



## **STANDARDS COMMITTEE**

**9.30 AM - TUESDAY, 11 APRIL 2023**

**TEAMS/ HYBRID AT COUNCIL CHAMBER - PORT TALBOT CIVIC CENTRE**

**ALL MOBILE TELEPHONES TO BE SWITCHED TO SILENT FOR THE DURATION OF THE MEETING**

### **PART 1**

1. Welcome and Chair's Announcements
2. Declarations of Interest
3. Forward Work Programme  
*None to present – dates for new cycle to be confirmed at AGM of Council.*
4. Minutes of Previous Meeting *(Pages 5 - 8)*
5. Group Leader Invitation *(Pages 9 - 16)*
6. Group Leaders Duties *(Pages 17 - 24)*
7. Standards Committee Annual Report *(Pages 25 - 50)*
8. Local Resolution Procedure *(Pages 51 - 60)*
9. Disciplinary Hearings *(Pages 61 - 72)*
10. Independent Review *(Pages 73 - 120)*

11. Urgent Items

Any urgent items at the discretion of the Chairperson pursuant to Section 100BA(6)(b) of the Local Government Act 1972 (as amended).

**K.Jones**  
**Chief Executive**

**Civic Centre**  
**Port Talbot**

**Monday, 3 April 2023**

**Committee Membership:**

**Chairperson:** L.Fleet

**Vice** T.Ward  
**Chairperson:**

**Independent** A.Davies and D.Lewis  
**Members:**

**NPTCBC** W.Carpenter and S.Thomas  
**Members:**

**Community** C.Edwards  
**Committee**  
**Member:**

**Substitutes**

**NPTCBC** A.Lodwig and S.Grimshaw  
**Substitutes:**

**Community** G.Francis  
**Committee**  
**Substitute:**

- Notes: (a) *The Quorum for the Standards Committee is at least three Members including the Chairperson (or in absence Vice Chairperson). At least half the Members present (including the Chair) must be Independent Members. (e.g. if only two Independent Members attend, there must **only** be two other Members of the Committee present.)*
- (b) *In view of the above, can all Members please inform the Monitoring Officer/Democratic Services Officer as soon as possible, if there is a problem with attendance.*

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## STANDARDS COMMITTEE

(Teams/ hybrid at Council Chamber - Port Talbot Civic Centre)

**Members Present:**

**31 January 2023**

**Chairperson:** L.Fleet

**Vice Chairperson:** T.Ward

**Independent  
Members:** D.Lewis

**NPTCBC Members:** **Councillors** W.Carpenter and S.Thomas

**Community  
Committee Members:** **Councillor** C.Edwards

**Officers In  
Attendance:** C.Griffiths, A.O'Donnell, M.Shaw and T.Davies

**Invitees:** **Councillors** A.Llewelyn and R.G.Jones

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1. **APPOINTMENT OF CHAIR**

Prior to the election of the Chairperson, The Head of Legal Services and Monitoring Officer opened the meeting.

**RESOLVED:** That Louise Fleet be appointed Chairperson of the Standards Committee.

2. **CHAIR'S ANNOUNCEMENTS**

The new Chair welcomed everyone to the meeting, and introductions were made.

3. **DECLARATIONS OF INTEREST**

None were received.

#### 4. **APPOINTMENT OF VICE CHAIR**

**RESOLVED:** That Tom Ward be appointed Vice Chairperson of the Standards Committee.

#### 5. **MINUTES OF PREVIOUS MEETING**

The minutes of the meeting of 25 October 2022, were agreed as an accurate record.

#### 6. **GROUP LEADER INVITATION**

The Committee welcomed Councillor A.Llewelyn (Leader of the Plaid Group) and Councillor R.G.Jones (Leader of the Labour Group) to answer the circulated form of questions to Group Leaders, and to discuss Code of Conduct related matters.

Issues raised included:

- The Code of Conduct needs updating to reflect the hybrid element, and recording of meetings.
- Would it be possible to include a bullet point guide to the Code of Conduct, within election packs, so that potential Councillors are aware of the key points prior to being elected?
- The perception of the Standards Committee could be improved, by way of giving short presentations on the role of the Committee, either in person, or as a recording, to the Town/Community Councils, or even on the Council website.
- It would be helpful for Members to receive midterm refresher sessions on the Code of Conduct, and the local resolution process.
- There was no specific mention of discrimination within the Code, despite reference to the Equality Act. This could be added to the next iteration of the Code.

**RESOLVED:** That the attendance of the Group Leaders of the Plaid and the Labour Groups be noted, to

ensure that the legal obligations under the Local Government and Elections (Wales) Act 2021, were fulfilled.

7. **EMPLOYEE CODE OF CONDUCT**

**RESOLVED:** That the report be noted.

8. **WHISTLEBLOWING ARRANGEMENTS**

**RESOLVED:** That the report be noted.

9. **ADJUDICATION PANEL DECISIONS**

**RESOLVED:** That the report be noted.

10. **STANDARDS COMMITTEE FORWARD WORK PROGRAMME**

The Forward Work Programme 2022-23 was noted.

11. **URGENT ITEMS**

None were received.

**CHAIRPERSON**

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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **STANDARDS COMMITTEE**

### **REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS**

**11<sup>th</sup> April 2023**

#### **Matter for Decision**

**Wards Affected:** All Wards

#### **Invitation to Group Leaders of Neath Port Talbot County Borough Council to attend Standards Committee**

#### **Purpose of the Report:**

1. To discharge the legal obligation on Standards Committees to ensure leaders of political groups take steps to promote and maintain high standards of conduct by members of their groups.

#### **Background:**

##### New Duty on Group Leaders

2. As indicated in previous reports, the Local Government and Elections (Wales) Act 2021 addresses some new obligations for Standards Committees. The Act imposes specific duties on political leaders to promote and maintain standards of conduct

within members of their group, and to cooperate with the Standards Committee in the exercise of its functions. This requires leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups.

3. 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.
4. Reasonable steps the group leader *may* undertake include:
  - a. demonstrating personal commitment to and attending relevant development or training around equalities and standards;
  - b. encouraging group members to attend relevant development or training around equalities and standards;
  - c. ensuring nominees to a committee have received the recommended training for that committee;
  - d. promoting civility and respect within group communications and meetings and in formal council meetings;
  - e. promoting informal resolution procedures in the council, and working with the standards committee and monitoring officers to achieve local resolution;
  - f. promoting a culture within the group which supports high standards of conduct and integrity;
  - g. attend a meeting of the council's standards committee if requested to discuss Code of Conduct issues;
  - h. work to implement any recommendations from the Standards Committee about improving standards;

- i. work together with other Group Leaders, within reason, to collectively support high standards of conduct within the council.
5. 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.
6. 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.
7. 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.
8. The provision imposes an additional function on the Standards committee to monitor political leaders' compliance, and to advise, train or arranging to train leaders of political groups about matters relating to the above duties. 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.
9. 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.

### Role of Standards Committee

- 10.** The functions of the Standards Committee are now extended to include monitoring compliance by leaders of political groups with the new duty imposed on them to promote and maintain high standards of conduct by members of their group. 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 to demonstrate how compliance with the duty is achieved. 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. It should be noted that such training for Group Leaders took place on the 8<sup>th</sup> and 9<sup>th</sup> June 2022
- 11.** The standards committee chair may wish to meet with Group Leaders periodically to review behaviour.
- 12.** Accordingly, the Monitoring Officer would suggest that members of the Standards Committee discharge their new duties by providing a series of set questions to Group Leaders to ask them to provide information for the Standards Committee and that the Standards Committee invite the respective five Group Leaders in Neath Port Talbot Council to attend a

Standards Committee during the 2022-2023 year to provide the Standards Committee with the opportunity to discuss code of conduct matters with them and how such approaches are considered within their political groups.

13. At its meeting in July 2022, Standards Committee agreed to invite one or two Group Leaders to each meeting of the Standards Committee over the coming year.
14. Questions (previously agreed by members) have been provided in advance to Group Leaders to afford the opportunity to consider the issues that the Standards Committee would like to raise.
15. The questions are set out set out below:
  - (a) *Could you please introduce yourself and explain how long you have been a group leader?*
  - (b) *How appropriate do you believe the Code of Conduct is??*
  - (c) *What steps do you take to promote high standards of conduct within your political group?*
  - (d) *What do you understand the role of the Standards Committee to be?*
  - (e) *Is there any work you feel the Standards Committee should be undertaking over the next year to help you with your role as group leader?*
  - (f) *How can the Standards Committee become more active in promoting ethical conduct among Councillors / Co-opted Members?*
  - (g) *The Ombudsman, Adjudication Panel for Wales and the High Court has taken a view on politicians (and in some cases senior officers) having a “thick skin” and on political banter being part of the political landscape. What are your own views and how would you as a Political Group Leader/Committee Chair ensure that the line is not crossed.*

- (h) What are your views on the Authority's Code of Conduct training? How do you rate its effectiveness? How could it be improved so as to raise the ethical standards of Councillors / Co-opted Members?*
- (i) Training for Councillors / Co-opted Members is vitally important. How can the Standards Committee tackle those that do not see training as important?*
- (j) The Authority's Local Resolution Process (LRP)(Cllr v Cllr) is capable of being used by Councillors. In the event of a dispute will you be encouraging your party to use the process? Do you consider the lack of referrals to the LRP demonstrates that councillors are behaving within the Code?*

**16.** The attendee at today's meeting is Cllr Martyn Peters, Leader of the Dyffryn Independents and Cllr Helen Ceri Clarke, Leader of the Coedffranc Liberal and Green Group

**Financial Impacts:**

**17.** No implications.

**Integrated Impact Assessment:**

**18.** An Integrated Impact Assessment is not required for this report.

**Valleys Communities Impacts:**

**19.** No implications

**Workforce Impacts:**

**20.** No implications

**Legal Impacts:**

21. There are no legal impacts associated with this report.

**Consultation:**

22. There is no requirement for external consultation on this item

**Recommendations:**

23. That Members discuss code of conduct related matters with the Group Leader of the Independent Democratic Group and to fulfil the legal obligations under the Local Government and Elections (Wales) Act 2021.

**Appendices:**

24. None

**List of Background Papers:**

25. None

**Officer Contact:**

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Head of Legal and Democratic Services  
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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## STANDARDS COMMITTEE

### REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

11<sup>th</sup> April 2023

#### **Matter for Decision**

**Wards Affected:** All Wards

#### **Group Leaders of Neath Port Talbot County Borough Council**

#### **Purpose of the Report:**

1. To discharge the legal obligation on Standards Committees to ensure leaders of political groups take steps to promote and maintain high standards of conduct by members of their groups and agree methods of monitoring.

#### **Background:**

##### Duty on Group Leaders

2. The Local Government and Elections (Wales) Act 2021 (“the Act”) included some new obligations for Standards Committees. The Act imposes specific duties on political leaders to promote and maintain standards of conduct within members of their group, and to cooperate with the Standards Committee in the exercise of its functions. This requires leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups.
3. 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.

4. Reasonable steps the group leader *may* undertake include:
  - a. demonstrating personal commitment to and attending relevant development or training around equalities and standards;
  - b. encouraging group members to attend relevant development or training around equalities and standards;
  - c. ensuring nominees to a committee have received the recommended training for that committee;
  - d. promoting civility and respect within group communications and meetings and in formal council meetings;
  - e. promoting informal resolution procedures in the council, and working with the standards committee and monitoring officers to achieve local resolution;
  - f. promoting a culture within the group which supports high standards of conduct and integrity;
  - g. attend a meeting of the council's standards committee if requested to discuss Code of Conduct issues;
  - h. work to implement any recommendations from the Standards Committee about improving standards;
  - i. work together with other Group Leaders, within reason, to collectively support high standards of conduct within the council.
5. 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.
6. 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.
7. 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.

- 8.** The provision imposes an additional function on the Standards committee to monitor political leaders' compliance, and to advise, train or arranging to train leaders of political groups about matters relating to the above duties. 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.
- 9.** 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.

#### Role of Standards Committee

- 10.** The functions of the Standards Committee include monitoring compliance by leaders of political groups with the new duty imposed on them to promote and maintain high standards of conduct by members of their group. 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 to demonstrate how compliance with the duty is achieved. 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. The Standards Committee may wish to meet with Group Leaders periodically to review behaviour.
- 11.** In the last year, the Standards Committee has met with all Group Leaders to discuss compliance with this duty and accordingly a method of ongoing monitoring now needs to be agreed.
- 12.** The Monitoring Officer has drafted a template based on the examples in the guidance to prompt Group Leaders on the matters to be covered in their reports. This is attached at Appendix 1.

13. So that the Standards Committee retains independence from operational matters it will ask Group Leaders to report once per year. However, if there are matters of importance during the year these can be reported to the Monitoring Officer who will inform the Standards Committee or which might be raised by the Standards Committee seeking assurance from Group Leaders. Group Leaders will prepare their report in time for the March meeting of the Standards Committee. The report will not mention specific cases and will refer to the type of actions undertaken.
14. The Standards Committee will meet with each group leader in private session to explore their report. The Standards Committee may also seek the view of the Monitoring Officer.
15. The Standards Committee annual report will then contain a short summary of steps taken to fulfill the duty, its opinion on whether sufficient has been done, and any future pieces of work that might be undertaken etc.

**Financial Impacts:**

16. No implications.

**Integrated Impact Assessment:**

17. An Integrated Impact Assessment is not required for this report.

**Valleys Communities Impacts:**

18. No implications

**Workforce Impacts:**

19. No implications

**Legal Impacts:**

20. There are no legal impacts associated with this report.

**Consultation:**

21. There is no requirement for external consultation on this item

**Recommendations:**

22. That Members agree the template compliance form included at Appendix 1 and consider any alternative ways they would wish to promote compliance with the legal duty on Group Leaders.

