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TUESDAY, 6 JUNE 2023

TO: ALL MEMBERS OF THE STANDARDS COMMITTEE

I HEREBY SUMMON YOU TO ATTEND A MEETING OF THE STANDARDS COMMITTEE WHICH WILL BE HELD IN THE CHAMBER, COUNTY HALL, CARMARTHEN AND REMOTELY AT 10.00 AM ON MONDAY, 12TH JUNE, 2023 FOR THE TRANSACTION OF THE BUSINESS OUTLINED ON THE ATTACHED AGENDA

Wendy Walters

CHIEF EXECUTIVE

Democratic Officer:	Martin S. Davies
Telephone (direct line):	01267 224059
E-Mail:	MSDavies@carmarthenshire.gov.uk
This is a multi-location meeting. Committee members can attend in person at the venue detailed above or remotely via the Zoom link which is provided separately.	
The meeting can be viewed on the Authority's website via the following link:- https://carmarthenshire.public-i.tv/core/portal/home	

Wendy Walters Prif Weithredwr, *Chief Executive*,
Neuadd y Sir, Caerfyrddin. SA31 1JP
County Hall, Carmarthen. SA31 1JP

STANDARDS COMMITTEE

9 MEMBERS

MEMBERSHIP: 9 MEMBERS

Independent Members (5)

1. Mrs Mary Dodd
2. Ms Caryl Davies
3. Mrs Daphne Evans
4. Mrs Julie James
5. Mr Frank Phillips

Community Committee Member (1)

1. Town Councillor Phillip Rogers

Elected Members of the County Council (3)

1. Councillor Betsan Jones
2. Councillor Rob James
3. Councillor Gareth Thomas

A G E N D A

- 1. APOLOGIES FOR ABSENCE.**
- 2. DECLARATIONS OF PERSONAL INTEREST.**
- 3. TO SIGN AS A CORRECT RECORD THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON THE:**
 - 3 .1 14TH FEBRUARY 2023;** 5 - 12
 - 3 .2 3RD APRIL 2023.** 13 - 18
- 4. ACTIONS UPDATE.** 19 - 24
- 5. POLITICAL GROUP LEADERS DUTIES UNDER THE LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021.** 25 - 36
- 6. REVIEW OF WHISTLEBLOWING POLICY.** 37 - 58
- 7. ANNUAL REPORT TO FULL COUNCIL.** 59 - 72
- 8. WELSH GOVERNMENT CONSULTATION ON THE RECOMMENDATIONS OF THE INDEPENDENT REVIEW OF THE ETHICAL STANDARDS FRAMEWORK (PENN REPORT).** 73 - 128
- 9. REVIEW OF DISCIPLINARY HEARING PROCEDURES.** 129 - 138
- 10. FORWARD WORK PLAN.** 139 - 144
- 11. ANY OTHER ITEMS OF BUSINESS THAT BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR DECIDES SHOULD BE CONSIDERED AS A MATTER OF URGENCY PURSUANT TO SECTION 100B(4)(B) OF THE LOCAL GOVERNMENT ACT 1972.**

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**TUESDAY 14 FEBRUARY 2023, WEDNESDAY 15 FEBRUARY 2023 &
WEDNESDAY 12 APRIL 2023**

PRESENT: Mrs M. Dodd [Chair] (Ph)

Independent Members:

D. Evans (Ph), J. James (Ph) and F. Phillips (Ph 14.02.23 and 15.02.23. R 12.04.23)

Community Member:

Councillor P. Rogers (R 14.02.23 and 15.02.23. Ph 12.04.23)

Councillors:

B.W. Jones (Ph), H. Jones (Substitute) (Ph) and A. Leyshon (Substitute) (Ph)

The following Officers were in attendance:

L. Rees-Jones - Head of Administration and Law / Monitoring Officer (Ph)
R. Edgecombe - Legal Services Manager / Deputy Monitoring Officer (Ph)
M. Davies - Democratic Services Officer (R) (14.02.23)
J. Owen - Democratic Services Officer (R) (15.02.23)
J. Owens Democratic Services Officer [Note Taker] (Ph)
M. Runeckles - Member Support Officer (Ph)
S. Hendy - Member Support Officer (R)
S. Rees - Simultaneous Translator (Ph) (14.02.23 & 15.02.23)
A. Eynon - Simultaneous Translator (Ph) (12.04.23)

Also in attendance:

Ms K. Shaw, Office of the Public Services Ombudsman for Wales (Ph)
Ms S. Jones, Office of the Public Services Ombudsman for Wales (Ph)
Councillor T. Davies (Ph)
Mr D. Daycock, Legal Representative for Councillor T. Davies (Ph)

[Ph = physical attendance at County Hall R = remote attendance via Zoom]

In addition to those listed within the minutes, the Committee adjourned proceedings for comfort breaks, as follows:

- **14.02.23:** 10:45hrs – 11:00hrs, 12:28hrs – 13:18hrs, 15:14hrs – 15:25hrs.
- **15.02.23:** 12:27hrs – 13:18hrs, 16:05hrs – 16:10hrs.
- **12.04.23:** 11:10hrs – 11:28hrs, 13:25hrs – 14:30hrs.

Chamber - County Hall, Carmarthen. SA31 1JP and remotely - 10.00 am

1. APOLOGIES FOR ABSENCE.

Apologies for absence were received from C. Evans, Cllr R. James and Cllr G. Thomas.

2. DECLARATIONS OF PERSONAL INTEREST.

There were no declarations of personal interest.

3. FINAL HEARING IN RELATION TO A REPORT ISSUED BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES IN RESPECT OF COUNCILLOR TERRY DAVIES.

The Chair welcomed Councillor T. Davies and his representative Mr D. Daycock to the meeting, together with Ms K. Shaw and Ms S. Jones from the Office of the Public Services Ombudsman for Wales (PSOW).

The Committee, at its meeting of the Standards Committee held on 4th August 2022, gave initial consideration to a report issued by the PSOW detailing the results of their investigation into allegations that Councillor Davies had breached the Members' Code of Conduct for Llanelli Town Council, by way of inappropriate behaviour during an interaction with other members on 09 February 2021. The PSOW's investigation concluded that there was evidence to suggest that Councillor Davies failed to comply with the following provisions of the Code of Conduct:

- 4(a) – You 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.
- 4(b) – You must show respect and consideration for others.
- 4(c) – You must not use bullying behaviour or harass another person.
- 6(1)(a) – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

The Deputy Monitoring Officer referred the Committee's attention to the Standards Committee Hearing Procedure set out at Appendix 2 of the meeting documentation which required the Committee to determine the findings of fact and whether Councillor Davies' conduct breached the Code of Conduct adopted by Llanelli Town Council, as suggested in the PSOW's report.

The Deputy Monitoring Officer advised the Committee that it should make its determinations based upon the evidence put before the Committee in the form of written and oral witness accounts, together with the legal submissions presented to the Committee and set out within the meeting documentation. As confirmed at the Standards Committee meeting (Pre-Hearing Review) held on 17 November 2022, the undisputed facts were listed in paragraphs 46-55 of the PSOW report and the disputed facts were set out at paragraphs 56-61.

Ms K Shaw, Ombudsman's Representative called four witnesses to provide oral evidence to the Committee in support of the PSOW investigation. Each witness verified to the Ombudsman's Representative that their respective written

statements, as set out in the PSOW's report, provided a true and accurate account of the events that occurred on 09 February 2021. All parties were then afforded the opportunity to further question the witnesses about their evidence.

With the Chair's permission, Mr Daycock was also given an opportunity to question Ms Jones, the Ombudsman's investigating officer, in relation to the conduct of her investigation in the light of Councillor Davies' ill-health and personal circumstances at the time of his interview with her.

The Chair, in accordance with the agreed procedure, thereupon invited Mr Daycock to present any evidence in support of Councillor Davies. In this regard, Councillor Davies provided oral evidence to the Committee in support of his written statement set out Appendix 3 of the meeting documentation. Cllr Davies thereupon presented additional documentation to the Committee in support of his case, and these were subsequently appended to the meeting documentation for the Committee's consideration.

The Meeting was adjourned at 16:57hrs on 14 February 2023 and reconvened at 10:00hrs 15 February 2023.

All parties were afforded the opportunity of asking questions of Cllr Davies on the evidence he had given.

The Ombudsman's Representative and Mr Daycock proceeded, in turn, to address the Committee on the evidence presented. Members of the Committee were afforded the opportunity of asking questions on the representations made.

The Committee, having considered the written and verbal representations:

UNANIMOUSLY RESOLVED to retire into private session in order to receive legal advice pursuant to Paragraph 16 of Schedule 12A of the Local Government Act 1972.

Following the adjournment, the Committee reconvened to advise of its decision. On the balance of probabilities, it was RESOLVED THAT:

- 3.1 Councillor Davies was not subject to a barrage of abuse from Councillor McPherson and Councillor Curry.**
- 3.2 Councillor Davies did not shout during the interaction.**
- 3.3 Councillor Davies did use discriminatory language towards Councillor McPherson and Councillor Curry on 9 February 2021.**
- 3.4 Councillor Davies did tell Councillor McPherson to either "F off" or to "Fuck off".**
- 3.5 Members of the public could have heard the interaction.**
- 3.6 The Facebook post said to be posted on 9 February 2021 was directed towards Councillor McPherson and Councillor Curry, following the Interaction.**

Reasons:

- The Committee received only one example of language which could be considered to be categorised as ‘abuse’, whereas a ‘barrage of abuse’ would have contained further examples. On balance the committee felt that Councillor Davies was unable to substantiate the allegation.
- The Committee felt that whilst voices were loud and raised on all sides this did not demonstrate that Councillor Davies had shouted.
- On balance, the Committee preferred the evidence of Councillor McPherson and Councillor Curry over the evidence provided by Councillor Davies regarding the use by him of discriminatory language.
- On balance, the Committee preferred the evidence of Councillor A. McPherson and Mr J. Prosser over the evidence provided by Councillor Davies regarding the allegation that he had sworn at Cllr McPherson.
- The Committee was satisfied that there were people in the park at the time of the interaction and on the balance of probabilities, that the interaction took place close enough to the park that people could have heard what was being said.
- The Committee was satisfied that the wording of the facebook post referred to the ‘strong chat’ that he had on that day, and therefore it was the view of the Committee, on the balance of probabilities, it referred to the incident with the two Councillors.

The Meeting was adjourned at 17:01hrs on 15 February 2023 and reconvened at 10:00hrs on 12 April 2023.

The Deputy Monitoring Officer referred Committee’s attention to email correspondence submitted by the witness Mr Arfon Davies on 11th April 2023 in respect of paragraph 14, page 189 of the meeting documentation put before the Committee at Stage 1 of the proceedings. In this regard, the Committee was informed that Mr Arfon Davies had clarified that the statements made within the paragraph were factually incorrect.

The Chair, in accordance with the agreed procedure, advised that the Committee would need to determine whether Councillor Davies’ conduct, as established on the 14th and 15th February amounted to a breach the Code adopted by Llanelli Town Council.

Ms Shaw of the Ombudsman’s Office referred to the Code of Conduct for Llanelli Town Council and summarised the Ombudsman’s representations set out Appendix 5 of the meeting documentation and explained their relevance to the Committee’s deliberations. In this regard the Committee was invited to give due consideration to the following case law within the context of the right of freedom

of expression for politicians under Article 10 of the European Convention on Human Rights (ECHR):

- Sanders v Kingston [2005] EWHC 1145 (admin);
- Heesom v The Public Services Ombudsman for Wales [2014] EWHC1504 (Admin); and
- Calver v The Adjudication Panel for Wales [2012] EWHC 1172 (Admin).

Reference was also made to the Adjudication Panel for Wales' Decision on the case of Councillor Roy Owen (APW-006-2021-022-CT).

The Committee was afforded the opportunity to ask questions and seek clarification on the points made by Ms Shaw.

Representations were then received from Mr Daycock on behalf of Cllr Davies. These re-iterated the points detailed within Appendix 6a and 6b of the meeting documentation. The relevance of the Calver v The Adjudication Panel for Wales [2012] EWHC 1172 (Admin) judgement was highlighted to the Committee for consideration during its deliberations within the context of the need for politicians to have 'thicker skin' and the legitimisation of the conduct of politicians during robust discussions on political matters.

