

Explanatory Memorandum to The Local Government (Standards Committees and Member Conduct) (Miscellaneous Amendments) (Wales) Regulations 2025.

This Explanatory Memorandum has been prepared by The Local Government Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Local Government (Standards Committees and Member Conduct) (Miscellaneous Amendments) (Wales) Regulations 2025. I am satisfied that the benefits justify the likely costs.

Jayne Bryant MS
Cabinet Secretary for Housing and Local Government

21 November 2025

PART 1

1. Description

- 1.1 These Regulations amend the existing requirements of the model code of conduct for relevant authorities (the Code) to ensure its requirements align with the protected characteristics and socio-economic duty currently specified within the Equality Act 2010 (the 2010 Act). The amendments future proof the Code to ensure that any future changes made to the protected characteristics specified in the 2010 Act apply without the need to further amend legislation. The same amendments are made to the Conduct of Members (Principles) (Wales) Order 2001.
- 1.2 These Regulations also remove the lifetime prohibition on previous members and employees of a relevant authority sitting as independent members on the standards committees of the authority to which they were previously elected or in which they previously worked, or the standards committee of a corporate joint committee (“CJC”) of which the relevant authority is a constituent authority or National Park authority. This change includes waiting periods in respect of specified former members and officials.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None

3. Legislative background

- 3.1 These Regulations are required to ensure that the Conduct of Members (Principles) (Wales) Order 2001 (the 2001 Order) and the Local Authorities (Model Code of Conduct) (Wales) Order 2008 (the 2008 Order) reflect the definition of protected characteristics contained in section 4 of the 2010 Act, which has been updated since these two sets of statutory instruments were passed. These Regulations ensure that any future changes to the definition of protected characteristics will apply to these statutory instruments automatically. The Regulations also incorporate reference to the public sector socio-economic duty in section 1 of the 2010 Act

Local Government Act 2000 (the 2000 Act)

- 3.2 Under Part III of the Local Government Act 2000 (“the 2000 Act”), provisions are made regarding the conduct of local government members and employees. Section 49(2) enables the Welsh Ministers to specify the principles governing the conduct of members and co-opted members of relevant authorities in Wales. Section 50(2) provides for a model code of conduct for those members.

3.3 Section 53(1) of the 2000 Act requires every relevant authority in Wales to establish a standards committee. The general functions of a standards committee under section 54(1) of the 2000 Act are to promote and maintain high standards of conduct by members and co-opted members of a “relevant authority” and to assist them to observe the authority’s Code of Conduct.

The Standards Committees (Wales) Regulations 2001 (“the 2001 Regulations”)

3.4 The 2001 Regulations make provision with respect to the size, composition and proceedings of standards committees and sub-committees and the appointment, term of office and re-appointment of independent members to such committees.

The Conduct of Members (Principles) (Wales) Order 2001 (“the 2001 Order”)

3.5 The 2001 Order established the core ethical principles that guide the behaviour of elected and co-opted members of relevant authorities in Wales. It sets out ten general principles of conduct derived from the Nolan’s Seven Principles of Public Life plus the duty to uphold the law, stewardship and equality and respect. The principles form the foundations of the Local Government Ethical Standards Framework in Wales.

The Local Authorities (Model Code of Conduct) (Wales) Order 2008 (“the 2008 Order”)

3.6 The 2008 Order sets out a mandatory code of conduct for elected and co-opted members of local authorities in Wales. It forms part of the ethical framework under Part III of the 2000 Act. It aims to ensure high standards of behaviour from members. Authorities must adopt their own code based on the Code and members are required to sign up to their authority’s code upon taking office.

The Local Government (Standards Committees and Member Conduct) (Miscellaneous Amendments) (Wales) Regulations 2025

3.7 These Regulations insert into article 2 of the 2001 Order a definition of “protected characteristics” by reference to the definition in section 4 of the 2010 Act. They also amend Principle 7 (equality and respect) of the Schedule to the 2001 Order by replacing the reference to “gender, race, disability, sexual orientation, age or religion” with “protected characteristics or socio-economic circumstances”.

3.8 The Regulations also insert into paragraph 1 of the Code as set out in the Schedule to the 2008 Order a definition of “protected characteristics”

by reference to the definition in the 2010 Act, and amend paragraph 4 to replace the reference to “gender, race, disability, sexual orientation, age or religion” with “protected characteristics or socio-economic circumstances”.

3.9 The Regulations also make amendments to the 2001 Regulations with the effect of widening the pool of candidates for membership of the standards committee of a relevant authority or CJC to include ex-members and ex-employees of the authority in which they were previously elected or employed. The regulations insert waiting periods between the serving on the authority and becoming an independent member for ex-members and employees of the authority or CJC.

3.10 A waiting period of two years is imposed where a former member wishes to become an independent member of a standards committee of an authority in which they were a member, save where the former member held a senior, cabinet or executive post in the same authority, in which case the waiting period is five years.

