

# 1. Consultation on the Local Government and Elections (Wales) Act 2021: standards of conduct statutory guidance

## • Foreword by the Minister for Finance and Local Government

Councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, in order to encourage a more diverse range of people to seek elected office in local government. Standards of behaviour are key to this, and all members have a responsibility to act in a manner which respects and values all people.

The provisions in the Local Government and Elections (Wales) Act 2021 support this culture by providing a new duty on the leaders of political groups to take steps to promote and maintain high standards of conduct of their members. The duty recognises those in positions of leadership and influence within a principal council should have responsibility for combating bullying and harassment amongst elected members and council staff, and must act as a positive role model. Among other things, this duty is designed to support our diversity in democracy agenda and actions in our Race Equality Action Plan.

The duty is not intended to be the panacea and will not cover everyone (particularly those members who do not belong to a group), but it is designed to be proportionate and helpful. Its aim is to prevent or stop inappropriate behaviour before it escalates into a breach of the Code of Conduct.

All of us in public life must demonstrate the highest standards of behaviour and respect, particularly with regard to equalities and diversity. This guidance provides advice on the new duties introduced to support this position.

**Rebecca Evans, MS**

**Minister for Finance and Local Government**

## • Introduction

The Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) provides a new and reformed legislative framework for local government elections, democracy, governance and performance.

This guidance sets out how leaders of political groups in principal councils should meet their duties contained in section 52A of the Local Government Act 2000 (“the 2000 Act”), inserted by section 62, of the 2021 Act, which relates to the promotion and maintenance of high standards of conduct by the members of the group.

Leaders of political groups must have regard to any guidance issued by Welsh Ministers in relation to the exercise of their functions under section 52A(2) of the 2000 Act.

The guidance is designed to support leaders of political groups understand and discharge their duties in relation to high standards of conduct, whilst recognising that they will wish to and should be encouraged to develop their own approach in line with their wider statutory obligations, local circumstances, and best practice.

This guidance specifically addresses the following duties:-

- **Duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group**

Section 52A(1)(a) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, must take reasonable steps to promote and maintain high standards of conduct by the members of the group.

- **Duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions**

Section 52A(1)(b) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, must co-operate with the council's standards committee (and any sub-committee of the committee) in the exercise of the standards committee's functions.

This guidance refers specifically to these duties on a leader of a political group, and sets out the expectations on how they will perform these duties. All of the duties apply from 5 May 2022. Leaders of a political group will be required to have regard to the guidance once the relevant duties come into force.

There are other provisions within Part 3 of the 2000 Act relating to standards committees, inserted by sections 62 and 63 of the 2021 Act. These aspects of the 2021 Act are also described in this guidance.

The guidance is set out as follows:-

**Chapter 1:** describes the policy context within which the duties are set and the purpose of the duties.

**Chapter 2:** explains the duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group.

**Chapter 3:** provides guidance on the duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions

**Chapter 4:** describes the functions of standards committees in relation to the new duties.

- **Chapter 1: Policy context and purpose of the duties set out in section 52A of the Local Government Act 2000**

- **Policy context**

Part 3 of the 2000 Act established a statutory framework to promote and maintain high standards of ethical conduct by members and employees of relevant authorities in Wales. A 'relevant authority' is a county or county borough council ("a principal council"), community council, fire and rescue authority, a national park authority and a Corporate Joint Committee subject to the draft Corporate Joint Committees (General) (Wales) Regulations 2022 being made.

The framework consists of the ten general principles of conduct for members (derived from Lord Nolan's 'Seven Principles of Public Life'), set out below:

- Selflessness
- Honesty
- Integrity and propriety
- Duty to uphold the law
- Stewardship
- Objectivity in decision-making
- Equality and respect
- Openness
- Accountability
- Leadership

These are included in the statutory Model Code of Conduct (as required under section 50 of the 2000 Act), which lays down a set of enforceable minimum standards for the way in which members should conduct themselves, both in terms of their official capacity and (in some instances) in their personal capacity as well. It also guides members on the declaration and registration of interests. All elected members must give a written undertaking to observe the Code before they can take up office.

