

Appendix

1

Part 1

Code of conduct complaints form

Please use black ink if possible and fill in your name in BLOCK CAPITALS.

A *Who are you complaining about?*

Your name in full **DAVID JOHN BOWLES**

Address and postcode **THE ISLE OF ANGLESEY COUNTY COUNCIL,**

COUNCIL OFFICES, LLANGFNÍ LL77 7TW

E-mail **jwxcce@anglesey.gov.uk**

Daytime contact number **01248 752102** Mobile number

B *Who are you complaining about?*

Name of the member (or members) you consider has (have) broken the code of conduct
ELWYN SCHOFIELD

Name of their authority
THE ISLE OF ANGLESEY COUNTY COUNCIL

C *How do you think they have broken the code of conduct?*

Please tell us what evidence you have for claiming that the member has broken the code of conduct (you can get copies of the code from the authority). Give as much detail as possible and continue on a separate sheet if you need to. Please attach copies of any relevant correspondence, documents and so on.

PLEASE SEE ENCLOSED LETTER

Continued

D

What should the respondent take place?

PLEASE SEE ENCLOSED LETTER

E

Are there any witnesses who can confirm what you say?
If so, give their full names, addresses and phone numbers.

PLEASE SEE ENCLOSED LETTER

I understand and accept that my identity and the details of my complaint will be passed on to the member who I am making a complaint against and that they may become public knowledge. I confirm that I am prepared to give spoken evidence in public in support of my complaint to the authority's Standards Committee, or any case tribunal which may be appointed to consider any report which the Ombudsman may issue if he decides to investigate my complaint.

Signature

[Redacted Signature]

Date

29 / 11 / 00

Please send this filled-in form to:

Public Services Ombudsman for Wales

1 Ffordd yr Hen Gae

Pencoed CF35 5LJ

Phone: 0245 601 0007 (4 lines)



CYNGOR SIR

COUNTY COUNCIL

Strictly confidential
Peter Tyndall
Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

DAVID J BOYLES, CIPFA, BSC
Rheolwr Gyfarwyddwr Dros Dro
Interim Managing Director

CYNGOR SIR YNYS MÔN
ISLE OF ANGLESEY COUNTY COUNCIL
Swyddfa'r Sir
LLANGFNI
Ynys Môn - Anglesey
LL77 7TW

ffôn / tel: (01248)752100 ffacs / fax: (01248) 750839

Gofynnwch am - Please ask for: Miss June Williams

ffôn / tel (01248) 752102 ffacs / fax (01248) 750839

E-Bost - E-mail: jwxce@anglesey.gov.uk
Ein Cyf - Our Ref. DJB/JW
Eich Cyf - Your Ref.

29/11/2010

Dear Mr Tyndall

Complaint about Councillor Elwyn Schofield

1 Introduction

- 1.1 This is a complaint that Councillor Elwyn Schofield has breached the Isle of Anglesey County Council Code of Conduct through his conduct towards the County Council's Director of Legal and Committee Services and Monitoring Officer, Miss Lynn Ball.
- 1.2 I enclose a complaint form (**Enclosure 1**) although particulars of the complaint are contained in this letter and the accompanying documents.
- 1.3 I am making this complaint as Interim Managing Director of the County Council. I was appointed to that post by the Welsh Ministers following intervention by the Welsh Assembly Government after a critical Corporate Governance Inspection Report from the Wales Audit Office in July 2009. My appointment was made by the intervention direction in August 2009. I took up my duties full time in October although, as I will explain, I was able to visit Anglesey on a number of occasions in August and September, to meet senior officers and members.
- 1.4 I do not make this complaint lightly, but I make it for three reasons.
- 1.5 First, I consider that I, as Miss Ball's line manager, and the County Council, as her employer, owe her a duty to protect her from conduct of the kind that I describe below. I advised members in February that she has been the victim of a campaign of bullying and harassment, at odds with the County Council's legal obligations as an employer, and exposing the County Council to the risk of a very substantial claim.
- 1.6 Secondly, the County Council's Monitoring Officer has a crucial role to play in addressing these governance and behavioural issues. It is very important to the County Council, as it moves forward, to ensure that the Monitoring Officer is not undermined by unfair criticism and unwarranted personal attacks.

Finally, the County Council is working hard to deliver an improvement plan to address the issues raised by the Wales Audit Office, under the supervision of the Welsh Assembly Government. One key finding of the Inspection Report (**Enclosure 2**) is that there has been weak self-regulation of issues of conflict between members and officers, and inappropriate member behaviour. The Inspection Report states¹ that "a small but influential minority of elected members has frequently and persistently shown a lack of respect for fellow councillors and officers". In February 2010, in an address to the County Council (**Enclosure 3**), the Welsh Minister said "you need to do much more to tackle the problems the Auditor General found. At the heart of these problems is poor member behaviour – conflict within and outside this chamber, poor relationships between members and officers, and a persistent focus on minor and internal issues".

- 1.8. The County Council has taken steps to address the cultural and governance issues behind these comments.
- 1.9. A letter from the Welsh Minister to all members of the County Council dated the 30 June 2010 (**Enclosure 4**) recognises that progress had been made, saying "The County Council has radically improved its committee structure and decisive action has been taken against some councillors who continue to misbehave. It also says, though, "But the underlying issues have not gone away. Council business too often focuses on internal disputes and rivalries rather than on delivering for the citizens of the island. Too many members still prefer jockeying for their own personal advantage rather than serving those who elected them".
- 1.10. When I first visited Anglesey a common complaint from members was that the WAO had not "named" disruptive members. I asked everyone I met about the problems within the Council and who they thought responsible. Every single person mentioned Councillor Schofield. I have thought long and hard about how to approach this issue. As the events which I will describe unfolded, the extent of Councillor Schofield's involvement in the dismal strife between members and officers, based on his antagonism to Miss Ball, became more apparent to me. This strife has been one of the most substantial and difficult issues that I have had to address, striking at the heart of the Council's ability to recover and improve. It seemed to me that this amounted to serious misconduct on Councillor Schofield's part, but I needed to be sure that I understood the issue fully. I have now been able to bring the evidence together and, most recently, to speak to key members and confirm Councillor Schofield's role. I consider that my appointment by the Welsh Assembly Government gives me a high degree of objectivity in such matters, and that I would be failing in my duty to the County Council if I did not place this complaint before you. I believe that there are clear, and very serious, breaches of the Code of Conduct which, if substantiated by due process, would warrant a severe sanction.

2. Councillor Elwyn Schofield

- 2.1. Councillor Schofield is a member of the County Council. He represents the Llannerch-y-Medd ward. He was first elected to the County Council in May 1995 (as a member of the shadow authority prior to the County Council's inception in April 1996). He signed undertakings to abide by the County Council's Code of Conduct on the 2 and 19 May 2008 (**Enclosure 5**). I also enclose a copy of the Code of Conduct (**Enclosure 6**).
- 2.2. The County Council has adopted a Protocol for Member/Officer Relations (**Enclosure 7**). It states that "The purpose of this protocol is to set standards of conduct expected from Members and Officers of the Council in their relations with one another and to offer guidance on some of the issues which most commonly arise. It also states that "Serious breaches by Elected Members of the Protocol will lead to investigation and appropriate action by the Ombudsman who may refer the matter to the Standards Committee."

20. Councillor Schofield has attended training on various occasions over the last 10 years, but did not attend training on the Code of Conduct to which he had been invited in 2008, but he did attend a refresher course in April 2010. I attach a copy of the training record (**Enclosure 8**).
24. Councillor Schofield has been a member of the following Committees since May 2008: the Executive from 19 May 2008 to 9 November 2009, the Licensing Committee from 16 May 2008 to date, the Appointments Committee from 18 June to 25 September 2009, the Economic Development Scrutiny Committee since 20 May 2010. As an unaffiliated member he was also allocated to sit on both the Housing and Social Services Scrutiny Committee and the Planning Committee as from May 2010 but has chosen not to take those seats.
25. The events which I describe below have been a major factor in recent developments within the County Council at a political level. Councillor Schofield is no longer a member of any of the political groups on the County Council and it is my understanding that all groups have agreed not to admit him as a member. Four political groups have formed an alliance based on published Terms of Engagement which refer critically to the conduct of Councillor Schofield and another county councillor.

3. **Councillor Schofield's conduct in relation to Miss Ball**

1. Lynn Ball has worked for the County Council since 1 November 2001. On 5 November 2004 she was appointed as the County Council's Director of Legal and Committee Services and designated its Monitoring Officer under section 5 of the Local Government and Housing Act 1989. The Monitoring Officer's duties include alerting the Council to any illegality or maladministration, restraining unlawful action if necessary, and administering the member conduct regime. As Director of Legal and Committee Services, Miss Ball manages those two services, and is responsible for all legal advice to the County Council and for the administration of all its decision-making processes and member support. From 1 April 2010 her remit has been extended and her responsibilities now include Human Resources, Training, Scrutiny, Translation, Customer Care and Democratic Services.
- 3.2. The Monitoring Officer's duties involve, of course, an element of regulation, so far as member conduct is concerned, and the Council's solicitor has to protect the Council's interests in legal disputes. This will inevitably bring her into conflict with members and others. It is a serious matter if a member decides to retaliate.
- 3.3. This complaint is prompted by recent events, but I need to outline some background history.

3.4. **Judicial review costs:**

- 3.4.1. The starting point pre-dates Miss Ball's employment by the County Council. In 2000, the County Council decided to compromise an unfair dismissal claim brought by a former chief officer, Mr John Arthur Jones². The officer then complained about the way that decision was made. His complaint took the form of a complaint against three of the members of the Cabinet who considered the issue. In 2003, the County Council's Standards Committee decided that there was no case for the members to answer. Councillor Schofield disagreed with this decision and maintained that material had been withheld from the Committee. He brought judicial review proceedings not only against the County Council but also against the then Monitoring Officer, Julie Openshaw. The Court refused permission for the proceedings, and ordered Councillor Schofield to pay the County Council's legal costs in the sum of £3,000. At that time, Miss Ball was the County Council's Legal Services Manager. She conducted the proceedings on behalf of the County Council, including responding robustly to Councillor Schofield's solicitors'

² Mr John Arthur Jones left the employment of the County Council and later became a member of the County Council.

3.5. Complaint about Miss Ball's appointment:

- 3.5.1 Miss Ball was appointed Director of Legal and Committee Services on the 5 November 2004. During the selection and appointment process, Councillor Schofield raised concerns with the then Managing Director, alleging that the process had been "contaminated". It is difficult to understand Councillor Schofield's motivation for this, unless it was retaliation for what happened over the judicial review. The Managing Director commissioned Eversheds solicitors to establish further particulars of the complaint and report on whether there had been improper conduct and on whether the appointment process should continue. The gist of the complaint was that there had been a conversation between Miss Ball and the then Deputy Leader of the Council to the effect that she would be appointed if she exercised her professional judgement in a particular way.
- 3.5.2 Eversheds' report (**Enclosure 9**) found that there had been a conversation, but concluded that only general words of encouragement had been spoken, no improper pressure had been applied to Miss Ball, there was no suggestion of improper conduct and no reason to halt the appointment process.
- 3.5.3 The issue attracted significant publicity. Councillor Schofield and another Councillor were interviewed on BBC Wales, and there was coverage in the local press.

3.6. The complaints to the Ombudsman:

3.6.1 **The complaint by Councillor John Arthur Jones:**

In 2005 Councillor John Arthur Jones made a complaint to the Ombudsman about Councillor Schofield's conduct at a County Council meeting on the 3 May 2005. The Ombudsman declined to investigate the complaint.

3.6.2 **The complaint by Miss Ball:**

On the 3 May 2005, Councillor Schofield made comments at a Council meeting which were very critical of the Legal Department, and in which he alleged that he had received contrary advice from the Welsh Assembly Government's solicitors. This related to whether or not the Council was entitled to elect a new leader and deputy leader, and to the political balance rules contained in the Local Government and Housing Act 1989. Had Councillor Schofield been able to persuade a majority of the members of the Council to accept the advice that he claimed he had received, rather than the advice given by the Council's own legal officers, he would have been able to secure a significant political advantage for himself and his supporters.

- 3.6.3 On the 31 August 2005, Miss Ball made a complaint to the Ombudsman about Councillor Schofield³. The grounds for the complaint were that the comments made on the 3 May contained misleading information, and amounted to an unjustified personal attack on Council officers. Miss Ball submitted evidence that the WAG solicitors had given no such advice, and that Councillor Schofield's dealings with the legal officers had been misdescribed. She had not been able to defend her officers at the meeting, and had written to Councillor Schofield afterwards but had received no reply. This was a different issue from Councillor John Arthur Jones's complaint, although it concerned the same meeting. Miss Ball had held back making her complaint because Councillor Schofield had been ill for a period.

On the 10 August 2005, bundles of leaflets were discovered in the toilets at the Council Offices. One of the leaflets contained a scurrilous allegation that, when Mr John Arthur Jones was suspended in 1998, his desk had been found to contain pornographic literature and sex aids. The second contained allegations that the then Leader of the Council, Councillor W J Williams, had lied during a television interview about his involvement in a staffing matter, had improperly attended sporting events as a guest of private companies and other organisations, and had procured the services of a prostitute whilst at a local authority conference. Councillor Williams was Councillor Schofield's main political opponent at the time. The staffing matter concerned the disciplinary proceedings against Mr John Arthur Jones. This leaflet appeared to have been copied from a website and the wording appeared to indicate that Mr Jones was its author. CCTV footage of the area around the men's toilets showed Councillor Schofield entering the toilets with a parcel under his arm, and, taken together with statements made by the other people who had entered the toilets, tended, in the opinion of the then Managing Director, Geraint Edwards, to indicate that the leaflets had been deposited by Councillor Schofield.

3.6.5. Mr Edwards made a complaint to the Ombudsman about this behaviour on the 2 September 2005⁴.

3.6.6. The complaints by Miss Ball and the managing Director were investigated. Councillor Schofield's solicitors submitted detailed denials of the complaints on his behalf. They argued, amongst other things:

(1) Councillor Schofield had been seriously ill between May 2005 and the end of July 2005;

(2) The complaints were preceded, and by implication prompted, by Councillor Schofield's complaint about Miss Ball's appointment; Councillor Schofield disagreed with Eversheds' conclusions; further, it was undesirable that Eversheds should have conducted the review, as Miss Ball used to work for that firm;

(3) The allegation that Councillor Schofield left the leaflets in the toilets was denied and was not supported by the evidence, and the investigation into this allegation was inadequate;

(4) Miss Ball's complaint repeated Councillor Jones's complaint, which had been dismissed;

(5) Councillor Schofield had spoken to a WAG officer, whom he believed to be a lawyer, his comments at the meeting and his conduct thereafter were reasonable in the circumstances, and the comments about officers in the Legal Department had been misunderstood, or were justified.

3.6.7. Their letters were highly critical of Miss Ball. She, in turn, submitted her own very detailed rebuttal of the comments about her complaint, as did another officer whose supporting statement had been criticised by Councillor Schofield's solicitors. I have not attempted to summarise the arguments on both sides, or to argue the merits of the two complaints. Those papers are of course available if needed. I draw attention to the five points set out in my last paragraph because they are germane to later events.

3.6.8. The investigations were concluded and draft reports were circulated for comments in October 2006. Councillor Schofield did not comment on the draft reports. He had allegedly become ill again in September 2006, and had been unable to attend to Council business. His absence was sanctioned by full Council, on his application, on the 6 March 2007, to avoid his automatically ceasing to be a Councillor. On the 22 March 2007 the Ombudsman wrote to Councillor Schofield's solicitors and to the County Council to say that, on account of the delay occasioned by Councillor

formal findings that no further action should be taken. There was an exchange of correspondence between the County Council's legal department and the Ombudsman in which the Council questioned the legality of this decision, and sent a letter before claim, but ultimately no legal action was taken.

