

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO COUNCIL

13 APRIL 2016

REPORT OF THE MONITORING OFFICER

AMENDMENTS TO LEGISLATION AND MODEL CODE OF CONDUCT

1. Purpose of Report

1.1 To advise Council of the following statutory instruments which came into force on 1st April 2016:

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

2. Connection to Corporate Improvement Plan / Other Corporate Priority

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

3. Background

3.1 The Minister for Public Services signed the Statutory Instruments on 27 January 2016.

4. Current situation / proposal

4.1 The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

The Order amends the Model Code of Conduct for local government members, set out in the schedule to the Local Authorities (Model Code of Conduct) (Wales) Order 2008 as follows:

- The 2013 Act transferred responsibility for maintaining the register of interests of members of community councils from the Monitoring Officer of the principal local authority for the area to the 'proper officer' of each community council, with effect from 1st May 2015. A number of consequential amendments are made to the Model Code to reflect this change, so that, in relation to a community council, a reference to a monitoring officer is replaced with a reference to the proper officer of the community council;
- Paragraph 15 of the Model Code, dealing with the register of members' interests, is amended to clarify that any interest disclosed for the first time must be entered in the register. This is not a change of policy, but clarifies the original intention. The exemption for community councillors from the requirement to register certain financial and other interests upfront is maintained;

- The obligation on a member to report a potential breach of the Code to the Public Services Ombudsman for Wales is omitted from the Code;
- Paragraph 10(2)(b) of the Code is omitted. This is to overcome unintended difficulties in the practical application of this paragraph in relation to participation in business relating to constituency interests. A member participating in the consideration of a ward matter is nonetheless under an obligation to act objectively and in the wider public interest in accordance with paragraph 8 of the Code.

4.2 The Local Government (Standards Committees, Investigations, Dispensations and Referral (Wales) (Amendment) Regulations 2016

The Regulations amend three statutory instruments as follows:

4.3 The Standards Committees (Wales) Regulations 2001

- A number of consequential amendments are made to the 2001 Regulations following commencement of Section 68 of the 2013 Act, which enables two or more relevant authorities to establish a joint standards committee;
- As a consequence of the postponement of the 2016 local government elections, provision is made to enable a relevant authority to determine that local authority and community council members of its standards committee who are in place on 1 April 2016 may continue to serve until the next ordinary election in 2017. In addition, the current four year restriction on the term of office of such a member is removed;
- Provision is made to enable a standards committee to delay publications of agendas, records or information connected to its consideration of the report of a misconduct investigation until such time as the misconduct proceedings are concluded. However presumption remains that misconduct hearings will be held in public, unless there are particular reasons for some or all of the proceedings being held in private.

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

- Provision is made to enable a standards committee or a monitoring officer, with the prior written agreement of the Chairperson of the standards committee, to refer the report of a misconduct investigation to another authority's standards committee for determination. This is to overcome any potential conflict of interest a standards committee may have in dealing with a report;
- The wording of Regulation 9 is amended to clarify that a period of suspension imposed by a standards committee is limited to a maximum of 6 months or, if shorter, the remainder of a member's term of office. This addresses an ambiguity in the current wording and brings the provision into line with the comparable power of an Adjudication Panel for Wales case tribunal;
- A member seeking to appeal the determination of a standards committee will in future first need to obtain the permission of the President, or a nominated panel member, of the Adjudication Panel for Wales.

4.5 Local Authorities (Grant of Dispensations) (Wales) Regulations 2001

- Provision is made to enable a standards committee or a monitoring officer, with the prior written agreement of the Chairperson of the standards committee, to refer a dispensation application to another authority's standards committee for determination. The Vice-Chairperson of the standards committee may give permission in the absence of the Chairperson. Again, this is primarily to overcome any potential conflict of interest a standards committee may have in dealing with an application. It may also enable an urgent application to be expedited;
- A general category of dispensation is introduced. This will enable a standards committee to grant a dispensation, if it considered it appropriate in all the circumstances to do so, where it was not otherwise possible to make reasonable adjustments to accommodate a person's disability. A dispensation granted under this category which has ongoing effect is subject to annual review.

4.6 In accordance with Section 51 of the 2000 Act, all relevant authorities must within six months of the date the Local Authorities (Model of Code of Conduct) (Wales) (Amendment) Order 2016 was made, adopt a revised Code of Conduct.

4.7 The text of the amended Model Code of Conduct is attached as **Appendix 1**.

5. Effect upon Policy Framework & Procedure Rules

5.1 The Constitution will be updated as a result of the revised Model Code of Conduct.

6. Equality Impact Assessment

6.1 None.

7. Financial Implications

7.1 None.

8. Recommendations

Council is recommended to:

- 8.1 Approve adoption of the revised Model Code of Conduct attached as Appendix 1;
- 8.2 Approve amendment of the Constitution to include the revised Code.

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Background Documents

None