



**Dinas a Sir Abertawe**

**Hysbysiad o Gyfarfod**

Fe'ch gwahoddir i gyfarfod

## **Pwyllgor Safonau**

**Lleoliad:** O bell drwy Microsoft Teams

**Dyddiad:** Dydd Mercher, 9 Mawrth 2022

**Amser:** 3.30 pm

**Cadeirydd:** Jill Burgess

**Aelodaeth:**

Cynghorwyr: O G James, M B Lewis a/ac L G Thomas

Aelodau Cyfetholedig: Michaela Jones, Mike Lewis a/ac Margaret Williams

Cynghorydd Cymuned: Philip Crayford

**Gwyllo ar-lein:** <https://bit.ly/35pCHuJ>

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### **Agenda**

**Rhif y Dudalen.**

- 1 Ymddiheuriadau am absenoldeb.**
- 2 Datgeliadau o fuddiannau personol a rhagfarnol.**  
[www.abertawe.gov.uk/DatgeluCysylltiadau](http://www.abertawe.gov.uk/DatgeluCysylltiadau)
- 3 Cofnodion.** **1 - 7**  
Cymeradwyo a llofnodi, fel cofnod cywir, gofnodion y cyfarfod blaenorol.
- 4 Cyfarfod Blynyddol gydag Arweinwyr Grwpiau Gwleidyddol. (Llafar)**  
*Y Cynghorydd Peter May, Grŵp Uplands*
- 5 Safonau Ymddygiad - Arweiniad Statudol Drafft.** **8 - 28**
- 6 Adolygu Cylich Gorchwyl y Pwyllgor Safonau.** **29 - 36**
- 7 Llyfr Achosion Cod Ynddygiad.** **37 - 43**
- 8 Torri Côt Ymddygiad - Cwynion a wnaed i Ombwdsmon Gwasanaethau Cyhoeddus Cymru (OGCC).** **44**
- 9 Cynllun Gwaith 2022- 2023. (Llafar)**

Huw Evans

**Huw Evans  
Pennaeth Gwasanaethau Democratiaidd  
Dydd Mercher, 2 Mawrth 2022**

**Cyswllt: Gwasanaethau Democratiaidd**

**Cynghorwyr Llafur: 2**

Oliver G James	Mike B Lewis
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**Cynghorydd y Democratiaid Rhyddfrydol 1**

L Graham Thomas	
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**Aelodau annibynnol**

Enw	Cyfnod y Swydd	Enw	Cyfnod y Swydd
Jill Burgess*	19.10.2012 i 18.10.2018 Ail-benodwyd i 18.10.2022	Michaela Jones	01.10.2017 i 30.09.2023
Philip Crayford*	05.10.2012 i 04.05.2017 Ailbenodi tan yr etholiadau llywodraeth leol nesaf	Mike Lewis	01.10.2017 i 30.09.2023
Swydd wag		Margaret Williams*	01.04.2015 i 31.03.2021 Ail-benodwyd i 31.03.2025

**SYLWER:**

1. \* Mae'n dynodi na all **cyfnod y swydd gael ei ymestyn ymhellach.**
2. Gall **cyfnod Aelod Annibynnol yn ei swydd** fod o leiaf 4 blynedd ac nid mwy na 6 blynedd. Gall gael ei ailbenodi am un cyfnod olynol arall ond ni all y cyfnod hwnnw fod am fwy na 4 blynedd.
3. Bydd gan **Aelodau'r Awdurdod Lleol/Cynghorwyr Cymuned/ Tref** sy'n aelodau o'r Pwyllgor Safonau gyfnod swydd nad yw'n fwy na 4 blynedd neu bydd yn dod i ben yn ystod etholiad cyffredinol nesaf y llywodraeth leol yn dilyn eu hetholiad, p'un bynnag sy'n fyrrach.
4. Ni fydd y Pwyllgor Safonau **yn mynd rhagddo os bydd nifer yr Aelodau Annibynnol yn llai na nifer y Cynghorwyr.** Bydd Cynghorydd yn gadael y cyfarfod er mwyn trafod y busnes.
5. Dim ond un Aelod Gweithredol (ac eithrio'r Arweinydd) sy'n gallu eistedd ar Bwyllgor Safonau.

# Agenda Item 3



City and County of Swansea

## Minutes of the **Standards Committee**

Remotely via Microsoft Teams

Friday, 15 October 2021 at 10.00 am

**Present:** Jill Burgess (Chair) Presided

**Councillor(s)**

M B Lewis

**Councillor(s)**

L G Thomas

**Co-opted Member(s)**

Mike Lewis

**Co-opted Member(s)**

Margaret Williams

**Officer(s)**

Tracey Meredith

Huw Evans

Allison Lowe

Chief Legal Officer / Monitoring Officer

Head of Democratic Services

Democratic Services Officer

**Apologies for Absence**

Councillor(s): O G James

Independent Member(s): Philip Crayford and Michaela Jones

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## 7 **Disclosures of Personal and Prejudicial Interests.**

In accordance with the Code of Conduct adopted by the City & County of Swansea, the following interests were declared:

Mike Lewis (Co-Optee) declared a personal interest in Minute 9 “Public Services Ombudsman for Wales (PSOW) Annual Report & Letter for 2020/2021.”

## 8 **Minutes.**

**Resolved** that the Minutes of the Standards Committee held on 19 March 2021 and 30 June 2021 be approved and signed as a correct record.

## 9 **Public Services Ombudsman for Wales Annual Report and Letter for 2020/2021.**

The Monitoring Officer provided a “For Information” report in order to update the Standards Committee on the Annual Report of the Public Services Ombudsman for Wales (PSOW) for 2020/21.

**10 Standards Committee Annual Report 2020-2021.**

The Monitoring Officer presented the Standards Committee Annual Report 2020-2021 which outlined the work undertaken by the Committee during the period.

The Monitoring Officer thanked Allison Lowe for the work undertaken in re-formatting the report.

The Committee also thanked the Monitoring Officer for the work undertaken during the year, including updating the Hearings Procedure which had been utilised during the current municipal year.

**Resolved** that:

- 1) The Annual Report 2020-2021 be approved;
- 2) The Annual Report be presented to Council on 2 December 2021 for information.

**11 Code of Conduct Casebook.**

The Monitoring Officer presented a "For Information" report outlining the latest Public Services Ombudsman for Wales Code of Conduct Casebook.

