

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL

COMMITTEE:	Standards Committee
DATE:	14 June 2023
REPORT TITLE:	Welsh Government's Consultation on the Penn Report
PURPOSE OF THE REPORT:	For the Standards Committee to agree its responses to the above consultation
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1. BACKGROUND

- 1.1 In March 2021, the then Minister for Housing and Local Government commissioned an independent review of the ethical standards framework for local government in Wales established by the Local Government Act 2000. The Framework includes county and county borough councils, corporate joint committees, national park authorities, fire and rescue authorities and town and community councils.
- 1.2 The timing was appropriate as it could also consider the changes that were being introduced, and that affected the Framework, under the Local Government and Elections (Wales) Act 2021.
- 1.3 The independent review was undertaken by Richard Penn, a former local authority chief executive and former chair of the Independent Remuneration Panel for Wales.
- 1.4 The review, published some four months later, in July 2021, concluded that the current Framework is 'fit for purpose' and works well in practice. It made several recommendations. A copy of the full "Independent Review of the Ethical Standards Framework in Wales" by Richard Penn (independent Consultant) can be seen [here](#).

2. CURRENT CONSULTATION

- 2.1 A copy of the Consultation document by Welsh Government, including the questions asked, can be seen [here](#).
- 2.2 In its Consultation, Welsh Government states that since the publication of the Penn Review, it has engaged with third parties and explains that the current consultation paper "builds on the Review's recommendations taking these discussions and other communications into account".

- 2.3 Of the 12 Recommendations identified in the Penn Review, 3 are subject to specific questions within the Consultation document. 9 of the recommendations made in the Penn Review are not being subjected to further discussion/consideration.
- 2.4 The Consultation document includes 21 questions in total.
- 2.5 Responses to the Consultation must be submitted to Welsh Government by 23 June 2023.

3. THE PROCESS UNDERTAKEN IN IOACC

- 3.1 The Standards Committee met informally on 12 May 2023 to discuss the Consultation document.
- 3.2 Owing to the incoherent nature of the Consultation document, an additional document was also shared with the Standards Committee, setting out each Consultation question accompanied by the relevant narrative from various parts of the Consultation document. A copy of this is attached at **Enclosure 1**.
- 3.3 The Committee's response to the Consultation questions was recorded and incorporated into a draft Response. This is attached at **Enclosure 2**.
- 3.4 The Chair of the Standards Committee will meet with the Group Leaders on 8th June to discuss the Standards Committee's Response to the Consultation. The Standards Committee's Chair will provide a verbal update on that meeting to the Standards Committee on 14th June 2023, before the final draft is agreed and submitted to Welsh Government.

4. PROPOSED ACTION

- 4.1 The Standards Committee's approval is sought on the draft Response in **Enclosure 2**, subject to any changes agreed following the meeting with the Group Leaders.
- 4.2 The Response form will be sent by the Chair of the Standards Committee, on behalf of the Isle of Anglesey County Council, to the Welsh Government before the 23 June 2023 deadline.
- 4.3 The Monitoring Officer will keep the Standards Committee informed of any documentation or information received from the Welsh Government's Consultation on the Penn Review.

5. RECOMMENDATION

- 5.1 For the Standards Committee to agree to the Proposed Action detailed under section 4 above.

Consultation on the recommendations of the Independent Review of the Ethical Standards Framework (Richard Penn report)

Question 1

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?

Relevant Narrative

Recommendation 4 (Penn)

Paragraph 4a of the Code which requires that a member must: 'carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion' does not include all protected characteristics.

The provision in the Code should be extended to include all nine protected characteristics under the Equality Act 2010

Consideration of recommendation 4 (WG)

Section 4 of the Equality Act 2010 ('the 2010 Act') provides for the following protected characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The drafting of the Model Code pre-dates these provisions and, whilst the principles set out in the Model Code are in the spirit of the 2010 Act, discussions with stakeholders confirmed an alignment of the Model Code with the protected characteristics in the 2010 Act would not only provide clarity but also importantly send a strong message that councillors are expected to promote and maintain the highest standards of conduct.

