

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	17 September 2019
REPORT TITLE:	Review of Precedents / Briefing Notes for approval of the Standards Committee: <ul style="list-style-type: none"> - Briefing Note on Dispensation; - Methodology Note on the Review of the Registers for Community Councils; and - Standards Committee's Terms of Reference / Constitution
PURPOSE OF THE REPORT:	To obtain the Standards Committee's approval to the Precedents / Briefing Notes enclosed
REPORT BY:	Mared Wyn Yaxley Solicitor – Corporate Governance mwy@ynysmon.gov.uk
LINK OFFICER:	Lynn Ball Head of Function (Council Business) / Monitoring Officer lbx@anglesey.gov.uk 01248 752586

1. INTRODUCTION

1.1 The Standards Committee regularly produces Precedents / Briefing Notes for Members in accordance with its decision to be pro-active and in an effort to assist members to comply with their obligations / by way of assistance.

Three documents are presented to the Committee for its approval.

2. BRIEFING NOTE ON DISPENSATIONS

2.1 The Standards Committee has agreed that the Briefing Notes prepared for members of the IOACC and Town and Community Councillors in relation to Dispensations should be reviewed.

2.2 The Standards Committee also agreed that the Public Services Ombudsman for Wales' (PSOW) view should be ascertained in relation to the wording used in the PSOW's Guidance on the Code of Conduct in relation to ground (j) in the legislation. The response from the PSOW should be reflected in the amended Briefing Note. The response from the PSOW is discussed under agenda item 14]

- 2.3 The originally Briefing Note has been amended in accordance with the discussions of the Standards Committee and the PSOW's responses to queries. The amended document, with tracked changes noted, for the Town and Community Councillors can be seen in **Appendix 1** and for the County Councillors can be seen in **Appendix 2**.
- 2.4 The Committee is asked to approve the documentation as amended and for the same to be distributed to the Town and Community Councillors and County Councillors accordingly.

3. METHODOLOGY NOTE ON THE REVIEW OF THE REGISTERS FOR COMMUNITY COUNCILS

- 3.1 The Standards Committee has agreed that the Methodology Note on the Town and Community Council Reviews should be reviewed in light of findings made when the Standards Committee members conducted the reviews during December 2018-February 2019.
- 3.2 The originally drafted Methodology Note has been amended in accordance with the discussions of the Standards Committee. The amended document, with tracked changes noted, can be seen in **Appendix 3** and a clean copy of the amended version is in **Appendix 4**.
- 3.3 The Committee is asked to approve the documentation as amended and for the same to be used in any future reviews conducted in the Town and Community Councils.

4. STANDARDS COMMITTEE'S TERMS OF REFERENCE / CONSTITUTION

4.1 Introduction

- 4.1.1 The Standards Committee, as a committee of the Isle of Anglesey County Council, is referred to in the Isle of Anglesey County Council's Constitution at paragraph 2.9.
- 4.1.2 There is also a full Standards Committee constitution / terms of reference document, which does not form part of the Council's Constitution but is referred to therein.
- 4.1.3 The detail included for the Standards Committee at paragraph 2.9 of the County Council's Constitution is limited.
- 4.1.4 The terms of reference document is intended as a more detailed document, which offers more practical information. As the document suggests, "It is intended as a 'working document' which incorporates the detail in relation to the proceedings of the Standards Committee and the documents which it has produced to assist elected and co-opted members of the Authority and Town and Community Councillors."

4.2 Documentation

4.2.1 IOACC's Constitution

- 4.2.1.1 At **Appendix 5** is a marked copy of Paragraph 2.9 of the current IOACC's Constitution.
- 4.2.1.2 The proposed changes are minimal and are suggested in order for the document to be clearer / confirm the legislative requirements.
- 4.2.1.3 Changes to the Constitution require a full Council decision, unless the changes come under the delegation provided to the Monitoring Officer. The proposed changes, as marked, come within the said delegation and so a Council decision will not be required.
- 4.2.1.4 The proposed changes are presented to the Standards Committee by way of consultation.

4.2.2 Terms of Reference

- 4.2.2.1 At **Appendix 6** is a marked copy of the current Terms of Reference of the Standards Committee.
- 4.2.2.2 This document is not part of the Council's Constitution and so a Council decision is not required. It is an internal document (albeit referred to in the full Council's Constitution) and as it includes details on the workings of the Standards Committee, any changes can be made by the Standards Committee itself.
- 4.2.2.3 The amendments made to this document are extensive, as this is seen to be a live document, which is intended as a practical guide. They include an additional section on "dispensations" and a section which will be a 'quick reference' list of the documentation provided by the Standards Committee to members in the County Council and/or the Town/Community Councils.

5. RECOMMENDATION

5.1 For the Standards Committee to

- 5.1.1 note the contents of this report;
- 5.1.2 confirm its agreement with the amendments to the Briefing Notes on Dispensations as shown in **Appendix 1** and **Appendix 2**;
- 5.1.3 confirm its agreement for **Appendix 1** to be sent to the Town and Community Councils with a request that the Clerks bring the same to the attention of the members, and for **Appendix 2** to be distributed to the IOACC elected and co-opted members and for the amended document to be uploaded to the intranet system accordingly;
- 5.1.4 confirm its agreement with the amendments to the Methodology Note on the Review of Registers as shown in **Appendix 3**;

- 5.1.5 confirm its agreement for the amended Methodology Note in **Appendix 4** to be used in any future reviews conducted in the Town and Community Councils;
- 5.1.6 confirm its agreement with the adoption of the Constitution of the Standards Committee of the Isle of Anglesey County Council with the annotated amendments noted in **Appendix 5**; and
- 5.1.7 adopt the Terms of Reference with the annotated amendments noted in **Appendix 6** and to publish the same on the Council's website.

Briefing Note for Town and Community Councillors on Anglesey

Dispensations

This is a briefing note for Town and Community Councillors on the topic of 'Dispensations'. Should Councillors or Clerks have any queries, please contact the Monitoring Officer at Anglesey County Council:

Lynn Ball - lbxc@anglesey.gov.uk

Under their Code of Conduct, no Councillor is allowed to participate in a matter in which he/she has a prejudicial* interest unless a dispensation has already been granted by the County Council's Standards Committee.

Grounds on which a dispensation may be granted

The grounds on which a dispensation may be granted are set out in statute and ~~are~~ included in the [Standards Committees \(Grant of Dispensations\) \(Wales\) Regulations 2001 \(Appendix 1\)](#) as amended by Section 4 of the [Local Government \(Standard Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(Appendix 2\)](#):-

Dispensation may be granted on one or more of the following grounds:-

1. if no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business; (ground (a) in Welsh and English in the legislation);
2. (ground (b) in Welsh and English) – NOT APPLICABLE FOR TOWN AND COMMUNITY COUNCILS
3. (ground (c) in Welsh and English) – NOT APPLICABLE FOR TOWN AND COMMUNITY COUNCILS
4. if the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business; (ground (ch) in Welsh and ground (d) in English in the legislation);
5. if the interest is common to the member and a significant proportion of the general public; (ground (d) in Welsh and ground (e) in English in the legislation);
6. if the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise; (ground (dd) in Welsh and ground (f) in English in the legislation);
7. (ground (e) in Welsh and ground (g) in English) – NOT APPLICABLE FOR TOWN AND COMMUNITY COUNCILS
8. if the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the

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member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; (ground (f) in Welsh and ground (h) in English in the legislation);

9. if it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed; (ground (ff) in Welsh and ground (i) in English in the legislation); - or

10. if it appears to the committee that it is otherwise appropriate to grant a dispensation; (ground (g) in Welsh and ground (j) in English in the legislation).

[The Standards Committee must review dispensation on this ground every 12 months from the date the Dispensation is granted].

- ~~1. At least half of the Councillors (Community Council/Committee of the Community Council) would be unable to take part in a meeting because of a prejudicial* interest;~~
- ~~2. The nature of the interest is such that participation would not damage public confidence in the decision;~~
- ~~3. The Councillor's interest is common to a significant proportion of the general public;~~
- ~~4. The Councillor's particular role or expertise would justify participation;~~
- ~~5. The business relates to the finances or property of a voluntary organisation and the Councillor sits on its board/committee in his/her own right, and he/she does not have any other interest [although in this instance, any dispensation may allow the Councillor to speak on the matter, but not to vote];~~
- ~~6. The Standards Committee believes that the Councillor's participation would be in the interests of the people in the Community Council's area and the Committee notifies the Welsh Ministers within 7 days of the dispensation being granted; or~~
- ~~7.11. The Standards Committee believes it appropriate to grant the dispensation, as a practical solution to a disability (infirmity) of the Councillor's which otherwise would make it difficult for him/her to leave a room/chamber when a matter in which they have a prejudicial* interest is being discussed.~~

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How does a Community Councillor obtain a Dispensation?

The Councillor must apply in writing to the County Council's Standards Committee and will usually be expected to attend the public meeting of the Standards Committee/Panel which will take the decision.

A Councillor may apply individually or, in common circumstances, a joint or collective application may be made by more than one Councillor.

The Standards Committee will consider all applications on their own facts; balancing the public interest in preventing those with prejudicial* interests from taking part in decisions while maximising the public interest in democratic participation.

The decision as to whether a dispensation shall be granted is at the Standards Committee's discretion. The Standards Committee will explain its reasons. The terms and duration of any dispensation shall be decided by the Standards Committee.

If the Standards Committee approves an application it must grant the dispensation in writing. No Councillor may rely on a dispensation until such time the written decision has been circulated. Where necessary, and possible, this will be expedited.

Requirements on Councillors when relying on a dispensation

Once the Standards Committee has approved an application and has granted the dispensation, in writing, the Councillor will then be able to participate (subject to any limitations imposed) despite his/her prejudicial* interest.

(a) In formal Meetings:

When a Councillor has a dispensation and wants to participate in a meeting to discuss the relevant matter, the Councillor must:

- (i) state at the meeting, when the item is to be discussed, that he/she is relying on a dispensation; and
- (ii) before, or immediately after the close of the meeting, must give written notification** to the Community Council.

The notification must include:

1. details of the prejudicial* interest for which the dispensation was granted;
2. details of the business to which the prejudicial* interest relates;
3. details of the dispensation, including the date on which it was granted, and
4. the Councillor's signature.

(b) In informal meetings:

When a Councillor has a dispensation, and is making verbal representations at informal meetings, that Councillor must:

- (i) include details of the dispensation in such discussion and
- (ii) provide written notification** to the Community Council Clerk within 14 days of the discussion.

(c) In writing:

When a Councillor has been provided with a dispensation, and is making written representations to their Community Council, the Councillor must provide details of the dispensation in any correspondence on the subject to which the dispensation relates.

Footnote/definitions

- * prejudicial interests – these are personal interests (listed in the Code of Conduct) which an objective observer would consider so significant that they are likely to compromise the Councillor’s ability to put the public interest first.
- ** written notification – in formal meetings, Councillors may rely upon the standard form of declaration. In informal meetings Councillors must provide written confirmation to the clerk/or other lead officer and ask that the dispensation be included in any informal minute/file note of the meeting/discussion.

THE ISLE OF ANGLESEY COUNTY COUNCIL

**APPLICATION FOR DISPENSATION TO THE STANDARDS COMMITTEE
BY A TOWN OR COMMUNITY COUNCILLOR**

Name of Applicant:	
Contact details:	
Name of Town / Community Council:	
Details of the prejudicial interest* in respect of which the Dispensation is sought:	
Business in which the applicant wishes to participate:	
Type of Dispensation sought (tick as necessary and insert any required information):	<ul style="list-style-type: none"> <input type="radio"/> write to officers [and/or the Committee/Community Council] about the matter; <input type="radio"/> speak to officers of the Community Council about the matter [with/without conditions [INSERT]] <input type="radio"/> speak at Committee meetings/Community Council meetings and answer any questions about the issue; <input type="radio"/> remain in the room during any debate/vote on the issue (available when Member has a disability); <input type="radio"/> vote; <input type="radio"/> <u>participate fully in any public meetings and meetings of any outside bodies etc.</u> <input type="radio"/> other – please specify: _____
Statutory Ground/s under which Dispensation is requested (See overleaf for possible grounds available):	
Date by which a decision is required:	

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Signed:	Date:
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* Prejudicial Interests – These are personal interests which an objective observer would consider so significant that they are likely to compromise a Councillor's ability to act in the public interest

Circumstances in which the Standards Committee may grant a dispensation to a Community Councillor

The Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 as amended by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 specifies that the Council's Standards Committee may grant dispensations under Section 81(4) of the Local Government Act 2000 where:

- ~~(a) no fewer than half of the Councillors (Community Council/Committee) by which the business is to be considered has an interest which relates to that business;~~
- ~~(b) NOT RELEVANT TO COMMUNITY COUNCILS~~
- ~~(c) an inability to participate would upset political balance to such an extent that the outcome would likely be affected;~~
- ~~(d) the nature of the interest is such that participation in the business to which the interest relates would not damage public confidence;~~
- ~~(e) the interest is common to the Councillor and a significant proportion of the general public;~~
- ~~(f) participation is justified by the Councillor's particular role or expertise;~~
- ~~(g) NOT RELEVANT TO COMMUNITY COUNCILS~~
- ~~(h) the business relates to the finances or property of a voluntary organisation of whose management committee or board the Councillor is a member otherwise than as a representative of the Community Council and the Councillor has no other interest in that business, provided that any dispensation shall not extend to participation in any vote with respect to that business;~~
- ~~(a) it appears to the Standards Committee to be in the interests of the inhabitants of the area of the Community Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the Welsh Ministers within 7 days. Such a notification should specify the Councillor to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed;~~
- ~~(b)(a) it appears to the Standards Committee to be otherwise appropriate to grant the dispensation, as a practical solution to the disability of the Councillor which otherwise would make it difficult for them to leave a room/chamber when a matter in which they have a prejudicial interest is being discussed.~~

(a) if no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business: *(EnglishWelsh ground (a))*

(b) *(EnglishWelsh ground (b))* – NOT APPLICABLE FOR TOWN AND COMMUNITY COUNCILS

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(c) (EnglishWelsh ground (c)) – NOT APPLICABLE FOR TOWN AND COMMUNITY COUNCILS

(d) if the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business; (EnglishWelsh ground (dch))

(e) if the interest is common to the member and a significant proportion of the general public; (EnglishWelsh ground (ed))

(f) if the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise; (EnglishWelsh ground (fd))

(g) (EnglishWelsh ground (ge)) – NOT APPLICABLE FOR TOWN AND COMMUNITY COUNCILS

(h) if the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; (EnglishWelsh ground (hf))

(i) if it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed; (EnglishWelsh ground (iff)) – or

(j) if it appears to the committee that it is otherwise appropriate to grant a dispensation; (EnglishWelsh ground (ig)),

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THE ISLE OF ANGLESEY COUNTY COUNCIL

**DECISION OF THE STANDARDS COMMITTEE
IN RELATION TO AN APPLICATION FOR DISPENSATION
BY A TOWN OR COMMUNITY COUNCILLOR**

Decision of the Standards Committee:	
Date decision made by the Standards Committee:	
Name of persons to be notified of the Standards Committee's decision:	<ul style="list-style-type: none">○ Clerk of the Town/Community Council○ Applicant○ Others: _____
Date the dispensation expires:	

Pursuant to paragraph [] of The Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 as amended by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016, the Standards Committee has resolved to **grant a dispensation** to Councillor [] in respect of that / those interest(s) referred to in the Application at page 1, which permits the Councillor to:

- write to officers [and/or the Committee/Community Council] about the matter;
- speak to officers of the Community Council about the matter [with/without conditions [INSERT]];
- speak at Committee meetings/Community Council meetings and answer any questions about the issue;
- remain in the room during any debate/vote on the issue (due to the Member's disability);
- vote;
- other - _____

The Councillor can therefore speak [and vote] at Committee/Community Council meetings in relation to the matter and answer any questions from members of the Committee/Community Council [but must leave the meeting before matters that the Councillor speaks upon are debated or voted on] OR [and may remain in the room during the debate/vote but must not vote on the issue].