In particular she highlighted details of a case referred to the Adjudication Panel for Wales in relation to Sully and Lavernock Community Council.

**Resolved** that:

- 1) The Monitoring Officer circulate details of the case together with Social Media guidance to all City & County of Swansea Councillors and Community / Town Councils.

**12 Breach of Code of Conduct - Complaints made to the Public Services Ombudsman for Wales (PSOW).**

The Monitoring Officer presented a "For Information" report to update the Committee on decisions by the PSOW in relation to allegations that Local Authority and Community and Town Councillors had breached the Code of Conduct.

**13 Workplan 2021-2022. (Verbal)**

The Monitoring Officer provided a list of future items for consideration by the Standards Committee in 2021-2022 as follows:

- Interview Group Leaders regarding Local Government & Elections (Wales) Act 2021 responsibilities;
- Consultation with Community / Town Councils in relation to training/induction;
- Update the request for dispensation form;
- Social Media guidance for Councillors.

In addition it was suggested that:

- The Questions for Group Leaders be revised;
- If investigations as to whether there were any potential trends in relation to the Code of Conduct Complaints for Swansea reported to the Public Services Ombudsman for Wales, with particular reference to those against Community / Town Councillors could take place.
- The Monitoring Officer write initially to the Clerks to the Community/Town Councils asking for details of training, particularly in relation to financial matters.

**Resolved** that:

- 1) The above items be added to the Work Plan for 2021-2022;
- 2) An additional meeting be arranged for December / January.

The meeting ended at 10.36 am

**Chair**



City and County of Swansea

## Minutes of the **Standards Committee**

Remotely via Microsoft Teams

Friday, 21 January 2022 at 9.30 am

**Present:** Jill Burgess (Chair) Presided

**Councillor(s)**

M B Lewis

**Councillor(s)**

O G James

**Councillor(s)**

L G Thomas

**Co-opted Member(s)**

Philip Crayford

Michaela Jones

**Co-opted Member(s)**

Mike Lewis

Margaret Williams

**Officer(s)**

Tracey Meredith

Huw Evans

Allison Lowe

Chief Legal Officer / Monitoring Officer

Head of Democratic Services

Democratic Services Officer

**Apologies for Absence**

Nil

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**14 Disclosures of Personal and Prejudicial Interests.**

In accordance with the Code of Conduct adopted by the City & County of Swansea, no interests were declared.

**15 Annual Meeting with Political Group Leaders. (Verbal)**

The Standards Committee invited the Political Group Leaders to the Standards Committee to discuss relevant legislation in the Local Government and Elections (Wales) Act 2021.

The themes for discussion, which had been circulated in advance were as follows:

**Question 1** – The Local Government and Elections (Wales) Act provides that Leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of their group. We are interested to hear as to what actions you take now in terms of maintaining standards within your own group and how are you proposing to meet the new duty going forward?

**Question 2** – The Standards Committee also has new functions under the Act to ensure that group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties. Is there any support that you feel would be beneficial either from the Standards Committee/Chief

Executive/Monitoring Officer in carrying out your duty and whether we can assist you in any way.

The Chair welcomed Councillor Chris Holley, Leader of the Liberal Democrat & Independent Group to the Committee who responded as follows:

Councillor Holley stated that there were various situations that could arise within political groups and the action he could take would be dependent on the particular circumstance that arose. He explained that his Group did not have “political whips” like some other parties.

He went on to say that he was aware of only one historical serious issue in another political party that had warranted serious action. However, he did acknowledge that legislation always required refreshing in order to suit the modern world. He went on to say that the role of a Councillor had changed over the years and they were expected to do far more than they used to, therefore problems could be encountered unintentionally, for example via social media. He stated that Group Leaders should act as “Gatekeepers” within their political groups and the Code of Conduct was part and parcel of how to show respect to all.

Councillor Holley welcomed the annual discussions with the Standards Committee so much so that he recommended a twice yearly invitation. He agreed that seeking advice from others was extremely important. He added that the small number of Councillor –v- Councillor complaints would be dealt with using the Local Dispute Resolution Protocol, with the number of complaints dramatically reducing over recent years.

In the event that a complaint was made, Councillor Holley would speak to the individual concerned, where most issues could usually be resolved. However, he was aware that, depending on the seriousness of the issue, Members could be removed from the membership of certain Committees within the Authority or even be suspended from the Group.

He concluded by thanking the Committee for inviting him and giving him the opportunity for this peer review discussion.

The Chair welcomed Councillor Rob Stewart, Leader of the Labour Group to the Committee who responded as follows:

Councillor Stewart commenced by explaining the vetting process undertaken by the Labour Party in advance of an election and prior to the candidate selection process.

He went on to outline the various stages undertaken in the period prior to an election, where a series of induction sessions were provided in order to explain the “Life of a Councillor” and the challenges they may face. The “Nolan Principles” would be explained, as well as preparing candidates for the change of role from an ordinary citizen to a Councillor. He explained that they would experience a higher level of expectation from the public and were advised on how to deal with both social media and conflicts of interest.

Once they were elected, the Labour Group supported Councillors through the “Party Whip” process. They would also be required to sign a Labour Group contract which committed them to certain standards of behaviour.

Once Councillors were elected, there were various protocols in place such as the Internal Dispute Resolution Process, where issues could be raised in order to preclude a complaint to the Ombudsman. This process had been extremely useful over recent years.

Councillor Stewart acknowledged that it would have been useful to have been in receipt of the still awaited guidance around Group Leader duties from Welsh Government for today’s discussion, however he stated that he always received appropriate advice from the Standards Committee and Monitoring Officer and would be grateful for that to continue.

He did however, highlight a concern that he had raised previously in relation to the lack of support for independent candidates prior to an election as the Ombudsman’s remit did not apply to election candidates if they weren’t currently a sitting Councillor. He felt that support or guidance was required for independent Candidates in relation to appropriate behaviour in the run up to an election as some candidates might not be aware of what would be deemed a Code of Conduct issue. He hoped that more could be done in advance of the next Local Government Elections in 2027.

The Chair thanked Councillor Stewart for his contribution.

The Chair welcomed Councillor Lyndon Jones, Leader of the Conservative Group to the Committee who responded as follows:

Councillor Jones commenced by stating that the Conservative Group had signed up to the Authority’s “Councillors Pledge on Standards” in order to go that extra mile. He felt that the main focus should be on respect and respecting both members and staff and he was pleased that there had been no particular instances in his political group. He felt that people should be treated as you would like to be treated yourself and that communication was key, with any issues raised being discussed within the group.

