

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

Ffôn / tel (01248) 752500
Ffacs / fax (01248) 750839

RHYBUDD O GYFARFOD		NOTICE OF MEETING	
PWYLLGOR SAFONAU		STANDARDS COMMITTEE	
DYDD MERCHER, 13 MAWRTH 2019 am 2.00 o'r gloch		WEDNESDAY, 13 MARCH 2019 at 2.00 pm	
YSTAFELL BWYLLGOR 1 SWYDDFEYDD Y CYNGOR LLANGFNI		COMMITTEE ROOM 1 COUNCIL OFFICES LLANGFNI	
Swyddog Pwyllgor	Mrs Shirley Cooke 01248 752514	Committee Officer	

Aelodau Annibynnol / Independent Members

Ms Denise Harris Edwards
Mr Islwyn Jones (Is-Gadeirydd/Vice-Chair)
Mr John Robert Jones
Mrs Dilys Shaw
Mr Michael Wilson (Cadeirydd/Chair)

Yn cynrychioli'r Cyngor Sir / Representing the County Council

Y Cynghorydd/Councillor Trefor Lloyd Hughes MBE
Y Cynghorydd/Councillor Dafydd Rhys Thomas

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

Mr Keith Roberts
Mr Iorwerth Roberts

AGENDA

1 DECLARATION OF INTEREST

To receive any declaration of interest from a Member or Officer regarding any item of business.

2 MINUTES OF MEETING (Pages 1 - 16)

To confirm the draft minutes of the meeting held on 12 September 2018, including matters arising.

3 MEMBER DEVELOPMENT AND TRAINING (Pages 17 - 32)

A report by the Human Resources Development Manager on Member training.

4 MEMBER RELATED ISSUES (Pages 33 - 34)

A report by the Head of Democratic Services to provide an update on various Member related issues.

5 CONDUCT COMPLAINTS TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES (Pages 35 - 40)

A report by the Solicitor (Corporate Governance) in relation to:-

- (a) County Councillors, and
- (b) Town and Community Councillors

for Quarters 2 and 3, 2018/19.

6 PUBLIC SERVICES OMBUDSMAN FOR WALES DECISIONS (Pages 41 - 64)

A report by the Solicitor (Corporate Governance) on the PSOW's most recent decisions in Wales.

7 ADJUDICATION PANEL FOR WALES DECISIONS (Pages 65 - 70)

A report by the Solicitor (Corporate Governance) on the APW's most recent decisions in Wales.

8 ADJUDICATION PANEL FOR WALES - SANCTIONS GUIDANCE (Pages 71 - 94)

A new Sanctions Guidance has been produced by the Adjudication Panel for Wales in relation to breaches of the local Code of Conduct.

9 APPLICATIONS FOR DISPENSATIONS (Pages 95 - 180)

A report by the Solicitor (Corporate Governance) detailing the applications for Dispensation considered by a Panel of the Standards Committee since its last meeting.

10 **TOWN AND COMMUNITY COUNCILS - PRECEPT AND TRAINING** (Pages 181 - 194)

A report by the Solicitor (Corporate Governance) on the responses received by the Town and Community Councils in relation to including an element for training in the precept amount.

11 **REVIEW OF THE REGISTER OF INTERESTS IN THE TOWN AND COMMUNITY COUNCILS** (Pages 195 - 310)

A report by the Solicitor (Corporate Governance) on the reviews held by the Standards Committee in the Town Councils during December 2018 and January and February 2019.

This page is intentionally left blank

STANDARDS COMMITTEE

Minutes of the meeting held on 12 September 2018

PRESENT: **Independent Members**

Mr Michael Wilson (Chair)
Mr Islwyn Jones (Vice-Chair)

Ms Denise Harris Edwards
Mrs Dilys Shaw

Representing the County Council

Councillor Trefor Lloyd Hughes, MBE
Councillor Dafydd Rhys Thomas

Representing Town and Community Councils

Councillor Iorwerth Roberts
Councillor Keith Roberts

IN ATTENDANCE: Head of Function (Council Business)/Monitoring Officer
Solicitor (Corporate Governance) (MY)
Head of Democratic Services (for Items 3 & 4)
Human Resources Development Manager (MW) (for Item 4)
HR Trainee Development Officer (CD)
ICT Business Transformation Manager (JT)
Digital Solutions Architect (SS)
Committee Officer (SC)

APOLOGIES: Mr John R Jones

1. DECLARATION OF INTEREST

No declaration of interest was received.

2. MINUTES OF MEETING

The draft minutes of the Standards Committee held on 14 March 2018 were confirmed as correct.

Matters arising from the minutes:-

The Solicitor (Corporate Governance) has provided a “matters arising” document to all members of the Standards Committee detailing the

actions which have been taken in accordance with the Minutes of the meeting held on 14 March 2018 in an email dated 6 September 2018.

Particular discussion took place relation to the matters below:

Item 6 (Minutes 13.9.17) - Update on the adoption of the Amended Statutory Code of Conduct

The Chair questioned whether Llangristiolus and Bodorgan Community Councils had forwarded a copy of their minutes, confirming they had adopted the Code of Conduct?

The Monitoring Officer responded that she had received an e-mail on 16 April 2018 from the Clerk of Llangristiolus Community Council confirming its adoption of the Code.

In relation to Bodorgan Community Council, the Monitoring Officer confirmed that the Council had adopted the Code on 17 January 2017, and a copy of the minutes was forwarded on 14 March 2018.

Item 7 – Member Training and Development Plan

The Chair questioned whether Members had completed evaluation sheets following attendance at training sessions?

It was noted that members are actively encouraged to do so, but cannot be compelled; the above item would be discussed in Item 5 on the agenda.

Item 8 – Member Development Charter

The Chair questioned whether the WLGA 's Wales Charter for Member Support and Development self-assessment had been completed by end of April 2018?

It was noted that the Charter would be discussed in Item 3 on the agenda.

3. MEMBER RELATED ISSUES

Submitted - an update by the Head of Democratic Services on the following:-

• Members' Annual Reports

The Head of Democratic Services reported that the Democratic Services Committee in March 2018 agreed a timetable for publishing Members' Annual Reports by 30 June 2018.

Members of the Standards Committee showed concern that, to date, only 18 out of 30 Annual Reports have been published online.

The Head of Democratic Services confirmed that another 11 Annual Reports have been received, which are currently being processed, and will be published.

He was unable to say precisely when but within the next three weeks. It was noted that there is one Annual Report outstanding.

- **Member Development Charter**

The Head of Democratic Services reported that the Council is seeking re-assessment for the WLGA's Wales Charter for Member Support and Development. He stated that Members' Annual Reports and Personal Development Reviews had not been submitted by the proposed date in April, therefore a revised timetable has been confirmed for re-submission during Quarter 3, 2018/19. The Reports and PDRs are a requirement for submitting the application.

- **DBS Checks**

The Head of Democratic Services reported that some Members and Co-opted Members have undergone an enhanced DBS check in accordance with the Council's Disclosure and Barring Policy, actioned in consultation with the Head of Learning. It was noted that the DBS checks are current and complete and will be reviewed by the Head of Democratic Services on a regular basis.

- **Members' Biography on the Council Website**

The Head of Democratic Services reported that Members have received 1-1 support on uploading training information and attendance at Committees onto the Council website. He referred to a training session held in March, where issues were discussed with Members on how to present and access information on elected Members online. It was noted that since April, information on attendance at meetings and training sessions has been published online.

The Head of Democratic Services reported that the WLGA has published new guidance on social media for Members, which includes Facebook and Twitter. He stated that the Chair of the Standards Committee has circulated the guidance to all Members.

It was noted that the Head of Democratic Services is currently in discussion with the HR Development Manager regarding the best way of ensuring that Members have access to relevant training, including e-learning, and securing an external provider for social media training and to include keeping Members safe online.

- **Outside Bodies**

The Head of Democratic Services reported that outside bodies are reviewed annually by the Council. He stated that a framework for monitoring key partnerships on a rolling basis was adopted by the Partnership and Regeneration Scrutiny Committee on 19 June 2018.

It was noted that in relation to 'local' outside bodies, Annual Reports provide an opportunity for Members to share information with the public on roles and

activities. In future, the format will be reviewed to allow Members to summarise their involvement on these bodies, rather than noting the number of meetings attended.

An in-depth discussion focused on the following:-

- The Council's policy of encouraging Members to complete Annual Reports and ensuring that arrangements are in place to facilitate Members to prepare their reports for publishing;
- The Council's current policy of carrying out DBS checks on some elected Members, the reliance on portability and the retention/security around storage of DBS records;
- Online publication of information relating to training sessions Members have attended;
- Preparation and online publication of Members' Annual Reports;
- Support offered to Members by the ICT service on I-pads, Facebook, Twitter, social media etc;
- Outside bodies - membership; monitoring - in terms of performance; scrutiny; political balance; website link.

RESOLVED:-

- **To note progress as detailed in the report.**
- **That the Head of Democratic Services notifies the Standards Committee when all 30 Members' Annual Reports have been completed and published online.**
- **That the Council now seeks re-assessment for the WLGA's Wales Charter for Member Support and Development.**
- **The Head of Democratic Services to forward a copy of the final submission of the Member Support Development Charter to the Standards Committee in due course.**
- **For members of the Standards Committee to attend a scrutiny meeting (they are public meetings and so no special arrangement is required).**
- **That the Head of Democratic Services considers the key outside bodies and ensures that website links are available as soon as possible for Members and for the public.**

Action: See Resolution above.

4. MEMBER DEVELOPMENT

Submitted - an update by the Human Resources Development Manager on development opportunities offered to Members since the previous report to this Committee on 14 March 2018.

A revised plan for 2018/19 was compiled with input from senior officers and Group Leaders to meet the objectives and priorities of this Authority. The Plan was presented and adopted by the Council on 15 May 2018.

The HR Development Manager reported that between 1 April and 14 September 2018, 10 formal development sessions had been arranged, with some dates having to be re-scheduled. The topic areas included Safeguarding and Health and Safety, which are mandatory sessions. Where applicable, lay members and Standards Committee members were invited to attend specific training sessions.

It was noted that training delivery has been a combination of both officer led and external providers, with a substantial contribution being invested in the Scrutiny Training Programme. The HR Development Manager stressed the need for all Members to attend mandatory training sessions, not only because of cost, but because of the nature of matters discussed in these sessions.

The HR Development Manager reported that Members are encouraged to use the E-Learning programmes and modules available to them. It was noted that the E-Learning Officer has delivered a number of training sessions for Members, to meet their individual training needs.

Members raised the following during discussion:-

- The Modern.Gov system is not user friendly for accessing online attendance records for training for Members including members of the Standards Committee;
- Whether there is a timeframe for mandatory training sessions prescribed by the Welsh Government for Members? The Monitoring Officer responded that the timeframe for mandatory training prescribed by the Welsh Government is currently 12 months.
- The need to ensure evaluation forms are completed following training sessions for feedback purposes. The Human Resources Development Manager responded that HR Officers actively encourage Members to complete evaluation sheets.

The Head of Democratic Services reported that only training records from April 2018 had been published online. He suggested that the Chair attends the Group Leaders' meetings to highlight the need for Group Leaders to ensure that their Members are made aware of the training sessions available to them.

RESOLVED:

- **To note progress within the Member Development Plan for 2018/19.**
- **For the Head of Democratic Services to discuss with the Human Resources Development Manager particular training on “social media” and the facility which is available for Members to include Facebook and Twitter etc. on their biography pages on the Council’s website.**
- **Whenever development sessions are held, elected Members to be reminded to update their online training records.**

Action: See Resolution above.

5. STANDARDS COMMITTEE REVIEW OF THE MEMBERS' REGISTERS

Submitted - a report by the Solicitor (Corporate Governance) on the review of the Registers of Interest for elected Members and co-opted members conducted between December 2017 and February 2018.

At its meeting on 13 September 2017, the Standards Committee resolved that correspondence be circulated to all Members confirming the outcome of the review.

The Chair of the Standards Committee attended the Group Leaders' meeting on 26 April 2018 and Members' Briefing meeting on 3 May 2018 to discuss matters arising from the review of the Registers.

A general letter of advice was distributed to all elected and co-opted members of the Council on 3 May 2018.

The Solicitor (Corporate Governance) highlighted ICT and communication issues as matters that needed to be addressed. It was noted that progress has been made in relation to changes to each Member's homepage, where new tabs have been added to access the following information:-

- Attendance at Meetings;
- Training;
- Annual Reports;
- Councillors' Allowances;
- 'Surgery' details for regular appointments;
- Links to Members' Facebook/Twitter accounts.

It was further noted that 9 Members have received personal letters to rectify errors, and responses have been received by all apart from 1 Member.

The Solicitor (Corporate Governance) reported that a review of the 5 independent members of the Standards Committee was conducted by the two Town and Community Council members in June 2018, the findings of which have been shared with the Standards Committee members.

Individual letters of advice were distributed to the 5 independent members of the Standards Committee on 12 July 2018. One member was requested to review the detail of his/her Standing Register, and the member has responded and acted upon the advice.

Members of the Standards Committee showed concern that as training records are held centrally by the Council, not all training completed by Members and members of the Standards Committee is recorded and available to view online.

The ICT Manger gave a summary of the Council's Customer Relationship Management System, which will be operational by the end of the year. He stated that the system will make significant improvements to the Council website, and information will be much easier to access.

The Monitoring Officer highlighted issues of concern identified in the Modern.Gov system in relation to access to information on co-opted members. It was noted that there is no drop-down list for co-opted members, only elected Members for 'Declarations of 'Interest', 'Gifts and Hospitality' and 'training'.

The ICT Manager reported that ICT had investigated whether additional text could be added to the system. Modern.Gov responded that there are limitations in the system, and that it has been designed for elected Members only. It was noted that ICT have now added a note on the Council website explaining how to carry out a search for information on co-opted members.

RESOLVED:-

- **To note the contents of the report.**
- **To note the contents of Appendix 1 to the report**
- **To write to Councillor Bryan Owen, Group Leader in relation to Councillor Eric Wyn Jones' failure to respond to written requests regarding his Register of Interests.**
- **To inform Councillor Bryan Owen that the Vice-Chair of the Standards Committee (as the Standards Committee member who conducted the review of Councillor Eric Wyn Jones' Register of Interests) is available to discuss the matter with Councillor Eric Wyn Jones, if required.**
- **To note that co-opted members will need to ensure they keep a note of their attendance at training from now on.**
- **That the ICT Digital Services Analyst contacts Modern.Gov to raise the issue of adding a narrative into the system, and enquire about the cost.**
- **That the Standards Committee presents its proposal for the 2019 review of elected Members to Group Leaders for approval i.e. it will be a face to face exercise with one member of the Standards Committee and the elected Member considering that member's Register of Interests etc. This will be conducted in circa July 2019, after the Annual Reports have been published (in June 2019, as per the agreed timetable).**

Action: See Resolution above.

6. CONDUCT COMPLAINTS TO THE PUBLIC SERVICES OMBUDSMAN FOR WALES

Submitted - a report by the Solicitor (Corporate Governance) on the quarterly update of complaints received by the Public Services Ombudsman for Wales in the form of matrices for (a) County Councillors, and (b) Town and Community Councillors.

The Solicitor (Corporate Governance) reported that two complaints had been lodged by members of the public against Anglesey County Councillors for the period January to March 2018, and two complaints had been made against Town and Community Councillors for the same period.

One complaint was lodged against a County Councillor from April to June 2018, whilst none were received against Town and Community Councillors for the period. The Ombudsman decided not to investigate the complaints.

RESOLVED to note the report and its enclosures.

Action: None

7. PUBLIC SERVICES OMBUDSMAN FOR WALES DECISIONS

Submitted - a report by the Solicitor (Corporate Governance) on the Public Services Ombudsman for Wales (PSOW)'s quarterly Casebook of Code of Conduct complaints.

The report included detail on complaints investigated by the Ombudsman in relation to alleged breaches of the Members' Code of Conduct by Councillors as per his Casebooks for January and May 2018.

The Chair reported that the Ombudsman has raised the bar with regard to issues he is prepared to investigate. It was noted that he now concentrates on more serious complaints, and treats most issues between Members/Town and Community Councillors, as low key, below his threshold for investigation.

RESOLVED to note the report and its enclosures.

Action: None

8. ADJUDICATION PANEL FOR WALES DECISIONS

The above item was not discussed, as no decisions have been published by the Panel since the Standards Committee's last meeting.

9. STANDARDS COMMITTEE ANNUAL REPORT

The Chair presented the Standards Committee's Annual Report for 2018/19 to the County Council at its meeting on 15 May 2018. The report details the work of the Committee during 2017/2018, and includes the Work Programme for 2018/2019.

RESOLVED:-

- **To note the Programme delivered by the Standards Committee between April 2017 and May 2018.**
- **To note the contents of the Standards Committee's Work Programme for 2018/19.**

Action: None

10. LOCAL RESOLUTION PROTOCOL

Submitted - a report by the Solicitor (Corporate Governance) on the Council's amended Local Resolution Protocol, which was adopted by the County Council at its meeting on 15 May 2018.

The Solicitor (Corporate Governance) reported that the Protocol has been published on the Council's Intranet site (MonITor) and internal policy hub (Porth Polisi), and a copy was circulated to all elected Members and members of the Standards Committee on 22 June 2018.

RESOLVED:-

- **To note the contents of the amended Local Resolution Protocol.**
- **To note the update provided in the report.**
- **To note that mediation training will be held on 18 September 2018 at Bryn Cefni Business Centre, Llangefni at 1.00 pm.**
- **For members of the Standards Committee who are attending the mediation training to ensure they have familiarised themselves with the Local Resolution Protocol.**
- **An update on the mediation training will be shared at the next meeting of the Standards Committee in March 2019.**

Action: See Resolution above.

11. METHODOLOGY ADVICE NOTE ON THE REVIEW OF THE REGISTERS OF INTEREST OF ELECTED AND CO-OPTED MEMBERS

Submitted - a report by the Solicitor (Corporate Governance) on the above, for consideration by the Standards Committee.

A review of the Registers of Interests of elected and co-opted members was completed by the Standards Committee between December 2017 and March 2018, as part of its work programme for 2017/2018. (Matter discussed in item 5 of today's Agenda). The Standards Committee were provided with guidance on what to consider, and how to report the information.

A draft Methodology Advice Note has been prepared which details the documents to review, what needs to be considered within those documents and how to record findings made when Standards Committee members conduct the next review of the Members' Registers of Interests. The Methodology Advice Note will be circulated to Members, prior to any future reviews being undertaken.