Before the Councillor speaks with or writes to officers of the Community Council, or speaks at Committee/Community Council meetings on the issue, the Councillor must still:

- declare an interest in the matter; and
- confirm that a dispensation has been granted to allow the Councillor to speak [and vote] about it; and

- complete a written notification to the clerk setting out the interest and the dispensation.

By authority of the Isle of Anglesey Standards Committee

Dated: _____



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2001 Rhif 2279 (Cy. 169)

2001 No. 2279 (W. 169)

LLYWODRAETH LEOL,
CYMRULOCAL GOVERNMENT ,
WALESRheoliadau Pwyllgorau Safonau
(Caniatáu Gollyngiadau) (Cymru)
2001The Standards Committees (Grant
of Dispensations) (Wales)
Regulations 2001

NODYN ESBONIADOL

EXPLANATORY NOTE

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)**(This note does not form part of the Regulations)*

O dan adran 51 o Ddeddf Llywodraeth Leol 2000 ("y Ddeddf") mae'n ofynnol i gynghorau sir a chynghorau bwrdeistref sirol, awdurdodau tân ac awdurdodau Parciau Cenedlaethol yng Nghymru ("awdurdodau perthnasol") fabwysiadu cod ymddygiad ar gyfer aelodau ac aelodau cyfetholedig sy'n gorfod ymgorffori unrhyw ddarpariaethau gorfodol o unrhyw god ymddygiad enghreifftiol a gyhoeddir gan Gynulliad Cenedlaethol Cymru o dan adran 50(2) o'r Ddeddf.

County and county borough councils, community councils, fire authorities and National Park authorities in Wales ("relevant authorities") are required by section 51 of the Local Government Act 2000 ("the Act") to adopt a code of conduct for members and co-opted members which must incorporate any mandatory provisions of any model code of conduct issued by the National Assembly for Wales under section 50(2) of the Act.

Mae adran 81(1) a (2) o'r Ddeddf yn darparu bod yn rhaid i'r swyddog monitro ym mhob awdurdod perthnasol sefydlu a chadw cofrestr o fuddiannau aelodau ac aelodau cyfetholedig yr awdurdod a bod darpariaethau gorfodol y cod enghreifftiol sy'n gymwysadwy i bob awdurdod perthnasol yn gorfod ei gwneud yn ofynnol i aelodau ac aelodau cyfetholedig pob awdurdod gofrestru unrhyw fuddiannau ariannol ac eraill a bennir yn y darpariaethau gorfodol yng nghofrestr yr awdurdod hwnnw.

Section 81(1) and (2) of the Act provides that the monitoring officer of each relevant authority must establish and maintain a register of interests of the members and co-opted members of the authority and that the mandatory provisions of the model code applicable to each relevant authority must require the members and co-opted members of each authority to register in that authority's register such financial and other interests as are specified in the mandatory provisions.

O dan adran 81(3) a (4) o'r Ddeddf rhaid i'r darpariaethau gorfodol hynny ei gwneud yn ofynnol hefyd i aelod neu aelod cyfetholedig o awdurdod perthnasol sydd â buddiant o'r fath ei ddatgelu cyn cymryd rhan mewn unrhyw fusnes gan yr awdurdod sy'n berthnasol i'r buddiant a gwneud darpariaeth i atal yr aelod neu'r aelod cyfetholedig hwnnw rhag cymryd rhan mewn unrhyw fusnes gan yr awdurdod y mae'r buddiant a ddatgelwyd yn berthnasol iddo neu i gyfyngu ar y rhan y mae'n ei chymryd ynddo.

Under section 81(3) and (4) of the Act those mandatory provisions must also require a member or co-opted member of a relevant authority who has such an interest to disclose it before taking part in any business of the authority which relates to it and make provision for preventing or restricting the participation of that member or co-opted member in any business of the authority to which the disclosed interest relates.

Mae adran 81(4) o'r Ddeddf yn darparu nad yw unrhyw gyfranogiad gan aelod neu aelod cyfetholedig o awdurdod perthnasol mewn unrhyw fusnes a waherddir gan y darpariaethau gorfodol yn fethiant i gydymffurfio â chod ymddygiad yr awdurdod os yw'r aelod neu'r aelod cyfetholedig wedi gweithredu yn unol â gollyngiad rhag y gwaharddiad a gafodd ei ganiatáu gan bwyllgor safonau'r awdurdod yn unol â rheoliadau a wneir o dan is-adran (5).

Mae'r rheoliadau hyn yn rhagnodi'r amgylchiadau y caiff pwyllgorau safonau'r awdurdodau perthasol ganiatáu gollyngiadau o'r fath odanynt.

Section 81(4) of the Act provides that any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provisions is not a failure to comply with the authority's code of conduct if the member or co-opted member has acted in accordance with a dispensation from the prohibition granted by the authority's standards committee in accordance with regulations made under subsection (5).

These regulations prescribe the circumstances in which standards committees of relevant authorities may grant such dispensations.

2001 Rhif 2279 (Cy. 169)

**LLYWODRAETH LEOL,
CYMRU**

**Rheoliadau Pwyllgorau Safonau
(Caniatáu Gollyngiadau) (Cymru)
2001**

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

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd iddo gan adran 81(5) ac (8) o Ddeddf Llywodraeth Leol 2000(a).

Enw, cychwyn, cymhwyso a dehongli

1.- (1) Enw'r Rheoliadau hyn yw Rheoliadau Pwyllgorau Safonau (Caniatáu Gollyngiadau) (Cymru) 2001 a deuant i rym ar 28 Gorffennaf 2001.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

(3) Yn y Rheoliadau hyn -

mae "aelod" ("*member*") yn cynnwys aelod cyfetholedig;

ystyr "awdurdod perthnasol" ("*relevant authority*") yw cyngor sir neu gyngor bwrdeistref sirol, cyngor cymuned, awdurdod tân neu awdurdod Parc Cenedlaethol;

ystyr "buddiant" ("*interest*") yw buddiant y mae'n ofynnol ei gofrestru yng nghofrestr buddiannau'r awdurdod perthnasol;

ystyr "corff gwirfoddol" ("*voluntary organisation*") yw corff (heblaw awdurdod lleol neu gorff cyhoeddus arall) sy'n cynnal ei weithgareddau heblaw ar gyfer gwneud elw;

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

(a) 2000 p. 22.

2001 No. 2279 (W. 169)

**LOCAL GOVERNMENT,
WALES**

**The Standards Committees (Grant
of Dispensations) (Wales)
Regulations 2001**

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

The National Assembly for Wales makes the following Regulations in exercise of the power given to it by section 81(5) and (8) of the Local Government Act 2000(a).

**Name, commencement, application and
interpretation**

1.- (1) The name of these Regulations is the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and they shall come into force on 28th July 2001.

(2) These Regulations apply to Wales only.

(3) In these Regulations -

"interest" ("*buddiant*") means an interest which is required to be registered in the relevant authority's register of interests;

"member" ("*aelod*") includes a co-opted member;

"relevant authority" ("*awdurdod perthnasol*") means a county or county borough council, a community council, a fire authority or a National Park authority;

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

"voluntary organisation" ("*corff gwirfoddol*") means a body (other than a local authority or other public body) whose activities are carried on otherwise than for profit.

(a) 2000 c. 22.

Yr amgylchiadau lle gellir caniatáu gollyngiadau

2. Caiff pwyllgor safonau awdurdod perthnasol ganiatáu gollyngiadau o dan adran 81(4) o'r Ddeddf -

(a) os oes gan ddim llai na hanner aelodau'r awdurdod perthnasol neu hanner aelodau un o bwyllgorau'r awdurdod (yn ôl fel y digwydd) y mae'r busnes i gael ei ystyried ganddo fuddiant sy'n berthnasol i'r busnes hwnnw;

(b) os oes gan ddim llai na hanner aelodau gweithrediaeth arweinydd a chabinet y mae'r busnes i gael ei ystyried ganddo fuddiant sy'n berthnasol i'r busnes hwnnw a bod naill ai paragraff (ch) neu baragraff (d) hefyd yn gymwys;

(c) yn achos cyngor sir neu gyngor bwrdeistref sirol, os byddai anallu aelod i gymryd rhan yn tarfu ar gydbwysedd gwleidyddol yr awdurdod perthnasol neu'r pwyllgor o'r awdurdod y mae'r busnes i'w ystyried ganddo i'r fath raddau nes y byddai'r canlyniad yn debygol o gael ei effeithio;

(ch) os yw natur buddiant yr aelod yn gyfryw fel na fyddai cyfranogiad yr aelod yn y busnes y mae'r buddiant yn berthnasol iddo yn niweidio hyder y cyhoedd yn y modd y mae busnes yr awdurdod perthnasol yn cael ei gynnal;

(d) os yw'r buddiant yn gyffredin i'r aelod ac i gyfran arwyddocaol o'r cyhoedd;

(dd) os oes cyfiawnhad i'r aelod gymryd rhan yn y busnes y mae'r buddiant yn berthnasol iddo oherwydd rôl neu arbenigedd penodol yr aelod;

(e) os yw'r busnes y mae'r buddiant yn berthnasol iddo i'w ystyried gan bwyllgor trosolygu a chraffu i'r awdurdod perthnasol ac nad yw buddiant yr aelod yn fuddiant ariannol;

(f) os yw'r busnes sydd i'w ystyried yn berthnasol i arian neu eiddo corff gwirfoddol y mae'r aelod yn aelod o'i bwyllgor neu ei fwrdd rheoli heblaw fel cynrychiolydd yr awdurdod perthnasol ac nad oes gan yr aelod unrhyw fuddiant arall yn y busnes hwnnw ar yr amod na fydd unrhyw ollyngiad yn ymestyn i gymryd rhan mewn unrhyw bleidlais mewn perthynas â'r busnes hwnnw; neu

(ff) os yw'n ymddangos i'r pwyllgor ei bod o les i drigolion ardal yr awdurdod perthnasol i'r anallu gael ei godi, ar yr amod bod hysbysiad ysgrifenedig bod y gollyngiad yn cael ei ganiatáu yn cael ei roi i Gynulliad Cenedlaethol Cymru o fewn saith diwrnod a hynny mewn unrhyw fodd y gall ei bennu.

Circumstances in which dispensations may be granted

2. The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where -

(a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;

(b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;

(c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;

(d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;

(e) the interest is common to the member and a significant proportion of the general public;

(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

(g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;

(h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or

(i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.

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

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

21 Mehefin 2001

21st June 2001

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2001 Rhif 2279 (Cy. 169)

2001 No. 2279 (W. 169)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

**Rheoliadau Pwyllgorau Safonau
(Caniatáu Gollyngiadau) (Cymru)
2001**

**The Standards Committees (Grant
of Dispensations) (Wales)
Regulations 2001**

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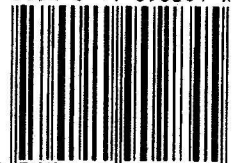
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WELSH STATUTORY INSTRUMENTS

2016 No. 85

**The Local Government (Standards Committees,
Investigations, Dispensations and Referral)
(Wales) (Amendment) Regulations 2016**

Amendments to the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001

4.—(1) The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001(1) are amended as follows.

(2) In regulation 1, in paragraph (3) in the appropriate place insert—

““community sub-committee” (“*is-bwyllgor cymunedol*”) means a sub-committee appointed by a standards committee of a local authority under section 56 of the Act;”;

““joint committee” (“*cyd-bwyllgor*”) means a committee established by two or more relevant authorities under section 53(1) of the Act;”;

““section 54A sub-committee” (“*is-bwyllgor adran 54A*”) means a sub-committee appointed by a standards committee under section 54A(1) of the Act”;

““standards committee” (“*pwyllogor safonau*”) means—

- (a) a standards committee of a relevant authority;
- (b) a joint committee;
- (c) a section 54A sub-committee; or
- (d) a community sub-committee;”.

(3) In regulation 2—

- (a) at the end of paragraph (h) omit “or”;
- (b) in paragraph (i), for the words that follow “removed” substitute “; or”;
- (c) after paragraph (i) insert—

“(j) “it appears to the committee to be otherwise appropriate to grant a dispensation.”

(4) After regulation 2 insert—

“Dispensations granted in accordance with regulation 2(j)

3.—(1) A dispensation granted by the standards committee of a relevant authority under section 81(4) of the Act on the grounds set out in regulation 2(j) and which remains in effect, must be reviewed by the standards committee once in every 12 month period from the date on which the dispensation is first granted.

