

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL

COMMITTEE:	Standards Committee
DATE:	15th December 2021
REPORT TITLE:	Ethical Standards Framework
PURPOSE OF THE REPORT:	To consider the Report on Ethical Standards Framework
REPORT BY:	Lynn Ball Director of Function (Council Business) / Monitoring Officer lbxcs@ynysmon.gov.uk 01248 752586
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BACKGROUND

1. Early in 2021 Mr Richard Penn was requested by the Welsh Government to carry out an independent review of the Ethical Standards Framework; which was established in Wales under the Local Government Act 2000. The Local Government Act 2000 includes the Code of Conduct for Council Members and roles of the Monitoring Officer, Standards Committee, The Public Services Ombudsman for Wales (PSOW) and the Adjudication Panel for Wales. Collectively, this is the “Ethical Standards Framework”.
2. The [Report](#), published on the 14th October 2021, was circulated on an informal basis to Members of the Standards Committee a few days after the publication date with a Summary of the points which would be of immediate interest to the Committee,
3. As Members will know, the Ethical Standards Framework was established to promote high standards of ethical conduct by Members of relevant authorities in Wales when they are carrying out Council business or representing the local authority; and, in some limited instances in their private capacity as well.
4. Having consulted stakeholders, and carried out interviews across Wales, the main thrust of the Report is that the current Framework remains fit for purpose but could be improved. The Standards Committee’s formal response to the Consultation is attached at **Enclosure 1**.

5. Some recommendations outlined in the report, if accepted, will require further technical consultation and potentially legislative changes.
6. A Summary of the recommendations and of immediate interest to Members of the Standards Committee are as follows:-
 - a) That the threshold for declaration of any gifts, hospitality, material benefit should be made specific in the Code of Conduct and no longer a matter of local choice.
 - b) The Code of Conduct not to require Members to disclose their home address in their Council's Register of Interests.
 - c) Para 4a) of the Code to be amended to cover all the protected characteristics under the Equality Act 2010.
 - d) Potential breaches of the Code as a result of the extensions and increased use of social media should be formalised by appropriate amendments to the Code
 - e) Para 6(1) (b) of the Code should be amended so that Members are required to report their own criminal conduct not just that of others.
 - f) There should be mandatory training for all Members of Principal Councils and Community Councils. It is recommended that this would be achieved by Members having to commit to undertaking necessary training in the Declaration of Acceptance of Office that all elected Members are required to sign under the Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 before they act as Councillor. However changing the 2004 Order may require a legislative change.
 - g) Increase use of the Local Resolution of Complaints. It is recommended that the Local Resolution process should be considered / used before the complaint can be referred to the PSOW. This is so resolution to matters raised are processed promptly and so that the PSOW investigates more complex and serious complaints.
 - h) To extend the powers of the PSOW to refer complaints back for Local Resolution
 - i) Review of the role of the Standards Committee including their role in relation to Town and Community Councils:
 - 1) Establishing National forums for Chairs and Independent Members of Standards Committees;
 - 2) Training for Standards Committee on the Code of Conduct provisions and on how to conduct Hearings;
 - 3) Additional powers for the Standards Committee to require necessary training of Council Members, and the power to require a Member to apologise;
 - 4) Greater use of the Local Resolution Process to assist with resolving complaints about Town and Community Councils;
 - 5) Greater accessibility and promotion of the ethical standards framework.

RECOMMENDATIONS

To note this Report in the expectation of being consulted on any proposed changes to the Ethical Standards Framework as and when these are received from Welsh Government. The expectation is that they shall be in place and operational by the date of the next Welsh Local Government elections on 5th May 2022.



**CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL**

Mr Richard Penn
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2/07/2021

Annwyl Mr Penn

Adolygiad o'r Fframwaith Moesegol

Diolch am y cyfle i gwrdd â chi i drafod eich adolygiad o'r Fframwaith Moesegol yn ystod Fforwm Pwyllgorau Safonau Gogledd Cymru ar 24 Mehefin 2021.

Fel Pwyllgor Safonau rydym yn croesawu eich adolygiad ac, fel rhan o'r gwaith i baratoi ar gyfer y Fforwm, cyfarfu'r Pwyllgor Safonau i ystyried pa newidiadau / gwelliannau y gellid eu gwneud. Mae crynodeb isod o'r prif bwyntiau a godwyd gan Bwyllgor Safonau Cyngor Sir Ynys Môn. Gobeithiwn y byddwch yn rhoi ystyriaeth iddynt wrth i chi lunio eich argymhellion i Lywodraeth Cymru:

1. Trefniadau amgen:

Y posibilrwydd o gael trefn "cyffyrddiad ysgafn" ar gyfer cynghorau cymuned sydd â phraesept / cronfa wrth gefn / cyllideb islaw lefel benodol neu ryw fesur gwrthrychol arall.

