

REPORT'S KEY FINDINGS

<p><i>An audit of the Codes of Conduct adopted by all the required authorities against the Model Code to identify any local variances</i></p>	<p>With only one exception (a County Council) the Model Code of Conduct has been adopted without significant variations or additions. However, over one half have adopted a local resolution procedure or protocol supplementary to the Model Code, and over one half also have a mandatory training requirement, again not as part of the Code itself but supplementary to it. In the other authorities this is an expectation rather than being mandatory.</p>
<p><i>An analysis of the effectiveness of the framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements</i></p>	<p>The framework generally, and the requirements of the Code of Conduct in particular, has been instrumental in fostering the high standards of conduct that are evident in local government in Wales. However, there are concerns about the continuing and recently increasing volume of complaints about the conduct of members of Community Councils. Adjustments and amendments to the current framework requiring mandatory training on the Code for all members and the greater use of local resolution procedures should result in the number of the mostly low level complaints that are made and the need for formal investigations that are required into allegations that there has been a breach of the Code being significantly reduced, and this would result in the already high ethical standards in Welsh local government being further enhanced.</p>
<p><i>Consideration of whether the framework is still fit for purpose, including whether the ten principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This will include identification of areas where improvements could/should be made to the current arrangements</i></p>	<p>The consensus is that the current framework is fit for purpose and works well in practice. The ten principles of conduct are seen as relevant and the Model Code of Conduct is seen as generally appropriate and not in need of major revision.</p>

A number of the following recommendations would need to be implemented by way of Secondary Legislation or through Primary Legislation i.e. an Act.

- The Code does not specify any threshold for declarations of any gift, hospitality, material benefit or advantage. The threshold should be specified in the Code to ensure consistency across Wales.
- Members are required to include their home address in their Council's Register of Interests. There is agreement that the Code should not require Councillors to disclose their home address and that the Code should be amended appropriately.
- A 'person' is not defined either in the 2000 Local Government Act or in the Code. It is recommended that a clear definition of what is meant by a 'person' on the face of the legislation or in the Code would be beneficial.
- Paragraph 4a of the Code which requires that a member must:

'carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion'

does not include all protected characteristics. The provision in the Code should be extended to include all nine protected characteristics under the Equality Act 2010.
- The potential for breaches of the Code as a result of the extensive and increasing use of social media is a matter of concern. The helpful guidance by the WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Code.
- 6(1)(b) of the Code of Conduct places the obligation on elected members to report the criminal behaviour of others but not of themselves. The Code should be appropriately amended to make this an obligation of the member to themselves report on their own criminal conduct.

<p>Mandatory training on the Code of Conduct for all members of principal councils and community councils</p>	<ul style="list-style-type: none"> • The simplest way to achieve universal mandatory training would be to include a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 before they can act as a Councillor, in the same way that they are currently required to undertake to observe the Code of Conduct adopted by their authority. It may require legislation to amend the 2004 Order appropriately. • The Model Code of Conduct should be appropriately amended to require that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman. The consensus is that combined with mandatory training on the Code of Conduct for all Councillors this would speed up the complaints process and ensure that the Ombudsman’s resources are devoted to the investigation of serious complaints. • Extended powers for the Public Services Ombudsman for Wales • Greater use of the Ombudsman’s discretion for referral would be welcomed by Monitoring Officers and Chairs of Standards Committees. The extension of his power to refer complaints back for local resolution would be a beneficial change to the current framework.
<p>Changes to the powers and processes of the Adjudication Panel for Wales</p>	<ul style="list-style-type: none"> • Restricted reporting orders <p>The Panel cannot control the reporting by the press about any case. The Panel President considers that the powers available to an Employment Tribunal - to impose a Restricted Reporting Order either until the end of proceedings or an extended Restricted Reporting Order - would be appropriate for all Panel Tribunals, and could be introduced either through legislation for all Welsh tribunals following the recent Law Commission Report or specifically for the Adjudication Panel for Wales.</p>

- Anonymity of witnesses

The President can issue guidance to ensure consistency and transparency, but an express power to anonymise would be useful for both Case and Appeal Tribunals to ensure that there is legal underpinning. It is in the President's remit to add this power for Appeal Tribunals, but fresh legislation would be required for Case Tribunals.

