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County Hall
Rhadyr
Usk
NP15 1GA

Friday, 2 June 2023

Notice of meeting

Standards Committee

Monday, 12th June, 2023 at 10.00 am,
Conference Room - Usk, NP15 1AD

AGENDA

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1.	Election of Chair	
2.	Appointment of Vice Chair	
3.	Apologies for absence	
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9.	Draft Standards Committee Annual Report 2022/23	53 - 60
10.	Date of next meeting - 9th October 2023	

Paul Matthews
Chief Executive

MONMOUTHSHIRE COUNTY COUNCIL
CYNGOR SIR FYNWY

THE CONSTITUTION OF THE COMMITTEE IS AS FOLLOWS:

County Councillors:

Ben Callard
Frances Taylor
Fay Bromfield

Independent Members:

Richard Stow (Independent Member)
Michael John (Community Representative)
Rhian Williams-Flew
Peter Easy
Marion Gibson

Public Information

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Aims and Values of Monmouthshire County Council

Our purpose

Building Sustainable and Resilient Communities

Objectives we are working towards

- Giving people the best possible start in life
- A thriving and connected county
- Maximise the Potential of the natural and built environment
- Lifelong well-being
- A future focused council

Our Values

Openness. We are open and honest. People have the chance to get involved in decisions that affect them, tell us what matters and do things for themselves/their communities. If we cannot do something to help, we'll say so; if it will take a while to get the answer we'll explain why; if we can't answer immediately we'll try to connect you to the people who can help – building trust and engagement is a key foundation.

Fairness. We provide fair chances, to help people and communities thrive. If something does not seem fair, we will listen and help explain why. We will always try to treat everyone fairly and consistently. We cannot always make everyone happy, but will commit to listening and explaining why we did what we did.

Flexibility. We will continue to change and be flexible to enable delivery of the most effective and efficient services. This means a genuine commitment to working with everyone to embrace new ways of working.

Teamwork. We will work with you and our partners to support and inspire everyone to get involved so we can achieve great things together. We don't see ourselves as the 'fixers' or problem-solvers, but we will make the best of the ideas, assets and resources available to make sure we do the things that most positively impact our people and places.

Kindness: We will show kindness to all those we work with putting the importance of relationships and the connections we have with one another at the heart of all interactions.

Public Document Pack Agenda Item 5

MONMOUTHSHIRE COUNTY COUNCIL

**Minutes of the meeting of Standards Committee held
In the Conference Room - Usk, NP15 1AD on Monday, 6th February, 2023 at 10.00 am**

PRESENT: Richard Stow (Independent Member) (Chair)

County Councillors: Ben Callard, Frances Taylor and Fay Bromfield

Independent Members: Rhian Williams-Flew, Peter Easy and Marion Gibson

Community Committee Member: Michael John

OFFICERS IN ATTENDANCE:

Joanne Chase
Ben Davies
Richard Williams

Solicitor and Deputy Monitoring Officer
Solicitor and Deputy Monitoring Officer
Democratic Services Officer

APOLOGIES:

None received.

1. Welcome

The Chair welcomed Michael John, Community Committee Member, and County Councillor Ben Callard to their first Standards Committee meeting.

2. Declarations of interest

None received.

3. Confirmation of Minutes

The minutes of the meeting of Standards Committee meeting held on 10th October 2022 were confirmed as an accurate record.

In doing so, the following key actions had arisen:

- The code of conduct and school governors' dispensation hearing held in the summer of 2021 - This was to ensure that Welsh Government had acknowledged this matter and had agreed that it was an anomaly and that it should be added to the code of conduct amendments which will be coming soon via the Penn Report.
- The Ombudsman's annual letter to the Council, August 2022 – The figure for code of conduct complaints across all town and community councils in the County had been zero. The Monitoring Officer was aware of the live code of conduct complaints whereas the ombudsman is reporting in the annual letter the complaints that are closed. With regard to the four complaints relating to town

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and community councillors, it is assumed these are now closed. However, this information will be available in next year's data.

- Online training for town and community councillors – Standards Committee Members are now able to attend this training as observers. However, no further training has been arranged yet.

4. Letter from PSOW to Chairs of Standards Committees dated 10th November 2022

The Chair informed the Committee that a letter had been received in November 2022 from the new Ombudsman, Michelle Morris.

The letter confirms some of the potential changes to their processes will take place.

It was noted that the ombudsman would 'now be sharing the complaint and our decision in a standalone decision notice to facilitate the Monitoring Officers in sharing complaint information with Standards Committees (when they consider it appropriate to do so).'

However, the Chair had indicated that he had not seen any of the stand-alone notices, but it is hoped that the Standards Committee will be able to view them when available.

It was also noted that the Ombudsman is not going to tell councillors immediately that a complaint has been received. Instead, the Ombudsman will hold back until a decision has been made whether to investigate or not to investigate. The Standards Committee had had mixed views on this matter previously and continues to do so.

We noted the update by the Chair and the views expressed.

5. Protocol for self regulation of member conduct

The Chair informed the Committee that the protocol for self-regulation of member conduct has not changed since at least 2014 apart from paragraph 42.3.1 which is new and has been inserted to deal with the new duty in the Local Government and Election Act Wales 2021.

The County Councillors sitting on the Standards Committee provided their views on this matter, as follows:

- Group leaders are aware of the additional responsibility of group leaders to ensure adherence to the protocol. The Monitoring Officer had briefed group leaders shortly after the 2022 County Council and Town and Community Council Elections.
- Group leaders have a role to play in ensuring their members behave appropriately and adhere to the code of conduct but there is still scope to undertake robust debate in the Council Chamber across all political groups.
- Seeking advice from group leaders should be the first point of contact for any member that might have a grievance against another member.

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The Committee did not recommend any changes to the Protocol.

We noted the update by the Chair and the views expressed.

6. National forum for standards committees - Friday 27th January 2023

The Chair informed the Committee that the first National Forum for Standards Committee had been held on the 27th January 2023.

There was a new initiative that had arisen from the Penn Report. However, Standards Committees in North Wales have been meeting in this way for a number of years.

A link to the minutes of the meeting will be emailed by the Chair to the Standards Committee when they are available to be viewed.

The Chair outlined the key points, as follows:

- There will be five further authorities joining the National Forum.
- The four corporate joint committees will eventually have Standards Committees. Monmouthshire is located in the South East region. In due course, this region will be required to have a Standards Committee.
- There will be a new National Park in North East Wales which will require a Standards Committee.
- The Chair of Conwy County Borough Council was appointed Chair of the National Forum.
- There was discussion on the group leaders' duty and various councils have already had meetings with their group leaders to discuss this matter.
- The Ombudsman Michelle Morris stated that this year conduct complaints were running at roughly a third about principal authorities, and two thirds about town & community councillors. In 2021/22 the Ombudsman made a total of 20 referrals - 11 to standards committees and 9 to APW. This year to date, they have made five referrals and are forecasting nine in total for the whole year - less than half of the 2021/22 total.
- The Chair stated that he would go back to Michelle Morris with a request that she provides the data explaining whether she was referring to all councils, principal authorities, town and community councils regarding attendance at training sessions, i.e., how strong is that correlation and at what level is the non-attendance of training?
- The next session of the National Forum was presented by Lisa James regarding the Penn Report. Monmouthshire's Standards Committee had already submitted its views on the Penn Report last year.

