



**CYNGOR BWRDEISTREF SIROL**  
**RHONDDA CYNON TAF**  
**COUNTY BOROUGH COUNCIL**

**COMMITTEE SUMMONS**

C Hanagan  
Service Director of Democratic Services & Communication  
Rhondda Cynon Taf County Borough Council  
2 Llys Cadwyn  
Taff Street  
Pontypridd  
CF37 4TH

Meeting Contact: Emma Wilkins - Council Business Unit  
(Emma.Wilkins@rctcbc.gov.uk)

**YOU ARE SUMMONED** to a **virtual** meeting of the **STANDARDS COMMITTEE** to be held on **MONDAY, 29TH JANUARY, 2024** at **10.00 AM**.

Non Committee Members and Members of the public may request the facility to address the Committee at their meetings on the business listed although facilitation of this request is at the discretion of the Chair. It is kindly asked that such notification is made to Democratic Services by Thursday, 25 January 2024 on the contact details listed above, including stipulating whether the address will be in Welsh or English.

**AGENDA**

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**1. DECLARATION OF INTEREST**

To receive disclosures of personal interest from Members in accordance with the Code of Conduct

Note:

1. Members are requested to identify the item number and subject matter that their interest relates to and signify the nature of the personal interest: and
2. Where Members withdraw from a meeting as a consequence of the disclosure of a prejudicial interest they must notify the Chairman when they leave.

**2. MINUTES**

To approve as an accurate record, the minutes of the meeting held on the 13<sup>th</sup> November 2023.

## **REPORT OF THE MONITORING OFFICER**

### **3. PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS AGAINST MEMBERS - 30TH AUGUST 2023 - 22ND JANUARY 2024**

To provide Members with a summary of complaints made against Members and submitted to the Public Services Ombudsman for Wales (the 'Ombudsman') for the period 30th August 2023 – 22nd January 2024.

**9 - 16**

### **4. PUBLIC SERVICES OMBUDSMAN FOR WALES - RECENT INVESTIGATION OUTCOMES - 'OUR FINDINGS'**

To consider the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct as published by the Public Services Ombudsman for Wales (PSOW) on the '[our findings](#)' section of her website for the period 1st August 2023 – 22nd January 2024.

**17 - 28**

### **5. REVIEW OF THE COUNCIL'S MEMBER - OFFICER RELATIONS PROTOCOL**

To review the Council's Member-Officer Relations Protocol, as annexed at Appendix 1 to this report and consider whether any amendments should be made to that protocol.

**29 - 54**

### **6. SUMMARY OF RESPONSES TO THE CONSULTATION ON THE RECOMMENDATIONS OF THE INDEPENDENT REVIEW OF THE ETHICAL STANDARDS FRAMEWORK (RICHARD PENN REPORT)**

For Information.

**55 - 76**

### **7. URGENT BUSINESS**

To consider any items, which the Chairman, by reason of special circumstances, is of the opinion should be considered at the meeting as a matter of urgency.

**Service Director of Democratic Services & Communication**



## **RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE**

Minutes of the Hybrid meeting of the Standards Committee held on Monday, 13 November 2023 at 10.00 am

This meeting was live streamed, details of which can be accessed [here](#)

### **Independent Members in attendance:-**

Mr D. Bowen    Mr J. Thomas  
Mrs H. John    Mr C.A.Thomas

### **Officers in attendance:-**

Mr A Wilkins, Director of Legal Services and Democratic Services

#### **12        APOLOGIES**

Apologies for absence were received from County Borough Councillors A Ellis and G Hopkins.

#### **13        DECLARATION OF INTEREST**

In accordance with the Council's Code of Conduct, there were no declarations made pertaining to the agenda.

#### **14        MINUTES**

It was **RESOLVED** to approve the minutes of the 5<sup>th</sup> September 2023 as an accurate reflection of the meeting.

#### **15        REVIEW OF THE MEMBER - OFFICER RELATIONS PROTOCOL**

The Council's Monitoring Officer provided Members with the Council's Member-Officer Relations Protocol, which sets out a framework for good working relationships between Members and Officers. Members were advised of the timeliness of reviewing the protocol to ensure that it still remained fit for purpose.

Members were advised of the importance of the document, noting that the Member/Officer protocol is an adjunct to the Councillors' Code of Conduct and is an important contributor to the working culture within the Council.

Members of the Committee were requested to review the existing Member-Officer Relations Protocol and consider whether any amendments should be

made and recommended to full Council for adoption.

To aid Members consideration, examples of Member-Officer Relations Protocols which have been relatively recently reviewed by other local authorities were appended to the Monitoring Officers Report.

Members noted that the protocol had served the Council well over the past 10 years, although acknowledged that it was important to review the protocol to ensure that it contained updated practices and technological advancements.

It was **RESOLVED**:

- i. To review the Council's existing Member - Officer Relations Protocol, attached at Appendix 1 to the report;
- ii. To review examples of other local authority Member-Officer Relations Protocols that have recently been reviewed/amended, attached at Appendices 2A – 2C to the report;
- iii. To consider whether any amendments should be made to the Council's Member-Officer Relations Protocol as a result of the reviews proposed in paragraph 2.1 and 2.2 above;
- iv. To agree the Monitoring Officer be tasked with presenting a revised protocol, based on the Committee's recommendations, to the next meeting of the Standards Committee for consideration and review by Members.
- v. To note any revised/amended Member-Officer Relations Protocol would need to be approved by the Full Council following a recommendation from this Committee.

## **16 ADJUDICATION PANEL FOR WALES' ANNUAL REPORT 2022-2023**

Members were provided with a copy of the Adjudication Panel for Wales' Annual Report 2022-2023, which provides details of the membership of the Panel, an analysis of its performance and a useful section summarising cases and decisions made by the Panel during the reporting period.

It was **RESOLVED**:

- i. To note the contents of the Adjudication Panel for Wales' Annual Report 2022-2023 contained at Appendix 1 to the report.

## **17 PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2022-2023**

The Monitoring Officer provided Members with a summary of matters pertaining to standards of conduct of County, Town and Community Councillors as set out in the Public Services Ombudsman for Wales' ('PSOW') Annual Report and Annual Letter to this Council for 2022-2023.

It was advised that the Ombudsman had noted a small reduction in the number of complaints about the Code of Conduct for Councillors and was glad to see that, after the previous year's record numbers her office had to refer fewer cases

of potentially serious breaches to local Standards Committees or the Adjudication Panel or Wales.

Members were advised that the PSOW received 283 new complaints about the Code of Conduct – 4% less than in 2022/23. 56% (158) of those complaints concerned Town and Community Councils. For the first time since 2019/20 this represented a decrease in the number of complaints about this group of Councillors. 43% (122) of the total complaints received related to County and County Borough Councillors. This represents a 7% increase in the number of complaints about councillors at principal councils when compared to 2021/22.

In respect of Rhondda Cynon Taf, there was 1 Code of Conduct complaint made about a Member in relation to their role as an RCT County Borough Councillor during the period, compared against 2 in 2021-2022. The complaint was discontinued after investigation. 6 complaints were received in relation to Town and Community Councils within RCT as against 9 in the previous reporting period. In relation to all 6 complaints the PSOW decided not to investigate.

The Monitoring Officer concluded his overview of the report by advising that the PSOW had stipulated that although she noted some positive trends in 2022/2023 her office continues to underline the value of more education and training for councillors on the Code of Conduct and encourage the use of local resolution procedures. Her belief is that these procedures can calm situations deal with problems early and prevent the need for further escalation to her office.

Members felt the Annual Report was a useful document, presenting detailed information of cases and provided a good comparison on previous years.

It was **RESOLVED**:

- i. To note the matters relating to Code of Conduct Complaints reported in the Public Services Ombudsman for Wales' Annual Report and Annual Letter to this Council 2022-2023

**18 PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS AGAINST MEMBERS - 30TH AUGUST 2023 - 31ST OCTOBER - 2023 AND INVESTIGATION OUTCOMES**

The Monitoring Officer informed Members that no complaints had been received during the period 30<sup>th</sup> August – 31<sup>st</sup> October 2023.

It was **RESOLVED**:

- i. To note that no complaints had been received during the reported period.

**19 PUBLIC SERVICES OMBUDSMAN FOR WALES - RECENT INVESTIGATION OUTCOMES - 'OUR FINDINGS'**

The Monitoring Officer provided Members with the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct as published by the Public Services Ombudsman for Wales (PSOW) on the 'our findings' section of her website for the period 30th August 2023 – 31st October 2023.

Members were reminded of the actions available to the PSOW following such

breaches, before the Monitoring Officer provided detail of the 1 breach reported in respect of a Duty to uphold the law: Conwy County Borough Council.

Members discussed the new way of working in respect of hybrid meetings, and the location of Members when attending virtually in respect of confidentiality items. The Council's Monitoring Officer advised of the Councils Multi Location Meeting Policy, which provides the parameters of how Members should attend should meetings, with a stable internet connection and in a confidential setting.

It was **RESOLVED**:

- i. To note and consider the contents of the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct, originally published by the Public Services Ombudsman for Wales on the 'our findings' section of her website and attached as Appendix 1 to the report (for the period 30th August 2023 – 31st October 2023).

## **20 APPLICATION FOR DISPENSATION - COUNTY BOROUGH COUNCILLOR M. POWELL**

The Monitoring Officer presented his report which sought the Committees decision as to whether to grant a dispensation to County Borough Councillor Michael Powell to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Services Group), save for any specific matters that directly affect his wife who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed on an annual basis by the Standards Committee.

Members were reminded that Paragraph 14 of the Code of Conduct sets out the procedures to be followed regarding participation in meetings when a Member has declared a personal and prejudicial interest. However the participation by a Member in any business which is prohibited by Paragraph 14 is not a failure to comply with the Code if the Member has acted in accordance with a dispensation from the prohibition granted by the Standards Committee in accordance with regulations.

It was added that any dispensation awarded cannot be used if the matter under consideration would confer a greater benefit on his wife than on other tax payers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect his ability to act purely on the merits of the case and in the public interest if Councillor Powell were to take part in the discussion.

It was **RESOLVED**:

- i. To grant County Borough Councillor Michael Powell a dispensation to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Group), save for any specific matters that directly affect his wife, who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed by the Standards Committee on an annual basis.

## **21 FUTURE MEETING ARRANGEMENTS**

The Monitoring Officer advised Members of the relocation of the Council Headquarters from Clydach Vale to Llys Cadwyn, in Pontypridd Town Centre, confirming that the next meeting of the Committee would be at the new location in the New Year.

Members **NOTED** the update.

**This meeting closed at 10.40am**

**Mr D Bowen  
CHAIR.**

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## **RHONDDA CYNON TAF**

### **RHONDA CYNON TAF COUNTY BOROUGH COUNCIL**

#### **STANDARDS COMMITTEE**

**29 JANUARY 2024**

### **PUBLIC SERVICES OMBUDSMAN FOR WALES – SUMMARY OF COMPLAINTS AGAINST MEMBERS – 30<sup>th</sup> AUGUST 2023 – 22<sup>nd</sup> JANUARY 2024**

#### **REPORT OF THE MONITORING OFFICER**

##### **1. PURPOSE OF THE REPORT**

- 1.1 To provide Members with a summary of complaints made against Members and submitted to the Public Services Ombudsman for Wales (the 'Ombudsman') for the period 30<sup>th</sup> August 2023 – 22<sup>nd</sup> January 2024.

##### **2. RECOMMENDATION**

- 2.1 To consider the contents of the report and provide any comments/feedback on the complaints received by the Ombudsman during the period 30<sup>th</sup> August 2023 – 22<sup>nd</sup> January 2024.

