

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

Comment: (Optional)

The Committee welcomes the proposal to include reference within the Code of Conduct to all of the groups sharing protected characteristics under equalities law, which clarifies and reinforces the expectation that councillors should promote and maintain the highest standards of conduct in this regard.

Recommendation 10

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

Yes

Comment: (Optional)

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

Yes

Comment: (Optional)

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

In part

Comment: (Optional)

The Committee accepts that the 'clock' should stop if the APW President requests further information in order to make a decision, and that the PSOW should have the opportunity to make submissions and for the APW to hold a preliminary hearing if necessary, with an extension of time allowed for this purpose. However, a deadline for the APW decisions should be retained to ensure a timely conclusion of matters in the interests of all concerned.

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

Yes

Comment: (Optional)

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

No:

Comment: (Optional)

The Committee is content that the Committee may reflect on the APW's recommendation in its decision on sanctions and that it retains its authority in this regard.

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: (Optional)

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: (Optional)

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

Yes

Comment: (Optional)

The Committee would support a wider range of sanctions, similar those previously available to the Adjudication Panel for England, to include, for example:

- a) Censure
- b) Restriction of access to Council premises and or resources
- c) Requirement to submit a written apology in a specified form
- d) Requirement to undertake training
- e) Suspension (partial / full) for up to 12 months or until an apology is received / training undertaken / participation in conciliation

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: (Optional)

The Committee supports the need to simplify the process and the proposals seem reasonable.

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?

Yes

Comment: (Optional)

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

No:

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: (Optional)

The Public Services Ombudsman for Wales may be given responsibility for this, and asked to engage with relevant equalities groups.

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: (Optional)

The Committee agrees that the cost of newspaper advertisements may be disproportionate and that other forms of publicising vacancies may be more effective.

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?

No

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?

N/A

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?

No:

Comment (Optional):

Former councillors may not be perceived as truly independent of political allegiance, which is an important requirement for independent members of the standards committee.

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

Yes

Comment: (Optional)

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?

In addition to the current sanctions available (to censure, suspend or partially suspend a member for a period of up to 6 months), a standards committee should also be able to impose a:

- (a) Requirement to submit a written apology in a specified form; and
- (b) Requirement to undertake training.

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?

None

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

N/A

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.

N/A

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?

Yes

Comment: (Optional)

The Committee welcomes the Welsh Government's confirmation that the Model Code simply sets out the minimum legal requirements for inclusion in the code of conduct a council adopts; and notes that Cardiff has made local variations to its Code in relation to issues such as social media and use of Council IT equipment for political group meetings, and is also considering introducing a requirement in relation to mandatory training.

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.