**Appendices:**

23. None

**List of Background Papers:**

24. None

**Officer Contact:**

Mr Craig Griffiths  
Head of Legal and Democratic Services  
Telephone 01639 763767  
Email: c.griffiths2@npt.gov.uk

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## Promoting Compliance With the Code of Conduct

Report by:					
Political Group:					
No. of members:		No. trained on Code:	X (Y%)		
For the period:					
<b><u>Number, Source and Level of Complaints</u></b>					
	<b>Informal</b>	<b>Local Resolution (Stage)</b>			<b>PSOW</b>
		<b>1</b>	<b>2</b>	<b>3</b>	
Public					
Officers					
Councillors					
<b><u>Steps taken to Promote Compliance (To Be Completed by Group Leader)</u></b>					
Include matters such as:					
<ul style="list-style-type: none"> <li>- demonstrating personal commitment to and attending relevant development or training around equalities and standards;</li> <li>- encouraging group members to attend relevant development or training around equalities and standards;</li> <li>- ensuring nominees to a Committee have received the recommended training for that Committee;</li> </ul>					
<ul style="list-style-type: none"> <li>- promoting civility and respect within group communications and meetings and in formal Council meetings;</li> <li>- promoting informal resolution procedures in the Council, and working with the Standards Committee and monitoring officers to achieve local resolution;</li> <li>- promoting a culture within the group which supports high standards of conduct and integrity;</li> <li>- attend a meeting of the Council's Standards Committee if requested to discuss Code of Conduct issues;</li> </ul>					

<ul style="list-style-type: none"><li>- work to implement any recommendations from the Standards Committee about improving standards;</li><li>- work together with other group leaders, within reason, to collectively support high standards of conduct within the Council.</li></ul>





Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## STANDARDS COMMITTEE

### REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

11<sup>th</sup> April 2023

#### **Matter for Decision**

**Wards Affected:** All Wards

#### **Standards Committee Annual Report 2022-2023**

#### **Purpose of the Report:**

1. To seek approval from members of the Standards Committee of the draft annual report for the year 2022-2023 and members be provided with the opportunity to comment or amend the draft annual report prior to its consideration by Full Council.

#### **Background:**

2. There is now a legal requirement (pursuant to the Local Government and Elections (Wales) Act 2021 for Standards Committees to make an annual report to Neath Port Talbot County Borough Council on the standards regime within Neath Port Talbot.
3. The report must
  - (a) describe how the Standards Committee has discharged its functions during the preceding financial year;
  - (b) include a summary of reports and recommendations made or referred to the Standards 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;
- (c) include a summary of notices given to the Standards Committee by the Adjudication Panel for Wales, relating to the Panel's decisions on possible breaches of the member code of conduct; and
  - (d) include the Standards Committee's assessment of how political group leaders have complied with their new duty to promote high standards of conduct.
4. 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 elected members. This is intended to promote local ownership and collective responsibility by members for ensuring high standards of conduct within their authority.
5. Neath Port Talbot Council must consider the report and any recommendations made by its standards committee within three months of its receipt. The consideration of a report will be a matter of public record through the published minutes of the meeting.
6. A copy of this report (once approved by Full Council) will be shared with the following:
- (a) All elected members of Neath Port Talbot County Borough Council;
  - (b) All Town and Community Councils;
  - (c) Public Service Ombudsman for Wales
  - (d) Audit Wales
7. Following discussions between officers and the Chair of the Standards Committee, the attached draft annual report of the Standards Committee has been prepared and is enclosed at Appendix 1.
8. The Standards Committee is requested to consider the draft report and make such changes as it considers appropriate, prior to the presentation of the report at Full Council.

**Financial Impacts:**

9. No implications.

**Integrated Impact Assessment:**

10. An Integrated Impact Assessment is not required for this report.

**Valleys Communities Impacts:**

11. No implications

**Workforce Impacts:**

12. No implications

**Legal Impacts:**

13. There are no legal impacts associated with this report.

**Consultation:**

14. There is no requirement for external consultation on this item

**Recommendations:**

15. That Members approve the draft Annual Report of the Standards Committee (with any amendments as suggested) and that delegated authority be given to the Head of Legal and Democratic Services (in consultation with the Chair of the Standards Committee) to amend the report as may be necessary to reflect any updated complaint figures received.

**Appendices:**

16. Appendix 1- Draft Annual Report

**List of Background Papers:**

17. None

**Officer Contact:**

Mr Craig Griffiths  
Head of Legal and Democratic Services  
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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council



## STANDARDS COMMITTEE

### ANNUAL REPORT

2022-2023



### The Ten General Principles of Public Life

<p><b>Selflessness</b> – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.</p>	<p><b>Personal judgement</b> – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.</p>
<p><b>Honesty and integrity</b> – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.</p>	<p><b>Respect for others</b> – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory officers and its other employees.</p>
<p><b>Objectivity</b> – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefit.</p>	<p><b>Duty to uphold the law</b> – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.</p>
<p><b>Accountability</b> – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.</p>	<p><b>Stewardship</b> – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.</p>
<p><b>Openness</b> – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.</p>	<p><b>Leadership</b> – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.</p>
<p><b><i>Nolan Committee on Standards in Public Life</i></b></p>	

## Annual Report

There is now a legal requirement (pursuant to the Local Government and Elections (Wales) Act 2021 for Standards Committees to make an annual report to Neath Port Talbot County Borough Council on the standards regime within Neath Port Talbot and with its town and community councils.

The report must:

- describe how the Standards Committee has discharged its functions during the preceding financial year;
- include a summary of reports and recommendations made or referred to the Standards 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 Standards Committee by the Adjudication Panel for Wales, relating to the Panel's decisions on possible breaches of the member code of conduct; and
- include the Standards Committee's assessment of how political group leaders have complied with their new duty to promote high standards of conduct.

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 elected members.

This is intended to promote local ownership and collective responsibility by members for ensuring high standards of conduct within their authority.

Neath Port Talbot Council must consider the report and any recommendations made by its standards committee within three months of its receipt. The consideration of a report will be a matter of public record through the published minutes of the meeting.

A copy of this report will be shared with the following:

- All elected members of Neath Port Talbot County Borough Council
- All Town and Community Councils
- Public Service Ombudsman for Wales
- Audit Wales

## Chair's Foreword

This is my first report as Chair of the Neath Port Talbot County Borough Council Standards Committee, since being elected as Chair in January 2023.

I start by acknowledging my gratitude to the former Chair, Mr Clifford Jones, whose term of office ended in December 2022 and the former vice Chair Mrs Barbara Richards, whose term of office ended in November 2022. Both served the Committee for the maximum term allowed under the Standards Committees Regulations and led the Committee ably during their respective tenures.

In their place, we have been pleased to welcome two new independent members, Professor Duncan Lewis and Mrs Alison Davies. We welcome our new Community Council representative, Community Councillor Carolyn Edwards of Blaengwrach Community Council, and our new County Borough Councillor Representatives, Councillor Wayne Carpenter and Councillor Sarah Thomas.

I am also pleased to welcome back Mr Tom Ward, who will serve as Vice Chair of the Standards Committee and I look forward to working with him and my fellow members to further promote the work of the Standards Committee.

Since last year's report there has been an election and, in its wake, a new Council. Congratulations to all of you on your election and my best wishes as you attend to your duties over the next five year term. I am pleased to note that all 60 members elected in May 2022 have completed the Code of Conduct training provided by the Monitoring Officer following the May 2022 elections.

Standards in public life have been under the spotlight for many years. The Nolan Principles were published in 1995 in response to the conduct of some members of the Commons during John Major's tenure as Prime Minister of the United Kingdom. Those principles still stand and are included at the front of this annual report

In the five years that I have been a member of the Standards Committee, the concept of standards in public life and in society at large has been the subject of fierce debate from time to time and recently they are back in the news.

In a recent publication, the UK Government's Committee on Standards in Public Life said while a "robust ethical culture" should be integral to the way organisations operate, too often it takes a crisis for leaders to act. In a report highlighting best practice in the public sector, the committee said there should be "zero tolerance" for conduct that falls short of the required standards, with clear consequences when they are not met. Doing things in the right way and in the public interest is critical for public confidence in the bodies that operate on the public's behalf and supports the delivery of public services. The report commented that a robust ethical culture supports effective risk management – if people see thinking about ethical issues as part of their job and feel safe to speak up, this can pick up potential concerns before they escalate. Evidence shows that an ethical culture does not emerge by accident - it requires discussion and action. I echo those views. To this end the role of the



Standards Committee is to promote, maintain and protect standards of conduct of members within the Council and propriety in all Council proceedings. Fortunately, examples of misconduct in Neath Port Talbot County Borough Council itself are rare - long may that be the case.

The Standards Committee have welcomed the new powers conferred on us by the Local Government and Elections (Wales) Act 2021 regarding group leaders taking 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. I have welcomed the opportunity for the Standards Committee to meet with the group leaders to discuss how this important function can be discharged and more information on this can be found in this annual report.

With the Neath Port Talbot County Borough Council Standards Committee being the nominated standards committee for the South West Wales Corporate Joint Committee, I welcome the role and look forward to contributing to this important programme of work that aims to improve the overall South West Wales region.

I would like to thank all my fellow Standards Committee members, who have all contributed fully and diligently to the work of the Standards Committee; and must also thank the Monitoring Officer and his staff who have continued, to provide us with efficient and effective support and advice.

As the Council faces the many challenges presented to it in the year ahead, we would urge Members to remain mindful of the fundamental importance of high standards of conduct in order for members of the public to maintain their trust and confidence in local democracy.

**HM Lord-Lieutenant of West Glamorgan, Mrs Louise Fleet CSTJ, JP**

## **Members of the Standards Committee**

**2022-2023**

HM Lord-Lieutenant of West

Glamorgan, Mrs Louise Fleet                      Chair

CStJ, JP

Mr Tom Ward    Vice Chair

Professor Duncan Lewis                              Independent Member

Mrs Alison Davies                                      Independent Member

Councillor Carolyn Edwards                        Community Council Representative

Councillor Wayne Carpenter                      County Borough Councillor

Councillor Sarah Thomas                            County Borough Councillor

Mr Clifford Jones                                      Chair (May 2022 – December 2022)

Mrs Barbara Richards                                Vice Chair (May 2022 – December 2022)

The Standards Committee operates on the clear understanding that elected members that sit on the Committee are independent of political allegiance and that all discussions and decisions are taken with ethical principles at the forefront. The Standards Committee is mindful that not all political groups are represented on the Standards Committee, and welcomes attendance by all members at its meetings and is happy to receive contributions from those groups not so represented.

### **The remit of the Standards Committee**

To discharge with delegated authority the following functions:-

1. To promote and maintain high standards of conduct by the Members and co-opted Members of the Authority.
2. To assist members and co-opted Members of the Authority to observe the Members Code of Conduct.
3. To advise the Council on the adoption or revision of the Members Code of Conduct (and relevant protocols relating to Member/Officer relationships).
4. To monitor the operation of the Council's adopted Members Code of Conduct throughout the Authority.
5. To advise, train, or arrange to train Members and co-opted Members on matters relating to the Members Code of Conduct.
6. Where statutes so permit, to arrange dispensation to speak and/or vote where a Member or co-opted Member has an interest in any matters.
7. To receive Local Commissioner Reports following investigations, or part investigations, in relation to allegations of breach of the Members Code of Conduct and/or
  - (a) To receive and consider reports and recommendations made with regard to same, from the Monitoring Officer (when such matters are referred to that Officer) including provision with respect to the procedure to be followed by the Standards Committee; and
  - (b) Following its consideration of any such reports or recommendations, to take any action prescribed by statute or regulations made thereunder (including action against any Member or co-opted Member (or former Member or co-opted Member) of the Authority who is the subject of any such report or recommendation) and to give publicity to such report, recommendation or action.
8. To receive, consider and implement general advice from the Local Commissioner and the Council's Monitoring Officer.
9. \*To receive from the Adjudication Panel, Interim Case Tribunals or Case Tribunals:-
  - (a) Notices issued by them to Council;
  - (b) Recommendations about matters relating to the exercise of the Authority's function, the Code of Conduct and the Standards Committee and make such recommendations as it thinks fit to Council relating thereto.

10. To be responsible for liaison between the Council and external agencies, in particular the National Assembly for Wales, the District Auditor and the local Ombudsman in connection with any matter within the Committee's terms of reference, under the provisions of the 2000 Act and Regulations made thereafter.
11. To make representations to the National Assembly and the Welsh Local Government Association about any matter relating to the General Principles of Conduct for Members of the Council.
12. To consider and recommend procedures for complaints to be dealt with by the Standards Committee and to propose amendments as may be appropriate from time to time in accordance with statute etc.
13. To oversee the whistle-blowing regime in particular in this respect to consider and recommend procedures in respect of the following:
  - Whistle-blowing arrangements;
  - Anti-Fraud/Corruption or malpractice strategy.
14. To examine any Code(s) of Conduct for Employees of the Authority and to make recommendations as may be considered appropriate.
15. To receive progress reports from the Monitoring Officer from time to time on such matters within the purview of the Standards Committee, and to make such recommendations to Council as may be deemed appropriate.
16. To exercise such powers or duties as may be given to or imposed on Standards Committees from time to time by legislation.
17. To exercise in relation to Community Councils and their Members within the County Borough area such of the foregoing matters as are referred to in Section 56 of the Local Government Act 2000.
18. To monitor compliance of the leaders of political groups on the Council with their duties under Section 52A(1) of the Local Government Act 2000 that they are taking steps to promote and maintain high standards of conduct by the members of their group and are cooperating with the Standards Committee's functions.
19. To produce an annual report to the Council as to how the Standards Committee has operated, including:
  - (a) what has been done to discharge the general and specific powers conferred on it by statute and these requirements;
  - (b) reports and recommendations made or referred to it by the Public Services Ombudsman for Wales
  - (c) action taken by the Standards Committee follows is consideration of reports and recommendations

(d) notices given to the Standards Committee

20. It should be noted that 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.

## **The work of the Standards Committee in 2022-2023**

### **Observation of Town and Community Council Meetings**

Members of the Standards Committee have attended meetings of Town and Community Councils as observers, and discussed their observations. Such observation is helpful to inform the Standard Committee's work and understand the work of Town and Community Council

Town/Community Councillors and Clerks have indicated that the presence of Standards & Ethics Committee members was a helpful influence on Members' behaviour.