##### **3. BACKGROUND AND DETAILS OF COMPLAINTS**

- 3.1 In determining whether to investigate a breach of the Code of Conduct, the Ombudsman initially applies a two-stage test. At the first stage, she will aim to establish whether there is direct evidence that a breach of the Code has occurred. At the second stage the Ombudsman considers whether an investigation or a referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. This involves the consideration of a number of public interest factors such as: whether the member has deliberately sought a personal gain at the public's expense for themselves or others, misused a position of trust, whether an investigation is required to maintain public confidence in elected members and whether an investigation is proportionate in the circumstances.
- 3.2 Members will note below the summary of anonymised complaints made against Members and submitted to the Ombudsman during the reporting period 30<sup>th</sup> August 2023 – 22<sup>nd</sup> January 2024:

Date Notification Received by the Ombudsman	Body & Cllr	Nature of Complaint	Ombudsman Investigation Yes/No
21/11/23	Rhondda Cynon Taf County Borough Council (County Borough Councillor)	<p>It was alleged that a Councillor failed to disclose a personal and prejudicial interest to the Council and to a Planning Committee in respect of a resident's private planning application. It was also alleged that the Councillor misled the Planning Committee about the condition of the property and about the number of objectors to the application.</p> <p>Finally, it was alleged that the Councillor may have sought to improperly influence the Council's planning office to make a decision in favour of the applicant's planning application.</p> <p><b>PSOW Decision</b>  <b>(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct.</b></p> <p>Councillors are permitted to make representations in support of an individual resident's private planning application as any member of the public can. Councillors must make sure, however, that they disclose any personal and prejudicial interests they may have in such applications to the council. This is so that those with decision making powers can evaluate appropriately any information they receive about a particular matter, and so members of the public can have confidence in decision making.</p> <p>In this case, the Councillor made oral representations at a Planning Committee meeting convened to discuss, among other things, a planning application affecting the complainant. Before making representations, the Councillor declared that they had a personal and prejudicial interest in the application because they had a close personal association with the applicant's grandfather. The Councillor then left the meeting, after they made their representations, so the Planning Committee could make its decision.</p> <p>The complainant thinks the Councillor may have been helping the applicant in a professional capacity, and that this should therefore have been disclosed to the Planning Office and Planning Committee as a personal and prejudicial interest. No evidence has been provided, however, to show the Councillor was advising the applicant in such a professional capacity. The fact that the Councillor said they had advised the applicant</p>	No

	<p>does not evidence such a relationship as alleged.</p> <p>The complainant also thinks the Councillor may have attempted to influence the planning office about the application (prior to the Planning Committee meeting) and may have failed to disclose their personal and prejudicial interest when they first contacted the council about the matter.</p> <p>From the information provided by the Council to the complainant however, it appears that the Councillor contacted the head of planning by email and asked if they could have a chat about the application. The head of planning then spoke to the Councillor and the Councillor disclosed that they had an interest in the matter in the conversation. No evidence was been provided to show that the Councillor contacted the planning office before this interaction. No evidence has been provided to show the Councillor had tried to improperly influence the Council's decision as alleged.</p> <p>While the Councillor emailed a director at the Council, copying in the head of planning, this was at a time when the Councillor's interest had previously been declared to the head of planning. There was nothing within the email to show the Councillor was improperly trying to influence the Council's decision. The Ombudsman appreciated that the complainant was concerned, when they found out that the Councillor had spoken to the head of planning, that they may have tried to influence the Council to approve the application. However, no evidence was provided to show any such improper influence was brought to bear and the Ombudsman noted the Council's recommendation to the Planning Committee was that the application should be rejected.</p> <p>It is alleged that the Councillor told the Planning Committee that the complainant was the only objector to the planning application when there had in fact been previous objectors. From what the complainant had explained, when the Planning Committee convened, the complainant was the only ongoing objector because another neighbour had withdrawn their objection. Therefore the Ombudsman was of the view therefore that the Councillor can't be said to have misled the Planning Committee in this respect, although it was appreciated it is the complainant's view that the Councillor deliberately omitted to explain the full factual background to the Planning Committee.</p> <p>There were other factual aspects which the</p>	
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		<p>complainant considered the Councillor misled the Planning Committee about, such as the state of dereliction of the building and its grounds. However, commenting on the condition of a property is a matter of subjectivity and the Councillor, in supporting the applicant, was entitled to rely to an extent also on what the applicant may have advised the Councillor. Overall, no evidence was provided to show that the Councillor advised the Planning Committee of something which he knew to be false.</p> <p>The Ombudsman will not investigate unless there is reasonably strong evidence to suggest that the member concerned has breached the Code. No evidence had been provided to show that the Councillor may have breached any provisions of the Code for Members.</p> <p><b>(2) Whether an investigation is required in the public interest</b></p> <p>The conduct complained about did not meet the first stage of the test, as set out above, therefore, there was no need to consider the second stage of the test.</p>	
21/11/23	Rhondda Cynon Taf County Borough Council (County Borough Councillor)	<p>The Councillor was a member of a Planning Committee where a planning application affecting the complainant was decided.</p> <p>It was alleged that the Councillor colluded with other councillors (who were not on the Planning Committee) because the Councillor tried to approve the application when this was against the planning officer's recommendations to refuse it. It was also alleged that the Councillor was not competent to sit on a Planning Committee.</p> <p>It was alleged that the Councillor made offensive comments about the complainant in the Planning Committee, and which the complainant found upsetting.</p> <p><b>PSOW Decision</b></p> <p><b>(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct</b></p> <p>Councillors must have regard to any relevant advice provided by the authority and must make decisions on the merits of the individual circumstances of a matter and the wider public interest. Planning applications involve particular regulations and guidance, the interpretation of which can involve some degree of</p>	No

	<p>judgment. A councillor therefore deciding not to follow the recommendations of a planning officer does not, in and of itself, show that a councillor may not be competent or may have failed to follow regulations and guidelines correctly. Similarly, a decision to depart from the Council's recommendation does not evidence something untoward, such as collusion with other councillors, as alleged.</p> <p>The video of the Council meeting shows the Councillor had duly considered the Council's report and recommendations, but in the Councillor's view there was nothing wrong with the proposed extension i.e. they did not consider this to be overbearing which was 1 of the 2 reasons the council had recommended refusal. The Ombudsman noted the Chair of the Planning Committee said that the case was tricky which implied that refusal of the application was not obvious. Another councillor member of the Planning Committee also said that they did not consider the applicant's extension to be overbearing. All councillors, however, including the Councillor complained about in this complaint, agreed 1 element of the application was not acceptable.</p> <p>The fact that the Councillor said that they thought the applicant was entitled to develop the property in the way they wanted, did not show that they were suggesting that planning regulations should not be adhered to as alleged and that they were not competent, therefore. Rather, the Councillor (as was shown by the full comments in the meeting) was of the view that the application did meet planning regulations and the applicants were able to develop as they proposed in the Councillor's view (subject to a condition).</p> <p>In these circumstances, the Ombudsman could not conclude that there was evidence to show either that the Councillor was not competent or that they failed to have due regard to the authority's advice. There was no evidence to suggest that the Councillor colluded with others to try to approve the application as opposed to coming to their own independent judgement about the application before them.</p> <p>The Ombudsman saw the Councillor made reference to what they thought was an emotional connection by the complainant to the property in question. The Councillor went on to set out what they thought was a similar case in their own ward and they described a property that had been left derelict. While the Ombudsman</p>	
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		<p>appreciated the complainant felt upset by these comments, because the circumstances of this case were different and the complainant had not suggested that the property should be left derelict, the Ombudsman did not consider the Councillor's comments can be said to be objectively offensive and therefore in breach of the Code.</p> <p>Overall, no evidence was provided to show that the Councillor had behaved improperly and in breach of the Code for Members.</p> <p><b>(2) Whether an investigation is required in the public interest</b></p> <p>The conduct complained about did not meet the first stage of the test, as set out above, therefore, there was no need to consider the second stage of the test.</p>	
21/11/23	Rhondda Cynon Taf County Borough Council (County Borough Councillor)	<p>The Councillor called in a planning application which led to the application being considered at a Planning Committee rather than it being decided by a planning officer. The Councillor did not attend the Planning Committee meeting where the application was decided, and the Councillor did not provide a written statement to the meeting. It is alleged that the Councillor colluded with another councillor to make sure the application was called in, and so that the application could be approved at Planning Committee.</p> <p><b>PSOW Decision</b></p> <p><b>(1) Whether there is evidence to suggest that there have been breaches of the Code of Conduct</b></p> <p>Local councillors can call in individual planning applications if they think there is a valid planning reason to do so. The Council will then decide if there is a valid planning reason and if an application should therefore be brought before a Planning Committee rather than be decided by an individual planning officer.</p> <p>The complainant thinks the Councillor colluded with another councillor to call in the application so it could be approved at Planning Committee and not rejected by the planning officer because: the Councillor did not represent the ward in which the planning application was made; the call in was made within a few days of another councillor withdrawing their call in request (following the complainant's concern about that councillor having personal and prejudicial interests in the matter); and the Councillor did not attend the Planning Committee meeting or provide any written representations at the meeting.</p>	No

		<p>The Ombudsman stated they have expected some representations by the Councillor at Planning Committee given the Councillor had called in the application. However, the Councillor's absence from the meeting, and the absence of written representations, is not evidence that the Councillor must have colluded with another councillor. It appeared that the Councillor provided a valid planning reason to the Council to call in the application. This reason was accepted by the Council.</p> <p>While the complainant feels that collusion can be the only explanation for the Councillor calling in the application, Ombudsman felt alternative explanations are equally plausible. For example, the Councillor may have been approached by the applicant, and may have decided there was a valid planning reason to call in the application.</p> <p>Overall, the complainant's concerns arise from speculation as to what may have happened; however, the Ombudsman will not investigate a matter unless there is reasonably strong evidence to suggest that the member concerned has breached the Code. The Ombudsman was not persuaded that the Councillor's non-attendance at the meeting, or the fact they represent a different ward, is reasonably strong evidence to suggest the Member has colluded with another councillor and potentially breached the Code.</p> <p>It appears the complainant had a concern that a valid planning reason was not given by the Councillor and/or that the request to call in the application was not submitted within the Council's timeframes and should not therefore have been accepted by the Council. In that case, the Ombudsman stated the complainant may wish to pursue this concern through the Council's complaints process. This is a concern about the Council's administration process rather than a concern about the ethical conduct of the individual Councillor.</p> <p><b>(2) Whether an investigation is required in the public interest</b></p> <p>The conduct complained about does not meet the first stage of the test, as set out above, therefore, there is no need to consider the second stage of the test.</p>	
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**4. LEGAL IMPLICATIONS**

4.1 There are no specific legal implications arising from this report.

**5. CONSULTATION**

5.1 There are no consultation implications arising from this report.

**6. EQUALITY AND DIVERSITY IMPLICATIONS**

6.1 There are no equality and diversity implications arising from this report.

**7. FINANCIAL IMPLICATIONS**

7.1 There are no financial implications arising from this report.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**29 JANUARY 2024**

**REPORT OF THE MONITORING OFFICER**

**Background Papers:** Freestanding matter

**Contact:** Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)





## RHONDDA CYNON TAF

### RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

#### STANDARDS COMMITTEE

29 JANUARY 2024

### PUBLIC SERVICES OMBUDSMAN FOR WALES – RECENT INVESTIGATION OUTCOMES – ‘OUR FINDINGS’

#### INFORMATION REPORT OF THE MONITORING OFFICER

#### 1. PURPOSE OF REPORT

To consider the summary of investigation outcomes concerning alleged breaches of the Members’ Code of Conduct as published by the Public Services Ombudsman for Wales (PSOW) on the [‘our findings’](#) section of her website for the period 1<sup>st</sup> August 2023 – 22<sup>nd</sup> January 2024.

#### 2. RECOMMENDATION

- 2.1 To note and consider the contents of the summary of investigation outcomes concerning alleged breaches of the Members’ Code of Conduct, originally published by the Public Services Ombudsman for Wales on the ‘our findings’ section of her website and attached as Appendix 1 to the report (for the period 1<sup>st</sup> August 2023 – 22<sup>nd</sup> January 2024).

#### 3. BACKGROUND

- 3.1 The PSOW considers complaints that members of local authorities in Wales have breached the Code. There are four findings the PSOW can arrive at:
- (a) that there is no evidence of breach;
  - (b) that no action needs to be taken in respect of the complaint;
  - (c) that the matter be referred to the authority’s Monitoring Officer for consideration by the Standards Committee;
  - (d) that the matter be referred to the President of the Adjudication Panel for Wales (the APW) for adjudication by a tribunal.

It should also be noted that occasionally an investigation may be discontinued, where circumstances change during the course of an investigation and it is considered that it would not be in the public interest to continue to investigate.

- 3.2 The 'Our Findings' section on the PSOW website includes a search tool to allow summaries of cases to be accessed by reference to the relevant organisation, matter type, dates, case reference numbers, or outcome. In terms of matter types, cases are broken down into the following categories:
- a. Integrity;
  - b. Promotion of Equality and Respect;
  - c. Disclosure or Registration of Interests;
  - d. Duty to Uphold the Law; and
  - e. Selflessness and Stewardship.
- 3.3 The appendix to this report contains a summary of those cases not previously reported to Committee, originally published in ['Our Findings'](#) between the period 1<sup>st</sup> August 2023 – 22<sup>nd</sup> January 2024.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**STANDARDS COMMITTEE**

**29 JANUARY 2024**

**REPORT OF MONITORING OFFICER**

**PUBLIC SERVICES OMBUDSMAN FOR WALES – RECENT INVESTIGATION  
OUTCOMES – ‘OUR FINDINGS’**

**BACKGROUND PAPERS**

**Freestanding Matter**

**Contact:** Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)

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**SUMMARY OF PSOW INVESTIGATION OUTCOMES CONCERNING ALLEGED MEMBERS' CODE OF CONDUCT BREACHES - 30<sup>TH</sup> AUGUST 2023 – 31<sup>ST</sup> OCTOBER 2023 (NOT PREVIOUSLY REPORTED)**

**Promotion of equality & respect: Powys County Council/Bannau Brycheiniog National Park Authority**

Report date - 20/11/2023

Outcome – Referral to Standards Committee

The Ombudsman received a complaint that a Member (“the Member”) of Powys County Council (“the Council”) breached the Code of Conduct.

