

# Public Document Pack



CYNGOR SIR  
YNYS MÔN  
ISLE OF ANGLESEY  
COUNTY COUNCIL

Dr Gwynne Jones  
Prif Weithredwr – Chief Executive

CYNGOR SIR YNYS MÔN  
ISLE OF ANGLESEY COUNTY COUNCIL  
Swyddfeydd y Cyngor - Council Offices  
LLANGFNI  
Ynys Môn - Anglesey  
LL77 7TW

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<b>RHYBUDD O GYFARFOD</b>	<b>NOTICE OF MEETING</b>	
<b>PWYLLGOR SAFONAU</b>	<b>STANDARDS COMMITTEE</b>	
<b>DYDD MERCHER, 14 MEDI, 2016 am 2.00 o'r gloch y.p.</b>	<b>WEDNESDAY, 14 SEPTEMBER 2016 at 2.00 pm</b>	
<b>YSTAFELL BWYLLGOR 1, SWYDDFEYDD Y CYNGOR, LLANGFNI</b>	<b>COMMITTEE ROOM 1, COUNCIL OFFICES, LLANGFNI</b>	
<b>Swyddog Pwyllgor</b>	<b>Mrs. Mairwen Hughes (01248) 752516</b>	<b>Committee Officer</b>

## Aelodau Annibynnol / Independent Members

Mrs. Denise Harris Edwards  
Mr. Islwyn Jones (**Is-Gadeirydd/Vice-Chair**)  
Mr. Leslie Lord  
Mrs. Dilys Shaw  
Mr. Michael Wilson (**Cadeirydd/Chair**)

## Yn cynrychioli'r Cyngor Sir / Representing the County Council

Y Cyngorydd/Councillor Trefor Lloyd Hughes  
Y Cyngorydd/Councillor Dafydd Rhys Thomas

## Yn cynrychioli'r Cynghorau Tref/Cymuned / Representing the Town/Community Councils

Y Cyngorydd/Councillor John Chorlton  
Y Cyngorydd/Councillor John Roberts

## A G E N D A

**1     DECLARATION OF INTEREST**

To receive any declaration of interest by any Member or Officer in respect of any item of business.

**2     MINUTES OF MEETING (Pages 1 - 4)**

To confirm the Minutes of the meeting held on 9 March, 2016.

**3     UPDATE ON MEMBERS' ONLINE REGISTERS**

Digital Services Architect to attend to provide an oral update on the work of moving declarations of interests/gifts and hospitality online.

**4     DRAFT TRAINING PROGRAMME FOR NEW MEMBERS IN MAY 2017 (Pages 5 - 18)**

A report to be presented by the Head of Democratic Services and Human Resources Development Manager.

**5     REVISED GUIDANCE BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES ON THE MEMBERS' CODE OF CONDUCT (Pages 19 - 114)**

A report by the Solicitor (Corporate Governance) on the revised guidance published by the Public Services Ombudsman for Wales to members of (a) county and county borough councils, fire and rescue authorities, and national park authorities, and (b) community councils.

**6     BRIEFING NOTE TO MEMBERS ON STATUTORY CHANGES TO THE MEMBER'S CODE OF CONDUCT (Pages 115 - 118)**

A report by the Solicitor (Corporate Governance) attaching a proposed briefing note to be distributed to members on the statutory changes to the Code of Conduct.

**7     CONDUCT COMPLAINTS TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES (Pages 119 - 122)**

A report by the Solicitor (Corporate Governance) in the form of an updated matrix for (a) County Councillors, and (b) Town and Community Councils. For information and any questions.

**8     ADJUDICATION PANEL FOR WALES DECISIONS (Pages 123 - 138)**

A report by the Solicitor (Corporate Governance) comprising a summary of the most recent decisions. For information and any questions.

**9     STANDARDS COMMITTEE FORUM (Pages 139 - 144)**

A report by the Solicitor (Corporate Governance) on the arrangements for the next meeting of the North Wales Standards Committee Forum.

**10    CONSTITUTION OF THE STANDARDS COMMITTEE (Pages 145 - 210)**

A report by the Solicitor (Corporate Governance) on proposed amendments to the Constitution of the Standards Committee.

**11 ADOPTION OF THE AMENDED STATUTORY CODE OF CONDUCT AND ADVERTISING REQUIREMENTS (Pages 211 - 222)**

A report by the Solicitor (Corporate Governance) to advise members on the adoption of the amended Code of Conduct included in the Local Authorities (Model of Code of Conduct) (Wales) (Amendment) Order 2016 and the advertising requirements following adoption.

**12 DISCLOSURE OF INTERESTS REQUIREMENTS ON COMMUNITY COUNCILLORS (Pages 223 - 228)**

A report by the Solicitor (Corporate Governance) on the current requirements for the disclosure of interests by Community Councillors.

**13 REVIEW BY THE STANDARDS COMMITTEE OF REGISTERS OF INTERESTS FOR TOWN AND COMMUNITY COUNCILLORS (Pages 229 - 234)**

A report by the Solicitor (Corporate Governance) on the review to be conducted by the Standards Committee of the Registers of Interests maintained by Town and Community Councils.

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## STANDARDS COMMITTEE

### Minutes of the meeting held on 9 March 2016

- PRESENT:**                    **Independent Members**
- Mr. Michael Wilson (Chair)  
Mr. Islwyn Jones (Vice-Chair)
- Mrs. Denise Harris Edwards  
Mr. Leslie Lord  
Mrs. Dilys Shaw
- Representing Town and Community Councils**
- Councillor John Chorlton  
Councillor John Roberts
- IN ATTENDANCE:**        Head of Function (Council Business)/Section 151 Officer,  
Policy Officer (for Item 3),  
Committee Officer (MEH).
- ALSO PRESENT:**         None
- APOLOGIES:**             Councillors T. Ll. Hughes, Dafydd R. Thomas

The Chair welcomed Councillor John Chorlton, a Town/Community Council representatives to his first meeting of the Standards Committee.

#### **1        DECLARATION OF INTEREST**

No declaration of interest was received.

#### **2        MINUTES OF MEETINGS**

The minutes of the following meetings were confirmed as correct :-

- Minutes of the Standards Committee held on 16 September, 2015.

#### **ARISING THEREON**

- **Item 3 – Review of the Planning Procedure Rules – Part 4.6 of the Constitution**

The Monitoring Officer referred to the resolution by the Standards Committee that no action be taken pending draft National Planning Procedure Rules. These are out for consultation until May.

**It was AGREED that the Monitoring Officer circulate the draft to the Committee Members who will contribute their views to the Monitoring Officer during the consultation period. (submitted on 15/3/2016)**

- **Item 4 – Revised Guidance on the Code of Conduct for County Councillors and Community Councillors**

The Monitoring Officer wrote to the Community Councils on the 23<sup>rd</sup> September, 2015 enclosing a copy of the Revised Guidance on the Code of Conduct and a link to the guidance on the Public Services Ombudsman for Wales' website.

- **Item 5 – The Local Government (Democracy) (Wales) Act 2013 and the Local Government (Democracy) (Wales) Act 2013 (Commencement Number 2) Order 2015**

The Monitoring Officer said that this matter will be discussed under item 4 – Review of the Three Registers of Members' Interests.

- **Item 6 – Factsheets Published by the Public Services Ombudsman for Wales – Investigations and Interviews – Members' Code of Conduct.**

The Monitoring Officer said that the factsheets as noted above were forwarded to the Community Councils on 23<sup>rd</sup> September, 2015.

- **Item 7 - Draft Local Guidance on the Officers' Code of Conduct**

The Monitoring Officer said the Standards Committee supported the Draft Local Guidance on the Officers' Code of Conduct and recommended that it be approved for consultation. Issues were raised during the consultation process with regard to management buy outs and significant amendments have been undertaken to the documentation. Further consultation therefore has been undertaken on the document and it is anticipated that the Draft Local Guidance will be published soon. (Published 14/3/2016)

- Minutes of the Dispensation Panel held on 24 September, 2015.

#### **ARISING THEREON**

The Vice-Chair said that he and some Members of the Standards Committee attended a Dispensation Panel in Conwy County Borough Council. He stated that he considered that a training session be afforded to the Standards Committee on Dispensations and procedures.

**It was RESOLVED that the Monitoring Officer arrange training session for Members of the Standards Committee on Dispensations.**

**ACTION : As noted above.**

- Minutes of the Standards Committee held on 19 February, 2016.

Members of the Committee expressed concern that the "decision" of the Standards Committee with regard to Councillor Peter Rogers' suspension was on the Daily Post website nearly an hour before the commencement of the meeting on 19 February, 2016. The Monitoring Officer said that she contacted the Daily Post asking them to remove the story from the website.

**It was RESOLVED that the Monitoring Officer write to the Daily Post on behalf of the Standards Committee expressing concern with regard to this matter and asking for clarification/remedy.**

**ACTION : As noted above.**

### **3 TOWN AND COMMUNITY COUNCILS - WEBSITES**

Submitted – the report of the Monitoring Officer with regard to the statutory requirement for all community councils to have a web presence and publish information on their websites.

The Policy Officer updated the report and stated that Bodedern Community Council has now claimed the website development grant. However, Bodorgan and Llaneugrad Community Councils still have not claimed the website development grant and have stated that they did not intend to

establish websites. It was reported that 26 Community Councils have websites in place, 6 Community Councils are in the process of developing websites.

The Monitoring Officer reported that it is a statutory requirement for Town/Community Councils to have websites in place and there is a requirement for their registers of interests to be available on the Town/Community Councils websites.

Members of the Committee requested that the Monitoring Officer write to the Public Services Ombudsman for Wales to ascertain his course of action when Community Councils do not have a website in place.

**It was RESOLVED that the Monitoring Officer write to the Public Services Ombudsman for Wales to establish his course of action with regard to Community Councils not complying with the requirement to have a website in place.**

**ACTION : As noted above.**

#### **4 REVIEW OF THE THREE REGISTERS OF MEMBERS' INTERESTS**

Submitted – the report of the Monitoring Officer in relation to the process and timetable for the Annual Review of Registers.

The Monitoring Officer reported that the review of the registers is part of the Standards Committee's work programme and as there are 30 Councillors, the usual arrangement is for the independent members of the Standards Committee to review the registers of any six Councillors, selected at random.

The Registers are :-

- 'Standing' register i.e. pre-registration of interests.
- Declarations at Meetings
- Gifts and Hospitality

The Monitoring Officer stated that Members' Annual Reports are now on the County Council's website and those also include information about membership of outside bodies, including school governors.

The Monitoring Officer further stated that Town/Community Councils will also be subject to a review of their registers. She further noted that as it is a statutory requirement for Town/Community Councils to have a website, and Members' Interests should be included there. Members of the Standards Committee considered that the Chair should write to the Town/Community Councils outlining the requirement and process to be undertaken for the review of Members' interests. It was noted that the process will be undertaken in September 2016 by Independent Members of the Standards Committee.

**It was RESOLVED :-**

- **That the Independent Members of the Standards Committee undertake the Annual Review of the 3 Registers of Members interests as assigned last year;**
- **The Town/Community Councils Members shall undertake the Annual Review of the Interests of the Independent Members of the Standards Committee together with the Co-opted Members of the two Scrutiny Committees and the Audit and Governance Committee;**
- **The process of the Review of the Registers shall be completed by the end of April 2016 and an Informal Meeting of the Standards Committee will be arranged to discuss the findings of the review ;**
- **The Chair of the Standards Committee will include, in his Annual Report to the full County Council in May 2016, the main findings of the review;**
- **The Chair to write to Community Councils outlining the process of reviewing Registers of Members Interests and noting that the process will commence in September 2016.**

**5 CONDUCT COMPLAINTS TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES**

Submitted – the report of the Monitoring Officer.

The Monitoring Officer stated that one complaint is currently under investigation with regard to a County Councillor. She noted that there is no matter outstanding with regard to Town/Community Councillors.

**RESOLVED to note the report.**

**6 REPORT FROM STANDARDS CONFERENCE WALES 2015**

Submitted – a report by the Chair and Vice-Chair in relation to their attendance at the Standards Conference Wales 2015 held by Cardiff City Council.

The Chair and Vice-Chair outlined the ‘workshops’ they attended.

It was stated that the Public Services Ombudsman for Wales has expressed that he intends to concentrate on Health matters rather than dealing with minor Council complaints.

**It was RESOLVED to note the report.**

**7 FUTURE MEETINGS OF THE STANDARDS COMMITTEE**

**It was RESOLVED that the Standards Committee shall meet twice yearly with informal meetings held at a regular basis. The Monitoring Officer will report to the Executive and Council and the Chair will attend a meeting of the Council’s Group Leaders in order to ask for their support.**

**MR. MICHAEL WILSON  
CHAIR**



<b>ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>MEETING:</b>	<b>STANDARDS &amp; DEMOCRATIC SERVICES COMMITTEES</b>
<b>DATE:</b>	<b>12 SEPTEMBER 2016 &amp; 24 OCTOBER 2016</b>
<b>TITLE OF REPORT:</b>	<b>MEMBER DEVELOPMENT PLAN – APRIL 2016 – MARCH 2017</b>
<b>REPORT BY:</b>	<b>HUMAN RESOURCES DEVELOPMENT MANAGER</b>
<b>PURPOSE OF REPORT:</b>	<b>TO PROVIDE AN UPDATE ON THE 2016/17 DEVELOPMENT PLAN FOR ELECTED MEMBERS AND PROPOSAL FOR INDUCTION OF ELECTED MEMBERS FOLLOWING COUNTY COUNCIL ELECTIONS IN MAY 2017</b>
<b>LEAD OFFICER:</b>	<b>MIRIAM WILLIAMS, HUMAN RESOURCE DEVELOPMENT MANAGER</b>

There is a duty on the Authority to provide training and development opportunities for its Members and to make information available to the Council on an annual basis and the Democratic Services Committee has responsibility for matters relating to Member Training and Development.

At its core, the Member Development Plan seeks to address the needs of Members so that they may be better supported in their roles through the provision of appropriate development which is constantly monitored, evaluated and reviewed to ensure that it is both “fit for purpose” and of the right quality. Ongoing feedback from Elected Members together with information gleaned from Personal Development Reviews is captured in order to inform the development plan and to update the programme for the year.

All Members of the Council have been issued with generic job descriptions and person specifications which includes reference to personal and role development opportunities provided by the Authority.

The attached Development Plan (appendix 1) for the period April 2016 to March 2017 was prepared in order to highlight the main areas of training opportunities being offered for the current financial year. The plan was adopted at the Full Council meeting in May 2016, but has subsequently been updated to take into account additional training sessions etc.

As far as possible, the programme, seeks to accommodate Members needs e.g. a mixture of day and evening sessions and the format of the training varied, offering blended learning sessions e.g. workshops, mentoring, e-learning and one-to-one sessions etc.

Since the plan was presented to full council, an E-Learning officer has been recruited and will commence in post early September. Part of the post holders role will be to take responsibility for the promotion and signposting of both Officers and Elected Members to various training packages available and specifically those available on the All Wales E-Learning platform. It should be noted that in addition to the needs identified in the development plan, Elected Members regularly attend briefing sessions which focus on the Authority's priority business. Details of these briefing sessions are held by the Corporate Transformation team.

The development plan is a "rolling programme" of sessions with the intention of continuing to positively reinforce supporting members in their roles, improving standards and developing good practices that assisted the achievement of the Member Development Charter status awarded to the Council.

In addition, a twelve month Induction programme has been developed by the WLGA (see appendix 2) in collaboration with all Local Authorities in Wales. This shows the potential integration of mandatory training and availability of training resources for the development of all Elected Members following the 2017 elections. This will ensure some degree of consistency across Authorities in terms of available sessions and the programme aims to offer a blended learning approach to the learning.

Regular monitoring of the progress of Elected Member Development is undertaken by the Democratic Services Committee and regular updates are provided to the Committee by the Head of Democratic Services.

## **RECOMMENDATIONS:**

- Your views are sought with respect to any other further training that may be identified for inclusion in the training plan attached in appendix 1
- To comment on the proposed Induction Training Plan post 2017 elections as seen in appendix 2.

**Miriam Williams**  
**Human Resources Development Manager**  
**23/08/2016**



**CYNLLUN DATBLYGU AR GYFER AELODAU ETHOLEDIG/  
DEVELOPMENT PLAN FOR ELECTED MEMBERS  
EBRILL /APRIL 2016 – MAWRTH/MARCH 2017**

**Mae'r Cynllun yma yn seiliedig ar wybodaeth wedi ei gasglu gan Swyddogion/Cynlluniau Datblygu Personol, Aelodau Etholedig/Anghenion Siarter Aelodau ac yn ychwanegol i'r sesiynau briffio misol a drefnir i'r Aelodau.**

**Bwriedir i'r cynllun gael ei ddiwygio'n briodol fel mae blaenoriaethau/deddfwriaeth yn newid/ ac bydd yn ddibynol ar argaeledd cyllidebau i'w gefnogi.**

**This Plan is based on information collated from Officers/Elected Member Personal Development Plans/Member Charter requirements and in addition to the monthly briefing sessions arranged for Elected Members.**

**The intention is that the plan is amended appropriately as priorities/legislation changes. The plan is also dependent on availability of budgets to support.**

<p style="text-align: center;"><b>PWNC</b></p> <p style="text-align: center;"><b>SUBJECT</b></p>	<p style="text-align: center;"><b>CYNULLEIDFA</b></p> <p style="text-align: center;"><b>AUDIENCE</b></p>	<p style="text-align: center;"><b>DYDDIAD</b></p> <p style="text-align: center;"><b>DATE</b></p>
<p><b>Canllaw y Comisiynydd Pobl Hŷn Cymru Asesiadau Effaith Cydraddoldeb a Chraffu/Older People’s Commissioner WalesPCW Guidance on EHR Impact Assessments &amp; Scrutiny</b></p>	<p style="text-align: center;">Holl Aelodau Etholedig/ All Elected Members</p>	<p style="text-align: center;">11 Mai/May 2016</p>
<p><b>Cyfres o sesiynau Cyllid/Archwilio i gynnwys:/ Series of Finance/Audit sessions to include:</b></p> <ul style="list-style-type: none"> <li>• <b>Datganiad Cyfrifon/Statement of Accounts</b></li> <li>• <b>Fframwaith y Drefn Lywodraethol Newydd ar gyfer Llywodraeth Leol/ New Governance Framework for Local Government’</b></li> <li>• <b>Rheoli Trysorlys/Treasury Management</b></li> </ul>	<p style="text-align: center;">Holl Aelodau Etholedig/ All Elected Members</p> <p style="text-align: center;">Pwyllgor Archwilio/Audit Committee</p> <p style="text-align: center;">Holl Aelodau Etholedig/ All Elected Members</p>	<p style="text-align: center;">I’w drefnu/To be arranged</p> <p style="text-align: center;">Medi/September 2016</p> <p style="text-align: center;">9 Tachwedd/November 2016</p>
<p><b>Sesiwn Caffael/ Procurement Session</b></p>	<p style="text-align: center;">Holl Aelodau Etholedig/ All Elected Members</p>	<p style="text-align: center;">Medi/September 2016</p>

<b>Diweddariad Trwyddedu/ Licencing Update</b>	Pwyllgor Trwyddedu/ Licencing Committee Members	20 Mehefin/June 2016
<b>Trwyddedu Taxis/Taxi Licencing</b>	Pwyllgor Trwyddedu/ Licencing Committee Members	Tachwedd/November 2016
<b>Cyfres o Hyfforddiant &amp; Diweddariad Materion/ Series of Planning Training &amp; Updates</b>	Pwyllgor Cynllunio/ Planning Committee	Fel bô'r angen/ As and when required
<b>Cyfres o sesiynau ar faterion Tai a Cymuned i gynnwys:/ Series of sessions relating to Housing and Community to include:</b>		
<p>10</p> <ul style="list-style-type: none"> <li>• <b>Deddf Tai (Cymru) 2014 gan gynnwys Newidiadau mewn deddfwriaeth Digartrefedd a'r Cynydd mewn Treth Cyngor ar dai gwag tymor hir ag ail-gartrefi</b></li> <li>• <b>Diwygio Lles – newidiadau sydd ar y ffordd gyda'r Credyd Unedol [Universal Credit] : darparwr posib ydi Cyngor Sir y Fflint [dan gytundeb LLC]</b></li> <li>• <b>Diogelu a Rhiant Corfforaethol/ Safeguarding and Corporate Parenting</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p> <p>Holl Aelodau Etholedig/ All Elected Members</p> <p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>Tachwedd/November 2016</p> <p>Hydref/October 2016</p> <p>17 Tachwedd/November 2016</p>

<p>Page 11</p> <ul style="list-style-type: none"> <li>• <b>Sesiynau Ymwybyddiaeth Diogelu/Safeguarding Awareness Sessions</b></li> <li>• <b>Sesiynau dilyniant - Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 / Follow on sessions - Social Services and Wellbeing (Wales) Act 2014</b></li> <li>• <b>Sesiwn Ymwybyddiaeth Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru)/ Well-being of Future Generations (Wales) Act Awareness Session</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p> <p>Holl Aelodau Etholedig/ All Elected Members</p> <p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>I'w gadarnhau/To be confirmed</p> <p>I'w gadarnhau/To be confirmed</p> <p>Chwefror/February 2017</p>
<p><b>Cyfres o sesiynau ar faterion Addysg i gynnwys:/ Series of sessions relating to Education to include:</b></p> <ul style="list-style-type: none"> <li>• <b>Cynefino a Sgiliau i Lywodraethwyr/Governor Induction and Skills</b></li> </ul>	<p>Aelodau Etholedig sy'n Lywodraethwyr Ysgolion/ Elected Members who are School Governors</p>	<p>Mae Cyrff Llywodraethol yn derbyn manylion am gwrs e ddysgu cenedlaethol i Lywodraethwyr newydd; hyn wedi ei drefnu drwy Cynnal.</p>

<ul style="list-style-type: none"> <li>• <b>Diogelu/Safeguarding</b></li> </ul>	<p>Aelodau Etholedig sy'n Lywodraethwyr Ysgolion/ Elected Members who are School Governors</p>	<p>Cwrs yn cael ei gynnal yn flynyddol mis Chwefror i Lywodraethwyr sydd gyda chyfrifoldeb Diogelu Plant ar y Corff Llywodraethol.</p>
<ul style="list-style-type: none"> <li>• <b>Sesiwn diweddariad Llywodraethu Gwybodaeth/Information Governance refresher training</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>Ionawr/January 2017</p>
<ul style="list-style-type: none"> <li>• <b>Hyfforddiant Cyfryngau Cymdeithasol/Social Media Training</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>I'w gadarnhau/To be confirmed</p>
<p>Page 12</p> <ul style="list-style-type: none"> <li>• <b>Sgiliau Cadeirio/Chairing Skills</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>Fel yr adnabyddir/ As and when identified</p>
<ul style="list-style-type: none"> <li>• <b>Sgiliau TG/IT Skills</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>Fel yr adnabyddir/ As and when identified</p>
<ul style="list-style-type: none"> <li>• <b>Sgiliau Iaith/Language Skills</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>Fel yr adnabyddir/ As and when identified</p>
<ul style="list-style-type: none"> <li>• <b>Mentora/Mentoring</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>Fel yr adnabyddir/ As and when identified</p>
<ul style="list-style-type: none"> <li>• <b>Cyfansoddiad/Constitution</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>I'w gadarnhau/To be arranged</p>



<p>Cyfres o hyfforddiant E-Ddysgu ar gael drwy Academi Cymru Gyfan, i gynnwys:/ Suite of E-Learning training available via All Wales Academy, to include:</p> <ul style="list-style-type: none"> <li>• <b>Moesau &amp; Safonau/Ethics&amp; Standards</b></li> <li>• <b>Penderfyniadau i Genedlaethau'r Dyfodol/Decisions for Future Generations</b></li> <li>• <b>Cadeirio Cyfarfodydd/Chairing Meetings</b></li> <li>• <b>Sgiliau Siarad Cyhoeddus/Public Speaking Skills</b></li> <li>• <b>Cynefino a Sgiliau i Lywodraethwyr/Governor Induction and Skills</b></li> </ul> <p><b>Cyngor Gofal Cymru/Care Council for Wales:</b></p> <ul style="list-style-type: none"> <li>• <b>Diogelu/Safeguarding</b></li> </ul>	<p>Holl Aelodau Etholedig/ All Elected Members</p>	<p>Fel yr adnabyddir/ As and when identified</p>
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- Trefnir sesiynau ar gyfer Cynghorau Bro a Thref lle bô'r angen/  
Sessions for Town and Community Councils will be arranged as/when identified

- Bydd Aelodau o'r Pwyllgor Safonau ac Aelodau Lleyg yn cael gwahoddiad i rai sesiynau lle'n briodol /  
Where appropriate, Members of the Standards Committee and Lay Members will be invited to sessions

Miriam Williams  
Rheolwr Datblygu Adnoddau Dynol/  
Human Resource Development Manager

**IOACC Elected Member year long induction programme (based on the WLGA model), which includes mandatory training and availability of training resources 2017/18**

What	Audience	Delivery Method/Responsible Officer	Training materials available/needed?	When - Dates
Orientation (Council offices and county facilities)	All members	Tour	Information/ maps etc. as part of introductory package produced in each authority. WLGA councillors guide to be available hard copy.	Week One
Introduction to the Council, its role and introduction to corporate governance.	All members	Chief Executive	To be developed by staff locally	Week One
<b>ICT induction and equipment</b>	<b>All members (M)</b>	ICT officers, individual sessions.	Session and guidance to be developed by staff locally	Week one
Introduction to service areas	All members	All senior officers	Basic information to be included in introductory package, who's who etc.	Week one
<b>Code of Conduct and Ethics</b>	<b>All members(M)</b>	Monitoring Officer. Ombudsman video now on YouTube, data sticks also.	Three volunteers from Lawyers in Local Government now working with WLGA to produce materials. e learning to be updated	Week one
<b>Constitutional matters including meeting participation</b>	<b>All members(M)</b>	Monitoring Officer	In house course	1st 6 Months
<b>Social Services and Well-being (Wales) Act</b>	<b>All members (M)</b>	Directors of Social Services	E learning module (employee section of All Wales Academy E-Learning site) also information available via Care Council for Wales Website . In house overview session to be arranged.	1st 6 Months
<b>Decisions for Future Generations (Wellbeing of Future Generations Act)</b>	<b>All Members(M)</b>	Workshop - Appropriate senior officers and experienced members. And e learning	Available now on e-learning via Care Council for Wales Website. In addition in-house sessions to be arranged SSIA councillor workbook available.	1 <sup>st</sup> 6 months
<b>Introduction to equalities</b>	<b>All members(M)</b>	Equalities Officers workshop	Available now on AWA e- learning (Governors	1st 6 Months

		and e- learning	module) in addition in-house workshops will be arranged.	
<b>Safeguarding</b>	<b>All members(M)</b>	Directors of Education/SS workshop and e learning	Available now on e-learning (AWA) (Employee section) workshop materials are available in each authority	1st 6 Months
<b>Data Management and FOI</b>	<b>All members(M)</b>	Workshop and e learning	2 modules available now on AWA employees section - Data Protection Awareness and Freedom of Information. In-house sessions also available.	1st 6 Months
<b>Corporate Parenting</b>	<b>All members(M)</b>	Directors of SS	In-house courses delivered. SSIA councillor workbook available.	1st 6 Months
<b>Finance including budgeting and treasury management</b>	<b>All members(M)</b>	Finance Directors e- learning	In-house courses available. E learning required	1st 6 Months
<b>Planning committee new arrangements from Planning Act</b>	<b>Planning Committee(M)</b>	Planning Officer	National materials now being commissioned by WLGA through	Prior to first meeting
<b>Standards</b>	<b>Standards Committee(M)</b>	Monitoring Officer	In House Course Delivery	Prior to first meeting
<b>Licensing</b>	<b>Licensing Committee(M)</b>	Licensing Officer	In House Course Delivery	Prior to first meeting
<b>Audit</b>	<b>Audit Committee(M)</b>	Finance Officer	In House Course Delivery	Prior to first meeting
<b>Appointments, appeals and interview skills</b>	<b>Panel members(M)</b>	HR Director	In House Course Delivery	Prior to participating
<b>The role of Scrutiny</b>	<b>All members(M)</b>	HODS/Scrutiny officers	In House Course Delivery. E-learning in development by WLGA and Scrutiny managers	Prior to first scrutiny meetings
<b>Planning for non- planning</b>	<b>All members</b>	Planning officers/experienced	Materials to be commissioned by Positive	1st 6 months

<b>members - protocols</b>	<b>(M)</b>	member	Planning advisory group (WG funding, planning officers involved)	
Community Leadership and Casework	All members	Senior member with HODS e- learning	The effective ward councillor e learning module in production for AWA.	2 <sup>nd</sup> 6 Months
New Cabinet Development	Cabinet	External facilitators	Materials from external facilitators	2 <sup>nd</sup> 6 Months
Policy, services and legislative requirements updates	Relevant committees	Heads of Service	By local staff as and when necessary WG briefings?	2 <sup>nd</sup> 6 Months and into main training programme
Scrutiny chairing (committee and meeting management)	All Scrutiny chairs	External facilitators	Materials from external facilitators	2 <sup>nd</sup> 6 Months
Chairing Skills (meeting management)	All chairs	External facilitators E learning	E learning available now on AWA	2 <sup>nd</sup> 6 Months
Social Media e.g. Twitter/Facebook	All members	Comms/IT officers or external facilitators depending on local approach	E learning required	2 <sup>nd</sup> 6 months
Education Consortia	All members	Consortia staff	2hr session for 5 authorities from Central South – details to be confirmed	2 <sup>nd</sup> 6 months
New Councillors New Challenges	All members	WLGA 5 regional workshops Key behaviours for successful councillors. Digital Councillors. Managing the money. Meet the members (WG, WAO, NafW, WLGA		October/ November 2017

**(M) = Mandatory**

**Further training in both knowledge and skills to be determined from PDRs when induction complete**

**WG - Welsh Government**

**WLGA – Welsh Local Government Association**

**AWA – All Wales Academy**

**SSIA – Social Services Improvement Agency**

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CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>Revised Guidance on the Members' Code of conduct</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To Report to the Standards Committee on the Revised Guidance to the Code of Conduct</b>
<b>REPORT BY:</b>	<b>Solicitor – Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Wyn Yaxley, <a href="mailto:mwyys@ynysmon.gov.uk">mwyys@ynysmon.gov.uk</a> 01248 752566</b>

## 1. INTRODUCTION & BACKGROUND

- 1.1 Local authorities and community councils in Wales are required to adopt a statutory code of conduct which sets out the behaviour expected of members and co-opted members. Such members are required to provide a written undertaking to observe the requirements of their code of conduct during their period of office.
- 1.2 The Local Authorities (Model Code Of Conduct (Wales) (Amendment) Order 2016 and the Local Government (Standards Committees, Investigations, Dispensations and Referral)(Wales)(Amendment) Regulations 2016 have made changes to the Model Code of Conduct introduced in 2008. These changes to the Code were adopted by this Council on the 12<sup>th</sup> May 2016.
- 1.3 The role of the Public Services Ombudsman for Wales (the Ombudsman) includes providing guidance to members of local authorities and community councils to help them better understand their obligations under the code of conduct and to reflect any legal changes and evolving experience.
- 1.4 Attached at **Enclosures 1 and 2** respectively are the revised Guidance relevant to members and co-opted members of this Council and the revised Guidance for community council members. These are dated August 2016 and July 2016 respectively.
- 1.5 This is the fourth version of the Guidance published by the Ombudsman and replaces the previous versions.