The Committee was afforded the opportunity of asking questions and seeking clarification on the representation made on behalf of Councillor Davies.

The Committee, having received the representations:

UNANIMOUSLY RESOLVED to retire into private session in order to receive legal advice pursuant to Paragraph 16 of Schedule 12A of the Local Government Act 1972.

The Committee reconvened to advise of its decisions and confirmed that

In deciding whether the facts in the case amounted to a breach of the Code, the Committee had followed the 3 stage approach adopted in the case of Sanders v Kingston [2005] EWHC 1145 (admin) and the principles established in the cases of Calver v The Adjudication Panel for Wales [2012] EWHC 1172 (Admin) and Heesom v The Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin).

During its deliberations, the Committee had separately considered whether the use of the words "F off" or "Fuck off" and the discriminatory language attributed to Cllr Davies amounted to a breach of paragraphs 4(a), 4(b) and 4(c) of the code. The Committee had also considered whether Cllr Davies' conduct in both regards breached Para 6(1)(c) by bringing his office and his council into disrepute.

Having regard to all the evidence the Committee.

3.7 RESOLVED that the use of the words 'F Off' or 'Fuck Off' in the context in which they were used amounted to a prima facie breach of paragraph 4(b) of the Code of Conduct– the duty to show

respect and consideration to others, but did not amount to a breach of paragraphs 4(a) or 4(c) of the Code of Conduct.

Reasons

- The Committee had considered whether those words amounted to political expression which attracted an enhanced level of protection under Article 10 of the European Convention of Human Rights (ECHR). Having regard to all the circumstances of the case the committee were of the view that the use of these words in the context that they were used amounted to personal abuse and not political expression, therefore Cllr Davies's Article 10 rights were not engaged.
- The Committee had considered whether the use of those words was covered by the need highlighted in the *Calver* case that politicians exhibit a thicker skin. In particular, the Committee noted paragraph 58 of the *Calver* judgement and concluded that the use of these words amounted to personal abuse rather than acceptable criticism in the political sphere. Accordingly, the Committee considered that the words used were not something a politician should be expected to be tolerant of.

3.8 RESOLVED that the discriminatory language used by Cllr Davies amounted to a prima facie breach of paragraphs 4(a) and 4(b) of the Code of Conduct but did not amount to a breach of paragraph 4(c) of the Code of Conduct.

Reasons

- It was felt that the use of discriminatory language was not an attempt by Cllr Davies to undermine Cllrs McPherson or Curry or intended to be bullying towards them.
- The Committee considered that the words used attracted the enhanced protections afforded to political expression under Article 10 of the ECHR, as they were used in the context of a robust discussion between three politicians about the issues affecting their community. However, the Committee concluded that it was necessary to interfere with Cllr Davies' Article 10 rights in order to protect the rights and interests of others, not only Cllrs Curry and McPherson but also other residents of Tyisha.

3.9 RESOLVED that Cllr Davies' conduct breached Article 6(1)(c) of the Code of Conduct.

Reasons

- The Committee was satisfied that the language used by Cllr Davies had come to the attention of members of the public.

- The Committee was further satisfied that the use of such language by Cllr Davies would have brought both councillor Davies' Office and his Council into disrepute.

The Chair, in accordance with the agreed procedure, advised that the Committee would need to determine whether or not a sanction should be imposed and if so, what form any sanction should take.

The Ombudsman's Representative and Mr Daycock proceeded, in turn, to address the Committee on their respective submissions of relevant factors in considering any sanctions, as set out at Appendices 5 and 6c of the meeting documentation. Members of the Committee were afforded the opportunity of asking questions on the representations made.

At this point in the proceedings, in order for the Committee to deliberate upon what sanction, if any, should be imposed, it was

UNANIMOUSLY RESOLVED to retire into private session to enable the Committee to consider exempt information as defined in Paragraph 16 of Schedule 12A to the Local Government Act 1972.

In considering the appropriateness of any sanctions to be imposed upon Councillor Davies for his breaches of the Code, the Committee had due regard to the representations made on behalf of the Ombudsman and Councillor Davies.

The Committee followed the five stage process set out in the sanctions guidance issued by the Adjudication Panel for Wales.

Seriousness

The Committee considered the seriousness of the breaches to be towards the lower end of the threshold.

Sanctions Considered

The Committee censure or a short period of suspension to be the most appropriate sanctions.

Mitigating Factors

The Committee considered relevant mitigating factors which included:

- This was an isolated incident.
- Cllr Davies had a good prior record as a Councillor and had not previously breached the Code of Conduct.
- The breaches were not pre-mediated or intentional.
The offending words were used on the spur of the moment during

a heated discussion.

Aggravating Factors

The Committee considered relevant aggravating factors, which included:

- Cllr Davies had committed a total of four breaches of the code of conduct.
- There appeared to be a lack of remorse from Cllr Davies.
- Cllr Davies did not appear to recognise the seriousness of his actions.

Reconsideration of Sanction

The Committee re-considered the appropriate sanction in light of these factors.

The Committee thereupon reconvened to advise of its decision.

RESOLVED that:

3.10 Cllr Davies be suspended from his office as a member of Llanelli Town Council for a period of 1 month.

3.11 Further training on the members Code of Conduct be recommended to Cllr Davies.

4. ANY OTHER ITEMS OF BUSINESS THAT BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR DECIDES SHOULD BE CONSIDERED AS A MATTER OF URGENCY PURSUANT TO SECTION 100B(4)(B) OF THE LOCAL GOVERNMENT ACT 1972.

There were no items of urgent business to be considered.

CHAIR

DATE

MONDAY, 3 APRIL 2023

PRESENT: M. Dodd (Chair) (Ph);

Independent Members:

C. Davies (R), D. Evans (Ph), J. James (Ph), F. Phillips (R)

Community Member:

Councillor P. Rogers (R)

Councillors:

G.B. Thomas (R)

Also Present (In Person):

L.R. Jones, Head of Administration and Law;
E. Evans, Principal Democratic Services Officer;
S. Rees, Simultaneous Translator;
M.S. Davies, Democratic Services Officer.

[Ph = physical attendance at County Hall. R = remote attendance via Zoom]

Chamber, County Hall, Carmarthen and remotely: 11.30 am - 12.10 pm

1. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Betsan Jones.

2. DECLARATIONS OF PERSONAL INTEREST

There were no declarations of personal interest.

3. TO SIGN AS A CORRECT RECORD THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON THE:

3.1. 27TH FEBRUARY 2023

UNANIMOUSLY RESOLVED that the minutes of the meeting of the Standards Committee held on 27th February, 2023 be signed as a correct record subject to it being noted that the Chair was not a Councillor.

3.2. 7TH MARCH 2023

UNANIMOUSLY RESOLVED that the minutes of the meeting of the Standards Committee held on 7th March, 2023 be signed as a correct record.

4. DISPENSATION APPLICATION BY COUNCILLOR BETSAN JONES

The Committee considered an application submitted by County Councillor Betsan Jones for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations to speak and vote and make written representations in relation to council business at meetings of Carmarthenshire County Council regarding the Council's Modernising Education

Programme (MEP) and the review and remodelling of the footprint of primary schools across the County.

It was reported that Councillor Jones would have a personal and prejudicial interest in such business as her son was the headteacher of Ysgol Gymraeg Teilo Sant in Llandeilo and was therefore affected by both the MEP and the primary schools review.

It was reported that a dispensation was sought by Councillor Jones by virtue of Regulation 2(2)(d) – the nature of the member’s interest is such that the member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business and Regulation 2(2)(f) – the participation of the member in the business to which the interest relates is justified by the members particular role or expertise.

The committee was advised that if it was minded to grant Councillor Jones’s request it would also need to determine the duration of that dispensation.

Following a discussion it was

UNANIMOUSLY RESOLVED that dispensation be granted under Regulations 2(2)(d) and (f) of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 to Councillor Betsan Jones to speak and make written representations but NOT vote on council business at meetings of Carmarthenshire County Council regarding the Council’s Modernising Education Programme (MEP) and the review and remodelling of the footprint of primary schools across the County and the dispensation be valid until the end of the current electoral term.

5. ORDER OF BUSINESS - BUTE ENERGY TOWY USK GRID CONNECTION SCHEME DISPENSATIONS

In view of the fact that Agenda items 5, 6, 7 and 8 related to the same matter, the four applications were considered together but are minuted separately [Minutes 6,7,8 and 9 below].

Members commented on the number of dispensation applications received, and possibly yet to be received, in connection with the aforementioned scheme, and the possible implications in terms of the quorum for community council meetings. The Head of Administration and Law responded that she would be writing to the clerks of all community councils along the proposed connection route to ascertain whether further dispensation applications were likely. In this regard a report on the responses received would be submitted to the Committee at the earliest opportunity and it was not therefor necessary, at this point in time, for the Committee to consider granting her the delegated authority sought in the reports to grant any further related dispensation requests which may be received.

6. DISPENSATION APPLICATION BY COUNCILLOR CHERYL JONES

The Committee considered an application submitted by Community Councillor Cheryl Jones for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations to speak and vote and make written representations in relation to council business at meetings of Llanarthne Community Council regarding electricity transmission from Nant Mithil Energy Park and other energy park developments to a grid

connection in Carmarthenshire. This would form part of the Bute Energy Towy Usk Grid connection scheme.

It was reported that Councillor Jones would have a personal and prejudicial interest in such business as she and close personal associates of hers would be affected by the proposals put forward by Bute Energy.

It was reported that a dispensation was sought by Councillor Jones by virtue of Regulation 2(2)(d) – the nature of the member’s interest was such that the member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business and Regulation 2(2)(f) – the participation of the member in the business to which the interest relates is justified by the members particular role or expertise.

The committee was advised that if it was minded to grant Councillor Jones’s request it would also need to determine the duration of that dispensation.

Following a discussion it was

UNANIMOUSLY RESOLVED that dispensation be granted under Regulations 2(2)(d) and (f) of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 to Councillor Cheryl Jones to speak and make written representations but NOT vote on council business at meetings of Llanarthne Community Council regarding electricity transmission from Nant Mithil Energy Park and other energy park developments to a grid connection in Carmarthenshire and the dispensation be valid until the end of the current electoral term.

7. DISPENSATION APPLICATION BY COUNCILLOR DAVID JONES

The Committee considered an application submitted by Community Councillor David Jones for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations to speak and vote and make written representations in relation to council business at meetings of Llanarthne Community Council regarding electricity transmission from Nant Mithil Energy Park and other energy park developments to a grid connection in Carmarthenshire. This would form part of the Bute Energy Towy Usk Grid connection scheme.

It was reported that Councillor Jones would have a personal and prejudicial interest in such business as he and close personal associates of his would be affected by the proposals put forward by Bute Energy.

It was reported that a dispensation was sought by Councillor Jones by virtue of Regulation 2(2)(d) – the nature of the member’s interest was such that the member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business and Regulation 2(2)(f) – the participation of the member in the business to which the interest relates is justified by the members particular role or expertise.

The committee was advised that if it was minded to grant Councillor Jones’s request it would also need to determine the duration of that dispensation.

Following a discussion it was

UNANIMOUSLY RESOLVED that dispensation be granted under Regulations 2(2)(d) and (f) of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 to Councillor David Jones to speak and make written representations but NOT vote on council business at meetings of Llanarthne Community Council regarding electricity transmission from Nant Mithil Energy Park and other energy park developments to a grid connection in Carmarthenshire and the dispensation be valid until the end of the current electoral term.

8. DISPENSATION APPLICATION BY COUNCILLOR MYFANWY JONES

The Committee considered an application submitted by Community Councillor Myfanwy Jones for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations to speak and vote and make written representations in relation to council business at meetings of Llanarthne Community Council regarding electricity transmission from Nant Mithil Energy Park and other energy park developments to a grid connection in Carmarthenshire. This would form part of the Bute Energy Towy Usk Grid connection scheme.

It was reported that Councillor Jones would have a personal and prejudicial interest in such business as she and close personal associates of hers would be affected by the proposals put forward by Bute Energy.