- Disclosure

There is an issue about the disclosure of the unused material held by the Public Services Ombudsman and Monitoring Officers. It has been agreed to amend the Ombudsman's own process in this regard, with Presidential guidance/practice direction on both disclosure and the role of the Monitoring Officer generally.

- Appeal Tribunal procedure

The Panel President intends to ask for amendments to the Appeal Tribunal procedure. The current Regulations require the Standards Committee to consider the Panel decision on the Appeal if it is different to the original decision. This is unpopular with Standards Committees as they feel bound by the Panel decision. The President is content with this as the Standards Committee remains responsible and can reflect its response to the Panel decision in the sanction it decides to impose.

- Case Tribunal procedure

The Panel President considers that the Regulations are outdated and has proposed a number of amendments to make the Case Tribunal Procedure more efficient and fairer to witnesses.

	<ul style="list-style-type: none"> • Permission to appeal procedure <p>Permission to appeal has to be sought from the President of the Panel. The President proposes minor amendments to make the process more balanced and sensible.</p> <ul style="list-style-type: none"> • Sentencing powers <p>The powers available to the Panel are limited and the President would like the ability to impose more varied sanctions as was the case with the former Adjudication Panel for England.</p> <ul style="list-style-type: none"> • Interim Case Tribunals <p>The Public Services Ombudsman has the power to make interim referrals to the Panel if it is in the public interest and where there is prima facie evidence that the person has failed to comply with the Code of Conduct, the nature of which is likely to lead to disqualification. The threshold for meeting the legislative requirements for an interim referral is considered to be too high, but any change to these powers would require primary legislation by the Welsh Government. The proposal is that the whole process should be simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal. This would be a relatively minor amendment to the current public interest test, but would make the approach to be adopted and the definition of public interest much clearer. It would require new legislation by the Welsh Government.</p>
<p><i>Consideration of the role of Standards Committees, including their role in relation to Town and Community Councils and whether the establishment of sub-committees has had any impact on the process of supporting Community Councils and dealing with complaints.</i></p>	<ul style="list-style-type: none"> • There is a need for consistency of approach and for the remit of the Standards Committee to be generally similar across Wales but that there is a need for the local Standards Committee to reflect the specifics of the situation for the principal council concerned. The Chair of the Standards Committee should play a leadership role, along with the Chief Executive, the Monitoring Officer and the Leaders of political groups in promoting high standards of conduct across the Council.

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| | <ul style="list-style-type: none">• The Local Government and Elections (Wales) Act 2021 includes a number of provisions that have implications for the work of Standards Committees which will be expected to support the political leadership of the Council in maintaining high standards of conduct by the members of their group and to make an annual report to the authority on the discharge of its functions, its assessment of standards of conduct within the authority and any recommendations for improving standards.• There is a need for training of members of Standards Committee, not only on the Model Code of Conduct but also on how to hold Hearings to ensure openness and fairness to the member complained of, to the complainant and to any witnesses.• There should be an all-Wales Forum for Independent Chairs of Standards Committees and the re-establishment of the annual Conference for Independent Chairs and Independent members of Standards Committees that would encourage consistency of approach and the adoption of best practice across Wales.• The Public Services Ombudsman for Wales accepts the need for more reference back to Standards Committees when he declines to investigate complaints. Standards Committees would need to have additional powers to require necessary training of members and the power to require a member to make an apology to the complainant.• There is serious concern about the extent of bullying, lack of respect or otherwise generally disruptive behaviour by some members at meetings of Town and Community Councils. This is an issue that may be mitigated by a requirement for mandatory training of councillors and greater use of local resolution procedures, and guidance prepared by One Voice Wales and the Society of Local Council Clerks has been helpful in assisting Councils to avoid or tackle such behaviour, but it continues to be a serious problem. |
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	<ul style="list-style-type: none">• An analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place and b) be escalated beyond local resolution. This will include areas such as clear communication and signposting, training and awareness and the approach to addressing concerns• No view was expressed on whether the current sanctions open to Standards Committees are still appropriate• Accessibility of the ethical standards framework - the report believes that the lack of publicity about the ethical standards framework constrains use of the process, especially if the person wishing to complain if they do not have internet access, or have difficulty in accessing information because of various disabilities, or because they belong to a 'hard to reach group', or because of language problems.
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