

Consultation response form: WG47012

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Consultation Questions

We are not seeking specific responses on all the Recommendations. This is because taking into account discussions held with stakeholders and key partners Welsh Ministers' responses to the Recommendations include a number of suggestions for legislative change, highlights some actions which have subsequently been addressed without the need for legislation since the Report was published, some suggestions for non-legislative action and further suggestions for improvement which have been identified in discussion with stakeholders since the Report's publication.

However, there is a general question at the end of the consultation questions where you can add your comments on the Recommendations that do not have a specific question below, or where you wish to make any other comments on the consultation document.

Recommendation 4

Q1. Do you agree the relevant regulations relating to the Ethical Standards Framework should be amended to align with the definitions relating to protected characteristics in the Equality Act 2010, and that we should amend the definition of equality and respect in section 7 of The Conduct of Members (Principles) (Wales) Order 2001 (legislation.gov.uk)?

Yes

Recommendation 10

Q2. Should the Adjudication Panel Wales (APW) be able to issue Restricted Reporting Orders?

Yes

Comment: agreed to the Adjudication Panel for Wales (APW) being able to issue Restricted Reporting Orders to be used proportionally in the interests of fairness and protection of witnesses

Q3. Should there be express legal provision to enable the APW to protect the anonymity of witnesses?

Yes

Q4. Do you support the proposed changes to the permission to appeal procedure outlined in this recommendation. If not, what alternatives would you suggest?

Yes

Comment: agreed to support the changes to the permission to appeal procedure outlined in the recommendation to streamline the process but proposed that a timescale be included to ensure the process was completed within a reasonable period of time

Q5. Should there be an express power for the APW to summon witnesses to appeal tribunals?

Yes.

Comment: The Councils Standards Committee commented on the difficulties in enforcing this provision in practice.

Q6. Should there be any changes in the procedure for referring appeals decisions back to standards committees?

No:

Comment: most members did not recognise the benefit of the APW referring appeal decisions back to the Standards Committee, particularly given the same Committee would be reviewing the same case and would likely prolong the overall process for the appellant, although one member felt there could be some flexibility given that every case was different. One member considered there to be value in referring the matter back to the Standards Committee in order to reflect on the merits of the reasons given to reconsider their decision and retain local control and responsibility.

Q7. Do you agree there should be an express provision to enable part or all of tribunal hearings to be held in private?

Yes

Comment: agreed there should be express provision to enable part or all of tribunal hearings to be held in private; that provision to be used proportionally in the interests of justice

Q8. Do you agree that the requirement to provide not less than seven days' notice of the postponement of a hearing should be retained?

Yes.

Comment: agreed that the requirement to provide not less than seven days' notice of the postponement of a hearing should not be retained in order to provide greater flexibility. However, reasonable notice should be given.

Q9. Should there be a wider range of sanctions available to the APW, and if so, what should they be?

Yes.

Comment: agreed there should be a wider range of powers available to the APW with the current powers available being too restrictive

Q10a. Do you support the proposed amendments to the process for interim case tribunals outlined in this recommendation? If not, could you please explain.

Yes.

Comment: in extreme circumstances

Q10b. If you do support the changes to the process for interim case tribunals, do you agree that an intermediate arrangement should be put in place i.e., by shortening and streamlining the process for interim case tribunals in The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001?

If yes, do you have any suggestions as to how this process could be streamlined within the regulations?

No suggestions on process.

Q11. Do you have any further views on the recommendations made in relation to the operation of the APW?

Yes.

Comment: in relation to the operation of APW and disclosure, the Committee supported a requirement to make available unused material held by the Public Services Ombudsman for Wales (PSOW) and MOs in the interests of natural justice.

Recommendation 12

Q12. Do you have any suggestions as to how work might be taken forward to raise awareness of the Ethical Standards Framework, in particular for people with protected characteristics as described in the Equality Act 2010?

Comment: agreed to the need to raise awareness of the Ethical Standards Framework and to work with others as appropriate in that regard.

Other related matters outside of the Review Report

Q13. Advertising for independent members of standards committees: Do you agree the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed?

Yes

Comment: whilst noting there were merits to advertising for lay members in the local newspaper, it was agreed that it should not be a mandatory requirement provided a variety of other means were used in order to reach a wide and diverse audience.

Q14a. Former council employees sitting as independent members on standards committees: Do you agree that the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed?

Yes.

Q14b. If yes, what do you think would be a suitable period of grace between employment and appointment to a standards committee, and should this be the same for all council employees, or longer for those who previously holding statutory or politically restricted posts?

a 12-month grace period between employment and appointment for most employees, and a longer period for those formerly holding statutory or politically restricted posts.

Q15. Former councillors sitting as independent members on standards committees:

Do you agree that the lifelong ban on serving as an independent member on the standards committee of the council to which a councillor was elected should be removed? If yes, what do you think would be a suitable period of grace?

Yes.

Comment : agreed the lifelong ban on serving as an independent member on the Standards Committee of the Council to which a councillor was elected should be removed, with most members agreeing one council term would be a suitable grace period, with one member advocating a lesser grace period or none at all.

Q16. Standards committees' summoning witnesses and sanctions: Should standards committees have the power to summon witnesses?

No

Comment: difficulties with enforcement.

Q17. Do you agree that the sanctions a standards committee can impose should be changed or added to?

Yes.

If yes, what sanctions would you suggest? agreed that the sanctions a Standards Committee can impose should be added to; suggesting powers to direct training be undertaken rather than the current recommendation, and an increase in the suspension period of up to one year.

Welsh language

We would like to know your views on the effects that the above changes to the Framework and Model Code of Conduct would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

Q18. What effects do you think there would be?

Q19. How could positive effects be increased, or negative effects be mitigated?

Q20. Please also explain how you believe the proposed amendments could be formulated or changed so as to have positive effects or increased positive

effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Response to Q18/19/20 – considered the current bilingual provision to be sufficient with any changes having a neutral impact on the Welsh Language

Q21. Do you have any other comments you wish to make on the matters raised in this consultation, including for those Report Recommendations where no specific question has been posed?

No.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick

here:

Thank you for taking time to respond to this consultation. A summary of responses will be published in due course.