The report on this investigation has therefore been referred to the Monitoring Officer of Powys County Council, for consideration by the Council’s Standards Committee and to the Monitoring Officer of Bannau Brycheiniog National Park Authority, for consideration by the Authority’s Standards Committee. This summary will be updated following the Standards Committee’s decision.

**Promotion of equality & respect: Mumbles Community Council**

Report date - 10/10/2023

Outcome- Referred to the Adjudication Panel for Wales

The Ombudsman received a complaint from a member of the public that a Member (“the Member”) of Mumbles Community Council (“the Council”) had verbally abused them on social media.

The report on this investigation was referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal. This summary will be updated following the Adjudication Panel for Wales’ decision.

**Promotion of equality & respect: Wrexham County Borough Council**

Report date - 28/09/2023

Outcome - No action necessary

It was alleged that a member (“the Member”) of Wrexham County Borough Council (“the Council”) used offensive language and was intimidating and aggressive towards a member of the public.

The Ombudsman’s investigation considered whether the Member’s conduct may have reached paragraphs 4(b), 4(c) and 6(1)(a) of the Code of Conduct. Information was obtained from the Council. Witnesses, including the complainant, were interviewed. The Member was interviewed.

The Ombudsman's investigation found that there was no witness evidence, other than that of the complainant and Member, available to account for what was said during the exchange between the Member and complainant. Witness evidence was provided by members of the public which supported the Member's contention that the complainant had previous similar incidents. The investigation found that the incident was reported to the Police who determined that the incident was a clear "one word against the other" and documented that there was no supporting evidence to support either account. The Police took no further action against the Member and therefore no evidence of the allegedly poor behaviour on the part of the Member was found by the Police. On the balance of the available evidence, the Ombudsman was not persuaded that there was evidence of a breach of the Code.

Accordingly, the Ombudsman found that under Section 69(4)(a) of the Local Government Act 2000 there was no evidence of any failure to comply with the Code.

## **Disclosure & register of interest: Ffestiniog Town Council**

Report date - 13/09/2023

Outcome - No Action Necessary

The Ombudsman received a complaint that a Member ("the Member") of Ffestiniog Town Council ("the Council") had breached the Code of Conduct ("the Code") by failing to declare a personal and prejudicial interest when the Council took the decision not to support a request by local residents to oppose an application to the Land Registry Tribunal which had been made by a fellow councillor, the Member's friend. It was also alleged that the Member had subsequently sent a statement of support for his fellow councillor's application.

The Ombudsman's investigation considered whether the Member had breached the Code by failing to declare a personal and prejudicial interest, by using his position to create an advantage or disadvantage for someone and whether he had brought his office or authority into disrepute.

Information was obtained from the Council and witnesses were interviewed.

The Member acknowledged that his intention to write a statement of support for his fellow councillor's application to a Land Registry tribunal meant that he held a personal and prejudicial interest and that he should have declared the interest and not participated in discussion of those matters at council meetings.

The Ombudsman found that the actions of the member were suggestive of breaches of the Code in that he had failed to declare a personal and prejudicial interest and had made representations at council meetings when he should not have done so. However, the Ombudsman also noted that advice given by other councillors and the Clerk was not as clear as it could have been.

The Ombudsman was not persuaded that these events had, or were likely to have, an effect on the reputation of the Council as a whole, because it was unclear whether the Member's input would have affected the Council's decision and it was a limited decision affecting only a small group of people in the area.

The Ombudsman was also not persuaded that the Member used his position improperly or in a way that was suggestive of a breach of the Code because, had he declared a personal and prejudicial interest, he would not have been prevented from writing the statement if he wished to do so in his personal capacity and the fact that he was a member of the Council did not give him an advantage in that situation.

The Member had not received training on the Code before the events that gave rise to the complaint. The Member signed an undertaking to abide by the Code before he took up his role. This should not have been taken lightly and should have alerted him to the fact that he was under a duty to understand the Code in order to abide by it. He has since attended training on the Code as well as several other courses and now better understands the requirements of the Code and his responsibilities as a member of the Council.

The Ombudsman found that although the Member's actions were suggestive of a breach of the Code the limited impact of his actions, the mitigation provided by the unclear advice he received and the actions he has since taken to address his understanding of his obligations, meant it would not be in the public interest to take further action.

The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

## **Disclosure & register of interest : Ffestiniog Town Council**

Report date -13/09/2023

Outcome - No Action Necessary

The Ombudsman received a complaint that a Member ("the Member") of Ffestiniog Town Council ("the Council") had breached the Code of Conduct ("the Code") by failing to declare a personal and prejudicial interest when the Council took the decisions relating to a Land Registry application which had been made by the Member.

The Ombudsman's investigation considered whether the Member had breached the Code by failing to declare the personal and prejudicial interest, by using his position to create an advantage or disadvantage for someone and whether he had brought his office or authority into disrepute.

Information was obtained from the Council and witnesses were interviewed.

The Member acknowledged that his application to a Land Registry tribunal meant that he held a personal and prejudicial interest and that he should have declared the interest and not participated in discussion of those matters at council meetings.

The Ombudsman found that the actions of the Member were suggestive of breaches of the Code. The Member had failed to declare a personal and prejudicial interest and had made representations when he should not have done. However, the Ombudsman

also noted that the advice given by other councillors and the Clerk was not as clear as it could have been.

The Ombudsman was not persuaded that the event had, or was likely to have, an effect on the reputation of the Council as a whole, because it was a limited decision affecting only a small group of people in the area.

The Ombudsman was also not persuaded that the Member used his position improperly because had he declared a personal and prejudicial interest, he could have submitted his written representations, in his private capacity, in the way the other parties had.

The Member had not received training on the Code before the events that gave rise to the complaint. The Member signed an undertaking to abide by the Code before he took up his role. This should not have been taken lightly and should have alerted him to the fact that he was under a duty to understand the Code in order to abide by it, but he has since attended training on the Code as well as several other courses and now better understands the requirements of the Code and his responsibilities as a member of the Council.

The Ombudsman found that although the Member's actions were suggestive of a breach of the Code the limited impact of his actions, the mitigation provided by the unclear advice he received and the actions he has since taken to address his understanding of his obligations, meant it would not be in the public interest to take further action.

The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

## **Promotion of equality & respect: Flintshire County Council**

Report date - 09/08/2023

Outcome - No Action Necessary

The Ombudsman received a complaint that a Member ("the Member") of Flintshire County Council ("the Council") made comments on social media which brought the Council into disrepute as he alleged that another member of the Council had been "bought".

The Ombudsman's investigation considered whether the Member's conduct may have breached paragraphs 4(b), 4(c) and 6(1)(a) of the Code. Information was obtained from the Council. Copies of the comments made on social media and evidence from Facebook were obtained. Witness information was obtained. The Member was interviewed.

The Ombudsman's investigation found that the Member's comments on social media were made publicly and suggested impropriety and corruption on the part of another member of the Council. The Ombudsman found that the Member's comments had the



potential to seriously damage his and the Council's reputation and considered that a member of the public would reasonably have regarded the Member's comment as an allegation of bribery or corruption on the part of a member of the Council. She found that the Member's comment therefore had the potential to affect the Council's reputation and the public's confidence in local democracy and therefore concluded that the Member's conduct could reasonably be regarded as bringing both the Council and his office as a councillor into disrepute, in breach of paragraph 6(1)(a) of the Code.

The Ombudsman also found that the Member's comment and specific reference to a member of the Council being "bought" went beyond what was reasonable and was a serious allegation to make. She found that, in making such a serious allegation, publicly on Facebook, the Member failed to show the complainant respect and consideration. The Ombudsman found that the Member's conduct was suggestive of a breach of paragraph 4(b) of the Code.

The Ombudsman found that the member of the Council, at whom the comment was aimed, was clear that he did not suffer any lasting anxiety or loss of reputation as a result of the Member's comments. The Member also apologised publicly and privately to the member of the Council about whom he made the comments. The Ombudsman found that the evidence was not suggestive of bullying and harassment within the meaning of the Code and therefore did not consider there was evidence of a breach of paragraph 4(c) of the Code.

In considering whether further action was required in the public interest, the Ombudsman took into account the events which have taken place since the comment on social media was made. The Member publicly apologised for the comment and the apology was accepted. The member subject to the comments said that he suffered no lasting anxiety or loss of reputation as a result of the Member's comments and wished to withdraw his complaint. In view of this, the Ombudsman did not consider that it was in the public interest for any further action to be taken. However, the Ombudsman noted that had the Member not publicly apologised and had the member subject to the comments taken a different view on the matter, further action would have been taken. The Member was reminded of his need to take care when posting on social media. The Ombudsman also noted that any complaints of a similar nature be made in the future, this decision will be kept on record and taken into account in any future cases.

The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000, no action needs to be taken in respect of the matters investigated.

## **Promotion of equality & respect: Monmouthshire County Council**

Report date - 20/10/2023

Outcome – No Action Necessary

The Ombudsman received a complaint that a member ("the Member") of Monmouthshire County Council ("the Council") may have breached the Code of Conduct by the comments the Member made in a public Council meeting about a missing person. It was alleged that the comments were insensitive to the missing person's family.

The Ombudsman's investigation considered whether the Member's conduct may have breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct. Information was obtained from the Council. Witnesses, including the complainant, were interviewed. The Member was interviewed. Information was obtained from the Police.

The Ombudsman's investigation found that the Member had been asked for help by a constituent, who was also related to the missing person. The Police did not share any information with the Member about the missing person. The Ombudsman found that the Member's explanation that he was acting on behalf of his constituent in making the comments appeared reasonable. However, the Ombudsman found that the Member should have been mindful of the sensitive and upsetting nature of the matter. The complainant found the Member's comments upsetting and distressing to hear and the Ombudsman noted that the comments were made in a full Council public meeting. She considered that the public nature of the comments and references to the missing person could be considered as disrespectful to the family of the person who was missing. The Ombudsman found that discussing such a sensitive and upsetting matter as part of Council business may have failed to show respect and consideration to the complainant and accordingly, were in breach of paragraph 4(b) of the Code.

The Member said that he was representing his constituent in making the comments and that his comments were made as part of a political point. This meant that careful consideration of the enhanced protection councillors have, which permits the use of language in political debates which might, in non-political contexts be regarded as inappropriate or unacceptable had to be carefully considered. In view of this, the Ombudsman was not persuaded that the conduct was likely to have brought the Member's office of councillor or his Authority into disrepute (in breach of paragraph 6(1)(a) of the Code of Conduct).

The Ombudsman acknowledged that the Member was asked for help by a constituent and had explained that he was trying to help his constituent in making the comments complained about. It was noted that the Member had not received information which he had been asked to keep confidential and his comments were made as part of a political debate. In view of this, the Ombudsman did not consider that further action was needed in the public interest. The Ombudsman reminded the Member of the need to be mindful when commenting on sensitive matters in any future council meetings.

The Ombudsman found that under Section 69(b) of the Local Government Act 2000, my finding is that no action needs to be taken in respect of the matters investigated.

## **Promotion of equality & respect: Buckley Town Council**

Report date - 29/09/2023

Outcome – Referred to Standards Committee

The Ombudsman received a complaint from the Former Clerk of Buckley Town Council ("the Council") that a Member ("the Member") of the Council had breached the Code of Conduct. It was alleged that the Member had called for the Former Clerk's

resignation at a Council meeting which was attended by Councillors, staff and members of the public.

The report on the investigation was referred to the Deputy Monitoring Officer of Flintshire County Council for consideration by the Council's Standards Committee. This summary will be updated following the Standards Committee's decision.

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## RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2023-2024

### STANDARDS COMMITTEE

29 JANUARY 2024

## REVIEW OF THE COUNCIL'S MEMBER – OFFICER RELATIONS PROTOCOL

### REPORT OF THE MONITORING OFFICER

#### 1. PURPOSE OF THE REPORT

- 1.1 To review and comment on an amended version of the Council's Member-Officer Relations Protocol, as annexed at Appendix 1 to this report.

#### 2. RECOMMENDATIONS

It is recommended that:

- 2.1 Members review an amended version of the Council's existing Member - Officer Relations Protocol, attached at Appendix 1 to the report;
- 2.2 Members provide any comments or proposed changes to the amended version of the Council's existing Member-Officer Relations Protocol; and
- 2.3 Subject to 2.1 and 2.2 above, refer any revised Member-Officer Relations Protocol to the Council's Democratic Services Committee for review and comment and agree to receive any feedback from that Committee at the next Standards Committee meeting in April 2024.

