

Lesley Griffiths AC / AM
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref SF/CS/0102/13

Leaders of Local Authorities

Chairs of Fire and Rescue
Authorities

Chairs of National Park Authorities

29 August 2013

Dear Colleague,

LOCAL GOVERNMENT ETHICAL FRAMEWORK

Further to my predecessor's letter to you of 15 January, a copy of which is enclosed for ease of reference, I wish to raise the above issue with you again.

In the letter, Carl Sargeant AM provided an update on the ethical framework aspects of last year's 'Promoting Local Democracy' White Paper. He also requested a report from each Authority on progress in implementing a local resolution process for low-level misconduct complaints and the adoption of a voluntary cap on indemnities for code of conduct proceedings.

Unfortunately, we do not appear to have received a response from your Authority. It is important I have a complete picture from every Authority before I consider next steps.

I discussed this issue with some colleagues during my recent visits earlier in the year. However, I want to take this opportunity to make it very clear I share the importance my predecessor placed upon making progress in this area.

For our part, provisions in the Local Government (Democracy) (Wales) Act 2013 will facilitate greater flexibility and opportunities for collaboration between Authorities, by empowering them to establish joint standards committees. Carl Sargeant's letter indicated he was minded to bring forward an amendment to the then Bill to require the online publication of Registers of Members' Interests to improve access and transparency. I was pleased to introduce such an amendment during detailed scrutiny of the Bill by the National Assembly for Wales. I have also responded positively to representations by the Association

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

of Council Secretaries and Solicitors for there to be flexibility for a Standards Committee to refer a standards matter to another Authority's Standards Committee if it has problems dealing with it. When commenced, the Act will enable a monitoring officer or a Standards Committee to refer a misconduct report or a request for a dispensation to another Authority's Standards Committee.

The model code of conduct will be amended to facilitate the introduction of local resolution processes for low-level complaints over the coming months, alongside any further amendments needed to facilitate implementation of the above provisions of the 2013 Act.

In the meantime, I welcome the Welsh Local Government Association's restated commitment to the introduction of local resolution processes and a voluntary cap on indemnities for code of conduct proceedings by all Authorities.

I look forward to hearing from you on the steps which your Authority has taken, or proposes to take, to implement this commitment. I would welcome a response as a matter of urgency, which should be sent by email to: CorrespondenceMail-LG@Wales.GSI.Gov.UK.

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Lesley Griffiths AC / AM

Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business

Carl Sargeant AC / AM
Y Gweinidog Llywodraeth Leol a Chymunedau
Minister for Local Government and Communities



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
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To:
Leaders, County and County
Borough Councils

Chairs, Fire and Rescue
Authorities

Chairs, National Park Authorities

15th January 2013

LOCAL GOVERNMENT ETHICAL FRAMEWORK

I am writing to follow up aspects of last year's 'Promoting Local Democracy' White Paper covering matters relating to the operation of the ethical framework established under the Local Government 2000 ("the 2000 Act").

The 'Programme for Government', published in September 2011, included a commitment to review the process for making a complaint under the local government member code of conduct to ensure that it is used only for the purpose for which it was intended.

Last year's White Paper conveyed our view that the current framework in Wales, founded upon a common set of guiding principles and a statutory model code of conduct, provides an appropriate balance between guiding members on standards of conduct and giving reassurance to the public that misconduct will be dealt with consistently and appropriately. However, I believe that there is scope for a more local approach to the resolution of low-level complaints, without immediate resort to the full and potentially costly investigatory role of the Public Services Ombudsman for Wales, in some circumstances.

With this in mind, the White Paper welcomed discussions that had already taken place on the voluntary adoption by local authorities of a common, national approach to informal local processes for dealing with member-on-member and officer-on-member complaints. The White Paper indicated that the Welsh Government wished to see such processes

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implemented by all county and county borough councils, national park authorities and fire and rescue authorities as soon as practicable following last year's local elections.

The White Paper also welcomed discussions that have taken place on the introduction of a voluntary cap of £20,000 on the level of indemnity offered by authorities to members subject to misconduct proceedings under the 2000 Act. Authorities powers to provide indemnities are derived from the 'Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006'. These powers would enable them to set such a limit and, again, the White Paper indicated that the Welsh Government wished to see this implemented soon after last year's elections.

I understand that some authorities have responded positively to these proposals. However, I am concerned that perhaps not all authorities have made progress and, through this letter, I want to impress upon those who have yet to do so the importance that I place on taking this forward.

In order that I have a complete picture of the current position across Wales, I ask that you report back to me on what steps your authority has taken, or plans to take (with timescales), to introduce a local resolution process and to adopt the voluntary cap on indemnities for member code of conduct proceedings. This information should be sent by email by the end of February to: CorrespondenceMail-CS@Wales.GSI.Gov.UK.

To facilitate the introduction of local resolution processes, I intend to remove the obligation on members contained in paragraph 6(1)(c) of the model code of conduct to report potential breaches of the code to the Ombudsman. The Ombudsman has issued guidance on how he will deal with low-level alleged breaches made to his office and this obligation need not, therefore, give cause for delay in the introduction of local resolution processes where this has yet to be done.