The Standards Committee were pleased to observe positive conduct at Council meetings, with meetings being business focussed and less fractious.

This work will continue throughout 2023-2024, with continued observation of both Town and Community Council meetings and County Borough Council meetings. Standards Committee members are encouraged to continue attending different Council and Committee meetings for observation and feedback to the Standards Committee.

### **Community Councils**

The Standards Committee has the same statutory functions in relation to Community Councils and their Councillors as it has in relation to Neath Port Talbot Council and its Members.

The Standards Committee has considered the ways in which it discharges its functions, and what else it may do, within available resources, to promote and maintain high standards of conduct within Community Councils and build good working relationships with them.

The Standards Committee have highlighted the number of Town and Community Councillors who do not undergo formal code of conduct training or have a local resolution process. The Standards Committee has noted and approved a programme of actions, which includes: offering training on the Code of Conduct; quarterly meetings between the Community Council Clerks and the Monitoring Officer to discuss issues relating to Member conduct; provision of advice and support to Clerks in relation to local resolution processes and observation of Community Council meetings by Standards Committee members.

### **Member Officer Protocol**

The Standards Committee considered one of the key protocols that exists within the local authority, that of the Member Officer Protocol.

The purpose of this protocol is to guide Members and officers of the Council in their relations with one another. The strength of the relationship between Members and officers is vital in ensuring that the Council practices the highest ethical standards in both its private and public dealings.

This Protocol also seeks to reflect the principles underlying the respective rules of conduct which apply to Members and officers. The purpose of the rules and this protocol is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.

Members and paid officers each have their own separate Codes of Conduct. This protocol underpins those documents and focuses particularly on the interaction between Members and officers; deals primarily with Members' and officers' own separate responsibilities; and refers to the working relationship between Members and senior officers who formally advise the Council

An effective working relationship between Members and officers is crucial to the successful operation of the Council's business. This relationship within Neath Port Talbot County Borough Council is characterised by mutual trust, respect and understanding between politicians and paid officers – this is one of the keys to achieving effective local government.

The Standards Committee was content that the protocol was operating satisfactorily and that there were no ethical concerns arising.

### **National Standards Forum**

The Standards Committee received a report on the creation of a national standards forum.

In March 2021 the then Minister for Housing and Local Government announced her intention to commission an independent review of the Ethical Standards Framework for Local Government (ESF) in Wales that was established by the Local Government Act 2000. The review sought to ensure that it remained fit for purpose, was open and transparent, and that it commanded the confidence of all involved with the framework. Richard Penn, an Independent Consultant was commissioned to undertake the review with the aim to report to Welsh Government Ministers by the end of June 2021 with the intention that any agreed changes to be made ahead of the Local Government elections in May 2022. Mr. Penn is a former Chief Executive of two major local authorities in England and was the first NAW Commissioner for Standards from 2000 - 2012.

The first phase of the Independent Consultant's Review was brought before members of the Standards Committee in January 2022. In the first phase review Richard Penn suggested that an all Wales - Forum for Chairs of Standards Committees be established and that the Annual Conference for Independent Chairs and Independent Members of Standards Committees across Wales be re-established.

A National Forum for Wales has now been created. The Forum will be a body for the sharing of good practice and the coordination of activity. The Forum is not a formal decision making body and will not have delegated powers to act on behalf of the Standards Committees in Wales. The purpose of the Forum is to share good practice and training and knowledge across the 22 principal councils, 3 fire and rescue authorities, and 3 national park authorities in relation to the work of Standards Committees. At the Forum, authorities can share good practice and discuss solutions to problems they are experiencing.

The Standards Committee look forward to playing a role in this Forum and identifying any measures of best practice that can be adopted in Neath Port Talbot.

### **Local Resolution Process**

The Standards Committee welcomed the opportunity to consider the Local Resolution Protocol.

This protocol recognises that the freedom of expression enjoyed by Members is not absolute and the exercise of the freedom incurs responsibilities and may be subject to restrictions, notably the protection of the reputation and other rights of other Members and preventing unauthorised disclosure of information. The freedom to express their political opinions is not restricted by agreeing to this Protocol.

It is designed to consider low level complaints about Members, including:

- Minor complaints from Members about Members
- Minor complaints from Officers about Members
- Members alleged to have not shown respect and consideration for others – either verbally or in writing.

The Standards Committee were pleased to note that there had been no occasions in the last 12 months where the protocol was required to be invoked but would continue to publicise its requirements to elected members and ensure they consider the same, to negate any complaints to bodies such as the Public Service Ombudsman for Wales. The Standards Committee will continue to promote the use of this protocol to Group Leaders.

### **Whistleblowing**

The Standards Committee's terms of reference include responsibility for monitoring and overseeing the Council's Whistleblowing Policy and considering any ethical issues arising from complaints made under the Policy. T

The Committee received a report on the Council's Whistleblowing Policy

The Committee was informed about work undertaken with Management teams to raise awareness of the Whistleblowing Policy and Procedure and the information leaflets produced for employees and managers with some amendments being suggested to how the Whistleblowing Policy could be improved and clarified in some areas to provide greater ease of understanding for officers and members of the public.

The Standards Committee was content that the Council's whistleblowing arrangements were operating satisfactorily and that there were no ethical concerns arising.

### **Employee Code of Conduct**

The Standards Committee welcomed the opportunity to review and comment on the Council's Employee Code of Conduct



The purpose of the Employee Code of Conduct is to provide a clear framework for all Council employees, as the service the officers provide make a difference to the lives of individuals, families, and our local communities. As a public service worker, they have additional responsibilities due to public accountability and statutory obligations. The public expects and deserves a high standard of conduct from all local government employees.

It is noted that the Council has high aspirations for our communities and relies on our employees to deliver the best possible services and value for money. Our local communities expect them to be committed and dedicated; to be creative and innovative in service design and delivery; to embrace new ways of working and work collaboratively with others to achieve common goals.

The Employee Code of Conduct encourages officers to work in this way and sets out clear and helpful advice on the standards expected. To support the code, there is a framework of policies, procedures, standards, and guidance on a range of topics which provides information on rights, responsibilities and values and behaviour at work.

The Committee was informed about work undertaken with promote the Code of Conduct and identified some areas which could be improved and clarified to provide greater ease of understanding for officers and members of the public. These will now be considered by the Council's Personnel Committee as part of their review

The Standards Committee was content that the Council's Employee Code of Conduct is operating satisfactorily and that there were no ethical concerns arising.

### **Dispensations**

The Standards Committee has statutory power to grant dispensations to Members with a personal and prejudicial interest in a matter, to allow them to participate in a decision regarding that matter, in appropriate circumstances, which are set out in statutory regulations.

During the course of the year a number of dispensations were granted to allow Members to actively participate in decision making to ensure their voice and the voice of their constituents is not lost as a result of prejudicial interests. These covered matters such as where members may have family members employed by the Council, whether they have children who attend a neighbouring school or perhaps they serve on a community organisation or school governing body.

The Standards Committee continues to approach each application with a presumption in favour of granting a dispensation wherever practicable, particularly in relation to granting a dispensation to speak. The Committee may also delegate authority to the Monitoring Officer to grant similar dispensations in relation to that business. However no such delegation was utilised during the period of this report.

Details of the applications that have been dealt with can be viewed as part of the minutes of the meetings of the Committee which are accessible on Neath Port Talbot Council's website ([www.npt.gov.uk](http://www.npt.gov.uk))

### **Other Activities**

In addition to the above activities the Standards Committee also:

- Received and considered the Annual Report of the Public Services Ombudsman for Wales;
- Received and considered case decisions of the Adjudication Panel for Wales;
- Received and considered case decisions made by other Standards Committees in Wales;
- Received and considered the Code of Conduct casebook published by the Ombudsman.

Where appropriate the Standards Committee have identified points of learning and best practice and have taken them into account in their own decision making and included them in any training provided

## Group Leader Duties

### Background

The Local Government and Elections (Wales) Act 2021 addresses some new obligations for Standards Committees. The Act imposes specific duties on political leaders to promote and maintain standards of conduct within members of their group, and to cooperate with the Standards Committee in the exercise of its functions. This requires leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups.

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.

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.

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.

### Group Leaders in Neath Port Talbot

It should be noted that such training for Group Leaders took place on the 8<sup>th</sup> and 9<sup>th</sup> June 2022 and was attended by all Group Leaders.

At its meeting in July 2022, Standards Committee agreed to invite one or two Group Leaders to each meeting of the Standards Committee over the coming year. Questions (previously agreed by members) were provided in advance to Group Leaders to afford the opportunity to consider the issues that the Standards Committee would like to raise.

The questions are set out set out below:

- (a) Could you please introduce yourself and explain how long you have been a group leader?*
- (b) How appropriate to you believe the Code of Conduct is??*
- (c) What steps do you take to promote high standards of conduct within your political group?*
- (d) What do you understand the role of the Standards Committee to be?*
- (e) Is there any work you feel the Standards Committee should be undertaking over the next year to help you with your role as group leader?*
- (f) How can the Standards Committee become more active in promoting ethical conduct among Councillors / Co-opted Members?*
- (g) The Ombudsman, Adjudication Panel for Wales and the High Court has taken a view on politicians (and in some cases senior officers) having a “thick skin” and on political banter being part of the political landscape. What are your own views and how would you as a Political Group Leader/Committee Chair ensure that the line is not crossed.*
- (h) What are your views on the Authority’s Code of Conduct training? How do you rate its effectiveness? How could it be improved so as to raise the ethical standards of Councillors / Co-opted Members?*
- (i) Training for Councillors / Co-opted Members is vitally important. How can the Standards Committee tackle those that do not see training as important?*
- (j) The Authority’s Local Resolution Process (LRP)(Cllr v Cllr) is capable of being used by Councillors. In the event of a dispute will you be encouraging your party to use the process? Do you consider the lack of referrals to the LRP demonstrates that councillors are behaving within the Code?*

Throughout the year, Group Leaders attended on the following dates:

- Councillor Steve Hunt -
- Cllr Alun Llewelyn -
- Cllr Rob Jones -
- Cllr Helen-Ceri Clarke -
- Cllr Martyn Peters –

The Standards Committee were pleased to note the approach that Group Leaders take in promoting standards and the personal commitment they have to encourage members within their groups to embed ethical processes in their day to day activities. Of interest particularly to the Standards Committee was how Group Leaders deal with the “thick skin” ideology that the Public Service Ombudsman and other regulatory bodies adopt and the views that all Group Leaders have that often this is an inappropriate test and it is not

something that any elected member should have to have if they face abuse from members of the public, particularly in a social media setting.

The Standards Committee are required to conduct an assessment of how political group leaders have complied with their new duty to promote high standards of conduct and the Standards Committee are able to confirm that throughout 2022-2023, Group Leaders have discharged their duty, in the views of the Standards Committee, and that there were no ethical concerns arising.

Further work will be undertaken throughout 2023-2024 to further refine how Group Leaders can discharge their duties and how the Standards Committee can further assist Group Leaders.

## Complaints

The Standards Committee has oversight of the complaints and any themes or patterns emerging (but only considers specific details of individual cases if a complaint is formally referred to the Standards Committee by the Monitoring Officer or the Public Service Ombudsman for Wales).

During the period 1st April 2022 to 31<sup>st</sup> March 2023, the Monitoring Officer was notified of a total of 3 complaints made against Members of Neath Port Talbot County Borough Council alleging a breach of the Code of Conduct.

Each of these complaints were dismissed by the Public Service Ombudsman for Wales as not being appropriate for investigation.

During the period 1st April 2022 to 31<sup>st</sup> March 2023, the Monitoring Officer was notified of a total of 9 complaints made against Town and Community Councillors alleging a breach of the Code of Conduct.

8 of these 9 complaints were dismissed by the Public Service Ombudsman for Wales as not being appropriate for investigation and one is presently subject to further consideration by the Public Service Ombudsman for Wales.

In respect of its role as the Standards Committee for the South West Wales Corporate Joint Committee, the Standards Committee received no complaints or referrals to it in respect of the members to that regional organisation

During the municipal year 1st April 2022 to 31<sup>st</sup> March 2023, the Standards Committee received no referrals from the Public Service Ombudsman for Wales.

### **Local Resolution Process**

The Standards Committee notes that the Local Resolution Protocol adopted by Neath Port Talbot Council continues to provide a helpful process for resolving relatively 'low-level' behavioural complaints made by Neath Port Talbot Members about other Members, in a timely and proportionate way.

The Standards Committee is pleased to note that no cases have been referred to the Hearings Panel during 1st April 2022 to 31<sup>st</sup> March 2023.

The Standards Committee has encouraged Community Councils to adopt their own local resolution protocols, using the model developed by One Voice Wales in consultation with the Public Service Ombudsman for Wales.