#### 3. BACKGROUND

- 3.1 In 2013 the Council adopted a revised 'Member – Officer Relations Protocol'. As a reminder the Member - Officer Relations Protocol sets out a framework for good working relationships between Members and Officers as the best means of supporting the work of this Council. It explains how the nature of the relationship between elected Councillors and employed officials should work and describes their different but complementary roles within the Council. It also sets out the behaviours and treatment that each can expect from the other and thereby expands upon the Councillors Code of Conduct. It is only the Ombudsman who has the right to receive complaints made by Officers where Members are in breach of the Members' Code of Conduct itself. The Monitoring Officer will advise the Officer whether in his/her opinion

the allegation should be dealt with as a breach of the Member - Officer Relations Protocol or whether it should be referred to the Ombudsman as an allegation of breach of the Members' Code of Conduct.

- 3.2 The Member/Officer protocol is an adjunct to the Councillors' Code of Conduct and is an important contributor to the working culture within the Council. It sets out:
- the differing roles of members and officers and what they can expect from each other;
  - further explanation and guidance on appropriate behaviours;
  - mechanisms for handling concerns or problems within the relationship.
- 3.3 An alleged breach of the Protocol cannot be directly enforced in the same way as an alleged breach of the Code of Conduct. However, the document will inform any investigation by the Public Services Ombudsman for Wales.
- 3.4 The procedures to be followed for dealing with complaints made against Members under the Member – Officer Relations Protocol are those procedures adopted by the Council in relation to complaints made under the Local Resolution Protocol unless a complaint is formally made with the Public Services Ombudsman for Wales.

#### **4. REVIEW OF MEMBER – OFFICER RELATIONS PROTOCOL**

- 4.1 The protocol is due for review as part of the Committee's rolling work programme and therefore Officers have reviewed other local authorities protocols for comparisons and considered what other updates may be appropriate or necessary since the last review in 2013.
- 4.2 At its meeting in November 2024 Members reviewed the existing Member-Officer Relations Protocol and requested myself, as Monitoring Officer to draft a revised protocol with potential amendments for their review and consideration. Members were provided with a suite of examples of other Member-Officer Relations Protocols from other local authorities.
- 4.3 Members will find appended at Appendix 1A and 1B, clean and tracked changes versions respectively of a revised Member-Officer Relations Protocol. It is recommended Members review the document and provide any feedback they have on the same together with any further amendments they deem appropriate.
- 4.4 Subject to their review it is proposed any revised/amended Member-Officer Relations Protocol be referred to the next meeting of the Council's Democratic Services Committee for comment/feedback. Any feedback would then be reported to Committee Members at your next meeting in April.

- 4.5 Members should note any revised protocol would need to be approved by the Full Council following a recommendation from this Committee.

**5. LEGAL IMPLICATIONS**

- 5.1 There are no specific legal implications arising from this report however both Members and Officers are subject to the respective adopted Codes of Conduct of the Council and in the case of officers its disciplinary policies and employment rules.

**5. CONSULTATION**

- 5.1 The Standards Committee is being consulted on any proposed amendments to the Member-Officer Relations Protocol prior to any suggested amendments being considered at a meeting of Full Council. It is suggested it might be beneficial for any amendments to also be presented to the Council's Democratic Services Committee for any comment in advance of that presentation to Council.

**6. EQUALITY AND DIVERSITY IMPLICATIONS**

- 6.1 There are no specific equality and diversity implications arising from this report however both Officers and Members must conduct themselves in accordance with the provisions of the Equality Act 2010 applicable to a Local Authority in Wales.

**7. FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There are no financial implications arising from this report.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**29 JANUARY 2024**

**REPORT OF THE MONITORING OFFICER**

**Background Papers:** Member – Officer Relations Protocol



## **MEMBER - OFFICER RELATIONS PROTOCOL**

### **1. Underlying Principles**

- 1.1 The Local Government Act 2000 set up an Ethical Framework for Local Government introducing a Statutory Code of Conduct for Members (Councillors and co-opted members) and requiring the appointment of a Standards Committee to promote and maintain high standards of conduct.
- 1.2 This Protocol sets up a framework for good working relationships between Members and Officers with regards to their respective roles, as set out below and in the Council's Constitution, as the best means of supporting the work of this Council.
- 1.3 The basic principle of good Member-Officer relations in local government is trust, mutual respect and a common understanding of respective roles. Members are elected to represent the whole community and Officers are appointed by the Council to give creative, robust, and impartial advice, which will assist Members in reaching the best decisions for that community.
- 1.4 The Members' Code of Conduct says that they should "show respect and consideration for others" and "must not do anything which compromises, or which is likely to compromise, the impartiality of the Authority's employees".
- 1.5 The Code of Conduct for Local Government Employees says that "mutual respect between qualifying employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Qualifying employees of the Council should deal with the public, Members and other employees sympathetically, efficiently and without bias." The National Conditions of Service for Staff in Local Government provide: "The public is entitled to demand, of a local government officer, conduct of the highest standard".
- 1.6 The Protocol seeks to set out not only current practices and conventions but also aims to promote clarity and certainty on dealing with other issues.
- 1.7 The Protocol will also reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers so that together they enhance and maintain the integrity of the Council and its public reputation.

### **2. Member - Officer Relations**

- 2.1 Both Members and Officers serve the public but their roles and responsibilities differ. Members represent their constituents and the wider public. Officers are responsible to the Council and must give advice to Members and the Council and carry out the Council's work under the direction and control of the Council, the Cabinet and its Committees and sub-Committees.
- 2.2 Members and Officers shall establish sound and effective working relations that are characterised by mutual respect which is essential to good local government and put aside any personal differences.

2.3 In advising, Officers are free to give their professional advice wherever appropriate. Members may wish to test this advice by questioning and challenging something they do not agree with, but they should not, by their conduct or actions, make Officers feel intimidated or threatened. Any challenge to advice should be made to an officer of suitable seniority. Officers should remember that Councillors are democratically elected to secure their objectives and fully entitled to question advice given, and to receive a full and complete explanation.

Members can expect from Officers:-

- |  |
|--|
| <ul style="list-style-type: none"><li>• Commitment to the Council as a whole and not only to one part of it/political group</li><li>• A working partnership and an understanding of, and support for, respective roles, workloads and the differing pressures.</li><li>• Respect and courtesy</li><li>• The highest standards of integrity</li></ul>   |
| <ul style="list-style-type: none"><li>• Timely responses to enquiries and complaints in accordance with the procedures for handling Member enquiries</li></ul>   |
| <ul style="list-style-type: none"><li>• Impartial, clear professional advice not influenced by political views or preference</li><li>• Regular up to date information that can be considered appropriate and relevant to their needs having regard to any individual responsibilities that they have and positions that they hold</li><li>• Awareness of and sensitivity of the political environment</li><li>• Appropriate confidentiality</li><li>• Support for the role of Members within the arrangements made by the Council</li><li>• That they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly</li><li>• Compliance with this Protocol at all times</li><li>• Compliance with the Officers' Code of Conduct</li><li>• Compliance with relevant Equalities legislation</li></ul> |

2.4 Officers can expect from Members:-

- |   |
|---|
| <ul style="list-style-type: none"><li>• Respect and courtesy</li><li>• The highest standards of integrity</li><li>• A working partnership and an understanding of and support for respective roles, workloads and pressures</li><li>• That they will not raise matters relating to the conduct or capability of an Officer, or of the employees collectively, at meetings held in public or in the Press. Employees have no means of responding to criticism like this in public</li><li>• That they will not require Officers to change their professional advice nor take any action which an Officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct</li><li>• Leadership</li><li>• Appropriate scrutiny of decisions that focuses on objective measures of performance and outcomes</li></ul> |
|---|

- Respect for differing working hours and working patterns with appropriate time being allowed for Officers responding to queries and concerns as per Council arrangements
- Not to be subject to bullying or discrimination or to be put under undue pressure
- That they will not use their relationship with Officers to seek to advance their personal interests or those of others or to influence decisions improperly
- Recognise and pay due regard to their role as an employer in their dealings with Officers
- Compliance with the Members' Code of Conduct
- Compliance with this Protocol at all times
- Compliance with relevant Equalities legislation

2.5 Close personal familiarity between individual Members and Officers can damage professional relationships and prove embarrassing to other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Officers. Where a Member and an Officer have a close relationship (whether familial, social, business, emotional etc) its existence must be declared, through the relevant process for declaring interests, so that appropriate steps can be taken to ensure that the relationship does not:

- Impinge upon the functioning of the Council or the exercise of Council functions
- Undermine or circumvent procedural safeguards
- Impact upon the Council's reputation

2.6 Any act against an individual Officer may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. Whilst this Protocol cannot give guidance on every situation where such behaviour may occur, the Council is committed to promoting professional and courteous working relationships between individuals. No public comment will be made on any ongoing disciplinary proceedings as it could prejudice their outcome or breach the confidentiality that Officers are entitled to expect in relation to such matters.

2.7 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.

2.8 In seeking advice and support Members should have due regard to the seniority of the Officer with whom they are dealing and the fact that, while those Officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual Member. For this reason Members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant Chief Officer rather than a more junior member of staff.

- 2.9 All dealings between Members and Officers should observe reasonable standards of courtesy and neither party should seek to take advantage of their position. It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position or seek to assert undue pressure. This is particularly relevant where the Council is considering taking, or is in the process of taking, enforcement action.
- 2.10 If there are any occasions where Members may have reason to complain about the conduct or performance of an Officer, all such complaints should be made personally, either to the Chief Executive or Monitoring Officer as appropriate (and in the case of the Chief Executive to the Monitoring Officer). It is particularly important that such complaints are made in this way and are not aired in public such as at a meeting of the Council, to other external bodies or members of the public or in the Press.
- 2.11 Similarly, if there is concern by an Officer in relation to a Member's conduct, all such concerns should initially be brought personally by the relevant Chief Officer to the attention of the Chief Executive or in his/her absence to the Monitoring Officer. If the concern is sufficiently serious the Chief Executive will bring the matter to the attention of the Monitoring Officer.
- 2.12 All Members have the same right and obligations in their relationship with Officers and should be treated equally. However, Members of the Executive and Chairs of Committees have additional responsibilities and their relationship with Officers may be different and more complex from those of Members without those responsibilities and this is recognised in the expectations they are entitled to have of Officers. Also, where a political group forms an administration either alone or in partnership with another group or groups, it is recognised that the relationship with Officers, particularly those at a senior level, will differ from that with opposition groups.

### **3. The Role of Officers**

- 3.1 To initiate and to implement the policies set and the decisions made by Members.
- 3.2 To provide impartial, professional and technical advice to Members.
- 3.3 To carry out those functions delegated to Officers.
- 3.4 To provide reasonable help, support and advice to all Members.
- 3.5 To represent the Council on outside bodies.
- 3.6 To act in a specific capacity listed below where appointed so to do by the Council:

**The Chief Executive** (as defined by the Local Government & Elections (Wales) Act 2021) has the following functions and duties:

to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council's functions; the number and grades of staff that are required to discharge those functions; the organisation of the

Council's staff; and the appointment and proper management of the Council's staff.

**The Monitoring Officer (Director of Legal & Democratic Services)** (as defined by the Local Government and Housing Act 1989 section 5) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any proposal, decision or omission by the Council, a Committee, Sub-Committee, or Officer has given rise or is likely to give rise to a contravention of any statute or maladministration or injustice as mentioned in Part III of the Local Government Act 1974.

**The Chief Financial Officer** (as defined by the Local Government Act 1972 section 151) (**Deputy Chief Executive and Group Director, Finance, Digital & Frontline Services**) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any Committee, Sub-Committee, or Officer has or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and is likely to cause a loss or deficiency to the Council; or is about to enter an item of account, the entry of which would be unlawful.

#### **4. The Role of Members**

- 4.1 To promote the social, economic and environmental well being of the community.
- 4.2 Collectively be the ultimate policy makers and decision makers and carry out a number of strategic and corporate functions.
- 4.3 Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.
- 4.4 Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- 4.5 Balance different interests identified within the electoral ward and represent the ward as a whole.
- 4.6 Be involved in decision making and must reach decisions having regard to any relevant advice given by Officers.
- 4.7 Be available to represent the Council on other bodies.
- 4.8 To provide leadership, promote the highest standards of conduct and ethics and to treat each other with courtesy and respect.
- 4.9 To act collectively as the employer of the staff.
- 4.10 To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution:
  - Chair of the Council
  - Leader of the Executive
  - Executive Member

- Portfolio Holder (with or without delegated authority)
- Chair of the Scrutiny Committee
- Member of the Scrutiny Committee
- Chair of a Committee other than Scrutiny
- Member of a Committee other than Scrutiny
- Representing the Council on Outside Bodies

### **Rights and Duties of Individual Members**

#### 4.11 All Members have the right:-

- To inspect documents in the possession or control of the Council as set out in the Council's Constitution
- To attend Committee, Sub Committee, Joint Committee, training sessions and such meetings as are necessary for the proper performance of that Member's duties
- To see accounts and make copies before the Annual Audit to inspect specific books, contracts, bills etc
- To receive approved allowances

#### 4.12 There are also duties on individual Members to:-

- Abide by the Members Code of Conduct and this Protocol
- To disclose personal and prejudicial interests as set out in the Code of Conduct
- To register the receipt of any gifts and hospitality at levels determined by the Council
- To use all reasonable endeavours to attend meetings of the Council, its Committees, sub-Committees, other events and any outside bodies to which they have been appointed and to give apologies [with reason] where appropriate on those occasions where the Member is unable to attend
- To attend and participate in opportunities for training and development including policy development
- To take into account advice provided by the Chief Executive, the Monitoring Officer or Officers of the Council.

