

**STANDARDS AND ETHICS COMMITTEE:**

**25 OCTOBER 2022**

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

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**GROUP LEADERS' DUTIES IN RELATION TO STANDARDS OF  
CONDUCT**

**Reason for this Report**

1. To allow the Committee to consider the arrangements to be put in place in order to comply with the new duties of political group leaders in relation to standards of conduct and corresponding new duties placed on standards committees (introduced by Part 4 of the Local Government and Elections (Wales) Act 2021, 'the 2021 Act').

**Background**

2. The Local Government and Elections (Wales) Act 2021 ('the 2021 Act'), Part 4 introduced certain changes to the statutory ethical framework (set under Part 3 of the Local Government Act 2000), which took effect from 5<sup>th</sup> May 2022. The legislative changes were reported to the Committee on 3<sup>rd</sup> March 2021 in the report titled 'Statutory Ethical Framework – New Legislation', and include:
  - (a) New duties for leaders of political groups to take reasonable steps to promote and maintain high standards of conduct by members of their group, and to co-operate with the standards committee in the discharge of its functions; and
  - (b) New duties for standards committees to monitor the compliance of political group leaders with their new duties; and for advising and training (or arranging training) of political group leaders in relation to those duties (referred to in paragraph (a) above); and to submit an annual report to full Council.
3. In complying with the new duties, political group leaders and standards committees must have regard to any guidance issued by the Welsh Ministers.
4. At its last meeting, on 22<sup>nd</sup> June, the Committee received a report on the draft statutory guidance on this topic issued for consultation, and endorsed the consultation response submitted by the Monitoring Officer. The Committee

also considered a proforma for the group leaders' report to the Committee and agreed that this should be discussed at the next meeting with leaders and whips.

5. In line with its established practice, the Committee meets annually with group leaders and whips to informally discuss conduct issues. The last such meeting was held in October 2021. Group leaders and whips have been invited to attend this Committee meeting.

## Issues

6. The Standards of Conduct draft statutory guidance: [Consultation on the Local Government and Elections \(Wales\) Act 2021: standards of conduct statutory guidance \[HTML\] | GOV.WALES](#) is **Appendix A** to this report. Key provisions of the draft statutory guidance were reported to the last Committee meeting and include the following:

- (i) The purpose of the new provisions is 'to ensure leaders of political groups in principal councils, supported by standards committees, promote and maintain high standards of conduct by the members of their group'; and notes that they 'support the Welsh Government's wider commitment to equality and diversity in public life', within the context of other initiatives seeking to ensure councils 'demonstrate an open and welcoming culture to all' and promoting 'civil, constructive and respectful political discourse'.
- (ii) The draft guidance makes clear that 'The duty does not make leaders of a political group accountable for the behaviour of their members as conduct must be a matter of individual responsibility. However, they do have a role in taking reasonable steps in maintaining standards, setting an example, using their influence to promote a positive culture, being proactive in promoting high standards of conduct in their group and addressing issues as soon as they arise.' The draft guidance goes on to list a number of reasonable steps the group leader *may* undertake and warns that 'A leader of a political group who fails to comply with the new duty in a meaningful way, may potentially be regarded as bringing their office into disrepute, and likely to be in breach of the Code (see the Ombudsman's Guidance).'
- (iii) The Ombudsman's Guidance on the Code of Conduct includes the following in this regard:

'2.32 When considering whether a member's conduct is indicative of bringing their office or their authority into disrepute, I will consider their actions from the viewpoint of a reasonable member of the public. It is likely that the actions of those members in more senior positions, such as the Leader, an Executive Member of Committee Chair, will attract higher public expectations and greater scrutiny than ordinary members. It is more likely, therefore, that inappropriate behaviour by such members will damage public confidence and be seen as bringing both their office and their authority into disrepute. This does not mean that inappropriate behaviour by ordinary members can never bring their authority into disrepute.'