Neu fel arall, y posibilrwydd o greu is-bwyllgor asesu "sifft gyntaf" i benderfynu a yw cwynion yn deilwng o gael eu

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Dear Mr Penn

Review of the Ethical Framework

Thank you for the opportunity of meeting to discuss your review of the Ethical Framework during the North Wales Standards Committee Forum on 24 June 2021.

As a Standards Committee, we welcome your review and, as part of the preparatory work for the Forum, we met as a Standards Committee to consider what changes / improvements might be made. Below is a summary of the key points made by the Isle of Anglesey County Council's Standards Committee. We hope you will take these into consideration in formulating your recommendations to Welsh Government:

1. Alternative arrangements:

The possibility of introducing a "light touch" regime for community councils with a precept / reserve / budget below a specified level, or some other objective measure.

Alternatively, the possibility of creating a "first sift" assessment sub-committee to determine whether there is sufficient

hanfon ymlaen at yr Ombwdsmon.

2. Cyflwyno cwynion:

Paragraff 6(1)(c) o'r Cod. Mae'r geiriad presennol yn creu disgwyliad y bydd Swyddogion Monitro yn gwneud cwynion i'r Ombwdsmon ar ran aelodau. Mae hyn yn creu gwrthdaro i'r Swyddog Monitro pe byddai angen cynghori'r Pwyllgor Safonau yn ddiweddarach. Dylai fod yn eglur bod yr Ombwdsmon yn disgwyl i dystion uniongyrchol wneud cwynion, fel sy'n briodol.

3. Dyletswydd Arweinyddion Grwpiau:

Sut fydd y ddyletswydd statudol newydd ar arweinyddion grwpiau mewn perthynas ag ymddygiad (fel y mae'n cael ei chynnwys yn Neddf Llywodraeth Leol ac Etholiadau (Cymru) 2021) yn cael ei hadlewyrchu yn y Cod? Ac, yn fwy penodol, beth fydd y disgwyliadau ar Bwyllgorau Safonau o ran goruchwyllo'r ddyletswydd hon a roddir ar arweinyddion grwpiau?

4. Cydraddoldeb:

Paragraff 4(a) o'r Cod. Efallai bod angen ystyried diweddarau'r diffiniad o Gydraddoldeb yng nghyd-destun y ddyletswydd gymdeithasol-economaidd newydd, sydd wrth gwrs yn effeithio ar aelodau wrth iddynt wneud penderfyniadau strategol yn eu hawdurdodau.

5. Hyfforddiant mandadol:

(a) Prif gynghorau:

A ddylai'r Cod ei hun gynnwys gofyniad fod aelodau yn cwblhau hyfforddiant gorfodol ar y Cod ac unrhyw elfennau penodol eraill? Mae'n amlwg fod awdurdodau lleol Cymru yn amrywio yn hyn o beth. Yma yng Nghyngor Sir Ynys Môn, mae'n rhaid i aelodau gwblhau hyfforddiant ar y Cod Ymddygiad o

merit for complaints to be forwarded to the Ombudsman.

2. Presenting complaints:

Paragraph 6(1)(c) of the Code. The current wording creates an expectation on Monitoring Officers that they will make complaints to the Ombudsman on behalf of members. This creates a conflict for the Monitoring Officer if there is a need to advise the Standards Committee at a later stage. There should be clarity that the Ombudsman requires first hand witnesses to make complaints, as appropriate.

3. Duty by Group Leaders:

How will the new statutory conduct duty on group leaders (as included in the Local Government and Elections (Wales) Act 2021) be reflected in the Code? More particularly, what will be the expectations on Standards Committees to oversee this duty by group leaders?

4. Equality:

Paragraph 4(a) of the Code. Perhaps there needs to be consideration given to updating the definition of Equality matters in light of the new socio-economic duty which of course impacts members when making strategic decisions in their authorities.

