

ISLE OF ANGLESEY COUNTY COUNCIL

MEETING:	County Council
DATE:	14 th May 2019
TITLE:	Annual Report of the Chair of the Standards Committee
REPORT BY:	Michael Wilson, Chair of the Standards Committee & Independent Member of the Standards Committee
PURPOSE OF REPORT:	To Report on the Activities of the Standards Committee in 2018/19 and to secure Council Approval for the Committee's Programme for 2019/20
CONTACT OFFICER:	Lynn Ball, Head of Function (Council Business) / Monitoring Officer (ext 2568)

Introduction

1. The Standards Committee is a statutory committee which comprises 9 members (2 county councillors, 5 independent members and 2 community council members).
2. The term of four independent members, including the Chair, ends on 19th December 2019. There is currently an open and competitive process underway to fill these vacancies. The process is conducted by the Council's Standards Committee Selection Panel. The term of the fifth member (appointed in 2017) will end on 11.12.2025.
3. The two town and community council representatives were appointed in 2017. Their appointments will run for a period until the next local government election or until such time as the appointees are no longer community council members, whichever occurs first.
4. The two county council members are reappointed annually by the Council.
5. The Standards Committee has (amongst others) the following roles and functions in relation to County Council members and town/community council members:-
 - (a) promoting and maintaining high standards of conduct by members;
 - (b) assisting members to observe their Code of Conduct;
 - (c) advising, training, or arranging to train members;
 - (d) considering applications for dispensations;
 - (e) dealing with any referrals from the Public Services Ombudsman for Wales (PSOW), or the Adjudication Panel for Wales (effectively the national Standards Committee).

Background

6. At its meeting on 15 May 2018 the County Council resolved to approve the Standards Committee's Programme for 2018/2019. The original Programme identified proposed areas of work, timetable and resources. This document is reproduced at **ENCLOSURE A** to this Report and has been updated to include the work which has since been delivered against objectives originally set.
7. **ENCLOSURE B** to this Report contains the Standards Committee's Programme for 2019/2020, which is presented for the Council's endorsement.

Chairman's Comments

8. I would like to thank the Committee for its diligent contributions throughout the year, to acknowledge the support and advice of the officers who assist the Committee, and to thank members of the County Council for their readiness to engage with the work of the Committee.

8.1 Code of Conduct Referrals / Complaints

In 2016, the Committee was pleased to advise the Council that: "less of its time had been spent in conducting hearings, or attending meetings/mediation arising from alleged breaches of the Code of Conduct." This is the third time this Committee can record that this overall trend continues.

The Standards Committee receives reports every quarter, and at its ordinary meetings, which provide statistical information about the number and status of Code of Conduct complaints filed with the PSOW against (a) IOACC's members and (b) town and community council members. In the reports for April 2018 – March 2019, there have been three complaints to the PSOW against town and community council members; all of which have been refused by the PSOW. One complaint was made to the PSOW against an IOACC's member but the PSOW has decided not to investigate. No complaint has been referred by the PSOW to the Standards Committee.

The Committee continues to believe that self-regulation is working and that the reporting of a few complaints to the PSOW, when necessary and appropriate, is an indication of an organisation which appreciates the difference between the inevitable 'cut and thrust' of politics and potentially serious matters which may warrant independent investigation. The Committee believes the number and level of complaints to the PSOW to be an indicator of good corporate health.

Members are reminded that a voluntary and informal Local Resolution Protocol exists, which may resolve matters more quickly and effectively than a complaint to the PSOW, in circumstances where disputes may arise between members. The independent members of the Standards Committee have received training on mediation in order to ensure a comprehensive understanding of the process. No sanction is imposed under the process; a successful outcome depends on the agreement and co-operation of the parties involved.

The PSOW has previously made it clear that, while there is no legal requirement, he expects town and community councils to take all reasonable steps to resolve internal matters under their own local resolution arrangements. The Standards Committee strongly endorses this approach, where appropriate, and this is one area which was considered by the Standards Committee during its review in the town and community councils (see 8.5 below).

8.2 Meetings

The Committee continues to meet formally twice annually. This is the second year with this arrangement and the frequency continues to work well and the agendas at the two formal meetings per year remain appropriate.

Of course, extraordinary meetings may be called to ensure compliance with any statutory obligations and informal meetings will continue as business demands. This has indeed been the case with informal meetings, training sessions and 5 meetings of the Dispensations Panel during the year (see 8.3 below).

8.3 Dispensations

Dispensations may be granted by the Standards Committee, in certain circumstances defined by statute, where the member would otherwise be unable to participate in a debate or decision owing to a significant (prejudicial) personal interest. The Standards Committee may sometimes be in a position to overreach that prejudicial interest if certain conditions are met. The Dispensations Regulations apply to County Council members and town and community council members.

In 2018/2019 the Standards Committee has granted 18 dispensations. 7 have been granted following applications by County Council members and 11 following applications by town and community council members.

The Standards Committee believes the increase shows that County Council members and the clerks to, and members of, the town and community councils are now familiar with the possibility of obtaining dispensations and are confident to make appropriate applications when the need arises. This is probably following the distribution of a [Briefing Note on Dispensations](#), by the Standards Committee, in 2017, with its content being reiterated in Training in May 2017. The Standards Committee is very pleased to note this positive development as it is a means of enabling members to participate as fully as possible in the democratic process for which they were elected, whilst also ensuring that the public has confidence in the objectivity of the decisions being made on their behalf.

All County Council members and town and community council members are advised to consider whether an application for dispensation may be appropriate for them in some circumstances and are encouraged to contact the Monitoring Officer for advice.

8.4 Personal Development

The Standards Committee recommends to all members that they continue to engage with the Training and Development Programme offered by the County Council and that they participate in their Personal Development Reviews with their Group Leaders.

The need to renew and refresh skills and knowledge applies equally to longstanding members as it does to those more recently elected.

8.5 Registers of Interests

Last year it was reported that the Standards Committee had conducted a review of the three registers of interests of the County Council members.

This year, as in 2016/2017, the Standards Committee returned to the town and community councils in order to sample the single register of interests retained by them. The generic findings of that review were published on 16th April 2019 and a copy is attached at **ENCLOSURE C**.

Many County Council members will sit on town or community councils, or act as a “link” between the County Council and their town and community councils, and are asked to please promote and encourage the recommendations in **ENCLOSURE C** to their town and community council member colleagues.

In 2019/2020, it is the Committee’s intention to again review the three registers of interests completed by County Council members, with a view to contacting individual members for discussion and clarification as and when needed. Thereafter the publication of generic advice or recommendations (should any arise). It is intended that this be completed before September 2019, so that it will be one of the last duties of the current Standards Committee before four new independent members are appointed by the County Council in December 2019.

8.6 All Wales Standards Committee Conference

I attended, together with the Vice-Chair of the Standards Committee, the All Wales Standards Committee Conference in Aberystwyth in September 2018. This was a Conference for representatives from all 22 Local Authorities, The National Park authorities and the Fire and Rescue Authorities. This was an informative day with presentations from the Public Services Ombudsman for Wales, and the President of the Adjudication Panel for Wales. We gave a presentation on the Conference’s content to the other members of the Standards Committee at an informal meeting arranged on 30.10.2018.

8.7 Chairman’s Farewell

This is the last report in my role as Chair of the Standards Committee as my term, together with that of 3 other independent members, ends on 19.12.2019. The Standards Committee Selection Panel is currently conducting a recruitment exercise to fill these vacancies (see paragraph 2 above). I wish the new members well.

When I was appointed, along with four other independent members (almost eight years ago), we agreed as a Committee to be proactive and constructive in supporting members to maintain a high standard of conduct in IOACC. I would like to thank the members of IOACC for your support in ensuring the Standards Committee has been able to achieve this aim. In leaving my role as Chair, I hope that the Standards Committee continues with the proactive work it has undertaken over the past 8 years.

This is very much in line with its statutory obligations and also meets the expectations of regulators and the Welsh Government. This approach's success can be measured by the reduction of complaints, while ensuring that the public can be confident in the conduct of their elected members.

I would like to take the opportunity to thank the independent members of the Standards Committee who have been supportive and contributed to the Standards Committee's work over the past 8 years. I would like to thank my Vice Chair, Mr Islwyn Jones, together with Mrs Dilys Shaw and Ms Denise Harris-Edwards. The Standards Committee also has two representative members from the Town and Community Council; Mr Iorwerth Roberts and Mr Keith Roberts were both appointed in 2017 and I thank them, and their predecessors (Mr John Roberts and Mr John Chorlton) for their contributions in relation to Town and Community Council matters. County Councillors Trefor Lloyd Hughes and Dafydd Rhys Thomas have also assisted the Committee by their appointments with their knowledge and understanding of County Council matters, and I thank them for their assistance.

Finally, I would like to take the opportunity to thank the elected members of the County Council for their support to the Standards Committee, and particularly to me as Chair of the Committee, for the last (almost!) 8 years. I wish you, and the Council, every success for the future.

RECOMMENDATION: -

1. To note the Programme delivered by the Standards Committee between April 2018 and May 2019 at **ENCLOSURE A**.
2. To endorse the Standards Committee's Work Programme for 2019/2020 as *-- outlined in **ENCLOSURE B**.

ENCLOSURE A

STANDARDS COMMITTEE WORK PROGRAMME – MAY 2018 TO APRIL 2019

		TIMETABLE	RESOURCES	STATUS AS AT YEAR END
1.	To conduct hearings into alleged breaches of the Members' Code of Conduct following a referral from the Public Services Ombudsman for Wales (PSOW)	<ul style="list-style-type: none"> As and when referrals are made and in accordance with the performance indicator 	<ul style="list-style-type: none"> Monitoring Officer 	<ul style="list-style-type: none"> No referrals
2.	To conduct hearings into applications for Dispensations	<ul style="list-style-type: none"> As and when applications are made and in accordance with the performance indicator 	<ul style="list-style-type: none"> Monitoring Officer 	<ul style="list-style-type: none"> Application for dispensation by 3 members of the same community/town council with the hearing conducted on 29.06.2018. Dispensations were granted to the three in the terms noted in the Minutes. Two received partial dispensations and one received a full dispensation. Please see link to the application/hearing. Application by a member of the County Council with the hearing conducted on 28.01.2019. A dispensation was granted to the member in the terms noted in the Minutes. Please see link to the application/hearing. A Hearing for a Dispensation on 11.02.2019 was cancelled. Applications by 8 members of the

				<p>same town/community council with the hearing conducted on 07.03.2019. A dispensation was granted to the eight members in the terms noted in the Minutes. Please see link to the application/hearing.</p> <ul style="list-style-type: none"> • Application by 5 members of the County Council with the hearing conducted on 22.03.2019. Dispensations were granted to the five members in the terms noted in the Minutes. Please see link to the application/hearing. • Application by a member of the County Council with the hearing conducted on 29.03.2019. A partial dispensation was granted to the member in the terms noted in the Minutes. Please see link to the application/hearing.
3.	To undertake an advisory role in connection with any matters arising under the Council's Local Resolution Protocol	<ul style="list-style-type: none"> • As and when requested 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Standards Committee Chair has met with 4 members during the year in order to conduct Local Resolution. These related to matters within the town / community councils. • The Chair of the Standards Committee has also had 10 meetings with individual County Council members / their Group Leaders in relation to Code of Conduct matters which have arisen during the year.

4.	To oversee training and development on the Members' Code of Conduct in accordance with paragraph 2.6 of the Code	<ul style="list-style-type: none"> • Ready for May 2019 	<ul style="list-style-type: none"> • Monitoring Officer 	<p>TOWN AND COMMUNITY COUNCILS:-</p> <ul style="list-style-type: none"> • Briefing Note on Personal and Prejudicial Interests for town and community council members distributed on 16.04.2019. • Review of the Register of Interests in a sample of the town and community councils held in December 2018/January and February 2019. • Social Media Guidance distributed on 21.08.2018. <p>COUNTY COUNCIL MEMBERS:-</p> <ul style="list-style-type: none"> • Programme presented / developments discussed by the Human Resources Development Manager at the Standards Committee meetings in September 2018 and March 2019. • Training programme has been published to members. • Member Development Charter – the Council has applied for renewal. • Gifts and Hospitality Briefing Note shared with members on 18.04.2019. • Briefing Note to members on their Individual Rights as Members shared with members on 26.04.2019.
5.	To review a sample of the Register of	<ul style="list-style-type: none"> • By the end of 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Review conducted in December

	Members' Interest as retained by town and community councils followed by any necessary advice and guidance	April 2019		<p>2018 / January and February 2019 utilising the Methodology Advice Note.</p> <ul style="list-style-type: none"> • Individual letters sent to the town/community councils reviewed on 11.03.2019. • General findings letter sent to all town and community councils on 16.04.2019 (ENCLOSURE C).
6.	To undertake the role of consultee on any proposed change to the Constitution relevant to the role of the Standards Committee and especially where such proposed changes might disproportionately prejudice the rights and interests of any minority group.	<ul style="list-style-type: none"> • As and when required 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • No referrals
7.	To undertake the role of consultee on any proposed legislative / policy changes etc relevant to the Standards Committee's area of responsibility.	<ul style="list-style-type: none"> • As and when required 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Standards Committee Selection Panel to appoint four new independent members to the Standards Committee – see 15 below • Amended Code of Conduct – adoption by town and community councils • A review of town and community council's compliance with the legal requirements in relation to content of Websites. * • A review of whether town and community councils have adopted a Local Resolution Protocol (non-mandatory) * • A review of whether town and community councils have included

				<p>training arrangements for clerks and members *</p> <ul style="list-style-type: none"> The Standards Committee reviewed Annual Reports by County Council members and made direct contact with members, as appropriate, to encourage the completion of such reports. <p>* As part of the Standards Committee's ongoing review of corporate governance arrangements in town and community councils insofar as they relate to the remit of the Standards Committee.</p>
8.	To make any recommendations to the Council for improvements in those areas of work which relate to the Standards Committee.	<ul style="list-style-type: none"> As and when required 	<ul style="list-style-type: none"> Monitoring Officer 	<ul style="list-style-type: none"> Local Resolution Protocol – amended Protocol approved by Council on 15.05.2018. Standards Committee members attended training on Mediation.
9.	The Chair of the Standards Committee to present an annual report to the Council outlining the work of the committee during the previous year.	<ul style="list-style-type: none"> May 2019 	<ul style="list-style-type: none"> Chair 	<ul style="list-style-type: none"> 14.05.2019
10.	To ensure that the knowledge and skills of the Standards Committee are developed and updated by:-	<ul style="list-style-type: none"> Ongoing 	<ul style="list-style-type: none"> Monitoring Officer 	<ul style="list-style-type: none"> Town and community council members of the Standards Committee undertook a review of the registers of the independent members of the Standards Committee in June 2018. Individual letters of advice were then sent to each member of the

				<p>Standards Committee on 12.07.2018.</p> <ul style="list-style-type: none"> • Methodology Advice Note produced for conducting reviews of Members' Registers of Interests and shared with Group Leaders. (This was shared with members on 1/5/2019) • Methodology Advice Note produced for conducting reviews in the town and community councils.
	<ul style="list-style-type: none"> - regular reviews of decided cases from <ul style="list-style-type: none"> o other relevant authorities o Adjudication Panel for Wales 	<ul style="list-style-type: none"> • Ordinary meetings of the Committee 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Delivered on 12.09.2018 and 13.03.2019 to the Standards Committee. • Published to County Council members on 16.04.2019. • Published to Town and Community Councils on 26.04.2019. • Adjudication Panel for Wales' New Sanctions Guidance sent to Standards Committee members on 4.10.2018. Please see link to report.
	<ul style="list-style-type: none"> - to participate and contribute to the North Wales Standards Committee Forum 	<ul style="list-style-type: none"> • Twice annually 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • 29.06.2018 – Forum Meeting held by Gwynedd County Council. Attended by the Chair and Vice-Chair of the Standards Committee. Please see link to the report. • Next meeting to be hosted by Flintshire County Council on 24.06.2019. The PSOW will

				attend.
	- to participate and contribute to the All Wales Standards Committee Conference.	<ul style="list-style-type: none"> • 14.09.2018 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Chair and Vice-Chair of the Standards Committee and the Solicitor (Corporate Governance) attended the Conference on 14.09.2018 in Aberystwyth. This was reported to the Committee at its informal meeting on 30.10.2018.
	- to be reviewed under a performance appraisal review scheme similar to that used by the County Council's elected members.	<ul style="list-style-type: none"> • One every 2 years – due 2020 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • No PDR process relevant to the co-opted members of the Standards Committee. The next PDR are due in 2020 when the term of the four new independent members will have begun. • Owing to constraints with the electronic system, as with all County Council members, the members of the Standards Committee are advised to ensure that they update their own training records.
11.	To monitor progress on Member complaints filed with the PSOW and to undertake an annual analysis of complaints data in relation to the County Council and town and community councils in order to identify trends/issues of concern/training needs.	<ul style="list-style-type: none"> • Quarterly 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Report to the Standards Committee on 12.09.2018 and 13.03.2019 • Complaints matrix is circulated to Standards Committee members quarterly in April (January-March), July (April-June), October (July-September) and January (October-December). It details the complaints received and the

				<p>progress made regarding those complaints being investigated by the PSOW in relation to (a) County Council members and (b) town and community council members.</p> <ul style="list-style-type: none"> • Report by the PSOW and summary of the Casebook of Code of Conduct complaints received by the PSOW for January and May 2018 reported to the Standards Committee on 12.09.2018. Report circulated to County Council members on 16.04.2019 and town and community councils on 26.04.2019. • Report by the PSOW and summary of the Casebook of Code of Conduct complaints received by the PSOW for July and October 2018 reported to the Standards Committee on 13.03.2019. Report circulated to County Council members on 16.04.2019 and town and community councils on 26.04.2019.
12.	To maintain contact with Group Leaders to discuss any issues of concern.	<ul style="list-style-type: none"> • As and when required 	<ul style="list-style-type: none"> • Chair 	<ul style="list-style-type: none"> • 17.01.2019 • 21.03.2019
13.	<p>Report performance indicators on a default basis</p> <ul style="list-style-type: none"> • Relationship between Members and 	<ul style="list-style-type: none"> • Quarterly 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Reported quarterly

	<p>Political Groups</p> <ul style="list-style-type: none"> • The effectiveness of the Council's Standards Committee • Standards of conduct and behaviour of Members 			
14.	<p>To review the system for members to be providing feedback from Outside Bodies on which they have been appointed and the support which they require from the Council to be able to do this. Consider the information which is made available to the public in relation to those Outside Bodies e.g. Agenda and Minutes of those meetings.</p>	<ul style="list-style-type: none"> • By the end of April 2019 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Standards Committee received a report by the Head of Democratic Services at its meeting on 12.09.2018. • There are now links from each members' biography page on the Council's website to the Outside Bodies s/he has been appointed to by the Council. • This was also considered in the context of the Annual Reports of members.
15.	<p>Begin the process of recruiting 4 new independent members to the Standards Committee, in order to replace the committee members' whose term end in December 2019. The aim would be for those members to attend the last formal meeting of the Standards Committee held in the current members' term in September 2019.</p>	<ul style="list-style-type: none"> • Process to begin by the end of April 2019 	<ul style="list-style-type: none"> • Monitoring Officer 	<ul style="list-style-type: none"> • Standards Committee Selection Panel met on 11.04.2019 to approve the advertisement of the vacancy of four independent members of the Standards Committee. • The closing date for applications is 17.05.2019. • The Standards Committee Selection Panel is meeting after this deadline in order to draw a shortlist of applicants who are to be interviewed in June / July 2019.

ENCLOSURE B

STANDARDS COMMITTEE WORK PROGRAMME – MAY 2019 TO APRIL 2020

		TIMETABLE	RESOURCES	STATUS AS AT YEAR END
1.	To conduct hearings into alleged breaches of the Members' Code of Conduct following a referral from the Public Services Ombudsman for Wales (PSOW)	<ul style="list-style-type: none">As and when referrals are made and in accordance with the performance indicator	<ul style="list-style-type: none">Monitoring Officer	
2.	To conduct hearings into applications for Dispensations	<ul style="list-style-type: none">As and when applications are made and in accordance with the performance indicator	<ul style="list-style-type: none">Monitoring Officer	
3.	To undertake an advisory role in connection with any matters arising under the Council's Local Resolution Protocol	<ul style="list-style-type: none">As and when requested	<ul style="list-style-type: none">Monitoring Officer	
4.	To oversee training and development on the Members' Code of Conduct in accordance with paragraph 2.6 of the Code	<ul style="list-style-type: none">Ongoing	<ul style="list-style-type: none">Monitoring Officer	
5.	To review the three registers of Members' Interests followed by any necessary advice and guidance	<ul style="list-style-type: none">By the end of April 2020	<ul style="list-style-type: none">Monitoring Officer	

6.	To undertake the role of consultee on any proposed change to the Constitution relevant to the role of the Standards Committee and especially where such proposed changes might disproportionately prejudice the rights and interests of any minority group.	<ul style="list-style-type: none"> As and when required 	<ul style="list-style-type: none"> Monitoring Officer 	
7.	To undertake the role of consultee on any proposed legislative / policy changes etc relevant to the Standards Committee's area of responsibility.	<ul style="list-style-type: none"> As and when required 	<ul style="list-style-type: none"> Monitoring Officer 	
8.	To make any recommendations to the Council for improvements in those areas of work which relate to the Standards Committee.	<ul style="list-style-type: none"> As and when required 	<ul style="list-style-type: none"> Monitoring Officer 	
9.	The Chair of the Standards Committee to present an annual report to the Council outlining the work of the committee during the previous year.	<ul style="list-style-type: none"> May 2020 	<ul style="list-style-type: none"> Chair 	
10.	For the Chair or other members of the Standards Committee to attend any meetings of the County Council or its Committees.	<ul style="list-style-type: none"> As and when required 	<ul style="list-style-type: none"> Monitoring Officer 	
11.	To ensure that the knowledge and skills of the Standards Committee are developed and updated by:-		<ul style="list-style-type: none"> Monitoring Officer 	
	<ul style="list-style-type: none"> regular reviews of decided cases from <ul style="list-style-type: none"> other relevant authorities Adjudication Panel for Wales 	<ul style="list-style-type: none"> Ordinary meeting of the Committee 		
	<ul style="list-style-type: none"> to participate and contribute on the North Wales Standards Committee Forum 	<ul style="list-style-type: none"> Twice annually 		

	- to participate and contribute to the All Wales Standards Committee Conference.	<ul style="list-style-type: none"> • One every 2 years – last held 14.09.2018, therefore due 2020 		
	- To be reviewed under a performance appraisal review scheme similar to that used by the County Council members.	<ul style="list-style-type: none"> • One every 2 years – due 2020 		
12.	To monitor progress on complaints against members filed with the PSOW and to undertake an annual analysis of complaints data in relation to the County Council and town and community councils in order to identify any trends or issues of concern/training needs.	<ul style="list-style-type: none"> • Quarterly 	<ul style="list-style-type: none"> • Monitoring Officer 	
13.	To maintain contact with Group Leaders to discuss any issues of concern.	<ul style="list-style-type: none"> • As and when required 	<ul style="list-style-type: none"> • Chair 	
14.	To review performance indicators for the Standards Committee and to report thereon on a default basis	<ul style="list-style-type: none"> • Before April 2020 • Quarterly 	<ul style="list-style-type: none"> • Monitoring Officer 	
15.	To carry out work in relation to the training and induction of 4 new independent members to the Standards Committee, once appointed. The aim would be for those members to attend the last formal meeting of the Standards Committee held in the current members' term in September 2019.	<ul style="list-style-type: none"> • Four vacancies filled by 19 December 2019 when the term of four of the five current independent members ends. 	<ul style="list-style-type: none"> • Monitoring Officer 	

From: [Lynn Ball](#)
To: [Aberffraw](#); [Amlwch](#); [Beaumaris](#); [Bodedern](#); [Bodffordd a Llanfachraeth](#); [Bodorgan Cwm Cadnant](#); [Llanfihangelceifiog](#); [Bryngwran](#); [Cylch-y-Garn Community Council](#); [Holyhead Town Council](#); [Llanbadrig](#); [Llanddaniel Fab](#); [Llanddona a Llangoed](#); [Llanddyfnan](#); [Llaneilian](#); [Llanerchymedd](#); [Llanfaelog](#); [Llanfaethlu](#); [Llanfair ME](#); [Llanfair yn Neubwl](#); [Llanfairpwll](#); [Llangefni](#); [Llangefni](#); [Llanidan](#); [Mechell](#); [Menai Bridge](#); [Moelfre](#); [Penmynydd a Star](#); [Pentraeth](#); [Rhosybol](#); [Rhosyr](#); [Trearddur](#); [Tref Alaw](#); [Trewalchmai](#); [Valley](#)
Subject: Adolygiad y Pwyllgor Safonau - swyddogol / Review by Standards Committee - official
Date: 16 April 2019 15:52:14
Attachments: [495650 - Adroddiad - Adolygiad Cofrestrau.pdf](#)
[495651 - Report - Review of Registers.pdf](#)

Annwyl Glercod,

Yn ei gyfarfod ar 12 Medi 2018, penderfynodd y Pwyllgor Safonau gynnal adolygiad o gofrestrau diddordeb yr aelodau mewn sampl o'r Cynghorau Tref a Chymuned, er mwyn gwirio cydymffurfiaeth gyda'r Cod Ymddygiad. Penderfynwyd y byddai adroddiad cyffredinol yn cael ei gylchredeg i'r holl Gynghorau Tref a Chymuned a fyddai'n manylu ar y canfyddiadau a wnaed yn ystod yr ymarferiad hwn. Ymgais oedd y broses hon i geisio cynorthwyo'r Cynghorau Tref a Chymuned drwy rannu arfer dda ac amlygu materion cyffredin y mae angen eu gwella.

Mae'r adolygiad bellach wedi dod i ben ac mae'r Pwyllgor Safonau wedi paratoi'r **adroddiad atodol**. Nodwch, os gwelwch yn dda, mai arolwg cyffredinol a geir yma; ni chaiff unrhyw Gyngor ei enwi.

Allwch chi sicrhau fod yr adroddiad yma'n cael ei rannu efo'ch aelodau drwy ei gynnwys fel eitem ar y Rhaglen nesaf sydd ar gael gan y Cyngor, os gwelwch yn dda? Gofynnwn i chi hefyd anfon copi o Gofnodion y cyfarfod perthnasol, sy'n cadarnhau fod yr adroddiad wedi ei drafod, i mwjcs@ynysmon.gov.uk. Gofynnwn am eich ymatebion, yn ogystal â chopi o'r Cofnodion, erbyn **diwedd mis Gorffennaf 2019** os gwelwch yn dda. Bydd y mater yn cael ei drafod yng nghyfarfod ffurfiol nesaf y Pwyllgor Safonau ym mis Medi 2019, a bydd yr adroddiad yn cynnwys tabl fydd yn nodi pa Gynghorau Tref a Chymuned sydd wedi / ddim wedi ymateb.