It was reported that a dispensation was sought by Councillor Jones by virtue of Regulation 2(2)(d) – the nature of the member’s interest was such that the member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business and Regulation 2(2)(f) – the participation of the member in the business to which the interest relates is justified by the members particular role or expertise.

The committee was advised that if it was minded to grant Councillor Jones’s request it would also need to determine the duration of that dispensation.

Following a discussion it was

UNANIMOUSLY RESOLVED that dispensation be granted under Regulations 2(2)(d) and (f) of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 to Councillor Myfanwy Jones to speak and make written representations but NOT vote on council business at meetings of Llanarthne Community Council regarding electricity transmission from Nant Mithil Energy Park and other energy park developments to a grid connection in Carmarthenshire and the dispensation be valid until the end of the current electoral term.

9. DISPENSATION APPLICATION BY COUNCILLOR CHRISTOPH FISCHER

The Committee considered an application submitted by Community Councillor Christoph Fischer for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations to speak and vote and make written representations in relation to council business at meetings of Llandeilo Town Council regarding electricity transmission from Nant

Mithil Energy Park and other energy park developments to a grid connection in Carmarthenshire. This would form part of the Bute Energy Towy Usk Grid connection scheme.

It was reported that Councillor Fischer would have a personal and prejudicial interest in such business as his property would potentially be affected by the proposals put forward by Bute Energy.

It was reported that a dispensation was sought by Councillor Fischer by virtue of Regulation 2(2)(d) – the nature of the member’s interest was such that the member’s participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority’s business, Regulation 2(2)(e) – the interest was common to the member and a significant proportion of the general public.and Regulation 2(2)(f) – the participation of the member in the business to which the interest relates is justified by the members particular role or expertise.

The committee was advised that if it was minded to grant Councillor Fischer’s request it would also need to determine the duration of that dispensation.

Following a discussion it was

UNANIMOUSLY RESOLVED that dispensation be granted under Regulations 2(2)(d)(e) and (f) of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 to Councillor Christoph Fischer to speak and make written representations but NOT vote on council business at meetings of Llandeilo Town Council regarding electricity transmission from Nant Mithil Energy Park and other energy park developments to a grid connection in Carmarthenshire and the dispensation be valid until the end of the current electoral term.

10. ANY OTHER ITEMS OF BUSINESS THAT BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR DECIDES SHOULD BE CONSIDERED AS A MATTER OF URGENCY PURSUANT TO SECTION 100B(4)(B) OF THE LOCAL GOVERNMENT ACT 1972

There were no items of urgent business.

CHAIR

DATE

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STANDARDS COMMITTEE

12th JUNE 2023

ACTIONS UPDATE

Purpose: To appraise the Committee of actions taken in response to decisions made

To consider and comment on the following issues:

- To scrutinise the progress made in relation to actions, requests or referrals recorded during previous meetings of the Committee.

Reasons:

- To enable members to monitoring performance in relation to their agreed actions

CABINET MEMBER PORTFOLIO HOLDER: Not Applicable

<p>Directorate</p> <p>Name of Head of Service: Linda Rees Jones</p> <p>Report Author: Robert Edgecombe</p>	<p>Designations: Head of Administration and Law</p> <p>Legal Services Manager</p>	<p>Tel Nos. 01267 224012</p> <p>LRJones@carmarthenshire.gov.uk</p> <p>01267 224018</p> <p>rjedgeco@carmarthenshire.gov.uk</p>
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EXECUTIVE SUMMARY
STANDARDS COMMITTEE
12th JUNE 2023

Actions Update

During the committee meeting on the 12th December 2022 the committee requested that a log of agreed actions arising from meetings of the committee be developed and be presented at future meetings of the committee.

The attached action log sets out the various completed and ongoing actions that have arisen since that meeting.

That the actions are colour coded according to their status

Green = completed
Yellow = ongoing
Red = overdue

DETAILED REPORT ATTACHED ?

YES:

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Linda Rees-Jones

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: LRJones

Head of Administration and Law

1. Scrutiny Committee – not applicable
2. Local Member(s) - not applicable
3. Community / Town Council - not applicable
4. Relevant Partners - not applicable
5. Staff Side Representatives and other Organisations - not applicable

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED
NO

N/A

Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:

There are none.

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Reference	Meeting Date	ACTION	PROGRESS	Officer	Status
DPSC-201/1	12/12/22	Create an action log recording actions agreed at Standards committee meetings and present at each quarterly committee meeting	Log created and included on agenda for March 2022 meeting	R J Edgecombe	Ongoing
DPSC-201/2	12/12/22	Write to Group leaders setting out the committee's requirements regarding compliance with the Group Leaders duty in the Local Government and Elections Act	Letter sent to Group Leaders 03/02/2023	R J Edgecombe	Completed
DPSC-205/1	07/03/23	Carry out annual data gathering exercise with Town and Community Councils to include additional questions and to be completed via SnapSurvey. Deadline for presentation of results 11/12/2023		R J Edgecombe	ongoing
DPSC-205/2	07/03/23	Arrange 2 Code of Conduct Training sessions for Town and Community Councils in June/July 2023. One session to be during office hours and 1 session in early evening	Session dates identified	R J Edgecombe	ongoing
DPSC-0000	11/04/23	Include agenda item on developing a Forward Work Plan on the June Agenda		RJEdgecombe	ongoing

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STANDARDS COMMITTEE 12/06/2023

POLITICAL GROUP LEADERS DUTIES UNDER THE LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

Purpose:

To consider the reports received from the Group Leaders and form an opinion as to whether they have complied with their duties under the 2021 Act

Recommendations / key decisions required:

Whether the Group Leaders have complied with their duties under the Act

Reasons:

The 2021 Act places a duty on the Standards Committee to report to Full Council as to how well the Group Leaders have performed these duties

Cabinet Decision Required NO

Council Decision Required NO

CABINET MEMBER PORTFOLIO HOLDER:- Not applicable

Directorate: Chief Executives Name of Head of Service: Linda Rees-Jones Report Author: Robert Edgecombe	Designations: Head of Administration and Law Legal Services Manager	Tel: 01267 224018 Email addresses: rjedgeco@carmarthenshire.gov.uk
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**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
12/06/2023**

POLITICAL GROUP LEADERS DUTIES UNDER THE LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

The Local Government and Elections (Wales) Act 2021 placed a requirement upon Political Group Leaders in unitary authorities to

1. Take reasonable steps to promote and maintain high standards of conduct by the members of their group.
2. Co-operate with the council's standards committee in the exercise of the standards committee's functions.

The Act also places a duty on Standards Committees to report to Full Council on the Group Leader's performance of those duties.

The 3 Group Leaders were made aware of these duties by the Monitoring Officer following the May 2022 elections.

The Chair of the Standards Committee subsequently wrote to the Group Leaders in February 2023 reminding them of these duties and asking that they provide a report setting out how they had fulfilled them by the 31st March 2023. Group Leaders were also provided with a template which they could use for their report if they so wished.

- Councillor Darren Price (Leader of the Plaid Cymru Group) provided his report on 29.03.2023
- Councillor Rob James (Leader of the Labour Group) provided his report on 25.05.2023
- Councillor Jane Tremlett (Leader of the Independent Group) provided her report on 31.03.2023.

Copies of these reports are attached.

The Committee will need to assess the extent to which the Group Leaders have complied with their duties under the 2021 Act and make such recommendations as they think fit.

DETAILED REPORT ATTACHED?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: *Linda Rees-Jones*

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

2. Legal

The Standards Committee is required to report to Full Council regarding how well the Group Leaders have performed their duties under the 2021 Act. It is proposed that this take place at the July 2023 Full Council meeting.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: *Linda Rees-Jones*

Head of Administration and Law

1. Scrutiny Committee request for pre-determination	N/A
Scrutiny Committee	N/A
Date the report was considered:-	N/A
Scrutiny Committee Outcome/Recommendations:-	
Not Applicable	

2. Local Member(s) Not Applicable

3. Community / Town Council Not Applicable

4. Relevant Partners Not applicable

5. Staff Side Representatives and other Organisations Not Applicable

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED NO	Not applicable
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**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Department File	DPSC-210	County Hall Carmarthen

**REPORT OF GROUP LEADER IN RELATION TO DUTY
UNDER SECTION 69 LOCAL GOVERNMENT AND
ELECTIONS (WALES) ACT 2021**

Report by:	Darren Price				
Political Group:	Plaid Cymru				
No. of members:	38	No. trained on Code:		21 (55%)	
For the period:	09/05/22 – 31/03/23				
<u>Number, Source and Level of Complaints</u>					
	Informal	Local Resolution (Stage)			PSOW
		1	2	3	
Public	0	0			7 (5 of which were the same complaint against 5 members). None of the 7 complaints were upheld.
Officers	0	0			0
Councillors	0	0			1 (self-referred), currently at investigation stage
<u>Steps taken to Promote Compliance (To Be Completed by Group Leader)</u>					

As Leader of the Council, and the Plaid Cymru Group, ensuring that members maintain standards in public life, in line with the Nolan principles is important to me.

As Leader, I aim to lead by example and am determined to act in ways which not only adhere to the principles, but promote them.

Unfortunately, I was unable to attend the Code of Conduct Training which was provided by the authority during May 2022. However, I have served as an elected member for nearly 20 years within the City and County of Swansea and Carmarthenshire, and have attended Code of Conduct training previously.

21 members of the Plaid Cymru Group attended the Code of Conduct training which took place in May 2022, with 17 not attending. Of those members that did not attend, two were newly elected members.

A number of the others are more experienced members who have attended Code of Conduct training on previous occasions and have therefore been exposed to and trained in the principles which underpin the code.

I do however appreciate that the legislative framework and duties evolve, and this is why I have encouraged those members who were unable to attend the session in May 2022 to attend a 'mop-up' training session on the Code of Conduct which has been arranged on April 14th 2023. I will also be attending that session.

If they are unable to attend on that day, I will be urging them to access online resources that are available to them in terms of refreshing their appreciation of expected standards in public life.

My experience however is that members of my group do have a strong grasp of the standards expected of them and we strive to ensure that senior members of the group can advise and support newer members in these matters, often advising in terms of the need to declare interests on Council meetings etc.

As a group, we are also well supported by Council officers who are always prepared to offer advice, often pro-actively, on the Code.

As a Group Leader, I fully understand the need to ensure that members have received the recommended training for particular Committees, and I am content that this duty has been met.

Since being elected as Leader of the Council I have made a conscious effort to try and change the way that politics takes place within the Council. I have publicly called for a change in the political culture and believe that the experience of the past year, where cross-party discussions take place regularly, where cross-party motions are presented to full Council, and where debates are far more dignified than in previous years is proof of that change being put into action.

I appreciate that members of different political persuasions will not always agree, but I am certain that we can do so in a way which is respectful and maintains standards.

I firmly believe that the best way to ensure that standards in public life are not just maintained, but improved, is to lead by example, and this is what I will continue to seek to do.

I would be more than happy to attend a meeting of the Council's Standards Committee if requested to discuss Code of Conduct issues, and any concerns or recommendations which the Standards Committee feel are necessary in order to support high standards of conduct.

Signed: Darren Price

Dated: 24/3/2023

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**REPORT OF GROUP LEADER IN RELATION TO DUTY
UNDER SECTION 69 LOCAL GOVERNMENT AND
ELECTIONS (WALES) ACT 2021**

Report by:	Rob James		
Political Group:	Welsh Labour		
No. of members:	23	No. trained on Code:	23 (100%)
For the period:	2022 - 2023		

Number, Source and Level of Complaints

	Informal	Local Resolution (Stage)			PSOW
		1	2	3	
Public	0	N/A	N/A	N/A	4
Officers	0	N/A	N/A	N/A	0
Councillors	2	2	0	0	0

**Steps taken to Promote Compliance
(To Be Completed by Group Leader)**

Include matters such as:

- your attendance at Code of Conduct training
- 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;

- All new members of the group have been trained on the code of conduct.
- All existing members of the group have been trained on the code of conduct.
- All members of the group have been encouraged to take part in induction training and I have attempted to attend as many as possible, depending on diary commitments.

