

**STANDARDS COMMITTEE
15TH MARCH 2013**

FINANCE AND CORPORATE SERVICES

**REPORT OF THE HEAD OF LEGAL SERVICES/MONITORING
OFFICER**

- D.MICHAEL

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ITEM 1
PART 1 SECTION A

STANDARDS ARRANGEMENTS

1. Purpose of Report

1.1. To advise Members of the receipt of a letter from the Welsh Government on Local Government Ethical Framework and to obtain decisions from Members in relation to that letter.

2. Background

2.1. A letter of 15th January 2013 from Carl Sargeant AM, Minister for Local Government and Communities raised a number of issues which, to a greater or lesser extent, relate to the Local Government Ethical Framework. The following paragraphs of this report deal with the issues raised; they are

- local resolution of Code of Conduct complaints;
- indemnities for Members the subject of Code of Conduct complaints;
- changes to the Members' Code of Conduct;
- proposed publication on the internet of Members' interests.

2.2. The Welsh Government is encouraging Local Authorities to put in place procedures for local resolution of Code of Conduct complaints where those complaints are made by one Member against another. The view of the Standards Committee here was that there was no need for such procedure since this Local Authority had not had to deal with Member on Member complaints in large number or indeed at all. The Welsh Government is however pressing this issue and I have recommended that Policy and Resources Cabinet Board refer it to the Standards Committee with a request that that Committee adopts a local protocol to address such complaints.

2.3. Under the provisions of the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006, Local Authorities have the power to grant indemnities or secure insurance to cover various matters including the costs of Members in defending allegations of a breach of the Code of Conduct. In discussion between the Welsh Government and the Welsh Local Government Association it has been agreed that a voluntary cap of £20,000 would be placed on such expenditure. Again this is not an issue which has concerned this Authority in recent years but I have recommended to the Policy and Resources

Cabinet Board that the voluntary cap be adopted and that the Head of Legal Services be given delegated power to approve expenditure below that cap. In practice, as Monitoring Officer, I would have to further delegate that function to an officer who had no dealings with the particular Code of Conduct allegation.

- 2.4. By way of context I would explain to Members that, when dealing with a Code of Conduct complaint, the Ombudsman's Office which presents the complaint is in all cases represented by a solicitor or barrister. Looked at in the slightly longer term I will request finance colleagues to explore whether insurance cover is available for these type of costs.
- 2.5. The Welsh Government proposes some changes to the Members' Code of Conduct. These changes will have to take the form of amending regulations and will then come back to each of the individual Local Authorities for adoption. The first change is to remove the obligation on a Member to report a breach of the Code by another Member. It was sometimes considered that this obligation acted as a shield for vexatious complaints. The second change is to remove paragraph 10(2)(b). This paragraph has always been problematic and contemplated a breach of the Code where there was a conflict between a Member's role as a local councillor and his or her wider obligations in decision making. This paragraph has always been difficult to apply in practice.
- 2.6. Lastly, as far as the Minister's letter is concerned, he consults about a proposal to require Local Authorities to publish on their websites the standing declarations of interests made by Members. These declarations are already open to public inspection and therefore there would appear to be no objection to their publication on the Council's website.
- 2.8. A copy of the letter is attached at Appendix 1 (STDS-150313-REP-FS-DM-App1)

3. **Recommendations**

- 3.1. That the issue of a protocol from the local resolution of Member against Member complaints be the subject of a future report and that the Monitoring Officer obtain precedents from other Local Authorities.
- 3.2. That the proposal that the indemnity in respect of the cost of defending a breach of the Members' Code of Conduct be subject to a ceiling of £20,000 be noted.

- 3.3. That the proposed changes in the Code be noted.
- 3.4. That the standing register of Members' interests maintained under existing legislation be made available on the Council's website.

4. **Reason for proposed decision**

- 4.1. To make appropriate arrangements for the discharge of Standards functions and the grant of indemnities.

5. **List of Background Papers**

Letter from Carl Sargeant AM, 15th January 2013 - Appendix 1 (STDS-150313-REP-FS-DM-App1).

6. **Wards Affected**

All

7. **Officer Contact**

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