(2) When conducting a review under paragraph (1) the standards committee must determine whether the dispensation should continue to have effect.

(1) S.I. 2001/2279 (W. 169).

Procedure and powers of standards committees

4.—(1) A standards committee of a relevant authority may refer an application for a dispensation made by a member of the authority to the standards committee of another relevant authority for consideration and determination.

(2) The monitoring officer of a relevant authority to which an application for a dispensation is made may, with the prior written consent of the chairperson of the standards committee of that authority, make arrangements for the application to be considered and determined by the standards committee of another relevant authority.

(3) Where reasonable efforts to contact the chairperson of the standards committee of the relevant authority have been unsuccessful, the vice-chairperson of the standards committee may give consent under paragraph (2).

(4) Where a monitoring officer or standards committee makes arrangements for a dispensation application to be considered and determined by the standards committee of another relevant authority, the monitoring officer or standards committee that makes those arrangements must provide notice to the person making the application accordingly.

(5) The notice to which paragraph (4) refers must include the following—

- (a) a statement that the matter has been referred to another relevant authority's standards committee for consideration and determination;
- (b) the name of the other relevant authority; and
- (c) the reason why the application has been referred to the standards committee of the other relevant authority.

(6) When the standards committee has determined the application it must give written notice of its decision to the—

- (a) member applying for the dispensation; and
- (b) standards committee of the referring relevant authority.”

Briefing Note to Members

Dispensations

This is a briefing note for Members of the Isle of Anglesey County Council on the topic of 'Dispensations'. Should Members have any queries, please contact the Monitoring Officer.

The Isle of Anglesey County Council's Code of Conduct for Members

No Member is allowed to participate in a matter where he/she has an interest which is prejudicial* unless a dispensation has already been granted by the Council's Standards Committee. This information is contained in [paragraph 14 of the Code](#)

Grounds on which a dispensation may be granted

The grounds on which a dispensation may be granted are [included in the Standards Committees \(Grant of Dispensations\) \(Wales\) Regulations 2001 \(Appendix 1\) as amended by Section 4 of the Local Government \(Standard Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(Appendix 2\).](#)

[Dispensation may be granted on one or more of the following grounds:-](#)

1. [if no fewer than half of the members of the relevant authority or of a committee of the authority \(as the case may be\) by which the business is to be considered has an interest which relates to that business; \(ground \(a\) in Welsh and English in the legislation\).](#)
2. [if no fewer than half of the members of a leader and cabinet executive by which the business is to be considered has an interest which relates to that business and either paragraph \(ch\) or \(d\) also applies; \(ground \(b\) in Welsh and English in the legislation\);](#)
[\[the Leader should be included in the Executive in calculating the proportion\].](#)
3. [in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected; \(ground \(c\) in Welsh and English in the legislation\);](#)
4. [if the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business; \(ground \(ch\) in Welsh and ground \(d\) in English in the legislation\);](#)
5. [if the interest is common to the member and a significant proportion of the general public; \(ground \(d\) in Welsh and ground \(e\) in English in the legislation\);](#)
6. [if the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise; \(ground \(dd\) in Welsh and ground \(f\) in English in the legislation\);](#)

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7. if the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest; (ground (e) in Welsh and ground (g) in English in the legislation);

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8. if the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; (ground (f) in Welsh and ground (h) in English in the legislation);

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9. if it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed; (ground (ff) in Welsh and ground (i) in English in the legislation); - or

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10. if it appears to the committee that it is otherwise appropriate to grant a dispensation; (ground (g) in Welsh and ground (j) in English in the legislation).

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[The Standards Committee must review dispensation on this ground every 12 months from the date the Dispensation is granted].

~~1. At least half of the relevant Members (Council/Committee) would be unable to take part in a meeting because of a prejudicial interest;~~

~~2. The lack of participation by Members would affect political balance;~~

~~3. The nature of the interest is such that participation would not damage public confidence in the decision;~~

~~4. The Applicant Member's interest is common to a significant proportion of the general public;~~

~~5. The Applicant Member's particular role or expertise would justify participation;~~

~~6. The interest is registrable but not financial and the decision will be considered by a scrutiny committee~~

~~7. The business relates to the finances or property of a voluntary organisation and the Applicant Member sits on its board or committee in his/her own right, and he/she does not have any other interest [although in this instance, any dispensation will not allow the Applicant Member to vote on the matter];~~

~~8. The Standards Committee believes that the Applicant Member's participation would be in the interest of the people in the Council's area and the Committee notifies Welsh Ministers within 7 days of the dispensation being granted; or~~

~~9.11. The Standards Committee believes it appropriate to grant the dispensation, as a practical solution to the disability (infirmity) of the Applicant Member which otherwise would make it difficult for them to leave a room/chamber when a matter in which they have a prejudicial* interest is being discussed.~~

What is the application process for a dispensation?

The Applicant Member must apply in writing to the Standards Committee and will usually be expected to attend the meeting of the Standards Committee Panel which will take the decision.

An Applicant Member may apply individually or, in common circumstances, a joint or collective application may be made by more than one Member.

The Standards Committee will consider all applications on their own facts; balancing the public interest in preventing those with prejudicial* interests from taking part in decisions while maximising the public interest in democratic participation.

The decision as to whether a dispensation shall be granted is at the Standards Committee's discretion. The terms and duration of any dispensation shall be decided by the Standards Committee.

If the Standards Committee approves an application it must grant the dispensation in writing. No Member may rely on a dispensation until such time as the written decision has been published. Where necessary, and possible, this will be expedited.

Requirements on Members when relying on a dispensation

Once the Standards Committee has approved an application and has granted the dispensation, in writing, the Member will then be able to participate (subject to any limitations imposed) despite his/her prejudicial* interest.

(a) Meetings:

Where a Member has a dispensation and wants to participate in a meeting to discuss the relevant matter, the Member must:

- (i) state at the meeting, when the item is to be discussed, that he/she is relying on a dispensation; and
- (ii) before, or immediately after the close of the meeting, he/she must give written notification** to the Council.
The notification must include:

- 1. details of the prejudicial* interest for which the dispensation was granted;
- 2. details of the business to which the prejudicial* interest relates;
- 3. details of the dispensation, including the date on which it was granted, and
- 4. the Member's signature.

(b) Written representations:

Where a Member has been provided with a dispensation, and is making written representations to the Council, the Member must provide details of the dispensation in any correspondence on the subject to which the dispensation relates.

(c) Oral representations:

Where a Member has been provided with a dispensation, and is making oral representations to the Council, that Member must:

- (i) include details of the dispensation in any oral representations and
- (ii) provide written notification** to the Council within 14 days of making the oral representations

Footnote/definitions

- * prejudicial interests – these are personal interests (listed in the Members' Code of Conduct) which an objective observer would consider so significant that they are likely to compromise the Member's ability to put the public interest first.
- ** written notification – in formal meetings, Members may rely upon the standard form of declaration. In informal meetings Members must provide written confirmation to the lead officer and ask that the dispensation be included in any informal minute/file note of the meeting.

THE ISLE OF ANGLESEY COUNTY COUNCIL
DISPENSATION APPLICATION TO THE STANDARDS COMMITTEE
BY A MEMBER OF THE COUNTY COUNCIL

Name of Member:	
Member's contact details:	
Ward:	
Nature of prejudicial interest* in respect of which the Dispensation is sought:	
Business in which the Member wishes to participate:	
Type of Dispensation sought (tick as necessary and insert any required information):	<ul style="list-style-type: none"> <input type="checkbox"/> write to officers [and/or the Executive / Committee / Council] about the issue; <input type="checkbox"/> speak to officers of the Council about the issue [in the presence of two other persons] [who are not Trustees or Board Members of [INSERT]], provided a note is taken of any such discussions; <input type="checkbox"/> speak at Executive/Committee/Council meetings and answer any questions about the issue; <input type="checkbox"/> remain in the room during any debate/voting on the issue (available where Member has a disability); <input type="checkbox"/> vote at such meetings; <input type="checkbox"/> participate fully in any public meetings and meetings of any outside bodies etc. <input type="checkbox"/> other – please specify: _____ _____
Statutory Ground/s under which Dispensation is requested (See overleaf for available grounds):	
Is the interest registered as per Section 81(1) & (2) of the LGA 2000:	Yes / No
Date by which a decision is required:	
Signed:	Date:

* Prejudicial Interests – these are personal interests which an objective observer would consider so significant that they are likely to compromise a member's ability to act in the public interest

Circumstances When A Standards Committee May Grant Dispensation

The Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 as amended by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 specifies that the Council's Standards Committee may grant dispensations under Section 81(4) of the Local Government Act 2000 where:

- ~~(a) no fewer than half of the Members of the Council or of a Committee of the Council (as the case may be) by which the business is to be considered has an interest which relates to that business;~~
- ~~(b) no fewer than half of the Members of the Executive of the Council (i.e. Leader and Cabinet) by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;~~
- ~~(c) Members' inability to participate would upset the political balance of the Council, or any of its committees by which the business is to be considered, to such an extent that the outcome would be likely to be affected;~~
- ~~(d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the Council's business;~~
- ~~(e) the interest is common to the Member and a significant proportion of the general public;~~
- ~~(f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;~~
- ~~(g) the registerable interest relates to business which is to be considered by Scrutiny Committee of the Council, and the Member's interest is not a pecuniary/financial interest;~~
- ~~(h) the business relates to the finances or property of a voluntary organisation of whose management committee or board the Member is a member otherwise than as a representative of the Council and the Member has no other interest in that business, provided that any dispensation shall not extend to participation in any vote with respect to that business;~~
- ~~(i) it appears to the Standard Committee to be in the interest of the inhabitants of the area of the Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within 7 days. Such a notification should specify the Member to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed; or~~
- (a) it appears to the committee to be appropriate to grant the dispensation, as a practical solution to the disability of the Member which otherwise would make it difficult for them to leave a room/chamber when a matter in which they have a prejudicial interest is being discussed.
- (a) if no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business; (English/Welsh ground (a)).
- (b) if no fewer than half of the members of a leader and cabinet executive by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies; (English/Welsh ground (b)).
- (c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected; (English/Welsh ground (c)).

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- (d) if the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business: *(EnglishWelsh ground (dch))*
- (e) if the interest is common to the member and a significant proportion of the general public: *(EnglishWelsh ground (ed))*
- (f) if the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise: *(EnglishWelsh ground (fd))*
- (g) if the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest: *(EnglishWelsh ground (ge))*
- (h) if the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business: *(EnglishWelsh ground (hf))*
- (i) if it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed: *(EnglishWelsh ground (iff))* – or
- (j) if it appears to the committee that it is otherwise appropriate to grant a dispensation: *(EnglishWelsh ground (ig))*

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THE ISLE OF ANGLESEY COUNTY COUNCIL
DECISION OF THE STANDARDS COMMITTEE
IN RELATION TO AN APPLICATION FOR DISPENSATION
BY A MEMBER OF THE COUNTY COUNCIL

Decision of the Standards Committee:	
Date decision made by the Standards Committee:	
Name of persons to be notified of the Standards Committee's decision:	
Date any dispensation expires:	

Pursuant to paragraph [] of The Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 as amended by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016, the Standards Committee has resolved to **grant a dispensation** to Councillor [] in respect of that / those interest(s) referred to in the Application at page 1, which permits the Councillor to:

- o write to officers [and/or the Executive/Committee/Council] about the issue;
- o speak to officers of the Council about the issue [in the presence of two other persons] [who are not Trustees or Board Members of [INSERT]], provided a note is taken of any such discussions;
- o speak at Executive/Committee/Council meetings and answer any questions about the issue;
- o remain in the room during any debate/voting on the issue (due to the Member's disability);
- o vote at such meetings;
- o if relevant, this will include participating fully in any public meetings and meetings of any outside bodies etc.
- o other - _____

The Councillor can therefore speak [and vote] at Executive/Committee/Council meetings in relation to the issue and answer any questions from members of the Executive/ Committee/Council [but must leave the meeting before matters that the Councillor speaks upon are debated or voted up on] OR [and may remain in the room during the debate and vote on the issue but must not vote on the issue].

Before the Councillor speaks with, or writes to, officers of the Council, or speaks at Executive/Committee/Council meetings on the issue, the Councillor must still:-

- declare an interest in the matter; and
- confirm that a dispensation has been granted to allow the Councillor to speak [and vote] about it; and
- complete the notification to the Clerk setting out the interest and the dispensation.

By authority of the Isle of Anglesey County Council's Standards Committee

Dated: _____

**CYNULLIAD CENEDLAETHOL CYMRU****NATIONAL ASSEMBLY FOR WALES****OFFERYNNAU STATUDOL****STATUTORY INSTRUMENTS****2001 Rhif 2279 (Cy. 169)****2001 No. 2279 (W. 169)****LLYWODRAETH LEOL,
CYMRU****LOCAL GOVERNMENT ,
WALES****Rheoliadau Pwyllgorau Safonau
(Caniatáu Gollyngiadau) (Cymru)
2001****The Standards Committees (Grant
of Dispensations) (Wales)
Regulations 2001****NODYN ESBONIADOL****EXPLANATORY NOTE***(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)**(This note does not form part of the Regulations)*

O dan adran 51 o Ddeddf Llywodraeth Leol 2000 ("y Ddeddf") mae'n ofynnol i gynghorau sir a chynghorau bwrdeistref sirol, awdurdodau tân ac awdurdodau Parciau Cenedlaethol yng Nghymru ("awdurdodau perthnasol") fabwysiadu cod ymddygiad ar gyfer aelodau ac aelodau cyfetholedig sy'n gorfod ymgorffori unrhyw ddarpariaethau gorfodol o unrhyw god ymddygiad enghreifftiol a gyhoeddir gan Gynulliad Cenedlaethol Cymru o dan adran 50(2) o'r Ddeddf.

County and county borough councils, community councils, fire authorities and National Park authorities in Wales ("relevant authorities") are required by section 51 of the Local Government Act 2000 ("the Act") to adopt a code of conduct for members and co-opted members which must incorporate any mandatory provisions of any model code of conduct issued by the National Assembly for Wales under section 50(2) of the Act.