## 2. SIGNIFICANCE OF THE GUIDANCE

In deciding whether to investigate an allegation of a breach of the code, or to continue with an ongoing investigation, or to refer an investigation to a local standards committee, or to the Adjudication Panel for Wales (i.e. effectively the national standards committee) the Ombudsman will have regard to the relevant information contained within his Guidance.

In addition, the Guidance helps members to understand the level of conduct and behaviour expected of them under the code and provides for a measure of fairness and consistency for all members across all relevant bodies.

### **3. SUMMARY OF CHANGES**

The following is a summary of the changes arising from the new Guidance:-

3.1 Below I have reviewed the guidance to members of county and county borough councils, fire and rescue authorities, and national park authorities:-

#### **3.1.1 SANCTIONS**

The period of suspension imposed by a standards committee remains limited to a period not exceeding six months. The change is that the period is limited to the remainder of a Members' term of office if it is less than 6 months.

[paragraph 3 (9) of The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016]

#### **3.1.2 PERMISSION TO APPEAL**

A new requirement has been introduced such that a member must seek the permission of the President of the Adjudication Panel for Wales in order to appeal against the decision of a standards committee. It seems that this is intended to remove frivolous or unmeritorious appeals.

The role of the Adjudication Panel for Wales has therefore been amended as it will now not only consider any appeals, it will also consider whether permission is to be given for the right to appeal to be exercised.

[paragraph 3 (10) of The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016]

#### **3.1.3 REPORTING A BREACH**

Where a member reasonably considers that there has been a breach of the Code, that member must report it to the Monitoring Officer. The obligation on a member to report a potential breach of the Code to the Ombudsman is removed. It will be a decision for the Monitoring Officer to refer the matter to the Ombudsman, or to advise the member to refer the matter directly, depending on the seriousness of the matter or if any local resolution process breaks down or is deemed unsuitable.

#### **3.1.4 PERSONAL INTEREST – WARD AND AUTHORITY MATTERS**

The personal interests provision regarding perceived conflict between a Member's ward role and decisions taken on behalf of the Authority (paragraph 10(2)(b) of the Code) has been removed. Members are reminded that, in terms of reaching decisions objectively, there is still a requirement on them to arrive at decisions with an open mind and to make decisions on the basis of the facts in front of them. The requirement not to have pre-determined a matter is extended to include matters in relation to wards too.

#### **3.1.5 PERSONAL AND PREJUDICIAL INTEREST – NEW EXAMPLE**



A new example has been provided in order to explain this issue of personal and prejudicial interest. It is reiterated below:

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

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

### **3.1.6 PERSONAL AND PREJUDICIAL INTEREST – WRITTEN REPRESENTATIONS**

Where a member has a prejudicial interest, the member can submit written representations to the meeting relating to that business provided that the general public are allowed to make representations, give evidence or answer questions about the matter at that meeting. This is included as a new paragraph 2A and 2B in the Code. The same rules apply in terms of the member's attendance at the meeting; having made submissions he/she must leave the room or chamber before any discussion on the item begins. Members must note that if the public are not allowed to speak on the matter, a member cannot do so either or submit written representations.

### **3.1.7 PERSONAL AND PREJUDICIAL INTEREST – ADDITIONAL EXAMPLE**

A further example has been provided in order to explain this issue of personal and prejudicial interest. It is reiterated below:

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

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

### **3.1.8 DISPENSATIONS**

A new general dispensation category is introduced. The new provision enables a standards committee to grant a dispensation to allow a member to participate in a meeting where he/she has a prejudicial interest if the standards committee considers it appropriate in all the circumstances. The Guidance details the dispensation can be granted “if appropriate in all circumstances, where it was not otherwise possible, to make reasonable adjustments to accommodate a person’s disability”. However, paragraph 4 (3) of The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016, notes that a dispensation may be granted if “it appears to the committee to be otherwise appropriate to grant a dispensation” (if it remains in effect, the standards committee must review once in every 12 month period from when the dispensation was first granted). So it seems legislation goes further than the guidance in this regard.

The [standard form](#) to apply for a dispensation will be amended to include the additional ground. Members can, of course, rely on it now as the statutory change has already taken effect.

### **3.1.9 REGISTER OF INTERESTS**

The requirements for registering interests are clarified, to require that any interest disclosed for the first time must be entered in the members’ register of interests within 28 days. This requirement is in addition to any changes to interests which have already been registered, and which must also be updated within 28 days of any change. See relevant [link](#). This is included as a substituted paragraph 15 in the Code.

## **3.2 Below I have reviewed the [guidance to members of community councils](#).**

The majority of the changes which appear in the guidance discussed above are similar to the changes in this guidance (3.1.1, 3.1.2, 3.1.5, 3.1.6, 3.1.8). However, I have condensed the main differences below:-

### **3.2.1 REPORTING A BREACH**

As in 3.1.3, the obligation on a member to report a potential breach of the Code to the Ombudsman is removed (paragraph 6(c) of the Code). However, there is clarity that where a member reasonably considers that there has been a breach of the Code, that member must report it to the principal County’s Monitoring Officer.

3.2.2 The changes in relation to a decision within a Ward (discussed in 3.1.4 above), which are applicable to county council members, will not be relevant to members of community councils. These therefore do not appear in this guidance.

### **3.2.3 PERSONAL AND PREJUDICIAL INTEREST – NEW EXAMPLE**

A new example is discussed in 3.1.7 above regarding personal and prejudicial interests. The same example is included within this guidance too, but a previous example has been removed.

### **3.2.4 REGISTRATION OF INTERESTS**

There have been some important changes in terms of the recording of interests for members of community councils. These are included in the amended paragraph 15 of

the Code and in additional wording to paragraphs 16 and 17 of the Code. Community councils are required to maintain a record of their members' interests in a public register of interests and that record is maintained by the 'proper officer' i.e. the Clerk for that community council. That register must be available for inspection on the Community Council's website\*. When disclosing personal interests for the first time, community council members must register their interest by giving written notice to the Clerk of their community council although the exemption for community councillors from the advance registration requirements (applicable to certain financial and other interests) is maintained. Any change to those personal interests which have been registered must be notified in writing to the Clerk within 28 days so the amendments can be registered accordingly.

\* [The Local Government (Democracy) (Wales) Act 2013 and the Welsh Government Statutory Guidance Access to Information on Community and Town Councils May 2015]

#### **4. RECOMMENDATION**

1. To note the revised guidances as published by the Ombudsman.
2. To instruct the Monitoring Officer to ensure that the new guidance, and the relevant legal changes as described in paragraph 3, are brought to the attention of county council members.
3. To instruct the Monitoring Officer to ensure that the new guidance, and the relevant legal changes as described in paragraph 3, are brought to the attention of community council clerks and that they are asked to confirm in writing that the guidance has been shared with their members.

# ATODIAD / ENCLOSURE

1

# The Code of Conduct for members of local authorities in Wales

Guidance from the  
**Public Services Ombudsman for Wales**  
for members of county and county borough councils,  
fire and rescue authorities, and  
national park authorities

## Preface

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

This is the fourth version of this guidance and is my second as Public Services Ombudsman for Wales. This version, explains the revised two stage test that I will consider when deciding whether to investigate or to continue with an investigation of a breach of the Code to the stage of referring the matter to a standards committee or the Adjudication Panel for Wales. It also includes further guidance on the use of social media and political expression, and aims to provide assistance to members on the issue of interests which some members find challenging. As before, it excludes guidance which only relates to town and community councillors. It contains examples drawn from recent cases considered by my office, standards committees across Wales and the Adjudication Panel for Wales.

The following pages aim to provide you with a general understanding of the Code and its requirements. Section 1 provides an introduction, while Section 2 outlines your obligations under the Code, referencing specific paragraphs for further information. Sections 3 and Section 4 deal with general issues surrounding interests. You can obtain a copy of the Code by downloading it from your authority’s website or contacting your Monitoring Officer.

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

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

As a member you will be offered training on the Code whether by a Monitoring Officer or from a representative body. I expect all members to take advantage of such training, including refresher courses, to ensure that they are fully aware of the provisions of the Code and the standards expected of them in public life. I would also urge members to continue to

avail themselves of local arrangements for dealing with member versus member complaints which have proved very effective as a means of resolving many of these cases.

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

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

A handwritten signature in black ink, appearing to read 'Nick Bennett', written in a cursive style.

Nick Bennett

Public Services Ombudsman for Wales, August 2016

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

- county and county borough councils
- fire and rescue authorities, and
- national park authorities in Wales.

## **Acknowledgement**

This guidance draws on guidance prepared and issued by Standards for England on the former English Code of Conduct. It has been extended and amended to refer to the Welsh Code and to the Welsh context. I would like to thank the legal services department of Ceredigion County Council for the use of its flowcharts on interests which are appended to this guidance.

Separate guidance is available for members of community councils. First published April 2010. This edition published August 2016.



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## 1. Introduction

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

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

Standards committees of principal councils are required to assist members and co-opted members of their authorities, together with members of town and community councils in their area, to observe the Code and to arrange for advice and training to be provided. I strongly recommend that all members should attend training and take advice where it is offered. I support individual authorities which require members to attend training on the Code before they can join certain decision-making bodies such as planning committees.

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

It is my role as Public Services Ombudsman for Wales to independently investigate serious complaints that members of local authorities in Wales have breached the Code. In determining whether to investigate a complaint or whether to continue an investigation of a breach of the Code I will use a two stage test. At the first stage, I will aim to establish whether there is direct evidence that a breach actually took place. The level of proof that is required is on the balance of probabilities. If that evidential test is met, at the second stage, I will consider whether an investigation or a referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. Some of the public interest factors that I will consider are set out below. These factors are not exhaustive and the weight to be attached to each will vary according to the facts and merits of each case.

Public interest factors include:

- the seriousness of the breach

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

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

The process I use for investigating complaints is summarised on my website at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

### **Local Resolution Process**

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

<sup>1</sup>The Conduct of Members (Principles) (Wales) Order 2001 (SI 2001 No.2276 (W.166))

The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation. The process may result in an apology being made by the member concerned. However, where a member has repeatedly breached their authority's local protocol then I would expect the Monitoring Officer to refer the matter back to me. If I see a pattern of similar complaints being made to me by the same members I will consider this to be a serious matter and decide whether the persistent reporting of such complaints is conduct which in itself should be investigated as a potential breach of the Code. When I have investigated a complaint I may refer the matter to a standards committee or the Adjudication Panel for Wales for determination. This will depend on the nature of and individual circumstances of the alleged breach. When issuing my report I will reflect on and analyse the evidence gathered and draw my conclusions as to whether it is suggestive that a breach of the Code has occurred. However the authority to make a determination of breach rests solely with a standards committee or the Adjudication Panel for Wales.

### **Standards Committee**

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

- no action needs to be taken in respect of that failure
- the member or co-opted member should be censured which takes the form of a public rebuke, or
- the member or co-opted member should be suspended or partially suspended from being a member of that authority for a period not exceeding six months or if shorter, the remainder of the member's term of office.

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

### **The Adjudication Panel for Wales**

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

or co-opted member has failed to comply with the Code are:

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

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

## **The Principles**

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

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

The individual sections of the Code are designed to support the implementation of the Principles. For example, the Selflessness principle is covered by Section 7 of the Code – Selflessness and Stewardship.<sup>1</sup> The current principles were set out in a statutory instrument and are detailed below.

### **1. Selflessness**

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

### **2. Honesty**

Members must declare any private interests relevant to their public duties and take steps to

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<sup>1</sup> The Conduct of Members (Principles) (Wales) Order 2001 SI 2001 No.2276 (W.166)

resolve any conflict in a way that protects the public interest.

### **3. Integrity and Propriety**

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

### **4. Duty to Uphold the Law**

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

### **5. Stewardship**

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

### **6. Objectivity in Decision-making**

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

### **7. Equality and Respect**

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

### **8. Openness**

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

### **9. Accountability**

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

themselves to such scrutiny as is appropriate to their responsibilities.

## 10. Leadership

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

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

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

### Deciding when the Code applies to you See paragraphs 2 and 3



Consider conduct in your  
public & private life

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

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

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

### When does the Code apply?

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

Where you act as a representative of your authority on another relevant authority, or any other body, you must, when acting for that other authority, comply with their code of conduct. When you are nominated by your authority as a trustee of a charity you are obliged



when acting as such to do so in the best interests of that charity, in accordance with charity law and with the guidance which has been produced by the Charity Commission (see its website: [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)).

If you are acting as a representative of your authority on another body, for example on the board of a housing association, which does not have a code of conduct relating to its members, you must comply with your authority's own Code unless it conflicts with any legal requirements that the other body has to comply with.

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

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

If you are nominated by your authority as the director of a company (a stock transfer housing association for example) you are obliged to act in the best interests of the company. If it has a code of conduct for its directors you must abide by it. If it does not, you must comply with your authority's Code, except on the rare occasions where it conflicts with any legal obligations the company may have.

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

### **Example**

Councillor B was nominated by a county borough council to serve as a board member of a stock transfer housing association. The Chief Executive of the housing association copied all board members into a confidential e-mail to the Chief Executive of the Council. Councillor B admitted sending the e-mail to the local press and said that he had done so because he felt that his duty as a councillor over-rode his duty as a board member of the housing association. Councillor B was found to have breached paragraph 3(a) of the Council's Code by disclosing the e-mail in breach of the board's own code of conduct. He was also found to have brought his office and authority into disrepute by making a

misleading statement that "he recently had to withdraw" from the board of the housing association when he had been removed with immediate effect for the serious breach of

confidentiality.

### **Example**

An on-line poll about a person accused of murder which contained inappropriate language was set up using Councillor B's council-provided laptop, internet access and his council e-mail address. Councillor B said he personally had not set up the poll. However, as the Council had provided him with the laptop he was responsible for it. He also made disparaging comments about housing benefit claimants on his Facebook page when responding to a request for advice in his councillor role. The Adjudication Panel found that Councillor B had acted in his official capacity because he had used his council-provided equipment and e-mail address.

Therefore, he could reasonably be regarded as representing himself as a councillor.

## 2. General obligations under the Code of Conduct

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

### Equality

#### See paragraph 4(a)

You must carry out your duties with due regard to the principle that there should be equality of opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion.

You should at all times seek to avoid discrimination. There are four main forms of discrimination:

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

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

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

You must also be mindful that at all times including when acting in your private capacity you must not act in a way that would bring your Council into disrepute. It is likely that engaging

in behaviour which could be considered to be in breach of the Equality Act in your private capacity would fall into this category.

### **Example**

A member of a county council was a member of the Council's Recruitment Panel to appoint a new Chief Executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room Councillor A said "good candidate, shame he's black". The Adjudication Panel for Wales found that paragraph 4(a) of the Code had been breached and that Councillor A had brought the office of member and his authority into disrepute (in breach of paragraph 6(1)(a) of the Code).

## **Treating others with respect and consideration**

**Political comments can attract Article 10 rights**

### **See paragraph 4(b)**

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

"Political" comments are not confined to those made within the Council chamber and, for example, include comments members may generally make on their authority's policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that I will investigate and will take the view that the member needs a "thicker skin".

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

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

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

### **Example**

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

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

### **Example**

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

### **Example**

A member of a town council wrote to a Deputy Minister of the Welsh Assembly Government about an employee ("Mr Smith") of a county council, a letter which was also copied to the Council. In the letter the member questioned Mr Smith's competence and motivation and he made a number of comments of a disparaging and personal nature about Mr Smith and his

associates. He raised the issue of homosexuality and referred to it as a “notorious disability” and that “homosexuality is only a demon which can be driven out”. The member was referred to the Adjudication Panel for Wales.

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

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

**Consider your conduct  
from the other person’s  
perspective**

## **Bullying and harassment**

### **See paragraph 4(c)**

You must not use any bullying behaviour or harass any person including other members, council officers or members of the public.

Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health. This can be contrasted with the legitimate challenges which a member can make in questioning policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

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

You need to ensure that your behaviour does not cross the line between being forceful and bullying. There can be no hard and fast rules governing every set of circumstances but the relative seniority of the officer will be a factor in some cases. As outlined under paragraph 4(b) of the Code very senior officers can be involved in robust discussion with members and be well placed to put their own point of view forcefully. The same is not true of more junior officers and members need to be aware of this. This is not to say that I condone the bullying of senior officers, only that the greater the power difference between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.

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

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

### **Example**

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

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

## **Compromising the impartiality of officers of the authority**

### **See paragraph 4(d)**

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, your authority. You should not approach anyone who works for, or on behalf of, the authority with a view to pressurising them to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision or threaten someone if they are not minded to act in a particular way. As well as avoiding pressurising officers in person, you need to avoid doing so in writing, using electronic media or in the press.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

If a member develops a close personal relationship with an officer, this becomes a personal and possibly a prejudicial interest under the Code. I would encourage you to adhere to any protocol developed by your authority that deals with relationships between members and officers.

### **Example**

The son and daughter-in-law of a member of a county borough council were neighbours of a family who were tenants of the Council. Complaints had been made about the family's conduct. The member contacted officers of the Council regarding the family's occupancy of the council property and its impact on his son's family on a number of occasions, sometimes outside office hours. The calls were made in his role as elected member and he had direct access to officials because he was a member. He received a warning from the Deputy Monitoring Officer as to his conduct, which emphasised the powerful position elected members occupy when dealing with members of staff.

Despite this he continued to contact officers about the matter including requesting an officer to visit his family "there and then" and accusing an officer of "tipping off" the family being complained about that noise monitoring equipment was being installed.

The Adjudication Panel for Wales found that the conduct of the member was a persistent course of conduct over a period of 6 months intended to bring undue pressure upon council officers. It found that by his actions he had sought to compromise the impartiality of officers of the Council. It also found that the member had failed to show respect and consideration for others and that his actions amounted to harassment and he had used his position improperly to promote the interests of his own family. Given the accumulative nature of his dealings with officers and his making a false allegation that an officer had "tipped off" the family he had also brought the office of member into disrepute.

The member was suspended from office for 12 months.

### **Disclosing confidential information**

#### **See paragraph 5(a)**

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

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



The Information Commissioner has issued helpful guidance on the Freedom of Information Act and Data Protection Act which is available on his website at [www.ico.gov.uk](http://www.ico.gov.uk) or by calling 0303 123 1113. As a member, you may be party to confidential information about individuals or organisations including personal or commercially sensitive matters. This might include information about people's employment, or personal matters arising from social services work, for instance. Sometimes, these will be marked confidential. On other occasions, this will not be the case, but you must not disclose them even if they are not marked. If you are in any doubt, always ask your Monitoring Officer.

As a general rule, you should treat items discussed in the confidential sections of meetings (exempt items) as confidential. These reports have usually been assessed by the author as containing sensitive information, following expert legal advice. The sensitivity of the information may decline over time, but you are strongly urged to take proper legal advice before disclosing it. Similarly, legal advice, whether provided by external lawyers or your authority's in-house legal staff, is almost always covered by legal privilege and should not be disclosed.

When information is provided to members during the course of an investigation I expect this to be treated in the strictest of confidence and it should not be disclosed to anyone other than the member's legal or other adviser. If the information is disclosed to other persons I may consider this to be a breach of this paragraph of the Code. In addition members should not discuss the complaint with any of the witnesses, whether directly or indirectly, as such contact may also be construed to be a breach of the Code.

### **Example**

A member of a county borough council who sat on the Council's adoption panel disclosed publicly details of a person who had applied to the panel to adopt a child. He could only have become aware of the information he disclosed by virtue of his membership of the panel. The Adjudication Panel found that the member had disclosed confidential information in breach of the Code. It suspended the member from the Council for 6 months.

## **Preventing access to information**

### **See paragraph 5(b)**

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

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

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

### Example

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

### Disrepute

#### See paragraph 6(1)(a)

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

You must not behave in a way which could reasonably be regarded as bringing your office or authority into disrepute **at any time**. As a member, your actions and behaviour are subject to greater scrutiny than those of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your office or your authority. You should also ensure that you do not engage in any behaviour that may prejudice an investigation undertaken by me or your Monitoring Officer as this may also constitute disrepute.

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

As outlined in the case example on page 17 above, you must also conduct

yourself in an appropriate manner with others within the confines of a council's building, regardless of whether your conduct is likely to be in the public domain.

### **Example**

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

## **Reporting breaches of the Code**

### **See paragraph 6(1)(c)**

If you reasonably believe that a breach of the Code has occurred, you must report it to your Monitoring Officer. There is no longer a need to report the matter to me. In order to have a reasonable belief that a breach has occurred, you will need to have direct evidence which supports this. If you are in doubt as to whether a breach has occurred, you should consult your Monitoring Officer as soon as possible. Where the breach is a very minor or technical one, or where there is no clear evidence that a breach occurred, your Monitoring Officer may suggest that the matter would be more appropriately dealt with through the authority's local resolution process.

In the most serious of cases or where the local resolution process breaks down or is unsuitable your Monitoring Officer may, as an exception, decide to refer them to me directly or on your behalf. In most other cases you will be advised you to do so.

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

In determining whether to investigate a complaint of a breach I will use the two stage test that I have outlined on pages [7](#) and [8](#) above. You should ensure that you provide any evidence you have available when you make a complaint including minutes of meetings, correspondence, contemporaneous notes or e-mails. If there are other individuals who have witnessed the alleged breach, you should let us know who they are. This latter point is especially important because if I only have one person's word against another's, I may not be able to conclude with sufficient certainty that there is enough evidence to warrant pursuing the matter.

To report such matters, you can contact my office by phone at 0845 6010987, by e-mail to [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk) or via the website at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk). A special leaflet on making complaints about alleged breaches of the Code is available on

request or on the website.

## **Vexatious complaints**

### **See paragraph 6(1)(d)**

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

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

The Code should not be used by members to pursue their political or private differences. You should therefore avoid making complaints which have little or no substance (frivolous complaints) which are designed mainly to annoy the person complained about, for example, when you may disagree with a member's approach to your authority's business or their role as member. Where I find evidence to suggest that a complaint has been made to my office which is not founded in fact and has been motivated by malice or political rivalry I will consider this to be a serious matter and I may investigate. Making vexatious, malicious or frivolous complaints is not only a breach of this paragraph but may also be contrary to your other obligations under the Code such as the requirement not to bring your position as councillor into disrepute or not to use your position for an improper purpose.

### **Example**

A member of a county borough council claimed that the leader of the Council had offered to provide another councillor and his group of members with office facilities if that councillor supported the leader's preferred candidate for the post of Chief Executive. The evidence supported the leader's position that the two matters were unconnected and that therefore the complaint was malicious. The Adjudication Panel suspended the member making the complaint for 12 months.

## **Co-operating with investigations**

### **See paragraph 6(2)**

You must co-operate with an investigation when it is being conducted by me or by your Monitoring Officer using our statutory powers. Not to do so is itself a breach of the Code. This means that you should reply promptly to all correspondence and telephone calls, make yourself available for interview if required and make available copies of any requested documents. It would be helpful if you could identify any concerns that you may have during the course of the investigation so that these can be promptly resolved. My office and your Monitoring Officer will make reasonable allowances for urgent pressures you face and arrangements previously made, for example, for holidays. However, you are expected to give priority to their investigations to avoid matters being needlessly drawn out. The requirement to co-operate with an investigation applies whether you are a witness or the subject of the investigation.

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

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

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

## **Using your position improperly**

### **See paragraph 7(a)**

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

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

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

### **Example**

A member of a county council had requested that land in his ownership in Village A be included as suitable for development in the Council's Local Development Plan (LDP). When the Council was considering suitable settlement areas for inclusion in the LDP, officers recommended that land in the neighbouring village (Village B) be included in the draft plan instead. Despite having received very clear advice from the Council's Monitoring Officer on his prejudicial interest the member e-mailed the Council's planning policy officer and outlined a number of arguments which he claimed favoured the inclusion of his land in Village A as opposed to the land in Village B. At the relevant time the draft plan had been disclosed to members of the Council on a confidential basis and had not been disclosed publicly.

The Adjudication Panel found that by sending the e-mail the member had breached paragraph 7(a) of the Code by attempting to use his position improperly for his own advantage. At the hearing he sought to apportion blame on the Council's Monitoring Officer for failing to advise and train him properly on the Code when this clearly was not the case. His actions also brought his office and the Council into disrepute. The member was disqualified from holding office for 18 months for this and other breaches of the Code.

## **The authority's resources**

### **See paragraph 7(b)**

You must only use or authorise the use of the resources of the authority in accordance with its requirements. **This paragraph also applies at all times.** Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

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

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

## **Using resources for proper purposes only**

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

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

You should never use authority resources for purely political purposes, including designing and distributing party political material produced for publicity purposes. However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business, for example, holding meetings of your political group. In this case, you must be aware of the limitations placed upon such use for these purposes. Members should also have regard to the fact that periods leading up to local government elections are particularly sensitive in this regard. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code. Some authorities will permit members to use authority-supplied IT equipment such as laptops for ancillary use. Provided that such usage is in line with the authority's requirements, there would not be a breach, but sending mass e-mails as part of an election campaign, for example, would not be appropriate.

Where, however, there is no policy or the policy is silent you may not use these resources for any political or private purposes.

### **Example**

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

## **Example**

A member of a county borough council was found in breach of the Code for using his council-issued mobile phone excessively for private purposes. Whilst limited personal use was permitted under the Council's IT policy a bill in excess of £1000 was incurred in respect of private calls which the member had made. The Adjudication Panel suspended the member for 9 months for this and other breaches.

## **Reaching decisions objectively**

### **See paragraph 8(a)**

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

In some decisions, such as those taken by planning committees or where you are participating in the consideration of a ward matter, you are required always to make your decisions on the basis of the facts in front of you, and not to have made your mind up in advance to such an extent that you are entirely unprepared to consider all of the evidence and advice you receive. Having a completely closed mind is known as pre-determination. You are entitled to hold a preliminary view about a particular matter in advance of a meeting (pre-disposition) as long as you keep an open mind and are prepared to consider the merits of all the arguments and points made about the matter under consideration before reaching your decision.