RESOLVED:-

- **To note and approve the contents of the draft Methodology Advice Note.**
- **That the Chair of the Standards Committee attends a meeting of Group Leaders to discuss the contents of the Advice Note.**

- That correspondence highlighting information discussed by the Chair in the Group Leaders meeting be forwarded to any Group Leaders absent from the meeting.
- The next review of the Members' Registers of Interests will be conducted by way of a face to face exercise with one member of the Standards Committee and the elected Member considering the Member's Register of Interests etc. This will be conducted in circa July 2019, after the Annual Reports have been published (in June 2019, as per the usual timetable).
- A copy of the Advice Note will be circulated to all Members prior to the review being conducted.

12. GIFTS AND HOSPITALITY - A BRIEFING NOTE TO MEMBERS

Submitted - a report by the Solicitor (Corporate Governance) on a proposed Briefing Note to be distributed to Members on the requirement to register Gifts and Hospitality.

In accordance with the Local Authorities (Model Code of Conduct) (Wales) Order 2008, Members must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a specified value, provide written notification to the Council of the existence and nature of that gift, hospitality etc.

Section 5.9 of the Constitution includes a Gifts and Hospitality Protocol, which assists Members in deciding when it is appropriate and necessary to register under the Code of Conduct. The Gifts and Hospitality Register is available for Members to complete on-line.

The Solicitor (Corporate Governance) reported that a Briefing Note currently exists in order to complement the Protocol but the intention is for the amended Briefing Note to replace the current version. The amended Briefing Note is a simplified version, and contains practical examples. She stated that the Briefing Note has been shared with the Senior Leadership Team and Heads of Service, and the response received has been positive.

There followed a discussion in relation to the £20 threshold for registration; whether this should be increased or decreased. However, general consensus was that this level was reasonable. To increase/decrease would be a full Council decision but the Standards Committee could make its view known, should it feel the level was too low or too high.

RESOLVED:-

- To note the contents of the draft amended Briefing Note, and confirm its adoption.
- That the Chair of the Standards Committee presents the Briefing Note to a meeting of Group Leaders, and
- Following the Group Leaders' Meeting, that the Briefing Note be distributed to all Members in the name of the Standards Committee.

Action: See Resolution above.

13. BRIEFING NOTE TO MEMBERS - INDIVIDUAL RIGHTS AS MEMBERS

Submitted - a report by the Solicitor (Corporate Governance) attaching a proposed new Briefing Note to be distributed to Members of the County Council.

The Code of Conduct details the behavioural standards expected of elected Members, and provides guidance for Members on how to carry out their duties and their role within the Council in compliance with the standards required under the Code.

The Solicitor (Corporate Governance) reported that it is often difficult for Members when they are acting in a personal capacity in terms of their individual rights as citizens, accessing Council services from a private capacity.

It was noted that the Briefing Note has been shared with the SLT and Heads of Service, and positive responses have been received.

RESOLVED:-

- **To note the contents of the draft Briefing Note, and confirm its adoption;**
- **That the Chair of the Standards Committee presents the Briefing Note to a meeting of Group Leaders.**
- **Should the Group Leaders present require minor changes to the Briefing Note, these can be made with the agreement of the Chair.**
- **Should significant changes be proposed by the Group Leaders, the Briefing Note, together with the proposed amendments, will need to be presented to the next meeting of the Standards Committee.**
- **Following the Group Leaders' Meeting, that the Briefing Note be distributed to all Members in the name of the Standards Committee.**

Action: See Resolution above.

14. STANDARDS COMMITTEE FORUM

Submitted - an update report by the Solicitor (Corporate Governance) on the North Wales Standards Committee Forum held on 29 June 2018.

The Solicitor (Corporate Governance) reported that a presentation was given on the WLGA's draft Social Media Guidance for Members. Since the Forum meeting, the document has been published by the WLGA, and Anglesey County Council Members, co-opted Members, and the Clerks of the Town and Community Councils have been sent a copy of the document on 21 August 2018.

The PSOW had shared the Guidance by way of a response to the queries which had been raised at the previous Forum meeting in relation to allegations of serious misconduct against members. Despite the initial document being a

stand-alone Guidance, the Solicitor (Corporate Governance) reported that the Ombudsman's Office intends to include the advice from the document as part of the Ombudsman's Guidance, rather than as a stand-alone publication.

It was further noted that the Chair, Vice-Chair and Solicitor (Corporate Governance) would be attending the Standards Conference Wales on 14 September 2018 in Aberystwyth on behalf of the Isle of Anglesey County Council. A formal update will be provided to the Standards Committee at its meeting on 13 March 2019.

RESOLVED:-

- **To note the report.**
- **That members of the Standards Committee put forward any items to the Chair for inclusion on the agenda at the next Forum meeting.**
- **To note the date of the Standards Conference Wales on 14 September 2018, and for Standards Committee members to share any questions they would like the Chair/Vice Chair to raise on their behalf with the Public Services Ombudsman for Wales in his open session at the meeting.**
- **Any questions to be forwarded to the Chair/Vice-Chair by 13 September.**
- **That an informal session be arranged following the Conference to provide feedback by the Chair, Vice-Chair and Solicitor (Corporate Governance) on those matters discussed, to members of the Standards Committee.**

Action: See Resolution above.

15. DISPENSATION(S)

Submitted - a report by the Solicitor (Corporate Governance) on the outcome of dispensation applications received since the Standards Committee's last meeting on 14 March 2018.

The Solicitor (Corporate Governance) reported that the Dispensation Panel met on 29 June 2018 and considered three applications for dispensation from members of the Beaumaris Town Council in relation to a single matter. The Solicitor gave a summary of the facts and the legal basis for granting the dispensations and any restrictions imposed.

Reference was made to the Guidance Note included in the report, which is intended as an aid for members of the Standards Committee when they sit on Dispensations Application Panels. Following such Guidance will ensure consistency of members' approach and thus ensure fairness for all applicants.

The Vice-Chair requested that a correction be made to the report with regard to the dispensations granted to Councillors Stan and Jason Zalot, which states that permission was granted to 'remain in the room during any debate/vote on the issue'. The Vice-Chair reported that permission to vote had not been

granted to both applicants. The Vice-Chair confirmed the wording as per the minutes of the 29 June 2018 meeting is correct; it is the report which is mistaken.

Discussion focused on the exceptional circumstances where a dispensation may allow a person who has a disability to remain in the room during voting.

RESOLVED:-

- **That the Committee notes the dispensations granted and the grounds and circumstances in which they were granted.**
- **That draft minutes of the Panel which considered the three applications for dispensation held on 29 June 2018 were confirmed as correct by the Panel members (Michael Wilson, Islwyn Jones and Keith Roberts).**
- **That the Guidance Note included in Appendix 2 be adopted by the Standards Committee.**
- **That the Chair of the Standards Committee present the Guidance Note to a meeting of Group Leaders.**
- **That the Monitoring Officer reviews the Application for Dispensation form with regard to 'disability'.**

Action: See Resolution above.

16. TOWN AND COMMUNITY COUNCILS - WEBSITES

Submitted - a report by the Solicitor (Corporate Governance) on the statutory requirement for all Town and Community Councils to have a website, and to publish certain information, including Members' Register of Interests online.

At its meeting on 14 March 2018, the Standards Committee resolved that the Monitoring Officer write to the relevant Town and Community Councils to clarify which Councils had complied.

The Solicitor gave an update and reported that 22 out of 40 Town and Community Councils had responded, and each one which has responded has a website. Only 2 of the 22 had not published their Register of Interests online.

It was noted that there are no penalties for Town and Community Councils for non-compliance in not having a web presence.

RESOLVED:-

- **To note the information with regard to Town and Community Councils.**
- **That no further resource is utilised in relation to this matter, but the issue will be considered when the Standards Committee conducts its Review in the Town/Community Councils (discussed under agenda item 19).**

Action: See Resolution above.

17. TOWN AND COMMUNITY COUNCILS' ADOPTION OF THE LOCAL RESOLUTION PROTOCOL

Submitted - a report by the Solicitor (Corporate Governance) on the above.

The Standards Committee, at its meeting on 14 March, 2018 resolved that the Monitoring Officer establish which Town and Community Councils have adopted a Local Resolution Protocol.

Correspondence has been sent to all Town and Community Councils to ascertain whether they have adopted the Protocol.

The Solicitor gave an update and reported that 14 out of 40 Town and Community Councils have responded, and of those 14, 11 has adopted a Local Resolution Protocol.

The Monitoring Officer suggested that a question be raised in the Standards Committee Conference or Forum, as to what extent do Standards Committees of County Councils support Town and Community Councils with local resolution? She stated that the role of the Monitoring Officer is to deal with high profile, difficult disputes, but clarity was sought regarding lower level issues where an intervention has been conducted by the Standards Committee.

RESOLVED:-

- **To note the information in the report.**
- **That no further resource is utilised in relation to this matter, but the issue will be considered when the Standards Committee conducts its Review in the Town/Community Councils (discussed under agenda item 19).**
- **The Chair to raise the above question regarding local resolution in the Standards Committee Conference/Forum.**

Action: See Resolution above.

18. TOWN AND COMMUNITY COUNCIL TRAINING FOR CLERKS

Submitted - a report by the Solicitor (Corporate Governance) on the above.

The Standards Committee at its meeting on 17 September 2017 discussed the training and development needs of Town and Community Councils, their members and the Clerks of those Councils. As a result, correspondence was sent by the Chair to all Town and Community Clerks on 10 November 2017 recommending that each Council, when setting its individual precept for 2019/20, considered including an element for training Members and Clerks.

Further correspondence was sent on behalf of the Standards Committee on 4 July 2018 to ascertain which Town and Community Councils had considered the recommendation made in the earlier correspondence.

The Solicitor gave an update that 17 out of 40 Town and Community Councils have responded. All but one stated that they would consider meeting the cost of training in next year's precept

Concerns were raised that the report includes a response from one Community Council which states that some courses held by One-Voice Wales locally are Welsh medium only.

RESOLVED:-

- **To note the information in the report.**
- **That no further resource is utilised in relation to this matter, but the issue will be considered when the Standards Committee conducts its Review in the Town/Community Councils (discussed under agenda item 19).**
- **The Monitoring Officer to contact Valley Community Council to explain that bi-lingual courses and information is available from One-Voice Wales.**

Action: See Resolution above.

19. REVIEW OF THE TOWN AND COMMUNITY COUNCILS' REGISTERS OF INTERESTS

Submitted - a report by the Solicitor (Corporate Governance) on reviewing the Register of Interests held by the Town and Community Councils.

It is envisaged that the following documents dating back to May 2017 would need to be reviewed:-

- Register of Personal Interests;
- Declarations of Interest forms made in Council meetings;
- Agenda and Minutes for the Council and its Sub-Committees;
- A list of the names of all Member and copy form of acceptance of office by each current Member, including the statutory undertaking to comply with the Code of Conduct;
- A record of Members' training.

A review of the websites will also be conducted to ascertain if all relevant information is included online.

A discussion was had in relation to which Town and/or Community Councils the Standards Committee wants to review, and the basis on which a decision is to be made. The Standards Committee was advised to consider the documentation included in Appendices 1- 3 of the report, in addition to those Councils that had failed to respond to the matters included in Agenda Items 16, 17 and 18.

RESOLVED:-

- **To note the contents of the report.**
- **To confirm that that the Standards Committee will review the 5 Town Councils' Registers of Interest** (decision taken on a casting vote by the Chair).
- **For the Monitoring Officer to produce a Methodology Advice note** (similar to that produced in relation to the elected / co-opted members' Advice Note (agenda item 11 today) to assist Standards Committee members when conducting the Review of Registers in the Town and Community Councils.
- **For an informal meeting to be arranged for the Standards Committee members in order to consider the arrangements for the review.**
- **For the review to include the matters included in items 16, 17 and 18 today** (namely, websites, local resolution protocol and training for members and Clerks).

The meeting concluded at 5.35 pm

**MICHAEL WILSON
CHAIR**

ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	STANDARDS COMMITTEE
DATE:	13 MARCH 2019
TITLE OF REPORT :	MEMBER DEVELOPMENT
REPORT BY :	HUMAN RESOURCES DEVELOPMENT MANAGER
CONTACT OFFICER :	MIRIAM WILLIAMS (extension 2512)
PURPOSE OF REPORT :	TO PROVIDE AN UPDATE ON THE PROGRESS OF THE MEMBER DEVELOPMENT PROGRAMME

BACKGROUND

The purpose of this report is to provide the Standards Committee with an update on the progress of the development opportunities offered to Elected Members since the report submitted on the 12th September 2018.

MEMBER TRAINING AND DEVELOPMENT PLAN

Between 12th September 2018 and up to the end of this Financial Year, a number of additional formal development sessions have/are being offered to Elected Members, see Appendix 1. The plan covers a range of topic areas, some of which are noted as mandatory e.g. Equalities.

E-LEARNING

E-Learning continues to be promoted as a method of blended development for Elected Members. Details of the modules undertaken by Elected Members for this financial year are noted in Appendix 2.

During 2019/20 it is intended to develop the site further to ensure ease of access and encourage increased usage.

ICT SKILLS

The Human Resource team has previously circulated a questionnaire to all Elected Members in order to establish individual training needs so that tailored training can be provided to meet these needs. Feedback from the questionnaires (returned to date) have been collated in Appendix 3.

Training will be arranged to address these needs (1-1 or group sessions) in due course.

SOCIAL MEDIA TRAINING

A training session relating to the above was arranged for the latter part of 2018 with a focus not only on highlighting the work of the Elected Members in the community but also highlighting the need of staying safe online.

Of the Elected Members who have responded to the questionnaire see Appendix 3, a number have noted that they wished to have further sessions in order to create Twitter/Facebook pages.

This need will be addressed in the first quarter of the next financial year.

EVALUATION OF TRAINING

The evaluation form relating to training was amended as a result of feedback from Members of the Democratic Services Committee. The opportunity has also been taken to highlight the need for Elected Members to record their training online immediately following any training attended. See Appendix 4.

PERSONAL DEVELOPMENT REVIEWS (PDR) FOR MEMBERS

Arrangements with regards to completion of PDR's has been overseen by Group Leaders with a deadline for their completion by 28/2/2019.

Progress is being monitored by the Head of Democratic Services via the Group Leaders Meetings.

DEVELOPMENT PLAN 2019/20

Work is currently under way to collate development needs which will inform the Development Programme for the forthcoming year. This will take into account and reflect

the needs identified through the PDR's in addition to guidance from the Senior Leadership Team and Group Leaders.

This plan will be submitted for the consideration of the Democratic Services Committee and subsequently the Full Council.

In addition, the Member Development Strategy has been updated and this will be submitted to the Democratic Services Committee later this month.

RECOMMENDATION

The Committee is requested to note the progress made in terms of the Member Development.

Miriam Williams

HR Development Manager

March 2019

<p>13 + 14/09/2018</p>	<p>Sesiynau Datblygu Scriwtini Aelodau / Member Development Scrutiny Sessions</p>	<p>Sgiliau Cadeirio Cyffredinol / Generic Chairing Skills for Scrutiny Gwahodd / Invite: 6 Mynychu / Attended: 6 Heb Fynychu / Non-Attended: 0 Ymddiheuriadau / Apologies: 0</p> <p>Sesynau Mentora 1:1 / 1:1 Mentoring Sessions Gwahodd / Invite: 6 Mynychu / Attended: 6 Heb Fynychu / Non-Attended: 0 Ymddiheuriadau / Apologies: 0</p> <p>Sesiwn Datblygu ar gyfer Aelodau Sgriwtini / Development Session for Scrutiny Members Gwahodd / Invite: 18 Mynychu / Attended: 13 Heb Fynychu / Non-Attended: 3 Ymddiheuriadau / Apologies: 2</p>
-----------------------------------	--	--

		<p>Hwyluso cyfarfodydd ar y cyd / Facilitating joint meetings Gwahodd / Invite: 13 Mynychu / Attended: 9 Heb Fynychu / Non-Attended: 3 Ymddiheuriadau / Apologies: 2</p> <p>Hwyluso / Facilitate Gwahodd / Invite: 30 Mynychu / Attended: 19 Heb Fynychu / Non-Attended: 5 Ymddiheuriadau / Apologies: 6</p>
--	--	--

		<p>Cadeirio Cyfarfodydd Cyngor: Llawn a Phwyllgor Cynllunio / Chairing Meetings: Full Council and Planning Committee Gwahodd / Invite: 4 Mynychu / Attended: 3 Heb Fynychu / Non-Attended: 1 Ymddiheuriadau / Apologies: 0</p>
14/11/2018	<p>Arwain yn Diogel (IOSH) – Sessiwn ‘Mop Up’ / Safe Leadership (IOSH) – ‘Mop Up’ Session</p>	<p>Gwahodd / Invite: 15 Mynychu / Attended: 7 Heb Fynychu / Non-Attended: 6 Ymddiheuriadau / Apologies: 2</p>
06/12/2018	<p>Hyfforddiant Cyfryngau Cymdeithasol / Social Media Training</p>	<p>Gwahodd / Invite: 30 Mynychu / Attended: 7 Heb Fynychu / Non-Attended: 8 Ymddiheuriadau / Apologies: 15</p>
15/02/2019	<p>Sessiwn gwybodaeth ynglyn ag Cyn-droseddwyr / Information session in regard to ex-offenders</p>	<p>Gwahodd / Invite: 30 Mynychu / Attended: 9 Heb Fynychu / Non-Attended: 13 Ymddiheuriadau / Apologies: 8</p>
25/02/2019	<p>GDPR</p>	<p>Gwahodd / Invite: 30 Mynychu / Attended: 17 Heb Fynychu / Non-Attended: 11 Ymddiheuriadau / Apologies: 2</p>
Mawrth / March 2019	<p>Hyfforddiant Cydraddoldeb / Equalities Training</p>	<p>Gwahodd / Invite: 30</p>

Categori/Category	Modiwl E-Ddysgu/E-Learning Module
Rheoli/Management	Deallusrwydd Emosiynol / Emotional Intelligence
	LLywodraethu Gwybodaeth yn Gyffredinol / General Information Governance
Llesiant / Well-Being	Trais yn erbyn menywod, cam-drin domestig a thrais rhywiol / Violence Against Women, Domestic Abuse and Sexual Violence
	Diogelu – Ymwybyddiaeth Sylfaenol / Basic Safeguarding Awareness
	Caethwasiaeth Fodern / Modern Slavery
Iechyd a Diogelwch / Health and Safety	Defnyddio Offer Sgriniau Arddangos (OSA) yn Ddiogel / The Safe Use of Display Screen Equipment (DSE)
	Rheoli Iechyd a Diogelwch / Managing Health and Safety
Datblygiad Aelodau / Member Development	Moesau a Safonau / Ethics and Standards
	Y Cynghorydd Ward Effeithiol / The Effective Ward Councillor
	Sgiliau Siarad Cyhoeddus / Public Speaking Skills
	Cadeirio Cyfarfodydd/ Chairing Meetings
	Rhianta Corfforaethol/ Corporate Parenting
	Penderfyniadau I Genedlaethau'r Dyfodol /

MYNEDIAD I FODIWLAU E-DDYSGU/E-LEARNING MODULES ACCESSED

	Decisions for Future Generations
	Cyflwyniad i Graffu / Introduction to Scrutiny

Members IT Questionnaire Report

In order to understand the exact requirements, the HR Development team issued a questionnaire to all Elected Members. Below is a summary of the feedback gained from the questionnaires to date.

