

# PRAWF BUDD Y CYHOEDD

## PUBLIC INTEREST TEST

**YSTYRIED CWYN YN ERBYN Y CYNGHORYDD SIR, HEFIN WYN THOMAS YN DILYN  
YMCHWILIAD GAN OMBWDSMON GWASANAETHAU CYHOEDDUS CYMRU  
(ATODIADAU A-Y) /**

**TO CONSIDER A COMPLAINT AGAINST COUNTY COUNCILLOR HEFIN WYN  
THOMAS FOLLOWING INVESTIGATION BY THE PUBLIC SERVICES OMBUDSMAN  
FOR WALES (APPENDICES A-Y INCLUSIVE)**

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| Paragraff(au)<br>Paragraph(s)   | 18A  | Atodlen 12A Deddf Llywodraeth Leol 1972<br>Schedule 12A Local Government Act 1972 |
| <b>Y PRAWF – THE TEST</b>   |  |   |
| <p>Mae yna fudd i'r cyhoedd wrth ddatgelu oherwydd / There is a public interest in disclosure as:-</p> <p>Gwrandawriad rhagarweiniol yw hwn i gasgliad gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru fod y Cynghorydd Hefin Wyn Thomas, o bosib, wedi torri'r Côd Ymddygiad ar gyfer Aelodau.</p> <p>Pwrpas y Côt yw annog safonau ymddygiad mewn bywyd cyhoeddus, fel y disgrifir yn y Côt, a'i orfodi pan fo angen. Mae hwn yn fater budd cyhoeddus oherwydd bod cydymffurfiaeth gyda'r Côt yn cyflawni rôl sicrwydd bwysig o ran yr hyn a wneir gan Aelodau etholedig pan maent yn cynrychioli'r cyhoedd. Yn gryno, mae'r ffaith fod y Côt yn bodoli, i raddau helaeth, er budd y cyhoedd /</p> <p>This is a preliminary hearing into a finding by the Public Services Ombudsman for Wales (PSOW) that Councillor Hefin Wyn Thomas may have breached the Code of Conduct for Members.</p> <p>The purpose of the Code is to encourage the standards of conduct in public life, as described in the Code, and, when necessary, to enforce them. This is a public interest issue as compliance with the Code plays an important assurance role in the actions of elected Members when representing the public. In short, the fact that the Code exists is largely for the benefit of the public.</p> | <p>Y budd i'r cyhoedd with beidio â datgelu yw / The public interest in not disclosing is:-</p> <p>Mae Atodlen 18A yn ymwneud â "<i>information which is subject to any obligations of confidentiality</i>".</p> <p>Mae'r Ombwdsmon wedi gorfodi dyletswydd cyfrinachedd mewn perthynas â'r Atodiadau i'w Adroddiad, ond nid ar gyfer yr Adroddiad ei hun. Mae hyn yn creu disgwyliad o gyfrinachedd ar ran y Cyngor, er bod llawer o'r dogfennau yn yr Atodiadau yn y maes cyhoeddus. Mae'n gwestiwn hefyd a fyddai modd cynnal yr amod cyfrinachedd pe bai'n cael ei herio mewn perthynas â'r cyfan/rhannau o'r Atodiadau eraill.</p> <p>Serch hynny, byddai'r Cyngor yn torri disgwyliad diamwys yr Ombwdsmon ynghylch cyfrinachedd pe bai'n datgelu unrhyw un o'r Atodiadau, a gallai olygu fod y Cyngor yn agored i her gyfreithiol neu gŵyn i'r Comisiynydd Gwybodaeth. Waeth beth fyddai rhinweddau her o'r fath, mae i hyn y potensial o gynnwys y Cyngor mewn anghydfodau diangen sy'n wastraff o adnoddau cyhoeddus.</p> <p>Wedi gorfodi dyletswydd cyfrinachedd "hollgynhwysfawr", mater i'r Ombwdsmon fyddai cyfiawnhau ei safbwynt os cyflwynir her yn sgil diffyg datgelu, gan nad yw'r Cyngor yn gwybod beth yw ei resymeg na'i gyfiawnhad.</p> |   |

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|   | <p>Schedule 18A relates to <i>"information which is subject to any obligations of confidentiality"</i>.</p> <p>The PSOW has imposed a confidentiality obligation on the Appendices to his Report, but not the Report itself. This creates an expectation of confidentiality on the part of the Council, albeit that many of the documents in the Appendices are in the public domain and it is questionable whether the confidentiality requirement could be maintained if challenged in relation to all/parts of the other Appendices.</p> <p>Nevertheless, disclosure by the Council of any of the Appendices would now breach the PSOW's explicit expectation of confidentiality and might leave the Council open to legal challenge or complaint to the Information Commissioner. Regardless of the merits of such challenge this has the potential to involve the Council in needless disputes that waste public resources.</p> <p>Having imposed a "blanket" confidentiality obligation it should be for the PSOW to justify his position in the event of challenge to non-disclosure, as the Council is not privy to his reasoning or justification.</p> |
| <p><b>Argymhelliad</b> - Ar ôl pwyso a mesur mae'r budd i'r cyhoedd o gynnal yr eithriad o bwys mwy na'r budd i'r cyhoedd o ddatgelu'r wybodaeth /</p> <p><b>Recommendation</b> - On balance, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> |   |

| <b>ISLE OF ANGLESEY COUNTY COUNCIL</b> |   |
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| <b>MEETING:</b>                        | <b>STANDARDS COMMITTEE</b>  |
| <b>DATE:</b>                           | <b>12 JUNE 2012</b>   |
| <b>TITLE OF REPORT:</b>                | <b>TO CONSIDER A COMPLAINT AND CONDUCT A HEARING AGAINST COUNCILLOR HEFIN WYN THOMAS FOLLOWING INVESTIGATION BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES (PSOW)</b>  |
| <b>REPORT BY:</b>                      | <b>SOLICITOR TO THE MONITORING OFFICER</b>  |
| <b>PURPOSE OF REPORT:</b>              | <b>TO CONDUCT A HEARING AND TO DECIDE WHAT, IF ANY, SANCTION TO IMPOSE PURSUANT TO PARAGRAPH 9(1) OF THE LOCAL GOVERNMENT INVESTIGATIONS (FUNCTIONS OF MONITORING OFFICERS AND STANDARDS COMMITTEES) (WALES) REGULATIONS 2001</b> |
| <b>CONTACT OFFICER:</b>                | <b>MEIRION JONES SOLICITOR TO THE MONITORING OFFICER (EXT 2563)</b>   |

### **DOCUMENTS ENCLOSED**

1. The PSOW's report
2. PSOW's "Approach to New Complaints"
3. SI 2001 No. 2281 (W.171)
4. Statement of Einir Wyn Thomas

### **1 BACKGROUND**

The PSOW has investigated a self reported complaint by Councillor Thomas, that he may have failed to observe the County Council's Code of Conduct for Members when he was convicted of a criminal offence on the 12<sup>th</sup> April 2011.

### **2 THE STANDARDS COMMITTEE'S INITIAL HEARING**

In accordance with the options provided under **Document 3** above, the Standards Committee decided on the 4<sup>th</sup> May 2012 that Councillor Thomas should be given an opportunity to make representations, either orally, or in writing, in respect of the findings of the investigation and any allegation that he may have failed to comply with the County Council's Code of Conduct.

### **3 THE PSOW's REPORT AND FINDINGS – Document 1**

- 3.1 The relevant passage is in paragraph 45: “My provisional finding was that there was evidence that Councillor Thomas may have breached the Code of conduct for Members in relation to paragraph 6(1)(a) of that Code in that he incurred a criminal conviction on the 14<sup>th</sup> April 2011 ...”
- 3.2 The remainder of the PSOW's Report provides an explanation of why he decided to refer his Report to the Standards Committee, but does not impact on his provisional finding in relation to breach of the Code.
- 3.3 Accordingly, the PSOW has found evidence of a failure by Councillor Thomas to comply with the County Council's Code of Conduct and in particular Paragraph 6(1) “You must –  
(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.” The Standards Committee must therefore make a determination.

### **4 REMIT OF THE STANDARDS COMMITTEE**

Pursuant to section 69(4)(c) of Part III of the Local Government Act 2000 the Ombudsman has referred this matter back to the local Standards Committee for a determination pursuant to paragraph 9(1)(b) or (c) or (d) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.

A copy of the relevant extract from the statutory instrument is attached at **Document 3**.

