

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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