## Future Priorities

The Standards Committee regularly reviews its forward work programme and has identified the following priority areas for consideration in 2023-2024

- **Code of Conduct, Member Training and Development** – the Standards Committee will consider the need for any further training on the Members’ Code of Conduct focussing on Town and Community Councils and facilitate training opportunities for Councillors, as part of this a survey and review of Community Council training plans so far as they relate to standards and ethical governance will be undertaken. Further engagement work will also be undertaken, to include presentations, meetings and guidance.
- **Declarations of Interest** – a review of interests being declared in Council meetings by both Town and Community Councillors and County Borough Councillors
- **Candidates for Council Elections** – the Standards Committee will look to develop an easy read guide for proposed candidates on the ethical obligations they will be required to meet if elected.
- **Observation of Council and Committee Meetings** – the Standards Committee will continue to observe proceedings at Council and Committee meetings to give feedback on observations and inform its work priorities.
- **Gifts and Hospitality** - To review the Councils procedures for the acceptance and provision of gifts and hospitality by Officers; and continue to monitor the registers of gifts and hospitality received by Members.
- **Annual Meeting with Group Leaders** - To facilitate ongoing engagement with representatives from all political groups and discharge legal duties pursuant to the Local Government and Elections (Wales) Act 2021 and develop ways to ensure regular reporting from Group Leaders to comply with the duty under the aforementioned legislation.
- **Local Resolution Process** – a further review of the local resolution process will be undertaken and look to see how it can be expanded
- **Case Studies** – A set of case studies and examples will be prepared by the Standards Committee to address practical scenarios for elected members to consider on ethical behaviour, declaration of interests and general conduct matters.
- **Engagement with Members** – in order to dispel myths about the work of the Standards Committee, it was felt arranging a meeting with a sample of elected members would be beneficial for members to understand more about their work programme.



- **Whistleblowing Policy** - To further review the Council's Whistleblowing Policy and its implementation; and to receive information on reports made under the Policy and consider any ethical issues arising.
- **Engagement with National Standards Regime** – with proposals to changes in the Standards regime throughout Wales, the Standards Committee will continue to work and look at ways for such proposals to be implemented in Neath Port Talbot.

## Recommendations

As part of consideration of the annual report, the Standards Committee would make the following recommendations to Neath Port Talbot Council:

- (1) All members ensure they attend annual refreshers in respect of the Members Code of Conduct undertaken by the Monitoring Officer;
- (2) All Group Leader make Standards and Ethics a standing item on their political group meeting agendas;
- (3) All members ensure they are completing their declarations of gifts and hospitality, including where such gifts and hospitality are declined;
- (4) Group Leaders consider bi annual meetings with the Monitoring Officer to discuss standards and ethics and how they can work together to promote standards within their political groups;
- (5) Consideration be given to inserting a short leaflet in election packs for those candidates wishing to stand for County Borough Council or Town/Community Councils highlighting the key ethical principles that if elected they will have to comply with;
- (6) A series of guidance documents be circulated to all members in respect of key conduct matters such as declarations of interest, predetermination, conduct case studies and key information for members.



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **STANDARDS COMMITTEE**

### **REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS**

**11<sup>th</sup> April 2023**

#### **Matter for Decision**

**Wards Affected:** All Wards

#### **Local Resolution Process**

#### **Purpose of the Report:**

1. To consider the Neath Port Talbot County Borough Council Local Resolution Procedure and whether any amendments may be required.

#### **Background:**

2. Neath Port Talbot County Borough Council Members have adopted a Local Resolution Procedure (a copy of which is enclosed at Appendix 1 of this Report) which is supplemental to the Procedure on Member/Employee Relations and the Code of Conduct requirements of the Constitution.

3. The Welsh Government and the Public Services Ombudsman for Wales (“PSOW”) have indicated that Member against Member complaints should be dealt with locally and informally by the Council.
4. This Procedure recognises that the freedom of expression enjoyed by Members is not absolute and the exercise of the freedom incurs responsibilities and may be subject to restrictions, notably the protection of the reputation and other rights of other Members and preventing unauthorised disclosure of information. The freedom to express their political opinions is not restricted by agreeing to this Procedure.
5. This Local Resolution Procedure may be utilised for low level disputes by a Member before a complaint is referred to the PSOW.
6. The PSOW indicates that where a Local Resolution Process has been adopted by a council, she may not accept a complaint for consideration of an investigation relating to a low level complaint until or unless the Member has used the Local Resolution Procedure. If the complaint is not of a low level nature the Member may be referred to the PSOW. This is an informal process and no indemnity will be granted to any Member for representation at the Local Resolution Panel.
7. It is important to note that this procedure does not preclude anyone from referring any complaint to the PSOW if they so wish. However Members should note that the Ombudsman has made clear that, in normal circumstances, it is expected that in the first instance Members should exhaust the procedures set out in this procedure before referring low-level complaints to the PSOW.
8. The procedure comprises two processes:

- a. Informal mediation to find ways to resolve a complaint;  
and
  - b. The establishment of a Local Resolution Panel which will comprise three members to consider the complaint and make a determination on the factors and if they consider it appropriate make recommendations to address the complaint.
- 9.** By way of examples, the following are matters which are likely to be considered under this process:
- a. Minor complaints from members about members
  - b. Minor complaints from officers about members
  - c. Members alleged to have not shown respect and consideration for others either verbally or in writing.
- 10.** Issues which are unlikely to be considered under this process include:
- a. Complaints which must be directed to the PSOW such as complaints from the public or serious complaints i.e. bullying, failure to disclose interests etc.
  - b. Vexatious, malicious or frivolous complaints
  - c. Members' complaints about officers which should be dealt with using the Council's internal complaints process
  - d. Repetitive low level complaints
- 11.** In the last 7 years, there has only been one referral to the Local Resolution Procedure, which saw a mediation exercise carried out by an officer appointed by the Monitoring Officer.
- 12.** In the report to members of the Standards Committee of January 2022, it was highlighted that in March 2021 the then Minister for Housing and Local Government announced her intention to commission an independent review of the Ethical Standards Framework for Local Government (ESF) in Wales

that was established by the Local Government Act 2000. The review sought to ensure that it remained fit for purpose, was open and transparent, and that it commanded the confidence of all involved with the framework. Richard Penn, an Independent Consultant was commissioned to undertake the review with the aim to report to Welsh Government Ministers by the end of June 2021 with the intention that any agreed changes to be made ahead of the Local Government elections in May 2022. Mr. Penn is a former Chief Executive of two major local authorities in England and was the first NAW Commissioner for Standards from 2000 - 2012.

13. One of the recommendations that came from this report is that there should be an increase in the use of local resolution of complaints, by requiring that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman, in order to speed up the complaints process and ensure that the Ombudsman's resources are devoted to the investigation of serious complaints. Therefore, it is feasible that future years may see greater use of this procedure, which could negate complaints having to be considered by the PSOW and allow a more informal approach of resolution.

**Financial Impacts:**

14. No implications.

**Integrated Impact Assessment:**

15. An Integrated Impact Assessment is not required for this report.

**Valleys Communities Impacts:**

16. No implications

**Workforce Impacts:**

17. No implications

**Legal Impacts:**

18. There are no legal impacts associated with this report.

**Consultation:**

19. There is no requirement for external consultation on this item

**Recommendations:**

20. That Members consider the appropriateness of the Local Resolution Procedure and consider whether any amendments should be made.

**Appendices:**

21. Appendix 1 – Local Resolution Procedure

**List of Background Papers:**

22. None

**Officer Contact:**

Mr Craig Griffiths  
Head of Legal and Democratic Services  
Telephone 01639 763767  
Email: c.griffiths2@npt.gov.uk

## **Appendix 1**

### **Local Resolution Procedure Member Complaints of Breaches of the Code of Conduct for Members**

#### **Scope of Procedure**

Neath Port Talbot County Borough Council Members have adopted this Protocol which is supplemental to the Protocol on Member/Employee Relations and the Code of Conduct requirements of the Constitution. The Welsh Government and the Public Services Ombudsman for Wales (“PSOW”) have indicated that Member against Member complaints should be dealt with locally and informally by the Council.

This Procedure recognises that the freedom of expression enjoyed by Members is not absolute and the exercise of the freedom incurs responsibilities and may be subject to restrictions, notably the protection of the reputation and other rights of other Members and preventing unauthorised disclosure of information. The freedom to express their political opinions is not restricted by agreeing to this Protocol.

This Local Resolution Procedure may be utilised for low level disputes by a Member before a complaint is referred to the PSOW. The PSOW indicates that where a Local Resolution Process has been adopted by a council, he may not accept a complaint for consideration of an investigation relating to a low level complaint until or unless the Member has used the Local Resolution Procedure. If the complaint is not of a low level nature the Member may be referred to the PSOW.

This is an informal process and no indemnity will be granted to any Member for representation at the Local Resolution Panel.



## Standards of Behaviour

1. Members should:
  - 1.1 Show personal respect to each other: when disagreeing with another Member's views, opinions or councillor actions, e.g. as Mayor, Cabinet Member or Committee Chairman. A Member should not engage in abusive, insulting or improper personal comments about other Members or their family but, having regard to the Code of Members' Conduct ("the Code") requirement that decisions are made on the merits of the circumstances, should focus on the arguments put forward by other Members or the effectiveness of their actions. It is accepted that feelings can run high in debate but should the standards of behaviour have been breached, the culpable Member should apologise to the meeting when the breach is brought to their attention when the matter will be considered closed.
  - 1.2 Not publish malicious or false allegations or information or insulting personal comments against a Member: The growing propensity for personal comments to be made electronically to the world at large require a greater degree of control by the author, as once made it is difficult for the comments to be rescinded. The truth is only a defence if it is the whole truth and puts matters in context.
  - 1.3 Not release confidential information to the press or members of the public: there is no defence of public interest in the Code and there are avenues that should be explored to provide transparency in decision-making that would not disclose confidential/personal information which may cause harm to an individual or a company/organisation. The Council is a regulatory body but also has powers to enhance the prospects of the community which may be harmed by unauthorised disclosure.

2. Member's Representative behaviour:
  - 2.1 Members should seek to work with Members of adjoining electoral divisions for the benefit of the locality.
  - 2.2 A Member who becomes involved in matters specifically related to another electoral division or representing a constituent in another electoral division should:
    - 2.2.1 Explain to the members of the public that they are not the Local Member for that electoral division and identify who is. However, it is the member of the public's choice as to which Member they wish to represent their interests.
    - 2.2.2 If the Member continues to act in the matter, inform the Local Member of their involvement (but not disclose any confidential information without authorisation) and if possible seek to work with the Local Member if the objective is shared.
3. The behaviour described in the paragraphs above are examples or illustrations of behaviour which may constitute a breach of the Code of Members' Conduct; they are not additional to the Code.

### **Local Resolution Procedure**

- 4.1 In the event of a dispute arising, a Member who complains that another has breached the Code will be provided with the contact details of a Mediator appointed by the Monitoring Officer.
- 4.2 The complainant Member will notify the Member who is the subject of the complaint of his intention to seek mediation of the dispute. Both Members will supply the Mediator with dates of availability, but with the intent that the mediation meeting will

take place within six weeks from the date of the complaint being made.

- 4.3 The mediation meeting(s) will be confidential. It is hoped that this process will encourage the Members to attain consensus on resolving the complaint. Whatever is agreed will be confirmed by them to the Mediator but will not be further published unless agreed by both the Members.
- 4.4 If the mediation stage does not resolve the complaint, then the complaining Member may request that the matter be referred to the Local Resolution Panel within six weeks of the last mediation meeting. The Mediator will be asked to confirm whether resolution was attained but nothing further.
- 4.5 The Local Resolution Panel will comprise three members, namely: an independent Member of the Standards Committee and elected Members appointed by the Leader of Council and the Leader of the largest non-executive political group. No Member shall serve who has had a previous involvement with the matter. The Panel will meet in private.
- 4.6 Both the complaining Member and the Member who is subject of the complaint will be entitled to appear and/or produce written or oral information relevant to the facts of the matter complained of. Either Member may be accompanied by a friend but shall not be represented by a Solicitor or Barrister.
- 4.7 The Local Resolution Panel will consider the information and have discretion to determine the facts and if they consider it appropriate to make such recommendation as would address the complaint, either there is:
  - 4.7.1 No basis for the complaint
  - 4.7.2 A basis for the complaint but no further action is necessary or

- 4.7.3 A basis for the complaint and an apology should be provided to the complainant Member in an appropriate manner or such other action that is within the power of the Council.
- 4.8 The complainant Member may refer the matter to the PSOW and the PSOW will consider whether to investigate.
- 4.9 The Local Resolution Panel may also make recommendations to the Standards Committee regarding training or changes to any procedures which may have contributed to the complaint arising.
- 4.10 If the complaint is referred to the PSOW and an investigation report is produced the independent Member on the Standards Committee who was appointed to the Local Resolution Panel will not take part in any proceedings relating to that investigation report.



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## STANDARDS COMMITTEE

### REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

11<sup>th</sup> April 2023

#### **Matter for Decision**

**Wards Affected:** All Wards

#### **Procedure for Conducting Disciplinary Hearings**

#### **Purpose of the Report:**

1. To adopt the Procedure for Conducting Disciplinary Hearings set out in Appendix 1 of this Report

#### **Background:**

2. Part 3 Local Government Act 2000 (the Act) enables the Public Services Ombudsman for Wales to require Standards Committees to determine whether a councillor or co-opted member has breached the code of conduct, where the Ombudsman considers that the facts of the alleged breach do not warrant an immediate reference to the Adjudication Panel for Wales.
3. The attached draft procedure is an updated version from the previous version adopted by the Council. This is to ensure it reflects principles such as hearings being conducted in Welsh, should the Councillor choose and to further expand on the possibility that a hearing could be conducted by written representations and to enable the possibility of a hearing being conducted virtually via Microsoft TEAMS.

4. Similar procedures adopted by other Councils and the procedures adopted by the Adjudication Panel for Wales and aims to set out clearly to the committee, officers, and councillors and their representatives, the process that will be followed in the event that a disciplinary breach is referred to the committee for consideration.

