

**Report To:** Standards Committee

**Date of Meeting:** 22<sup>nd</sup> May 2015

**Lead Member / Officer:** Gary Williams, Monitoring Officer

**Report Author:** Gary Williams, Monitoring Officer

**Title:** Public Services Ombudsman for Wales – Revised Code of Conduct Guidance

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**1. What is the report about?**

1.1 The report is about the introduction by the Public Services Ombudsman for Wales (the Ombudsman) of revised guidance for Elected Members in respect of the Code of Conduct.

**2. What is the reason for making this report?**

2.1 To inform Members of and seek their comment upon the revised guidance.

**3. What are the Recommendations?**

3.1 That Members of the Committee discuss and note the contents of the revised guidance documents and agree the method of dissemination to Elected Members.

**4. Report details.**

4.1 The Committee will recall that it considered at its January meeting, a discussion paper produced by the Ombudsman in respect of his intention to introduce a public interest consideration into his two stage test of whether or not to investigate a complaint made against an Elected Member alleging a breach of the Code of Conduct.

4.2 The Ombudsman has now produced revised guidance on the Code of Conduct which incorporates the public interest factors into the two stage test as well as making other changes to previous guidance. A copy of the Ombudsman's covering letter introducing the revised guidance is attached as Appendix 1 to this report. As before, the Ombudsman has produced two guidance documents, one for Elected Members of Unitary Authorities, Fire and Rescue Authorities and National Parks, a copy of which is attached as Appendix 2 to this report and another for City, Town and Community Councillors which is attached as Appendix 3.

4.3 The public interest factors to be considered by the Ombudsman as part of his two stage test are set out in Section 1 of the Revised Guidance. They are:

- the seriousness of the breach

- whether the Member deliberately sought personal gain for themselves or another person at the public expense
- whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to a person
- whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity
- whether there is evidence of previous similar behaviour on the part of the Member
- whether the investigation or referral to a standards committee or the Adjudication Panel for Wales is required to maintain public confidence in Elected Members in Wales
- whether investigation or referral to a Standards Committee or the Adjudication Panel for Wales is a proportionate response, namely, whether it is likely that the breach would lead to a sanction being applied to the Member (I will take account of the outcomes of previous cases considered by Standards Committees across Wales and the Adjudication Panel for Wales), and whether the use of resources in carrying out an investigation or hearing by a Standards Committee or the Adjudication Panel for Wales would be regarded as excessive when weighed against any likely sanction.

4.4 The revised Guidance also includes new advice with regard to freedom of expression which can be found in Section 2 under the heading of "Treating others with respect and consideration"

4.5 The revised Guidance also incorporates further advice about the use by Members of social media, in particular in the section relating to when the Code applies, and reminds Members that the WLGA has produced guidance of its own entitled "Social Media: A Guide for Councillors" which the Ombudsman considers provides helpful advice.

4.6 The revised Guidance to Elected Members of Unitary Authorities includes helpful flowcharts as appendices to the Guidance which are designed to assist Members in determining whether or not they have a declarable interest and, if so, whether it is a personal interest or a personal and prejudicial interest.

4.7 The revised Guidance to Town, City and Community Councillors contains a single more streamlined flowchart to assist Elected Members in determining whether or not they have a declarable interest and, if so, whether it is a personal or a personal and prejudicial interest.

## **5. How does the decision contribute to the Corporate Priorities?**

5.1 The report has no direct impact on the corporate priorities.

## **6. What will it cost and how will it affect other services?**

6.1 There are no costs directly associated with the report.

**7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

7.1 This report does not require an equality impact assessment.

**8. What consultations have been carried out with Scrutiny and others?**

8.1 This matter has not been reported or consulted upon elsewhere.

**9. Chief Finance Officer Statement**

9.1 There are no direct cost implications arising from this report.

**10. What risks are there and is there anything we can do to reduce them?**

10.1 There is a risk that without appropriate guidance from the Ombudsman Members will not have a clear understanding of the Ombudsman's interpretation of the Code of Conduct and his approach to the handling of complaints.

**11. Power to make the Decision**

11.1 Article 9.2 of the Council's Constitution.