### **5. Members in their role as Local Members**

#### 5.1 When acting in their electoral ward role Members:

- need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time; and
- recognise the Officer's right to suggest that senior Officers, the Executive (Council) or a Committee should authorise additional work requested by individual Members.

**6. The Relationship between the Overview and Scrutiny Committees and Officers (when Executive decisions are being scrutinised)**

- 6.1 The Council's Overview and Scrutiny Committees shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality of Executive decisions or the Monitoring Officer and other appropriate Officers where they consider a decision of the Executive might be contrary to the policy framework.
- 6.2 When considering calling Officers to give evidence the Committee shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior Officer to ensure that such Officers are not put under undue pressure.
- 6.3 When asking Officers to give evidence before the Committee questions should be confined, so far as possible, to questions of fact and explanation and professional opinion relating to policies and decisions.
- 6.4 Where they consider it appropriate the Committee may ask Officers to explain advice given to Members (of the Executive) prior to decisions being taken and explain decisions they themselves have taken under the Scheme of Delegation.
- 6.5 The Committee shall not question Officers in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable nor deal with matters which are of a possible disciplinary/capability nature.
- 6.6 The Committee shall, at all times respect the political impartiality of the Officers and must not expect Officers to give a political view.

**7. Officer Relationships with Party Groups**

- 7.1 It must be recognised by all Officers and Members that in discharging their duties Officers serve the Council as a whole and not exclusively any political group, combination of groups, or any individual Members.
- 7.2 Officers may properly be called upon to support and contribute to the deliberations of political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even handed manner.
- 7.3 The support provided by Officers can take many forms, ranging from a briefing with the Leader of the Executive, the Leaders of other political groups, or Chairs of Committees, to a presentation to a full party group meeting.
- 7.4 Any request for advice given to a political group or Member will be treated with strict confidence by the Officers concerned and will not be accessible to any other political groups. Factual information upon which any advice is based will, if requested, be available to all political groups.
- 7.5 When attendance is requested for political group meetings:
  - 7.5.1 the request to attend a group meeting must be made through the Chief

Executive;

- 7.5.2 Officers will not attend party group meetings which include persons who are not Members of the Council or be present at purely party political discussions;
- 7.5.3 such a request can only be made in relation to Council business;
- 7.5.4 Officers must respect the confidentiality of any party group discussions at which they are present.

## **8. Confidentiality and the Press**

- 8.1 Any Council information provided to a Member in his/her capacity as a Member must only be used by the Member in connection with the proper performance of their duties. Confidential information should not be disclosed to the media, discussed or released to any other persons. Members should not disclose or use confidential information for the personal advantage of themselves or anyone known to them or to the disadvantage or the discredit of the Council or anyone else.
- 8.2 Officers and Members have a responsibility to protect the Council's reputation. Leaking of confidential information including exempt agenda items and minutes to the media or public criticism of individual Officers by Members or of individual Members by Officers is unacceptable. There are clear requirements set out both in the Members' Code of Conduct and in the Officer Code of Conduct regarding confidentiality.
- 8.3 Duties of confidentiality (under common law) arise when one person (the 'confident') is provided with information by another (the 'confider') either orally or in writing in the expectation that the information will only be used or disclosed in accordance with the wishes of the confider.

Examples of this duty are;-

- if the relationship is inherently confidential e.g. lawyer and client
  - If the relationship is personal e.g. between colleagues in circumstances that suggest an expectation of confidentiality
  - If there is risk through identification e.g. whistle blowers
- 8.4 The fact that information is not marked 'confidential' does not necessarily prevent it from being confidential as this may be inferred from the subject matter and the surrounding circumstances. Confidentiality is unlikely to be established where the information is already known to a wide circle or is in the public domain. Wherever possible, officers and Members should clearly indicate in correspondence or verbally when they expect information to remain confidential to avoid confusion.
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be based on inaccurate information offered without due regard or attempt to establish the facts.

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- 9.1 All correspondence, including Emails between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member this should be made clear to the original Member, before any correspondence is sent.
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- 9.3 Local government should promote openness and transparency so information should not be disseminated secretly. E mails by and from Members should not be blind copied, without acknowledging to whom the e-mail has been copied.
- 9.4 Members and Officers need to meet or speak to discuss Council business. Officers will generally keep a written note of such meetings as an aide memoire. Sometimes a more formal note of the discussion will be prepared such as confirmatory email or minutes. Such record keeping is to be expected and is normally taken to be agreed. Covert recording of meetings or conversations should not take place.
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## **11. Attendance by Members at meetings arranged by Officers**

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- 11.3 Members may request meetings with Officers and bring third parties to that meeting where appropriate.

## **12. Breaches of this Protocol**

- 12.1 Allegations by an Officer of a specific breach of this Protocol by a Member should be made to the Monitoring Officer. It is hoped that any potential problems may be resolved by early discussion between the Member(s) involved and the Monitoring Officer. If this proves impossible the Monitoring Officer may, in consultation with the Chair of the Standards Committee refer the matter to the Standards Committee and invite them to reach a view as to whether the Protocol has been breached. The view of the Standards Committee will be reported at a Council meeting. The Standards Committee will follow the Council's Local Protocol resolution procedures (suitably adapted) for dealing with any complaints made against Members under this Protocol. In certain circumstances breach of this protocol may amount to a potential breach of the Member's Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Public Services Ombudsman for Wales. The Monitoring Officer will assist in this process if necessary.
- 12.2 The Chief Executive will decide whether disciplinary procedures are appropriate in the case of an alleged breach of this Protocol by Officers.
- 12.3 Allegations by a Member of a specific breach of this protocol by another Member will be dealt with in accordance with the Council's Local Protocol resolution procedures (suitably adapted).
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## **13. Training and Briefing**

- 13.1 Training and briefing for the operation of this Protocol for Members and Officers will be arranged as required and overseen by the Standards Committee.

## **14. Advice**

- 14.1 The Council's Monitoring Officer and Deputy Monitoring Officer will give advice on the interpretation and operation of this Protocol.

## **15. Review**

- 15.1 The operation of this Protocol will be regularly monitored and reviewed by the Standards Committee with particular reference to findings on breaches, and recommendations made to Council for amendment where necessary.

## MEMBER - OFFICER RELATIONS PROTOCOL

### 1. Underlying Principles

1.1 The Local Government Act 2000 set up an Ethical Framework for Local Government introducing a Statutory Code of Conduct for Members (Councillors and co-opted members) and requiring the appointment of a Standards Committee to promote and maintain high standards of conduct.

~~1.2 The Members' Code of Conduct sets out in general terms aspects of conduct which Members must observe in carrying out official duties and which have direct relevance to relations between Members and between Members and Officers.~~

~~1.3~~ This Protocol sets up a framework for good working relationships between Members and Officers with regards to their respective roles, as set out below and in the Council's Constitution, as the best means of supporting the work of this Council.

~~1.34~~ The basic principle of good Member-Officer relations in local government is trust, mutual respect and a common understanding of respective roles. Members are elected to represent the whole community and Officers are appointed by the Council to give creative, robust, and impartial advice, which will assist Members in reaching the best decisions for that community.

1.4 The Members' Code of Conduct says that they should "show respect and consideration for others" and "must not do anything which compromises, or which is likely to compromise, the impartiality of the Authority's employees".

1.5 The Code of Conduct for Local Government Employees says that "mutual respect between qualifying employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Qualifying employees of the Council should deal with the public, Members and other employees sympathetically, efficiently and without bias." The National Conditions of Service for Staff in Local Government provide: "The public is entitled to demand, of a local government officer, conduct of the highest standard".

1.6 The Protocol seeks to set out not only current practices and conventions but also aims to promote clarity and certainty on dealing with other issues.

~~1.57~~ The Protocol will also reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers so that together they enhance and maintain the integrity of the Council and its public reputation.

### 2. Member - Officer Relations

2.1 Both Members and Officers serve the public but their roles and responsibilities differ. Members represent their constituents and the wider public. Officers are responsible to the Council and must give advice to Members and the Council and carry out the Council's work under the direction and control of the Council, the Cabinet and its Committees and sub-Committees.

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2.2 Members and Officers shall establish sound and effective working relations that are ~~The relationship between Officers and Members should be~~ characterised by mutual respect which is essential to good local government and put aside any personal differences.

2.3 In advising, Officers are free to give their professional advice wherever appropriate. Members may wish to test this advice by questioning and challenging something they do not agree with, but they should not, by their conduct or actions, make Officers feel intimidated or threatened. Any challenge to advice should be made to an officer of suitable seniority. Officers should remember that Councillors are democratically elected to secure their objectives and fully entitled to question advice given, and to receive a full and complete explanation.

Members can expect from Officers:-

- Commitment to the Council as a whole and not only to one part of it/political group
- A working partnership and an understanding of, and support for, respective roles, workloads and the differing pressures.
- Respect and courtesy
- The highest standards of integrity
- Timely responses to enquiries and complaints in accordance with the procedures for handling Member enquiries
- Impartial, clear professional advice not influenced by political views or preference
- Regular up to date information that can be considered appropriate and relevant to their needs having regard to any individual responsibilities that they have and positions that they hold
- Awareness of and sensitivity of the political environment
- Appropriate confidentiality
- Support for the role of Members within the arrangements made by the Council
- That they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly
- Compliance with this Protocol at all times
- Compliance with the Officers' Code of Conduct
- Compliance with relevant Equalities legislation

2.4 Officers can expect from Members:-

- Respect and courtesy
- The highest standards of integrity
- A working partnership ~~and an~~ understanding of and support for respective roles, work-loads and pressures
- That they will not raise matters relating to the conduct or capability of an Officer, or of the employees collectively, at meetings held in public or in the Press. Employees have no means of responding to criticism like this in public.

- That they will not require Officers to change their professional advice nor take any action which an Officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct
- Leadership
- Appropriate scrutiny of decisions that focuses on objective measures of performance and outcomes
- Respect for differing working hours and working patterns with appropriate time being allowed for Officers responding to queries and concerns as per Council arrangements
- Not to be subject to bullying or discrimination or to be put under undue pressure
- That they will not use their relationship with Officers to seek to advance their personal interests or those of others or to influence decisions improperly
- Recognise and pay due regard to their role as an employer in their dealings with Officers
- Compliance with the Members' Code of Conduct
- Compliance with this Protocol at all times
- Compliance with relevant Equalities legislation

2.5 Close personal familiarity between individual Members and Officers can damage professional relationships and prove embarrassing to other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Officers. Where a Member and an Officer have a close relationship (whether familial, social, business, emotional etc) its existence must be declared, through the relevant process for declaring interests, so that appropriate steps can be taken to ensure that the relationship does not:

- Impinge upon the functioning of the Council or the exercise of Council functions
- Undermine or circumvent procedural safeguards
- Impact upon the Council's reputation

2.6 Any act against an individual Officer may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. Whilst this Protocol cannot give guidance on every situation where such behaviour may occur, the Council is committed to promoting professional and courteous working relationships between individuals. No public comment will be made on any ongoing disciplinary proceedings as it could prejudice their outcome or breach the confidentiality that Officers are entitled to expect in relation to such matters.

2.7 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.

2.8 In seeking advice and support Members should have due regard to the seniority

of the Officer with whom they are dealing and the fact that, while those Officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual Member. For this reason Members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant Chief Officer rather than a more junior member of staff.

- 2.9 All dealings between Members and Officers should observe reasonable standards of courtesy and neither party should seek to take advantage of their position. It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position or seek to assert undue pressure. This is particularly relevant where the Council is considering taking, or is in the process of taking, enforcement action.
- 2.10 If there are any occasions where Members may have reason to complain about the conduct or performance of an Officer, all such complaints should be made personally, either to the Chief Executive or Monitoring Officer as appropriate (and in the case of the Chief Executive to the Monitoring Officer). It is particularly important that such complaints are made in this way and are not aired in public such as at a meeting of the Council, to other external bodies or members of the public or in the Press.
- 2.11 Similarly, if there is concern by an Officer in relation to a Member's conduct, all such concerns should initially be brought personally by the relevant Chief Officer to the attention of the Chief Executive or in his/her absence to the Monitoring Officer. If the concern is sufficiently serious the Chief Executive will bring the matter to the attention of the Monitoring Officer.
- 2.12 All Members have the same right and obligations in their relationship with Officers and should be treated equally. However, Members of the Executive and Chairs of Committees have additional responsibilities and their relationship with Officers may be different and more complex from those of Members without those responsibilities and this is recognised in the expectations they are entitled to have of Officers. Also, where a political group forms an administration either alone or in partnership with another group or groups, it is recognised that the relationship with Officers, particularly those at a senior level, will differ from that with opposition groups.