Gobeithiwn y bydd yr adroddiad atodol o gymorth i'ch aelodau o ran eu hymrwymiadau dan y Cod Ymddygiad.

Cofion,

Michael Wilson
Cadeirydd y Pwyllgor Safonau

Dear Clerks,

At its meeting on 12 September 2018, the Standards Committee decided to conduct a review of the register of members' interests in a sample of the Town and Community

Councils, to ensure compliance with the Code of Conduct. It was decided that a general report would be distributed to all Town and Community Councils detailing the findings made following that exercise. This process was an attempt to assist all Town and Community Councils by way of sharing good practice and identifying matters which commonly need to be addressed.

The review has now been concluded and the Standards Committee has compiled the **attached report**. Please note that this is a general overview of the findings made; no individual Council is identified.

Please can you ensure that this report is shared with all members of your Council by including it as an item on the next available Council Agenda. We also ask that you please forward a copy of the Minutes of the relevant meeting, which confirm the report has been discussed, to mwjcs@ynysmon.gov.uk . We would ask for your responses, together with the copy Minutes, by the **end of July 2019** please. This matter will be discussed at the next formal meeting of the Standards Committee in September 2019, and the report will include a matrix detailing which Town and Community Councils have / have not responded.

We trust the attached report assists your members in relation to their obligations under the Code of Conduct.

Regards,

Michael Wilson
Chairman of the Standards Committee

CC-019486-MY/495597

The Isle of Anglesey County Council's Standards Committee Report on the Town and Community Councils Registers of Members' Interests

Report prepared February 2019

A) INTRODUCTION AND BACKGROUND

The Standards Committee is committed to assisting Town and Community Council members in relation to their obligations under the Code of Conduct.

As part of its work programme for 2018-2019, the Standards Committee decided to conduct a review of the registers of members' interests in a sample of the Town and Community Councils, to assess and ensure compliance with the Code of Conduct. It was decided that a general report would be distributed to all Town and Community Councils detailing the outcome of that exercise.

The review has now been concluded and the Standards Committee has compiled this general report, which has been distributed to all the Town and Community Councils. No individual Council is named in this report; a personalised letter has been sent to each Council that was part of the review, giving specific advice. This report contains a general overview of the findings and recommendations.

B) GENERAL COMMENTS

The Standards Committee would first of all like to thank the clerks, and members, from the Town and Community Councils that were reviewed for their time and welcome. The reviews are deemed to have been a fruitful exercise; the Standards Committee was generally pleased with the findings, as several good practices were noted. However, some common areas of concern have also been identified and these require attention. This Report aims to include both, so that it is a useful guidance to all Town and Community Councils on what needs to be done.

C) DOCUMENTS / PAPERWORK REVIEWED

At each Town/ Community Council the following documents, dating back to May 2017 (i.e. the date of the last election), were requested in order to be reviewed:

- Register of Personal Interests;
- Declarations of Interest Forms made in Council meetings;
- Agenda and Minutes for the Council and its Sub-Committees;
- A list of the names of all members (and details of any vacant seat) and copy form of acceptance of office by each current member, including the statutory undertaking to comply with the Code of Conduct;
- The Council's adopted Code of Conduct;
- The Council's adopted Local Resolution Protocol (if any);
- A record of members' and clerk training.

Information was also requested as to:

- the Council's website address, and
- if there was a dispensation valid for any of the Council's Members.

D) FINDINGS

- 1) The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 came into force on 1st April 2016. It means an amended Code of Conduct has been created, and there is a requirement for all Town and Community Councils to adopt this amended Code. Once adopted, there is a requirement for an advertisement to be published in one or more newspapers circulating in the local area, and for a copy of the Code to be sent to the Public Services Ombudsman for Wales. A further copy of the statutory Code of Conduct is enclosed as **Appendix 1** for ease of reference.

Correspondence has been sent to all Town and Community Councils by the Standards Committee on this issue since May 2016.

The Standards Committee was pleased to note that all Town and Community Councils reviewed had adopted the same.

All Councils are asked to ensure the updated Code (**Appendix 1**) is brought to the attention of its members and adopted if not already done so.

- 2) It is a requirement for each member to sign a new undertaking to abide by the Code at the commencement of each term of office. It was therefore expected that there would be a form for each Councillor following the local elections in May 2017, irrespective of whether the member had been re-elected or not and, whether or not an election took place for that Town/Community Council.

This is something which was done in all the Town and Community Councils reviewed. The Standards Committee was pleased that, unlike when the review occurred in 2016, the undertaking is signed before a witness (the status of whom is detailed in section 83(3) of the Local Government Act 1972); [the clerk, as proper officer of the Council, is usually the witness used and this is compliant].

- 3) The Standards Committee is concerned that, in some Town and Community Councils, members do not understand the requirement to declare personal and/or prejudicial interests when they arise. This failing, together with the absence of any record of training (discussed in 8 below) leads the Standards Committee to believe that there is a lack of understanding on the part of some members. It may be worth reminding members that:-

- A personal interest is one of those contained within the definitive list in the Code of Conduct;
- A prejudicial interest is a personal interest which an objective observer would consider so significant that it is likely to compromise a member's ability to make a decision in the public interest;
- The distinction is important because members are allowed to participate when they have a personal interest, but not when they have a personal interest which is also prejudicial. If an interest is prejudicial, members must also physically leave the meeting while the item is under discussion.

Members should ensure they understand their obligations under the Code of Conduct, and if they do not, arrange appropriate training via their clerks. A Briefing Note on the declaration of personal and prejudicial interests by Members of Town and Community Councils is included in **Appendix 2** for sharing with your Members.

If they have any specific questions, they should be seeking advice from their clerk or contact the Monitoring Officer at the IOACC on lbxc@ynysmon.gov.uk

- 4) As of May 2015, Town and Community Councils have a statutory requirement to have websites and to publish specified information on these websites. Statutory Guidance has been issued to assist Councils in fulfilling this obligation and a further copy of this Guidance is attached as **Appendix 3**.

The Standards Committee welcomes the work done in relation to the creation of websites, but is disappointed in relation to the amount of information published on some of the websites which have been created. Councils are reminded of the minimum requirements noted in **Appendix 3**.

- 5) One of the documents which must be published on the Council's website is the Register of Interests. There is no specific format for this Register, but the majority of the Town and

Community Councils reviewed had Registers consisting of the Minutes for the relevant meeting (which confirm the oral declaration of interest made) and the Declaration of Interest forms, completed by each member following an oral declaration of personal and/or prejudicial interest for the first time at a meeting. This is a satisfactory format.

It was noted that many Town and Community Councils go beyond the requirement in the Code to confirm an oral declaration when it is made for the first time by confirming every oral declaration made with written confirmation (hence, there could be several declaration forms by the same member in relation to the same issue at several different meetings). This appears to be good practice and an easier format for the public to be able to review. Albeit, this is not a requirement under the Code of Conduct.

There were no examples of written confirmation by Members that the details of those interests which are disclosed in their Register have changed. Members are reminded of their obligation to confirm any changes to personal/prejudicial interests which have been registered within 28 days of the change having occurred.

Members are also reminded that a personal/prejudicial interest will only be deemed to have been previously disclosed if written notification has been provided since the last date on which the individual was elected, appointed or nominated as a member of the Town/Community Council. Members should bear this in mind particularly in light of the elections which took place in May 2017 – if a declaration was made and registered before then, a Member could not rely on that registration as an election has now occurred and so the Member would need to confirm an oral declaration in writing again so as to be valid for this Term.

Town and Community Councils need to ensure the Register is made available for inspection by the public at all reasonable times, and on the Town or Community Council's website. It appeared from the review that the paper Registers are generally well-maintained but work needs to be done in order to ensure they are available online as soon as possible. This was a concern noted during the 2016 Review, and it remains.

- 6) There is no single format for the Declaration of Interests Form to be used to confirm a declaration of personal and/or prejudicial interest made orally at a meeting. The majority of the 'Declaration Forms' reviewed by the Standards Committee were satisfactory in terms of the information required. However, for ease of reference, the one used by IOACC is attached as **Appendix 4**; this may be amended and adapted, as necessary, for your Community Council.

Although the forms themselves were compliant in terms of the information required, it was clear that some members were not always completing the forms fully and correctly. This is each member's responsibility; a failure to provide full written confirmation of an oral declaration made at a meeting for the first time means the member is not complying with the Code of Conduct. Members are reminded to fully answer all relevant questions on the Declaration Form.

- 7) There is no specific format for Agendas and Minutes; however the Standards Committee considers it good practice to include "Declarations of Interest" as a standing item on each Council Agenda, as a way of reminding members. It was felt that, generally, more information should be included in the Minutes under the 'Declaration of Interest' item i.e. (a) name of the member making the oral declaration, (b) to which agenda item the declaration relates, and (c) whether the declaration made was a personal or prejudicial interest. Furthermore, under the business item itself, it would be good practice for the Minutes to confirm (a) whether a declaration of interest has been made, and by whom, (b) whether the interest is personal or prejudicial, (c) details of the personal/prejudicial interest, and (d) when prejudicial, that the member left the meeting room. Including such information assists with regards to the requirement to maintain a meaningful Register of Interests, but also assists members of the public in ensuring that decisions are made transparently and in the public interest. It may also be good practice, when an oral declaration relates to an interest which a Member has already

registered (i.e. declared orally for the first time and then confirmed the same in writing) for the Minutes to confirm the details of when the interest was registered by the Member – this would ensure transparency for the public should they question the same.

- 8) All the Councils reviewed had a Training Record albeit it was apparent members are reluctant (for various reasons) to attend training. There is no statutory requirement to maintain a Training Record, but the Standards Committee considers it to be good practice. Attending training will assist members with matters such as noted in 3 above (personal / prejudicial matters). Clerks appear to be advising members of training by Un Llais Cymru / One Voice Wales, but members are unable/unwilling to attend training. The Standards Committee would encourage Town/Community Councils to consider training needs of both members and staff and have a training plan in place, and for the same to be actioned. It would be prudent to ensure the training plan is reviewed, perhaps biannually, to ensure it is being followed.
- 9) It was clear from the review that where there is mutual respect between the clerk and the members, requirements are being adhered to more effectively. Members are reminded that clerks are the proper officers within the Town/Community Councils and that their advice should be given due consideration. A properly trained and resourced clerk will assist the Council collectively, being better equipped to advise members, both inside and outside meetings. To this end, Councils are reminded that an element for training (for Clerks and Members) could be included when the Council sets its precept amount. The Councils reviewed as part of this exercise did have a training budget available but it appeared it was not being utilised; the Standards Committee would encourage Town/Community Councils to make use of the money available for any identified training needs.
- 10) It is understood that the majority of Town/Community Councils are members of One Voice Wales. Perhaps it would be prudent for some Councils to ask One Voice Wales for its support in relation to (a) the standing orders/policies which some Town/Community Councils have yet to adopt, (b) training for clerks and members (perhaps jointly with other Town/Community Councils in the locality?), as required and (c) the development / maintenance / content of websites.
- 11) Of the five Town/Community Councils reviewed, two had adopted the Local Resolution Protocol model prepared by One Voice Wales. The Standards Committee welcomes the adoption of such Protocol in the Town/Community Councils, as it is good practice, although not mandatory. The Standards Committee also welcomed the fact that none of the Town/Community Councils where the Protocol had been adopted had reason to use it since its adoption.
- 12) Not many Town/Community Council members seem to be applying for dispensations. Dispensations are available for Members when they have a prejudicial interest, but, because of one of the statutory grounds, the member should be able to participate in the discussion, despite the prejudicial interest (e.g. because of the Member's expertise, or more than half the members of the Town/Community Council has a prejudicial interest etc.).

E. CONCLUSION/RECOMMENDATIONS

The Standards Committee was generally content with the findings and several good practices have been noted:

- (1) records showing that members sign an undertaking to abide by the Code of Conduct at the commencement of their new term of office;
- (2) the maintenance of the paper Register of Members' Interests;
- (3) the 'Declaration Forms' used for declaring personal/prejudicial interests at formal meetings.

However, some areas for improvement were noted:

- (1) some members' apparent lack of understanding of the distinction between personal and/or prejudicial interests needs to be addressed;
- (2) failing to fully complete the 'Declaration Forms';
- (3) a lack of information on websites (including the publication of the Register of Members' Interests);
- (4) attendance at, and the recording of, Training by Members and officers;
- (5) details of interests declared to be included on the Agendas/Minutes for all Council meetings.

Clerks are asked to bring the contents of this report to the attention of all their members by including it as an item on their next available Council Agenda and to forward a copy of the Minutes of that meeting to the Standards Committee by the end of July 2019.

Should members or clerks have any queries in relation to this report, please contact the Monitoring Officer at Isle of Anglesey County Council (Lynn Ball, 01248 752586/lbxcs@ynysmon.gov.uk)

Michael Wilson
Chairman of the Standards Committee



OFFERYNNAU STATUDOL
CYMRU

2008 Rhif 788 (Cy.82)

**LLYWODRAETH LEOL,
CYMRU**

**Gorchymyn Awdurdodau Lleol
(Cod Ymddygiad Enghreifftiol)
(Cymru) 2008**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Sefydlodd Rhan III o Ddeddf Llywodraeth Leol 2000 ("y Ddeddf") fframwaith moesegol newydd ar gyfer llywodraeth leol yng Nghymru.

Mae adran 50(2) o'r Ddeddf yn darparu y caiff Cynulliad Cenedlaethol Cymru ("y Cynulliad") drwy orchymyn ddyroddi cod enghreifftiol o ran yr ymddygiad y disgwylir i aelodau ac aelodau cyfetholedig awdurdodau perthnasol yng Nghymru ei arddel. Trosglwyddir y swyddogaeth hon oddi wrth y Cynulliad i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

Awdurdodau perthnasol yng Nghymru at ddibenion y Gorchymyn hwn yw cynghorau sir, cynghorau bwrdeistref sirol, cynghorau cymuned, awdurdodau tân ac achub ac awdurdodau Parciau Cenedlaethol. Nid yw awdurdodau heddlu'n awdurdodau perthnasol at ddibenion y Gorchymyn hwn.

Mae'n rhaid i god ymddygiad a ddyroddir gan Weinidogion Cymru o dan adran 50(2) o'r Ddeddf fod yn gyson â'r egwyddorion a bennir yn unol ag adran 49(2) o'r Ddeddf a geir ar hyn o bryd yng Ngorchymyn Ymddygiad Aelodau (Egwyddorion) (Cymru) 2001. Mae adran 50(3) o'r Ddeddf yn rhoi'r hawl i Weinidogion Cymru i ddiwygio cod enghreifftiol sydd wedi ei ddyroddi.

Mae'r Gorchymyn hwn yn dirymu Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Cymru) 2001 ac offerynnau statudol blaenorol sy'n diwygio ac yn dyroddi cod enghreifftiol diwygiedig yn unol ag adran 50(2) a (3) o'r Ddeddf. Mae'r

WELSH
STATUTORY INSTRUMENTS

2008 No. 788 (W.82)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Model
Code of Conduct) (Wales) Order
2008**

EXPLANATORY NOTE

(This note is not part of the Order)

Part III of the Local Government Act 2000 ("the Act") established a new ethical framework for local government in Wales.

Section 50(2) of the Act provides that the National Assembly for Wales ("the Assembly") may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in Wales. This function of the Assembly is transferred to the Welsh Ministers by paragraph 30 of schedule 11 to the Government of Wales Act 2006.

Relevant authorities in Wales for the purposes of this Order are county councils, county borough councils, community councils, fire and rescue authorities and National Park authorities. Police authorities are not relevant authorities for the purposes of this Order.

A code of conduct issued by the Welsh Ministers under section 50(2) of the Act must be consistent with the principles specified pursuant to section 49(2) of the Act currently set out in the Conduct of Members (Principles) (Wales) Order 2001. Section 50(3) of the Act entitles the Welsh Ministers to revise a model code which has been issued.

This Order revokes the Conduct of Members (Model Code of Conduct) (Wales) Order 2001 and previous amending statutory instruments and issues a revised model code in pursuance of section 50(2) and (3) of the Act. This Order also continues the disapplication of

Gorchymyn hwn hefyd yn parhau datgymhwysiad darpariaethau statudol sy'n ymwneud â Chod Cenedlaethol Ymddygiad Llywodraeth Leol yng Nghymru (ymhlith eraill).

Mae'r cod enghreifftiol diwygiedig yn yr Atodlen i'r Gorchymyn hwn.

Mae Rhan 1 o'r cod enghreifftiol yn ymwneud â dehongli.

Mae Rhan 2 o'r cod enghreifftiol yn darparu ar gyfer darpariaethau cyffredinol y cod enghreifftiol.

Mae Rhan 3 o'r cod enghreifftiol yn ymwneud â buddiannau personol a buddiannau sy'n rhagfarnu ac â datgelu'r cyfryw fuddiannau gan aelodau ac aelodau cyfetholedig ac â chyfrannu gan aelodau ac aelodau cyfetholedig mewn cysylltiad â'r cyfryw fuddiannau.

Mae Rhan 4 o'r cod enghreifftiol yn ymwneud â'r gofrestr fuddiannau, ac â chofrestru rhoddion a lletygarwch.

statutory provisions relating to (among others) the National Code of Local Government Conduct in Wales.

The revised model code is in the Schedule to this Order.

Part 1 of the model code deals with interpretation.

Part 2 of the model code provides for the general provisions of the model code.

Part 3 of the model code concerns personal interests and prejudicial interests and disclosure of and participation by members and co-opted members in respect of such interests.

Part 4 of the model code concerns the register of interests, registration of gifts and hospitality.

2008 Rhif 788 (Cy.82)

**LLYWODRAETH LEOL,
CYMRU**

**Gorchymyn Awdurdodau Lleol
(Cod Ymddygiad Enghreifftiol)
(Cymru) 2008**

Gwnaed 20 Mawrth 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 25 Mawrth 2008

Yn dod i rym 18 Ebrill 2008

Drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 50(2), 50(3), 50(4), 50(4E), 81(2), 81(3) a 105 o Ddeddf Llywodraeth Leol 2000(1) ac a freiniwyd(2) bellach ynddynt hwy, ac ar ôl gwneud y cyfryw ymgynghoriad ag sy'n ofynnol yn rhinwedd adran 50(5) o'r Ddeddf honno, mae Gweinidogion Cymru, a hwythau'n fodlon bod y cod ymddygiad enghreifftiol a ddyroddir o dan adran 50(2) yn gyson â'r egwyddorion a bennir yng Ngorchymyn Ymddygiad Aelodau (Egwyddorion) (Cymru) 2001(3) a wnaed yn unol ag adran 49(2), yn gwneud y Gorchymyn canlynol:

Enwi, cychwyn a chymhwysio

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Awdurdodau Lleol (Cod Ymddygiad Enghreifftiol) (Cymru) 2008 a daw i rym ar 18 Ebrill 2008.

(2) Mae'r Gorchymyn hwn yn gymwys i bob awdurdod perthnasol yng Nghymru.

(1) 2000 p.22. Diwygir adran 50 gan adran 183 o Ddeddf Llywodraeth Leol a Chymwys y Cyhoedd mewn Iechyd 2007 (p.28).

(2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan adrannau 50, 81 a 105 i Weidogion Cymru o dan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(3) O.S. 2001/2276 (Cy.166) fel y'i diwygiwyd gan O.S. 2005/2929 (Cy.214).

2008 No. 788 (W.82)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Model
Code of Conduct) (Wales) Order
2008**

Made 20 March 2008

*Laid before the National
Assembly for Wales* 25 March 2008

Coming into force 18 April 2008

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 50(2), 50(3), 50(4), 50(4E), 81(2), 81(3) and 105 of the Local Government Act 2000(1) and now vested(2) in them, having carried out such consultation as is required by virtue of section 50(5) of that Act and being satisfied that the model code of conduct being issued under section 50(2) is consistent with the principles specified in the Conduct of Members (Principles) (Wales) Order 2001(3) made pursuant to section 49(2), make the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Local Authorities (Model Code of Conduct) (Wales) Order 2008 and it comes into force on 18 April 2008.

(2) This Order applies to each relevant authority in Wales.

(1) 2000 c.22. Section 50 is amended by section 183 of the Local Government and Public Involvement in Health Act 2007 (c.28).

(2) The functions of the National Assembly for Wales under sections 50, 81 and 105 were transferred to the Welsh Ministers under paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) S.I. 2001/2276 (W.166) as amended by S.I. 2005/2929 (W.214).

Dehongli

2. Yn y Gorchymyn hwn —

mae i "aelod" ("*member*") yr ystyr a geir yn Rhan 1 o'r cod enghrefftiol yn yr Atodlen i'r Gorchymyn hwn;

mae i "aelod cyfetholedig" ("*co-opted member*") yr ystyr a geir yn Rhan 1 o'r cod enghrefftiol yn yr Atodlen i'r Gorchymyn hwn;

mae i "awdurdod perthnasol" ("*relevant authority*") yr ystyr a geir yn Rhan 1 o'r cod enghrefftiol yn yr Atodlen i'r Gorchymyn hwn; ac

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

Cod Ymddygiad Enghrefftiol

3.—(1) Ceir yn yr Atodlen i'r Gorchymyn hwn god enghrefftiol o ran yr ymddygiad y disgwylir i aelodau o awdurdod perthnasol ei arddel.

(2) At ddibenion adran 50(4) o'r Ddeddf, mae darpariaethau'r cod enghrefftiol i'w hystyried yn rhai gorfodol.

Darpariaethau i'w datgymhwysio

4.—(1) Os bydd awdurdod perthnasol yn gyngor sir, cyngor bwrdeistref sirol neu gyngor cymuned, neu'n awdurdod tân ac achub sydd wedi mabwysiadu cod ymddygiad neu os bydd y cyfryw god yn gymwys iddo, datgymhwysir y canlynol o ran yr awdurdod hwnnw, os ydynt yn gymwys i'r awdurdod perthnasol—

- (a) adrannau 94 i 98 a 105 o Ddeddf Llywodraeth Leol 1972(1); a
- (b) unrhyw reoliadau a wnaed neu god a ddyroddwyd o dan adrannau 19 a 31 o Ddeddf Llywodraeth Leol a Thai 1989(2).

(2) Os bydd awdurdod perthnasol yn awdurdod Parc Cenedlaethol sydd wedi mabwysiadu cod ymddygiad neu os bydd y cyfryw god yn gymwys iddo, datgymhwysir y canlynol o ran yr awdurdod hwnnw, os yw'n gymwys i'r awdurdod perthnasol —

- (a) paragraffau 9 a 10 o Atodlen 7 i Ddeddf yr Amgylchedd 1995(3); a
- (b) unrhyw reoliadau a wnaed neu god a ddyroddwyd o dan adrannau 19 a 31 o Ddeddf Llywodraeth Leol a Thai 1989.

(3) Bydd adran 16(1) o Ddeddf Dehongli 1978(4) yn gymwys i ddatgymhwysiad o dan baragraff (1) neu baragraff (2) uchod fel pe bai'n ddiddymiad, gan Ddeddf, o ddeddfiad.

(1) 1972 p.70.

(2) 1989 p.42.

(3) 1995 p.25.

(4) 1978 p.30.

Interpretation

2. In this Order —

"the Act" ("*y Ddeddf*") means the Local Government Act 2000;

"co-opted member" ("*aelod cyfetholedig*") has the meaning set out in Part 1 of the model code in the Schedule to this Order;

"member" ("*aelod*") has the meaning set out in Part 1 of the model code in the Schedule to this Order; and

"relevant authority" ("*awdurdod perthnasol*") has the meaning set out in Part 1 of the model code in the Schedule to this Order.

Model Code of Conduct

3.—(1) A model code as regards the conduct which is expected of members of a relevant authority is set out in the Schedule to this Order.

(2) For the purposes of section 50(4) of the Act, the provisions of the model code are to be regarded as mandatory.

Provisions to be disapplied

4.—(1) Where a relevant authority which is a county, county borough or community council or fire and rescue authority has adopted a code of conduct or such a code applies to it, the following will, where applicable to the relevant authority, be disapplied as respects that authority —

- (a) sections 94 to 98 and 105 of the Local Government Act 1972(1); and
- (b) any regulations made or code issued under sections 19 and 31 of the Local Government and Housing Act 1989(2).

(2) Where a relevant authority which is a National Park authority has adopted a code of conduct or such a code applies to it, the following will, where applicable to the relevant authority, be disapplied as respects that authority —

- (a) paragraphs 9 and 10 of Schedule 7 to the Environment Act 1995(3); and
- (b) any regulations made or code issued under sections 19 and 31 of the Local Government and Housing Act 1989.

(3) Section 16(1) of the Interpretation Act 1978(4) will apply to a disapplication under paragraph (1) or (2) above as if it were a repeal, by an Act, of an enactment.

(1) 1972 c.70.

(2) 1989 c.42.

(3) 1995 c.25.

(4) 1978 c.30.

Dirymu

5. Dirymir y gorchmynion canlynol:

- (a) Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Cymru) 2001(1);
- (b) Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Diwygio) (Cymru) 2004(2); ac
- (c) Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Cymru) (Diwygio) (Rhif 2) 2004(3).

Darpariaethau Trosiannol ac Arbedion

6. Mae'r gorchmynion y cyfeirir atynt yn erthygl 5 yn parhau i fod yn effeithiol at ddibenion y canlynol ac at ddibenion sy'n gysylltiedig â'r canlynol —

- (a) ymchwilio i unrhyw honiad ysgrifenedig o dan Ran 3 o'r Ddeddf, pan fo'r honiad hwnnw'n ymwneud ag ymddygiad a ddigwyddodd cyn y dyddiad pryd, yn unol ag adran 51 o'r Ddeddf(4)—
 - (i) y bydd yr awdurdod perthnasol yn mabwysiadu cod ymddygiad sy'n ymgorffori darpariaethau gorfodol y cod ymddygiad enghreifftiol yn yr Atodlen i'r Gorchymyn hwn yn lle ei god ymddygiad presennol;
 - (ii) y bydd yr awdurdod perthnasol yn diwygio'i god ymddygiad presennol i ymgorffori darpariaethau gorfodol y cod ymddygiad enghreifftiol a geir yn yr Atodlen i'r Gorchymyn hwn; neu
 - (iii) y bydd darpariaethau gorfodol y cod ymddygiad enghreifftiol a geir yn yr Atodlen i'r Gorchymyn hwn yn gymwys i aelodau neu aelodau cyfetholedig o'r awdurdod perthnasol o dan adran 51(5)(b) o'r Ddeddf honno;
- (b) dyfarnu (neu benderfynu) ar fater a godir mewn honiad o'r fath; ac
- (c) apêl yn erbyn penderfyniad pwyllgor safonau, tribiwnlys achos interim neu dribiwnlys achos mewn perthynas â honiad o'r fath.