Whilst the new guidance was still awaited from Welsh Government, he was comfortable with the legislation and agreed that we should all work towards a certain standard, with “respect” for Councillors, Staff and the Public being at its core. He went on to say that prior to an election he would liaise with candidates about what was expected from them and remind them to be respectful at all times.

Councillor Jones agreed that it was extremely important for new Councillors to receive the appropriate training, as well as refresher training for returning Councillors. He would also encourage asking for support when required in order to raise standards.

He confirmed that the Conservative Party also adopted a selection process for vetting potential candidates, with Councillor Jones being a member of that selection panel.



The Chair thanked Councillor Jones for his time and responses.

**16 Review of Ethical Standards Framework.**

The Monitoring Officer presented a report to update the Committee on the Welsh Government review of the Ethical Standards Framework.

In March 2021 the Welsh Government commissioned Richard Penn to review the ethical standards framework for local government in Wales to ensure it remained fit for purpose and was effective in fostering high standards of conduct and public confidence in local government. A copy of the review was attached at Appendix A.

**Resolved** that:

- 1) The Standards Committee note the contents of the review pending any formal consultation;
- 2) The Standards Committee supports the creation of a National Forum for Independent Chairs of Standards Committee.

**17 All Wales Standards Conference. (Verbal Update)**

The Monitoring Officer reported that the All Wales Standards Conference would take place virtually between 10 am and 4 pm on 9 February 2022.

Should any Member of the Standards Committee be interested in attending, they should inform the Monitoring Officer who would arrange for the link to the meeting to be shared with them.

The meeting ended at 10.36 am

**Chair**

# Agenda Item 5



## Report of the Monitoring Officer

Standards Committee – 9 March 2022

### Standards of Conduct – Draft Statutory Guidance

<b>Purpose:</b>	To update the Committee on the Welsh Government draft statutory guidance which relates to new duties of the Standards Committee and Group Leaders.
<b>Policy Framework:</b>	Constitution.
<b>Consultation:</b>	Access to Services, Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that:  1) The Standards Committee consider the draft statutory guidance attached at Appendix A and agree any response from the Committee to the consultation to be submitted to Welsh Government by the Monitoring Officer.
<b>Report Author:</b>	Tracey Meredith
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Tracey Meredith
<b>Access to Services Officer:</b>	Rhian Millar

#### 1. Introduction

- 1.1 The Local Government and Elections (Wales) Act 2021 amends the Local Government Act 2000 to provide additional duties for both Standards Committees and Group Leaders in Wales.
- 1.2 The Committee is aware of the new duty on political Group Leaders to take reasonable steps to promote and maintain high standards of conduct by the members of their group and to co-operate with the Standards Committee in the exercise of the Standards Committee's functions.
- 1.3 The Committee is also aware of the new duties on Standards Committees which includes making an annual report to Council setting out how it has discharged its functions including how it has monitored compliance by group leaders with their duties under the Act.

## 2. Draft Statutory Guidance

- 2.1 The Standards Committee previously received a report from the Monitoring Officer on 4 December 2020 in relation to changes to the duties of both the Standards Committee and the Group Leaders following the Local Government and Elections (Wales) Act 2021.
- 2.2 The new duties of the Group Leaders is set out at section 62 of the Act which amends the Local Government Act 2000 to provide that leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and 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. In complying with the new duty a leader of a political group must have regard to any guidance about the functions under that subsection issued by the Welsh Ministers.
- 2.3 Welsh Government have now issued draft Standards of Conduct Statutory Guidance for consultation. The draft Guidance is attached at Appendix A.
- 2.4 The Guidance is designed to support group leaders in discharging their new duties and sets out expectations on how they will perform those duties.
- 2.5 In particular the Committee will note:
- the Guidance recognises that group leaders are best placed to develop their own approach and reflects the minimum requirements expected
  - the duty does not make group leaders accountable for the behaviour of members as conduct is a matter of individual responsibility
  - the Guidance usefully sets out the reasonable steps the group leader may undertake such as promoting internal resolution and training
  - the Guidance stipulates that group leaders should be pivotal in preventing the escalation of frivolous/low level complaints
  - failure to comply with the new duty in a meaningful way may potentially be regarded as bringing the office into disrepute (my emphasis but therefore may be a breach of the code of conduct)
  - group leaders should report any serious concerns as to members behaviour
  - the Guidance emphasises the co-operation with the Monitoring Officer and the Standards Committee in promoting positive behaviours.
- 2.6 The new functions of the Standards Committee include making an annual report to Council setting out how the committee's functions have been discharged during the financial year and include a summary of what has been done to discharge the general and specific functions of the Committee and the

Committees' assessment of the extent to which leaders of political groups have complied with their duties.

2.7 In particular the Committee will note:

- the Guidance recommends that the political group leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee. The standards committee should then consider each report and provide feedback to the group leaders
- the standards committee chair may wish to meet with group leaders periodically to review behaviour
- the Guidance sets out the minimum which should be included in any annual report including the committee's assessment of how political group leaders have complied with the new duty to promote high standards of conduct, including the advice the standards committee has provided and the training it has suggested

### **3. Consultation**

3.1 The consultation on the statutory guidance runs until 16 May next. The key questions for the Committee are:

**Question 1** - Does the draft guidance make it clear what is expected of leaders of political groups in principal councils as set out in the provisions of Part 4 of the Local Government and Elections (Wales) Act 2021 in a way that can be understood by leaders of political groups in principal councils?

**Question 2** - Does the draft guidance make it clear what is expected of Standards Committees in principal councils as set out in the provisions of Part 4 of the Local Government and Elections (Wales) Act 2021 in a way that can be understood by Standards Committees?

3.2 This is the Committee's opportunity to feed into the consultation along with group leaders.

### **4. Integrated Assessment Implications**

4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

4.2 The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

4.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

4.4 An IIA screening form has been undertaken but there are no integrated assessment implications directly associated with this report as the reports seeks to update the Committee on a statutory consultation with Welsh Government.

## **5. Financial Implications**

5.1 There are no financial implications associated with this report at this stage.

## **6. Legal Implications**

6.1 There are no legal implications other than those set out in the body of the report.

**Background Papers:** None.

### **Appendices:**

Appendix A Welsh Government Consultation on Standards of Conduct Statutory Guidance.