**Financial Impacts:**

5. No implications.

**Integrated Impact Assessment:**

6. An Integrated Impact Assessment is not required for this report.

**Valleys Communities Impacts:**

7. No implications

**Workforce Impacts:**

8. No implications

**Legal Impacts:**

9. There are no legal impacts associated with this report.

**Consultation:**

10. There is no requirement for external consultation on this item

**Recommendations:**

11. That Members approve the procedure for conducting disciplinary hearings set out in Appendix 1 of this report.

**Appendices:**

12. Appendix 1 – Procedure for conducting disciplinary hearings.

**List of Background Papers:**

13. None

**Officer Contact:**

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Head of Legal and Democratic Services  
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**NEATH PORT TALBOT COUNTY  
BOROUGH COUNCIL**  
**Standards Committee Hearing Procedure  
For Code of Conduct Referrals**

This document sets out the procedure for the Standards Committee to follow where it is required to make a decision as to the conduct of a councillor, town/community councillor or co-opted member following a referral by the Public Service Ombudsman for Wales.

**1. Background**

1.1 The Standards Committee (the Committee) may be required to determine a complaint referred to the Committee by the Public Service Ombudsman for Wales (PSOW) under Part 3 Local Government Act 2000 (the Act). This may arise as the result of either:

- (a) The PSOW ceasing an investigation and referring the matter to the Monitoring Officer under section 70(4) of the Act and the Monitoring Officer then investigating the matter and reporting the conclusion of his/her investigation to the Committee or,
- (b) The PSOW undertaking an investigation and then referring the matters which are the subject of the investigation to the Monitoring Officer under section 71(2) of the Act for reporting to the Standards Committee.

1.2 The following procedure has been agreed by the Standards Committee to comply with the legislative requirements and laws of natural justice.

**2. Initial Determination**

2.1 Upon receipt of a report from either the Monitoring Officer or the PSOW, together with any recommendations of the Monitoring Officer, the Standards Committee must meet and make an initial determination that either:

- (a) There is no evidence of any failure to comply with the Code of Conduct; or
- (b) That any person who is the subject of the investigation should be given the opportunity to make representations to the Committee, either orally or in writing, in respect of the findings of the investigation.

2.2 If the Committee decides that a person should be given the opportunity to make representations under paragraph 2.1(b) above, the Committee will request arrangements to be made for a Committee Hearing to be held in accordance with the procedure set out below.

### **3. Arrangements prior to Hearing**

- 3.1 The Investigating Officer shall provide a written report as to the results of their investigation and include copies of all relevant evidence relied upon. A copy of the Investigation Report will be sent to the Committee and to the Councillor concerned.
- 3.2 Having made an initial determination in accordance with paragraph 2.1 the Committee will write to the Councillor to notify him/her of the Committee's decision. If the Committee determine that there is no evidence of a failure to comply with the Code that will be confirmed to the Councillor and the Investigating Officer.
- 3.3 In the event that the Committee determine that a Hearing is required the Committee will proceed to the second stage which will either involve a hearing of the case at a further meeting or, by agreement with all parties, the Committee proceeding by way of written evidence and representations only.
- 3.4 The Committee will write to the Councillor setting out further steps. This will include a summary of the possible sanctions open to the Committee and inviting a written response to the following:
  - (a) Clarification as to whether the Councillor wishes to make written representations or proceed by way of an oral Hearing and whether that Councillor wishes the hearing to take place in person or virtually using Microsoft TEAMS;
  - (b) Clarification as to whether the Councillor will be represented and if so, by whom;
  - (c) Details as to which areas of the Investigation Report are disputed and not disputed and if possible with brief reasons;
  - (d) Details of any witnesses which the Councillor proposes to call at the Committee Hearing and a summary of the evidence they will give;
  - (e) Details of any written evidence upon which the Councillor proposes to rely including any documentation listed within the unused material schedule served by the Investigating Officer;
  - (f) An indication as to whether the Councillor intends to make representations to the Committee as to whether members of the public should be excluded from the Committee Hearing and grounds for doing so;
  - (g) Any dates of unavailability to attend a Committee Hearing to include unavailability dates of witnesses and legal representation;
  - (h) Any other information that the Committee feels appropriate at this stage.
- 3.5 The Committee will also write to the Investigating Officer requesting:
  - (a) That the Investigating Officer attend the Committee Hearing to present the Investigation Report or to ask if the Investigating Officer wishes to

- attend the Committee Hearing for this purpose Clarification as to whether the Investigating Officer will be represented and if so, by who;
- (b) Any dates of unavailability to attend a Hearing to include unavailability dates of any witnesses and legal representation;
  - (c) Any other information that the Committee feels appropriate at this stage.

3.6 Following the receipt of both the Councilor's and the Investigating Officer's response a date, time and location for the Hearing will be confirmed and all parties notified at least 21 days prior to the hearing.

#### **4. The Monitoring Officer**

4.1 The Committee Hearing will have the support of legal and democratic service assistance and advice. Legal advice will be provided by either the Monitoring Officer, the Deputy Monitoring Officer or another suitably qualified lawyer.

4.2 In the event that the Monitoring Officer has investigated a complaint then he/she will attend the Committee Hearing in that capacity and will not be the legal advisor to the Committee hearing. In such cases, the Deputy Monitoring Officer or another suitably qualified lawyer will be present to advise the Committee Hearing.

#### **5. Pre-Hearing review**

5.1 Where the Committee considers that a pre-hearing review is appropriate notice of at least 14 days will be given to the Councillor, who may attend with or without any representation. The pre-hearing review will be held in private session unless the Committee directs otherwise.

5.2 The purpose of the pre-hearing review would be to consider any directions which may be required to facilitate a Hearing including directions relating to evidence, location of hearing, timings and narrowing of any issues.

#### **6. Public Notice of Hearings**

6.1 Notice of any Committee Hearing will be given in accordance with statutory requirements.

#### **7. Public Access to Hearings**

7.1 The Committee will consider whether the case should be considered in public or private in accordance with the relevant statutory rules and with legal advice from the legal officer.

7.2 The PSOW or the representative officer/s of the PSOW and the Monitoring Officer are entitled to attend the Hearing whether or not the Hearing is held in private.

- 7.3 The Committee may permit any other person to attend the Hearing which is held in private upon receiving legal advice.
- 7.4 The Committee may exclude from a Hearing, or any part of it, any person whose conduct is disruptive or is likely to disrupt the Hearing in accordance with the Council Procedure Rules as set out in the Constitution of the City and County of Swansea.

## **8. Failure of a Party to attend a hearing**

- 8.1 If a Councillor fails to attend or be represented at a Hearing of which he/she has been notified, the Committee may:
- (a) Determine the matter in the Councillor's absence unless it is satisfied that there is good reason for the absence; or
  - (b) Adjourn the hearing.
- 8.2 Before deciding to determine a matter in the absence of the Councillor, the Committee will take legal advice and consider any written representations submitted by the Councillor or his/her representative in response to the notice of Hearing.

## **9. Procedure at the Hearing – Preliminary Matters**

- 9.1 Where requested the Hearing will be conducted in Welsh in order to comply with statutory requirements and Welsh Language Standards. A translation service will be provided for any person attending the Hearing that requires it.
- 9.2 Witnesses will not be allowed to sit in the public gallery prior to being called to give evidence by the Committee. A designated waiting area will be available to witnesses until they are called.
- 9.3 The Committee may limit the number of witnesses to be called, where it is considered, this would not detract from a fair hearing. This may, for example, be where the Committee considers that there are too many character witnesses being called or where witnesses are simply repeating previous evidence given to the Hearing which is not in dispute.
- 9.4 Where evidence is being given by way of written statement and the witness is not being called to give oral evidence, the Committee may at any stage during the proceedings require the attendance of any person making a written statement.
- 9.5 At the commencement of the Hearing the Chair will introduce each of the Members of the Committee present and everyone else involved in the Hearing. The Chair will also explain the order of proceedings that the Committee proposes to adopt and obtain confirmation from everybody taking

part in the Hearing that they understand the procedure. The procedure to be followed is at the discretion of the Committee which will aim to conduct the Hearing in such manner as it considers most appropriate and suitable to be able to clarify all issues before it and to ensure a fair and just Hearing to take place. The Committee will, as far as possible, try to avoid formality in its proceedings. After the Chair has explained the order of proceedings, the Committee will first seek to resolve any procedural issues or disputes arising from any direction which has been given.

## **10. Procedure at the Hearing – Determining the factual Issues**

- 10.1 The Committee should then move on to consider whether or not there are any significant disagreements as to the facts contained in the Investigating Officer's report.
- 10.2 If there are no disagreement as to the facts the Committee can move to the next stage of the Hearing.
- 10.3 If however there is disagreement as to the facts, the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the Report. Alternatively, the Investigating Officer may simply chose to invite the Committee to consider all the evidence contained within the Investigation Report and not make any further comment.
- 10.4 With the Committee's permission the Investigating Officer may call witness evidence in support. The Committee will allow the Councillor an opportunity to question any witness called by the Investigating Officer.
- 10.7 The Councillor will then have the opportunity to make representations to support his/her version of the facts and with the Committee's permission may call witness evidence in support. The Committee will allow the Investigating Officer an opportunity to question a witness called by the Councillor.
- 10.8 At the conclusion of the Councillor's evidence the Councillor will be afforded an opportunity to sum up his or her case.
- 10.9 At any time, the Committee may ask questions any of the people who are involved in the hearing or who are giving evidence. The Legal Advisor to the Committee, may with the permission of the Chair, also ask questions of people involved in the hearing or who are giving evidence.
- 10.10 The Committee will then retire to consider their decision on the factual issues in dispute.
- 10.11 Once a decision on the disputed factual issues is reached the meeting will be re-convened and the Chair will announce the Committee's findings.

## **11. Stage 2 – Whether the facts demonstrate a breach of the Code**

- 11.1 Based on the facts as found the Committee will then consider whether the Councillor has breached the Code of Conduct. This stage does not provide the Councillor or the Investigating Officer an opportunity to re-examine the facts of the case.
- 11.2 The Committee will receive verbal or written representations from the Investigating Officer.
- 11.3 The Councillor will then be invited to make any relevant representations.
- 11.4 The Committee will then retire to consider their decision as to whether the Councillor is in breach of the Code of Conduct.
- 11.5 Once a decision is reached the meeting will be re-convened and the Chair will announce the Committee's findings.

## **12. Stage 3 – Consideration of Sanctions**

- 12.1 In the event that the Committee determines that there has been a breach of the Code by the Councillor, the Committee will then consider any written or verbal representations from the Investigating Officer and the Councillor as to whether or not the Committee should impose a sanction and if so, what form any sanction should take. The Councillor will be afforded an opportunity at this stage to rely on either written or oral evidence as to character/mitigating factors that the Committee should take into account before making a decision on sanction.
- 12.2 The Committee may question the Investigating Officer and/or the Councillor and, if appropriate, take legal advice in order to make an informed decision as to any sanction.
- 12.3 The Committee will then retire to consider their decision as to whether to impose a sanction and if so, the nature of the sanction.
- 12.4 Once a decision is reached the meeting will be re-convened and the Chair will announce the Committee's decision.

## **13. Written Decision**

- 13.1 The Committee will announce its decision on the day and provide a short written decision on the day. A full written decision, with reasons supporting the decision, will be issued within 10 working days of the end of the hearing and notified to the PSOW, the Councillor and the person who made the original allegation (if known). A copy will also be included on the Council's website.

## **14. Appeals**

- 14.1 Where the Committee decides that a person has failed to comply with the Code of Conduct that person may appeal to the Adjudication Panel for Wales as per the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (as amended).

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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## STANDARDS COMMITTEE

### REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

11<sup>th</sup> April 2022

#### **Matter for Information**

**Wards Affected:** All Wards

Review of the Ethical Standards Framework in Wales – Response to Consultation

#### **Purpose of the Report:**

To consider and note the Welsh Government Response to the Local Government Ethical Standards Framework Review and approve the proposed consultation response by Neath Port Talbot Council

#### **Background:**

In March 2021, the then Minister for Housing and Local Government commissioned an independent Review of the Ethical Standards Framework (“the Framework”) for local government in Wales established by the Local Government Act 2000 (“the 2000 Act”). An overview of the Framework is included at annex 2. The Framework extends to county and county borough councils, corporate joint committees, national park authorities, fire and rescue authorities and community and town councils. Where the term council(s) is/are used throughout this document this also extends to all member(s) of the above-named bodies.

The Framework has remained largely unchanged over the last 20 years, so an independent review was felt important to maintain confidence in the system and ensure developments in the way councillors and their public lives are reflected in its operation.

An effective ethical framework is essential to ensure people and councillors from all backgrounds have confidence to engage with local democracy or stand for elected office. It is part of making Wales a diverse and inclusive nation and its review is an action in our Anti-racist Wales Action Plan.

In addition, it is essential the Framework reflects significant legislation made since its establishment, in particular the Equality Act 2010, the Well-being of Future Generations (Wales) Act 2015 and the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”). This document contains links to the original legislation. In some cases, the legislation has since been amended and links to the amended legislation are contained in the bibliography at the end of this document.

The 2021 Act introduced several measures intended to complement the existing Framework. Firstly, it placed a new duty on leaders of political groups to take reasonable steps to promote and maintain high standards of conduct by the members of their group. In doing so, a group leader must co-operate with the council’s standards committee in the exercise of its functions to promote and maintain high standards of conduct. In turn, a standards committee has new functions under the above 2021 Act to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders’ compliance with those duties.

Secondly, after the end of each financial year, standards committees will be required to make an annual report to the council describing how the committee’s functions have been discharged and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations within 3 months of receipt.

The independent review (“the Review”) was undertaken by Richard Penn, a former local authority chief executive and former chair of the Independent Remuneration Panel for Wales.