Revocation

5. The following orders are revoked:

- (a) the Conduct of Members (Model Code of Conduct) (Wales) Order 2001(1);
- (b) the Conduct of Members (Model Code of Conduct) (Amendment) (Wales) Order 2004(2); and
- (c) the Conduct of Members (Model Code of Conduct) (Wales) (Amendment) (No. 2) Order 2004(3).

Transitional Provisions and Savings

6. The orders referred to in article 5 continue to have effect for the purposes of and for purposes connected with —

- (a) the investigation of any written allegation under Part 3 of the Act, where that allegation relates to conduct that occurred before the date when, pursuant to section 51 of the Act(4)—
 - (i) the relevant authority adopts a code of conduct incorporating the mandatory provisions of the model code of conduct in the Schedule to this Order in place of its existing code of conduct;
 - (ii) the relevant authority revises its existing code of conduct to incorporate the mandatory provisions of the model code of conduct in the Schedule to this Order; or
 - (iii) the mandatory provisions of the model code of conduct in the Schedule to this Order apply to members or co-opted members of the relevant authority under section 51(5)(b) of that Act;
- (b) the adjudication (or determination) of a matter raised in such an allegation; and
- (c) an appeal against the decision of a standards committee, an interim case tribunal or case tribunal in relation to such an allegation.

(1) O.S. 2001/2289 (Cy. 177) fel y'i diwygiwyd gan O.S. 2004/163 (Cy. 18); O.S. 2004/1510 (Cy.159); O.S. 2005/2929 (Cy. 214); ac O.S. 2006/362 (Cy. 48).

(2) O.S. 2004/163 (Cy.18).

(3) O.S. 2004/1510 (Cy.159).

(4) Diwygir adran 51 o Ddeddf Llywodraeth Leol 2000 gan adran 35 o Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 a pharagraffau 1 a 3 o Atodlen 4 iddi a chan adran 183 o Ddeddf Llywodraeth Leol a Chynnwys y Cyhoedd mewn Iechyd 2007.

(1) S.I. 2001/2289 (W.177) as amended by S.I. 2004/163 (W.18); S.I. 2004/1510 (W.159); S.I. 2005/2929 (W.214); and S.I. 2006/362 (W.48).

(2) S.I. 2004/163 (W.18).

(3) S.I. 2004/1510 (W.159).

(4) Section 51 of the Local Government Act 2000 is amended by section 35 and paragraphs 1 and 3 of Schedule 4 to the Public Services Ombudsman (Wales) Act 2005 and by section 183 of the Local Government and Public Involvement in Health Act 2007.

Brian Gibbons

Y Gweinidog dros Gyfiawnder Cymdeithasol a
Llywodraeth Leol, un o Weinidogion Cymru

Minister for Social Justice and Local Government, one
of the Welsh Ministers

20 Mawrth 2008

20 March 2008

YR ATODLEN

Y COD YMDDYGIAD ENGHREIFFTIOL

RHAN 1 DEHONGLI

1.—(1) Yn y cod hwn —

mae "aelod" ("*member*") yn cynnwys aelod cyfetholedig onid yw'r cyd-destun yn mynnu fel arall;

ystyr "aelod cyfetholedig" ("*co-opted member*"), mewn perthynas ag awdurdod perthnasol, yw person nad yw'n aelod o'r awdurdod ond—

(a) sy'n aelod o unrhyw bwyllgor neu is-bwyllgor i'r awdurdod, neu

(b) sy'n aelod o unrhyw gyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod, ac sy'n cynrychioli'r awdurdod arno,

ac sydd â'r hawl i bleidleisio ar unrhyw gwestiwn sydd i'w benderfynu mewn unrhyw gyfarfod o'r pwyllgor neu o'r is-bwyllgor hwnnw;

ystyr "eich awdurdod" ("*your authority*") yw'r awdurdod perthnasol yr ydych chi'n aelod neu'n aelod cyfetholedig ohono;

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

(a) cyngor sir,

(b) cyngor bwrdeistref sirol,

(c) cyngor cymuned,

(ch) awdurdod tân ac achub a gyfansoddwyd drwy gynllun o dan adran 2 o Ddeddf Gwasanaethau Tân ac Achub 2004(1) neu gynllun y mae adran 4 o'r Ddeddf honno yn gymwys iddo,

(d) awdurdod Parc Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995(2);

ystyr "cyfarfod" ("*meeting*") yw unrhyw gyfarfod —

(a) o'r awdurdod perthnasol,

(b) o unrhyw weithrediaeth neu fwrdd i'r awdurdod perthnasol,

(c) o unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod perthnasol neu unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor o'r fath i unrhyw weithrediaeth neu fwrdd i'r awdurdod, neu

(ch) y mae aelodau neu swyddogion yr awdurdod perthnasol yn bresennol ynddo ac eithrio cyfarfod grŵp gwleidyddol a gyfansoddwyd yn unol â rheoliad 8 o Reoliadau Llywodraeth Leol (Pwyllgorau a Grwpiau Gwleidyddol) 1990(3),

ac mae'n cynnwys amgylchiadau pan fo aelod o weithrediaeth neu fwrdd neu swyddog sy'n gweithredu ar ei ben ei hun yn arfer un o swyddogaethau awdurdod; ac

ystyr "chi" ("*you*") yw chi fel aelod neu aelod cyfetholedig o awdurdod perthnasol.

Mewn perthynas â chyngor-cymuned, mae cyfeiriadau at swyddog monitro awdurdod a phwyllgor safonau awdurdod i'w darllen, yn y drefn honno, fel cyfeiriadau at swyddog monitro ac at bwyllgor safonau'r cyngor sir neu'r cyngor bwrdeistref sirol y mae ganddo swyddogaethau mewn perthynas â'r cyngor cymuned y mae'n gyfrifol amdano o dan adran 56(2) o Ddeddf Llywodraeth Leol 2000.

(1) 2004 p.21.

(2) 1995 p.25.

(3) O.S. 1990/1553 fel y'i diwygiwyd gan O.S. 1991/1389; O.S. 1993/1339; O.S. 1998/1918; ac O.S. 1999/500.

RHAN 2

DARPARIAETHAU CYFFREDINOL

2.—(1)Ac eithrio pan fo paragraff 3(a) yn gymwys, rhaid i chi gydymffurfio â'r cod ymddygiad hwn —

- (a) pa bryd bynnag y byddwch yn cynnal busnes eich awdurdod, neu'n bresennol mewn un o gyfarfodydd eich awdurdod;
- (b) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu yn rôl aelod y cawsoch eich ethol neu eich penodi iddi;
- (c) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu fel un o gynrychiolwyr eich awdurdod; neu
- (ch) ar bob adeg ac mewn unrhyw gapasiti, mewn cysylltiad ag ymddygiad a nodir ym mharagraffau 6(1)(a) a 7.

(2) Dylech ddarllen y cod hwn ar y cyd â'r egwyddorion cyffredinol a ragnodir o dan adran 49(2) o Ddeddf Llywodraeth Leol 2000 o ran Cymru.

3. Os byddwch wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i wasanaethu —

- (a) ar awdurdod perthnasol arall, neu ar unrhyw gorff arall, sy'n cynnwys awdurdod heddlu neu Fwrdd Iechyd Lleol rhaid i chi, pan fyddwch yn gweithredu ar ran yr awdurdod arall neu'r corff arall hwnnw, gydymffurfio â chod ymddygiad yr awdurdod arall neu'r corff arall hwnnw; neu
- (b) ar unrhyw gorff arall nad oes ganddo god sy'n ymwneud ag ymddygiad ei aelodau, rhaid i chi, pan fyddwch yn gweithredu ar ran y corff arall hwnnw, gydymffurfio â'r cod ymddygiad hwn, ac eithrio pan yw'n gwrthdaro ag unrhyw rwymedigaethau cyfreithlon eraill y gall y corff hwnnw fod yn ddarostyngedig iddynt neu i'r graddau y mae'n gwrthdaro â'r cyfryw rwymedigaethau.

4. Rhaid i chi —

- (a) cyflawni eich dyletswyddau a'ch cyfrifoldebau gan roi sylw dyladwy i'r egwyddor y dylai fod cyfle cyfartal i bawb, waeth beth fo'u rhyw, eu hil, eu hanabledd, eu cyfeiriadedd rhywiol, eu hoed neu eu crefydd;
- (b) dangos parch at eraill ac ystyriaeth ohonynt;
- (c) peidio ag ymddwyn fel bwli neu harasio unrhyw berson; a
- (ch) peidio â gwneud dim sy'n cyfaddawdu, neu sy'n debygol o gyfaddawdu, didueddrwydd y sawl sy'n gweithio i'ch cyngor neu ar ei ran.

5. Rhaid i chi —

- (a) peidio â datgelu gwybodaeth gyfrinachol neu wybodaeth y byddai'n rhesymol ystyried ei bod o natur gyfrinachol, heb gydsyniad datganedig person a awdurdodwyd i roi cydsyniad o'r fath, neu onid yw'r gyfraith yn mynnu eich bod yn gwneud hynny;
- (b) peidio â rhwystro unrhyw berson rhag gweld gwybodaeth y mae gan y person hwnnw hawl i'w gweld yn ôl y gyfraith.

6.—(1)Rhaid i chi —

- (a) peidio ag ymddwyn mewn ffordd y gellid yn rhesymol ei hystyried yn un sy'n dwyn anfri ar eich swydd neu ar eich awdurdod;
- (b) adrodd, p'un ai drwy weithdrefn adrodd gyfrinachol eich awdurdod neu'n uniongyrchol i'r awdurdod priodol, ar unrhyw ymddygiad gan aelod arall neu gan unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran ac y mae'n rhesymol i chi fod o'r farn ei fod yn golygu neu'n debygol o olygu ymddygiad troseddol (nad yw at ddibenion y paragraff hwn yn cynnwys tramgwyddau neu ymddygiad y gellir ei gosbi drwy gosb benodedig);
- (c) adrodd i Ombwdsmon Gwasanaethau Cyhoeddus Cymru ac i swyddog monitro eich awdurdod ar unrhyw ymddygiad gan aelod arall y mae'n rhesymol i chi fod o'r farn ei fod yn groes i'r cod ymddygiad hwn;
- (ch) peidio â gwneud cwynion blinderus, maleisus neu wacsaw yn erbyn aelodau eraill neu unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran.

(2) Rhaid i chi gydymffurfio ag unrhyw gais gan swyddog monitro eich awdurdod, neu gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru, mewn cysylltiad ag ymchwiliad a wneir yn unol â'u gwahanol bwerau statudol.

7. Rhaid i chi —

- (a) yn eich capasiti swyddogol neu fel arall, beidio â defnyddio neu geisio defnyddio eich safle yn amhriodol i roi neu i sicrhau mantais i chi eich hun neu i unrhyw berson arall, neu i greu neu i osgoi anfantais i chi eich hun neu i unrhyw berson arall;
- (b) peidio â defnyddio adnoddau eich awdurdod, neu awdurdodi eraill i'w defnyddio—
 - (i) yn annoeth;
 - (ii) yn groes i ofynion eich awdurdod;
 - (iii) yn anghyfreithlon;
 - (iv) ac eithrio mewn dull a fwriedir i hwyluso neu i ffafrio cyflawni swyddogaethau'r awdurdod neu'r swydd yr ydych wedi eich ethol neu eich penodi iddo neu iddi;
 - (v) yn amhriodol at ddibenion gwleidyddol; neu
 - (vi) yn amhriodol at ddibenion preifat.

8. Rhaid i chi —

- (a) pan fyddwch yn cyfrannu mewn cyfarfodydd neu'n gwneud penderfyniadau ynghylch busnes y mae a wnelo eich awdurdod ag ef, wneud hynny ar sail rhinweddau'r amgylchiadau o dan sylw ac er budd y cyhoedd gan roi sylw i unrhyw gyngor perthnasol a ddarperir gan swyddogion eich awdurdod, ac yn benodol gan —
 - (i) pennaeth gwasanaeth taledig yr awdurdod;
 - (ii) prif swyddog cyllid yr awdurdod;
 - (iii) swyddog monitro'r awdurdod;
 - (iv) prif swyddog cyfreithiol yr awdurdod (y dylid ymgynghori ag ef pan fo unrhyw amheuaeth ynghylch pŵer yr awdurdod i weithredu, ynghylch a yw'r cam a arfaethir yn dod o fewn y fframwaith polisi y cytunwyd arno gan yr awdurdod neu os gallai canlyniadau cyfreithiol gweithredu neu fethu â gweithredu gan yr awdurdod gael ôl-ffeithiau pwysig);
- (b) rhoi rhesymau dros bob penderfyniad yn unol ag unrhyw ofynion statudol ac unrhyw ofynion rhesymol ychwanegol a osodir gan eich awdurdod.

9. Rhaid i chi —

- (a) parchu'r gyfraith a rheolau eich awdurdod sy'n llywodraethu hawlio treuliau a lwfansau mewn cysylltiad â'ch dyletswyddau fel aelod;
- (b) osgoi derbyn rhoddion oddi wrth neb, na lletygarwch (ac eithrio lletygarwch swyddogol, megis derbyniad dinesig neu weithio dros ginio, a awdurdodir yn briodol gan eich awdurdod) na buddiannau materol neu wasanaethau i chi eich hun neu i unrhyw berson os byddai gwneud hynny'n eich rhoi o dan rwymedigaeth amhriodol, neu os gallai'n rhesymol ymddangos fel pe bai'n gwneud hynny.

RHAN 3

BUDDIANNAU

Buddiannau Personol

10.—(1) Ym mhob mater rhaid i chi ystyried a oes gennych fuddiant personol, ac a yw'r cod ymddygiad hwn yn ei gwneud yn ofynnol i chi ddatgelu'r buddiant hwnnw.

(2) Rhaid i chi ystyried bod gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef —

- (a) os yw'n gysylltiedig â'r canlynol, neu'n debygol o effeithio arnynt —
 - (i) unrhyw gyflogaeth yr ydych yn ymgymryd â hi neu fusnes yr ydych yn ei redeg;
 - (ii) unrhyw berson sy'n eich cyflogi neu sydd wedi eich penodi, unrhyw ffyrm yr ydych yn bartner ynddi neu unrhyw gwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl;
 - (iii) unrhyw berson, ac eithrio eich awdurdod, sydd wedi rhoi taliad i chi mewn cysylltiad â'ch ethol neu mewn cysylltiad ag unrhyw dreuliau a dynnwyd gennych wrth i chi gyflawni eich dyletswyddau fel

aelod;

- (iv) unrhyw gorff corfforaethol y mae ganddo le busnes neu dir yn ardal eich awdurdod, ac y mae gennych chi fuddiant llesionol mewn dosbarth o warannau sydd gan y corff hwnnw ac sy'n werth mwy na'r gwerth enwol o £25,000 neu un ganfed ran o gyfanswm cyfalaf cyfrannau dyroddedig y corff hwnnw;
- (v) unrhyw gontract am nwyddau, gwasanaethau neu waith neu weithfeydd a wnaed rhyngoch chi, rhwng ffyrn yr ydych yn bartner ynddi, neu rhwng cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu rhwng corff o'r math a ddisgrifir yn is-baragraff (iv) uchod a'ch awdurdod;
- (vi) unrhyw dir y mae gennych fuddiant llesionol ynddo ac sydd yn ardal eich awdurdod;
- (vii) unrhyw dir y mae eich awdurdod yn landlord arno ac y mae ffyrn yr ydych yn bartner ynddi, cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu gorff o'r math a ddisgrifir yn is-baragraff (iv) uchod yn denant arno;
- (viii) unrhyw gorff yr ydych wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;
- (ix) unrhyw —
 - (aa) awdurdod cyhoeddus neu gorff sy'n arfer swyddogaethau o natur gyhoeddus;
 - (bb) cwmni, cymdeithas ddiwydiannol a darbodus, elusen, neu gorff arall a chanddo ddibenion elusenol;
 - (cc) corff y mae dylanwadu ar farn neu bolisi cyhoeddus ymhlith ei brif ddibenion;
 - (chch) undeb llafur neu gymdeithas broffesiynol; neu
 - (dd) clwb preifat neu gymdeithas breifat sy'n gweithredu o fewn ardal eich awdurdod,

yr ydych yn aelod ohono neu ohoni neu mewn safle rheolaeth neu reoli cyffredinol ynddo neu ynddi;

- (x) unrhyw dir yn ardal eich awdurdod y mae gennych drwydded (ar eich pen eich hun neu ar y cyd ag eraill) i'w feddiannu am 28 o ddiwrnodau neu fwy;
- (b) pe byddai'n rhesymol i aelod o'r cyhoedd ganfod bod gwrthdaro rhwng eich rôl o ran gwneud penderfyniad, ar y busnes hwnnw, ar ran eich awdurdod yn gyfan a'ch rôl o ran cynrychioli buddiannau etholwyr yn eich ward neu eich dosbarth etholiadol; neu
- (c) pe byddai'n rhesymol ystyried penderfyniad arno yn benderfyniad a fyddai'n effeithio —
 - (i) ar eich llesiant neu eich sefyllfa ariannol, neu lesiant neu sefyllfa ariannol person yr ydych yn byw gydag ef, neu unrhyw berson y mae gennych gysylltiad personol agos ag ef;
 - (ii) ar unrhyw gyflogaeth yr ymgymerir â hi neu fusnes a redir gan bersonau fel a ddisgrifir yn 10(2)(c)(i);
 - (iii) ar unrhyw berson sy'n cyflogi neu sydd wedi penodi'r cyfryw bersonau ag a ddisgrifir yn 10(2)(c)(i), unrhyw ffyrn y mae'r cyfryw bersonau'n bartneriaid ynddi, neu unrhyw gwmni y maent yn gyfarwyddwyr arno;
 - (iv) ar unrhyw gorff corfforaethol y mae gan bersonau fel a ddisgrifir yn 10(2)(c)(i) fuddiant llesionol mewn dosbarth o warannau sy'n werth mwy na'r gwerth enwol o £5,000; neu
 - (v) ar unrhyw gorff a restrir ym mharagraffau 10(2)(a)(ix)(aa) i (dd) y mae personau a ddisgrifir yn 10(2)(c)(i) mewn safle rheolaeth neu reoli cyffredinol ynddo,

a hynny i raddau mwy—

- (aa) yn achos awdurdod â dosbarthiadau etholiadol neu wardiau, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn y dosbarth etholiadol neu'r ward, yn ôl y digwydd, y bydd y penderfyniad yn effeithio arnynt; neu
- (bb) ym mhob achos arall, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, o bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn ardal yr awdurdod.

Datgelu Buddiannau Personol

11.—(1) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn bresennol mewn cyfarfod lle y caiff y busnes hwnnw ei ystyried, rhaid i chi ddatgelu ar lafar gerbron y cyfarfod hwnnw fodolaeth a natur y buddiant hwnnw cyn i'r cyfarfod ystyried y busnes neu ar ddechrau'r ystyriaeth, neu pan ddaw'r buddiant i'r amlwg.

(2) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn gwneud —

- (a) cynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod ynghylch y busnes hwnnw, dylech gynnwys

manylion am y buddiant hwnnw yn y gyfathrebiaeth ysgrifenedig; neu

- (b) cynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod dylech ddatgelu'r buddiant ar ddechrau'r cyfryw gynrychioliadau, neu pan ddaw'n amlwg i chi fod gennych fuddiant o'r fath, a chadarnhau'r cynrychioliad a'r buddiant yn ysgrifenedig o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

(3) Yn ddarostyngedig i baragraff 14(1)(b) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch wedi gwneud penderfyniad wrth arfer un o swyddogaethau gweithrediaeth neu fwrdd, rhaid i chi mewn perthynas â'r busnes hwnnw sicrhau bod unrhyw ddatganiad ysgrifenedig ynghylch y penderfyniad hwnnw'n cofnodi bodolaeth a natur eich buddiant.

(4) Rhaid i chi, mewn cysylltiad â buddiant personol nas datgelwyd eisoes, cyn cyfarfod neu'n syth ar ôl diwedd cyfarfod pan ddatgelir y buddiant yn unol ag is-baragraff 11(1), roi hysbysiad ysgrifenedig i'ch awdurdod yn unol ag unrhyw ofynion a nodir gan swyddog monitro eich awdurdod o bryd i'w gilydd ond, rhaid cynnwys o leiaf —

- (a) manylion am y buddiant personol;
- (b) manylion am y busnes y mae'r buddiant personol yn gysylltiedig ag ef; ac
- (c) eich llofnod.

(5) Pan fydd eich swyddog monitro wedi cytuno bod yr wybodaeth sy'n ymwneud â'ch buddiant personol yn wybodaeth sensitif, yn unol â pharagraff 16(1), mae eich rhwymedigaethau o dan y paragraff 11 hwn i ddatgelu'r cyfryw wybodaeth, p'un ai ar lafar neu'n ysgrifenedig, i'w disodli gan rwymedigaeth i ddatgelu bodolaeth buddiant personol ac i gadarnhau bod eich swyddog monitro wedi cytuno bod y cyfryw fuddiant personol o natur gwybodaeth sensitif.

(6) At ddibenion is-baragraff (4), dim ond os bod hysbysiad ysgrifenedig wedi ei ddarparu yn unol â'r cod hwn ers y dyddiad diwethaf pryd yr etholwyd chi, y penodwyd chi neu yr enwebwyd chi'n aelod o'ch awdurdod y bernir bod buddiant personol wedi ei ddatgelu eisoes.

(7) At ddibenion is-baragraff (3), os na ddarperir hysbysiad ysgrifenedig yn unol â'r paragraff hwnnw bernir na fyddwch wedi datgan buddiant personol yn unol â'r cod hwn.

Buddiannau sy'n Rhagfarnu

12.—(1) Yn ddarostyngedig i is-baragraff (2) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef bydd gennych hefyd fuddiant sy'n rhagfarnu yn y busnes hwnnw os bydd y buddiant yn un y bydd yn rhesymol i aelod o'r cyhoedd sy'n gwybod y ffeithiau perthnasol fod o'r farn ei fod mor arwyddocaol fel y bydd yn debygol o ragfarnu eich barn ynghylch buddiant cyhoeddus.

(2) Yn ddarostyngedig i is-baragraff (3), nid ystyrir bod gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes os bydd y busnes hwnnw—

- (a) yn gysylltiedig—
 - (i) ag awdurdod perthnasol arall yr ydych hefyd yn aelod ohono;
 - (ii) ag awdurdod cyhoeddus arall neu gorff sy'n arfer swyddogaethau o natur gyhoeddus lle yr ydych mewn safle rheolaeth neu reoli cyffredinol;
 - (iii) â chorff yr ydych wedi cael eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;
 - (iv) â'ch rôl fel llywodraethwr ysgol (os na chwawsoch eich penodi neu eich enwebu gan eich awdurdod) oni bai bod y busnes yn benodol gysylltiedig â'r ysgol yr ydych yn un o'i llywodraethwyr;
 - (v) â'ch rôl fel aelod o Fwrdd Iechyd Lleol os na chwawsoch eich penodi neu eich enwebu gan eich awdurdod i fod arno;
- (b) yn gysylltiedig:
 - (i) â swyddogaethau tai eich awdurdod os oes gennych denantiaeth neu les gyda'ch awdurdod, ar yr amod nad oes arnoch i'ch awdurdod ôl-ddyledion rhent o fwy na deufis, ac ar yr amod nad yw'r swyddogaethau hynny'n ymwneud yn arbennig â'ch tenantiaeth neu â'ch les;
 - (ii) â swyddogaethau eich awdurdod mewn cysylltiad â phrydau ysgol, cludiant a threuliau teithio, os ydych chi'n warchodwr, yn rhiant, yn fam-gu neu'n nain neu'n dad-cu neu'n daid, neu os oes gennych gyfrifoldeb rhiant (fel y'i diffinnir yn adran 3 o Deddf Plant 1989) dros blentyn sy'n cael addysg lawnamser, onid yw'r busnes yn benodol gysylltiedig â'r ysgol y mae'r plentyn hwnnw'n ei mynychu;
 - (iii) â swyddogaethau eich awdurdod mewn cysylltiad â thâl salwch statudol o dan Ran XI o Ddeddf

Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992, os ydych yn cael, neu os oes gennych hawl i gael, taliad o'r fath gan eich awdurdod;

- (iv) â swyddogaethau eich awdurdod mewn cysylltiad â lwfans neu daliad a wneir o dan adrannau 22(5), 24(4) a 173 i 176 o Deddf Llywodraeth Leol 1972, lwfans neu bensiwn o dan adran 18 o Deddf Llywodraeth Leol a Thai 1989 neu lwfans neu daliad o dan adran 100 o Deddf Llywodraeth Leol 2000;
- (c) yn gysylltiedig â'ch rôl fel cynghorydd cymunedol mewn perthynas â grant, benthyciad neu fath arall ar gymorth ariannol a wnaed gan eich cyngor cymuned i gyrff cymunedol neu wirfoddol hyd at uchafswm o £500.

(3) Nid yw'r esemptiadau yn is-baragraff (2)(a) yn gymwys os yw'r busnes yn gysylltiedig â dyfarnu ar unrhyw gymeradwyaeth, cydsyniad, trwydded, caniatâd neu gofrestrriad.

Pwyllgorau Trosolygu a Chraffu

13. Bydd gennych hefyd fuddiant sy'n rhagfarnu mewn unrhyw fusnes sydd gerbron un o bwyllgorau trosolygu a chraffu eich awdurdod (neu un o is-bwyllgorau pwyllgor o'r fath) —

- (a) os bydd y busnes hwnnw'n gysylltiedig â phenderfyniad a wnaed (p'un a gafodd ei weithredu ai peidio) neu gam a gymerwyd gan weithrediaeth, bwrdd, neu un arall o bwyllgorau, is-bwyllgorau, cyd-bwyllgorau neu o gyd-is-bwyllgorau eich awdurdod; a
- (b) os oeddech chi, ar yr adeg pan wnaed y penderfyniad neu pan gymerwyd y cam, yn aelod o'r weithrediaeth, y bwrdd, y pwyllgor, yr is-bwyllgor, y cyd-bwyllgor neu'r cyd-is-bwyllgor a grybwyllir yn is-baragraff (a) a'ch bod chi'n bresennol pan wnaed y penderfyniad hwnnw neu pan gymerwyd y cam hwnnw.