<ul style="list-style-type: none"> - 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;
<ul style="list-style-type: none"> - Developed internal monitoring systems of councillor's social media accounts and ensure that all posts on personal and professional pages meet the standards expected. - Encouraged group members to utilise the informal resolution procedures for peer-to-peer complaints. - Carmarthenshire Labour have ensured that all Councillors and prospective councillors sign internal "contracts" committing themselves to adhering to the Code. - As a member of the Council's Standards Committee, I engage with the process of ensuring that all members, both in the group and all those elected across Carmarthenshire act appropriately.
<ul style="list-style-type: none"> - 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.
<ul style="list-style-type: none"> - All group leaders have worked tirelessly this year to ensure that we approach council business in a collaborative manner. We have held meetings with officers and the administration to support policy development and engage with the budget setting process. - As a Standards Committee member, I also seek to improve standards across the authority.
<p>Any other matters you consider to be relevant and wish to raise</p>

Signed. R James

Dated. 12/05/2023

**REPORT OF GROUP LEADER IN RELATION TO DUTY
UNDER SECTION 69 LOCAL GOVERNMENT AND
ELECTIONS (WALES) ACT 2021**

Report by:	Jane Tremlett				
Political Group:	Independent				
No. of members:	Eleven	No. trained on Code:		X (Y%)	
		3			
For the period:	09 May 2022 – 31 March 2023				
<u>Number, Source and Level of Complaints</u>					
	Informal	Local Resolution (Stage)			PSOW
		1	2	3	
Public	n/a	n/a	n/a	n/a	n/a
Officers	n/a	n/a	n/a	n/a	n/a
Councillors	0	0	0	0	0
<u>Steps taken to Promote Compliance (To Be Completed by Group Leader)</u>					
Include matters such as:					
<ul style="list-style-type: none"> - your attendance at Code of Conduct training - 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; 					
<p>Attendance of three members at the Code of Conduct Training held on 17/05/22 following the County Council Elections was disappointing. All members of the Independent Group have been contacted and advised of the date and time (27 April 2023) of the next Code of Conduct Training Seminar.</p> <p>The email advising the next seminar has stressed the importance of attending this session to be briefed and have an understanding of the Code and be able to put it into practice in their duties as a councillor.</p>					

<p>The Nolan Principles (known as The Seven Principles of Public Life) has also been distributed to the Independent Group. As Independent Group Leader I have never had, or been advised of, any concerns regarding the conduct of any Independent member during this, or any previous Administration.</p>
<ul style="list-style-type: none"> - 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;
<p>In agreement with all the above.</p>
<ul style="list-style-type: none"> - 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.
<p>Again agree with both the above.</p>
<p>Any other matters you consider to be relevant and wish to raise</p>
<p>None</p>

Signed Jane Tremlett

Dated 31st March 2023

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
12/06/2023**

REVIEW OF THE WHISTLEBLOWING POLICY

The Public Interest Disclosure Act 1988 (PIDA) aims to protect individuals (particularly employees) who make certain disclosures of information in the public interest.

In line with best practice the Council has previously adopted a policy aimed at raising awareness of the PIDA protections amongst staff and establishing procedures to enable them to make protected disclosures under the Act.

This policy is reviewed annually and following consideration by the committee an exercise is undertaken to publicise the latest version of the policy to staff.

There have been no changes to relevant legislation or guidance since the policy was last reviewed. Therefore, the only changes that have been made are to update the names and contact details of individuals listed in paragraphs 34-38.

A copy of the draft amended policy is attached.

During the period 1st April 2022 to 31st March 2023 a total of 3 whistleblowing complaints were received all of which were investigated, and the investigations concluded.

One whistleblowing complaint received in 2021/2022 was carried over into the period covered by this report. The investigation of this complaint was also concluded.

The number of complaints received is comparable with previous years. This is the first occasion however that the Council has been able to investigate all the complaints in the same year that they have been received.

DETAILED REPORT ATTACHED?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: *Linda Rees-Jones*

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

2. Legal

Consideration of the operation of the Council's Whistleblowing Policy forms part of the remit of the Committee as set out in Article 9 of the constitution.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: *Linda Rees-Jones*

Head of Administration and Law

1. Scrutiny Committee request for pre-determination

N/A

Scrutiny Committee

N/A

Date the report was considered:-

N/A

Scrutiny Committee Outcome/Recommendations:-

Not Applicable

2. Local Member(s) Not Applicable

3. Community / Town Council Not Applicable

4. Relevant Partners Not applicable

5. Staff Side Representatives and other Organisations Not Applicable

CABINET MEMBER PORTFOLIO
HOLDER(S) AWARE/CONSULTED

NO

Not applicable

Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Department File	DPSC-212	County Hall Carmarthen

WHISTLEBLOWING POLICY



Legal Protection for Workers with Concerns at Work:

Employee - Casual Worker - Volunteer - Contractor
Agency Worker - Consultant.

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What is this about?

1. We (the 'Council') want to ensure a working environment where you (the 'worker') feel confident to raise any concerns about malpractice within the Council. However, some people are reluctant to voice their concerns because of fears about possible repercussions, or a feeling of disloyalty to colleagues. Some might consider it easier to ignore the concern rather than report what may just be a suspicion of malpractice.
2. Malpractice can include fraud, corruption, bribery, dishonesty, financial irregularities, serious maladministration because of deliberate and improper conduct, unethical activities (which may be of a criminal nature) and dangerous acts or omissions which create a risk to health, safety or the environment, criminal offences, or failure to comply with a legal or regulatory obligation.
3. Whistleblowing does not include mismanagement as this may arise from weak management, for example, rather than malpractice. Mismanagement may be dealt with under the Council's Capability Policy or Disciplinary Procedure, as appropriate.
4. This policy is intended to encourage and support you to raise serious concerns **within** the Council safely and with confidence and view this as a **duty**, rather than overlooking the problem. 'Whistleblowing' refers to the disclosure, by workers, of malpractice as well as illegal acts or omissions at work.
5. This policy will be applied consistently to everyone irrespective of race, colour, nationality, ethnic or national origins, language, disability, religion, belief or non belief, age, sex, gender reassignment, sexual orientation, parental, marital or civil partnership status.
6. If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly.

What legal protection do I have?

7. The Public Interest Disclosure Act (PIDA) 1998 gives you legal protection against dismissal and other detriments where you disclose certain types of information in the public interest, to the Council, either as your employer or (in the case of a contractor disclosing information) to the organisation that has legal responsibility for that matter.

Will I be protected if I make a public disclosure?

8. You are encouraged to raise your concerns via your line manager (para.33), the Council's dedicated Whistleblowing Officers (para.33); a confidential mailbox (para.34), Senior Officers (para.35) or a recognised Trade Union Representative

(para.36). You can also seek advice from prescribed organisations independent of the Council regarding your concerns (para.50). If you raise concerns to someone else other than those detailed within this procedure, e.g. to the local paper, depending on your disclosure and to whom it is made, you may not receive the legal protection as a 'whistleblower'. You are therefore strongly advised to seek advice before taking this action.

9. If you do take the matter outside the Council, you should ensure that you do not disclose any confidential information, e.g., client case notes, given to you in confidence, unless you have consent in writing from the person to whom the information relates.

What support can I expect?

10. At all times, when raising and investigating your concerns:

- Directors and Heads of Service will support the investigation process.
- your concerns will be taken seriously.
- the Council will do all it can to support you throughout the investigation, e.g., provide advocacy services, interpreters, counselling etc.

If appropriate, and after full consultation the Council may consider temporarily re-deploying you or others for the period of the investigation.

What is the Council's attitude to malpractice in the workplace?

11. We take any malpractice within the Council very seriously, as we are committed to maintaining the highest standards of openness, probity, and accountability. If you have serious concerns about any aspect of the Council's work, then you are encouraged and expected to come forward and voice those concerns.
12. We understand that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. However, if you raise your concerns, you will have nothing to fear as you will be doing your duty to your employer, your colleagues and those to whom you provide a service.
13. Harassment or victimisation of individuals, who have raised concerns, including informal pressures, will not be tolerated, and will be treated as a serious disciplinary offence which will be dealt with under the disciplinary procedure.
14. We will not tolerate any attempt on the part of any worker, councillor, council contractor or supplier to apply any sanction or detriment to anybody who has

reported to the Council any serious and genuine concern that they may have about apparent wrongdoing.

15. We will treat such conduct by an employee of the Council as a serious disciplinary matter, and any such conduct by a Councillor is liable to be reported as a breach of the Members Code of Conduct.
16. Where any such conduct is undertaken by any contractor or supplier of the Council, we will regard that as a serious breach of contract.
17. Any such behaviour by any recipient of a Council service will be regarded as a breach of the condition under which that service is provided.

Who can blow the whistle?

18. This policy applies to:
 - Workers for Carmarthenshire County Council including all employees, centrally employed teachers and casual workers.
 - Employees of contractors working for the Council-on-Council premises, for example, agency staff, builders, drivers
 - Those providing services under a contract or other agreement with the Council in their own premises, for example care homes.
 - Voluntary workers working with the Council.
 - Consultants engaged by the Council.
19. However, this policy does not cover staff on the complement of locally managed schools for which local arrangements exist. In the absence of local arrangements school governing bodies are recommended to adopt the principles contained within Welsh Government's 'Procedures for Whistleblowing in Schools and Model Policy'.
20. Employees and workers of the Council's Local Authority Trading Companies (LATC) should normally raise any concerns through the LATC's own whistleblowing procedures. Where the specific concern relates to the governance arrangement, business contract or legal agreement between the LATC and the Authority or vice versa the individual may opt to raise the matter directly with the Authority using the process described in this policy.

What can I blow the whistle about?

21. You are encouraged to 'blow the whistle' where you reasonably believe malpractice has taken place or is likely to take place, in one or more of the following six areas:
 - Criminal offences
 - Breach of legal obligation

- Miscarriages of justice
- Danger to the health and safety of an individual
- Damage to the environment
- The deliberate concealing of information about any of the above

22. You can raise serious concerns about any aspect of service provision or conduct of officers or Members of the Council or others acting on behalf of the Council. The event may already have occurred, or it may be likely to be committed in the future. For example, your concerns might fall into one or more of the six areas of malpractice describe above that:

- is potentially unlawful, fraudulent or corrupt.
- might contravene our Standing Orders, our Financial Procedure Rules, our policies, codes of conduct or other legal obligations.
- could amount to improper conduct by an officer or a member.
- might fall below established standards of practice.
- constitutes sexual, physical, or emotional abuse.
- potentially endangers the health and safety of an individual.
- is causing, or is likely to cause, damage to the environment.
- might involve a miscarriage of justice.
- is an attempt to cover up any of the above examples.

23. In addition, the Council has signed up to Welsh Government's Code of Practice on Ethical Employment in Supply Chains. The Code covers:

- Modern Slavery.
- Blacklisting.
- False self-employment.
- Unfair use of umbrella schemes and zero hours contracts.
- Paying the national living wage.

You are also encouraged to 'blow the whistle' where you reasonably believe malpractice has taken place or is likely to take place and is related to the direct activities or the supply chains of the Council, and this malpractice falls within one or more of the six areas described in Para. 20 above. Further information can be found in the Council's Ethical Employment & Supply Chains Policy.

24. If your concerns fall outside the six areas illustrated above you will be advised of the correct procedure to follow as described below.

How does the policy fit in with other Council policies?

25. The Whistle-blowing Policy is intended to cover major concerns that **fall outside** the scope of other procedures **and are in the public interest**, i.e., any **serious concerns** that you have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under this policy.

26. Concerns you may have about your own employment with the authority, such as, terms and conditions of employment, health & safety, work relations, new working practices, working environment or organisational change should be raised through the Grievance procedure.
27. Concerns you may have about allegations of bullying, harassment, victimisation, or discrimination in work should be raised in line with the Council's Behavioural Standards guidance.
28. A whistle blowing issue could be entangled within a grievance or concerns about standards of behaviour, in which case the Council will need to consider the facts, assess the risks and decide how to best deal with the issue (See Appendix A Whistleblowing Flowchart).
29. This policy should be read in conjunction with the Council's Officer Code of Conduct and any corporate and/or departmental procedures for investigating concerns which may be developed from time to time and which will be drawn to the notice of employees and others to whom this policy applies.

What if I am already involved in another HR procedure?