In total 10 questionnaires have been returned to date, the data provided below is therefore in relation to the returned questionnaires and not a generalisation of the IT requirements for all 30 Elected Members. Different aspects of IT usage have been covered by the questionnaire, which include a section on each of the following categories; iPads, Social Media, Microsoft Windows and Office, Outlook and the E-Learning portal. The categories contained a list of skills or technology aspects that were deemed to be essential skills/knowledge areas in order to fully utilise the iPads and support Elected Members in both their roles within the community as well as corporately. The intention was that the HR Development team could plan to provide individuals with the skills that would meet both their current and future requirements.

As presented in *Figure 1 relating to the iPad Apps section* and what is firstly evident is the varied responses collected; confirming assumptions that individual one-to-one training or smaller group training may be necessary in order to address these needs efficiently. The main concerns raised include training on *Docs@Work/MonITor* and *Docs@Work/Document Annotation*. It must also be noted that half of the respondents requested further training on *'Keynote' / Microsoft Presentation*, *'Numbers' / Microsoft Excel*, *'Pages' / Microsoft Word* and *Settings*.

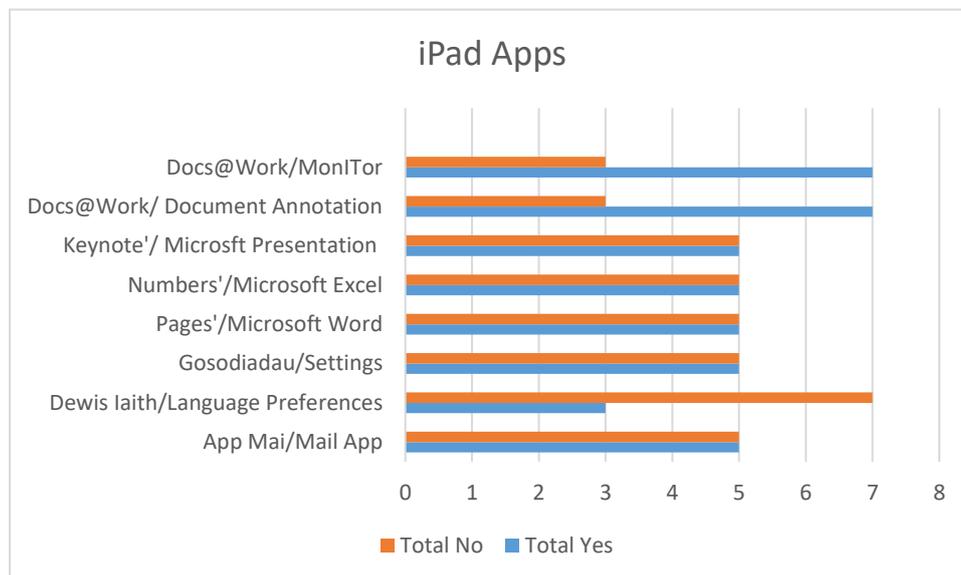


Figure 1: iPad Apps

In addition to IT skills, the opportunity was taken to follow up on the training previously arranged with regards to Social Media. This category focused on training areas such as: *Creating Facebook / Twitter or Instagram Pages*, *Privacy Settings*, *Navigating Facebook / Twitter or Instagram* and *Posting Statements / Tweets* or

Posts on social media. The results of the questionnaire show that over half of the respondents feel that further training is required with Privacy Settings rather than any of the other areas it is noted that the questionnaire does not detail whether the individual wants to use Social Media. Therefore, in order to develop the needs of those who voted yes in this category, perhaps one-to-one sessions would be more relevant to target those Elected Members who do wish to use these platforms. Please see *Figure 2* for results.

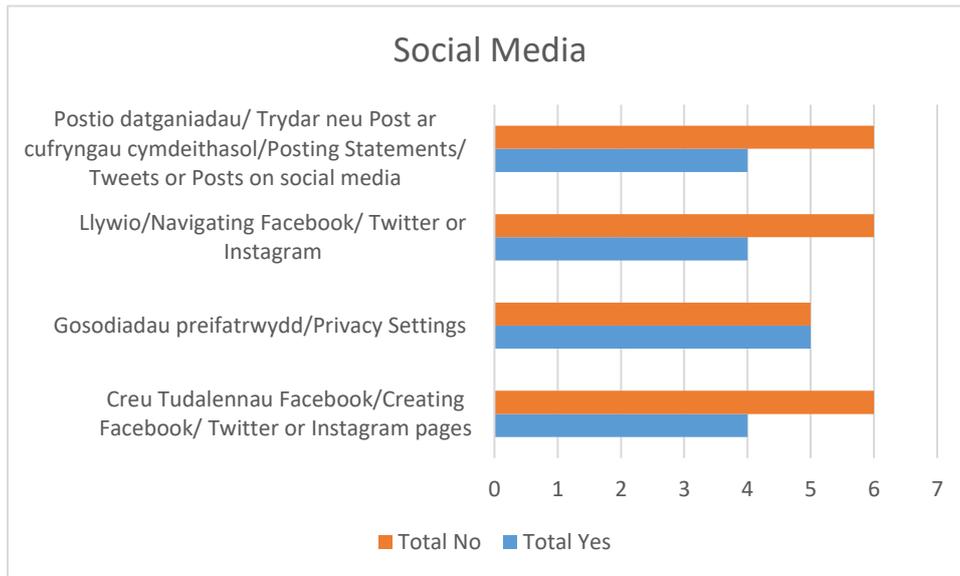


Figure 2: Social Media

Under the Microsoft Windows and Office category, as noted in *Figure 3*, the most popular requirement is *Accessing Corporate Applications via Cwmwl Môn Citrix Portal*; although there are some requests for *Excel PowerPoint, Word and Windows*

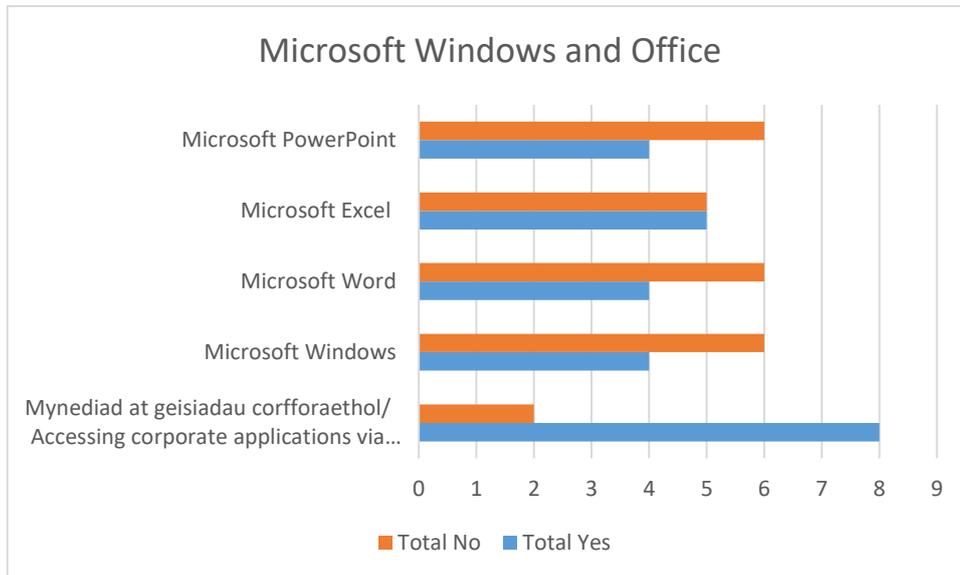


Figure 3: Microsoft Windows and Office

With respect to Outlook category; the main area of training needs related to *Creating Tasks and Reminders*, with only four individuals highlighting the need for further development in the other areas. Please see *Figure 4* for results.

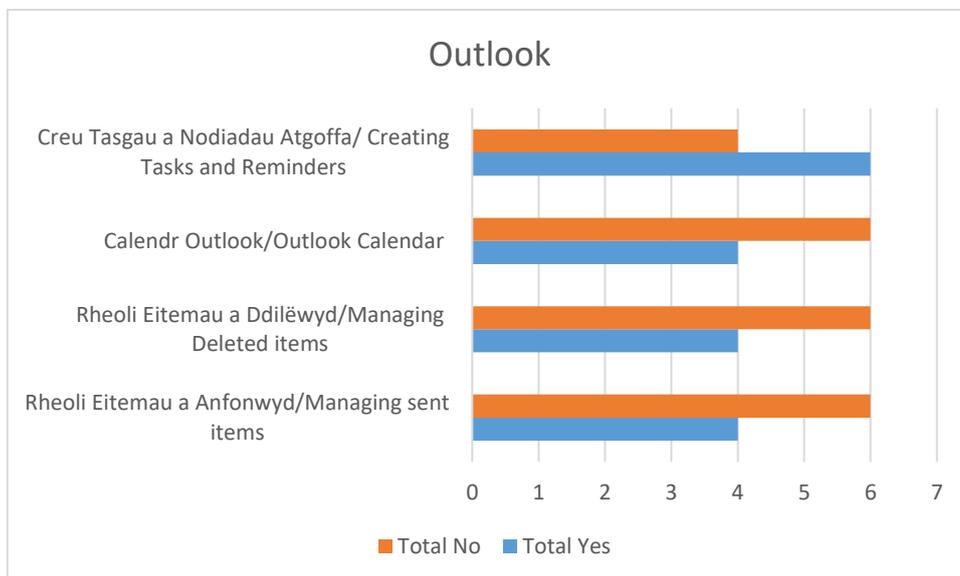


Figure 4: Outlook

In terms of E-Learning platform requirements, it is evident from *Figure 5* that the majority of respondents require further development in almost all aspects of the E-Learning Portal. Although not all of the E-Learning modules are currently available on iPad; with the introduction of the new E-Learning portal later in 2019 it is anticipated that this will be addressed. Training on the E-Learning portal would be delivered by a member of the HR team once the Learning Pool platform has been fully embedded into the Authority.

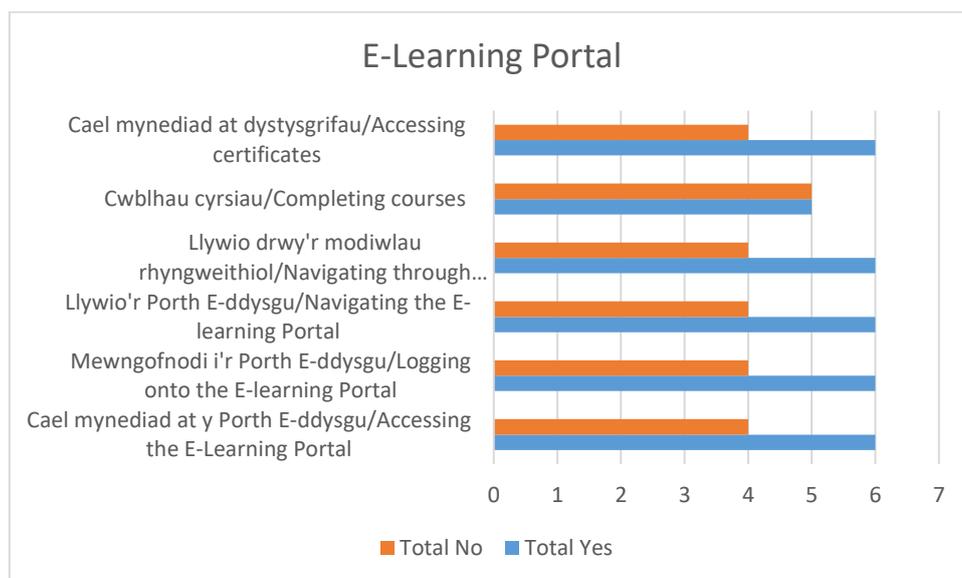


Figure 5: E-Learning Portal

Conclusion

It is evident from the ten responses gathered to date, the IT needs of the Elected Members varies.

Steps are being taken to follow up outstanding questionnaires to ensure that a full picture of the ICT requirements is captured before arranging a training programme.



Datblygu Aelodau / Member Development

Teitl y Cwrs / Course Title	
Dyddiad / Date	
Enw / Name	

1. Aesu / Assessment					
	Annerbyniol / Unacceptable	Gwael / Poor	Boddhaol/ Satisfactory	Da / Good	Ardderchog / Excellent
Yr Hyfforddwr / Trainer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Y Cynnwys / The Content	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trefniadau cyn y Cwrs / Pre Course arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Asesiad Cyffredinol / General Assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**2. Syt fydddech chi'n graddio perthnasedd cynnwys y cwrs i'ch rôl chi?
How would you rate the relevance of the course content to your own
role?**

Annerbyniol / Unacceptable	Gwael / Poor	Boddhaol / Satisfactory	Da / Good	Ardderchog / Excellent
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. **Beth ydych wedi'i ennill a fydd o gymorth i chwi fel Aelod wrth drafod materion o fewn a thu hwnt i'r plwy? (e.e. materion polisi y Cyngor a.y.y.b.)**

What have you gained that will help you as a member in relation to matters within and beyond your ward? (e.g Council Policy Matters etc.)

4. **Unrhyw sylwadau eraill**
Any other comments

**Cofiwch nodi'r hyfforddiant hwn ar eich Cofnod Hyfforddiant ar-lein. /
Please remember to note this training on your online Training Record.**

Diolch ichi am gwblhau
Thank you for completing

This page is intentionally left blank

ISLE OF ANGLESEY COUNTY COUNCIL	
Committee:	Standards Committee
Date of meeting:	13 March, 2019
Title:	Member Related Issues
Purpose of the Report:	To note progress to date
Author:	Head of Democratic Services

1.0 Background

The purpose of this report is to update the Committee on various Member related matters.

1.1 Members Annual Report

I reported to the last meeting on arrangements for the preparation of annual reports covering the period 2017 – 2018.

Section 5 of the Local Government Measure (Wales) 2011 places a duty on the County Council to ensure that arrangements are in place to enable Members to publish annual reports on their activities.

With regard to 2017/18 annual reports, 29 members have prepared reports. These can be viewed on the Council's website, see link below:

<http://www.anglesey.gov.uk/council-and-democracy/councillors-democracy-and-elections/councillors/councillors-annual-report/>

A separate report will be presented to the Democratic Services Committee later this month on the timetable for 2018/19 reports and template to be completed. The intention will be to publish reports on the Council website by 30 June, 2019. I will be monitoring progress in consultation with Group Leaders.

1.2 Member Development Charter

I also reported to the last meeting on proposals to seeks re-assessment for the WLGA's Wales Charter for Member Support and Development.

Re-submission during quarter 3 as intended has not been possible since one outstanding element namely the updated Member Development strategy needs endorsement by the Democratic Services Committee. This is now scheduled to be considered by the Committee later this month and documentation submitted thereafter to the WLGA by the end of March, 2019. A copy will be sent to the Standards Committee for information

1.3 DBS checks

All Councillors have completed documentation for registration purposes. The Head of Democratic Services will monitor necessary arrangements for review and updating in consultation with the Head of Learning.

1.4 Members Biography on the Council Website including outside bodies

Information is now available on the Council's website on both Committee attendance and training records. Members are being encouraged to update online training records on an ongoing basis following attendance on training events. A separate report to this Committee deals with the Member Development programme including Social Media training and support on Facebook pages.

In relation to outside bodies, there are now links to websites (if information available) on the relevant pages, for the general public. The schedule of outside bodies will need to be reviewed in consultation with Group Leaders and reported to Council in May 2019.

2.0 Recommendation:

To note progress as detailed in this report.

Huw Jones
Head of Democratic Services
1/03/2019

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	13.03.2019
REPORT TITLE:	Conduct Complaints to the Public Services Ombudsman for Wales
PURPOSE OF THE REPORT:	To advise the Committee of the complaints which have been sent to the PSOW in relation to (a) County Councillors and (b) Town and Community Councillors.
REPORT BY:	Mared Wyn Yaxley Solicitor – Corporate Governance mwyics@anglesey.gov.uk
LINK OFFICER:	Lynn Ball Head of Function (Council Business)/Monitoring Officer lbxics@anglesey.gov.uk 01248 752586

1. INTRODUCTION

The Standards Committee is provided with an update every quarter in relation to the complaints which have been received by the Public Services Ombudsman for Wales in relation to (a) County Councillors and (b) Town / Community Councillors.

2. UPDATES

2.1 The reports for Quarter 1 (April – June 2018) were submitted at the last Standards Committee Meeting on 12.09.2019.

2.2 The reports for Quarter 2 (July – September 2018) were distributed to the Standards Committee members via email on 12/10/2018.

A further copy of the report for Quarter 2, in relation to County Councillors, appears at **Enclosure 1**.

A further copy of the report for Quarter 2, in relation to Town and Community Councillors, appears at **Enclosure 2**.

2.3 The reports for Quarter 3 (October – December 2018) were distributed to the Standards Committee members via email on 10/01/2019.

A further copy of the report for Quarter 3, in relation to County Councillors, appears at **Enclosure 3**.

A further copy of the report for Quarter 3, in relation to Town and Community Councillors, appears at **Enclosure 4**.

- 2.4 The next report, for Quarter 4 (January – March 2019), will be circulated to the Standards Committee members at the beginning of April 2019.

3. RECOMMENDATION

For the Standards Committee members to note the contents of the Enclosures at 1-4 and consider any trends arising (if any) and any corrective actions which are required.

ENCLOSURE 1

**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**

Chwarter 2 (Gorffennaf – Medi 2018) – 2018/2019 – Quarter 2 (July – September 2018)

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
DIM I'W ADRODD / NOTHING TO REPORT				

ENCLOSURE 2

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

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

Chwarter 2 (Gorffennaf – Medi 2018) - 2018/2019 – Quarter 2 (July – September 2018)

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
Cynghorydd Cymuned/Tref Community/Town Councillor	Cynghorydd Cymuned/Tref Community/Town Councillor	(iii)CC-021396 (iv)201802863	31.08.2018	Ombwdsmon yn cysidro'r mater. / Ombudsman considering the complaint.

Page 38

ENCLOSURE 3

**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**

Chwarter 3 (Hydref - Rhagfyr 2018) – 2018/2019 – Quarter 3 (October - December 2018)

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
DIM I'W ADRODD / NOTHING TO REPORT				

ENCLOSURE 4

**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**

Chwarter 3 (Hydref – Rhagfyr 2018) - 2018/2019 – Quarter 3 (October - December 2018)

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
Cynghorydd Cymuned/Tref Community/Town Councillor	Cynghorydd Cymuned/Tref Community/Town Councillor	(iii)CC-021396 (iv)201802863	31.08.2018	Ombwdsmon yn ymchwilio'r gŵyn. / Ombudsman investigating the complaint.