Mae adran 81(1) a (2) o'r Ddeddf yn darparu bod yn rhaid i'r swyddog monitro ym mhob awdurdod perthnasol sefydlu a chadw cofrestr o fuddiannau aelodau ac aelodau cyfetholedig yr awdurdod a bod darpariaethau gorfodol y cod enghreifftiol sy'n gymwysadwy i bob awdurdod perthnasol yn gorfod ei gwneud yn ofynnol i aelodau ac aelodau cyfetholedig pob awdurdod gofrestru unrhyw fuddiannau ariannol ac eraill a bennir yn y darpariaethau gorfodol yng nghofrestr yr awdurdod hwnnw.

Section 81(1) and (2) of the Act provides that the monitoring officer of each relevant authority must establish and maintain a register of interests of the members and co-opted members of the authority and that the mandatory provisions of the model code applicable to each relevant authority must require the members and co-opted members of each authority to register in that authority's register such financial and other interests as are specified in the mandatory provisions.

O dan adran 81(3) a (4) o'r Ddeddf rhaid i'r darpariaethau gorfodol hynny ei gwneud yn ofynnol hefyd i aelod neu aelod cyfetholedig o awdurdod perthnasol sydd â buddiant o'r fath ei ddatgelu cyn cymryd rhan mewn unrhyw fusnes gan yr awdurdod sy'n berthnasol i'r buddiant a gwneud darpariaeth i atal yr aelod neu'r aelod cyfetholedig hwnnw rhag cymryd rhan mewn unrhyw fusnes gan yr awdurdod y mae'r buddiant a ddatgelwyd yn berthnasol iddo neu i gyfyngu ar y rhan y mae'n ei chymryd ynddo.

Under section 81(3) and (4) of the Act those mandatory provisions must also require a member or co-opted member of a relevant authority who has such an interest to disclose it before taking part in any business of the authority which relates to it and make provision for preventing or restricting the participation of that member or co-opted member in any business of the authority to which the disclosed interest relates.

Mae adran 81(4) o'r Ddeddf yn darparu nad yw unrhyw gyfranogiad gan aelod neu aelod cyfetholedig o awdurdod perthnasol mewn unrhyw fusnes a waherddir gan y darpariaethau gorfodol yn fethiant i gydymffurfio â chod ymddygiad yr awdurdod os yw'r aelod neu'r aelod cyfetholedig wedi gweithredu yn unol â gollyngiad rhag y gwaharddiad a gafodd ei ganiatáu gan bwyllgor safonau'r awdurdod yn unol â rheoliadau a wneir o dan is-adran (5).

Mae'r rheoliadau hyn yn rhagnodi'r amgylchiadau y caiff pwyllgorau safonau'r awdurdodau perthasol ganiatáu gollyngiadau o'r fath odanynt.

Section 81(4) of the Act provides that any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provisions is not a failure to comply with the authority's code of conduct if the member or co-opted member has acted in accordance with a dispensation from the prohibition granted by the authority's standards committee in accordance with regulations made under subsection (5).

These regulations prescribe the circumstances in which standards committees of relevant authorities may grant such dispensations.

2001 Rhif 2279 (Cy. 169)

**LLYWODRAETH LEOL,
CYMRU**

Rheoliadau Pwyllgorau Safonau
(Caniatáu Gollyngiadau) (Cymru)
2001

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

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd iddo gan adran 81(5) ac (8) o Ddeddf Llywodraeth Leol 2000(a).

Enw, cychwyn, cymhwyso a dehongli

1.- (1) Enw'r Rheoliadau hyn yw Rheoliadau Pwyllgorau Safonau (Caniatáu Gollyngiadau) (Cymru) 2001 a deuant i rym ar 28 Gorffennaf 2001.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

(3) Yn y Rheoliadau hyn -

mae "aelod" ("*member*") yn cynnwys aelod cyfetholedig;

ystyr "awdurdod perthnasol" ("*relevant authority*") yw cyngor sir neu gyngor bwrdeistref sirol, cyngor cymuned, awdurdod tân neu awdurdod Parc Cenedlaethol;

ystyr "buddiant" ("*interest*") yw buddiant y mae'n ofynnol ei gofrestru yng nghofrestr buddiannau'r awdurdod perthnasol;

ystyr "corff gwirfoddol" ("*voluntary organisation*") yw corff (heblaw awdurdod lleol neu gorff cyhoeddus arall) sy'n cynnal ei weithgareddau heblaw ar gyfer gwneud elw;

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

(a) 2000 p. 22.

2001 No. 2279 (W. 169)

**LOCAL GOVERNMENT,
WALES**

The Standards Committees (Grant
of Dispensations) (Wales)
Regulations 2001

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

The National Assembly for Wales makes the following Regulations in exercise of the power given to it by section 81(5) and (8) of the Local Government Act 2000(a).

Name, commencement, application and interpretation

1.- (1) The name of these Regulations is the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 and they shall come into force on 28th July 2001.

(2) These Regulations apply to Wales only.

(3) In these Regulations -

"interest" ("*buddiant*") means an interest which is required to be registered in the relevant authority's register of interests;

"member" ("*aelod*") includes a co-opted member;

"relevant authority" ("*awdurdod perthnasol*") means a county or county borough council, a community council, a fire authority or a National Park authority;

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

"voluntary organisation" ("*corff gwirfoddol*") means a body (other than a local authority or other public body) whose activities are carried on otherwise than for profit.

(a) 2000 c. 22.

Yr amgylchiadau lle gellir caniatáu gollyngiadau

2. Caiff pwyllgor safonau awdurdod perthnasol ganiatáu gollyngiadau o dan adran 81(4) o'r Ddeddf -

(a) os oes gan ddim llai na hanner aelodau'r awdurdod perthnasol neu hanner aelodau un o bwyllgorau'r awdurdod (yn ôl fel y digwydd) y mae'r busnes i gael ei ystyried ganddo fuddiant sy'n berthnasol i'r busnes hwnnw;

(b) os oes gan ddim llai na hanner aelodau gweithrediaeth arweinydd a chabinet y mae'r busnes i gael ei ystyried ganddo fuddiant sy'n berthnasol i'r busnes hwnnw a bod naill ai paragraff (ch) neu baragraff (d) hefyd yn gymwys;

(c) yn achos cyngor sir neu gyngor bwrdeistref sirol, os byddai anallu aelod i gymryd rhan yn tarfu ar gydbwysedd gwleidyddol yr awdurdod perthnasol neu'r pwyllgor o'r awdurdod y mae'r busnes i'w ystyried ganddo i'r fath raddau nes y byddai'r canlyniad yn debygol o gael ei effeithio;

(ch) os yw natur buddiant yr aelod yn gyfryw fel na fyddai cyfranogiad yr aelod yn y busnes y mae'r buddiant yn berthnasol iddo yn niweidio hyder y cyhoedd yn y modd y mae busnes yr awdurdod perthnasol yn cael ei gynnal;

(d) os yw'r buddiant yn gyffredin i'r aelod ac i gyfran arwyddocaol o'r cyhoedd;

(dd) os oes cyfiawnhad i'r aelod gymryd rhan yn y busnes y mae'r buddiant yn berthnasol iddo oherwydd rôl neu arbenigedd penodol yr aelod;

(e) os yw'r busnes y mae'r buddiant yn berthnasol iddo i'w ystyried gan bwyllgor trosolygu a chraffu i'r awdurdod perthnasol ac nad yw buddiant yr aelod yn fuddiant ariannol;

(f) os yw'r busnes sydd i'w ystyried yn berthnasol i arian neu eiddo corff gwirfoddol y mae'r aelod yn aelod o'i bwyllgor neu ei fwrdd rheoli heblaw fel cynrychiolydd yr awdurdod perthnasol ac nad oes gan yr aelod unrhyw fuddiant arall yn y busnes hwnnw ar yr amod na fydd unrhyw ollyngiad yn ymestyn i gymryd rhan mewn unrhyw bleidlais mewn perthynas â'r busnes hwnnw; neu

(ff) os yw'n ymddangos i'r pwyllgor ei bod o les i drigolion ardal yr awdurdod perthnasol i'r anallu gael ei godi, ar yr amod bod hysbysiad ysgrifenedig bod y gollyngiad yn cael ei ganiatáu yn cael ei roi i Gynulliad Cenedlaethol Cymru o fewn saith diwrnod a hynny mewn unrhyw fodd y gall ei bennu.

Circumstances in which dispensations may be granted

2. The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where -

(a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;

(b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;

(c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;

(d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;

(e) the interest is common to the member and a significant proportion of the general public;

(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

(g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;

(h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or

(i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.

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

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

21 Mehefin 2001

21st June 2001

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2001 Rhif 2279 (Cy. 169)

2001 No. 2279 (W. 169)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

**Rheoliadau Pwyllgorau Safonau
(Caniatáu Gollyngiadau) (Cymru)
2001**

**The Standards Committees (Grant
of Dispensations) (Wales)
Regulations 2001**

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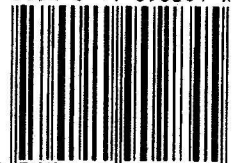
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WELSH STATUTORY INSTRUMENTS

2016 No. 85

**The Local Government (Standards Committees,
Investigations, Dispensations and Referral)
(Wales) (Amendment) Regulations 2016**

Amendments to the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001

4.—(1) The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001(1) are amended as follows.

(2) In regulation 1, in paragraph (3) in the appropriate place insert—

““community sub-committee” (“*is-bwyllgor cymunedol*”) means a sub-committee appointed by a standards committee of a local authority under section 56 of the Act;”;

““joint committee” (“*cyd-bwyllgor*”) means a committee established by two or more relevant authorities under section 53(1) of the Act;”;

““section 54A sub-committee” (“*is-bwyllgor adran 54A*”) means a sub-committee appointed by a standards committee under section 54A(1) of the Act”;

““standards committee” (“*pwyllogor safonau*”) means—

- (a) a standards committee of a relevant authority;
- (b) a joint committee;
- (c) a section 54A sub-committee; or
- (d) a community sub-committee;”.

(3) In regulation 2—

- (a) at the end of paragraph (h) omit “or”;
- (b) in paragraph (i), for the words that follow “removed” substitute “; or”;
- (c) after paragraph (i) insert—

“(j) “it appears to the committee to be otherwise appropriate to grant a dispensation.”

(4) After regulation 2 insert—

“Dispensations granted in accordance with regulation 2(j)

3.—(1) A dispensation granted by the standards committee of a relevant authority under section 81(4) of the Act on the grounds set out in regulation 2(j) and which remains in effect, must be reviewed by the standards committee once in every 12 month period from the date on which the dispensation is first granted.

(2) When conducting a review under paragraph (1) the standards committee must determine whether the dispensation should continue to have effect.

(1) S.I. 2001/2279 (W. 169).

Procedure and powers of standards committees

4.—(1) A standards committee of a relevant authority may refer an application for a dispensation made by a member of the authority to the standards committee of another relevant authority for consideration and determination.

(2) The monitoring officer of a relevant authority to which an application for a dispensation is made may, with the prior written consent of the chairperson of the standards committee of that authority, make arrangements for the application to be considered and determined by the standards committee of another relevant authority.

(3) Where reasonable efforts to contact the chairperson of the standards committee of the relevant authority have been unsuccessful, the vice-chairperson of the standards committee may give consent under paragraph (2).

(4) Where a monitoring officer or standards committee makes arrangements for a dispensation application to be considered and determined by the standards committee of another relevant authority, the monitoring officer or standards committee that makes those arrangements must provide notice to the person making the application accordingly.

(5) The notice to which paragraph (4) refers must include the following—

- (a) a statement that the matter has been referred to another relevant authority's standards committee for consideration and determination;
- (b) the name of the other relevant authority; and
- (c) the reason why the application has been referred to the standards committee of the other relevant authority.

(6) When the standards committee has determined the application it must give written notice of its decision to the—

- (a) member applying for the dispensation; and
- (b) standards committee of the referring relevant authority.”

**STANDARDS COMMITTEE: REVIEW OF THE REGISTER OF INTERESTS
OF THE TOWN AND COMMUNITY COUNCILLORS –
METHODOLOGY ADVICE NOTE (September 2018/April 2019)**

You have been asked to carry out a review of the Registers of Interests for Town and Community Councillors. This note has been produced in order to assist you in that process by detailing the documents which need to be reviewed, the type of information which you will need to gather from looking at those documents and the method for reporting your findings.

A. DOCUMENTS TO BE REVIEWED

The documents to be reviewed during this exercise are since the ~~as of~~ **4th May 2017** (‘the relevant date’):-

1. The Register of Personal Interests

• There is no specific format for the Register of Interests, but generally the Register will consist of:

- ~~(a) Minutes for the relevant meeting (which should confirm the declaration of interest made) and (b) (a) the Declaration of Interest forms (completed by each member following an oral declaration of personal and/or prejudicial interests made for the first time at the relevant meeting) and (b) any written confirmation received from Councillors notifying of any change in their personal/prejudicial interests within the Register.~~

(a) Minutes of Meetings:

- ~~You should review the Agenda and Minutes for the Council and its sub-Committee meetings.~~

(a) Declaration of Interests in Meetings Forms:

(b)

- These are the paper forms which are completed by each Member Councillor who declares either a personal, or a personal and prejudicial interest, for the first time, regarding an item discussed at a meeting.

(b) Declarations regarding any change to registered interests

- This is the written confirmation provided by a councillor within 28 days of their registered personal/prejudicial interest changing.

(b) Declarations regarding any change to registered interests

~~This is the written confirmation provided by a Councillor within 28 days of their registered personal/prejudicial interest changing.~~

The Register should be considered in line with the declarations noted in the Minutes of Council Meetings.

2. (c) Minutes of Meetings:

- You should review the Agenda and Minutes of the Council’s meetings and its sub-committees in the context of the declarations in 1 above.

3. Code of Conduct

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- Copy of the ~~T~~own/~~C~~ommunity ~~C~~ouncil's ~~C~~ode of ~~C~~onduct for its ~~m~~emb~~e~~r~~s~~~~c~~ouncillors.