OPEN CONSULTATION

# Consultation on the Local Government and Elections (Wales) Act 2021: standards of conduct statutory guidance

We want your views on guidance on duties set out under the Local Government and Elections (Wales) Act 2021.

First published: 21 February 2022

Last updated: 21 February 2022

A PDF download of this page will be available soon.

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[Chapter 2: Duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group](#)

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## **Chapter 3: Duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions**

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## **Chapter 4: Functions of standards committees**

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### **Consultation questions**

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### **How to respond**

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### **Your rights**

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### **Further information and related documents**

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## **Foreword by the Minister for Finance and Local Government**

Councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, in order to encourage a more diverse range of people to seek elected office in local government. Standards of behaviour are key to this, and all members have a responsibility to act in a manner which respects and values all people.

The provisions in the Local Government and Elections (Wales) Act 2021 support this culture by providing a new duty on the leaders of political groups to take steps to promote and maintain high standards of conduct of their members. The duty recognises those in positions of leadership and influence within a principal council should have responsibility for combating bullying and harassment amongst elected members and council staff, and must act as a positive role model. Among other things, this duty is designed to support our diversity in democracy agenda and actions in our Race Equality Action Plan.

The duty is not intended to be the panacea and will not cover everyone (particularly those members who do not belong to a group), but it is designed to be proportionate and helpful. Its aim is to prevent or stop inappropriate behaviour before it escalates into a breach of the Code of Conduct.

All of us in public life must demonstrate the highest standards of behaviour and respect, particularly with regard to equalities and diversity. This guidance provides

advice on the new duties introduced to support this position.

**Rebecca Evans, MS**

**Minister for Finance and Local Government**

## **Introduction**

The Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) provides a new and reformed legislative framework for local government elections, democracy, governance and performance.

This guidance sets out how leaders of political groups in principal councils should meet their duties contained in section 52A of the Local Government Act 2000 (“the 2000 Act”), inserted by section 62, of the 2021 Act, which relates to the promotion and maintenance of high standards of conduct by the members of the group.

Leaders of political groups must have regard to any guidance issued by Welsh Ministers in relation to the exercise of their functions under section 52A(2) of the 2000 Act.

The guidance is designed to support leaders of political groups understand and discharge their duties in relation to high standards of conduct, whilst recognising that they will wish to and should be encouraged to develop their own approach in line with their wider statutory obligations, local circumstances, and best practice.

This guidance specifically addresses the following duties:-

### **Duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group**

Section 52A(1)(a) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, must take reasonable steps to promote and maintain high standards of conduct by the members of the group.

### **Duty to co-operate with the council’s standards committee (and any sub-committee) in the exercise of the standards**



## committee's functions

Section 52A(1)(b) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, 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.

This guidance refers specifically to these duties on a leader of a political group, and sets out the expectations on how they will perform these duties. All of the duties apply from 5 May 2022. Leaders of a political group will be required to have regard to the guidance once the relevant duties come into force.

There are other provisions within Part 3 of the 2000 Act relating to standards committees, inserted by sections 62 and 63 of the 2021 Act. These aspects of the 2021 Act are also described in this guidance.

The guidance is set out as follows:-

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

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

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

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

## Chapter 1: Policy context and purpose of the duties set out in section 52A of the Local Government Act 2000

### Policy context

Part 3 of the 2000 Act established a statutory framework to promote and maintain high standards of ethical conduct by members and employees of relevant authorities in Wales. A 'relevant authority' is a county or county borough council ("a

principal council”), community council, fire and rescue authority, a national park authority and a Corporate Joint Committee subject to the draft Corporate Joint Committees (General) (Wales) Regulations 2022 being made.

The framework consists of the ten general principles of conduct for members (derived from Lord Nolan’s ‘Seven Principles of Public Life’), set out below:

- Selflessness
- Honesty
- Integrity and propriety
- Duty to uphold the law
- Stewardship
- Objectivity in decision-making
- Equality and respect
- Openness
- Accountability
- Leadership

These are included in the statutory Model Code of Conduct (as required under section 50 of the 2000 Act), which lays down a set of enforceable minimum standards for the way in which members should conduct themselves, both in terms of their official capacity and (in some instances) in their personal capacity as well. It also guides members on the declaration and registration of interests. All elected members must give a written undertaking to observe the Code before they can take up office.

Building on the existing arrangements, section 62 of the 2021 Act inserts a new section 52A into the 2000 Act which places a duty on leaders of political groups within a principal council to promote and maintain high standards of conduct by members of their group. Group leaders are required to co-operate with the council’s standards committee in the exercise of its general and specific functions for promoting high standards (see below).

Subsection (3) amends section 54 of the 2000 Act to extend the specific functions of a standards committee to include monitoring compliance by leaders of political groups with the new duty imposed on them by the 2021 Act to promote and maintain high standards of conduct by members of their group. A standards committee must also provide advice or provide or arrange training for group leaders on the new duty.

## **Purpose of the standards of conduct provisions**

The ethical standards framework in Wales aims to promote the observance of consistent standards of conduct by local government members. High ethical standards underpin and maintain public confidence in democratic governance and the decision making process. For any organisation to be effective it must respect diversity and treat everyone with respect. Engendering a culture within a principal council which embraces high standards of conduct, requires both local leadership and all elected members to accept responsibility for their actions both individually and collectively.

The standards of conduct provisions in the 2021 Act complement the existing statutory ethical framework and support the Code of Conduct process. The provisions are designed to ensure leaders of political groups in principal councils, supported by standards committees, promote and maintain high standards of conduct by the members of their group.

## **The wider environment in which the standards of conduct duties operate**

The standards of conduct provisions contained in the 2021 Act support the Welsh Government's wider commitment to equality and diversity in public life. Action has been taken through the Diversity in Democracy Programme to tackle the barriers which prevent individuals' active participation in local democracy. Within local government, and through the Welsh Local Government Association (WLGA), there has been a commitment to Diversity in Democracy, including councils signing Diverse Council declarations which seek, amongst other actions, to ensure councils 'demonstrate an open and welcoming culture to all'. Furthermore, the WLGA, working with the Local Government Association (LGA), Northern Ireland Local Government association (NILGA) and the Scottish body, COSLA, has been promoting the Civility in Public Life programme, which seeks to promote civil, constructive and respectful political discourse.