Pre-determination on the other hand would be where you have clearly decided on a course of action in advance of a meeting and are totally unwilling to consider the evidence and arguments presented on that matter during the meeting. Pre-determination could not only invalidate the decision, it would also amount to a breach of the Code.

Section 78 of the Local Government (Wales) Measure 2011 prohibits a member of an overview or scrutiny committee meeting from voting on a question at a meeting, if before the meeting, the member has been given a party whip relating to the question.

In order for me to investigate complaints of "whipping" of votes by political groups there must be written evidence or other corroborative evidence available of the whip. Suppositions based upon the voting patterns of particular groups will not be sufficient evidence of a whip.

## **Considering advice provided to you and giving reasons**

### **See paragraph 8(b)**

You must have regard to all of the advice you receive from your authority's officers, especially advice from the Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Legal Officer where they give it under their statutory duties. Such advice may also be



contained in policy and guidance documents produced by your authority. This is a complex area and there are provisions within other legislation which underpin it, but in general, it goes well beyond a requirement to simply consider and reject advice if it is not welcome. I expect members to follow the advice unless there are strong reasons not to do so, and where a decision is made not to follow advice, it is highly advisable to record the reasons for not doing so.

It is worth reflecting also that this places a considerable onus on statutory officers to consider their formal advice carefully, and again, where they believe it is likely to be contentious, to keep a record of it. There may be isolated cases where advice is given to a member which, when followed, leads to a breach of the Code. In investigating such cases, if the evidence suggests that there has been a breach, I would generally regard the flawed advice as a factor in mitigation, rather than as evidence that no breach occurred.

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

If you seek advice, or advice is offered to you, for example, on whether you should register a personal interest, you should have regard to this advice before you make up your mind. Failure to do so may be a breach of the Code.

You must give reasons for all decisions in accordance with any statutory requirements and any reasonable requirements imposed by your authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected but it is not confined to these.

As a matter of good practice, where you disagree with officer recommendations in making a decision, you should give clear reasons for your decision. This applies to decisions to vote against the advice of the statutory officers, even if you lose the vote. If you decide to vote against their advice, you should ensure that your reasons for doing so are recorded in the relevant minutes. You should be aware that voting against the advice of the statutory officers without good reason may be a breach of the Code.

In reaching decisions where the advice is not provided by the statutory officers, you should still have regard to the advice provided by officers and take it into account in reaching your decision. You may also wish to have regard to other advice you have received and, of course, to the position adopted by a political group of which you are a member. In some circumstances, such as planning decisions, you must not vote on the basis of a "whip" imposed by your group. In others, it is reasonable to do so but you should avoid having an entirely closed mind prior to a debate. Again, whatever the reasons for voting against officer advice, it is highly advisable to record them.

## **Example**

A member of a county council who chaired a council meeting refused to allow the Council's Monitoring Officer to advise members during a debate about the Council's "Annual Letter" from the Wales Audit Office. Also, when the Monitoring Officer did manage to intervene to express grave concerns about the way in which the proceedings were being conducted, he failed to have regard to the limited advice she was allowed to offer and simply said that he "noted her comments".

The member was found to have breached paragraph 8(a)(iii) of the Code. The Adjudication Panel took into account the member's full apology and expressions of remorse for his behaviour and indicated that had the member not already accepted his wrongdoing it would have imposed a greater sanction than the 4 months' suspension it imposed.

## **Expenses**

### **See paragraph 9(a)**

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

## **Example**

A member of a county borough council was alleged to have used the Child/Dependent Care Allowance to pay his wife to look after their daughter. During the investigation it transpired that he had paid his adult son (from a previous marriage) a regular weekly income to care for the child as and when required. The member was able to provide proof of the payments through receipts and cheque counterfoils. In view of this there was no evidence of any failure on the part of the member to comply with the Code.

## **Gifts and hospitality**

### **See paragraph 9(b)**

It is important that you do not accept any gifts or hospitality for yourself, or on behalf of others, which would place you under obligation or appear to do so. Accepting such gifts or hospitality could be regarded as compromising your objectivity when you make decisions or carry out the work of your Council. This is also true of any services or gifts in kind.

This does not prevent you from attending official events such as a civic reception or working lunch where these are authorised by your authority. (See also the section on registering gifts and hospitality at page [insert])

### 3. Personal and prejudicial interests

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

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

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

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

To provide some further assistance, I have attached two flowcharts at Appendix 1 and 2 which Ceredigion County Council's former Monitoring Officer designed to take you through the questions that you should ask when deciding whether you have an interest. They are for illustration purposes only and are not definitive.

Guidance on registering interests is at Section 4.

#### Personal Interests

#### See paragraph 10

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

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

#### Do I have a personal interest?

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

1. your job or your business
2. your employer, or any firm in which you are a partner or paid director

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

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

### **Matters affecting your well being or financial position**

If a decision might be seen as affecting your well being or financial position or the well being or financial position of any person who lives with you or with whom you have **a close personal association** to a greater extent than other people in your ward or, for members of authorities which do not have wards (for example, national parks) in your authority's area, you have a personal interest. Examples of decisions of this kind include obvious issues like contracts being awarded to your partner's company but also issues about the location of developments, where it might make a big difference to where you or your close personal associates live. Examples have included the location of playgrounds, where elected members have opposed them near their houses because of issues about noise.

### **What is "a body exercising functions of a public nature"?**

The phrase "a body exercising functions of a public nature" has been subject to broad

interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether a body meets that definition:

- Does that body carry out a public service?
- Is the body taking the place of local or central government in carrying out the function, for example, a care home with residents supported by social services?
- Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority, for example, a private company collecting refuse for the authority?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

Unless you answer 'yes' to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature. Examples of bodies included in this definition are health bodies, council-owned companies exercising public functions and school governing bodies. If you need further information or specific advice on this matter, please contact your Monitoring Officer.

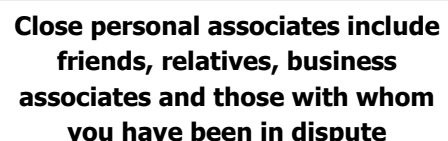
### **What does "affecting well-being or financial position" mean?**

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

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

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

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



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

## **What if I belong to an authority without wards or electoral divisions?**

If you are a member of an authority that does not have wards or electoral divisions, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you or one or more of your close personal associates, more than it would affect other people in your authority's area. If you are a local authority member of a fire authority, for example, you would need to declare an interest under this heading on matters concerning your nominating authority's area.

### **"Twin hatted" members**

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

If you do so, you would be well advised to state at the Community Council meeting that you would be looking at the matter afresh when you consider it at the County Council meeting, and that you would take into account all of the information and advice provided to you. At the Planning Committee, you should make it clear that you are not bound by the views of the Community Council. The advice about objective decision making in respect of paragraphs 8 and 10(2)(b) of the Code is also relevant here.

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

### **Example**

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

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

## What if I am not aware of my personal interest?

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

## What to do when you have a personal interest

### See paragraph 11

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

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

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

If you are making representations in writing to another member or an officer, you must include details of any personal interests you have. Similarly, if you are speaking with an officer or member in person, by phone or video conference you should tell them about any personal interest you have before making representations or when the interest becomes apparent. The Ombudsman would generally expect officers to make a record of any conversation in which a member has declared an interest and attach it to the appropriate file.

If you are making a decision as part of an executive or board, you must make sure that the written record of that decision (for example, minutes of a cabinet meeting) includes details of your interest. If you have disclosed an interest at a meeting which has not previously been recorded, you must give it in writing to your authority in line with the arrangements set out by your Monitoring Officer. Normally, this will mean before, or immediately after the meeting concerned or as soon as possible thereafter. As a minimum, you need to say in writing what the interest is, what business considered by the meeting it relates to and you need to sign it.

If you have agreed with your Monitoring Officer that the information about your personal



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

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

## **Prejudicial Interests**

### **See paragraph 12**

#### **Do I have a prejudicial interest?**

Your personal interest will also be a prejudicial interest in a matter if any of the following conditions applies:

- the matter does not fall within one of the exempt categories of business (see below), or
- the matter relates to a licensing or regulatory matter (see paragraph 12(3)),

and

a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

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

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

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

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

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

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

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

## **Does the matter fall within one of the exemptions?**

### **See paragraph 12(2)**

A member will not have a prejudicial interest if the business falls within one of a number of exemptions which are set out below.

The business relates to:

- another relevant authority of which you are also a member
- another public authority or a body exercising functions of a public nature in which you hold a position of general control or management
- a body to which you have been elected, appointed or nominated by your authority
- your role as school governor where you have not been appointed or nominated by your authority (for example, a parent governor) unless the business specifically relates to your school
- your role as a member of a health board where you have not been appointed by your authority
- housing - if you hold a tenancy or lease with the authority, as long as the matter does not relate to your particular tenancy or lease and you do not have arrears of rent of more than 2 months
- school meals or school transport and travelling expenses, if you are a parent, guardian, grandparent of, or have parental responsibility for, a child in full-time education unless it relates particularly to the school your child attends
- decisions about statutory sick pay if you receive or are entitled to receive it from your authority
- an allowance or payment for members. I do not consider a member being put forward for election to a council office which attracts a Special Responsibility Allowance to have a

prejudicial interest as I consider them to be covered by this dispensation.

These exemptions will not apply where the business you are considering is about determining an approval, consent, license, permission or regulation. I consider these descriptions to refer to a narrow category of decisions, such as granting planning consent and licensing decisions. A wider interpretation of approval, for example, would cover almost every aspect of your authority's business and was clearly not intended.

If one of the exemptions applies you are **not** regarded as having a prejudicial interest. You still must disclose your personal interest **but you are allowed to participate in the item under discussion.**

### **Example**

Two members of a county borough council, who were sisters, were found by the Council's Standards Committee to have failed to declare both personal and prejudicial interests when they decided to allocate funds from their Members' Small Payments Scheme to a company, in respect of which one of the members was a non-paid director. During my investigation one of the members disputed the fact that she had received advice from the Monitoring Officer about the disclosure of such interests, and the other member had, despite receiving advice on the declaration of interests, falsely declared that she had no interest in the company on the nomination form. The Standards Committee considered the breaches of the Code to be serious ones. It decided to censure both members.

### **Example**

A standards committee determined that the circumstances in which a member's membership of a local organisation had ended resulting in an acrimonious and ongoing dispute between her and the organisation (including solicitors' letters for the recovery of a debt) constituted a close personal association. It found that the nature of this association meant that the member had a prejudicial interest and that she had failed to declare this and withdraw from numerous meetings when a financial donation to the organisation had been discussed.

## **Overview and Scrutiny Committees**

### **See paragraph 13**

**Please note: this section does not apply to fire and rescue authorities, and national park authorities.**

You have a prejudicial interest in any business before an overview and scrutiny committee or sub-committee meeting where both of the following requirements are met:

- that business relates to a decision made (whether implemented or not) or action taken

by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees, and

- you were a member of that decision-making body at that time and you were present at the time the decision was made or action taken.

If the overview and scrutiny committee is checking a decision which you were involved in making you may be called to attend the meeting to give evidence or answer questions on the matter, and you may do so provided it is acting under its statutory powers.

## **What to do when you have a prejudicial interest**

### **See paragraph 14**

**You must declare your interest and withdraw from the room**

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

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

**Key point:** If you have a prejudicial interest in a matter being discussed at a meeting, you must, having declared your personal interest in the matter, leave the room (or any other venue in which the meeting is being held including, for example, the location of a site meeting).

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

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

### **Do I have a statutory right to speak to the meeting?**

The Code does not provide you with a general right to speak to a meeting where you have a prejudicial interest. However, in limited circumstances, legislation may provide you with a right to speak (for example, licensing hearings and standards hearings) which the Code recognises. If so, you will be allowed to exercise that right to speak. Your Monitoring Officer should be able to confirm whether this is relevant to your case.

If I do not have a statutory right, will I be allowed to speak to the meeting?

The Code aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your authority's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

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

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

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

### **What does influencing a decision mean?**

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

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

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

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

### **What if I am summoned to attend a scrutiny committee to discuss business in which I have a prejudicial interest?**

If you are asked to attend by the committee exercising its statutory powers, then you may attend and participate in the meeting.

## Example

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

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

## Executive or cabinet roles

**Please note: this section will not apply to fire and rescue authorities or national park authorities, unless in the latter case there are executive arrangements in place.**

If you are a leader or cabinet member of an authority operating executive arrangements, you must follow the normal rules for executive members who have personal and prejudicial interests. If your interest is personal but not prejudicial, you can advise the executive on the issue and take part in executive discussions and decisions as long as you declare your interest. You can also exercise delegated powers in the matter as long as you record the existence and nature of your personal interest.

If you are an executive member who can take individual decisions, and you have a prejudicial interest in a decision, your authority may make other arrangements as set out in sections 14-16 of the Local Government Act 2000. This means that the decision can be taken by an officer, another cabinet member, the full executive, or a committee of the executive.

Although you have a prejudicial interest in a matter, you may be able to make representations, answer questions and give evidence as long as a member of the public would have the same rights, but you are barred from decision-making about that matter individually or in cabinet. You also should not participate in any early consideration of it, or exercise any delegated powers in relation to it. If you have delegated powers in that area, you should refer the consideration and any decisions on the matter to the cabinet to avoid the perception of improper influence.

## Dispensations

**If I have a prejudicial interest, can I obtain a dispensation to allow me to take part**

## **in the meeting?**

You can apply in writing to your authority's Standards Committee for a dispensation to speak and/or vote on a matter on one or more of the following grounds:

- at least 50 per cent of the authority or committee members would be prevented from taking a full part in a meeting because of prejudicial interests
- at least half of the cabinet would be so prevented (the leader should be included in the cabinet in calculating the proportion)
- in the case of a county/county borough council, the political balance at the meeting would be upset to such an extent that the outcome would be likely to be affected
- the nature of your interest is such that your participation would not harm public confidence
- your interest is common to a significant proportion of the general public
- you have a particular role or expertise which would justify your participation
- the business is being considered by an overview or scrutiny committee and you do not have a pecuniary interest; the business relates to the finances or property of a voluntary organisation and you sit on its board or committee in your own right and you do not have any other interest, although in this instance, any dispensation will not let you vote on the matter, or
- the committee believes that your participation would be in the interests of the people in your authority's area and that the committee notifies Welsh Ministers within seven days.
- the committee considers if appropriate in all circumstances, where it was not otherwise possible, to make reasonable adjustments to accommodate a person's disability.

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

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

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

## 4. Registration of Interests

### See Paragraph 15

#### Key points

All members of authorities have to provide a record of their interests in a public register of interests. If you are a member of a county or county borough council, fire authority or national park authority, you must tell your Monitoring Officer in writing within 28 days of taking office, or within 28 days of any new or change to your register of interests, of any interests which fall within the categories set out in the Code, outlined below.

The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

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

As previously mentioned, you must tell your Monitoring Officer in writing within 28 days of taking office, or within 28 days of any new or change to your register of interests, of any interests which fall within the categories set out in the Code. These categories include:

- your job(s) or business(es)
- the name of your employer or people who have appointed you to work for them
- the name of any person who has made a payment to you in respect of your election or expenses you have incurred in carrying out your duties
- the name of any person, company or other body which has a place of business or land in the authority's area, and in which you have a shareholding of more than £25,000 (nominal value) or have a stake of more than 1/100th of the share capital of the company
- any contracts between the authority and yourself, your firm (if you are a partner) or a company (if you are a paid director or if you have a shareholding as described above) including any lease, licence from the authority and any contracts for goods, services or works. Where the contract relates to use of land or a property, the land must be identified on the register
- any land and property in the authority's area in which you have a beneficial interest (or a licence to occupy for more than 28 days) including, but not limited to, the land and house you live in and any allotments you own or use
- your membership or position of control or management in:
  - any other bodies to which you were elected, appointed or nominated by the authority
  - any bodies **exercising functions of a public nature** (described above), or directed to



charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party or trade union

- any private club, society or association operating within your authority's area.

Recent changes to the Code now also require members when disclosing a personal interest for the first time to register it in the register of interests by giving written notice to the Monitoring Officer.

## **Sensitive information**

### **See Paragraph 16**

#### **Key points**

You may be exempt from having to include sensitive information on your register of interests. If your personal interest in a matter under discussion at a meeting is sensitive information, you will need to declare that you have a personal interest but you will not have to give any details about the nature of that interest.

Sensitive information may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create a serious risk of violence or intimidation against you or someone who lives with you should they become public knowledge.

You should provide this information to your Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your Monitoring Officer agrees. Ultimately, you must decide what information to include on your publicly available register of interests. If information on your register ceases to be sensitive you must notify your Monitoring Officer within 28 days asking them to amend the information accordingly.

## **Gifts and hospitality**

### **See Paragraph 17**

#### **Key points**

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

You must register the gift or hospitality and its source within 28 days of receiving it. Like other interests in your register of interests, you may have a **personal interest** in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person and then decide whether that interest is also a **prejudicial interest**. It is also good practice to

provide a note of any offers of gifts which you have declined.

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

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

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

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

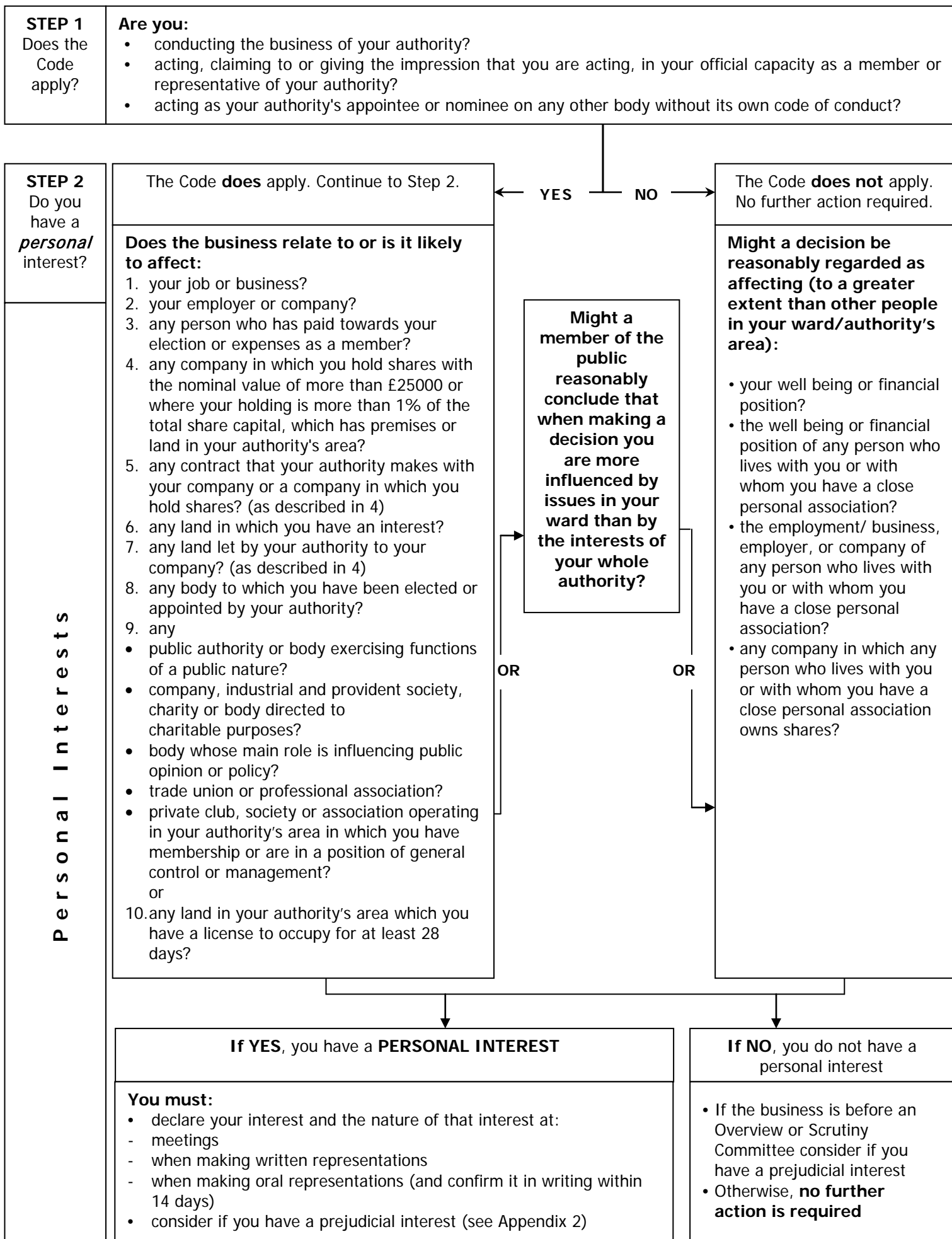
The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to the value specified by your authority or over should be registered.

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

# Appendix 1

# Personal Interests

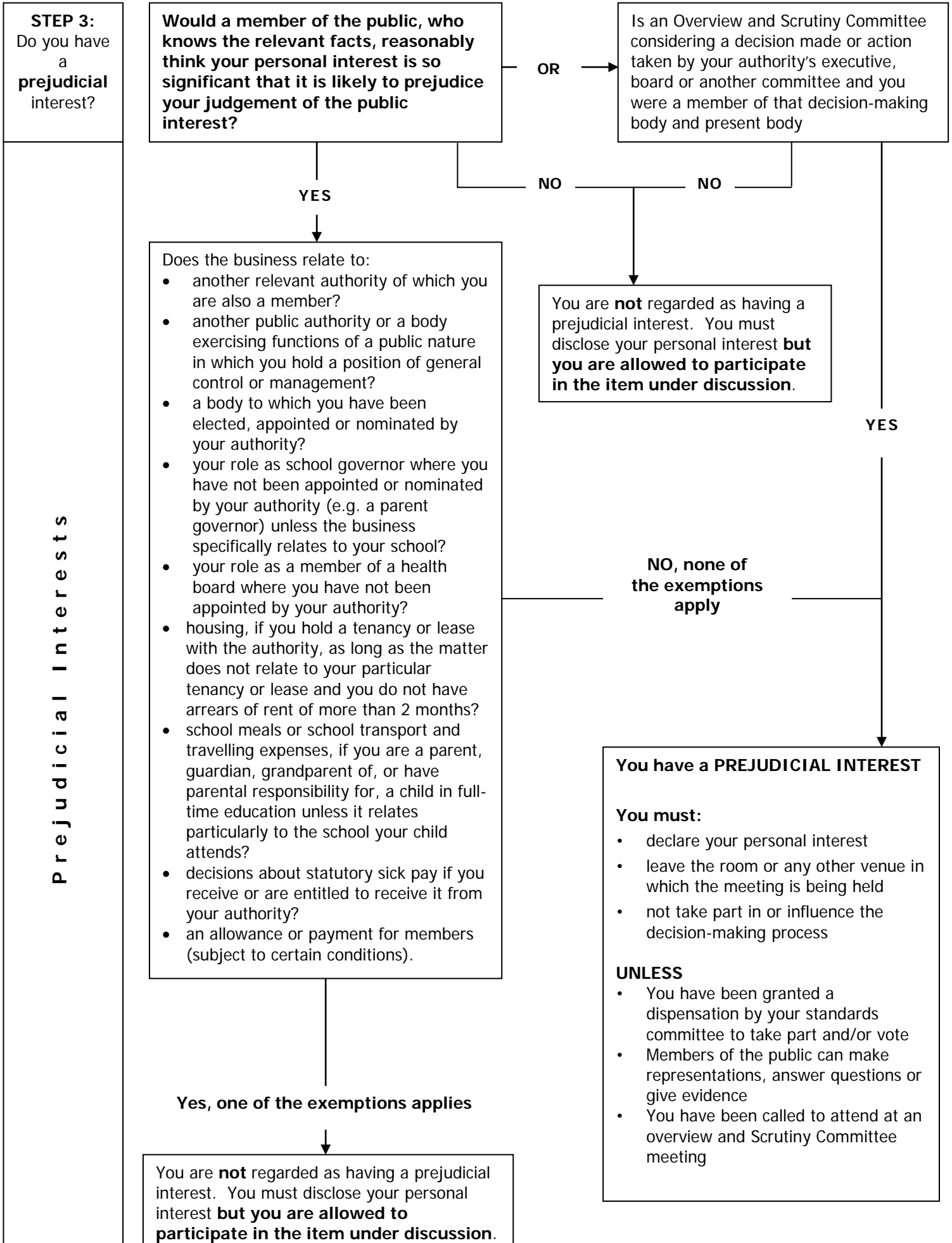
Questions to ask yourself  
If in doubt you should ask your Monitoring Officer



# Prejudicial Interests

Questions to ask yourself

If in doubt you should ask your Monitoring Officer



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Further information about the service offered by the Public Services Ombudsman for Wales can also be found at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

**ATODIAD / ENCLOSURE**

**2**

# The Code of Conduct for members of local authorities in Wales

Guidance from the  
Public Services Ombudsman for Wales

## Preface

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

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

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

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


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

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



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

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

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

Nick Bennett Public Services Ombudsman for Wales

July 2016

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

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

## **Acknowledgement**

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

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

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# 1. Introduction

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

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

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

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

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

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

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

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

Public interest factors include:

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

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

The process I use for investigating complaints is summarised on my website at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

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

## **Local Resolution Process**

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

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

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

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

## **Standards Committee**

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

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

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

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

## **Adjudication Panel for Wales**

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

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

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

### **The Role of the Clerk**

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

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

for advice (see below).

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

## **The Role of the Monitoring Officer**

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

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

## **The Principles**

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

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

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

### **1. Selflessness**

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



## **2. Honesty**

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

## **3. Integrity and Propriety**

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

## **4. Duty to Uphold the Law**

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

## **5. Stewardship**

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

## **6. Objectivity in Decision-making**

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

## **7. Equality and Respect**

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

## **8. Openness**

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

## **9. Accountability**

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

## **10. Leadership**

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

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

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

## **Deciding when the Code applies to you**

### **See paragraphs 2 and 3**

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

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

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

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

### **When does the Code apply?**

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

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

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

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

other body has to comply with.

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

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

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

### **Example**

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

### **Example**

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

## 2. General obligations under the Code of Conduct

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

### Equality

#### See paragraph 4(a)

You must carry out your duties with due regard to the principle that there should be equality of opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion. You should at all times seek to avoid discrimination. There are four main forms of discrimination:

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

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

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your Council's fulfilment of its positive duties under equality laws. Such conduct may cause your Council to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code. You must also be mindful that at all times including when acting in your private capacity you must not act in a way that would bring your Council into disrepute. It is likely that engaging in behaviour which could be considered to be in breach of the Equality Act in your private capacity would fall into this category.

### Example

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

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

## **Treating others with respect and consideration**

### **See paragraph 4(b)**

**Political comments can attract Article 10 rights**

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

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

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

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

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

### **Example**

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

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

### **Example**

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

### **Example**

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

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

Code.

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

**Consider your conduct from the other person's perspective**

## **Bullying and harassment**

### **See paragraph 4(c)**

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

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

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

### **Example**

Community Councillor P disagreed with the County Council's arrangements for the enforcement of parking breaches within the town. Councillor P used disrespectful and abusive language and behaved in a bullying and intimidating manner towards Council Civil Enforcement Officers on four occasions. He also sought to use his position as a councillor improperly in relation to a parking offence. The Standards Committee found that Councillor P had breached paragraph 4(c) of the Code as he had pursued a course of conduct of threatening behaviour towards the County Council employees. The Standards Committee also established that Councillor P breached paragraphs 4(b), 7(a) and 6(1)(a) of the Code. He was suspended from acting as a Councillor for 12 months.

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

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

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

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

### **Example**

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

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

## **Compromising the impartiality of officers of the authority**

### **See paragraph 4(d)**

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



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

### **Hypothetical Scenario**

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

### **Disclosing confidential information**

#### **See paragraph 5(a)**

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

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

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

### **Example**

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

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

## **Preventing access to information**

### **See paragraph 5(b)**

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

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

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

### **Example**

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

### **Disrepute**

#### **See paragraph 6(1)(a)**

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

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

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

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

### **Example**

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

### **Example**

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

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

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

## **Reporting breaches of the Code**

### **See paragraph 6(1)(c)**

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

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

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

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

## **Vexatious complaints**

### **See paragraph 6(1)(d)**

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

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

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

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

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

## **Co-operating with investigations**

### **See paragraph 6(2)**

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

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

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

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

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

## **Using your position improperly**

### **See paragraph 7(a)**

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

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

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

### **Example**

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

## **The authority's resources**

### **See paragraph 7(b)**

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

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

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

## **Using resources for proper purposes only**

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

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

### **Example**

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

## **Reaching decisions objectively**

### **See paragraph 8(a)**

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

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

## **Considering advice provided to you and giving reasons**

### **See paragraph 8(b)**

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

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

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



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

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

## **Expenses**

### **See paragraph 9(a)**

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

## **Gifts and hospitality**

### **See paragraph 9(b)**

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

### 3. Personal and prejudicial interests

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

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

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

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

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

Guidance on registering interests is at Section 4.

