

Appendix 1



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref:
Ein cyf/Our ref: qA1240007

2 March 2016

Dear Colleague

Local Government Ethical Framework

Following a technical consultation undertaken between 30 November 2015 and 10 January 2016, the Minister for Public Services signed the following statutory instruments on 27 January 2016:

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 (No. 2016 / 84)

The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (No. 2016 / 85)

The instruments amend existing subordinate legislation made under Part III of the Local Government Act 2000, consequential upon provisions in the Local Government (Democracy) (Wales) Act 2013 ("the 2013 Act"). They also implement other proposals to improve the operation of the local government ethical standards framework in Wales, described in a number of previous policy statements.

The instruments, which come into force on **1 April 2016**, are available via the following links:

http://www.legislation.gov.uk/wsi/2016/84/pdfs/wsi_20160084_mi.pdf

http://www.legislation.gov.uk/wsi/2016/85/pdfs/wsi_20160085_mi.pdf

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

The Order amends the Model Code of Conduct for local government members, set out in the schedule to the Local Authorities (Model Code of Conduct) (Wales) Order 2008 as follows:

- The 2013 Act transferred responsibility for maintaining the register of interests of members of community councils from the monitoring officer of the principal local authority for the area to the 'proper officer' of each community council, with effect from 1 May 2015. A number of consequential amendments are made to the Model Code to reflect this change,



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so that, in relation to a community council, a reference to a monitoring is replaced with a reference to the proper officer of the community council.

- Paragraph 15 of the Model Code, dealing with the register of member's interests, is amended to clarify that any interest disclosed for the first time must be entered in the register. This is not a change of policy, but clarifies the original intention. The exemption for community councillors from the requirement to register certain financial and other interests upfront is maintained.
- The obligation on a member to report a potential breach of the Code of Conduct to the Public Services Ombudsman for Wales is omitted from the Code.
- Paragraph 10(2)(b) of the Model Code is omitted. This is to overcome unintended difficulties in the practical application of this paragraph in relation to participation in business relating to constituency interests. A member participating in the consideration of a ward matter is nonetheless under an obligation to act objectively and in the wider public interest in accordance with paragraph 8 of the Model Code.

The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016

The Regulations amend three statutory instruments as follows:

The Standards Committees (Wales) Regulations 2001 ("the Standards Committee Regulations")

- A number of consequential amendments are made to the Standards Committee Regulations following commencement of section 68 of the 2013 Act, which enables two or more relevant authorities to establish a joint standards committee.
- As a consequence of the postponement of the 2016 local government elections, provision is made to enable a relevant authority to determine that local authority and community council members of its standards committee who are in place on 1 April 2016 may continue to serve until the next ordinary election in 2017. In addition, the current four year restriction on the term of office of such a member is removed.
- Provision is made to enable a standards committee to delay publication of agendas, records or information connected to its consideration of the report of a misconduct investigation until such time as the misconduct proceedings are concluded. However, the presumption remains that misconduct hearings will be held in public, unless there are particular reasons for some or all of the proceedings being held in private.

The Local Government Investigations (Functions of Monitoring Officers and Standards Committee) (Wales) Regulations 2001

- Provision is made to enable a standards committee or a monitoring officer, with the prior written agreement of the Chairperson of the standards committee, to refer the report of a misconduct investigation to another authority's standards committee for determination.

This is to overcome any potential conflict of interest a standards committee may have in dealing with a report.

- The wording of Regulation 9 is amended to clarify that a period of suspension imposed by a standards committee is limited to a maximum of 6 months or, if shorter, the remainder of a member's term of office. This addresses an ambiguity in the current wording and brings the provision into line with the comparable power of an Adjudication Panel for Wales case tribunal.
- A member seeking to appeal the determination of a standards committee will in future first need to obtain the permission of the President, or a nominated panel member, of the Adjudication Panel for Wales.

Local Authorities (Grant of Dispensations) (Wales) Regulations 2001

- Provision is made to enable a standards committee or a monitoring officer, with the prior written agreement of the Chairperson of the standards committee, to refer a dispensation application to another authority's standards committee for determination. The Vice-Chairperson of the standards committee may give permission in the absence of the Chairperson. Again, this is primarily to overcome any potential conflict of interest a standards committee may have in dealing with an application. It may also enable an urgent application to be expedited.
- A general category of dispensation is introduced. This will enable a standards committee to grant a dispensation, if it considered it appropriate in all the circumstances to do so, where it was not otherwise possible to make reasonable adjustments to accommodate a person's disability. A dispensation granted under this category which has ongoing effect is subject to annual review.

Further background to these changes is contained in the consultation paper and summary of consultation responses, which can be accessed on the Welsh Government's website:

<http://gov.wales/consultations/localgovernment/amendments-to-subordinate-legislation/?status=closed&lang=en>

Action required

In accordance with section 51 of the 2000 Act, all relevant authorities (ie a county / county borough council, community council, fire and rescue authority and a national park authority) must, within six months of the date the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 was 'made', adopt a revised code of conduct. The Order was made (ie signed) on 27 January 2016. Authorities, therefore, have until **26 July 2016** in which to adopt a revised code of conduct. However, it is suggested that it would be sensible for authorities to adopt revised codes no later than at their forthcoming annual meetings.

The text of the amended Model Code of Conduct is enclosed. This does not form part of an official or statutory instrument, but is intended to assist those authorities which do not have access to a legal database.

Any queries should be sent to:

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or made by telephone to 029 2082 6414.

Yours faithfully



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