The possible decisions available to the Standards Committee are that:-

- **no action needs to be taken against the Councillor;**
- or**
- **the Councillor be censured;**
- or**
- **the Councillor be suspended, or partially suspended, from being a Member of the County Council for a period not exceeding six months.**

The Councillor is permitted to make oral representations if he wishes. Cllr Thomas has indicated that he will be represented by Mr Gareth Parry, his solicitor. He has indicated that he does not disagree with the facts presented by the Ombudsman nor does he assert that he is not responsible for not conforming with the Code of Conduct.

The Chairman of the Standards Committee has directed that more information and clarification were needed regarding the method of payments made by the Council to Councillors regarding allowances etc and any deductions. A statement was obtained from Eimir Wyn Thomas the Head of Service (Finance) of the Council and



that is now produced as **Document 4**.

Having received submissions, the Committee is advised to adjourn to private session to consider what, if any, sanction is appropriate. The Committee may reconvene immediately thereafter, or on another date to be fixed, to announce its decision in public. Full reasons may be given at that time or, subsequently, in writing. Alternatively, the Committee may give its decision, and reasons, in writing at a later date. The Statutory Publication Requirements referred to in paragraph 6 of this Report shall apply in any event and the timetable for Appeal, referred to in paragraph 5 of this Report, shall not begin to run until the Councillor has been provided with the decision and the reasons.

While the Committee is not fettered in the exercise of its discretion, its decision is still governed by general principles of reasonableness and proportionality.

Although this may be the first time the current Committee has been asked to consider a sanction under the current legislation there is an expectation of consistency and fairness as between this matter and others which the Committee may be called to make in the future. The Committee needs to consider how the features of this case should be most appropriately positioned on the scale of the decisions available.

Having considered all submissions it is for the Committee to decide what mitigating and/or aggravating features it takes into account and what weight shall be attributed to each. These matters should be included in the Committee's published decision.

## **5. RIGHTS OF APPEAL/CHALLENGE**

- The Councillor's right of appeal is to the Adjudication Panel for Wales and must be made in writing within 21 days. Notification is to be given to The Registrar, First Floor, North Wing (MO8), Adjudication Panel for Wales, Cathays Park, Cardiff CF10 3NQ.
- The Notice of Appeal must specify the grounds and confirm whether or not the Appellant consents to the Appeal being conducted by way of written representations only.
- The right of appeal extends to the type and/or duration of any sanction applied.
- There is no equivalent right of appeal for the Complainants. Any challenge would be by way of Judicial Review to the High Court.

## **6. STATUTORY PUBLICATION REQUIREMENTS**

- After twenty one days (the appeal period) has elapsed, and before the expiration of fourteen days thereafter, the Standards Committee is required to report its decision in writing to the Ombudsman, the Councillor and the Complainants.
- Within seven days of reporting the decision to the Ombudsman public notice shall

be given, by advert in the local press, confirming that copies of the decision shall be available on the Council's website, and at its Offices for inspection, for a period of twenty one days.

## **7. RECOMMENDATION**

To conduct a hearing and to decide upon a sanction, if any.

## PSOW's approach to assessing code of conduct complaints.

### New complaints

In determining whether to investigate a complaint of a breach of the code I apply a two stage test.

1. In the first instance I aim to establish whether there is evidence that a breach actually took place.
2. The second test is whether the breach alleged would be likely to lead to a sanction being imposed on the member.<sup>1</sup> In using my discretion I take account of the outcomes of previous cases considered by standards committees across Wales and decide accordingly.

From January 2012 I will be adopting a new process in respect of complaints concerning county or county borough councillors which do not meet the second test, namely those which I consider are unlikely to lead to a sanction being imposed on the member.<sup>2</sup>

I will write to the relevant Monitoring Officer concerned informing them that I am minded not to investigate the complaint and will request they confirm whether they believe a local investigation is appropriate. A copy of the letter will be sent to the complainant and the member being complained about.<sup>3</sup>

Where the Monitoring Officer agrees that an investigation is not warranted I will decline to investigate and inform the parties of my decision.

Where the Monitoring Officer indicates that a local investigation is appropriate I will commence an investigation<sup>4</sup> and formally refer the matter to the Monitoring Officer under section 70(4) of the Local Government Act 2000.<sup>5</sup>

**This process will be followed in conjunction with the proposed Local Resolution Process. When a complaint is made to me which falls within the remit of that process I will normally refer the matter to the Monitoring Officer in**

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<sup>1</sup> The Ombudsman regards a sanction as being a censure, suspension or disqualification of the member

<sup>2</sup> I will continue to decline to investigate complaints which do not meet the first test as outlined above.

<sup>3</sup> Both parties will be informed that it would not be appropriate to contact the MO about the matter at that stage

<sup>4</sup> Under s69 of the Local Government Act 2000

<sup>5</sup> The Local Government Investigations (Functions of Monitoring Officer and Standards Committees) (Wales) Regulations 2001/2281 outline the way in which the matter should be dealt with by Monitoring Officer's and Standards Committees.

**the first instance and will not therefore consider the complaint under the two stage test unless that process has been exhausted.**

### **Investigations undertaken by the Ombudsman**

In some instances whilst complaints have met my two stage test and I have commenced an investigation the evidence gathered suggests to me that although a breach of the code has occurred a sanction is unlikely to be imposed on the member.

Where I take such a view I will write to the relevant Monitoring Officer concerned informing them that I am minded to make a finding that no further action is necessary<sup>6</sup> and request they confirm whether they believe that further local investigation is appropriate. A copy of the letter will be sent to the complainant and the member being complained about.<sup>7</sup>

Where the Monitoring Officer agrees that further investigation is not warranted I will issue a report making a finding that no further action is necessary and inform the parties of my decision.

Where the Monitoring Officer indicates that further local investigation is appropriate I will cease my investigation and formally refer the matter to the Monitoring Officer under section 70(4) of the Local Government Act 2000.<sup>8</sup>

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<sup>6</sup> Under s69(4)(b) of the Local Government Act 2000

<sup>7</sup> Both parties will be informed that it would not be appropriate to contact the MO about the matter at that stage

<sup>8</sup> The Local Government Investigations (Functions of Monitoring Officer and Standards Committees) (Wales) Regulations 2001/2281 outline the way in which the matter should be dealt with by Monitoring Officer's and Standards Committees.



**CYNULLIAD CENEDLAETHOL CYMRU**

**NATIONAL ASSEMBLY FOR WALES**

**OFFERYNNAU STATUDOL**

**STATUTORY INSTRUMENTS**

**2001 Rhif 2281 (Cy. 171 )**

**2001 No. 2281 (W. 171 )**

**LLYWODRAETH LEOL,  
CYMRU**

**LOCAL GOVERNMENT,  
WALES**

Rheoliadau Ymchwiliadau  
Llywodraeth Leol (Swyddogaethau  
Swyddogion Monitro a  
Phwyllgorau Safonau) (Cymru)  
2001

Local Government Investigations  
(Functions of Monitoring Officers  
and Standards Committees)(Wales)  
Regulations 2001

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau.)*

*(This note is not part of the Regulations.)*

Mae adran 51 o Ddeddf Llywodraeth Leol 2000 ("Deddf 2000") yn gosod dyletswydd ar awdurdodau lleol i fabwysiadu codau ynghylch yr ymddygiad a ddisgwylir oddi wrth eu haelodau a'u haelodau cyfetholedig.

Section 51 of the Local Government Act 2000 ("the 2000 Act") imposes a duty upon local authorities to adopt codes of the conduct which is expected of their members and co-opted members.

O dan adran 69 o Ddeddf 2000 caiff Comisiynydd Lleol yng Nghymru ymchwilio i unrhyw doriad honedig gan aelodau neu aelodau cyfetholedig (neu gyn-aelodau neu gyn-aelodau cyfetholedig) o god ymddygiad awdurdod lleol yng Nghymru.

Under section 69 of the 2000 Act a Local Commissioner in Wales may investigate any alleged breach by members or co-opted members (or former members or co-opted members) of the code of conduct of a local authority in Wales.

Pan fydd Comisiynydd Lleol yng Nghymru yn rhoi'r gorau i ymchwiliad o'r fath cyn iddo gael ei gwblhau (o dan adran 70(4) o Ddeddf 2000) gall gyfeirio'r mater sy'n destun yr ymchwiliad at swyddog monitro'r awdurdod lleol perthnasol.

Where a Local Commissioner in Wales ceases such an investigation before it is completed (under section 70(4) of the 2000 Act) he or she may refer the matter subject to the investigation to the monitoring officer of the relevant local authority.

