



RHONDDA CYNON TAF

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

11 MARCH 2022

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021: STANDARDS OF CONDUCT STATUTORY GUIDANCE

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF REPORT

To seek Members feedback on the consultation initiated by Welsh Government in relation to draft statutory guidance relating to the new duties in the Local Government and Elections (Wales) Act 2021 concerning standards of conduct, and agree a response to be submitted in response to that consultation.

2. RECOMMENDATIONS

The Committee is recommended to:

- 2.1 Consider the contents of the report and Welsh Government consultation document, attached at appendix 1 to the report, which contains draft statutory guidance relating to the new duties in the Local Government and Elections (Wales) Act 2021 concerning standards of conduct; and
- 2.2 Provide feedback in response to that consultation, noting the series of questions asked within the consultation document, and agree a response based on Members' feedback be submitted to Welsh Government on behalf of the Standards Committee.

3. BACKGROUND

- 3.1 The Local Government Act 2000, Part III (and associated regulations made thereunder) provides an ethical framework in respect of the conduct of local government members. Key components of the ethical framework include the statutory Members' Code of Conduct, which sets out the duties imposed on all elected and co-opted Members; and the statutory provisions relating to Standards Committees, established to promote and maintain high standards of conduct by the Members and co-opted Members of the authority.

- 3.2 The [Local Government and Elections \(Wales\) Act 2021](#) ('the Act'), which received Royal Assent on 20th January 2021, provides for the establishment of a new and reformed legislative framework for local government elections, democracy, performance and governance. In addition, Welsh Government are reviewing the ethical framework and the model Code of Conduct in light of the Act.
- 3.3 As reported to Committee Members at their meeting held on 19 March 2021 the Act will:
- (a) Require leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups, and to co-operate with standards committees (to take effect from May 2022);
 - (b) Require standards committees to produce annual reports on the exercise of their functions (due to take effect after, and in relation to, the financial year 2022/23); and
 - (c) Consolidate provision about investigations by the Public Services Ombudsman for Wales into the conduct of members of local government.
- 3.4 The Explanatory Memorandum accompanying the Local Government and Elections (Wales) Bill during its passage through the legislative process explains the purpose and intended effect of the new legislation relating to political group leaders and standards committees as follows:

Ethical framework

3.125 Engendering a culture within a principal council which embraces high standards of conduct requires both local leadership and all members to accept responsibility for their actions both individually and collectively.

3.126 The White Paper 'Reforming Local Government: Power to Local People' stated that councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever ever their background, if a more diverse range of people to be encouraged to seek elected office in local government. The White Paper noted that standards of behaviour were key to this and expressed concern that an overly 'macho' culture in some authorities might be acting as a deterrent to women, in particular, standing for office.

3.127 To complement the existing statutory ethical framework, the White Paper proposed that those in positions of leadership and influence within a principal council should have responsibility in respect of the promotion of diversity and to combat bullying and harassment amongst elected members and council staff.

3.128 The Bill provides that leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of their group. In doing so, a group leader must co-operate with the council's standards

committee in the exercise of its functions to promote and maintain high standards of conduct. In turn, a standards committee has new functions under the Bill to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties.

3.129 Local standards committees play an important role in supporting members, individually and collectively, to develop and maintain a culture which embraces high standards of conduct. It is important that standards committees review their work periodically and report significant matters they have dealt with and any emerging trends to their council. Standards committees will be required after the end of each financial year to make an annual report to the authority describing how the committee's functions have been discharged during the financial year and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations made by the standards committee within 3 months of receipt.

4. CONSULTATION ON DRAFT STANDARDS OF CONDUCT STATUTORY GUIDANCE

- 4.1 Welsh Government have initiated a consultation on draft statutory guidance which sets out how leaders of political groups in principal councils should meet their duties under the Act in relation to the promotion and maintenance of high standards of conduct by the members of the group. The consultation document which includes the draft guidance is attached at Appendix 1 to the report.

The draft guidance specifically addresses the following duties:-

Duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group
Duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions

- 4.2 The Welsh Government consultation document recognises that Councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, in order to encourage a more diverse range of people to seek elected office in local government. Standards of behaviour are key to this, and all members have a responsibility to act in a manner which respects and values all people.
- 4.3 As stated above Welsh Government believe the provisions in the Local Government and Elections (Wales) Act 2021 support this culture by providing a new duty on the leaders of political groups to take steps to promote and maintain high standards of conduct of their members. The duty recognises those in positions of leadership and influence within a principal council should have responsibility for combating bullying and harassment amongst elected members and council staff, and must act as a positive role model.

- 4.4 The Minister for Finance and Local Government has acknowledged that the duty is not intended to be the panacea and will not cover everyone (particularly those members who do not belong to a group), but it is designed to be proportionate and helpful. Its aim is to prevent or stop inappropriate behaviour before it escalates into a breach of the Code of Conduct.
- 4.5 Welsh Government say the guidance is designed to support leaders of political groups understand and discharge their duties in relation to high standards of conduct, whilst recognising that they will wish to and should be encouraged to develop their own approach in line with their wider statutory obligations, local circumstances, and best practice. Leaders of political groups must have regard to the guidance issued in relation to the exercise of these functions
- 4.6 The draft guidance, attached at Appendix 1 to the report, covers the following topics:-

Chapter 1: describes the policy context within which the duties are set and the purpose of the duties.

Chapter 2: explains the duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group.

The Guidance emphasises that the duty does not make leaders of a political group accountable for the behaviour of their members as conduct must be a matter of individual responsibility. However, they do have a role in taking reasonable steps in maintaining standards, setting an example, using their influence to promote a positive culture, being proactive in promoting high standards of conduct in their group and addressing issues as soon as they arise.