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- The Welsh Government is also considering the disqualification criteria for independent members of standards committees (are they too strict?), and the powers of standards committees to summon witnesses at hearings.
- It is anticipated that there will be a full public consultation for a 12-week period in February 2023 regarding the Penn report.
- Members' annual reports were discussed at the National Forum. It was noted that these tend not to be undertaken at Monmouthshire County Council. It was considered that there were better ways to address outward communication via community magazines, newsletters and social media to keep the public informed in real time.

We resolved that the chair would go back to the Ombudsman to get more information about the "strong correlation" between not attending training and code breaches.

7. Code of Conduct training delivered, scheduled and requested since 10th October 2022

We received a verbal update by the Chair regarding code of conduct training. In doing so, the following points were noted:

- There has been no training delivered, neither has there been any training requested since the previous Standards Committee in October 2022.
- One Voice Wales has a rolling programme of code of conduct training. Online training has been available and scheduled when required.
- It was noted that a broad range of training provision is available for Conservative Group members. Similar training might also be provided by other groups.

We noted the verbal update by the Chair.

8. Training Plans for Town & Community Councils

We received an update by the Chair regarding training plans for town and community councils.

In doing so, the following points were noted:

- All town and community councils in Wales were required to approve and publish a training plan by early November 2022.
- Abergavenny Town Council has a robust training programme. Training is undertaken in members' free time which can sometimes be a challenge for some members due to other commitments.
- One Voice Wales training can be undertaken online.

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- There is a need to encourage younger people to become members of town and community councils, many of which will have work and caring responsibilities and might be restricted in the time that they can give to their respective town / community council. Online training does benefit people who might not be in a position to commit to in person training at a specific time and day. However, online training does not always provide the same experience as meeting in person.
- The quality and presentation of the training provided is key to ensure participants can fully benefit from it.
- The Ombudsman guidance on the code of conduct needs to be made readily available for town and community councils. This is a reference book that is updated and consulted upon every two years. The book contains real examples from the adjudication panel.
- The next round of training for County Councillors could provide interactive examples from the adjudication panel regarding key topics, with members working in small groups to analyse them. This might provide a better quality of experience.
- The principal authority should focus on empowering and training town and community council clerks to enhance their levels of expertise and knowledge in respect of the code of conduct with a view to improving their skill sets.

We resolved that the next training session for County Councillors will be in person, interactive scenario based and focussed on a few topics from the code of conduct that have proven more complex. This will be undertaken in small groups.

9. Gifts & hospitality: code of conduct, PSOW guidance and the MCC register

We received an update from the Chair regarding gifts and hospitality and the code of conduct.

In doing so, the following points were noted:

- The Ombudsman guidance on para 9(b) of the Code is very limited with no examples.
- Monmouthshire County Council does not have a set monetary threshold for registration whereas other local authorities have such a threshold and they are in the public domain.
- The Monmouthshire County Council Gifts and Hospitality register is not currently in the public domain. However, there are plans address this matter. The last entry in the Monmouthshire County Council Register was made in 2017.

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- Code of Conduct Paragraph 17 is currently not workable as there is no monetary figure stated. In contrast, Cardiff City Council's Gifts and Hospitality Register is regularly updated and it is in the public domain.
- It was agreed that the Monmouthshire County Council Gifts and Hospitality register should state a monetary value and should be in the public domain. This would provide clarity and transparency for the public. This would apply to Members and officers of the Council.
- The Monitoring officer is considering this matter regarding having a monetary figure.
- 4.1.1 of the guidance – 'It is also good practice to provide a note of any offers of gifts or hospitality which you have declined and this may be a requirement of your authority's gifts and hospitality policy.' There should be a gifts and hospitality policy with detail of good practice required by the code of conduct, as well as the inclusion of a monetary value. This would then be presented to full Council for consideration.
- The proposed Gifts and Hospitality Policy would include training for members regarding acceptance criteria in respect of this matter.
- Offers of gifts and hospitality that have been declined should also be recorded.
- Reference to the Bribery Act should also be included in the proposed Gifts and Hospitality Policy.

We resolved that the Monitoring Officer prepares a report for a proposed Gifts and Hospitality Policy incorporating the points raised with a view to it being presented to the Standards Committee for consideration before it is presented to the Annual General Meeting of Council in May 2023, for approval.

10. **Structure and timing of the first Standards Committee Annual Report**

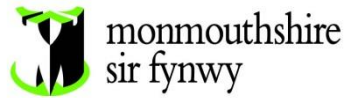
We received an update from the Chair regarding the structure and timing of the first Standards Committee Annual Report.

We resolved that a draft Standards Committee Annual report will be presented to the next Standards Committee Meeting on 12th June 2023 for consideration before it is presented to Full Council on 20th July 2023.

11. **Next Meetings:**

- Monday 12th June 2023 at 10.00am.
- Monday 9th October 2023 at 10.00am.
- Monday 26th February 2024 at 10.00am.

The meeting ended at 11.53 am.



SUBJECT:	Constitution
MEETING:	Council
DATE OF REPORT:	20 July 2023
DIVISION/WARDS AFFECTED:	All

1. PURPOSE

- 1.1 To receive Members' comments on the proposed amendments to the Council's Constitution in respect of gifts and hospitality as outlined in the report and, if in agreement, commend the adoption of the proposed amendments to full Council for consideration at the Meeting of the Council being held on 20th July 2023.

2. RECOMMENDATIONS

- 2.1 Council approve the amendments and updated Constitution.

3. KEY ISSUES

- 3.1 The Council's Code of Conduct for Members and Co-opted Members states that:

Clause 36.2 Para 9 (b)

You must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation

- 3.2 Para 17 also states that:

You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

- 3.3 At its meeting on 6th February 2023 the Standards Committee undertook a review of the Code of Conduct provisions relating to gifts and hospitality, the relevant PSOW guidance published in May 2021, and the MCC register.

- 3.4 There is no supplementary guidance. However, members are encouraged to seek advice from the Monitoring officer if they have concerns or if they are unsure whether a gift or hospitality may place them under an improper obligation to the donor, or may reasonably appear to do so.

- 3.5 The Standards Committee recommends that a threshold is introduced in respect of gifts and hospitality. This threshold will be £25. In respect of any acceptance or refusal of gifts or hospitality over £25 a Member must provide written notification to the Monitoring Officer of the existence and nature of that gift, hospitality, material benefit or advantage

- 3.6 Furthermore, Members and Officers are required to register acceptance or refusal of any gifts, hospitality or other benefits exceeding the threshold, using the form in Appendix 3 which should be returned to the Monitoring Officer. The declarations currently held in the register will be available for on the Humber Inspection.