The Race Equality Action Plan for Wales: An anti-racist Wales sets out a series of goals and actions designed to improve the outcomes for black, Asian and minority ethnic people in Wales. The Action Plan sets out a number of goals and actions for local government relating to its leadership and representation role. It recognises that a more diverse elected representation is good for decision making and likely to lead to decisions which reflect society as a whole.

## **Chapter 2: Duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group**

### **Introduction**

This chapter of guidance should be read by a leader of a political group in a principal council to support the discharge of their duties in section 52A of the 2000 Act, to take reasonable steps to promote and maintain high standards of conduct by the members of the group. The guidance here reflects the minimum requirements, recognising that leaders are best placed to build on this to develop the detail of their own approach.

### **Definition of political groups and group leaders**

Section 52A(3) of the 2000 Act enables the Welsh Ministers to make provision in regulations about the circumstances in which (a) members of a county council or county borough council in Wales are to be treated as constituting a political group; (b) a member of a political group is to be treated as a leader of the group.

The Local Government (Committees and Political Groups) Regulations 1990, made under the Local Government and Housing Act 1989, currently governs the position in this respect, until such time as regulations passed under 52A(3) of the 2000 Act are made.

### **New Duty**

Section 52A(1)(a) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, must take reasonable steps to promote and maintain high standards of conduct by the members of the group.

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

Reasonable steps the group leader *may* undertake include:

- demonstrating personal commitment to and attending relevant development or training around equalities and standards;
- encouraging group members to attend relevant development or training around equalities and standards;
- ensuring nominees to a committee have received the recommended training for that committee;
- promoting civility and respect within group communications and meetings and in formal council meetings;
- promoting informal resolution procedures in the council, and working with the standards committee and monitoring officers to achieve local resolution;
- promoting a culture within the group which supports high standards of conduct and integrity;
- attend a meeting of the council's standards committee if requested to discuss Code of Conduct issues;
- work to implement any recommendations from the Standards Committee about improving standards;
- work together with other group leaders, within reason, to collectively support high standards of conduct within the council.

As set out in chapter 1, the purpose of the new duties is to build on and support a culture which is proactive, acts on and does not tolerate inappropriate behaviour. The Guidance from the Public Services Ombudsman for Wales for members on the Code of Conduct provides advice on the Code and its requirements. It includes examples of cases considered by the Ombudsman and decisions reached by local standards committees and the Adjudication Panel for Wales which demonstrate behaviours which are unreasonable or inappropriate. Leaders of political groups and all members should have regard to the Ombudsman's Guidance, which can be accessed on the **Ombudsman's website** (<https://www.ombudsman.wales/guidance-policies/>).

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

It is essential that relationships with members are established which encourage them to raise issues with the group leader. The group leader has a significant role to play in creating a culture of trust and mutual respect in their group. Where issues arise, the importance of resolving low-level complaints at a local level has been raised by the Ombudsman and the independent Review of the Framework. Typically, these complaints are about alleged failures to show respect and consideration for others and the making of frivolous and low level complaints. The group leader should be pivotal in preventing the escalation of these complaints to the stage where more formal interventions become necessary. Leaders of political groups should have informal discussions with members who may be showing early signs of inappropriate behaviour to 'nip this in the bud' before it becomes problematic or in danger of breaching the Code. This may include suggesting and requesting training for the members concerned, asking for social media posts to be removed, and requesting apologies where appropriate.

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

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

## **Chapter 3: Duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions**

### **Introduction**

This chapter of guidance is about the duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions within section 52A of the 2000 Act.

The duties will come into force from the start of the next local government electoral cycle, on 5 May 2022.

## New Duty

Section 52A(1)(b) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, 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. The duties of a standard committee are described in more detail in chapter 4.

## Role of leader of political group

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

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

If a member is found by the standards committee to be in breach of the Code of Conduct and is disciplined by the committee, the leader of the political group must support the action, in order to maintain the high standards of conduct expected in public life and the Code. Group leaders should have regard to the Ombudsman's Guidance and the Sanctions Guidance issued by the President of the Adjudication Panel for Wales, which can be accessed on the [Adjudication Panel's website](https://adjudicationpanel.gov.wales/references-public-services-ombudsman-wales) (<https://adjudicationpanel.gov.wales/references-public-services-ombudsman-wales>).

## Chapter 4: Functions of standards committees

### Introduction

This chapter describes the duties of standards committees in relation to standards of conduct, within the 2000 Act, inserted by section 63 of the 2021 Act.

The duties will come into force from the start of the next local government electoral cycle, on 5 May 2022.

## Current position

Local standards committees play an important role in supporting members, individually and collectively, to develop and maintain a culture which embraces high standards of conduct.

A principal council, fire and rescue authority or National Park authority in Wales (but not a community council) is required by section 53 of the 2000 Act to establish a standards committee.

The general functions of a standards committee under section 54(1) of the 2000 Act are to promote and maintain high standards of conduct by members and co-opted members of a “relevant authority” and to assist them to observe the code of conduct.

In addition, a standards committee also has specific functions under section 54(2) of the 2000 Act, namely to:

- advise the authority on the adoption or revision of a code of conduct;
- monitor the operation of the code of conduct; and
- provide advice or provide or arrange training on the code of conduct for members of the authority.

Section 56(1) of the 2000 Act provides that a principal council’s standards committee (or a sub-committee established for the purpose) also exercises these functions in relation to members of community councils in its area.

Monitoring officers work closely with standards committees and support them in providing day-to-day advice to members on conduct matters.

A principal council may arrange for its standards committee to exercise such other functions as it considers appropriate, for example, monitoring the operation of corporate maladministration complaint procedures.

## New duties



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

Section 62(3) of the 2021 Act amends section 54 of the 2000 Act to extend the specific functions of a standards committee to include monitoring compliance by leaders of political groups with the new duty imposed on them by the 2021 Act to promote and maintain high standards of conduct by members of their group. As noted above, a council's political group leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee. The standards committee should then consider each report and provide feedback to the group leaders.

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

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

## **Duty of standards committee to make annual report**

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

As a minimum, the report must:

- describe how the committee has discharged its functions during the preceding financial year;
- include a summary of reports and recommendations made or referred to the committee by the Public Services Ombudsman for Wales relating to the investigation of alleged breaches of the member code of conduct, and any subsequent action taken by the committee;
- include a summary of notices given to the committee by the Adjudication Panel for Wales, relating to the Panel's decisions on possible breaches of the member code of conduct;

- describe the advice it has provided on training for all members and how that has been implemented, and
- in the case of a principal council, include the committee's assessment of how political group leaders have complied with the new duty under section 52A(1) of the 2000 Act (inserted by section 62 of the 2021 Act) to promote high standards of conduct, including the advice the standards committee has provided and the training it has suggested.