Fel arall, pan fydd Comisiynydd Lleol yng Nghymru yn dyfarnu ar ôl ymchwiliad (o dan adran 71(2) o Ddeddf 2000) ei bod yn briodol, rhaid iddo gyfeirio'r mater at swyddog monitro'r awdurdod perthnasol, llunio adroddiad ar ganlyniad yr ymchwiliad a'i anfon at y swyddog monitro a Phwyllgor Safonau'r awdurdod.

Alternatively, where a Local Commissioner in Wales determines after investigating (under section 71(2) of the 2000 Act) that it is appropriate, he or she shall refer the matter to the monitoring officer of the relevant authority, produce a report on the outcome of the investigation and send it to the monitoring officer and the authority's Standards Committee.

Mae adran 73 o Ddeddf 2000 yn galluogi Cynulliad Cenedlaethol Cymru i wneud rheoliadau sy'n pennu sut y dylid ymdrin â materion o'r fath sy'n cael eu cyfeirio.

Mae'r Rheoliadau hyn yn darparu y bydd swyddog monitro'r awdurdod perthnasol:

- (a) yn ymchwilio i'r materion a gyfeirir o dan adran 70(4) cyn cyflwyno adroddiad ac, os yw'n briodol, gwneud argymhellion i Bwyllgor Safonau'r awdurdod perthnasol, neu
- (b) os bydd mater wedi'i gyfeirio o dan adran 71(2), bydd yn ystyried adroddiad y Comisiynydd Lleol yng Nghymru cyn gwneud argymhellion, os yw'n briodol, i Bwyllgor Safonau'r awdurdod perthnasol.

Bydd y Pwyllgor Safonau yn gwneud dyfarniad cychwynnol wedyn naill ai:

- (a) nad oes dim tystiolaeth o fethu â chydymffurfio â'r cod ymddygiad, neu
- (b) bod rhaid rhoi cyfle i unrhyw berson sy'n destun yr ymchwiliad ymateb, naill ai ar lafar neu'n ysgrifenedig.

Ar ôl ystyried unrhyw ymateb a wneir gan unrhyw berson o'r fath rhaid i'r Pwyllgor Safonau ddod i'r casgliad:

- (a) nad oes dim tystiolaeth o fethu â chydymffurfio â'r cod ymddygiad ac na ddylid cymryd dim camau pellach,
- (b) bod yna dystiolaeth o fethu â chydymffurfio â'r cod ymddygiad ond na ddylid cymryd dim camau pellach, neu
- (c) bod yna dystiolaeth o fethu â chydymffurfio â'r cod ymddygiad ac y dylai aelod neu aelod cyfetholedig (neu gyn-aelod neu gyn-aelod cyfetholedig) gael ei geryddu neu ei atal,

a chymryd unrhyw gamau o'r fath yn unol â hynny.

Mae penderfyniad y Pwyllgor Safonau yn ddarostyngedig i hawl i apelio i dribiwnlys apelau a dynnir o blith Panel Dyfarnu Cymru.

Caiff tribiwnlys apelau gadarnhau dyfarniad y Pwyllgor Safonau, cyfeirio mater yn ôl iddo gan argymhell y dylai osod cosb wahanol, neu wrth-droi'r dyfarniad.

Mae'r Rheoliadau yn darparu hefyd fod adroddiad ar ganlyniad yr ymchwiliad yn cael ei lunio a'i gyhoeddi.

Section 73 of the 2000 Act enables the National Assembly for Wales to make regulations specifying how such referred matters are to be dealt with.

These Regulations provide that the monitoring officer of the relevant authority:

- (a) will investigate matters referred under section 70(4) before reporting and, if appropriate, making recommendations, to the relevant authority's Standards Committee, or
- (b) where a matter has been referred under section 71(2), he or she will consider the report of the Local Commissioner in Wales, before, if appropriate, making recommendations to the relevant authority's Standards Committee.

The Standards Committee will then make an initial determination either:

- (a) that there is no evidence of a failure to comply with the code of conduct, or
- (b) that any person who is the subject of the investigation must be given an opportunity to respond, either orally or in writing.

After considering any response made by any such person the Standards Committee must conclude that:

- (a) there is no evidence of a failure to comply with the code of conduct and no further action should be taken,
- (b) there is evidence of a failure to comply with the code of conduct but no further action should be taken, or
- (c) there is evidence of a failure to comply with the code of conduct and a member or co-opted member (or former member or co-opted member) should be censured or suspended,

and take any such action accordingly.

The decision of the Standards Committee is subject to a right of appeal to an appeals tribunal drawn from the Adjudication Panel for Wales.

An appeals tribunal may endorse the determination of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the determination.

The Regulations also provide for a report upon the outcome of the investigation to be produced and published.



2001 Rhif 2281 (Cy. 171)

2001 No. 2281 (W. 171)

**LLYWODRAETH LEOL,  
CYMRU**

**LOCAL GOVERNMENT,  
WALES**

Rheoliadau Ymchwiliadau  
Llywodraeth Leol (Swyddogaethau  
Swyddogion Monitro a  
Phwyllgorau Safonau) (Cymru)  
2001

Local Government Investigations  
(Functions of Monitoring Officers  
and Standards Committees)(Wales)  
Regulations 2001

*Wedi'u gwneud* 21 Mehefin 2001  
*Yn dod i rym* 28 Gorffennaf 2001

*Made* 21st June 2001  
*Coming into force* 28th July 2001

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y swyddogaethau a roddwyd iddo gan adran 73(1) o Ddeddf Llywodraeth Leol 2000(a) yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, in exercise of the functions given to it by section 73(1) of the Local Government Act 2000(a) makes the following Regulations:

**Enw, cychwyn a chymhwyso**

**Name, commencement and application**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Ymchwiliadau Llywodraeth Leol (Swyddogaethau Swyddogion Monitro a Phwyllgorau Safonau) (Cymru) 2001 a deuant i rym ar 28 Gorffennaf 2001.

1.-(1) These Regulations are called the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001 and they come into force on the 28th July 2001.

(2) Mae'r Rheoliadau yn gymwys i awdurdodau perthnasol yng Nghymru yn unig.

(2) The regulations apply to relevant authorities in Wales only.

**Dehongli**

**Interpretation**

2. Yn y Rheoliadau hyn:

2. In these Regulations:

ystyr "awdurdod perthnasol" ("*relevant authority*") yw:

"relevant authority" ("*awdurdod perthnasol*") means:

- cyngor sir,
- cyngor bwrdeistref sirol,
- cyngor cymuned(b),

- a county council,
- a county borough council,
- a community council(b),

(a) 2000 p.22.

(a) 2000 c.22.

(b) Yn rhinwedd adran 56(7) o Ddeddf Llywodraeth Leol 2000 mae unrhyw swyddogaeth sy'n arferadwy yn rhinwedd darpariaethau'r Rheoliadau hyn gan Bwyllgor Safonau awdurdod perthnasol neu mewn perthynas ag ef, sef awdurdod perthnasol sy'n gyngor cymuned i gael ei harfer gan neu mewn perthynas â'r canlynol; pwyllgor safonau'r cyngor sir neu'r cyngor bwrdeistref sirol y mae'r cyngor cymuned wedi'i leoli yn ei ardal; neu pan fydd pwyllgor safonau'r cyngor sir neu'r cyngor bwrdeistref sirol hwnnw wedi penodi is-bwyllgor, yr is-bwyllgor hwnnw.

(b) By virtue of section 56(7) of the Local Government Act 2000 any function which by virtue of provisions of these Regulations is exercisable by or in relation to the Standards Committee of a relevant authority which is a community council is to be exercisable by or in relation to; the standards committee of the county council or county borough council in whose area the community council is situated; or where that county council or county borough council's standards committee has appointed a sub-committee, that sub-committee.

- awdurdod tân a gyfansoddwyd gan gynllun cyfuno o dan Ddeddf Gwasanaethau Tân 1947(a), ac
- awdurdod Parc Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995(b); ac

ystyr "Deddf 2000" ("the 2000 Act") yw Deddf Llywodraeth Leol 2000.

### Swyddogaethau swyddogion monitro

3.-(1) Pan fydd unrhyw fater yn cael ei gyfeirio at swyddog monitro awdurdod perthnasol o dan adran 70(4) o Ddeddf 2000, rhaid i'r swyddog monitro mewn perthynas â'r mater hwnnw:

- (a) cynnal ymchwiliad; a
- (b) cyflwyno adroddiad ac, os yw'n briodol, gwneud argymhellion i Bwyllgor Safonau'r awdurdod perthnasol.