3.11 Where the former member was a member of a CJC or a constituent authority or constituent National Park authority of that CJC, a waiting period of two years is imposed before the former member can become an independent member of a standards committee of that CJC, save that, where the former member held a senior, cabinet or executive post in a constituent authority of that CJC, the waiting period is five years.

3.12 A waiting period of two years is imposed where a former officer wishes to become an independent member of a standards committee of an authority in which they held a politically restricted post or the post of registration officer. The same waiting period applies with respect to the ability of a former officer to become an independent member of a standards committee of a CJC where the former officer held a politically restricted post in that CJC or a constituent authority or constituent National Park authority of that CJC, or held the post of registration officer in a constituent authority of that CJC.

3.13 Definitions of “politically restricted post”, “registration officer” and “senior, cabinet or executive post” are inserted into the 2001 Regulations.

3.14 These Regulations are being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

4.1 The objective in implementing this policy through legislation is to create a more equal Wales, where everyone can participate, reach their full potential and contribute fully to democracy, which will enable Wales to

be more inclusive and responsive to the needs of all people in Wales.

- 4.2 Inclusivity, in terms of who stands as candidates for election or appointment to public office, affects all parts of society and is important for building a fair, representative and effective democratic system. Decisions made by elected bodies affect everyone across the diversity of the population. When people see themselves represented in politics they are more likely to trust and engage in the democratic process. This strengthens public participation and supports decision making which reflects the views of the communities that members serve.
- 4.3 The Code re-enforces the requirement to actively consider all protected characteristics during decision making and all other work carried out by elected representatives. It supports the promotion of fairness, inclusion and respect for equality. As policy relating to equality evolves, councillors must ensure that the full range of protected characteristics are reflected in debates and decision making.
- 4.4 In addition, under the [Equality Act 2010 \(Authorities subject to a duty regarding Socio-economic Inequalities\) \(Wales\) Regulations 2021](#) (“the 2021 Regulations”), the Welsh Government have committed to ensuring that the Welsh Ministers, county councils and county borough councils, and other specified Welsh bodies, are subject to the duty under section 1 of the 2010 Act to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage when making strategic decisions such as deciding priorities and setting objectives.
- 4.5 These Regulations ensure the terms used in the Code evolve with the protected characteristic terms and the socio-economic duties requirements of the 2010 Act. They will amend the 2008 Order and the 2001 Order to align them with current legislation.
- 4.6 This will result in bringing relevant authority codes of conduct in line with current legislation on equalities and future proof ethical framework legislation should any further amendments be made to the relevant sections of the 2010 Act.
- 4.7 In the absence of these changes being made, there is a risk that relevant authorities operating under the current legislative regime could fail to take into account the broader list of protected characteristics or fail to fully consider socio-economic duties. These regulations enforce expectations.
- 4.8 Ensuring everyone is able to serve in democratic arrangements is fundamental to a healthy, representative democracy. There should not be prohibitions on who can participate unless there is good reason. The 2001 Regulations currently place a lifelong ban on ex-employees and ex-members of a relevant authority from serving as an independent member of a standards committee for the authority or CJC where they

were previously employed, or were previously a member. This approach reduces the number of suitably experienced people who could sit on standards committees and is not a justified prohibition.

4.9 This legislation removes the life-long ban in the 2001 Regulations, introducing more flexibility on who can be appointed to standards committees. The suitability and independence of a member should be considered on an individual basis on appointment. Safeguards are important for members, the authority and the public to support transparency. In addition to normal governance arrangements which consider conflicts of interest when appointing members to a committee and during meetings, an appropriate time period should elapse in certain instances as follows:

- 4.9.1 a two year waiting period where an ex-employee previously held a politically restricted post in the authority or CJC, or the post of registration officer in the authority;
- 4.9.2 a five year waiting period where a former member held a senior, cabinet or executive post in the authority or in a constituent authority of that CJC;
- 4.9.3 a two year waiting period for a former member of the authority or CJC not holding one of the above listed posts.

5. Consultation

5.1 A formal 12 week public consultation was held on [the recommendations of the Independent Review of the Ethical Standards Framework](#) (Richard Penn report) where views were obtained on a broad range of ethical framework considerations. These included aligning protected characteristics and equality and respect in ethical framework regulations with the 2010 Act and changes to the prohibition of ex-employees and ex-members sitting as independent members of the authority of which they previously served. The consultation ended in June 2023.

5.2 A [summary of responses](#) to the consultation was published in November 2023.

5.3 Of the 31 consultation responses received, 29 responded to whether 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). 2 did not express an opinion either way. 100% of the 29 respondents to this question agreed with this proposal.

5.4 Of the 31 consultation responses received, 26 responded to whether they agreed that the lifelong ban on former council employees being independent members of their previous employer's standards

committees should be removed. 65% of the 26 respondents to this question agreed the ban should be removed.