Building on the existing arrangements, section 62 of the 2021 Act inserts a new section 52A into the 2000 Act which places a duty on leaders of political groups within a principal council to promote and maintain high standards of conduct by members of their group. Group leaders are required to co-operate with the council's standards committee in the exercise of its general and specific functions for promoting high standards (see below).

Subsection (3) amends section 54 of the 2000 Act to extend the specific functions of a standards committee to include monitoring compliance by leaders of political groups with the new duty imposed on them by the 2021 Act to promote and maintain high standards of conduct by members of their group. A standards committee must

also provide advice or provide or arrange training for group leaders on the new duty.

- **Purpose of the standards of conduct provisions**

The ethical standards framework in Wales aims to promote the observance of consistent standards of conduct by local government members. High ethical standards underpin and maintain public confidence in democratic governance and the decision making process. For any organisation to be effective it must respect diversity and treat everyone with respect. Engendering a culture within a principal council which embraces high standards of conduct, requires both local leadership and all elected members to accept responsibility for their actions both individually and collectively.

The standards of conduct provisions in the 2021 Act complement the existing statutory ethical framework and support the Code of Conduct process. The provisions are designed to ensure leaders of political groups in principal councils, supported by standards committees, promote and maintain high standards of conduct by the members of their group.

- **The wider environment in which the standards of conduct duties operate**

The standards of conduct provisions contained in the 2021 Act support the Welsh Government's wider commitment to equality and diversity in public life. Action has been taken through the Diversity in Democracy Programme to tackle the barriers which prevent individuals' active participation in local democracy. Within local government, and through the Welsh Local Government Association (WLGA), there has been a commitment to Diversity in Democracy, including councils signing Diverse Council declarations which seek, amongst other actions, to ensure councils 'demonstrate an open and welcoming culture to all'. Furthermore, the WLGA, working with the Local Government Association (LGA), Northern Ireland Local Government association (NILGA) and the Scottish body, COSLA, has been promoting the Civility in Public Life programme, which seeks to promote civil, constructive and respectful political discourse.

The Race Equality Action Plan for Wales: An anti-racist Wales sets out a series of goals and actions designed to improve the outcomes for black, Asian and minority ethnic people in Wales. The Action Plan sets out a number of goals and actions for local government relating to its leadership and representation role. It recognises that a more diverse elected representation is good for decision making and likely to lead to decisions which reflect society as a whole.

- **Chapter 2: Duty to take reasonable steps to promote and maintain high standards of conduct by the members of the group**

- **Introduction**

This chapter of guidance should be read by a leader of a political group in a principal council to support the discharge of their duties in section 52A of the 2000 Act, to take reasonable steps to promote and maintain high standards of conduct by the members of the group. The guidance here reflects the minimum requirements, recognising that leaders are best placed to build on this to develop the detail of their own approach.

- **Definition of political groups and group leaders**

Section 52A(3) of the 2000 Act enables the Welsh Ministers to make provision in regulations about the circumstances in which (a) members of a county council or county borough council in Wales are to be treated as constituting a political group; (b) a member of a political group is to be treated as a leader of the group.

The Local Government (Committees and Political Groups) Regulations 1990, made under the Local Government and Housing Act 1989, currently governs the position in this respect, until such time as regulations passed under 52A(3) of the 2000 Act are made.

- **New Duty**

Section 52A(1)(a) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, must take reasonable steps to promote and maintain high standards of conduct by the members of the group.

The duty does not make leaders of a political group accountable for the behaviour of their members as conduct must be a matter of individual responsibility. However, they do have a role in taking reasonable steps in maintaining standards, setting an example, using their influence to promote a positive culture, being proactive in promoting high standards of conduct in their group and addressing issues as soon as they arise.

Reasonable steps the group leader *may* undertake include:

- demonstrating personal commitment to and attending relevant development or training around equalities and standards;
- encouraging group members to attend relevant development or training around equalities and standards;
- ensuring nominees to a committee have received the recommended training for that committee;
- promoting civility and respect within group communications and meetings and in formal council meetings;
- promoting informal resolution procedures in the council, and working with the standards committee and monitoring officers to achieve local resolution;
- promoting a culture within the group which supports high standards of conduct and integrity;
- attend a meeting of the council's standards committee if requested to discuss Code of Conduct issues;

- work to implement any recommendations from the Standards Committee about improving standards;
- work together with other group leaders, within reason, to collectively support high standards of conduct within the council.