(2) Pan fydd unrhyw fater yn cael ei gyfeirio at swyddog monitro awdurdod perthnasol o dan adran 71(2) o Ddeddf 2000, rhaid i'r swyddog monitro ystyried unrhyw adroddiad sy'n cael ei anfon ato gan Gomisiynydd Lleol yng Nghymru ac, os yw'n briodol, gwneud argymhellion i Bwyllgor Safonau'r awdurdod perthnasol.

### Ymchwiliadau

4.-(1) Wrth gynnal ymchwiliad o dan Reoliad 3(1)(a) uchod caiff y swyddog monitro ddilyn unrhyw weithdrefnau y mae'n barnu eu bod yn briodol yn amgylchiadau'r achos ac yn benodol fe gaiff:

- (a) holi unrhyw berson ynghylch unrhyw beth y mae'n credu ei fod yn angenrheidiol er mwyn cyflawni'r ymchwiliad,
- (b) ei gwneud yn ofynnol i unrhyw berson roi unrhyw wybodaeth, esboniad neu ddogfennau iddo y mae'n barnu eu bod yn angenrheidiol,
- (c) ei gwneud yn ofynnol i unrhyw aelod neu aelod cyfetholedig neu swyddog awdurdod perthnasol ymddangos ger ei fron at ddibenion paragraff (a) a (b) uchod.

(2) Wrth gynnal yr ymchwiliad, gall y swyddog monitro gael ei gynorthwyo gan unrhyw berson.

(3) Caiff y swyddog monitro sicrhau cyngor arbenigol neu gyngor arall hefyd pan fydd eu hangen oddi wrth unrhyw berson sy'n arbennig o gymwys ym marn y swyddog i'w gynorthwyo wrth gynnal yr ymchwiliad.

(a) 1947 p.41.

(b) 1995 p.25.

- a fire authority constituted by a combination scheme under the Fire Services Act 1947(a), and
- a National Park authority established under section 63 of the Environment Act 1995(b); and

"the 2000 Act" ("Deddf 2000") means the Local Government Act 2000.

### Functions of monitoring officers

3.-(1) Where any matter is referred to the monitoring officer of a relevant authority under section 70(4) of the 2000 Act, the monitoring officer must in respect of that matter:

- (a) conduct an investigation; and
- (b) report, and if appropriate make recommendations, to the Standards Committee of the relevant authority. (2) Where any matter is referred to the monitoring officer of a relevant authority under section 71

(2) of the 2000 Act, the monitoring officer must consider any report sent to him or her by a Local Commissioner in Wales and, if appropriate, make recommendations to the Standards Committee of the relevant authority.

### Investigations

4.-(1) When conducting an investigation under Regulation 3(1)(a) above the monitoring officer may follow such procedures as he or she considers appropriate in the circumstances of the case and in particular may:

- (a) make such enquiries of any person as he or she thinks necessary for the purposes of carrying out the investigation,
- (b) require any person to provide him or her with such information, explanation or documents as he or she considers necessary,
- (c) require any member or co-opted member or officer of a relevant authority to appear before him or her for the purposes of paragraph (a) and (b) above.

(2) In conducting the investigation, the monitoring officer may be assisted by any person.

(3) The monitoring officer may also where necessary obtain expert or other advice from any person who is in his or her opinion particularly qualified to assist in conducting the investigation.

(4) Where a person has attended before the monitoring officer or provided information or

(a) 1947 c.41.

(b) 1995 c.25.



(4) Pan fydd person wedi dod gerbron y swyddog monitro neu wedi rhoi gwybodaeth neu gymorth at ddibenion yr ymchwiliad yn unol â pharagraffau (1) neu (2) uchod, caiff y swyddog monitro, yn ddarostyngedig i awdurdodiad y Pwyllgor Safonau, dalu i'r person hwnnw:

- (a) unrhyw symiau ar gyfer treuliau a dynnwyd yn briodol ganddo, a
- (b) unrhyw lwfansau i'w ddigolledu am ei golled amser,

a bennir gan Gynulliad Cenedlaethol Cymru.

(5) Pan fydd person wedi rhoi cyngor yn unol â pharagraff (3) uchod, caiff y swyddog monitro dalu unrhyw ffioedd neu lwfansau a dynnwyd i'r person hwnnw yn ddarostyngedig i'r uchafsymiau a nodir yng nghynllun lwfansau'r awdurdod perthnasol.

### Cyfyngiadau ar ddatgelu gwybodaeth

5.-(1) Rhaid peidio â datgelu gwybodaeth a sicrhawyd gan swyddog monitro wrth gynnal ymchwiliad oni bai:

- (a) bod y datgelu yn cael ei wneud er mwyn galluogi swyddog monitro neu bwyllgor safonau i gyflawni eu swyddogaethau o dan y Rheoliadau hyn;
- (b) bod y datgelu yn cael ei wneud er mwyn galluogi Comisiynydd Lleol yng Nghymru i gyflawni ei swyddogaethau;
- (c) bod y person y mae'r wybodaeth yn ymwneud ag ef wedi cydsynio i'w datgelu;
- (ch) bod yr wybodaeth wedi'i datgelu o'r blaen i'r cyhoedd gydag awdurdod cyfreithlon;
- (d) mai datgelu at ddibenion achos troseddol mewn unrhyw ran o'r Deyrnas Unedig yw'r datgelu ac na chafwyd yr wybodaeth o dan sylw o ganlyniad i ymholiadau personol i'r person sy'n destun achos troseddol o dan Reoliad 4 uchod; neu
- (dd) bod y datgelu yn cael ei wneud i'r Comisiwn Archwilio at ddibenion unrhyw swyddogaeth sydd gan Gomisiwn Archwilio neu Archwilydd o dan Ddeddf y Comisiwn Archwilio 1998(a).

(2) Yn y Rheoliad hwn, a Rheoliad 4 uchod, mae unrhyw gyfeiriad at ddogfennau yn cynnwys cyfeiriad at wybodaeth a ddelir trwy gyfrwng cyfrifiadur neu ar unrhyw ffurf electronig arall.

### Adroddiadau

6. Ar ôl cwblhau ymchwiliad, rhaid i'r swyddog monitro:

- (a) lunio adroddiad ar gasgliadau ei ymchwiliad ac, os yw'n briodol, caiff wneud argymhellion i Bwyllgorau Safonau'r awdurdod perthnasol o

assistance for the purposes of the investigation in accordance with paragraphs (1) or (2) above, the monitoring officer may, subject to the Standards Committee's authorisation, pay to that person

- (a) such sums in respect of expenses properly incurred by him or her, and
- (b) such allowances by way of compensation for the loss of his or her time, as may be determined by the National Assembly for Wales.

(5) Where a person has given advice in accordance with paragraph (3) above, the monitoring officer may pay to that person such fees or allowances incurred subject to the maxima set out in the relevant authority's allowances scheme.

### Restrictions on disclosure of information

5.-(1) Information obtained by a monitoring officer when conducting an investigation must not be disclosed unless:

- (a) the disclosure is made for the purposes of enabling a monitoring officer or standards committee to perform their functions under these Regulations;
- (b) the disclosure is made for the purpose of enabling a Local Commissioner in Wales to carry out his or her functions;
- (c) the person to whom the information relates has consented to its disclosure;
- (d) the information has previously been disclosed to the public with lawful authority;
- (e) the disclosure is for the purposes of criminal proceedings in any part of the United Kingdom and the information in question was not obtained as a result of personal enquiries of the person subject to the criminal proceedings under Regulation 4 above; or
- (f) the disclosure is made to the Audit Commission for the purposes of any function of the Audit Commission or an auditor under the Audit Commission Act 1998(a).

(2) In this Regulation and in Regulation 4 above, any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

### Reports

6. After concluding an investigation, the monitoring officer must:

- (a) produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards Committee of the relevant authority concerned,
- (b) send a copy of the report to any person who is

(a) 1998 p.18.

(a) 1998 c.18.

dan sylw,

- (b) anfon copi o'r adroddiad at unrhyw berson sy'n destun yr ymchwiliad, ac
- (c) cymryd camau rhesymol i anfon copi o'r adroddiad at unrhyw berson a wnaeth unrhyw honiad a arweiniodd at yr ymchwiliad.