Appendix 1 sets out the amendments and Appendix 3 contains the proforma for registering acceptance or refusal of gifts/hospitality.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING)

4.1 The nature of the document is to create the framework for the organisation's conduct and decision making, rather than a specific decision, so there are no specific equality, socio economic or future generations impacts identified.

5. OPTIONS APPRAISAL

5.1 Changes that relate to Council decisions have to be included but may be amended in the future following a further Council report and decision.

6. RESOURCE IMPLICATIONS

6.1 There are no costs identified as part of the review.

7. CONSULTEES

7.1 The proposed changes were discussed in Standards Committee on 12th June 2023 where the Committee made recommendations in relation to the operation of the policy and compliance by elected Members as to declarations of gifts and hospitality

8. AUTHOR

Matt Phillips
Chief Officer People and Governance
Monitoring Officer

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Appendices:

1. Amendments
2. Gifts and Hospitality Threshold for other Welsh Local Authorities
3. Proforma for the declaration of gifts/hospitality

Appendix One – Amendments

Existing

1. Clause 36.2 The Code of Conduct for Members and Co-opted Members
- 17 You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

Proposed

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.
18. Currently the Council has agreed a threshold figure of £25 in relation to the registration of gifts, hospitality and other benefits by Members and Officers. Whatever the value of the gift, hospitality or other benefit offered to a Member or employee, if its acceptance may place them under an improper obligation to the donor, or may reasonably appear to do so, it should always be refused. Members and officers must not contravene the provisions of the Bribery Act 2010 as they may be liable to a fine and/or imprisonment.
19. Members and employees are required to register all gifts, hospitality or other benefits over the £25 threshold whether accepted or refused using the form in Appendix 3, which must be returned for registration to Democratic Services

Appendix Two

GIFTS & HOSPITALITY THRESHOLD – AS AT MARCH 2023

Blaenau Gwent £20
Bridgend £20
Caerphilly £25
Cardiff £25
Carmarthenshire £25
Conwy £25
Denbighshire £25
Gwynedd £25
Merthyr £25
Neath Port Talbot £50
Powys £25

Rhondda Cynon Taf £25
Swansea £25
Torfaen £25
Vale of Glamorgan £50 – gifts £25 - hospitality

Appendix Three

MONMOUTHSHIRE COUNTY COUNCIL

RECORD OF OFFER OF GIFT/HOSPITALITY/MATERIAL BENEFIT OR ADVANTAGE – COUNCIL MEMBERS

Members must consider the Council's current threshold of **£25.00** before accepting or refusing any offer of gifts, hospitality, material benefit or advantage, from external organisations. In addition, before acceptance of any offer, a Member may consult the Monitoring Officer.

Members must not accept gifts or hospitality above the threshold nor below the threshold which might place them or reasonably appear to place them under an improper obligation.

Members must, within 28 days of receiving, or refusing, any gift, hospitality, material benefit or advantage, provide written notification to your Authority's Monitoring Officer of the existence and nature of that gift, hospitality, material benefit or advantage.

The under-mentioned details must be submitted to the Monitoring Officer on all occasions where the offer exceeds the threshold.

MEMBER:

DATE:

NAME AND ADDRESS OF ORGANISATION/INDIVIDUAL OFFERING
GIFT/HOSPITALITY/MATERIAL BENEFIT OR ADVANTAGE:

NATURE OF GIFT/HOSPITALITY/MATERIAL BENEFIT OR ADVANTAGE
OFFERED:

Please tick as appropriate

ACCEPTED: REFUSED:

SIGNED:



SUBJECT:	Consultation Ethical Standards Framework
MEETING:	Standards Committee
DATE OF REPORT:	12 June 2023
DIVISION/WARDS AFFECTED:	All

1. PURPOSE

- 1.1 To consider a Standards Committee response to the Welsh Government (WG) consultation on the ‘Penn Report’ on the Ethical Standards Framework (ESF) in Wales.

2. RECOMMENDATIONS

- 2.1 The Committee is invited to consider the consultation and discuss a possible response to it.

3. KEY ISSUES

- 3.1 In response to a request by the WG, Richard Penn, a former Local Authority Chief Executive and former Chair of the Independent Remuneration Panel for Wales, carried out a review of the ESF in Wales.
- 3.2 That report was completed in July 2021 and is available [here](#). The report covered a range of topics across Principal and Community Councils including the code of conduct, Standards Committees, the Public Services Ombudsman for Wales (PSOW), and the Adjudication Panel for Wales (APW).
- 3.3 The report has been the subject of a number of Standards Committee discussions in the past and The Chair and Monitoring Officer have both followed up with officials in WG.
- 3.4 The principal issue that was raised in those discussions and follow up meetings and correspondence was the recommendation suggesting that local resolution be exhausted before a complaint can be referred to the PSOW for investigation. This recommendation has since been dropped.
- 3.5 WG is currently consulting on a number of other elements that the report raised. That consultation is [here](#) and the deadline for responses is 23 June 2023.
- 3.6 There are 12 recommendations in the consultation with 21 Consultation questions. The recommendations are covered as a precis below. Some comments are included for the Committee to consider as part of the discussion on this item.

	Topic	Recommendation	Consultation Position
1	Gifts and Hospitality	A threshold should be set	This will be covered in another report in this meeting
2	Home Addresses	Cllrs shouldn't have to disclose their home addresses	
3	Definition of person	No action proposed	
4	Equality Act	The terminology in the Code of Conduct should align with the definitions of protected characteristics in the Equality Act	
5	Social Media	Formalisation of WLGA and PSOW SM guidance into the code	No proposal to take this forward
6	Criminal Behaviour	Self-reporting is suggested	No proposal to take this forward

7	Mandating Training	Either through legislation or a change to the declarations of acceptance of office	No proposal to take this forward
8	Local resolution	Mandating local resolution	No proposal to take this forward
9	PSOW Powers	Extend powers to refer back to SCs or MOs for local resolution	Current legislation and guidance is sufficient
10	APW	Power to impose reporting restrictions	Seeking views
		Power to anonymise witnesses to ensure safety	Seeking views
		Change to disclosure rules	Resolved through change to guidance
		Power to summons a witness to an appeal	Seeking views
		Power to require a SC to consider a recommendation from the APW on a different penalty	Sufficiently covered by existing legislation and guidance
		Power to hold tribunals partly in private	Seeking views
		Change to process for submitting appeals	Seeking views
		Increase the range of sentencing options	Seeking views
		Lower the threshold for the PSOW to make an interim referral to the APW (which have never been held)	Seeking views
11	Standards Committees	Power to require that training be carried out	No need for legislative change
		Power to seek an apology	No need for legislative change
		Creation of an all-Wales forum for SC Chairs	Completed
		Re-establish all-Wales Standards Conference	Completed
12	Public Access	Increase public awareness	Seeking views
Misc	Advertising for IMs of SCs	The requirement to advertise in local newspapers should be dropped	Seeking views
	Former Council Employees	Remove the ban preventing former employees from becoming IMs in the LA in which they worked	Seeking views
	Former Councillors	As above	Seeking views
	Standards Committees	Power to summons witnesses	Seeking views
		Broaden the sanctions available	Seeking views

3.6 The above covers, in the simplest headlines, a wide array of matters and the report and the consultation document should be examined.