In addition to removing the obligation to report breaches to the Ombudsman, I intend to address concerns arising from the interpretation of paragraph 10(2)(b) by removing this from the model code. Members taking decisions, whether acting collectively or individually, would still be required by paragraph 8 of the code to act objectively and in the public interest when doing so. I consider, therefore, that paragraph 10(2)(b) can be removed without detriment to the code.

Also in relation to the code, you will no doubt be aware of the High Court ruling last year – *'R (Calver) v the Adjudication Panel for Wales'* - in relation to the requirement in paragraph 4(b) of the code for members to show respect and consideration for others. The Ombudsman has revised his guidance to take account of the ruling, but I have also asked my officials to consider whether any modification of the code is necessary.

Whilst writing, I note with concern that the Ombudsman has again found it necessary to make reference in his latest annual report to the number of member on member complaints which might be regarded as vexatious. Paragraph 6(1)(d) of the code could not be clearer in stipulating that members must not make vexatious, malicious or frivolous complaints against other members or anyone who works for their authority. If unchecked, such actions have potential to clog up the system and divert resources from more important matters. I would ask that this issue is given some prominence when refresher training on the code is arranged for members.

Also, you will not have failed to have seen recent reporting in the media of unfortunate events arising from the inappropriate use of social media. The Ombudsman's guidance on the code makes clear the circumstances in which use of electronic and social media is covered by the code. This is a continually evolving area and again it is timely, I believe, to

encourage members to avail themselves of the training which authorities provide on the use of social media and the potential pitfalls to be avoided.

Any observations or comments that you may wish to make in relation to these or other aspects of the code when responding as requested above would be most welcome.

Finally, I would like to take this opportunity to mention an issue that has been raised with me recently regarding the publication of registers of members' interests maintained under section 81 of the 2000 Act. At present, registers must be available at an office of the authority for inspection by members of the public at all reasonable hours. However, citizens increasingly expect to be able to access information about councils and their elected members via the internet. Consequently, I have sympathy with the view expressed to me that authorities should be required to additionally publish these registers on their websites to facilitate access and to improve transparency. I am, therefore, minded to bring forward an amendment to the Local Government (Democracy) (Wales) Bill to give effect to this. There is a brief window of opportunity for bringing forward such an amendment but, before doing so, I would welcome any views that you may have on this.



Carl Sargeant AC / AM

Y Gweinidog Llywodraeth Leol a Chymunedau
Minister for Local Government and Communities



Councillor Anthony Christopher
Leader of Rhondda Cynon Taf County Borough Council

Our Ref: 130906AC(L)LG

6th September 2013

Lesley Griffiths AM
Minister for Local Government and Government Business
Welsh Government
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Dear Minister

I write further to your letter of 29th August 2013 and the former Minister's letter of 15 January in respect of the Local Government Ethical Framework. Firstly, I wish to take this opportunity to apologise for the Council's oversight in not responding sooner. I have addressed each of the points raised in your, and the former Minister's, letter below:

Local Resolution Procedures

I am pleased to confirm that the Council adopted its Local Protocol in relation to the standards of conduct expected by Members on 12 January 2011. The protocol was recently revised following feedback from Members of the Standards Committee whom, having had the experience of conducting several hearings under it, identified a number of proposals to refine and improve the protocol itself. A copy of the report presented to Council, where the revised Local Protocol was agreed, is attached for your information.

In addition Council also approved a local resolution process to deal with officer-on-member complaints and details can be found in the attached report.

Indemnity Cap – Code of Conduct Proceedings

The Council currently has a cap in place of £50,000 which is backed by insurance. The Standards Committee have confirmed however that whilst it considers it should retain the 'gatekeeper' role in respect of each individual case it would welcome uniformity in any future capping figure to be adopted by local authorities in Wales. The introduction of a voluntary cap of £20,000 on the level of indemnity offered by authorities to Members has been agreed by the Standards Committee and a report will be presented to the Cabinet in October recommending adoption of a cap of £20,000 with the Standards Committee retaining its 'gatekeeper' role. To date the Standards Committee has received no applications by Members for assistance under the indemnity.

Continued.

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Register of Member's Interests

I am also pleased to confirm that at the Council's last AGM it was agreed by Members that the Register of Member's Interests be published electronically.

Amendments to Members' Code of Conduct

The Standards Committee welcomes the removal of the obligation on Members, contained in paragraph 6(1)(c) of the Model Code of Conduct, to report any conduct by another Member which they reasonably believes breaches the Code. The Committee also welcomed the removal of paragraph 10(2)(b) from the Code.

Code of Conduct training

I can confirm that all Members have received Code of Conduct training. Over the summer refresher training on the Code was also provided to all Community Councils across the County Borough. In addition a number of Members attended a training session facilitated by the WLGA on the use of Social Media.

The Council noted the former Minister's comments in relation to the Ombudsman's references to the number of Member on Member complaints which might be regarded as vexatious and that such actions have the potential to divert resources from more important matters and this was addressed in the refresher training.

Yours faithfully

Councillor Anthony Christopher
Leader of Rhondda Cynon Taf County Borough Council