#### **Personal Interests** **See paragraph 10**

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

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

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

#### **Do I have a personal interest?**

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

1. your job or your business

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

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

### **Matters affecting your well being or financial position**

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

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

houses because of issues about noise.

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

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

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

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

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

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

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

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

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

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

### **“Twin hatted” members**

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

your County Council.

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

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

### **Example**

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

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

### **What if I am not aware of my personal interest?**

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

### **What to do when you have a personal interest**

#### **See paragraph 11**

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

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

circumstances:

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

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

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

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

## **Prejudicial Interests**

**See paragraph 12**

### **Do I have a prejudicial interest?**

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

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

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

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

or impair your ability to judge the public interest.

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

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

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

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

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

## **What to do when you have a prejudicial interest**

### **See paragraph 14**

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

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

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

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

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

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

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

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

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

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

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

### **What does influencing a decision mean?**

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



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

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

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

### **Example**

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

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

## **Dispensations**

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

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

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

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

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

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

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

## **4. Registration of Interests**

### **See Paragraph 15**

#### **Key points**

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

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

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

### **Gifts and hospitality**

#### **See Paragraph 17**

#### **Key points**

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

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

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

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

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

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

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

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

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

## Contact us

Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed  
CF35 5LJ

Tel: 0300 790 0203  
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e-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk) (general enquiries)

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

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

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CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>Briefing Note to Members- Statutory Changes to the Members' Code of Conduct</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To report to the Standards Committee on a proposed briefing note to Members on the statutory changes to the Code of Conduct</b>
<b>REPORT BY:</b>	<b>Solicitor – Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Wyn Yaxley <a href="mailto:mwyys@ynysmon.gov.uk">mwyys@ynysmon.gov.uk</a> 01248 752566</b>

## 1. INTRODUCTION & BACKGROUND

- A) Local Authorities and community/town councils in Wales are required to adopt a statutory code of conduct which sets out the behaviour expected of members and co-opted members.
- B) Statutory changes have been made to the Model Code of Conduct introduced in 2008.
- C) The Isle of Anglesey County Council adopted the amended Code of Conduct on 12<sup>th</sup> May 2016.
- D) Attached at **Enclosure 1** is a draft Briefing Note to Members advising them of the statutory changes to the Members' Code of Conduct.

## 2. RECOMMENDATION

- A) To note the content of the Briefing Note.
- B) To confirm the Briefing Note can be distributed to the Elected Members in the name of the Standards Committee.

## Enclosure 1

### **BRIEFING NOTE Statutory Changes to the Members' Code of Conduct**

#### **1. INTRODUCTION & BACKGROUND**

Local authorities and community councils in Wales are required to adopt a statutory code of conduct which sets out the behaviour expected of members and co-opted members. As an elected member, you have provided a written undertaking to observe the requirements of this local authority's [code of conduct](#) during your period of office.

The "Local Authorities (Model Code Of Conduct ( Wales) (Amendment) Order 2016" and "The Local Government (Standards Committees, Investigations, Dispensations and Referral)(Wales)(Amendment) Regulations 2016" have made changes to the Model Code of Conduct introduced in 2008. These changes to the Code were adopted by this Council on the 12<sup>th</sup> May 2016. Other changes, which automatically apply and do not require adoption by the Council, are summarised below.

#### **2. SUMMARY OF CHANGES**

In order to assist you with your duty as a Member, the following is a summary of the changes arising from the new legislation:-

##### **2.1 SANCTIONS**

The period of suspension imposed by a standards committee is limited to a period not exceeding six months or to the remainder of a Members' term in office if it is less than 6 months. So, if a Member is suspended for 6 months but has only 2 months remaining in that term of office, the Member will only serve a suspension of 2 months.

##### **2.2 PERMISSION TO APPEAL**

You must seek the permission of the President of the Adjudication Panel for Wales in order to appeal against the decision of a standards committee.

##### **2.3 REPORTING A BREACH**

Where you reasonably consider that there has been a breach of the Code, you must report the breach to the Monitoring Officer. The obligation on you to report a potential breach of the Code to the Ombudsman is removed, although the Monitoring Officers may still advise you to do so.

##### **2.4 PERSONAL INTEREST- WARD AND AUTHORITY MATTERS**

The personal interest provision regarding perceived conflict between a Member's ward role and decisions taken on behalf of the Authority has been removed. However, you are reminded that, in terms of reaching decisions objectively, there is still a requirement on you to arrive at decisions with an open mind and to make decisions on the basis of the facts in front of you. The requirement not to have pre-determined a matter is extended to include matters in relation to wards too.



## **2.5 PERSONAL AND PREJUDICIAL INTEREST- WRITTEN REPRESENTATIONS**

Where you have a prejudicial interest, you can submit written representations to the meeting relating to that business provided that the general public are allowed to make representations, give evidence or answer questions about the matter at that meeting. The current rules still apply in terms of your attendance at the meeting; having made submissions you must leave the room or chamber before any discussion on the item begins. You must note that if the public are not allowed to speak on the matter, you cannot do so either or submit written representations.

## **2.6 DISPENSATIONS**

A new general dispensation category is introduced. The new provision enables a standards committee to grant a dispensation to allow a member to participate in a meeting where he/she has a prejudicial interest if the standards committee considers it appropriate in all the circumstances.

## **2.7 REGISTER OF INTEREST**

The requirements for registering interests are clarified, to require that any interest disclosed for the first time must be entered in the members' register of interests within 28 days. This requirement is in addition to any changes to interests which have already been registered; these must also be updated within 28 days of any change.

If you have any questions in relation to this Briefing Note please contact Mared Wyn Yaxley on [mwyys@ynysmon.gov.uk](mailto:mwyys@ynysmon.gov.uk) or 01248 752566

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**CWYNION A GYFLWYNWYD I'R OMBWDSMON – "O" – AC YMCHWILIADAU A WNAED GANDDO YNGHYLCH  
CYNGHORWYR CYNGOR SIR YNYS MÔN - DIWEDDARIAD**

**UP TO DATE COMPLAINTS TO AND INVESTIGATIONS BY THE OMBUDSMAN – "O" -REGARDING  
ISLE OF ANGLESEY COUNTY COUNCILLORS – UPDATE**

**PWYLLGOR SAFONAU – 14.09.2016 – STANDARDS COMMITTEE**

Enw'r Cynghorydd Name of Councillor	Enw'r Achwynydd Name of Complainant	Cyfeirnod y Ffeil File Reference (i) Un ni/Ours (ii) "O"	Dyddiad y Gŵyn - "O" Complaint date - "O"	Canlyniad Ymholiad "O" a'r dyddiad neu'r sefyllfa gyfredol Result of "O" Investigation and date or the current situation
1. Cynghorydd Sir / County Councillor	Prif Weithredwr / Chief Executive	(i )18858 (ii) 201505105	11.12.2015	Canfyddiad wedi ei wneud, dim angen cymryd unrhyw gamau pellach a'r ymchwiliad wedi dod i ben. / Finding made, no further action required and investigation discontinued.

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**CWYNION A GYFLWYNWYD I'R OMBWDSMON – "O" – AC YMCHWILIADAU A WNAED GANDDO YNGHYLCH  
CYNGHORWYR CYMUNEDOL A THREF - DIWEDDARIAD**

**UP TO DATE COMPLAINTS TO AND INVESTIGATIONS BY THE OMBUDSMAN – "O" - REGARDING  
TOWN AND COMMUNITY COUNCILLORS – UPDATE**

**PWYLLGOR SAFONAU – 14.09.2016 – STANDARDS COMMITTEE**

<b>Enw'r Cynghorydd</b>  <b>Name of Councillor</b>	<b>Enw'r Achwynydd</b>  <b>Name of Complainant</b>	<b>Cyfeirnod y Ffeil</b>  <b>File Reference</b>  <b>(i) Un ni/Ours</b> <b>(ii) "O"</b>	<b>Dyddiad y Gŵyn - "O"</b>  <b>Complaint date - "O"</b>	<b>Canlyniad Ymholiad "O" a'r dyddiad neu'r sefyllfa gyfredol</b>  <b>Result of "O" Investigation and date or the current situation</b>
Dim / Nil	Dim / Nil	Dim / Nil	Dim / Nil	Dim / Nil

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<b>CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>COMMITTEE:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>Adjudication Panel for Wales Findings 2013-2014, 2014-2015 and 2015-2016</b>
<b>PURPOSE OF REPORT:</b>	<b>To provide information on the matters given attention by the Adjudication Panel for Wales</b>
<b>REPORT BY:</b>	<b>Solicitor - Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Wyn Yaxley, <a href="mailto:mwyics@ynysmon.gov.uk">mwyics@ynysmon.gov.uk</a> 01248 752566</b>

## 1. INTRODUCTION AND BACKGROUND

The Adjudication Panel for Wales was formed as a result of the Local Government Act 2000 and it has two statutory roles:

- To form case tribunals or temporary case tribunals in order to consider Ombudsman reports following investigations into allegations that a member has failed to conform with their Authority's code of conduct; and
- To consider appeals by members against decisions made by local authority standards committees that they have breached the code of conduct (in addition to considering whether permission to appeal will be given in the first place).

This report includes the decisions made by the Adjudication Panel for Wales for the periods 2013-2014, 2014-2015 and 2015-2016 and is intended as a factual summary of the matters placed before the Adjudication Panel. It will not replace the report provided to the Committee when the Adjudication Panel considers a complaint relating to Anglesey County Council.

## 2. 2013-2014

Please note the contents of **Enclosure 1**.

### 2.1 Decisions made

12/07/2013 – Ceredigion County Council – APW/008/2012-013/CT

19/07/2013 – Flintshire County Council – APW/005/2010-011/CT

### 2.2 Appeals heard

15/05/2013 – Mumbles Community Council – APW/009/2012-013/AT

### 3. 2014-2015

Please note the contents of **Enclosure 2**.

#### 3.1 Decisions made

None

#### 3.2 Appeals heard

22/01/2015 – Sully and Lavernock Community Council – APW/001/2014-015/AT

### 4. 2015-2016

Please note the contents of **Enclosure 3**.

#### 4.1 Decisions made

13/08/2015 – Llanfihangel ar Arth Community Council – APW/002/2014-015/CT

11/03/2016 – Magor with Undy Community Council – APW/001/2015-016/CT

#### 4.2 Appeals heard

10/09/2015 – Isle of Anglesey County Council – APW/003/2014-15/AT



# ATODIAD / ENCLOSURE

1

**Crynodeb o'r Tribiwnlysoedd Achosion 2013-2014**  
**Summary of Cases in Tribunal 2013-2014**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr David Evans	<p>An allegation that Councillor Evans had breached Ceredigion County Council's Code of Conduct by claiming expenses he was not entitled to and had gained a financial advantage by over-stating his mileage and subsistence claims over a period of 11 years.</p> <p>The CPS advised the Police that no further action be taken.</p> <p>In accordance with Councillor Evans' wishes, no oral representations were made to the Tribunal and the decision was reached by way of written representations.</p>	Breach of paragraphs 6(1)(a), 7(a), 9(a) of the Code of Conduct	Disqualification for 3 months.	<p>The Tribunal found by unanimous decision that Mr Evans had failed to comply with the rules of the scheme and had wrongly over claimed for mileage claims, claimed mileage claims when he had not used his vehicle, made mileage claims when he had used another mode of transport and wrongly included a restaurant charge for his wife in his own expenses.</p> <p>Mr Evans was solely responsible for accurately completing his expense claim forms. Mr Evans was only entitled to submit claims in accordance with the scheme rules as they applied from time to time.</p>
Cllr Patrick Heesom	<p>An allegation that Councillor Heesom had breached Flintshire County Council's Code of Conduct by failing to show respect and consideration for officers of the Council; using bullying or harassing behaviour, attempting to compromise the impartiality of officers and, in so doing, conducting himself in a manner likely to bring his office or the Council into disrepute.</p> <p>Making threats towards officers such as</p>	Breach of paragraphs 4(a), 4(b), 6(i)(b) of the 2001 Code of Conduct, and paragraphs 4(b), 4(c) and 4(d) of the 2008 Code of Conduct	<p>Disqualification for 2 years and 6 months *</p> <p>(* appealed to the High Court where the disqualification was reduced to 18 months)</p>	<p>Councillor Heesom had failed to show respect and consideration for others and had used bullying behaviour towards officers.</p> <p>However, the case tribunal decision was appealed to the High Court. The High Court dismissed the appeal in respect of the case tribunal's findings on breach, save for 3 findings of breach that were quashed. The High Court reduced</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
	<p>“her days are numbered,” being confrontational and aggressive; trying to undermine officers such as “X is shit at her job.”</p> <p>The behaviour was noted on occasions between 14/02/2007 and 25/02/2009.</p>			<p>the sanction from a disqualification of 2 and a half years to 18 months.</p>

**Crynodeb o'r Tribiwnlysoedd Apêl 2013-2014**  
**Summary of Appeal Tribunals 2013-2014**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr John Cooper	<p>An appeal was submitted against the decision of the City and County of Swansea's Community and Town Council's Standards Sub-committee that the Councillor had breached Mumbles Community Council's Code of Conduct and should be suspended for a period of 18 weeks.</p> <p>The case involved allegations that the Councillor had breached paragraph 6(1)(a) of the Code of Conduct by making misleading statements about his personal assets to an Employment Tribunal when that Employment Tribunal was considering his liability for costs, and so he had misled the Employment Tribunal, thus bringing the office or authority into disrepute.</p>	Breach of paragraph 6(1)(a) of the Code of Conduct	The Appeal Tribunal unanimously decided to endorse the decision of the Standards Committee to suspend the Councillor for a period of 18 weeks.	<p>The Appeal Tribunal decided that Councillor Cooper had brought his office and authority into disrepute by his actions and the public were entitled and expect a higher standard of behaviour from elected members. The Appeal Tribunal considered the breach to be serious in that the Councillor had sought to mislead an Employment Tribunal and this went to the heart of his integrity.</p> <p>He was the owner of property and this was deemed to be an asset which he ought to have disclosed, despite the property being in negative equity.</p> <p>Councillor Cooper's argument that the Code did not apply as the Employment Tribunal proceedings was a civil matter unrelated to his role as councillor was not accepted.</p>

**ATODIAD / ENCLOSURE**

**2**

**Crynodeb o'r Tribiwnlysoedd Achosion 2014-2015**  
**Summary of Cases in Tribunal 2014-2015**

<b>Name</b>	<b>Summary of Facts</b>	<b>Relevant Provision of Code</b>	<b>Decision Summary</b>	<b>Findings</b>
No cases in Tribunal				

**Crynodeb o'r Tribiwnlysoedd Apêl 2014-2015**  
**Summary of Appeal Tribunals 2014-2015**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr Lino Scaglioni	<p>An appeal was submitted against the decision of the Vale of Glamorgan Standards Committee that the Councillor had breached the Sully and Lavernock Community Council's Code of Conduct and should be suspended for a period of six months.</p> <p>The case involved allegations that the Councillor had breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct by failing to show respect and consideration to another councillor. Councillor Scaglioni was alleged to have sent emails that referred to the other councillor in derogatory terms, to other members of the community council and a member of the public. It was also alleged that his conduct brought the office into disrepute.</p> <p>In accordance with Councillor Scaglioni's wishes, no oral representations were made to the Tribunal and the decision was reached by way of written representations.</p>	Breach of paragraphs 4(b) and 6(i)(a) of the Code of Conduct	Unanimous decision to overturn the determination of the Vale of Glamorgan Standards Committee; there was not a failure to comply with the community council's code of conduct	<p>Councillor Scaglioni had sent 4 emails that contained comments about Councillor Mahoney</p> <ul style="list-style-type: none"> <li>• An email from Councillor Scaglioni to Councillor Mahoney, marked private and begins 'Kevin' and ends 'Lino', from Sully Residents Association email account, was deemed to have been sent in a private capacity.</li> <li>• Another email sent from the Sully Residents Association email account, but began 'Councillor Mahoney' and signed 'Lino Scaglioni' and referring to conduct of council business, and widely circulated to other council members, was deemed to have been sent in an official capacity</li> </ul> <p>The Tribunal considered whether the emails attracted protection under Article 10 of the ECHR (comments of a political nature). When discussing Councillor Mahoney's abilities and achievements as a councillor, and conduct as a council, it was deemed to be political comments.</p> <p>Councillor Mahoney was also a county councillor as well as a</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
				<p>community councillor and the Tribunal commented that he should be used to confrontational exchanges of views.</p> <p>Preventing Councillor Mahoney from being able to communicate with the clerk of the council was not a failure to show respect, but because it was deemed that Councillor Mahoney could be 'difficult' at times, it was decided to be a genuine attempt to protect the clerk from inappropriate emails.</p>



**ATODIAD / ENCLOSURE**

**3**

**Crynodeb o'r Tribiwnlysoedd Achosion 2015-2016**  
**Summary of Cases in Tribunal 2015-2016**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Cllr Paul Cawley	An allegation that Councillor Cawley had breached the Magor with Undy Community Council Code of Conduct by not declaring an interest or leaving the meetings whilst the clerk's remuneration package was considered. Councillor Cawley and the clerk were in a relationship and later married (some 6 months later).	Breach of paragraphs 6(1)(a) and 14(1)(a) of the Code of Conduct	<p>Unanimous decision that Councillor Cawley should be suspended for a period of 3 months.</p> <p>Recommendation made to the Magor with Undy Community Council that before returning to office Councillor Cawley undertakes further training.</p>	<p>The Ombudsman did not suggest that Councillor Cawley had improperly used his position to gain an advantage, but him remaining in the meeting to discuss the clerk's remuneration package, in light of his impending marriage, was damaging to the public confidence in the Council. The Councillor should have declared a personal and prejudicial interest and left the meeting. The fact the councillor and the clerk were not living together at the time was immaterial – it was the fact that they had been in a relationship for a number of months and were engaged to be married.</p> <p>The meeting involved the clerk's remuneration package and a substantial increase was being considered. Councillor Cawley's interest was one that would affect public perception of his ability to make a decision as a substantial increase was being considered and so a significant benefit for his future wife.</p> <p>Councillor Cawley had an interest in the matter being discussed and</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
				<p>should have left the room to ensure that no criticism of the process could be made.</p> <p>In remaining in the meeting he may have given the impression of impropriety to the public regardless of any complaints made. The test is not whether Councillor Cawley would take the decision without prejudice but whether he would be seen as doing so. The complaint by a member of the public reinforces the fact that councillor Cawley's actions had an adverse impact on the reputation of the authority and its probity in decision making.</p>
Councillor Haulwen Lewis	<p>An allegation that Councillor Lewis had breached Llanfihangel ar Arth Community Council's Code of Conduct by failing to declare a personal and prejudicial interest at a meeting of the Community Council during which a planning application for a wind farm on land adjacent to a farm she owns was considered and a secret ballot held in order to decide whether the Community Council would support or oppose the application.</p> <p>The Councillor had entered into a binding option contract under which she stood to receive from the wind farm</p>	Breach of paragraphs 10(1), 10(2), 11(1), 14(1), 15(1) and 15(2) of the Code of Conduct	Suspension for a period of 3 months.	<p>Councillor Lewis had ignored the opportunity to declare an interest on three separate occasions during the meeting.</p> <p>This was deemed to be a grave error of judgment and she had compounded her error by refusing to accept her difficulties in the "wholly unreasonable way that she conducted her response to the complaint, the Ombudsman's findings and the proceedings before the Tribunal".</p> <p>The Tribunal considered that a</p>

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
	<p>operator a sum approaching one million pounds over the subsequent 30 years. The Councillor and her husband had been paid £25,000 for entering into the option agreements.</p> <p>The Councillor did not declare an interest. The Councillor did not withdraw; she took part in the ballot by voting to abstain.</p> <p>A confidentiality clause in the Option Agreement was not enough for her as a serving councillor not to disclose the existence of the agreement at the meeting.</p>			<p>suspension of 6 months would be justified, but in considering the Councillor's rights under Article 10 of the ECHR, the sanction was reduced in half.</p>

**Crynodeb o'r Tribiwnlysoedd Apêl 2015-2016**  
**Summary of Appeal Tribunals 2015-2016**

Name	Summary of Facts	Relevant Provision of Code	Decision Summary	Findings
Councillor Peter Rogers	<p>An appeal was submitted against the decision of the Isle of Anglesey County Council's Standards Committee that he had breached the Isle of Anglesey Code of Conduct and should be suspended for a period of 1 month.</p> <p>The case involved the sale of land in which Councillor Rogers failed to declare a close personal association with the prospective purchaser of the land when communicating with officers of the Council and he had misused his position of member to gain an advantage for the prospective purchaser.</p> <p>Mr Rogers and Mr Geal had known each other for 40 years; they are friends and would see each other almost daily as they lived on neighbouring farms and Mr Geal's daughter is married to Mr Rogers' son.</p>	Breach of paragraph 10(1), 11(1), 11(2)(a) and 11(4) of the Code of Conduct	Unanimous decision to refer the matter back to the Standards Committee with a recommendation that Councillor Rogers should be suspended for 3 months	<p>Mr Rogers' and Mr Geal's relationship did constitute a close association within the meaning of the Code.</p> <p>Mr Rogers was acting in his official capacity which was confirmed by his statement "you will fully understand my role which is as a Councillor".</p> <p>The removal of a restrictive covenant and replacement with an overage clause, as suggested by Mr Rogers, led to Mr Geal successfully concluding the land transaction without any restrictions placed upon the usage.</p> <p>The breaches of the Code of Conduct occurred over a protracted period of time between March 2012 and August 2013.</p> <p>The original suspension was for a period of 1 month. The APW's recommendation increased it to 3 months.</p>

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CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>North Wales Standards Committee Forum – Meeting 17.10.16</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To provide details on the next meeting of the North Wales Standards Committee Forum</b>
<b>REPORT BY:</b>	<b>Solicitor – Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Wyn Yaxley; <a href="mailto:mwyics@ynysmon.gov.uk">mwyics@ynysmon.gov.uk</a>; 01248 752566</b>

### 1. INTRODUCTION & BACKGROUND

The North Wales Standards Committee Forum is a collective of all the Chairs and Vice Chairs of all North Wales Standards Committees and their representatives from unitary authorities, Fire and Rescue Service and Snowdonia National Park.

### 2. NEXT MEETING OF THE FORUM

The next meeting of the North Wales Standards Committee Forum is scheduled on Monday 17<sup>th</sup> October 2016 and will be held in Committee Room 1 of the Isle of Anglesey County Council offices in Llangefni. The meeting is arranged to start at 11:00a.m. with tea/coffee from 10:30a.m.

Nick Bennett, the Public Services Ombudsman for Wales, will be in attendance at this meeting. He will be giving a presentation on 'Local Resolution' and will thereafter participate in a question-and-answer session.

In light of the Ombudsman's attendance and the meeting being held in Anglesey, the other members of the Forum have agreed that the invitation to attend the meeting be extended to include all members of this Authority's Standards Committee.

### 3. PREPARATORY WORK

If members of the Standards Committee wish to attend the meeting on 17<sup>th</sup> October, please confirm your attendance with Mared Yaxley on [mwyics@ynysmon.gov.uk](mailto:mwyics@ynysmon.gov.uk) or 01248 752566.

As noted, the Ombudsman's presentation will be on 'Local Resolution'. By way of background, I attach, at **Enclosure 1**, this Council's Local Resolution Protocol. The attached Local Resolution Protocol has been developed locally following guidance issued by the Public Services Ombudsman for Wales. The Ombudsman indicated its expectation that a procedure to address low level complaints of breaches of the Code of Conduct be adopted by all Local Authorities in Wales. There is no standard Protocol nor any guidance which provides any detail in terms of what should be included in the Local Resolution Protocol and

so each local authority's Local Resolution Protocol is potentially different. Members' compliance with the Self-Regulatory Protocol is voluntary.

If members of the Standards Committee would like to ask any questions to the Ombudsman at the meeting, please send them to Mared Yaxley by Tuesday 4<sup>th</sup> October 2016. Of course, any questions arising from the Presentation will be on an ad-hoc basis.

#### **4. RECOMMENDATION**

- A. To note this report and the invitation to attend the next meeting of the North Wales Standards Committee Forum with the Public Services Ombudsman for Wales on Monday 17<sup>th</sup> October 2016 at 11:00a.m. in Committee Room 1, The Isle of Anglesey County Council, Llangefni.
- B. To confirm attendance at the North Wales Standards Committee Forum's meeting on 17.10.2016 with Mared Yaxley on [mwyics@ynysmon.gov.uk](mailto:mwyics@ynysmon.gov.uk) or 01248 752566 as soon as possible.
- C. To forward any questions to the Ombudsman at the North Wales Standards Committee Forum's meeting on 17.10.2016 to Mared Yaxley on [mwyics@ynysmon.gov.uk](mailto:mwyics@ynysmon.gov.uk) by Tuesday 4<sup>th</sup> October 2016.



**ATODIAD / ENCLOSURE**

**1**

# 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.

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<b>CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>Amendment to the Standards Committee's Constitution</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To approve the amended document at Enclosure 1</b>
<b>REPORT BY:</b>	<b>Solicitor – Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Wyn Yaxley – <a href="mailto:mwyics@ynysmon.gov.uk">mwyics@ynysmon.gov.uk</a> 01248 752566</b>

### **1. INTRODUCTION & BACKGROUND**

At its meeting on 12 May 2016 the Standards Committee resolved to reduce the number of ordinary meetings from 4 to 2 per annum.

The Constitution of the Standards Committee has been reviewed. This does not refer to the number of the Standards Committee meetings to be held in any one year. However, it is deemed desirable for the Constitution of the Standards Committee to be amended to reflect this arrangement.

**Enclosure 1** shows the Constitution of the Standards Committee of the Isle of Anglesey County Council as established in accordance with Part III of the Local Government Act 2000 with the proposed additional wording included in red text.

### **2. STATUTORY REQUIREMENTS**

The statutory requirement is that Standards Committees must meet at least once every year. The Standards Committee for this Council believes it would be a better use of resources to reduce the number of ordinary meetings of the Standards Committee from 4 to 2 per annum, which is still above the statutory minimum.

Extraordinary meetings of the Standards Committee will also be called to ensure compliance with any statutory obligations and informal meetings are to continue as business demands.

### **3. CONSTITUTIONAL REQUIREMENTS**

An amendment to the Council's Constitution must be made by the Council. However, as the changes to **Enclosure 1** do not include amendments to the Council's Constitution, the Council's consent is not required, although the proposal has been presented to Council by the Chair of the Standards Committee and was supported at a meeting of the Council's group leaders.

An amendment to the workings of the Standards Committee can be made by the Standards Committee itself.

#### **4. ACTION REQUIRED**

To amend the Constitution of the Standards Committee of the Isle of Anglesey County Council as established in accordance with Part III of the Local Government Act 2000, so as to include details of the frequency of meetings and other consequential updates and changes as noted in **Enclosure 1**.

#### **5. RECOMMENDATION**

- A. To note the contents of this report.
- B. To resolve to adopt the Constitution of the Standards Committee of the Isle of Anglesey County Council as established in accordance with Part III of the Local Government Act 2000 with the annotated amendments noted in **Enclosure 1**.
- C. To consider whether any further amendments / additions are required to **Enclosure 1**.
- D. To publish the amended Constitution of the Standards Committee, together with all enclosures, on the Council's website.

**ATODIAD / ENCLOSURE**

**1**

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

**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 Committee Member' - a member of the Standards Committee who is also a member of a community council within the area of the Authority, such members are excluded from the term 'Independent Member'.

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

'Councillor' - an elected member of the Authority including co-opted members as defined by section 49(7) of the Local Government Act 2000.

'Independent Member' - a Member of the Standards Committee who 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.

'Member' - a member of the Standards Committee.

'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 Community Councils and members of these Community 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 or recommendations made by the Monitoring Officer 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 [Commissioner for Local Administration in Wales](#); [Public Services Ombudsman for Wales](#).

2.8 To follow the Procedure for Hearings, detailed in **Enclosure 1** to this Constitution.

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2.89 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 allow 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.

2.910 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.