- (iv) In relation to the duty for political group leaders to co-operate with the standards committee, the draft statutory guidance says that 'Leaders of a political group should build good relations, and work constructively with the monitoring officer, seeking advice from them and the standards committee on matters of behaviour and conduct when required, both promoting positive behaviours and addressing inappropriate ones. Group leaders should also report compliance with their duty to the standards committee. This can take the form of a short letter or report at a frequency agreed by the political group leaders in the council and its standards committee. Group leaders should also report any serious concerns about members' behaviour which have not been remedied by informal actions, in line with the requirement in the Code for councillors to report breaches.'
- (v) The draft guidance on the standards committee's new duty to monitor group leaders' compliance with their duties correspondingly says that 'a council's political group leaders and its standards committee should agree on the form and frequency of a report from each group leader to the standards committee. The standards committee should then consider each report and provide feedback to the group leaders.'
7. The proforma Group Leaders' Report, which was discussed at the last Committee meeting, has been revised to:
- (i) reflect comments made at the last Committee meeting to include complaints about any unacceptable behaviour (highlighted in the responses to the Members' Exit Survey);
  - (ii) include further information about the source and level of complaints, to be provided by the Monitoring Officer's staff; and
  - (iii) make a few other drafting improvements aimed at assisting group leaders to provide the Committee with as much relevant information as possible.
8. In revising the proforma, the Monitoring Officer has also had the opportunity to review a proforma developed by colleagues in another local authority, which has been shared within the Welsh Monitoring Officers group.
9. The revised proforma Group Leaders' Report is attached as **Appendix B**. The Committee will note that the first section is to be completed by the Monitoring Officer's staff prior to sending the form to each group leader for them to complete and return. The completed Group Leaders' Reports will then be reported to the Committee for discussion.
10. The Committee discussed the frequency of the group leaders' report at its last meeting and agreed that biannually would be appropriate.
11. With regard to training for group leaders on their new duties, the draft guidance says 'At the start of each administration this should take place within six months of the election and be reviewed at least annually.' As previously reported to the Committee, the Monitoring Officer has included an overview of group leaders' new duties within the Code of Conduct training sessions delivered as part of the Member Induction Programme 2022, and further specific training sessions will be arranged in due course.

12. The Committee is recommended to consider the arrangements to be put in place in Cardiff to comply with the new statutory duties in relation to political group leaders and standards of conduct. In doing so, the Committee should take account of any views on these matters expressed by the political group leaders, specifically in relation to:
  - (i) The content of the proforma Group Leaders Report (**Appendix B**);
  - (ii) The frequency on which group leaders are to be asked to report to the Committee; and
  - (iii) What training should be provided to assist group leaders to comply with their new duties.
  
13. The Committee should note that the new statutory provisions in relation to its annual report to Council (to be considered by the Committee under agenda item 9) will, in future, require an assessment of group leaders' compliance with their new duties under the 2021 Act (as set out in this report) with effect from the Committee's Annual Report 2022/23, which is to be presented to Council as soon as reasonably practicable after the end of the current financial year.

### **Legal Implications**

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

### **Financial Implications**

15. 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.

## **RECOMMENDATIONS**

The Committee is recommended to:

- (1) Approve the revised proforma Group Leaders Report (**Appendix B**), subject to any agreed amendments;
- (2) Authorise the Monitoring Officer, in consultation with the Chair, to make any agreed amendments to the proforma Group Leaders' Report, and send it to the Group Leaders for completion and return prior to the Committee meeting scheduled to be held in May 2023;
- (3) Agree to consider the Group Leaders' Reports at the May 2023 Committee meeting;
- (4) Agree the frequency on which group leaders are to be asked to report to the Committee thereafter; and
- (5) Agree what training should be provided to assist group leaders to comply with their new duties.

**Davina Fiore**  
**Director of Governance and Legal Services and Monitoring Officer**  
17<sup>th</sup> October 2022

## **Appendices**

Appendix A Standards of Conduct draft statutory guidance: [Consultation on the Local Government and Elections \(Wales\) Act 2021: standards of conduct statutory guidance \[HTML\] | GOV.WALES](#)

Appendix B Group Leader's Report to Standards and Ethics Committee  
(draft Proforma)

## **Background papers**

Standards and Ethics Committee report, 'Draft Statutory Guidance on Standards of Conduct',  
22<sup>nd</sup> June 2022

Ombudsman's Guidance on the Members' Code of Conduct: [General : 27 FINAL Investigation Report Template s21 casework support only \(ombudsman.wales\)](#)