5. Mandatory training:

(a) Principal councils:

Should the Code itself include a requirement that members must complete mandatory training on the Code and any other specific elements? It is clear that local authorities in Wales differ in terms of this requirement. Here in Ynys Môn, Code of Conduct training is mandatory for members within the

fewn chwe mis iddynt gael eu hethol, a ni chaniateir i aelodau eistedd ar y Pwyllgor Cynllunio a Thrywyddedu oni bai eu bod wedi derbyn hyfforddiant penodol. Mae rhai awdurdodau'n gofyn am lai na hyn, ac mae eraill yn gofyn am fwy. A ddylai hyn fod yn gyson ym mhob awdurdod?

first six months of being elected, and members cannot sit on the Planning and Licensing Committee without having received specific training. Some authorities ask for less than this, and others require more. Should this be consistent in every authority?

(b) Cynghorau cymuned:

O ystyried y ddyletswydd statudol newydd ar bob cyngor cymuned i gyhoeddi cynllun hyfforddi blynyddol ar gyfer aelodau a chlercod (sydd wedi'i gynnwys yn Neddf Llywodraeth Leol ac Etholiadau (Cymru) 2021), a oes cyfle i gynnwys unrhyw elfennau gorfodol mewn perthynas â hyfforddiant ar y Cod, ac, os felly beth fyddai'r elfennau gorfodol hynny? Beth am hyfforddiant gorfodol ar gyfer clercod, sy'n mynd tu hwn i'r Cod ei hun ac sy'n delio â materion llywodraethu ehangach? Ein profiad ni yw bod anghydfod ynghylch materion llywodraethu yn aml yn arwain at broblemau yn y berthynas rhwng clercod a rhai aelodau etholedig. A oes angen ehangu'r ymgynghoriad newydd ar gymhwyster ar gyfer clercod?

(b) Community councils:

Given the new statutory duty on all community councils to publish an annual training plan for members and clerks (included in the Local Government and Elections (Wales) Act 2021), is it an opportunity to include any mandatory elements in relation to training on the Code, and, if so what would those mandatory elements be? What about mandatory training for clerks, which goes beyond the Code itself and deals with broader governance issues? It has been our experience that disputes about governance issues are frequently the trigger for relationship issues between clerks and some elected members. Should the new consultation on qualification for clerks be extended further?

6. Cyfryngau cymdeithasol:

Wrth ystyried yr achosion y mae'r Ombwdsmon wedi adrodd arnynt yn ddiweddar mae'n holl bwysig bod y Cod yn rhoi sylw i Gyfryngau Cymdeithasol, er ein bod yn gwerthfawrogi mai'r llwyfan sy'n wahanol yn hytrach na'r disgwyliadau o ran ymddygiad.

6. Social media:

Considering the cases recently reported by the Ombudsman, it is imperative that the Code addresses the issue of Social Media although we appreciate that it is the platform which is different, rather than the behavioural expectations.

7. Parch a bwlio:

Mae parch a bwlio yn ddau faes sylweddol o ran cwynion ac mae angen eglurder ynghylch pa faterion y dylai'r Ombwdsmon ystyried ymchwilio iddynt o dan y Cod Ymddygiad. Mae Calver, a phenderfyniadau dilynol, wedi codi mwy o gwestiynau nag y maent wedi eu hateb, yn arbennig mewn perthynas â'r

7. Respect and bullying:

Respect and bullying are two significant areas for complaints and clarity is required as to what matters should be considered for investigation by the Ombudsman under the Code of Conduct. Calver, and subsequent decisions, have raised more questions than they have answered, particularly

berthynas rhwng aelodau ac uwch swyddogion; ac yn arbennig Prif Weithredwyr yn derbyn cwynion cynyddol a gohebiaeth ormesol gan rai aelodau.

8. Datrysiad lleol:

(a) Prif gynghorau:

A ddylid cael protocol datrysiad lleol safonol ar gyfer prif gynghorau er mwyn sicrhau cysondeb a thegwch i bob aelod etholedig?

Yn arwain o hyn, a ddylai fod yn ofynnol i aelodau etholedig ymrwymo i gydweithredu â phrotocol datrysiad lleol (fyddai'n cael ei weithredu'n lleol a'i fabwysiadu'n genedlaethol) o dan y Cod Ymddygiad ei hun?

Yn ein barn ni fel Pwyllgor Safonau, nid yw'r broses datrysiad lleol wedi bod yn effeithiol oherwydd ei bod yn broses wirfoddol.

(b) Cynghorau cymuned:

O safbwynt datrysiad lleol mewn cynghorau cymuned, mae'n ymddangos nad yw pob cyngor wedi mabwysiadu model Un Llais Cymru; mae rhai wedi creu eu dogfen eu hunain ac nid oes gan eraill brotocol o gwbl. Unwaith eto, a ddylid datblygu protocol datrysiad lleol safonol ar gyfer y cynghorau cymuned?