Cyfrannu mewn Perthynas â Datgelu Buddiannau

14.—(1) Yn ddarostyngedig i is-baragraffau (2), (3) a (4), os bydd gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef rhaid i chi, oni roddwyd i chi ollyngiad gan bwyllgor safonau eich awdurdod —

- (a) ymadael â'r ystafell, y siambr neu'r man lle y mae cyfarfod i ystyried y busnes yn cael ei gynnal—
 - (i) pan fo is-baragraff (2) yn gymwys, yn syth ar ôl i'r cyfnod ar gyfer gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes ddod i ben a beth bynnag cyn i ystyriaeth bellach o'r busnes ddechrau, p'un a ganiateir i'r cyhoedd aros yn bresennol ar gyfer y cyfryw ystyriaeth ai peidio; neu
 - (ii) mewn unrhyw achos arall, pa bryd bynnag y daw i'r amlwg bod y busnes hwnnw'n cael ei ystyried yn y cyfarfod hwnnw;
- (b) peidio ag arfer swyddogaethau gweithrediaeth neu fwrdd mewn perthynas â'r busnes hwnnw;
- (c) peidio â cheisio dylanwadu ar benderfyniad ynghylch y busnes hwnnw;
- (ch) peidio â gwneud unrhyw gynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) mewn perthynas â'r busnes hwnnw; a
- (d) peidio â gwneud unrhyw gynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) mewn cysylltiad â'r busnes hwnnw neu rhaid i chi roi'r gorau ar unwaith i wneud y cyfryw gynrychioliadau llafar pan ddaw'r buddiant sy'n rhagfarnu i'r amlwg.

(2) Os oes gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef cewch fod yn bresennol mewn cyfarfod ond dim ond er mwyn gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes, ar yr amod y caniateir hefyd i'r cyhoedd fod yn bresennol yn y cyfarfod i'r un diben, p'un ai o dan hawl statudol neu fel arall.

(3) Nid yw is-baragraff (1) yn eich rhwystro rhag bod yn bresennol a chyfrannu mewn cyfarfod —

- (a) os gofynnir i chi fod yn bresennol mewn cyfarfod pwyllgor trosolwg neu graffu, gan y cyfryw bwyllgor ac yntau'n arfer ei bwerau statudol; neu
- (b) os oes gennych y fantais o fod gollyngiad wedi ei roi i chi ar yr amod—
 - (i) eich bod yn datgan yn y cyfarfod eich bod yn dibynnu ar y gollyngiad; a
 - (ii) eich bod, cyn y cyfarfod neu'n syth ar ôl i'r cyfarfod orffen, yn rhoi hysbysiad ysgrifenedig i'ch awdurdod a bod hwnnw'n cynnwys —
 - (aa) manylion y buddiant sy'n rhagfarnu;

- (bb)manyllion y busnes y mae'r buddiant sy'n rhagfarnu'n gysylltiedig ag ef;
- (cc)manyllion y gollyngiad a'r dyddiad pryd y'i rhoddwyd; a
- (chch) eich llofnod.

(4) Os bydd gennych fuddiant sy'n rhagfarnu a'ch bod yn gwneud cynrychioliadau ysgrifenedig neu lafar i'ch awdurdod gan ddibynnu ar ollyngiad, rhaid i chi ddarparu manyllion am y gollyngiad o fewn unrhyw gynrychioliad ysgrifenedig neu lafar o'r fath ac, yn yr achos olaf hwn, rhaid i chi ddarparu hysbysiad ysgrifenedig ar gyfer eich awdurdod o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

RHAN 4

COFRESTR BUDDIANNAU AELODAU

Cofrestru Buddiannau Ariannol a Buddiannau Eraill ac Aelodaeth o Gyrrff a Safleoedd Rheoli

15.—(1) Yn ddarostyngedig i is-baragraff (3), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl—

- (a) i god ymddygiad eich awdurdod gael ei fabwysiadu neu i ddarpariaethau gorfodol y cod enghreifftiol hwn gael eu cymhwyso i'ch awdurdod; neu
- (b) i chi gael eich ethol neu eich penodi i swydd (os digwydd hynny'n ddiweddarach),

gofrestru eich buddiannau ariannol a'ch buddiannau eraill, os ydynt yn dod o fewn categori a grybwyllir ym mharagraff 10(2)(a) yng nghofrestr eich awdurdod a gedwir o dan adran 81(1) o Deddf Llywodraeth Leol 2000, drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(2) Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw fuddiant personol newydd neu o newid i unrhyw fuddiant personol a gofrestrwyd o dan is-baragraff (1), gofrestru'r buddiant personol newydd hwnnw neu'r newid drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(3) Nid yw is-baragraffau (1) a (2) yn gymwys i wybodaeth sensitif a benderfynir yn unol â pharagraff 16(1).

(4) Ni fydd is-baragraff (1) yn gymwys os ydych yn aelod o awdurdod perthnasol sy'n gyngor cymuned pan fyddwch yn gweithredu yn eich capasiti fel aelod o awdurdod o'r fath.

Gwybodaeth sensitif

16.—(1) Os byddwch yn ystyried bod yr wybodaeth sy'n ymwneud ag unrhyw un neu rai o'ch buddiannau personol yn wybodaeth sensitif, a bod swyddog monitro eich awdurdod yn cytuno, nid oes angen i chi gynnwys yr wybodaeth honno pan fyddwch yn cofrestru'r buddiant hwnnw, neu, yn ôl y digwydd, newid i'r buddiant o dan baragraff 15.

(2) Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi ddod yn ymwybodol o unrhyw newid yn eich amgylchiadau sy'n golygu nad yw gwybodaeth sydd wedi ei heithrio o dan is-baragraff (1) mwyach yn wybodaeth sensitif, hysbysu swyddog monitro eich awdurdod gan ofyn am i'r wybodaeth gael ei chynnwys yng nghofrestr buddiannau aelodau eich awdurdod.

(3) Yn y cod hwn, ystyr "gwybodaeth sensitif" ("*sensitive information*") yw gwybodaeth y mae ei rhoi ar gael i'w harchwilio gan y cyhoedd yn creu, neu'n debygol o greu, risg ddifrifol y gallech chi neu berson sy'n byw gyda chi fod yn destun trais neu fygythion.

Cofrestru Rhoddion a Lletygarwch

17. Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi gael unrhyw rodd, lletygarwch, buddiant materol neu fantais faterol, sy'n fwy na gwerth a bennir mewn penderfyniad gan eich awdurdod, ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod yn nodi bodolaeth a natur y rhodd honno, y lletygarwch hwnnw, y buddiant materol hwnnw neu'r fantais faterol honno.

SCHEDULE

THE MODEL CODE OF CONDUCT

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

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

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

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee 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),

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

"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.

(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.

(2) 2004 c.21.

(3) 1995 c.25.

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 sub-committee 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, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee 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.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
- (b) you have the benefit of a dispensation provided that you —
 - (i) state at the meeting that you are relying on the dispensation; and
 - (ii) before or immediately after the close of the meeting give written notification to your authority containing —
 - (aa) details of the prejudicial interest;
 - (bb) details of the business to which the prejudicial interest relates;
 - (cc) details of, and the date on which, the dispensation was granted; and
 - (dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests and Memberships and Management Positions

15.—(1) Subject to sub-paragraph (3), you must, within 28 days of—

- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
- (b) your election or appointment to office (if that is later),

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.

BRIEFING NOTE FOR TOWN AND COMMUNITY COUNCILLORS

The Declaration of Personal and Prejudicial Interests by Members

Enclosures:

Appendix 1: Model Code of Conduct

Appendix 2: Guidance from the Public Services Ombudsman for Wales

Appendix 3: IOACC Declaration at Meetings Form

Appendix 4: Advice circulated by One Voice Wales in August 2015

A. Background

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 came into force on 1st April 2016. An amended Code of Conduct was created at that time together with a requirement for all Town and Community Councils to adopt the new Code. A copy of the Model Code of Conduct is included as **Appendix 1**. Councillors should ensure they are familiar with the adopted Code of Conduct of their own Town or Community Council.

There are requirements in relation to the disclosure of personal and prejudicial interests in the Model Code of Conduct. The aim of this Briefing Note is to summarise those requirements as far as they affect Town and Community Councillors.

B. When does the Code apply?

The Code of Conduct applies

- whenever a member acts in his/her official capacity, including whenever members conduct business of the council or acting, or claiming to act, or give the impression they are acting in their official capacity as a member or as a representative of the Town/Community Council; or
- at any time, if members conduct themselves in a manner which could reasonably be regarded as bringing their office or council into disrepute or if they attempt to use their position to gain an advantage or avoid a disadvantage for themselves or any other person or if they misuses their authority's resources.

The general headings under the Code include:

- Equality
- Treating others with respect and consideration
- Bullying and harassment
- Compromising the impartiality of officers of the authority
- Disclosing confidential information
- Preventing access to information
- Disrepute
- Reporting breached of the Code

- Vexatious complaints
- Co-operating with investigations
- Using your position improperly
- The authority's resources
- Using resources for proper purposes only
- Reaching decisions objectively
- Considering advice provided to you and giving reasons
- Expenses
- Gifts and hospitality

For further information on these elements of the Code, members are advised to read the Code of Conduct in **Appendix 1** and the Public Services Ombudsman for Wales' Guidance on "The Code of Conduct for members of Town and Community Councils in Wales" (dated July 2016) in **Appendix 2**. Should members have queries, they should raise these with their Clerks in the first instance.

This briefing note only considers the requirements in relation to the disclosure of personal and prejudicial interests – included in Parts 3 and 4 of the Code (paragraphs 10 – 17).

PERSONAL INTERESTS

What is a personal interest?

A personal interest exists if a Member, or a close personal associate* of a Member, has a connection to the matter being discussed.

Members need to ask themselves, in relation to all business they conduct as Town/Community Councillors:

- A. Does the matter relate to, or is it likely to affect, any of the matters listed in paragraph 10(2)(a) of the Code of Conduct

OR

- B. Could a decision on the matter under discussion be reasonably regarded as affecting, - to a greater extent than other people in the Town / Community area, the matters listed in paragraph 10(2)(c).

If the answer to any of the categories in A or B above is 'yes' then a personal interest exists.

*** Who is a close personal associate?**

There is no definition but the Ombudsman offers the following advice / example which may assist in understanding the distinction:

If you are a member of the same golf club as someone, that does not mean you have a close personal association with them, but if that person is your regular golfing partner, then you will have a close personal association with them.

DECLARING PERSONAL INTERESTS

(1) **DECLARATIONS IN MEETINGS:-**

A Member must orally declare their interest each time it is relevant to a discussion, even if the interest is one which has been previously declared in earlier meetings. This requirement applies regardless of whether the meeting is formal or informal.

In formal meetings, if a Member declares a personal interest **for the first time**, the Member must also provide the Clerk with written confirmation of the interest before the end of the meeting.

The written confirmation must include at least, the following:-

- Details of the personal*/prejudicial** interest;
- Details of the item of business to which the interest relates;
- The signature of the Member.

Clerks: For convenience, it is recommended that a standard document is used for this registration. A copy of the Declaration at Meetings Form used by IOACC is attached as **Appendix 3.**

A Member must disclose any relevant personal interest in any written representations they make outside meetings.

If a Member makes verbal representations outside a formal committee they are also required to declare the interest verbally, and confirm it in writing to the Clerk within 14 days of the meeting.

Clerks: See the section on “Register of Interests” for more information on how the written declarations need to be kept and further requirements.

(2) **GIFTS AND HOSPITALITY**

If a Member receives a gift or hospitality in his/her role as a Member, he/she must formally disclose that gift / hospitality within 28 days of receipt; provided the value/estimated value exceeds the value specified in a resolution of your Town/Community Council.

It is also recommended that a registered gift/hospitality be declared if it is relevant to a matter under discussion in a meeting. It may be a personal interest under the Code’s provision.

PREJUDICIAL INTERESTS

What is a prejudicial interest?

Each time a Member decides that they have a personal interest in the matter under discussion, they must also apply the following test:

Would a member of the public, who knew the relevant facts, reasonably think the personal interest so significant that it would be likely to adversely affect the Member's ability to judge the issue in the public interest?

If the answer is "no", then the Member has a personal interest only and is allowed to take a full part in the discussion/voting; subject to having declared the personal interest. What this means is that the interest is not so significant as to exclude the member but declaring it protects the integrity of the decision by ensuring transparency.

However, if the answer to the question (above in bold) is "yes", then the Member needs to consider if the matter falls within one of the exempt items listed in paragraph [12\(2\)\(b\) of the Code of Conduct](#).

- If one of the exemptions applies, the Member is not regarded as having a prejudicial interest. The requirement to declare a personal interest will still apply and the Member should state what exemption they are relying upon.
- If none of the exemptions apply, the Member has a personal and a prejudicial interest and should not participate.

DECLARING PREJUDICIAL INTERESTS

MEETINGS:-

A Member must disclose, each time the matter is discussed, that he/she has a prejudicial interest, even if the interest is one which has been previously declared in earlier meetings.

If members of the public are allowed to attend the same meeting to make oral representations, the Member can make written or oral representations, but the Member must then leave the meeting before any discussion takes place; even if members of the public are allowed to remain.

If it is not such a public meeting, after disclosing the prejudicial interest, the Member must leave the room whilst the matter is being discussed. Remaining in the room, or moving to another part of the room, is not an option and would breach the code.

Example:-

A member of a Community Council was found in breach of the Code for failing to declare a personal and prejudicial interest at a meeting which considered a planning application for a wind farm on land adjacent to a farm jointly owned by her. There was an Option Agreement for the development of a road to the wind farm across the Member's farm land; it had not been declared in the Standing Register (it should have been) and it was not disclosed by the Member at the meeting. The Member remained in the meeting, (even though another Member disclosed an interest and left the room), and participated in the voting (by abstaining). The Member was suspended from office for 3 months.

[Llanfihangel ar Arth Community Council- APW/002/2014-015/CT]

In formal meetings, if a Member declares a prejudicial interest **for the first time**, the Member must also provide the Clerk with written confirmation of the interest before the end of the meeting.

The written confirmation must include at least, the following:-

- Details of the personal*/prejudicial** interest;
- Details of the item of business to which the interest relates;
- The signature of the Member;
- Confirmation that he / she left the meeting room and did not participate in the matter.

Clerks: For convenience, it is recommended that a standard document is used for this registration. A copy of the Declaration at Meetings Form used by IOACC is attached as **Appendix 3**.

Clerks: See the section on “Register of Interests” for more information on how the written declarations need to be kept and further requirements.

WRITTEN AND ORAL REPRESENTATIONS:-

Members must not seek to influence business in which they have a prejudicial interest and should not enter into any discussions about that matter, unless a dispensation has been granted by the Standards Committee.

REGISTER OF INTERESTS:

There is no requirement for Town/Community Council Members to complete a standing register of interests i.e. pre-registration of employment/business/land holdings/membership of outside bodies etc. The duty of the Town/Community Members is to declare an interest “there and then” if, and when, it arises in a meeting. [This is different to the requirement for County Councillors. Some Town/Community Councils have asked their members to provide such information; members can be encouraged to do this but not compelled.]

Town/Community Members are required to register personal / prejudicial interests in the Town/Community Council’s Register “as and when” they arise by providing written notification to the Clerk **on the first occasion** when the oral declaration is made.

Appendix 4 includes an extract of advice circulated by One Voice Wales in relation to personal and prejudicial interests, and in particular, the requirements in terms of the pre-registration of interests.

A personal or prejudicial interest will only be deemed to have been previously disclosed if written notification has been provided since the last date on which the individual was elected, appointed or nominated as a member of the Town/Community Council.

- For example - Bearing in mind the elections in May 2017, should a matter have been discussed in January 2017 and a Councillor has made an oral declaration at a meeting and confirmed the same in writing at that time, if the matter raised its head again in August 2018, the Councillor would need to declare orally AND register his interest again (as the previous disclosure preceded the election).

Any changes to personal/prejudicial interests which have been registered must be confirmed in writing within 28 days of the change having occurred.

- For instance, if a member has previously disclosed a prejudicial interest because an application for planning permission on his next door property was being discussed, should the member sell and move out of that house, the member should inform the Clerk in writing that he has sold and moved house and so the interest which was previously registered no longer applies.

The requirement to declare the personal/prejudicial interest, provide the written confirmation so as to “register” the interest, and provide written confirmation of any change in those registered interests lies with the member. The requirement to maintain and publish the Register of Interests lies with the Clerk, as the proper officer for the Town/Community Council.

There is no prescribed format for the Register, but using a standard form for every registration of personal/prejudicial interest and collating them in in a single file, in the order of Member names, is sufficient. These individual forms then, collectively, constitute the Register of Interests declared by Members of the Town/Community Council. If a Member has not made a declaration, he/she will not have any entries/forms in the Register.

Clerks must ensure, in relation to the Register, that:

- it is available for public inspection at all reasonable times, and electronically on the Council’s website.
- Any new entries are added to the Register as soon as reasonably practicable after each meeting
- it is updated with any written notifications received from Members detailing the registered interest no longer applies.

Clerks also need to record oral declarations made in meetings in the minutes, and to ensure those minutes are published, once approved. It may be good practice to include reference (within the noted declaration of interest in the minutes) to the date when the interest, which is being orally declared, was registered in the Register of Interests, for ease of reference to the general public.

There are several Town/Community Councils where Members are in the habit of confirming each oral declaration of personal or prejudicial interests by way of written confirmation, in accordance with the Council’s practices. In those circumstances, the Register is made up of all declaration forms, usually kept in date order. This practice goes beyond the requirement of the Code but does ensure transparency and consistency between information about declarations in Minutes and the declarations held in the Register. As with the pre-registration of certain interests, members can be encouraged but not compelled to do this.

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March 2019



OFFERYNNAU STATUDOL
CYMRU

2008 Rhif 788 (Cy.82)

**LLYWODRAETH LEOL,
CYMRU**

**Gorchymyn Awdurdodau Lleol
(Cod Ymddygiad Enghreifftiol)
(Cymru) 2008**

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Sefydlodd Rhan III o Ddeddf Llywodraeth Leol 2000 ("y Ddeddf") fframwaith moesegol newydd ar gyfer llywodraeth leol yng Nghymru.

Mae adran 50(2) o'r Ddeddf yn darparu y caiff Cynulliad Cenedlaethol Cymru ("y Cynulliad") drwy orchymyn ddyroddi cod enghreifftiol o ran yr ymddygiad y disgwylir i aelodau ac aelodau cyfetholedig awdurdodau perthnasol yng Nghymru ei arddel. Trosglwyddir y swyddogaeth hon oddi wrth y Cynulliad i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

Awdurdodau perthnasol yng Nghymru at ddibenion y Gorchymyn hwn yw cynghorau sir, cynghorau bwrdeistref sirol, cynghorau cymuned, awdurdodau tân ac achub ac awdurdodau Parciau Cenedlaethol. Nid yw awdurdodau heddlu'n awdurdodau perthnasol at ddibenion y Gorchymyn hwn.

Mae'n rhaid i god ymddygiad a ddyroddir gan Weinidogion Cymru o dan adran 50(2) o'r Ddeddf fod yn gyson â'r egwyddorion a bennir yn unol ag adran 49(2) o'r Ddeddf a geir ar hyn o bryd yng Ngorchymyn Ymddygiad Aelodau (Egwyddorion) (Cymru) 2001. Mae adran 50(3) o'r Ddeddf yn rhoi'r hawl i Weinidogion Cymru i ddiwygio cod enghreifftiol sydd wedi ei ddyroddi.

Mae'r Gorchymyn hwn yn dirymu Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Cymru) 2001 ac offerynnau statudol blaenorol sy'n diwygio ac yn dyroddi cod enghreifftiol diwygiedig yn unol ag adran 50(2) a (3) o'r Ddeddf. Mae'r

WELSH
STATUTORY INSTRUMENTS

2008 No. 788 (W.82)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Model
Code of Conduct) (Wales) Order
2008**

EXPLANATORY NOTE

(This note is not part of the Order)

Part III of the Local Government Act 2000 ("the Act") established a new ethical framework for local government in Wales.

Section 50(2) of the Act provides that the National Assembly for Wales ("the Assembly") may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in Wales. This function of the Assembly is transferred to the Welsh Ministers by paragraph 30 of schedule 11 to the Government of Wales Act 2006.

Relevant authorities in Wales for the purposes of this Order are county councils, county borough councils, community councils, fire and rescue authorities and National Park authorities. Police authorities are not relevant authorities for the purposes of this Order.

A code of conduct issued by the Welsh Ministers under section 50(2) of the Act must be consistent with the principles specified pursuant to section 49(2) of the Act currently set out in the Conduct of Members (Principles) (Wales) Order 2001. Section 50(3) of the Act entitles the Welsh Ministers to revise a model code which has been issued.

This Order revokes the Conduct of Members (Model Code of Conduct) (Wales) Order 2001 and previous amending statutory instruments and issues a revised model code in pursuance of section 50(2) and (3) of the Act. This Order also continues the disapplication of

Gorchymyn hwn hefyd yn parhau datgymhwysiad darpariaethau statudol sy'n ymwneud â Chod Cenedlaethol Ymddygiad Llywodraeth Leol yng Nghymru (ymhlith eraill).

Mae'r cod enghreifftiol diwygiedig yn yr Atodlen i'r Gorchymyn hwn.

Mae Rhan 1 o'r cod enghreifftiol yn ymwneud â dehongli.

Mae Rhan 2 o'r cod enghreifftiol yn darparu ar gyfer darpariaethau cyffredinol y cod enghreifftiol.

Mae Rhan 3 o'r cod enghreifftiol yn ymwneud â buddiannau personol a buddiannau sy'n rhagfarnu ac â datgelu'r cyfryw fuddiannau gan aelodau ac aelodau cyfetholedig ac â chyfrannu gan aelodau ac aelodau cyfetholedig mewn cysylltiad â'r cyfryw fuddiannau.

Mae Rhan 4 o'r cod enghreifftiol yn ymwneud â'r gofrestr fuddiannau, ac â chofrestru rhoddion a lletygarwch.

statutory provisions relating to (among others) the National Code of Local Government Conduct in Wales.

The revised model code is in the Schedule to this Order.

Part 1 of the model code deals with interpretation.

Part 2 of the model code provides for the general provisions of the model code.

Part 3 of the model code concerns personal interests and prejudicial interests and disclosure of and participation by members and co-opted members in respect of such interests.

Part 4 of the model code concerns the register of interests, registration of gifts and hospitality.

2008 Rhif 788 (Cy.82)

**LLYWODRAETH LEOL,
CYMRU**

**Gorchymyn Awdurdodau Lleol
(Cod Ymddygiad Enghreifftiol)
(Cymru) 2008**

Gwnaed 20 Mawrth 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 25 Mawrth 2008

Yn dod i rym 18 Ebrill 2008

Drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 50(2), 50(3), 50(4), 50(4E), 81(2), 81(3) a 105 o Ddeddf Llywodraeth Leol 2000(1) ac a freiniwyd(2) bellach ynddynt hwy, ac ar ôl gwneud y cyfryw ymgynghoriad ag sy'n ofynnol yn rhinwedd adran 50(5) o'r Ddeddf honno, mae Gweinidogion Cymru, a hwythau'n fodlon bod y cod ymddygiad enghreifftiol a ddyroddir o dan adran 50(2) yn gyson â'r egwyddorion a bennir yng Ngorchymyn Ymddygiad Aelodau (Egwyddorion) (Cymru) 2001(3) a wnaed yn unol ag adran 49(2), yn gwneud y Gorchymyn canlynol:

Enwi, cychwyn a chymhwysio

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Awdurdodau Lleol (Cod Ymddygiad Enghreifftiol) (Cymru) 2008 a daw i rym ar 18 Ebrill 2008.

(2) Mae'r Gorchymyn hwn yn gymwys i bob awdurdod perthnasol yng Nghymru.

(1) 2000 p.22. Diwygir adran 50 gan adran 183 o Ddeddf Llywodraeth Leol a Chymwys y Cyhoedd mewn Iechyd 2007 (p.28).

(2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan adrannau 50, 81 a 105 i Weidogion Cymru o dan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(3) O.S. 2001/2276 (Cy.166) fel y'i diwygiwyd gan O.S. 2005/2929 (Cy.214).

2008 No. 788 (W.82)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Model
Code of Conduct) (Wales) Order
2008**

Made 20 March 2008

*Laid before the National
Assembly for Wales* 25 March 2008

Coming into force 18 April 2008

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 50(2), 50(3), 50(4), 50(4E), 81(2), 81(3) and 105 of the Local Government Act 2000(1) and now vested(2) in them, having carried out such consultation as is required by virtue of section 50(5) of that Act and being satisfied that the model code of conduct being issued under section 50(2) is consistent with the principles specified in the Conduct of Members (Principles) (Wales) Order 2001(3) made pursuant to section 49(2), make the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Local Authorities (Model Code of Conduct) (Wales) Order 2008 and it comes into force on 18 April 2008.

(2) This Order applies to each relevant authority in Wales.

(1) 2000 c.22. Section 50 is amended by section 183 of the Local Government and Public Involvement in Health Act 2007 (c.28).

(2) The functions of the National Assembly for Wales under sections 50, 81 and 105 were transferred to the Welsh Ministers under paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) S.I. 2001/2276 (W.166) as amended by S.I. 2005/2929 (W.214).

Dehongli

2. Yn y Gorchymyn hwn —

mae i "aelod" ("*member*") yr ystyr a geir yn Rhan 1 o'r cod enghreiffiol yn yr Atodlen i'r Gorchymyn hwn;

mae i "aelod cyfetholedig" ("*co-opted member*") yr ystyr a geir yn Rhan 1 o'r cod enghreiffiol yn yr Atodlen i'r Gorchymyn hwn;

mae i "awdurdod perthnasol" ("*relevant authority*") yr ystyr a geir yn Rhan 1 o'r cod enghreiffiol yn yr Atodlen i'r Gorchymyn hwn; ac

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

Cod Ymddygiad Enghreifftiol

3.—(1) Ceir yn yr Atodlen i'r Gorchymyn hwn god enghreiffiol o ran yr ymddygiad y disgwylir i aelodau o awdurdod perthnasol ei arddel.

(2) At ddibenion adran 50(4) o'r Ddeddf, mae darpariaethau'r cod enghreiffiol i'w hystyried yn rhai gorfodol.

Darpariaethau i'w datgymhwysio

4.—(1) Os bydd awdurdod perthnasol yn gyngor sir, cyngor bwrdeistref sirol neu gyngor cymuned, neu'n awdurdod tân ac achub sydd wedi mabwysiadu cod ymddygiad neu os bydd y cyfryw god yn gymwys iddo, datgymhwysir y canlynol o ran yr awdurdod hwnnw, os ydynt yn gymwys i'r awdurdod perthnasol—

- (a) adrannau 94 i 98 a 105 o Ddeddf Llywodraeth Leol 1972(1); a
- (b) unrhyw reoliadau a wnaed neu god a ddyroddwyd o dan adrannau 19 a 31 o Ddeddf Llywodraeth Leol a Thai 1989(2).

(2) Os bydd awdurdod perthnasol yn awdurdod Parc Cenedlaethol sydd wedi mabwysiadu cod ymddygiad neu os bydd y cyfryw god yn gymwys iddo, datgymhwysir y canlynol o ran yr awdurdod hwnnw, os yw'n gymwys i'r awdurdod perthnasol —

- (a) paragraffau 9 a 10 o Atodlen 7 i Ddeddf yr Amgylchedd 1995(3); a
- (b) unrhyw reoliadau a wnaed neu god a ddyroddwyd o dan adrannau 19 a 31 o Ddeddf Llywodraeth Leol a Thai 1989.