### Swyddogaethau'r Pwyllgor Safonau

7. Ar ôl cael adroddiad ac unrhyw argymhellion oddi wrth y swyddog monitro, neu adroddiad oddi wrth Gomisiynydd Lleol yng Nghymru ynghyd ag unrhyw argymhellion gan y swyddog monitro, rhaid i'r Pwyllgor Safonau ddyfarnu naill ai:

- (a) nad oes dim tystiolaeth o unrhyw fethu â chydymffurfio â chod ymddygiad yr awdurdod perthnasol o dan sylw a rhaid iddo hysbys unrhyw berson sy'n destun yr ymchwiliad, unrhyw berson a wnaeth unrhyw honiad a arweiniodd at yr ymchwiliad a'r Comisiynydd Lleol yng Nghymru yn unol â hyn; neu
- (b) bod unrhyw berson sy'n destun yr ymchwiliad yn cael cyfle i gyflwyno sylwadau, naill ai ar lafar neu'n ysgrifenedig, mewn perthynas â chasgliadau'r ymchwiliad ac unrhyw honiad ei fod wedi methu, neu y gallai fod wedi methu, â chydymffurfio â chod ymddygiad yr awdurdod perthnasol.

### Gweithdrefn a Phwerau Pwyllgorau Safonau

8.-(1) Yn ddarostyngedig i unrhyw ddarpariaeth bendant yn y Rheoliadau hyn neu yn Rheoliadau Pwyllgorau Safonau (Cymru) 2001(a), mater i Bwyllgor Safonau'r awdurdod perthnasol fydd penderfynu ar yr arferion a'r weithdrefn sydd i'w dilyn wrth arfer ei swyddogaethau o dan y Rheoliadau hyn.

(2) Caiff Pwyllgor Safonau'r awdurdod perthnasol ei gwneud yn ofynnol i'r swyddog ymchwilio ddod ger ei fron pan fydd yn ystyried unrhyw sylwadau a gyflwynir gan unrhyw berson sy'n destun yr ymchwiliad (neu os na chyflwynir unrhyw sylwadau o'r fath, ar unrhyw adeg resymol), er mwyn cyflwyno ei adroddiad neu esbonio unrhyw un o'r materion sydd wedi'i gynnwys ynddo (ond nid fel arall).

(3) Ym mharagraff (2) uchod, ystyr "swyddog ymchwilio" yw:

- (a) yn achos ymchwiliad a wnaed gan Gomisiynydd Lleol yng Nghymru neu ar ei ran ac a gyfeiriwyd at swyddog monitro'r awdurdod perthnasol o dan adran 71(2) o Ddeddf 2000, y person a gynhaliodd yr ymchwiliad; neu
- (b) yn achos ymchwiliad a gyfeiriwyd ato o dan adran 70 (4) o Ddeddf 2000, swyddog monitro'r awdurdod perthnasol.

(a) OS 2001/2283 (Cy.172).

the subject of the investigation, and

- (c) take reasonable steps to send a copy of the report to any person who made any allegation which gave rise to the investigation.

### Functions of the Standards Committee

7. After receiving a report and any recommendations from the monitoring officer, or a report from a Local Commissioner in Wales together with any recommendations of the monitoring officer, the Standards Committee must determine either:

- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned and must notify any person who is the subject of the investigation, any person who made any allegation which gave rise to the investigation and the Local Commissioner in Wales accordingly; or
- (b) that any person who is the subject of the investigation should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the relevant authority's code of conduct.

### Procedure and Powers of Standards Committees

8. -(1) Subject to any express provision in these Regulations or in the Standards Committees (Wales) Regulations 2001(a), the practice and procedure to be followed in exercising its functions under these Regulations shall be for the Standards Committee of the relevant authority to decide.

(2) The Standards Committee of the relevant authority may require the investigating officer to attend before it when considering any representations made by any person who is the subject of the investigation (or if no such representations are made, at any reasonable time), for the purpose of the presenting his or her report or explaining any of the matters contained in it (but not otherwise).

(3) In paragraph (2) above, "investigating officer" means:

- (a) in the case of an investigation undertaken by or on behalf of a Local Commissioner in Wales and referred to the monitoring officer of the relevant authority under section 71(2) of the 2000 Act, the person who conducted the investigation; or
- (b) in the case of an investigation referred to him or her under section 70 (4) of the 2000 Act, the monitoring officer of the relevant authority.

(4) If any person who is the subject of the investigation fails to make representations in accordance with Regulation 7(b) above, the Standards

(a) SI 2001/2283 (W.172).

(4) Os nad yw unrhyw berson sy'n destun yr ymchwiliad yn cyflwyno sylwadau yn unol â Rheoliad 7(b) uchod, fe all y Pwyllgor Safonau:

- (a) oni bai ei fod wedi'i fodloni bod rheswm digonol dros y methiant hwnnw, ystyried adroddiad y swyddog monitro a gwneud dyfarniad yn absenoldeb y person hwnnw; neu
- (b) rhoi cyfle ychwanegol i'r person hwnnw gyflwyno sylwadau.

(5) Pan fo'n briodol, ac yn unol â darpariaethau'r Rheoliadau hyn, mae gan y Pwyllgor Safonau bŵer i geryddu unrhyw aelod neu aelod cyfetholedig (neu gyn-aelod neu gyn-aelod cyfetholedig) o'r awdurdod perthnasol, neu i atal neu i atal yn rhannol aelod neu aelod cyfetholedig am gyfnod heb fod yn fwy na chwe mis.

(6) Rhaid i unrhyw gyfnod atal neu atal yn rhannol ddechrau ar y diwrnod:

- (a) ar ôl i'r amser a ganiateir i gyflwyno hysbysiad apêl o dan Reoliad 10(2) isod ddod i ben,
- (b) ar ôl i hysbysiad ynghylch casgliad unrhyw apêl yn unol â Rheoliad 12(a)(i) neu (b) isod ddod i law, neu
- (c) ar ôl dyfarniad pellach gan y Pwyllgor Safonau a wnaed ar ôl cael argymhelliad gan driwlynys apelau o dan Reoliad 12(a)(ii) isod,

p'un bynnag sy'n digwydd olaf.

### Dyfarniadau'r Pwyllgor Safonau

9.-(1) Ar ôl ystyried unrhyw sylwadau, rhaid i Bwyllgor Safonau ddyfarnu:

- (a) nad oes dim tystiolaeth o unrhyw fethu â chydymffurfio â chod ymddygiad yr awdurdod perthnasol ac felly nad oes angen cymryd dim camau mewn perthynas â'r materion sy'n destun yr ymchwiliad;
- (b) bod aelod neu aelod cyfetholedig (neu gyn-aelod neu gyn-aelod cyfetholedig) o awdurdod perthnasol wedi methu â chydymffurfio â chod ymddygiad yr awdurdod perthnasol ond nad oes angen cymryd dim camau mewn perthynas â'r methiant hwnnw;
- (c) bod aelod neu aelod cyfetholedig (neu gyn-aelod neu gyn-aelod cyfetholedig) o'r awdurdod perthnasol wedi methu â chydymffurfio â chod ymddygiad yr awdurdod ac y dylai gael ei geryddu; neu
- (ch) bod aelod neu aelod cyfetholedig o awdurdod perthnasol wedi methu â chydymffurfio â chod ymddygiad yr awdurdod ac y dylai gael ei atal neu ei atal yn rhannol rhag bod yn aelod neu'n aelod cyfetholedig o'r awdurdod hwnnw am gyfnod heb fod yn fwy na chwe mis.

Committee may:

- (a) unless it is satisfied that there is sufficient reason for such failure, consider the monitoring officer's report and make a determination in that person's absence; or
- (b) give that person a further opportunity to make representations.

(5) Where appropriate, and in accordance with the provisions of these Regulations, the Standards Committee has power to censure any member or co-opted member (or former member or co-opted member) of the relevant authority, or suspend or partially suspend a member or co-opted member for a period not exceeding 6 months.

(6) Any period of suspension or partial suspension shall commence on the day after:

- (a) the expiry of the time allowed to lodge a notice of appeal under Regulation 10(2) below,
- (b) receipt of notification of the conclusion of any appeal in accordance with Regulation 12(a)(i) or (b) below, or
- (c) a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under Regulation 12(a)(ii) below,

whichever occurs last.

### Determinations of the Standards Committee

9.-(1) After considering any representations, a Standards Committee must determine:

- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority and that therefore no action needs to be taken in respect of the matters which are the subject of the investigation;
- (b) that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed to comply with the relevant authority's code of conduct but that no action needs to be taken in respect of that failure;
- (c) that a member or co-opted member (or former member or co-opted member) of the relevant authority has failed to comply with the authority's code of conduct and should be censured, or
- (d) that a member or co-opted member of a relevant authority has failed to comply with the authority's code of conduct and should be suspended or partially suspended from being a member or co-opted member of that authority for a period not exceeding six months.