### **3. The Role of Officers**

- 3.1 To initiate and to implement the policies set and the decisions made by Members.
- 3.2 To provide impartial, professional and technical advice to Members.
- 3.3 To carry out those functions delegated to Officers.
- 3.4 To provide reasonable help, support and advice to all Members.
- 3.5 To represent the Council on outside bodies.
- 3.6 To act in a specific capacity listed below where appointed so to do by the Council:

~~The Head of Paid Service (Chief Executive)~~ (as defined by the Local Government and Housing Act 1989 section 4) Government & Elections (Wales) Act 2021) has the following functions and duties:

to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council's functions; the number and grades of staff that are required to discharge those functions; the organisation of the Council's staff; and the appointment and proper management of the Council's staff.

**The Monitoring Officer (Director of Legal & Democratic Services)** (as defined by the Local Government and Housing Act 1989 section 5) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any proposal, decision or omission by the Council, a Committee, Sub-Committee, or Officer has given rise or is likely to give rise to a contravention of any statute or maladministration or injustice as mentioned in Part III of the Local Government Act 1974.

**The Chief Financial Officer** (as defined by the Local Government Act 1972 section 151) ~~(Deputy Chief Executive and Group Director, of Finance, Digital & Frontline Digital Services)~~ (as defined by the Local Government Act 1972 section 151) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any Committee, Sub-Committee, or Officer has or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and is likely to cause a loss or deficiency to the Council; or is about to enter an item of account, the entry of which would be unlawful.

#### **4. The Role of Members**

- 4.1 To promote the social, economic and environmental well being of the community.
- 4.2 Collectively be the ultimate policy makers and decision makers and carry out a number of strategic and corporate functions.
- 4.3 Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.
- 4.4 Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- 4.5 Balance different interests identified within the electoral division/ward and represent the ward as a whole.
- 4.6 Be involved in decision making and must reach decisions having regard to any relevant advice given by Officers.
- 4.7 Be available to represent the Council on other bodies.
- 4.8 To provide leadership, promote the highest standards of conduct and ethics and to treat each other with courtesy and respect.

- 4.9 To act collectively as the employer of the staff.
- 4.10 To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution:
- Chair of the Council
  - Leader of the Executive
  - Executive Member
  - Portfolio Holder (with or without delegated authority)
  - Chair of the Scrutiny Committee
  - Member of the Scrutiny Committee
  - Chair of a Committee other than Scrutiny
  - Member of a Committee other than Scrutiny
  - Representing the Council on Outside Bodies

### **Rights and Duties of Individual Members**

- 4.11 All Members have the right:-
- To inspect documents in the possession or control of the Council as set out in the Council's Constitution
  - To attend Committee, Sub Committee, Joint Committee, training sessions and such meetings as are necessary for the proper performance of that Member's duties
  - To see accounts and make copies before the Annual Audit to inspect specific books, contracts, bills etc
  - To receive approved allowances
- 4.12 There are also duties on individual Members to:-
- Abide by the Members Code of Conduct and this Protocol
  - To disclose personal and prejudicial interests as set out in the Code of Conduct
  - To register the receipt of any gifts and hospitality at levels determined by the Council
  - To use all reasonable endeavours to attend meetings of the Council, its Committees, sub-Committees, other events and any outside bodies to which they have been appointed and to give apologies [with reason] where appropriate on those occasions where the Member is unable to attend
  - To attend and participate in opportunities for training and development including policy development
  - To take into account advice provided by the Chief Executive, the Monitoring Officer or Officers of the Council.

## **5. Members in their role as Local Members**

- 5.1 When acting in their electoral ward role Members:



- need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time; and
- recognise the Officer's right to suggest that senior Officers, the Executive (Council) or a Committee should authorise additional work requested by individual Members.

## **6. The Relationship between the Overview and Scrutiny Committees and Officers (when Executive decisions are being scrutinised)**

- 6.1 The Council's Overview and Scrutiny Committees shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality of Executive decisions or the Monitoring Officer and other appropriate Officers where they consider a decision of the Executive might be contrary to the policy framework.
- 6.2 When considering calling Officers to give evidence the Committee shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior Officer to ensure that such Officers are not put under undue pressure.
- 6.3 When asking Officers to give evidence before the Committee questions should be confined, so far as possible, to questions of fact and explanation and professional opinion relating to policies and decisions.
- 6.4 Where they consider it appropriate the Committee may ask Officers to explain advice given to Members (of the Executive) prior to decisions being taken and explain decisions they themselves have taken under the Scheme of Delegation.
- 6.5 The Committee shall not question Officers in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable nor deal with matters which are of a possible disciplinary/capability nature.
- 6.6 The Committee shall, at all times respect the political impartiality of the Officers and must not expect Officers to give a political view.

## **7. Officer Relationships with Party Groups**

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**Number: WG48234**

Welsh Government

## Consultation – summary of responses

Summary of responses to the consultation on the recommendations of the Independent Review of the Ethical Standards Framework (Richard Penn report)

November 2023

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh  
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

## **Overview**

This document provides a summary of the responses to the consultation on the recommendation of the Independent Review of the Ethical Standards Framework (Richard Penn report).

## **Action Required**

This document is for information only.

## **Further information and related documents**

Large print, Braille and alternative language versions of this document are available on request.

## **Contact details**

For further information:

Local Government Policy Division  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Email: [LGPpolicy.correspondence@gov.wales](mailto:LGPpolicy.correspondence@gov.wales)

## **Additional copies**

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: [Consultation on the recommendations of the Independent Review of the Ethical Standards Framework \(Richard Penn report\) \[HTML\] | GOV.WALES](#)



## Contents

Contents .....	3
Introduction .....	4
Summary of responses .....	5

## **Introduction**

The Local Government Act 2000 (the 2000 Act) established the local government Ethical Standards Framework (the Framework) in Wales. The Framework extends to county and county borough councils, corporate joint committees, national park authorities, fire and rescue authorities and community and town councils. Where the term council(s) is/are used throughout this document this also extends to all member(s) of the above-named bodies.

As the Framework has remained largely unchanged over the last 20 years an independent review (the review) was commissioned in March 2021 and undertaken by Richard Penn. The review concluded the current Framework is 'fit for purpose' and works well in practice. However, it suggested a few amendments which could lead to a greater emphasis in the Framework on prevention of complaints, improve the handling of complaints and result in already high ethical standards being further enhanced.

Extensive stakeholder engagement took place following the publication of the review, including monitoring officers, the Public Services Ombudsman for Wales (PSOW) and her office, the Welsh Local Government Association (WLGA) and One Voice Wales. Discussion on the review's recommendations at the All-Wales Standards Conference in February 2022 were carefully listened to and standards committees wrote in with their views.

The consultation paper built on the review's recommendations and took the thoughts and comments raised during engagement into account.

### **About the consultation process**

Views were invited as part of a formal three month consultation between 24 March 2023 and 23 June 2023. The consultation document was published on the Welsh Government's website. The consultation sought views on Welsh Government responses to the review and considerations of the recommendations, along with a number of further issues raised during stakeholder engagement.

The consultation included an introduction to the Framework, the terms of reference of the review and links to the review.

Details of the consultation can be found [here](#).

### **About the responses**

31 responses were submitted either online or by e-mail within the timeframe of the consultation. One of the e-mail respondents did not submit any answers, however appreciated the opportunity to have done so. Three further responses were submitted following consultation closure. Whilst these responses have not been

included in this summary of responses it was noted that points raised were broadly in line with other respondents.

As part of the consultation process respondents were asked whether they were content for their details to be disclosed. Four respondents wished to remain anonymous and two did not answer the question. We have therefore not released details of respondents' identities.

The 31 respondents to the consultation can be grouped as follows:

- 12 principal councils and principal council committees
- 8 town and community councils
- 6 organisations, including societies, panels, associations
- 2 non principal council local government authorities (fire rescue authorities/national park authorities)
- 2 members of the public
- 1 anonymous online submission, grouping unknown

16 responses were completed online and 17 submitted via e-mail. No responses were received in hard copy.

## Summary of responses

This document is a summary of the responses received. The report does not aim to capture every point raised by respondents, instead it draws out key messages.

22 questions were asked in the consultation document and a summary of the responses is set out below.

Not all questions were answered by all respondents and some gave a general response to the consultation rather than answering specific questions. Where a general response has been provided we have included the response under the most appropriate question or provided a summary of points raised under question 22.

Respondents' comments have been included in the summary where a respondent has not specifically agreed or disagreed with a question.

**Question 1.** *Do you agree the relevant regulations relating to the Ethical Standards Framework should be amended to align with the definitions relating to protected characteristics in the Equality Act 2010, and that we should amend the definition of equality and respect in section 7 of The Conduct of Members (Principles) (Wales) Order 2001 ([legislation.gov.uk](http://legislation.gov.uk))?*

Of the 31 consultation responses received, 29 responded to this question. 2 did not express an opinion either way.

100% of the 29 respondents to this question agreed with this proposal. Many commented that the proposal was logical and supported ensuring consistency across Wales. One principal council confirmed they had already undertaken this

alignment and considered it would send a strong message that councillors are expected to promote and maintain the highest standards of conduct.

There were no adverse comments to this question.

**Question 2.** *Should the Adjudication Panel Wales (APW) be able to issue Restricted Reporting Orders?*

Of the 31 consultation responses received 26 responded to this question. 5 did not express an opinion either way.

85% of the 26 respondents to this question agreed the APW should be able to issue Restricted Reporting Orders. Whilst some respondents commented on the need for transparency in proceedings, some raised issues regarding hearings which may, for example, relate to minors. In such circumstances restricted reporting was considered appropriate. It was noted by one respondent that well established procedures are in place in other organisations which could be adopted.

Some respondents commented that restricted reporting orders could remove barriers to reporting complaints by providing a secure environment for complainants, witnesses, officers and panel members. It was suggested the restrictions could be in place for the period of a hearing and lifted following the hearing. It was felt this could support the removal of “trial by media”.

15% of the 26 respondents did not agree the APW should be able to issue Restricted Reporting Orders. Some respondents suggested this approach would not be in the interest of openness, transparency and the Nolan principles. Some respondents also considered that as similar restrictions are not imposed in other areas this approach could set a precedent. One respondent suggested the lack of evidence for such orders set out within the consultation failed to justify the restrictions.

**Question 3.** *Should there be express legal provision to enable the APW to protect the anonymity of witnesses?*

Of the 31 consultation responses received 23 responded to this question. 8 did not express an opinion either way.

96% of the 23 respondents to this question agreed the APW should have express legal provision to protect the anonymity of witnesses. Respondents were consistent in their comments that protecting witnesses would increase the willingness of witness participation. Respondents raised the importance of ensuring those involved in an investigation are aware of the identity of witnesses in order to be able to fully defend themselves. There was a strong consensus that transparency should still apply to the proceedings.

One respondent did not agree the APW should have express legal provision to protect the anonymity of witnesses based on the view that there could be significant disadvantage to the respondent of anonymous complaints. However, they did support proportionate and selective anonymity to protect the welfare and safety of witnesses if there is high risk to that witness, for example, in the case of minors.

Respondents consistently felt that complaints should not be anonymous to allow fairness and transparency in the proceedings, but witnesses should be protected where necessary.

**Question 4.** *Do you support the proposed changes to the permission to appeal procedure outlined in this recommendation. If not, what alternatives would you suggest?*

Of the 31 consultation responses received 22 responded to this question. 9 did not express an opinion either way.

86% of the 22 respondents to this question supported the principle of the proposed changes to the permission to appeal procedure outlined in the recommendation.

Positive comments included that regulations should give the President of the APW power to extend the time for a councillor to make an application for permission to appeal if it is in the interests of justice to do so. It was also felt that it would be appropriate for the Public Services Ombudsman for Wales (PSOW) to be able to comment on requests for permission to appeal and that the process should allow time to comment. In addition it was suggested that provision for private hearings should be made.

However the positive responses, in some cases, were qualified with comments about the need for sufficient time being allowed for appellants to provide appropriate documentation, especially when working within a process they may not be familiar with. Some respondents felt that 7 days would be insufficient and that there needed to be clarity about the definition of days i.e whether it refers to working days or all week days. It was felt that the APW should work to a deadline like other parties in the process. This would help to manage expectations, and avoid long delays that are not considered to be in the public interest.

Comments from the 14% of respondents to this question who did not support the proposed changes focussed on the whole process not taking more than a certain period of time. One respondent suggested a reasonable deadline for the APW to reach a decision would be 56 days.