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

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

~~2.12 To consider any complaints which had been submitted for consideration by but not conclusively dealt with by the Council's former Standards Committee established prior to the coming into effect of the provisions of Part III of the Local Government Act 2000 in relation to Standards Committees. In considering such complaints to follow the procedures and where it considers it appropriate to pursue the sanctions contained in the constitution of the former Standards Committee as confirmed by the Council on the 30th November 1999.~~

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

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### Reporting

Enclosure 1

~~2.13 In so far as the Standards Committee is required to make recommendations to the Authority they shall be made direct to the Council.~~

**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, MINUTES, TRANSITIONAL ARRANGEMENTS**

3.1 The provisions of the Standards Committees (Wales) Regulations 2001 and Standards Committees (Wales) (Amendment) Regulations 2006 (copies attached at Enclosures 3 and 4 respectively) regulate the above matters subject to the following adaptations which have been agreed by the Authority:

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Regulation 3    Size of Standards Committee  
                    Independent Members (5)  
                    Community Committee Members (2)  
                    County Councillors (2)

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 20   Terms of Office of Independent Members – Two consecutive four year terms  
  
                    Term of Office of Community Committee Member – Four years (unless re-appointed for a further consecutive four year term) or ceases to be Community Councillor

(Note: ~~The Authority has also determined that the Terms of Office for Community Committee Members on the Standards Committee should be the same as those applicable to County Council members of the Committee, save that the~~ Community Council member shall only sit on the Standards Committee when it is discharging functions in relation to Community Councils and Community Council Members. The Community Council Members may be appointed for no longer than two consecutive four year terms.)

~~3.2 The Council's Head of the Paid Service shall determine who shall act as clerk to the Standards Committee.~~

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.

#### **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 Member. Any member who is canvassed will report the matter immediately to the Monitoring Officer.
- 4.3 If a complaint is made by a Member or a person connected with a Member then that Member 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 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 Committee Members shall be paid such allowances as may from time to time be approved by the Authority.

#### **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 5 to this Constitution.

**ATODIAD / ENCLOSURE**

**1**

# Isle of Anglesey County Council

## Standards Committee

### Procedure for Local Standards Hearings

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#### **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 no 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 witnesses<sup>1</sup>, 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:

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<sup>1</sup> 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 quorate<sup>2</sup>

(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

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<sup>2</sup> 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.



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 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.<sup>3</sup>

### **(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

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<sup>3</sup> 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.

Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any 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 in private whether the Member did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
- (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.<sup>4</sup>

- (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 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).

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<sup>4</sup> 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;  
(iv) suspension of the Member for a period up to a maximum of six months.

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 as soon as the period for appeal has passed, or any appeal has been decided, whichever is later, immediately 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.

**14 Appeals.**

The Member may appeal against the decision of the Standards Committee by writing to the President of the Adjudication Panel for Wales, ensuring that his letter sets out the grounds for such an appeal, includes a statement as to whether or not he consents to the appeal being heard by way of written representations, and is received by the President within 21 days of the date of the written notice of decision.

Details of case and reference number .....

# FORM A

## Subject Member's response to the evidence set out in the investigation report

Please enter the number of any paragraph in the investigation report where you disagree with the findings of fact, and give your reasons and your suggested alternative.

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Paragraph number from the investigation report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read




Details of case and reference number .....

## FORM B

### Other evidence relevant to the complaint

Please set out below, using the numbered paragraphs, any evidence you feel is relevant to the complaint made about you.

Paragraph number	Details of the evidence
<b>1</b>	
<b>2</b>	
<b>3</b>	
<b>4</b>	

<b>5</b>	
<b>6</b>	
<b>7</b>	
<b>8</b>	
<b>9</b>	
<b>10</b>	

Details of case and reference number .....

# FORM C

## **Representations to be taken into account if a Member is found to have failed to follow the Code of Conduct**

**Only complete this form if you agree with the findings in the investigation report that you failed to comply with the Code of Conduct**

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that you failed to follow the Code of Conduct. Please note that no such finding has been made yet.

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<b>Paragraph number</b>	<b>Factors for the Standards Committee to take into account when deciding whether to censure, suspend, or partially suspend</b>
<b>1</b>	
<b>2</b>	
<b>3</b>	

<b>4</b>	
<b>5</b>	
<b>6</b>	
<b>7</b>	
<b>8</b>	
<b>9</b>	
<b>10</b>	

Details of case and reference number .....

# FORM D

## Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

<b>1</b>	Are you planning to attend the Standards Committee hearing on the proposed date in the accompanying letter?  If 'No', please explain why.	Yes <input type="checkbox"/>  No <input type="checkbox"/>	Reason:
<b>2</b>	Are you going to present your own case?	Yes <input type="checkbox"/>  No <input type="checkbox"/>	
<b>3</b>	If you are not presenting your own case, will a representative present it for you?  If 'Yes', please state the name of your representative.	Yes <input type="checkbox"/>  No <input type="checkbox"/>	Name:
<b>4</b>	Is your representative a practising Solicitor or Barrister?  If 'Yes', please give their legal qualifications. Then go to <b>Question 6</b> .  If 'No' please go to <b>Question 5</b> .	Yes <input type="checkbox"/>  No <input type="checkbox"/>	Qualifications:

<p><b>5</b></p>	<p>Does your representative have any connection with your case?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p><b>6</b></p>	<p>Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
<p><b>7</b></p>	<p>Do you, your representative or your witnesses have any access difficulties or any other needs? (e.g. is wheelchair access needed?)</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p><b>8</b></p>	<p>Do you, your representative or witnesses need an interpreter?</p> <p>If 'Yes' please give details</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p><b>9</b></p>	<p>Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>
<p><b>10</b></p>	<p>Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>

Details of case and reference number .....

# FORM E

## Details of witnesses you propose to call:

Name of witness or witnesses	1		
	2		
	3		
	4		
	5		
	6		
	7		
	8		
	9		
	10		
<b>Witness 1</b>			
<b>a</b>	Will the witness give evidence about the allegation?  If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/>  No <input type="checkbox"/>	Outline of evidence:

<p><b>b</b></p>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>
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**Witness 2**

<p><b>a</b></p>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>
<p><b>b</b></p>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>



### Witness 3

<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
<b>b</b>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:

## Witness 4

<b>a</b>	Will the witness give evidence about the allegation?  If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/>  No <input type="checkbox"/>	Outline of evidence:
<b>b</b>	Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?  If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/>  No <input type="checkbox"/>	Outline of evidence:

## Witness 5

<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
<b>b</b>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:

## Witness 6

<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
<b>b</b>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:

## Witness 7

<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
<b>b</b>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:

## Witness 8

<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
<b>b</b>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:

## Witness 9

<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
<b>b</b>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:

## Witness 10

<b>a</b>	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
<b>b</b>	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:



**ATODIAD / ENCLOSURE**

**2**

# 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.

**ATODIAD / ENCLOSURE**

**3**



**CYNULLIAD CENEDLAETHOL CYMRU**

**NATIONAL ASSEMBLY FOR WALES**

**OFFERYNNAU STATUDOL**

**STATUTORY INSTRUMENTS**

**2001 Rhif 2283 (Cy.172)**

**2001 No. 2283 (W.172)**

**LLYWODRAETH LEOL,  
CYMRU**

**LOCAL GOVERNMENT,  
WALES**

**Rheoliadau Pwyllgorau Safonau  
(Cymru) 2001**

**The Standards Committees (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)*

Mae Rhan III o Ddeddf Llywodraeth Leol 2000 ("y Ddeddf") yn gwneud darpariaeth mewn perthynas ag ymddygiad aelodau a chyflogeion llywodraeth leol.

Part III of the Local Government Act 2000 ("the Act") makes provision with respect to the conduct of local government members and employees.

Mae adran 53(1) o'r Ddeddf yn ei gwneud yn ofynnol i bob awdurdod perthnasol, sydd, yng Nghymru, yn cynnwys cynghorau sir a chynghorau bwrdeistref sirol, awdurdodau tân, awdurdodau Parciau Cenedlaethol ac awdurdodau heddlu ond nid cynghorau cymuned, sefydlu pwyllgor safonau sydd i gael y swyddogaethau a roddir iddo gan neu o dan y Rhan honno o'r Ddeddf.

Section 53(1) of the Act requires every relevant authority, which in Wales includes county and county borough councils, fire authorities, National Park authorities and police authorities but not community councils, to establish a standards committee which is to have the functions conferred on it by or under that Part of the Act.

O dan adran 53(11) o'r Ddeddf, caiff Cynulliad Cenedlaethol Cymru wneud darpariaeth drwy reoliadau ynghylch (ymhlith pethau eraill) maint, aelodaeth a thrafodion pwyllgorau safonau awdurdodau perthnasol yng Nghymru, heblaw awdurdodau heddlu, a maint, aelodaeth a thrafodion unrhyw is-bwyllgorau a sefydlir o dan adran 56 o'r Ddeddf.

Under section 53(11) of the Act, the National Assembly for Wales may by regulations make provision as to (among other things) the size, composition and proceedings of standards committees of relevant authorities in Wales, other than police authorities, and of any sub-committees established under section 56 of the Act.

Mae rheoliadau 3, 4, 5, 6, 7, 8, 9, 10 ac 11 yn gwneud darpariaeth mewn perthynas â maint ac aelodaeth pwyllgor ac is-bwyllgorau safonau ac mae rheoliad 12 yn darparu nad oes unrhyw ofyniad ynghylch cydbwysedd gwleidyddol i fod yn gymwys iddynt.

Regulations 3, 4, 5, 6, 7, 8, 9, 10 and 11 make provision with respect to the size and composition of standards committees and sub-committees and Regulation 12 provides that no requirement of political balance is to apply to them.

Mae rheoliadau 13, 14, 15, 16 a 17 yn darparu ar gyfer penodi aelodau annibynnol i bwyllgorau ac is-bwyllgorau safonau.

Regulations 13, 14, 15, 16 and 17 provide for the appointment of independent members to standards committees and sub-committees.

Mae rheoliadau 18, 19, 20 ac 21 yn gwneud darpariaeth mewn perthynas â chyfnod swydd aelodau pwyllgorau ac is-bwyllgorau safonau a'u hailbenodi.

Regulations 18, 19, 20 and 21 make provision with respect to the term of office and re-appointment of members of standards committees and sub-committees.

Mae rheoliadau 22 a 23 yn gwneud darpariaeth mewn perthynas â swydd cadeirydd ac is-gadeirydd pwyllgor neu is-bwyllgor safonau ac mewn perthynas â phleidleisio mewn cyfarfodydd.

Regulations 22 and 23 make provision with respect to the office of chairperson and vice-chairperson of a standards committee or sub-committee and with respect to voting at meetings.

Mae rheoliadau 24 a 25 yn gwneud darpariaeth mewn perthynas â Chworwm yng nghyfarfodydd pwyllgorau ac is-bwyllgorau safonau, mynychder y cyfarfodydd a phresenoldeb swyddog monitro'r awdurdod neu gynrychiolydd i'r swyddog monitro.

Regulations 24 and 25 make provision with respect to a Quorum at meetings of standards committees and sub-committees, the frequency of meetings and the attendance of the authority's monitoring officer or a representative of the monitoring officer.

Mae rheoliad 26 yn cymhwyso, gydag addasiadau, ddarpariaethau penodol Rhan VA o Ddeddf Llywodraeth Leol 1972 at bwyllgorau ac is-bwyllgorau safonau.

Regulation 26 applies, with modifications, certain provisions of Part VA of the Local Government Act 1972 to standards committees and sub-committees.

Mae rheoliadau 28 a 29 yn gwneud darpariaeth mewn perthynas â chadw cofnod o'r trafodion ac mewn perthynas â chylch gwaith pwyllgorau ac is-bwyllgorau safonau.

Regulations 28 and 29 make provision with respect to the keeping of a record of the proceedings and with respect to terms of reference of standards committees and sub-committees.

Mae rheoliad 30 yn gwneud darpariaeth mewn perthynas â threfniadau trosiannol ynghylch penodi aelodau annibynnol i bwyllgorau ac is-bwyllgorau safonau.

Regulation 30 makes provision with respect to transitional arrangements regarding the appointment of independent members to standards committees and sub-committees.

**2001 Rhif 2283 (Cy.172)****2001 No. 2283 (W.172)****LLYWODRAETH LEOL,  
CYMRU****LOCAL GOVERNMENT,  
WALES****Rheoliadau Pwyllgorau Safonau  
(Cymru) 2001****The Standards Committees (Wales)  
Regulations 2001**

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

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

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd iddo gan adrannau 53(11) a (12), 56(5) a 105(1) a (2) o Ddeddf Llywodraeth Leol 2000(a).

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred upon it by sections 53(11) and (12), 56(5) and 105(1) and (2) of the Local Government Act 2000(a).

**Enwi, cychwyn a chymhwyso****Citation, commencement and application**

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

1.-(1) These Regulations may be cited as the Standards Committees (Wales) Regulations 2001 and shall come into force on 28 July 2001.

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

(2) These Regulations apply to Wales only.

**Dehongli****Interpretation**

2. Yn y Rheoliadau hyn -

2. In these Regulations -

ystyr "aelod" ("*member*"), oni fydd y cyd-destun yn mynnu fel arall, yw -

"the 1972 Act" ("*Deddf 1972*") means the Local Government Act 1972(b);

(a) yn achos awdurdod lleol, aelod etholedig o'r awdurdod hwnnw, a

"the 2000 Act" ("*Deddf 2000*") means the Local Government Act 2000;

(b) yn achos awdurdod Parc Cenedlaethol neu awdurdod tân aelod a benodir i'r awdurdod hwnnw naill ai -

"alternative arrangements" ("*trefniadau amgen*") means arrangements specified in regulations made by the National Assembly for Wales under section 32(1) of the 2000 Act;

(i) o dan Orchymyn Awdurdodau Parciau Cenedlaethol (Cymru) 1995, neu

"board" ("*bwrdd*") has the meaning given to it by the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001(c);

(ii) o dan unrhyw un o'r Gorchmynion Gwasanaethau Tân;

"chairperson" ("*cadeirydd*") for the purposes of regulation 8(3) includes -

ystyr "aelod annibynnol" ("*independent member*") yw aelod o bwyllgor safonau nad yw -

(a) yn aelod,

(b) yn swyddog, neu

(c) yn briod ag aelod neu swyddog

(a) a chairman elected under paragraph 5 of Schedule 3 to the National Park Authorities (Wales) Order 1995(d), and

(a) 2000 p.22.

(a) 2000 c.22.

(b) 1972 c.70.

(c) S.I. 2001/2284 (W.173).

(d) S.I. 1995/2803.

o'r awdurdod perthnasol o dan sylw, unrhyw awdurdod pethnasol arall, na chyngor cymuned;

ystyr "aelod panel" ("*panel member*") yw aelod o banel a sefydlwyd o dan reoliad 15;

ystyr "aelod panel lleyg" ("*lay panel member*") yw aelod o banel a sefydlir o dan reoliad 15 -

- (a) nad yw, ac nad yw wedi bod, yn aelod, yn aelod cyfetholedig nac yn swyddog, neu
- (b) nad yw'n briod i aelod neu swyddog

o'r awdurdod perthnasol o dan sylw, unrhyw awdurdod perthnasol arall na chyngor cymuned;

ystyr "aelod pwyllgor cymunedol" ("*community committee member*") yw aelod o bwyllgor safonau sy'n aelod hefyd o gyngor cymuned yn ardal yr awdurdod perthnasol o dan sylw;

ystyr "awdurdod lleol" ("*local authority*") yw cyngor sir neu gyngor bwrdeistref sirol;

ystyr "awdurdod Parc Cenedlaethol" ("*National Park authority*") yw awdurdod Parc Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995(a);

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

- (a) cyngor sir,
- (b) cyngor bwrdeistref sirol,
- (c) awdurdod Parc Cenedlaethol, ac
- (ch) awdurdod tân;

ystyr "awdurdod tân" ("*fire authority*") yw awdurdod tân a gyfansoddwyd trwy gynllun cyfuno o dan Ddeddf Gwasanaethau Tân 1947(b);

mae i "bwrdd" ("*board*") yr ystyr a roddir iddo gan Reoliadau Awdurdodau Lleol (Trefniadau Amgen) (Cymru) 2001(c);

mae "cadeirydd" ("*chairperson*"), at ddibenion rheoliad 8(3), yn cynnwys -

- (a) cadeirydd a etholir o dan baragraff 5 o Atodlen 3 i Orchymyn Awdurdodau Parciau Cenedlaethol (Cymru) 1995(ch), a
- (b) cadeirydd a etholir o dan baragraff 17 o Ran III o'r Atodlen i unrhyw un o'r Gorchymynion Gwasanaethau Tân;

ystyr "Deddf 1972" ("*the 1972 Act*") yw Deddf Llywodraeth Leol 1972(d);

ystyr "Deddf 2000" ("*the 2000 Act*") yw Deddf Llywodraeth Leol 2000;

mae "dirprwy gadeirydd" ("*deputy chairperson*") yn

(b) a chairman elected under paragraph 17 of Part III of the Schedule to any of the Fire Services Orders;

"community committee member" ("*aelod pwyllgor cymunedol*") means a member of a standards committee who is also a member of a community council within the area of the relevant authority concerned;

"deputy chairperson" ("*dirprwy gadeirydd*") includes -

- (a) a deputy chairman elected under paragraph 5 of Schedule 3 to the National Park Authorities (Wales) Order 1995, and
- (b) a vice-chairman elected under paragraph 17 of Part III of the Schedule to any of the Fire Services Orders;

"executive arrangements" ("*trefniadau gweithrediaeth*") means arrangements by a local authority -

- (a) for and in connection with the creation and operation of an executive of the authority, and
- (b) under which certain functions of the authority are the responsibility of the executive;

"fire authority" ("*awdurdod tân*") means a fire authority constituted by a combination scheme under the Fire Services Act 1947(a);

"the Fire Services Orders" ("*y Gorchymynion Gwasanaethau Tân*") means -

- (a) The North Wales Fire Services (Combination Scheme) Order 1995(b),
- (b) The Mid and West Wales Fire Services (Combination Scheme) Order 1995(c), and
- (c) The South Wales Fire Services (Combination Scheme) Order 1995(d);

"independent member" ("*aelod annibynnol*") means a member of a standards committee who is not -

- (a) a member,
- (b) an officer, or
- (c) the spouse of a member or an officer

of the relevant authority concerned, any other relevant authority, or a community council.

"lay panel member" ("*aelod panel lleyg*") means a member of a panel established under regulation 15 who-

- (a) is not and has not been a member, co-opted member or officer, or
- (b) is not the spouse of a member or an officer

(a) 1995 p.25.

(b) 1947 p.41.

(c) O.S. 2001/2284 (Cy.173).

(ch) O.S. 1995/2803.

(d) 1972 p.70.

(a) 1947 c.41.

(b) S.I. 1995/3218.

(c) S.I. 1995/3229.

(d) S.I. 1995/3230.



cynnwys -

- (a) dirprwy gadeirydd a etholir o dan baragraff 5 o Atodlen 3 i Orchymyn Awdurdodau Parciau Cenedlaethol (Cymru) 1995, a
- (b) is-gadeirydd a etholir o dan baragraff 17 o Ran III o'r Atodlen i unrhyw un o'r Gorchymynion Gwasanaethau Tân;

ystyr "y Gorchymynion Gwasanaethau Tân" ("*the Fire Service Orders*") yw -

- (a) Gorchymyn Gwasanaethau Tân Gogledd Cymru (Cynllun Cyfuno) 1995(a),
- (b) Gorchymyn Gwasanaethau Tân Canolbarth a Gorllewin Cymru (Cynllun Cyfuno) 1995(b), ac
- (c) Gorchymyn Gwasanaethau Tân De Cymru (Cynllun Cyfuno) 1995(c);

ystyr "gweithrediaeth arweinydd a chabinet" ("*leader and cabinet executive*") yw'r math o drefniadau gweithrediaeth a bennir yn adran 11(3) o Ddeddf 2000;

ystyr "gweithrediaeth maer a chabinet" ("*mayor and cabinet executive*") yw'r math o drefniadau gweithrediaeth a bennir naill ai -

- (a) yn adran 11(2), neu
- (b) yn adran 11(4) o Ddeddf 2000;

ystyr "is-bwyllgor i bwyllgor safonau" ("*sub-committee of a standards committee*") yw is-bwyllgor a benodir gan bwyllgor safonau awdurdod lleol o dan adran 56 o Ddeddf 2000;

ystyr "pwyllgor safonau" ("*standards committee*"), oni fydd y cyd-destun yn mynnu fel arall, yw pwyllgor safonau awdurdod perthnasol ac mae'n cynnwys is-bwyllgor i bwyllgor safonau;

mae i "swyddog priodol" yr ystyr a roddir i "*proper officer*" gan adran 270(3) o Ddeddf 1972;

ystyr "trefniadau amgen" ("*alternative arrangements*") yw'r trefniadau a bennir mewn rheoliadau a wneir gan Gynulliad Cenedlaethol Cymru o dan adran 32(1) o Ddeddf 2000;

ystyr "trefniadau gweithrediaeth" ("*executive arrangements*") yw trefniadau gan awdurdod lleol -

- (a) ar gyfer creu a gweithredu gweithrediaeth i'r awdurdod ac mewn cysylltiad â hynny, a
- (b) y mae swyddogaethau penodol i'r awdurdod yn gyfrifoldeb i'r weithrediaeth o danynt.

of the relevant authority concerned, any other relevant authority or a community council;

"leader and cabinet executive" ("*gweithrediaeth arweinydd a chabinet*") means the form of executive arrangements specified in section 11(3) of the 2000 Act;

"local authority" ("*awdurdod lleol*") means a county or county borough council;

"mayor and cabinet executive" ("*gweithrediaeth maer a chabinet*") means the form of executive arrangements specified in either -

- (a) section 11(2), or
- (b) section 11(4)

of the 2000 Act;

"member" ("*aelod*"), unless the context otherwise requires, means -

- (a) in the case of a local authority, an elected member of that authority, and
- (b) in the case of a National Park authority or fire authority a member appointed to that authority under either -
  - (i) the National Park Authorities (Wales) Order 1995, or
  - (ii) any of the Fire Services Orders;

"National Park authority" ("*awdurdod Parc Cenedlaethol*") means a National Park authority established under section 63 of the Environment Act 1995(a);

"panel member" ("*aelod panel*") means a member of a panel established under regulation 15.

"proper officer" ("*swyddog priodol*") has the meaning given by section 270(3) of the 1972 Act;

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

- (a) a county council,
- (b) a county borough council,
- (c) a National Park authority, and
- (d) a fire authority;

"standards committee" ("*pwyllgor safonau*"), unless the context otherwise requires, means a standards committee of a relevant authority and includes a sub-committee of a standards committee;

"sub-committee of a standards committee" ("*is-bwyllgor i bwyllgor safonau*") means a sub-committee appointed by a standards committee of a local authority under section 56 of the 2000 Act.

(a) O.S. 1995/3218.

(b) O.S. 1995/3229.

(c) O.S. 1995/3230.

(a) 1995 c.25.

### Maint pwyllgorau safonau

3. Rhaid i bwyllgor safonau gynnwys nid llai na phump ac nid mwy na naw o aelodau.

### Aelodaeth pwyllgorau safonau

4. Rhaid i aelodaeth pwyllgor safonau beidio â chynnwys personau heblaw -

- (a) personau sy'n aelodau o'r awdurdod perthnasol o dan sylw,
- (b) aelodau annibynnol, neu
- (c) aelodau pwyllgor cymunedol.

5.-(1) Os yw cyfanswm aelodau pwyllgor safonau yn eilrif, rhaid i o leiaf hanner y rhif hwnnw fod yn aelodau annibynnol.

(2) Os yw cyfanswm aelodau pwyllgor safonau yn odrif, rhaid i'r mwyafrif o'r rhif hwnnw fod yn aelodau annibynnol.

6.-(1) Rhaid i berson sydd wedi bod yn aelod o un neu ragor o awdurdodau perthnasol, ond nad yw'n aelod mwyach, beidio â bod yn aelod annibynnol o bwyllgor safonau unrhyw awdurdod perthnasol yr oedd y person hwnnw yn aelod ohono.

(2) Yn ddarostyngedig i reoliad 16(2), caiff person sydd wedi bod yn aelod o un neu ragor o awdurdodau perthnasol, ond nad yw'n aelod mwyach, ar ôl y cyfnod o ddeuddeng mis sy'n dechrau gyda'r dyddiad y peidiodd y person hwnnw â bod yn aelod o unrhyw awdurdod perthnasol, fod yn aelod annibynnol o bwyllgor safonau i awdurdod perthnasol nad yw'r person hwnnw wedi bod yn aelod ohono.

7.-(1) Rhaid i berson sydd wedi bod yn swyddog o un neu ragor o awdurdodau perthnasol, ond nad yw'n aelod mwyach, beidio â bod yn aelod annibynnol o bwyllgor safonau i unrhyw awdurdod perthnasol yr oedd y person hwnnw yn swyddog ohono.

(2) Yn ddarostyngedig i reoliad 16(2), caiff person sydd wedi bod yn swyddog o un neu ragor o awdurdodau perthnasol, ond nad yw'n aelod mwyach, ar ôl y cyfnod o ddeuddeng mis sy'n dechrau gyda'r dyddiad y peidiodd y person hwnnw â bod yn swyddog o unrhyw awdurdod perthnasol, fod yn aelod annibynnol o bwyllgor safonau i awdurdod perthnasol nad yw'r person hwnnw wedi bod yn swyddog ohono.

8.-(1) Os yw awdurdod perthnasol yn awdurdod lleol sy'n gweithredu trefniadau gweithrediaeth, rhaid i'r canlynol, sef -

- (a) maer etholedig awdurdod o'r fath sy'n gweithredu gweithrediaeth maer a chabinet, a
- (b) arweinydd gweithrediaeth awdurdod o'r fath sy'n gweithredu gweithrediaeth arweinydd a chabinet,

### Size of standards committees

3. A standards committee shall consist of not less than five nor more than nine members.

### Composition of standards committees

4. The membership of a standards committee shall not consist of persons other than -

- (a) persons who are members of the relevant authority concerned,
- (b) independent members, or
- (c) community committee members.

5.-(1) Where the total number of members of a standards committee is an even number at least half that number shall be independent members.

(2) Where the total number of members of a standards committee is an odd number a majority of that number shall be independent members.

6.-(1) A person who has been but is no longer a member of one or more relevant authorities shall not be an independent member of the standards committee of any relevant authority of which that person was a member.

(2) Subject to regulation 16(2), a person who has been but is no longer a member of one or more relevant authorities may, after the period of twelve months commencing with the date on which that person ceased to be a member of any relevant authority, be an independent member of a standards committee of a relevant authority of which that person has not been a member.

7.-(1) A person who has been but is no longer an officer of one or more relevant authorities shall not be an independent member of the standards committee of any relevant authority of which that person was an officer.

(2) Subject to regulation 16(2), a person who has been but is no longer an officer of one or more relevant authorities may, after the period of twelve months commencing with the date on which that person ceased to be an officer of any relevant authority, be an independent member of a standards committee of a relevant authority of which that person has not been an officer.

8.-(1) Where a relevant authority is a local authority operating executive arrangements, neither -

- (a) the elected mayor of such an authority which is operating a mayor and cabinet executive, nor
- (b) the executive leader of such an authority which is operating a leader and cabinet executive,

beidio â bod yn aelod o bwyllgor safonau'r awdurdod perthnasol hwnnw.

(2) Os yw awdurdod perthnasol yn awdurdod lleol sy'n gweithredu trefniadau amgen, rhaid i gadeirydd bwrdd yr awdurdod hwnnw beidio â bod yn aelod o bwyllgor safonau'r awdurdod hwnnw.

(3) Os yw awdurdod perthnasol yn awdurdod Parc Cenedlaethol neu'n awdurdod tân, rhaid i'r canlynol, sef -

- (a) cadeirydd, a
- (b) dirprwy gadeirydd (os oes un)

awdurdod o'r fath beidio â bod yn aelod o bwyllgor safonau'r awdurdod hwnnw.

9.-(1) Ni chaiff aelodaeth pwyllgor safonau awdurdod lleol sy'n gweithredu trefniadau gweithrediaeth gynnwys mwy nag un aelod sy'n aelod hefyd o weithrediaeth yr awdurdod hwnnw.

(2) Ni chaiff aelodaeth pwyllgor safonau awdurdod lleol sy'n gweithredu trefniadau amgen gynnwys mwy nag un aelod sy'n aelod hefyd o fwrdd yr awdurdod hwnnw.

10. Rhaid i aelodaeth pwyllgor safonau sydd i gyflawni swyddogaethau mewn perthynas â'r canlynol, sef -

- (a) cynghorau cymuned sydd wedi'u lleoli yn ardal yr awdurdod perthnasol hwnnw, a
- (b) aelodau'r cynghorau cymuned hynny,

gynnwys o leiaf un aelod pwyllgor cymunedol.