(2) Where an appeals tribunal drawn from the Adjudication Panel for Wales makes a recommendation in accordance with Regulation 12



(2) Pan fydd tribiwnlys apelau a dynnir o blith aelodau Panel Dyfarnu Cymru yn gwneud argymhelliad yn unol â Rheoliad 12(a)(ii) isod y dylid gosod cosb wahanol, rhaid i'r Pwyllgor Safonau ddyfarnu hefyd a ddylai gadarnhau ei ddyfarniad gwreiddiol neu beidio, neu dderbyn yr argymhelliad.

(3) Ar ôl gwneud dyfarniad yn unol â pharagraff (1) neu (2) uchod rhaid i'r Pwyllgor Safonau hysbysu unrhyw berson sy'n destun yr ymchwiliad, unrhyw berson a wnaeth unrhyw honiad a arweiniodd at yr ymchwiliad a'r Comisiynydd Lleol yng Nghymru yn unol â hynny, gan roi'r rhesymau dros y penderfyniad.

(4) Ar ôl gwneud dyfarniad yn unol â pharagraff (2) uchod rhaid i'r Pwyllgor Safonau hefyd hysbysu llywydd Panel Dyfarnu Cymru.

### Yr hawl i apelio

10.-(1) Pan fydd Pwyllgor Safonau yn dyfarnu o dan Reoliad 9(1) uchod fod person wedi methu â chydymffurfio â chod ymddygiad yr awdurdod perthnasol o dan sylw, caiff y person hwnnw apelio yn erbyn y dyfarniad i dribiwnlys a dynnir o blith aelodau Panel Dyfarnu Cymru

(2) Rhaid cychwyn yr apêl drwy gyflwyno hysbysiad ysgrifenedig cyn pen 21 diwrnod ar ôl cael hysbysiad am ddyfarniad y Pwyllgor Safonau i'r cyfeiriad hwn:

Yr Is-adran Moderneiddio Llywodraeth Leol  
Cynulliad Cenedlaethol Cymru  
Parc Cathays  
Caerdydd  
CF10 3NQ

(3) Rhaid i'r hysbysiad apêl nodi:

- (a) y seiliau dros yr apêl; a
- (b) a yw'r person sy'n rhoi'r hysbysiad apêl yn cydsynio neu beidio i'r apêl gael ei chynnal drwy gyfrwng sylwadau ysgrifenedig.

### Apelau

11.-(1) Bydd apelau sy'n deillio o ddyfarniad Pwyllgor Safonau yn cael eu cynnal:

- (a) gan dribiwnlys apelau sy'n cynnwys o leiaf dri aelod o Banel Dyfarnu Cymru,
- (b) drwy gyfrwng gwrandawriad llafar oni bai bod pob person sydd wedi rhoi hysbysiad apêl yn cydsynio i'r apêl gael ei chynnal drwy gyfrwng sylwadau ysgrifenedig yn unol â Rheoliad 10(3)(b) uchod.

(2) Mae llywydd Panel Dyfarnu Cymru (neu yn ei absenoldeb y dirprwy lywydd) i benodi aelodau unrhyw dribiwnlys apelau, ac fe gaiff y llywydd neu'r

(a)(ii) below that a different penalty should be imposed, the Standards Committee must also determine whether or not it should uphold its original determination or accept the recommendation.

(3) After making a determination in accordance with paragraph (1) or (2) above the Standards Committee must notify any person who is the subject of the investigation, any person who made any allegation which gave rise to the investigation and the Local Commissioner in Wales accordingly, giving reasons for the decision.

(4) After making a determination in accordance with paragraph (2) above the Standards Committee must also notify the president of the Adjudication Panel for Wales.

### Right of appeal

10.-(1) Where a Standards Committee determines under Regulation 9(1) above that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales.

(2) The appeal must be instigated by giving notice in writing within 21 days of receiving notification of the Standard Committee's determination to this address:

Local Government Modernisation Division  
National Assembly for Wales  
Cathays Park  
Cardiff  
CF10 3NQ

(3) The notice of appeal must specify:

- (a) the grounds for appeal; and
- (b) whether or not the person giving notice of appeal consents to the appeal being conducted by way of written representations.

### Appeals

11.-(1) Appeals from a determination of a Standards Committee will be conducted:

- (a) by an appeals tribunal consisting of not less than three members of the Adjudication Panel for Wales,
- (b) by way of an oral hearing unless every person who has given notice of appeal consents to the appeal being conducted by way of written representations in accordance with Regulation 10(3)(b) above.

(2) The president of the Adjudication Panel for Wales (or in his absence the deputy president) is to appoint the members of any appeals tribunal, and the president or deputy president may be a member of a tribunal.

dirprwy lywydd fod yn aelod o dribiwnlys.

(3) Ni chaiff aelod o Banel Dyfarnu Cymru fod yn aelod o dribiwnlys apelau a dynnwyd o blith y Panel sydd i ddyfarnu ar fater sy'n ymwneud ag aelod neu aelod cyfetholedig (neu gyn-aelod neu gyn-aelod cyfetholedig) o awdurdod perthnasol ar unrhyw adeg, os yw'r aelod o'r Panel o fewn y cyfnod o bum mlynedd sy'n dod i ben bryd hynny, wedi bod yn aelod neu'n swyddog o'r awdurdod neu'n aelod o unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod.

(4) Rhaid i aelod o Banel Dyfarnu Cymru y mae ganddo fuddiant uniongyrchol neu anuniongyrchol mewn unrhyw fater sy'n destun apêl sy'n cael ei chynnal gan dribiwnlys apelau, neu'n debyg o fod yn destun apêl o'r fath:

- (a) datgelu natur ei fuddiant i lywydd y Panel, a
- (b) peidio â bod yn aelod o'r tribiwnlys apelau sy'n ystyried apêl mewn perthynas â'r mater hwnnw.

(5) Yn ddarostyngedig i unrhyw ddarpariaeth bendant yn y Rheoliadau hyn, bydd yr arferion a'r weithdrefn sydd i'w dilyn gan dribiwnlysoedd apelau a dynnir o blith aelodau Panel Dyfarnu Cymru yn rhai y bydd llywydd y Panel, ar ôl ymgynghori â Chynulliad Cenedlaethol Cymru, yn penderfynu arnynt.

#### Casgliadau tribiwnlys apelau

12. Rhaid i dribiwnlys apelau:

- (a) cadarnhau dyfarniad Pwyllgor Safonau'r awdurdod perthnasol fod unrhyw berson a oedd yn destun yr ymchwiliad wedi torri'r cod ymddygiad a naill ai:
  - (i) cymeradwyo unrhyw gosb a osodwyd, neu
  - (ii) cyfeirio'r mater yn ôl i'r Pwyllgor Safonau gydag argymhelliad bod cosb wahanol yn cael ei gosod;

neu,

- (b) gwrth-droi dyfarniad Pwyllgor Safonau'r awdurdod perthnasol bod unrhyw berson wedi torri'r cod ymddygiad,

a rhaid iddo roi gwybod i unrhyw berson sy'n destun yr ymchwiliad, y Comisiynydd Lleol yng Nghymru a Phwyllgor Safonau'r awdurdod perthnasol yn unol â hyn, gan roi'r rhesymau dros y penderfyniad.

#### Cyhoeddi

13.-(1) Rhaid i Bwyllgor Safonau drefnu bod y canlynol yn cael ei wneud o fewn 14 diwrnod:

- (a) ar ôl i'r amser a ganiateir i gyflwyno hysbysiad apêl o dan Reoliad 10(2) uchod ddod i ben,
- (b) ar ôl i hysbysiad o gasgliad unrhyw apêl yn

(3) A member of the Adjudication Panel for Wales may not at any time be a member of an appeals tribunal drawn from the Panel which is to adjudicate on a matter relating to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the member of the Panel has been a member or an officer of the authority or a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.

(4) A member of the Adjudication Panel for Wales who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an appeal conducted by an appeals tribunal:

- (a) must disclose the nature of his interest to the president of the Panel, and
- (b) may not be a member of the appeals tribunal which considers an appeal in relation to that matter.

(5) Subject to any express provision in these Regulations, the practice and procedure to be followed by appeals tribunals drawn from the Adjudication Panel for Wales will be such as the president of the Panel, after consultation with the National Assembly for Wales, will decide.

#### Conclusions of an appeals tribunal

12. An appeals tribunal must:

- (a) uphold the determination of the relevant authority's Standards Committee that any person who was subject to the investigation breached the code of conduct and either:
  - (i) endorse any penalty imposed, or
  - (ii) refer the matter back to the Standards Committee with a recommendation that a different penalty be imposed;

or,

- (b) overturn the determination of the relevant authority's Standards Committee that any person has breached the code of conduct,

and must inform any person subject to the investigation, the Local Commissioner for Wales and the Standards Committee of the relevant authority accordingly, giving reasons for the decision.