**Question 5.** *Should there be an express power for the APW to summon witnesses to appeal tribunals?*

Of the 31 consultation responses received 25 responded to this question. 6 did not express an opinion either way.

88% of the 25 respondents to this question agreed there should be an express power for the APW to summon witnesses to appeal tribunals. Respondents suggested that compensation such as travel expenses and salary recovery should be in place. However, it was felt that the consequences of non-attendance should be made clear with guidance issued. Respondents wanted to be made aware of potential sanctions that could be considered for breaching a summons.

There was agreement amongst respondents that it would be contrary to the interests of justice if a witness were not to attend a hearing, and some felt that there is a duty of the witness to attend for legal transparency.

12% of the 25 respondents to this question did not agree. Comments focussed on the view that summoning witnesses would represent an excessively adversarial approach, and it should be recognised that the procedure was an appeal tribunal not a criminal court.

**Question 6.** *Should there be any changes in the procedure for referring appeals decisions back to standards committees?*

Of the 31 consultation responses received 22 responded to this question. 9 did not express an opinion either way.

The majority of respondents, 68%, felt there should not be any changes in the procedure for referring appeals decisions back to standards committees. Respondents felt the current procedure works well and that standards committees, as the local body dealing with standards, should continue to be entitled to take a different, considered, view from the recommendation of an appeal tribunal.

A key comment reflected by the majority of respondents was that it is an established practice that appeals tribunals should remit cases back to the primary decision maker for reconsideration. One respondent commented that “whilst it would be a “brave” Standards Committee that disagreed with the APW, a change removing the right for them to choose to do so would be a diminution of their freedom of action”.

32% of the 22 respondents confirmed they would like to see changes to the procedure for referring appeals decisions back to standards committees. Their comments centred on standards committees having the responsibility for promoting standards of behaviour, and that they therefore should remain the arbitrator and decision maker of matters which are referred to them.

It was suggested there should be clarity provided on the circumstances where the APW can refer a matter back to a standards committee and it was felt this should be limited to where a standards committee may have erred in law in its decision, or has made a decision that is irrational or procedurally unfair.

**Question 7.** *Do you agree there should be an express provision to enable part or all of tribunal hearings to be held in private?*

Of the 31 consultation responses received 24 responded to this question. 7 did not express an opinion either way.

83% of the 24 respondents to this question agreed there should be an express provision to enable part or all of tribunal hearings to be held in private. One respondent suggested there is already a power to hear evidence in private, but that it is less clear, given the wording of the regulations, whether the whole hearing has to be in private and suggests this is the point that requires further clarity.

Several respondents linked their responses to this question with responses to question 3 stating the anonymity of witnesses could increase the likelihood of witness participation and that the vulnerable can better be safeguarded.

Other respondents commented that in prescribed circumstances it would be fair and reasonable for all or parts of a tribunal hearing to be held in private, for example where personal or commercially sensitive information is disclosed. This would be in line with standards committees being able to exclude the press and public in limited situations.

Of the 17% of respondents to this question who did not agree, one qualified their response on the basis that they felt that there should only be an express provision to enable part or all of tribunal hearings to be held in private where it contravenes common law.

A further comment was that the President of the Welsh Tribunals should be consulted on how the proposal interacts with the unification of the Welsh Tribunals system in order that a more informed response can be provided.

**Question 8.** *Do you agree that the requirement to provide not less than seven days' notice of the postponement of a hearing should be retained?*

Of the 31 consultation responses received 22 responded to this question. 9 did not express an opinion either way.

84% of the 22 respondents to this question agreed the requirement to provide not less than seven days' notice should be retained with the remaining respondents disagreeing.

Those who agreed commented it should be retained for clarity to all parties and enable steps to be taken in reasonable timescales. Further points included that a maximum notice of postponement possible should be provided, with seven days being a minimum. One respondent who agreed not less than seven days' notice should be retained suggested that a minimum of 20 days would be more appropriate and practical.

The 16% of respondents to this question who did not agree that the requirement to provide not less than seven days' notice should be retained, felt consideration should be given to the need to postpone at shorter notice for reasonable reasons such as the illness of a key party to a hearing. It was felt that decisions to postpone due to unforeseen circumstances, which could be at very short notice, were not taken lightly.

There was a wide range of suggestions within the 9 comments received from both those who agreed and disagreed on what they felt an appropriate timescale for notice of postponement should be. Some respondents expressed that a minimum of seven days' notice appeared reasonable. Other responses ranged from 3 days' notice to a minimum of 20 days.

**Question 9.** *Should there be a wider range of sanctions available to the APW, and if so, what should they be?*

Of the 31 consultation responses received 23 responded to this question. 8 did not express an opinion either way.

83% of the 23 respondents to this question agreed there should be a wider ranges of sanctions available to the APW.

Respondents suggested that locally, i.e. within principal councils, there should be more sanctions available and those sanctions should be more consistent for breaches of the code of conduct and other policies. Issues of inconsistencies between councils were raised, along with standards committees needing to be strong and more supportive to protect councillors and officers from bad behaviour, bullying, intimidation and harassment.

Suggestions were provided for a wider range of sanctions such as those set out below.

- Training / prescribed training within a set time period
- Restorative action
- Suspension period, with guidelines, and the length of a suspension determined by the panel to reflect the circumstances/severity of the case.
- Conditional suspension, for example suspended unless an apology is issued within 30 days / training undertaken / partakes in conciliation
- Restricted access to resources
- Being unable to stand for future re-election
- Partial suspension, examples included for failing to disclose a personal interest in a planning matter, allowing the member to continue with local duties but suspended the Planning Committee for say three months. Or, for senior salaried roles, where local member duties continue but a member is suspended from undertaking a leadership role and receiving that element of their allowance.

18% of respondents to this question disagreed. They considered the current sanctions are broadly adequate and appropriate as they stand. One respondent suggested the addition of suspension covering 12 months or until the end of the current term of office should be added.

A further respondent commented that generally, the sanctions available to APW are appropriate, unambiguous and reflect the more serious cases that it deals with. They felt that greater flexibility in sanctions sits more appropriately with the standards committee.

**Question 10a.** *Do you support the proposed amendments to the process for interim case tribunals outlined in this recommendation? If not, could you please explain.*

Of the 31 consultation responses received 23 responded to this question. 8 did not express an opinion either way.



96% of the 23 respondents to this question supported the proposed amendments to the process for interim case tribunals. There was a wide variety of comments and considerations from respondents who supported the proposal.

Respondents felt current difficulties in applying for an interim suspension order creates a serious risk in a small number of cases, such as where there are safeguarding concerns.

Several respondents expressed reputational concerns for an elected representative to be suspended in the interim and who may be subsequently cleared. It was suggested that strong evidence would be required for interim suspension, and that it might be inappropriate to continue to remunerate a councillor facing charges. However, other respondents felt that suspension should be a neutral act and not a determination of wrongdoing/guilt. Limited reporting powers were flagged as a potential mitigation of this risk.

One respondent suggested a process could be implemented to provide the APW with the power to apply an interim suspension akin to the 'neutral' act of suspension which applies in employment situations. This would ensure that public confidence is maintained and the public are protected if, for example, safeguarding concerns have been raised in relation to a member's conduct, and there is prima facie evidence that they may misuse their position as a member if they are not suspended on an interim basis.

Further concerns were identified about the potential democratic impact of a suspension which might leave a single member ward unrepresented and the potential for political instability within the balance of the council. It was felt that the ability to issue a partial suspension could mitigate this risk.

It was suggested there is merit in establishing broad parameters/examples, through legislation or guidance on when an interim suspension would be appropriate for consideration and a simplified interim case tribunal process would be welcomed.

One respondent to this question stated both yes and no to supporting the proposed amendment. The respondent felt the process needs to be more streamlined and not have interpretations that disadvantage the complainant or the respondent. The respondent commented that there is a general lack of information provided to properly respond to this question and they did not have the relevant facts.

**Question 10b.** *If you do support the changes to the process for interim case tribunals, do you agree that an intermediate arrangement should be put in place i.e. by shortening and streamlining the process for interim case tribunals in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001? If yes, do you have any suggestions as to how this process could be streamlined within the regulations?*

Of the 31 consultation responses received 19 responded to this question. 12 did not express an opinion either way.

89% of the 19 respondents to this question agreed that an intermediate arrangement should be put in place, by shortening and streamlining the process for interim case tribunals.

Respondents felt that a quicker outcome for all parties, and a more simplified process with the use of plain English would be beneficial. It was also felt that a system similar to that of Medical Practitioners Tribunals would be appropriate.

Of the 11% who disagreed that an interim arrangement should be put in place, it was suggested that the limited resources would be put to better use by concentrating efforts on the long-term strategy for long-term change rather than developing an interim arrangement.

One consultation respondent, who did not express an opinion either way to this question, commented that there was not enough information and that the aspirations of the APW are not clear.

**Question 11.** *Do you have any further views on the recommendations made in relation to the operation of the APW?*

Of the 31 consultation responses received 24 responded to this question. 7 did not express an opinion either way.

83% of the 24 respondents to this question advised they had no further views on the recommendations made in relation to the operation of the APW.

The remaining 17% of respondents who answered this question expressed views on the recommendations. It was felt by some that decisions should be made more quickly. Others suggested consideration should be given on whether the APW's notices must be published in local newspapers, and also that the regulations currently require a hard copy of the reference is sent to the councillor by the APW and that the option to serve a reference by other means should be available to the APW.

A further respondent felt that the President of the Welsh Tribunals should be consulted and a written view obtained for a more informed response to be provided.

**Question 12.** *Do you have any suggestions as to how work might be taken forward to raise awareness of the Ethical Standards Framework, in particular for people with protected characteristics as described in the Equality Act 2010?*

Of the 31 consultation responses received 23 responded to this question. 8 did not express an opinion either way.

The 23 respondents to this question provided a range of suggestions on who could take this forward and how, with several themes being raised.

Respondents focused on increased media promotion, including social media and websites with easy read formats, to generate understanding on: 1) how code breaches are addressed through an open and independent process with effective

sanctions; and 2) that councillors who breach the code are held to account. However it was emphasised that digital exclusion must be taken into account for those living in rural and economically disadvantaged areas.

Other respondents suggested the inclusion of a written agreement to promote and uphold the Ethical Standards Framework on the election papers and declaration of acceptance form, along with mandatory training for elected members to include workshops and open days.

It was also felt that independent members should be vetted and trained to a similar standard expected of leaders of political parties to ensure adherence to the Public Sector Equality Duty and an understanding of protected characteristics. E-learning modules should be available for elected members.

One respondent commented that, whilst increasing awareness of the framework was positively received, there is concern about managing the public's expectations. The respondent identified the PSOW's public interest threshold, and local resolution not applying to complaints from the public, meant that expectations were not always met.

Respondents offered a wide range of suggestions on who should carry out the work to raise awareness and how awareness should be raised. Approaches varied from a centralised approach by a single body or organisation to lead on the production of publicity material for an efficient approach and consistency of message, to each individual local authority providing information about the framework.

One respondent suggested that standards committees should work in conjunction with principal council equality officers to look at ways to further promote awareness. They felt the visibility of the standards committee and promotion of roles and responsibility of elected members were crucial in this regard. Another respondent felt it important that the National Forum of standards committees discuss and agree a consistent approach.

In addition it was identified that work to raise awareness of the Ethical Standards Framework, particularly for people with protected characteristics as described in the Equality Act 2010, should be undertaken by specific representative groups.

It was felt by one respondent that there should be provision of direction to all 732 Community and Town Councils and other public bodies to have a section of their website explaining the Ethical Framework, with standard text to be provided by Welsh Government for consistency.

Another respondent suggested the potential for a working group consisting of representatives from, for example, the Equality and Human Rights Commission, Public Services Ombudsman for Wales, One Voice Wales and Lawyers in Local Government who could prepare a Wales wide set of materials as well as determine in what format they are best published/communicated.

**Question 13.** *Advertising for independent members of standards committees: Do you agree the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed?*

Of the 31 consultation responses received 25 responded to this question. 6 did not express an opinion either way.

Whilst 56% of the 25 respondents to this question agreed that the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed, 44% of respondent did not agree. One principal council advised that all the independent members on their standards committees became aware of the vacancies via adverts placed in a newspaper.

Several respondents agreed that local flexibility for an open recruitment process should include newspapers. It was suggested that individual authorities would be best placed to decide, and would be able to consider the accessibility of the internet in their area.

Respondents who felt the requirement should be removed cited cost as the main restriction. Some respondents commented that a high number of their independent members became aware of the opportunities through sources other than newspapers, which contrasts with the experience of other respondents.

Respondents consistently indicated that wide awareness raising, including a variety of publications, social media and information to stakeholder organisations, provides the best opportunity for the widest pool of candidates to be reached.

Some respondents felt that Welsh Government should issue guidance on inclusive recruitment and appropriate places where adverts should be placed.