11. Rhaid i aelod o awdurdod lleol sydd hefyd yn aelod o gyngor cymuned sydd wedi'i leoli yn ardal yr awdurdod lleol hwnnw beidio â bod yn aelod pwyllgor cymunedol i bwyllgor safonau'r awdurdod hwnnw.

#### **Dyrannu seddau i grwpiau Gwleidyddol**

12. Nid yw pwyllgor safonau i gael ei ystyried yn gorff y mae adran 15 o Ddeddf Llywodraeth Leol a Thai 1989(a) yn gymwys iddo.

#### **Penodi aelodau annibynnol i bwyllgorau safonau**

13.-(1) Pan fydd lle gwag yn codi ar gyfer swydd fel aelod annibynnol o bwyllgor safonau, rhaid i'r awdurdod perthnasol o dan sylw gyhoeddi hysbyseb mewn nid llai na dau bapur newydd (nad ydynt yn cael eu cyhoeddi gan yr awdurdod perthnasol hwnnw) sy'n cylchredeg yn ei ardal.

(2) Rhaid i'r hysbyseb y cyfeirir ati ym mharagraff (1) uchod hysbysu'r etholwyr llywodraeth leol ar gyfer ardal yr awdurdod perthnasol fod yr awdurdod perthnasol yn ceisio penodi aelod annibynnol i'w

(a) 1989 p.42.

shall be a member of the standards committee of that relevant authority.

(2) Where a relevant authority is a local authority operating alternative arrangements, the chairperson of the board of that authority shall not be a member of that authority's standards committee.

(3) Where a relevant authority is a National Park authority or a fire authority, neither -

- (a) the chairperson, nor
- (b) the deputy chairperson (if any)

of such an authority shall be a member of the standards committee of that authority.

9.-(1) The membership of a standards committee of a local authority operating executive arrangements may not include more than one member who is also a member of the executive of that authority.

(2) The membership of a standards committee of a local authority operating alternative arrangements may not include more than one member who is also a member of the board of that authority.

10. The membership of a standards committee which is to discharge functions in relation to -

- (a) community councils which are situated in that relevant authority's area, and
- (b) the members of those community councils,

shall include at least one community committee member.

11. A member of a local authority who is also a member of a community council situated in that local authority's area shall not be a community committee member of that authority's standards committee.

#### **Allocation of seats to Political groups**

12. A standards committee is not to be regarded as a body to which section 15 of the Local Government and Housing Act 1989(a) applies.

#### **Appointment of independent members to standards committees**

13.-(1) Where a vacancy arises for a post as an independent member of a standards committee the relevant authority concerned shall publish an advertisement in not less than two newspapers (which are not published by that relevant authority) circulating in its area.

(2) The advertisement referred to in paragraph (1) above shall notify the local government electors for the relevant authority's area that the relevant authority is seeking to appoint an independent member to its

(a) 1989 c.42.

bwyllgor safonau.

(3) Caiff awdurdod perthnasol gyhoeddi hysbyseb mewn cysylltiad ag unrhyw le gwag ar gyfer swydd fel aelod annibynnol ar bwyllgor safonau'r awdurdod perthnasol hwnnw mewn unrhyw bapur newydd y mae'n ei gyhoeddi.

**14.** Rhaid i awdurdod perthnasol -

- (a) sefydlu meini prawf ar gyfer penodi aelodau annibynnol i'w bwyllgor safonau, a
- (b) cyhoeddi'r meini prawf hynny yn yr hysbyseb y cyfeirir ati yn rheoliad 13(1) uchod.

**15.**-(1) Rhaid i awdurdod perthnasol sefydlu panel a fydd yn cynnwys nid mwy na phum aelod panel.

(2) Rhaid i un aelod panel fod yn aelod panel lleyg.

(3) Rhaid i banel a sefydlir o dan baragraff (1) gan awdurdod lleol gynnwys un aelod panel sy'n aelod o gyngor cymuned sydd wedi'i leoli yn ardal yr awdurdod lleol hwnnw.

**16.**-(1) Rhaid i banel a sefydlir o dan reoliad 15 uchod -

- (a) ystyried pob cais a ddaw i law'r awdurdod perthnasol mewn perthynas â lle gwag ar gyfer aelod annibynnol o bwyllgor safonau'r awdurdod hwnnw;
- (b) cymhwysu'r meini prawf a sefydlwyd gan yr awdurdod perthnasol o dan sylw o dan reoliad 14 uchod pan fydd yn ystyried ceisiadau am swydd fel aelod annibynnol o bwyllgor safonau'r awdurdod hwnnw; ac
- (c) gwneud argymhellion mewn perthynas ag unrhyw geisiadau o'r fath i'r awdurdod perthnasol.

(2) Rhaid i benodiadau aelodau annibynnol o bwyllgor safonau awdurdod perthnasol gael eu gwneud gan yr awdurdod perthnasol y mae'n rhaid iddo roi sylw i argymhellion y panel.

**17.** Os yw'r awdurdod perthnasol o dan sylw yn barnu ei bod yn briodol, caiff hysbyseb a gyhoeddir o dan reoliad 13(1)-

- (a) hysbysu'r etholwyr llywodraeth leol ar gyfer ardal yr awdurdod perthnasol hwnnw fod cadeirydd ac is-gadeirydd ei bwyllgor safonau yn cael eu hethol o blith aelodau annibynnol y pwyllgor hwnnw; a
- (b) hysbysu'r etholwyr hynny ynghylch y nodweddion a'r profiad y gallai fod yn ofynnol i aelodau annibynnol sy'n dal swyddi o'r fath feddu arnynt.

standards committee.

(3) A relevant authority may publish an advertisement in connection with any vacancy for a post as an independent member on that relevant authority's standards committee in any newspaper that it publishes.

**14.** A relevant authority shall -

- (a) establish criteria for the appointment of independent members to its standards committee, and
- (b) publish those criteria in the advertisement referred to in regulation 13(1) above.

**15.**-(1) A relevant authority shall establish a panel which shall consist of not more than five panel members.

(2) One panel member must be a lay panel member.

(3) A panel established under paragraph (1) by a local authority must include one panel member who is a member of a community council situated in that local authority's area.

**16.**-(1) The panel established under regulation 15 above shall -

- (a) consider every application that the relevant authority receives in relation to a vacancy for an independent member of that authority's standards committee;
- (b) apply the criteria established by the relevant authority concerned under regulation 14 above when it considers applications for a post as an independent member of that authority's standards committee; and
- (c) make recommendations in relation to any such applications to the relevant authority.

(2) Appointments of independent members of a relevant authority's standards committee shall be made by the relevant authority which shall have regard to the recommendations of the panel.

**17.** An advertisement published under regulation 13(1) may, if the relevant authority concerned considers appropriate -

- (a) notify local government electors for that relevant authority's area that the chairperson and vice-chairperson of its standards committee are elected from the independent members of that committee; and
- (b) notify those electors of the qualities and experience that may be required of independent members holding such positions.

### **Cyfnod swydd aelodau pwyllgorau safonau**

18.-(1) Rhaid i gyfnod swydd aelod o bwyllgor safonau i awdurdod sy'n aelod o'r awdurdod hwnnw beidio â bod yn fwy -

- (a) na phedair blynedd, neu
- (b) na'r cyfnod tan yr etholiadau llywodraeth leol cyffredin i'r awdurdod lleol hwnnw sy'n dod nesaf ar ôl penodi'r person hwnnw yn aelod o bwyllgor safonau'r awdurdod hwnnw, p'un bynnag yw'r byrraf.

(2) Rhaid i aelod o'r fath roi'r gorau i fod yn aelod o'r pwyllgor safonau hwnnw os yw'r aelod hwnnw'n rhoi'r gorau i fod yn aelod o'r awdurdod lleol o dan sylw.

19.-(1) Os yw awdurdod perthnasol yn awdurdod Parc Cenedlaethol neu'n awdurdod tân, rhaid i gyfnod swydd aelod o bwyllgor safonau'r awdurdod hwnnw sy'n aelod o awdurdod o'r fath beidio â bod yn fwy -

- (a) na phedair blynedd, neu
- (b) na'r cyfnod tan y bydd penodiad yr aelod hwnnw yn aelod o'r awdurdod hwnnw yn dod i ben,

p'un bynnag yw'r byrraf.

(2) Rhaid i aelod o'r fath roi'r gorau i fod yn aelod o'r pwyllgor safonau hwnnw os yw'r aelod hwnnw'n rhoi'r gorau i fod yn aelod o'r awdurdod perthnasol o dan sylw.

20. Rhaid i gyfnod swydd aelod o bwyllgor safonau sy'n aelod annibynnol o'r pwyllgor hwnnw beidio â bod yn llai na phedair blynedd nac yn fwy na chwe blynedd.

### **Ailbenodi aelodau o bwyllgorau safonau**

21.-(1) Yn ddarostyngedig i baragraff (2) o reoliad 18 a pharagraff (2) o reoliad 19 uchod, gall aelod o bwyllgor safonau awdurdod perthnasol sy'n aelod o'r awdurdod hwnnw gael ei ailbenodi am un tymor olynol pellach.

(2) Rhaid i aelod annibynnol o bwyllgor safonau awdurdod perthnasol beidio â gwasanaethu am fwy nag un cyfnod fel aelod o'r fath.

### **Cadeiryddion ac is-gadeiryddion pwyllgorau safonau**

22.-(1) Rhaid i aelodau pwyllgor safonau ethol cadeirydd ac is-gadeirydd o blith aelodau annibynnol y pwyllgor hwnnw.

(2) Ethol cadeirydd ac is-gadeirydd yw'r busnes cyntaf y mae'n rhaid ei drafod yng nghyfarfod cyntaf pwyllgor safonau.

### **Term of office of members of standards committees**

18.-(1) The term of office of a member of a local authority standards committee who is a member of that authority shall be no more than -

- (a) four years, or
- (b) the period until the ordinary local government elections for that local authority next following the appointment of that person as a member of that authority's standards committee, whichever is the shorter.

(2) Such a member shall cease to be a member of that standards committee if that member ceases to be a member of the local authority concerned.

19.-(1) Where a relevant authority is a National Park authority or fire authority, the term of office of a member of that authority's standards committee who is a member of such an authority shall be no more than -

- (a) four years, or
- (b) the period until that member's appointment as a member of that authority ceases,

whichever is the shorter.

(2) Such a member shall cease to be a member of that standards committee if that member ceases to be a member of the relevant authority concerned.

20. The term of office of a member of a standards committee who is an independent member of that committee shall be not less than four nor more than six years.

### **Re-appointment of members of standards committees**

21.-(1) Subject to paragraph (2) of regulation 18 and paragraph (2) of regulation 19 above, a member of the standards committee of a relevant authority who is a member of that authority may be re-appointed for one further consecutive term.

(2) An independent member of the standards committee of a relevant authority shall serve no more than one term of office as such a member.

### **Chairpersons and vice-chairpersons of standards committees**

22.-(1) The members of a standards committee shall elect a chairperson and a vice-chairperson from amongst the independent members of that committee.

(2) The election of a chairperson and a vice-chairperson shall be the first business to be transacted at the first meeting of a standards committee.

(3) Yn ddarostyngedig i baragraff (2) uchod, y cadeirydd fydd yn llywyddu mewn cyfarfodydd pwyllgor safonau.

(4) Os yw'r cadeirydd yn absennol o gyfarfod pwyllgor safonau, yna is-gadeirydd y pwyllgor, os yw'n bresennol, fydd yn llywyddu.

(5) Os bydd cadeirydd ac is-gadeirydd pwyllgor safonau yn absennol o un o gyfarfodydd y pwyllgor hwnnw, rhaid i'r aelod annibynnol o'r pwyllgor safonau hwnnw y bydd aelodau'r pwyllgor hwnnw yn ei ddewis lywyddu.

(6) Yn ddarostyngedig i baragraffau (8) a (9), rhaid i gadeirydd pwyllgor safonau gael ei ethol am ba un bynnag yw'r byrraf o'r cyfnodau canlynol -

- (a) cyfnod heb fod yn llai na phedair blynedd nac yn fwy na chwe blynedd, neu
- (b) tan fydd tymor swydd y person hwnnw fel aelod annibynnol o'r pwyllgor safonau yn dod i ben.

(7) Yn ddarostyngedig i baragraffau (8) a (9), rhaid i is-gadeirydd pwyllgor safonau gael ei ethol am ba un bynnag yw'r byrraf o'r cyfnodau canlynol -

- (a) cyfnod heb fod yn llai na phedair blynedd nac yn fwy na chwe blynedd, neu
- (b) tan fydd cyfnod swydd y person hwnnw fel aelod annibynnol o'r pwyllgor safonau yn dod i ben.

(8) Gall person a etholir yn gadeirydd neu is-gadeirydd ymddiswyddo ar unrhyw bryd drwy roi hysbysiad ysgrifenedig i swyddog priodol yr awdurdod perthnasol o dan sylw.

(9) Pan fydd lle gwag yn swydd y cadeirydd neu'r is-gadeirydd yn cael ei lenwi, rhaid i'r person a benodir felly ddal ei swydd am ba un bynnag yw'r byrraf o'r cyfnodau canlynol -

- (a) tan y dyddiad y byddai cyfnod swydd y person y mae'r person hwnnw wedi'i ethol yn ei le wedi dod i ben, neu
- (b) tan y bydd cyfnod swydd y person hwnnw fel aelod annibynnol o'r pwyllgor safonau hwnnw yn dod i ben.

### Pleidleisio

23.-(1) Mae gan aelod o bwyllgor safonau nad yw'n aelod o'r awdurdod perthnasol o dan sylw hawl i bleidleisio yng nghyfarfodydd y pwyllgor hwnnw.

(2) Rhaid i gwestiwn y mae pwyllgor safonau i benderfynu arno gael ei benderfynu drwy fwyafrif o'r pleidleisiau sy'n cael eu bwrw gan yr aelodau sy'n bresennol yn y cyfarfod ac yn pleidleisio arno.

(3) Os yw nifer y pleidleisiau yn gyfartal, bydd gan y person sy'n cadeirio cyfarfod y pwyllgor safonau ail bleidlais, sef pleidlais fwrw.

(3) Subject to paragraph (2) above, the chairperson shall preside at meetings of a standards committee.

(4) If the chairperson is absent from a meeting of a standards committee then the vice-chairperson of the committee, if present, shall preside.

(5) If both the chairperson and the vice-chairperson of a standards committee are absent from a meeting of that committee, such independent member of that standards committee as the members of that committee present shall choose shall preside.

(6) Subject to paragraphs (8) and (9) the chairperson of a standards committee shall be elected for whichever is the shorter of the following periods -

- (a) a period of not less than four nor more than six years, or
- (b) until the term of office of that person as an independent member of that standards committee comes to an end.

(7) Subject to paragraphs (8) and (9) the vice-chairperson of a standards committee shall be elected for whichever is the shorter of the following periods -

- (a) a period of not less than four nor more than six years, or
- (b) until the term of office of that person as an independent member of that standards committee comes to an end.

(8) A person elected as a chairperson or vice-chairperson may at any time resign from office by notice in writing to the proper officer of the relevant authority concerned.

(9) Where a casual vacancy in the office of chairperson or vice-chairperson is filled, the person so appointed shall hold office for whichever is the shorter of the following periods -

- (a) until the date upon which the term of office of the person in whose place that person is elected would have expired, or
- (b) until the term of office of that person as an independent member of that standards committee comes to an end.

### Voting

23.-(1) A member of a standards committee who is not a member of the relevant authority concerned is entitled to vote at meetings of that committee.

(2) A question to be decided by a standards committee shall be decided by a majority of the votes cast by the members present at the meeting and voting thereon.

(3) In the case of an equality of votes, the person presiding at the meeting of the standards committee shall have a second, casting vote.

## Cworwm

24. Rhaid peidio â thrafod unrhyw fusnes mewn cyfarfod pwyllgor safonau oni bai -

- (a) bod o leiaf dri aelod o'r pwyllgor hwnnw yn bresennol, gan gynnwys y cadeirydd, a
- (b) bod o leiaf hanner yr aelodau sy'n bresennol (gan gynnwys y cadeirydd) yn aelodau annibynnol.

## Cyfarfodydd pwyllgorau safonau

25.-(1) Rhaid i bob pwyllgor safonau gynnal o leiaf un cyfarfod yn ystod pob cyfnod o 12 mis ar ôl 31 Rhagfyr 2001.

(2) Rhaid i bob pwyllgor safonau gynnal o leiaf un cyfarfod ar 31 Rhagfyr 2001 neu cyn hynny.

(3) Rhaid i swyddog monitro awdurdod perthnasol neu gynrychiolydd swyddog monitro awdurdod perthnasol fod yn bresennol ym mhob cyfarfod o bwyllgor safonau'r awdurdod hwnnw.

## Darpariaethau cymwysadwy Rhan VA o Ddeddf Llywodraeth Leol 1972

26.-(1) Yn ddarostyngedig i'r addasiadau a nodir ym mharagraffau (2) i (9) isod, bydd darpariaethau canlynol Deddf 1972, sef -

- (a) adran 100A,
- (b) adran 100B,
- (c) adran 100C,
- (ch) adran 100D
- (d) adran 100F,
- (dd) adran 100H,
- (e) adran 100I,
- (f) adran 100K, ac
- (ff) Atodlen 12A

yn gymwys fel petai pwyllgor safonau yn brif gyngor at ddibenion y darpariaethau hynny.

(2) Yn is-adran (3)(a) o adran 100A ac is-adran (1) o adran 100B, yn lle "council" rhowch "relevant authority".

(3) Yn is-adran (4)(b) o adran 100B, yn lle "chairman" rhowch "chairperson".

(4) Yn -

- (a) is-adran (6)(a) o adran 100A,
- (b) is-adran (1) o adran 100C, ac
- (c) is-adran (1)(b) o adran 100D,

yn lle "offices of the council", rhowch "offices of the relevant authority".

## Quorum

24. No business shall be transacted at a meeting of a standards committee unless -

- (a) at least three members are present, including the chairperson, and
- (b) at least half the members present (including the chairperson) are independent members.

## Meetings of standards committees

25.-(1) Every standards committee shall hold at least one meeting during every period of 12 months after 31 December 2001.

(2) Every standards committee shall hold at least one meeting on or before 31 December 2001.

(3) The monitoring officer or a representative of the monitoring officer of a relevant authority shall attend every meeting of that authority's standards committee.

## Applicable provisions of Part VA of the Local Government Act 1972

26.-(1) Subject to the modifications set out in paragraphs (2) to (9) below, the following provisions of the 1972 Act, that is to say -

- (a) section 100A,
- (b) section 100B,
- (c) section 100C,
- (d) section 100D,
- (e) section 100F,
- (f) section 100H,
- (g) section 100I,
- (h) section 100K, and
- (i) Schedule 12A

shall apply as if for the purposes of those provisions a standards committee were a principal council.

(2) In sub-section (3)(a) of section 100A and sub-section (1) of section 100B, for "council" substitute "relevant authority".

(3) In sub-section (4)(b) of section 100B, for "chairman" substitute "chairperson".

(4) In -

- (a) sub-section (6)(a) of section 100A,
- (b) sub-section (1) of section 100C, and
- (c) sub-section (1)(b) of section 100D,

for "offices of the council", substitute "offices of the relevant authority".

(5) Yn -

- (a) is-adran (1) o adran 100F, a
- (b) is-adran (6) o adran 100H,

hepgorwch "committee or".

(6) Yn is-adran (3) o adran 100H, yn lle "principal council" rhowch "relevant authority".

(7) Yn is-adran (1) o adran 100K, hepgorwch -

- (a) ""committee or sub-committee of a principal council" shall be construed in accordance with section 100E(3) above;"
- (b) ""constituent principal council" shall be construed in accordance with section 100E(4) above;" ac
- (c) ""principal council" shall be construed in accordance with section 100J above".

(8) Hefgorwch is-adran (2) o adran 100K.

(9) Addasir paragraff (2) o Ran III o Atodlen 12A fel a ganlyn -

- (a) yn lle "principal council" rhowch "relevant authority",
- (b) yn lle "committee or sub-committee" rhowch "standards committee or sub-committee of that committee",
- (c) hepgorwch "and includes a reference", ac
- (ch) hepgorwch is-baragraffau (a), (b) ac (c).

27.-(1) Caiff awdurdod lleol, os gwêl yn dda, osod unrhyw hysbysiad ynghylch un o gyfarfodydd ei bwyllgor safonau y mae'n ofynnol ei osod yn ei swyddfeydd yn rhinwedd adran 100A o Ddeddf 1972, fel y'i haddaswyd gan reoliad 26, yn swyddfeydd y cynghorau cymuned sydd wedi'u lleoli yn ardal yr awdurdod lleol hwnnw.

(2) Caiff awdurdod lleol, os gwêl yn dda, ddarparu bod unrhyw agendâu ac adroddiadau ar gyfer cyfarfodydd ei bwyllgor safonau y mae, neu y gall fod, yn ofynnol iddynt fod yn agored i aelodau'r cyhoedd eu harchwilio yn ei swyddfeydd yn rhinwedd adran 100B o Ddeddf 1972, fel y'i haddaswyd gan reoliad 26, yn agored i'w harchwilio gan aelodau'r cyhoedd yn swyddfeydd y cynghorau cymuned sydd wedi'u lleoli yn ardal yr awdurdod lleol hwnnw.

(3) Caiff awdurdod lleol, os gwêl yn dda, ddarparu bod unrhyw gofnodion o gyfarfodydd ei bwyllgor safonau ac unrhyw ddogfennau eraill y mae, neu y gall fod, yn ofynnol iddynt fod yn agored i aelodau'r cyhoedd eu harchwilio yn ei swyddfeydd yn rhinwedd adran 100C o Ddeddf 1972, fel y'i haddaswyd gan reoliad 26, yn agored i'w harchwilio gan aelodau'r cyhoedd yn swyddfeydd y cynghorau cymuned sydd wedi'u lleoli yn ardal yr awdurdod lleol hwnnw.

(5) In -

- (a) sub-section (1) of section 100F, and
- (b) sub-section (6) of section 100H,

omit "committee or".

(6) In sub-section (3) of section 100H, for "principal council" substitute "relevant authority".

(7) In sub-section (1) of section 100K, omit -

- (a) ""committee or sub-committee of a principal council" shall be construed in accordance with section 100E(3) above;"
- (b) ""constituent principal council" shall be construed in accordance with section 100E(4) above;" and
- (c) ""principal council" shall be construed in accordance with section 100J above".

(8) Omit sub-section (2) of section 100K.

(9) Paragraph (2) of Part III of Schedule 12A is modified as follows -

- (a) for "principal council" substitute "relevant authority",
- (b) for "committee or sub-committee" substitute "standards committee or sub-committee of that committee",
- (c) omit "and includes a reference", and
- (d) omit sub-paragraphs (a),(b) and (c).

27.-(1) A local authority may, if it thinks fit, post such notice of a meeting of its standards committee as may be required to be posted at its offices by virtue of section 100A of the 1972 Act, as modified by regulation 26, at the offices of community councils situated in that local authority's area.

(2) A local authority may, if it thinks fit, provide for such agendas and reports for meetings of its standards committee as are, or may be, required to be open to inspection by members of the public at its offices by virtue of section 100B of the 1972 Act, as modified by regulation 26, to be open to inspection by members of the public at the offices of community councils situated in that local authority's area.

(3) A local authority may, if it thinks fit, provide for such minutes of its meetings of its standards committee and other documents as are, or may be, required to be open to inspection by members of the public at its offices by virtue of section 100C of the 1972 Act, as modified by regulation 26, to be open to inspection by members of the public at the offices of community councils situated in that local authority's area.



(4) Yn ddarostyngedig i adran 100A o Ddeddf 1972, fel y'i haddaswyd gan reoliad 26, caiff awdurdod perthnasol fabwysiadu unrhyw ddulliau eraill i roi hysbysiad cyhoeddus ynghylch cyfarfodydd ei bwyllgor safonau y mae'n credu eu bod yn briodol.

#### **Cofnod trafodion pwyllgorau safonau**

28.-(1) Rhaid llunio cofnodion trafodion pwyllgor safonau a'u rhoi mewn llyfr a ddarperir at y diben hwnnw gan swyddog priodol yr awdurdod perthnasol o dan sylw a rhaid iddynt gael eu llofnodi gan gadeirydd y pwyllgor ar ddiwedd y cyfarfod hwnnw neu yn y cyfarfod o'r pwyllgor sy'n dilyn nesaf.

(2) Rhaid i gofnodion trafodion pwyllgor safonau gynnwys -

- (a) cofnod o unrhyw benderfyniad a wnaed gan y pwyllgor;
- (b) y rheswm dros y penderfyniad hwnnw; ac
- (c) cofnod o unrhyw ddatganiad o fuddiant sydd gan aelod o'r pwyllgor sy'n berthnasol i unrhyw fater y penderfynwyd arno gan y pwyllgor hwnnw yn ystod y trafodion penodol hynny.

#### **Cylch gwaith pwyllgorau safonau**

29.-(1) Rhaid i bob awdurdod perthnasol baratoi yn ddi-oed datganiad sy'n nodi cylch gwaith ei bwyllgor safonau.

(2) Rhaid i bob awdurdod perthnasol anfon y datganiad y cyfeirir ato ym mharagraff (1) uchod i'r Comisiwn dros Weinyddu Lleol yng Nghymru.

#### **Trefniadau trosiannol**

30.-(1) Os yw awdurdod perthnasol -

- (a) wedi sefydlu pwyllgor safonau cyn y dyddiad y daw'r Rheoliadau hyn i rym, a
- (b) bod aelodaeth y pwyllgor hwnnw ar y dyddiad y daw'r Rheoliadau hyn i rym yn cynnwys un neu ragor o aelodau annibynnol bydd y paragraffau canlynol yn gymwys.

(2) Yn ddarostyngedig i baragraff (3) isod, caiff awdurdod perthnasol o'r fath ganiatáu i aelod annibynnol o'r fath barhau i fod yn aelod am ba un bynnag yw'r byrraf o'r cyfnodau canlynol -

- (a) pum mlynedd o'r dyddiad y daw'r Rheoliadau hyn i rym, neu
- (b) tan y daw cyfnod swydd yr aelod annibynnol hwnnw i ben.

(3) Ni fydd paragraff (2) uchod yn gymwys -

- (a) os nad yw'r awdurdod perthnasol yn barnu bod y broses benodi ar gyfer unrhyw aelod

(4) Subject to section 100A of the 1972 Act, as modified by regulation 26, a relevant authority may adopt such other methods to provide public notice of meetings of its standards committee as it considers appropriate.

#### **Minute of proceedings of standards committees**

28.-(1) Minutes of the proceedings of a standards committee shall be drawn up and entered in a book provided for the purpose by the proper officer of the relevant authority concerned and shall be signed by the chairperson of the committee at the conclusion of that meeting or at the next following meeting of the committee.

(2) The minutes of the proceedings of a standards committee shall include -

- (a) a record of any decision made by the committee;
- (b) the reasons for that decision; and
- (c) a record of any declaration of interest by a member of the committee which is relevant to any matter decided upon by that committee during those particular proceedings.

#### **Terms of reference of standards committees**

29.-(1) Every relevant authority shall forthwith prepare a statement which sets out the terms of reference of its standards committee.

(2) Every relevant authority shall send to the Commission for Local Administration in Wales the statement referred to in paragraph (1) above.

#### **Transitional arrangements**

30.-(1) Where a relevant authority has -

- (a) established a standards committee before the date on which these Regulations come into force, and
  - (b) the membership of that committee at the date on which these Regulations come into force includes one or more independent members
- the following paragraphs shall apply.

(2) Subject to paragraph (3) below, such a relevant authority may allow such an independent member to continue as a member for whichever is the shorter of the following periods -

- (a) five years from the date on which these Regulations come into force, or
- (b) until the term of office of that independent member comes to an end.

(3) Paragraph (2) above shall not apply where -

- (a) a relevant authority does not consider that the

annibynnol o'r fath yn ddigon i warantu annibyniaeth yr aelod hwnnw, neu

- (b) os na fyddai unrhyw aelod annibynnol o'r fath yn bodloni gofynion diffiniad aelod annibynnol at ddibenion y Rheoliadau hyn.

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

21 Mehefin 2001

Llywydd y Cynulliad Cenedlaethol

appointment process for any such independent member was sufficient to guarantee the independence of that member, or

- (b) any such independent member would not meet the requirements of the definition of an independent member for the purposes of these Regulations.