As set out in chapter 1, the purpose of the new duties is to build on and support a culture which is proactive, acts on and does not tolerate inappropriate behaviour. The Guidance from the Public Services Ombudsman for Wales for members on the Code of Conduct provides advice on the Code and its requirements. It includes examples of cases considered by the Ombudsman and decisions reached by local standards committees and the Adjudication Panel for Wales which demonstrate behaviours which are unreasonable or inappropriate. Leaders of political groups and all members should have regard to the Ombudsman's Guidance, which can be accessed on the [Ombudsman's website](#).

The importance of attendance at training on the Code of Conduct has been highlighted by the Ombudsman and was raised under the independent review of the Ethical Standards Framework and Model Code of Conduct carried out by Richard Penn. Leaders of political groups should encourage all members in their group to read the Ombudsman's Guidance and any local guidance issued by the monitoring officer or standards committee and to take up any offer of training. They should also work constructively with standards committees and Monitoring Officers to identify the training requirements for themselves and for their group members.

It is essential that relationships with members are established which encourage them to raise issues with the group leader. The group leader has a significant role to play in creating a culture of trust and mutual respect in their group. Where issues arise, the importance of resolving low-level complaints at a local level has been raised by the Ombudsman and the independent Review of the Framework. Typically, these complaints are about alleged failures to show respect and consideration for others and the making of frivolous and low level complaints. The group leader should be pivotal in preventing the escalation of these complaints to the stage where more formal interventions become necessary. Leaders of political groups should have informal discussions with members who may be showing early signs of inappropriate behaviour to 'nip this in the bud' before it becomes problematic or in danger of breaching the Code. This may include suggesting and requesting training for the members concerned, asking for social media posts to be removed, and requesting apologies where appropriate.

A leader of a political group who fails to comply with the new duty in a meaningful way, may potentially be regarded as bringing their office into disrepute, and likely to be in breach of the Code (see the Ombudsman's Guidance).

A political group's internal disciplinary procedures remain a matter for that group or any associated political party's own rules on discipline. However, it is expected that the group leader will take reasonable steps to promote and maintain high standards of conduct by members within group communications and meetings as well as their 'public' conduct outside of the group setting.

- **Chapter 3: Duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions**

- **Introduction**

This chapter of guidance is about the duty to co-operate with the council's standards committee (and any sub-committee) in the exercise of the standards committee's functions within section 52A of the 2000 Act.

The duties will come into force from the start of the next local government electoral cycle, on 5 May 2022.

- **New Duty**

Section 52A(1)(b) of the 2000 Act requires that a leader of a political group consisting of members of a county council or county borough council in Wales, must co-operate with the council's standards committee (and any sub-committee of the committee) in the exercise of the standards committee's functions. The duties of a standard committee are described in more detail in chapter 4.

- **Role of leader of political group**

It is essential the leaders of a political group co-operate, and ensure the members within their group co-operate, with the monitoring officer and standards committee when an issue is referred to the standards committee.

Leaders of a political group should build good relations, and work constructively with the monitoring officer, seeking advice from them and the standards committee on matters of behaviour and conduct when required, both promoting positive behaviours and addressing inappropriate ones. Group leaders should also report compliance with their duty to the standards committee. This can take the form of a short letter or report at a frequency agreed by the political group leaders in the council and its standards committee. Group leaders should also report any serious concerns about members' behaviour which have not been remedied by informal actions, in line with the requirement in the Code for councillors to report breaches.

If a member is found by the standards committee to be in breach of the Code of Conduct and is disciplined by the committee, the leader of the political group must support the action, in order to maintain the high standards of conduct expected in public life and the Code. Group leaders should have regard to the Ombudsman's Guidance and the Sanctions Guidance issued by the President of the Adjudication Panel for Wales, which can be accessed on the [Adjudication Panel's website](#).

- **Chapter 4: Functions of standards committees**

- **Introduction**

This chapter describes the duties of standards committees in relation to standards of conduct, within the 2000 Act, inserted by section 63 of the 2021 Act.

The duties will come into force from the start of the next local government electoral cycle, on 5 May 2022.

## • **Current position**

Local standards committees play an important role in supporting members, individually and collectively, to develop and maintain a culture which embraces high standards of conduct.