3.7 There are some fundamental questions of process and fairness raised in some of the proposals, especially when subjects such as anonymity, reporting restrictions and punishment powers are considered.

3.8 The Committee will want to consider these in the context of wider Human Rights regarding privacy, freedom of expression and fair trials as well as Nolan principles of openness and accountability. They are not light proposals.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING)

4.1 While there is no direct evaluation required for the purposes of responding to a consultation, there are elements, such as recommendation 4, that prompt a direct discussion of these topics. Further, items such as qualification criteria and witness anonymity require consideration of the need to make local politics accessible to people from all backgrounds.

5. OPTIONS APPRAISAL

5.1 It is for the Committee to decide whether to respond to the consultation.

6. RESOURCE IMPLICATIONS

6.1 There are no costs identified.

7. CONSULTEES

7.1 It is reasonable for the Committee to respond without recourse to consultation beyond the Monitoring Officer.

8. AUTHOR

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Llywodraeth Cymru
Welsh Government

PUBLICATION

Consultation on the recommendations of the Independent Review of the Ethical Standards Framework (Richard Penn report)

We are seeking your views on our response to the review of the Local Government Ethical Standards Framework.

First published: 24 March 2023

Last updated: 24 March 2023

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Introduction

In March 2021, the then Minister for Housing and Local Government commissioned an independent Review of the Ethical Standards Framework (“the Framework”) for local government in Wales established by the Local Government Act 2000 (“the 2000 Act”). An overview of the Framework is included at annex 2. 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.

The Framework has remained largely unchanged over the last 20 years, so an independent review was felt important to maintain confidence in the system and ensure developments in the way councillors and their public lives are reflected in its operation.

An effective ethical framework is essential to ensure people and councillors from all backgrounds have confidence to engage with local democracy or stand for elected office. It is part of making Wales a diverse and inclusive nation and its review is an action in our Anti-racist Wales Action Plan.

In addition, it is essential the Framework reflects significant legislation made since its establishment, in particular the Equality Act 2010, the Well-being of Future Generations (Wales) Act 2015 and the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”). This document contains links to the original legislation. In some cases, the legislation has since been amended and links to the amended legislation are contained in the bibliography at the end of this document.

The 2021 Act introduced several measures intended to complement the existing Framework. Firstly, it placed a new duty on leaders of political groups to 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 above 2021 Act to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties.

Secondly, after the end of each financial year, standards committees will be required to make an annual report to the council describing how the committee's functions have been discharged and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations within 3 months of receipt.

Terms of reference for the review

The independent review ("the Review") was undertaken by Richard Penn, a former local authority chief executive and former chair of the Independent Remuneration Panel for Wales.

The terms of the Review were as follows:

- an audit of the codes of conduct adopted by all the required authorities against the Model Code of Conduct to identify any local variances
- 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
- consideration of whether the Framework is still 'fit for purpose', including whether the 10 principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This included identification of areas where improvements could/should be made to the current arrangements
- consideration of the role of standards committees, including their role in

relation to community councils and whether the establishment of sub-committees has any impact on the process of supporting community councils and dealing with complaints

- 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 included areas such as clear communication and signposting, training and awareness and the authorities' approach to addressing concerns
- consideration of the current sanctions and whether they are still appropriate

Conclusions of the Independent Review of the Ethical Standards Framework

The **review** concluded the current Framework is 'fit for purpose' and works well in practice. It suggested a few amendments 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.

Development of this consultation paper

Since the publication of the Review, we have engaged with stakeholders including monitoring officers, the Public Services Ombudsman for Wales (PSOW) and her office, the Welsh Local Government Association (WLGA) and One Voice Wales. We also listened carefully to the discussion on the Review's recommendations at the All-Wales Standards Conference in February 2022. In addition, we are grateful to the standards committees which have written to us with their views. This consultation paper builds on the Review's recommendations taking these discussions and other communications into account.

Consideration of the recommendations of the Review

Recommendation 1

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.

Consideration of recommendation 1

The Review notes the Model Code of Conduct (“the Model Code”) does not include a threshold for the declaration of gifts, hospitality, material benefit or advantage. As a result, where councils have decided to include a threshold in their own codes, a wide variation has occurred ranging from £21 to £100. The Model Code of Conduct is annexed to the Local Authorities (Model Code of Conduct) (Wales) Order 2008, as amended.

Further exploration with stakeholders suggests this is because different councils are of different sizes and constitution. Also, local circumstances impact on whether councils have decided to include a threshold in their own code or not and, if so, what the threshold is. A threshold of £100 or £150 for example may not be appropriate for some councils, as for some it may be too high and for others it may be too low.

We do not propose to amend the Model Code but recognising that approaches to the management and monitoring of gifts and hospitality are often sensitive matters we have recommended in our Statutory and Non Statutory Guidance for Principal Councils in Wales supporting provisions within the Local Government Act 2000, the Local Government (Wales) Measure 2011 and the Local

Government and Elections (Wales) Act 2021 that the approach to this is reviewed and agreed within individual principal councils and that the regular review of thresholds for declaration of gifts, hospitality, material benefit or advantage, are included in standards committee's annual report. This will assist in terms of transparency of the arrangements.

As part of the guidance, we have also suggested this is a matter that should be routinely discussed by the monitoring officers and chairs of standards committees' groups.

Recommendation 2

The 2000 Act requires members 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.

Consideration of recommendation 2

The Model Code as set out in the regulations does not specifically require the disclosure of the detail of the councillor's home address when an interest is declared in terms of their home.

However, in view of the requirements in the Code of Conduct for members to be open and transparent in their handling of matters relating to their personal interests, including the property they own and live in, guidance provided by the PSOW's office advised councillors to include the address. Following discussions with stakeholders, it was agreed that councillors are required to declare the interest but the PSOW's guidance has since been updated '[The Code of Conduct for members of local authorities in Wales](#)' advising members that it is sufficient to provide only the street name or postcode of the property. These

changes relate to practical matters in respect of the publication of a councillor's home address only. It remains an obligation on councillors to ensure they declare personal and prejudicial interests in matters relating to any Council business which affects property they own or reside in.

In addition, the local authorities (Amendments Relating to Publication of Information) (Wales) Regulations 2022 Amendment to the Local Government Act 1972, which apply in relation to Wales, amend the Local Government Act 1972 ("the 1972 Act") and the local authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 ("the 2001 Regulations") removing the requirement for county councils in Wales to publish details of councillors' personal home addresses.