O ran model Un Llais Cymru, rydym yn credu fod problemau efo'r model hwn oherwydd ei fod yn rhoi cyfrifoldeb ar y clerwr a'r cadeirydd i weithredu'r datrysiad. O'n profiad ni fel Pwyllgor, yn amlach na pheidio, problem yn y berthynas rhwng y clerwr a'r cadeirydd yw'r rheswm am weithredu'r protocol yn y lle cyntaf, ac o'r oherwydd nid yw Protocol Un Llais Cymru yn addas

with regard to the relationship between members and senior officers; and particularly Chief Executives receiving cumulative complaints and oppressive correspondence from certain members.

8. Local Resolution:

(a) Principal councils:

Should there be a standard local resolution protocol for principal councils in order to provide consistency and fairness to all elected members?

Following from this, should it be mandatory for elected members to undertake to co-operate with the local resolution protocol (locally applied and nationally adopted) under the Code of Conduct itself?

As a Standards Committee, it is our opinion that the local resolution protocol has proved ineffective because it is voluntary.

(b) Community councils:

In relation to local resolution at community councils, it seems that not all councils have adopted the One Voice Wales model; some have created their own document and others are without any protocol. Once again, should a standardised local resolution protocol be developed for community councils?

As far as the One Voice Wales model is concerned, we believe there are problems with this model as it focuses on the clerk and the chair as undertaking the resolution. However, from this committee's experiences, it is often difficulties in the relationship between the clerk and the chair that required local resolution in the first place; making the One Voice Wales Protocol unsuitable.

Beth yw rôl Pwyllgorau Safonau mewn datrysiad lleol ar lefel cynghorau cymuned, os oes rôl iddynt o gwbl? Mae unrhyw ddau aelod o'n Pwyllgor yn cynnal y broses datrysiad lleol, yn wirfoddol, gyda rhai cynghorau cymuned. Mae'r Pwyllgor wedi derbyn hyfforddiant datrysiad lleol gan y Ganolfan Craffu Cyhoeddus ac rydym ar fin derbyn yr hyfforddiant hwn unwaith eto.

A oes opsiynau eraill ar gyfer cyfryngwyr hyfforddedig e.e. Un Llais Cymru neu a ddylai hyn fod yn swyddogaeth i'r Pwyllgor Safonau ar gais yr Ombudsmon?

What if anything should be the role for Standards Committees in local resolution at community level? Any two members of our Committee undertake the local resolution process, on a voluntary basis, with some community councils. The Committee has received training on local resolution from the Centre for Public Scrutiny and we are about to undertake this training again.

Are there other options for trained mediators e.g. One Voice Wales or should this be a Standards Committee function at the request of the Ombudsman?

9. Clercod Cynghorau Cymuned:

(a) Rhwydwaith:

Mae ein Pwyllgor yn cynnal adolygiadau rheolaidd o lywodraethiant mewn sampl o gynghorau cymuned ac yn adrodd ar y canfyddiadau a'r argymhellion cyffredinol. Yn ystod y broses hon, nododd nifer o glercod cynghorau cymuned y byddent yn gwerthfawrogi rhwydwaith o glercod i gefnogi ei gilydd gan y gall y swydd fod yn un unig. Efallai y byddai adolygu'r Fframwaith Moesegol yn gyfle i sefydlu trefniant o'r fath.

(b) Pecyn cymorth:

Fel y gwyrddoch, mae bod yn glerc yn golygu llawer mwy na drafftio rhaglenni a chymryd cofnodion: maent yn swyddogion proffesiynol ac mae ganddynt gyfrifoldebau statudol. Byddai creu pecyn cymorth ar gyfer clercod (yn ychwanegol i'r syniad o greu rhwydwaith cymorth, fel y nodir ym mhwynt 9(a) uchod) yn cadarnhau'r gofynion ac yn cynnig cysondeb mewn safonau ymysg gwahanol gynghorau. Byddai hefyd yn ddefnyddiol os byddai unrhyw hyfforddiant a ddatblygir yn cyd-fynd

9. Community Council Clerks:

(a) Network:

Our Committee undertakes regular governance reviews at a sample of community councils, and reports generic findings and recommendations. During the course of this process, several community clerks noted that they would appreciate a network of clerks to support one another as the job can often be isolating. Reviewing the Ethical Framework might be an opportunity to set up such an arrangement.