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

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

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

## Consultation questions

### Question 1

Does the draft guidance make it clear what is expected of leaders of political groups in principal councils as set out in the provisions of Part 4 of the Local Government and Elections (Wales) Act 2021 in a way that can be understood by leaders of political groups in principal councils?

If not, why not?

### Question 2

Does the draft guidance make it clear what is expected of Standards Committees in principal councils as set out in the provisions of Part 4 of the Local Government and Elections (Wales) Act 2021 in a way that can be understood by Standards Committees?

If not, why not?

### Question 3

We would like to know your views on the effects that the guidance 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? How could positive effects be increased, or negative effects be mitigated?

### Question 4

Please also explain how you believe the guidance 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 have 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 5

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response to express your views.

## How to respond

Submit your comments by **16 May 2022**, in any of the following ways:

- complete our **online form** (<https://gov.wales/node/45783/respond-online>)

- download, complete our **response form** ([https://gov.wales/sites/default/files/consultations/2022-02/response-form-lg\\_0.docx](https://gov.wales/sites/default/files/consultations/2022-02/response-form-lg_0.docx)) and email **LGDTMailbox@gov.wales** (mailto:LGDTMailbox@gov.wales)
- download, complete our **response form** ([https://gov.wales/sites/default/files/consultations/2022-02/response-form-lg\\_0.docx](https://gov.wales/sites/default/files/consultations/2022-02/response-form-lg_0.docx)) and post to:

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

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- 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** (<https://gov.wales/local-government-and-elections-wales-act-2021-standards-conduct-statutory-guidance>).

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](mailto:data.protectionofficer@gov.wales) (mailto: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](https://ico.org.uk) (https://ico.org.uk/)

## UK General Data Protection Regulation (UK GDPR)

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.

You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Further information and related documents

Number: **WG44398**

You can view this document in **alternative languages**. (<https://gov.wales/alternative-languages>) If you need it in a different format, please **contact us** (<https://gov.wales/contact-welsh-government>).

# Agenda Item 6



## Report of the Monitoring Officer

Standards Committee – 9 March 2022

### Review of Standards Committee Terms of Reference

<b>Purpose:</b>	To update the Committee on proposed changes to the Terms of Reference following new duties under the Local Government and Elections (Wales) Act 2021.
<b>Policy Framework:</b>	Constitution.
<b>Consultation:</b>	Access to Services, Finance, Legal.
<b>Recommendation(s):</b>	It is recommended that:  1) The Standards Committee approve the changes to the Terms of Reference which will be reported to the Constitution Working Group and then Council to approve.
<b>Report Authors:</b>	Tracey Meredith
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Tracey Meredith
<b>Access to Services Officer:</b>	Rhian Millar

#### 1. Introduction

- 1.1 The Local Government and Elections (Wales) Act 2021 amends the Local Government Act 2000 to provide additional duties for Standards Committees in Wales.
- 1.2 The Committee is already aware of the new duty on political Group Leaders to take reasonable steps to promote and maintain high standards of conduct by the members of their group and to co-operate with the Standards Committee in the exercise of the Standards Committee's functions.
- 1.2 In light of the changes to the Committee's functions it is therefore necessary to update the Terms of Reference. The Monitoring Officer has also taken the opportunity to consider the Terms of Reference afresh and attached at Appendix A are the proposed changes to be made. The current Terms of Reference are attached at Appendix B for ease of reference.

## **2. Terms of Reference**

- 2.1 Unfortunately it is not possible to produce a track changed version as the format of the Terms of Reference have been changed substantially albeit the content is not that different.
- 2.2 However the Committee will note that the functions have been split into two sections. The first section relate to those responsibilities associated with the Code of Conduct and ethical framework and includes an additional duty of determining requests for representation under the Council's Indemnity Scheme.
- 2.3 There are also some additional responsibilities which relate to maintaining an overview of the following:
- Officer/Councillor Relations Protocol
  - Whistleblowing Policy
  - Member/Member Dispute Resolution Process
- 2.4 The Committee will note that responsibility for hearing appeals under the Unreasonable Customer Behaviour Policy remains in the Terms of Reference. The Policy is currently being reviewed and the issue of appeal is being considered. It may be that this function will no longer remain with the Committee and a further change will need to be made when the Policy is finalised.

## **3. Integrated Assessment Implications**

- 3.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
  - Deliver better outcomes for those people who experience socio-economic disadvantage
  - Consider opportunities for people to use the Welsh language
  - Treat the Welsh language no less favourably than English.
  - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 3.2 The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.



3.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

3.4 There are no integrated assessment implications directly associated with this report as the reports seeks to update the Committee on changes to their Terms of Reference as required by legislation.

#### **4. Financial Implications**

4.1 There are no financial implications associated with this report at this stage.

#### **5. Legal Implications**

5.1 There are no legal implications other than those set out in the body of the report.

**Background Papers:** None.

#### **Appendices:**

Appendix A Amended version of the Terms of Reference of the Standards Committee.

Appendix B Current Terms of Reference of the Standards Committee

## **Council Constitution, Part 3.2 - Responsibility for Functions (Terms of Reference)**

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### **17 The Standards Committee**

#### **17.1 Composition**

- 17.1.1 The Standards Committee is composed of 9 Members. Its Membership includes:
- 17.1.2 5 “independent” Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- 17.1.3 3 Councillors other than the Leader and not more than 1 Member of the Executive; and
- 17.1.4 1 Community/Town Councillor.
- 17.1.5 The Standards Committee is not required to comply with Section 15 of the Local Government and Housing Act 1989 (duty to allocate to Political Groups).

#### **17.2 Term of Office**

- 17.2.1 Independent Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.
- 17.2.2 Members of local authorities who are Members of the Standards Committee will have a term of office until the next ordinary local government election following their appointment. They may be reappointed for one further consecutive term.

#### **17.3 Quorum**

A meeting of the Standards Committee shall only be quorate when:

- 17.3.1 at least 3 Members, including the Chair, are present; and
- 17.3.2 at least half the Members present (including the Chair) are independent Members.

#### 17.4 Voting

- 17.4.1 Independent Members and Community Council Members will be entitled to vote at meetings.