(3) Bydd adran 16(1) o Ddeddf Dehongli 1978(4) yn gymwys i ddatgymhwysiad o dan baragraff (1) neu baragraff (2) uchod fel pe bai'n ddiddymiad, gan Ddeddf, o ddeddfiad.

(1) 1972 p.70.

(2) 1989 p.42.

(3) 1995 p.25.

(4) 1978 p.30.

Interpretation

2. In this Order —

"the Act" ("*y Ddeddf*") means the Local Government Act 2000;

"co-opted member" ("*aelod cyfetholedig*") has the meaning set out in Part 1 of the model code in the Schedule to this Order;

"member" ("*aelod*") has the meaning set out in Part 1 of the model code in the Schedule to this Order; and

"relevant authority" ("*awdurdod perthnasol*") has the meaning set out in Part 1 of the model code in the Schedule to this Order.

Model Code of Conduct

3.—(1) A model code as regards the conduct which is expected of members of a relevant authority is set out in the Schedule to this Order.

(2) For the purposes of section 50(4) of the Act, the provisions of the model code are to be regarded as mandatory.

Provisions to be disapplied

4.—(1) Where a relevant authority which is a county, county borough or community council or fire and rescue authority has adopted a code of conduct or such a code applies to it, the following will, where applicable to the relevant authority, be disapplied as respects that authority —

- (a) sections 94 to 98 and 105 of the Local Government Act 1972(1); and
- (b) any regulations made or code issued under sections 19 and 31 of the Local Government and Housing Act 1989(2).

(2) Where a relevant authority which is a National Park authority has adopted a code of conduct or such a code applies to it, the following will, where applicable to the relevant authority, be disapplied as respects that authority —

- (a) paragraphs 9 and 10 of Schedule 7 to the Environment Act 1995(3); and
- (b) any regulations made or code issued under sections 19 and 31 of the Local Government and Housing Act 1989.

(3) Section 16(1) of the Interpretation Act 1978(4) will apply to a disapplication under paragraph (1) or (2) above as if it were a repeal, by an Act, of an enactment.

(1) 1972 c.70.

(2) 1989 c.42.

(3) 1995 c.25.

(4) 1978 c.30.

Dirymu

5. Dirymir y gorchmynion canlynol:

- (a) Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Cymru) 2001(1);
- (b) Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Diwygio) (Cymru) 2004(2); ac
- (c) Gorchymyn Ymddygiad Aelodau (Cod Ymddygiad Enghreifftiol) (Cymru) (Diwygio) (Rhif 2) 2004(3).

Darpariaethau Trosiannol ac Arbedion

6. Mae'r gorchmynion y cyfeirir atynt yn erthygl 5 yn parhau i fod yn effeithiol at ddibenion y canlynol ac at ddibenion sy'n gysylltiedig â'r canlynol —

- (a) ymchwilio i unrhyw honiad ysgrifenedig o dan Ran 3 o'r Ddeddf, pan fo'r honiad hwnnw'n ymwneud ag ymddygiad a ddigwyddodd cyn y dyddiad pryd, yn unol ag adran 51 o'r Ddeddf(4)—
 - (i) y bydd yr awdurdod perthnasol yn mabwysiadu cod ymddygiad sy'n ymgorffori darpariaethau gorfodol y cod ymddygiad enghreifftiol yn yr Atodlen i'r Gorchymyn hwn yn lle ei god ymddygiad presennol;
 - (ii) y bydd yr awdurdod perthnasol yn diwygio'i god ymddygiad presennol i ymgorffori darpariaethau gorfodol y cod ymddygiad enghreifftiol a geir yn yr Atodlen i'r Gorchymyn hwn; neu
 - (iii) y bydd darpariaethau gorfodol y cod ymddygiad enghreifftiol a geir yn yr Atodlen i'r Gorchymyn hwn yn gymwys i aelodau neu aelodau cyfetholedig o'r awdurdod perthnasol o dan adran 51(5)(b) o'r Ddeddf honno;
- (b) dyfarnu (neu benderfynu) ar fater a godir mewn honiad o'r fath; ac
- (c) apêl yn erbyn penderfyniad pwyllgor safonau, tribiwnlys achos interim neu dribiwnlys achos mewn perthynas â honiad o'r fath.

Revocation

5. The following orders are revoked:

- (a) the Conduct of Members (Model Code of Conduct) (Wales) Order 2001(1);
- (b) the Conduct of Members (Model Code of Conduct) (Amendment) (Wales) Order 2004(2); and
- (c) the Conduct of Members (Model Code of Conduct) (Wales) (Amendment) (No. 2) Order 2004(3).

Transitional Provisions and Savings

6. The orders referred to in article 5 continue to have effect for the purposes of and for purposes connected with —

- (a) the investigation of any written allegation under Part 3 of the Act, where that allegation relates to conduct that occurred before the date when, pursuant to section 51 of the Act(4)—
 - (i) the relevant authority adopts a code of conduct incorporating the mandatory provisions of the model code of conduct in the Schedule to this Order in place of its existing code of conduct;
 - (ii) the relevant authority revises its existing code of conduct to incorporate the mandatory provisions of the model code of conduct in the Schedule to this Order; or
 - (iii) the mandatory provisions of the model code of conduct in the Schedule to this Order apply to members or co-opted members of the relevant authority under section 51(5)(b) of that Act;
- (b) the adjudication (or determination) of a matter raised in such an allegation; and
- (c) an appeal against the decision of a standards committee, an interim case tribunal or case tribunal in relation to such an allegation.

(1) O.S. 2001/2289 (Cy. 177) fel y'i diwygiwyd gan O.S. 2004/163 (Cy. 18); O.S. 2004/1510 (Cy.159); O.S. 2005/2929 (Cy. 214); ac O.S. 2006/362 (Cy. 48).

(2) O.S. 2004/163 (Cy.18).

(3) O.S. 2004/1510 (Cy.159).

(4) Diwygir adran 51 o Ddeddf Llywodraeth Leol 2000 gan adran 35 o Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 a pharagraffau 1 a 3 o Atodlen 4 iddi a chan adran 183 o Ddeddf Llywodraeth Leol a Chynnwys y Cyhoedd mewn Iechyd 2007.

(1) S.I. 2001/2289 (W.177) as amended by S.I. 2004/163 (W.18); S.I. 2004/1510 (W.159); S.I. 2005/2929 (W.214); and S.I. 2006/362 (W.48).

(2) S.I. 2004/163 (W.18).

(3) S.I. 2004/1510 (W.159).

(4) Section 51 of the Local Government Act 2000 is amended by section 35 and paragraphs 1 and 3 of Schedule 4 to the Public Services Ombudsman (Wales) Act 2005 and by section 183 of the Local Government and Public Involvement in Health Act 2007.

Brian Gibbons

Y Gweinidog dros Gyfiawnder Cymdeithasol a
Llywodraeth Leol, un o Weinidogion Cymru

Minister for Social Justice and Local Government, one
of the Welsh Ministers

20 Mawrth 2008

20 March 2008

YR ATODLEN

Y COD YMDDYGIAD ENGHREIFFTIOL

RHAN 1 DEHONGLI

1.—(1) Yn y cod hwn —

mae "aelod" ("*member*") yn cynnwys aelod cyfetholedig onid yw'r cyd-destun yn mynnu fel arall;

ystyr "aelod cyfetholedig" ("*co-opted member*"), mewn perthynas ag awdurdod perthnasol, yw person nad yw'n aelod o'r awdurdod ond—

(a) sy'n aelod o unrhyw bwyllgor neu is-bwyllgor i'r awdurdod, neu

(b) sy'n aelod o unrhyw gyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod, ac sy'n cynrychioli'r awdurdod arno,

ac sydd â'r hawl i bleidleisio ar unrhyw gwestiwn sydd i'w benderfynu mewn unrhyw gyfarfod o'r pwyllgor neu o'r is-bwyllgor hwnnw;

ystyr "eich awdurdod" ("*your authority*") yw'r awdurdod perthnasol yr ydych chi'n aelod neu'n aelod cyfetholedig ohono;

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

(a) cyngor sir,

(b) cyngor bwrdeistref sirol,

(c) cyngor cymuned,

(ch) awdurdod tân ac achub a gyfansoddwyd drwy gynllun o dan adran 2 o Ddeddf Gwasanaethau Tân ac Achub 2004(1) neu gynllun y mae adran 4 o'r Ddeddf honno yn gymwys iddo,

(d) awdurdod Parc Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995(2);

ystyr "cyfarfod" ("*meeting*") yw unrhyw gyfarfod —

(a) o'r awdurdod perthnasol,

(b) o unrhyw weithrediaeth neu fwrdd i'r awdurdod perthnasol,

(c) o unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod perthnasol neu unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor o'r fath i unrhyw weithrediaeth neu fwrdd i'r awdurdod, neu

(ch) y mae aelodau neu swyddogion yr awdurdod perthnasol yn bresennol ynddo ac eithrio cyfarfod grŵp gwleidyddol a gyfansoddwyd yn unol â rheoliad 8 o Reoliadau Llywodraeth Leol (Pwyllgorau a Grwpiau Gwleidyddol) 1990(3),

ac mae'n cynnwys amgylchiadau pan fo aelod o weithrediaeth neu fwrdd neu swyddog sy'n gweithredu ar ei ben ei hun yn arfer un o swyddogaethau awdurdod; ac

ystyr "chi" ("*you*") yw chi fel aelod neu aelod cyfetholedig o awdurdod perthnasol.

Mewn perthynas â chyngor-cymuned, mae cyfeiriadau at swyddog monitro awdurdod a phwyllgor safonau awdurdod i'w darllen, yn y drefn honno, fel cyfeiriadau at swyddog monitro ac at bwyllgor safonau'r cyngor sir neu'r cyngor bwrdeistref sirol y mae ganddo swyddogaethau mewn perthynas â'r cyngor cymuned y mae'n gyfrifol amdano o dan adran 56(2) o Ddeddf Llywodraeth Leol 2000.

(1) 2004 p.21.

(2) 1995 p.25.

(3) O.S. 1990/1553 fel y'i diwygiwyd gan O.S. 1991/1389; O.S. 1993/1339; O.S. 1998/1918; ac O.S. 1999/500.

RHAN 2

DARPARIAETHAU CYFFREDINOL

2.—(1)Ac eithrio pan fo paragraff 3(a) yn gymwys, rhaid i chi gydymffurfio â'r cod ymddygiad hwn —

- (a) pa bryd bynnag y byddwch yn cynnal busnes eich awdurdod, neu'n bresennol mewn un o gyfarfodydd eich awdurdod;
- (b) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu yn rôl aelod y cawsoch eich ethol neu eich penodi iddi;
- (c) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu fel un o gynrychiolwyr eich awdurdod; neu
- (ch) ar bob adeg ac mewn unrhyw gapasiti, mewn cysylltiad ag ymddygiad a nodir ym mharagraffau 6(1)(a) a 7.

(2) Dylech ddarllen y cod hwn ar y cyd â'r egwyddorion cyffredinol a ragnodir o dan adran 49(2) o Ddeddf Llywodraeth Leol 2000 o ran Cymru.

3. Os byddwch wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i wasanaethu —

- (a) ar awdurdod perthnasol arall, neu ar unrhyw gorff arall, sy'n cynnwys awdurdod heddlu neu Fwrdd Iechyd Lleol rhaid i chi, pan fyddwch yn gweithredu ar ran yr awdurdod arall neu'r corff arall hwnnw, gydymffurfio â chod ymddygiad yr awdurdod arall neu'r corff arall hwnnw; neu
- (b) ar unrhyw gorff arall nad oes ganddo god sy'n ymwneud ag ymddygiad ei aelodau, rhaid i chi, pan fyddwch yn gweithredu ar ran y corff arall hwnnw, gydymffurfio â'r cod ymddygiad hwn, ac eithrio pan yw'n gwrthdaro ag unrhyw rwymedigaethau cyfreithlon eraill y gall y corff hwnnw fod yn ddarostyngedig iddynt neu i'r graddau y mae'n gwrthdaro â'r cyfryw rwymedigaethau.

4. Rhaid i chi —

- (a) cyflawni eich dyletswyddau a'ch cyfrifoldebau gan roi sylw dyladwy i'r egwyddor y dylai fod cyfle cyfartal i bawb, waeth beth fo'u rhyw, eu hil, eu hanabledd, eu cyfeiriadedd rhywiol, eu hoed neu eu crefydd;
- (b) dangos parch at eraill ac ystyriaeth ohonynt;
- (c) peidio ag ymddwyn fel bwli neu harasio unrhyw berson; a
- (ch) peidio â gwneud dim sy'n cyfaddawdu, neu sy'n debygol o gyfaddawdu, didueddrwydd y sawl sy'n gweithio i'ch cyngor neu ar ei ran.

5. Rhaid i chi —

- (a) peidio â datgelu gwybodaeth gyfrinachol neu wybodaeth y byddai'n rhesymol ystyried ei bod o natur gyfrinachol, heb gydsyniad datganedig person a awdurdodwyd i roi cydsyniad o'r fath, neu onid yw'r gyfraith yn mynnu eich bod yn gwneud hynny;
- (b) peidio â rhwystro unrhyw berson rhag gweld gwybodaeth y mae gan y person hwnnw hawl i'w gweld yn ôl y gyfraith.

6.—(1)Rhaid i chi —

- (a) peidio ag ymddwyn mewn ffordd y gellid yn rhesymol ei hystyried yn un sy'n dwyn anfri ar eich swydd neu ar eich awdurdod;
- (b) adrodd, p'un ai drwy weithdrefn adrodd gyfrinachol eich awdurdod neu'n uniongyrchol i'r awdurdod priodol, ar unrhyw ymddygiad gan aelod arall neu gan unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran ac y mae'n rhesymol i chi fod o'r farn ei fod yn golygu neu'n debygol o olygu ymddygiad troseddol (nad yw at ddibenion y paragraff hwn yn cynnwys tramgwyddau neu ymddygiad y gellir ei gosbi drwy gosb benodedig);
- (c) adrodd i Ombwdsmon Gwasanaethau Cyhoeddus Cymru ac i swyddog monitro eich awdurdod ar unrhyw ymddygiad gan aelod arall y mae'n rhesymol i chi fod o'r farn ei fod yn groes i'r cod ymddygiad hwn;
- (ch) peidio â gwneud cwynion blinderus, maleisus neu wacsaw yn erbyn aelodau eraill neu unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran.

(2) Rhaid i chi gydymffurfio ag unrhyw gais gan swyddog monitro eich awdurdod, neu gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru, mewn cysylltiad ag ymchwiliad a wneir yn unol â'u gwahanol bwerau statudol.

7. Rhaid i chi —

- (a) yn eich capasiti swyddogol neu fel arall, beidio â defnyddio neu geisio defnyddio eich safle yn amhriodol i roi neu i sicrhau mantais i chi eich hun neu i unrhyw berson arall, neu i greu neu i osgoi anfantais i chi eich hun neu i unrhyw berson arall;
- (b) peidio â defnyddio adnoddau eich awdurdod, neu awdurdodi eraill i'w defnyddio—
 - (i) yn annoeth;
 - (ii) yn groes i ofynion eich awdurdod;
 - (iii) yn anghyfreithlon;
 - (iv) ac eithrio mewn dull a fwriedir i hwyluso neu i ffafrio cyflawni swyddogaethau'r awdurdod neu'r swydd yr ydych wedi eich ethol neu eich penodi iddo neu iddi;
 - (v) yn amhriodol at ddibenion gwleidyddol; neu
 - (vi) yn amhriodol at ddibenion preifat.

8. Rhaid i chi —

- (a) pan fyddwch yn cyfrannu mewn cyfarfodydd neu'n gwneud penderfyniadau ynghylch busnes y mae a wnelo eich awdurdod ag ef, wneud hynny ar sail rhinweddau'r amgylchiadau o dan sylw ac er budd y cyhoedd gan roi sylw i unrhyw gyngor perthnasol a ddarperir gan swyddogion eich awdurdod, ac yn benodol gan —
 - (i) pennaeth gwasanaeth taledig yr awdurdod;
 - (ii) prif swyddog cyllid yr awdurdod;
 - (iii) swyddog monitro'r awdurdod;
 - (iv) prif swyddog cyfreithiol yr awdurdod (y dylid ymgynghori ag ef pan fo unrhyw amheuaeth ynghylch pŵer yr awdurdod i weithredu, ynghylch a yw'r cam a arfaethir yn dod o fewn y fframwaith polisi y cytunwyd arno gan yr awdurdod neu os gallai canlyniadau cyfreithiol gweithredu neu fethu â gweithredu gan yr awdurdod gael ôl-ffeithiau pwysig);
- (b) rhoi rhesymau dros bob penderfyniad yn unol ag unrhyw ofynion statudol ac unrhyw ofynion rhesymol ychwanegol a osodir gan eich awdurdod.

9. Rhaid i chi —

- (a) parchu'r gyfraith a rheolau eich awdurdod sy'n llywodraethu hawlio treuliau a lwfansau mewn cysylltiad â'ch dyletswyddau fel aelod;
- (b) osgoi derbyn rhoddion oddi wrth neb, na lletygarwch (ac eithrio lletygarwch swyddogol, megis derbyniad dinesig neu weithio dros ginio, a awdurdodir yn briodol gan eich awdurdod) na buddiannau materol neu wasanaethau i chi eich hun neu i unrhyw berson os byddai gwneud hynny'n eich rhoi o dan rwymedigaeth amhriodol, neu os gallai'n rhesymol ymddangos fel pe bai'n gwneud hynny.

RHAN 3

BUDDIANNAU

Buddiannau Personol

10.—(1) Ym mhob mater rhaid i chi ystyried a oes gennych fuddiant personol, ac a yw'r cod ymddygiad hwn yn ei gwneud yn ofynnol i chi ddatgelu'r buddiant hwnnw.

(2) Rhaid i chi ystyried bod gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef —

- (a) os yw'n gysylltiedig â'r canlynol, neu'n debygol o effeithio arnynt —
 - (i) unrhyw gyflogaeth yr ydych yn ymgymryd â hi neu fusnes yr ydych yn ei redeg;
 - (ii) unrhyw berson sy'n eich cyflogi neu sydd wedi eich penodi, unrhyw ffyrn yr ydych yn bartner ynddi neu unrhyw gwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl;
 - (iii) unrhyw berson, ac eithrio eich awdurdod, sydd wedi rhoi taliad i chi mewn cysylltiad â'ch ethol neu mewn cysylltiad ag unrhyw dreuliau a dynnwyd gennych wrth i chi gyflawni eich dyletswyddau fel

aelod;

- (iv) unrhyw gorff corfforaethol y mae ganddo le busnes neu dir yn ardal eich awdurdod, ac y mae gennych chi fuddiant llesionol mewn dosbarth o warannau sydd gan y corff hwnnw ac sy'n werth mwy na'r gwerth enwol o £25,000 neu un ganfed ran o gyfanswm cyfalaf cyfrannau dyroddedig y corff hwnnw;
- (v) unrhyw gontract am nwyddau, gwasanaethau neu waith neu weithfeydd a wnaed rhyngoch chi, rhwng ffyrn yr ydych yn bartner ynddi, neu rhwng cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu rhwng corff o'r math a ddisgrifir yn is-baragraff (iv) uchod a'ch awdurdod;
- (vi) unrhyw dir y mae gennych fuddiant llesionol ynddo ac sydd yn ardal eich awdurdod;
- (vii) unrhyw dir y mae eich awdurdod yn landlord arno ac y mae ffyrn yr ydych yn bartner ynddi, cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu gorff o'r math a ddisgrifir yn is-baragraff (iv) uchod yn denant arno;
- (viii) unrhyw gorff yr ydych wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;
- (ix) unrhyw —
 - (aa) awdurdod cyhoeddus neu gorff sy'n arfer swyddogaethau o natur gyhoeddus;
 - (bb) cwmni, cymdeithas ddiwydiannol a darbodus, elusen, neu gorff arall a chanddo ddibenion elusenol;
 - (cc) corff y mae dylanwadu ar farn neu bolisi cyhoeddus ymhlith ei brif ddibenion;
 - (chch) undeb llafur neu gymdeithas broffesiynol; neu
 - (dd) clwb preifat neu gymdeithas breifat sy'n gweithredu o fewn ardal eich awdurdod,

yr ydych yn aelod ohono neu ohoni neu mewn safle rheolaeth neu reoli cyffredinol ynddo neu ynddi;

- (x) unrhyw dir yn ardal eich awdurdod y mae gennych drwydded (ar eich pen eich hun neu ar y cyd ag eraill) i'w feddiannu am 28 o ddiwrnodau neu fwy;
- (b) pe byddai'n rhesymol i aelod o'r cyhoedd ganfod bod gwrthdaro rhwng eich rôl o ran gwneud penderfyniad, ar y busnes hwnnw, ar ran eich awdurdod yn gyfan a'ch rôl o ran cynrychioli buddiannau etholwyr yn eich ward neu eich dosbarth etholiadol; neu
- (c) pe byddai'n rhesymol ystyried penderfyniad arno yn benderfyniad a fyddai'n effeithio —
 - (i) ar eich llesiant neu eich sefyllfa ariannol, neu lesiant neu sefyllfa ariannol person yr ydych yn byw gydag ef, neu unrhyw berson y mae gennych gysylltiad personol agos ag ef;
 - (ii) ar unrhyw gyflogaeth yr ymgymerir â hi neu fusnes a redir gan bersonau fel a ddisgrifir yn 10(2)(c)(i);
 - (iii) ar unrhyw berson sy'n cyflogi neu sydd wedi penodi'r cyfryw bersonau ag a ddisgrifir yn 10(2)(c)(i), unrhyw ffyrn y mae'r cyfryw bersonau'n bartneriaid ynddi, neu unrhyw gwmni y maent yn gyfarwyddwyr arno;
 - (iv) ar unrhyw gorff corfforaethol y mae gan bersonau fel a ddisgrifir yn 10(2)(c)(i) fuddiant llesionol mewn dosbarth o warannau sy'n werth mwy na'r gwerth enwol o £5,000; neu
 - (v) ar unrhyw gorff a restrir ym mharagraffau 10(2)(a)(ix)(aa) i (dd) y mae personau a ddisgrifir yn 10(2)(c)(i) mewn safle rheolaeth neu reoli cyffredinol ynddo,

a hynny i raddau mwy—

- (aa) yn achos awdurdod â dosbarthiadau etholiadol neu wardiau, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn y dosbarth etholiadol neu'r ward, yn ôl y digwydd, y bydd y penderfyniad yn effeithio arnynt; neu
- (bb) ym mhob achos arall, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, o bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn ardal yr awdurdod.

Datgelu Buddiannau Personol

11.—(1) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn bresennol mewn cyfarfod lle y caiff y busnes hwnnw ei ystyried, rhaid i chi ddatgelu ar lafar gerbron y cyfarfod hwnnw fodolaeth a natur y buddiant hwnnw cyn i'r cyfarfod ystyried y busnes neu ar ddechrau'r ystyriaeth, neu pan ddaw'r buddiant i'r amlwg.

(2) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn gwneud —

- (a) cynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod ynghylch y busnes hwnnw, dylech gynnwys

manylion am y buddiant hwnnw yn y gyfathrebiaeth ysgrifenedig; neu

- (b) cynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod dylech ddatgelu'r buddiant ar ddechrau'r cyfryw gynrychioliadau, neu pan ddaw'n amlwg i chi fod gennych fuddiant o'r fath, a chadarnhau'r cynrychioliad a'r buddiant yn ysgrifenedig o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

(3) Yn ddarostyngedig i baragraff 14(1)(b) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch wedi gwneud penderfyniad wrth arfer un o swyddogaethau gweithrediaeth neu fwrdd, rhaid i chi mewn perthynas â'r busnes hwnnw sicrhau bod unrhyw ddatganiad ysgrifenedig ynghylch y penderfyniad hwnnw'n cofnodi bodolaeth a natur eich buddiant.

(4) Rhaid i chi, mewn cysylltiad â buddiant personol nas datgelwyd eisoes, cyn cyfarfod neu'n syth ar ôl diwedd cyfarfod pan ddatgelir y buddiant yn unol ag is-baragraff 11(1), roi hysbysiad ysgrifenedig i'ch awdurdod yn unol ag unrhyw ofynion a nodir gan swyddog monitro eich awdurdod o bryd i'w gilydd ond, rhaid cynnwys o leiaf —

- (a) manylion am y buddiant personol;
- (b) manylion am y busnes y mae'r buddiant personol yn gysylltiedig ag ef; ac
- (c) eich llofnod.

(5) Pan fydd eich swyddog monitro wedi cytuno bod yr wybodaeth sy'n ymwneud â'ch buddiant personol yn wybodaeth sensitif, yn unol â pharagraff 16(1), mae eich rhwymedigaethau o dan y paragraff 11 hwn i ddatgelu'r cyfryw wybodaeth, p'un ai ar lafar neu'n ysgrifenedig, i'w disodli gan rwymedigaeth i ddatgelu bodolaeth buddiant personol ac i gadarnhau bod eich swyddog monitro wedi cytuno bod y cyfryw fuddiant personol o natur gwybodaeth sensitif.

(6) At ddibenion is-baragraff (4), dim ond os bod hysbysiad ysgrifenedig wedi ei ddarparu yn unol â'r cod hwn ers y dyddiad diwethaf pryd yr etholwyd chi, y penodwyd chi neu yr enwebwyd chi'n aelod o'ch awdurdod y bernir bod buddiant personol wedi ei ddatgelu eisoes.

(7) At ddibenion is-baragraff (3), os na ddarperir hysbysiad ysgrifenedig yn unol â'r paragraff hwnnw bernir na fyddwch wedi datgan buddiant personol yn unol â'r cod hwn.

Buddiannau sy'n Rhagfarnu

12.—(1) Yn ddarostyngedig i is-baragraff (2) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef bydd gennych hefyd fuddiant sy'n rhagfarnu yn y busnes hwnnw os bydd y buddiant yn un y bydd yn rhesymol i aelod o'r cyhoedd sy'n gwybod y ffeithiau perthnasol fod o'r farn ei fod mor arwyddocaol fel y bydd yn debygol o ragfarnu eich barn ynghylch buddiant cyhoeddus.

