

Appendix 3

‘An audit of the Codes of Conduct adopted by all the required authorities against the Model Code to identify any local variances’

The Review reports that only 1 County Council has adopted the Model Code of Conduct without any significant variations or additions. More than half have adopted a local resolution procedure, and more than half also have a mandatory training requirement

‘An analysis of the effectiveness of the framework in fostering high standards of conduct in local government in Wales and public confidence in those arrangements’

The Review concludes that the framework generally, and the requirements of the Code of Conduct in particular, has been instrumental in fostering the high standards of conduct that are evident in local government in Wales. The Review does reflect concerns about the recently increasing volume of complaints about the conduct of members of Town and Community Councils. Richard Penn believes that mandatory training on the Code for all members and the greater use of local resolution procedures should result in a reduction of the number of low level complaints and, as a result, the need for formal investigations.

‘Consideration of whether the framework is still fit for purpose, including whether the ten principles of conduct are still relevant and whether the Model Code of Conduct needs updating. This will include identification of areas where improvements could/should be made to the current arrangements’

The Review concludes that the current framework is fit for purpose. The ten principles of conduct are seen as relevant and the Code of Conduct is seen as appropriate. The Review concludes that, although there is no need for a major revision of the Code of Conduct, it does suggest the following amendments:

- Paragraph 17 of the Code of Conduct should have a specified threshold for declarations of any gift, hospitality, material benefit or advantage in order to ensure consistency across Wales.
- The Code should not require Councillors to disclose their home address
- There should be a definition of ‘person’ either in the Local Government Act 2000 or in the Code.
- Paragraph 4a of the Code should be extended to include all nine protected characteristics under the Equality Act 2010.
- Guidance on social media published by the WLGA and the Public Services Ombudsman should be formalised by appropriate amendments to the Code
- 6(1)(b) of the Code of Conduct should be amended to make it an obligation of the member to report their own criminal behaviour as well as that of others.
- Training on the Code of Conduct should be mandatory for all members and a commitment to undertaking the training should be included in the Declaration of Acceptance of Office that all elected members are required to sign.
- A requirement that any complaint should be considered for local resolution before it can be referred to the Ombudsman, in order to speed up the complaints process and ensure that the Ombudsman’s office is focussed on the investigation of serious complaints.
- The Ombudsman’s power to refer complaints back for local resolution should be extended.

‘Changes to the powers and processes of the Adjudication Panel for Wales’

The Review concludes that there should be some amendments as follows:

- Restricted reporting orders - to control the reporting by the press about any case.
- Anonymity of witnesses - an express power to order anonymity for witnesses in sensitive cases would be useful for both Case and Appeal Tribunals to ensure that there is legal underpinning.
- Disclosure – to put the recent practice direction on a legal basis
- Appeal Tribunal procedure – remove the requirement on Standards Committees to consider the decision of the APW on the Appeal if it is different to the original decision
- Case Tribunal procedure – updates to make the Case Tribunal Procedure more efficient and fairer to witnesses
- Permission to appeal procedure - minor amendments to make the process more “balanced and sensible”
- Sentencing powers – to give the panel the power to impose more varied sanctions as was the case with the former Adjudication Panel for England
- Interim Case Tribunals - the threshold for meeting the legislative requirements for an interim referral is considered to be too high. The proposal is to introduce a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners’ Tribunal.

Consideration of the role of Standards Committees, including their role in relation to Town and Community Councils and whether the establishment of sub-committees has had any impact on the process of supporting Community Councils and dealing with complaints.

The Review concludes that:

- The Chair of the Standards Committee should play a leadership role, along with the Chief Executive, the Monitoring Officer and the Leaders of political groups in promoting high standards of conduct across the Council.
- There should be training of members of Standards Committee, not only on the Model Code of Conduct but also on how to hold Hearings.
- There should be an all-Wales Forum for Independent Chairs of Standards Committees and the re-establishment of the annual Conference for Independent Chairs and Independent members of Standards Committees
- The Public Services Ombudsman for Wales accepts the need for more reference back to Standards Committees when he declines to investigate complaints. Standards Committees would need to have additional powers to require necessary training of members and the power to require a member to make an apology to the complainant.
- There is serious concern about the extent of bullying, lack of respect or otherwise generally disruptive behaviour by some members at meetings of Town and Community Councils. The report suggests that this is an issue that might be mitigated by mandatory training.
- An analysis of the arrangements and protocols in place within authorities to support members and staff in preventing the need for issues to a) arise in the first place and b) be escalated beyond local resolution. This will include areas such as clear communication and signposting, training and awareness and the approach to addressing concerns
- No view was expressed on whether the current sanctions open to Standards Committees are still appropriate

- Accessibility of the ethical standards framework - the report believes that the lack of publicity about the ethical standards framework constrains use of the process, especially if the person wishing to complain if they do not have internet access, or have difficulty in accessing information because of various disabilities, or because they belong to a 'hard to reach group', or because of language problems.