In view of the above the issue has now been resolved and we therefore propose no further action is required in respect of this recommendation.

Recommendation 3

A 'person' is not defined either in the 2000 Act or in the Model Code. It is recommended that a clear definition of what is meant by a 'person' on the face of the legislation or in the Model Code would be beneficial.

Consideration of recommendation 3

The Legislation (Wales) Act 2019 (and the Interpretation Act 1978) provide effectively identical definitions of a 'person'. This approach to a single definition of commonly used terms in the drafting of legislation is important to ensure primary and secondary legislation is not littered with conflicting, contradictory, or unnecessarily lengthy definitions of commonly used terms.

Whilst we sympathise with the example set out in the Review, we do not

propose to take any action on this recommendation.

Recommendation 4

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.

Consideration of recommendation 4

Section 4 of the Equality Act 2010 ('the 2010 Act') provides for the following protected characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The drafting of the Model Code pre-dates these provisions and, whilst the principles set out in the Model Code are in the spirit of the 2010 Act, discussions with stakeholders confirmed an alignment of the Model Code with the protected characteristics in the 2010 Act would not only provide clarity but also importantly send a strong message that councillors are expected to promote and maintain

the highest standards of conduct.

We therefore propose to amend the definition in paragraph 4a of the Model Code of Conduct ([the Local Authorities \(Model Code of Conduct\) \(Wales\) Order 2008](#)) to align with the definition of protected characteristics in section 4 of the Equality Act 2010.

We will also amend the definition of equality and respect in section 7 of [The Conduct of Members \(Principles\) \(Wales\) Order 2001](#).

Recommendation 5

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.

Consideration of recommendation 5

Discussions with stakeholders have included consideration as to how training, both induction training and on-going training, is being provided to elected members on the Model Code, including its application in the case of social media.

The discussions on take up of training after the May 2022 elections have been positive and we believe training and take up of training will be more effective in addressing this issue than amendment of the Model Code. The Model Code applies to a councillor's behaviour in a myriad of circumstances, and we feel it is therefore not appropriate to carve out one context as opposed to others in the Model Code itself.

We therefore do not propose to amend the Model Code but will continue to work with the WLGA, One Voice Wales, the PSOW and monitoring officers to promote training as the most appropriate way of preventing inappropriate behaviour through the medium of social media.

In addition, we have also included specific reference to Model Code training and the application of the Code in the context of social media in our revised statutory guidance on member training and development issued under section 7 of the Local Government (Wales) Measure 2011 and in the guidance on the training plans town and community councils are required to prepare under the 2021 Act.

Recommendation 6

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.

Consideration of recommendation 6

The area of criminal behaviour is a legally complex one. Firstly, there is the issue of when should the member 'self-report' their own criminal behaviour. Should reporting happen when the member is charged or when the member is alerted to a criminal investigation taking place. How would this impact on the basic principles of natural justice and the possibility of the member prejudicing cases or investigations against themselves.

Should reporting be required when a conviction has been made, even though an appeal may be underway or when all avenues of appeal have been exhausted. Either way the recommendation as made would set a higher bar for self-reporting than for reporting another member where 'reasonably believes' is set

as the bar.

A further question is how this approach would interface with the disqualification regime for local authority membership. Currently, members are not disqualified until such time as all appeals are exhausted or they have not attended a local authority meeting for more than 6 months, whichever occurs first.

Also, we believe that the principles set out in The Conduct of Members (Principles) (Wales) Order 2001 are strong enough to rely upon a member self-reporting any action they may have taken which is potentially in breach of the principles and the related Code.

We therefore propose to take no further action in relation to this recommendation.

Recommendation 7

Mandatory training on the Code of Conduct for all members of principal councils and community councils. 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.

Consideration of recommendation 7

High quality, easily accessible training and its take-up has been a recurring theme in our discussions with stakeholders. One Voice Wales and the WLGA have focussed on this in the run up to and post the May 2022 elections. Monitoring officers have also been prioritising code of conduct training for newly elected and returning members.

Training is one of the areas we will be requiring standards committees to report on. Also, standards committees are required to work with political group leaders to support the delivery of their statutory duty to promote high standards of conduct amongst the members of their political groups in statutory guidance issued under the 2021 Act.

The requirement for and the provision of mandatory training on the code of conduct has wide ranging implications for prospective members, members and councils in terms of time commitment and cost. It would also potentially require primary legislation. We have therefore explored this issue further as part of the recent [consultation on electoral administration and reform](#). This consultation closed on 10 January. The responses received are currently being considered and will inform future policy on this matter.

The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 has not been revoked or amended since it was made in 2004. The declaration of office is included in Schedule 1 as follows:

- I [(1)] having been elected to the office of [(2)] of [(3)] declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability.
- I undertake to observe the code for the time being as to the conduct which is expected of members of [(4)] and which may be revised from time to time.
- Signed Date
- This declaration was made and signed before me.
- Signed

Proper officer of the Council (5)

(1) Insert the name of the person making the declaration.

(2) Insert 'member' or Mayor as appropriate.

(3) and (4) Insert the name of the authority of which the person making the declaration is a member or mayor.

(5) Where the declaration is made before another person authorised by section 83(3) or (4) of the Local Government Act 1972, state instead the capacity in which that person takes the declaration.

Arguably, including a reference to training in the declaration of office in effect makes training mandatory and so we do not propose to make any amendments to it at this time.

We will however:

- continue to work with councils, the WLGA and One Voice Wales to promote the importance of training and its take-up amongst councillors
- continue to support the development of easily accessible resources to enable training including on-line
- consider how this training is identified as part of the training and development assessment undertaken by heads of democratic services and democratic services committees in principal councils under the Local Government (Wales) Measure 2011 and as part of training plans produced under the 2021 Act in town and community councils

We will also:

- engage with the PSOW and her office to assess the level and nature of complaints being received and whether non-attendance at training has been a contributory factor to the reported poor behaviour and the extent to which training is recommended as part of the remedy
- require standards committees to monitor and report on whether councillors who have been the subject of a complaint which has been upheld have or have not attended a training session on the code of conduct. We have included this requirement in statutory guidance to standards committees issued under section 63 of the 2021 Act

Recommendation 8

Increased use of local resolution of complaints, 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.

Consideration of recommendation 8

Local resolution protocols are intended to deal with what are sometimes called 'lower level' complaints made under the code of conduct by 1 member about another member, and sometimes, if appropriate, similar complaints made by officers or members of the public. These are usually complaints about failure to show respect and consideration to others.

Firstly, we do not believe it is appropriate that any complaint made under the code of conduct should firstly be dealt with through local resolution. We do not believe it was the intention of the recommendation in any case that all complaints would first be the subject of local resolution.