- 3.6.9. The letters to Councillor Schofield's solicitors of the 22 March 2007 about both investigations contained the same sentence: "The allegations as made were supported by the evidence, and the evidence was largely confirmed by the investigation although I note that this is disputed by Councillor Schofield".
- 3.6.10. Councillor Schofield returned to his Council duties in early August 2007, about ten days after the Council's Deputy Monitoring Officer informed his solicitors that the Council was not pursuing judicial review.
- 3.6.11. Some twenty Council officers had been interviewed during the course of the investigation. Their trades union made representations to the Managing Director, fearing recriminations against the officers following claims made by the Leader of Councillor Schofield's political group that he had been exonerated. The Managing Director asked the Ombudsman for permission to place his letters in the public domain. That permission was given.
- 3.6.12. The correspondence was reported to the County Council's Standards Committee on the 29 November 2007, at a public meeting. The Committee expressed grave concerns that the complaints were abandoned prematurely. The Chair of the Standards Committee wrote to the Auditor General for Wales to express those concerns on the 17 December 2007.
- 3.6.13. Councillor (as he had become) John Arthur Jones had been named in one of the leaflets. He sought access to the relevant documents to take independent legal advice about a possible claim for defamation or for judicial review. Miss Ball handled the correspondence.

3.7 The purchase of Craigwen and the "paragraph 85 letter"

- 3.7.1. On the 16 July 2007 the County Council's Executive resolved to attempt to purchase a property known as "Craigwen", Amlwch, at auction. The auction took place in the 19 July. The Council's bid was successful.
- 3.7.2. The only other bidder was Councillor Schofield. At the time of the auction, Councillor Schofield was still absent from public duties due to illness, and the County Council's lawyers were in correspondence with the Ombudsman about the legality of the decision to discontinue the investigations. Following a complaint by Councillor John Arthur Jones, the Council's external auditors, PriceWaterhouseCoopers (PWC), investigated Councillor Schofield's involvement in the auction. Their report, in October 2007, cleared Councillor Schofield, who had not known that he was bidding against the Council.
- 3.7.3. Councillor Schofield then sought to attack both the decision to purchase Craigwen and the officers who had advised upon it. Again, it is hard to understand why he should have embarked on this course of action, unless it was prompted by the earlier events concerning the Ombudsman complaints.
- 3.7.4. This resulted in a long investigation by PWC. There were two legal issues at the heart of the investigation.

3.7.5 First, the meeting of the Executive on the 10 July 2007 was procedurally defective. The meeting would normally have been chaired by the Leader of the Council, but he declared an interest and vacated the Chair. At his suggestion, the meeting was chaired by the Chair of the Council. This is contrary to the Council's constitution and contrary to the Local Government Act 2000. It does not follow, however, that, unless a decision of this kind is quashed as a result of successful judicial review proceedings, the purchase was legally ineffective. In addition, the decision to purchase was taken not only by the Executive but also by officers under delegated powers, but these were dependant on identifying a budget for the expenditure. The Executive agreed a budget allocation. A subsequent meeting, properly constituted, affirmed the decision after the auction. Other subsidiary points also arose. There were suggestions that the Council should have sought a judicial review of its own decision, or that Miss Ball, as Monitoring Officer, should have made a statutory report under section 5 of the Local Government Housing Act 1989. Miss Ball explained to PWC why she thought these courses of action were inappropriate.

3.7.6 The second issue concerned a restrictive covenant affecting the property. The Council's Property Solicitor, Alan Carr, had advised that the property could be used for the purposes for which it was intended, notwithstanding the covenant. PWC obtained confirmation from Mr Carr, who had by that time left the Council, that the covenant was not an impediment. The Council subsequently took steps to remove the covenant from the registered title.

3.7.7 The process started in September 2007 whilst Councillor Schofield was under investigation in connection with his participation in the auction. Miss Ball submitted a report to the Executive on the 10 September 2007 seeking ratification of the defective decision. Councillor Schofield leaked the issue to the press. It is my understanding that Councillor Schofield made comments to PWC in the course of their investigation into the complaint against him, about the legality of the decision and about officers' conduct.

3.7.8 On the 26 October 2007 PWC sent a draft of their report "for checking of factual accuracy" to the then Managing Director. In May 2008 there was a change of political control within the Council. Councillor Schofield became a cabinet member at this point, and the portfolio holder for property services. On the 24 July 2008 PWC sent a new draft report to the Managing Director. Relationships between members and officers deteriorated. From this point on, the Craigwen investigation became a battleground. Cabinet members took on the role of accusers, seeking to persuade PWC that officers, and Miss Ball in particular, had acted improperly. Other members have told me that Councillor Schofield was behind this, encouraging members to take this stance. It is worth noting that the cost of the investigation came to some £50,000. The documentation is quite limited, as was the contact with Council officers, and it follows that PWC spent a considerable amount of time dealing with elected members.

3.7.9 Councillor Schofield played a very active part in this process:

(1) On the 8 July 2008 he convened a meeting with Mr Carr and others at which he challenged and refused to accept Mr Carr's advice on the covenant (**Enclosure 11**). I understand that in May 2009 the then Acting Managing Director became aware that Councillor Schofield disagreed with some aspects of the note, and Miss Ball wrote to him asking for details of the points he disagreed with. Councillor Schofield did not reply to that letter.

(2) On the 17 September 2008, however, Miss Ball attended a meeting with the then Managing Director and the PWC investigators (**Enclosure 12**). This was a very frank

The price was being paid by Councillor Schofield and that it was his personal view that this was personally motivated". The note was sent to PWC and its contents have never been disputed. I have shown a copy of this note to Councillors Clive McGregor and Bob Parry, both of whom were members of the executive at the time and involved in the member-level exchanges with PWC. Councillor McGregor told me (**Enclosure 13**) that it accurately reflected the tenor of the meeting that had taken place with PWC. He said that Councillor Schofield was the instigator of these issues and was driving the process. Councillor Parry indicated that Councillor Schofield wanted his finger in everything.

- 3.7.10 Another member of the Council had objected to the 2007/8 accounts on the basis of the Craigwen purchase. In November 2008, PWC wrote formally to him stating that they intended to take no further action. The Welsh Audit Office sent PWC's draft Annual Audit Letter to the Council, then in January 2009 they sent the Annual Audit letter. It referred to Craigwen and made the following points:
- (1) The meeting on the 16 July 2007 contravened the Local Government Act 2000.
 - (2) Nevertheless, the Council had legal power to acquire property at auction.
 - (3) The ratification decisions strongly indicate that a properly constituted meeting would have come to the same conclusion, so it is unlikely that a Court would seek to intervene.
 - (4) Therefore PWC did not intend to refer the matter to the Court seeking a declaration that the expenditure was contrary to law.
 - (5) Nevertheless there were procedural flaws in relation to the meeting on the 16 July, the way the matter became urgent, the absence of a reference to the covenant in the reports to members and the absence of a contemporaneous record of the reasons for the steps that officers took.
- 3.7.11 On the 18 December 2008 Councillor Fowlie, the then Leader of the Council, wrote a letter to the Wales Audit Office, on behalf of the Executive, in response to the draft Annual Audit Letter (**Enclosure 14**). This letter commented adversely on aspects of the draft Letter. In addition, it was highly critical of Council officers on a number of counts. It became known as the "paragraph 85 letter". It contained five pages of detailed criticism of PWC's comments on Craigwen. One of the criticisms focussed on the role of the Monitoring Officer, Miss Ball. It alleged that she had improperly threatened PwC with legal proceedings or an opinion from a barrister if they found against the advice she had given. It said that the PWC auditor who conducted the investigation had told some Executive members that she had "effectively parked a Sherman tank on our lawn". The only substance to the allegation is a letter of the 15 November 2007 from Miss Ball to PWC. The letter referred to PWC's very strict interpretation of the Monitoring Officer's statutory duties. At the end of the letter she had said that, "... if there remain significant areas of dispute, then I shall require an opportunity to obtain independent legal advice. I propose to instruct Peter Keith Lucas of Bevan Brittan. A copy of his CV is attached." This is not, of course, a threat of any kind. Miss Ball was just informing PWC that she would need time to take further advice if this issue remained at large.
- 3.7.12 On the 22 December 2008 Councillor Clive McGregor wrote a short letter to the then Managing Director expressing concern at the lack of trust between members and officers and giving examples of the matters that were troubling him (**Enclosure 15**). The letter suggested that the Craigwen issue might require a police investigation as offences of malfeasance in public office would appear to be made out. The Managing Director declined to refer the matter to the police.
- 3.7.13 The Annual Letter was issued in January 2009. It recommended a statutory corporate governance inspection. It mentioned the "paragraph 85 letter".

3.7.14. In January 2009, the then Managing Director of the Corporate Information Centre formally sought a copy of the letter from Councillor Fowle. Councillor Fowle did not provide a copy of the letter. A complaint was made by Councillor John Chorlton, Leader of the Labour group, to the Ombudsman. I have been told by Councillor McGregor that Councillor Schofield encouraged Councillor Fowle not to release the letter. This was a very serious issue, as I explain below.

3.7.15. On the 10 June 2009, the then Acting Managing Director and the other members of the Corporate Management Team wrote to the December 2008 Executive members with a detailed rebuttal of the comments made in the "paragraph 85 letter". This was copied to the Wales Audit Office. An appendix to the letter dealt with Craigwen (**Enclosure 16**). It stated that there was nothing inappropriate or unprofessional in Miss Ball's dealings with PWC. It denied that she had threatened them with litigation or a barrister's opinion.

3.7.16. Councillor McGregor did refer the matter to the police. I understand that this was at the request of the members of his political group, seeking a mechanism for further review of the events that had occurred. The police declined to investigate.

3.7.17. By July 2009, Craigwen and the "paragraph 85 letter" had generated the following active Ombudsman complaints:

(1) The complaint by Councillor John Chorlton against Councillor Fowle for failing to provide a copy of the "paragraph 85 letter" to the Managing Director and the Corporate Information Officer and for misrepresenting conversations with the Wales Audit Office and Robyn Jones, the Council's Deputy Monitoring Officer, in a press interview. On the 27 September 2010 a case tribunal drawn from the Adjudication Panel for Wales found that Councillor Fowle had breached the Code of Conduct. The Tribunal accepted the Ombudsman's contention that Councillor Fowle deliberately attempted to mislead, for political motives, that his explanation for failing to provide the information was erroneous and unsupportable in law, and that this was a wilful decision taken in the clear knowledge that it was likely to represent a breach of the Code of Conduct. He had prevented access to information to which there was a legal right of access and had brought his office and the Council into disrepute. He was disqualified for 12 months.⁵

(2) A complaint by Councillor Chorlton about the substance of the "paragraph 85 letter". The Ombudsman initially declined to investigate. Miss Ball wrote to the Assessment Officer on the 21 July 2009 (**Enclosure 17**) suggesting that the Ombudsman had applied the wrong criteria and inviting reconsideration. In the light of those submissions, the Ombudsman decided to investigate (**Enclosure 18**). As the letter had been sent on behalf of the entire Executive, the investigation was extended to each of them.⁶

(3) A complaint by Mr John Arthur Jones against Councillor McGregor for referring Craigwen to the police. Again, the Ombudsman initially decided not to investigate. Miss Ball made representations that the wrong test had been applied (**Enclosure 19**) and the Ombudsman changed his mind (**Enclosure 20**).⁷

3.7.18. In June 2009 the Wales Audit Office undertook a Corporate Governance Inspection of the County Council. They issued their report in July 2009. In August 2009 the Welsh Ministers formally intervened. The direction appointed me as Interim Managing

⁵ Reference APW/010/2009-010/CT

⁶ Reference 2115/200900770

- 3.7.19 I considered it crucial to bring the issue of the "section 85 letter" to a conclusion. I negotiated a joint statement to be agreed by the officers who were members of the Corporate Management Team (CMT) and the Executive. The statement contains a retraction and apology by the Executive members, a commitment to working together in the future, and a commitment to supporting the roles of the Monitoring Officer and the section 151 Officer (the Corporate Director Finance, Mr David Ellis-Williams). It states that both the Executive and CMT regard the matter as closed and will make no further comment on it.
- 3.7.20 All the members of the Executive signed the statement, with the exception of Councillor Schofield, who refused to do so (**Enclosure 21**). As a result, on the 9 November 2009, the Leader of the Council removed him from the Executive. At a meeting of the County Council on the 10 December 2009, two County Councillors asked Councillor Schofield to apologise for the "paragraph 85 letter". He refused to do so. He explained that he had drawn a line under everything that had happened in relation to the Audit report, and that there were elements within the statement with which he was completely happy, but that he "would not shy away from the truth as he saw it". He said that he "wished to make it clear that he had never made a complaint about any Officer or Member within this Authority." Regrettably this was not true, as I will explain.
- 3.7.21 I wrote to the Ombudsman in November 2009 drawing attention to the retraction and apology and suggesting that, Councillor Schofield apart, further action in relation to the outstanding complaints about the substance of the paragraph 85 letter and the reference to the police might be discontinued to restore working relationships in the best interests of the Council. This was agreed and the complaints were withdrawn.

3.8 Opposition to Miss Ball's recommendations

- 3.8.1 Miss Ball has told me that throughout the period when Councillor Schofield was a member of the executive he opposed her recommendations to members, without reasonable grounds. None of these issues amounts to a breach of the Code of Conduct, but they illustrate a pattern of behaviour, and continuing personal antagonism.
- 3.8.2 For example, he cross-questioned Miss Ball, and challenged her legal advice, at an Executive meeting on the 8 December 2008, when it considered a proposal to transfer three Council assets to a social enterprise. He opposed a proposal to make minor establishment changes within her department at an Executive on the 9 February 2009. The proposal was only agreed after the Executive's decision to defer the proposal was called in and referred back for reconsideration. He opposed an extension to her/the Legal Services Manager's delegated powers, to enable her to settle maladministration complaints expeditiously and without the need for a report to full Council and to enable her to sign documents to give effect to decisions taken by others. This proposal was first made in April 2008, and was considered by members on six separate occasions before, ultimately, Council decided to delegate the power to settle complaints to the Executive, and the second recommendation was dropped in November 2008. I find it very difficult to understand why a proposal to give the Council's solicitor the power to execute documents to give effect to decisions taken by others should have been treated as anything other than a matter of routine business, even in the heightened atmosphere following a change of political control.
- 3.8.3 Miss Ball tells me that Dr Zoe Radnor, who is now a member of the Recovery Board supervising the County Council's improvement process, attended the Executive meeting on the 9 February 2009, which Councillor Schofield opposed the delegation

report to the Monitoring Officer, or rather his or her personal statutory duty, to make a report to full Council or the Executive, if it appears to him or her that any proposal, decision or omission in the discharge of the authority's functions is or was illegal or the subject of an adverse report from the Ombudsman, and to prevent any continuing illegality, maladministration or service failure pending consideration of the report.

3.9 **The complaint about Lynn Ball**

- 3.10 Very shortly after my appointment, but before I took up my duties full time, I had a meeting with Councillor Schofield on the 28 August 2009. This was one of the meetings I had arranged with senior members and officers. I dictated a note of the meeting that same day (**Enclosure 22**).
- 3.11 He made a number of very serious allegations against Miss Ball, and less serious allegations against other officers. He told me that Miss Ball was "not fit for purpose". He suggested a restructuring to remove some of her responsibilities.
- 3.12 His allegations against Lynn Ball were as follows:

3.12.1 **Craigwen**

The file of papers which contained the 10 June 2009 rebuttal of the "section 85 letter", and which was prepared by Miss Ball and Mr Ellis-Williams, contained nothing other than fabrications. The purchase of Craigwen was illegal. Miss Ball had done things on Craigwen which amounted to lying.