~~3.~~ **4. List of names of all ~~T~~own/~~C~~ommunity ~~C~~ouncillors since the relevant date**

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~~5.~~ **5. Copy of the form of acceptance of office by each current ~~m~~emb~~e~~r~~s~~~~c~~ouncillor of the ~~T~~own/~~C~~ommunity ~~C~~ouncil, which includes the statutory undertaking to comply with the ~~C~~ode of ~~C~~onduct**

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- ~~4.~~
- Councillors are expected to have signed a new undertaking to abide by the ~~C~~ode of ~~C~~onduct following the local elections in May 2017; this is required irrespective of whether or not the member was being re-elected and whether or not an election took place for that ~~T~~own/~~C~~ommunity ~~C~~ouncil.

~~5.~~ **6. Members' Training Records**

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- There is no statutory requirement to maintain a ~~t~~raining ~~R~~ecord, but the Standards Committee considers it to be good practice.

~~6.~~ **7. Information on Clerk Training**

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- Clerks are employed by the ~~T~~own/~~C~~ommunity ~~C~~ouncil and do not come under the remit of the Standards Committee's role. However, ~~C~~lerks are the proper officers within the ~~T~~own/~~C~~ommunity ~~C~~ouncils and the Standards Committee's ~~e~~xperience ~~d~~emonstrates ~~f~~eels that a properly trained and resourced ~~C~~lerk will assist the ~~C~~ouncil collectively, being better equipped to advise ~~m~~emb~~e~~r~~s~~~~c~~ouncillors, both inside and outside meetings, on matters including the ~~C~~ode of ~~C~~onduct.

~~7.~~ **8. The Town / Community Council's Website**

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- As of May 2015, ~~T~~own and ~~C~~ommunity ~~C~~ouncils ~~n~~ow have a statutory requirement to have websites and to publish specified information on these websites. [The details of these requirements are discussed further in section B.7 below.]

~~8.~~ **9. Local Resolution Protocol**

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- For a ~~T~~own/~~C~~ommunity ~~C~~ouncil to adopt a ~~L~~ocal ~~R~~esolution ~~P~~rotocol is ~~c~~onsidered good practice.
- A precedent ~~P~~rotocol has been drafted by One Voice Wales and circulated by them to ~~a~~ll~~t~~he ~~T~~own/~~C~~ommunity ~~C~~ouncils.

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B. WHAT NEEDS TO BE REVIEWED?

1. The Register of Personal Interests

- The requirements for ~~T~~own and ~~C~~ommunity ~~C~~ouncils is different from ~~C~~ouncillors in the IOACC.

- There is no requirement for a sStanding Rregister i.e. pre-registration of employment / business / land holdings / membership of outside bodies etc; nor is there a requirement for a gGifts and Hhospitality Rregister.
 - The requirement for tTown and Ccommunity Ccouncillors is to declare a personal or personal and prejudicial interest (which includes any gift and / or hospitality received if it is connected to the matter under consideration) "there and then" if, and when, a matter arises. Also, if a declaration is made for the first time, the cCouncillor is obliged re-is-a-duty under the cCode of Cconduct to for the Councillor to confirm that oral declaration by giving written notification to the cClerk.
 - A copy of a Briefing Note prepared for members of tTown and Ccommunity Ccouncils in 2016-2019 is included as **Appendix 1**.
- There is no specific format for the rRegister of iinterests, but using a standard form for every registration of personal/prejudicial interests, and collecting them in an individual file, in the order of the Mmembers' names, will suffice. Any written notifications by cCouncillors that are received in order to confirm a change to their registered personal/prejudicial interest, can be added. These individual forms, togethercollectively, form the Rregister of iinterests declared by the tTown/Ccommunity councillorsCouncil Members. If a Ccouncillor has not made any declaration, then he/s/he will have no records/forms in the Rregister.
 - generally the Register will consist of the Declaration of Interest forms and the Minutes for the relevant meeting.
- The requirement to declare the personal/prejudicial interest orallyverbally, provide the written confirmation in order to "register" the interest, and to provide written confirmation of any change in those registered interests, is the responsibility of the cCouncillor. The requirement to maintain and publish the Rregister of iinterests is the responsibility of the Cclerk, as the proper officer of the tTown/Ccommunity Ccouncil. Maintenance of a Register is the Clerk's responsibility as the proper officer of the Council; but completing the Declarations and ensuring the same have been recorded correctly is each Councillor's own responsibility under the Code of Conduct.
- Whatever format the Rregister of iinterests takes,
 - Check the rRegister is made available by the tTown-/Ccommunity Ccouncil for inspection by the public at all reasonable times. [There is also a requirement for the same to be published on the tTown-/Ccommunity Ccouncil's website; this is discussed further in sub-section 7 below.]

➤ **Declaration of Interests in Meetings Forms:**

- a. There is no single format for the dDeclaration of iinterests Fform to be used to confirm a declaration of personal and/or prejudicial interest made for the first time orally at a meeting. The dDeclaration Fform used by IOACC is attached as **Appendix 2** and this shows all required fields.

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→ Check that the form used by the Town-/Community Council is satisfactory.

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→ Do you wish to suggest any changes to the form for the declaration of interests in meetings in order to assist councillors in the Town-/Community Councils or to improve clarity and/or transparency for the public?

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b. In general, and as a matter of principle, the paper declaration forms should be standalone in order that the public understand the interest and how it is relevant to the item on the agenda, the connection with that item, and whether the interest is a personal interest or a personal and prejudicial interest, meaning that the Councillor had to leave the meeting as a result of a personal interest which is also prejudicial.

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b. → Check if the form has been completed in full and in a way that would make sense to anybody reading it (i.e. members of the public who have no information or specific expertise with regard to the code of Conduct and its requirements)?

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→ Is there sufficient information regarding the interest and how it is relevant to the Agenda item?

c. Is there any indication that councillors are having difficulty differentiating between the declaration of personal interests (where they would be permitted to remain in the meeting) and the declaration of personal and prejudicial interests (where they are required to leave meetings)? Or are Councillors declaring interests unnecessarily and being over-cautious?

→ Consider, based on the facts which have been declared by the councillor or the detail included in the Agenda-/Reports-/Minutes if the declaration was personal or personal and prejudicial. Does your opinion concur with that which resemble what the councillor expressed?

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d. You will then need to cross-reference the information included in the dDeclaration of interests Form with the Minutes for the relevant meeting. Of course, the only requirement is that a written confirmation has been completed for when the declaration was made orally/verbally for the first time, therefore there will not be a form will not be available for every time a Councillor makes a verbal-oral declaration (although the Mminutes should confirm every oral-verbal declaration) (see below for further information about regarding the requirements for the Mminutes).

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

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➤ Written confirmation from Councillors regarding changes to their

registered interests:

a. Should there be any changes to registered personal interests / prejudicial interests, a Town/Community Councillor must confirm the change in writing with the Clerk of the Town/Community Council within 28 days of the change occurring.

a. → Check whether a written confirmation has been completed for updating any change to a personal / prejudicial interest.

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Minutes of Meetings:

a. 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 of their obligation.

a. → Check that the Agendas includes "Declarations of Interest" as a standing item on the agenda

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b. Review the Minutes for the meeting in which the declaration was made for the first time to ascertain if those Minutes confirm the information included on the Declaration of Interests Form.

When a declaration of personal/prejudicial interest is made orally/verbally by a Councillor in a meeting, the verbal declaration should be recorded in the Minutes (although a Declaration of Interest Form has not been completed since the interest is already registered).

b. → Check that under the "Declarations of Interest" standing item on the agenda, that the Minutes confirm:

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- a declaration of interest was made,
- the name of the member-councillor making the oral declaration,
- to which agenda item the declaration relates, and
- whether the declaration made was a personal or prejudicial interest;
- and if prejudicial, that the Member-councillor left the meeting for that item.

c. Furthermore, under the business item itself, it would be good practice for the Minutes to confirm:

- e.
- a declaration of interest has been made, and by whom,
 - whether the interest is personal or prejudicial,
 - details of the personal/prejudicial interest, and
 - when prejudicial, that the member-councillor left the meeting room.

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d. Consider the interests that have been "registered" by the Councillors (check the Register and the information contained on the Declaration of Interests Form) and then consider a few items on various-

~~the agenda of various meetings. Agenda~~ Should a Councillor be declaring an interest in a particular matter?

~~It is good practice to include in the for the Mminutes of meetings, to include~~ a reference (within the declaration of interest that is noted) to the date on which the interest (which is being declared ~~or~~ verbally) was registered in the Register of Interests, for the expediency/convenience of to the public.

e. ~~(e)~~ → Are there any examples when Councillors have declared interests in meetings for the first time but have forgotten to complete the declaration of interests in meetings form?

~~d~~

→ Are there any examples when Councillors have completed a declared interests by virtue of the Declaration of Interests Form in order to confirm an interest that was declared ~~or~~ verbally at a meeting but that information has not been confirmed the ~~or~~ verbal declaration was not mentioned in the Mminutes of the Council meeting itself?

Other:

There are several Town/Community Councils where the councillors Members follow/adapt the practice of confirming every ~~or~~ verbal declaration of personal or prejudicial interests through written confirmation. In these circumstances, the Register is formed ~~of~~ contains all the declaration forms, which are usually kept in order-of-date order.

2. Code of Conduct

a. Since 1st April 2016, there is a requirement for all Town and Community Councils to adopt a Code of Conduct in accordance with the Model Code of Conduct introduced by that legislation.

~~a~~

→ Check that the Town-/Community Council has adopted ~~the a~~ Code of Conduct which is in accordance with the Model Code of Conduct.

b. 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 (PSOW).

~~b~~

→ Check that the Town-/Community Council has advised the PSOW Ombudsman and satisfied the advertising requirements in relation to this adoption.

c. In its advice note dated March 2017 (following a review of a sample of the Town and Community Councils during the Autumn and Winter of 2016/2017) the Standards Committee asked the Town and Community Councils to ensure the updated Code of Conduct and the Briefing Note on the statutory requirements for Town and Community councillors/members on declaration of personal interests ~~be (referred to in this Methodology Note as Appendix 4) were~~ brought to the attention of its councillors/members following the May 2017 elections.

~~c~~

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→ Check that the **Town-/Community Council** has complied with this requirement by reviewing the **Minutes** for the relevant meeting.

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3. List of names of all Town-/Community Councillors since the relevant date

4. Copy of the form of acceptance of office by each current members of the **Town-/Community Council**, which included the statutory undertaking to comply with the Code of Conduct

a. Each **Town-/Community Councillor** needs to have signed a form of acceptance of office and a statutory undertaking to comply with the **Code of Conduct**.

a.

→ Check the list of **Town-/Community Councillor** names (document 3) against all the forms of acceptance received (documents 4).

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→ Has each **member-councillor** signed a new undertaking to abide by the **Code of Conduct** following the local elections in May 2017?

→ Has the undertaking been signed by the **Councillor** 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.

5. Members' Training Records

a. → Have the **Councillors** been offered **Code of Conduct** training?

b. → Do **Councillors** attend training when it is offered?

6. Information on Clerk Training

a. → Has the **Clerk** attended training?

b. → How was the cost of this training met? Was this included in the precept amount, as suggested by the Standards Committee in its communication to the **Town and Community Councils** in November 2017?

7. Websites

a. Statutory Guidance has been issued to assist **Town and Community Councils** in fulfilling their obligation to make certain information available electronically (**Appendix 3.**)

b. Check:

→ Does the **Town-/Community Council** have a website?

→ If not **in relation to the above**, query if the **Town-/Community Council** has applied for a grant to spend on establishing a new website?

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→ Are notices and papers published electronically on the website?

- Is the rRegister of iinterests published electronically on the website?
- Is there contact information for the tTown-/Cccommunity c-Council (and if different, the cClerk) on the website including a telephone number, a postal address and an email address?
- Is the cCouncil's email address a generic email address (rather than a personal email address)?
- Does the website include 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 cCouncil?
- Are public notices, including notices of meetings, published electronically?
- Are the minutes of the meetings and any documents referred to therein published on the website?
- Are the annual audited accounts for the tTown-/Cccommunity Ccouncil published on the website?
- Is it possible to distinguish between those who are co-opted members and elected members? This is advised in the statutory guidance as being in the interest of transparency.

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8. Local Resolution Protocol

- a. → Has the tTown-/Cccommunity Ccouncil adopted a lLocal Rresolution Pprotocol?
- b. → Is the pProtocol adopted by the the Ttown-/Cccommunity Ccouncil the protocol prepared by One Voice Wales?

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C. REPORTING YOUR FINDINGS

- 1. It is suggested that you report your findings by way of a table with the following headings:

REVIEWERS	TOWN / COMMUNITY COUNCIL	REGISTER OF PERSONAL INTERESTS	ADOPTION OF CODE OF CONDUCT	FORM OF ACCEPTANCE / STATUTORY UNDERTAKING BY THE INDIVIDUAL COUNCILLORS	MEMBER TRAINING	CLERK TRAINING	WEBSITE	LOCAL RESOLUTION PROTOCOL
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- 2. The information which is included under each heading will be the 'answers' to those questions which have been asked in B above, whilst considering the documentation referred to in A above.

3. You may include any further information—/—comments which has not been mentioned or referred to in this Advisory Note. This Note has been prepared by way of guidance only and is not designed to limit your conduct in carrying out the Review albeit the Standards Committee's remit must be borne in mind.

Prepared by the Monitoring Officer
~~September 2018~~August pril-2019

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.

Published by the Isle of Anglesey’s Standards Committee
March 2019

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



Statutory Guidance

Access to Information on Community And Town Councils

May 2015



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WG25090

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'

STANDARDS COMMITTEE: REVIEW OF THE REGISTER OF INTERESTS OF THE TOWN AND COMMUNITY COUNCILLORS – METHODOLOGY ADVICE NOTE (April 2019)

You have been asked to carry out a review of the registers of interests for town and community councillors. This note has been produced in order to assist you in that process by detailing the documents which need to be reviewed, the type of information which you will need to gather from looking at those documents and the method for reporting your findings.

A. DOCUMENTS TO BE REVIEWED

The documents to be reviewed during this exercise are since the **4th May 2017** ('the relevant date'):-

1. The Register of Personal Interests

- There is no specific format for the register of interests, but generally the register will consist of:

(a) Declaration of Interests in Meetings Forms:

- These are the paper forms which are completed by each councillor who declares either a personal, or a personal and prejudicial, interest for the first time, regarding an item discussed at a meeting.

