

STANDARDS AND ETHICS COMMITTEE:

3rd MARCH 2021

**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL
SERVICES AND MONITORING OFFICER**

STATUTORY ETHICAL FRAMEWORK – NEW LEGISLATION

Reason for this Report

1. To inform the Committee of changes to the statutory ethical framework, which are being introduced by Part 4 of the Local Government and Elections (Wales) Act 2021 and seek agreement of the actions to be taken in response.

Background

2. The Local Government Act 2000, Part III (and regulations made thereunder) sets an ethical framework for the conduct of local government members. Key components of the ethical framework include the statutory Members' Code of Conduct, which sets out the duties imposed on all elected and co-opted Members; and the statutory provisions relating to Standards Committees, established to promote and maintain high standards of conduct by the members and co-opted members of the authority.

Issues

3. The Local Government and Elections (Wales) Act 2021 ('the Act'), which received Royal Assent on 20th January 2021, provides for the establishment of a new and reformed legislative framework for local government elections, democracy, performance and governance. Within Part 4 of the Act, changes are made to the statutory ethical framework set under Part III of the Local Government Act 2000. These new legislative provisions are not yet in force, but are to be brought into effect on specified dates by commencement orders, which will be issued by the Welsh Government. The Welsh Government are reviewing the ethical framework and the model Code of Conduct in the light of the Act.

4. In relation to the current changes to the ethical framework, the new legislation will:
- (i) Require leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups, and to co-operate with standards committees (due to take effect from May 2022);
 - (ii) Require standards committees to produce annual reports on the exercise of their functions (due to take effect after, and in relation to, the financial year 2022/23); and
 - (iii) Consolidate provision about investigations by the Public Services Ombudsman for Wales into the conduct of members of local government.
5. The Explanatory Memorandum accompanying the Local Government and Elections (Wales) Bill during its passage through the legislative process explains the purpose and intended effect of the new legislation relating to political group leaders and standards committees as follows:

3.125 Engendering a culture within a principal council which embraces high standards of conduct requires both local leadership and all members to accept responsibility for their actions both individually and collectively.

3.126 The White Paper 'Reforming Local Government: Power to Local People' stated that councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, if a more diverse range of people to be encouraged to seek elected office in local government. The White Paper noted that standards of behaviour were key to this and expressed concern that an overly 'macho' culture in some authorities might be acting as a deterrent to women, in particular, standing for office.

3.127 To complement the existing statutory ethical framework, the White Paper proposed that those in positions of leadership and influence within a principal council should have responsibility in respect of the promotion of diversity and to combat bullying and harassment amongst elected members and council staff.

3.128 The Bill provides that leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of their group. In doing so, a group leader must co-operate with the council's standards committee in the exercise of its functions to promote and maintain high standards of conduct. In turn, a standards committee has new functions under the Bill to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties.

3.129 Local standards committees play an important role in supporting members, individually and collectively, to develop and maintain a culture which embraces high standards of conduct. It is important that standards committees review their work periodically and report significant matters they have dealt with and any emerging trends to their council. Standards committees will be required after the end of each financial year to make an annual report to the authority describing how the

committee's functions have been discharged during the financial year and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations made by the standards committee within 3 months of receipt.

6. As Members know, the Committee has established arrangements for meeting annually with group leaders to discuss Member conduct issues. Nevertheless, the Committee may welcome this ratification of their respective roles in this regard.
7. In order to reinforce the new duties in relation to group leaders (once they are in force), it is proposed to amend the Standards and Ethics Committee's terms of reference by adding the following point: '(k) to monitor compliance by political group leaders with their duties in relation to Member conduct (under section 52A(1) of the Local Government Act 2000), and to advise, train or arrange training for political group leaders in relation to those duties.' Any amendment to the Committee's terms of reference requires the approval of full Council.
8. The Welsh Local Government Association has confirmed that they are working on a generic role description for Group Leaders, given their new responsibilities, which will be circulated to Heads of Democratic Services and Monitoring Officers.
9. Any further action to be taken by the Committee in relation to the new legislative provisions concerning group leaders will be kept under review and considered under the Committee's Forward Work Plan.
10. Members will know that the Committee has well established arrangements for presenting its annual report to full Council, a practice which was initiated over fifteen years ago. Nevertheless, it is proposed that the Committee should take the opportunity to review the structure, contents and timescale of its next annual report, having regard to the new legislative provisions. Under the new legislation, the Committee's annual report must be made 'as soon as reasonably practicable after the end of each financial year... in respect of that year.' This represents a change to the practice in Cardiff, which up to now has been to report on municipal years (running from the Annual Council meeting in May). The requirements of the new legislation are not scheduled to take effect until the 2022/23 financial year, but will be included in the Committee's report on its next annual report, provisionally scheduled for Autumn 2021, subject to the Committee's approval under its Forward Plan.
11. With regard to investigations by the Ombudsman, the Act consolidates provisions relating to practical matters such as conflicts of interest, powers to obtain and disclose information and protection from defamation proceedings. No substantive change is being made to the current law.

Legal Implications

12. Relevant legal provisions are set out in the body of the report.

Financial Implications

13. There are no direct financial implications arising from this report. Any costs of providing training and advice for political group leaders are to be met from the allocated budget.

RECOMMENDATION

The Committee is recommended to:

- (1) note the information set out in the report; and
- (2) recommend to Council that the Committee's terms of reference be amended as set out in paragraph 7, once the new legislation is brought into force

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

24th February 2021