3.12.2 **The "tanks on the lawn" allegation**

Miss Ball had inappropriately threatened PWC during their investigation.

3.12.3 **Political partiality**

It was general knowledge that Miss Ball did things to help the opposition. This was a general allegation of political partiality. Miss Ball had released information to the opposition inappropriately and had briefed them better than the administration on Craigwen and the Audit letter. Miss Ball had too close a working relationship with Councillor Gareth Winston Roberts, the Leader of one of the Opposition groups.

3.12.4 **Misuse of Section 5 and 5A powers**

Miss Ball had misused her power, as Monitoring Officer, to make reports under section 5 or 5A of the Local Government and Housing Act 1989⁸. She had used these reports to protect the opposition and to threaten the administration. The underlying complaint contrasts the absence of a section 5 or 5A report about the decision to purchase Craigwen with Miss Ball's actions in another case.

This related to the County Council meeting on the 5 March 2009. The Welsh Audit Office Annual Audit Letter was on the agenda. The Letter recommended the Corporate Governance Inspection which later took place. Before there had been any debate, the Chair accepted a procedural closure motion to put the matter to a vote. Miss Ball considered that the Chair had failed in his duty to satisfy himself that there had been sufficient prior debate, but she was not permitted to comment. After the meeting, discussions took place, resulting in a requisition for an extraordinary meeting to debate the matter. During those discussions Miss Ball advised that, had the extraordinary

⁸ This is the Monitoring Officer's power, or rather his or her personal statutory duty, to make a report to full Council or the Executive, if it appears to him or her that any proposal, decision or omission in the discharge of the authority's functions is or was illegal or the subject of an adverse report from the Ombudsman, and to prevent any continuing illegality, maladministration or service failure pending consideration of the report.

3.12.5 **Miss Ball's appointment**

Miss Ball's appointment as Monitoring Officer was improper, because of her relationship with opposition groups and because there has been improper political influence on the appointment. He had acted as "whistleblower" at the time. The appointment had been investigated by Eversheds solicitors but this was not an independent investigation as Miss Ball had worked for Eversheds.

3.12.6 **Response to decision not to investigate complaint about "section 85 letter"**

Miss Ball had challenged the Ombudsman's rejection of the complaint about the "paragraph 85 letter", inappropriately and motivated by her support for the opposition and her animosity towards him.

3.12.7 **Ombudsman investigations into Councillor Schofield**

Miss Ball had challenged his conduct in relation to the Ombudsman complaints by challenging his illness, making it public that he had "deliberately gone ill" and making sure that the Ombudsman's letters, which implied that he had acted improperly, were made public. This was retaliation for his whistleblowing on her appointment. It was designed to embarrass him and do him harm. She had made personal information about him public to embarrass him about his illness.

3.12.8 **Collusion with Councillor Chorlton**

Miss Ball had prepared documents for Councillor John Chorlton, motivated by personal animosity towards Councillor Schofield on account of the Ombudsman complaint.

This was a reference to the Ombudsman complaint about the paragraph 85 letter.

3.12.9 **Disclosure to Councillor John Arthur Jones**

Miss Ball had written the "John Arthur Jones document" and had provided Councillor Jones with confidential information, known only to the Monitoring Officer, in the knowledge that he would publish it.

This was a reference to two separate issues. First, it relates to Councillor John Arthur Jones's 2005 complaint to the Ombudsman about the Council meeting on the 3 May 2005. Secondly, it relates to the correspondence with him in 2007 when he sought disclosure of internal documents in connection with possible legal proceedings arising from the contents of one of the leaflets found in the toilets.

3.12.10 **Other allegations**

(1) Miss Ball had participated in decision-making in matters where she had a conflict of interest.

(2) She had inappropriately engaged Alan Carr as a property solicitor at unnecessary expense.

Mr Carr had left the Council's employment to move to another part of the country for family reasons and later set up as a consultant. He was re-engaged to act as the Council's property and highways lawyer on a time-limited contractual basis. This was approved by the Executive at the time.

(3) She had attempted to "catch him out" by preparing a note of a meeting.

I think that this is a reference to the note of the meeting of the 8 July 2008 with Mr Carr (Enclosure 11)

(4) Miss Ball had made a complaint to the police.

This refers to a particularly difficult time for the Council. When the former Acting Managing Director left the Council, there were credible but unproven allegations of bullying and serious harassment by the then Leader, and a severe and continuing deterioration in the relationship between the Acting Managing Director and the Leader and other senior members. Miss Ball felt obliged to refer the matter to the police. The issue subsided after a press report highlighted the concerns.

(5) There were other unspecified concerns about standards and a severance payment to a former Managing Director.

3.13 Although Councillor Schofield's focus was very much on Lynn Ball, he also criticised other officers:

3.13.1 He implicated Mr Ellis-Williams in the allegation that the Craigwen rebuttal contained nothing other than fabrications.

3.13.2 He criticised Mr Ellis-Williams in connection with travel costs for members and the former Acting Managing Director.

This relates to an investigation he had carried out in 2009, having received allegations from more than one source, into travelling expenses claimed by executive members, including Councillor Schofield, in connection with two trips to South Wales. Mr Ellis-Williams recommended that one of the trips should be retrospectively designated an "approved duty" for which expenses could be claimed, but that the other should not, and that monies paid for the latter should be recovered, but the Audit Committee recommended that both be approved. In June 2009, full Council approved the Audit Committee's recommendation.

3.13.3 He complained that officers who dealt with Freedom of Information requests, who reported to Miss Ball, were more helpful to opposition than administration members.

3.14 I considered that these were extremely serious allegations. Any one of them, if proven, would have been a serious disciplinary matter. Councillor Schofield agreed that they were serious. He asked me to conduct an investigation and consented to my releasing the information that he had given to me for that purpose.

3.15 I was new to the authority and had no preconceptions about Lynn Ball, although I thought at the time, and still believe, that the idea that an organisation like PWC, exercising statutory audit powers, would be improperly influenced by a vague threat of legal action or a barrister's opinion (which is of course denied in any event) was highly improbable. I decided to commission a review of Miss Ball's work.

3.16 I engaged Neil Pringle, a former Chief Executive and Monitoring Officer, to conduct a peer review of Miss Ball's work. I asked him to cover the main allegations listed above: The "tanks on the lawn" allegation; the alleged misuse of Section 5 and 5A powers; the response to the Ombudsman's decision not to investigate the complaint about the "paragraph 85 letter"; the steps taken in connection with the discontinued Ombudsman investigations into Councillor Schofield resulting in personal information being placed in the public arena; the allegation of collusion with Councillor Chorlton in preparing an Ombudsman complaint; the alleged disclosure of confidential information to Councillor John Arthur Jones.

3.17 I considered that the allegations about the legality of the purchase of Craigwen, and the exchanges that followed, had been adequately ventilated and investigated and should be dealt

...with the same way. I was aware that F&C had taken it to their legal advice and had not found the purchase to be unlawful. The general allegations of political partiality were too vague to investigate, but Mr Pringle was aware of them and they were germane to some of the specific matters I asked him to look at. Miss Ball's appointment had already been investigated. She had played no part in the selection of Eversheds and did not know the partner who conducted the investigation. The other allegations were too general or indistinct to be susceptible to review.

3.18 I also asked him to look at two different matters on which some members had expressed concern:

3.18.1 **The Policy Framework**

Under the County Council's constitution, decisions which are contrary to one or other of the list of approved plans and strategies called the "Policy Framework" can only be taken by full Council. There were allegations of inconsistent advice about how this should work, specifically that schools rationalisation did not have to be referred to full Council whereas leisure rationalisation did have to be referred. This was a hot topic at the time and had been raised by members of all political groups. Superficially there seemed to be some justification, the allegation of differential treatment was a matter of concern, and I wanted to establish the facts about how the Council had operated.

3.18.2 **The statement to the Ombudsman**

There had been a complaint to the Ombudsman about the way the Council Meeting on the 5 March had been chaired. The Ombudsman had asked Miss Ball to provide a statement, and she had done so. The Councillor in question, Aled Morris Jones, sought clarification about how far it was appropriate for certain types of comment to be made. Had her statement moved from a purely factual account to include comments designed to undermine the member in question? I wanted to be able to advise him.

3.19 Mr Pringle was allowed access to all the paperwork. He reported to me in January 2010 (**Enclosure 23**).

3.20 His conclusions on the main issues raised by Councillor Schofield were as follows:

3.20.1 **The "tanks on the lawn" allegation**

The only material that would lend any support to this allegation was the reference in the letter of the 15 November 2007 to obtaining independent advice principally on the general point about Monitoring Officers' statutory responsibilities. It was a robust, but not inappropriate, professional exchange and it would not be appropriate to describe it as a threat.

3.20.2 **Misuse of Section 5 and 5A powers**

Miss Ball had given appropriate consideration to the exercise of her section 5 or 5A powers both in relation to the decision to bid for Craigwen and in relation to the events at the Council meeting on the 5 March 2009, there was only limited comparability between the two and no inconsistency in the use of the powers.

3.20.3 **Response to decision not to investigate complaint about "section 85 letter"**

Miss Ball's response to the Ombudsman's decision not to entertain the complaint about the "paragraph 85 letter" was given in the best interests of the Council and was reasoned and appropriate.

3.20.4 **Ombudsman investigations into Councillor Schofield**

There was no substance to the allegation that Miss Ball had placed material about the complaints against Councillor Schofield in the public domain via the Standards Committee. The steps which led to disclosure were taken by the then Managing

3.20.5 Collusion with Councillor Chorlton

From a desktop review, there was no evidence that Miss Ball had assisted Councillor Chorlton in framing his complaint to the Ombudsman.

3.20.6 Disclosure to Councillor John Arthur Jones

In relation to the allegation that Miss Ball had made an improper disclosure of documents to Councillor John Arthur Jones, Miss Ball had resisted disclosure until she was obliged by law to release the documents. When she disclosed them she did everything in her power to prevent further disclosure.

3.20.7 The Policy Framework

There was a distinction between the leisure rationalisation and the schools rationalisation, and, based on the advice received from other senior officers, the advice given by Miss Ball was consistent.

3.20.8 The statement to the Ombudsman

The statement made was not inconsistent with what might have been expected in the circumstances, and the language used was not designed to undermine the member.

3.21 Mr Pringle concluded that Miss Ball had demonstrated the competencies required to perform her role and had adapted them appropriately to the difficult circumstances within the County Council.

3.22 He made some additional comments. He expressed personal concern about the issues that had been referred to him for review, and the extent of the retrospective scrutiny to which Miss Ball's actions were subject. He said that this "does not reflect an organisation that has the confidence to take responsibility for its own governance", and that the nature and extent of the allegations "may be interpreted as undermining a Monitoring Officer who is seeking to assist the Council in maintaining appropriate standards of governance". He advised that there was a need for appropriate managerial and political support, and the risk of an employment law challenge.

3.23 The Peer Review satisfied me that Councillor Schofield's complaints were unfounded and unjustified. I had no doubts about Miss Ball's competence, professionalism and impartiality. She has had to discharge her responsibilities as Monitoring Officer in an exceptionally difficult political climate. It was clear to me from the sequence of events that the complaints were malicious and vexatious. Plainly there was a history of antagonism on the part of Councillor Schofield towards Miss Ball, prompted by events in the past. I was concerned that the steps taken by Councillor Schofield, and by another Councillor, sought to undermine Miss Ball in her role as a senior Council officer, as the legal adviser to the Council and as Monitoring Officer. I was also very concerned that the personal attacks and allegations that had been made against her exposed the Council to the risk of claims by her as her employer. I thought that the risk was very substantial and that there was a prospect of a maximum award, and possibly (in view of her whistleblowing role) an uncapped award.

3.24 As I have said, it had become apparent to me at this point that there was a misconduct issue, but I also knew that the roots went down deeper than might at first seem to be the case. I needed to review all the relevant material and to find out more about Councillor Schofield's involvement in earlier events. I wanted to provide you with a complete account, to facilitate an investigation, not just the tip of the iceberg.

3.25 First, though, on the 19 February 2010 I wrote confidentially to all the members of the County Council outlining the outcome of the review, expressing my concerns at the attacks that had

(Enclosure 24). I also wrote a personal letter to Councillor Schofield on the same day (Enclosure 25). I have received no reply.

3.26 Subsequent events

- 3.27 The Wales Audit Office Corporate Governance Inspection Report (Enclosure 2) specifically criticised the County Council's scrutiny arrangements⁹ and in particular the arrangements whereby the Principal Scrutiny Committee was chaired by an administration member. These concerns were echoed by the Recovery Board appointed by the Welsh Ministers, and by the Minister. In consequence, Group Leaders reached agreement that the Chair should not be a member of the administration groups. In March 2010 the County Council approved an amendment to the Council's constitution to this effect.
- 3.28 Councillor Schofield is well known to oppose this principle. He believes in "winner takes all" – the Administration should take all the appointments. This is not an obscure point of political principle. "Winner takes all" had meant that 19 out of 20 special responsibility allowances payable to members were allocated to the controlling group. Effective governance arrangements had come second to a crude system of political patronage. The Corporate Governance Inspection Report called this "grace and favour", particularly in the context of the weak political structures in Anglesey¹⁰. I considered it so important that I had direct involvement in drafting the Minister's statements on the issue.
- 3.29 When the Principal Scrutiny Committee met on the 4 February 2010, there was a vacancy in the Chair, and the meeting had to appoint a Chair. An opposition member nominated a County Councillor on whom the Leaders of the Opposition Groups had agreed. Councillor Schofield disagreed with the nomination, saying that the member in question did not have enough experience, and nominated a different opposition member, but he declined the appointment. After a recess, Councillor Schofield then nominated an administration member. After a second recess, an interim appointment was made, of another administration member. Councillor Schofield seconded the nomination.
- 3.30 In consequence, Councillor Schofield was expelled from his political group in March 2010.
- 3.31 Then, on the 20 May 2010, Councillor Schofield accepted appointment as Vice-Chairperson of the Economic Development, Tourism and Property Scrutiny Committee, again contrary to the agreement reached between Group Leaders.
- 3.32 For many members, this was the last straw. The old ways of working would not support the Improvement Plan and would lead to the abolition of the County Council. On the 8 June 2010, the Leaders of the main political groups on the County Council signed a document called "Terms of Engagement for a Political Alliance to secure the future of Anglesey County Council." This contained arrangements for power sharing through an Informal Board, and a commitment to working together and to group discipline. The Terms of Engagement specifically condemned Councillor Schofield and one other Councillor, and expressed support for a reference to the Ombudsman.
- 3.33 As I have said, I had come to the view that I would need to make a formal complaint against Councillor Schofield. I stress that this was my own independent opinion, not a matter of political instruction, and I would have taken action even without member-level backing. However, I have consistently emphasised to members the importance of self-regulation, reflecting the comment in the Corporate Governance Inspection Report that "weak self regulation of inappropriate behaviour and conflict has had a corrosive effect and has wasted

