

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO DEMOCRATIC SERVICES COMMITTEE

25 MARCH 2021

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

PUBLIC SERVICES OMBUDSMAN FOR WALES REVISED CODE OF CONDUCT GUIDANCE

1. Purpose of report

- 1.1 The purpose of this report is to apprise the Committee of the Public Services Ombudsman for Wales draft Code of Conduct Guidance for members of local authorities in Wales.

2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:-

Smarter use of resources – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

Supporting a successful sustainable economy – Taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focused on raising the skills, qualifications and ambitions for all people in the county borough.

3. Background

- 3.1 The Local Government Act 2000 created a new ethical framework for local government in Wales. It created a power for the National Assembly for Wales (now known as the Welsh Parliament or Senedd Cymru) to issue a model Code of Conduct ("the Code") to apply to members and co-opted members (with voting rights) of all relevant authorities in Wales. This power was transferred to the Welsh Ministers by the Government of Wales Act 2006. On 1 April 2016, Welsh Ministers issued a number of revisions to the current Code (issued in 2008) and the Council adopted the provisions of the Code on 1 September 2008.
- 3.2 Authorities were required to adopt the Code in its model form in its entirety, but could make additions to the Code, provided these were consistent with the Model. This is intended to give certainty to members and the public as to what standards are expected. It helps to ensure consistency throughout relevant authorities, avoiding confusion for members on more than one authority and for the public.
- 3.3 It is the role of the Public Services Ombudsman for Wales (PSOW) to consider and, when appropriate, undertake independent investigations of serious complaints that

members of local authorities in Wales have breached the Code. In determining whether to investigate a complaint or whether to continue an investigation of a breach of the Code, the PSOW use a two-stage test.

4. Current situation/proposal

- 4.1 The PSOW guidance provides members with a general understanding of the Code and its requirements but ultimately it is the responsibility of members to take specific advice from the Monitoring Officer and to make a decision as to the most suitable course of action.
- 4.2 The revised draft guidance (attached as **Appendix 1**) was published in February 2021 and explains the revised two-stage test that will be considered. It also includes guidance on the use of social media and political expression, and aims to provide assistance to members on the issue of interests, which some members find challenging. It excludes guidance which only relates to town and community councillors as this is included in separate guidance.
- 4.3 At the first stage of the test, the PSOW will aim to establish whether there is direct evidence that a breach actually took place. The level of proof that is required is on the balance of probabilities. If that evidential test is met, at the second stage consideration will be given as to whether an investigation or a referral to the Authority's Standards Committee or the Adjudication Panel for Wales is required in the public interest. Some of the public interest factors that are considered are set out in the guidance. These factors are not exhaustive and the weight to be attached to each will vary according to the facts and merits of each case. The two-stage test has been revised in order to provide greater clarity on how the PSOW will exercise discretion and secure a degree of consistency and certainty in the decisions that are reached. When applying the test the PSOW will also take into account previous decisions of the Adjudication Panel for Wales and standards committees and also relevant legal precedents set by the courts.
- 4.4 Members are offered training on the Code and refresher training events recently took place in January 2021. The PSOW expects all members to attend training and accept advice where offered.
- 4.5 A consultation exercise on the draft Code of Conduct ran from 5 February 2021 to 21 March 2021. At the time of this meeting the consultation has now closed.

5. Effect upon policy framework and procedure rules.

- 5.1 There is no impact upon the policy framework or procedure rules.

6. Equality Impact Assessment

- 6.1 There are no equality implications in this report.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The well-being goals identified in the Act were considered in the preparation of this report. It is considered that there will be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.

7.2 Compliance with the Code of Conduct by members ensures the Council maintains a high standard of behaviour and conduct and thereby encouraging and promoting democracy throughout society thereby contributing to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:

- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

8. Financial implications

8.1 There are no financial implications arising from this report.

9. Recommendation.

9.1 It is recommended that the Committee notes the report and the PSOW draft Code of Conduct Guidance attached as **Appendix 1**.

L Griffiths
Group Manager Legal and Democratic Services
March 2021

Contact Officer: L Griffiths
Group Manager Legal and Democratic Services

Telephone: (01656) 643135

E-mail: laura.griffiths@bridgend.gov.uk

Postal Address Civic Offices
Angel Street
Bridgend
CF31 4WB

Background documents: None