Page 40

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	13.03.2019
REPORT TITLE:	Public Services Ombudsman for Wales Decisions
PURPOSE OF THE REPORT:	To advise the Committee of All Wales decisions published by the Public Services Ombudsman for Wales in his Casebooks for July 2018 and October 2018
REPORT BY:	Mared Wyn Yaxley Solicitor – Corporate Governance mwycs@ynysmon.gov.uk
LINK OFFICER:	Lynn Ball Head of Function (Council Business)/Monitoring Officer lbxcs@anglesey.gov.uk 01248 752586

1. INTRODUCTION

The Public Services Ombudsman for Wales (PSOW) publishes a [Casebook of Code of Conduct Complaints](#) once every quarter.

This report summarises the information published by the PSOW in his [Casebook for July 2018](#) (Issue 17) and [Casebook for October 2018](#) (Issue 18). A summary of the cases for Issue 17 is attached at **ENCLOSURE 1** and Issue 18 is attached as **ENCLOSURE 2**.

2. BACKGROUND

The PSOW exercises “first sift” powers under Section 69 of the Local Government Act 2000, which requires him to consider complaints that members of local authorities in Wales may have broken their code of conduct. The PSOW’s jurisdiction includes county councils and town and community councils.

Having received a complaint, the PSOW applies his threshold test to determine whether or not the complaint should be investigated. The threshold test involves the PSOW being satisfied that:-

- There is evidence to suggest that the code of conduct may have been breached; and
- That the matter is sufficiently serious for it to be in the public interest for an investigation to be opened.

When an investigation is opened, the PSOW may reach one of four findings under Section 69 of the Local Government Act 2000 which are:-

- (a) that there is no evidence that there has been a breach of the authority's code of conduct;
- (b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- (c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

If (c) or (d) above apply, the PSOW will then submit his report to the local standards committee or to the Adjudication Panel for Wales (APW), and it is for the committee, or a case tribunal of the Panel, to conduct a hearing to consider the evidence and to make the final decision on whether or not the code of conduct has been breached and, if so, whether a penalty should be imposed, and what any penalty should be. Standards committees have statutory authority to issue a suspension against a councillor for a period not exceeding 6 months. Standards Committees have no powers of disqualification and, where there are findings of breach, will try to apply a sanction that is proportionate to the offence. This will often be a censure (public rebuke) or a recommendation of training/undertaking/mediation etc. A case tribunal has authority to suspend for up to 12 months and to disqualify for up to 5 years.

While the APW has the legal status of a tribunal and has always published its decisions (including any appeals against the decisions of standards committees) the PSOW did not publish his reports or findings but recently has introduced the quarterly Case Book which provides a case summary. Anything referred to a standards committee will, of course, be available on that council's website.

3. RECOMMENDATION

The Chair of the Standards Committee will lead a discussion on any matters of interest reported in **ENCLOSURE 1** and **ENCLOSURE 2**.

ENCLOSURE 1 – Issue 17 (July 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
Merthyr Tydfil County Borough Council (201704719)	<p>An employee complained that an elected member of the Council had been present in a staff meeting and had made reference to some members of staff being “dead men walking”. The Complainant said that the Councillor made further comments which led some members of staff to conclude that this phrase referred to him. The Complainant said that this put him in fear for his job.</p> <p>In absence of any formal record of the meeting, the Ombudsman interviewed a selection of those present, as well as the Councillor, the Complainant and his manager. The Ombudsman considered what the Councillor said, his explanation of what he had meant and how his comments had been received.</p>	Paragraphs 4 (b) - respect, 4(c) – bullying behaviour, 6(1)(a) - disrepute, and 7(a) – creating a disadvantage for others	<ul style="list-style-type: none"> • The Ombudsman concluded that there was no evidence that the Councillor had breached the Code. • Despite using the phrase “dead men walking”, the Ombudsman considered that there was no evidence to support the complaint that the comment was specifically directed at the Complainant or that it was intended to be seen as a threat to anybody’s job. 	<ul style="list-style-type: none"> • Members should be mindful of how their comments are perceived by others
Chepstow Town Council (201703539)	A complaint was received that a member of the Chepstow Town Council had participated in discussions about the future ownership and management arrangements for a local public facility at a meeting of the Town	Paragraph 14(1) (a), (c) and (e) – in relation to the limits placed on Councillors in relation to a prejudicial interest	<ul style="list-style-type: none"> • The Ombudsman’s investigation found that it was likely that the Councillor had spoken at the meeting, despite having a prejudicial interest in the item, 	<ul style="list-style-type: none"> • Members need to be confident they understand what they need to do when they declare a prejudicial interest • The outcome shows

ENCLOSURE 1 – Issue 17 (July 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
	Council, despite having declared a prejudicial interest in the matter.		<p>contrary to the requirements of the Code of Conduct.</p> <ul style="list-style-type: none"> • However, despite the fact the evidence suggested that there had been a breach of the Code, the Ombudsman decided that no further action should be taken. • This was because the Councillor did not stand to gain personally from any decision made, the evidence suggested that he had withdrawn from the room for the vote, his preferred option was not agreed by the Council, and the Chair of the Council had indicated that he could speak. The Ombudsman did, however, remind the Councillor of his responsibilities in relation to prejudicial interests 	<p>that the Ombudsman considers the effect of the breach when considering what action to take; a breach of the Code does not automatically mean the Ombudsman will take any further action. However, Members should be careful not to rely on such a case as a defence. Members should ensure they follow the provisions in the Code of Conduct.</p>
Trellech United Community	The Ombudsman received a complaint that a Councillor had	Paragraph 7(a) - creating a	<ul style="list-style-type: none"> • The Ombudsman found 	<ul style="list-style-type: none"> • Members should not

ENCLOSURE 1 – Issue 17 (July 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
Council (201700946)	breached the Code of Conduct for members when the Councillor wrote to an adjudicator of a competition, giving the impression that he was acting as a representative of the Council. The Councillor was attempting to negatively influence the chance of a specific entry winning the competition and thereby creating a disadvantage for a member of the public who would benefit if that entry was successful.	disadvantage for others	<p>that the Councillor, by writing to the adjudicator with information intended to lessen the likelihood of that specific entry winning the competition and by signing off that correspondence as a Councillor, may have breached paragraph 7(a).</p> <ul style="list-style-type: none"> • The Ombudsman noted, however, that the entry subsequently won the competition, so the Councillor’s intervention did not actually cause a disadvantage to the person in question. • The Ombudsman concluded that, on balance, it was not in the public interest to refer the matter to a Standards Committee or Adjudication Panel for Wales and, therefore, no further action should be taken. 	<p>use their official capacity to create a disadvantage for others</p> <ul style="list-style-type: none"> • The outcome shows that the Ombudsman considers the effect of the breach when considering what action to take; a breach of the Code does not automatically mean the Ombudsman will take any further action. However, Members should be careful not to rely on such a case as a defence. Members should ensure they follow the provisions in the Code of Conduct. • The Ombudsman still uses the Public Interest Test

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
Saltney Town Council (201707925)	A complaint that a Councillor had breached the Code of Conduct by participating in, and voting on, a decision to award a grant to a charitable organisation of which she was Chair.	Paragraph 10, 11, 12, 14 – in relation to the disclosure of personal and prejudicial interests	<ul style="list-style-type: none"> • As Chair of the organisation, the Councillor was likely to have a personal and prejudicial interest and the Councillor should not have taken part unless an exemption applied or she had received a dispensation. • The Councillor had recognised this and had considered applying for a dispensation. However, she had been advised by a County Council officer that this was not necessary as an exemption (paragraph 12(2)(a)(ii) of the Code of Conduct) applied and she could therefore participate. • Councillor was therefore acting in good faith on the basis of the advice she had received. • Ombudsman concluded 	<ul style="list-style-type: none"> • There is an exemption in the Code of Conduct at paragraph 12(2)(a)(ii) which applies when the item of business relates to another public body or body exercising functions of a public nature in which the member holds a position of general control or management. • However, as noted in paragraph 12(3), the exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
			that the evidence suggested the Councillor had not breached the Code	
Powys County Council (201701865)	A complaint about a Councillor’s behaviour during a shortlisting meeting to discuss the applications for a new Headteacher post.	Paragraph 4 – equality and respect; bullying and harassment; Paragraph 6 - disrepute.	<ul style="list-style-type: none"> No evidence the Councillor had breached the Code of Conduct. No action to be taken. 	
Manorbier Community Council (201708037)	A complaint that a Councillor was verbally abusive and bullying to a member of the public during a Community Council meeting.	Paragraph 4 – respect and consideration; bullying and harassment; Paragraph 6 - disrepute.	<ul style="list-style-type: none"> Five witnesses were interviewed and the consensus was that the Councillor did not say or do anything in the meeting that gave them undue concern. Ombudsman determined there was no evidence to suggest the Councillor had breached the Code. 	
Abertillery and Llanhilleth Community Council (201800122)	A complaint that a Councillor had breached the Code of Conduct by disclosing confidential human resources and financial information.	Paragraph 5 – disclosure of confidential information	<ul style="list-style-type: none"> No evidence to suggest the Councillor had improperly shared any information, and so no evidence of any breach of the Code. 	
Sully and	A complaint that a Councillor had	Paragraphs 4(a)	<ul style="list-style-type: none"> Likely that the Councillor 	<ul style="list-style-type: none"> The Ombudsman

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
<p>Lavernock Community Council (201706912)</p>	<p>sent an email to his fellow councillors which was disrespectful and offensive about another Councillor.</p> <p>The Councillor and other councillors in the Community Council (including the Councillor that was the subject of the email) were interviewed. The Councillor acknowledged that he should not have sent the email and that it was inappropriate. Councillor expressed regret and said he would not act in that way again.</p> <p>Councillor explained, by way of mitigation, that relationships within the Council were currently difficult, he had received a number of critical emails from the councillor concerned and he had not intended copying the email to all members of the Council – this has been done in error when replying to a previous email.</p>	<p>and (b) – equality and respect</p>	<p>had breached the Code but, in view of the mitigating factors, the Councillor’s contrition and his promise not to act in that way again, Ombudsman concluded that it would not be in the public interest to refer the matter to the standards committee.</p> <ul style="list-style-type: none"> • No action taken 	<p>still uses the Public Interest Test</p> <ul style="list-style-type: none"> • Ombudsman considers mitigating factors such as relationships within a Council being difficult • Councillors need to appreciate the weight given by the Ombudsman for acknowledging mistake, expressing regret and agreeing to act differently in the future.
<p>Carmarthenshire County Council (201606614)</p>	<p>A complaint about the behaviour of a former Councillor of Carmarthenshire County Council</p>	<p>Paragraph 6 – (1)(a) disrepute; Paragraph 4 – (b)</p>	<ul style="list-style-type: none"> • As Councillor was not re-elected in the May 2017 election, 	<ul style="list-style-type: none"> • The Ombudsman still uses the Public Interest Test

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
	<p>towards the Council’s Chief Executive and officers of the Council on 2.12.2016.</p>	<p>respect and consideration; Paragraph 7 – (a) abuse of official capacity</p>	<p>Ombudsman considered that the matters were not sufficiently serious for it to be in the public interest to pursue it further.</p> <ul style="list-style-type: none"> No action to be taken in respect of the matters investigated. 	<ul style="list-style-type: none"> Matters involving a former Councillor will be considered differently to a Councillor who is still in elected post. Where the Ombudsman decides that a complaint should be investigated, there are four findings which the Ombudsman can arrive at: <ul style="list-style-type: none"> (a) that there is no evidence that there has been a breach of the authority’s code of conduct; (b) that no action needs to be taken in respect of the matters that were subject to the investigation; (c) that the matter be referred to the authority’s

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
				<p>monitoring officer for consideration by the standards committee;</p> <p>(d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal.</p> <ul style="list-style-type: none"> • Where an individual is a member of more than one authority e.g. a county council and a community council / more than one community council, the Ombudsman can utilise option (c) or (d) in relation to the other 'relevant authority', and not the one in which the member committed the breach. For example, had this individual been a

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
				<p>community council member too, even though he was no longer a member of the authority in which the breach occurred (Carmarthenshire County Council), the sanction for the breach of Carmarthenshire County Council's Code of Conduct could have been imposed upon him in his capacity as a member of the community council.</p>
<p>Clyro Community Council (201704165)</p>	<p>A complaint that a Councillor participated in a discussion and voted on a local planning application without declaring an interest; and the Ombudsman also needed to consider if the Councillor had a closed mind when attending two Community Council meetings in September and October 2017.</p>	<p>Paragraphs 10, 11, 12, 14 – in relation to the disclosure of personal and prejudicial interests</p>	<ul style="list-style-type: none"> • No evidence the Councillor had a personal interest in the planning application and it therefore followed that he did not have a prejudicial interest. • Councillor was predisposed and not predetermined when he 	

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
			<p>attended the initial meeting and voted.</p> <ul style="list-style-type: none"> No sufficient evidence to support a contention that the Councillor was predetermined at the second meeting. No evidence that a breach of the Code of Conduct had occurred. 	
<p>Llay Community Council (201702478)</p>	<p>A complaint that a Councillor’s behaviour had been disrespectful and that he had disclosed confidential information during a meeting of Llay Community Council. The Councillor had also used his position to confer a disadvantage on a local resident and failed to declare an interest in the matter. The Councillor was deemed to have brought his office of member into disrepute.</p> <p>Information was sought from the Council and interviews were undertaken with witnesses to the meeting and the Councillor himself.</p>	<p>Paragraph 4 – respect. Paragraph 5(a) – disclosure of confidential information. Paragraph 6 - disrepute. Paragraph 7(a) - creating a disadvantage for others.</p>	<ul style="list-style-type: none"> Councillor had made representation to the Council in this matter on behalf of his constituent. No evidence Councillor had used his position to secure disadvantage for the member of the public, or that he had an interest in the matter. Councillor did disclose information during the meeting, but it was not of a confidential nature. Ombudsman was concerned about the personal comments made by the Councillor 	<ul style="list-style-type: none"> Councillors should be mindful of the comments they make in public Council meetings, particularly in relation to personal comments / comments made about other individuals.

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
			<p>about a member of the public when addressing the Council. The comments did not add any value to the Council's consideration of the matter and were neither appropriate nor necessary.</p>	
<p>Ceredigion County Council (201701091)</p>	<p>Mr X complained that a Councillor had breached the Code of Conduct when the Councillor attended a meeting that a Council officer had advised the Councillor not to attend. Mr X also complained about the Councillor's conduct towards specific persons at the meeting.</p>	<p>Paragraphs 8(a) – having regard to advice provided by a Council officer; 4(b) – showing respect, 4(c) – bullying behaviour and 6(1)(a) – disrepute.</p>	<ul style="list-style-type: none"> • Ombudsman did not find any evidence that the Councillor had been advised not to attend the meeting by a Council officer, or that the manner in which he spoke to most of the meeting attendees exceeded the boundaries of professional conduct. • Ombudsman did find that the Councillor's robust manner had an effect on one individual at the meeting and that the Councillor should have amended his behaviour towards him 	<ul style="list-style-type: none"> • The Ombudsman still uses the Public Interest Test • Councillors need to consider their audience and what sort of behaviour is appropriate in the circumstances

ENCLOSURE 2 – Issue 18 (October 2018)

Page 54

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
			<p>specifically as he had previously met him and described him as ‘nervous’. Whilst the Councillor was reminded to modify his behaviour for his audience, the Ombudsman concluded that, on balance, it was not in the public interest to refer the matter to a standards committee or adjudication panel for wales, and, therefore, no further action should be taken.</p>	
<p>Neyland Town Council (201703026)</p>	<p>A complaint that a Councillor may have used his position improperly by trying to stop a project that the Town Council had already agreed to support. It was alleged that the Councillor had a business interest in the matter.</p> <p>Ombudsman obtained relevant information about the matter and interviewed witnesses. Councillor provided his comments on the complaint at the outset of the</p>	<p>Paragraph 6(1)(a) – disrepute. Paragraph 7(a) – use position to gain an advantage. Paragraph 11(1) and Paragraphs 14(1)(a),(c),(d) and (e) - relating to the disclosure of personal and prejudicial interests</p>	<ul style="list-style-type: none"> • Ombudsman concluded there was evidence to suggest that the Councillor may have breached the Code of Conduct and referred the matter for consideration by the Council’s Standards Committee. • The Standards Committee concluded that the Councillor had 	<ul style="list-style-type: none"> • By the time the Standards Committee considered the matter, the Councillor was no longer a member of the Town Council.

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
	investigation but did not respond to a request to be interviewed.		breached the Code of Conduct. The Standards Committee decided the Councillor should be censured. <ul style="list-style-type: none"> A copy of the decision of the Standards Committee can be seen in Enclosure 3. 	
Monmouthshire County Council (201604188)	A complaint that a Councillor had sent emails to the complainant, when acting in his capacity as a member of the Council, which the complainant considered comments which failed to show respect and consideration for members of the LGBT community.	Paragraph 4(b) – respect and consideration	<ul style="list-style-type: none"> Ombudsman considered that the comments made were “egregious” and there was no reason to use such language to obtain the information he required about the way the Council used its funds or even to express his view. Ombudsman found that the comments made and the language used may amount to a failure to show respect and consideration for others and that there was evidence to suggest a breach of the Code 	<ul style="list-style-type: none"> Ombudsman discussed this case at the Wales Standards Committee in Aberystwyth in September 2018 and expressed that respect and consideration for others, and comments in relation to equality matters, were considered very seriously.

ENCLOSURE 2 – Issue 18 (October 2018)

Name of Council	Summary of Complaint	Relevant Provision of Code	Decision Summary	Findings
			<ul style="list-style-type: none"> • Ombudsman referred the matter to the Adjudication Panel for Wales for adjudication by tribunal. • The tribunal concluded that the Councillor should be suspended from the Council for a period of two months. • This matter is subject to Agenda item 5 – Adjudication Panel for Wales Decisions. 	

ENCLOSURE 3

MINUTES of a MEETING of the STANDARDS COMMITTEE held in COMMITTEE ROOM 2, COUNTY HALL, HAVERFORDWEST on WEDNESDAY, 5 SEPTEMBER 2018 at 10.00a.m.

Present:

Mr Andre Morgan (Chairman), Ms Suzanne Lewis, Ms Corinna Kershaw, Ms Sian Vaughan and Mr Nick Watt; and Community Councillors Paul Hannon and Ian Wood

Officers in Attendance:

Claire Jones, Monitoring Officer
Rhian Young, Deputy Monitoring Officer
Jenny Captao, Committee Clerk

Also in Attendance:

Sinead Cook, Representative from the Public Services Ombudsman for Wales

Apologies for Absence:

Apologies for absence were received from Councillor Viv Stoddart and Tony Wilcox

9. Declarations of Interest

The Monitoring Officer addressed the Committee and advised that both Councillors Viv Stoddart and Tony Wilcox were not present at the meeting due to the personal and prejudicial interests that they declared at the last meeting in respect of this matter which were as follows:

Councillor Tony Wilcox declared a personal and prejudicial interest in relation to Item 9 by virtue of being in the same political group as a named witness in the investigation.