⁹ Paragraphs 76 to 79

- 3.34 I had by now learned more about the background and circumstances behind the allegations he made to me when I was appointed. It was clear to me that the allegations were malicious, motivated by his personal antagonism towards Miss Ball, and the latest offensive in a long running campaign against her. The consequences of the campaign for the County Council had been severe. Councillor Schofield had instigated the PWC investigation into Craigwen, and prepared the material for the greater part of the "paragraph 85 letter". These in turn had led to the adverse Corporate Governance Inspection report and the WAG intervention. The relationship between members and officers was at the heart of both of these. The issue had not gone away. Councillor Schofield continued to demonstrate an unwillingness to work in a consensual manner. His actions had been subtle. Others have described his approach to me as a "dripping tap". I needed finally to obtain advice on the background material, to check key members' perception of what had been going on behind the scenes, and to seek to ensure that my complaint was accurate and complete. I have now been able to do this.
- 3.35 I wished in particular to confirm the part that Councillor Schofield had played in the composition of the "paragraph 85 letter" and the extent to which his allegations against Miss Ball were known to others. As I have said, many members had told me, even at my first meeting with them after my appointment, that Councillor Schofield was behind what had occurred, but I wanted to make sure that I had not misunderstood anything. On the 30 June 2010 a request was made to PWC for access to their records, to establish the extent of his involvement. They have not replied, but I was told on the telephone that their records do not go down to that level of detail. On the 5 October 2010 I met Councillor Clive McGregor and Councillor Bob Parry. Both were executive members at the time of the PWC Craigwen investigation and the "paragraph 85 letter". Mr Robyn Jones from the County Council's legal department was also present, and took a note of the meeting (**Enclosure 13**). At my request, he had listed the 31 main allegations against Miss Ball and Mr Ellis-Williams from the "paragraph 85 letter" and the complaint that Councillor Schofield had made to me. I asked them whether they had been aware of these allegations in the sense that Councillor Schofield had made them to themselves and other members as well as to me.
- 3.36 Both Councillors told me that Councillor Schofield had expressed the overwhelming majority of these allegations and criticisms to them and to other members. Two of the allegations (leaking Administration documents to the Opposition and favouring the Opposition in Freedom of Information Act complaints) were in general circulation within the Administration group rather than attributable to Councillor Schofield alone. They did not recall four of the allegations. Two of the allegations (that Councillor Schofield had been treated poorly in comparison with other councillors, and that Miss Ball had written Councillor John Arthur Jones's Ombudsman complaint) were known to Councillor McGregor but not Councillor Parry. They were uncertain about three other allegations. Both Councillors said that Councillor Schofield had been the source of the remaining 20 allegations, and that he had expressed them to them.
- 3.37 Councillor McGregor has subsequently advised that, although Councillor Schofield did not contribute to the contents of his letter to the Managing Director of the 22 December 2008, he did provide a considerable part of the material for the "paragraph 85 letter". The letter was signed by Councillor Fowlie, the then Leader of the Council, but had been prepared by Councillor McGregor. Councillor McGregor advises me that pages 3 (apart from the first paragraph) to 7 of the letter were prepared from notes supplied by Councillor Schofield. Councillor McGregor just edited them to make the letter read more smoothly. This is the section of the letter which deals with Craigwen and Miss Ball's role, including the "tanks on the lawn" allegation.

member who was an executive member at the time, Councillor Robert Lloyd Hughes, is willing to corroborate their evidence.

3.39 Having made these enquiries and taken advice I compiled this complaint. I know that the core events occurred last year, but I considered it particularly important, in view of the significance of the issue for the County Council, to make further enquiries to validate my understanding, to put together a full complaint with background papers, and of course to consult Miss Ball. I am certain that your investigation will not be prejudiced by the passage of time.

4. Summary of the complaint

- 4.1 Councillor Schofield has a history of antagonism towards Miss Ball. This goes back to the judicial review proceedings, his so called "whistleblowing" complaint about her appointment, her complaint to the Ombudsman about comments that he had made at a Council meeting, and the two abandoned investigations.
- 4.2 The purchase of Craigwen escalated from a minor procedural mistake to a fault line between administration members and officers, leading to the Corporate Governance Inspection Report and the ministerial intervention. Councillor Schofield played the leading role. I have not wished to reopen the Craigwen issue unnecessarily, but the extent to which it focussed on Miss Ball, and the advice that she had given, is patent.
- 4.3 Against this background, very shortly after I had been appointed, Councillor Schofield made nine very serious allegations against Miss Ball. If any one of them had been proven, it would have constituted a serious disciplinary offence. In my opinion, any one of the allegations would have been grounds for dismissal.
- 4.4 Miss Ball's appointment was investigated by a firm of external solicitors who specialise in local government matters. They made no criticism of Miss Ball. The Craigwen allegation was investigated by PWC over a period of some sixteen months. They did not disagree with the legal advice Lynn Ball had given and expressed no dissatisfaction with her. Neil Pringle investigated the other specific complaints and found them to be unjustified. The general allegation of political partiality was poisonous, especially when made to an incoming Managing Director in the extraordinary circumstances of my appointment, but Mr Pringle found nothing to back it up in the papers he looked at. I have worked with Lynn Ball for over 12 months now. I have no concerns at all about her integrity, impartiality and competence, and I have broadened her responsibilities substantially.
- 4.5 There is no justification whatsoever for any of the complaints that Councillor Schofield made.
- 4.6 Councillor Schofield had crossed swords with Miss Ball over the recovery of legal costs following his judicial review. He retaliated by complaining about her appointment as Monitoring Officer. He launched an attack on her and her staff at a Council meeting, when she was unable to respond, and alleged incorrectly that the WAG had given different advice on a matter of some political significance. Her complaint to the Ombudsman was unresolved, as was the complaint by the Managing Director. Having returned to his official duties after a long period of illness, and in retaliation for her complaint to the Ombudsman, he triggered the Craigwen investigation. He opposed her recommendations in committee. He brought his personal antagonism to his dealings with PWC, seeking to persuade them to find fault, and to focus on Miss Ball's role. When they did not find fault with Miss Ball, he prepared the material for the section of the "paragraph 85 letter" dealing with Craigwen and Miss Ball. He was the only signatory of the "paragraph 85 letter" who refused to sign the statement of retraction. And, as soon as I was appointed, he lodged the complaints with me against Miss Ball.

behaviour over several years. The vast majority of the allegations made to me were made to others, including the comments made to PWC, the "paragraph 85 letter", and comments made to other members, as reported to me by Councillors McGregor and Parry.

- 4.8 When I was appointed I had no preconceptions about any individual officer or member. Now that I have investigated the allegations, and know more about the background events, it is clear to me that the allegations were not founded on an honest and reasonably held belief that they were fair and true, and were not made in good faith or in the public interest.
- 4.9 Councillor Schofield later said at a Council meeting that he had never made a complaint about any Council officer.

5. Provisions of Code of Conduct

- 5.1 I consider that these allegations and comments are in breach of the following provisions of the County Council's Code of Conduct and the Protocol for Member/Officer Relations, which are in effect supplementary guidance.
- 5.2 Paragraph 6 (1) (d) "You must not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority." The Guidance explains that this prohibits complaints against staff members which are not founded on fact and which are motivated by malice. "Malice" is described as "a desire to do them harm". In other contexts, it includes complaints and statements that are not made in good faith, that are made with a reckless disregard for the truth, or that are made with a hidden motive. The Information Commissioner's approach to the word "vexatious", in the context of requests for information, is increasingly seen as authoritative. He advises that a request that is likely to cause unjustified distress, disruption or irritation can usually be considered vexatious. For the reasons that I have given I consider that the complaint that Councillor Schofield made to me was not founded on fact and was both malicious and vexatious.
- 5.3 Paragraph 7 (a) "You must not, in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage". By making false and malicious complaints against Miss Ball Councillor Schofield attempted to use his position as a councillor improperly to create a disadvantage for her¹².
- 5.4 Paragraph 4 (b) "You must show respect and consideration for others" (cf Protocols paragraph 5.3.2). The Guidance says that individuals must not be subject to personal attack, and that this particularly applies to dealing with officers. The allegations made not only to me but to other members of the County Council are a personal attack on Miss Ball. They are not justified by the facts and they are prompted by personal antagonism.
- 5.5 Paragraph 4 (c) "You must not use any bullying behaviour, or harass any person" (cf Protocols paragraph 5.3.4). This includes bullying or harassing Council officers. In the Guidance, harassment is described as "repeated behaviour which upsets and annoys people" and bullying is described as "offensive, intimidating, malicious, insulting or humiliating behaviour". It may be part of a pattern of behaviour directed at a person over whom you have some actual or perceived influence. It attempts to undermine an individual. I have described the pattern of Councillor Schofield's behaviour since 2003, culminating in the complaint made to me last August. It is plainly designed to upset and undermine Miss Ball, who, as an officer, is

¹² Please see the Adjudication Panel for England decision in the case of Mr Paul Buchanan of Somerset County Council, reference APF 0417 where the Panel upheld a finding of breach of the equivalent provision in a case where false

- 5.6 Paragraph 4 (d) "You must not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority" (cf Protocols paragraph 5.3.4). The Guidance makes it clear that this includes pressurising officers and attempting to force them to act differently. Councillor Schofield's campaign has been designed to undermine Miss Ball, and to make it more difficult for her to perform her pivotal role as Monitoring Officer, and Director of Legal and Committee Services. The allegations of incompetence and political bias are particularly harmful, because they attack the trust which senior officers and members have to place in an officer performing this role.
- 5.7 Paragraph 6 (1) (a) "You must not behave in a way which would be reasonably be regarded as bringing your office or authority into disrepute at any time". The Guidance contains an example where a member engaged in a course of conduct within the Council to pressurise officers to promote the interests of his own family. As well as other breaches, he had also brought the office of member into disrepute. The Guidance on Paragraph 6 (1) (a) refers to this example and advises that members must conduct themselves in an appropriate manner within the confines of a council's building, regardless of whether the conduct is likely to be in the public domain. In other words, the essential question is whether there might be an adverse affect on the office of member or on the authority. I have explained the part that Councillor Schofield's campaign has played in the recent history of the County Council, and the damage it has done. It is also the case, of course, that pursuing this course of action, including making the false complaint to me, discredits his office

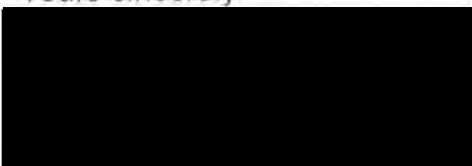
6 Enclosures and witnesses

- 6.1 I attach a list of the enclosures which support this complaint. I have only included the papers which relate directly to the complaint, but other background material is available.
- 6.2 The enclosures speak for themselves. The facts are stated above. The Council officers and elected members whom I have named can corroborate the background information, if that is needed.

7 Conclusion

- 7.1 I am concerned that Councillor Schofield could use an investigation as a platform for further attacks on Miss Ball and other Council officers. I am sure that you will appreciate the risk.
- 7.2 As the complaint directly concerns the Monitoring Officer, Miss Ball has delegated responsibility for future correspondence to Mr Robyn Jones, the Deputy Monitoring Officer. She will confirm this if you wish. I would be grateful if relevant correspondence could be marked for Mr Jones's personal attention.
- 7.3 This is a matter of great significance for the County Council, and I would also be grateful if you could keep me informed of the progress of the matter. If, having decided to investigate, you then decide to discontinue the investigation for any reason, please would you consult me first.

Yours sincerely



David Bowles
Interim Managing Director



CYNGOR SIR
YNNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

ADRAN RHEOLWR GYFARWYDDWR/
DEPARTMENT OF THE MANAGING DIRECTOR

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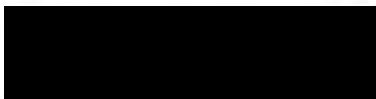
3 December, 2010

Dear Mr Tyndall

COMPLAINT BY MR DAVID BOWLES AGAINST COUNCILLOR ELWYN SCHOFIELD

Please find enclosed a copy of the above complaint together with its enclosures. I also enclose a second copy of the complaint and enclosures so that you might forward this directly to the Councillor.

Yours sincerely



Robyn Jones
Rheolwr Gwasanaethau Cyfreithiol/Dirprwy Swyddog Monitro
Legal Services Manager/Deputy Monitoring Officer

Enc



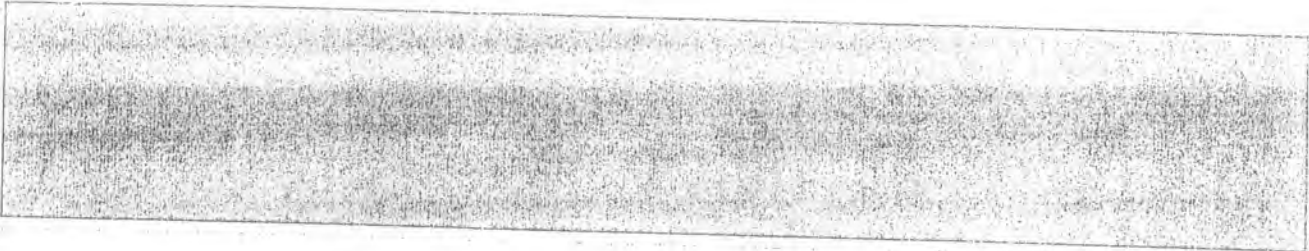
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July 2009

Authors: Jeremy Colman, Rod Alcott and Huw Lloyd Jones

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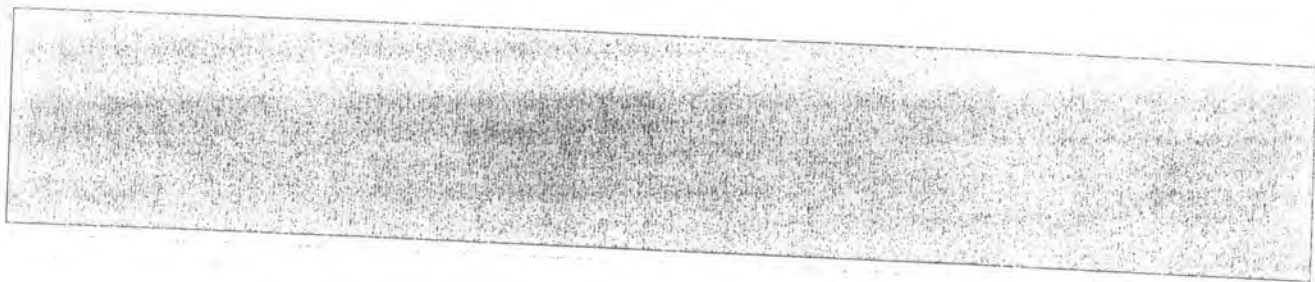
Corporate Governance Inspection
Isle of Anglesey County Council



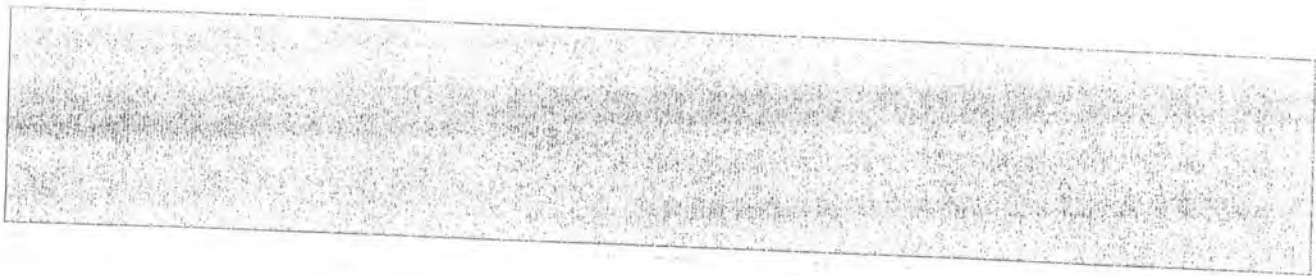
The Isle of Anglesey County Council has a long history of not being properly run, from its inception in 1996 to the present day. This has had a corrosive effect on the exercise of its functions and leaves it poorly placed to meet future challenges.

