak and vote are invariably webcast. It is recognised however that there may be different considerations to be borne in mind with regard to hearings.

Standards Committee Hearings have been held infrequently in Pembrokeshire in the past. They are convened to hear cases of alleged breaches of the Code of Conduct by County, Town and Community Councillors following referral of such cases by the Public Services Ombudsman for Wales. There have been two such cases in the past three years.

For more detailed information on this subject, please find enclosed my report on this subject which was discussed at the Standards Committee on the 4th December, 2018. The initial debate on the subject can also be viewed on the webcast for that meeting.

In the circumstances, if your Council wishes to express a view, with reasons, as to the desirability or otherwise of webcasting Code of Conduct Hearings, I would be most grateful to receive that view by the 4th February 2019.

Whilst writing, I would also like to take the opportunity to remind Councils that I am always very willing to visit communities to provide Code of Conduct evening training for Councillors. For this purpose, I simply ask Councils to join together with neighbouring Councils to arrange a venue and two or three suitable dates and I will then try to fit in with your arrangements. The optimum number of delegates is around twenty.

Finally, I wish you a peaceful Christmas and a happy new year.

Yours Sincerely,



CN Jones
Monitoring Officer

STANDARDS COMMITTEE

Report of: Head of Legal Services and Monitoring Officer

Date: 23 November 2018

WEBCASTING OF CODE OF CONDUCT HEARINGS BY THE STANDARDS COMMITTEE.

1. BACKGROUND

Council has resolved that webcasting would be provided for public meetings in Committee Room 1 in addition to the Council Chamber. Council is proud of its record of having rolled out webcasting more extensively than any other local authority in Wales and probably the UK.

This Report is written following three Councillors expressing an interest and/or concern about a small number of Council meetings not having been webcast and this includes meetings of the Planning Delegation Panel, Senior Staff Committee and a recent Standards Committee hearing. In the latter case, a number of hearing dates had been offered and, on the date most convenient to Committee members and the parties, there had been considerable pressure on the committee rooms. Committee Room 1 is the only room other than the Council chamber which supports webcasting facilities.

The Democratic Services Committee considered this matter on the 23rd of November 2018 and resolved to refer this matter to the Standards Committee for consideration in the light of the requirements of the 2001 Regulations.

2. CODE OF CONDUCT HEARINGS BY THE STANDARDS COMMITTEE.

It is helpful that this matter has been raised as it highlights the need to review the Council's procedures on webcasting in relation to the specific Standards Committee Hearings function.

On 12th May 2016, the Council considered a report which dealt with a Notice of Motion submitted by former Councillor RM Lewis as follows:-*"That this Council equips Committee Rooms 1 and 2 with the appropriate equipment to allow for the webcasting of Overview and Scrutiny and Planning and Rights of Way Committee"*.

The final resolution of Council was as follows however:-*"That the provision of facilities in Committee Room 1 only be supported to allow for the Webcasting of meetings"*. In the event of a technical connectivity problem, availability of suitably trained staff, or double booking of Committee Room 1 or the Chamber, this would mean that webcasting of meetings could not be provided.

Code of Conduct hearings are subject to specific legislative provisions under the Local Government Act 2000 and the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.

As a statutory Committee, regulated by specific provisions in relation to hearings, different considerations apply. It is independent in nature and purpose, it is chaired by an independent person and is made up of a majority of independent persons. It is also worth noting that by virtue of certain 2007 Regulations, the following description of exempt information was inserted into Schedule 12A of the Local Government Act:- *"18C. The deliberations of a*

Standards Committee...established under the provisions of Part 3 of the Local Government Act 2000 in reaching any

finding on a matter referred to it". The deliberations of the Committee in Code of Conduct hearings therefore take place in camera in any event, whereas the parties' evidence and submissions are usually delivered in public.

Regulation 8 of the 2001 Regulations state:-***"the practice and procedure to be followed in exercising its functions under these Regulations shall be for the Standards Committee of the relevant authority to decide."*** In the circumstances, it will be for the Standards Committee itself to decide whether or not its hearings should be webcast. The Committee's current detailed hearing procedures were adopted by the Standards Committee on 8 April 2011.

The Standards Committee may decide that it wishes to consult with Town and Community Councils and One Voice Wales in view of Community Council roles and functions in relation to the Standards Committee. It may also wish to consult the Public Services Ombudsman for Wales and consider whether any party or witness should have the right to opt out of webcasting. It is also important to bear in mind that a Standards Committee may refer cases to the Standards Committee of another local authority in appropriate circumstances and those cases would then become subject to the procedures of the host authority (which not cater for webcasting). The Committee may also therefore wish the Monitoring Officer to contact other local authorities in order to ascertain views.

A Councillor is "presumed innocent" of a Code of Conduct breach pending any formal findings by the Standards Committee or the Adjudication Panel for Wales. The administration of justice is paramount in such cases and it is questionable whether webcasting is appropriate in order to ensure a fair hearing. Compulsory webcasting could well deter attendance of Respondents and witnesses and may therefore thwart a fair hearing which is required by Article 6 of the European Convention on Human Rights as embodied in the Human Rights Act 1998. Despite any laudable aims to promote publicity and transparency of Code hearings, such aims are secondary to the proper administration of justice. Webcasting in this setting could also be abused through editing in social and other media with a view to bringing the relevant Councillor, his or her County, Town or Community Council into disrepute prior to any finding of breach, for political or indeed for malicious purposes.

In conclusion, in the light of the 2001 Regulations, this matter requires full and careful consideration as to whether it wishes to amend its procedure so as to provide for the public element of its hearings to be webcast.

RECOMMENDATION:

That the Committee authorises consultation with Town and Community Councils, One Voice Wales and the Public Services Ombudsman for Wales to seek views before reaching a final decision on the question of webcasting of Standards hearings into allegations of breach of the Code of Conduct.

Background Documents:

Local Government Act 2000

The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001

The Local Authorities (Executive Arrangements)(Decisions, Documents and Meetings) and the Standards Committees (Wales) (Amendment) Regulations 2007

Article 6 European Convention on Human Rights