(b) Declarations regarding any change to registered interests

- This is the written [confirmation provided](#) by a councillor within 28 days of their registered personal/prejudicial interest changing.

The Register should be considered in line with the declarations noted in the minutes of council meetings.

2. Minutes of Meetings:

- You should review the agenda and minutes of the council's meetings and its sub-committees in the context of the declarations in 1 above.

3. Code of Conduct

- Copy of the town/community council's code of conduct for its councillors.

4. List of names of all town/community councillors since the relevant date

5. Copy of the form of acceptance of office by each current councillor of the town/community council, which includes the statutory undertaking to comply with the code of conduct

- Councillors are expected to have signed a new undertaking to abide by the code of conduct following the local elections in May 2017; this is required irrespective of whether or not the member was being re-elected and whether or not an election took place for that town/community council.

6. **Members' Training Records**

- There is no statutory requirement to maintain a training record, but the Standards Committee considers it to be good practice.

7. **Information on Clerk Training**

- Clerks are employed by the town/community council and do not come under the remit of the Standards Committee's role. However, clerks are the proper officers within the town/community councils and the Standards Committee's experience demonstrates that a properly trained and resourced clerk will assist the council collectively, being better equipped to advise councillors, both inside and outside meetings, on matters including the code of conduct.

8. **The Town / Community Council's Website**

- As of May 2015, town and community councils have a statutory requirement to have websites and to publish specified information on these websites. [The details of these requirements are discussed further in section B.7 below.]

9. **Local Resolution Protocol**

- For a town/community council to adopt a local resolution protocol is good practice.
- A precedent protocol has been drafted by One Voice Wales and circulated by them to all town/community councils.

B. WHAT NEEDS TO BE REVIEWED?

1. The Register of Personal Interests

- The requirements for town and community councils is different from councillors in the IOACC.
 - There is no requirement for a standing register i.e. pre-registration of employment / business / land holdings / membership of outside bodies etc; nor is there a requirement for a gifts and hospitality register.
 - The requirement for town and community councillors is to declare a personal, or personal and prejudicial, interest (which includes any gift and / or hospitality received if it is connected to the matter under consideration) "there and then" if, and when, a matter arises. Also, if a declaration is made for the first time, the councillor is obliged under the code of conduct to confirm that oral declaration by giving written notification to the clerk.
 - A copy of a Briefing Note prepared for members of town and community councils in 2019 is included as **Appendix 1**.
- There is no specific format for the register of interests, but using a standard form for every registration of personal/prejudicial interests, and collecting them in an individual file, in the order of the members' names, will suffice. Any written notifications by councillors that are received in order to confirm a change to their

registered personal/prejudicial interest, can be added. These individual forms, collectively, form the register of interests declared by the town/community councillors. If a councillor has not made any declaration, then s/he will have no records/forms in the register.

- The requirement to declare the personal/prejudicial interest verbally, provide the written confirmation in order to “register” the interest, and to provide written confirmation of any change in those registered interests, is the responsibility of the councillor. The requirement to maintain and publish the register of interests is the responsibility of the clerk, as the proper officer of the town/community council.
- Whatever format the register of interests takes,
 - Check the register is made available by the town/community council for inspection by the public at all reasonable times. [There is also a requirement for the same to be published on the town/community council’s website; this is discussed further in sub-section 7 below.]
 - **Declaration of Interests in Meetings Forms:**
 - a. 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 **for the first time** orally at a meeting. The declaration form used by IOACC is attached as **Appendix 2** and this shows all required fields.
 - Check that the form used by the town/community council is satisfactory.
 - Do you wish to suggest any changes to the form for the declaration of interests in meetings in order to assist councillors in the town/community councils or to improve clarity and/or transparency for the public?
 - b. In general, and as a matter of principle, the paper declaration forms should be standalone in order that the public understand the interest and how it is relevant to the item on the agenda, the connection with that item, and whether the interest is a personal interest or a personal and prejudicial interest, meaning that the councillor had to leave the meeting as a result of a personal interest which is also prejudicial.
 - Check if the form has been completed in full and in a way that would make sense to anybody reading it (i.e. members of the public who have no information or specific expertise with regard to the code of conduct and its requirements)
 - Is there sufficient information regarding the interest and how it is relevant to the agenda item?
 - c. Is there any indication that councillors are having difficulty differentiating between the declaration of personal interests (where they would be permitted to remain in the meeting) and the declaration of personal and prejudicial interests (where they are required to leave meetings)?

Or are councillors declaring interests unnecessarily and being over-cautious?

- Consider, based on the facts which have been declared by the councillor or the detail included in the agenda/reports/minutes if the declaration was personal or personal and prejudicial. Does your opinion concur with that which the councillor expressed?
- d. You will then need to cross-reference the information included in the declaration of interests form with the minutes for the relevant meeting. Of course, the only requirement is that a written confirmation has been completed for when the declaration was made verbally for the first time, therefore a form will not be available every time a councillor makes a verbal declaration (although the minutes should confirm every verbal declaration) (*see below further information regarding the requirements for the minutes*).
- A personal / prejudicial interest will only be regarded as a previously disclosed interest if a written notification has been provided since the last date when the individual was elected, appointed or nominated as a member of the town/community council.

➤ **Written confirmation from Councillors regarding changes to their registered interests:**

- a. Should there be any changes to registered personal interests / prejudicial interests, a town/community councillor must confirm the change in writing with the clerk of the town/community council within 28 days of the change occurring.
- Check whether a written confirmation has been completed for updating any change to a personal / prejudicial interest.

➤ **Minutes of Meetings:**

- a. 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 of their obligation.
- Check that the agendas include declarations of interest as a standing item on the agenda
- b. Review the minutes for the meeting in which the declaration was made for the first time to ascertain if those minutes confirm the information included on the declaration of interests form.

When a declaration of personal/prejudicial interest is made verbally by a councillor in a meeting, the verbal declaration should be recorded in the minutes (although a declaration of interest form has not been completed since the interest is already registered).

→ Check that under the declarations of interest standing item on the agenda, that the minutes confirm:

- a declaration of interest was made,
- the name of the councillor making the oral declaration,
- to which agenda item the declaration relates, and
- whether the declaration made was a personal or prejudicial interest;
- and if prejudicial, that the councillor left the meeting for that item.

c. Furthermore, under the business item itself, it would be good practice for the minutes to confirm:

- a declaration of interest has been made, and by whom,
- whether the interest is personal or prejudicial,
- details of the personal/prejudicial interest, and
- when prejudicial, that the councillor left the meeting room.

d. Consider the interests that have been “registered” by the councillors (check the register and the information contained on the declaration of interests form) and then consider a few items on the agenda of various meetings. Should a councillor be declaring an interest in a particular matter?

→ It is good practice to include in the minutes of meetings, a reference (within the declaration of interest that is noted) to the date on which the interest (which is being declared verbally) was registered in the register of interests, for the convenience of the public.

e. Are there any examples when councillors have declared interests in meetings for the first time but have forgotten to complete the declaration of interests in meetings form?

→ Are there any examples when councillors have completed a declaration of interests form in order to confirm an interest that was declared verbally at a meeting but that the verbal declaration was not mentioned in the minutes of the council meeting itself?

Other:

There are several town/community councils where the councillors adopt the practice of confirming every verbal declaration of personal or prejudicial interests through written confirmation. In these circumstances, the register contains all the declaration forms, which are usually kept in date order.

2. Code of Conduct

a. Since 1st April 2016, there is a requirement for all town and community councils to adopt a code of conduct in accordance with the Model Code of Conduct introduced by that legislation.

→ Check that the town/community council has adopted a code of conduct which is in accordance with the Model Code of Conduct.

- b. 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 (PSOW).

→ Check that the town/community council has advised the PSOW and satisfied the advertising requirements in relation to this adoption.

- c. In its advice note dated March 2017 (following a review of a sample of the town and community councils during the Autumn and Winter of 2016/2017) the Standards Committee asked the town and community councils to ensure the updated code of conduct and the Briefing Note on the statutory requirements for town and community councillors on declaration of personal interests be brought to the attention of its councillors following the May 2017 elections.

→ Check that the town/community council has complied with this requirement by reviewing the minutes for the relevant meeting.

3. List of names of all Town/Community Councillors since the relevant date

4. Copy of the form of acceptance of office by each current members of the town/community council, which included the statutory undertaking to comply with the Code of Conduct

- a. Each town/community councillor needs to have signed a form of acceptance of office and a statutory undertaking to comply with the code of conduct.

→ Check the list of town/community councillor names (document 3) against all the forms of acceptance received (documents 4).

→ Has each councillor signed a new undertaking to abide by the code of conduct following the local elections in May 2017?

→ Has the undertaking been signed by the councillor 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.

5. Members' Training Records

- a. → Have the councillors been offered code of conduct training?

- b. → Do councillors attend training when it is offered?

6. Information on Clerk Training

- a. → Has the clerk attended training?

- b. → How was the cost of this training met? Was this included in the precept amount, as suggested by the Standards Committee in its communication to the town and community councils in November 2017?

7. Websites

- a. Statutory Guidance has been issued to assist town and community councils in fulfilling their obligation to make certain information available electronically (**Appendix 3.**)
- b. Check:
 - Does the town/community council have a website?
 - If not, query if the town/community council has applied for a grant to spend on establishing a new website?
 - Are notices and papers published electronically on the website?
 - Is the register of interests published electronically on the website?
 - Is there contact information for the town/community council (and if different, the clerk) on the website including a telephone number, a postal address and an email address?
 - Is the council's email address a generic email address (rather than a personal email address)?
 - Does the website include 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?
 - Are public notices, including notices of meetings, published electronically?
 - Are the minutes of the meetings and any documents referred to therein published on the website?
 - Are the annual audited accounts for the town/community council published on the website?
 - Is it possible to distinguish between those who are co-opted members and elected members? This is advised in the statutory guidance as being in the interest of transparency.

8. Local Resolution Protocol

- a. → Has the town/community council adopted a local resolution protocol?
- b. → Is the protocol adopted by the town/community council the protocol prepared by One Voice Wales?

C. REPORTING YOUR FINDINGS

1. It is suggested that you report your findings by way of a table with the following headings:

REVIEWERS	TOWN / COMMUNITY COUNCIL	REGISTER OF PERSONAL INTERESTS	ADOPTION OF CODE OF CONDUCT	FORM OF ACCEPTANCE / STATUTORY UNDERTAKING BY THE INDIVIDUAL COUNCILLORS	MEMBER TRAINING	CLERK TRAINING	WEBSITE	LOCAL RESOLUTION PROTOCOL
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2. The information which is included under each heading will be the 'answers' to those questions which have been asked in B above, whilst considering the documentation referred to in A above.
3. You may include any further information/comments which has not been mentioned or referred to in this Advisory Note. This Note has been prepared by way of guidance only and is not designed to limit your conduct in carrying out the review albeit the Standards Committee's remit must be borne in mind.

Prepared by the Monitoring Officer
August 2019

2.9 Article 9 – The Standards Committee

2.9.1 Standards Committee

The Council will establish a Standards Committee.

2.9.2 Composition

2.9.2.1 Membership

The Standards Committee will, in accordance with the provisions of the Local Government Act 2000, be composed of:

2 County Councillors

5 independent members

2 community council members (who are not deemed to be independent members for the purposes of this Constitution).

2.9.2.2 Term of office

2.9.2.2.1 The independent members are automatically appointed for a period of two consecutive four year terms.

2.9.2.2.2 ~~Unless re-selected t~~The community council members are appointed until the next election or until they cease to be community council members within the area of Isle of Anglesey County Council, whichever is the shorter. A community council member may be re-appointed for one further consecutive term, provided that the Isle of Anglesey Town and Community Councils have collectively agreed to select a current community council member(s) as a nominee for the appointment.

2.9.2.2.3 The County Councillors who are members of the Standards Committee will have a term of office of no more than four years or until the next ordinary local government election following their appointment whichever is the shorter. A County Councillor member may be re-appointed for one further consecutive term.

2.9.2.3 Quorum

A meeting of the Standards Committee shall only be quorate when:

2.9.2.3.1 at least three members, including the chairperson, are present, and

2.9.2.3.2 at least half the members present (including the chairperson) are independent members.

2.9.2.4 Voting

County Council members, independent members and the community council members will be entitled to vote at meetings.

2.9.2.5 Community Council Members

2.9.2.5.1 The community council members shall not take part in the proceedings of the Standards Committee when any matter relating to their Community Council is being considered.

2.9.2.5.2 The community council members shall only participate in hearings/applications before the Standards Committee when it is discharging those functions in relation to community councils and community council members.

2.9.2.6 Chairing the Committee

2.9.2.6.1 Only an independent member of the Standards Committee may be the chairperson.

2.9.2.6.2 The chairperson will be elected by the members of the Standards Committee for a period not exceeding, four years or the period he/she remains a member of the Committee, whichever is the shorter period, but will be eligible for re-election as chairperson.

2.9.3 Role and Function

The Standards Committee will have the following roles and functions:

2.9.3.1 promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;

2.9.3.2 assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct (5.1);

2.9.3.3 advising the Council on the adoption or revision of the Members' Code of Conduct (5.1);

2.9.3.4 monitoring the operation of the Members' Code of Conduct (5.1);

2.9.3.5 advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct (5.1);

2.9.3.6 granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct (5.1);

2.9.3.7 dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales.

2.9.3.8 the exercise of 2.9.3.1 to 2.9.3.7 above in relation to the community councils in its area and the members of those community councils.

NB A copy of the full Constitution of the Standards Committee is available [on the Council's website by following this link - ~~from the Monitoring Officer.~~](#)

CONSTITUTION TERMS OF REFERENCE OF THE STANDARDS COMMITTEE OF THE ISLE OF ANGLESEY COUNTY COUNCIL AS ESTABLISHED IN ACCORDANCE WITH PART III OF THE LOCAL GOVERNMENT ACT 2000

There is a legal duty on the Isle of Anglesey County Council to establish a Standards Committee to govern issues of conduct by elected and co-opted members of the Authority and the conduct of community councillors located within the Isle of Anglesey.