(b) Toolbox:

As you know, being a clerk is much more than drafting agendas and taking minutes; they are professional officers with statutory responsibilities. Creating a toolbox for clerks (in addition to the idea of creating a support network, as noted in point 9(a) above) would confirm the requirements and offer consistency of standards between different councils. It would also be useful if any training developed would complement the contents of this toolbox.

efo cynnwys y pecyn cymorth hwn.

10. Swyddogion Monitro:

(a) Llawlyfr:

Mae angen diweddarau llawlyfr y Swyddogion Monitro.

(b) Hyfforddiant:

Ar hyn o bryd nid oes rhaglen hyfforddi genedlaethol yng Nghymru ar gyfer darpar Swyddogion Monitro. Nid yw'r hyfforddiant a ddarperir yn Lloegr yn briodol erbyn hyn oherwydd gwahaniaethau mewn deddfwriaeth. Credir ei bod yn bwysig sicrhau bod y cyngor a roddir i Bwyllgorau Safonau, aelodau etholedig, cynghorwyr cymuned ac ati yn gywir ac yn gyfredol a bod trefniadau priodol yn cael eu gwneud ar gyfer cynllunio olyniaeth. Mae hyn yn hanfodol er mwyn sicrhau bod y Fframwaith Moesegol yn gweithredu'n effeithiol.

Fel rhan o hyn, efallai y dylid ystyried cymhwyster ffurfiol ar gyfer cyfreithwyr llywodraethiant sy'n dymuno bod yn Swyddogion Monitro?

11. Pwerau Cosbi Panel Dyfarnu Cymru:

Mae'r adolygiad hwn yn gyfle i ailystyried pwerau cosbi Panel Dyfarnu Cymru, a Phwyllgorau Safonau, pan ganfyddir fod y Cod wedi cael ei dorri. Efallai y byddai ystod ehangach o gosbau wedi eu teilwra yn ddefnyddiol. Er enghraifft, efallai mai'r gosb yw gwahardd dros dro am gyfnod penodol o amser, ond ni fyddai hynny'n cael ei weithredu os yw'r aelod yn cyflwyno ymddiheuriad ysgrifenedig o fewn cyfnod penodol o amser; neu, bod yr aelod yn cwblhau hyfforddiant penodol o fewn cyfnod penodol o amser. Byddai hyn wedyn yn sicrhau cydbwysedd rhwng (A) "cosbi" achos o dorri'r Cod a (B) y ffaith nad oes gan etholwyr gynrychiolaeth tra bod eu

10. Monitoring Officers:

(a) Handbook:

The Monitoring Officer's handbook needs updating.

(b) Training:

There is currently no national programme of training in Wales for future Monitoring Officers. That provided in England is no longer appropriate owing to divergent legislation. It is felt that this is important to ensure the advice provided to Standards Committees, elected members, community councillors etc., is correct and current and that there is adequate succession planning. This is essential so as to ensure that the Ethical Framework operates effectively.

As part of this, perhaps consideration should be given to a formal qualification for governance solicitors wishing to be Monitoring Officers?

11. Adjudication Panel for Wales' Sanction Powers:

This review is an opportunity to review the sanction powers of the Adjudication Panel for Wales, and Standards Committee, when there is a finding of a breach of the Code. A wider range of tailored sanctions might be useful. For instance, perhaps the sanction is that of suspension for a specified period of time but this will not be implemented if the member provides a written apology within a specified time; or, that the member completes particular training within a specific time. This would then ensure a balance between (A) "punishing" a breach of the Code and (B) the fact that electors are without

haelod wedi cael ei wahardd dros dro.

representation when their member is suspended.

Gobeithir y bydd y llythyr hwn yn rhoi syniad i chi o'r materion sy'n bwysig i'r Pwyllgor Safonau yma ar Ynys Môn ac rydym yn edrych ymlaen at y broses ymgynghori a fydd yn dilyn eich adroddiad cychwynnol i Lywodraeth Cymru.

It is hoped that this letter will provide you with an indication of the matters that are important to the Standards Committee here in Ynys Môn and we look forward to the consultation process that will follow your initial report to Welsh Government.

Llawer o ddiolch

Many thanks

Yn gywir

Yours sincerely,

John R Jones

John R Jones
Cadeirydd – Pwyllgor Safonau Cyngor Sir Ynys Môn
Chair – The Isle of Anglesey's Standards Committee