Secondly, we suggest that the Model Code is just that, a Model Code which sets out the minimum legal requirement for inclusion in the code of conduct a council adopts. It would, in Welsh Government's view, be perfectly feasible for councils to include the requirement to have a local resolution protocol in their codes as adopted.

However, we believe visibility of the process to the public, officers and members is important and we have therefore included a requirement in our statutory guidance to standards committees on their annual reports to consider the operation of the local protocol and an assessment of its impact. Where no local protocol has been adopted, we will require standards committees to consider

whether the adoption of such a protocol would support its functions in relation to promoting high standards of ethical conduct.

Recommendation 9

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.

Consideration of recommendation 9

The Report identified that poor conduct (even if it does not meet the PSOW's threshold for full investigation) has an adverse impact on public and elected member confidence in the system. This view was again expressed in the context of 'low level' complaints which do not meet the bar for full investigation by the PSOW.

We agree with the conclusions that action being seen to be taken and being taken to address this kind of behaviour is essential to maintain confidence in the system. However, we do not believe a change in the law is required.

When a case meets PSOW's threshold for investigation and the PSOW starts an investigation, section 70(4) of the 2000 Act states that where the PSOW ceases an investigation under section 69 before its completion, the PSOW may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned. Even when cases are not investigated, PSOW's approach is to share all cases with the monitoring officers. This, when taken with the changes to the 2000 Act inserted by the 2021 Act, enhancing the role of political group leaders and standards committees to promote and maintain high

standards of conduct amongst members, enables this issue to be addressed through discussions between the PSOW, monitoring officers and standards committees.

The PSOW has agreed to explore how she may support monitoring officers and standards committees with their enhanced role, and we do not therefore intend to take any further action.

Recommendation 10

Changes to the powers and processes of the Adjudication Panel for Wales (APW).

Consideration of recommendation 10

The Report's recommendation included several proposals for changes to the procedures of the APW as follows.

Restricted reporting orders

The APW cannot control the reporting by the press about any case. The APW President considers that the powers such as those 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 APW Tribunals where the fairness of the tribunal or the safety of witnesses, panel members or staff are potentially compromised.

We are therefore seeking your views on whether we should make legislative provision to enable the APW to issue restricted reporting orders, and a question on this is included in the consultation questions below.

Anonymity of witnesses

The President can issue guidance to ensure consistency and transparency, but the APW believes an express power to anonymise, used proportionately to ensure witness safety, would be appropriate for both case and appeal tribunals.

We are therefore seeking your views as to whether there should be express legal provision for the APW to protect the anonymity of witnesses and a question on this is included in the consultation questions below.

Disclosure

An issue related to the disclosure of the unused material held by the PSOW and monitoring officers was identified in the Report. It has been agreed to amend the PSOW's own process in this regard, with Presidential Guidance / Practice Direction on both disclosure and the role of the monitoring officer generally.

This issue has now been resolved through a change to Presidential Guidance and therefore no further action is required.

Appeal Tribunal procedure

The APW President believes there should be amendments to the Appeal Tribunal procedure to include an express power to summon witnesses to an Appeal Tribunal.

Also, regulation 9(2) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the 2001 Regulations") requires the standards committee to consider a recommendation from the APW decision that a different penalty should be

imposed to the original decision. Some stakeholders do not support this process whilst the APW President does support it as the standards committee remains responsible and can reflect its response to the Panel decision in the sanction it decides to impose.

The current arrangements in relation to appeals are set out in the 2001 Regulations and in Presidential Guidance. There is also a APW Practice Direction which sets out relevant information about the APW's procedures in response to a reference from the PSOW. The Guidance and Practice Directions are available on the [APW website](#). Also see the [APW's Presidential Guidance and Practice Directions](#).

We are therefore interested in your views as to whether an express power to summon witnesses to appeal tribunals should be provided for, and whether there should be any changes in the procedure referring appeal decisions back to standards committees. A question on this is included in the consultation questions below.

Case Tribunal procedure

The APW 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.

These proposals relate to:

- providing express provision for part public and part private hearings
- whether the requirement to provide 7 days' notice of postponement of a hearing to the accused member should be reconsidered
- the process for seeking permission to appeal

The current process for seeking permission to appeal is set out in the Local

Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended by The Local Government (Standards Committee, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016.

It requires the President, or their nominee, to make a decision within 21 days of receipt of a request to appeal. If the President requests further information the applicant has 14 days to respond, and then the President has 14 days from the receipt of the further information to make a decision. However, there is potential for different interpretations of the impact of a request for additional information on the timetable as it is potentially unclear whether the 'clock' on the 21 days stops while the additional information is being sought.

In addition, the regulations do not give the PSOW any opportunity to make submissions and a preliminary hearing to decide whether to grant permission to appeal is possible if there are 'special circumstances', but there is no extension of time provided for in the regulations to allow for this.

The President has therefore proposed an alternative approach as follows:

- Councillor sends in appeal; no deadline is set for an APW decision
- President/Registrar checks the appeal has attached the decision of the standards committee and if not, gives the councillor 7 days to provide it (and has the power to ask the monitoring officer if they so wish for the decision and any other information)
- the appeal is sent to the PSOW who is given 14 days to comment
- the appeal, decision of the standards committee and any comments from the PSOW are put before the President (or their nominee) for a decision on the papers; again, no deadline would be set for a decision
- the President or their nominee can direct a preliminary hearing takes place if they consider it is in the 'interests of justice' to do so as opposed to 'special circumstances'

We would welcome your views on these proposed changes to the permission to appeal procedure. Similarly, on whether there should be an express provision to enable part or all of a hearing to be held in private, and also whether the requirement to provide not less than 7 days' notice of the postponement of a hearing should be retained.

Questions on the above are included in the consultation questions below.

Sentencing powers

The powers available to the APW are limited and some stakeholders felt there should be an option to impose more varied sanctions as was the case with the former Adjudication Panel for England.

Where a case tribunal decides that a member has failed to comply with the code of conduct the sanctions it may impose are set out in section 79 of the 2000 Act. The tribunal may suspend a member for a period of up to 12 months or disqualify them for a period of up to 5 years.

We are interested in your views as to whether there should be a wider range of sanctions available to the APW and if so, what should these be? A question on this is included in the consultation questions below.

Interim Case Tribunals

The PSOW has the power to make interim referrals to the APW 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 by stakeholders 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.

To date there have been no interim tribunals. Stakeholders have suggested that this is largely because the process is the same as for a full case tribunal. The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 are therefore perceived to be a barrier to their intended purpose.

Sections 76, 77 and 78 of the 2000 Act set out the membership of interim tribunals, the ability of the person who is the subject of the adjudication to have appropriate representation and the sanction which an interim tribunal can issue (a maximum of a one-off, 6 month suspension or partial suspension).

The process as currently set out therefore seems not to be fit for the purpose of balancing, and not prejudicing, an elected member's access to justice at a case tribunal with the public interest.