Councillor Viv Stoddart declared a personal and prejudicial interest in this item of business by virtue of being a friend with a named witness in the investigation and she withdrew from the Meeting.

There were no declarations of interest received by Members at the meeting.

10. Members Code of Conduct - Alleged Breach by Former Councillor B Rothero, Neyland Town Council

The Committee recalled that at its meeting held on 18 June 2018 it had considered a report by the Public Services Ombudsman for Wales (Ombudsman) in respect of the findings of his investigation into allegations that Former Councillor Brian Rothero had failed to observe the Code of Conduct. On 14th August 2017, the Ombudsman received a complaint from Councillor Paul Smith of Neyland Town Council that Councillor Rothero had failed to observe

the Code of Conduct. It was alleged that Former Councillor Rothero had used his position to attempt to derail a Community Hub Project and that the Former Councillor had a prejudicial interest due to the impact of the Hub on his current business and due to a business relationship which had ended acrimoniously.

The Ombudsman's office forwarded to the Monitoring Officer of Pembrokeshire County Council an Investigation Report dated 15th May 2018 which concluded that Former Cllr Rothero's actions were suggestive of breaches of Paragraphs 6(1)(a), 7(a), 11(1), 14(1)(a),(c),(d) and (e) of the Code of Conduct.

The Committee further recalled that it had resolved that there was a case to answer and that Former Councillor Rothero be given the opportunity to make representations to the Committee, either formally or in writing.

The Monitoring Officer addressed the Committee highlighting that she had spoken with former Councillor Rothero the previous day and confirmed that he had elected not to attend the hearing. She also confirmed that he had not submitted the standard questionnaire to the clerk to the Standards Committee; however, he had submitted letters dated 11th June and 10th July 2018 which were contained within the agenda pack for the consideration of the Committee.

The Chairman commenced the proceedings by welcoming Ms Sinead Cook to the Hearing, who was the investigating officer representing the Ombudsman. He then introduced all the Members of the Standards Committee present at the Hearing. He also expressed his disappointment that former Councillor Rothero had not taking the opportunity to attend the hearing or to submit further information.

The Chairman outlined the procedure the Committee would follow in its conduct of the Hearing and drew the Committee's attention to the undisputed and disputed facts detailed in Appendix 1 to the Pre-Hearing Process Summary to be considered by the Committee. He also highlighted a typing error under item 1.7 on page 9 of the report where the year 2017 should have been 2016.

The Committee commenced stage 1 of the Hearing to determine the formal findings of fact.

The Chairman invited Ms Cook to present the Ombudsman Case. She addressed the Committee and advised that they had tried to engage with former Councillor Rothero throughout the process. That had included being invited to interview; to provide a written response; and also provided with the opportunity to comment on the draft investigation report; however, he had chosen not to respond to those requests. He had however submitted a letter which had been taken into account.

It was queried how the Ombudsman's report could conclude that the facts were undisputed if there had not been any engagement from former Councillor Rothero. Ms Cook responded that he had been provided with all the documentation and given an opportunity to respond through written and oral means.

In response to a query if former Councillor Rothero had received the documentation, Ms Cook advised that there was nothing to suggest he had not received the relevant documentation and made reference to former Councillor Rothero suggesting he would submit some written representation; however, he did not end up doing so.

Following an invitation from the Chairman, Ms Cook drew the Committee's attention to the five disputed facts and dealt with each one in turn.

In terms of the first disputed fact (2.1) she referred to appendices M and E from the report and highlighted the issue. She also responded to a query as to whether she believed the word "feud" was too strong and advised the Committee that those were the words used by Councillor Miller; however, in the Ombudsman's report, "acrimonious" had been used. It was also queried whether it was the conclusion of the Ombudsman that the dispute was now settled. Ms Cook advised that they were not able to draw that conclusion, as they were not able to question former Councillor Rothero due to his non engagement in the process.

In terms of the second disputed fact (2.2) Ms Cook drew the Committee's attention to the Neyland Athletic Club being in direct competition and that any upgrade would impact former Councillor Rothero's pub business.

In terms of the third disputed fact (2.3) Ms Cook stated that she accepted the response provided by former Councillor Rothero that the distance between Neyland Athletics Club and the pub/restaurant run by former Councillor Rothero was approximately 300m; however, she stated that the Ombudsman still considered that distance to be close and that some other businesses were equidistant.

Clarification was sought as to whether former Councillor Rothero had ever declared his pub business on his register of interest; and whether an interest should be declared in relation to previous employment if someone was no longer working there. Ms Cook responded that it was on his Register of Interest; that he had been advised to declare an interest by the Neyland Town Clerk; and that whether to continue to declare an interest if he no longer held that interest was dependent on circumstances.

In terms of the fourth disputed fact (2.4) Ms Cook drew the Committee's attention to Appendix K, which referred to correspondence that former Councillor Rothero had sent to Welsh Government. She highlighted that there was nothing to indicate that he was sending the email in a personal capacity and he signed the email as Deputy Mayor of Neyland Town Council.

In terms of the final disputed fact (2.5) Ms Cook reiterated the representations that former Councillor Rothero had made to Welsh Government, which could have caused potential disadvantage for Neyland Town Council, and that it was for the Committee to determine whether they considered that he had a prejudicial interest and whether his actions could have benefited him personally.

Clarification was sought regarding who 'another' referred to in disputed fact 2.5. Ms Cook responded that it was those persons who created the Hub and also the Community Council as they could have been effected financially in terms of legal cost.

Observations were made by the Committee in relation to whether the word 'another', which inferred a person could also include a group or entity; and reference was made to section 7(a) of the Code of Conduct which stated 'person' in terms of disadvantage. Ms Cook advised that with costs incurred it would effect a group of people, with the Ombudsman taking the view that in that case disadvantage had occurred.

It was queried why former Councillor Rothero had used the Neyland Athletic club email after his lease at the club had ended. Ms Cook stated that they were unable to draw any conclusions in respect of that matter due to them not being able to pose questions to former Councillor Rothero.

On clarification sought from the Committee Ms Cook advised the Committee that they did not have a copy of a Register of Interest signed before May 2017.

The Chairman announced that the Committee would retire to consider the disputed facts.

He further announced that Committee Clerk would assist in taking the decision note and that the Monitoring Officer would also provide legal advice if necessary throughout the three stages of the Hearing.

The Committee also agreed to allow the deputy Monitoring Officer to sit in and observe the deliberations of the Committee.

RESOLVED

That the public be excluded from the meeting during consideration of the matter under the terms of Section 100A(4) of the Local Government Act 1972 as it involved the likely disclosure of exempt information as defined in Paragraph 18(c) of Part 4 of Section 12 to the Act.

The Committee then retired to deliberate the disputed facts.

At 11.00 am, the meeting resumed in open session. The Chairman then asked the Monitoring Officer to read out the Committee's decision in respect of the disputed facts as follows:

RESOLVED

- a) There had been a dispute between former Councillor Rothero and Neyland Athletics Club which resulted in financial settlement in September 2016.
- b) The Committee considered that former Councillor Rothero had a personal interest under Paragraphs 10(2)(a) and 10(2)(c) of the Code of Conduct as the business of the Authority in September of 2016 was likely to affect his own pub business, his well-being and financial position and that

this also amounted to a prejudicial interest under Paragraph 12 of the Code.

- c) The Ombudsman's representative had accepted that the distance between Neyland Athletics Club and the pub/restaurant run by former Councillor Rothero was approximately 300m and the Committee noted that this was no longer a disputed fact.
- d) The Committee found that the correspondence was not of a personal nature because the letter sent by former Councillor Rothero to the Welsh Government was written in an official capacity, as it was signed as Deputy Mayor and contained reference to official Council business.
- e) On the balance of probabilities, the Committee agreed that former Councillor Rothero attempted to use his position to create an advantage for himself.

The Hearing then proceeded to stage 2 to determine whether or not a breach of the code had occurred.

The Ombudsman's representative was given an opportunity by the Chairman to address the Committee to present the Ombudsman's case in relation to the suggested breaches of the code. Ms Cook confirmed to the Committee that the alleged breaches of the code were how they were set out in the Ombudsman's report. She made specific reference to the original alleged breaches of Paragraphs 6(1)(a), 11(1), 14(1)(a), (c),(d) and (e) and also referred to Paragraph 14(1)(b) of the Code of Conduct and highlighted the following:

Paragraph 11(1) related to former Councillor Rothero not declaring a personal and prejudicial interest at the meeting 5 September 2016.

Paragraph 14(1)(a) (b),(c),(d) and (e) included not withdrawing from the room when the interest became apparent and made reference to the email former Councillor Rothero had sent to Welsh Government.

Paragraphs 6(1)(a) related to the significant impact on the project if it had lost the financial funding; the effect on public confidence; bringing the office into disrepute; and using the position within the Authority to derail the project.

The Monitoring Officer queried if the Ombudsman's representative had any views in respect of Paragraph 8 of the Code of Conduct or Article 10 of the Human Rights Act 1998.

Ms Cook offered no view in terms of Paragraph 8; however, in relation to Article 10, she advised that although there was a protected right to political expression within the political arena, there could be interference with Article 10 where appropriate.

Observations were made regarding the availability of the Standards Committee dispensation process explained by the Chairman.

Article 10 was queried further regarding whether it offered protection outside the political arena. Ms Cook advised that Article 10 provided greater protection within the political arena.

The Chairman offered Ms Cook an opportunity to provide comment on the correspondence received from former Councillor Rothero. She advised that it was disappointing that he had not attended the Hearing to provide more information.

In respect of whether former Councillor Rothero had breached the Code of Conduct, Ms Cook advised the Committee that former Councillor Rothero had stated that he had joined Neyland Town Council to represent his constituents; however, following the dispute he had chosen to no longer attend meetings to represent his constituents.

The Chairman announced that the Committee would retire to consider the representations of the Ombudsman's representative and decide on the question of whether former Councillor Rothero had failed to follow the Code.

RESOLVED

That the public be excluded from the meeting during consideration of the matter under the terms of Section 100A(4) of the Local Government Act 1972 as it involved the likely disclosure of exempt information as defined in Paragraph 18(c) of Part 4 of Section 12 to the Act.

At 1.00 pm, the meeting resumed in open session. The Chairman read out the Committee's decision as follows:

RESOLVED

In the light of all the facts, the Standards Committee considered that former Councillor Rothero had breached the Code of Conduct in the following respects:-

- a. Paragraph 11(1): Did not orally disclose the existence and nature of his personal and prejudicial business interest as landlord of a local pub/restaurant at a meeting of Neyland Town Council on the 5th September 2016.
- b. Paragraph 14(1)(a): Did not withdraw from the meeting room at which the business was being considered, despite his personal and prejudicial interest.
- c. Paragraph 14(1)(c): Sought to influence a decision about the business in participating in the meeting on the 5th

September 2016 and in writing to the Welsh Government, despite his personal and prejudicial interest.

- d. Paragraph 14(1)(d): Made written representations to the Clerk of Neyland Town Council and to the Welsh Government in relation to the business, despite his personal and prejudicial interest.
- e. Paragraph 14(1)(e): Made oral representations at the meeting of the 5th September 2016, despite his personal and prejudicial interest.
- f. Paragraph 6(1)(a): Conducted himself in a manner which could reasonably be regarded as bringing his office into disrepute.

The Chairman advised that a note of the reasons would be provided in the decision notice.

The Committee then proceeded to Stage 3 of the Hearing to determine whether any sanction should be imposed.

The Chairman invited Ms Cook to make representations and she advised that as Mr Rothero was no longer a member of the council and that the behaviour was considered serious by the Ombudsman, that it was felt in those circumstances that censure should be considered by the Committee.

RESOLVED

That the public be excluded from the meeting during consideration of the matter under the terms of Section 100A(4) of the Local Government Act 1972 as it involved the likely disclosure of exempt information as defined in Paragraph 18(c) of Part 4 of Section 12 to the Act.

At 13.30pm the meeting resumed in open session and the Chairman announced the decision as follows:

Having given the breaches of the code of conduct due consideration the committee concluded,

RESOLVED

That former Councillor Brian Rothero should be censured in relation to those breaches and a decision notice would follow shortly.

**The meeting
ended at 1.35p.m.**

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	13 March 2019
REPORT TITLE:	Adjudication Panel for Wales Decisions
PURPOSE OF THE REPORT:	To provide information about the matters considered by the Adjudication Panel for Wales to date (publishing period September 2018 – March 2019)
REPORT BY:	Head of Function (Council Business)/Monitoring Officer
LINK OFFICER:	Lynn Ball Head of Function (Council Business)/Monitoring Officer lbxcs@anglesey.gov.uk 01248 752586

1. INTRODUCTION AND BACKGROUND

The Adjudication Panel for Wales (APW) was established by the Local Government Act 2000. It has two statutory functions:-

1. To form case tribunals, or interim case tribunals, to consider reports from the Public Services Ombudsman for Wales (PSOW) following investigations by the PSOW into allegations that a member has failed to comply with their authority's code of conduct; and
2. To consider appeals from members against the decisions of their own authority's standards committee that they have breached the code of conduct (as well as deciding if permission will be given to appeal in the first instance).

This report includes decisions published by the APW during the period since the Standards Committee on the 12th September 2018. It is intended as a factual summary of the matters decided by the APW. The reported cases for the relevant period are currently available on the [APW website](#)

2. SUMMARY OF THE RELEVANT CASES

A summary of the relevant case/s is/are at **ENCLOSURE 1**.

2.1 Decisions made

19.07.2018 – Former County Councillor at Monmouthshire County Council [current Councillor at Mathern Community Council] – APW/003/2017-018/CT

2.2 Appeals adjudicated

None

3. RECOMMENDATION

To note the content of the case summary/ies.

Crynodeb o'r Tribiwnlysoedd Achosion – Ebrill 2018 – Mawrth 2019
Summary of Cases in Tribunal – April 2018 - March 2019

Name	Summary of Facts	Decision Summary	Findings
Former County Councillor (currently Community Councillor) Graham Down Monmouthshire County Council (currently Mathern Community Council)	<p>An allegation that Councillor Down had breached Monmouthshire County Council's Code of Conduct by failing to show respect and consideration for others by sending emails to the Chief Executive of Monmouthshire County Council containing homophobic statements in alleged breach of Paragraph 4(b) of the Code.</p> <p><i>[This matter has been discussed in Enclosure 2 of Agenda Item 6 – Public Services Ombudsman for Wales decisions.]</i></p>	<p>The Panel found the following breach under Paragraph 4(b) - Failure to show respect and consideration:</p> <ul style="list-style-type: none"> (i) The Panel concluded that 2 of the comments made by the Councillor to the Chief Executive by way of emails did not show respect and consideration for a section of society with protected characteristics under the Equality Act 2010. (ii) Another comment was deemed by the Panel to demonstrate an extreme homophobic view which was wholly incompatible with the Code of Conduct and its underpinning principles of public conduct in Wales. (iii) Another 3 comments considered were deemed disrespectful / pejorative by the Panel. However, the Panel accepted that in the light of enhanced protection for political expression that these comments, despite being likely to be offensive to some, did not 	<p>Learning points for elected members</p> <ul style="list-style-type: none"> • To understand that communications from Council email address to an officer of the Council is considered to be communications made in role as Councillor and so the Code of Conduct applies. • Recognising a mistake and showing remorse and insight acts in a Councillor's favour when the APW considers sanction. • Attending training for Conduct will assist members to improve understanding and act as a mitigating factor before the APW. • As Councillor Down had not stood for re-election as a County Councillor, the sanction imposed could not relate to the County Council. However, he had become a Community Councillor for Mathern Community Council and under section 79 of the Local Government Act 2000, the legislation allows the Case Tribunal to suspend the Councillor from a different Authority to that in which the conduct occurred. Hence, the Councillor's suspension from a Community

Name	Summary of Facts	Decision Summary	Findings
		<p>justify the restriction of the Councillor's right to freedom of expression so as to justify a finding of a breach of the Code.</p> <p><u>Sanction</u> The Case Tribunal considered that, due to mitigating factors such as (a) the breach arose from a genuinely and strongly held view; (b) the Councillor had a previous record of good service; and the aggravating features such as (a) non-attendance at training for Conduct; (b) a repeat pattern of behaviour; (c) lack of remorse or insight, the Councillor should be suspended from acting as a member of Mathern Community Council for a period of two months, or, if shorter, the remainder of his term of office.</p> <p>The Panel considered that a short period of suspension would be proportionate and two months was considered to be the minimum sanction necessary, bearing in mind that many Town and Community Councils do not hold any formal Council meetings during August.</p>	<p>Council for breaching the Code in his role as a County Councillor.</p> <p>Learning points for the Standards Committee</p> <ul style="list-style-type: none"> - The Panel considered paragraph 4(b) of the Code of Conduct: "You must show respect and consideration for others". <p>The Panel also considered that the Code is underpinned by certain principles and paragraph 2(2) of the Code states that: "You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales".</p> <p>The relevant principle is: "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".</p> <p>The Panel was satisfied that the emails were sent by the Councillor in his official capacity and the Councillor was willing to repeat the comments made in the emails more widely and</p>

Name	Summary of Facts	Decision Summary	Findings
			<p>ultimately publicly and thus paragraph 4(b) was engaged.</p> <ul style="list-style-type: none"> - The Panel also considered that the Code should be carefully considered in the light of the Articles of the European Convention on Human Rights. <p>Article 8(1) as embodied in the Human Rights Act 1998 states: “Everyone has the right to respect for his private and family life”</p> <p>Article 9(1) refers to the “right to freedom of thought, conscience and religion” subject to the limitation in 9(2).</p> <p>Within his emails the Councillor had referred to be being a Christian and quoted from the Old Testament. The Tribunal accepted on a wide reading that Article 9(1) was engaged.</p> <p>Article 10(1) refers to the “right to freedom of expression” subject to the limitation in 10(2).</p> <p>The Panel was satisfied that all relevant email comments attracted full and enhanced protection afforded to politicians expressing their political</p>

Name	Summary of Facts	Decision Summary	Findings
			<p>views as they were all made in the context of public administration. The Councillor's comments were considered to be political expression in its widest sense.</p> <ul style="list-style-type: none"> - With the 3 comments made in emails which were deemed to be in breach of the Code, the Panel considered that a finding of a breach was "necessary in a democratic society...for the protection of the rights and interests of others", in accordance with the Welsh Principles. - The Panel considered the cases of Calver, <u>Sanders v Kingston</u> No(1) [2005] EWHC 1145 and Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin). - The Panel considered the Equality Act 2010

ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	Standards Committee
DATE:	13.03.2019
REPORT TITLE:	Adjudication Panel for Wales (APW) – Sanctions Guidance
PURPOSE OF THE REPORT:	To provide a copy of the new sanctions guidance produced by the APW in relation to breaches of the Code of Conduct
REPORT BY:	Mared Wyn Yaxley Solicitor – Corporate Governance mwycs@ynysmon.gov.uk
LINK OFFICER:	Lynn Ball Head of Function (Council Business) / Monitoring Officer lbxcs@ynysmon.gov.uk 01248 752586

A BACKGROUND

1. Following a recent consultation to improve and modernise its Sanctions Guidance, a new Sanctions Guidance has been published by the Adjudication Panel for Wales.