We therefore propose to amend the definition in paragraph 4a of the Model Code of Conduct (the Local Authorities (Model Code of Conduct) (Wales) Order 2008 to align with the definition of protected characteristics in section 4 of the Equality Act 2010.

We will also amend the definition of equality and respect in section 7 of The Conduct of Members (Principles) (Wales) Order 2001

Question 2

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

<p>Relevant Narrative</p> <p>Restricted reporting orders The APW cannot control the reporting by the press about any case. The APW President considers that the powers such as those available to an Employment Tribunal, to impose a restricted reporting order either until the end of proceedings or an extended restricted reporting order, would be appropriate for all APW Tribunals where the fairness of the tribunal or the safety of witnesses, panel members or staff are potentially compromised.</p> <p>We are therefore seeking your views on whether we should make legislative provision to enable the APW to issue restricted reporting orders.</p>
<p>Question 3 Should there be express legal provision to enable the APW to protect the anonymity of witnesses?</p>
<p>Relevant Narrative</p> <p>Anonymity of witnesses The President can issue guidance to ensure consistency and transparency, but the APW believes an express power to anonymise, used proportionately to ensure witness safety, would be appropriate for both case and appeal tribunals.</p> <p>We are therefore seeking your views as to whether there should be express legal provision for the APW to protect the anonymity of witnesses.</p>
<p>Question 4 Do you support the proposed changes to the permission to appeal procedure outlined in this recommendation. If not, what alternatives would you suggest?</p>
<p>Question 7 Do you agree there should be an express provision to enable part or all of tribunal hearings to be held in private?</p>
<p>Question 8 Do you agree that the requirement to provide not less than seven days' notice of the postponement of a hearing should be retained?</p>
<p>Relevant Narrative</p> <p>The APW President considers that the regulations are outdated and has proposed a number of amendments to make the case tribunal procedure more efficient and fairer to witnesses.</p> <p>These proposals relate to:</p> <ul style="list-style-type: none"> • providing express provision for part public and part private hearings • whether the requirement to provide 7 days' notice of postponement of a hearing to the accused member should be reconsidered • the process for seeking permission to appeal <p>The current process for seeking permission to appeal is set out in the Local Government</p>

Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, as amended by The Local Government (Standards Committee, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016, is being sought.

It requires the President, or their nominee, to make a decision within 21 days of receipt of a request to appeal. If the President requests further information the applicant has 14 days to respond, and then the President has 14 days from the receipt of the further information to make a decision. However, there is potential for different interpretations of the impact of a request for additional information on the timetable as it is potentially unclear whether the 'clock' on the 21 days stops while the additional information is being sought.

In addition, the regulations do not give the PSOW any opportunity to make submissions and a preliminary hearing to decide whether to grant permission to appeal is possible if there are 'special circumstances', but there is no extension of time provided for in the regulations to allow for this.

The President has therefore proposed an alternative approach as follows:

- Councillor sends in appeal; no deadline is set for an APW decision
- President/Registrar checks the appeal has attached the decision of the standards committee and if not, gives the councillor 7 days to provide it (and has the power to ask the monitoring officer if they so wish for the decision and any other information)
- the appeal is sent to the PSOW who is given 14 days to comment
- the appeal, decision of the standards committee and any comments from the PSOW are put before the President (or their nominee) for a decision on the papers; again, no deadline would be set for a decision
- the President or their nominee can direct a preliminary hearing takes place if they consider it is in the 'interests of justice' to do so as opposed to 'special circumstances'

We would welcome your views on these proposed changes to the permission to appeal procedure. Similarly, on whether there should be an express provision to enable part or all of a hearing to be held in private, and also whether the requirement to provide not less than 7 days' notice of the postponement of a hearing should be retained.

Question 5

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

Question 6

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

Relevant Narrative

Appeal Tribunal procedure

The APW President believes there should be amendments to the Appeal Tribunal procedure to include an express power to summon witnesses to an Appeal Tribunal.