It has therefore been suggested the process is simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal Service ("MPTS"). The interim case tribunal would proceed with a legal member sitting alone, and considering the application on the papers only, but with the ability to invite oral submission from the parties if the member considered that to be in the interests of justice.

As now, the process would also enable the PSOW to submit a reference to the

President of the APW with a report setting out the background and why an interim suspension was sought.

At the most, only 6 months suspension (partial or full) would be possible and could be renewed up to 3 times in total (18 months in total). The accused member would be given an opportunity to submit why the interim suspension should not be made, but there would be no evidence called and the PSOW's report would be taken at face value, in the same way as the GMC's at the MPTS.

A possible approach to the public interest test is as follows. It would be appropriate to suspend or partially suspend a member where it appears to the interim case tribunal that:

- a case tribunal at a final hearing would be likely to make a finding that there has been a failure to comply with the code of conduct of the relevant authority concerned
- and the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b) of the 2000 Act
- and that it is in the public interest to suspend or partially suspend the accused member immediately for the protection of members of the public, to maintain public confidence in local government, to uphold proper standards of conduct and behaviour, or to enable the completion of the PSOW's investigation

To fully achieve this change would require amendment to the 2000 Act and The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001

We are therefore seeking your views on this proposal and a possible intermediate step of amending the regulations only to simplify the process for interim case tribunals until such time, if the proposal is supported, a change can be made to the primary legislation. Amendment to the regulations could include

a new schedule specifically for a shorter, more streamlined process for interim tribunals. A question on this is included in the consultation questions below.

Recommendation 11: the role of Standards Committees

Additional powers to require necessary training of members and the power to require a member to make an apology to the complainant.

Establish 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.

Consideration of recommendation 11

The recommendations relating to the powers of standards committees to require the necessary training of members and to require an apology to the complainant are related to the role the Review proposed for standards committees in addressing both complaints dealt with through the local resolution process and any referred back for local resolution after having been initially referred to the PSOW. We do not believe standards committees need further legal powers to exercise these functions. The functions conferred upon them in the 2000 Act already include promoting and maintaining high standards of conduct and assisting members and co-opted members to observe the code of conduct.

We therefore propose these are matters that could be incorporated into local codes and protocols without the need for further legislation. We have incorporated guidelines on these issues in the statutory guidance to standards committees in relation to the exercise of the new functions conferred upon them by the 2021 Act.

The WLGA has agreed to convene an all-Wales forum for independent chairs of

standards committees and the all-Wales standards conference has been re-established. These actions were not for the Welsh Government, but we support them and very much welcome the establishment of the network and the reconvening of the conference.

Recommendation 12

Accessibility of the ethical standards Framework. Make the framework process more accessible for the public.

Consideration of recommendation 12

We agree with the review that public confidence in the Framework is essential to our local democracy. One of the steps in ensuring confidence is that the process is accessible and consistently applied across Wales. We will therefore work with the PSOW, the WLGA, One Voice Wales and monitoring officers to raise public awareness of the Framework and what the public can expect if they engage with it.

We would welcome any views on how awareness raising might be taken forward so as to be inclusive of everyone across Wales. A question on this is included in the consultation questions below.

Other related matters raised in discussions with stakeholders post publication of the Penn Review Report

In addition to the recommendations raised in the review report stakeholders have raised a number of further issues with us and we are now also seeking

views on the following.

Advertising for independent members of standards committees

The regulations require advertisements for vacancies for independent members of standards committees to be placed in local newspapers. Some stakeholders have told us that this does not generate a field of candidates and is costly and time consuming. They have suggested that other methods of advertising and reaching out through council networks generates a larger field and reaches candidates from more diverse backgrounds. (See regulation 13 the Standards Committees (Wales) Regulations 2001).

We are therefore seeking views on whether the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed. A question on this is included in the consultation questions below.

Former council employees sitting as independent members on standards committees

After a 12 month period of grace, former council employees can sit as independent members on standards committees of councils where that council was not 1 of their previous employers but not on the standards committee of the council which employed them, even if the council was not their most recent employer.

This means all former employees including those who may have worked part time for the council, perhaps when they were students or early on in their careers cannot sit as independent members on the same council's standards committee.

Stakeholders have suggested this is disproportionate and excludes a large number of potentially high-quality candidates from putting themselves forward as independent members or chairs. (See regulation 7 of the Standards Committees (Wales) Regulations 2001).

We are therefore seeking views on whether the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed.

If so, what would be a suitable length for a 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, as defined in the Local Government and Housing Act 1989, for example the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Service?

A question on this is included in the consultation questions below.

Former councillors sitting as independent members on Standards Committees

Also, after a 12 month grace period, former councillors may sit as independent members on standards committees of councils to which they were not elected. However, there is a lifelong ban on them serving as independent members on the standards committee of the council to which they were elected. (See regulation 6 of the Standards Committees (Wales) Regulations 2001).

There is no longer a period of grace for councillors being employed by the council to which they were formally elected and so we are also seeking views on whether 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 you think it should, what do you think would be a suitable period of grace?

A question on this is included in the consultation questions below.

Standards committees' summoning witnesses and sanctions

The standards committee's role is to consider a report and recommendations from a monitoring officer or a report from the PSOW and, having heard representations from or on behalf of the person being investigated, determine whether there has been a breach of the authority's code of conduct or not and, if so, to decide the sanction. The standards committee may also request the monitoring officer or PSOW attend before it to, amongst other things explain their report. This is provided for in Regulation 8(3A) of the Local Government Investigations Regulations.

However, standards committees do not have the power under either the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 or the Standards Committees (Wales) Regulations 2001 to summon witnesses. There is a view that if the standards committee were to have the power to summon witnesses, it could be seen to be encroaching on the role of the investigators i.e., the monitoring officer and the PSOW and blurring its role of decision maker.

Some stakeholders have also suggested that the current sanctions available to standards committees in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 are too inflexible and/or not a sufficiently strong disincentive. The current sanctions enable a standards committee to censure, suspend or partially suspend a member for a period of up to 6 months.

We are therefore seeking views on these issues, and a question on this is

included in the consultation questions below.

Consultation questions

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?

Question 2

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

Question 3

Should there be express legal provision to enable the APW to protect the anonymity of witnesses?

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?

Question 5

Should there be an express power for the APW to summon witnesses to appeal tribunals?

Question 6

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

Question 7

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

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?

Question 9

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

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.

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?

Question 11

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

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?

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?

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 committee should be removed?

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 holding statutory or politically restricted posts?

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?

Question 16

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

Question 17

Do you agree that the sanctions a standards committee can impose should be changed or added to? If yes, what sanctions would you suggest?

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?

Question 19

How could positive effects be increased, or negative effects be mitigated?

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.

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?

How to respond

Submit your comments by **23 June 2023**, in any of the following ways:

- complete our [online form](#)
- download, complete our [response form](#) and email PennConsultationResponses@gov.wales
- download, complete our [response form](#) and post to:

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

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- to lodge a complaint with the Information Commissioner’s Office (ICO) who is our independent regulator for data protection.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please [tell us](#).