#### Publication

13.-(1) A Standards Committee must cause to be produced within 14 days after:

- (a) the expiry of the time allowed to lodge a notice of appeal under Regulation 10(2) above,
- (b) receipt of notification of the conclusion of any appeal in accordance with Regulation 12(a)(i) or (b) above, or
- (c) a further determination by the Standards

unol â Rheoliad 12(a)(i) neu (b) uchod ddod i law, neu

- (c) ar ôl dyfarniad pellach gan y Pwyllgor Safonau a wnaed ar ôl cael argymhelliad gan dribiwnlys apelau o dan Reoliad 12(a)(ii) uchod,

p'un bynnag sy'n digwydd olaf, adroddiad ar ganlyniad yr ymchwiliad ac anfon copi at y Comisiynydd Lleol yng Nghymru, swyddog monitro'r awdurdod perthnasol o dan sylw, unrhyw berson sy'n destun yr ymchwiliad a chymryd camau rhesymol i anfon copi at unrhyw berson a wnaeth unrhyw honiad a arweiniodd at yr ymchwiliad.

(2) Ar ôl i adroddiad y Pwyllgor Safonau ddod i law, rhaid i swyddog monitro'r awdurdod perthnasol:

- (a) am gyfnod o 21 diwrnod gyhoeddi'r adroddiad ar wefan yr awdurdod perthnasol a threfnu bod copïau ar gael i'w harchwilio gan y cyhoedd yn ddi-dâl ar bob adeg resymol mewn un neu ragor o swyddfeydd yr awdurdod, lle bydd gan unrhyw berson hawl i gymryd copïau o'r adroddiad pan drefnir iddo fod ar gael felly, neu i gymryd detholiadau ohono,
- (b) darparu copi o'r adroddiad i unrhyw berson ar gais os bydd yn talu unrhyw dâl y bydd yr awdurdod perthnasol yn gofyn yn rhesymol amdano, ac
- (c) erbyn saith diwrnod fan bellaf ar ôl i'r adroddiad dod i law oddi wrth y Pwyllgor Safonau, rhoi hysbysiad cyhoeddus, drwy hysbyseb mewn papurau newydd sy'n cylchredeg yn yr ardal ac mewn unrhyw ffyrdd arall sy'n ymddangos iddo eu bod yn briodol, y bydd copïau o'r adroddiad ar gael fel y darperir ar ei gyfer gan is-baragraffau (a) a (b) uchod, a rhaid iddo bennu'r dyddiad (sef dyddiad nad yw'n fwy na saith diwrnod ar ôl i'r hysbysiad cyhoeddus gael ei roi gyntaf) pan fydd y cyfnod o 21 diwrnod yn dechrau.

### Cynrychiolaeth

14. Caiff person sy'n cyflwyno sylwadau llafar i Bwyllgor Safonau neu sy'n apelio yn erbyn penderfyniad gan Bwyllgor Safonau i dribiwnlys apelau sy'n cael ei dynnu o blith aelodau Panel Dyfarnu Cymru ymddangos gerbron y Pwyllgor neu'r tribiwnlys yn bersonol neu gael ei gynrychioli -

- (a) gan gwmsler neu gyfreithiwr, neu  
(b) gan unrhyw berson arall y mae'n ei ddymuno.

### Costau

15.-(1) Ni fydd gan Bwyllgor Safonau awdurdod perthnasol unrhyw bŵer i ddyfarnu unrhyw gostau neu dreuliau sy'n codi o unrhyw un o'i achosion.

(2) Fel rheol rhaid i dribiwnlys apelau beidio â gwneud gorchymyn yn dyfarnu costau neu dreuliau, ond, yn ddarostyngedig i baragraff (3), caiff wneud

Committee made after receiving a recommendation from an appeals tribunal under Regulation 12(a)(ii) above,

whichever occurs last, a report on the outcome of the investigation and send a copy to the Local Commissioner in Wales, the monitoring officer of the relevant authority concerned, any person subject to the investigation and take reasonable steps to send a copy to any person who made any allegation which gave rise to the investigation.

(2) Upon receipt of the report of the Standards Committee, the monitoring officer of the relevant authority shall:

- (a) for a period of 21 days publish the report on the relevant authority's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the authority's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available,
- (b) supply a copy of the report to any person on request if he or she pays such charge as the relevant authority may reasonably require, and
- (c) not later than 7 days after the report is received from by the Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by sub-paragraphs (a) and (b) above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

### Representation

14. A person who makes oral representations to a Standards Committee or who appeals against a decision of a Standards Committee to an appeals tribunal drawn from the Adjudication Panel for Wales may appear before the Committee or tribunal in person or be represented by -

- (a) counsel or a solicitor, or  
(b) any other person he or she desires.

### Costs

15.-(1) The Standards Committee of a relevant authority shall have no power to make an award of any costs or expenses arising from any of its proceedings.

(2) An appeals tribunal shall not normally make an order awarding costs or expenses, but may, subject to paragraph (3), make such an order:-



(a) yn erbyn person os yw o'r farn fod y person hwnnw wedi gweithredu'n wacsaw neu'n flinderus, neu fod ei ymddygiad wrth fynd ar drywydd apêl yn hollol afresymol;

(b) oherwydd gohirio gwrandawriad.

(3) Rhaid peidio â gwneud unrhyw orchymyn o dan baragraff (2)(a) uchod yn erbyn person heb roi cyfle i'r person hwnnw gyflwyno sylwadau yn erbyn gwneud gorchymyn o'r fath.

(a) against a person if it is of the opinion that that person has acted frivolously or vexatiously, or that his or her conduct in pursuing an appeal was wholly unreasonable;

(b) as a result of the postponement or adjournment of a hearing.

(3) No order shall be made under paragraph (2)(a) above against a person without that person having been given an opportunity to make representations against the making of such an order.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a).

21 Mehefin 2001

21st June 2001

*D. Elis-Thomas*

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

2001 Rhif 2281 (Cy. 171 )

**LLYWODRAETH LEOL,  
CYMRU**

Rheoliadau Ymchwiliadau  
Llywodraeth Leol (Swyddogaethau  
Swyddogion Monitro a  
Phwyllgorau Safonau) (Cymru)  
2001

2001 No. 2281 (W. 171 )

**LOCAL GOVERNMENT,  
WALES**

Local Government Investigations  
(Functions of Monitoring Officers  
and Standards Committees)(Wales)  
Regulations 2001

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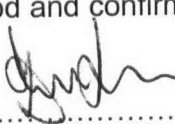


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I, Einir Wyn Thomas, Head of Service (Finance) of the Isle of Anglesey County Council make this Statement at the request of the Standards Committee. This Statement is true to the best of my knowledge and belief.

1. Newly elected Members of the Isle of Anglesey County Council in May 2008 received a letter 20<sup>th</sup> May 2008 from the then Corporate Director of Finance David Elis-Williams and I attach a copy marked Exhibit "ET1" which is Exhibit X in the bundle of documents exhibited to the Ombudsman's Report. This letter would not have been sent to Councillor Hefin Thomas as he was elected before 2008. However I believe that the same or similar letter was sent out to all Members when they were newly appointed, including Councillor Thomas. Guidance would have been available at the beginning of each Member's term of office. I have caused enquiries to be made regarding any material sent to Councillor Hefin Thomas when he was newly elected and I confirm that no such record exists.
2. I refer to Members' allowances and confirm that they are taxable and that we the Council do deduct tax before making payments to Members. There is now produced and shown to me and marked "ET2" a payslip which is used for Members and Officers and which shows the wording used for Councillor Thomas' payslips but the figures have been omitted.
3. I have looked at the system that we use and confirm that we, the Council, have deducted tax on a monthly basis through the PAYE system, and in this particular instance, this has been the case since at least 2005 (i.e. when our new payroll system was introduced). I have no reason to believe that tax was not deducted prior to then. I have looked at our records for Councillor Hefin Thomas throughout the period and confirm that tax and N.I. have been deducted.

Signature ..... 

Dated ..... 6/6/12.

Note – Exhibit "ET1"/Exhibit X – this was in the bundle marked as "Confidential" by the Ombudsman and is therefore confidential except for use by the Standards Committee.

EAT

Mr D Elis-Williams

752602

DEW/ECJ

At: Aelodau Newydd y Cyngor  
To: New Members of the Council

20 Mai/May 2008

Annwyl Aelod

Dear Member

**MATERION ARIANNOL A GWEINYDDOL**

**FINANCIAL AND ADMINISTRATIVE MATTERS**

Ysgrifennaf atoch fel aelodau newydd o'r Cyngor i'ch hysbysu o rai agweddau pwysig ariannol sy'n ymwneud â chi yn bersonol.