The draft guidance also sets out a series of reasonable steps the group leader may undertake to ensure compliance with the duty.

The importance of attendance at training on the Code of Conduct has been highlighted by the Ombudsman and was raised under the independent review of the Ethical Standards Framework and Model Code of Conduct carried out by Richard Penn. Leaders of political groups should encourage all members in their group to read the Ombudsman's Guidance and any local guidance issued by the monitoring officer or standards committee and to take up any offer of training. They should also work constructively with standards committees and Monitoring Officers to identify the training requirements for themselves and for their group members.

The group leader has a significant role to play in creating a culture of trust and mutual respect in their group. Where issues arise, the importance of resolving low-level complaints at a local level has been raised by the Ombudsman and the independent Review of the Framework. Typically, these complaints are about alleged failures to show respect and consideration for others and the making of frivolous and low level complaints. The group leader should be pivotal in preventing the escalation of these complaints to the stage where more formal interventions become necessary. Leaders of political groups should have informal discussions with members who may be showing early signs of inappropriate behaviour to 'nip this in the bud' before it

becomes problematic or in danger of breaching the Code. This may include suggesting and requesting training for the members concerned, asking for social media posts to be removed, and requesting apologies where appropriate.

A leader of a political group who fails to comply with the new duty in a meaningful way, may potentially be regarded as bringing their office into disrepute, and likely to be in breach of the Code (see the Ombudsman's Guidance).

A political group's internal disciplinary procedures remain a matter for that group or any associated political party's own rules on discipline. However, it is expected that the group leader will take reasonable steps to promote and maintain high standards of conduct by members within group communications and meetings as well as their 'public' conduct outside of the group setting.

Chapter 3: provides guidance on the duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions

It is essential the leaders of a political group co-operate, and ensure the members within their group co-operate, with the monitoring officer and standards committee when an issue is referred to the standards committee.

Leaders of a political group should build good relations, and work constructively with the monitoring officer, seeking advice from them and the standards committee on matters of behaviour and conduct when required, both promoting positive behaviours and addressing inappropriate ones. Group leaders should also report compliance with their duty to the standards committee. This can take the form of a short letter or report at a frequency agreed by the political group leaders in the council and its standards committee. Group leaders should also report any serious concerns about members' behaviour which have not been remedied by informal actions, in line with the requirement in the Code for councillors to report breaches.

If a member is found by the standards committee to be in breach of the Code of Conduct and is disciplined by the committee, the leader of the political group must support the action

Chapter 4: describes the functions of standards committees in relation to the new duties.

Duty of a standards committee to monitor group leaders' compliance with the duties, and provision of advice and training

A council's political group leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee. The standards committee should then consider each report and provide feedback to the group leaders.

A standards committee must also provide advice and training, or arrange to train group leaders on the new duty. At the start of each administration this should take place within six months of the election and be reviewed at least annually.

The standards committee chair may wish to meet with group leaders periodically to review behaviour.

Duty of standards committee to make annual report

Section 63 of the 2021 Act inserts a new section 56B into the 2000 Act which places a requirement on standards committees in each “relevant authority” to make an annual report to the authority concerned. In the case of a principal council, the requirement to report to “the authority” in this context includes any community councils in its area.

As a minimum, the report must:

- describe how the committee has discharged its functions during the preceding financial year;*
- include a summary of reports and recommendations made or referred to the committee by the Public Services Ombudsman for Wales relating to the investigation of alleged breaches of the member code of conduct, and any subsequent action taken by the committee;*
- include a summary of notices given to the committee by the Adjudication Panel for Wales, relating to the Panel’s decisions on possible breaches of the member code of conduct;*
- describe the advice it has provided on training for all members and how that has been implemented, and*
- in the case of a principal council, include the committee’s assessment of how political group leaders have complied with the new duty under section 52A(1) of the 2000 Act (inserted by section 62 of the 2021 Act) to promote high standards of conduct, including the advice the standards committee has provided and the training it has suggested.*

The committee may also wish to report on the number of cases considered under local resolution processes. This would help to capture data on an “all Wales” basis, on matters which do not reach the Public Services Ombudsman for Wales.

The requirement to make an annual report is intended to ensure there is a regular and consistent approach to the reporting and consideration of standards of conduct by members of relevant authorities in Wales. This is intended to promote local ownership and collective responsibility by members for ensuring high standards of conduct within their authority. To this end, section 56B places an obligation on a relevant authority to consider the report and any recommendations made by its standards committee within three months of its receipt. The authority’s consideration of a report will be a matter of public record through the published minutes of the meeting.

It would be good practice for Standards Committees to share their Annual Reports with the Public Services Ombudsman for Wales.

4.7 The consultation document poses a series of questions and it is recommended the Committee give consideration to these questions and provides feedback in order for a response to be submitted by the Committee in response to the consultation.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report. Any associated costs of providing training and advice for political group leaders would be met from the allocated budget.

6. LEGAL IMPLICATIONS

Relevant legal provisions are set out in the body of the report.

7. CONCLUSION

Welsh Government have initiated a consultation on draft statutory guidance which sets out how leaders of political groups in principal councils should meet their duties under the Local Government and Election (Wales) Act in relation to the promotion and maintenance of high standards of conduct by the members of the group. The report affords Members the opportunity to consider the draft guidance and respond to the consultation as they deem necessary.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

STANDARDS COMMITTEE

11 MARCH 2022

REPORT OF MONITORING OFFICER

BACKGROUND PAPERS

Freestanding Matter

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