30. Any investigation into allegations of malpractice will not influence or be influenced by any disciplinary, grievance, sickness, capability, redundancy, or any other procedures that already affect you or may affect you in the future. On the other hand, any disciplinary grievance, sickness, capability, redundancy, or any other procedures to which you are already subject will not be halted as a result of raising concerns.

How does this policy fit with the Members' Code of Conduct?

31. The Council has no power to deal with Code of Conduct complaints against an elected member. If you raise concerns about an elected member under this policy you will be given the appropriate legal protection against any acts of detriment and advised to make your concerns to the Public Services Ombudsman for Wales. Alternatively, the Monitoring Officer may decide to refer the matter to the Ombudsman if it is considered appropriate to do so. Details of the Ombudsman's complaints process can be found at www.ombudsman-wales.org.uk

Members

Am I covered by the PIDA?

No, this legislation provides protection to 'workers' and this does not extend to Members who hold positions of public office.

What is my role as a Member in the Whistleblowing Process?

You may witness or be approached by a 'worker' about a potential whistleblowing concern. In this situation it is not appropriate for you to seek further information or make your own enquiries and are therefore advised to speak directly to the Monitoring Officer, Deputy Monitoring Officer or Chair of Standards Committee.

What if I want to make anonymous allegations?

32. You can raise concerns anonymously, but they are much less powerful and will be considered under this policy at the discretion of the Monitoring Officer. Remember, the purpose of this policy is to protect and support you and ensure that you can raise your concerns with confidence. If you do not tell us who you are, it will be much more difficult for us to look into the matter, to support and protect you, or to give you feedback.

Is my identity kept confidential?

33. All disclosures will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated however that the investigation process may reveal the source of the information and a formal statement may be required from you as part of the evidence. If you are required to give evidence in criminal or disciplinary proceedings, we will arrange for you to receive advice about the procedure. If disclosure of your identity becomes unavoidable then the Council will support you through the process.

How do I raise a concern?

34. You should not approach or accuse individuals directly or attempt to investigate the matter yourself. Instead, can raise your concerns with your line manager or if you prefer, one of the Council's dedicated Whistleblowing Officers, as shown below:

Whistleblowing Officer	Job Title/e-mail address	Phone number
Nigel J Evans	Practice Support Manager NEvans@carmarthenshire.gov.uk	01267 224694 (Extension 4694)
Tracey Thomas	Principal Development Officer TrThomas@carmarthenshire.gov.uk	01267 246202 (Extension 6202)

Jan Coles	Head of Children's Services JColes@carmarthenshire.gov.uk	07812 475396
Nicola J Evans	Business Support Manager NJEvans@carmarthenshire.gov.uk	01267 224124 (Extension 4124)
Paul Ridley	Civil Contingencies Manager PRidley@carmarthenshire.gov.uk	07947 793068
Cathy Richards	Senior Safeguarding Manager CRichards@carmarthenshire.gov.uk	01267 228995 (Extension 2995)

35. The person you speak to and raise your concerns will offer you some initial advice and guidance and will normally become your **"Contact Officer"**. This will depend on the nature of your concerns and could be someone else with your agreement.
36. If you do not wish to raise your concerns with your line manager or one of the Council's dedicated Whistleblowing Officers you can raise your concerns through the Council's confidential Whistleblowing mailbox by emailing CEWhistleBlowing@carmarthenshire.gov.uk. This mailbox is only viewed by the Monitoring Officer and Deputy Monitoring Officer in the Legal Department.
37. Alternatively, you could contact one of the people listed below, who will note your concerns and arrange for another person to be appointed as contact officer to provide you with advice and guidance:

Name	Job Title/e-mail address	Phone number
Wendy Walters	Chief Executive WSWalters@carmarthenshire.gov.uk	01267 224112
Linda Rees-Jones	Head of Administration and Law/Monitoring Officer lrjones@carmarthenshire.gov.uk	01267 224010
Robert Edgecombe	Legal Services Manager/Deputy Monitoring Officer rjedgeco@carmarthenshire.gov.uk	01267 224018
Chris Moore	Director of Corporate Services (including responsibility for proper administration of financial affairs) cmoore@carmarthenshire.gov.uk	01267 224120
Paul Thomas	Assistant Chief Executive (People Management) prthomas@carmarthenshire.gov.uk	01267 226123
Mary Dodd	Chair of Standards Committee MDodd@carmarthenshire.gov.uk	
Helen Pugh	Head of Revenues and Financial Compliance HLPugh@carmarthenshire.gov.uk	01267 246223



You are welcome to contact me in Welsh or English

38. You may seek the support of a companion, i.e. a recognised trade union official or representative or a work colleague, to assist you in raising your concerns and accompany you at any meeting through this procedure.

Contact names	Trades Union	E-mail address	Phone number
Mark Evans	UNISON	unisoncarms1@btconnect.com	01267 224942
Brian Harries	Unite	BVHarries@carmarthenshire.gov.uk	07718 925787
Jonathan James	GMB	JWJames@carmarthenshire.gov.uk	07581 334769

39. If you would prefer to contact an outside organisation instead then a list of useful contacts is given at paragraph 49 below. It is better to contact one of the external organisations listed than to overlook your concerns.

What happens after I have raised my concerns?

40. Your Contact Officer will be the person with whom you will have all future contact in respect of your concern, and if an investigation takes place (see below) s/he will be your primary contact for feedback.
41. We will need to get the details set out in writing as soon as possible. If you do not want to put your concerns in writing, then that's alright, your Contact Officer can do this for you instead and support you in expressing the background and history of your concern, giving names, dates and places where possible and the reason why you are particularly concerned about the situation. The earlier your concerns are expressed the easier it is to take action.
42. Although you are not expected to prove the truth of an allegation, you will need to demonstrate to your Contact Officer that there are reasonable and sufficient grounds for your concern.

How will we deal with your concerns?

43. Action taken by the Council will depend on the nature of the concern. The matters raised may be:
- investigated internally by an appropriate person in line with the Council's Investigation Policy.
 - referred to the Police.
 - referred to the Wales Audit Office.
 - the subject of an independent inquiry.
44. In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for

example, child protection) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.

45. The Contact Officer will acknowledge your concern as soon as possible and contact you within 14 calendar days of you raising your concern to:
- indicate how it is proposed to deal with the matter.
 - give you an estimate of how long it may take to provide a final response.
 - tell you whether any initial enquiries have been made; and
 - inform you whether a full investigation will take place, and if not, why not.
46. The Contact Officer will give you as much feedback as possible, but sometimes precise action will not be set out where this would infringe upon a duty of confidence owed to the Council by someone else. Time estimates and limits may be amended by agreement between you and the Contact Officer.
47. The frequency of contact between you and the Contact Officer will depend upon the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the Contact Officer or the officer investigating the matter will seek further information from you.
48. When any meeting is arranged between you and the Contact Officer, you have the right, if you so wish, to be accompanied by a companion (who may be a recognised trade union representative or a work colleague who is not involved in the area of work to which the concern relates). Steps will be taken to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, we will arrange for you to receive advice about the procedure.
49. We understand that you will need to be assured that the matter has been dealt with properly and therefore, subject to legal constraints, your Contact Officer will inform you of the outcome and confirm in writing within 14 calendar days of the conclusion of the matter, i.e. whether your concerns have been upheld, what actions the Council proposes to take (subject to confidentiality constraints) and timescales for implementing. At that point you will be asked to complete a short questionnaire about your experience of the whistle blowing procedure (See Appendix B). Your feedback is important to us, as it will help us to monitor the effectiveness of this policy.

What happens if my concerns are not confirmed after an investigation?

50. If, you raise a concern using this policy, but it is not confirmed by the investigation, no action will be taken against you. If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken against you in accordance with the Council's Disciplinary Procedure.
51. Remember, if you want to take independent advice at any stage, you may contact the independent charity Public Concern at Work (see paragraph 49 for details).

Their lawyers can give you free confidential advice at any stage about how to raise concerns about serious malpractice at work.

What happens if I am not happy with the Council's response?

52. This policy is intended to provide you with a way to raise your concerns **within** the Council and we hope that you will be satisfied with the way that we deal with the matter. However, in the event that the issue is not resolved to your satisfaction then you are welcome to contact (assuming that they have not previously been involved in your case) the Council's Chief Executive or the independent chair of our Standards Committee. Their contact details are given at paragraph 34. As an alternative, we suggest the following possible contact points:

- The charitable organisation Public Concern at Work (See Appendix C). Telephone 020 7404 6609 or e-mail info@pcaw.co.uk or whistle@pcaw.co.uk
- The Auditor General for Wales, Public Interest Disclosure Helpline 01244 525980 or e-mail whistleblowing@wao.gov.uk or web www.wao.gov.uk/whistleblowers-hotline
- The Public Services Ombudsman for Wales. Telephone 0300 790 0203 or e-mail ask@ombudsman-wales.org.uk or web www.ombudsman-wales.org.uk
- Health and Safety Executive. Telephone 0300 003 1647 or Online form: <http://www.hse.gov.uk/contact/raising-your-concern.htm> or web www.hse.gov.uk
- Care and Social Services Inspectorate for Wales. Telephone 0300 790 0126 or e-mail cssiw.@wales.gsi.gov.uk or web www.cssiw.org.uk
- Care Council for Wales Tel: 0300 303 3444 ftp@ccwales.org.uk
- Children's Commissioner for Wales Tel: 01792 765600 or e-mail: post@childcomwales.org.uk or web www.childcomwales.org.uk
- Natural Resource Wales Tel: 0300 065 3000 Email: enquiries@naturalresourceswales.gov.uk
- The Information Commissioner's Office Tel: 0303 123 1113 or e-mail casework@ico.org.uk or web www.ico.org.uk
- Older People's Commissioner Tel: 02920 445 030 or e-mail ask@olderpeoplewales.com or web www.olderpeoplewales.com

A full list of prescribed persons can be found at:

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

Who is responsible for this policy?

53. Linda Rees-Jones, the Council's Monitoring Officer and Paul Thomas, Assistant Chief Executive share overall responsibility for the maintenance and operation of this policy. Linda Rees-Jones will keep a record of concerns raised and the

outcomes (in a format that does not endanger confidentiality) and will report to the Standards Committee annually.

- 54.** This edition of the policy was agreed by the Council's Standards Committee on 15th June. The policy is reviewed annually.

What happens to your 'information' and 'personal data'?

- 55.** The proper handling of personal information by Carmarthenshire County Council is very important to the delivery of our services, undertaking our legal obligations as an employer and maintaining public confidence. Personal data is any information that relates to a person who can be directly or indirectly identified from the information. The terms 'information' and 'personal data' are used and have the same meaning. To ensure that the Council treats your information correctly, we seek to adhere in full to the requirements of Data Protection legislation. The Human Resources – People Management and Legal Services privacy notices have therefore been produced to explain as clearly as possible what we do with your personal data and are available to view on the Council's website.

If you require this publication in an alternative format, such as large print, Braille or on audiotape please telephone 01267 224651.

WHISTLEBLOWING FLOWCHART

Worker raises a concern with his/her line manager, a more senior manager or a dedicated Whistleblowing Officer. This individual normally becomes the 'Contact Officer', but it can be someone else with the worker's consent

The Contact Officer explores concerns with individual and considers whether they fall within 1 or more of the 6 categories of protected disclosure (see right hand box) and in the public interest

- Protected disclosure:
- Criminal offences
 - Breach of legal obligation
 - Miscarriages of justice
 - Danger of Health and safety of an individual
 - Damage to the environment
 - Deliberately concealing information about the above

If yes

If no

Notify the Monitoring Officer in Administration and Law that a whistleblowing complaint has been made and seek advice on how to proceed.

If the concerns relate to a worker's own employment with the authority **and** is a '**protected disclosure**' the principles of the whistleblowing procedure are to be followed alongside the relevant HR Policy and procedure.

If the concerns relate to a worker's own employment with the authority **and is not a protected disclosure**, the individual should be advised to speak to their **line manager** in line with the Council's Grievance or Behavioural Standards guidance, as appropriate.

- The concerns may be:
- Investigated internally in line with the Council's Investigation Policy
 - Referred to the police
 - Referred to the Wales Audit Office
 - Subject of an independent enquiry.