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Status of this report

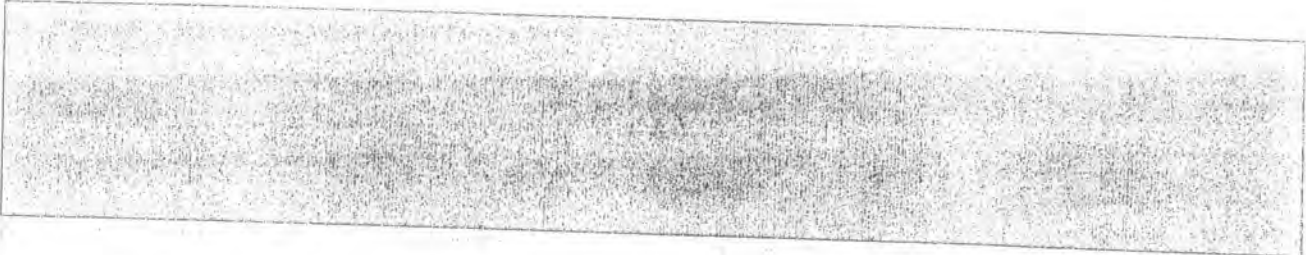
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Summary

1. Local authorities in Wales are required to provide services to the public in a way that:
 - complies with legislation and central government policy;
 - secures continuous improvement in the way in which its functions¹ are exercised, having regard to a combination of economy, efficiency and effectiveness; and
 - meets the needs of local people.
2. The process of bringing these about is called governance. In its simplest form, governance can be defined as the processes of making and implementing decisions.
3. Good governance is therefore concerned with making sound decisions and with ensuring their effective implementation. In the case of local authorities, this is the framework that should secure improvements in the quality of life of local people.
4. Within local government the responsibility for effective governance lies jointly with councillors and officers, working together to achieve corporate ambitions.
5. The Isle of Anglesey County Council (the Council) has a long history of inappropriate behaviour and conflict. The persistence of the problems and the Council's failure to resolve them were brought to a head in the Annual Letter issued by the Relationship Manager in January 2009. This letter stated that:
 - 'The Appointed Auditor recommends that the Auditor General carries out an inspection under section 10A of the Local Government Act 1999 of corporate governance at the Council, due to concerns that difficulties in working relationships between some Executive Members and some senior officers are having a detrimental impact on the Council and its ability to fulfil the general best value duty.'
6. The Auditor General accepted the recommendation and the Wales Audit Office carried out such an inspection during April 2009. The inspection set out to answer the question 'Is the Council properly run?'
7. We concluded that the Council has a long history of not being properly run, from its inception in 1996 to the present day. This has had a corrosive effect on the exercise of its functions and leaves it poorly placed to meet future challenges.
8. We came to this conclusion because:
 - weak self-regulation of inappropriate behaviour and conflict has had a corrosive effect and has wasted Council resources; and
 - the Council is poorly placed to meet future challenges, including its duty to secure continuous improvement, because of a lack of direction, corporate

¹ Functions include all the duties and powers of a local authority.

leadership and accountability; even though there are good features in the performance of many services.

Recommendations

- R1 The current political arrangements contribute to the Council not being properly run. To support better governance and decision-making, and to address the fundamental underlying problem of conflict, the Council should, within 12 months of the publication of this report, amend its political arrangements to promote:
- clear determination of its strategic priorities and direction;
 - a reduction in the corrosive effect of member conflict through proactive monitoring and enforcement of standards of conduct and stricter group discipline;
 - more rigorous scrutiny based around Committees that are independent of the Executive; and
 - better information flows.
- R2 The Council faces the immediate problem of restoring trust between some members and some senior officers. To begin this process, the Council needs to resolve the Graigwen issue² and issues relating to the Annual Letter issued by the Relationship Manager in January 2009. To facilitate resolution of these issues and restore mutual trust and respect the Council Leader and the Interim Managing Director should reinstate formal and informal meetings between the Corporate Management Team and the Executive with immediate effect.
- R3 The members of the Corporate Management Team provide some effective leadership to service areas but fail to provide the necessary corporate leadership³. The Council, within six months of the publication of this report, should make proposals for the composition and structure of senior management to remedy this deficiency.
- R4 Recent changes to the decision making processes have contributed to improving planning decisions. Nevertheless, Planning Committee decisions remain a source of reputational damage and erosion of public confidence. The Council, within three months of the publication of this report, should make proposals for increasing the transparency and quality of decision making.
- R5 Good governance and exercising the community leadership role require effective citizen engagement. There is however no co-ordinated approach to establishing the needs of the island's community through citizen engagement. The Council should make proposals for improving citizen engagement by 31 December 2009.

² Graigwen is a property that the Council purchased at auction in 2007.

³ Corporate leadership can be defined as giving direction to staff in line with the Executive's priorities. It means working collaboratively to set the direction for the Council as a whole, in exercising the Council's powers and functions, and ensuring that the Council as a whole moves in that direction.

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|----|---|
| R6 | Responding effectively to complaints is an essential component of holding the Council accountable. The Council has a poor track record of responding to complaints that it does not have a statutory duty to respond to. This is a concern shared by the public, officers and councillors. The Council should, by 31 March 2010, make proposals for improving its process for responding to complaints based on an evaluation of the pilot that commenced on 1 June 2009. |
| R7 | Strong corporate services ⁴ with sufficient capacity to provide the necessary level of support to members and officers are essential to promote efficiency and are fundamental to improving governance. The Council should, within six months of the publication of this report, develop proposals to improve corporate services. |

9. These recommendations relate to resolving long-standing problems that the Council has failed to address. It is our view that the Council will require external support and challenge to ensure that these recommendations are implemented.

Statement by the Auditor General

10. This report sets out the results of my inspection of the Isle of Anglesey County Council under section 10A of the Local Government Act 1999. The Act requires me to mention any matter in respect of which I believe as a result of an inspection that the Council is failing to comply with the requirements of Part I of the Act (Best Value), and, accordingly, this report mentions such matters. As I have reported such matters, the Act also enables me to recommend to the Welsh Ministers to give a direction under section 15 of the Act.
11. Based on the Council's history and track record I do not consider that it has the capacity and capability to deliver the scale of change and improvement required in order to comply with the requirements of the Act. I have therefore decided to recommend to the Welsh Ministers that they should issue a direction to the Council under section 15 of the 1999 Act to ensure that the authority:
- complies with Part 1 of the Act;
 - takes the necessary steps in relation to (i) to implement my recommendations within 18 months of the publication of this report; and
 - co-operates with a Board established to oversee the implementation of my recommendations.

⁴ Corporate services refers to those services such as Human Resources, Finance, Information and Communications Technology, Policy and Performance that support the Council as a whole in delivering effective services to the public.

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12. Issues relating to the purchase of the property 'Graigwen' in Amlwch have played a major part in the break down of relationships between the Executive and the Corporate Management Team and remain a source of conflict between councillors. Should the Council, within a month of the publication of this report, fail to provide me with assurance that it has done all within its powers to resolve the Graigwen issue then I will give consideration to exercising my powers to commission a further examination of the issue. The cost of any such examination will be borne by the Council.

Jeremy Colman
Auditor General for Wales

Weak self-regulation of inappropriate behaviour and conflict has had a corrosive effect and wastes Council resources

The Council is ineffective in dealing with issues of conflict and inappropriate behaviour

The Council has failed to respond to a number of previous external reviews that have highlighted issues of conflict and inappropriate behaviour

13. The history of conflict and inappropriate behaviour can be traced back as far as the Council's inception in 1996.
14. In the late 1990s two public interest reports were issued by the District Auditor that were critical of standards of conduct at both councillor and officer levels. These reports resulted in changes of key personnel and a small minority of councillors and officers being involved in legal proceedings.
15. Between 1998 and 2001 Michael Farmer QC produced three reports relating to conflict and standards of conduct within the Council. In his third and final report he stated, 'Local Government is based on partnership: a partnership based on mutual trust between the electorate, members and officers. In Anglesey, that partnership has been a fragile one in the recent past.'
16. A Peer Review⁵ in 2001 identified many weaknesses in the Council's leadership, democratic and managerial structures, communications and performance management. The report also recognised a strong desire by the majority of councillors and officers to move forward with a new direction and fresh corporate objectives.
17. The Annual Letter issued to the Council in December 2005 by the Wales Audit Office and the Appointed Auditor, PricewaterhouseCoopers stated that, 'Adverse publicity relating to the behaviour of elected members continues to be a distraction for both members and officers. If the external image of the Council is to be improved, members and officers must demonstrate that they can work together to focus their efforts on delivering high quality, efficient services to the people of Anglesey.'

⁵In November 2001 the Council invited the Improvement and Development Agency to carry out a peer review. The report of the review was published in February 2002.

18. The theme was continued in the Annual Letter issued to the Council in December 2007 which stated that, 'Member conflict is currently the cause for greatest concern to the Council's regulators as it tends to take the focus of members and officers away from addressing the other high risks and the Council's objectives. Furthermore the negative publicity caused by this conflict impacts on the Council's reputation with the electorate, its regulators, the National Assembly and the Assembly Government.'
19. Matters were brought to a head in the Annual Letter issued to the Council in January 2009 which stated that, 'The Appointed Auditor recommends that the Auditor General carries out an inspection under section 10A of the Local Government Act 1999 of corporate governance at the Council, due to concerns that difficulties in working relationships between some Executive Members and some senior officers are having a detrimental impact on the Council and its ability to fulfil the general best value duty.'
20. The repeated highlighting of problems of conflict and inappropriate behaviour has failed to secure improvement. Despite the efforts of the former Managing Director, supported by external consultants, to reduce conflict and improve behaviour the problems have not been resolved, continue to undermine the workings of the Council and impact on the way its functions are exercised. The Council's response to the various external reviews has sometimes resulted in a period of contrition but a reversion to previous behaviours has soon followed.
21. After completing our fieldwork we presented our interim feedback to councillors and senior managers at a meeting in the Council Chamber. After hearing our emerging findings many councillors stood up to say they recognised and accepted what they had heard. Many also said it was now time to put past differences aside and for everyone to pull together for the good of the Council and the people of Anglesey. Since that meeting we have seen some signs of attempts to do this but we have also seen evidence of the reversion to previous behaviours by some councillors, as has been the case in the past.

The Council has a reactive approach to dealing with issues of conflict and inappropriate personal behaviour

22. Despite the history of problems with standards of conduct and the effect that this has had on the Council's reputation there has been no consistent corporate focus on improving behaviour.
23. A small but influential minority of elected members has frequently and persistently shown a lack of respect for fellow councillors and for officers, resulting in time, energy and resource being diverted from prevention and promoting good practice and affecting the exercise of associated functions.
24. The majority of councillors are well motivated in their approach to Council business and seek to adhere to appropriate standards of behaviour. It is important to recognise their contribution but equally important to be clear that their efforts have not been enough to counteract the corrosive effect of poor behaviour by a small number of councillors over a significant period of time.

25. The Standards Committee does not take a proactive role in trying to raise standards. The Committee is reactive and only meets to discuss the very few cases that have been referred back to it by the Ombudsman. Therefore, while there is no reluctance to complain about standards of conduct, the fact that all complaints to the Ombudsman were rejected and accepted as the cut and thrust of political debate meant that the Committee did not consider a single case in 2008.
26. The need for the Standards Committee to adopt a more proactive role was recognised as far back as the Farmer report in 2001⁶ in which he stated, 'The Standards Committee should, as well as carrying out the functions of hearing complaints and making recommendations to the Council in relation to complaints referred to it, also assume an educative role.'

Weak political group structures contribute to a lack of control and sanction

27. The self-regulation by councillors of their own standards of conduct is weak. The chairing of meetings is sometimes poor, allowing speakers to demonstrate a lack of respect that goes beyond the acceptable bounds of political debate, and permitting meetings to stray too far from the intended focus.
28. Most councillors are not members of established political parties, belonging instead to one of two main independent groups. Some who do represent political parties are also affiliated to one of these groups. Political differences tend to be reflected in personal opposition rather than being based on differences of policy.
29. This limited involvement of 'party politics' within the Council has contributed to the frequent realignment of allegiances in order to form a majority administration which is then able to allocate responsibilities and associated allowances on what can only be seen to be a 'grace and favour' basis. The leaders of relatively unstable political groups have been unable to exercise the degree of control or sanction that might reasonably be expected and to enforce the fact that group status confers responsibilities as well as rewards.
30. The cumulative effect of this lack of control and sanction over time has been to create a culture that not only tolerates inappropriate behaviour, but is seen by some to reward it. Even though 11 new councillors were elected in May 2008, this culture remains pervasive.

⁶ This report preceded the statutory requirement for a Standards Committee and the issuing of guidance on role, remit and responsibilities of such Committees.

The history of internal conflict and inappropriate behaviour has had a corrosive effect

A great deal of time and energy is diverted to dealing with conflict and inappropriate behaviour

31. There is a history of personality politics based around mistrust, suspicion, conflict and personal animosity. Attempting to deal with this saps a huge amount of energy and distracts people, including successive Managing Directors, from the major issues of providing the Council with a real sense of direction, a strategy for continuous improvement and a means for achieving efficiency savings at a time of increasing financial constraint.
32. The quality of relationships between individual members of the Executive and senior officers is mixed. There are some good examples of effective and appropriate working between portfolio holders and service heads and corporate directors. These examples are based on mutual respect and a clear understanding of respective roles. However, some individual relationships are characterised by mistrust and suspicion and as such are clearly damaging to efforts to promote better collaborative working.
33. The continuing dispute about the Council's purchase of the property known as Graigwen is illustrative of many of the features that have distracted the Council over the years, and impacted on its duty to secure continuous improvement. These include:
 - a focus on looking backwards rather than forwards;
 - spending too much time on matters which are of great importance to a small number of people;
 - a lack of shared understanding of the issue by Executive members and the Corporate Management Team;
 - opportunistic fuelling of allegations and counter-allegations;
 - the unproductive use of great amounts of time and energy by councillors and officers;
 - distracting the Executive from carrying out its proper function;
 - risking damaging the Council's reputation; and
 - being an issue that, in itself, is of little or no concern to the residents and many of the councillors of the island.

The Council's reputation has been seriously damaged

34. The long history of internal conflict and inappropriate behaviour has been reported regularly in the local and national media. This has seriously damaged the Council's reputation and undermined public confidence in the Council's ability to run its affairs properly.
35. Some 70 members of the public contributed to our evidence. All were critical of aspects of the Council's work with planning decisions emerging as the single biggest source of reputational damage and erosion of public confidence. The Council has made improvements to the decision-making process in planning.

But for those who contacted us, historical and on-going concerns remain over the transparency and quality of decision making.

36. Inappropriate use of the media, using it as a substitute for debate has done much to damage the Council's reputation. The use of the press by opposition councillors to brief against the Council on a range of service, ward, personal and political issues has been a regular and long-standing practice. This contributes significantly to the predominantly negative coverage of the Council's work in the press.
37. The Council has developed a protocol that offers guidance on how officers and councillors should deal with press enquiries and aspects of their work which involves contact with the media. The Council seeks to be proactive in managing its relationships with the media and in promoting 'good news' stories, but it is fighting an uphill battle in the face of leaks and inappropriate use of the press.
38. This inappropriate use of the media is a reflection of councillors outside the administration not seeing themselves as part of the Council. Successive administrations have failed to engage with the opposition and this has fostered a sense of estrangement and little sense of collective responsibility.