The Standards Committee's constitution, as a committee of the Isle of Anglesey County Council, is included in its Constitution at Paragraph 2.9 (Article 9).

This Terms of Reference document includes more detail than what is included in the Constitution. It is intended as a 'working document' which incorporates the detail in relation to the proceedings of the Standards Committee and the documents which it has produced to assist elected and co-opted members of the Authority and Town and Community Councillors.

Relevant Legislation:

- Local Government Act 2000
- The Standards Committees (Wales) Regulations 2001
- Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001
- The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001
- The Standards Committees (Wales) (Amendment) Regulations 2006
- Local Government (Democracy) (Wales) Act 2013
- The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016

1. DEFINITIONS

In this Constitution, unless the context otherwise requires, the following terms shall mean:-

'Authority' - the corporate body known as "The Isle of Anglesey County Council"

'Code of Conduct' - a code of conduct adopted by the Authority pursuant to Section 51 of the Local Government Act 2000.

'Complainant' - a person who makes a complaint against a Councillor including other Councillors, members of the Standards Committee, an officer of the Authority or a member of the public.

'Community Council Committee Member' - a member of the Standards Committee who is also a member of a Community Council within the area of the Authority [appointed in accordance with the Standards Committees (Wales) Regulations 2001 (as amended)]. Such members are excluded from the term 'Independent Member' [collectively referred to as "Community Council Committee Members"].

'Council' - the body comprising the totality of the members of the Authority.

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'Councillor' - an elected member of the Authority or including a co-opted members of the Authority (as defined by section 49(7) of the Local Government Act 2000) [collectively referred to as "Councillors"].

'Independent Member' - a Member of the Standards Committee who conforms with the statutory limitations included in ~~is not an elected member, an officer, or the spouse of a member or officer of the Authority, or any other relevant authority, or a community council, as defined by~~ the Standards Committees (Wales) Regulations 2001 (as amended) [collectively referred to as "Independent Members"].

'Member' - a member of the Standards Committee [collectively referred to as "Members"].

'Monitoring Officer' - the officer appointed by the Council for the purposes of section 5 of the Local Government and Housing Act 1989. This term shall also include any Deputy Monitoring Officer appointed by the Council.

'Standards Committee' - the standards committee of The Isle of Anglesey County Council for the purposes of section 53 of the Local Government Act 2000.

2. TERMS OF REFERENCE

Generally

- 2.1 To promote and maintain high standards of conduct by Councillors.
- 2.2 To assist Councillors to observe the Authority's Code of Conduct.
- 2.3 To exercise the above functions in respect of ~~the C~~community ~~C~~councils and members of ~~these C~~community ~~C~~councils within the area of the Authority.

Specifically

- 2.4 To advise the Authority on the adoption or revision of a Code of Conduct.
- 2.5 To monitor the operation of the Authority's Code of Conduct.
- 2.6 To advise, train or arrange to train Councillors on matters relating to the Authority's Code of Conduct.
- 2.7 To consider any reports from a case tribunal or interim case tribunal and/or any report from or recommendations made by the Monitoring Officer on any matter referred to that officer by either generally or following any investigation made pursuant to the Monitoring Officer's powers or duties under Part III of the Local Government Act 2000 or made following the receipt of any report sent to him or her by the -Public Services Ombudsman for Wales.
- 2.8 To follow the "Procedure for Hearings", detailed in **Enclosure 1** to this Terms of Reference Constitution.
- 2.9 To grant dispensations under Section 81(4) of the Local Government Act 2000 in accordance with Regulations of the Standards Committees (Grant of Dispensations)

~~(Wales) Regulations 2001 and The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 to Councillors, co-opted members of the Council and church and parent governor representatives to allow them a member or a co-opted member of the Council to participate in any business of the Council in respect of which he or she may be otherwise prohibited by the Council's Code of Conduct.~~

2.10 To consider (in consultation with the Monitoring Officer) such other matters as are appropriate and necessary to maintain the highest standards of conduct by Councillors.

~~2.11 To receive reports from the Monitoring Officer of allowances and expenses paid to persons who have assisted in an investigation by the Monitoring Officer.~~

2.12 To exercise the above functions in respect of community councils and members of those community councils within the area of the Authority.

2.13 To conform with the Local Resolution Protocol, detailed in **Enclosure 2** to this Constitution

3. **SIZE, COMPOSITION, APPOINTMENT OF INDEPENDENT MEMBERS, TERMS OF OFFICE, RE-APPOINTMENT OF MEMBER, CHAIRPERSON AND VICE CHAIRPERSONS, VOTING, QUORUM, MEETINGS, ADMISSION OF THE PUBLIC, AND MINUTES.**

3.1 The ~~provisions of the Standards Committees (Wales) Regulations 2001, Standards Committees (Wales) (Amendment) Regulations 2006 and The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (copies attached at Enclosures 3, 4 and 5 respectively) regulate the above matters (listed in the heading) are regulated by legislation but are subject to local choice decisions the following adaptations which have been agreed by the Authority as follows:~~

~~Regulation 3 Membership Size of Standards Committee~~
~~Independent Members (5 members)~~
~~Community Council Committee Members (2 members)~~
~~County Councillors (2 members)~~

~~Regulation 15 Panel re-appointment of Independent Member~~
~~Lay Person (1)~~
~~Community Committee Member (1)~~
~~County Councillors (3)~~
~~Period of Office of Panel to be 4 years~~

~~Regulation 18A Term of Office of Community Council Committee Members—~~
~~Until the next ordinary election of the Authority or until sooner if the individual ceases to be a community councillor, whichever is shorter.~~
~~A Community Council Committee Member may be re-appointed for one further consecutive term provided the legislative requirements for consultation have been followed.~~

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~~Regulation 20~~ Terms of Office of Independent Members

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~~Two consecutive four year terms or until the individual ceases to be an "independent member" (in accordance with the legislative requirements).~~

~~Regulation 21A~~ Terms of Office of Community-Council Committee Members

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~~No more than four years or until the next ordinary election of the Authority, whichever is shorter.~~

~~A County Council Committee Member may be re-appointed for one further consecutive term. Two consecutive terms~~

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(Note: A Community Council ~~Committee Member~~ shall not sit on the Standards Committee when it is discharging statutory functions (hearings / applications for dispensations) in relation to County Council ~~ors Members~~.)

Standards Committee's Appointment Panel (Panel established for the appointment of Independent Member(s) to the Standards Committee)

Lay Person (1 member)

Community Councillor (1 member)

County Councillors (3 members)

Period of Office of Panel members to be 4 years or until such members cease to satisfy the criteria for being a "lay panel member" / a member of a community council situated in the Authority's area / a County Councillor of the Authority, as the case may be, whichever is sooner.

~~3.2~~ Frequency of Meetings

~~3.2.1~~ There will be two ordinary meetings of the Standards Committee per annum.

~~3.2.2~~ Extraordinary meetings of the Standards Committee will be convened in addition to the meetings in 3.2.1 to ensure compliance with any statutory obligations including complaints and / or dispensations.

Working meetings of the Standards Committee will also take place to deal with non-statutory business, as and when required.

Dispensation Hearings

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An application for a dispensation will be considered by a panel of 3 of the Standards Committee members, including the Chair (in her/his absence, the Vice-Chair).

When the application is made by a member of a community council, the panel will include one Community Council Committee Member and two Independent Members.

When the application is made by a Councillor, the panel will consist of: two Independent Members and one County Council member of the Standards Committee; or

three Independent Members,
as determined by the Monitoring Officer in the circumstances.

With the Chair's agreement, an application for dispensation may be considered based on the application form alone without requiring the applicant's attendance at the hearing.

4. PROCEDURES

- 4.1 The Standards Committee will regulate its own procedures, taking into account all relevant statutory provisions and whenever appropriate the procedures will be consistent with the Principles of Conduct, Code of Conduct and Constitution of the Authority.
- 4.2 A complainant, or a Councillor subject to a complaint, must not canvass in any way any other Councillor. Any Councillor who is canvassed will report the matter immediately to the Monitoring Officer.
- 4.3 If a complaint is made by a Councillor, or a person connected with a Councillor, then that Councillor shall not participate in the proceedings when the complaint is considered.
- 4.4 In accordance with Regulation 14 of the Local Government Investigation (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, a person making oral representations to the Standards Committee may have representation, including legal representation.

5. ANNUAL REPORT

The Chair will present a report by the Standards Committee ~~will report~~ at least once every calendar year to the Council on its work the preceding year.

6. ALLOWANCES AND EXPENSES

Independent Members and Community Council Committee Members shall be paid such allowances as may from time to time be approved by the Authority. Information on allowances are included in the Council's Constitution.

7. ~~FURTHER CONSTITUTIONAL REQUIREMENTS~~

~~7.1 Further detail regarding the Constitution of the Standards Committee is included in Paragraph 2.9 of the Isle of Anglesey County Council's Constitution, attached as Enclosure 6 to this Constitution.~~

7. DOCUMENTATION RELEVANT TO / DEVELOPED AND PUBLISHED BY THE STANDARDS COMMITTEE

<u>Name of document:</u>	<u>Intended for use by:</u>	<u>Link to document:</u>
<u>Code of Conduct for Members of IOACC</u>	<u>Councillors</u>	
<u>Protocol for Member /</u>	<u>Councillors</u>	

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<u>Officer relations</u>		
<u>Personal and Prejudicial Interests - A Briefing Note to Members</u>	<u>Councillors</u>	http://monitor.anglesey.gov.uk/corporate-resource/corporate-governance/briefing-notes-to-members/
<u>Personal and Prejudicial Interests</u>	<u>Members of the Town and Community Councils</u>	
<u>Gifts and Hospitality - A Briefing Note for Members</u>	<u>Councillors</u>	http://monitor.anglesey.gov.uk/corporate-resource/corporate-governance/briefing-notes-to-members/
<u>Personal and Prejudicial Interest Considerations for Members Who are also School Governors</u>	<u>Councillors</u>	http://monitor.anglesey.gov.uk/corporate-resource/corporate-governance/briefing-notes-to-members/
<u>Briefing Note for Members - Implementing Rights as Individuals in relation to the Council's Services</u>	<u>Councillors</u>	http://monitor.anglesey.gov.uk/corporate-resource/corporate-governance/briefing-notes-to-members/
<u>Briefing Note on Applications for Dispensations</u>	<u>Councillors</u>	http://monitor.anglesey.gov.uk/corporate-resource/corporate-governance/briefing-notes-to-members/
<u>Briefing Note on Applications for Dispensations - Town and Community Councillors</u>	<u>Members of the Town and Community Councils</u>	
<u>Local Resolution Protocol</u>	<u>Councillors</u>	
<u>Methodology Note – Review of Members' Registers of Interests</u>	<u>Councillors</u>	
<u>Methodology Note – Review of Register of Interests in the Town and Community Councils</u>	<u>Members of the Town and Community Councils</u>	

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Isle of Anglesey County Council

Standards Committee

Procedure for Local Standards Hearings

1 Introduction

This procedure sets out how the County Council will determine complaints of Member misconduct

2 Interpretation

- (a) "Member" means the Member of the Council who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
- (b) "Investigating Officer" means the Public Services Ombudsman for Wales (PSOW), and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigating Officer means the person appointed by the Monitoring Officer to undertake that investigation.
- (c) "The Matter" is the subject matter of the Investigating Officer's report.
- (ch) "The Standards Committee" refers to the Standards Committee, or to any Standards Sub-Committee, to which it has delegated the conduct of the hearing.
- (d) "The Committee Support Officer" means an Officer of the Council responsible for supporting the Standards Committee's discharge of its functions and recording the decisions of the Standards Committee.
- (dd) "The Legal Advisor" means the Officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified Officer of the Council, or someone appointed for this purpose from outside the Council.
- (e) "The Chairman" refers to the person presiding at the hearing
- (f) "The Complainant" means the person or persons who made the original allegation which has been investigated.

3 Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

4 Representation

The Member may be represented or accompanied at any stage of this procedure by a Solicitor, Counsel or, with the permission of the Standards Committee, by another person. Note that the cost of such representation must be met by the Member, unless the indemnities Sub Committee has expressly agreed to meet all or any parts of that cost.

5 Decision to conduct a local hearing

- (a) Upon receipt of the PSOW's report, or the report of an Investigating Officer, the Monitoring Officer shall refer that report to the Standards Committee, which shall resolve either –
 - (i) That there is perhaps evidence of a failure by the Member to comply with the Code of Conduct, or
 - (ii) That the matter should go for a local hearing.
- (b) Where the Standards Committee resolves that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer shall notify the Member and the Complainant accordingly.
- (c) Where the Standards Committee resolves that the matter shall go to a local hearing, the Monitoring Officer shall conduct the pre-hearing procedure as set out below.

6 Pre-Hearing Procedure

Following a resolution of the Standards Committee to conduct a local hearing on a matter, the Monitoring Officer shall:

- (a) Arrange a date for the Standards Committee's hearing as determined by the Chairman;
- (b) Send a copy of the report to the Member and advise him of the date, time and place for the hearing;
- (c) Send a copy of the report to the Complainant and advise him of the date, time and place for the hearing;
- (ch) Notify the Community Council of the matter and of the date, time and place of the hearing (where the matter relates to the conduct of a Community Councillor);
- (d) Notify the Investigating Officer of the date, time and place of the hearing;
- (dd) Request the Member to complete and return the Pre-Hearing Forms appended to this Procedure within 14 days of receipt;
- (e) In the light of any Pre-Hearing Forms returned by the Member, determine whether the Standards Committee will require the attendance of the

Investigating Officer and any additional witnesses¹, including the Complainant, at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;

- (f) Request the Chairman to make such Directions as to the conduct of the hearing as may be necessary for the effective conduct of the hearing, which Directions may address such issues as –
 - (i) The time that the Standards Committee will sit to conduct the hearing;
 - (ii) Any matters which are to be taken as read and on which evidence is not required;
 - (iii) The witnesses to be heard and the times at which they should be present; and
 - (iv) The presence of witnesses when not giving evidence.
- (ff) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and high-lighting the issues which the Standards Committee will need to address, and
- (g) Arrange with the Committee Support Officer that the agenda for the hearing, together with the Monitoring Officer's Pre-Hearing Summary Report, the Investigating Officer's report and any other relevant documents are sent to:
 - (i) All members of the Standards Committee who will conduct the hearing;
 - (ii) The Member;
 - (iii) The person who made the allegation, and
 - (iv) The Investigating Officer.