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer

Data Protection Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

E-mail: data.protectionofficer@gov.wales

Information Commissioner’s Office

Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: ico.org.uk

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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data. In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

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Further information and related documents

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Annual Report of the Standards Committee for the year 2022/23 - DRAFT version 2

1. Introduction

1.1 Section 63 of the Local Government and Elections (Wales) Act 2021 (“LGE 2021”) created a new requirement for standards committees to make an annual report to their authority. This duty came into force on 5th May 2022. To comply with this duty, this is the first annual report made by MCC’s standards committee. It covers the year ending on 31st March 2023.

1.2 Section 63 LGE 2021 and the statutory guidance prescribe the required content of the annual report, which is structured by the headings of sections 2 to 8 inclusive listed below.

2. Discharge of the Committee’s functions

2.1 The standards committee is composed of nine members: three county councillors, one community committee member and five independent members. There is currently one vacancy for an independent member.

2.2 The committee met twice in 2022/23 - on Monday 10th October 2022 (five members present, two apologies) and Monday 6th February 2023 (eight members present, no apologies).

2.3 The functions of standards committees are defined in sections 54 and 56 of the Local Government Act 2000 (“LGA 2000”). The primary function is to promote and maintain high standards of conduct by the members and co-opted members of the authority, and by the members of community councils in Monmouthshire.

2.4 The committee is therefore accountable for the volume, nature and outcome of conduct complaints. Conduct complaints can be formal and submitted to the Public Services Ombudsman for Wales (PSOW), or informal and submitted to the Monitoring Officer.

2.5 PSOW data for 2022/23 shows that

2.6 The Monitoring Officer reported to the Committee on 12th June 2023 that throughout the year 2022/23 he maintained his approach to potential conduct matters by seeking to operate an open and trusted relationship with all Councillors and, when necessary, looking to deal with matters in as informal and proportionate way as possible. There have been no matters that have escalated to the point of requiring the instigation of the Protocol for Self-Regulation of Member Conduct in the Constitution.

2.7 The standards committee reviewed the Protocol for Self-Regulation of Member Conduct on 6th February and did not recommend any changes.

3. Reports and recommendations from the Public Services Ombudsman for Wales (PSOW)

3.1 No conduct complaints were referred by PSOW to the standards committee during the year.

3.2 No Councillor has been required to attend a hearing at the Standards Committee.

4. Actions taken by the Committee following consideration of PSOW reports / recommendations

4.1 Not applicable.

5. Notices given to the Committee by the Adjudication Panel for Wales (APW)

5.1 No notices regarding member conduct were received from APW during the year.

5.2 No MCC members or Monmouthshire community councillors were respondents at APW tribunals.

6. Training for members on the Code of Conduct

6.1 Code of conduct training was provided for all councillors at County Hall on 12th May 2022. All forty six county councillors attended this training or the online follow-up sessions. All four independent members of standards committee also attended the training.

6.2 All committee meetings have a standing agenda item to consider “code of conduct training delivered, scheduled and requested” since the previous meeting.

7. Compliance of political group leaders with new conduct duties in s 52A(1) LGA 2000

7.1 Section 52A(1) of LGA 2000 states that:

A leader of a political group consisting of members of a county council or county borough council in Wales -

(a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and

(b) must co-operate with the council’s standards committee (and any sub-committee of the committee) in the exercise of the standards committee’s functions.

7.2 The Monitoring Officer has corresponded with the Group Leaders who are all content that they have carried out their new duties regarding standards, and have no issues to raise. Based on the advice given, monthly and pre-Council meetings, and informal communication throughout the year, the Monitoring Officer is satisfied that all three MCC political group leaders complied with the two duties set out above in s 52A(1) of LGA 2000.

8. Recommendations to the authority

8.1 Section 56B(5) of LGA 2000 states that:

An annual report by a standards committee of a relevant authority may include recommendations to the authority about any matter in respect of which the committee has functions.

8.2 The committee has no recommendations for the authority.

9. Conclusion

9.1 The standards committee strongly commends all members of the authority for continuing to maintain high standards of conduct throughout a particularly challenging year.

Richard Stow
Independent Member & Chair
MCC Standards Committee

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Local Government Act 2000

2000 CHAPTER 22

PART III

CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

CHAPTER I

CONDUCT OF MEMBERS

Standards committees

[^{F1}56B Annual reports by standards committees

- (1) As soon as reasonably practicable after the end of each financial year, a standards committee of a relevant authority must make an annual report to the authority in respect of that year.
- (2) The annual report must describe how the committee's functions have been discharged during the financial year.
- (3) In particular, the report must include a summary of—
 - (a) what has been done to discharge the general and specific functions conferred on the committee by section 54 or 56;
 - (b) reports and recommendations made or referred to the committee under Chapter 3 of this Part;
 - (c) action taken by the committee following its consideration of such reports and recommendations;
 - (d) notices given to the committee under Chapter 4 of this Part.
- (4) An annual report by a standards committee of a county council or county borough council in Wales must include the committee's assessment of the extent to which leaders of political groups on the council have complied with their duties under section 52A(1) during the financial year.

Changes to legislation: *Local Government Act 2000, Section 56B is up to date with all changes known to be in force on or before 05 October 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) An annual report by a standards committee of a relevant authority may include recommendations to the authority about any matter in respect of which the committee has functions.
- (6) A relevant authority must consider each annual report made by its standards committee before the end of 3 months beginning with the day on which the authority receives the report.
- (7) The function of considering the report may be discharged only by the relevant authority (and accordingly is not a function to which section 101 of the Local Government Act 1972 [^{F2}or, in the case of a relevant authority which is a corporate joint committee, regulation 13 of the Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (arrangements for discharge of functions)] applies).
- (8) In this section “financial year” means a period of 12 months ending with 31 March.]

Textual Amendments

- F1** S. 56B inserted (W.) (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), ss. **63(1)**, 175(7); S.I. 2021/231, art. 6(m)
- F2** Words in s. 56B(7) inserted (6.5.2022) by [The Corporate Joint Committees \(General\) \(Wales\) Regulations 2022 \(S.I. 2022/372\)](#), regs. 1(3), **3(8)**

Changes to legislation:

Local Government Act 2000, Section 56B is up to date with all changes known to be in force on or before 05 October 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(2ZA) inserted by [2011 nawm 4 s. 59\(3\)](#)
- s. 21(13)(c) inserted by [2011 nawm 4 s. 59\(5\)\(b\)](#)
- s. 21(15A) inserted by [2011 nawm 4 s. 59\(6\)](#)
- s. 21(18) inserted by [2011 nawm 4 s. 59\(7\)](#)
- s. 21C(6)(aa)(ab) inserted by [2012 c. 7 Sch. 5 para. 97\(a\)](#)

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