The Contact Officer will acknowledge the individual's concerns and within 14 days:

- indicate how the matter will be dealt with
- give an estimated time for examining the concerns
- advise if there have been any initial enquiries;
- confirm if a full investigation will take place, and if not, why not.

The Contact Officer will agree with the worker the type and frequency of contact to feedback on the progress of investigation, confirming data protection and confidentiality restrictions in the process

The Contact Officer will notify the individual of the outcome of the complaint along with a copy of the feedback form within 14 calendar days of conclusion of the investigation

The Contact Officer will notify the Monitoring Officer the outcome of the complaint.

~~Policy: Whistleblowing Policy~~
 Adopted: March 2004
 Revised: 12th June 2023 at Standards Committee.



People Management

CONFIDENTIAL - WHISTLEBLOWING PROCEDURE FEEDBACK FORM

We have recently concluded an investigation into your concerns raised under the Council’s Whistleblowing Policy. We would welcome your feedback in relation to how the matter was handled as this will assist us when dealing with future cases and when reviewing the policy. Your reply will be treated as confidential and will be retained by the Monitoring Officer.

1. **To whom did you report your concern?**
- Line Manager
 - Whistleblowing Officer
 - Trade Union Rep
 - Other (please specify)
-

2. **Were you satisfied with the way in which your concern was dealt with by that person?**
- Yes
 - No

3. **If no, please explain why:**

.....

.....

4. **Were you aware of the Whistleblowing Policy at the time you raised your concern?**
- Yes
 - No

5. **If yes, where did you see a copy of the Whistleblowing Policy?**
- Line Manager
 - Whistleblowing Officer
 - Trade Union Rep
 - Intranet
 - Other (please specify)

6. **Were you advised of how the concern was being dealt with and the outcome?**
- Yes
 - No

7. **Overall, are you satisfied with the way your concern has been managed within the Whistleblowing Policy?**
- Yes
 - No

8. **If no, please explain why:**

.....

Thank you for completing this questionnaire. Please return it to the Monitoring Officer via the Council’s confidential Whistleblowing mailbox: CEWhistleBlowing@carmarthenshire.gov.uk. This mailbox is only viewed by the Deputy/Monitoring Officer in the Legal Department.

Appendix C

WHISTLEBLOWING CASE STUDIES

The following case studies have been produced by Public Concern at Work (PCaW), the whistleblowing charity, which advises individuals on their whistleblowing dilemmas and organisations on their whistleblowing arrangements.

They are examples of whistleblowing concerns that individuals have raised in other organisations.

Case 1 – Fraud in the NHS

The Story

Tim coordinated training for an NHS Trust. He was concerned that his boss was hiring a friend of his to deliver training on suspicious terms which were costing the Trust over £20,000 a year. More courses were booked than were needed and the friend was always paid when a course was cancelled. Although Tim asked his boss to get a credit note as with other training contracts, he never did. Tim also couldn't understand why the friend was paid for training sessions delivered by NHS staff. One day when the boss was out, Tim saw the friend enter the boss' office and leave an envelope. His suspicions aroused, Tim peeked inside and saw that it was filled with £20 notes, amounting to some £2,000. Unsure what to do, Tim called Public Concern at Work. Tim said his boss had lots of influence in the Trust and he was unsure who to tell, particularly as the Trust was being restructured and none of the directors were secure in their posts. Tim also recognised that the cash in the envelope was so brazen that there could be an innocent explanation.

What PCaW advised

PCaW advised Tim that the options were either to go to a director of the Trust or to the NHS Counter-Fraud Unit. Either way, we advised Tim to stick to the facts and focus on specific suspect arrangements and payments. We also said he should avoid the temptation to investigate the matter himself. Tim said he felt much better and would decide what to do over the holiday he was about to take.

What happened

On his return, Tim raised his concerns with a director at the Trust, who called in NHS Counter Fraud. Tim's suspicions were right: his boss and the trainer pleaded guilty to stealing £9,000 from the NHS and each received 12 month jail terms suspended for two years.

Case 2 - Involving a Regulator

The Story

Ian worked as a safety inspector at an amusement park. He was responsible for maintaining one of the park's most popular rides. Every morning he would carry out a safety inspection on the ride and, if it passed, he would sign the ride off as safe in the log. During one inspection, he noticed that pins on the axles which kept the carriages stable had become loose. Ian thought this presented a serious risk and notified his managers.

After what Ian felt was not a thorough examination, the Operations Manager cleared the ride as safe. Ian was unhappy with this and the next day, as no corrective action had been taken, he again could not sign off the ride as safe. Again the Operations Manager overruled Ian and he was assigned to other rides. Ian contacted us the same day. He was

anxious that the weekend was coming up and that the park would be extremely busy. He was also worried that if he pursued the issue any further he would be dismissed.

What PCaW advised

PCaW advised Ian that they could contact the Health and Safety Executive (HSE) on his behalf and relay the information that he had given us without giving his name. However, it was more than likely that they would want to speak to him, if they felt that the situation was potentially serious. PCaW said they would explain Ian's anxieties about his position and ask the HSE to bear this in mind. Although he was unsure whether he would speak to the HSE, he asked us to make the initial contact. The HSE agreed that the situation sounded potentially serious. However, they told PCaW that they would need to speak to Ian. PCaW explained Ian's fears that if the HSE suddenly turned up to inspect this particular ride, his employers would easily put two and two together and he would be out of a job. The HSE assured us that if they were to carry out an inspection, it could be done in such a way as not to make Ian's role apparent. We went back to Ian and, after talking things through, he agreed that he would speak to the HSE.

What happened

Shortly afterwards the HSE made a 'routine' visit to the park during which they inspected the ride, along with several other rides. As a result of the inspection, the ride was suspended and the repairs were carried out.

Case 3 – Theft in a care home

The story

FA worked as a care assistant in an old people's home. He and some of his colleagues were worried that SM, one of the managers, might be stealing cash from the residents. SM, looked after residents' pocket money and kept a record of when sums were paid out. FA was fairly sure that money was recorded as being given out to particular residents when they had received none.

After a while, he thought he had to raise the concern as the amount involved was adding up. After he raised his concerns with the owners of the home, an investigation quickly found FA was right, SM was dismissed and the police were called in. Relations within the home were tense as some of SM's friends strongly objected to the whistleblowing. Within weeks, FA was suspended over allegations that he had mistreated the residents. He rang us.

What PCaW advised

We advised that he should bite his lip and deal with these allegations squarely. Although the investigation found they had no substance, the owners decided to transfer FA to another home. FA was very unhappy and rang us again. We helped him draft a letter to the owners explaining that he wanted to stay at that home and that transferring him after he had blown the whistle would give out the wrong messages to other staff.

What happened

The owners reconsidered and FA stayed at the home. When FA rang to tell us that SM had been convicted of stealing £1400 from the residents, he said the atmosphere in the home was now much improved.

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STANDARDS COMMITTEE 12/06/2023

ANNUAL REPORT TO FULL COUNCIL

Purpose:

To consider and agree the draft Annual Report to Full Council

Recommendations / key decisions required:

To approve the draft Annual Report

Reasons:

The 2021 Act places a duty on the Standards Committee to provide an Annual Report to Full Council.

Cabinet Decision Required NO

Council Decision Required NO

CABINET MEMBER PORTFOLIO HOLDER:- Not applicable

Directorate: Chief Executives	Designations:	Tel: 01267 224018
Name of Head of Service:		Email addresses:
Linda Rees-Jones	Head of Administration and Law	rjedgeco@carmarthenshire.gov.uk
Report Author:	Legal Services Manager	
Robert Edgecombe		

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
12/06/2023**

ANNUAL REPORT TO FULL COUNCIL

The Local Government and Elections (Wales) Act 2021 places a duty on Standards Committees to report to Full Council as soon as reasonably practicable after the end of each financial year.

The annual report must describe how the committee's functions have been discharged during the financial year and in particular, the report must include a summary of—

(a) what has been done to discharge the general and specific functions conferred on the committee by section 54 or 56 of the 2021 Act

(b) reports and recommendations made or referred to the committee by the Public Services Ombudsman for Wales under Chapter 3 of Part III of the Local Government Act 2000

(c) action taken by the committee following its consideration of such reports and recommendations.

(d) notices given to the committee by the Adjudication Panel for Wales under Chapter 4 of this Part III of the Local Government Act 2000

A draft of the Annual Report is attached for approval. It is proposed that this be presented to Full Council on the 12th July 2023

DETAILED REPORT ATTACHED?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: *Linda Rees-Jones*

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

2. Legal

The Standards Committee has a statutory duty to provide a report to Full Council as soon as reasonably practical following the end of the financial year.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: *Linda Rees-Jones*

Head of Administration and Law

1. Scrutiny Committee request for pre-determination

N/A

Scrutiny Committee

N/A

Date the report was considered:-

N/A

Scrutiny Committee Outcome/Recommendations:-

Not Applicable

2. Local Member(s) Not Applicable

3. Community / Town Council Not Applicable

4. Relevant Partners Not applicable

5. Staff Side Representatives and other Organisations Not Applicable

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED NO	Not applicable
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**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Department File	DPSC-212	County Hall Carmarthen

STANDARDS COMMITTEE

ANNUAL REPORT 2022-2023

Foreword

1. Period Covered by the Report
2. Terms of Reference
3. Membership of the Committee
4. Code of Conduct Complaints
5. Applications for Dispensation
6. Code of Conduct Training
7. Whistleblowing Policy
8. Code Compliance by Town and Community Councils
9. Group Leaders Duty
10. Other Activities
11. Conclusion

Foreword by Chair of Standards Committee

It is my pleasure to present to Full Council the annual report for the Standards Committee, covering the period 1st April 2022 to 31st March 2023.

As Councillors you will know that the law requires every County and County Borough Council in Wales to establish and maintain a Standards Committee. Such committees are responsible for overseeing standards of conduct for elected members of both the principal council and the constituent community and town councils within the principal council's area.

In performing this role, the Committee receives and determines applications for dispensation from elected members in relation to the Code of Conduct and adjudicates upon code complaints referred to the Council by the Public Services Ombudsman for Wales.

In addition, the Committee also receives reports in relation to the operation of the Council's whistle-blowing policy.

This is the first annual report presented by the Standards Committee in accordance with the requirements of the Local Government and Elections (Wales) Act 2021 which placed new duties upon political group leaders to promote compliance with the code by their group members. This Act also placed a requirement upon Standards Committees to report on how well group leaders have complied with those duties and our findings in this regard can be found at section 9 of this report.

Mary Dodd

Chair – Carmarthenshire County Council Standards Committee

1. PERIOD COVERED BY THE REPORT

This report covers the activities of the Standards Committee during the period 1st April 2022 to 31st March 2023.

During this period the committee met a total of 14 times, which is significantly more than normal. This was largely due to the committee having to deal with 2 referrals from the Public Services Ombudsman for Wales, but several additional meetings also had to be called to deal with dispensation requests.

2. TERMS OF REFERENCE

The role and functions of the committee as set out in the constitution of the Council are:

- To promote and maintain high standards of conduct by councillors and co-opted members.
- To assist councillors and co-opted members to observe the Members' Code of conduct.
- To advise the Council on the adoption or revision of the Members' Code of Conduct
- To monitor operation of the Members' Code of Conduct
- To advise, or arrange training for councillors and co-opted members on matters relating to the Members' Code of Conduct
- To grant dispensations to councillors and co-opted members where they have a personal and prejudicial interest under the Members' Code of Conduct
- To deal with reports from the Adjudication Panel for Wales and reports from the Monitoring Officer or the Public Services Ombudsman for Wales
- The exercise of the above functions in relation to Town and Community Councils in the county
- To receive annual reports on the operation of the Council's Whistleblowing Policy

3. MEMBERSHIP OF THE COMMITTEE

The Panel consists of 9 members, 3 County councillors, 1 Community councillor and 5 co-opted members.

There were no changes to the co-opted members of the committee during the period covered by this report. The co-opted members were.

Mrs Mary Dodd (Chair)

Mrs. Julie James (Vice-chair)

Mrs. Daphne Evans

Mrs. Caryl Davies

Mr. Frank Phillips

The Community council member of the committee Councillor Philip Rogers (St. Clears Town Council) was reappointed following the elections in May 2022.