The terms of the Review were as follows:

- an audit of the codes of conduct adopted by all the required authorities against the Model Code of Conduct to identify any local variances
- an analysis of the effectiveness of the Framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements
- consideration of whether the Framework is still ‘fit for purpose’, including whether the 10 principles of conduct are still relevant and whether the Model Code of

Conduct needs updating. This included identification of areas where improvements could/should be made to the current arrangements

- consideration of the role of standards committees, including their role in relation to community councils and whether the establishment of sub-committees has any impact on the process of supporting community councils and dealing with complaints
- an analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place, and b) be escalated beyond local resolution. This included areas such as clear communication and signposting, training and awareness and the authorities' approach to addressing concerns

The Review concluded the current Framework is 'fit for purpose' and works well in practice. It suggested a few amendments could lead to a greater emphasis in the Framework on prevention of complaints, improve the handling of complaints and result in already high ethical standards being further enhanced.

Since the publication of the Review, Welsh Government have engaged with stakeholders including monitoring officers, the Public Services Ombudsman for Wales (PSOW) and her office, the Welsh Local Government Association (WLGA) and One Voice Wales.

Accordingly, the Welsh Government have now issued a consultation on the recommendations of the Review and are seeking views on their response.

The proposed recommendations from the Review and the Welsh Government response are included at Appendix 1 of this report.

Attached at Appendix 2 are the consultation questions that Welsh Government have issued and some suggested responses for the Standards Committee to discuss and endorse.

**Financial Impacts:**

No implications.

**Integrated Impact Assessment:**

An Integrated Impact Assessment is not requirement for this report.

**Valleys Communities Impacts:**

No implications

**Workforce Impacts:**

No implications

**Legal Impacts:**

The Council has a duty to establish and maintain a Standards Committee as defined by legislation as set out in the Standards Committees Rules and 5 Regulations 2001 and the Standards Committee (Wales) Amendment Regulations 2006. The role of the Standards Committee is to promote and maintain high standards of conduct by Councillors, Co-opted Members and Church and Parent Governor Representatives.

**Consultation:**

There is no requirement for external consultation on this item

**Recommendations:**

That the Standards Committee consider and note the Welsh Government Response to the Local Government Ethical Standards Framework Review and approve the proposed consultation response by Neath Port Talbot Council

**Appendices:**

Appendix 1 – Welsh Government Response to the Local Government Ethical Standards Framework Review

Appendix 2 – Proposed consultation responses by Neath Port Talbot Council

**List of Background Papers:**

None

**Officer Contact:**

Mr Craig Griffiths  
Head of Legal and Democratic Services  
Telephone 01639 763767

Question	Response
Do you agree the relevant regulations relating to the Ethical Standards Framework should be amended to align with the definitions relating to protected characteristics in the Equality Act 2010, and that we should amend the definition of equality and respect in section 7 of The Conduct of Members (Principles) (Wales) Order 2001?	This would be supported. The drafting of the Model Code pre-dates these provisions and, whilst the principles set out in the Model Code are in the spirit of the Equality Act 2010, an alignment of the Model Code with the protected characteristics in the 2010 Act would not only provide clarity but also importantly send a strong message that councillors are expected to promote and maintain the highest standards of conduct.
Should the Adjudication Panel Wales (APW) be able to issue Restricted Reporting Orders?	Yes this would be appropriate. Matters relating to elected member conduct will undoubtedly attract media coverage and attention, therefore to ensure the right to a fair hearing, the safety of witnesses, officers and panel members it would be appropriate to ensure that such steps are taken to protect these individuals and ensure the matter can proceed without risk or legal challenge.
Should there be express legal provision to enable the APW to protect the anonymity of witnesses?	An express power to anonymise, used proportionately to ensure witness safety, would be appropriate for both case and appeal tribunals. This will ensure that any members of the public who wish to give evidence can do so without fear of repercussion and particularly to safeguard any individual who maybe deemed vulnerable. Such measures may mean individuals will be more likely to come forward and report inappropriate behaviour if they feel they would be protected from adverse consequences or require safeguarding due to vulnerability
Do you support the proposed changes to the permission to appeal procedure outlined in this recommendation. If not, what alternatives would you suggest?	The proposed appeal process would appear acceptable.
Should there be an express power for the APW to summon witnesses to appeal tribunals?	Yes this would be appropriate, provided there is a clear indication of the consequences of non-attendance and guidance issued to individuals. Steps should also be put in place to actively promote attendance and ways to compensate individual for such attendance

	<p>through meeting travelling expenses, salary recovery for time spent at the APW etc. The APW has the power to disqualify an elected member from office, meaning all steps should be taken and all evidence heard to enable them to reach this decision. Individuals choosing to not attend or not cooperate, can render any determination unsafe or open to challenge and accordingly it would be appropriate that all steps are taken to compel attendance, if only to ensure the elected member has a fair and transparent hearing.</p>
<p>Should there be any changes in the procedure for referring appeals decisions back to standards committees?</p>	<p>Further clarity should be provided on the grounds whereupon the APW are able to refer a matter back to a Standards Committee and this should be limited to where a Standards Committee may have erred in law as to its decision or has made a decision that is irrational or procedurally unfair. The Standards Committee of an authority has the responsibility for promoting standards of behaviour and therefore should remain the arbitrator and decision maker of matters, which are referred to it. The role of the APW in appeals should be limited to decisions which are merely illegal, irrational or procedurally unfair and not to challenge what could be a legitimate decision taken.</p>
<p>Do you agree there should be an express provision to enable part or all of tribunal hearings to be held in private?</p>	<p>This would be appropriate. This will ensure that any members of the public who wish to give evidence can do so without fear of repercussion and particularly to safeguard any individual who may be deemed vulnerable. Such measures may mean individuals will be more likely to come forward and report inappropriate behaviour if they feel they would be protected from adverse consequences or require safeguarding due to vulnerability. It can also ensure that any confidential or exempt information can be disclosed in an appropriate manner</p>
<p>Do you agree that the requirement to provide not less than seven days' notice of the postponement of a hearing should be retained?</p>	<p>This should be retained for the sake of clarity to all parties and to enable steps to be taken in reasonable timescales.</p>

<p>Should there be a wider range of sanctions available to the APW, and if so, what should they be?</p>	<p>A wider range of sanctions other than disqualification or suspension would be helpful. Steps perhaps should be taken for more restorative actions and whether the APW can introduce matters which encourage resolution to issues as opposed to a straightforward suspension or disqualification</p>
<p>Do you support the proposed amendments to the process for interim case tribunals outlined in this recommendation? If not, could you please explain</p>	<p>Yes, amendment or further guidance on this matter would be welcome. The intention in the Local Government Act 2000 appears to be to allow an accused member to be suspended for six months (though it is unclear whether this is one term of suspension or if it can be renewed on application) while the Ombudsman investigates if that Councillor through their role was interfering with the investigation or if for some other reason it was necessary to suspend on an interim basis. In some cases, it might be inappropriate to continue to remunerate a Councillor who is facing such charges, and that his or her continued activities as a Councillor could endanger members of the public, other Councillors or members of staff. A member who is charged with criminal offences is innocent until proven guilty, and in order for the Ombudsman to make an interim referral there would need to be strong evidence that it is in the public interest for a suspension to be imposed, particularly if the offences are historical.</p>
<p>If you do support the changes to the process for interim case tribunals, do you agree that an intermediate arrangement should be put in place i.e. by shortening and streamlining the process for interim case tribunals in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001? If yes, do you have any suggestions as to how this process could be streamlined within the regulations?</p>	<p>Yes this would be agreed, a shorter and simpler timescale for such matters would be appropriate. The view of Richard Penn of a system similar to that of Medical Practitioners Tribunals would be an appropriate system.</p>
<p>Do you have any further views on the recommendations made in relation to the operation of the APW?</p>	<p>No further information to add</p>

<p>Do you have any suggestions as to how work might be taken forward to raise awareness of the Ethical Standards Framework, in particular for people with protected characteristics as described in the Equality Act 2010?</p>	<p>The ethical standards framework must be genuinely open, transparent and accessible to everyone, and if the objective is that the framework should command the confidence of everyone who may need to use it, then consideration needs to be given to how to ensure equality of access for everyone. Documents should be made available in a wide variety of formats, regular publicity should be given to such matters with guidance available on how to report matters of concern. Standards Committee should work in conjunction with Council equality officers to look at ways to further promote awareness with those with protected characteristics. Visibility of the Standards Committee and promotion of roles and responsibility of elected members is crucial in this regard</p>
<p>Advertising for independent members of standards committees: Do you agree the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed?</p>	<p>Yes this should be removed. At present, the ability to advertise within newspapers is costly and has not demonstrated any tangible return to the local authority in previous rounds of recruitment. Greater interest has been generated through liaising with stakeholder organisations, advertising via social media and general word of mouth. A requirement for advertisement on a Council website would perhaps achieve this purpose alone and local authorities should be entitled to determine any forms of advertisement they think appropriate, with the ultimate determination being made by elected members</p>
<p>Former council employees sitting as independent members on standards committees: Do you agree that the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed?</p>	<p>Yes. A lifelong ban is no longer appropriate and instead a reasonable timescale should be considered for such appointments</p>
<p>If yes, what do you think would be a suitable period of grace between employment and appointment to a standards committee, and should this be the same for all council employees, or longer for those who previously holding statutory or politically restricted posts?</p>	<p>Three years would be an appropriate timescale and the same period should be applicable to all employees irrespective of role, in the interests of equality of opportunity.</p>
<p>Former councillors sitting as independent members on standards committees: Do you agree that the lifelong ban on serving</p>	<p>Yes. A lifelong ban is no longer appropriate and instead a reasonable timescale should be considered for such appointments</p>



as an independent member on the standards committee of the council to which a councillor was elected should be removed? If yes, what do you think would be a suitable period of grace?	
Standards committees' summoning witnesses and sanctions: Should standards committees have the power to summon witnesses?	Four or five years would be an appropriate timescale to the extent that members will have left office for at least one term before being able to come back as a member of the Standards Committee
Do you agree that the sanctions a standards committee can impose should be changed or added to? If yes, what sanctions would you suggest?	A wider range of sanctions other than disqualification or suspension would be helpful. Steps perhaps should be taken for more restorative actions and whether the Standards Committee can introduce matters which encourage resolution to issues as opposed to a straightforward suspension or disqualification
We would like to know your views on the effects that the above changes to the Framework and Model Code of Conduct 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?	There would appear to be no impact to the Welsh Language. However, it should be noted that the costs of translations for hearings can be quite high and quite complex, meaning financial burdens on local authorities in facilitating such translation should be funded appropriately.
How could positive effects be increased, or negative effects be mitigated?	Not Applicable
Please also explain how you believe the proposed amendments 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 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.	Not Applicable
Do you have any other comments you wish to make on the matters raised in this consultation, including for those Report Recommendations where no specific question has been posed?	Not Applicable

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Llywodraeth Cymru  
Welsh Government

PUBLICATION

# Consultation on the recommendations of the Independent Review of the Ethical Standards Framework (Richard Penn report)

We are seeking your views on our response to the review of the Local Government Ethical Standards Framework.

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# Introduction

In March 2021, the then Minister for Housing and Local Government commissioned an independent Review of the Ethical Standards Framework (“the Framework”) for local government in Wales established by the Local Government Act 2000 (“the 2000 Act”). An overview of the Framework is included at annex 2. The Framework extends to county and county borough councils, corporate joint committees, national park authorities, fire and rescue authorities and community and town councils. Where the term council(s) is/are used throughout this document this also extends to all member(s) of the above-named bodies.

The Framework has remained largely unchanged over the last 20 years, so an independent review was felt important to maintain confidence in the system and ensure developments in the way councillors and their public lives are reflected in its operation.

An effective ethical framework is essential to ensure people and councillors from all backgrounds have confidence to engage with local democracy or stand for elected office. It is part of making Wales a diverse and inclusive nation and its review is an action in our Anti-racist Wales Action Plan.

In addition, it is essential the Framework reflects significant legislation made since its establishment, in particular the Equality Act 2010, the Well-being of Future Generations (Wales) Act 2015 and the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”). This document contains links to the original legislation. In some cases, the legislation has since been amended and links to the amended legislation are contained in the bibliography at the end of this document.

The 2021 Act introduced several measures intended to complement the existing Framework. Firstly, it placed a new duty on leaders of political groups to take

reasonable steps to promote and maintain high standards of conduct by the members of their group. In doing so, a group leader must co-operate with the council's standards committee in the exercise of its functions to promote and maintain high standards of conduct. In turn, a standards committee has new functions under the above 2021 Act to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties.

Secondly, after the end of each financial year, standards committees will be required to make an annual report to the council describing how the committee's functions have been discharged and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations within 3 months of receipt.

## Terms of reference for the review

The independent review ("the Review") was undertaken by Richard Penn, a former local authority chief executive and former chair of the Independent Remuneration Panel for Wales.

The terms of the Review were as follows:

- an audit of the codes of conduct adopted by all the required authorities against the Model Code of Conduct to identify any local variances
- an analysis of the effectiveness of the Framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements
- consideration of whether the Framework is still 'fit for purpose', including whether the 10 principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This included identification of areas where improvements could/should be made to the current arrangements
- consideration of the role of standards committees, including their role in

relation to community councils and whether the establishment of sub-committees has any impact on the process of supporting community councils and dealing with complaints

- an analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place, and b) be escalated beyond local resolution. This included areas such as clear communication and signposting, training and awareness and the authorities' approach to addressing concerns
- consideration of the current sanctions and whether they are still appropriate

## Conclusions of the Independent Review of the Ethical Standards Framework

The **review** concluded the current Framework is 'fit for purpose' and works well in practice. It suggested a few amendments could lead to a greater emphasis in the Framework on prevention of complaints, improve the handling of complaints and result in already high ethical standards being further enhanced.

## Development of this consultation paper

Since the publication of the Review, we have engaged with stakeholders including monitoring officers, the Public Services Ombudsman for Wales (PSOW) and her office, the Welsh Local Government Association (WLGA) and One Voice Wales. We also listened carefully to the discussion on the Review's recommendations at the All-Wales Standards Conference in February 2022. In addition, we are grateful to the standards committees which have written to us with their views. This consultation paper builds on the Review's recommendations taking these discussions and other communications into account.