Conflict has led to a rift between political and managerial leadership

39. At the time of our inspection the collective relationships between the Corporate Management Team (CMT) and the Executive had broken down completely. This breakdown prevented the CMT from exercising its legitimate role of challenging and supporting members in developing policy and direction.
40. A lack of unified leadership had become apparent during the preparation of the Annual Letter issued in January 2009. During the drafting of the Letter the Executive and CMT responded separately to the Appointed Auditor and Relationship Manager.
41. Comments received from the Council Leader on behalf of the Executive were very critical of many of the actions of members of the CMT. Only after a Freedom of Information request was the Leader's letter shared with the CMT. The criticisms levelled at the CMT in the Executive's response have been strongly rebutted by the CMT.
42. This situation illustrates the erosion of trust and effective communication between some councillors and members of the CMT that led to a failure in the unified leadership of the Council.

The Council is poorly placed to meet future challenges, including its duty to secure continuous improvement, because of a lack of direction, corporate leadership and accountability, even though there are good features in the performance of many services

While there are good features in the performance of many services the Council lacks clear direction

There are good features in the performance of many services

43. This Corporate Governance Inspection was not undertaken in response to service delivery failure. The Council has a history of good service delivery in many areas, recognised in various reports by Estyn, the Care and Social Services Inspectorate Wales (CSSIW) and in Annual Letters.
44. The latest report on a Joint Review of the Council's Social Services, published in July 2007, judged that the Council had mainly good services and was well placed to sustain and further improve services. The report also stated, '...since becoming a unitary council in 1996, the Isle of Anglesey has been beset by political instability, with frequent changes of group allegiances and leadership. It is a context that:
- creates uncertainty;
 - diverts attention from the main business of the Council; and
 - gives the impression that the Council lacks a clear sense of direction.
- This is the situation that prevailed at the time of the last Joint Review and demonstrably inhibits effective decision making and slows the pace of change'.
45. Annual Letters have become less positive about performance in recent years, particularly in terms of the Council's performance compared to other councils in Wales. The Annual Audit letter for December 2003 stated, '...for 68 per cent of its indicators Anglesey is either average or above average in comparison to other Welsh Councils. This positive performance suggests that despite some of the corporate weaknesses, services generally continue to perform well.'
46. The Annual Letter of December 2005 stated, 'Overall service performance remains adequate, but there is limited evidence of significant, continuous improvement. When compared against other local authorities in Wales, 48 of the Council's PIs slipped down the rankings between 2003/2004 and 2004/2005 whilst only 18 PIs had risen.'
47. Analysis of PIs for 2007-08 shows that for 53 per cent⁷ of its National Strategic Indicators (NSIs) Anglesey is either average or above average in comparison to other Welsh councils and that for 54 per cent of its Core Set Indicators Anglesey is either average or above average in comparison to other Welsh councils.

⁷ This is a generous interpretation that excludes five NSIs for which the Council did not submit data.

48. Many reports that are generally positive about service performance have identified corporate weaknesses in, for example, performance management, scrutiny, and leadership. These corporate weaknesses, allied to the lack of clear direction, are likely to further erode service performance and undermine the Council's ability to secure continuous improvement at a time of significant budgetary constraints.

The Council does not have clearly defined policies and priorities

49. The current Executive came into power without a manifesto and hence no agreed policy. Twelve months later there is still no agreed sense of direction for the Council or comprehensive and consistent policy framework within which to operate.
50. This is not a new problem. The following recommendations were made to the Council in 2004 following a Corporate Improvement Assessment by the Audit Commission in Wales and they are equally applicable today:
- the Council needs to develop a clear vision for the Island that is arrived at through active engagement with local people and becomes the context in which a coherent, outcomes-based planning framework is developed that translates the vision into action;
 - political leadership must concentrate on setting the strategic direction for the Council while ensuring that officers are free to deliver the strategy in a framework of accountability founded on rigorous scrutiny and performance appraisal at all levels based on clear objectives and targets;
 - managerial leadership needs to ensure that the Corporate Management Team concentrates on strategic issues and become less involved in the day to day running of services; and
 - the Council needs to create a culture of mutual trust and respect between officers and members based on a clear understanding of respective roles and responsibilities.
51. Successive administrations have been characterised by the pursuit of a number of internally focused issues such as filling vacant posts, sickness monitoring and appraisals rather than providing a consistent strategic direction. This lack of strategic direction is illustrated by the fact that, while there has been a consistent ambition to revitalise the island's economy, this priority has never been clearly incorporated within a wider, coherent strategy for regeneration.
52. The lack of a coherent strategic vision is exemplified in the 2008-09 Improvement Plan. The Leader's introduction states that one of his priorities is developing affordable homes. But there is no mention in the Plan of how this will be achieved, apart from one core-set indicator for which there is no target for 2008-09. Another key priority is stated as sustainable jobs but there is no explanation in the Plan of how the Council will achieve this priority. Anti-poverty and social justice appear as further key priorities, but again these are not translated into any narrative information within the Plan.

53. The Leader's statement also refers to modernisation, but it is not clear what is meant by modernisation. The only references to modernisation in the Plan refer to the modernisation of the Council's homes for the elderly. The Council's intentions in terms of improving customer service are equally vague.
54. The Plan later sets out the Council's corporate objectives, which differ from the Leader's priorities.

The concept of community leadership is neither practised nor fully understood

55. Councils are much more than providers of local services. They have a power of community leadership, introduced by the Local Government Act 2000, to lead, influence and support partner organisations to work to common goals to meet the needs and aspirations of their communities. As democratically accountable bodies with wide reaching powers, functions and influence, councils should be central to the lives and futures of the communities they serve.
56. Within the Council, this concept of community leadership is not well understood. Councillors, including members of the Executive, see their primary roles as community representatives, bringing a parochial and often territorial approach to governance that embraces little or none of the concept of island-wide community leadership.
57. The Council's ability to provide effective leadership in its relationships with external partners is compromised by its lack of strategic vision and the absence of a focus on the community as a whole and its needs. Partnerships are promoted at a departmental level rather than a corporate level with little real collective understanding of what the Council is trying to achieve with its partners overall.
58. There is, however, a recent example of the Council, through the previous Managing Director, taking a lead role in promoting community leadership via its chairmanship of the Local Service Board (LSB). The LSB has defined tackling poverty on the island as its priority and has produced an action plan to address poverty that involves a range of partners as well as the Council.

The Corporate Management Team provides some effective leadership to service areas but fails to provide the necessary leadership on corporate issues

Corporate Directors provide some effective leadership to their service areas

59. Corporate Directors have individually provided some effective leadership to their service areas and to corporate functions such as finance and information technology.
60. The Corporate Management Team is service driven. Corporate Directors are resolutely and unashamedly service orientated, giving primacy to delivering services within traditionally structured service blocks. This approach has been defended on the basis that it has had a beneficial impact on service delivery.

61. An alternative view is that this departmental approach to service leadership, management and delivery has negative impacts through failing to identify and capitalise on links with other services that could lead to even better services. This goes beyond corporate issues; it is about delivering better services.
62. The whole issue of what the term 'corporate' means in relation to Corporate Directors has never been adequately addressed and nor has the issue of whether accountability and responsibility for service delivery should lie with Corporate Directors or Heads of Service.

Many corporate issues have not been adequately progressed and corporate services lack capacity

63. The CMT has itself offered little sustained effective leadership on corporate issues such as job evaluation, asset management, appraisals, citizen engagement, dealing with complaints and communication. Issues such as these affect all Council services but have not been driven corporately to ensure that they are implemented consistently.
64. Less senior officers tasked with taking forward some corporate issues do not have the authority to drive them successfully across the Council. The Council makes limited use of CMT members to champion corporate initiatives, or of project management techniques to achieve buy-in across service boundaries. As a result, progress has been slow.
65. The lack of a consistent and coherent approach to corporate issues places at risk the Council's ability to meet the future challenges of using its resources efficiently. This is of particular concern at a time when resources, in real terms, will be declining.
66. Regulators have raised concerns over the lack of leadership on corporate issues in the past. For example, the Annual Letter of December 2005 stated that, 'Corporate management needs to be strengthened to ensure that agreed corporate priorities are effectively implemented.'
67. In 2006, the Annual Letter reported that, 'Progress in developing the Council's corporate management arrangements continues to be slow. There continues to be a need to establish clear corporate priorities, to allocate the resources necessary to address them and to assign responsibility for their delivery.'
68. Corporate services lack the necessary capacity. Strong corporate services are essential in order to provide the necessary level of support to the Council's leadership as well as for the efficient and effective delivery of external services.

The Council does not have an effective framework of accountability

Performance management is ineffective

69. There is no clear performance management framework that links to the successful achievement of the Council's overall objectives.

70. The introduction of the quarterly monitoring of services has the potential to increase accountability for service delivery. The need to exploit this potential was recognised in the Annual Letter of January 2009, which summarised the quality of performance management by stating, 'Progress has been made in performance management arrangements but further work is needed to realise the full benefits of the revised arrangements and embed them into the operations of the Council.'
71. This potential has not yet been fulfilled because the rigour of monitoring is variable and the outputs from the monitoring meetings are not collated and analysed to provide an overview of performance across the Council.
72. The Annual Letter also states, 'Risk management arrangements continue to improve, with greater emphasis being placed on risk assessment through the quarterly performance reviews and the development of risk registers'. However, there is no consistent approach to the production of service risk registers and there is currently no corporate risk register. The Council's Governance and Risk Management Sub-committee has not met since February 2008.
73. Corporate Directors have contrasting views on the effectiveness of their appraisal process but there is no evidence to demonstrate that this process has established genuine accountability, whether individually or collectively. This is particularly the case with regard to their contributions to corporate achievement.
74. The lack of individual and collective accountability for corporate issues can result in important issues not being addressed. A recent example of this is the Council's approach to Improvement Agreements. By February 2009 Anglesey was one of only two councils in Wales that had not submitted their Improvement Agreements to the Assembly Government. Without direct ministerial communication, the Council would not have made the submission and might have lost £2.25 million over a three-year period.
75. The Executive has no clear political or policy platform against which it can be judged and there is no appraisal of Executive members. While Executive members are held accountable by the electorate in their roles as local ward representatives, they are not held to account in their roles as Executive members.

Scrutiny and overview committees are ineffective and the Audit Committee's independent assurance role is limited

76. Overview and Scrutiny committees are reactive and are not rigorous or challenging. The current political arrangements result in these committees being chaired by members of the administration; this does little to foster rigorous scrutiny. Overview committees have made very little contribution to policy development.
77. Officer support for the scrutiny and overview function is confined largely to administrative support rather than substantive support to committees to enable them to avoid shallow questioning that frequently reflects parochial interests.

78. The Audit Committee is chaired by a councillor from outside the ruling administration. However, its meetings are often characterised by political and personal conflict. Good practice guidance⁸ suggests that, to be effective, audit committees should be independent from executive and scrutiny and that meetings should be characterised by free and open discussions by all members without political influences being displayed. This is currently not the case in Anglesey and this limits the extent to which the Audit Committee can perform its intended role of providing independent assurance.
79. As a result of the ineffectiveness of the overview and scrutiny process, there is no meaningful role for non-executive members in holding the Executive to account and in contributing to policy development.

Roles and responsibilities are not clearly understood

80. The poor understanding of roles and responsibilities contributes to the underlying tension between some councillors and senior officers. Corporate Directors have not embraced the 'corporate' aspect of their role and do not have up to date job descriptions that specify their corporate roles and responsibilities.
81. The Council has increased the level of delegated decision-making powers to portfolio holders but the procedures and required checks and balances are not fully understood by councillors or senior officers.
82. There is some lack of clarity regarding the boundaries of roles and responsibilities for members. The parameters of the role have been established during the course of time and no discussion took place at the start of the current administration to determine these parameters. There have been issues with some executive members trespassing on the remit of other portfolio holders and examples of members involving themselves in operational matters which should properly be the preserve of officers. There is also evidence that some officers have found this involvement inhibiting and intimidating. This reflects either a lack of understanding of respective roles and responsibilities or an unwillingness to respect the boundaries of those roles.
83. Councillors generally have a limited understanding of their constituency role and the range of other roles which councillors are required to perform. Executive members have some understanding of their roles as portfolio holders but a much less secure grasp of their wider role as members of an executive. There is a need to develop their skills and understanding to work at the strategic and corporate levels.

⁸ *Audit Committees: Practical Guidance for Local Authorities*, CIPFA, 2005.



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Thank you for coming to today's meeting. I am sure you know why I am here.

Last summer the Auditor General for Wales published a damning report on the governance of this Council. My predecessor intervened immediately, and directed you to rectify the problems that the Auditor General had identified.

Those problems included poor member behaviour, a lack of strategic direction and inadequate public engagement. That is a toxic mixture which demands prompt, vigorous and sustainable action from members and officers alike.

No-one here contested the Auditor General's analysis or our intervention. Your response was that "it's a fair cop", that much had to change and that you would make the collective effort needed to achieve that.

That is vital - the first step in resolving problems like these is acknowledging that they exist. But it is not enough simply to state your support in principle. You need to take action, and that is what I want to talk about today.

You have made some progress already. For instance, I am pleased that group leaders are meeting regularly to manage council business and to consider conduct issues. But you need to do much more to tackle the problems the Auditor General found.

At the heart of these problems is poor member behaviour - conflict within and outside this chamber, poor relationships between members and officers, and a persistent focus on minor and internal issues. That both prevents the council from operating effectively and seriously damages its public reputation.

No doubt many of you have stories to tell about these issues. But let us be quite clear that personalising things or apportioning blame will get us nowhere. The problems that you face are too deep-seated to be caused solely by individual misbehaviour.

Instead, they arise because this council does not focus enough on the real needs of this island and its citizens. Debate too often concentrates on personal and parochial conflicts that are completely irrelevant to those you serve. Individual misbehaviour is a symptom of the problems that you face - it is not the cause.

Of course, politics at any level is a rough trade: politicians habitually disagree with each other, often strongly. No-one is saying that debate should proceed in complete harmony and consensus.

But disagreement should reflect genuine and sincere differences about policy and service delivery. If I were to stop people in the street outside this building and ask them what they wanted their council to deal with, I am pretty sure that none of them would mention who said what to whom in a committee meeting

here, the ownership of a small area of land in Amlwch, or the identity of David Bowles's former landlord.

Focusing on personal rivalries and allegations like this is self-indulgent in any circumstances. Doing so despite the numerous and pressing problems that this island faces is even worse. It is a betrayal of Anglesey's citizens and communities, who deserve action and leadership, not petty bickering.

Putting that right involves several things. Firstly and most obviously, misbehaviour needs to be addressed properly and anyone who obstructs recovery should be dealt with particularly severely. Those in positions of authority within the council, like group leaders, need to take appropriate action and I am pleased that some of them have.

Your standards committee must also deal with individual cases and also proactively raise awareness of standards issues. The members of your committee carry out a difficult job without any recompense. They show an admirable commitment to public service in doing so.

But I believe that the committee does not meet often enough. Nor is it proactive enough in educating members and raising standards.

I am also concerned that there are no members of this Council on the committee. Co-opted members are vital to ensure that standards committees are impartial and objective. But councillors themselves must also contribute to maintaining standards by serving on the standards committee.

That happens everywhere else in Wales. The fact that it does not here suggests you feel unable or unwilling to regulate your own behaviour. It clearly demonstrates how far recovery still has to go.

So I want to see your standards committee overhauled as soon as possible, with a refreshed membership, a remit to raise standards proactively, and at least quarterly meetings. I also want some of you back as standards committee members by the start of the next municipal year.