Also, regulation 9(2) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the 2001 Regulations")

requires the standards committee to consider a recommendation from the APW decision that a different penalty should be imposed to the original decision. Some stakeholders do not support this process whilst the APW President does support it as the standards committee remains responsible and can reflect its response to the Panel decision in the sanction it decides to impose.

The current arrangements in relation to appeals are set out in the 2001 Regulations and in Presidential Guidance. There is also a APW Practice Direction which sets out relevant information about the APW's procedures in response to a reference from the PSOW. The Guidance and Practice Directions are available on the APW website. Also see the APW's Presidential Guidance and Practice Directions.

Question 9

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

Relevant Narrative

Sentencing powers

The powers available to the APW are limited and some stakeholders felt there should be an option to impose more varied sanctions as was the case with the former Adjudication Panel for England.

Where a case tribunal decides that a member has failed to comply with the code of conduct the sanctions it may impose are set out in section 79 of the 2000 Act.

The tribunal may suspend a member for a period of up to 12 months or disqualify them for a period of up to 5 years.

We are interested in your views as to whether there should be a wider range of sanctions available to the APW and if so, what should these be?

Question 10a

Do you support the proposed amendments to the process for interim case tribunals outlined in this recommendation? If not, could you please explain.

Question 10b

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?

Relevant Narrative

Interim Case Tribunals

The PSOW has the power to make interim referrals to the APW if it is in the public interest and where there is prima facie evidence that the person has failed to comply with the code of conduct, the nature of which is likely to lead to disqualification.

The threshold for meeting the legislative requirements for an interim referral is considered

by stakeholders to be too high, but any change to these powers would require primary legislation by the Welsh Government.

The proposal is that the whole process should be simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal. This would be a relatively minor amendment to the current public interest test but would make the approach to be adopted and the definition of public interest much clearer. It would require new legislation by the Welsh Government.

To date there have been no interim tribunals. Stakeholders have suggested that this is largely because the process is the same as for a full case tribunal. The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 are therefore perceived to be a barrier to their intended purpose.

Sections 76, 77 and 78 of the 2000 Act set out the membership of interim tribunals, the ability of the person who is the subject of the adjudication to have appropriate representation and the sanction which an interim tribunal can issue (a maximum of a one-off, 6 month suspension or partial suspension).

The process as currently set out therefore seems not to be fit for the purpose of balancing, and not prejudicing, an elected member's access to justice at a case tribunal with the public interest.

It has therefore been suggested the process is simplified by applying a test similar to that used by the Regulatory Tribunals such as the Medical Practitioners' Tribunal Service ("MPTS"). The interim case tribunal would proceed with a legal member sitting alone, and considering the application on the papers only, but with the ability to invite oral submission from the parties if the member considered that to be in the interests of justice.

As now, the process would also enable the PSOW to submit a reference to the President of the APW with a report setting out the background and why an interim suspension was sought.

At the most, only 6 months suspension (partial or full) would be possible and could be renewed up to 3 times in total (18 months in total). The accused member would be given an opportunity to submit why the interim suspension should not be made, but there would be no evidence called and the PSOW's report would be taken at face value, in the same way as the GMC's at the MPTS.

A possible approach to the public interest test is as follows. It would be appropriate to suspend or partially suspend a member where it appears to the interim case tribunal that:

- a case tribunal at a final hearing would be likely to make a finding that there has been a failure to comply with the code of conduct of the relevant authority concerned
- and the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b) of the 2000 Act
- and that it is in the public interest to suspend or partially suspend the accused member immediately for the protection of members of the public, to maintain public

confidence in local government, to uphold proper standards of conduct and behaviour, or to enable the completion of the PSOW's investigation

To fully achieve this change would require amendment to the 2000 Act and The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001

We are therefore seeking your views on this proposal and a possible intermediate step of amending the regulations only to simplify the process for interim case tribunals until such time, if the proposal is supported, a change can be made to the primary legislation. Amendment to the regulations could include a new schedule specifically for a shorter, more streamlined process for interim tribunals.