I am writing to new members of the Council to advise you of important aspects of financial administration affecting you personally.

**YR HAWL I LWFANSAU**

**ENTITLEMENT TO ALLOWANCES**

Yr ydym wedi gofyn i chwi eisoes am fanylion personol i'n galluogi i dalu'r lwfansau. Mae cynllun lwfansau'r aelodau wedi ei gyhoeddi ar ddiwedd Cyfansoddiad y Cyngor. Byddwn, bob mis (heb i chwi orfod hawlio) yn talu'r Lwfans Sylfaenol a hefyd, pan fo'n berthnasol, yn talu Lwfans Cyfrifoldeb Arbennig a'r Lwfans Dibynyddion.

We have already sought from you the personal information required to pay allowances. The Members' allowance scheme is published at the end of the council's Constitution. We will pay each month (without a claim) the Basic Allowance and, where relevant, Special Responsibility Allowances and Dependants Allowances.

Mae'r Lwfans Dibynyddion ar gael i gynghorwyr sy'n gyfrifol am blant dan 15 oed neu yn gyfrifol am ddibynyddion eraill y mae'n rhaid eu goŕuchwyllo, ac sy'n gorfod mynd i gostau i drefnu gofal i'r dibynyddion er mwyn cyflawni dyletswyddau cyngorydd. Petaech yn teimlo elch bod yn gymwys i dderbyn y lwfans hwn cysylltwch gyda mi os gwelwch yn dda fel bod modd i mi egluro mwy am y dull o hawlio.

Dependants Allowances are available to councillors who have responsibility for children under 15, or for other dependant requiring supervision, and who incur costs to arrange for the dependants care so as to carry out business as a councillors. If you feel you may be eligible please contact me so that I can explain a little more about how to claim.

Dylid cyflwyno ceisiadau am gostau Teithio a Chynhaliaeth yn rheolaidd bob mis ar y ffurflenni perthnasol. (Os na fydd cais yn cael ei gyflwyno cyn pen 3 mis mae'n bosib na chaiff ei dalu o gwbl). Ar ôl llenwi y ffurflenni bob mis gofynnir i chwi eu hanfon at Tracy Eaton yn Adran y Rheolwr Gyfarwyddwr.

Travelling and Subsistence claims should be made regularly each month on the relevant forms supplied. (If not made within three months they may not be paid). When completed each month these forms should be forwarded to Tracy Eaton in the Managing Director's Department.

## ILDIO LWFANSAU

Mae'n bosib i aelodau ildio y cyfan neu ran o'r lwfans taladwy. Petaech yn dymuno gwneud hynny cysylltwch gyda mi os gwelwch yn dda.

## TRETHU TALIADAU TEITHIO

Mae ad-daliad yng nghyswllt ceisiadau am arian teithio yn drethadwy onid ydych eisoes wedi dweud wrthym eich bod yn defnyddio eich cartref i ddibenion neu waith Cyngor - fel engraifft yn cynnal cymorthfeydd i'ch etholwyr yn eich cartref.

## CANLLAWIAU LWFANSAU I GYNGHORWYR, TRETH A BUDD-DALIADAU NAWDD CYMDEITHASOL

Yn gyffredinol, mae lwfansau cyngorwyr yn cael eu trin yn yr un modd â chyflog i bwrpas trethiant. Mae'r lwfansau (hyd yn oed pe bai'n cael ei ildio) yn gallu lleihau unrhyw hawl i fudd-daliadau. Mae arweiniad pellach wedi ei gyhoeddi gan yr Uned Wybodaeth Llywodraeth Leol, a chopi ohono ar gael yn llofa'r aelodau.

## YSWIRIANT

Amgaeaf gopi o nodyn yn manylu ar yr yswiriant a drefnwyd i gyngorwyr tra byddant yn gwneud gwaith cyngor.

## TRETH CYNGOR

Dan Adran 106 o Ddeddf Llywodraeth Leol 1992, mae cynghorydd sydd mwy na dau fis ar ôl gyda thaliadau Treth Cyngor wedi ei wahardd o bleidleisio ar unrhyw fater yn ymwneud â chyllid y Cyngor. Buasai hyn yn digwydd hefyd yn achos rhwymedigaeth ar y cyd â chymar y cynghorydd. Buaswn yn eich annog i dalu trwy ddebyd uniongyrchol i osgoi unrhyw embaras.

## GIVING UP ALLOWANCES

Members may give up all or part of the allowance payable. Would any member wishing to do so please contact me.

## TAXATION OF TRAVELLING

The reimbursement of travelling claims is taxable unless you have certified to us that you also use your home for Council business - for example holding surgeries for constituents.

## GUIDANCE ON COUNCILLORS' ALLOWANCES, TAX AND SOCIAL SECURITY BENEFITS

The general position in relation to allowances is that they are treated just like pay from employment for tax purposes, and that allowances (even if foregone) can reduce any entitlement to benefits. More detailed guidance has been published by the Local Government Information Unit and is available in the members' lounge.

## INSURANCE

I enclose a copy of a note detailing the insurance arranged for councillors while on council business.

## COUNCIL TAX

Under Section 106 of the Local Government Finance Act 1992, a councillor who is more than two months in arrears with Council Tax is prohibited from voting on any matter concerning council finance. This would also apply in the case of joint and several liability with a spouse. I would urge you to pay by direct debit, to avoid any potential embarrassment.

Yr eiddoch yn gywir/Yours sincerely

DAVID ELIS-WILLIAMS

CYFARWYDDWR CORFFORAETHOL(CYLLID)/CORPORATE DIRECTOR (FINANCE)



**CYNGOR SIR  
YNYS MÔN  
ISLE OF ANGLESEY  
COUNTY COUNCIL**

Cyfarwyddwr Cymd • Director of Finance  
Cyngor Sir Ynys Môn • Isle of Anglesey County Council  
Swyddfa'r Sir  
LLANGFENI  
Ynys Môn • Anglesey  
LL77 7TW ☎ 01248 750057

YMHOLIADAU TAL Ms Barbara Haynes  
PAY ENQUIRIES ☎ 01248 752637

| RHIF TÂL<br>PAY No.  | PWYNT TÂL<br>PAY POINT             | ADRAN<br>DEPT    | ADAIN<br>SECTION      | RHIF YSW. GWLAD.<br>NAT. INS. NO. | BLWYDDYN HYD YMA<br>YEAR TO DATE  | SWM<br>AMOUNT |
|--|------------------------------------|------------------|-----------------------|-----------------------------------|---|---------------|
| Z01035   | 0000                               | 2110MEM          | 2110M                 |                                   |   |               |
| MR H W THOMAS<br>PARC YR ODYN<br>PENTRAETH<br>YNYS MÔN<br>LL75 8UL |                                    |                  |                       | 0000                              | Gros Trethadwy<br>Gros Pensiynadwy<br>Cyfanswm Tyniadau<br>Treth<br>Ysw. Gwl. Gweithiwr<br>Pen Ael 6% |               |
| DOSBARTH/CYFEIRNOD TRETH<br>TAX DISTRICT/REFERENCE                 | BLWYDDYN YN GORFFEN<br>YEAR ENDING | CYFNOD<br>PERIOD | COD TRETH<br>TAX CODE |                                   |   |               |
| 914/ B10199  | 05/04/2010                         | 11               | 180LM1                |                                   |   |               |

| TALIADAU<br>PAYMENTS                        | ORIAU/DYDDIAU<br>HOURS/DAYS | CYFRADD<br>RATE | SWM<br>AMOUNT | TYNIADAU<br>DEDUCTIONS                                      | SWM<br>AMOUNT | GWEDDIL<br>BALANCE |
|---|-----------------------------|-----------------|---------------|---|---------------|--------------------|
| Lwfans Sylfaenol Ae<br>Gyrrucar – Trethadwy |                             |                 |               | Treth<br>Ysw. Gwl. D<br>Ysw. Gwl. D<br>Pensiwn Aelodau @ 6% |               |                    |
| CYFANSWM TALIADAU                           |                             |                 |               | CYFANSWM TYNIADAU   |               |                    |

| RHIF BLWYDD-DAL<br>SUPERAN. No. | CYFLOG NET<br>NET PAY | DYDDIAC<br>DATE |
|---------------------------------|-----------------------|-----------------|
| AEYM11-0                        |                       | 25/02/10        |