There were changes to the County Council members following the May 2022 elections. The County Council members of the committee during the period covered by this report were.

Councillor. Jeanette Gilasbey (until the May 2022 elections)

Councillor Betsan Jones (after the May 2022 elections)

Councillor. Gareth Thomas
Councillor. Rob James

4. Referrals from The Public Services Ombudsman for Wales

As indicated in section 1 the Committee was required to adjudicate upon two reports received from the Public Services Ombudsman for Wales under Part III of the Local Government Act 2000 during the year. These related to allegations that certain councillors had breached the members code of conduct.

Both reports related to individuals who were Town or Community Councillors at the time the code breaches occurred.

One case was concluded entirely during the period covered by this report and resulted in the member in question being suspended from office. This case arose following the conviction of the member in question for a criminal offence. This conviction attracted adverse public comment and it was concluded that the member's conduct had brought the office of councillor and the council itself into disrepute.

In the second case a 2-day hearing took place in February 2023 but it was necessary to adjourn matters into a third day due to the volume of evidence presented. Therefore, the case was not concluded until April 2023. Although falling outside the scope of this report I can confirm that this member was also suspended from their role as a Town councillor.

This case arose from an incident in a public space between the councillor in question and 3 other councillors. The committee found the alleged conduct largely proven and that it breached the code of conduct and brought the office of councillor and the relevant council into disrepute.

The code breaches occurred in 2020 and 2021 respectively and, whilst the investigations were undoubtedly impacted by the COVID 19 pandemic, this does demonstrate that these matters can be lengthy ,complex, costly and traumatic for the individual councillor concerned.

5. Notices Received from the Adjudication Panel for Wales

No notices were received from the Adjudication Panel for Wales pursuant to Chapter 4 of Part III of the Local Government Act 2000 during the period covered by this report.

6. Cases closed by the Public Services Ombudsman for Wales

During the period covered by this report the Council's Monitoring Officer was notified that Public Services Ombudsman for Wales had considered and closed a total of 15 code of conduct complaints against councillors from Carmarthenshire. This figure includes the 2 cases referred to in section 4. The breakdown of these cases is shown in the table below.

COUNCIL	Decision not to Investigate	No Action (Following Investigation)	Referred to Standards Committee	Total No. of Complaints Closed
Carmarthenshire County Council	10	1	0	11
Kidwelly Town Council	1	0	0	1
Llandovery Town Council	0	0	1	1
Llanelli Rural Council	0	0	1	1
Pembrey and Burry Port Town Council	1	0	0	1
Total	12	1	2	15

There may however also be complaints currently with the Ombudsman awaiting determination.

The committee continues to be satisfied that most councillors do comply with the code and that where allegations of breach are made, they are usually unfounded or are not considered by the Ombudsman to be sufficiently serious to warrant enforcement action.

However, as the 2 referrals that were made to the committee in 2022 demonstrate councillors should not be complacent and must be always mindful of their obligations under the code.

7. APPLICATIONS FOR DISPENSATION

The Committee considered 52 applications for dispensation from County and Community and Town Councillors during the year, all but one of which were either granted or partly granted.

This represents a significant increase compared to previous years, although this was due at least in part to councillors seeking to renew dispensations previously granted to them which had lapsed due to the May 2022 elections.

The grounds upon which the Committee may grant a dispensation are set out in the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001.

The 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 only.

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 Carmarthenshire County Council's website www.carmarthenshire.gov.uk.

8. CODE OF CONDUCT TRAINING

Three Code of Conduct Training sessions were held during the period covered by this report. These were.

- 17th May 2022 – for new County Councillors
- 4th July 2022 – for Town and Community Councillors
- 27th July 2022 – for Town and Community Councillors

All the sessions were run in a hybrid manner, and all were well attended.

9. WHISTLEBLOWING POLICY

The Committee has oversight of the authority's Whistleblowing Policy. The process is regulated by the Public Interest Disclosure Act 1998, which protects against dismissal and other detriment for workers who disclose information in the public interest in prescribed circumstances to prescribed persons.

The number of whistleblowing complaints recorded during the period of this report are set out below.

New Complaints	Complaints carried over from 2021/22	Cases Concluded	Cases Continuing
3	1	4	0

The number of complaints continues to be consistent with those received by other local authorities.

It is pleasing to note that no cases have been carried over into 2023/2024 for investigation. This continues the general trend of improvement in this regard.

The Committee reviewed the Whistleblowing Policy during the period covered by this report and updated it to reflect changes to the nominated contact officers listed.

10. CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILS

The committee again received a report regarding the extent to which Town and Community Councils within the County are complying with the Code of Conduct. The report contained data relating to:

- Code complaints
- Dispensation requests
- Declaration of interests
- Code Training

No obvious patterns or trends could be discerned from the data. Overall levels of compliance with the code appeared to be good as evidenced by the figures in section 6.

11. GROUP LEADERS DUTY

As indicated in the foreword to this report the Local Government and Elections (Wales) Act 2021 places new duties on political group leaders and requires Standards committees to monitor and report on their performance of these duties.

The group leaders' duties are.

- To take reasonable steps to promote and maintain high standards of conduct by the members of their group
- To co-operate with the council's standards committee in the exercise of the standards committee's functions

Summary of steps taken by the Standards Committee

The Monitoring Officer made the Council's 3 political group leaders aware of these duties following the May 2022 elections and on the 2nd February 2023 I wrote to group leaders

reminding them of their duties under the Act. Group leaders were asked to provide a report setting out how they had complied with those duties by the 31st March 2023. All Group Leaders were also provided with a template report for them to use if they wished.

Summary of reports received from the Group Leaders

Cllr Darren Price – Plaid Cymru Group

Cllr Price provided a report on the 29th March 2023. This confirmed that 7 complaints had been made to the Ombudsman against members of the Plaid Cymru Group during the period covered by the report, none of which had been upheld. He also confirmed that one group member had referred himself to the Ombudsman and that the matter was still under investigation as at the 31st March 2023.

Councillor Price confirmed that 21 out of 38 group members (55%) had attended the code training in May 2022 and outlined the steps that he had taken to ensure that the remaining group members also attended code of conduct training arranged for April and May 2023. Councillor Price explained that more experienced members of the group helped new members understand and comply with the requirements of the code.

Councillor Price has attended Code of Conduct Training since the May 2022 elections.

Cllr Rob James – Labour Group

Councillor James provided a report on the 24th May 2023. This confirmed that 4 complaints had been made to the Ombudsman regarding Labour Group Members and that 2 further Labour Group Members has been referred to the Council's own Informal Resolution Procedure. Councillor James also confirmed that all group members had received code training since May 2022 and that the Group had put in place specific measures to ensure that the use of social media accounts did not breach the code.

Councillor James has attended code of conduct training since the May 2022 elections.

Cllr Jane Tremlett – Independent Group

Councillor Tremlett provided a report dated the 31st March 2023. This confirmed that no code of conduct complaints had been made against members of the Independent Group during the period covered by the report.

Councillor Tremlett highlighted that only 3 group members had attended code of conduct training immediately following the May 2022 elections and that she had taken steps to stress

to the remaining group members the importance of attending the additional code training sessions arranged in April and May 2023.

Councillor Tremlett has attended code of conduct training since the May 2022 elections.

Assessment of the extent to which political group leaders have complied with their duties under the Act.

(Assessment of the committee to be inserted)

Summary of any action taken following consideration of the Group Leaders reports

1. The committee will revise the reporting template to facilitate the provision of all relevant information.

(Any additional action proposed by the committee to be inserted)

OTHER ACTIVITIES

In addition to the above activities the Committee also:

- Received and considered case decisions of the Adjudication Panel for Wales
- Received and considered case decisions made by other Standards Committees in Wales

Where appropriate the Committee has identified points of learning and best practice and has taken them into account in their own decision making and included them in the training referred to in paragraph 5 above.

12. CONCLUSION

The committee had a very busy year, and I am grateful to my fellow committee members for their valuable contributions throughout.

There have been generally good levels of compliance with the Code of Conduct exhibited by Councillors across the County, but the 2 referrals by the Ombudsman are a reminder to everyone of the consequences of breaching the Code.

(Any additional comments to be added following consideration of the draft report by the committee)

STANDARDS COMMITTEE 12/06/2023

Welsh Government Consultation on the recommendations of the Independent Review of the Ethical Standards Framework (Penn Report)

Purpose:

To consider the consultation documents

Recommendations / key decisions required:

To determine the committee's responses to the consultation questions.

Reasons:

Several of the recommendations directly impact upon the operation of the Code of Conduct and the work of Standards Committees

Cabinet Decision Required NO

Council Decision Required NO

CABINET MEMBER PORTFOLIO HOLDER:- Not applicable

Directorate: Chief Executives

Designations:

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Legal Services Manager

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
12/06/2023**

Welsh Government Consultation on the recommendations of the Independent Review of the Ethical Standards Framework (Penn Report)

In March 2021 the Welsh Government commissioned a review of the current Ethical Standards Framework for local government, which had been established under the provisions of the Local Government Act 2000.

The review was carried out by Richard Penn, a former local authority chief executive and chair of the Independent Remuneration Panel for Wales and made several recommendations regarding the ethical framework ('the Penn Report')

The Welsh Government is now consulting on its proposed responses to the recommendations contained within the Penn report. The consultation document and annexes are enclosed.

Welsh Government's responses to 12 recommendations are outlined in the consultation document. In addition, Welsh Government is also consulting upon other related matters that have arisen following the publication of the Penn Report.

Much of the consultation document relates to the role and operation of the Adjudication Panel for Wales (APW). The matters that the committee may consider to be of particular interest are.

- Recommendation 7 (Mandatory Code of Conduct Training)
- Recommendation 11 (Role of Standards Committees)
- Recruitment of Independent Members of Standards Committees (Questions 13-15)
- Standards Committees powers to summon witnesses and impose sanctions (Questions 16-17)

The consultation exercise ends on the 23rd June 2023.

DETAILED REPORT ATTACHED?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: *Linda Rees-Jones*

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

2. Legal

Several of the matters outlined in the consultation document will have a direct impact upon the Standards Committee if adopted.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: *Linda Rees-Jones*

Head of Administration and Law

1. Scrutiny Committee request for pre-determination

N/A

Scrutiny Committee

N/A

Date the report was considered:-

N/A

Scrutiny Committee Outcome/Recommendations:-

Not Applicable

2. Local Member(s) Not Applicable

3. Community / Town Council Not Applicable

4. Relevant Partners Not applicable

5. Staff Side Representatives and other Organisations Not Applicable

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED NO	Not applicable
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**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Department File	DPSC-212	County Hall Carmarthen



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.

First published: 24 March 2023

Last updated: 24 March 2023

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://www.gov.wales/consultation-recommendations-independent-review-ethical-standards-framework-richard-penn-report> for the latest version.

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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
- download, complete our [response form](#) and post to:

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

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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

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

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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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Go to <https://www.gov.wales/consultation-recommendations-independent-review-ethical-standards-framework-richard-penn-report> for the latest version.

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BIBLIOGRAPHY

Set out below are all the amending enactments which have amended the Orders and Regulations referred to in the consultation document.

These links are legislation.gov.uk links and will take you to the 'original' Orders/Regulations again, but only the Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005 has been partially revoked, and not the relevant regulation (regulation 55).

The Local Authorities (Model Code of Conduct) (Wales) Order 2008

This Order has been amended by:

1. The Co-operative and Community Benefit Societies and Credit Unions Act 2010 (Consequential Amendments) Regulations 2014/1815; [legislation.gov.uk](https://www.legislation.gov.uk)
2. The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016/84; [legislation.gov.uk](https://www.legislation.gov.uk)
3. The Local Government and Elections (Wales) Act 2021 (Consequential Amendments and Transitional Provision) (Chief Executives) Regulations 2022/355; [legislation.gov.uk](https://www.legislation.gov.uk) and
4. The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2022/806 [legislation.gov.uk](https://www.legislation.gov.uk).

The Conduct of Members (Principles) (Wales) Order 2001

This Order has been amended by:

1. The Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005/2929 [legislation.gov.uk](https://www.legislation.gov.uk); and
2. The Conduct of Members (Principles) (Wales) (Amendment) Order 2022/805 [legislation.gov.uk](https://www.legislation.gov.uk).