B NEW SANCTIONS GUIDANCE

1. A copy of the new Sanctions Guidance is produced as **Enclosure 1**.
2. The Sanctions Guidance is relevant for cases heard by the Panel after 1st September 2018.
3. A copy of the Sanctions Guidance was shared with members of the Standards Committee by way of email on 4th October 2018.

C RECOMMENDATION

1. The Committee is asked to note the information contained in **Enclosure 1**.
2. The Committee is asked to consider whether it requires any training on the contents of **Enclosure 1**.



Sanctions Guidance

Issued by the President of the Adjudication Panel for Wales under Section 75(10) of the Local Government Act 2000.

Foreword by the President

I am pleased to introduce our new *Sanctions Guidance* which sets out the approach to be taken by case, appeal and interim case tribunals of the Adjudication Panel for Wales in order to reach fair, proportionate and consistent decisions on the sanctions that should be applied in relation to an individual's breach of the local Code of Conduct.

The Guidance has been developed by members of the Adjudication Panel for Wales in consultation with the Public Services Ombudsman for Wales, Monitoring Officers and other interested parties. I would like to thank everyone for their contributions. In publishing this Guidance, I hope it will help all those with whom we share an interest in the Code - most importantly members of county and community councils, fire and rescue authorities, and national park authorities in Wales. I hope it reflects the importance we attach to the role of local members, the value of local democracy and the Adjudication Panel's commitment to promoting the highest standards in public life in Wales.

Claire Sharp
President, Adjudication Panel for Wales

CONTENTS

Introduction

page 2

- the status, purpose and intended use of the Guidance, and its relevance to the public, individual members, Monitoring Officers and Standards Committees of councils, fire and rescue authorities, and national park authorities in Wales, the Public Services Ombudsman for Wales and the Adjudication Panel for Wales.

Standards in Public Life

page 3

- the Code of Conduct, expectations for local members and the process to be followed when a breach of the Code is alleged.

The Adjudication Panel for Wales

page 5

- the role of the Adjudication Panel for Wales, the purpose of the sanctions regime and sanction powers available to case, appeal and interim tribunals of the Adjudication Panel for Wales.

The Tribunals' Approach: underlying principles

page 7

- an overview of the general principles that underpin the broad approach of case, appeal and interim case tribunals, specifically fairness, public interest, proportionality, consistency, equality and impartiality, and Article 10 of the European Convention on Human Rights.

Case and Appeal Tribunals: determining sanction

page 9

- the specific sanctions available to case and appeal tribunals and the five stage process to be used to assess the seriousness of a breach, relevant mitigating and aggravating circumstances and any wider factors, and guidance on how to determine the specific sanction and duration; it also addresses the tribunal's power to make recommendations.

Interim Case Tribunals: determining sanction

page 18

- the distinct aims of interim case tribunals to facilitate an ongoing investigation and the specific powers available in response to a report, and any recommendation, from the Ombudsman.

Annex: other relevant documents and guidance

page 21

Introduction

1. This Guidance is issued by the President of the Adjudication Panel for Wales (APW) using powers available to her under the Local Government Act 2000¹. Its primary purpose is to assist the APW's case, appeal and interim case tribunals when considering the appropriate sanction to impose on a member, or former member, who is found to have breached their authority's Code of Conduct.
2. This Guidance describes:
 - i. the role of the ethical framework and Code of Conduct in promoting high public standards amongst members of councils, fire and rescue authorities, and national park authorities in Wales;
 - ii. the role of the Adjudication Panel for Wales (APW) and the purpose of the sanctions regime;
 - iii. the approach to be taken by its tribunals in determining sanction following a finding that the Code has been breached.
3. The purpose of sanctions and this Guidance are built on the values that underpin the Code of Conduct, in particular the fundamental importance of promoting the highest standards in local public life. The Guidance aims to assist tribunals in determining sanctions that are, in all cases, fair, proportionate and consistent.
4. The Guidance is not prescriptive and recognises that the sanction decided by an individual tribunal will depend on the particular facts and circumstances of the case. Any examples should be considered to be by way of illustration and not exhaustive. Tribunals have ultimate discretion when imposing sanctions and can consider in addition to this Guidance other factors that they consider necessary and appropriate. Nor does the Guidance affect the responsibility of the legal member of a tribunal to advise on questions of law, including the specific applicability of relevant sections of this Guidance.
5. In setting out the factors to be considered by a tribunal in its determination of an appropriate sanction, the Guidance offers a transparent approach for the benefit of all parties involved tribunal proceedings. It aims to ensure that everyone is aware, from the outset, of the way in which the tribunal is likely to arrive at its decision on sanction.
6. The Guidance seeks to fulfil a wider role and support all those with an interest in maintaining, promoting and adjudicating on the Code of Conduct. It aims to complement the statutory Guidance published by the Public Services Ombudsman for Wales², confirming the expectations on local members in

¹ Section 75(10) of the Local Government Act 2000 ("the 2000 Act") provides a power for the President of the Adjudication Panel for Wales to issue guidance on how its tribunals are to reach decisions

² The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils:

terms of their conduct and emphasising the central importance of public confidence in local democracy. It should be of value to individual members, Monitoring Officers and Standards Committees of county and county borough councils, fire and rescue authorities, and national park authorities in Wales, and the Public Services Ombudsman for Wales.

7. This Guidance comes into effect on 1 September 2018. It is a living document that will be updated and revised as the need arises, following consultation.

Standards in Public Life

The Code of Conduct

8. The Local Government Act 2000 introduced an ethical framework to promote high standards of conduct in public life in Wales. The framework's central mechanism is the Code of Conduct. All local authorities, community councils, fire and rescue authorities and national park authorities in Wales must have in place a Code of Conduct. All elected members and co-opted members (with voting rights) must, on taking office, sign an undertaking to abide by their authority's Code for the duration of their term of office.
9. The Welsh Government has issued a model Code of Conduct³ in order to ensure consistency across Wales and to give certainty to members and the public as to the minimum standards expected. The model Code is consistent with ten core principles of conduct⁴ prescribed by the National Assembly for Wales in 2001, which are themselves derived from the Nolan Committee's Principles for Public Life⁵:
 - i. Selflessness
 - ii. Honesty
 - iii. Integrity and Propriety
 - iv. Duty to Uphold the Law
 - v. Stewardship
 - vi. Objectivity in Decision-making
 - vii. Equality and Respect
 - viii. Openness
 - ix. Accountability
 - x. Leadership

Guidance (August 2016), issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000

³ The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2008, as amended by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016
www.legislation.gov.uk/wsi/2016/84/pdfs/wsi_20160084_mi.pdf and
www.legislation.gov.uk/wsi/2016/85/pdfs/wsi_20160085_mi.pdf

⁴ The Conduct of Members (Principles) (Wales) Order 2001 SI 2001 No.2276 (W.166)
http://www.legislation.gov.uk/wsi/2001/2276/pdfs/wsi_20012276_mi.pdf

⁵ Nolan Report "Standards of Conduct in Local Government in England, Scotland and Wales"

Local codes must incorporate any mandatory provisions of the model Code and may incorporate any optional provisions of the model Code. At this time, all provisions of the model Code are mandatory.

Expectations on local members

10. Members of county councils, county borough councils, community councils, fire and rescue authorities and national park authorities in Wales must abide by their authority's Code:
 - whenever they are acting or present at a meeting of their authority, claiming to act or giving the impression of acting in an official capacity in the role of member to which they were elected or appointed or as a representative of their authority;
 - at any time, if they are conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute, or if using or attempting to use their position to gain an advantage or avoid a disadvantage for anyone or if they misuse the authority's resources.
11. Members are expected to engage in any training and access ongoing advice, as the need arises, from their local Monitoring Officer and Standards Committee. Members are also expected to be familiar with and have regard to the Public Services Ombudsman's statutory guidance on the Code⁶. It addresses each of the Code's requirements in order to help members understand their obligations in practical terms. It offers advice on the fundamental ethical principles that many members need to consider on a regular basis – for example, declarations of interest, confidentiality and whether their actions constitute bullying or harassment– in addition to those less frequently encountered.
12. Ultimately, members must use their judgment in applying the Code and the Principles to their own situation. They cannot delegate responsibility for their conduct under the Code.

Allegations of breach

13. There are non-statutory local protocols in place for low-level member-on-member complaints which do not result in case or appeal tribunals. Allegations that a member's conduct is in breach of the Code can be made to the Ombudsman, who will decide whether to investigate a complaint. If, following an investigation, the Ombudsman finds that there is evidence of a breach of the Code, he can refer his report to the relevant local Standards Committee or to the President of the Adjudication Panel for Wales. The Ombudsman may also refer reports from an ongoing investigation to the President for consideration by an interim case tribunal.

⁶ The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils: Guidance (August 2016), issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000

The Adjudication Panel for Wales

14. The introduction of the ethical framework included the establishment of the Adjudication Panel for Wales⁷ as an independent, judicial body with powers to form tribunals to deal with alleged breaches of the Code. The Panel's operation is subject to regulation by the Welsh Government.

Case tribunals

15. Case tribunals are appointed by the President of the Adjudication Panel for Wales in order to consider a report from the Ombudsman following an investigation into an allegation of a member's misconduct. Case tribunals are responsible for deciding whether a local member has breached the Code of Conduct of their authority and, if so, for determining an appropriate sanction (if any).

Appeal tribunals

16. Appeals tribunals are appointed by the President to consider appeals from members against a decision of a local Standards Committee. Appeal tribunals are responsible for reviewing the decision that a local member has breached the Code of Conduct and any sanction imposed. They may uphold and endorse any sanction imposed or refer the matter back to the Standards Committee with a recommendation as to a different sanction or overturn the determination of the Committee that there has been a breach of the Code. An appeal tribunal cannot recommend a sanction which was not available to the Standards Committee.

Interim case tribunals

17. Interim case tribunals are appointed by the President to consider a report, and any recommendation to suspend a member, from the Ombudsman during an ongoing investigation into alleged misconduct. The tribunal is responsible for determining the need to suspend, or partially suspend, the member or co-opted member from the authority or a role within the authority. The maximum duration of the suspension or partial suspension is 6 months. Unlike case and appeal tribunals, suspension by an interim case tribunal is a neutral act, given the ongoing nature of the Ombudsman's investigation.

The sanctions regime

18. The Committee on Standards in Public Life⁸ had a key role in developing the ethical framework and identified the need for mechanisms to enforce and punish public office holders who breached the standards expected of them, if the ethical framework was to command public credibility. The purpose of the sanctions available to Adjudication Panel for Wales case and appeal tribunals are to:

⁷ Part III, Local Government Act 2000

⁸ Reference to the report on enforcement

- provide a disciplinary response to an individual member’s breach of the Code;
- place the misconduct and appropriate sanction on public record;
- deter future misconduct on the part of the individual and others;
- promote a culture of compliance across the relevant authorities;
- foster public confidence in local democracy.

19. The sanctions available to a case tribunal that has found a breach of the Code are⁹:

- a. to take no action in respect of the breach;
- b. to suspend or partially suspend the member from the authority concerned for up to 12 months;
- c. to disqualify the member from being, or becoming, a member of the authority concerned or any other relevant authority to which the Code of Conduct applies for a maximum of 5 years.

The sanctions available to an appeal tribunal that has found a breach of the Code are:

- d. censure;
- e. to suspend or partially suspend the member from the authority concerned for up to 6 months.

20. The different types and scope of duration of sanction are designed to provide tribunals with the flexibility to apply sanctions of considerable difference in impact and enable a proportionate response to the particular circumstances of an individual case. This Guidance does not propose a firm tariff from which to calculate the length of suspension or disqualification that should be applied to specific breaches of the Code. Instead, it offers broad principles for consideration by all tribunals whilst respecting the details that make each and every case different.

⁹ Section 79, Local Government Act 2000

The Tribunal approach – underlying principles

21. Tribunals must always have in mind that every case is different and requires deciding on its own particular facts and circumstances. Following a finding that the Code of Conduct has been breached, tribunals must exercise their own judgment as to the relevant sanction in line with the nature and impact of the breach, and any other relevant factors. They must also ensure that the sanctions take account of the following underlying principles in order to ensure that their decisions support the overall ambitions of the ethical framework, fulfilling the purpose of the sanctions, and are in line with the tribunal's wider judicial obligations.

Fairness

22. The tribunal should take account and seek to find an appropriate balance between the various interests of the Respondent/Appellant, the Complainant, other interested parties to a case, the Ombudsman, the authority, the electorate and the wider public.

Public interest

23. Whilst seeking to ensure that the sanction imposed is appropriate, fair and proportionate to the circumstances of the case, the tribunal should consider the reputation of and public confidence in local democracy as more important than the interests of any one individual.

Proportionate

24. Tribunals will take account of the good practice identified in the Ombudsman's Guidance and Code of Conduct Casebook¹⁰ in order to assist their sense of proportionality when determining the sanction appropriate to the scale and/or nature of the breach.

Consistent

25. Tribunals will aim to achieve consistency in their sanctions in order to maintain the credibility of the ethical framework. They will take account of the good practice identified by the Ombudsman (para.24) in addition to this Guidance and its own previous decisions. Where a tribunal panel has reason to depart from the Guidance, it should clearly explain why it has done so.

Equality and impartiality

26. Fair treatment is a fundamental principle for the Adjudication Panel for Wales and is embedded within individual members' judicial oath. Tribunals must ensure that their processes and practices safeguard their capacity for objective, independent and impartial decision-making, free from prejudice and partiality, in order to uphold their judicial responsibilities.

¹⁰ <http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx>

Human Rights (Articles 6 and 10)

27. Tribunals must ensure that their processes and practices respect human rights. This Guidance aims to support those principles. In particular, tribunals must ensure that they consider the relevance of Articles 6 and 10 of the European Convention on Human Rights in their deliberations. These articles enshrine the right to a fair hearing and freedom of expression.

28. Article 10 is a key provision when considering possible breaches of the Code. It provides that:

“10(1) Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers...”

10(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

29. Enhanced protection of freedom of expression applies to political debate, including at local government level. Article 10(2) has the effect of permitting language and debate on questions of public interest that might, in non-political contexts, be regarded as inappropriate or unacceptable. This protection does not extend to gratuitous or offensive personal comment, nor to ‘*hate speech*’ directed at denigrating colour, race, disability, nationality (including citizenship), ethnic or national origin, religion, or sexual orientation.

30. In their consideration of Article 10, tribunals should apply the three-stage approach established by Mr Justice Wilkie¹¹ in the case of *Sanders v Kingston (No1)* and which applies to both decision about breach and sanction, as follows:

- i. Can the Panel as a matter of fact conclude that the Respondent’s conduct amounted to a relevant breach of the Code of Conduct?
- ii. If so, was the finding of a breach and imposition of a sanction *prima facie* a breach of Article 10?
- iii. If so, is the restriction involved one which is justified by reason of the requirement of Article 10(2)?

¹¹ Wilkie J in the case of *Sanders v Kingston No (1)* [2005] EWHC 1145

Case and Appeal Tribunals – determining sanction

31. A tribunal will decide whether or not a sanction is appropriate after considering the facts of a case and finding that an individual has breached the Code of Conduct. In determining any appropriate sanction, the tribunal's approach should be sufficiently broad so as to accommodate its consideration of the various interests of those involved in the case, any specific circumstances of the individual respondent/appellant, the intended purpose of the sanctions available (in particular, the wider public interest) and the tribunal's wider judicial responsibilities.
32. Case tribunals will decide on the appropriate sanction to impose, if any, and the duration of any such sanction; appeal tribunals will consider the appropriateness of the sanction imposed by the Standards Committee.

The five-stage process

33. Case and appeal tribunals will follow a five step process in determining sanction:
- 33.1 assess the seriousness of the breach and any consequences for individuals and/or the council (para.34 - 38)
 - 33.2 identify the broad type of sanction that the Tribunal considers most likely to be appropriate having regard to the breach; (para.39)
 - 33.3 consider any relevant mitigating or aggravating circumstances and how these might affect the level of sanction under consideration; (para.40 to 42)
 - 33.4 consider any further adjustment necessary to ensure the sanction achieves an appropriate effect in terms of fulfilling the purposes of the sanctions; (para.43)
 - 33.5 confirm the decision on sanction and include, within the written decision, an explanation of the tribunal's reasons for determining the chosen sanction in order to enable the parties and the public to understand its conclusions. (para.53)

Assessing the seriousness of the breach

34. The relative seriousness of the breach will have a direct bearing on the tribunal's decision as to the need for a sanction and, if so, whether a suspension or partial suspension (of up to 12 months) or disqualification (up to 5 years) is likely to be most appropriate. It is important to bear in mind though that appeal tribunals can only recommend a suspension (partial or full) for up to 6 months and cannot recommend disqualification due to the constraints upon its powers.
35. The tribunal will assess seriousness with particular reference to:
- the nature and extent of the breach, and number of breaches;

- the member’s culpability, their intentions in breaching the Code, and any previous breaches of the Code;
- the actual and potential consequences of the breach – for any individual(s), the wider public and/or the council as a whole;
- the extent to which the member’s actions have, or are likely to have the potential to, bring his/her office or the relevant authority into disrepute.

36. Examples of the way in which tribunals might weight seriousness include:

- a breach involving deliberate deception for personal gain or discrimination is likely to be regarded as more serious than that involving the careless use of a council email address on a personal social media profile;
- a breach involving the systematic harassment or bullying of a junior officer is likely to be regarded as more serious than instances of disrespectful language in the course of a council debate;
- a breach of confidentiality that results in the disclosure of the address of a looked after child is likely to be regarded as more serious than the disclosure of a planning officer’s confidential advice;
- a breach resulting in significant negative reputational damage to the office or authority is likely to be regarded as more serious than an inappropriately worded email to a member of the public.

37. Breaches involving the blatant disregard of specific, authoritative advice given as to a course of conduct and/or the Code (particularly by the relevant authority’s monitoring officer), the deliberate abuse of confidential, privileged or sensitive information for personal gain or that of a close personal associate, and sexual misconduct, criminal, discriminatory, predatory, bullying and/or harassing behaviour are all likely to be regarded as very serious breaches.

38. A member who is subject to a term of imprisonment for three months or more without the option of paying a fine in the previous five years before their election or since their election is automatically subject to disqualification¹².

