

**Report to** : **Standards Committee**

**Date of Meeting** : **30 November 2012**

**Report Author** : **Monitoring Officer**

**Title** : **Public Services Ombudsman for Wales  
Revised Guidance on the Code of Conduct for  
Elected Members**

## **1. PURPOSE OF REPORT**

1.1 To advise Members of the publication by the Public Services Ombudsman for Wales ('the Ombudsman') of revised guidance for elected members in respect of the Code of Conduct.

## **2. BACKGROUND**

2.1 The Ombudsman has power under s68 Local Government Act 2000 to issue guidance to members of local authorities in respect of matters relating to their conduct.

2.2 In April 2010 the Ombudsman published his guidance for members of local authorities in Wales in respect of the Code of Conduct.

2.3 The Ombudsman recognised following publication of the 2010 guidance that there may be a need to issue further guidance in the future.

2.4 The Ombudsman issued revised guidance in September 2012. The guidance is statutory which means that members and Standards Committees must have regard to it in considering matters relating to conduct.

2.5 The revised guidance has been produced in two separate documents. The first of these is guidance for members of County and County Borough Councils, Fire and Rescue Authorities and National Park Authorities. The second document is guidance for members of Community Councils. These documents can be found at the following links:

- [County and County Borough Councils, Fire and Rescue Authorities and National Park Authorities](#)
- [Community Councils](#)

2.6 The Ombudsman believes that providing separate guidance for Community Councillors using examples which specifically apply to them will provide greater clarity of guidance.

- 2.7 Both versions of the revised guidance make reference to the Ombudsman's new procedure in dealing with complaints whereby he will refer matters that he is considering not investigating to Monitoring Officers and Standards Committees for local investigation.
- 2.8 The Ombudsman also makes reference to local resolution procedures such as the Self Regulatory Protocol adopted by Denbighshire County Council. In the guidance document for Community Councillors he makes clear that this is to apply to principal councils in the first instance but that it could be made available to Community Councillors in due course.
- 2.9 The revised guidance contains new more up to date examples and has some variation in both text and examples between the two versions of the document.
- 2.10 The main change to the substance of the guidance is contained within the section relating to treating others with respect and consideration.

In his previous guidance the Ombudsman made clear that robust political debate was acceptable but that it should be conducted in a respectful way which avoided personal attacks and offensive behaviour. In his revised guidance the Ombudsman has taken into account a recent High Court case which overturned an Adjudication Panel decision, on the basis that a member's freedom of expression attracts enhanced protection when his comments are political in nature. The Ombudsman indicates that the threshold beyond which he will investigate complaints of this nature must take into account the fact that members need to have a 'thicker skin' in dealing with politically motivated comments.

### **3. RECOMMENDATION**

- 3.1 That the Committee note the contents of the Ombudsman's revised guidance.