

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



Llywodraeth Cymru
Welsh Government

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

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

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

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

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence: Carl.Sargeant@wales.gsi.gov.uk
Printed on 100% recycled paper

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.

A handwritten signature in black ink, appearing to be 'CS', written in a cursive style.

Carl Sargeant AC / AM

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