#### 17.5 Chairing the Committee

- 17.5.1 Only an independent Member of the Standards Committee may be the Chair.
- 17.5.2 The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:
- (i) Not less than four years or no more than six years; or
  - (ii) Until the term of office of the independent Member comes to an end.

#### 17.6 Role and Function

The Standards Committee will have the following roles and functions:

- 17.6.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority;
- 17.6.2 assisting the Councillors and co-opted Members to observe the Members' Code of Conduct;
- 17.6.3 advising the Council on the adoption or revision of the Members' Code of Conduct;
- 17.6.4 monitoring the operation of the Members' Code of Conduct;
- 17.6.5 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- 17.6.6 to produce an annual report to Council describing how the Committee's functions have been discharged during the financial year;
- 17.6.7 to monitor compliance by leaders of political groups with their duties under s 52A(1) Local Government Act 2000;
- 17.6.8 to undertake those functions in relation to Community Councils and members of Community Councils in the area of City and County of Swansea as are required by law;
- 17.6.9 to grant dispensations to Members in accordance with the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001 and s 81(5) Local Government Act 2000;

17.6.10 to consider allegations of breaches of the Code of Conduct made against Members in accordance with the Standards Committee Hearing Procedure attached to these terms of reference;

17.6.11 determining requests for representation in proceedings under the Council's Indemnity Scheme for Members and Officers;

17.6.12 to consider any other matters placed before the Committee by the Monitoring Officer

17.6.13 to consider all appeals relating to the Unreasonable Customer Behaviour Policy

#### 17.7 Additional Role of Standards Committee

The Standards Committee shall maintain an overview of the operation and maintenance of the following;

17.7.1 The Protocol of Officer/ Councillor Relations

17.7.2 The Council's Whistleblowing Policy and general confidential reporting procedures.

17.7.3 The Member/Member Dispute Resolution Process

17.7.4 The Register of Members Interests

#### 17.8 Work Programme

The Committee will prepare a work programme, which will be reviewed and approved at each meeting.

#### 17.9 Rules of Procedure and Debate

17.9.1 The Council Procedure Rules will apply to the meetings of the Standards Committee.

**17 Standards Committee – Current Terms of Reference**

- a) This is made up of 5 Independent Members, 3 Councillors and 1 Community/Town Councillor. By virtue of Section 53 (10) of the Local Government Act 2000 a Standards Committee and the Standards Committees (Wales) Regulations 2001, the Standards Committee is not required to comply with Section 15 of the Local Government and Housing Act 1989 (duty to allocate to Political Groups).
- b) To promote and maintain high standards of conduct and probity in respect of Councillors & Co-opted Members of the Authority and Community / Town Councillors within the area of the City and County of Swansea.
- c) To assist Members of the Authority and Community / Town Councils to observe their Authority's Code of Conduct.
- d) To advise the Authority and Community / Town Councils on the adoption, monitoring and review of their Code of Conduct.
- e) To advise and train Members on matters relating to the Code of Conduct.
- f) To grant dispensations to Members in accordance with the Standards Committees (Grant of dispensations) (Wales) Regulations 2001 and Section 81 (5) of the Local Government Act 2000.
- g) To consider allegations of breaches of Code of Conduct made against Members.
- h) To oversee the Authority's protocol on Member and Officer working relationships.
- i) To oversee and monitor the Authority's Whistle Blowing Policy and general confidential reporting Procedures.
- j) To provide training to Members on conduct and ethical standards issues and any developments relevant to these areas.
- k) To specifically consider and deal with less serious allegations of impropriety concerning Members.
- l) To oversee the register of Members interests required under Section 81(1) of the Local Government Act 2000.
- m) To consider all appeals relating to the Dealing with Unreasonable or Unacceptable Behaviour by Members of the Public Policy.

- n) To consider any other matters placed before the Committee by the Monitoring Officer.
- o) No business shall be transacted at a meeting of a standards committee, unless:
  - i) at least three members are present, including the chairperson; and
  - ii) at least half the members present (including the chairperson) are independent members
- p) Quorum. A meeting of the Standards Committee shall only be quorate when:
  - i) At least 3 members are present, including the chairperson and
  - ii) At least half the members present (including the chairperson) are independent members.

(Standards Committee (Wales) (Amendment) Regulations 2006)

**Note:**

Members refers to Councillors and Co-Opted Members of the City and County of Swansea and Community / Town Councillors within the boundaries of the City and County of Swansea.)

# Agenda Item 7



## Report of the Monitoring Officer

Standards Committee – 9 March 2022

### Code of Conduct Casebook

<b>Purpose:</b>	To update the Standards Committee on the Ombudsman's Code of Conduct Casebook
<b>Report Author:</b>	Tracey Meredith
<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer:</b>	Tracey Meredith
<b>Access to Services Officer:</b>	N/A
<b>For Information</b>	

#### 1. Background

- 1.1 The Public Service Ombudsman for Wales has published the following Code of Conduct Casebook:

Issue 25 – November 2021. Attached at Appendix A.

#### 2. Integrated Assessment Implications

- 2.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
  - Deliver better outcomes for those people who experience socio-economic disadvantage
  - Consider opportunities for people to use the Welsh language
  - Treat the Welsh language no less favourably than English.

- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.
- 2.2 The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the ‘well-being goals’.
- 2.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 2.4 There are no integrated assessment implications associated with this report.

### **3. Legal Implications**

- 3.1 There are no legal implications associated with this report.

### **4. Financial Implications**

- 4.1 There are no financial implications associated with this report.

**Background Papers:** None

**Appendices:** Appendix A – Code of Conduct Casebook (Issue 25)



# Introduction

The Public Services Ombudsman for Wales considers complaints that members of relevant authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- a) that there is no evidence that there has been a breach of the authority's code of conduct;
- b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defense put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers January to March 2021.

# The Code of Conduct Casebook

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Referred to Adjudication Panel for Wales .....	4

# Case summaries

## No evidence of breach

There are no summaries in relation to this finding.

## No action necessary

There are no summaries in relation to this finding.

## Referred to Standards Committee

[Knighton Town Council – Promotion of equality and respect](#)

[Case Number: 201907610 – Report issued in January 2021](#)

The Ombudsman received a complaint from a member of the public that a Member (“the Member”) of Knighton Town Council (“the Council”) had failed to observe the Code of Conduct for members of the Council.