Question 11

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

Relevant Narrative

See the narrative above in relation to all questions except question 1

Question 12

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?

Relevant Narrative

Recommendation 12 (Penn)

Accessibility of the ethical standards Framework. Make the framework process more accessible for the public.

Consideration of recommendation 12 (WG)

We agree with the review that public confidence in the Framework is essential to our local democracy. One of the steps in ensuring confidence is that the process is accessible and consistently applied across Wales. We will therefore work with the PSOW, the WLGA, One Voice Wales and monitoring officers to raise public awareness of the Framework and what the public can expect if they engage with it.

We would welcome any views on how awareness raising might be taken forward so as to be inclusive of everyone across Wales.

Question 13

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?

Relevant Narrative

Advertising for independent members of standards committees

The regulations require advertisements for vacancies for independent members of standards committees to be placed in local newspapers. Some stakeholders have told us that this does not generate a field of candidates and is costly and time consuming. They

have suggested that other methods of advertising and reaching out through council networks generates a larger field and reaches candidates from more diverse backgrounds. (See regulation 13 the Standards Committees (Wales) Regulations 2001).

We are therefore seeking views on whether the requirement to advertise vacancies for independent members on standards committees in newspapers should be removed.

Question 14a

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?

Question 14b

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?

Relevant Narrative

Former council employees sitting as independent members on standards committees

After a 12 month period of grace, former council employees can sit as independent members on standards committees of councils where that council was not 1 of their previous employers but not on the standards committee of the council which employed them, even if the council was not their most recent employer.

This means all former employees including those who may have worked part time for the council, perhaps when they were students or early on in their careers cannot sit as independent members on the same council's standards committee.

Stakeholders have suggested this is disproportionate and excludes a large number of potentially high-quality candidates from putting themselves forward as independent members or chairs. (See regulation 7 of the Standards Committees (Wales) Regulations 2001).

We are therefore seeking views on whether the lifelong ban on former council employees being independent members of their previous employer's standards committee should be removed.

If so, what would be a suitable length for a 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 held statutory or politically restricted posts, as defined in the Local Government and Housing Act 1989, for example the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Service?

Question 15

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?

Relevant Narrative

Former councillors sitting as independent members on Standards Committees

Also, after a 12 month grace period, former councillors may sit as independent members on standards committees of councils to which they were not elected.

However, there is a lifelong ban on them serving as independent members on the standards committee of the council to which they were elected. (See regulation 6 of the Standards Committees (Wales) Regulations 2001).

There is no longer a period of grace for councillors being employed by the council to which they were formally elected and so we are also seeking views on whether 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 you think it should, what do you think would be a suitable period of grace?

Question 16

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

Question 17

Do you agree that the sanctions a standards committee can impose should be changed or added to? If yes, what sanctions would you suggest?

Relevant Narrative

Standards committees' summoning witnesses and sanctions

The standards committee's role is to consider a report and recommendations from a monitoring officer or a report from the PSOW and, having heard representations from or on behalf of the person being investigated, determine whether there has been a breach of the authority's code of conduct or not and, if so, to decide the sanction. The standards committee may also request the monitoring officer or PSOW attend before it to, amongst other things explain their report. This is provided for in Regulation 8(3A) of the Local Government Investigations Regulations.

However, standards committees do not have the power under either the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 or the Standards Committees (Wales) Regulations 2001 to summon witnesses. There is a view that if the standards committee were to have the power to summon witnesses, it could be seen to be encroaching on the role of the investigators i.e., the monitoring officer and the PSOW and blurring its role of decision maker.

Some stakeholders have also suggested that the current sanctions available to standards committees in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 are too inflexible and/or not a sufficiently strong disincentive. The current sanctions enable a standards committee to censure, suspend or partially suspend a member for a period of up to 6 months.

<p>Question 18 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. What effects do you think there would be?</p>
<p>Question 19 How could positive effects be increased, or negative effects be mitigated?</p>
<p>Question 20 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.</p>
<p>Relevant Narrative None</p>
<p>Question 21 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?</p>
<p>Relevant Narrative None</p>

Consultation response form: WG47012

Your name: John R Jones, Chair of the Standards Committee

Organisation (if applicable): Cyngor Sir Ynys Môn / Isle of Anglesey County Council

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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: This appears logical and reasonable; it also ensures a consistency of approach across Wales.