Choosing the potential sanction

39. Having assessed the relative seriousness of the member’s breach of the Code, the tribunal will consider which of the courses of action available to it is most appropriate¹³. In line with the principles of fairness and proportionality, the tribunal should start its considerations of possible sanctions with that of least impact.

No action

39.1 The tribunal may decide that, despite the member having failed to follow the Code of Conduct, there is no need to take any further action in terms of sanction. Circumstances in which a tribunal may decide that no action is required may include:

¹² Section 80(1)(d), Local Government Act 1972

¹³ Section 79, Local Government Act 2000

- an inadvertent failure to follow the Code;
 - an isolated incident with extremely limited potential for consequential harm;
 - an acceptance that a further failure to comply with the Code on the part of the member is unlikely, nor are there any wider reasons for a deterrent sanction;
 - specific personal circumstances, including resignation or ill health, which render a sanction unnecessary and/or disproportionate.
- 39.2 A tribunal that finds a breach of the Code but decides that no action is necessary in terms of sanction, should consider whether there is a need to warn the member as to their conduct and/or seek assurances as to future behaviour. This provides an effective means of placing the member's behaviour on record, reflected in the tribunal's written decision, so that the warning and/or reassurance may be taken into account in the event of the same member being found to have breached the Code in the future. A failure to comply with any assurances given to the tribunal may be brought to the attention of the tribunal in any future hearings.

Suspension for up to 12 months

- 39.3 A case tribunal may suspend the member for up to 12 months from the authority(ies) whose Code/s has/have been breached.
- 39.4 Suspension is appropriate where the seriousness of the breach is such that a time-limited form of disciplinary response is appropriate in order to deter such future action, temporarily remove the member from the authority/a role within the authority, safeguard the standards set by the Code and to reassure the public that standards are being upheld.
- 39.5 A suspension of less than a month is unlikely to meet the objectives of the sanctions regime and risks undermining its overall ambitions. Tribunals are also reminded that the highest sanction available to local Standards Committees is 6 months' suspension. They should bear this in mind when considering an Ombudsman's referral to the Adjudication Panel, in preference to the local Standards Committee, and when considering an appeal against a local Standards Committee sanction. It is possible for appeal tribunals to recommend an increase in the sanction originally imposed by the Standards Committee.
- 39.6 Circumstances in which a tribunal may decide that a suspension is appropriate may include:
- the member's action has brought the member's office or authority into disrepute but they have not been found in breach of any other paragraph of the Code (though the most appropriate sanction will depend on the specific facts of each case);

- the breach merits a disciplinary response but, in view of the circumstances of the case, it is highly unlikely that there will be a further breach of the Code;
- the member has recognised their culpability, shown insight into their misconduct, and apologised to those involved.

Partial Suspension for up to 12 months

- 39.7 The tribunal may impose a partial suspension, preventing the member from exercising a particular function or role (such as being a member of a particular committee or subcommittee or the holder of a particular office) for up to 12 months.
- 39.8 Partial suspension is appropriate where the seriousness of the breach merits a suspension (see above) but the circumstances of the case are such that the member is permitted to continue in public office except for the role/function/activity specifically limited by the suspension.
- 39.9 In the case of a partial suspension, the tribunal will need to decide from what role/function/activity the member is to be suspended and, in the case of membership of more than one authority, the impact of the partial suspension in each relevant authority.
- 39.10 Circumstances in which a partial suspension may be appropriate include:
- the member is capable of complying with the Code in general but has difficulty understanding or accepting the restrictions placed by the Code on their behaviour in a specific area of council/authority activity;
 - the misconduct is directly relevant to and inconsistent with a specific function or area of responsibility held;
 - the member should be temporarily removed or prevented from exercising executive functions for the body to which the Code applies.

Disqualification for a maximum of 5 years

- 39.11 A case tribunal may disqualify the member from being, or becoming, a member of the authority concerned or any other relevant authority to which the Code of Conduct applies for a maximum of 5 years.
- 39.12 Disqualification is the most severe of the sanctions available to a tribunal. It is likely to be appropriate where the seriousness of the breach is such that a significant disciplinary response is appropriate in order to deter repetition, make clear the unacceptable nature of such conduct in public office, underscore the importance of the Code and to safeguard the public's confidence in local democracy. A disqualification of less than 12 months is unlikely to be meaningful (except in circumstances when the term of office of the member is due to expire during that period or is no longer a member).

39.13 Circumstances in which a tribunal may decide that a disqualification is appropriate may include:

- deliberately seeking personal gain (for her/himself, a family member or personal associate) by exploiting membership of the authority and/or the authority's resources;
- deliberately seeking to disadvantage another by exploiting membership of the authority and/or the authority's resources;
- deliberately disregarding or failing to comply with the provisions of the Code and continuing to assert the right so to do;
- repeatedly failing to comply with the provisions of the Code and demonstrating the likelihood of continuing the pattern of behaviour;
- deliberately seeking political gain by misusing public resources or power within the authority;
- a second or subsequent breach, despite a warning and/or having given an assurance as to future conduct in a previous case before an Adjudication Panel for Wales tribunal;
- conduct that calls into question the Respondent's fitness for public office;
- bringing the relevant authority into serious disrepute.

Mitigating and aggravating circumstances

40. The tribunal will go on to consider how any particular circumstances of the member may mitigate and/or aggravate the level of sanction under consideration. This stage is designed to take account of any personal circumstances affecting the member's conduct including inexperience, capacity, insight, responsibility (for the breach), remorse, reparation and any previous findings. This process is likely to have significant bearing on the duration of the sanction, varying the term down or up in line with the mitigating or aggravating factors. Such factors may at times be sufficient to persuade a tribunal that a suspension (if any) may be more appropriate than a disqualification, and vice versa.

41. Tribunals are encouraged to work through the examples set out below but are reminded that these are not exhaustive. Where any mitigating/aggravating factor relates directly to the nature or seriousness of the breach and the tribunal has already considered that factor in its choice of appropriate sanction, care should be taken as to the extent to which that factor is included in mitigation/aggravation. For example:

- if the sanction under consideration is a suspension because the conduct is regarded as a 'one off', this factor should not also be regarded as mitigating unless the 'one off' nature of the breach is so exceptional that it should have a direct bearing on the length of the suspension;

- if the breach is regarded as serious because it includes ‘bringing the authority into disrepute’, this factor should not also be regarded as aggravating unless the disrepute is so exceptional as to have a direct bearing on the length of the disqualification.

42. Tribunals should also take care to respect a member’s legitimate right to appeal and to distinguish protestations or assertions made in the course of exercising that right from those actions that might be regarded as aggravating factors designed to obstruct the processes of the Ombudsman or Adjudication Panel.

Mitigating circumstances

- i. substantiated evidence that the misconduct was affected by personal circumstances, including health and stress;
- ii. a short length of service or inexperience in a particular role;
- iii. a previous record of good service (especially if over a long period of time);
- iv. the misconduct was a one-off or isolated incident;
- v. that the member was acting in good faith, albeit in breach of the Code;
- vi. the misconduct arose from provocation or manipulation on the part of others;
- vii. the breach arose from an honestly held, albeit mistaken, view that the conduct involved did not constitute a failure to follow the Code, especially having taken appropriate advice;
- viii. the misconduct, whilst in breach of the Code, had some beneficial effect for the public interest;
- ix. political expression of an honestly held opinion, albeit intemperately expressed, or a political argument (see paragraphs 27-30 above and Aggravating factor xii below);
- x. self-reporting the breach;
- xi. recognition and regret as to the misconduct and any consequences;
- xii. an apology, especially an early apology, to any affected persons;
- xiii. co-operation in efforts to rectify the impact of the failure;
- xiv. co-operation with the investigation officer and the standards committee/APW;
- xv. acceptance of the need to modify behaviour in the future;
- xvi. preparedness to attend further training;
- xvii. commitment to seeking appropriate advice on the Code in the future;
- xviii. compliance with the Code since the events giving rise to the adjudication.

Aggravating factors

- i. long experience, seniority and/or position of responsibility;
- ii. seeking to unfairly blame others for the member's own actions;
- iii. deliberate conduct designed to achieve or resulting in personal (for her/himself, a family member or close personal associate) benefit or disadvantage for another;
- iv. deliberate exploitation of public office and/or resources for personal (for her/himself, a family member or close personal associate) or political gain;
- v. abuse or exploitation of a position of trust;
- vi. repeated and/or numerous breaches of the Code, including persisting with a pattern of behaviour that involves repeatedly failing to abide by the Code;
- vii. dishonesty and/or deception, especially in the course of the Ombudsman's investigation;
- viii. lack of understanding or acceptance of the misconduct and any consequences;
- ix. refusal and/or failure to attend available training on the Code;
- x. deliberate or reckless conduct with little or no concern for the Code;
- xi. deliberately or recklessly ignoring advice, training and/or warnings as to conduct;
- xii. the expression of views which are not worthy of respect in a democratic society, are incompatible with human dignity and conflict with the fundamental rights of others (see paragraphs 27 – 30 above);
- xiii. obstructing and/or failing to co-operate with any Ombudsman's investigation, Standards Committee, and/or the Adjudication Panel for Wales's processes;
- xiv. refusal to accept the facts despite clear evidence to the contrary;
- xv. action(s) that has/have brought the relevant authority and/or public service into disrepute;
- xvi. failure to heed previous advice and/or warnings and to adhere to any previous assurances given as to conduct relevant to the Code.
- xvii. Previous findings of failure to follow the provisions of the Code.
- xviii. Continuing to deny the facts, despite clear evidence to the contrary.

Fulfilling the purpose of the sanctions regime

43. The tribunal may need to consider further adjustments to the chosen sanction or length of sanction in order to achieve an appropriate deterrent effect, for the

individual and/or the wider council membership, or to maintain public confidence. Tribunals will also need to have regard to external factors that may exacerbate or diminish the impact of the chosen sanction.

Public interest

44. The overriding purpose of the sanctions regime is to uphold the standards of conduct in public life and maintain confidence in local democracy. Tribunals should review their chosen sanction against previous decisions of the Adjudication Panel for Wales and consider the value of its chosen sanction in terms of a deterrent effect upon councillors in general and its impact in terms of wider public credibility. If the facts giving rise to a breach of the code are such as to render the member entirely unfit for public office, then disqualification rather than suspension is likely to be the more appropriate sanction.

Eligibility for public office in other relevant authorities

45. Disqualification will automatically apply to a Respondent's current membership of all authorities to which the Local Government Act 2000 applies, irrespective of whether the other authorities' Codes have been breached. Disqualification will also prevent the Respondent from taking up public office, through election or co-option, on any other authorities to which the Act applies until the expiration of the disqualification period.

46. A suspension will preclude the member from participating as a member of the authority whose Code s/he has been found to have breached but not necessarily any other authorities of which the Respondent/Appellant is a member. Where the facts of a case call into question the member's overall suitability to public office, a disqualification may be more suitable than a suspension.

Former members

47. In circumstances where the tribunal would normally apply a suspension but the Respondent is no longer a member, a short period of disqualification may be appropriate (this can only apply in case tribunals). This will ensure that the Respondent is unable to return to public office, through co-option for example, sooner than the expiry of the period of suspension that would have been applied but for their resignation or not being re-elected. For appeal tribunals, a censure remains an option.

Financial impact

48. Tribunals should take into account the financial impact on members of a sanction: during suspension and disqualification, a member will be denied payment of their salary and allowances. The financial impact varies from an annual expenses reimbursement for community councillors to a basic salary

plus expenses for county councillors to the higher salaried paid to leaders of larger councils¹⁴.

Impact on the electorate

49. The High Court has recognised that Parliament has expressly provided case tribunals with a power to interfere with the will of the electorate and that such ‘interference’ may be necessary to maintain public trust and confidence in the local democratic process. Tribunals should be confident in their right to disqualify members whose conduct has shown them to be unequal to fulfilling the responsibilities vested in them by the electorate.
50. Suspension has the effect of temporarily depriving the electorate of local representation whereas disqualification triggers a process, either by-election or co-option, to replace the disqualified member.

Timing of local elections

51. In general, the length of a disqualification should be determined in relation to the nature of the breach and circumstances of the case, and be applied irrespective of the imminence or otherwise of local elections. There may be exceptional times when the duration of a disqualification might have a particularly disproportionate effect on the member. For example: a disqualification of 18 months, imposed in December 2020, would prevent a member from standing for local government election until May 2027, as the period of disqualification would overlap the May 2022 elections by one month. Tribunals should be willing to hear submissions as to why the length of disqualification should be varied, whilst bearing in mind the overriding public interest principle.

Automatic disqualifications

52. The law imposes an automatic disqualification for five years on any member who is subject to a term of imprisonment for three months or more (whether suspended or not). That a Court has imposed a lesser sanction does not mean that a five-year disqualification is inappropriate. If the case tribunal is of the view that the member concerned is unfit to hold public office and is unlikely to become fit over the next five years, then it may well be appropriate to impose such a disqualification.

Confirming the sanction

53. Tribunals should confirm their final determination on sanction, notifying the hearing and recording it in the decision notice. Tribunals will make sure that the reasons for their determination, including any significant mitigating and aggravating factors, are included in the full written record of proceedings in order to ensure that the parties and the public are able to understand its conclusions on sanction.

¹⁴ <http://gov.wales/irpwsb/home/?lang=en>

Recommendations

54. Case tribunals also have the power to make recommendations¹⁵ to the relevant authority whose Code it has considered about any matters relating to:

- the exercise of the authority's functions
- the authority's Code of Conduct;
- the authority's Standards Committee.

55. The authority to whom the recommendations are made is under a duty to consider them within three months and then prepare a report for the Ombudsman outlining what the action it, or its Standards Committee, has taken or proposes to take. If the Ombudsman is not satisfied with the action taken or proposed, he/she has the power to require the authority to publish a statement giving details of the recommendations made by the case tribunal and of the authority's reasons for not fully implementing them. As such, tribunals are advised to consider their use of this power with care.

Interim case tribunals – determining sanction

56. Interim case tribunals will decide, after considering a report (including any recommendation) from the Ombudsman on an ongoing investigation into alleged misconduct, whether to suspend or partially suspend, the member or co-opted member from the authority or a role within the authority.

57. Unlike case and appeal tribunals, interim case tribunals are not disciplinary. Interim case tribunals aim to:

- facilitate the Ombudsman's effective and expeditious investigation of the respondent's conduct;
- minimise any disruption to the business of the authority concerned during the investigation;
- maintain the reputation of the authority concerned;
- protect the authority concerned from legal challenge.

58. The powers available to an interim case tribunal¹⁶ are to suspend the Respondent, wholly or partially from being a member or co-opted member of the authority concerned, for not more than six months (or, if shorter, the remainder of the member's term of office). In the case of a partial suspension, the interim case tribunal will need to decide from what activity the respondent is to be suspended.

Purpose and process

59. Interim case tribunals recognise that no definitive finding has yet been made on the validity of the allegations about the Respondent and that any form of suspension can have a significant impact on a member's role, credibility and finances.

¹⁵ Section 80, <http://www.legislation.gov.uk/ukpga/2000/22/section/80>

¹⁶ Section 78(1), Local Government Act 2000

60. Interim case tribunals will therefore seek to take the minimum action necessary to ensure the effective completion of the investigation, the proper functioning of the authority concerned and the maintenance of public confidence. The tribunal will only decide on full suspension if its aims cannot be met otherwise.

The nature of the allegation(s)

61. Interim case tribunals will start by considering the nature of the allegations against the Respondent in order to decide whether, if the allegation were substantiated, a suspension or partial suspension would be an appropriate sanction.

No action

62. If the tribunal concludes that neither suspension nor partial suspension would follow a finding of breach, it is highly unlikely to make such an order without compelling reasons as to why the Ombudsman's investigation cannot effectively proceed without such action.

63. If the tribunal concludes that a finding on breach would result in a suspension or partial suspension, it will still require a compelling argument that it is in the public interest for a suspension or partial suspension of the Respondent in advance of the Ombudsman completing his investigation and referring a final report to the Adjudication Panel for Wales.

Partial Suspension

64. Partial suspension offers the possibility of safeguarding public confidence in an authority and enabling it to function effectively without depriving the member's constituents of ward representation. Interim case tribunals may wish to draw on the principles that apply to case and appeal tribunals' approach to partial suspension.

65. Partial suspension may be appropriate in circumstances where the allegations are directly relevant to and inconsistent with a specific function or area of responsibility held or the Respondent exercises executive functions for the authority whose Code s/he is alleged to have breached or – the Respondent may be excluded from their specific or executive responsibilities in order to reassure the public whilst not undermining the authority's ability to function effectively or depriving the electorate of their division/ward representation.

Suspension

66. Suspension is likely to be appropriate if there is a legitimate concern as to any of the following:

- the Respondent may interfere with evidence or with witnesses relevant to the matter under investigation;
- the business of the authority concerned cannot carry on effectively if the Respondent were to continue in office whilst the allegation against him or her

remained unresolved – the tribunal will have particular regard to any breakdown or potential breakdown in relations between the Respondent, other members and/or key staff of the authority;

- the allegations raise issues of such gravity that they jeopardise public confidence in the authority concerned if the Respondent were to continue in office whilst the allegations remained unresolved.

Annex: other documents and guidance relevant to tribunals

Adjudication Panel for Wales : Members Handbook (2017)

Public Services Ombudsman for Wales –The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils: Guidance (August 2016)

Equal Treatment Bench Book, Judicial College (as amended)

The Adjudications by Case Tribunals and Interim Case Tribunals (Wales Regulations 2001 No. 2288 (W.176), as amended by the Local Authorities (Case and Interim Case Tribunals and Standards Committees) (Amendment) (Wales) Regulations 2009 2578 (W. 209)

The Local Government Investigations (Functions of Monitoring Officers and Standards Committee) (Wales) Regulations 2001 No. 2281 (W171), as amended by the Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 No. 85 (W.39)

This page is intentionally left blank

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	13.03.2019
REPORT TITLE:	Dispensation(s)
PURPOSE OF THE REPORT:	To advise the Committee of the outcome of any dispensation applications received since 12 September 2018
REPORT BY:	Mared Wyn Yaxley Solicitor – Corporate Governance mwy@ynysmon.gov.uk
LINK OFFICER:	Lynn Ball Head of Function (Council Business) / Monitoring Officer lbx@anglesey.gov.uk 01248 752586

1. INTRODUCTION

Where a county councillor/town/community councillor has a prejudicial interest in a matter to be considered by their authority, the code of conduct requires that the interest be declared/registered and that the member leave the meeting and not participate/influence the decision/s.

The code of conduct provides inbuilt “dispensations” in certain limited circumstances which are listed in [paragraph 12\(2\) of the code](#).

Additionally, if paragraph 12(2) of the Code does not help, then the Standards Committee has discretion to grant a dispensation to a member, in specific circumstances, as listed in statutory regulations.