# Consideration of the recommendations of the Review

## Recommendation 1

The Code does not specify any threshold for declarations of any gift, hospitality, material benefit or advantage. The threshold should be specified in the Code to ensure consistency across Wales.

### Consideration of recommendation 1

The Review notes the Model Code of Conduct (“the Model Code”) does not include a threshold for the declaration of gifts, hospitality, material benefit or advantage. As a result, where councils have decided to include a threshold in their own codes, a wide variation has occurred ranging from £21 to £100. The Model Code of Conduct is annexed to the Local Authorities (Model Code of Conduct) (Wales) Order 2008, as amended.

Further exploration with stakeholders suggests this is because different councils are of different sizes and constitution. Also, local circumstances impact on whether councils have decided to include a threshold in their own code or not and, if so, what the threshold is. A threshold of £100 or £150 for example may not be appropriate for some councils, as for some it may be too high and for others it may be too low.

We do not propose to amend the Model Code but recognising that approaches to the management and monitoring of gifts and hospitality are often sensitive matters we have recommended in our Statutory and Non Statutory Guidance for Principal Councils in Wales supporting provisions within the Local Government Act 2000, the Local Government (Wales) Measure 2011 and the Local



Government and Elections (Wales) Act 2021 that the approach to this is reviewed and agreed within individual principal councils and that the regular review of thresholds for declaration of gifts, hospitality, material benefit or advantage, are included in standards committee's annual report. This will assist in terms of transparency of the arrangements.

As part of the guidance, we have also suggested this is a matter that should be routinely discussed by the monitoring officers and chairs of standards committees' groups.

## Recommendation 2

The 2000 Act requires members to include their home address in their Council's Register of Interests. There is agreement that the Code should not require Councillors to disclose their home address and that the Code should be amended appropriately.

### Consideration of recommendation 2

The Model Code as set out in the regulations does not specifically require the disclosure of the detail of the councillor's home address when an interest is declared in terms of their home.

However, in view of the requirements in the Code of Conduct for members to be open and transparent in their handling of matters relating to their personal interests, including the property they own and live in, guidance provided by the PSOW's office advised councillors to include the address. Following discussions with stakeholders, it was agreed that councillors are required to declare the interest but the PSOW's guidance has since been updated '[The Code of Conduct for members of local authorities in Wales](#)' advising members that it is sufficient to provide only the street name or postcode of the property. These

changes relate to practical matters in respect of the publication of a councillor's home address only. It remains an obligation on councillors to ensure they declare personal and prejudicial interests in matters relating to any Council business which affects property they own or reside in.

In addition, the local authorities (Amendments Relating to Publication of Information) (Wales) Regulations 2022 Amendment to the Local Government Act 1972, which apply in relation to Wales, amend the Local Government Act 1972 ("the 1972 Act") and the local authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 ("the 2001 Regulations") removing the requirement for county councils in Wales to publish details of councillors' personal home addresses.

In view of the above the issue has now been resolved and we therefore propose no further action is required in respect of this recommendation.

### **Recommendation 3**

A 'person' is not defined either in the 2000 Act or in the Model Code. It is recommended that a clear definition of what is meant by a 'person' on the face of the legislation or in the Model Code would be beneficial.

### **Consideration of recommendation 3**

The Legislation (Wales) Act 2019 (and the Interpretation Act 1978) provide effectively identical definitions of a 'person'. This approach to a single definition of commonly used terms in the drafting of legislation is important to ensure primary and secondary legislation is not littered with conflicting, contradictory, or unnecessarily lengthy definitions of commonly used terms.

Whilst we sympathise with the example set out in the Review, we do not

propose to take any action on this recommendation.

## **Recommendation 4**

Paragraph 4a of the Code which requires that a member must: 'carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion' does not include all protected characteristics. The provision in the Code should be extended to include all nine protected characteristics under the Equality Act 2010.

### **Consideration of recommendation 4**

Section 4 of the Equality Act 2010 ('the 2010 Act') provides for the following protected characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The drafting of the Model Code pre-dates these provisions and, whilst the principles set out in the Model Code are in the spirit of the 2010 Act, discussions with stakeholders confirmed an alignment of the Model Code with the protected characteristics in the 2010 Act would not only provide clarity but also importantly send a strong message that councillors are expected to promote and maintain

the highest standards of conduct.

We therefore propose to amend the definition in paragraph 4a of the Model Code of Conduct ([the Local Authorities \(Model Code of Conduct\) \(Wales\) Order 2008](#)) to align with the definition of protected characteristics in section 4 of the Equality Act 2010.

We will also amend the definition of equality and respect in section 7 of [The Conduct of Members \(Principles\) \(Wales\) Order 2001](#).

## Recommendation 5

The potential for breaches of the Code as a result of the extensive and increasing use of social media is a matter of concern. The helpful guidance by the WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Code.

### Consideration of recommendation 5

Discussions with stakeholders have included consideration as to how training, both induction training and on-going training, is being provided to elected members on the Model Code, including its application in the case of social media.

The discussions on take up of training after the May 2022 elections have been positive and we believe training and take up of training will be more effective in addressing this issue than amendment of the Model Code. The Model Code applies to a councillor's behaviour in a myriad of circumstances, and we feel it is therefore not appropriate to carve out one context as opposed to others in the Model Code itself.

We therefore do not propose to amend the Model Code but will continue to work with the WLGA, One Voice Wales, the PSOW and monitoring officers to promote training as the most appropriate way of preventing inappropriate behaviour through the medium of social media.

In addition, we have also included specific reference to Model Code training and the application of the Code in the context of social media in our revised statutory guidance on member training and development issued under section 7 of the Local Government (Wales) Measure 2011 and in the guidance on the training plans town and community councils are required to prepare under the 2021 Act.

## **Recommendation 6**

6 (1)(b) of the Code of Conduct places the obligation on elected members to report the criminal behaviour of others but not of themselves. The Code should be appropriately amended to make this an obligation of the member to themselves report on their own criminal conduct.

### **Consideration of recommendation 6**

The area of criminal behaviour is a legally complex one. Firstly, there is the issue of when should the member 'self-report' their own criminal behaviour. Should reporting happen when the member is charged or when the member is alerted to a criminal investigation taking place. How would this impact on the basic principles of natural justice and the possibility of the member prejudicing cases or investigations against themselves.

Should reporting be required when a conviction has been made, even though an appeal may be underway or when all avenues of appeal have been exhausted. Either way the recommendation as made would set a higher bar for self-reporting than for reporting another member where 'reasonably believes' is set

as the bar.

A further question is how this approach would interface with the disqualification regime for local authority membership. Currently, members are not disqualified until such time as all appeals are exhausted or they have not attended a local authority meeting for more than 6 months, whichever occurs first.

Also, we believe that the principles set out in The Conduct of Members (Principles) (Wales) Order 2001 are strong enough to rely upon a member self-reporting any action they may have taken which is potentially in breach of the principles and the related Code.

We therefore propose to take no further action in relation to this recommendation.

## **Recommendation 7**

Mandatory training on the Code of Conduct for all members of principal councils and community councils. Include a commitment to undertake the necessary training in the Declaration of Acceptance of Office that all elected members are required to sign under The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004.

### **Consideration of recommendation 7**

High quality, easily accessible training and its take-up has been a recurring theme in our discussions with stakeholders. One Voice Wales and the WLGA have focussed on this in the run up to and post the May 2022 elections. Monitoring officers have also been prioritising code of conduct training for newly elected and returning members.

Training is one of the areas we will be requiring standards committees to report on. Also, standards committees are required to work with political group leaders to support the delivery of their statutory duty to promote high standards of conduct amongst the members of their political groups in statutory guidance issued under the 2021 Act.

The requirement for and the provision of mandatory training on the code of conduct has wide ranging implications for prospective members, members and councils in terms of time commitment and cost. It would also potentially require primary legislation. We have therefore explored this issue further as part of the recent [consultation on electoral administration and reform](#). This consultation closed on 10 January. The responses received are currently being considered and will inform future policy on this matter.

The Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 has not been revoked or amended since it was made in 2004. The declaration of office is included in Schedule 1 as follows:

- I [(1)] having been elected to the office of [ (2)] of [ (3)] declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability.
- I undertake to observe the code for the time being as to the conduct which is expected of members of [ (4)] and which may be revised from time to time.
- Signed     Date
- This declaration was made and signed before me.
- Signed

Proper officer of the Council (5)

(1) Insert the name of the person making the declaration.

(2) Insert 'member' or Mayor as appropriate.

(3) and (4) Insert the name of the authority of which the person making the declaration is a member or mayor.

(5) Where the declaration is made before another person authorised by section 83(3) or (4) of the Local Government Act 1972, state instead the capacity in which that person takes the declaration.

Arguably, including a reference to training in the declaration of office in effect makes training mandatory and so we do not propose to make any amendments to it at this time.

We will however:

- continue to work with councils, the WLGA and One Voice Wales to promote the importance of training and its take-up amongst councillors
- continue to support the development of easily accessible resources to enable training including on-line
- consider how this training is identified as part of the training and development assessment undertaken by heads of democratic services and democratic services committees in principal councils under the Local Government (Wales) Measure 2011 and as part of training plans produced under the 2021 Act in town and community councils

We will also:

- engage with the PSOW and her office to assess the level and nature of complaints being received and whether non-attendance at training has been a contributory factor to the reported poor behaviour and the extent to which training is recommended as part of the remedy
- require standards committees to monitor and report on whether councillors who have been the subject of a complaint which has been upheld have or have not attended a training session on the code of conduct. We have included this requirement in statutory guidance to standards committees issued under section 63 of the 2021 Act



## Recommendation 8

Increased use of local resolution of complaints, the Model Code of Conduct should be appropriately amended to require that any complaint should be considered for local resolution before it can be referred subsequently to the Public Services Ombudsman.

### Consideration of recommendation 8

Local resolution protocols are intended to deal with what are sometimes called ‘lower level’ complaints made under the code of conduct by 1 member about another member, and sometimes, if appropriate, similar complaints made by officers or members of the public. These are usually complaints about failure to show respect and consideration to others.

Firstly, we do not believe it is appropriate that any complaint made under the code of conduct should firstly be dealt with through local resolution. We do not believe it was the intention of the recommendation in any case that all complaints would first be the subject of local resolution.

Secondly, we suggest that the Model Code is just that, a Model Code which sets out the minimum legal requirement for inclusion in the code of conduct a council adopts. It would, in Welsh Government’s view, be perfectly feasible for councils to include the requirement to have a local resolution protocol in their codes as adopted.

However, we believe visibility of the process to the public, officers and members is important and we have therefore included a requirement in our statutory guidance to standards committees on their annual reports to consider the operation of the local protocol and an assessment of its impact. Where no local protocol has been adopted, we will require standards committees to consider

whether the adoption of such a protocol would support its functions in relation to promoting high standards of ethical conduct.

## **Recommendation 9**

Extended powers for the Public Services Ombudsman for Wales Greater use of the Ombudsman's discretion for referral would be welcomed by Monitoring Officers and Chairs of Standards Committees. The extension of his power to refer complaints back for local resolution would be a beneficial change to the current framework.

### **Consideration of recommendation 9**

The Report identified that poor conduct (even if it does not meet the PSOW's threshold for full investigation) has an adverse impact on public and elected member confidence in the system. This view was again expressed in the context of 'low level' complaints which do not meet the bar for full investigation by the PSOW.

We agree with the conclusions that action being seen to be taken and being taken to address this kind of behaviour is essential to maintain confidence in the system. However, we do not believe a change in the law is required.

When a case meets PSOW's threshold for investigation and the PSOW starts an investigation, section 70(4) of the 2000 Act states that where the PSOW ceases an investigation under section 69 before its completion, the PSOW may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned. Even when cases are not investigated, PSOW's approach is to share all cases with the monitoring officers. This, when taken with the changes to the 2000 Act inserted by the 2021 Act, enhancing the role of political group leaders and standards committees to promote and maintain high

standards of conduct amongst members, enables this issue to be addressed through discussions between the PSOW, monitoring officers and standards committees.

The PSOW has agreed to explore how she may support monitoring officers and standards committees with their enhanced role, and we do not therefore intend to take any further action.

## **Recommendation 10**

Changes to the powers and processes of the Adjudication Panel for Wales (APW).

### **Consideration of recommendation 10**

The Report's recommendation included several proposals for changes to the procedures of the APW as follows.

### **Restricted reporting orders**

The APW cannot control the reporting by the press about any case. The APW President considers that the powers such as those available to an Employment Tribunal, to impose a restricted reporting order either until the end of proceedings or an extended restricted reporting order, would be appropriate for all APW Tribunals where the fairness of the tribunal or the safety of witnesses, panel members or staff are potentially compromised.

We are therefore seeking your views on whether we should make legislative provision to enable the APW to issue restricted reporting orders, and a question on this is included in the consultation questions below.

## **Anonymity of witnesses**

The President can issue guidance to ensure consistency and transparency, but the APW believes an express power to anonymise, used proportionately to ensure witness safety, would be appropriate for both case and appeal tribunals.

We are therefore seeking your views as to whether there should be express legal provision for the APW to protect the anonymity of witnesses and a question on this is included in the consultation questions below.

## **Disclosure**

An issue related to the disclosure of the unused material held by the PSOW and monitoring officers was identified in the Report. It has been agreed to amend the PSOW's own process in this regard, with Presidential Guidance / Practice Direction on both disclosure and the role of the monitoring officer generally.

This issue has now been resolved through a change to Presidential Guidance and therefore no further action is required.

## **Appeal Tribunal procedure**

The APW President believes there should be amendments to the Appeal Tribunal procedure to include an express power to summon witnesses to an Appeal Tribunal.