Recommendation 10

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

Yes

Comment: We agree that the APW be able to issue Restricted Reporting Orders during a hearing, and its associated proceedings.

However, following the announcement / publication of the APW's decision in a case, we would suggest that Restricted Reporting Orders only be made in specific and exceptional circumstances.

We distinguish APW hearings from those of Employment Tribunals (as referred to in the Consultation). In employment matters, the issue is usually between specified parties while, in APW cases, there is a strong public interest element as the cases relate to those who are holding public office in a representative capacity.

The APW's right to issue Restricted Reporting Orders must work within the principle that cases involving councillors (which could result in the disqualification of a councillor from holding public office) require the highest possible level of transparency.

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

Yes

Comment: No further comment.

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

Yes

Comment: We support the changes but:-

(A) Clarity is needed as to the definition of "days". Is this working days?

(B) 7 days (whether it be working days or not) is not sufficient time for an Appellant to provide the requisite documentation/information. Most Appellants will be acting in person and will be unfamiliar with such proceedings. The implications of the appeal could be significant for them and therefore a reasonable timeframe would need to be adopted; and

(C) We are concerned about the proposal not to place any deadline on the APW, particularly as all other parties will have deadlines to meet (eg Appellant 7 days, PSOW 14 days). It is only fair that the APW is also held to account by having to follow a timetable. This would assist parties to manage their expectations as this would be a matter of significance to the Appellant, the Complainant, and other witnesses. The timescale should not be indefinite. Long delays are not in the public interest and would bring the process into disrepute.

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

Yes

Comment: Whilst we would agree with the principle of the APW having an express power to summon witnesses to appeal tribunals, we do question how effective such a power would be unless there were consequential sanctions for a breach. We would wish to know what the sanctions might be.

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

No

Comment: We would not support such a change as the current arrangement works effectively and it is useful for the Standards Committee to receive the APW's recommendation, even if it decides not to follow it. To refer a matter back to the primary decision maker for reconsideration, with recommendations and even instructions, is an established judicial practice.

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: We consider that there should be a presumption that all hearings be held in public, but that in certain prescribed circumstances, it would be fair and reasonable for parts/all of a tribunal hearing to be held in private. The Standards Committee, like the Council, is able to exclude the press and public in limited circumstances e.g. where personal information or commercially sensitive information is disclosed and it is appropriate that the APW have the power to conduct part/all of a hearing in private where circumstances require.

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: We suggest that the maximum possible notice of postponement of a hearing should be given and that seven days' notice (we would again ask for clarity on whether this definition included only working days) is noted as a minimum.

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

Yes

Comment: We would support the APW having a varied and flexible approach to the sanctions available to it and believe that options such as restricting a member's access to resources of the authority, restricting a member's access to premises of the authority (in their elected capacity) or placing conditions such that a suspension will be shorter if the member apologises in writing / receives training / takes part in conciliation, would be useful.

We also consider that a partial suspension would be useful e.g. for failing to disclose a personal interest in a planning matter, allowing the member to continue with their local duties but they would be suspended from sitting on the Planning Committee for three months etc. In those circumstances, their electorate would not be disenfranchised. A similar approach could be taken to senior salaried roles, where local member duties continue but a member is suspended from undertaking a leadership role and receiving that element of their allowance.

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 This would be helpful in avoiding councils, in some circumstances, in having to apply for injunctions to exclude members in certain circumstances.

It is also assumed that an interim suspension order would follow the same logic as that for employees when suspended from their employment and thus remuneration/allowances would continue in full.

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?

No

Comment: Putting resource into developing an interim arrangement now could distract from the efforts to ensure a long-term change, and we believe that limited resources would be put to better use by concentrating efforts on that long-term strategy.