It is also vital that all members of the Council are fully involved in its work, whether as members of the executive or in an overview and scrutiny role. I have been impressed by some of your executive's work recently. In particular, it has shown courage and foresight in tackling school rationalisation.

But your overview and scrutiny systems need serious re-examination. Your three committees met on fewer than twenty occasions between them last year. Those are by some margin the lowest figures in Wales.

Even when they do meet, your committees concentrate too much on internal issues rather than the services you provide. For instance, your principal scrutiny committee has not substantively discussed social services since 2005. That means both that critical public services are not being properly scrutinised, and that scrutiny members are not fully involved in the business of the council. That must change. By the start of the next municipal year, I expect to see positive and radical reforms to your scrutiny system. These should significantly increase its capacity and engage non-executive members in scrutinising policies and services fully.

You should also treat all groups fairly in making appointments. In particular, I want to see the chair of this Council become a depoliticised post perhaps through rotating between groups, as happens elsewhere. The Chair of the Principle Scrutiny Committee must go to the Opposition as should the Chair of Audit. You should allocate the remaining committee chairs and vice-chairs between groups in a balanced way.

And I expect the same of outside appointments which this Council makes. These positions are not personal or political trophies - they must be filled in a way which reflects all shades of opinion and which best gets the job done.

All of these issues are critical. They are among the recommendations which my Recovery Board made to me in its most recent report. The Board has also published that report and I urge you all to read it.

I agree with all of the Board's recommendations and have asked it to monitor developments closely over the next few months. I expect to see clear and rapid progress towards these recommendations - otherwise I may be forced to direct you to take the necessary action. Some of you will lay accusations about this being driven by Cardiff. Let me be clear as a North Wales AM ensuring that the people of Anglesey have a Council they can rely on is a priority.

Structural change can only take you so far, though. You know better than me that Anglesey faces some pressing problems. The most important step you can take is to develop and support a collective culture which looks outwards at those problems and concentrates on resolving them.

By doing that you will isolate poor behaviour, and show it to be the self-indulgence that it is. You will demonstrate to me and the Recovery Board that recovery is possible. Most importantly, you will demonstrate to the people of Anglesey that you are worthy of the trust they have placed in you.

As part of this, I have asked my Recovery Board to meet you individually. The Board will want to know how you, as individuals, can help make this council fit for purpose. They and I will want to hear about how things can improve - not about accusations and allocations of blame. I know that many of you are committed to

putting Anglesey and its citizens first and YOU must now stand up to those members who do not share these priorities as you too have a responsibility to drive the recovery of Anglesey.

Earlier I said you probably knew why I was here. Actually, I do not want to be here under these circumstances.

I do not want to be involved in running a council that should be running itself. I do not want to believe that issues which are routine elsewhere suddenly become impossible when you cross the Menai Strait. I particularly do not want to extend my involvement by giving you more stringent and detailed directions.

But be in no doubt that I can and, if necessary, I will. I could, for instance, establish and dissolve committees, make internal and external appointments, amend your constitution, entitlement to and level of your entitlements to allowances or your arrangements for delegated powers. I could even take functions off you altogether.

So the real question is not why I am here. It's why each of you are here.

If you aim to serve those who elected you, then you have a central role in putting an end to the problems you have faced. You can transform this organisation, and make it better able to address the needs of this island and its citizens. You will have my full support and that of my Recovery Board in doing so, and in bringing our intervention to a positive end.

There is only a short window of time for you to make real progress on these issues as I cannot allow petty politics of the council to put in jeopardy the future of the island - the services that its citizen receives and the decisions that it needs to take in order to make Anglesey fit for the future.

Without your immediate active support and involvement, the recovery that I am demanding will not happen. Although I have asked my officials to look at failure to comply. I do not want to contemplate the consequences of such a failure, and I doubt you would want to either. Failure to complete the tasks required will drive me to consider the future of the council as an autonomous body. Do not force me to go there.

Thank you.

Carl Sargeant AC/AM
Y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth
Leol
Minister for Social Justice and Local Government



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref
Ein cyf/Our ref

To: All Members of the Isle of
Anglesey County Council

30 June 2010

Dear Councillor,

I have been following recent political changes within the Council closely.

Political structures and allegiances are of course a matter for you. However, I and my Recovery Board have a strong interest in any developments which might affect the Council's recovery, and that is certainly true here.

Over the past year, some progress has been made. The Council has radically improved its committee structures and decisive action has been taken against some councillors who continued to misbehave. The leadership is more visible and accessible, and holds regular public meetings around the island. With the support of the Welsh Assembly Government, the WLGA has established a comprehensive training and development programme for members, which has been very well received. And the Council has taken an honest view of the financial challenges ahead by setting a tough but realistic budget and council tax for the current year. It could not have done that a year ago.

But the underlying issues have never gone away. Council business too often focuses on internal disputes and rivalries rather than on delivering for the citizens of the island. Too many members still prefer jockeying for their own personal advantage rather than serving those who elected them. As I said to you in February, the people of Anglesey do not care about petty squabbles. They care about vital services, and about their council providing leadership in these difficult times. They are still not getting that.

The Leader of the Council, Cllr Clive McGregor, chose recently to tackle these problems by establishing a new alliance of members. He and his colleagues believe that this will better support recovery.

It is not for me to endorse this or any other arrangement, and neither I, the Recovery Board or my officials had any part in negotiating the new alliance or its terms of engagement. We are determined not to enter into local politics or take sides. Nor do we have any power to approve the appointment of a Leader or any interest in influencing such a decision. Our strong interest is in helping the Council to recover from the dire situation which the Auditor General identified last year.

But I welcome anything which leads to greater political stability within the Council and more focus on delivering for citizens rather than on internal squabbling. I urge Cllr McGregor and his colleagues in the new alliance to concentrate all their energies on doing so. As a first step, I have asked Cllr McGregor to draw up a clear, coherent and citizen-centred set of strategic objectives for the Council in the coming year. I expect that to be completed within the next few weeks.

However, I do not want these developments to yield only a different set of internal and personal rivalries. A substantial number of you are not part of the new alliance, and now form the opposition. You must approach that role positively, and the alliance must respect your rights to do so. Being able to provide and accept robust but constructive opposition is a key test of political maturity. Here, it will also indicate how well the Council is progressing towards recovery.

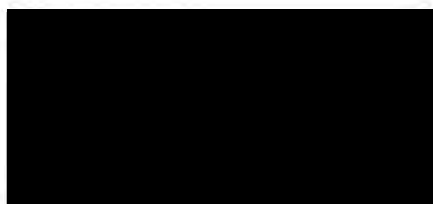
I and the Recovery Board will continue to support the whole Council in resolving its problems. The progress the Council has made so far means I do not intend to take any further formal action at this stage. However I will expect the Recovery Board to take an even closer interest in the Council's work and in particular in supporting you to focus on what really matters.

At the same time, I do not see any prospect of my intervention ending in the foreseeable future. The Council will remain subject to the restrictions in the direction of last summer. That includes the power to appoint the Council's managing director, which I will retain until my confidence in the Council is completely restored. We are still a very long way from that. Making progress will require all councillors to stop furthering their private agendas and act like elected public servants. That applies equally to those in the new alliance and those in opposition.

Recent developments have shown how quickly change can occur. That works both ways: arrangements can fall apart as fast as they can be put together. Accordingly I have asked my officials and the Recovery Board to prepare contingency plans which we can implement urgently if recovery falters and/or the alliance fails. Those plans would have drastic and possibly permanent consequences for the council and its current membership. It is in everyone's interests to ensure that they are never needed.

I am copying this to David Bowles and to members of the Recovery Board.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Carl Sargeant AB/AC

DATGANIAD DERBYN SWYDD
DECLARATION OF ACCEPTANCE OF OFFICE

Yr wyf fi /
I

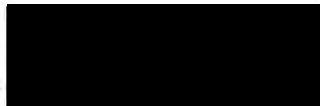
ELWYN SCHOFIELD

a minnau wedi fy ethol i swydd Aelod Cyngor Sir Ynys Môn /
having been elected to the office of Member of Isle of Anglesey County Council

YN DATGAN fy mod yn cymryd amaf fy hun y swydd honno, ac y byddaf yn cyflawni
dyletswyddau'r swydd yn briodol ac yn ffyddlon hyd eithaf fy mam a'm gallu /
DECLARE that I take that office upon myself, and will duly and faithfully fulfil the duties of
it according to the best of my judgement and ability.

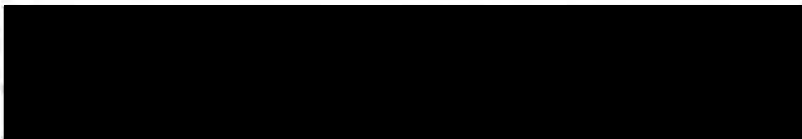
YR WYF YN YMRWYMO i barchu'r côd ymddygiad a ddisgwylir oddi wrth Aelodau Cyngor
Sir Ynys Môn ac sy'n bodoli am y tro ac a allai gael ei adolygu o dro i dro /
I UNDERTAKE to observe the code for the time being as to the conduct which is expected
of Members of Isle of Anglesey County Council and which may be revised from time to
time.

Llofnodwyd /
Signed



Dyddiad /
Date 2 Mai 08

Cafodd y datganiad hwn ei wneud a'i lofnodi ger fy mron, /
This declaration was made and signed before me,



SWYDDOG PRIODOL Y CYNGOR / PROPER OFFICER OF THE COUNCIL

Pan wneir y datganiad gerbron person arall a awdurdodwyd gan Adran 83(3) o Ddeddf
Llywodraeth Leol 1972, dylid datgan, yn lle hynny, yn rhinwedd pa swydd y mae'r person
hwnnw'n derbyn y datganiad. /

Where the declaration is made before any other person authorised by Section 83(3) of the
Local Government Act 1972, state instead the capacity in which that person takes the
declaration.

YMRWYMIAD
UNDERTAKING

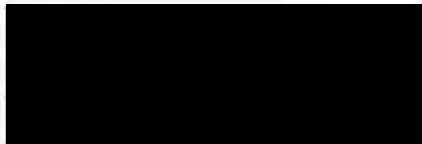
Yr wyf fi /
I

ELWYN SCHOFIELD

a minnau wedi fy ethol i swydd Aelod Cyngor Sir Ynys Môn /
having been elected to the office of Member of Isle of Anglesey County Council

YR WYF YN YMRWYMO i barchu'r côd ymddygiad a ddisgwylir oddi wrth Aelodau Cyngor Sir Ynys Môn ac sy'n bodoli am y tro ac a allai gael ei adolygu o dro i dro /
I UNDERTAKE to observe the code for the time being as to the conduct which is expected of Members of Isle of Anglesey County Council and which may be revised from time to time.

Llofnodwyd /
Signed



Dyddiad /
Date 19.5.08

Part 5 Codes and Protocols

5.1 Model Code of Conduct

5.2 Officers' Code of Conduct

5.3 Protocol for Member/Officer Relations

5.4 Bullying and Harassment Policy

5.5 Whistleblowing Policy

5.6 Policy for the Prevention of Fraud and Corruption

5.7 Complaints Procedure

5.1 The Model Code of Conduct

This is the Model Code of Conduct adopted by the County Council on 09.05.2008 in accordance with the draft supplied by the Welsh Assembly Government but it will be renumbered in accordance with the Constitution although the provisions will remain identical.

Part 1 - Interpretation

1. (1) In this code

"co-opted member" ("aelod cyfetholedig"), in relation to a relevant authority, means a person who is not a member of the authority but who —

(a) is a member of any committee or Subcommittee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint Subcommittee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or Subcommittee;

"meeting" ("cyfarfod") means any meeting —

(a) of the relevant authority,

(b) of any executive or board of the relevant authority,

(c) of any committee, Subcommittee, joint committee or joint Subcommittee of the relevant authority or of any such committee, Subcommittee, joint committee or joint Subcommittee of any executive or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990 (1),

(1) S.I. 1990/1553 as amended by S.I. 1991/1389; S.I. 1993/1339; S.I. 1998/1918; and S.I. 1999/500.

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

“member” (“aelod”) includes, unless the context requires otherwise, a co-opted member;

“relevant authority” (“awdurdod perthnasol”) means—

(a) a county council,

(b) a county borough council,

(c) a community council,

(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies,

(2) 2004 c 21

(e) a National Park authority established under section 63 of the Environment Act 1995(3);

(3) 1995 c 25.

“you” (“chi”) means you as a member or co-opted member of a relevant authority; and

“your authority” (“eich awdurdod”) means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council, references to an authority’s monitoring officer and an authority’s standards committee are to be read, respectively, as references to the monitoring officer and the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.

Part 2 - General Provisions

2. (1) Save where paragraph 3(a) applies, you must observe this code of conduct —

(a) whenever you conduct the business, or are present at a meeting, of your authority;

(b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;

(c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —

(a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or

(b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

(a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

6. (1) You must —

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

(c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of your authority —

(i) imprudently;

(ii) in breach of your authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must —

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —

(i) the authority's head of paid service;

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

(iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

Part 3 - Interests

Personal Interests

10. (1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —

(a) it relates to, or is likely to affect —

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

(vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any —

(aa) public authority or body exercising functions of a public nature;

(bb) company, industrial and provident society, charity, or body directed to charitable purposes;

(cc) body whose principal purposes include the influence of public opinion or policy;

(dd) trade union or professional association; or

(ee) private club, society or association operating within your authority's area,

in which you have membership or hold a position of general control or management;

(x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

(b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or

(c) a decision upon it might reasonably be regarded as affecting —

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2)(c)(i);

(iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of —

(aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11. (1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

(a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer from time to time but, as a minimum containing —

(a) details of the personal interest;

(b) details of the business to which the personal interest relates; and

(c) your signature

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12. (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts

would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business —

(a) relates to —

(i) another relevant authority of which you are also a member;

(ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

(iii) a body to which you have been elected, appointed or nominated by your authority;

(iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;

(v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

(i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;

(ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

(iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a Subcommittee of such a committee) where —

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, Subcommittees, joint committees or joint Subcommittees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, Subcommittee, joint-committee or joint Subcommittee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14. (1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held —

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's monitoring officer.

(2) You must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under sub-paragraph (1), register that new personal interest or change by providing written notification to your authority's monitoring officer.

(3) Sub-paragraphs (1) and (2) do not apply to sensitive information determined in accordance with paragraph 16(1).

(4) Sub-paragraph (1) will not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

Sensitive information

16. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" ("gwybodaeth sensitif") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Registration of Gifts and Hospitality

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage.

Review of
Relations

Protocol for member / officer relations

5.3.1 Introduction

5.3.1.1 The purpose of this protocol is to set standards of conduct expected from Members and Officers of the Council in their relations with one another and to offer guidance on some of the issues which most commonly arise. It is acknowledged that the quality and effectiveness of the relationship between Members and Officers of the Council lie at the heart of good local governance. The common aim is to ensure good working relationships between Members and Officers of the Council working together to support each other's roles. In this protocol "Officers" means all employees and staff engaged by the County Council including those engaged on short term, agency or other non-employed situations.

5.3.1.2 The Council subscribe to the view that no local authority can function effectively without a good relationship between its Councillors and Officers.

5.3.1.3 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another.

5.3.1.4 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

5.3.1.5 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.

5.3.1.6 This protocol also seeks to reflect the principles underlying the respective rules and Codes of Conduct which apply to Councillors and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct by all persons.

5.3.1.7 The relationship and its expectation have been described as follows:-

"Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their committees and Subcommittees. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers."