It was alleged that the Member shouted, and used offensive language, aimed at people present at a public meeting held to discuss the local community’s response to the coronavirus (COVID-19) outbreak. It was also alleged that the Member swore and used bullying behaviour towards the complainant. The Member had accepted a Conditional Caution from the Police for his conduct at the meeting.

The Ombudsman found that there was evidence to suggest that the Member shouted and used offensive language at the meeting and had used bullying behaviour.

The Ombudsman determined that the Member may have breached the Council’s Code of Conduct, in particular, paragraphs 4(b) and 4(c) as he failed to show respect and consideration, and used bullying behaviour, towards members of the public who attended the meeting. The Ombudsman also found that the Member’s actions could reasonably be regarded as behaviour which might bring the office of member or the Council into disrepute and a potential breach of paragraph (6(1)(a) of the Code of Conduct.

The Ombudsman referred his investigation report to the Monitoring Officer of Powys County Council for consideration by its Standards Committee.

The Standards Committee found that the Member had breached paragraphs 4(b), 4(c), and 6(1)(a) of the Code of Conduct and suspended the Member for a period of 6 months.

## Chirk Town Council – Promotion of equality and respect

Case Number: 201904568 – Report issued in January 2021

The Ombudsman received a complaint that a Member (“the Member”) of Chirk Town Council (“the Council”) had breached the Code of Conduct.

It was alleged that the Member had sent an email to the complainant’s employer, in which he attempted to smear her name in her workplace and to make her feel threatened and vulnerable.

The investigation considered whether the Member had breached the following paragraphs of the Code of Conduct:

- 4(b) - show respect and consideration for others.
- 4(c) - not use bullying behaviour or harass any person.
- 7(a) - not, in his official capacity or otherwise, to use or attempt to use his position improperly to confer on or secure for himself, or any other person, an advantage or create or avoid for himself, or any other person, a disadvantage.

The Ombudsman found that the Member had sent an email to the complainant’s employer in which he threatened to take legal action against the complainant. The Member also copied his email to the Education Workforce Council, which was considered to be an aggravating factor.

The Ombudsman concluded that the Member’s conduct was such that it may amount to a breach of paragraphs 4(b), 4(c) and 7(a) of the Code of Conduct. The matter was referred to the Monitoring Officer of Wrexham County Borough Council, for consideration by the Council’s Standards Committee.

## Referred to Adjudication Panel for Wales

### Caerphilly County Borough Council – Disclosure and registration of interest

Case Number: 201903571 – Report issued in February 2021

The Ombudsman received a self-referred complaint that a Member (“the Member”) of Caerphilly County Borough Council (“the Council”) had breached the Code of Conduct.

The Member represented the Council as a member of the Cardiff Capital Region (“CCR”) City Deal’s Regional Cabinet. It was alleged that the Member had purchased shares in a company (“the Company”) that had been leased premises by CCR City Deal, to manufacture compound semiconductors and develop applications and that he had subsequently failed to declare an interest in the Company during CCR City Deal’s Joint Committee Meetings.

The complaint was investigated on the basis that there may have been a failure to comply with the following provisions of the Code of Conduct:

- 6(1)(a) – members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- 7(a) – members must not, in their official capacity or otherwise, use or attempt to use their position to confer on or secure for themselves an advantage.
- 10(2)(viii) – members must regard themselves as having a personal interest in any business of their authority if it relates to, or is likely to affect...any body to which they have been elected, appointed or nominated by their authority.
- 11(1) – Where a member has a personal interest in any business of his authority and attends a meeting at which that business is considered, he must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration or when the interest becomes apparent.
- 14(1)(a) – Where a member has a prejudicial interest in any business of his authority, unless he has obtained dispensation from his authority's Standards Committee, he must withdraw from the room, chamber or place where a meeting considering the business is being held.

The investigation found that the Member had access to confidential information by virtue of his position on the CCR City Deal's Regional Cabinet, which enabled him to purchase shares in the Company at a low price with a reasonable expectation that he could later sell those shares at a higher value. The Ombudsman considered that his actions were not in the spirit of the Principles which underpin the Code of Conduct, in particular the principle of integrity, which expects members not to act or take decision to gain financial benefits for themselves. The Ombudsman also considered that the Member's behaviour was suggestive of a breach of paragraph 7(a) and 6(1)(a) of the Code of Conduct.

In respect of the allegation that the Member had failed to declare an interest in the Company during CCR Regional Cabinet meetings, the investigation found that the Member failed to declare an interest in the Company during a CCR Regional Cabinet meeting on 18 February 2019 and that, whilst no decisions were made about the Company during this meeting, the Member's failure to declare a personal and prejudicial interest and withdraw from the meeting was suggestive of breaches of paragraphs 11(1) and 14(1)(a) of the Code of Conduct.

The investigation concluded that the Ombudsman's report on the investigation should be referred to the President of the Adjudication Panel for Wales, for consideration of a possible breach of paragraphs 6(1)(a), 7(a), 11(1) and 14(1)(a) of the Code of Conduct.

# Agenda Item 8



## Report of the Monitoring Officer

Standards Committee – 9 March 2022

### **Breach of Code of Conduct - Complaints made to the Public Services Ombudsman for Wales (PSOW)**

The Committee is advised of the following decisions by the PSOW in relation to allegations that Local Authority and Community and Town Councillors have breached the Code of Conduct.

<b>Name of Council / Councillor</b>	<b>Name of Complainant</b>	<b>Ombudsman Reference</b>	<b>Result of Investigation and date of the current situation</b>
Gowerton Community Council	Public	202104452	24 November 2021 – PSOW not investigating.
Swansea Council	Councillor	202105446	8 December 2021 – PSOW not investigating.
Port Eynon Community Council	Public	202106022	21 December 2021 – PSOW not investigating
Mumbles Community Council	Councillor	202106478	29 January 2022 – PSOW not investigating
Mumbles Community Council	Councillor	202106524	1 February 2022 – PSOW investigating
Mumbles Community Council	Councillor	202106558	1 February 2022 – PSOW investigating
Swansea Council	Public	202106832	17 February 2022 – PSOW not investigating
Swansea Council	Public	202106813	17 February 2022 – PSOW not investigating
Swansea Council	Public	202106925	15 February 2022 – PSOW not investigating
Swansea Council	Public	202107050	3 February 2022 – PSOW not investigating
Swansea Council	Public	202107024	17 February 2022 – PSOW not investigating