(2) Yn ddarostyngedig i is-baragraff (3), nid ystyrir bod gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes os bydd y busnes hwnnw—

- (a) yn gysylltiedig—
 - (i) ag awdurdod perthnasol arall yr ydych hefyd yn aelod ohono;
 - (ii) ag awdurdod cyhoeddus arall neu gorff sy'n arfer swyddogaethau o natur gyhoeddus lle yr ydych mewn safle rheolaeth neu reoli cyffredinol;
 - (iii) â chorff yr ydych wedi cael eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;
 - (iv) â'ch rôl fel llywodraethwr ysgol (os na chawsoch eich penodi neu eich enwebu gan eich awdurdod) oni bai bod y busnes yn benodol gysylltiedig â'r ysgol yr ydych yn un o'i llywodraethwyr;
 - (v) â'ch rôl fel aelod o Fwrdd Iechyd Lleol os na chawsoch eich penodi neu eich enwebu gan eich awdurdod i fod arno;
- (b) yn gysylltiedig:
 - (i) â swyddogaethau tai eich awdurdod os oes gennych denantiaeth neu les gyda'ch awdurdod, ar yr amod nad oes arnoch i'ch awdurdod ôl-ddyledion rhent o fwy na deufis, ac ar yr amod nad yw'r swyddogaethau hynny'n ymwneud yn arbennig â'ch tenantiaeth neu â'ch les;
 - (ii) â swyddogaethau eich awdurdod mewn cysylltiad â phrydau ysgol, cludiant a threuliau teithio, os ydych chi'n warchodwr, yn rhiant, yn fam-gu neu'n nain neu'n dad-cu neu'n daid, neu os oes gennych gyfrifoldeb rhiant (fel y'i diffinnir yn adran 3 o Deddf Plant 1989) dros blentyn sy'n cael addysg lawnamser, onid yw'r busnes yn benodol gysylltiedig â'r ysgol y mae'r plentyn hwnnw'n ei mynychu;
 - (iii) â swyddogaethau eich awdurdod mewn cysylltiad â thâl salwch statudol o dan Ran XI o Ddeddf

Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992, os ydych yn cael, neu os oes gennych hawl i gael, taliad o'r fath gan eich awdurdod;

- (iv) â swyddogaethau eich awdurdod mewn cysylltiad â lwfans neu daliad a wneir o dan adrannau 22(5), 24(4) a 173 i 176 o Deddf Llywodraeth Leol 1972, lwfans neu bensiwn o dan adran 18 o Deddf Llywodraeth Leol a Thai 1989 neu lwfans neu daliad o dan adran 100 o Deddf Llywodraeth Leol 2000;
- (c) yn gysylltiedig â'ch rôl fel cynghorydd cymunedol mewn perthynas â grant, benthyciad neu fath arall ar gymorth ariannol a wnaed gan eich cyngor cymuned i gyrff cymunedol neu wirfoddol hyd at uchafswm o £500.

(3) Nid yw'r esemptiadau yn is-baragraff (2)(a) yn gymwys os yw'r busnes yn gysylltiedig â dyfarnu ar unrhyw gymeradwyaeth, cydsyniad, trwydded, caniatâd neu gofrestrriad.

Pwyllgorau Trosolygu a Chraffu

13. Bydd gennych hefyd fuddiant sy'n rhagfarnu mewn unrhyw fusnes sydd gerbron un o bwyllgorau trosolygu a chraffu eich awdurdod (neu un o is-bwyllgorau pwyllgor o'r fath) —

- (a) os bydd y busnes hwnnw'n gysylltiedig â phenderfyniad a wnaed (p'un a gafodd ei weithredu ai peidio) neu gam a gymerwyd gan weithrediaeth, bwrdd, neu un arall o bwyllgorau, is-bwyllgorau, cyd-bwyllgorau neu o gyd-is-bwyllgorau eich awdurdod; a
- (b) os oeddech chi, ar yr adeg pan wnaed y penderfyniad neu pan gymerwyd y cam, yn aelod o'r weithrediaeth, y bwrdd, y pwyllgor, yr is-bwyllgor, y cyd-bwyllgor neu'r cyd-is-bwyllgor a grybwyllir yn is-baragraff (a) a'ch bod chi'n bresennol pan wnaed y penderfyniad hwnnw neu pan gymerwyd y cam hwnnw.

Cyfrannu mewn Perthynas â Datgelu Buddiannau

14.—(1) Yn ddarostyngedig i is-baragraffau (2), (3) a (4), os bydd gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef rhaid i chi, oni roddwyd i chi ollyngiad gan bwyllgor safonau eich awdurdod —

- (a) ymadael â'r ystafell, y siambr neu'r man lle y mae cyfarfod i ystyried y busnes yn cael ei gynnal—
 - (i) pan fo is-baragraff (2) yn gymwys, yn syth ar ôl i'r cyfnod ar gyfer gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes ddod i ben a beth bynnag cyn i ystyriaeth bellach o'r busnes ddechrau, p'un a ganiateir i'r cyhoedd aros yn bresennol ar gyfer y cyfryw ystyriaeth ai peidio; neu
 - (ii) mewn unrhyw achos arall, pa bryd bynnag y daw i'r amlwg bod y busnes hwnnw'n cael ei ystyried yn y cyfarfod hwnnw;
- (b) peidio ag arfer swyddogaethau gweithrediaeth neu fwrdd mewn perthynas â'r busnes hwnnw;
- (c) peidio â cheisio dylanwadu ar benderfyniad ynghylch y busnes hwnnw;
- (ch) peidio â gwneud unrhyw gynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) mewn perthynas â'r busnes hwnnw; a
- (d) peidio â gwneud unrhyw gynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) mewn cysylltiad â'r busnes hwnnw neu rhaid i chi roi'r gorau ar unwaith i wneud y cyfryw gynrychioliadau llafar pan ddaw'r buddiant sy'n rhagfarnu i'r amlwg.

(2) Os oes gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef cewch fod yn bresennol mewn cyfarfod ond dim ond er mwyn gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes, ar yr amod y caniateir hefyd i'r cyhoedd fod yn bresennol yn y cyfarfod i'r un diben, p'un ai o dan hawl statudol neu fel arall.

(3) Nid yw is-baragraff (1) yn eich rhwystro rhag bod yn bresennol a chyfrannu mewn cyfarfod —

- (a) os gofynnir i chi fod yn bresennol mewn cyfarfod pwyllgor trosolwg neu graffu, gan y cyfryw bwyllgor ac yntau'n arfer ei bwerau statudol; neu
- (b) os oes gennych y fantais o fod gollyngiad wedi ei roi i chi ar yr amod—
 - (i) eich bod yn datgan yn y cyfarfod eich bod yn dibynnu ar y gollyngiad; a
 - (ii) eich bod, cyn y cyfarfod neu'n syth ar ôl i'r cyfarfod orffen, yn rhoi hysbysiad ysgrifenedig i'ch awdurdod a bod hwnnw'n cynnwys —
 - (aa) manylion y buddiant sy'n rhagfarnu;

- (bb)manyllion y busnes y mae'r buddiant sy'n rhagfarnu'n gysylltiedig ag ef;
- (cc)manyllion y gollyngiad a'r dyddiad pryd y'i rhoddwyd; a
- (chch) eich llofnod.

(4) Os bydd gennych fuddiant sy'n rhagfarnu a'ch bod yn gwneud cynrychioliadau ysgrifenedig neu lafar i'ch awdurdod gan ddibynnu ar ollyngiad, rhaid i chi ddarparu manyllion am y gollyngiad o fewn unrhyw gynrychioliad ysgrifenedig neu lafar o'r fath ac, yn yr achos olaf hwn, rhaid i chi ddarparu hysbysiad ysgrifenedig ar gyfer eich awdurdod o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

RHAN 4

COFRESTR BUDDIANNAU AELODAU

Cofrestru Buddiannau Ariannol a Buddiannau Eraill ac Aelodaeth o Gyrrff a Safleoedd Rheoli

15.—(1) Yn ddarostyngedig i is-baragraff (3), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl—

- (a) i god ymddygiad eich awdurdod gael ei fabwysiadu neu i ddarpariaethau gorfodol y cod enghreifftiol hwn gael eu cymhwyso i'ch awdurdod; neu
- (b) i chi gael eich ethol neu eich penodi i swydd (os digwydd hynny'n ddiweddarach),

gofrestru eich buddiannau ariannol a'ch buddiannau eraill, os ydynt yn dod o fewn categori a grybwyllir ym mharagraff 10(2)(a) yng nghofrestr eich awdurdod a gedwir o dan adran 81(1) o Deddf Llywodraeth Leol 2000, drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(2) Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw fuddiant personol newydd neu o newid i unrhyw fuddiant personol a gofrestrwyd o dan is-baragraff (1), gofrestru'r buddiant personol newydd hwnnw neu'r newid drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(3) Nid yw is-baragraffau (1) a (2) yn gymwys i wybodaeth sensitif a benderfynir yn unol â pharagraff 16(1).

(4) Ni fydd is-baragraff (1) yn gymwys os ydych yn aelod o awdurdod perthnasol sy'n gyngor cymuned pan fyddwch yn gweithredu yn eich capasiti fel aelod o awdurdod o'r fath.

Gwybodaeth sensitif

16.—(1) Os byddwch yn ystyried bod yr wybodaeth sy'n ymwneud ag unrhyw un neu rai o'ch buddiannau personol yn wybodaeth sensitif, a bod swyddog monitro eich awdurdod yn cytuno, nid oes angen i chi gynnwys yr wybodaeth honno pan fyddwch yn cofrestru'r buddiant hwnnw, neu, yn ôl y digwydd, newid i'r buddiant o dan baragraff 15.

(2) Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi ddod yn ymwybodol o unrhyw newid yn eich amgylchiadau sy'n golygu nad yw gwybodaeth sydd wedi ei heithrio o dan is-baragraff (1) mwyach yn wybodaeth sensitif, hysbysu swyddog monitro eich awdurdod gan ofyn am i'r wybodaeth gael ei chynnwys yng nghofrestr buddiannau aelodau eich awdurdod.

(3) Yn y cod hwn, ystyr "gwybodaeth sensitif" ("*sensitive information*") yw gwybodaeth y mae ei rhoi ar gael i'w harchwilio gan y cyhoedd yn creu, neu'n debygol o greu, risg ddifrifol y gallech chi neu berson sy'n byw gyda chi fod yn destun trais neu fygythion.

Cofrestru Rhoddion a Lletygarwch

17. Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi gael unrhyw rodd, lletygarwch, buddiant materol neu fantais faterol, sy'n fwy na gwerth a bennir mewn penderfyniad gan eich awdurdod, ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod yn nodi bodolaeth a natur y rhodd honno, y lletygarwch hwnnw, y buddiant materol hwnnw neu'r fantais faterol honno.

SCHEDULE

THE MODEL CODE OF CONDUCT

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

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

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

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee 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),

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

"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.

(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.

(2) 2004 c.21.

(3) 1995 c.25.

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 sub-committee 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, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee 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.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
- (b) you have the benefit of a dispensation provided that you —
 - (i) state at the meeting that you are relying on the dispensation; and
 - (ii) before or immediately after the close of the meeting give written notification to your authority containing —
 - (aa) details of the prejudicial interest;
 - (bb) details of the business to which the prejudicial interest relates;
 - (cc) details of, and the date on which, the dispensation was granted; and
 - (dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests and Memberships and Management Positions

15.—(1) Subject to sub-paragraph (3), you must, within 28 days of—

- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
- (b) your election or appointment to office (if that is later),

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.



The Code of Conduct for members of local authorities in Wales

Guidance from the
Public Services Ombudsman for Wales

Preface

This revised guide from me as Public Services Ombudsman for Wales provides an overview of the Model Code of Conduct (“the Code”) introduced in 2008 (as amended on 1 April 2016). It is intended to help you as a member to understand your obligations under the Code. The Code applies to all members and co-opted members of local authorities, community councils, fire and rescue authorities and national park authorities in Wales. As a member, you are required to sign up to it as part of your declaration of acceptance of office. The Code does not apply to the actions of authorities as a whole, or to the conduct of their officers and employees. There is a separate code of conduct applying to officers of local authorities in Wales.

This is a separate version of my second guidance as Public Services Ombudsman for Wales aimed at community and town councillors (referred to throughout this guidance as community councillors). The guidance differs in many parts from my guidance to county councillors as it recognises the different role that community councillors undertake.

The following pages aim to provide you with a general understanding of the Code and its requirements. Section 1 provides an introduction, while Section 2 outlines your obligations under the Code, referencing specific paragraphs for further information. Sections 3 and 4 deal with general issues surrounding interests, and aim to clarify a number of provisions which you will find in Parts 3 & 4 of the Code. You can obtain a copy of the Code by contacting your Clerk.


The guide is intended to help you to understand the Code and how it applies, but it cannot hope to cover every conceivable circumstance. Ultimately, it is your responsibility to take specific advice from your Clerk or Monitoring Officer and to make a decision as to the most suitable course of action.

I have used examples throughout the report to help to bring the guidance to life. These examples are drawn from actual cases considered by my office and also include decisions reached by local standards committees and the Adjudication Panel for Wales. Some of these decisions may have been taken by my predecessor, but throughout, for ease of reference, I will refer to them as my own decisions. Further examples of recent cases will be published quarterly in “The Code of Conduct Casebook” which is on my website at www.ombudsman-wales.org.uk

As a member you will be offered training on the Code whether by your Clerk, a Monitoring Officer or from a representative body. I expect all members to take advantage of such training, including refresher courses, to ensure that they are fully aware of the provisions of the Code and the standards expected of them in public life. I would urge members to avail themselves of any local arrangements that may be in place for dealing with complaints about their fellow members.

I continue to be concerned about the number of low level complaints that are being received. Whilst these complaints appear to have been generated by a small number of members, in these challenging times of public austerity, it is increasingly important to ensure the effective use of my office's resources and that any investigation undertaken is proportionate and required in the wider public interest.

We should continue to work collaboratively to drive up standards and to create a culture where members are respected for their selflessness, objectivity and respectful behaviour. If we do so we can build public confidence in our democratic institutions and promote good governance for the benefit of the people of all of our communities.

A handwritten signature in black ink, appearing to read 'Nick Bennett', enclosed within a thin black rectangular border.

Nick Bennett Public Services Ombudsman for Wales

July 2016

This statutory guidance is issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000 for elected, co-opted and appointed members of community and town councils in Wales.

Separate guidance is available for elected, co-opted and appointed members of county councils, fire and rescue authorities and national park authorities in Wales.

Acknowledgement

This guidance draws on the guidance prepared and issued by Standards for England on the former English Code of Conduct. It has been extended and amended to refer to the Welsh Code and to the Welsh context.

I would like to thank the legal services department of Rhondda Cynon Taf County Borough Council for the use of its flowchart on interests. First published April 2010. This edition published July 2016.

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1. Introduction

The Local Government Act 2000 created a new ethical framework for local government in Wales. It created a power for the National Assembly for Wales to issue a model code of conduct to apply to members and co-opted members of all relevant authorities in Wales. This power was transferred to the Welsh Ministers by the Government of Wales Act 2006. In 2008 (as amended on 1 April 2016), Welsh Ministers issued the current Model Code of Conduct which all relevant authorities are required to adopt.

Authorities were required to adopt the Code in its model form in its entirety, but could make additions to the Code, provided these were consistent with the Model. This was intended to give certainty to members and the public as to what standards are expected. It helps to ensure consistency throughout relevant authorities, avoiding confusion for members on more than one authority and for the public.

Standards committees of principal councils are required to assist members and co-opted members of town and community councils in their area to observe the Code, and to arrange for advice and training to be provided. I strongly recommend that all members should attend training and take advice where it is offered.

Whilst community councillors do not act on decision-making bodies such as planning committees you will be called upon to take decisions on the allocation of funding from your precept and to offer guidance, drawing on your valuable local knowledge, to the County Council about the impact of planning applications. It is imperative therefore, that you are fully aware of the Code and its implications for your decision-making and indeed, whether you should be involved in making a decision. In light of this I recommend training on the Code for all councillors as early in their term of office as possible.

As a member, when you sign your declaration of acceptance of office, you are confirming that you will observe the Code. It is your personal responsibility to ensure that you understand your obligations under the Code and act in a way which shows that you are committed to meeting the high standards of conduct that are expected of you as a member. Ultimately, as a member, you are responsible for the decisions you take and can be held to account for them. However, this does not imply that you can take decisions which breach the Code or contrary to advice simply because the decision is yours to take. This guidance explains the constraints you are expected to act within to ensure members of the public can be confident in the way in which authorities in Wales reach their decisions.

It is my role as Public Services Ombudsman for Wales to investigate complaints that members of local authorities in Wales have breached the Code. In determining whether to investigate a complaint or whether to continue an investigation of a breach of the Code I will use a two stage test. At the first stage, I will aim to establish whether there is direct evidence that a breach actually took place. The level of proof that is required is on the balance of probabilities.

If that evidential stage is met, at the second stage I will consider whether an investigation

or a referral to a standards committees or the Adjudication Panel for Wales is required in the public interest. Some of the public interest factors that I will consider are set out below. These factors are not exhaustive and the weight to be attached to each will vary according to the facts and merits of each case.

Public interest factors include:

- the seriousness of the breach
- whether the member deliberately sought personal gain for themselves or another person at the public expense
- whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to a person
- whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity
- whether there is evidence of previous similar behaviour on the part of the member
- whether the investigation or referral to a standards committee or the Adjudication Panel for Wales is required to maintain public confidence in elected members in Wales
- whether investigation or referral to a standards committee or the Adjudication Panel of Wales is a proportionate response, namely, whether it is likely that the breach would lead to a sanction being applied to the member (I will take account of the outcomes of previous cases considered by standards committee across Wales and the Adjudication Panel for Wales), and whether the use of resources in carrying out an investigation or hearing by a standards committee or the Adjudication Panel for Wales would be regarded as excessive when weighed against any likely sanction.

I have a wide discretion as to whether to begin or continue an investigation. I have revised the two stage test adopted by my predecessor in order to provide greater clarity on how I will usually exercise my discretion and to secure a degree of consistency and certainty in the decisions that I reach.

The process I use for investigating complaints is summarised on my website at www.ombudsman-wales.org.uk

In this guidance I have tried, where possible, to use examples of cases which have been referred to me and which are relevant to community councils. Where this has not been possible I have given examples of theoretical scenarios that indicate how the Code may be breached while you are undertaking your role.

Local Resolution Process

Most local authorities across Wales have implemented local resolution procedures to deal

with low level complaints which are made by a member against a fellow member. These arrangements are proving to be effective at resolving many of these kinds of complaints. I am supportive of this extending to cover community councils. Typically these complaints will be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code or the duty not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code. Whilst a member may still complain directly to me about a fellow member if the matter being complained about concerns paragraphs 4(b) and 6(1)(d), I am likely to refer the matter back to the Council's Monitoring Officer for consideration under this process. In my view such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that my resources are devoted to the investigation of serious complaints.

The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation. The process may result in an apology being made by the member concerned. However, where a member has repeatedly breached their authority's local protocol then I would expect the Monitoring Officer to refer the matter back to me. If I see a pattern of similar complaints being made to me by the same members I will consider this to be a serious matter and decide whether the persistent reporting of such complaints is conduct which in itself should be investigated as a potential breach of the Code.

When I have investigated a complaint I may refer the matter to a standards committee or the Adjudication Panel for Wales for determination. This will depend on the nature of and individual circumstances of the alleged breach. When issuing my report I will reflect on and analyse the evidence gathered and draw my conclusions as to whether it is suggestive that a breach of the Code has occurred. However the authority to make a determination of breach rests solely with a standards committee or the Adjudication Panel for Wales.

Standards Committee

Standards committees are made up of independent lay members and of elected members of the authority. When I refer a case to a standards committee its role is to decide whether a member has breached the Code and a sanction should be imposed. In my view, hearings should be conducted in public unless there are valid reasons for not doing so to promote public confidence in standards in public life. Where a standards committee concludes that a member or co-opted member has failed to comply with the relevant council's code of conduct, it may determine that:

- no action needs to be taken in respect of that failure
- the member or co-opted member should be censured which takes the form of a public rebuke, or
- the member or co-opted member should be suspended or partially suspended from being

a member of that authority for a period not exceeding six months or if shorter, the remainder of the member's term of office.

A member may seek the permission of the President of the Adjudication Panel for Wales to appeal against the determination of a standards committee to it

Adjudication Panel for Wales

When I refer a case to the Adjudication Panel for Wales its role is also to determine whether a member has breached the Code and whether a sanction should be imposed. In addition, it will consider any appeals where permission has been obtained against the determination of a standards committee. The powers available to the Panel when it determines that a member or co-opted member has failed to comply with the Code are:

- to disqualify the respondent from being, or becoming, a member of the relevant authority concerned or any other relevant authority for a period of up to five years
- to suspend or partially suspend the respondent from being a member or co-opted member of the relevant authority concerned for up to 12 months, or
- to take no action in respect of the breach. In such cases the Panel may deem it appropriate to warn the member as to their future conduct. Where such a warning has been recorded it is likely to be taken into account during any future hearing where the member is found again to have failed to follow the provisions of the Code.

Where either a standards committee or the Panel suspends or partly suspends a member or co-opted member that member is still subject to the Code, in particular the provisions set out in paragraphs 6(1)(a) (bringing the office of member or authority into disrepute) and paragraph 7 (improperly using the position of member).

The Role of the Clerk

The Clerk is employed by your Council and undertakes a number of tasks including providing administrative support to the Council, advising on the development of policies and procedures and advising the Council on implementing and using its procedures. The Clerk acts in a supporting role and is the person you should turn to in the first instance if you need any advice.

The Clerk has a complex role and will be able to advise councillors on relevant legislation, including matters relating to the Code and on the Council's standing orders. The Clerk will work closely with the Chairman to ensure that appropriate procedures are followed at meetings and that all necessary information is available to councillors so that they may make informed decisions. Clerks may approach their relevant county council's Monitoring Officer

for advice (see below).

The Clerk is an employee of the Council and is not required to abide by the Code. Any issues regarding the performance of the Clerk are personnel matters and should be addressed using appropriate employment procedures. The Ombudsman cannot consider complaints regarding the performance of the Clerk; this is a matter for the Council as the Clerk's employer.

The Role of the Monitoring Officer

The Monitoring Officer is an officer employed by the County Council. Among many other things they advise and assist county councillors. Monitoring Officers may offer some training to community councils.

The Monitoring Officer has a significant role in the local resolution process outlined above and they will also work closely in advising the Standards Committee. You should always ask your Clerk in the first instance for any guidance or information. The Monitoring Officer may be able to provide information if your Clerk is unavailable.

The Principles

The Local Government Act empowered the National Assembly to issue principles to which you must have regard in undertaking your role as a member. The Code is based on these principles which are designed to promote the highest possible standards. These principles draw on the 7 Principles of Public Life which were set out in the Nolan Report "Standards of Conduct in Local Government in England, Scotland and Wales". Three more were added to these: a duty to uphold the law, proper stewardship of the Council's resources and equality and respect for others.

Members elected to local authorities give generously of their time and commitment for the benefit of their communities. The principles provide a framework for channelling your commitment in a way which will reflect well on you and your authority, and which will give your communities confidence in the way that your authority is governed.

The individual sections of the Code are designed to support the implementation of the Principles. For example, the Selflessness principle is covered by Section 7 of the Code – Selflessness and Stewardship. The current principles were set out in a statutory instrument and are detailed below.

1. Selflessness

Members must act solely in the public interest. They must never use their position as members to improperly confer an advantage on, or to avoid a disadvantage for, themselves or to improperly confer an advantage or disadvantage on others.

2. Honesty

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

3. Integrity and Propriety

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

4. Duty to Uphold the Law

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

5. Stewardship

In discharging their duties and responsibilities members must ensure that their authority's resources are used both lawfully and prudently.

6. Objectivity in Decision-making

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, members must make decisions on merit. Whilst members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

7. Equality and Respect

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

8. Openness

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

9. Accountability

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

10. Leadership

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

The principles are not part of the Model Code of Conduct, and failure to comply with the Principles is not of itself, therefore, indicative of a breach of the Code. However, it is likely that a failure, for example, to adhere to the principle concerning equality and respect would constitute a breach of the requirements of paragraphs 4(a) and 4(b) of the Code in respect of equality of opportunity and respect.

In any event, the Principles offer a sound basis for your conduct in office and I encourage members to have regard to them at all times.

Deciding when the Code applies to you

See paragraphs 2 and 3

**Consider conduct in your
public & private life**

Members are entitled to privacy in their personal lives, and many of the provisions of the Code only apply to you when you are acting in your role as member or acting as a representative of your Council. However, as there may be circumstances in which your behaviour in your private life can impact on the reputation and integrity of your Council, some of the provisions of the Code apply to you at all times.

When reaching a decision as to whether the Code applies to you at a particular time I will have regard to the particular circumstances and the nature of your conduct at that time.

Before considering your obligations under the Code you should first consider whether the Code applies and, if so, what provisions.

When does the Code apply?

- Whenever you act in your official capacity, including whenever you are conducting the business of your authority or acting, claiming to act, or give the impression you are acting, in your official capacity as a member or as a representative of your authority
- At any time, if you conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute or if you use or attempt to use your position to gain an advantage or avoid a disadvantage for yourself or any other person or if you misuse your authority's resources.

Where you act as a representative of your Council on another relevant authority, or any other body, you must, when acting for that other authority, comply with their code of conduct.

When you are nominated by your Council as a trustee of a charity you are obliged when acting as such to do so in the best interests of that charity, in accordance with charity law and with the guidance which has been produced by the Charity Commission (see its website: www.charity-commission.gov.uk).

If you are acting as a representative of your Council on another body, for example on an event committee, which does not have a code of conduct relating to its members, you must comply with your Council's own Code unless it conflicts with any legal requirements that the

other body has to comply with.

If you refer to yourself as councillor, the Code will apply to you. This applies in conversation, in writing, or in your use of electronic media. There has been a significant rise in complaints to me concerning the use of Facebook, blogs and Twitter. If you refer to your role as councillor in any way or comments you make are clearly related to your role then the Code will apply to any comments you make there. Even if you do not refer to your role as councillor, your comments may have the effect of bringing your office or authority into disrepute and could therefore breach paragraph 6(1)(a) of the Code.

The Welsh Local Government Association has produced useful guidance on social media entitled "Social Media: A Guide for Councillors". The guidance aims to provide you with a clearer idea about how you can use social media, the possible pitfalls and how to avoid them. It is available on their website at www.wlga.gov.uk or by calling 029 2046 8600.

If you are suspended from office for any reason, you must still observe those elements of the Code which apply, particularly as set out in paragraph 2(1)(d), while you are suspended.

Example

Councillor A made remarks about Councillor B at a committee meeting organising a waterfront parade. The parade was being arranged by a group of volunteers which had asked the Community Council to provide representatives to help it remain aware of community issues when making the arrangements. I was satisfied that Councillor A was acting in his capacity as a councillor at the Committee meeting, as his role on the Committee was as the Council's representative and were it not for this fact he would not have been present at the meeting. However, in this case I was satisfied that the comments made by Councillor A were not sufficiently serious that, if proven, it would lead to a sanction being imposed on the accused member by a standards committee. Therefore I did not investigate this complaint.