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

21st June 2001

*D.Elis Thomas*

The Presiding Officer of the National Assembly

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(a) 1998 p.38.

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(a) 1998 c.38.

**CYNULLIAD CENEDLAETHOL CYMRU**

**NATIONAL ASSEMBLY FOR WALES**

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**OFFERYNNAU STATUDOL**

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**STATUTORY INSTRUMENTS**

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**2001 Rhif 2283 (Cy.172)**

**2001 No. 2283 (W.172)**

**LLYWODRAETH LEOL,  
CYMRU**

**LOCAL GOVERNMENT,  
WALES**

**Rheoliadau Pwyllgorau Safonau  
(Cymru) 2001**

**The Standards Committees (Wales)  
Regulations 2001**

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ON



**ATODIAD / ENCLOSURE**

**4**



**CYNULLIAD CENEDLAETHOL CYMRU**

**NATIONAL ASSEMBLY FOR WALES**

**OFFERYNNAU STATUDOL**

**STATUTORY INSTRUMENTS**

**2006 Rhif 1849 (Cy.192)**

**2006 No. 1849 (W.192)**

**LLYWODRAETH LEOL,  
CYMRU**

**LOCAL GOVERNMENT,  
WALES**

**Rheoliadau Pwyllgorau Safonau  
(Cymru) (Diwygio) 2006**

**The Standards Committees (Wales)  
(Amendment) Regulations 2006**

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

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

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

Mae Rhan III o Ddeddf Llywodraeth Leol 2000 ("y Ddeddf") yn gwneud darpariaeth o ran ymddygiad aelodau a chyflogeion llywodraeth leol.

Part III of the Local Government Act 2000 ("the Act") makes provision with respect to the conduct of local government members and employees.

Mae adran 53(1) o'r Ddeddf yn ei gwneud yn ofynnol bod pob awdurdod perthnasol, sy'n cynnwys yng Nghymru gynghorau sir a chynghorau bwrdeistref sirol, awdurdodau tân ac achub, awdurdodau Parciau Cenedlaethol ac awdurdodau heddlu ond nad ydynt yn cynnwys cynghorau cymuned, yn sefydlu pwyllgor safonau a chanddo'r swyddogaethau a roddir iddo gan Ran III o'r Ddeddf neu oddi tani.

Section 53(1) of the Act requires every relevant authority, which in Wales includes county and county borough councils, fire and rescue authorities, National Park authorities and police authorities but not community councils, to establish a standards committee which is to have the functions conferred on it by or under Part III of the Act.

O dan adran 53(11) o'r Ddeddf, caiff Cynulliad Cenedlaethol Cymru, drwy reoliadau, wneud darpariaeth o ran (ymhlith pethau eraill) maint, cyfansoddiad a thrafodion pwyllgorau safonau awdurdodau perthnasol yng Nghymru, ac eithrio awdurdodau heddlu, ac unrhyw is-bwyllgorau a sefydlir o dan adran 54A neu adran 56 o'r Ddeddf.

Under section 53(11) of the Act, the National Assembly for Wales may by regulations make provision as to (among other things) the size, composition and proceedings of standards committees of relevant authorities in Wales, other than police authorities, and of any sub-committees established under section 54A or section 56 of the Act.

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Pwyllgorau Safonau (Cymru) 2001 ("Rheoliadau 2001").

These Regulations amend the Standards Committees (Wales) Regulations 2001 ("the 2001 Regulations").

Mae rheoliad 3 yn rhoi diffiniad newydd ("is-bwyllgor adran 54A") yn rheoliad 2 o Reoliadau 2001. Mewnosodwyd adran 54A o'r Ddeddf gan adran 113 o Ddeddf Llywodraeth Leol 2003. Mae adran 54A o'r Ddeddf yn rhoi'r hawl i bwyllgor safonau awdurdod perthnasol i benodi un neu fwy o is-bwyllgorau at ddibenion cyflawni unrhyw un neu rai o swyddogaethau'r pwyllgor (ac eithrio swyddogaethau o dan adran 55 neu adran 56 o'r Ddeddf).

Regulation 3 introduces a new definition ("section 54A sub-committee") into regulation 2 of the 2001 Regulations. Section 54A of the Act was inserted by section 113 of the Local Government Act 2003. Section 54A of the Act entitles a standards committee of a relevant authority to appoint one or more sub-committees for the purpose of discharging any of the committee's functions (other than functions under section 55 or section 56 of the Act).

Mae rheoliad 4 yn rhoi rheoliad 3 newydd yn Rheoliadau 2001 sy'n gwneud darpariaeth newydd o ran maint is-bwyllgor a benodir o dan adran 54A o'r Ddeddf (is-bwyllgor adran 54A).

Mae rheoliad 5 yn rhoi rheoliad 10 newydd yn Rheoliadau 2001. Mae'r rheoliad 10 newydd hwnnw'n darparu, o ran penodi "aelod pwyllgor cymunedol" yn aelod o bwyllgor safonau awdurdod lleol, mai'r awdurdod lleol hwnnw sydd i'w benodi. Cyn gwneud penodiad o'r fath, mae'n rhaid i'r awdurdod lleol ymgynghori â'r cyrff a bennir yn rheoliad 10(3)(a) a (b).

Mae rheoliad 6 yn mewnosod rheoliad 18A newydd yn Rheoliadau 2001. Mae'r rheoliad 18A newydd hwnnw'n gwneud darpariaeth o ran hyd tymor swydd "aelod pwyllgor cymunedol" o bwyllgor safonau awdurdod lleol.

Mae rheoliad 7 yn rhoi paragraffau (2), (3) a (4) newydd yn rheoliad 21 o Reoliadau 2001. Mae'r paragraffau newydd hynny'n gwneud darpariaeth o ran ailbenodi aelod annibynnol o bwyllgor safonau.

Mae rheoliad 8 yn mewnosod rheoliad 21A newydd yn Rheoliadau 2001. Mae'r rheoliad 21A newydd hwnnw'n gwneud darpariaeth o ran ailbenodi "aelod pwyllgor cymunedol" o bwyllgor safonau awdurdod lleol. Mae rheoliad 21A(2) yn darparu bod yn rhaid i awdurdod lleol, cyn iddo wneud ailbenodiad o'r fath, ymgynghori â'r cyrff a bennir yn rheoliad 21A(2)(a) a (b).

Mae rheoliad 9 yn mewnosod paragraff (10) newydd yn rheoliad 22 o Reoliadau 2001. Mae'r paragraff newydd hwnnw'n cadarnhau y caniateir ethol aelod annibynnol o bwyllgor safonau sydd wedi'i ailbenodi i bwyllgor safonau am dymor olynol arall yn gadeirydd neu'n is-gadeirydd y pwyllgor hwnnw.

Mae Rheoliad 10 yn gosod rheoliad 24 newydd yn Rheoliadau 2001. Mae'r rheoliad 24 newydd hwnnw'n darparu mai dau aelod (gan gynnwys cadeirydd yr is-bwyllgor hwnnw) yw'r cworwm ar gyfer cyfarfod o is-bwyllgor adran 54A. Mae'r rheoliad newydd hwnnw hefyd yn gwneud yn glir ystyr y term "cadeirydd" yn rheoliad 24(1) a (2).

Regulation 4 substitutes a new regulation 3 into the 2001 Regulations which makes new provision as to the size of a sub-committee appointed under section 54A of the Act (a section 54A sub-committee).

Regulation 5 substitutes a new regulation 10 into the 2001 Regulations. That new regulation 10 provides that the appointment of a "community committee member" to a standards committee of a local authority is to be made by that local authority. Before making such an appointment, the local authority is obliged to consult the bodies specified in regulation 10(3)(a) and (b).

Regulation 6 inserts a new regulation 18A into the 2001 Regulations. That new regulation 18A makes provision as to the term of office of a "community committee member" of a standards committee of a local authority.

Regulation 7 substitutes new paragraphs (2), (3) and (4) into regulation 21 of the 2001 Regulations. Those new paragraphs make provision as to the reappointment of an independent member of a standards committee.

Regulation 8 inserts a new regulation 21A into the 2001 Regulations. That new regulation 21A makes provision as to the reappointment of a "community committee member" of the standards committee of a local authority. Regulation 21A(2) provides that before making such a reappointment the local authority must consult the bodies specified in regulation 21A(2)(a) and (b).

Regulation 9 inserts a new paragraph (10) into regulation 22 of the 2001 Regulations. That new paragraph confirms that an independent member of a standards committee who has been reappointed to a standards committee for a further consecutive term may be elected as a chairperson or a vice-chairperson of that committee.

Regulation 10 substitutes a new regulation 24 into the 2001 Regulations. That new regulation 24 provides that the quorum for a meeting of a section 54A sub-committee is two members (including the chairperson of that sub-committee). That new regulation also clarifies the meaning of the term "chairperson" in regulation 24(1) and (2).

2006 Rhif 1849 (Cy.192)

2006 No. 1849 (W.192)

LLYWODRAETH LEOL,  
CYMRULOCAL GOVERNMENT,  
WALESRheoliadau Pwyllgorau Safonau  
(Cymru) (Diwygio) 2006The Standards Committees (Wales)  
(Amendment) Regulations 2006*Wedi'u gwneud* 11 Gorffennaf 2006*Made* 11 July 2006*Yn dod i rym* 14 Gorffennaf 2006*Coming into force* 14 July 2006

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 53(11), 54A(5)(a) a 56(5) o Ddeddf Llywodraeth Leol 2000(1), drwy hyn yn gwneud y Rheoliadau a ganlyn:

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 53(11), 54A(5)(a) and 56(5) of the Local Government Act 2000(1) hereby makes the following Regulations:

**Enwi, cychwyn, cymhwyso a dehongli****Title, commencement, application and interpretation**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Pwyllgorau Safonau (Cymru) (Diwygio) 2006 a daw'r Rheoliadau hyn i rym ar 14 Gorffennaf 2006.

1.-(1) The title of these Regulations is the Standards Committees (Wales) (Amendment) Regulations 2006 and these Regulations come into force on 14 July 2006.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(2) These Regulations apply in relation to Wales.

(3) Yn y Rheoliadau hyn-

(3) In these Regulations-

ystyr "Rheoliadau 2001" ("*the 2001 Regulations*") yw Rheoliadau Pwyllgorau Safonau (Cymru) 2001(2).

"the 2001 Regulations" ("*Rheoliadau 2001*") means the Standards Committees (Wales) Regulations 2001(2).

**Diwygiadau i Reoliadau 2001****Amendments to the 2001 Regulations**

2. Diwygir Rheoliadau 2001 fel a ganlyn.

2. The 2001 Regulations are amended as follows.

3. Yn rheoliad 2-

3. In regulation 2-

(a) yn y lle priodol yn nhrefn yr wyddor mewnosoder-

(a) in the appropriate place in alphabetical order insert-

"ystyr "is-bwyllgor cymunedol" ("*community sub-committee*") yw is-bwyllgor a benodwyd gan bwyllgor safonau awdurdod lleol o dan adran 56 o Ddeddf 2000;"

"community sub-committee" ("*is-bwyllgor cymunedol*") means a sub-committee appointed by a standards committee of a local authority under section 56 of the 2000 Act;"

(b) yn y lle priodol yn nhrefn yr wyddor mewnosoder-

(b) in the appropriate place in alphabetical order insert-

(1) 2000 p.22; diwygiwyd adran 53(11) gan adran 35, Atodlen 4, paragraffau 1 a 4 o Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 (p.10); a mewnosodwyd adran 54A gan adran 113 o Ddeddf Llywodraeth Leol 2003 (p.26).

(2) O.S. 2001/2283 (Cy.172), fel y'i diwygiwyd gan O.S. 2005/2929 (Cy.214).

(1) 2000 c.22; section 53(11) was amended by section 35, Schedule 4, paragraphs 1 and 4 of the Public Services Ombudsman (Wales) Act 2005 (c.10); and section 54A was inserted by section 113 of the Local Government Act 2003 (c.26).

(2) S.I. 2001/2283 (W.172) as amended by S.I. 2005/2929 (W.214).

"ystyr "is-bwyllgor adran 54A" ("*section 54A sub-committee*") yw is-bwyllgor a benodir gan bwyllgor safonau awdurdod perthnasol o dan adran 54A(1) o Ddeddf 2000;"

(c) yn y diffiniad o "pwyllgor safonau", yn lle "mae'n cynnwys is-bwyllgor i bwyllgor safonau;" rhodder "mae'n cynnwys is-bwyllgor adran 54A ac is-bwyllgor cymunedol.";

(ch) hepgorer y diffiniad o "is-bwyllgor i bwyllgor safonau".

4. Yn lle rheoliad 3, rhodder-

"3.-(1) Yn ddarostyngedig i baragraff (2) rhaid i bwyllgor safonau fod yn bwyllgor a chanddo nid llai na phum aelod na mwy na naw.

(2) Rhaid i is-bwyllgor adran 54A fod yn bwyllgor a chanddo nid llai na thri aelod."

5. Yn lle rheoliad 10, rhodder-

"10.-(1) Rhaid i aelodaeth pwyllgor safonau awdurdod lleol sydd i gyflawni swyddogaethau mewn perthynas ag-

(a) cynghorau cymuned sydd wedi'u lleoli yn ardal yr awdurdod lleol hwnnw; a

(b) aelodau'r cynghorau cymuned hynny,

gynnwys o leiaf un aelod pwyllgor cymunedol.

(2) Yn ddarostyngedig i baragraff (3), rhaid i benodiad aelod pwyllgor cymunedol yn aelod o bwyllgor safonau awdurdod lleol sydd i gyflawni'r swyddogaethau a ddisgrifir yn is-baragraffau (1)(a) a (b) gael ei wneud gan yr awdurdod lleol hwnnw.

(3) Cyn gwneud penodiad o dan baragraff (2) rhaid i'r awdurdod lleol ymgynghori-

(a) â'r cynghorau cymuned sydd wedi'u lleoli o fewn ei ardal; a

(b) â chymdeithasau cynghorau cymuned a sefydlwyd (os o gwbl) ar gyfer yr ardal honno, ac sy'n gweithredu oddi mewn iddi."

6. Ar ôl rheoliad 18, mewnosoder-

"18A.-(1) Ni fydd tymor swydd aelod o bwyllgor safonau awdurdod lleol sy'n aelod pwyllgor cymunedol yn hwy nag-

(a) pedair blynedd; neu

(b) y cyfnod hyd at yr etholiadau cyffredin ar gyfer y cyngor cymuned y mae'r aelod pwyllgor cymunedol yn aelod ohono, sef yr etholiadau nesaf ar ôl i'r person hwnnw gael ei benodi'n aelod pwyllgor cymunedol o'r pwyllgor hwnnw,

pa gyfnod bynnag fo'r byrraf.

"section 54A sub-committee" ("*is-bwyllgor adran 54A*") means a sub-committee appointed by a standards committee of a relevant authority under section 54A(1) of the 2000 Act;"

(c) in the definition of "standards committee", for "includes a sub-committee of a standards committee;" substitute "includes a section 54A sub-committee and a community sub-committee."; and

(d) omit the definition of "sub-committee of a standards committee".

4. For regulation 3, substitute-

"3.-(1) Subject to paragraph (2) a standards committee shall consist of not less than five nor more than nine members.

(2) A section 54A sub-committee shall consist of not less than three members."

5. For regulation 10, there is substituted-

"10.-(1) The membership of a standards committee of a local authority which is to discharge functions in relation to-

(a) community councils which are situated in that local authority's area; and

(b) the members of those community councils,

shall include at least one community committee member.

(2) Subject to paragraph (3) the appointment of a community committee member to a standards committee of a local authority which is to discharge the functions described in subparagraphs (1)(a) and (b) shall be made by that local authority.

(3) Before making an appointment under paragraph (2) the local authority shall consult-

(a) community councils which are situated within its area; and

(b) community council associations established for and operating within that area (if any)."

6. After regulation 18, insert-

"18A.-(1) The term of office of a member of a local authority standards committee who is a community committee member shall be no more than-

(a) four years; or

(b) the period until the ordinary elections for the community council of which the community committee member is a member next following the appointment of that person as a community committee member of that committee,

whichever is the shorter.



(2) Rhaid i aelod pwyllgor cymunedol roi'r gorau i fod yn aelod o bwyllgor safonau awdurdod lleol os yw'r aelod hwnnw'n peidio â bod yn aelod o gyngor cymuned o fewn ardal yr awdurdod lleol o dan sylw."

7. Yn lle paragraff (2) o reoliad 21, rhodder-

"(2) Yn ddarostyngedig i baragraff (4) caniateir i aelod annibynnol o bwyllgor safonau awdurdod perthnasol gael ei ailbenodi gan yr awdurdod perthnasol hwnnw am un tymor olynol arall.

(3) Wrth iddo ailbenodi aelod annibynnol o dan baragraff (2), nid oes raid i'r awdurdod perthnasol gydymffurfio â'r gofynion a osodir gan reoliadau 13 i 17.

(4) Os ailbenodir aelod annibynnol o dan baragraff (2), rhaid i'r tymor olynol arall hwnnw beidio â bod yn fwy na phedair blynedd."

8. Ar ôl rheoliad 21, mewnosoder-

"21A.-(1) Yn ddarostyngedig i baragraff (2) o reoliad 18A, caniateir i aelod pwyllgor cymunedol o bwyllgor safonau awdurdod lleol gael ei ailbenodi gan yr awdurdod lleol hwnnw am un tymor olynol arall.

(2) Cyn ailbenodi aelod pwyllgor cymunedol o dan baragraff (1) rhaid i'r awdurdod lleol ymgynghori-

- (a) â'r cynghorau cymuned sydd wedi'u lleoli o fewn ei ardal; a
- (b) â chymdeithasau cynghorau cymuned a sefydlwyd (os o gwbl) ar gyfer yr ardal honno, ac sy'n gweithredu oddi mewn iddi."

9. Ar ôl paragraff (9) o reoliad 22, mewnosoder-

"(10) Nid oes dim yn y Rheoliadau hyn yn rhwystro aelodau pwyllgor safonau rhag ethol cadeirydd neu is-gadeirydd sy'n aelod annibynnol o'r pwyllgor hwnnw ac sydd-

- (a) wedi'i ailbenodi'n aelod o'r fath o dan reoliad 21(2); a
- (b) wedi'i ethol yn gadeirydd neu'n is-gadeirydd y pwyllgor hwnnw yn ystod tymor swydd cyntaf yr aelod."

10. Yn lle rheoliad 24, rhodder-

"24.-(1) Ni chaiff unrhyw fusnes ei drin mewn cyfarfod o bwyllgor safonau, ac eithrio is-bwyllgor adran 54A-

- (a) onid oes tri aelod o leiaf yn bresennol, gan gynnwys y cadeirydd; a
- (b) onid yw o leiaf hanner yr aelodau sy'n bresennol (gan gynnwys y cadeirydd) yn aelodau annibynnol.

(2) Ni chaiff unrhyw fusnes ei drin mewn cyfarfod o is-bwyllgor adran 54A-

(2) A community committee member shall cease to be a member of a local authority standards committee if that member ceases to be a member of a community council within the area of the local authority concerned."

7. For paragraph (2) of regulation 21, substitute-

"(2) Subject to paragraph (4) an independent member of the standards committee of a relevant authority may be reappointed by that relevant authority for one further consecutive term.

(3) In reappointing an independent member under paragraph (2), the relevant authority is not obliged to comply with the requirements imposed by regulations 13 to 17.

(4) Where an independent member is reappointed under paragraph (2), that further consecutive term shall not exceed four years."

8. After regulation 21, insert-

"21A.-(1) Subject to paragraph (2) of regulation 18A, a community committee member of the standards committee of a local authority may be reappointed by that local authority for one further consecutive term.

(2) Before making a reappointment of a community committee member under paragraph (1) the local authority shall consult-

- (a) community councils which are situated within its area; and
- (b) community council associations established for and operating within that area (if any)."

9. After paragraph (9) of regulation 22, insert-

"(10) Nothing in these Regulations prevents the members of a standards committee electing a chairperson or a vice-chairperson who is an independent member of that committee and who-

- (a) has been reappointed as such a member under regulation 21(2); and
- (b) was elected as chairperson or vice-chairperson of that committee during that member's first term of office."

10. For regulation 24, substitute-

"24.-(1) No business shall be transacted at a meeting of a standards committee, other than a section 54A sub-committee, unless-

- (a) at least three members are present, including the chairperson; and
- (b) at least half the members present (including the chairperson) are independent members.

(2) No business shall be transacted at a meeting of a section 54A sub-committee unless-

- (a) onid oes dau aelod o leiaf yn bresennol, gan gynnwys y cadeirydd; a
  - (b) onid yw o leiaf hanner yr aelodau sy'n bresennol (gan gynnwys y cadeirydd) yn aelodau annibynnol.
- (3) At ddibenion paragraff (1) a (2) mae'r term "cadeirydd" yn cynnwys-
- (a) is-gadeirydd sy'n llywyddu'n unol â pharagraff (4) o reoliad 22; a
  - (b) aelod annibynnol sy'n llywyddu'n unol â pharagraff (5) o reoliad 22."

- (a) at least two members are present, including the chairperson; and
  - (b) at least half the members present (including the chairperson) are independent members.
- (3) For the purposes of paragraphs (1) and (2) the term "chairperson" includes-
- (a) a vice-chairperson presiding in pursuance of paragraph (4) of regulation 22; and
  - (b) an independent member presiding in pursuance of paragraph (5) of regulation 22."

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

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

11 Gorffennaf 2006

11 July 2006

*D. Elis-Thomas*

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

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(1) 1998 p.38.

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(1) 1998 c.38.

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OFFERYNNAU STATUDOL

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**2006 Rhif 1849 (Cy.192)**

**LLYWODRAETH LEOL,  
CYMRU**

Rheoliadau Pwyllgorau Safonau  
(Cymru) (Diwygio) 2006

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STATUTORY INSTRUMENTS

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**2006 No. 1849 (W.192)**

**LOCAL GOVERNMENT,  
WALES**

The Standards Committees (Wales)  
(Amendment) Regulations 2006

©<sup>©</sup> Hawlfraint y Goron 2006

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W372/07/06

ON

**ATODIAD / ENCLOSURE**

**5**



## **Constitution: 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 appointed for a period of two consecutive four year terms.

2.9.2.2.2 Unless re-elected the current community council members are appointed for a period of four years, until they cease to be community council members within the area of Isle of Anglesey County Council, or until the next ordinary local government election following their appointment, whichever is the shorter. A community council member may be re-appointed for a further consecutive four year 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 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.

#### **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.

### **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 wholly or mainly in its area and the members of those community councils.

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<b>CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>Adoption of amended Code of Conduct</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To advise members on the adoption of the amended Code of Conduct and advertising requirements</b>
<b>REPORT BY:</b>	<b>Solicitor – Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Wyn Yaxley, <a href="mailto:mwyics@ynysmon.gov.uk">mwyics@ynysmon.gov.uk</a> 01248 752566</b>

## **1. INTRODUCTION & BACKGROUND**

The Local Authorities (Model of Code of Conduct) (Wales) (Amendment) Order 2016 amends existing subordinate legislation made under Part III of the Local Government Act 2000, consequential upon provision in the Local Government (Democracy) (Wales) Act 2013. The Order came into force on 1<sup>st</sup> April 2016.

All authorities subject to the Code had until 26<sup>th</sup> July 2016 (6 months) to adopt the amended Code of Conduct.

## **2. ISLE OF ANGLESEY COUNTY COUNCIL**

This Council adopted the amended Code of Conduct on 12.05.2016

## **3. TOWN AND COMMUNITY COUNCILS**

An email was sent on behalf of the Standards Committee to all town and community council clerks on 25<sup>th</sup> May 2016 requesting a copy of the relevant minute from the Councils' meetings which confirm adoption of the Code as revised.

Responses were requested by end August 2016.

## **4. FURTHER REQUIREMENTS**

Once adopted, there is a requirement, under Section 51(6) of the Local Government Act 2000, for an advertisement to be published in one or more newspapers circulating in the local area confirming the adoption and when and where the Code is available for inspection. Please find extract of the requirement under this legislation at **Enclosure 1**.

## **5. ADVERTISEMENT**

There has been some discussion with some community councils as to whether one advertisement could be utilized for the county council and all town and community councils.

However, it is clear from the legislation that the advertisement must include details of where the amended Code can be viewed and when, and so it is not practically possible to combine an advert for 41 separate and independent bodies.

An advert has been placed on behalf of the IOACC in the Chronicle on 18<sup>th</sup> August 2016. A copy of the advertisement is attached at **Enclosure 2**.

## **6. FURTHER ACTION**

The deadline for response has passed and **Enclosure 3** explains the current status of adoption of the Code by way of responses from the town and community councils.

We seek guidance on how the Standards Committee Members wish to proceed:

- a) What does the Standards Committee want to do in relation to those town and community councils which haven't responded to the email from 25<sup>th</sup> May 2016?
- b) It is suggested we contact those town and community councils which confirm they have adopted the amended Code of Conduct and advise them to advertise in accordance with the legislation and to confirm to this Council when they have done the same. Is this agreed?

## **7. RECOMMENDATION**

To note the contents of this report and discuss how the Standards Committee wishes to proceed in relation to the requirement on town and community councils to adopt an amended Code of Conduct and to advertise the same.



**ATODIAD / ENCLOSURE**

**1**



# Local Government Act 2000

## 2000 CHAPTER 22

### PART III

#### CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

#### CHAPTER I

#### CONDUCT OF MEMBERS

#### *Standards of conduct*

#### **51 Duty of relevant authorities to adopt codes of conduct.**

- (1) It is the duty of a relevant authority, before the end of the period of six months beginning with the day on which the first order under section 50 which applies to them is made, to pass a resolution adopting a code as regards the conduct which is expected of members and co-opted members of the authority (referred to in this Part as a code of conduct).
- (2) It is the duty of a relevant authority, before the end of the period of six months beginning with the day on which any subsequent order under section 50 which applies to them is made, to pass a resolution—
  - (a) adopting a code of conduct in place of their existing code of conduct under this section, or
  - (b) revising their existing code of conduct under this section.
- (3) A relevant authority may by resolution—
  - (a) adopt a code of conduct in place of their existing code of conduct under this section, or
  - (b) revise their existing code of conduct under this section.
- (4) A code of conduct or revised code of conduct—

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*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Act 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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- (a) must incorporate any mandatory provisions of the model code of conduct which for the time being applies to that authority,
  - (b) may incorporate any optional provisions of that model code, and
  - (c) may include other provisions which are consistent with that model code.
- (5) Where a relevant authority fail to comply with the duty under subsection (1) or (2) before the end of the period mentioned in that subsection—
- (a) they must comply with that duty as soon as reasonably practicable after the end of that period, and
  - (b) any mandatory provisions of the model code of conduct which for the time being applies to the authority are to apply in relation to the members and co-opted members of the authority for so long as the authority fail to comply with that duty.
- (6) As soon as reasonably practicable after adopting or revising a code of conduct under this section, a relevant authority must—
- (a) ensure that copies of the code or revised code are available at an office of the authority for inspection by members of the public at all reasonable hours,
  - (b) publish in one or more newspapers circulating in their area a notice which—
    - (i) states that they have adopted or revised a code of conduct,
    - (ii) states that copies of the code or revised code are available at an office of the authority for inspection by members of the public at such times as may be specified in the notice, and
    - (iii) specifies the address of that office, and
  - (c) send a copy of the code or revised code—
    - (i) in the case of a relevant authority in England or a police authority in Wales, to the Standards Board for England,
    - (ii) in the case of a relevant authority in Wales, to the <sup>F1</sup>Public Services Ombudsman for Wales ].
- (7) Where a relevant authority themselves publish a newspaper, the duty to publish a notice under subsection (6)(b) is to be construed as a duty to publish that notice in their newspaper and at least one other newspaper circulating in their area.
- (8) A relevant authority may publicise their adoption or revision of a code of conduct under this section in any other manner that they consider appropriate.
- (9) A relevant authority's function with respect to the passing of a resolution under this section may be discharged only by the authority (and accordingly, in the case of a relevant authority to which section 101 of the <sup>M1</sup>Local Government Act 1972 applies, is not to be a function to which that section applies).

