



## Report of the Monitoring Officer

Standards Committee – 19 March 2021

# Public Services Ombudsman for Wales Consultation on Revised Guidance on the Code of Conduct

<b>Purpose:</b>	To note the proposed changes to the guidance by the Public Service Ombudsman for Wales (PSOW) on the Code of Conduct for Members of Local Authorities in Wales that is currently subject to Consultation.
<b>Recommendation(s):</b>	It is recommended that the Standards Committee:  1) Considers the revised guidance and provide any comments to the proposed changes by the closing date of the 21 <sup>st</sup> March 2021.  2) Delegates the collation of any comments and formal response to the Consultation to the Monitoring Officer.
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<b>Finance Officer:</b>	Ben Smith
<b>Legal Officer</b>	Tracey Meredith
<b>Access to Services Officer:</b>	N/A

## 1. Background

1.1 The PSOW issues guidance on the Code of Conduct to help Councillors understand and interpret its provisions. Separate guidance is issued to County Councillors and Town/Community Councillors. The PSOW is currently consulting on the new Guidance for both County Councillors and Town/Community Councillors with a deadline for consultation being 21 March 2021. The Guidance for both County Councillors and Town/Community Councillors is found at Appendix A.

## 2. Proposed Changes

2.1 The PSOW last reviewed his guidance on the Code in July 2016. The Code has not changed since then. The guidance includes several examples of how the Code has been interpreted by Standards Committees, the Adjudication Panel for Wales, and the High Court.

- 2.2 The changes to the guidance do not fundamentally alter current advice on the meaning of the Code. Rather the changes seek to improve layout, improve clarity and to provide recent examples of the outcome of real life cases
- 2.3 As the Code has not changed so too the fundamental elements of the guidance have not changed. The revised guidance seeks to improve wording to aid clarity, place greater emphasis on key messages (e.g. through the use of bold text) and provides fresh examples from real life of where the Code has been breached.
- 2.4 The principle changes appear to be:
- a. The PSOW has expanded the explanation of the 2 stage test applied to decide whether to investigate a complaint; the test itself has not changed in that it is still a two stage test the first stage being whether there is direct evidence that a breach has taken place and secondly whether a referral is in the public interest. The second stage now includes an additional public interest factor, namely the consideration of previous misconduct or referral to a standards committee or the Adjudication Panel for Wales.
  - b. Slightly clearer and more emphatic guidance on freedom of speech as it effects the requirement to treat people with respect, the prohibition on bullying and bringing the office into disrepute;
  - c. The guidance on what to do if a councillor has a personal interest is expanded and more explicit. The previous guidance gave bullet points as to when a personal interest should be declared. The new guidance gives more detail as to how that interest should be declared. The new guidance also states that the existence and nature of a personal interest should be declared on every occasion before the business to which it relates is participated in, regardless of whether it has previously been registered.
- 2.5 Whilst most changes are small, they do add clarity and/or emphasis to the guidance. The changes appear to make the guidance easier to follow. The revised guidance also gives a greater number of real life examples of actual cases considered by the PSOW and the decisions of standards committees and the Adjudication Panel for Wales, making it easier for members to understand how the guidance is put into practice by the adjudicating bodies. The new guidance reaffirms that standards committees should be held in public unless there are valid reasons not to do so.

### **3. Equality and Engagement Implications**

- 3.1 There are no equality and engagement implications associated with the report.

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

4.1 There are no financial implications associated with the report.

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

5.1 There are no legal implications associated with this report.

**Background Papers:** None

#### **Appendices:**

Appendix A – Guidance from the Public Ombudsman for Wales Revised Guidance on the Code of Conduct for Members of Local Authorities in Wales and Community / Town Councillors.