Example

Conversely, a complaint was received that Councillor J was intoxicated and behaving inappropriately at a street party. It was established that Councillor J did not have to undertake any action on behalf of the Council at the party. Therefore, in my view, she attended the party as a member of the public and as she did not seek to rely on her status as a councillor in any way the Code did not apply (except for paragraph 6(1)(a)). Whilst her behaviour may have been considered inappropriate by some it was not relevant to her role as a councillor and in my view did not bring the Council into disrepute so paragraph 6(1)(a) did not apply. I did not investigate this complaint.

2. General obligations under the Code of Conduct

If you consider that the Code applies to you at a particular time then you must consider what provisions may apply and your obligations under the Code. I have referred to each paragraph below to provide you with some guidance on your general obligations.

Equality

See paragraph 4(a)

You must carry out your duties 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. You should at all times seek to avoid discrimination. There are four main forms of discrimination:

- Direct discrimination: treating people differently because of their gender, race, disability, sexual orientation, age or religion
- Indirect discrimination: treatment which does not appear to differentiate between people because of their gender, race, disability, sexual orientation, age or religion, but which disproportionately disadvantages them
- Harassment: engaging in unwanted conduct on the grounds of gender, race, disability, sexual orientation, age or religion, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment
- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination

The Equality Act 2010 (as amended) reinforces the importance of this part of the Code. It imposes positive duties to eliminate unlawful discrimination and harassment and to promote equality. Under equality laws, your Council may be liable for any discriminatory acts which you commit. This will apply if you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your Council's fulfilment of its positive duties under equality laws. Such conduct may cause your Council to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code.

You must also be mindful that at all times including when acting in your private capacity you must not act in a way that would bring your Council into disrepute. It is likely that engaging in behaviour which could be considered to be in breach of the Equality Act in your private capacity would fall into this category.

Example

A member of a county council was a member of the Council's Recruitment Panel to appoint a new Chief Executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room Councillor A said "good candidate, shame he's black".

The Adjudication Panel for Wales found that paragraph 4(a) of the Code had been breached and that Councillor A had brought the office of member and his authority into disrepute (in breach of paragraph 6(1)(a) of the Code).

Treating others with respect and consideration

See paragraph 4(b)

Political comments can attract Article 10 rights

You must show respect and consideration for others. Freedom of expression is a right which applies to all information and ideas, not just those that are found favourable. However it is a right that may be restricted in certain circumstances, for example, for the protection of the rights and interests of others. A member's freedom of expression attracts enhanced protection when the comments are political in nature. Therefore, the criticism of opposition ideas and opinion is considered to be part of democratic debate, and it is unlikely that such comments would ever be considered to be a breach of the Code.

"Political" comments are not confined to those made within council meetings and, for example, include comments members may generally make on their Council's policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that I will investigate complaints made in this context and councillors need a "thicker skin".

I may also decline to investigate a complaint where the member has raised "political" issues with officers, for example, the Clerk to a council. This would not however include threats to an officer's position or wellbeing. Recent case law has confirmed that council officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to unwarranted comments that disenable them from carrying out their duties or undermine public confidence in the administration. That said, the officers who are in more senior positions will also be expected to have a greater degree of robustness.

I expect members to afford colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. Whilst I recognise that political debate can, at times, become heated, the right to freedom of expression should not be used as an excuse for poor conduct generally. Such poor conduct can only discredit the role of member in the eyes of the public.

When considering such complaints I will take into account the specific circumstances of the case, whether, in my view, the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what has been said.

Example

An appeal tribunal of the Adjudication Panel for Wales considered an appeal by Councillor X against the decision of the Council's Standards Committee. The Standards Committee found that Councillor X had failed to show respect and consideration to another member by prohibiting him from e-mailing the clerk and accessing the Council's website. Councillor X also made comments in an e-mail to the other members regarding his colleague's shower habits. In doing this the Standards Committee found that Councillor X had brought the Council into disrepute.

The Adjudication Panel found that Councillor X's comments were political in nature and attracted the enhanced protection of Article 10 of the European Convention on Human Rights. The Standards Committee's decision was overturned and the sanction rescinded. The decision of the Adjudication Panel can be found [here](#).

Example

The Adjudication Panel upheld a finding of a standards committee about a councillor who was accused of failing to show respect and consideration for others by posting online comments about other councillors and the way in which the Council was run. The member sought judicial review of this decision. The Court found that whilst the comments which were posted were sarcastic and mocking and the tone ridiculed his fellow members, because the majority of the comments related to the way in which the Council was run, how its decisions were recorded and the competence of the councillors, the comments were "Political Expression". The ruling said no account had been taken of the need for politicians to have "thicker skins". In view of the member's freedom of expression and the fact that the majority of comments were directed at fellow councillors, the finding of a breach in this case was a disproportionate interference with the member's rights under Article 10 of the European Convention on Human Rights. The Standards Committee's decision to censure the member was therefore set aside.

Example

A member of a town council wrote to a Deputy Minister of the Welsh Assembly Government about an employee ("Mr Smith") of a county council, a letter which was also copied to the Council. In the letter the member questioned Mr Smith's competence and motivation and he made a number of comments of a disparaging and personal nature about Mr Smith and his associates. He raised the issue of homosexuality and referred to it as a "notorious disability" and that "homosexuality is only a demon which can be driven out". The member was referred to the Adjudication Panel for Wales.

The Panel found that the member had breached paragraph 4(b) of the Code in that he had failed to show respect and consideration for others. It also found that by his use of words he had brought the office of member into disrepute in breach of paragraph 6(1)(a) of the

Code.

The member was disqualified for 12 months from being or becoming a member of a local authority.

Consider your conduct from the other person's perspective

Bullying and harassment

See paragraph 4(c)

You must not use any bullying behaviour or harass any person including other councillors, council officers (the Clerk or Proper Officer) or members of the public.

Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

When considering allegations of bullying and harassment I will consider both the perspective of the alleged victim, and whether the member intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied. Bullying is often carried out face to face, but increasingly, it can be carried out in print or using electronic media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

Example

Community Councillor P disagreed with the County Council's arrangements for the enforcement of parking breaches within the town. Councillor P used disrespectful and abusive language and behaved in a bullying and intimidating manner towards Council Civil Enforcement Officers on four occasions. He also sought to use his position as a councillor improperly in relation to a parking offence. The Standards

Committee found that Councillor P had breached paragraph 4(c) of the Code as he had pursued a course of conduct of threatening behaviour towards the County Council employees. The Standards Committee also established that Councillor P breached paragraphs 4(b), 7(a) and 6(1)(a) of the Code. He was suspended from acting as a Councillor for 12 months.

You need to ensure that your behaviour does not cross the line between being forceful and bullying. There can be no hard and fast rules governing every set of circumstances but the

relative seniority of the officer will be a factor in some cases. As outlined under paragraph 4(b) of the Code very senior officers can be involved in robust discussion with members and be well placed to put their own point of view forcefully. The same is not true of more junior officers and members need to be aware of this. This is not to say that I condone the bullying of senior officers, only that the greater the power difference between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.

Recently, the High Court found that there is a public interest in protecting public confidence in unelected public servants which is to be balanced against the interests of open discussion on matters of public concern. It also found that all members should equally respect the mutual bond of trust and confidence between themselves and the officers which is crucial to good administration.

Local Authorities have appropriate channels for expressing concern about the performance of an officer and it is important that you raise issues about poor performance in the correct way and proper forum. Raising such issues in the context of a meeting with others present, especially if they are from outside bodies or are members of the public, is not acceptable. Neither is it acceptable to do so in the media, in your own publications or using blogs, tweets, Facebook or other electronic means. If your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

Example

A county council member was disqualified from office for 2 years and 6 months by the Adjudication Panel for Wales following allegations of bullying, harassment, disrespect and bringing the office of member into disrepute. The alleged incidents occurred over a period of two years. During that time the member had made threatening comments to officers of both junior and senior grades. For example, comments such as, a number of managers of the Council had been dispensed with and there were more to go and "You won't like the man I'll become if I don't get what I want....I don't need to threaten you you're an intelligent woman I know you're listening to me".

The member appealed the decision and the matter was referred to the High Court where all but three breaches were upheld. The decision can be found [here](#).

Compromising the impartiality of officers of the authority

See paragraph 4(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, your Council. You should not approach anyone who works for, or on behalf of, the Council with a view to pressurising them to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not

provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision or threaten someone if they are not minded to act in a particular way. If a member develops a close personal relationship with an officer, this becomes a personal and possibly a prejudicial interest under the Code.

Hypothetical Scenario

The Clerk is responsible for allocating allotments from a waiting list, the allotments are very popular and vacancies very rarely arise. The Clerk advised the Council that an allotment had become vacant and that they would consult the list and allocate the allotment to the person who had been waiting the longest in accordance with the Council's allotment allocation procedure. Councillor D's father had been waiting for an allotment for almost seven years. Councillor D approached the Clerk after the meeting and asked to see the list. He noted that one person was ahead of his father by only one month. Councillor D asked the Clerk to give the vacant allotment to his father, he said that as so much time had elapsed since his father and the other person had applied, the other person was unlikely to question who was first and in any event it would not be difficult to retype the list. Councillor D suggested that in return for this favour he would encourage the Council to look favourably on the charity suggested by the Clerk when it came time to decide where to allocate funds raised at a fun day the following month.

Disclosing confidential information

See paragraph 5(a)

You must not disclose confidential information, or information which should be reasonably regarded to be of a confidential nature, except in any of the following circumstances:

- you have the consent of the person authorised to give it
- you are required by law to do so.

The Information Commissioner has issued helpful guidance on the Freedom of Information Act and Data Protection Act which is available on his website at www.ico.gov.uk or by calling 0303 123 1113. As a community councillor you may have sight of sensitive information, for example of a commercial nature. You must also be mindful that, as a councillor, you hold a position of trust and you may find that members of the public will provide you with information that could reasonably be regarded as confidential and you should always confirm (where possible obtain an agreement in writing) that you have the permission to disclose such information before doing so. As a general rule, you should treat items discussed in the confidential sections of meetings (exempt items) as confidential. Similarly, legal advice is almost always covered by legal privilege and should not be disclosed.

Example

A Community Councillor S received an e-mail from another Councillor T regarding the employment of the caretaker. The e-mail was marked as confidential. Councillor S disclosed

the e-mail to the caretaker's wife, information in the e-mails was subsequently used against the Council in a tribunal hearing relating to the caretaker's employment. I concluded that Councillor S might have breached paragraph 5(a) of the Code.

Preventing access to information

See paragraph 5(b)

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the Freedom of Information Act 2000 or those copies of minutes, agendas, reports and other documents of your Council which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting www.ico.gov.uk or by calling 0303 123 1113 or for specific queries, you should ask your Monitoring Officer or Clerk.

Any information that you produce in your official capacity is liable to be subject to the disclosure requirements of the Freedom of Information Act, and your Council may be required to release it in response to a request. If you do not provide the information to the Clerk on request, you will be in breach of the Code.

Your Council needs to decide whether to disclose information or whether it may be covered by an exemption. Even if you believe that information you hold is exempt, you must provide it to your Clerk if requested to allow the Council to reach a decision. As well as being a breach of the Code, it is a criminal offence if information is destroyed after a Freedom of Information Act request has been received.

Example

A leader of a county council refused to give the Council's Information Officer a letter he had written to the Wales Audit Office on behalf of the Council's Executive. As a result the Council could not respond appropriately to a Freedom of Information Act request which resulted in a complaint being made to the Information Commissioner's Office. The member continued to refuse to disclose the letter despite having received clear and unequivocal advice from the Information Officer. His refusal led to an adverse finding from the Information Commissioner's Office. The Adjudication Panel found that the member had breached paragraphs 5(b) and 6(1)(a) (disrepute) in respect of this matter and other related matters. By the time the case was considered by the Panel the member had resigned from office. He was disqualified from holding office for 12 months.

Disrepute

See paragraph 6(1)(a)

You must not behave in a way which could reasonably be regarded as bringing your office or authority into disrepute at any time. As a member, your actions and behaviour are subject

**Any conduct unbecoming
of a member can constitute
disrepute**

to greater scrutiny than those of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your Council.

Dishonest and deceitful behaviour will bring your Council into disrepute, as may conduct which results in a criminal conviction, especially if it involves dishonest, threatening or violent behaviour, even if the behaviour happens in your private life. Making unfair or inaccurate criticism of your Council in a public arena might well be regarded as bringing your Council into disrepute. Inappropriate e-mails to constituents or posts on social media might well bring the office of member into disrepute.

Example

A community councillor had been abusive to a shop proprietor and two members of her staff and had attempted to obtain a discount on a private purchase by saying it was being bought on behalf of the Community Council, and when his request for a discount was refused he had made threats against the business. The Adjudication Panel found that the member had brought the office of member into disrepute and suspended him for 9 months.

Example

A member of a county borough council who regularly wrote an article for a local monthly publication referred in his article to a recent road traffic accident in which a 10 year old boy was injured. The complainant was the mother of the boy who was with the injured child. After the article was published she telephoned the councillor who she said was abusive towards her during the call. In a subsequent e-mail exchange the councillor told her that she had "failed to take any responsibility for her child allowing him out alone", that her "ill educated in the highway code son" was to blame and said "don't you dare try and shift your inadequacies as a parent upon me".

The member was found in breach of paragraphs 4(b) (respect & consideration) and 6(1) (a) (disrepute). The matter was referred to the Adjudication Panel for Wales. Although the member had claimed to have apologised for his behaviour what he had actually said was "I have nothing to apologise for... I do apologise if, for some reason it upset you".

The Panel found that the member had breached paragraphs 4(b) (treating others with respect) and 6(1)(a) (disrepute). He had previously been suspended by the Panel for 2 months for sending inappropriate e-mails in 2006. He was suspended for 12 months in respect of these breaches.

Reporting breaches of the Code

See paragraph 6(1)(c)

If you reasonably believe that a breach of the Code has occurred, you must report it to the Monitoring Officer of the principal Council. There is no longer a need to report the matter to me. In order to have a reasonable belief that a breach has occurred, you will need to have evidence which supports this. If you are in doubt as to whether a breach has occurred, you should consult your Monitoring Officer as soon as possible. Where the breach is a very minor or technical one, or where there is no clear evidence that a breach occurred, your Monitoring Officer may advise you of the likely threshold I will set. In the most serious of cases the Monitoring Officer may, as an exception, decide to refer matters to me directly or on your behalf. In most other cases you will be advised you to do so.

Nonetheless, the decision as to whether to investigate a breach rests with me. The balance of any doubt should always favour reporting. It is helpful if you specify which aspect of the Code you believe has been breached.

In determining whether to investigate a complaint of a breach I will use the two stage test which I have outlined on pages 6 and 7 above. You should ensure that you provide any evidence you have available when you make a complaint including minutes of meetings, correspondence, contemporaneous notes or e-mails. If there are other individuals who have witnessed the alleged breach, you should let us know who they are. This latter point is especially important as if I only have one person's word against another's, it is usually not possible for me to make a finding that a breach has occurred, and in the absence of independent confirmation, I may not be able to conclude with sufficient certainty that there is enough evidence to warrant pursuing the matter.

To report such matters, you can contact my office by phone at 0845 6010987, by email to ask@ombudsman-wales.org.uk or via the website at www.ombudsman-wales.org.uk. A special leaflet on making complaints about alleged breaches of the Code is available on request or on the website.

Vexatious complaints

See paragraph 6(1)(d)

You must not make complaints against other members or staff members or people working on behalf of your Council which are not founded in fact and which are motivated by malice (a desire to do them harm) or by political rivalry. Unfortunately, there have been instances where members have sought to bring complaints about rivals which are designed to disadvantage them, sometimes in the run-up to elections, and where the evidence of any breach is weak or non-existent. I consider that in the first instance such conduct should be considered under the relevant authority's local resolution process if there is one in place.

Where specific details of such complaints are passed to local press and media, this may prejudice an investigation and so also may be a breach of the Code. You must report well-founded alleged breaches to the Monitoring Officer of the principal Council, not to your local newspaper or radio station. The press will properly cover the business of any hearings and their outcomes, and members making allegations should not generate publicity in advance of these.

The Code should not be used by members to pursue their political or private differences. You should also avoid making complaints which have little or no substance (frivolous complaints) which are designed mainly to annoy the person complained about. In the past it has been necessary for my predecessor to correspond with the Clerk of a council in relation to their mutual concerns about the number of complaints received in respect of its members. As previously stated, since taking up my office I too have had concerns about the number of low level complaints that are still being received from members. Although these complaints appear to be generated by a small number of members, they can create a negative impression of those members and councils and generally harm public confidence in our elected members. Where it becomes apparent that repeated member against member complaints are being made to my office, I would urge those councils to reflect on the culture which has resulted in these complaints and consider how this behaviour might be changed to avoid such complaints.

Where I find evidence to suggest that a complaint has been made to my office which is not founded in fact and has been motivated by malice or political rivalry, I will consider this to be a serious matter and I may investigate. Making vexatious, malicious or frivolous complaints is not only a breach of this paragraph but may also be contrary to your other obligations under the Code such as the requirement not to bring your position as councillor into disrepute or not to use your position for an improper purpose.

You should note that the Code only applies to those who have been elected, co-opted or otherwise appointed to a body which is covered by the Code. It does not apply to members of the public. Whilst I appreciate that it can be frustrating if a member of the public makes repeated complaints against you which you consider to be vexatious or frivolous in nature, I am required to consider each complaint on its own merit. However, it is likely that such complaints would not pass the two stage test and result in an investigation.

Co-operating with investigations

See paragraph 6(2)

You must co-operate with an investigation when it is being conducted by me or by your Monitoring Officer using our statutory powers. Not to do so is itself a breach of the Code. This means that you should reply promptly to all correspondence and telephone calls, make yourself available for interview if required and make available copies of any requested

documents. It would be helpful if you could identify any concerns that you may have during the course of the investigation so that these can be promptly resolved. My office and your Monitoring Officer will make reasonable allowances for urgent pressures you face and arrangements previously made, for example, for holidays. However, they will expect you to give priority to their investigations, to avoid matters being needlessly drawn out. The requirement to co-operate with an investigation applies whether you are a witness or the subject of the investigation.

I am aware of instances where members accused of breaches of the Code have sought to put pressure on the individuals making the complaint or on other witnesses. I regard such behaviour as entirely unacceptable. You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you have breached paragraph 4(c) of the Code with regard to bullying or harassment, for example, or paragraph 6(1)(a) in respect of bringing the office of member into disrepute.

Using your position improperly

See paragraph 7(a)

You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else. This paragraph applies at all times and not just when you are carrying out your duties as a member. You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member. This also applies if you use your office to improve your wellbeing at the expense of others.

Members who own land, or whose close personal associates own land, need to be particularly cautious where planning matters are concerned. If you are in any doubt, you should take advice. This applies equally to members of community councils when your Council is consulted on planning matters. Similarly, while it is reasonable to expect members to help constituents apply to the Council, for example, for housing, it is quite inappropriate to seek to influence the decision to be taken by the officers.

The provisions of the Bribery Act 2010 apply to members carrying out their public functions. Should a member be convicted of a criminal offence under this Act then it is likely that they will also have used their position improperly (in breach of paragraph 7(a)) and be likely to have brought the office of member or their authority into disrepute in breach of paragraphs 6(1)(a) and (b). If any complaint which is made to me concerns conduct which may amount to a criminal offence then I am likely to refer the matter to the police.

Example

Councillor D was a 'joint co-ordinator' of a community group. Councillor D did not notify the Council of her position in this group. She took part in the considerations and voted on the decision to negotiate a new lease in respect of a workshop used by this community group. A standards committee found that she had used her position on the Council improperly as the decision on which she voted benefited a group in which she clearly had an interest which she had not made the Council aware of. She was found in breach of paragraph 7(a) of the Code and suspended from acting as a councillor for four weeks.

The authority's resources

See paragraph 7(b)

You must only use or authorise the use of the resources of the Council in accordance with its requirements. This paragraph also applies at all times. If your Council provides you with access to resources (for example telephone, computer and other IT facilities), you must only use these resources for carrying out your Council business and any other activity which your Council has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your Council.

Failure to comply with your Council's rules is likely to amount to a breach of the Code. If you authorise someone (for example a member of your family) to use your Council's resources, you must take care to ensure that this is allowed by your Council's rules.

Using resources for proper purposes only

See paragraphs 7(b)(v) and 7(b)(vi)

You must make sure you use the Council's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the Council's resources, you must have regard, if applicable, to any guidance issued by your Council.

Example

A member of a county council was found in breach of the Code for making improper use of his council-owned computer equipment for private purposes by downloading inappropriate adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as being from members of the public. The Adjudication Panel found that the member had misused the Council equipment in breach of the Code and had brought the office of member into disrepute. He was disqualified from being or becoming a member of a local authority for 2 years and 6 months.

Reaching decisions objectively

See paragraph 8(a)

When taking part in meetings of your Council, or when arriving at decisions relating to the Council's business, you must do so with an open mind and objectively. During the decision-making process you must act fairly and take proper account of the public interest.

Most decisions taken by a community council relate to local matters and funding of local projects. Although the amounts of money being spent are smaller than at county level, all decisions must be taken on the basis of the facts in front of you, and you must not have made your mind up in advance to such an extent that you are entirely unprepared to consider all of the evidence and advice you receive. Having a completely closed mind is known as pre-determination. You are entitled to hold a preliminary view about a particular matter in advance of a meeting (pre-disposition) as long as you keep an open mind and are prepared to consider the merits of all the arguments and points made about the matter under consideration before reaching your decision. Pre-determination on the other hand would be where you have clearly decided on a course of action in advance of a meeting and are totally unwilling to consider the evidence and arguments presented on that matter during the meeting. Pre-determination could not only invalidate the decision, it would also amount to a breach of the Code.

Considering advice provided to you and giving reasons

See paragraph 8(b)

You must have regard to all of the advice you receive from your Clerk. The Clerk is usually also the Proper Officer and it is part of their role to research the policy, guidelines and legislation relevant to advice given when taking decisions.

It is always helpful, if you can, to get advice as early as possible. If you can, ask for advice in good time before a meeting, rather than at the meeting or immediately before it starts. Make sure you give the Clerk all of the information they need to take into account when giving you advice.

If you seek advice, or advice is offered to you, for example, on whether you should register

a personal interest, you should have regard to this advice before you make up your mind. Failure to do so may be a breach of the Code.

As a matter of good practice, where you disagree with the Clerk's recommendations in making a decision, you should give clear reasons for your decision. If you decide to vote against their advice, you should ensure that your reasons for doing so are recorded in the relevant minutes.

Expenses

See paragraph 9(a)

You need to follow the law and your Council's requirements in claiming expenses and allowances. If you are in any doubt about your entitlements, or the proper way to claim, you should ask your Clerk for advice. You need to keep proper records of expenditure supported by receipts where appropriate, so that you can properly evidence your claims. Even if a particular scheme does not require you to submit receipts, you are strongly advised to keep these so that you can prove how much you have actually spent on the items you are claiming for.

Gifts and hospitality

See paragraph 9(b)

It is important that you do not accept any gifts or hospitality for yourself, or on behalf of others, which would place you under obligation or appear to do so. Accepting such gifts or hospitality could be regarded as compromising your objectivity when you make decisions or carry out the work of your Council. This is also true of any services or gifts in kind. This does not prevent you from attending official events such as a civic reception or working lunch where these are authorised by your Council.

3. Personal and prejudicial interests

The elements of the Code which cover personal and prejudicial interests give rise to many questions from members. They are designed to safeguard the principles of selflessness and objectivity. They are intended to give members of the public confidence that decisions are being taken in their best interests, and not in the best interests of members of authorities or their close personal associates.

Personal interests relate to issues where you or a close personal associate may have some link to a matter under discussion. These interests become prejudicial where an informed independent observer could conclude that the interest would influence your vote, or your decision.

In my experience it is the distinction between personal and prejudicial interests, and what action a member should take depending on the nature of their interest, that causes the most difficulty for members.

The paragraphs below are designed to offer guidance in this area. I would strongly recommend that if you are in any doubt about whether you have a personal or prejudicial interest, and, if so, what you need to do, you should ask your Clerk for advice. However, the decision on what course of action should be taken remains with you.

To provide some further assistance, I have attached a flowchart to this guidance, based on a document prepared by Rhondda Cynon Taf County Borough Council, which is designed to take you through the questions that you should ask when deciding whether you have an interest. It is for illustration purposes only and is not definitive.

Guidance on registering interests is at Section 4.

Personal Interests **See paragraph 10**

Do you have a link or close connection to the item to be considered?

While you are carrying out your duties, you need to decide if you have a personal interest, and if so, whether you need to disclose it. Most members know that you need to disclose personal interests at meetings, but as you will read below, there are other occasions, such as when speaking to the Clerk about the matter concerned, when you may also need to do so.

Listed below are some questions that you should ask when deciding if you have an interest

Do I have a personal interest?

You have a personal interest in any business of your Council, including when making a decision, where it relates to or is likely to affect:

1. your job or your business

2. your employer, or any firm in which you are a partner or paid director
3. any person who has paid towards the cost of your election or your expenses as a member
4. any company in which you hold shares with a nominal value of more than £25,000 or where your holding is more than 1% of the total issued share capital, which has premises or land in your Council's area
5. any contract that your Council makes with a firm in which you are a partner, paid director or hold shares in as described in 4
6. any land in which you have an interest and which is in your Council's area (this is especially important in all planning matters including strategic plans)
7. any land let by your Council to a firm in which you're a partner, paid director or a body as set out in 4
8. any body to which you've been elected, appointed or nominated by your Council
9. any
 - public authority or body exercising functions of a public nature
 - company, industrial and provident society, charity or body directed to charitable purposes
 - body whose main role is influencing public opinion or policy
 - trade union or professional association
 - private club, society or association operating in your Council's area in which you have membership or are in a position of general control or management, or
10. any land in your Council's area which you have a license to occupy for at least 28 days.

It is always safer to declare an interest, however, if in doubt, consult your Clerk or your Monitoring Officer.

Matters affecting your well being or financial position

If a decision might be seen as affecting your well being or financial position or the well being or financial position of any person who lives with you or with whom you have a close personal association to a greater extent than other people in your Council's area, you have a personal interest.

Examples of decisions of this kind include obvious issues like contracts being awarded to your partner's company but also issues about the location of developments, where it might make a big difference to where you or your close personal associates live. Examples have included the location of playgrounds, where elected members have opposed them near their

houses because of issues about noise.

What is “a body exercising functions of a public nature”?

The phrase “a body exercising functions of a public nature” has been subject to broad interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether or not a body meets that definition:

- Does that body carry out a public service?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

When conducting community council business it is likely that you will be acting on a body which is exercising functions of a public nature. You may also be doing this if you have been appointed to act on behalf of the Council on a community project or interest group.

What does “affecting well-being or financial position” mean?

The term ‘well-being’ can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being. A personal interest can affect you or your close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, you need to declare a personal interest in both situations.

Close personal associates include friends, relatives, business associates and those with whom you have been in dispute

Who is a close personal associate?