**Question 14a.** *Former council employees sitting as independent members on standards committees: Do you agree that the lifelong ban on former council employees being independent members of their previous employer's standards committees should be removed?*

Of the 31 consultation responses received 26 responded to this question. 5 did not express an opinion either way.

65% of the 26 respondents to this question agreed the ban should be removed. It was commented that the removal of this ban would support standards committees in attracting potentially high quality candidates to their Committees.

However, of those who agreed the ban should be removed, a high number of respondents flagged that the ban should remain in place for those who held politically restricted posts, and this should be a lifelong ban. One respondent suggested a ban for a set period of time for those who held politically restricted posts.

35% of 26 respondents to this question disagreed that the ban should be removed. The consistent comment from these respondents identified that the independence of members must provide assurance that they can, without doubt, be truly independent and politically impartial. The fairness and integrity of the committee and the process must have no hint of bias.

**Question 14b.** *If yes, what do you think would be a suitable period of grace between employment and appointment to a standards committee, and should this be the same for all council employees, or longer for those who previously held statutory or politically restricted posts?*

Of the 31 consultation responses received, 24 responded to this question with 8 of the 24 commenting either the ban should not be removed or the question was not applicable. 7 respondents did not express an opinion either way.

A small number of respondents advised that there were differing views amongst committee members on this question.

Responses varied from 1 year through to 5 -10 years, depending on whether the role was politically restricted. Respondents suggested the potential for an election term, or a pragmatic but robust process of declaring any interests in the matter.

It was felt by some respondents that time should be spent gaining experience with another authority/employer in order to bring fresh perspectives. Others expressed the view that an ex-employee should not be an independent member for their former council, but could be for a different council.

In relation to politically restricted roles respondents' comments varied. 3 respondents felt those who held a politically restricted role should not be able to serve as independent members on the council for which they were employed. However, suggestions of 2 years and 5 -10 years were considered appropriate by some. A flexible approach was suggested based on multiples of length of service which could include a minimum and maximum period.

**Question 15.** *Former councillors sitting as independent members on standards committees: Do you agree that the lifelong ban on serving as an independent member on the standards committee of the council to which a councillor was elected should be removed? If yes, what do you think would be a suitable period of grace?*

Of the 31 consultation responses received, 25 responded to this question. 6 did not express an opinion either way.

Of the 25 who responded to this question 52% agreed that the lifelong ban should be removed and 48% did not agree.

Respondents who considered the lifelong ban is no longer appropriate provided a variety of suggestions for a suitable period of grace. It was again noted that some committees were split in their thoughts regarding the period of grace, and also whether there should be a lifetime ban.

Suggestions of a suitable period of grace ranged from 1 year to 5 years with considerations around whether the period should be longer for members having held senior/cabinet/executive roles. One suggestion included that members should have left office for at least one term before coming back as a member of the standards committee.

Of those who disagreed, several respondents commented that the role of councillor, even those not in national political parties, is always a political one. Several respondents were concerned that independent members have to be seen as independent of local politics and removing this ban removes a key governance safeguard that currently works well. Respondents felt the current make up of committees and structure of membership ensure that independent members are truly seen to be independent of local politics.

**Question 16.** *Standards committees' summoning witnesses and sanctions: Should standards committees have the power to summon witnesses?*

Of the 31 consultation responses received, 26 responded to this question. 5 did not express an opinion either way.

73% of the 26% who responded to this question agreed that standards committees should have the power to summon witnesses.

Respondents who agreed with this question commented that it is in the interest of justice for witnesses to attend hearings to ensure democracy and so that wider ranging evidence is received. One respondent felt the ability to directly interact with the people involved would be more useful than pre-prepared reports. However, there was consideration expressed about whether witnesses should be summoned or invited, and what protection would be provided to them if summoned.

Regarding the mechanics of issuing a summons, similar concerns were raised by those who agreed and disagreed to this question. The main concern being that without its own powers of contempt the mechanism to issue a witness summons would need an enforcement route, perhaps the power to seek a warrant from the Magistrates' court. It was felt that further consideration is required on the legal aspect of who can summon a witness and the avenues available if a summons is not adhered to along with the implications. One respondent felt that without any means of enforcement, summoning witnesses would bring the exercise of the power into disrepute.

Further concerns from those who disagreed included the enforcement of the summons, and specifically whether summoning an unwilling witness would assist a case. They felt it would be better to hear from witnesses who are willing to contribute to the proceedings and offer information of their own accord.

It was felt that only a judge or judicial body should be able to issue a summons, particularly given the ability to send the police to enforce it. It was flagged that if it is felt that standards committees need to summon a witness, then the law could be amended to allow an application to be made by the committee to a suitable judge or judicial body e.g. the President of the APW.

**Question 17.** *Do you agree that the sanctions a standards committee can impose should be changed or added to?*

Of the 31 consultation responses received, 25 responded to this question. 6 did not express an opinion either way.

80% of respondents agreed that the sanctions a standards committee can impose should be changed or added to.

Comments received included varying the suspension length to fit the seriousness of the allegation with longer suspensions in severe cases, restorative actions rather than suspension or disqualification, and the power to order training and an apology within a set period. A further suggestion included an ability to restrict access to local authority resources as a sanction.

The issue of suspension was considered by several respondents with suggestions that conditional sentences or suspension could be issued either upon failure to attend training or issue an apology, or suspension until the training or apology was carried out. Partial suspension was also put forward, eg suspension from specific duties.

It was suggested that the aim of sanctions should be to encourage good practice wherever reasonable, rather than to punish, and it was felt that a more refined set of sanctions available to the standards committee would support this. It was suggested that breaches of the code of conduct could be placed on the councillor's profile, along with attendance records and training.

One respondent had concerns that there is no legislation currently available for misuse of social media. Concerns were raised about inconsistency in the approach that monitoring officers took to helping and supporting community councils, and that standards committees need to be stronger to assist local councils.

20% of respondents to this question disagreed, with one respondent stating they felt the question was not clear. The other respondents who disagreed did not provide further thoughts or comments.

**Question 18.** *We would like to know your views on the effects that the above changes to the Framework and Model Code of Conduct would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.*

*What effects do you think there would be?*

Of the 31 consultation responses received, 22 responded to this question. 9 did not express an opinion.

82% of the 22 who provided comments were of the view that the effects would be neutral or that there would be no effect on the Welsh language, and that opportunities for people to use Welsh Language, and on treating the Welsh Language no less favourably than English, would not be affected.

Other views expressed that the changes would support inclusivity and increase diversity. However, two respondents felt there would be increased costs with translation and another stated that amendment to deadlines, as raised in previous questions, should take into account access to translation facilities.

**Question 19.** *How could positive effects be increased, or negative effects be mitigated?*

Of the 31 consultation responses received, 13 commented on this question. 18 did not express an opinion.

62% of the 13 respondents who commented stated that this question was not applicable.

The remaining 38% of respondents who commented on this question offered similar responses to those in question 18. Further to this one respondent felt the negative effect of costs could be mitigated where documentation would be supplied on request, depend upon the extent of Welsh spoken in the area.

**Question 20.** *Please also explain how you believe the proposed amendments could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.*

Of the 31 consultation responses received, 16 commented on this question. 15 did not express an opinion.

25% of the 16 respondents who answered this question felt the proposed amendments would be neutral, or the question was not applicable.

75% of the 16 respondents who answered this question provided additional comments.

Respondents felt it should be clear in documentation that communications and hearings can be in either language and the promotion of the use of the Welsh language, and making everything available through the medium, will enhance the equality of any processes. This was supported by other respondents' views in ensuring there is equal opportunity to use either English or Welsh, and that any changes should comply with the Welsh Language Standards and be mindful of local authorities' Welsh language policies.

However, some respondents felt the existing rights for the Welsh language are well developed and already well promoted, and there does not appear that more could be done by the regime to promote the language further.



One respondent asked whether the Welsh Language Commissioner/department had been directly consulted. A further respondent felt it should be ensured sufficient budget is provided for translation.

**Question 21.** *Do you have any other comments you wish to make on the matters raised in this consultation, including for those Report Recommendations where no specific question has been posed?*

Of the 31 consultation responses received, 21 provided comments on this question. 10 did not express an opinion.

Some respondents provided comments which related to areas outside of this consultation. Officials will take these into consideration in future work or, where appropriate, future consultations.

Several respondents commented that the local government sector has already taken responsibility and worked to adopt several of the recommendations from the Penn Report where legislative changes were not required, including establishing a National Forum for Standards Committee (in Wales), holding a national standards conference and harmonizing the threshold for declaring gifts & hospitality.

33% of respondents to this question highlighted issues around the self-reporting of criminal behavior by councillors. They felt it should be a requirement to self-report any conviction imposed on the councillor since making their declaration of acceptance of office (excluding anything punishable by way of fixed penalty notice). Appeals were considered an issue; however, it was felt that legally the councillor remains convicted until such time as the appeal has been successful and an investigation by the Public Services Ombudsman could be postponed until the appeal is concluded.

71% of respondents to this question felt that training on the Ethical Framework should be mandatory. Many of the issues identified on training were similar to those summarised in responses to previous questions, such as training being required within set timeframes and penalties for not attending training.

However, other respondents stated that if a councillor were specifically elected on a platform where she/he was not required to undertake training then it would be wrong to impose any punishment for failing to attend.

Additionally, respondents suggested that if mandatory training is not possible, priority and status for training on the Code of Conduct should be increased, with it being in councillor training plans along with scheduled refresher training. It was felt a strong emphasis should be placed on the correlation of adhering to the code and its expectations of good behaviour with council reputation and public confidence. It was suggested that councillors taking up training could be listed in a council's Annual Report so the record is visible.

In addition some respondents felt there should be investment up front to have knowledgeable officers and informed councillors, and training on the Ethical

Framework should be mandatory for Clerks of town and community councils. It was commented that national, digital training materials for town and community councils to view in their own meetings/view remotely would be helpful.

It was suggested there should be evaluation of the costs of poor behaviour in councils, for example on staff turnover. Another respondent felt it would be beneficial to learn from research on how other public sector bodies ensure adherence to codes.

A qualification was suggested demonstrating the transferable skills acquired throughout a term of office, and that training provided by bodies for councillors should be consistent, clear and not undermine the role councillors carry out or the code of conduct. It was raised that there is no process to challenge advice provided by a body, even where it is funded by Welsh Government

#### Other areas raised by respondents

Social media was raised by several respondents. Some suggested either WLGA guidance should be formalised or the Code of Conduct could require councillors to be fair and accurate in any reporting or comment on council business. However, others felt the code should not specifically refer to social media, the focus should be on addressing behaviours. Almost all agreed that social media training should be utilised and wide engagement on this is important.

Respondents felt a clear resolution is required for complaints affecting a councillor who serves on more than one relevant authority. Respondents provided suggestions by which they felt the issue might be brought to clarity.

One respondent felt a procedure should be in place detailing how duty of care is carried out in relation to councillors and staff as part of the expected standards of behaviour.

Further comments on the Code of Conduct included:

- It needs to be more prescriptive in what it wants to achieve.
- The whole process of investigating and determining code breaches needs to be reviewed, with the aim of simplifying and shortening the entire process.
- There should be increased use of local resolution of complaints, and that the Model Code of Conduct should be appropriately amended to require that any complaint should be considered for local resolution before it can be subsequently referred to the Ombudsman.

One respondent felt that different options for providing mediation services to community councils need to be explored to help ensure that the Ombudsman should only undertake investigations if the local resolution protocol has been used and exhausted.

Disappointment was indicated by a respondent that work undertaken by representatives in the early stages of the review were not referenced and the bullying, intimidation and harassment in some town and community councils appears

to have been overlooked. They felt that it seemed a missed opportunity in the sector to not try to address these issues through the Framework, and raised that these issues are having a very real and continuing effect on not only the recruitment and retention of officers, but also on the number of councillors standing for election.

One respondent suggested that the President of Welsh Tribunals, Sir Gary Hickingbottom should be consulted on questions 2 to 11, 16 and 21 which relate to APW powers and procedures, and also on how the Penn recommendations interact with the plan for a “single, unified tribunal system for Wales”. The respondent stated that this additional information is essential to provide a properly informed response to the consultation.

**Question 22.** *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 report them:*

Of the 31 consultation responses received, 2 respondents provided comments on this question.

Two respondents commented under this question. One stated that the consultation did not appropriately distinguish between the different scale of bodies, or range of councillors that run them. They further added that there is no distinction between a highly paid employee of a city council and a volunteer member of a small community council but the effects and consequences on them are significant.

One respondent stated that the consultation was too wordy, should be written in plain English and be less repetitive.

### **Comment raised outside of this consultation**

A pertinent comment of note was suggested outside of this formal consultation which relates to the APW procedure for appeals. It was felt there should be a specific requirement to notify a relevant Monitoring Officer immediately of an appeal being accepted by the APW as the existence of an appeal is central to the commencement of a suspension period.

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