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

These Regulations have been amended by:

1. The Public Audit (Wales) Act 2004 (Consequential Amendments) (Wales) Regulations 2005/761 legislation.gov.uk;
2. The Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005/2929 legislation.gov.uk;
3. The Public Services Ombudsman (Wales) Act 2005 (Transitional Provisions and Consequential Amendments) Order 2006/362 legislation.gov.uk;
4. The Local Authorities (Case and Interim Case Tribunals and Standards Committees) (Amendment) (Wales) Regulations 2009/2578 legislation.gov.uk;
5. The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016/85 legislation.gov.uk; and
6. The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022/802 legislation.gov.uk.

The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001

These Regulations have been amended by:

1. The Public Services Ombudsman (Wales) Act 2005 (Transitional Provisions and Consequential Amendments) Order 2006/362; legislation.gov.uk and
2. The Local Authorities (Case and Interim Case Tribunals and Standards Committees) (Amendment) (Wales) Regulations 2009/2578 legislation.gov.uk.

Current version of the Model Code of Conduct

Schedule to the Local Authorities (Model Code of Conduct) (Wales) Order 2008, as amended (current as at 4 November 2022)

THE MODEL CODE OF CONDUCT

PART 1 INTERPRETATION

1.—

(1) In this code—

“co-opted member” (*“aelod cyfetholedig ”*), in relation to a relevant authority, means a person who is not a member of the authority but who—

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” (*“cyfarfod ”*) means any meeting—

(a) of the relevant authority,

(b) of any executive or board of the relevant authority,

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

“member” (*“aelod ”*) includes, unless the context requires otherwise, a co-opted member;

“register of members’ interests” (*“cofrestr o fuddiannau’r aelodau ”*) means the register established and maintained under section 81 of the Local Government Act

2000;

“registered society” means a society, other than a society registered as a credit union, which is—

- (a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or
- (b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

“relevant authority” (*“awdurdod perthnasol ”*) means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (ca) a corporate joint committee established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995;

“you” (*“chi ”*) means you as a member or co-opted member of a relevant authority;

and

“your authority” (*“eich awdurdod ”*) means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council—

- (a) *“proper officer”* (*“swyddog priodol ”*) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and
- (b) *“standards committee”* (*“pwyllgor safonau ”*) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

PART 2 GENERAL PROVISIONS

2.—

(1) Save where paragraph 3(a) applies, you must observe this code of conduct—

- (a) whenever you conduct the business, or are present at a meeting, of your authority;
- (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3.

Where you are elected, appointed or nominated by your authority to serve—

- (a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
- (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4.

You must—

- (a) 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;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5.

You must not—

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

6.—

(1) You must—

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7.

You must not—

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority—
 - (i) imprudently;
 - (ii) in breach of your authority's requirements;
 - (iii) unlawfully;

- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

8.

You must—

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by—

(i) the authority's head of paid service for authorities other than county councils and county borough councils, and the authority's chief executive if the authority is a county council or county borough council;

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

(iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

You must—

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3 INTERESTS

Personal Interests

10.—

(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if—

(a) it relates to, or is likely to affect—

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

(vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any—

(aa) public authority or body exercising functions of a public nature;

(bb) company, registered society, charity, or body directed to charitable purposes;

(cc) body whose principal purposes include the influence of public opinion

or policy;

(dd) trade union or professional association; or

(ee) private club, society or association operating within your authority's area,

in which you have membership or hold a position of general control or management;

(x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

(c) a decision upon it might reasonably be regarded as affecting—

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2)(c)(i);

(iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

(aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11.—

(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the

commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make—

(a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing—

(a) details of the personal interest;

(b) details of the business to which the personal interest relates; and

(c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.—

(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to—

(i) another relevant authority of which you are also a member;

(ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

(iii) a body to which you have been elected, appointed or nominated by your authority;

(iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;

(v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to—

(i) the housing functions of your authority where you hold a tenancy or lease with your authority,

provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;

(ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

(iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. –

You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.—

(1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee—

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business,

provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under a statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if—

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you—

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing—

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide

details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

STANDARDS COMMITTEE 12/06/2023

REVIEW OF DISCIPLINARY HEARING PROCEDURES

Purpose:

To review the procedures in light of the experience of the committee in conducting two recent disciplinary hearings.

Recommendations / key decisions required:

To recommend such changes to the procedures as the committee thinks appropriate.

Reasons:

To reflect recent practical experience of such proceedings

Cabinet Decision Required NO

Council Decision Required NO

CABINET MEMBER PORTFOLIO HOLDER:- Not applicable

Directorate: Chief Executives

Designations:

Tel: 01267 224018

Name of Head of Service:

Email addresses:

Linda Rees-Jones

Head of Administration
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Report Author:

Robert Edgecombe

Legal Services Manager

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
12/06/2023**

REVIEW OF DISCIPLINARY HEARING PROCEDURES

At the Standards Committee meeting in June 2022 the committee adopted a formal procedure for the conduct of disciplinary proceedings against councillors in the event of a report being received from the Public Services Ombudsman for Wales pursuant to Part III of the Local Government Act 2000.

The procedures were based upon those adopted by the Adjudication Panel for Wales and reflected the best practice implemented by other local authorities.

Subsequently the committee was required to implement these procedures following the receipt of two separate reports from the Ombudsman under Part III of the 2000 Act.

The committee is asked to consider whether it wishes to make any changes to the procedures considering its experiences with those two cases.

Changes that the committee may wish to consider could include.

1. Merging the initial consideration hearing and pre-hearing review to shorten the overall length of the proceedings (Sections 2 and 5 of the procedures)
2. Amending the procedures to reflect that the Councillor may be legally represented.
3. Amending Section 7 to make it clear that final hearings will usually be heard in public
4. Amending section 10 of the procedures to provide for questions to be put to the Ombudsman's investigating officer (where that officer is not also a witness in the case)
5. Including a general statement that procedure is intended to provide justice and fairness both for the councillor who is subject for the investigation, any other parties involved and that it is also intended to fulfil the wider public interest of having an open and fair adjudication process.
6. Including a general statement that the Committee may revise the procedure in any case having regard to the public interest and the need for a proportionate adjudication process.

DETAILED REPORT ATTACHED?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: *Linda Rees-Jones*

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

2. Legal

Having robust and practical procedures are important to help ensure that any disciplinary cases are handled in a fair and timely way.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: *Linda Rees-Jones*

Head of Administration and Law

1. Scrutiny Committee request for pre-determination

N/A

Scrutiny Committee

N/A

Date the report was considered:-

N/A

Scrutiny Committee Outcome/Recommendations:-

Not Applicable

2. Local Member(s) Not Applicable

3. Community / Town Council Not Applicable

4. Relevant Partners Not applicable

5. Staff Side Representatives and other Organisations Not Applicable

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED NO	Not applicable
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**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Department File	DPSC-212	County Hall Carmarthen

CARMARTHENSHIRE COUNTY 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;
 - (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;
 - (b) Clarification as to whether the Investigating Officer will be represented and if so, by who;
 - (c) Any dates of unavailability to attend a Hearing to include unavailability dates of any witnesses and legal representation;
 - (d) 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 Carmarthenshire County Council.

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.
- 9.6 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.
- 10.5 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.
- 10.6 At the conclusion of the Councillor's evidence the Councillor will be afforded an opportunity to sum up his or her case.
- 10.7 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.
- 10.8 The Committee will then retire to consider their decision on the factual issues in dispute.
- 10.9 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).

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).

STANDARDS COMMITTEE 12/06/2023

FORWARD WORK PLAN

Purpose:

To decide whether to adopt a Forward Work Plan for 2023-2024

Recommendations / key decisions required:

Whether to adopt a Forward Work Plan and to agree the content of such a plan if adopted

Reasons:

A member of the committee has suggested that such a plan be adopted

Cabinet Decision Required NO

Council Decision Required NO

CABINET MEMBER PORTFOLIO HOLDER:- Not applicable

Directorate: Chief Executives	Designations:	Tel: 01267 224018
Name of Head of Service:		Email addresses:
Linda Rees-Jones	Head of Administration and Law	rjedgeco@carmarthenshire.gov.uk
Report Author:	Legal Services Manager	
Robert Edgecombe		

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
12/06/2023**

FORWARD WORK PLAN

Following a meeting of the Standards Committee earlier in the year it was suggested that the committee consider formally adopting a Forward Work Plan which would set out they key activities that the committee intended to carry our during the coming year.

Forward Work Plans are currently developed and published in respect of Full Council, Cabinet, Scrutiny Committees, Democratic Services Committee and the Governance and Audit Committee. However, this is not something that the Standards Committee has previously done.

The attached draft plan follows the corporate template and identifies the key reports that the committee should expect to receive at its scheduled quarterly meetings. The plan does not include reference to such matters as dispensations and disciplinary reports as it is impossible to predict when these will appear on the agenda of a meeting, if at all.

If the Committee approves the Plan, Democratic Services will transfer it onto Issue Manager with the other committee Forward Work Plans and it will then appear on the Council's website

DETAILED REPORT ATTACHED?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report:

Signed: *Linda Rees-Jones*

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	NONE	NONE	NONE	NONE	NONE

2. Legal

Whilst there is no legal requirement to adopt a Forward Work Plan, doing so would be in line with the approach taken by the Governance and Audit Committee and Democratic Services Committee.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: *Linda Rees-Jones*

Head of Administration and Law

1. Scrutiny Committee request for pre-determination	N/A
Scrutiny Committee	N/A
Date the report was considered:-	N/A
Scrutiny Committee Outcome/Recommendations:-	
Not Applicable	
2. Local Member(s) Not Applicable	
3. Community / Town Council Not Applicable	
4. Relevant Partners Not applicable	
5. Staff Side Representatives and other Organisations Not Applicable	

CABINET MEMBER PORTFOLIO HOLDER(S) AWARE/CONSULTED NO	Not applicable
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**Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:**

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal Department File	DPSC-212	County Hall Carmarthen

Subject	Report Summary	Date(s)	Responsible Director	Report Author
Review of Action Log	Reviewing the Committee action log to note progress on agreed actions and identify additional actions for inclusion	12/06/2023 18/09/2023 11/12/2023 04/03/2024	Wendy Walters	Robert Edgecombe
Review of Whistleblowing Policy	Review the operation of the policy during 2022-2023 and identify any changes required to the policy itself	12/06/2023	Wendy Walters	Robert Edgecombe
Group Leaders Duty	Consider the information provided by the Political Group Leaders on the council in relation to their duties under the Local Government and Elections (Wales) Act 2021	12/06/2023	Wendy Walters	Robert Edgecombe
Annual Report to Full Council	Consider the draft Annual Report to be presented to Full Council in accordance with the committee's duties under the Local Government and Elections (Wales) Act 2021	12/06/2023	Wendy Walters	Robert Edgecombe
Review of Disciplinary Hearing procedure	Review the procedure for the conduct of disciplinary hearings against councillors	12/06/2023	Wendy Walters	Robert Edgecombe
Review of Annual Code of Conduct Training exercise	Review the annual code of conduct training provided to Town and Community Councillors	18/09/2023	Wendy Walters	Robert Edgecombe

Subject	Summary	Date(s)	Responsible Director	Report Author
Ombudsman's Annual Report	Consider the Annual Report issued by the Ombudsman and identify any actions arising	18/09/2023	Wendy Walters	Robert Edgecombe
Annual Code of Conduct data exercise	Review the responses received from Town and Community Councils to the annual request for Code of Conduct data	18/09/2023	Wendy Walters	Robert Edgecombe
Group Leaders Duty	Agree the advice and guidance to be given the Political Group Leaders regarding the preparation of their annual reports to Standards Committee under the Local Government and Elections (Wales) Act 2021	11/12/2023	Wendy Walters	Robert Edgecombe
Code of Conduct Training	Agree the arrangements for Code of Conduct Training for Town and Community Councillors later in the year	04/03/2024	Wendy Walters	Robert Edgecombe
Code of Conduct Data Exercise	Agree the scope and nature of the data to be gathered	04/03/2024	Wendy Walters	Robert Edgecombe
Forward Work Plan	Agree the Forward Work Plan for 2024-2025	04/03/2024	Wendy Walters	Robert Edgecombe