Also, regulation 9(2) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the 2001 Regulations") requires the standards committee to consider a recommendation from the APW decision that a different penalty should be

imposed to the original decision. Some stakeholders do not support this process whilst the APW President does support it as the standards committee remains responsible and can reflect its response to the Panel decision in the sanction it decides to impose.

The current arrangements in relation to appeals are set out in the 2001 Regulations and in Presidential Guidance. There is also a APW Practice Direction which sets out relevant information about the APW's procedures in response to a reference from the PSOW. The Guidance and Practice Directions are available on the [APW website](#). Also see the [APW's Presidential Guidance and Practice Directions](#).

We are therefore interested in your views as to whether an express power to summon witnesses to appeal tribunals should be provided for, and whether there should be any changes in the procedure referring appeal decisions back to standards committees. A question on this is included in the consultation questions below.

## Case Tribunal procedure

The APW President considers that the regulations are outdated and has proposed a number of amendments to make the case tribunal procedure more efficient and fairer to witnesses.

These proposals relate to:

- providing express provision for part public and part private hearings
- whether the requirement to provide 7 days' notice of postponement of a hearing to the accused member should be reconsidered
- the process for seeking permission to appeal

The current process for seeking permission to appeal is set out in the Local

Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended by The Local Government (Standards Committee, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016.

It requires the President, or their nominee, to make a decision within 21 days of receipt of a request to appeal. If the President requests further information the applicant has 14 days to respond, and then the President has 14 days from the receipt of the further information to make a decision. However, there is potential for different interpretations of the impact of a request for additional information on the timetable as it is potentially unclear whether the 'clock' on the 21 days stops while the additional information is being sought.

In addition, the regulations do not give the PSOW any opportunity to make submissions and a preliminary hearing to decide whether to grant permission to appeal is possible if there are 'special circumstances', but there is no extension of time provided for in the regulations to allow for this.

The President has therefore proposed an alternative approach as follows:

- Councillor sends in appeal; no deadline is set for an APW decision
- President/Registrar checks the appeal has attached the decision of the standards committee and if not, gives the councillor 7 days to provide it (and has the power to ask the monitoring officer if they so wish for the decision and any other information)
- the appeal is sent to the PSOW who is given 14 days to comment
- the appeal, decision of the standards committee and any comments from the PSOW are put before the President (or their nominee) for a decision on the papers; again, no deadline would be set for a decision
- the President or their nominee can direct a preliminary hearing takes place if they consider it is in the 'interests of justice' to do so as opposed to 'special circumstances'

We would welcome your views on these proposed changes to the permission to appeal procedure. Similarly, on whether there should be an express provision to enable part or all of a hearing to be held in private, and also whether the requirement to provide not less than 7 days' notice of the postponement of a hearing should be retained.

Questions on the above are included in the consultation questions below.

## **Sentencing powers**

The powers available to the APW are limited and some stakeholders felt there should be an option to impose more varied sanctions as was the case with the former Adjudication Panel for England.

Where a case tribunal decides that a member has failed to comply with the code of conduct the sanctions it may impose are set out in section 79 of the 2000 Act. The tribunal may suspend a member for a period of up to 12 months or disqualify them for a period of up to 5 years.

We are interested in your views as to whether there should be a wider range of sanctions available to the APW and if so, what should these be? A question on this is included in the consultation questions below.

## **Interim Case Tribunals**

The PSOW has the power to make interim referrals to the APW if it is in the public interest and where there is prima facie evidence that the person has failed to comply with the code of conduct, the nature of which is likely to lead to disqualification.

The threshold for meeting the legislative requirements for an interim referral is

considered by stakeholders to be too high, but any change to these powers would require primary legislation by the Welsh Government.

The proposal is that the whole process should be simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal. This would be a relatively minor amendment to the current public interest test but would make the approach to be adopted and the definition of public interest much clearer. It would require new legislation by the Welsh Government.

To date there have been no interim tribunals. Stakeholders have suggested that this is largely because the process is the same as for a full case tribunal. The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 are therefore perceived to be a barrier to their intended purpose.

Sections 76, 77 and 78 of the 2000 Act set out the membership of interim tribunals, the ability of the person who is the subject of the adjudication to have appropriate representation and the sanction which an interim tribunal can issue (a maximum of a one-off, 6 month suspension or partial suspension).

The process as currently set out therefore seems not to be fit for the purpose of balancing, and not prejudicing, an elected member's access to justice at a case tribunal with the public interest.

It has therefore been suggested the process is simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal Service ("MPTS"). The interim case tribunal would proceed with a legal member sitting alone, and considering the application on the papers only, but with the ability to invite oral submission from the parties if the member considered that to be in the interests of justice.

As now, the process would also enable the PSOW to submit a reference to the



President of the APW with a report setting out the background and why an interim suspension was sought.

At the most, only 6 months suspension (partial or full) would be possible and could be renewed up to 3 times in total (18 months in total). The accused member would be given an opportunity to submit why the interim suspension should not be made, but there would be no evidence called and the PSOW's report would be taken at face value, in the same way as the GMC's at the MPTS.

A possible approach to the public interest test is as follows. It would be appropriate to suspend or partially suspend a member where it appears to the interim case tribunal that:

- a case tribunal at a final hearing would be likely to make a finding that there has been a failure to comply with the code of conduct of the relevant authority concerned
- and the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b) of the 2000 Act
- and that it is in the public interest to suspend or partially suspend the accused member immediately for the protection of members of the public, to maintain public confidence in local government, to uphold proper standards of conduct and behaviour, or to enable the completion of the PSOW's investigation

To fully achieve this change would require amendment to the 2000 Act and The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001

We are therefore seeking your views on this proposal and a possible intermediate step of amending the regulations only to simplify the process for interim case tribunals until such time, if the proposal is supported, a change can be made to the primary legislation. Amendment to the regulations could include

a new schedule specifically for a shorter, more streamlined process for interim tribunals. A question on this is included in the consultation questions below.

## **Recommendation 11: the role of Standards Committees**

Additional powers to require necessary training of members and the power to require a member to make an apology to the complainant.

Establish an all-Wales Forum for Independent Chairs of Standards Committees and the re-establishment of the annual Conference for Independent Chairs and Independent members of Standards Committees.

### **Consideration of recommendation 11**

The recommendations relating to the powers of standards committees to require the necessary training of members and to require an apology to the complainant are related to the role the Review proposed for standards committees in addressing both complaints dealt with through the local resolution process and any referred back for local resolution after having been initially referred to the PSOW. We do not believe standards committees need further legal powers to exercise these functions. The functions conferred upon them in the 2000 Act already include promoting and maintaining high standards of conduct and assisting members and co-opted members to observe the code of conduct.

We therefore propose these are matters that could be incorporated into local codes and protocols without the need for further legislation. We have incorporated guidelines on these issues in the statutory guidance to standards committees in relation to the exercise of the new functions conferred upon them by the 2021 Act.

The WLGA has agreed to convene an all-Wales forum for independent chairs of

standards committees and the all-Wales standards conference has been re-established. These actions were not for the Welsh Government, but we support them and very much welcome the establishment of the network and the reconvening of the conference.

## **Recommendation 12**

Accessibility of the ethical standards Framework. Make the framework process more accessible for the public.

### **Consideration of recommendation 12**

We agree with the review that public confidence in the Framework is essential to our local democracy. One of the steps in ensuring confidence is that the process is accessible and consistently applied across Wales. We will therefore work with the PSOW, the WLGA, One Voice Wales and monitoring officers to raise public awareness of the Framework and what the public can expect if they engage with it.

We would welcome any views on how awareness raising might be taken forward so as to be inclusive of everyone across Wales. A question on this is included in the consultation questions below.

## **Other related matters raised in discussions with stakeholders post publication of the Penn Review Report**

In addition to the recommendations raised in the review report stakeholders have raised a number of further issues with us and we are now also seeking

views on the following.

## **Advertising for independent members of standards committees**

The regulations require advertisements for vacancies for independent members of standards committees to be placed in local newspapers. Some stakeholders have told us that this does not generate a field of candidates and is costly and time consuming. They have suggested that other methods of advertising and reaching out through council networks generates a larger field and reaches candidates from more diverse backgrounds. (See regulation 13 the Standards Committees (Wales) Regulations 2001).

We are therefore seeking views on whether the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed. A question on this is included in the consultation questions below.

## **Former council employees sitting as independent members on standards committees**

After a 12 month period of grace, former council employees can sit as independent members on standards committees of councils where that council was not 1 of their previous employers but not on the standards committee of the council which employed them, even if the council was not their most recent employer.

This means all former employees including those who may have worked part time for the council, perhaps when they were students or early on in their careers cannot sit as independent members on the same council's standards committee.

Stakeholders have suggested this is disproportionate and excludes a large number of potentially high-quality candidates from putting themselves forward as independent members or chairs. (See regulation 7 of the Standards Committees (Wales) Regulations 2001).

We are therefore seeking views on whether the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed.

If so, what would be a suitable length for a period of grace between employment and appointment to a standards committee and should this be the same for all council employees, or longer for those who previously held statutory or politically restricted posts, as defined in the Local Government and Housing Act 1989, for example the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Service?

A question on this is included in the consultation questions below.

## **Former councillors sitting as independent members on Standards Committees**

Also, after a 12 month grace period, former councillors may sit as independent members on standards committees of councils to which they were not elected. However, there is a lifelong ban on them serving as independent members on the standards committee of the council to which they were elected. (See regulation 6 of the Standards Committees (Wales) Regulations 2001).

There is no longer a period of grace for councillors being employed by the council to which they were formally elected and so we are also seeking views on whether the lifelong ban on serving as an independent member on the standards committee of the council to which a councillor was elected should be removed.

If you think it should, what do you think would be a suitable period of grace?

A question on this is included in the consultation questions below.

## **Standards committees' summoning witnesses and sanctions**

The standards committee's role is to consider a report and recommendations from a monitoring officer or a report from the PSOW and, having heard representations from or on behalf of the person being investigated, determine whether there has been a breach of the authority's code of conduct or not and, if so, to decide the sanction. The standards committee may also request the monitoring officer or PSOW attend before it to, amongst other things explain their report. This is provided for in Regulation 8(3A) of the Local Government Investigations Regulations.

However, standards committees do not have the power under either the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 or the Standards Committees (Wales) Regulations 2001 to summon witnesses. There is a view that if the standards committee were to have the power to summon witnesses, it could be seen to be encroaching on the role of the investigators i.e., the monitoring officer and the PSOW and blurring its role of decision maker.

Some stakeholders have also suggested that the current sanctions available to standards committees in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 are too inflexible and/or not a sufficiently strong disincentive. The current sanctions enable a standards committee to censure, suspend or partially suspend a member for a period of up to 6 months.

We are therefore seeking views on these issues, and a question on this is

included in the consultation questions below.

## Consultation questions

### Question 1

Do you agree the relevant regulations relating to the Ethical Standards Framework should be amended to align with the definitions relating to protected characteristics in the Equality Act 2010, and that we should amend the definition of equality and respect in section 7 of The Conduct of Members (Principles) (Wales) Order 2001?

### Question 2

Should the Adjudication Panel Wales (APW) be able to issue Restricted Reporting Orders?

### Question 3

Should there be express legal provision to enable the APW to protect the anonymity of witnesses?

### Question 4

Do you support the proposed changes to the permission to appeal procedure outlined in this recommendation. If not, what alternatives would you suggest?

## Question 5

Should there be an express power for the APW to summon witnesses to appeal tribunals?

## Question 6

Should there be any changes in the procedure for referring appeals decisions back to standards committees?

## Question 7

Do you agree there should be an express provision to enable part or all of tribunal hearings to be held in private?

## Question 8

Do you agree that the requirement to provide not less than seven days' notice of the postponement of a hearing should be retained?

## Question 9

Should there be a wider range of sanctions available to the APW, and if so, what should they be?



## Question 10a

Do you support the proposed amendments to the process for interim case tribunals outlined in this recommendation? If not, could you please explain.

## Question 10b

If you do support the changes to the process for interim case tribunals, do you agree that an intermediate arrangement should be put in place i.e. by shortening and streamlining the process for interim case tribunals in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001? If yes, do you have any suggestions as to how this process could be streamlined within the regulations?

## Question 11

Do you have any further views on the recommendations made in relation to the operation of the APW?

## Question 12

Do you have any suggestions as to how work might be taken forward to raise awareness of the Ethical Standards Framework, in particular for people with protected characteristics as described in the Equality Act 2010?

## Question 13

Advertising for independent members of standards committees: Do you agree

the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed?

## Question 14a

Former council employees sitting as independent members on standards committees: Do you agree that the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed?

## Question 14b

If yes, what do you think would be a suitable period of grace between employment and appointment to a standards committee, and should this be the same for all council employees, or longer for those who previously holding statutory or politically restricted posts?

## Question 15

Former councillors sitting as independent members on standards committees: Do you agree that the lifelong ban on serving as an independent member on the standards committee of the council to which a councillor was elected should be removed? If yes, what do you think would be a suitable period of grace?

## Question 16

Standards committees' summoning witnesses and sanctions: Should standards committees have the power to summon witnesses?

## Question 17

Do you agree that the sanctions a standards committee can impose should be changed or added to? If yes, what sanctions would you suggest?

## Question 18

We would like to know your views on the effects that the above changes to the Framework and Model Code of Conduct 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?

## Question 19

How could positive effects be increased, or negative effects be mitigated?

## Question 20

Please also explain how you believe the proposed amendments 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 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 21

Do you have any other comments you wish to make on the matters raised in this consultation, including for those Report Recommendations where no specific question has been posed?

## How to respond

Submit your comments by **23 June 2023**, in any of the following ways:

- complete our [online form](#)
- download, complete our [response form](#) and email [PennConsultationResponses@gov.wales](mailto:PennConsultationResponses@gov.wales)
- download, complete our [response form](#) and post to:

Local Government Policy 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](#).

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)

## 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)

## 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: WG47012

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