

Alun Davies AC/AM
Ysgrifennydd y Cabinet dros Lywodraeth Leol a
Gwasanaethau Cyhoeddus
Cabinet Secretary for Local Government and Public
Services



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-05-845
Ein cyf/Our ref ARD-00761-18

David J Rowlands AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

SeneddPetitions@assembly.wales

15 November 2018

Dear David,

Thank you for your letter of 31 October 2018, seeking my views on further correspondence relating to petition 'P-05-845 – End Conflict of Interest in Local Authority Constitution'.

In their letter to your Committee, the petitioners conflate the fact of local authority employees undertaking self-employed work outside of an authority's area, with an assumption of conflict of interest. I do not agree with this view, or the petitioners' proposal that there is a need to legislate for local authority employees to be barred from undertaking self-employed work in their professional fields outside of their public sector employment. There is no evidence to suggest this creates a conflict of interest and in any case, local authorities already have in place a system for recording and tracking conflicts of interest.

The employee code of conduct is a generic code which applies across the range of professional and other local government employees (with the exception of teachers and firefighters). As such, it is not appropriate or practicable to seek to shape its provisions to deal with the circumstances of specific employee groups.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Alun.Davies@llyw.cymru
Correspondence.Alun.Davies@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

It is the responsibility of each local authority, not the Welsh Ministers, to be aware of any potential conflicts of interest and to take appropriate steps to mitigate or remove them. In the case of planning matters, decisions made by the authority could be subject to judicial review if it could be proven the authority's handling of a matter was legally flawed. Although it would be for the petitioners to put their case forward to justify such a review, this could include claims of a conflict of interest by elected members or employees.

I remain satisfied that robust arrangements are in place for the disclosure and registration of conflicts of interest through the respective elected member and officer codes of conduct. The Public Services Ombudsman has powers to investigate alleged failures by members to disclose relevant interests. The employee code of conduct forms part of an employee's terms of appointment or conditions of employment. As such, any alleged failure to comply with the requirement to disclose a relevant interest is a potential disciplinary matter for the relevant local authority to consider as the employer.

The Public Services Ombudsman for Wales has no role in relation to employment matters. However, if as a consequence of a failure to comply with the code, there had been maladministration on the part of the authority in reaching a decision, it would be open to the affected party to make a complaint to the Ombudsman about that aspect. I note the objectors have already taken the opportunity to challenge the propriety of the Council's handling of the planning application which has given rise to the petition by referring the matter to the Ombudsman, who has declined to investigate. It is for the Ombudsman to decide whether there is any merit in the complaint. If there were any evidence of fraud, bribery or corruption in relation to the handling of a planning matter (or any other matter) then these would, of course, be criminal matters for the police to investigate.


The petitioners refer to the absence of an official strategy for local authorities in Wales to counter fraud and corruption, akin to 'The Local Government Counter Fraud and Corruption Strategy 2016-19', published in England. Every local authority must have a constitution which sets out the basic rules governing its business. This includes financial procedures for the authority to ensure good governance and effective stewardship of public money.

The model constitution in Wales includes arrangements for preventing fraud and corruption. These include a requirement on the chief finance officer to develop, maintain and review an anti-fraud and anti-corruption policy. It is the responsibility of all chief officers to promote the anti-fraud and anti-corruption policy within their service areas and to ensure that all suspected irregularities are reported to the chief internal auditor.

The Local Government Counter Fraud and Corruption Strategy was developed through a partnership between the Chartered Institute of Public Finance and Accountancy (CIPFA), the Local Government Association and the UK Government. Although badged as an England publication, the advice is widely applicable and a number of authorities in Wales have used it in producing their own anti-fraud and anti-corruption strategies. CIPFA also produces a number of other guides and tools in this area. Local authority chief finance officers are required to be appropriately professionally qualified and would be expected to be aware of these sources of guidance.

The 2016 Strategy document and authorities' policies stress the role of elected members and senior officers in setting a culture of non-tolerance of fraud and corruption. There is, therefore, an existing framework for local governance which includes consideration of counter fraud and corruption matters and a wealth of professional guidance. I am not convinced, therefore, that a Welsh Government or other organisation-led national strategy for Wales would add value to this existing landscape.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alun', with a horizontal line underneath it.

Alun Davies AC/AM

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Cabinet Secretary for Local Government and Public Services