#### **Annotations:**

#### **Amendments (Textual)**

- F1** Words in s. 51(6)(c)(ii) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 4 para. 3; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

#### **Modifications etc. (not altering text)**

- C1** Pt. III applied (24.3.2005) by New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), art. 1, Sch. 4 para. 9(3)

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*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Act 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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**C2** S. 51 modified (24.3.2005) by New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), art. 1, Sch. 4 para. 10

**Commencement Information**

**I1** S. 51 wholly in force at 28.7.2001; s. 51 not in force at Royal Assent see s. 108; s. 51 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; s. 51 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

**Marginal Citations**

**M1** 1972 c. 70.

**ATODIAD / ENCLOSURE**

**2**

**Public Notices**

**HYSBYSIAD O FABWYSIADU CÔD YMDDYGIAD NEWYDD**

Mae'n rhaid i bob Cyngor fabwysiadu côd ymddygiad yn seiliedig ar fodel cenedlaethol a bennwyd mewn deddfwriaeth gan Lywodraeth Cymru. Mae'r model cenedlaethol wedi newid yn ddiweddar ac mae Cyngor Sir Ynys Môn wedi diweddarau ei gôd ymddygiad yn unol â hynny. Gellir gweld copi o'r côd diweddaraf ar wefan y Cyngor yn <http://www.ynysmon.gov.uk/cyngor-a-democratiaeth/cynghorwyr-democratiaeth-ac-etholiadau/cyfansoddiad/cyfansoddiad-rhan-5-codau-a-phrotocolau/cyfansoddiad-51-cd-ymddygiad-i-aelodau> neu yn bersonol yng Nghyngor Sir Ynys Môn, Swyddfeydd y Cyngor, Llangefni, Ynys Môn LL77 7TW trwy gysylltu efo'r Swyddog Monitro yn ystod oriau swydfa.

Cyhoeddwr yr hysbysiad yn unol ag Adran 51 Deddf Llywodraeth Leol 2000 a Gorchymyn Awdurdodau Lleol (Côd Ymddygiad Enghreifftiol) (Cymru) (Diwygiadau) 2016.

**NOTICE OF ADOPTION OF NEW CODE OF CONDUCT**

All councils must adopt a code of conduct based on a national model laid down in legislation by Welsh Government. The national model has recently changed and The Isle of Anglesey County Council has updated its code of conduct accordingly. A copy of the updated code can be viewed on the Council's website at <http://www.anglesey.gov.uk/council-and-democracy/councillors-democracy-and-elections/constitution/constitution-part-5-codes-and-protocols/constitution-51-members-code-of-conduct/> or in person at The Isle of Anglesey County Council, Council Offices, Llangefni, Anglesey LL77 7TW by contacting the Monitoring Officer during office hours.

Notice issued in accordance with Section 51 Local Government Act 2000 and the Local Authorities (Model Code of Conduct) (Wales) (Amendments) Order 2016.

Lynn Ball  
Pennaeth Swyddogaeth (Busnes y Cyngor) a Swyddog Monitro / Head of Function (Council Business) and Monitoring Officer

CYNGOR SIR YNYS MÔN / ISLE OF ANGLESEY COUNTY COUNCIL  
SWYDDFA'R SIR/COUNTY OFFICES, LLANGEFNI, YNYS MÔN LL77 7TW

Croeso i chi ddellio gyda'r Cyngor yn Gymraeg neu'n Saesneg.  
Cewch yr un safon o wasanaeth yn y ddwy iaith.  
You are welcome to deal with the Council in Welsh or English.  
You will receive the same standard of service in both languages.

**RHYBUDD DAN ADRAN 25(6) DEDDF PRIFFYRDD 1980**

Rhoddir yma rybudd fod cytundeb creu llwybr troed cyhoeddus ar gyfer defnydd gan y cyhoedd wedi ei chwblhau rhwng Cyngor Sir Ynys Môn/Isle of Anglesey County Council a Dŵr Cymru Cyf yn y safle canlynol :-

Tir i'r de o Lyn Alaw yn gyffredinol ar ymyl y gronfa dŵr mewn tri rhan rhwng Cyfeiriad Grid SH4047386758 yng nghymuned Llannerchymedd a SH3764585241 yng nghymuned Tref Alaw.

Mae copi o'r Cytundeb a'r cynlluniau a gynhwysir ynddo ar gael i'w harchwilio yn rhad ag am ddim yn ystod oriau agor arferol yn Swyddfeydd y Cyngor, Llangefni, Ynys Môn.

Dyddiedig 18/8/2016 Dated

Robyn W. Jones  
Rheolwr Gwasanaethau Cyfreithiol/Legal Services Manager  
Cyngor Sir Ynys Môn/Isle of Anglesey County Council  
Swyddfeydd y Cyngor/Council Offices  
Llangefni  
Ynys Môn LL77 7TW

Am fwy o wybodaeth ynglŷn a'r uchod cysylltwch a'r Adran Gyfreithiol ar Llangefni 01248 752591. HT-18947-SMJ

Croeso i chi ddellio gyda'r Cyngor yn Gymraeg neu'n Saesneg. Cewch yr un safon o wasanaeth yn y ddwy iaith.

**NOTICE PURSUANT TO S 25(6) HIGHWAYS ACT 1980**

Notice is hereby given that a footpath has been created for use by the public at large by agreement between Cyngor Sir Ynys Môn/Isle of Anglesey County Council and D r Cymru Cyf at the following location:-

Land to the south of Llyn Alaw generally at the edge of the reservoir in three sections between Grid Reference SH4047386758 in the Community of Llannerchymedd and SH3764585241 in the Community of Tref Alaw.

A copy of the Agreement and maps may be inspected free of charge at the Council Offices, Llangefni, Anglesey during normal opening hours.

For further information regarding the above please telephone the Legal Section on Llangefni 01248 752591. HT-18947-SMJ

You are welcome to deal with the Council in Welsh or English. You will receive the same standard of service in both languages.

**RHYBUDD GWNEUD**

**DEDDF RHEOLI TRAFNIDIAETH FFYRDD, 1984 ADRAN 14(1) FEL Y' I DIWYGIWYD GAN DDEDDF TRAFNIDIAETH FFYRDD (CYFYNGIADAU DROS DRO), 1991**

**GORCHYMYN CYNGOR SIR YNYS MÔN / ISLE OF ANGLESEY COUNTY COUNCIL (CAU LLWYBR TROED DROS DRO) (LLWYBR RHIF 4, CAERGYBI) 2016**

**RHODDIR DRWY HYN RYBUDD** fod Cyngor Sir Ynys Môn/Isle of Anglesey County Council wedi gwneud Gorchymyn fydd yn cau llwybr rhif 4 yn Nhref Caergybi. Mae'r llwybr yn rhedeg o South Stack Road yn SH2392182600 ac yn mynd yn ei flaen mewn cyfeiriad gogleddol ar hyd y trac mynediad i Tyddyn Bach (nawr wedi'i ddymchwel), yna troi mewn cyfeiriad gogledd ddwyreinol a parhau drwy gae i derfynu ble mae'n ymuno gyda Llwybrau Troed rhif 2 & 3 Caergybi ger y parc cyhoeddus yn SH2406982893. Cyfanswm hyd y llwybr i'w gau yw 400M.

Mae angen y Gorchymyn er mwyn galluogi gwaith adeiladu cylchfan a fyfyrdd stad.

Y ffordd arall ar gyfer yr uchod yw o gyffordd llwybrau rhif 2, 3 a 4 yn SH2406982893 cario 'mlaen mewn cyfeiriad deheuol o fewn y parc cyhoeddus ac ymuno gyda South Stack Road rhwng y Lawntiau Bowlio a Cyrtiau Tennis yn SH2403482613.

**NOTICE OF MAKING**

**ROAD TRAFFIC REGULATION ACT, 1984 SECTION 14(1) AS AMENDED BY THE ROAD TRAFFIC (TEMPORARY RESTRICTIONS) ACT, 1991**

**CYNGOR SIR YNYS MÔN / ISLE OF ANGLESEY COUNTY COUNCIL (TEMPORARY FOOTPATH CLOSURE) (FOOTPATH NO.4, HOLYHEAD) ORDER 2016**

**NOTICE IS HEREBY GIVEN** that Cyngor Sir Ynys Môn/Isle of Anglesey County Council has made an Order, the effect of which will temporarily close footpath no.4 in the Town of Holyhead. The path runs from South Stack road at SH2392182600 and proceeds north along the access track to Tyddyn Bach (now demolished), then turning north east and proceeding through a field to end where it joins Footpaths nos. 2 & 3 Holyhead by the public park at SH2406982893. The total length of path to be closed is 400M.

The Order is necessary in order to facilitate the construction of roundabout and estate roads.

The alternative route for the above will be from the junction of paths nos. 2,3 and 4 at SH2406982893 proceeding in a southerly direction within the public park and joining South Stack Road between the Bowling Green and Tennis Courts at SH2403482613.

**Licensing Act 2003  
Application for a Premises Licence**

Name of Applicant: Robert Alan Evans  
Postal Address of Premises: 34, Beach Road, Y Felinheli, Gwynedd LL56 4RQ

Proposed Licensable Activities: Supply alcohol by retail consumption off the premises Monday to Sunday 07:00hr to 22:00hr

Representations must be made in writing to the Licensing Authority by: 06.09.16

The postal address of the Licensing Authority where the register is kept, where the record of the application may be inspected and where representations should be sent to: Licensing Section, Public Protection Service, Gwynedd Council, Mona Building, Caernarfon, Gwynedd, LL55 1SH.

**Terms & Conditions**

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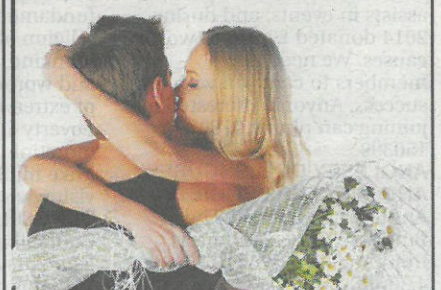
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**In Memoriam**

**Harrison**  
**In Loving Memory of Peter.**  
*Husband, brother,  
brother in law and uncle.*  
Passed away 18th August, 2000.  
Thought of with fond memories.  
Edyth and family x

*Wedding Anniversary coming up?*

Why not let your friends and family know about it, by placing an announcement on this page.



**ATODIAD / ENCLOSURE**

**3**

Cyngor Tref a Chymuned / Town and Community Council	Ymateb wedi ei dderbyn / Response Received	Dyddiad mabwysiadu'r Côt / Date Code adopted
Cyngor Cymdeithas <b>Aberffraw</b> Community Council	Do / Yes	20/7/2016
Cyngor Tref <b>Amlwch</b> Town Council	Do / Yes	28/6/2016
Cyngor Tref <b>Biwmares / Beaumaris</b> Town Council	Do / Yes	6/6/2016
Cyngor Cymdeithas <b>Bodedern</b> Community Council	Na / No	
Cyngor Cymdeithas <b>Bodffordd</b> Community Council	Na / No	
Cyngor Cymdeithas <b>Bodorgan</b> Community Council	Na / No	
Cyngor Cymdeithas <b>Bryngwran</b> Community Council	Do / Yes	8/6/2016
Cyngor Tref <b>Caergybi / Holyhead</b> Town Council	Do / Yes	9/5/2016
Cyngor Bro <b>Cwm Cadnant</b> Community Council	Na / No	
Cyngor Bro <b>Cylch y Garn</b> Community Council	Do / Yes	27/6/2016
Cyngor Cymuned <b>Llanbadrig</b> Community Council	Do / Yes	20/6/2016
Cyngor Cymdeithas <b>Llanddaniel-Fab</b> Community Council	Do / Yes	20/6/2016
Cyngor Cymdeithas <b>Llanddona</b> Community Council	Do / Yes	Dyddiad i'w gadarnhau / Date to be confirmed
Cyngor Cymdeithas <b>Llanddyfnan</b> Community Council	Do / Yes	21/6/2016
Cyngor Cymdeithas <b>Llaneilian</b>	Do / Yes	9/6/2016



Cyngor Tref a Chymuned / Town and Community Council	Ymateb wedi ei dderbyn / Response Received	Dyddiad mabwysiadu'r Côt / Date Code adopted
Community Council		
Cyngor Cymuned <b>Llanerchymedd</b> Community Council	Na / No	
Cyngor Cymuned <b>Llaneugrad</b> Community Council	Na / No	
Cyngor Cymdeithas <b>Llanfachraeth</b> Community Council	Na / No	
Cyngor Cymdeithas <b>Llanfaelog</b> Community Council	Do / Yes	22/6/2016
Cyngor Cymdeithas <b>Llanfaethlu</b> Community Council	Na / No	
Cyngor Cymuned <b>Llanfair Mathafarn Eithaf</b> Community Council	Do / Yes	Mawrth 2016 / March 2016
Cyngor Cymdeithas <b>Llanfair yn Neubwll</b> Community Council	Do / Yes	17/5/2016
Cyngor Cymuned <b>Llanfairpwll</b> Community Council	Na / No	
Cyngor Cymdeithas <b>Llanfihangelesceifiog</b> Community Council	Na / No	
Cyngor Tref <b>Llangefni</b> Town Council	Na / No	
Cyngor Cymdeithas <b>Llangoed a Phenmon / Llangoed and Penmon</b> Community Council	Do / Yes	Dyddiad i'w gadarnhau / Date to be confirmed
Cyngor Cymdeithas <b>Llangristiolus</b> Community Council	Na / No	
Cyngor Cymdeithas <b>Llanidan</b> Community Council	Do / Yes	31/5/2016
Cyngor Cymdeithas <b>Mechell</b> Community Council	Na / No	
Cyngor Cymuned <b>Moelfre</b>	Na / No	

Cyngor Tref a Chymuned / Town and Community Council	Ymateb wedi ei dderbyn / Response Received	Dyddiad mabwysiadu'r Côt / Date Code adopted
Community Council		
Cyngor Cymuned <b>Penmynydd a Star / Penmynydd and Star</b> Community Council	Do / Yes	1/6/2016
Cyngor Cymdeithas <b>Pentraeth</b> Community Council	Do / Yes	27/4/2016
Cyngor Tref <b>Porthaethwy / Menai Bridge</b> Town Council	Do / Yes	21/3/2016
Cyngor Cymdeithas <b>Rhoscolyn</b> Community Council	Na / No	
Cyngor Cymuned <b>Rhosybol</b> Community Council	Na / No	
Cyngor <b>Rhosyr</b> Council	Na / No	
Cyngor Bro <b>Trearddur</b> Community Council	Do / Yes	28/6/2016
Cyngor Cymdeithas <b>Tref Alaw</b> Community Council	Do / Yes	14/6/2016
Cyngor Bro <b>Trewalchmai</b> Community Council	Do / Yes	4/4/2016
Cyngor Cymuned <b>Y Fali / Valley</b> Community Council	Do / Yes	20/7/2016

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>Community Councils under the Local Government (Democracy) (Wales) Act 2015</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To report on current requirements regarding disclosure of interests by Community Councillors</b>
<b>REPORT BY:</b>	<b>Solicitor – Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Yaxley; <a href="mailto:mwycs@ynysmon.gov.uk">mwycs@ynysmon.gov.uk</a>; Tel: 01248 752566</b>

## 1. INTRODUCTION & BACKGROUND

The Local Government (Democracy) (Wales) Act 2015 has clarified the position with regard to registration of interests by town and community councillors. In advance of the reviews described in agenda item 12, the Standards Committee needs to be aware of the statutory expectations as these are the standards against which the forthcoming reviews will assess compliance.

## 2. REQUIREMENTS UPON TOWN AND COMMUNITY COUNCILLORS

Attached at **Enclosure 1** is an extract from an advice which One Voice Wales sent out to its members, dated 10.08.2015. This explains that there is no requirement for town and community councillors to complete a “standing” register of interests.

It is clear from the advice that there has been some confusion on this issue, with various different advices published at various intervals with conflicting expectations. It is agreed that the information contained in **Enclosure 1** correctly explains the current position.

Additionally, guidance dated the 2<sup>nd</sup> March 2016 from the Local Government Democracy Division of the Welsh Government also confirmed that: **“the exemption for community councillors from the requirement to register certain financial and other interests upfront is maintained”**.

So, the registration requirements under the code of conduct for town and community councillors is summarised below:-

- a) Councillors must disclose orally, both personal, and if appropriate, prejudicial interests, as and when the interest becomes relevant to the matter under consideration.

- b) When Councillors disclose an interest, for the first time at a meeting, they must give written confirmation of that interest to the clerk before the close of the meeting or immediately after the close of the meeting.

The written notification must include, as a minimum:-

- details of the personal/prejudicial interest;
- details of the business to which the interest relates;
- the member's signature.

If the interest is prejudicial the member should confirm that they have left the meeting and not taken part in the matter.

- c) The clerk should record interests disclosed, for the first time at a meeting, in the register of interests. There does not appear to be a specific format for this purpose but the register must be available for public inspection at all reasonable hours and **must be electronically available on the Council's website.**
- d) The register should be updated if necessary, as soon as reasonably practicable after each and every meeting when interests are disclosed.
- e) If there is a failure to provide written notification then it will be deemed that the personal/prejudicial interest has not been declared.
- f) The requirement to declare personal and prejudicial interests also includes gifts and hospitality if they are relevant to the matter under consideration. There is no requirement for a separate register to be kept for gifts and hospitality.
- g) One Voice Wales recommends that any declarations made at meetings be recorded in the minutes of those meetings.
- h) Any Councillors who have not declared an interest will not have any completed forms within 'the Register'; it is up to the community / town council in question as to whether or not it decides to present any 'blank' forms on the Council's website for those members.
- i) If there are any changes to the Councillors' registered interests, he / she must provide written notification to the clerk within 28 days of that change.

Councillors also need to bear in mind that personal and prejudicial interests must be declared in informal meetings and outside the Council. The declaration can only be oral, and there is no mechanism for recording such declarations. Councillors must not try to use their status to influence any decision-making; members should not participate if they have a prejudicial interest.

### **3. RECOMMENDATION**

- A. To note the requirements in terms of the Register of Interests which clerks are required to maintain following disclosure by members of their Town/Community Council.
- B. To consider these requirements when conducting the reviews of the Register of Interests of a sample of Town and Community Councils by the Standards Committee, discussed in further detail at agenda item 12.

**ATODIAD / ENCLOSURE**

**1**

## Register of Members Interests

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

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

### What councils need to do :

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

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

What declarations to record :

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

Template for register/declarations :

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



<b>CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL</b>	
<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>14 September 2016</b>
<b>TITLE OF REPORT:</b>	<b>Standards Committee review of the register of interests held by Town and Community Councils</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To report on the proposed review and the responses received from Town and Community Councils</b>
<b>REPORT BY:</b>	<b>Solicitor – Corporate Governance</b>
<b>CONTACT OFFICER:</b>	<b>Mared Wyn Yaxley; <a href="mailto:mwyics@ynysmon.gov.uk">mwyics@ynysmon.gov.uk</a>; 01248 752566</b>

## **1. INTRODUCTION & BACKGROUND**

As part of its work programme, the Standards Committee has decided to carry out a review of the declared interests made by Community Councillors in Town and Community Councils. This review will include a sample only.

## **2. RECORD-KEEPING ARRANGEMENTS**

On 27<sup>th</sup> June 2016, correspondence was sent to the Clerks of the 40 Town and Community Councils to query if the records for the period from May 2013 are available on the Town / Community Councils' websites or in paper format only so that arrangements can be made to (a) review remotely, or (b) review the relevant records at the appropriate venue.

At **Enclosure 1** is a matrix showing how each Town and Community Council has responded. The Standards Committee's correspondence asked for responses by end of July 2016.

## **3. NO RESPONSES**

No response has been received by 10 of the 40 Town and Community Councils.

It is suggested that the Standards Committee write to the Chair of each non-responsive Community Council, with a copy to the Clerk, to detail that information was requested and to ask why no reply has been received and ask when it may be expected.

Alternatively, that the Standards Committee ask the Elected Member of the Isle of Anglesey County Council that attends the non-responsive Community Councils to raise this matter in the Community Council's next meeting and to report back to the Chair of the Standards Committee.

## **4. REVIEW APPOINTMENTS**

The Chair of the Standards Committee proposes that the following Councils are subject to the review:

1. Amlwch Town Council
2. Beaumaris Town Council
3. Holyhead Town Council
4. Llangefni Town Council
5. Menai Bridge Town Council
6. Llanbadrig Community Council

The Town and Community Councils named above have all responded to the Standards Committee's correspondence, as can be seen in **Enclosure 1**.

The review will be conducted by the Chair or the Vice-Chair of the Standards Committee, together with one other member of the Standards Committee. The Monitoring Officer or the Corporate Governance Solicitor will also be in attendance.

The arrangements are to be confirmed, but the following is the proposal:

1. Amlwch Town Council – Islwyn Jones (Vice-Chair) and Denise Harris Edwards (Lay Member)
2. Beaumaris Town Council – Michael Wilson (Chair) and John Chorlton (Community Council representative)
3. Holyhead Town Council – Michael Wilson and Dilys Shaw (Lay Member)
4. Llangefni Town Council – Islwyn Jones and Leslie Lord (Lay Member)
5. Menai Bridge Town Council – Islwyn Jones and John Roberts (Community Council representative)
6. Llanbadrig Community Council – Michael Wilson and Dilys Shaw

## **5. RECOMMENDATION**

- A. The Standards Committee is requested to note the contents of this report and the matrix at **Enclosure 1**.
- B. To confirm how the Standards Committee wishes to deal with those Councils which have not responded to the request for information in relation to their register of interests.
- C. The Standards Committee is requested to confirm the arrangements noted above in relation to the review of the register of interests in terms of timetable, which Councils will be reviewed and by whom.
- D. To confirm how the Standards Committee wishes to report back on the requirements noted as per the report included for agenda item 13 in terms of the requirements on Town and Community Councils for the registration of interests; to determine the outputs and what format will be followed.

**Atodiad 1 /  
Enclosure 1**

A. Ymatebion a dderbyniwyd / Responses received

<b>Cyngor Council</b>	<b>Ymateb Response</b>	<b>Dyddiad ymateb Date of Response</b>
Cyngor Cymdeithas Aberffraw / <i>Aberffraw Community Council</i>	Papur yn unig / <i>Paper only</i>	06.09.2016
Cyngor Tref Amlwch / <i>Amlwch Town Council</i>	Papur yn unig. Cofnodion ac agenda arlein / <i>Paper only. Minutes and agenda online</i>	27.06.2016
Cyngor Tref Biwmares / <i>Beaumaris Town Council</i>	Rhannol bapur, rhannol arlein / <i>Partially paper, partially online</i>	28.06.2016
Cyngor Cymdeithas Bodedern / <i>Bodedern Community Council</i>	Papur yn unig. Yn sefydlu gwefan / <i>Paper only. Currently establishing website</i>	18.07.2016
Cyngor Cymdeithas Bodffordd / <i>Bodffordd Community Council</i>	Papur yn unig / <i>Paper only</i>	15.07.2016
Cyngor Cymdeithas Bodorgan / <i>Bodorgan Community Council</i>	Papur yn unig / <i>Paper only</i>	06.09.2016
Cyngor Cymdeithas Bryngwran / <i>Bryngwran Community Council</i>	Papur yn unig / <i>Paper only</i>	27.07.2016
Cyngor Tref Caergybi / <i>Holyhead Town Council</i>	Cofnodion arlein, papur hefyd / <i>Minutes online, paper as well</i>	15.07.2016
Cyngor Bro Cylch y Garn / <i>Cylch y Garn Community Council</i>	Ionawr 2015 – electronig, papur hefyd / <i>January 2015 – electronic, paper as well</i>	22.07.2016
Cyngor Cymuned Llanbadrig / <i>Llanbadrig Community Council</i>	Papur yn unig / <i>Paper only</i>	27.06.2016
Cyngor Cymdeithas Llanddaniel-Fab / <i>Llanddaniel-Fab Community Council</i>	Arlein / <i>Online</i>	29.06.2016
Cyngor Cymdeithas Llanddona / <i>Llanddona Community Council</i>	Wedi anfon y cofrestrau drwy ebost / <i>Sent copies of the registers by email</i>	25.07.2016
Cyngor Cymdeithas Llanddyfnan / <i>Llanddyfnan Community Council</i>	Papur yn unig / <i>Paper only</i>	27.07.2016
Cyngor Cymdeithas Llaneilian / <i>Llaneilian Community Council</i>	Rhannol ar bapur (cofnodion arlein ers 2014/15 – popeth arall ar bapur) / <i>Partially online (minutes online since 2014/15 – everything else on paper</i>	27.06.2016
Cyngor Cymuned Llanerchymedd / <i>Llanerchymedd Community Council</i>	Papur yn unig – arlein maes o law / <i>Paper only – online in near future</i>	27.07.2016
Cyngor Cymuned Llaneugrad / <i>Llaneugrad Community Council</i>	Papur yn unig / <i>Paper only</i>	27.06.2016
Cyngor Cymdeithas Llanfachraeth / <i>Llanfachraeth Community Council</i>	Papur yn unig / <i>Paper only</i>	15.07.2016
Cyngor Cymdeithas Llanfaelog / <i>Llanfaelog Community Council</i>	Papur yn unig / <i>Paper only</i>	27.06.2016
Cyngor Cymdeithas Llanfaethlu / <i>Llanfaethlu Community Council</i>	Papur yn unig / <i>Paper only</i>	19.07.2016
Cyngor Cymuned Llanfair Mathafarn Eithaf / <i>Llanfair Mathafarn Eithaf Community Council</i>	Rhannol bapur (2013/14 & 2014/15). Rhannol arlein (2015/16 & 2016/17) / <i>Partially paper (2013/14 &amp; 2014/15). Partially online (2015/16 &amp; 2016/17)</i>	27.06.2016
Cyngor Cymdeithas Llanfair yn Neubwll / <i>Llanfair yn Neubwll Community Council</i>	Cofrestr a chofnodion yn electronig, datganidau ar bapur / <i>Registers and minutes electronic,</i>	18.07.2016

**Atodiad 1 /  
Enclosure 1**

A. Ymatebion a dderbyniwyd / Responses received

	<i>declarations in paper</i>	
Cyngor Tref Llangejni / <i>Llangejni Town Council</i>	Aros i'r aelodau lenwi (erbyn diwedd mis Gorffennaf 2016) / <i>Waiting for the members to complete (before end of July 2016)</i>	18.07.2016
Cyngor Cymdeithas Llangoed a Penmon / <i>Llangoed &amp; Penmon Community Council</i>	Wedi anfon copiau / <i>Sent copies</i>	30.07.2016
Cyngor Cymdeithas Llangristiolus / <i>Llangristiolus Community Council</i>	Papur yn unig / <i>Paper only</i>	06.09.2016
Cyngor Cymdeithas Llanidan / <i>Llanidan Community Council</i>	Papur yn unig / <i>Paper only</i>	28.06.2016
Cyngor Cymuned Moelfre / <i>Moelfre Community Council</i>	Papur yn unig – proses o baratoi gwefan / <i>Paper only – in process of preparing website</i>	03.07.2016
Cyngor Cymuned Penmynydd a Star / <i>Penmynydd &amp; Star Community Council</i>	Papur yn unig / <i>Paper only</i>	27.07.2016
Cyngor Cymdeithas Pentraeth / <i>Pentraeth Community Council</i>	Dim cofrestr ffurfiol, cael ei gofnodi yn y cofnodion / <i>No official register, noted in the minutes</i>	28.07.2016
Cyngor Tref Porthaethwy / <i>Menai Bridge Town Council</i>	Papur yn unig / <i>Paper only</i>	04.7.2016
Cyngor Rhosyr / <i>Rhosyr Council</i>	Papur yn unig – proses o baratoi gwefan / <i>Paper only – process of preparing a website</i>	18.07.2016
Cyngor Cymdeithas Treardd / <i>Trearddur Community Council</i>	Ar ôl Mawrth 2016 – electronig, cyn Mawrth 2016 – papur yn unig / <i>Post March 2016 – electronic, pre March 2016 – paper only</i>	18.07.2016
Cyngor Bro Tregwalchmai / <i>Tregwalchmai Community Council</i>	Papur yn unig / <i>Paper only</i>	17.07.2016
Cyngor Cymuned Y Fali / <i>Valley Community Council</i>	Rhannol bapur (cofrestrau diddordeb), rhannol arlein (cofnodion) / <i>Partially paper (registers of interest), partially online (minutes)</i>	27.06.2016

**Atodiad 1 /  
Enclosure 1**

**B. Dim ymateb wedi ei dderbyn / No response received**

1. Cyngor Bro Cwm Cadnant / *Cwm Cadnant Community Council*
2. Cyngor Cymuned Llanfairpwllgwyngyll / *Llanfairpwllgwyngyll Community Council*
3. Cyngor Cymdeithas Llanfihangelesceifiog / *Llanfihangelesceifiog Community Council*
4. Cyngor Cymdeithas Mechell / *Mechell Community Council*
5. Cyngor Cymdeithas Rhoscolyn / *Rhoscolyn Community Council*
6. Cyngor Cymuned Rhosybol / *Rhosybol Community Council*
7. Cyngor Cymdeithas Tref Alaw / *Tref Alaw Community Council*

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