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: Co-ordinated central action would be useful in delivering this aim. To that end, it is suggested that this may be something which the National Forum of Standards Committee Chairs could discuss and agree a consistent approach.

However, while raising awareness of the ethical framework is generally positive, we are concerned about managing public expectations. While there is often evidence of breach, the PSOW applies a high public interest threshold and local resolution arrangements only apply to elected members and not complaints from the public. So, to “advertise” or “promote” the framework could result in many more complaints which will ultimately be rejected. We wonder whether this is wise?

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: We consider that where such vacancies are advertised should be a matter of local choice and not a legislative requirement.

In our previous experience, newspaper advertising has proved beneficial. However, we have also used other advertising too including website and social media.

We would support a practice that ensures the greatest possible pool of candidates are reached, of varying demographics, where inclusivity is of paramount consideration.

Our Standards Committee Selection Panel is about to fill a casual vacancy. The recommendation will be to include newspaper advertising because of the older demographic of the area served by the Council and to avoid any possibility of digital exclusion.

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?

Yes

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?

We consider that most former Council employees might sit as an independent member after 12 months of their employment ending.

However, for an individual who held a politically restricted post, they must wait 2 years following the termination of their employment before sitting as an independent member.

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?

Yes

Comment: We consider that a former Councillor might sit as an independent member after 2 years of leaving elected office.

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

No

Comment: We do not consider that summoning an unwilling witness would assist a case; we would seek to hear from witnesses who are willing to contribute to the proceedings and will offer information of their own accord. In any such event, providing such a power, but without any means of enforcement, would merely bring the exercise of the power into disrepute.

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?

Much as with the provision to extend the APW's sanctions [discussed under question 9 above], we would welcome added flexibility to the type of sanctions available to the Standards Committee.

As a pro-active Standards Committee, we believe that education is key. This also applies to those who have breached the Code of Conduct. We would like to have a more refined set of sanctions available that would support this overall aim. Wherever it

is reasonable to do so, in the public interest, we would seek to support and encourage good practice rather than “punish”.

We would support the APW having a varied and flexible approach to the sanctions available to it and believe that options such as restricting a member’s access to resources of the authority, restricting a member’s access to premises of the authority (in their elected capacity) or placing conditions such that a suspension will be shorter if the member apologises in writing / receives training / takes part in conciliation, would be useful.

We also consider that a partial suspension would be useful e.g. for failing to disclose a personal interest in a planning matter, allowing the member to continue with their local duties but they would be suspended from sitting on the Planning Committee for three months etc. In those circumstances, their electorate would not be disenfranchised. A similar approach could be taken to senior salaried roles, where local member duties continue but a member is suspended from undertaking a leadership role and receiving that element of their allowance.

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?

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

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.

We note that the Penn report states that it is “essential the Framework reflects significant legislation made since its establishment, in particular the Equality Act 2010, the Well-being of Future Generations (Wales) Act 2015 and the Local Government and Elections (Wales) Act 2021”. It does not refer to the legal regime of the Welsh Language (Wales) Measure 2011, which gives official status to the language and places a duty on public bodies to ensure that:

- Welsh is not treated less favourably than English; and
- that persons in Wales should be able to live their lives in Welsh if they wish.

Any changes should comply with Welsh language standards, be mindful of local authorities' Welsh language policies and respect the freedom of elected members and others to use the language if they wish.

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: Training on the Code of Conduct is essential. Whilst the Code of Conduct for this Council includes a provision that members will complete training on the Code within 6 months of taking up office, there is no requirement in the Model Code, and no such requirement on town and community councillors. We are of the view that the Model Code should include this provision.

Training for community council clerks is also something that should be considered. A well-informed clerk, who understands both the Code of Conduct and the rules of procedure, is essential in a high functioning community council. The PSOW's office has repeatedly reported that the majority of cases received relate to town and community councillors. Perhaps compulsory training might assist in reducing that number. We have arranged four training sessions for town and community councillors, and their clerks, but the uptake has been very low. Perhaps, national, digital training materials which town and community councils might view in their own meetings/view remotely, might be useful.

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.