

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO STANDARDS COMMITTEE

26 JANUARY 2016

REPORT OF THE MONITORING OFFICER

WELSH GOVERNMENT CONSULTATION DOCUMENT – CONDUCT OF LOCAL GOVERNMENT MEMBERS

1. Purpose of Report

1.1 To advise the Committee of two draft statutory instruments to be made under Part III of the Local Government Act 2000 in relation to the conduct of Local Government Members in Wales and related matters:

- The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) Regulations 2016; and
- The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

2. Connection to Corporate Improvement Plan / Other Corporate Priority

2.1 Standards are an implicit requirement in the successful implementation of the Corporate Themes.

3. Background

3.1 The Welsh Government's 'Programme for Government' included a commitment to review the process for making an allegation that a local government member may have breached the member Code of Conduct, to ensure that it remains fit for purpose. The draft Statutory Instruments give effect to this and related matters.

3.2 Welsh Government issued a Consultation at the end of November 2015 on the drafting of the Statutory Instruments and in order to facilitate completion of the legislative process before the Elections in May 2016, the consultation period was limited to six weeks, closing on 10 January 2016.

4. Current Situation / Proposal

4.1 The background to the consultation is available at the following link <http://gov.wales/consultations/localgovernment/amendments-to-subordinate-legislation/?lang=enset> and outlines the following key proposals which are pertinent to the work of the Standards Committee:

Obligation to report potential breaches

It is proposed that this obligation is removed from the model Code in order to support non-statutory local protocols for resolving low-level member-on-member complaints. Whilst it will still be open for a member to refer such matters to the Ombudsman, the Ombudsman has indicated that he is likely to refer the matter back for local resolution in the first instance.

Constituency Interests

It is proposed to omit paragraph 10(2)(b) from the Model Code which provides that

a Member has a personal interest in a matter if a member of the public might reasonably perceive a conflict between their role in taking a decision on that matter on behalf of the Authority as a whole, and their role in representing the interests of constituents in their ward or electoral division, as appropriate. This aspect has given rise to unintended consequences in its practical application. The equivalent provision in the 2001 Model Code of Conduct was framed so as to apply to an executive member acting alone in taking a decision on behalf of the Authority. The wider wording of the provision in the 2008 Code has been read by authorities as applying to Members when acting collectively, e.g. on a planning or licensing committee, and has been seen as potentially precluding members from participating in any decisions affecting their ward.

Term of Office

The term of office of a member of a local authority or a community committee member serving on a standards committee is currently limited to the shorter of four years or the period to the next ordinary election following that member's appointment. It is proposed that this be extended until the date of the next ordinary election following the Member's appointment.

Joint Standards Committees

There are various provisions including maintaining the maximum limit of 9 Members, providing for no more than 1 Executive Member from each constituent authority and provisions relating to the servicing of such committees.

Publication of misconduct Reports – Exemption

There is a proposal that a Committee may exempt from publication agendas, records or information connected to the consideration of misconduct report until such time as the misconduct proceedings are concluding which may be until receipt of notification or, the conclusion of an appeal to the Adjudication Panel.

Referral of misconduct cases

There is provision for a Standards Committee to refer alleged breaches of the Code of Conduct to a different Standards Committee where the home Standards Committee considers it may have a conflict of interest.

Period of suspension

The Regulations are amended to make it clear that a period of suspension cannot exceed the remainder of a member's term of office.

Appeals to the Adjudication Panel for Wales

The proposal is to remove the right of appeal against the determination of a Standards Committee and imposing a requirement for a Member wishing to appeal to first obtain the permission of the President of the Panel. This is to ensure that only those appeals that have a reasonable prospect of success will proceed.

Referral of Dispensation Applications

There is provision for the Committee to refer an application for dispensation to another Authority's Committee for consideration.

Criteria for Granting Dispensations – Disability

As a general principle, the Welsh Ministers consider that a member with a prejudicial interest in any business being considered by that member's authority at a meeting should comply with the Code of Conduct and disclose that interest and withdraw from the meeting. The Welsh Government is aware that requiring a member with a disability to withdraw from a meeting could be problematic for that member. In such circumstances, an authority would be obliged to consider making reasonable adjustment (short of requiring the member to withdraw from the meeting) to accommodate that member's disability, for example, by

placing the item of business in which the member has an interest at the end of the agenda.

5. Effect upon Policy Framework& Procedure Rules

5.1 The proposals, if adopted, will result in amendments to the Model Code.

6. Equality Impact Assessment

6.1 The report is in relation to a consultation by Welsh Government proposing amendments to legislation and therefore it is for Welsh Government to carry out formal equality impact assessments in respect of their proposals.

6.2 It should be noted that one of the proposals, if adopted will have a positive impact for Members with disabilities.

7. Financial Implications

7.1 There are no immediate budgetary implications arising from this report.

8. Recommendation

8.1 It is recommended that the Committee note the report.

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Background documents

Welsh Government Consultation Document – Local Government Act 2000 Part III, Conduct of Local Government Members (30 November 2015)