5.3.2 Respect and Courtesy

5.3.2.1 It is important that any dealings between Members and Officers should at all times observe reasonable standards of courtesy and that neither party should seek to take unfair

advantage of their position. Threats, intimidation and verbal abuse will be regarded as serious breaches of this Protocol.

5.3.2.2 For the effective conduct of County Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Councillors and Officers. This too plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Councillors and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Councillors, or other Officers, in public places, whether or not that individual is in attendance. Mutual respect between Members and Officers of the Council is essential to good local government and will generate an efficient and unified working organisation. Members and Officers will deal with one another without discrimination and in accordance with the Council's equal opportunities policy.

5.3.2.3 In their dealings with both the Corporate Directors and staff (especially junior employees), Councillors need to be aware that it is easy for Officers to be overawed and feel at a disadvantage. Such feelings can be intensified when Members hold official and/or political office.

5.3.2.4 A Councillor should not apply undue pressure on an Officer either to do anything that he/she is not empowered to do, or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

5.3.2.5 Similarly, an Officer must neither seek to use influence of an individual Councillor to make a decision in his/her personal favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers. The Council has formal procedures for consultation, grievance, and discipline. The one exception to this rule is the right of staff to report possible wrongdoing under the Council's Whistleblowing Policy (5.5).

5.3.2.6 Councillors should recognise that Officers' workloads frequently require extended periods of concentration or involve tight deadlines. Councillors should respect Officers' working time and should arrange appointments for consultations and avoid frequent unscheduled interruptions.

5.3.2.7 Whilst normal, friendly working relationships between Members and Officers are to be encouraged, close personal familiarity between individual Councillors and Officers can damage this relationship and the principle of mutual respect. It could also, intentionally or accidentally lead to the passing of confidential information or information which should not properly be passed between them, such as personal details. Such familiarity could also cause embarrassment to other Councillors and/or other Officers and even give rise to suspicions of favouritism. It can also damage the public perception of the integrity and objectivity of the organisation and should be avoided.

5.3.3 Political Neutrality

5.3.3.1 Local government officers are employed by the Council as a corporate body and owe their duty to each and every member of their Council, not just those who are in a majority. They serve this Council and are responsible to the Managing Director and their respective

directors and not to individual Members of the Council whatever office they might hold. They also have a wider duty to the public as a whole.

5.3.3.2 Officers must ensure that the individual rights of all Councillors are respected, and all Officers, whether or not they hold politically restricted posts, when performing their duties for the Council, must not act politically nor appear to do so. Officers must follow the policies of the Council and must not allow their own personal or political opinions to interfere with their work.

5.3.3.3 Members must not put Officers in a situation where their political neutrality might be compromised or appear to be compromised.

5.3.4 Bullying, Intimidation or Harassment

5.3.4.1 Words or actions which are intended unfairly to influence an individual Officer will be regarded as a form of bullying, intimidation or harassment. Officers of the Council should not be pressurised to make a particular recommendation to Council which would be against a professional or technical judgement.

5.3.4.2 Members are not prevented from discussing issues with Officers or lobbying on a particular point of view but if the pressure is such that the Officer, because of the Member's position, feels compelled to go against his/her better judgement, that will be regarded as undue pressure.

5.3.4.3 Members should not give directions to nor make direct criticisms to the Council's employees. Councillors have the right to criticise reports or the actions taken by Officers but they should always:-

- avoid personal attacks on Officers
- ensure that criticism is constructive and well founded and is likely to lead to improved performance in future, rather than solely to apportion blame

This standard of conduct is not intended to prevent Members from disagreeing openly and publicly with an Officer's recommendation, however, in doing so Members must be aware that Officers do not take part in debate at Council or Committee and may not have an opportunity to respond to criticism.

If a Councillor considers that he/she has not been treated with proper respect or courtesy, he/she may raise it with the employee's line manager or direct Corporate Director without delay if it is not possible to resolve it through direct discussion. If the issue still remains unresolved appropriate disciplinary action may be taken against an employee by the Corporate Director in accordance with the Council's normal procedures.

5.3.4.4 Any criticism of an individual employee should be taken up with the relevant Head of Service, Corporate Director, Managing Director or the Monitoring Officer as appropriate. The Council as a whole may be vicariously liable for the actions of individual Members which breach the employer's implied obligation to provide a reasonable congenial working environment, and which could lead to a successful claim against the Council, eg. for wrongful dismissal.

5.3.4.5 It is unacceptable for Members or Officers of the Council to seek to take unfair advantage of their position within the organisation. Members and Officers of the Council should always act in a way that preserves the public confidence.

5.3.4.6 If an employee feels the same way about a Councillor, and a direct discussion is impractical or fails to resolve the matter, he/she should raise the matter with the Line Manager or Corporate Director without delay. In such circumstances, the Director will take such action as is appropriate either by approaching the individual Councillor and/or party group leader. The Corporate Director will inform the Managing Director if the party group leader becomes involved, or in any other case where that is appropriate. Feedback should be given to the employee on the outcome by the Director(s) involved.

5.3.5 Honesty and Integrity

5.3.5.1 Members and Officers should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

5.3.5.2 It is unacceptable for Members or Officers of the Council to seek to take unfair advantage of their position within the organisation. Members and Officers of the Council should always act in a way that preserves public confidence.

5.3.6 Officer Advice to Political Groups and Members

5.3.6.1 There is now statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers (see paragraph 5.3.11.1 for definition of "Senior Officers") may properly be called upon to advise political groups.

5.3.6.2 This advice and assistance provided by Senior Officers can take many forms, but will normally involve a briefing meeting with the Leader, an Executive Member, a Chairperson or other Members prior to a meeting. Officers will not normally be expected to attend political group meetings but may exceptionally do so, but only where the group meeting is a formal meeting and where the Head of Paid Service has authorised such attendance. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups and unaffiliated Members. Relevant extracts of any Minutes must be supplied to the relevant Officer(s) and the Head of Paid Service for approval.

5.3.6.3 Certain points must however be clearly understood by all those participating in this type of process, members and officers alike, in particular:-

5.3.6.3.1 officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of group business are to be discussed;

5.3.6.3.2 political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

5.3.6.3.3 similarly, where Officers provide information and advice to a political group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Executive or relevant Committee when the matter in question is considered.

5.3.6.4 While Officers will seek to deal even-handedly with all Members, it is inevitable that they will be required to devote more time and effort to the requests of the majority group. Members of minority groups should not misinterpret this as partisanship on the part of Officers and subject them to public and personal attack for that reason.

5.3.6.5 Council Procedure Rule 4.1.20 safeguards the rights of Officers to advise the Council and committees in particular circumstances. In taking decisions, the Council is bound to take into account all the relevant information.

5.3.6.6 Any particular cases of difficulty or uncertainty in this area of Officer advice to Members should be raised with the Managing Director who will discuss them with the relevant group leader(s).

5.3.6.7 Special care needs to be exercised when Senior Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the relevant Code of Conduct (in particular provision concerning the Declaration of Interest and confidentiality) and for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members only meeting. When a discussion or "meeting" takes place electronically via the Internet the identity of all participants or other people with access to that discussion or "meeting" must be clearly established and made known to all participants before an Officer takes part and any new participants who enter during the discussion must immediately make their presence known.

5.3.6.8 Members must remember that information comes to them individually or to political groups and may well contain confidential information which they are entitled to know as Councillors but which they would not pass on to others, eg. it may contain personal information about an individual or information under the terms of contract which is not a negotiation. More particular guidance is contained in the protocol for handling confidential information. Before passing information provided to them in this way on to another person, a Member must consider whether it is information which they are free to pass on or which should become confidential.

5.3.6.9 Senior Officers must respect the confidentiality of any political group discussions at which they are present. When information disclosed to an Officer during discussions with a political group and the Officers request not to pass information to other groups then the officer will not do so. However Members should be aware that this would not prevent Officers from disclosing such information to other Officers of the Council so far as that is necessary in performing their duties.

5.3.7 Support Services to Members and Groups

The only basis on which the Council can lawfully provide support services (eg. stationery, typing, IT, printing, photo-copying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political campaigning activity or for private purposes.

5.3.8 Members' Access to Information and to Council Documents

5.3.8.1 In accordance with Article 2 (2.2.3.2) :-

5.3.8.1.1 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

5.3.8.1.2 Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.

5.3.8.1.3 For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4.2 of the Constitution.

5.3.8.2 In accordance with the Members' Code of Conduct and especially paragraph 5.1.2.5, Members:-

5.3.8.2.1 must not disclose information given in confidence, without the express consent of a person authorised to give such consent, or unless required by law to do so;

5.3.8.2.2 must not prevent any person from gaining access to information to which that person is entitled by law.

5.3.8.3 Members are free to approach any Council Department to provide them with such information, explanation and advice (about that Department's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Corporate Director or another senior Officer of the Department concerned.

5.3.8.4 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.

5.3.8.5 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted in the public part of the agenda of any Council, Committee or Subcommittee meeting. This right applies irrespective of whether the Member is a member of the Committee or Subcommittee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This principle applies equally to documents relating to certain items which may appear as confidential items on the agenda for meetings. The items in question are those which

contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of individuals, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

5.3.8.6 The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

5.3.8.7 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know" ie. in order that that Councillor could perform his duties as a Councillor. In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". In some matters, eg. child care work the "screening process must be administered with great strictness". In less sensitive areas, there may be a leaning towards allowing access as opposed to denying it. This question must initially be determined by the particular Senior Officer whose Department holds the document in question. In the event of dispute, the question falls to be determined in accordance with the advice of the Monitoring Officer.

5.3.8.8 In some circumstances (eg. a Committee member wishing to inspect documents relating to the functions of that Committee) a Member's "need to know" will normally be presumed. In other circumstances (eg. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms and in writing.

5.3.8.9 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer and guidance has already been issued separately.

5.3.8.10 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie. in connection with the proper performance of the Member's duties as a Member of the Council.

Councillors have a personal legal duty to ensure that they do not breach the Data Protection Act 1998.

5.3.9 Public Meetings

5.3.9.1 If an individual Member or a political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply it is a Council meeting. The Member or political group may invite a Senior Officer to attend such a meeting. Whilst the Officer is not obliged to attend, they will normally, when appropriate and convenient, do so. When an individual Member invites an Officer to attend such a meeting, the Officer will notify the appropriate Executive Portfolio Holder for the service area concerned. It is acceptable for a Member to convene a meeting to lobby support for a particular point of view but in doing so the Member must make it clear that she/he is expressing her/his own views and not representing the views of the County Council.

5.3.9.2 Whenever a Senior Officer is invited to represent the Council at a locally organised meeting (eg. a meeting of a local pressure group) or where it comes to her/his attention that a local meeting has been organised by another Local Authority or Government department, she/he must notify the local Member and, when an issue of general relevance to a service area is involved, the appropriate Executive Portfolio Holder. These Members should also be able to attend if they think it is appropriate to do so.

5.3.9.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the local Member(s) should be involved from the outset of the exercise. Members may ask Senior Officers to set up local meetings to resolve specific issues arising in their wards, and, when it is agreed between the Member and the Officer that this is appropriate, the officer will make the necessary arrangements. When the meeting involves an issue of general relevance to a service area the appropriate Executive Portfolio Holders will be informed.

5.3.10 Attendance by Members and Officers at other Meetings

5.3.10.1 Members are able at any time by arrangement to meet Officers to discuss any aspects of the Council's business.

5.3.10.2 From time to time as a result of an Executive or Committee decision, arrangements will be made for Member level meetings to take place with other Local Authorities or outside bodies. An appropriate Officer will make arrangements for the meeting and that an appropriate Senior Officer or Officers will attend.

5.3.10.3 Members of the public or representatives of external organisations will occasionally ask to meet an Executive Member or the Chairperson of a Committee about a matter which is currently under consideration. The Member should notify the appropriate Senior Officer of this and the Officer will brief the Member as may be necessary. If agreed between the Member and the officer suitably briefed Officers will also attend.

5.3.10.4 Officers will arrange many meetings with colleagues or third parties to carry on the business of the Council and to action its decision. Members will not normally attend these meetings but will be advised, either informally or through reports to the Executive or Committees, of any relevant discussions.

5.3.11 Executive Members / Chairpersons / Senior Officers Relationships

5.3.11.1 "Senior Officers" means the Managing Director and the Officers who are members of the Chief Officer's management team including other Officers who report directly to them other than secretarial/clerical staff and the Monitoring Officer (who is also the Head of the Legal Services).

5.3.11.2 It is clearly important that there should be a close working relationship between Senior Officers and Members in leadership positions. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other political groups.

5.3.11.3 Whilst Executive Members / Chairpersons will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting, it must be recognised that in some situations the Managing Director, the Chief Financial Officer or the Monitoring Officer will be under a duty to submit a report on a particular matter. Similarly an Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between an Executive Member / Chairperson and an Officer in relation to this should be referred to the Chief Officer or Managing Director for resolution in conjunction with the Leader of the Council.

5.3.11.4 The Council's Constitution and procedure rules provide that in certain circumstances Officers may make decisions under delegated authority. In such cases it is the Officer rather than the Executive who takes the action and who is accountable for it. The Scheme of delegation provides that (at 3.5.1.5) "each Officer exercising delegated powers shall maintain close liaison with the appropriate Member of the Executive or Regulatory Committee Chairperson or Vice-Chairperson or Corporate Director in respect of any matter which in the opinion of the Officer might be regarded as sensitive or contentious".

5.3.11.5 It must be remembered that Officers within a Department are accountable to their Chief Officer and that whilst Officers should always seek to assist a Chairperson or any other Member, they must not, in so doing, go beyond the bounds of their authority.

5.3.12 Correspondence

5.3.12.1 Correspondence between an individual Member and an Officer regarding an individual matter should not normally be copied (by the Officer) to any other Member other than a Portfolio Holder (where the Officer, according to his/her discretion, deems it appropriate) unless the Member has him/herself sent copies to other Members, and correspondence regarding a general or policy matter can be copied at the discretion of the Officer. When it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed.

5.3.12.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg. representations to a Government Minister sent in pursuance of an Executive or Committee decision) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

5.3.12.3 Members may use their personal County Council letter heading for correspondence relating to their work as a Councillor but in doing so must avoid giving the impression that they are committing the Council to any particular course of action or binding the Council in any way. Members should take care not to breach the rules which prohibit the Council from being involved with issuing publicity which appears to be designed to affect public support through a political party and therefore should not use this stationery for correspondence which could be construed as having that aim. These rules apply at all times and Members should be particularly cautious around election times because correspondence is more likely to be construed as political at these times.

5.3.13 Involvement of Ward Councillors

5.3.13.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

5.3.13.2 In accordance with the Delegation Scheme of the Constitution, paragraph 3.5.1.7, when a member of the Council has made known to an Officer with delegated powers his/her legitimate interest in a matter or when a matter is related to or affects the member's electoral division, the Officer shall keep the Member informed of significant developments relating to that matter.

5.3.13.3 In accordance with Article 13 (2.13.9.1) whenever feasible any body or person making a decision on behalf of the Council which affects just a single ward will consult the local Member representing that ward before making the decision.

5.3.13.4 In accordance with Article 13 (2.13.9.2) and paragraph 5.3.8. above, letters received from Members of Parliament or Members of the National Assembly for Wales which affect just a single ward will be copied to the Member representing that ward, except in so far as such letters are expressed to be confidential.

5.3.14 Breaches of the Code

5.3.14.1 Serious breaches by Officers of the Protocol would lead to action being taken against them under the Council's agreed disciplinary procedures.

5.3.14.2 Serious breaches by Elected Members of the Protocol will lead to investigation and appropriate action by the Ombudsman who may refer the matter to the Standards Committee.