A principal council, fire and rescue authority or National Park authority in Wales (but not a community council) is required by section 53 of the 2000 Act to establish a standards committee.

The general functions of a standards committee under section 54(1) of the 2000 Act are to promote and maintain high standards of conduct by members and co-opted members of a “relevant authority” and to assist them to observe the code of conduct.

In addition, a standards committee also has specific functions under section 54(2) of the 2000 Act, namely to:

- advise the authority on the adoption or revision of a code of conduct;
- monitor the operation of the code of conduct; and
- provide advice or provide or arrange training on the code of conduct for members of the authority.

Section 56(1) of the 2000 Act provides that a principal council’s standards committee (or a sub-committee established for the purpose) also exercises these functions in relation to members of community councils in its area.

Monitoring officers work closely with standards committees and support them in providing day-to-day advice to members on conduct matters.

A principal council may arrange for its standards committee to exercise such other functions as it considers appropriate, for example, monitoring the operation of corporate maladministration complaint procedures.

## • **New duties**

### • **Duty of a standards committee to monitor group leaders’ compliance with the duties, and provision of advice and training**

Section 62(3) of the 2021 Act amends section 54 of the 2000 Act to extend the specific functions of a standards committee to include monitoring compliance by leaders of political groups with the new duty imposed on them by the 2021 Act to



promote and maintain high standards of conduct by members of their group. As noted above, a council's political group leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee. The standards committee should then consider each report and provide feedback to the group leaders.

A standards committee must also provide advice and training, or arrange to train group leaders on the new duty. At the start of each administration this should take place within six months of the election and be reviewed at least annually.

The standards committee chair may wish to meet with group leaders periodically to review behaviour.

### • **Duty of standards committee to make annual report**

Section 63 of the 2021 Act inserts a new section 56B into the 2000 Act which places a requirement on standards committees in each "relevant authority" to make an annual report to the authority concerned. In the case of a principal council, the requirement to report to "the authority" in this context includes any community councils in its area.

As a minimum, the report must:

- describe how the committee has discharged its functions during the preceding financial year;
- include a summary of reports and recommendations made or referred to the committee by the Public Services Ombudsman for Wales relating to the investigation of alleged breaches of the member code of conduct, and any subsequent action taken by the committee;
- include a summary of notices given to the committee by the Adjudication Panel for Wales, relating to the Panel's decisions on possible breaches of the member code of conduct;
- describe the advice it has provided on training for all members and how that has been implemented, and
- in the case of a principal council, include the committee's assessment of how political group leaders have complied with the new duty under section 52A(1) of the 2000 Act (inserted by section 62 of the 2021 Act) to promote high standards of conduct, including the advice the standards committee has provided and the training it has suggested.

The committee may also wish to report on the number of cases considered under local resolution processes. This would help to capture data on an "all Wales" basis, on matters which do not reach the Public Services Ombudsman for Wales.

The requirement to make an annual report is intended to ensure there is a regular and consistent approach to the reporting and consideration of standards of conduct by members of relevant authorities in Wales. This is intended to promote local ownership and collective responsibility by members for ensuring high standards of conduct within their authority. To this end, section 56B places an obligation on a

relevant authority to consider the report and any recommendations made by its standards committee within three months of its receipt. The authority's consideration of a report will be a matter of public record through the published minutes of the meeting.

It would be good practice for Standards Committees to share their Annual Reports with the Public Services Ombudsman for Wales.

- **Consultation questions**

- **Question 1**

Does the draft guidance make it clear what is expected of leaders of political groups in principal councils as set out in the provisions of Part 4 of the Local Government and Elections (Wales) Act 2021 in a way that can be understood by leaders of political groups in principal councils?

If not, why not?

- **Question 2**

Does the draft guidance make it clear what is expected of Standards Committees in principal councils as set out in the provisions of Part 4 of the Local Government and Elections (Wales) Act 2021 in a way that can be understood by Standards Committees?

If not, why not?

- **Question 3**

We would like to know your views on the effects that the guidance 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? How could positive effects be increased, or negative effects be mitigated?

- **Question 4**

Please also explain how you believe the guidance 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 have 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 5**

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use the consultation response to express your views.