

MEEETING	STANDARDS COMMITTEE
DATE	29 JUNE 2015
TITLE	REVISED GUIDANCE ON THE CODE OF CONDUCT FOR MEMBERS BY THE PUBLIC SERVICE OMBUDSMAN FOR WALES.
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1 SUMMARY

- 1.1 In March 2015 the Public Service Ombudsman for Wales published the third version of his Guidance on the Code of Conduct for Members of Local Authorities in Wales. There is separate guidance for Members of County and County Borough Councils and for Members of Community Councils. A copy of the Guidance for County Councils is attached to this report and the Guidance for Community Councils is available at the following link <http://www.ombudsman-wales.org.uk/en/publications/Guidance-policies.aspx>
- 1.2 The guidance sets out a revised two-stage test the PSOW will apply when considering complaints of breaches of the Member Code of Conduct which now includes a public interest threshold. Other changes include further guidance on the use of social media and political expression and flow charts designed to provide Members with assistance and clarity on the issue of interests.

3 BACKGROUND

- 3.1 Local Authorities and Community Councils in Wales are required to adopt a Code as regards the conduct which is expected of Members and Co-opted Members and which they must undertake to observe during their period of office. The role of the Public Service Ombudsman for Wales includes providing guidance to Members of Local Authorities and Community Councils to help them understand their obligations under the Code of Conduct.
- 3.2 This is the third version of the guidance published by the PSOW and explains the revised two-stage test that the PSOW will consider in determining whether to investigate or to continue with an investigation of a breach of the Code to the stage of referring the matter to a Standards Committee or the Adjudication Panel for Wales. In the new two-stage test the first consideration will be whether there is any direct evidence of a breach. The level of proof required is on the balance of probability. If that evidential test is met the PSOW will then go on to consider whether an investigation or a referral to a Standards Committee or the Adjudication Panel for Wales is required in the public

interest. In the guidance, the PSOW outlines the public interest factors he will consider which include:-

- Seriousness of breach.
- Whether Members deliberately sought personal gain for themselves or another at public expense.
- Was there a misuse of position of trust or authority and was harm caused to a person.
- Was breach motivated by discrimination?
- Is there evidence of a previous similar behaviour by a Member?
- Is investigation required to maintain public confidence in Elected Members?
- Is investigation a proportionate response (likely to lead to sanction).

The PSOW has a wide discretion as to whether to begin or continue an investigation, the purpose of the revised guidance is to provide greater clarity on how he will usually exercise that discretion and to secure greater consistency in the decisions reached.

3.3 In addition the PSOW has incorporated further guidance on the use of social media and political expression and makes reference to the Welsh Local Government Association guidance on social media entitled “Social Media: A Guide for Councillors”. These matters are expressly referred to in the PSOW guidance on paragraph 6(1)(a) – disrepute and 4(b) – treating with respect and consideration. In particular Members are reminded that a Member needs a “thicker skin” and unless political comments are highly offensive or outrageous, he is unlikely to investigate complaints made by Members whether in the Council Chamber or elsewhere. Conversely making an unfair and inaccurate criticism of the Authority in a public arena or inappropriate e-mails or social media posts may be regarded as bringing the office of Member into disrepute which may merit investigation. #

3.4 The guidance incorporates useful examples which are drawn from actual cases considered by the PSOW and also include decisions reached by local Standards Committees and the Adjudication Panel for Wales. There are also useful flow charts which Members may find useful when considering declaration of interests incorporated as appendices in the guidance.

3.5 The revised Guidance is being circulated to all members of the authority and the Committee may wish to consider whether refresher training might be of value.

RECOMMENDATION

To note the revised guidance on the Code of Conduct for Members published by the Public Service Ombudsman for Wales.