7 Legal Advice

The Standards Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Standards Committee should be shared with the Member and the Investigating Officer if they are present.

8 Setting the Scene

At the start of the hearing, the Chairman shall introduce each of the Members of the Standards Committee, the Member (if present), the Investigating Officer (if present) and any other Officers present, and shall then explain the procedure which the Standards Committee will follow in the conduct of the hearing.

9 Preliminary Procedural Issues

The Standards Committee shall then deal with the following preliminary procedural matters in the following order:

¹ Where the Member has indicated that he disputes any finding of fact in the Investigating Officer's report, the Standards Committee will need to hear evidence on the disputed point from a first hand witness, wherever possible.

- (a) Apologies for absence
- (b) Disclosures of interest

The Chairman shall ask members of the Standards Committee to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

- (c) Quorum

The Chairman shall confirm that the Standards Committee is quorate²

- (ch) Hearing procedure

The Chairman shall confirm that all present know the procedure which the Standards Committee will follow in determining the matter.

- (d) Proceeding in the absence of the Member

If the Member is not present at the start of the hearing:

- (i) the Chairman shall ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the hearing;
- (ii) the Standards Committee shall then consider any reasons which the Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
- (iii) if the Standards Committee is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) if the Standards Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the Member or to adjourn the hearing to another date.

- (dd) Exclusion of Press and Public

The Standards Committee may exclude the press and public from all or part of its consideration of the matter where it appears likely that confidential or exempt information will be disclosed in the course of its consideration.

The Chairman shall ask the Member, the Investigating Officer and the Legal Advisor to the Standards Committee whether they wish to ask the Standards Committee to exclude the press and public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons

² A meeting of the Standards Committee is not quorate unless at least three members of the Standards Committee are present for the duration of the meeting. The Chairman must be an Independent member, and at least half of the members of the Committee present must be Independent members. Where the Committee is considering a matter relating to the conduct of a member of a Community Council, at least one member of the Committee must be a Community Council representative, but the Committee is not inquorate by reason of the absence of the Community Council representative.

for so doing and ask for responses from the others, and the Standards Committee shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Standards Committee does not resolve to exclude press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

10 **Failure to Comply with the Code of Conduct?**

The Standards Committee will then address the issue of whether the Member failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.³

(a) The Pre-Hearing Process Summary

The Chairman will ask the Legal Advisor or the Committee Support Officer to present the Monitoring Officer's Pre-Hearing Summary Report, highlighting any points of difference in respect of which the Member has stated that he/she disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Member to confirm that this is an accurate summary of the issues, to confirm that he/she maintains the position as set out in the pre-hearing summary, and ask the Member to identify any additional points upon which he/she disagrees with any finding of fact in the Investigating Officer's report.

- (i) If the Member admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Standards Committee may then take the Investigating Officer's report as read and make a determination that the Member has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken in respect of the Member's misconduct.
- (ii) If the Member identifies additional points of difference, the Chairman shall ask the Member to explain why he/she did not identify these points as part of the pre-hearing process. He/she shall then ask the Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any

³ Note that the Standards Committee's consideration is limited to the matter, in terms of the set of facts, as set out in the Investigating Officer's report. The Standards Committee may find that these facts disclose a breach of a part of the Code of Conduct other than that found by the Investigating Officer (for example that the facts constituted bullying rather than just a failure to treat with respect). However, if, in the course of their consideration, the Standards Committee apprehend that the evidence before them reveals an entirely different failure to comply with the Code of Conduct (for example where the complaint is of failure to treat Officer A with respect, but the evidence also indicates a failure to treat Officer B with respect), such a possible additional or alternative failure will not be within the remit of the Standards Committee. At that stage, the member will not have had notice of the Standards Committee's consideration of the possible additional or alternative failure and that it would therefore be unfair to proceed to consider that second matter at the hearing into the first alleged failure. Where the Standards Committee do apprehend a possible additional or alternative failure, a failure by a different member, or a failure in respect of the code of conduct of another authority, they should refer the second matter to the PSOW as a new allegation.

witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Standards Committee is not satisfied with the Member's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Member to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Member did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.

- (b) Presenting the Investigating Officer's report
 - (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Member and why he/she concluded, on the basis of his/her findings of fact, that the Member had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
 - (ii) If the Investigating Officer is not present, the Standards Committee shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Standards Committee shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
 - (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chairman shall ask the Member if there are any matters upon which the Standards Committee should seek the representations of the Investigating Officer or the witness, and then the members of the Standards Committee may address questions to the Investigating Officer or the witness.
- (c) The Member's response
 - (i) The Chairman shall then invite the Member to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
 - (A) The Member may arrange for his representative to make submission on his behalf, and/or to introduce the Member and any witnesses on his behalf;
 - (B) The Member does not have to give evidence or to answer any questions, but the Standards Committee may draw reasonable conclusions from any failure on his part to give evidence or to answer any question.
 - (ii) No cross-examination shall be permitted but, at the conclusion of the

Member's evidence and/or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Standards Committee should seek the representations of the Member or the witness, and then the Members of the Standards Committee may address questions to the Member or the witness.

(ch) Witnesses

The Standards Committee shall be entitled to refuse to hear evidence from the Investigating Officer, the Member or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the code of conduct.

(d) Additional Evidence

- (i) At the conclusion of the evidence, the Chairman shall check with the Members of the Standards Committee that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.
- (ii) If the Standards Committee, at any stage prior to determining whether there was a failure to comply with the Code of Conduct, are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Standards Committee may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee.

(dd) The Member and the Investigating Officer will be given an opportunity to make closing representations.

(e) Determination as to whether there was a failure to comply with the Code of Conduct.

- (i) Unless the determination merely confirms the Member's admission of a failure to comply with the Code of Conduct (as set out in Paragraph 10(a)(i) above), the Standards Committee shall retire to another room to consider:

1. Are the facts of the allegations likely to have been proven on the balance of probability based on the evidence?

If this is confirmed, then the matter will be discussed in private

2. Did the Member fail to comply with the Code of Conduct?

- (ii) The Standards Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
- (iii) The Standards Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Member or a witness. If it requires any further information, it may adjourn and instruct an officer or request the Member to produce such further evidence to the Standards Committee.

- (iv) If the Standards Committee requires legal advice on any point, it may either –
 - (A) Request the Legal Adviser to join the Committee and provide such advice, in which case the Legal Advisor shall repeat such advice in open forum when the Standards Committee returns, and the Member's legal representative may respond to such advice; or
 - (B) Return to open forum and request the Legal Advisor to give advice, inviting the Member's legal representative to respond to any such advice.
- (v) At the conclusion of the Standards Committee's consideration, the Standards Committee shall consider whether it is minded to make any recommendations to the Council with a view to promoting high standards of conduct among Members.
- (vi) The Standards Committee shall then return to the main hearing room and the Chairman will state the Standards Committee's principal findings of fact and their determination as to whether the Member failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

11 If the Member has not failed to follow the Code of Conduct

If the Standards Committee determines that the Member has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) The Chairman should summarise the Standards Committee's findings;
- (b) If the Standards Committee apprehends, from the evidence which they have received during the hearing, that a Member has failed to comply with the Code of Conduct (other than the matter which the Standards Committee has just determined), the Chairman shall outline the Standards Committee's concerns and state that the Standards Committee has referred this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the PSOW.
- (c) The Chairman should then set out any recommendations which the Standards Committee is minded to make to the Council with a view to promoting high standards of conduct among Members and seek the views of the Member, the Investigating Officer and the legal advisor before the Standards Committee finalises any such recommendations.
- (ch) Finally, the Chairman should ask the Member whether he/she wishes the Council not to publish a statement of its finding in a local newspaper.

12 Action consequent upon a failure to comply with the Code of Conduct

If the Standards Committee determines that the Member has failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) The Chairman shall summarise the Standards Committee's findings;

- (b) The Chairman may then indicate the order of sanction which he considers may be appropriate and ask the Member or his legal representative to make representations on sanction.⁴
- (c) The Chairman may then ask the Investigating Officer to make representations as to sanction.
- (ch) The Chairman will then ensure that each member of the Standards Committee is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.
- (d) Any member of the Standards Committee may address questions to the Investigating Officer or to the Member as necessary to enable him/her to take such an informed decision.
- (dd) The Standards Committee shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations which the Standards Committee will make to the Council.
- (e) At the completion of their consideration, the Standards Committee shall return to the main hearing room and the Chairman shall state the Standards Committee's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Standards Committee will make to the Council.

13 The close of the hearing

- (a) The Standards Committee will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Member as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Support Officer will agree a

⁴ The decisions as to sanctions which are available to the Standards Committee are any of the following :

- “(i) that no action is required
- (ii) to censure the Member;
- (iii) partial suspension of the Member for a period up to a maximum of six months or the remainder of the Member's term of office, whichever is the shorter period;
- (iv) suspension of the Member for a period up to a maximum of six months or the remainder of the Member's term of office, whichever is the shorter period.

Suspension and partial suspension only relate to the Member in his capacity as a member of the authority to which the complaint related.

Any sanction imposed shall begin after 21 days of the Standards Committee's written notice of decision to the Member unless the Standards Committee direct (for any sanction other than censure) that it shall commence on any date specified by the Standards Committee within six months of the date of the hearing.

formal written notice of the Standards Committee's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required).

14 Appeals

The Member may request the permission of the President of the Adjudication Panel for Wales to appeal against the decision of the Standards Committee by writing to the President. The decision of the President or a deputy appointed to make the decision on the President's behalf, will be made without the parties, unless the President or his/her deputy is of the opinion that there is a special case which merits a hearing. The letter should set out the grounds for such an appeal, and include a statement as to whether or not he consents to the appeal being heard by way of written representations. The letter must be received by the President within 21 days of the date of the written notice of decision from the Standards Committee. The President or his/her deputy may request further information. Any request for information must be responded to within 14 days.

ISLE OF ANGLESEY COUNTY COUNCIL

LOCAL RESOLUTION PROTOCOL

Generally

1. The purpose of the Protocol is to promote high standards of conduct, with a view to fostering positive working relationships among Members, and between Members and Officers, to avoid spurious complaints to the Public Services Ombudsman for Wales (PSOW) and to safeguard the Council's reputation.
2. The Protocol will only apply to cases of alleged misconduct against Members under paragraphs 4(b) and 6(1)(d) of the Code of Conduct. That is to say, allegations of failure to show respect and consideration for others, or allegations that a Member has made vexatious, malicious or frivolous complaints against other Members or anyone who works for, or on behalf of, the Council.
3. The Protocol seeks to achieve swift mediation and reconciliation. It is not punitive but it may become relevant to sanction if a formal complaint, involving a pattern of similar conduct, is made to the PSOW.
4. The Protocol is not intended to interfere with, or take the place of, group or party discipline.
5. The Protocol is not intended to interfere with, or take the place of, any statutory or contractual rights which Officers may have.
6. The Protocol is not intended to oust the jurisdiction of the PSOW but, rather, to deal with a limited category of cases, where a breach of paragraphs 4(b) or 6(1)(d) of the Code may have occurred, but where such a finding would probably not result in disciplinary action. Such cases, at least individually, would not meet the PSOW's threshold test for investigation.

Procedure

7. A Member or Officer wishing to use the Protocol must put their complaint in writing to the Monitoring Officer, explaining when and where the alleged breach occurred, how and why paragraph 4(b) and/or 6(1)(d) have been breached, together with the details of any witnesses and any relevant documentation.
8. Any written complaint must be sent to the Monitoring Officer within 7 working days from the date of the event which is the subject of the complaint, or 7 working days from the date when the event came to the knowledge of the complainant.
9. The Monitoring Officer, or his/her representative, will send a copy of the complaint, and any supporting evidence, to the Member who is the subject of the complaint. That Member will have 7 working days, from receipt, within which to send a written reply to the Monitoring Officer setting out their response and providing details of any witnesses and any relevant documentation.

10. Having received a reply from the Member complained of, or when the time for reply has elapsed, the Monitoring Officer will:-
 - copy the full response to the complainant;
 - arrange a meeting of an informal Panel of the Standards Committee to consider the complaint on the first convenient date available for all concerned.
11. The meeting of the Standards Committee Panel will take place in private and any paperwork which it receives, or which it generates, will remain confidential to the Panel, its advisors, and the parties. This is, however, subject to any legal duty to disclose e.g. to the PSOW in the event that matters escalate.
12. Any informal Panel of the Standards Committee will consist of two Members of the Committee, on a rotational basis, but will not include a Community Council Member.
13. The parties will be asked to attend the Panel and will be responsible for bringing along any witnesses upon whom they intend to rely.
14. In the absence of a party or witness it will be a matter for the discretion of the Panel as to whether or not they proceed, or reschedule.
15. If the complainant, or the Member complained of, is a Member of a political group then he/she may invite their Group Leader to attend the Panel. Any relevant Group Leader is not required to attend, but is encouraged to do so.
16. The Monitoring Officer, or his/her representative, will attend to advise the Panel.
17. The procedure of any Panel will be informal. The Panel will endeavour to be fair and even handed to both parties. There will be no rules of evidence, as such, but any witnesses called will only attend to share their information with the Panel; they will not "sit in" during the meeting.
18. After hearing from the parties, and any witnesses, together with the Group Leaders (should there be Group Leaders in attendance and should they wish to address the Panel) the Panel will then retire to private session, returning to express its view and to put forward any recommendations it may have for resolution. The Panel has no disciplinary powers but may make recommendations to Group Leaders individually, in relation to Members of their Group and, to the Group Leaders collectively in relation to any unaffiliated Member.
19. There will be no right of appeal under this process.
20. The parties will receive written confirmation of the Panel's findings and the outcome of all Panels will be reported, albeit in an anonymised format only, to all quarterly meetings of the Standards Committee.
21. The outcome of any Panel will also be discussed as a standing item at Group Leaders' meetings.