Close personal associates include people such as close friends, colleagues with whom you have particularly strong connections, business associates and close relatives. It does not include casual acquaintances, distant relatives or people you simply come in contact with through your role as member or your work in the local community.

Close personal associates can also include someone with whom you have been in dispute, or whom you may be regarded as having an interest in disadvantaging. For example, being a member of the same golf club as another person would not of itself constitute a close personal association but having that person as a weekly golf partner might well do. If you are in doubt, you should ask your Clerk or your Monitoring Officer.

“Twin hatted” members

If you are a member of both a community council and a county council you are not prevented from discussing the same matters at both. You may, for example, take part in a discussion about a planning application about which your Community Council has been consulted and still go on to participate in a decision about the application if you sit on the Planning Committee of

your County Council.

If you do so, you would be well advised to state at the Community Council meeting that you would be looking at the matter afresh when you consider it at the County Council meeting, and that you would take into account all of the information and advice provided to you. At the Planning Committee, you should make it clear that you are not bound by the views of the Community Council. The advice about objective decision making in respect of paragraph 8 of the Code is also relevant here.

Obviously, if the application was one submitted by the Community Council, then you would have both a personal and a prejudicial interest, and you would be required to declare it and withdraw in line with the guidance on “what to do if you have a prejudicial interest” below.

Example

A member of a Community Council was found in breach of the Code for failing to declare a personal and prejudicial interest at a meeting which considered the Clerk’s remuneration package; the member and the Clerk were in a relationship and engaged to be married at the time. The Adjudication Panel found that the member should have declared a personal interest the item of business by virtue of his close personal association with the Clerk. It considered also that the nature of the member’s relationship with the Clerk was one that gave rise to a prejudicial interest as it concerned a significant benefit for the future spouse. The Adjudication Panel considered that the interest was one that would affect public perception of the members’ ability to make a decision in the public interest.

The Adjudication Panel reiterated that the test was not whether the member took the decision without prejudice but whether he would have been seen as doing so. The member was suspended for 3 months.

What if I am not aware of my personal interest?

Your obligation to disclose a personal interest to a meeting only applies when you are aware of or reasonably ought to be aware of the existence of the personal interest. Clearly you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

What to do when you have a personal interest

See paragraph 11

Once disclosed you can stay & participate if your interest is not prejudicial

If you decide that you have a personal interest then you must take the following action before the matter is discussed or as soon as it becomes apparent to you except in limited

circumstances:

- Declare that you have a personal interest, and the nature of that interest
 - at meetings
 - when making written representations (including e-mails, faxes etc.)
 - when making oral representations, even if your interest is on the register of interests.
- Confirm your interest by e-mail or in writing to the officer concerned and to the Clerk within 14 days
- Consider whether you have a prejudicial interest (see below).

If you have agreed with your Clerk or your Monitoring Officer that the information about your personal interest is sensitive information then you should disclose the existence of a personal interest, and confirm that the Clerk or Monitoring Officer has agreed that the information about it is sensitive. More information about this is included in the separate section below.

If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest. What constitutes a prejudicial interest is outlined in the following section.

Do not be swayed by what you think - consider what a member of the public would reasonably think

Prejudicial Interests

See paragraph 12

Do I have a prejudicial interest?

Your personal interest will also be a prejudicial interest in a matter if a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest. There are exemptions to this which are contained in paragraph 12(2) of the Code although many of the examples are unlikely to apply to business undertaken by a community council.

What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest. This is an objective test. You must decide not whether you would take the decision without prejudice, but whether you would be seen as doing so.

You must ask yourself whether a member of the public, if he or she knew all the relevant facts, would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm

or impair your ability to judge the public interest.

The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of any close personal associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.

You would have a prejudicial interest in the consideration and decision on whether to support a planning application proposal if a close personal associate of yours (for example your son or a good friend) lives next to the proposed site. This is because your close personal associate would be likely to be affected by the application to a greater extent than the majority of the inhabitants of your Council area and this gives you a personal interest in the issue. The close personal association means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. It does not matter whether it actually would or not.

In other cases, where there has been a dispute between you and an individual who could be disadvantaged by a decision, an informed reasonable member of the public might conclude that you would be inclined to vote accordingly, whether this is the case or not.

Community councillors do not have a prejudicial interest in decisions made by their Council in respect of grants, loans or other financial assistance to community groups or voluntary organisations where the value does not exceed £500. Furthermore community councillors who have been appointed to the community group or voluntary organisation concerned by their Community Council, for example, e.g. to the board of a community hall, will not have a prejudicial interest in decisions made by their Council in respect of any grants, loans or other financial assistance. If, on the other hand, you are on such a board in your own capacity and have not been appointed by your Council, then you will have a prejudicial interest.

What to do when you have a prejudicial interest

See paragraph 14

If you consider that you have a prejudicial interest in your Council's business you must take certain action.

Nevertheless, even where you have a prejudicial interest, the Code supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.

Key point: If you have a **prejudicial interest** in a matter being discussed at a meeting,

you must, having declared your personal interest in the matter, leave the room (or any other venue in which the meeting is being held including, for example, the location of a site meeting).

This is unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise.

If that is the case, you can also attend the meeting for that purpose or submit written representations to the public meeting. However, where you attend you must immediately leave the room or chamber once the period for considering representations has finished, and before any discussion on the item begins, even if members of the public are allowed to remain. You cannot remain in the public gallery to observe the vote on the matter.

In addition, **you must not seek to influence a decision in which you have a prejudicial interest**. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage. This means that as well as leaving meetings where the item is discussed, you should also not write or make any oral representations about the matter.

The Code does not provide you with a general right to speak to a meeting where you have a prejudicial interest. The Code aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your Council's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item. Recent changes to the Code also provide the right to submit written representations to the public meeting in these circumstances. You may not however take part in the discussion or observe the vote.

When must I leave the place where the meeting is held?

You must leave immediately after the time for making representations, giving evidence or answering questions is finished, and before any debate starts.

What does influencing a decision mean?

You must not make any representations or have any involvement with decisions in which you have a prejudicial interest, except where you are entitled to speak as described above. Your presence itself could be perceived to be capable of influencing the decision making process.

What if the public are not allowed to speak to the meeting on the matter?

If an ordinary member of the public is not allowed to speak on the matter, you cannot do so or submit written representations if you have a prejudicial interest. You must leave the place where the debate is being held and not seek to influence the debate in any way.

This may be the case, for example, where your Council is discussing a confidential matter in closed session or does not have procedure rules or standing orders in place that allow members of the public to speak at a meeting of your Council. Like the public, you are not allowed to participate if you have a prejudicial interest. However, where the public may be allowed to sit in the public gallery to observe the meeting, you will be required to leave the room during the debate and vote.

Example

A member of a Community Council was found in breach of the Code for failing to declare a personal and prejudicial interest at a meeting which considered a planning application for a wind farm on land adjacent to a farm owned by her; the member having entered into a Lease of Rights agreement over her land to facilitate access to the proposed development. The member initially relied on the fact that this agreement contained a confidentiality clause to explain her actions. Nonetheless the member participated in a secret ballot held in order to decide whether the Community Council would support or oppose the application.

Immediately prior to the hearing before the Adjudication Panel the member accepted that she had a personal interest in the item and later that it was prejudicial in nature. The Adjudication Panel found that the member had failed to comply with paragraphs 11(1) and 14(1) of the Code. It considered that she had allowed her personal interests to prevail and to keep those private conflicted with her duties and responsibilities as an elected member. She was suspended from office for 3 months.

Dispensations

If I have a prejudicial interest, can I obtain a dispensation to allow me to take part in the meeting?

You can apply in writing to your County Council's Standards Committee for a dispensation on one or more of the following grounds:

- at least 50 per cent of the Council or Committee members would be prevented from taking a full part in a meeting because of prejudicial interests
- the nature of your interest is such that your participation would not harm public confidence
- your interest is common to a significant proportion of the general public

- you have a particular role or expertise which would justify your participation
- the business relates to the finances or property of a voluntary organisation and you sit on its board or committee in your own right and you do not have any other interest, although in this instance, any dispensation will not let you vote on the matter, or
- the Committee believes that your participation would be in the interests of the people in your Council's area and that the committee notifies Welsh Ministers within seven days.
- the committee considers if appropriate in all circumstances, where it was not otherwise possible, to make reasonable adjustments to accommodate a person's disability.

You can apply for a dispensation individually and in certain circumstances, you can make joint applications where a number of members want to obtain a dispensation to speak or vote on the same matter. If the Standards Committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible.

Only the Standards Committee can grant the dispensation and will do so at its discretion. The Standards Committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the Council. If failure to grant a dispensation will result in a council or committee not achieving a quorum, this may well constitute grounds for granting a dispensation.

Where you hold a dispensation, you can also make written representations but you must provide details of the dispensation in any correspondence. If you make oral representations, whether in person or by phone, you must refer to the dispensation and confirm this in writing within 14 days.

4. Registration of Interests

See Paragraph 15

Key points

Community councils are required to maintain and publish electronically a record of its members' interests in a public register of interests. This record is maintained by your Clerk. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

The register also protects you. You are responsible for deciding whether you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

Recent changes to the Code now also require you, where you become aware of a change to a registered personal interest, to register that change by providing written notice to your Clerk within 28 days. You are also required when disclosing any personal interest for the first time to register it in the register of interests by giving written notice to your Clerk.

Gifts and hospitality

See Paragraph 17

Key points

You must notify your Clerk of any gifts or hospitality worth more than the amount specified by your Council that you receive in connection with your official duties as a member, and the source of the gift or hospitality.

Like other interests in your register of interests, you may have a personal interest in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person, and then decide whether that interest is also a prejudicial interest. It is also good practice to provide a note of any offers of gifts which you have declined.

Is the gift or hospitality connected to my official duties as a member?

You should ask yourself, would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, I recommend that you register it or speak to your Clerk.

You do not need to notify your Clerk of gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always notify your Clerk of any gift or hospitality if it could be perceived as something given to you because of your position or if your Council requires you to.

What if I do not know the value of a gift or hospitality?

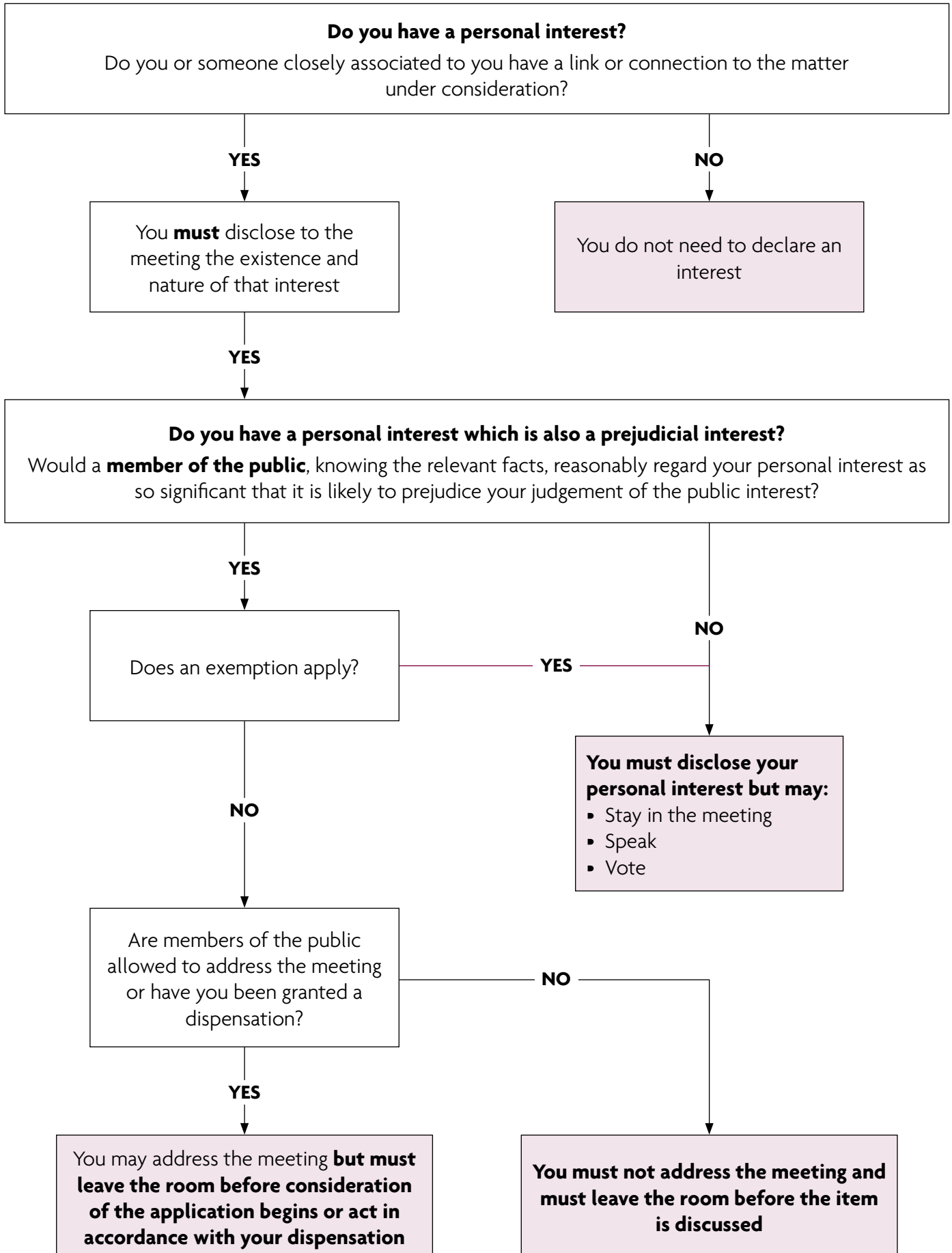
The general rule is, if in doubt as to the value of a gift or hospitality, you should notify your Clerk of it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.

You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to the value specified by your Council or over should be registered.

The Code also refers to material benefit or advantage. The measure of this would be if an informed independent observer could conclude that you might be perceived to be better off as a consequence.

Declaration of personal and prejudicial interests

Questions to ask yourself. If in doubt you should ask your Clerk or your Monitoring Officer.



Contact us

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Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

MEMBERS' DECLARATION OF INTEREST AT MEETINGS

Name of Member:	ENCLOSURE 2 - APPENDIX 3
Name of Meeting:	
Date of Meeting:	
Agenda Item (number and title):	

Members are required to complete boxes 1, 2, 3 and 4 below.

1. The nature of the personal interest is :

2. The Council business to which the personal interest relates is :

3. Members are required to tick one box

The personal interest **is not prejudicial*** and I took part in the item **OR**

The personal interest **is prejudicial*** and I left the meeting when the item was discussed **OR**

The personal interest **is prejudicial*** but I have a dispensation

*A prejudicial interest is a personal interest which is so significant that a well-informed member of the public would reasonably believe that the Member would be unable to act on the matter in the public interest.

4. Members are required to tick one box and to provide reasons

I believe my personal interest **is not prejudicial***
Because:

OR

I believe my personal interest **is prejudicial***
Because:

Signed Date of signature

THIS COMPLETED FORM SHOULD BE HANDED TO A MEMBER OF THE COMMITTEE SERVICES STAFF DURING THE COURSE OF, OR IMMEDIATELY AFTER, THE MEETING

Register of Members Interests

A register of member's declared interests is a concept that is included in various pieces of local government legislation, in particular in legislation that has been implemented during the current century. This concept is consistent with open and transparent government. A similar concept exists in respect of the recording of the receipt of any gifts or hospitality by elected members. However, mostly, the implementation of such items has been confined to the larger public sector bodies such as unitary councils. More recently, guidance from the Welsh Government has confirmed that community and town councils in Wales now also need to maintain such a "register" and that this register must also be displayed electronically on the council's website, which, from 2015/2016, all local councils must have in place.

Frustratingly, there has been confusion and there have been differences of opinion and challenges in relation to this issue, in terms of what is actually required. One Voice Wales views the existence of a "register" as meaning any format of documentation where members' interests are shown (and the same would be so for any gifts or hospitality received by members). The Welsh Government civil servants do not promote any specific formats for this purpose within their published guidelines. One Voice Wales has developed a model form for such a purpose (see below).

What councils need to do :

Following discussions with the Welsh Government, it has become clear that the new responsibility for publishing the register of interests on-line does not require the completion of the form that One Voice Wales had circulated to member councils on 28th May 2015. It had been initially thought that the exemption for community and town councillors from the requirements of paragraph 15(1) of the model code of conduct to register certain financial and other interests within 28 days of taking up office had been removed by the 2013 Act. However, following discussion with the relevant Welsh Government policy official, this is not the case. The official is aware that there may well have been confusion on this point and has confirmed that the 2013 Act has no impact on the requirements of the code of conduct relating to the disclosure and registration of interests. In summary, the requirements of the code of conduct, as it applies to community and town councils, are as follows:

- a) Councillors are required to declare a personal and, if appropriate, prejudicial interest in relation to pertinent matters when they are present at meetings.
- b) When councillors disclose a personal interest for the first time, they must give written confirmation of the interest to the Proper Officer, before or immediately after the close of the meeting. It is good practice for the Proper Officer to record these declarations in the minutes of the meeting.
- c) The Proper Officer should record interests disclosed at meetings for the first time in the register of interests required under section 81 of the Local Government Act 2000. The register must be available for public inspection at all reasonable hours and, following commencement of the 2013 Act, must be made available on the council's website.
- d) The register should be updated as soon as reasonably practicable after each and every meeting when new interests are disclosed.

What declarations to record :

Declarations of interest should be made in keeping with the Code of Conduct for members of local authorities in Wales (refer to the Guidance from the Public Services Ombudsman for Wales for members of community councils – which is available for inspection on the members' section of the One Voice Wales website). The published guidance includes details about personal and prejudicial interests and also refers to gifts and hospitality. Ultimately, it is for members to judge whether or not they make a declaration of interest depending upon the circumstances of their situation. Others (third parties) can always issue a challenge against any non declaration of interests, so members always need to be reminded to take such considerations seriously.

Template for register/declarations :

One Voice Wales has compiled a "template" for member councils to use for the purpose of implementing such a register, and this has been distributed to member councils. Copies of this template are available on the members' section of the One Voice Wales website, if required. If using these (or any other) forms for officially recording declarations of interest, then the "register" as such will be the overall collection of these forms presented together. These can be presented in any convenient manner, possibly ordered by name of member or in date order. Clearly, any members who have not declared an interest will not have any forms filled for this purpose, so their register entries will be blank (that is, they won't have any entries). It is not considered necessary to present any such "blank" forms on the council's website, but it is not wrong to do so if desired.



Llywodraeth Cymru
Welsh Government

www.gov.wales

Statutory Guidance

Access to Information on Community And Town Councils

May 2015



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WELSH GOVERNMENT GUIDANCE

ACCESS TO INFORMATION ON COMMUNITY AND TOWN COUNCILS

Status and Application

This guidance applies to Community and Town Councils in Wales. It is issued, in part, under section 55 of the Local Government (Democracy) (Wales) Act 2013. Section 55 places duties on local authorities to make certain information available electronically. When carrying out their duties under section 55, Community and Town Councils have a statutory duty to have regard to this guidance.

This guidance also explains further provision made in the Local Government (Democracy) (Wales) Act 2013 concerning public notices, Council meetings and proceedings and registers of members' interests.

Background

1. The Local Government (Democracy) (Wales) Act 2013, referred to as “the Act” throughout this guidance, gained Royal Assent on 30 July 2013. Its primary purpose was to reform the constitution and functions of what is now known as the Local Democracy and Boundary Commission for Wales. The Act, however, introduced various other provisions connected with local government.

2. Sections 55 to 58 of the Act are concerned with access to information, and most particularly, access to information about Community Councils (section 58 applies also to County / County Borough Councils, Fire and Rescue Authorities and National Park Authorities in Wales). For the purposes of this guidance, any reference to a Community Council or Councils includes any Community, Town or City Council which serves a community or grouped community and was established in accord with Part II of the Local Government Act 1972.

3. In summary, the Act requires Community Councils to have websites; to publish notices and papers electronically; and to publish their register of members' interests electronically (those maintained under section 81 of the Local Government Act 2000).

Community Council websites – section 55

4. Section 55 of the Act requires Community Councils to publish electronically information about how to contact it and, if different, its clerk. The information which

must be available electronically includes a telephone number, a postal address and an email address.

5. In addition, the council must publish electronically information about each of its members, including a list of the council's members, each member's name, information about how they may be contacted, party affiliation (if any) and any office held or committee they belong to within the Council. If the community concerned is divided into community wards, the ward each member represents must be shown.

6. The Community Council must also publish electronically the minutes of its meetings and, so far as reasonably practicable, documents referred to at those meetings. They must also publish their annual audited accounts electronically. In both these cases, Councils are only required to publish material produced after the date when section 55 came into force, i.e after 1 May 2015.

Community Councils are not required to publish any information they are prevented from disclosing by any other legislation.

7. In carrying out its duties under Section 55, Community Councils must have regard to this guidance.

Guidance about Community Council websites

8. It is a decision for each Community Council to take as to whether they will operate their own, independent website, or whether they decide to link up with other Community Councils in their area, or the Principal Council, or some other body which is happy to host their site. It is, however, a requirement that there is a regularly updated website providing the public with the ability to access the information described above.

9. The Welsh Government intends to improve public engagement with local government generally and Community Councils in particular. We feel it necessary for all local authorities to be contactable electronically and to publish information on the Internet. Local residents would expect to be able to have this facility.

10. The majority of Community Councils in Wales already have a presence online and publish information electronically. Community Councils are urged to seek assistance from One Voice Wales, their Principal Council or other reliable sources if they need it to develop their web presence.

11. Under section 55, the Council must publish electronically its telephone number, postal address and e-mail address on the website. Councils should have a generic email address and not use a personal email address, enabling the Clerk to access messages. The information must be available for the Council Clerk if the Council does not have an office address or telephone number. In some cases, the Community Council will have its own, or a share of, offices and the telephone number, postal address and e-mail address for these premises would be appropriate. Councils will be expected, however, to have arrangements to ensure messages are regularly retrieved and responded to.

12. It is not obligatory for individual members to have e-mail addresses. In a Principal Council this would be expected because the Council itself can usually provide e-mail addresses on the Council's site. However, the members' names must be listed and details of how they may be contacted must be available online. Some Councils will wish to place photographs of each member but this is a decision for them.

13. The Act requires that the political affiliation of the members of the Council is published. Some Community Councils choose not to do this at present. However, the public has a right to know the political persuasions of those in elected office or whether they are independent of any group. It is unacceptable for a member to hide their political affiliation.

14. If the Community Council is divided into community wards, the ward the member represents must be published. If they hold office of some sort in the Council or belong to a council committee of some sort, it must be published on the site.

15. Co-opted members should be recorded in the interest of transparency to distinguish them from elected members.

16. Paragraphs 4 to 6 above describe the documents which need to be posted on the website. Councils should develop procedures for keeping their site in good order, with past documents archived for a reasonable period, but easily accessible from the front page.

17. If the Council has a Welsh Language Scheme and its practice under the Welsh Language Scheme is to produce material bilingually, then that applies the same to material that is produced electronically.

18. The Act's provisions should be viewed as outlining the minimum requirements. Many Councils will want to place far more information than this on their webpages and are encouraged to do so. Councils will need to have regard to the Code of Recommended Practice for Local Authority Publicity when considering the appropriateness of what they may wish to publish.
<http://wales.gov.uk/topics/improvingservices/publicationevents/publications/local-authority-publicity-wales/?lang=en>

19. We would expect Community Councils to consider community needs including language, communication and accessibility. Attached is a link to Diverse Cymru's website which gives further guidance. <http://www.diversecymru.org.uk/>

20. All Community and Town Councils should register with the following website, if you would like Super Fast Broadband to be considered in your local community.
<http://btsf-wales-uat.lbi.co.uk/home>

Information about meetings and proceedings

21. Under existing legislation Community Councils are required to post any public notices in one or more conspicuous place within their area, and anywhere else which appears to be desirable for giving publicity to the notice (section 232 of the Local Government Act 1972). The Act places an additional requirement on Community Councils to publish any such notice electronically.

22. Existing legislation requires Community Councils to give notice of forthcoming Council meetings three clear days before the meeting is to be held by displaying a notice in a conspicuous place in the community. The Act places an additional

requirement for such notices to be published electronically. This must be done three clear days before the meeting. There is also a requirement to publish electronically, so far as is reasonably practicable, any documents relating to the business to be transacted at the meeting. This requirement does not apply where the documents relate to business which, in the opinion of the Council, is likely to be transacted in private or where the disclosure of such documents would be contrary to any other legislation.

23. Under Schedule 12 to the Local Government Act 1972 a community meeting may be convened at any time by a group of local government electors amounting to 10% of the local government electors for the community, or 50 of the electors (if 10% exceeds 50 electors). Those convening the meeting must give notice to the Community Council or, if there is no Community Council established in the area, notice must be given to the Principal Council in whose area the community lies. Under the new provisions, notice may be given to the Community Council either in writing or electronically. Where it is given in electronic form the notice must comply with the technical requirements set by the Principal Council.

24. The Act places a requirement on Community Councils and Principal Councils to provide a facility for notices to be given electronically and public notice of the community meeting must be published electronically as well as through traditional mediums.

25. Finally, the Act contains new requirements relating to the registration of members' interests. Section 81 of the Local Government Act 2000 requires a Community Council (as well as other authorities) to maintain and publish a register of members' financial and other interests as are specified in the model code of conduct (prescribed by Order under section 50 of the 2000 Act¹). Prior to commencement of section 58 of the Act, the register needed to be available for inspection at Council offices at all reasonable hours. Section 58 of the Act requires that the register is also published electronically. In addition, the Act transfers responsibility for establishing and maintaining the register of interests from the principal authority's monitoring officer to the 'proper officer' of each Community Council. The 'proper officer' is the member of the Council's staff designated by the Council for this purpose.

¹ Currently the 'Local Authorities (Model Code of Conduct) (Wales) Order 2008'

Name of Member:
Name of Meeting:
Date of Meeting:
Agenda Item (number and title):

Members are required to complete boxes 1, 2, 3 and 4 below.

1. The nature of the personal interest is :

2. The Council business to which the personal interest relates is :

3. Members are required to tick one box

The personal interest **is not prejudicial*** and I took part in the item **OR**

The personal interest **is prejudicial*** and I left the meeting when the item was discussed **OR**

The personal interest **is prejudicial*** but I have a dispensation

*A prejudicial interest is a personal interest which is so significant that a well-informed member of the public would reasonably believe that the Member would be unable to act on the matter in the public interest.

4. Members are required to tick one box and to provide reasons

I believe my personal interest **is not prejudicial***
Because:

OR

I believe my personal interest **is prejudicial***
Because:

Signed Date of signature

THIS COMPLETED FORM SHOULD BE HANDED TO A MEMBER OF THE COMMITTEE SERVICES STAFF DURING THE COURSE OF, OR IMMEDIATELY AFTER, THE MEETING