- 5.5 Of the 31 consultation responses received, 25 responded to whether they agreed 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. Of the 25 who responded to this question 52% agreed that the lifelong ban should be removed and 48% did not agree.
- 5.6 Suggestions for a period of grace for councillors sitting as an independent member of a standards committee for the council on which they served ranged from 1 to 5 years with considerations around senior/cabinet/executive roles needing a longer timeframe than members not in those roles.
- 5.7 Further to the full public consultation, as required under sections 49(5) and 50(5) of the 2000 Act, relevant bodies were engaged with during July and August 2025 on the proposed changes to the 2001 and 2008 Orders. The engagement included the proposed inclusion of reference to the socio-economic duty to the two Orders, and the addition of ex-employees and ex-members of relevant authorities as independent members of standards committees of the authority on which they served.
- 5.8 Stakeholders' considerations and input have been analysed. Stakeholders were in agreement that the provisions for protected characteristics and socio-economic duties should align with current equalities legislation.
- 5.9 Whilst some concern was raised regarding the period of grace around previous employees and members sitting on the standards committee on an authority for which they served, the majority of respondents agreed the lifetime ban should no longer be retained.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

Amendments to 2008 Order and the 2001 Order

Do nothing:

- 6.1.1 This could increase the risk of members not applying all protected characteristics and/or the socio-economic duty in their activities or not applying them correctly where these definitions evolve. If not applied by members this could undermine the democratic process.

Amend the Orders:

- 6.1.2 This would bring the 2001 Order and the 2008 Order in line with the definition of protected characteristics in section 4 of the 2010 Act, and to bring them in line with the socio-economic duty under section 1.
- 6.1.3 This would provide consistency in terms of approach amongst relevant authorities, some of which may have been operating within the focus of the existing regulations while others may have expanded their focus on the broader range of protected characteristics. Whilst some principal councils have made changes in relation to the protected characteristics, this has been done as best practice and not a legal requirement. Non-legislative solutions would not have enabled policy objectives to be a requirement.

Amendments to the 2001 Regulations

Do nothing:

- 6.1.4 This would keep the pool of independent members in the current position where ex-employees and ex-members of a council are unable to sit on the standards committees of the relevant authority for which they were previously employed or a member. This would perpetuate the recognised unfairness of the current system and the lack of justification for an indefinite ban being applied.

Amend regulations:

- 6.1.5 The lifting of the prohibition would enable those who have previous experience of working in local government to use their knowledge, skills and experience to inform the work of the standards committees. In addition, current legal requirements prevent widening the pool of available independent members to be met with ex-employees and ex-councillors of the authority on standards committees. The addition of waiting periods in place of indefinite bans seeks to mitigate any concerns around the independence of individuals scrutinising

decisions which they may have been part of. Existing governance arrangements for conflicts of interest will continue to apply.

7. Costs and benefits

Do nothing:

- 7.1 This is the baseline option and as such there are no additional costs or benefits associated with this option.

Amend the Orders and 2001 Regulations:

- 7.2 Welsh Government staff resource has been utilised for policy development work and the making of secondary legislation. However the cost associated with that staff resource is now a sunk cost and is therefore disregarded from this RIA.

Others impacted:

- 7.3 Amending the legislation introduces more categories of people who are able to sit on standards committees and ensures all protected characteristics and socio-economic duties are covered in legislation and codes of conduct.
- 7.4 Principal councils, national park authorities and fire rescue authorities are affected by the amendments to these Regulations, which require their codes of conduct to align with the Equalities Act 2010 in relation to protected characteristics and socio-economic inequalities.
- 7.5 All elected or co-opted members of these bodies, and other relevant authorities such as community and town councils, will be required to comply with the amended codes of conduct.
- 7.6 Revisions to the code of conduct: Administrative updates will be required to amend codes of conduct and for revisions to be approved, this will involve a small amount of existing staff time in each organisation but is not expected to require any additional financial outlay. In addition, authorities must ensure that protected characteristics and socio-economic duties are appropriately considered and reflected in their business and operations. Revising codes and ensuring that all protected characteristics and socio-economic duties are included in relevant training and information is a worthwhile use of resources. The opportunity costs are justified by the improved outcome of enhanced understanding and application in the delivery of members' duties.
- 7.7 Standards committee members extension: The amendment removes the lifetime restriction on former members and officers serving as independent members of standards committees. However, it does not alter the number of committee members or the recruitment and

appointment processes. Existing governance arrangements for the appointment of standards committee members will remain unchanged. Additional staffing expenditure is not anticipated in relevant authorities, however there may be opportunity costs through additional scrutiny around independence.

7.8 Expected benefits:

- Improved cultural awareness in democratic processes through greater respect for protected characteristics and socio-economic duties.
- Reduction in complaints against members around protected characteristics and socio-economic considerations, allowing democratic services and standards committees to focus resources on proactively improving governance and ethical standards.
- Broader experience and perspectives on standards committees through an increase in available independent members.

8. Competition Assessment

8.1 The policy options do not affect business, charities or the voluntary section.