If granted, a dispensation will overreach the prejudicial element of the interest (that is the bias or perceived bias) and will enable the member to participate in the matter; perhaps with a limited or restricted input, and for a specified timescale.

2. BACKGROUND

To assist members in using the process for dispensations whenever it may be suitable, and as effectively as possible, the Standards Committee has published an [Advice and Guidance Note](#). Additionally, information was provided to town and community council clerks on the potential for dispensations in an email dated 6th March 2017.

Given that dispensations are often required at the minimum amount of notice legally possible, the Standards Committee has established an arrangement whereby a Panel of three members may be called to deal with any application received between meetings of the full Committee. Applications received from county councillors may be heard by any three independent / County Council members (with the independent members to be in the majority) and applications from town/community councillors are to be heard by independent members and town/community council members (independent members to be in the majority).

3. APPLICATIONS MADE SINCE 12TH SEPTEMBER 2018

3.1 Dispensation Panel Hearing on 28th January 2019

- 3.1.1 The Panel received a full written application on 21st January 2019 in relation to Councillor Llinos Medi Huws' application for dispensation in relation to education matters including (a) schools in the Amlwch area, and (b) Post-16 Education provision in the County. The Panel met to hear from the applicant and to determine the application on 28th January 2019.
- 3.1.2 Attached at **Enclosure 1** in the report which was presented to the Panel at the 28th January 2019 Hearing.
- 3.1.3 Attached at **Enclosure 2** are the draft minutes from the Dispensation Panel.
- 3.1.4 The Panel decided to grant an unlimited dispensation to Councillor Huws on the following terms:-
- To write to officers and the Executive / Committee / Council about the issue;
 - To speak to officers of the Council about the issue, provided a note is taken of any such discussions;
 - To speak at Executive / Committee / Council meetings and answer any questions about the issue;
 - To remain in the room during any debate/voting on the issue;
 - To vote at such meetings; and
 - To participate in all external meetings in her elected capacity.
- 3.1.5 The grounds upon which the dispensation was granted were that:-
- (d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the Council's business;
 - (f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;
 - (g) the registerable interest relates to business which is to be considered by Scrutiny Committee of the Council, and the Member's interest is not a Pecuniary/financial interest;
 - (i) It appears to the Standard Committee to be in the interest of the inhabitants of the area of the Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within 7 days. Such a notification should specify the Member to whom the dispensation would apply and the Standards Committee's reasons why the disability should be removed;

3.1.6 The dispensation (if it remains relevant) will in any event expire on the expiry of Councillor Llinos Medi Huws' current term on the Isle of Anglesey County Council.

3.2 Dispensation Panel Hearing on 11th February 2019 cancelled

3.2.1 5 applications for dispensations were received by Councillors of Llanbadrig Community Council in relation to Wylfa Newydd ("New Wylfa")

3.2.2 A Hearing date was arranged for the 11th February 2019. However, due to the developments in January 2019 and Hitachi's decision to suspend the work on the Wylfa Newydd project, a decision was made to postpone the Hearing indefinitely. The Community Council Clerk has been advised to contact officers in the Legal Department should a further hearing need to be arranged.

3.3 Dispensation Panel Hearing on 7th March 2019

3.3.1 A Dispensation Panel Hearing has been arranged on 7th March 2019 to consider an application made by Llaneilian Community Council members in relation to the provision of education in schools in the Amlwch area.

3.3.2 More than half the Members of the Community Council have submitted an application and the matter will be considered as a block dispensation.

3.3.3 A verbal update of the Panel's decision will be provided at the Standards Committee meeting on 13th March 2019 and written confirmation provided at the Standards Committee meeting in September 2019

3.4 Dispensation Panel Hearing on 22nd March 2019

3.4.1 At the Dispensation Panel Hearing to consider Councillor Llinos Medi Huws' application for dispensation, the Panel explained that it considered that a dispensation application should be made by any / all members of the Executive who are parents / grandparents to children and young people on Anglesey who may be affected by a decision in relation to post-16 education provision in the County.

3.4.2 Enquiries have been made and a block application is being submitted via 2 applications (one for five members of the Executive who are grandparents) and one application by Councillor Carwyn Elias Jones.

3.4.3 Written confirmation of the Panel's decision will be provided at the Standards Committee Meeting in September 2019.

4. RECOMMENDATION

1. For the Committee to note the dispensations granted and the grounds and circumstances in which they were granted.
2. For the members of the Panel only (Michael Wilson, Denise Harris-Edwards John R Jones) to ratify/amend the draft minutes at **Enclosure 2**.

3. For the Committee to receive written information on the other dispensations identified in 3.3 and 3.4 at the Standards Committee meeting in September 2019.
4. Although the same is implicit, for the Committee to agree an amendment to the Standard Dispensation Application/Permission Form to include express reference, as part of the “permission” drop-down list, for a Member who is granted a dispensation to be permitted to participate in all public meetings and outside bodies. The wording suggested is as follows:
“if relevant, to include full participation in public meetings and meetings of any outside bodies etc”.

ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	STANDARDS COMMITTEE (DISPENSATION PANEL)
DATE:	28 JANUARY 2019
TITLE OF REPORT:	TO CONSIDER AN APPLICATION FOR DISPENSATION
PURPOSE OF THE REPORT:	TO CONSIDER WHETHER OR NOT TO GRANT AN APPLICATION FOR DISPENSATION BY A COUNTY COUNCILLOR (THE LEADER) AND IF SO, ON WHAT TERMS
REPORT BY:	Mared Wyn Yaxley SOLICITOR (Corporate Governance) mwyics@anglesey.gov.uk / 01248 752566

ATTACHED DOCUMENTS

1. Code of Conduct for Members of the Isle of Anglesey County Council
2. The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001
3. Section 4 of the Local Government Regulations (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) 2016
4. Briefing Note on Dispensations provided by the Standards Committee for the elected Members of the Isle of Anglesey County Council along with Application and Decision Forms.
5. Council Plan 2017-2022
6. Annual Delivery Document 2018-2019
7. Councillor Llinos Medi Huws' Application
8. Methodology note for the consideration of applications for dispensations

1. LEGAL BACKGROUND

Pursuant to the Isle of Anglesey County Council's Code of Conduct (**Enclosure 1**), members who have a personal and prejudicial interest are precluded from any discussion on that matter in the County Council, or in any meeting which they attend in their capacity as a member of the Council.

Personal interests are listed in paragraph 10 of the Code. The definition of prejudicial interests is provided in paragraph 12 of the Code.

In some limited, and specified, circumstances a member may be able to overreach the impediment created by the personal and prejudicial interest if they are able to obtain a dispensation from the Standards Committee.

Dispensations may only be granted in the circumstances listed in Section 2 of **Enclosure 2**, and have been amended in accordance with **Enclosure 3**. The Briefing Note and the reverse of the Application Form therein (**Enclosure 4**) also provide details of these circumstances.

2. FACTUAL BACKGROUND

It is well known that the Isle of Anglesey County Council is engaging with (a) schools in the Amlwch area and (b) the county's secondary schools with regard to post-16 education.

Schools Modernisation is one of the Isle of Anglesey County Council's objectives in the Council's Plan for 2017-2022. See **Enclosure 5**.

The "2018-2019 Annual Delivery Document" was published with an introduction from Councillor Llinos Medi Hughes in her capacity as Leader of the Council. The first objective discussed is education and skills and the educational model in Amlwch. See **Enclosure 6**.

An engagement process has been ongoing during November and December in each of the schools under consideration, including primary schools in the Amlwch area and the 5 secondary schools in Anglesey. This process included open evenings where officers and elected members were present. Councillor Llinos Medi Huws attended these evenings.

The Schools Modernisation Strategy (Amlwch Area) notes that any new school would be ready for September 2022 (less than 4 years). The Executive will be required to make recommendations and decisions at several different stages. The Leader is the chair of the Executive.

The Leader will attend before the Standards Committee Panel to present her application and to provide the Panel with any further information.

3. THE APPLICATION

Any member wishing to obtain a dispensation must submit a written application, identifying the impediment and the grounds upon which he/she is relying in order to apply. The Standards Committee, or a Panel of the Standards Committee, will then hear the application in a public meeting.

The application received has been attached at **Enclosure 7**, and the application identifies the business in which the Leader wishes to participate, the type of dispensation sought and the statutory grounds upon which application is made.

The Panel may ask further questions regarding the Application in the public meeting.

4. PANEL'S CONSIDERATIONS

The Panel should consider following the Methodology Note (**Enclosure 8**) which lists the matters the Panel needs to take into consideration.

In any case where the Panel decides to grant a dispensation, consideration should also be given to imposing constraints e.g. limiting the dispensation specifically to those interests identified in the application or extending the dispensation to cover other issues arising from this matter in the future, etc. The Panel is referred to the 'Decision Form' included in **Enclosure 4** which notes the considerations which should be borne in mind when granting a dispensation to an applicant.

5. RECOMMENDATION

To consider the merits of the application and:

(A) determine whether or not to grant a dispensation; and,

(B) if granting a dispensation, to consider:-

(i) on what ground or grounds the dispensation is granted; and

(ii) whether there are any limitations/constraints to be imposed.

5.1 Members' Code of Conduct

This is the Code of Conduct adopted by the County Council on 12.05.2016

Part 1 - Interpretation

1. (1) In this code

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

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

(b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority, and who is entitled to vote on any question which falls to be decided at any meeting of that committee or subcommittee;

“meeting” (“cyfarfod”) means any meeting -

(a) of the relevant authority,

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

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

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990 (1) and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

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

“registered society” means a society, other than a society registered as a credit union, which is —

(a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or

(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

“register of members' interests” (“cofrestr o fuddiannau'r aelodau”) means the register established and maintained under section 81 of the Local Government Act 2000;

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

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995;

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

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

(2) In relation to a community council—

(a) “proper officer” (“swyddog priodol”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and

(b) “standards committee” (“pwyllgor safonau”) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

Part 2 - General Provisions

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

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

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

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

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

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

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

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

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

4. You must -

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

(b) show respect and consideration for others;

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

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

(e) attend at least one training session on this code of conduct during each full term of office, such attendance to take place during the six months following election in the case of those members elected to the County Council for the first time and those having been re-elected but without continuity of office.

5. You must not -

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

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

6. (1) You must -

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

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

(c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

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

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

7. You must not -

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

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

(i) imprudently;

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

(iii) unlawfully;

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

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must -

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

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

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

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

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

9. You must -

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

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

Part 3 - Interests

Personal Interests

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

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

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

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

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

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

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

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

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

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

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

(ix) any -

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

(bb) company, registered society, charity, or body directed to charitable purposes;

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

(dd) trade union or professional association; or

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

and in relation to (aa) to (ee), in which you have membership or hold a position of general control or management;

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

[Note: subparagraph (b) is omitted]

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

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

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

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

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

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

and in relation to (i) to (v), to a greater extent than the majority of –

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

or

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

Disclosure of Personal Interests

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

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

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

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

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

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

(a) details of the personal interest;

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

(c) your signature

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

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

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

Prejudicial Interests

12. (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

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

(a) relates to -

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

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

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

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

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

(b) relates to -

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

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

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

(iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

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

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

Overview and Scrutiny Committees

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

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

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

Participation in Relation to Disclosed Interests

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

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

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

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

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

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

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

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

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

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

(2B) when submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

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

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you -

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing -

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

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

Part 4 - The Register of Members' Interests

Registration of Personal Interests

15. (1) Subject to sub-paragraph (4), you must, within 28 days of -

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer..

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

(5) Sub-paragraph (1) and (2) will not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

Sensitive information

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

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

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

Registration of Gifts and Hospitality

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer of the existence and nature of that gift, hospitality, material benefit or advantage. Such written notification should be provided [here](#)

ATODIAD / ENCLOSURE 2



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2001 Rhif 2279 (Cy. 169)

2001 No. 2279 (W. 169)

LLYWODRAETH LEOL,
CYMRU

LOCAL GOVERNMENT ,
WALES

Rheoliadau Pwyllgorau Safonau
(Caniatáu Gollyngiadau) (Cymru)
2001

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

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note does not form part of the Regulations)

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

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

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

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

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

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

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

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

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

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

2001 Rhif 2279 (Cy. 169)

**LLYWODRAETH LEOL,
CYMRU**

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

Wedi'u gwneud

21 Mehefin 2001

Yn dod i rym

28 Gorffennaf 2001

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

Enw, cychwyn, cymhwyso a dehongli

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

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

(3) Yn y Rheoliadau hyn -

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

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

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

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

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

(a) 2000 p. 22.

2001 No. 2279 (W. 169)

**LOCAL GOVERNMENT,
WALES**

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

Made

21st June 2001

Coming into force

28th July 2001

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

Name, commencement, application and interpretation

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

(2) These Regulations apply to Wales only.

(3) In these Regulations -

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

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

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

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

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

(a) 2000 c. 22.

Yr amgylchiadau lle gellir caniatáu gollyngiadau

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

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

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

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

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

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

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

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

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

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

Circumstances in which dispensations may be granted

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

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

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

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

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

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

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

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

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

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

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

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

21 Mehefin 2001

21st June 2001

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(a) 1998 p. 38.

(a) 1998 c. 38.

CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2001 Rhif 2279 (Cy. 169)

**LLYWODRAETH LEOL,
CYMRU**

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

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2001 No. 2279 (W. 169)

**LOCAL GOVERNMENT,
WALES**

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

©[©] Hawlfraint y Goron 2001

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

£2.00

W/321/07/01

ON

© Crown copyright 2001

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

ISBN 0-11-090284-X



9 780110 902845

ATODIAD / ENCLOSURE 3

WELSH STATUTORY INSTRUMENTS

2016 No. 85

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

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

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

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

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

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

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

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

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

(3) In regulation 2—

(a) at the end of paragraph (h) omit “or”;

(b) in paragraph (i), for the words that follow “removed” substitute “; or”;

(c) after paragraph (i) insert—

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

(4) After regulation 2 insert—

“Dispensations granted in accordance with regulation 2(j)

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

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

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

Procedure and powers of standards committees

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

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

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

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

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

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

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

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

Briefing Note to Members

Dispensations

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

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

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

Grounds on which a dispensation may be granted

The grounds on which a dispensation may be granted are:-

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

What is the application process for a dispensation?

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

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

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

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

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

Requirements on Members when relying on a dispensation

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

(a) Meetings:

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

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

The notification must include:

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

(b) Written representations:

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

(c) Oral representations:

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

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

Footnote/definitions

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

THE ISLE OF ANGLESEY COUNTY COUNCIL

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

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

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

Circumstances When A Standards Committee May Grant Dispensation

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

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

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

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

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

- write to officers [and/or the Executive/Committee/Council] about the issue;
- speak to officers of the Council about the issue [in the presence of two other persons] [who are not Trustees or Board Members of [INSERT]], provided a note is taken of any such discussions;
- speak at Executive/Committee/Council meetings and answer any questions about the issue;
- remain in the room during any debate/voting on the issue;
- vote at such meetings;
- other

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

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

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

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

Dated: _____



Isle of Anglesey
County Council
Plan 2017 - 2022



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

Page 130

www.Anglesey.gov.uk



ioacc



@angleseycouncil

CONTENTS

FOREWORD:	
The Leader of the Isle of Anglesey County Council	3
<hr/>	
The Plan	4
<hr/>	
Key facts about the Isle of Anglesey	5
<hr/>	
Purpose of this 5 year Plan	7
<hr/>	
Objective 1	8
<hr/>	
Objective 2	13
<hr/>	
Objective 3	17
<hr/>	
Alignment with the Well-being and Future Generations Act	21
<hr/>	
How can you get involved?	22
<hr/>	
How will we deliver?	23
<hr/>	
How will we ensure the Plan will be realised?	24
<hr/>	
Further information	25
<hr/>	

Foreword:

The Leader of the Isle of Anglesey County Council



Ensuring that we have a robust and meaningful Plan as a County Council is essential for implementing our vision and our main aims and objectives over the next 5 years.

This plan sets a target for us to aim towards and is ambitious but realistic. This Plan has been developed and shaped by the views of local people, our partners as well as by local and national political priorities such as the Well-being Agenda.

Our main priorities for the next 5 years will be shaped and driven by our main ambition to work towards an Anglesey...." where individuals live within resilient families and communities that are healthy, thriving and prosperous".

In fact, you will see that the individual, family and community are prominent throughout our

three main objectives, which wants to see people realise their potential; vulnerable people are safeguarded and that communities and the environment are protected in times of change.

Public services across Wales and the UK are continuing to plan for cuts in the funding that we receive, and there will be more difficult decisions ahead about the services that we provide and how we provide them. We will continue to take those decisions in consultation with local people and with the best interest of Anglesey and its people at heart.

We continue to look for ways to improve our services, making them more efficient and of the best quality. These improvements include continuing to modernise the way we work.

There are many challenges that lie ahead but we are confident that working together with you, the people and communities of Anglesey, that we will make every effort to deliver on this new and exciting plan.

The Plan

The Council's key ambition is that;

“we will be working towards an Anglesey that is healthy, thriving and prosperous”

The **key theme** running through the plan is our ambition to work with the people of Anglesey, our communities and partners to **ensure high quality services** that will improve the quality of life for everyone on the Island.

In recent discussions with our communities, staff and elected members the following priorities have been identified:

- Creating the conditions for everyone to achieve their long-term potential.
- Support vulnerable adults and families and keep them safe, healthy and as independent as possible.
- Work in partnership with our communities to ensure that they can cope effectively with change and developments whilst protecting our natural environment

In a period of austerity this plan will influence the way we shape our budget.

Key facts about the Isle of Anglesey

Anglesey is just over 700km² in size and is mostly made up of small towns, villages and farm land. The 225km of beautiful coastline, made up of a mixture of sandy beaches and rocky coves, attracts a large number of tourists, especially during the summer.

The A55 road connects the island to the rest of Wales and is a main route to and from Holyhead Port.

Almost 70,000 people live on Anglesey. 61% are of working age and 76.5% of these are in work - this is higher than the Welsh average. The number of working-age population that are either managers, directors or senior officials is higher than the Welsh average and we have one of the highest rates of self-employment in the country – mostly small and sole trader businesses.



Key facts about the Isle of Anglesey

All of Anglesey's towns and villages can be reached within half an hour from the Council's main offices in Llangefni.

Our Welsh heritage and culture is important. More than three-quarters of our children and more than half the adults can speak Welsh. Safeguarding the language is a high priority for the Council.

The Island is a truly great place to live and delivering efficient and effective Council services to ensure this continues will be our main priority over the next 5 years.

The Island is split in to 11 wards, each being served by more than one County Councillor. There are 30 County Councillors in total.

Anglesey is amongst the **happiest places to live in Wales**. In a recent Annual Population Survey undertaken by the Office for National Statistics, **Anglesey was ranked 1st in Wales in relation to overall Life Satisfaction**. In terms of happiness Anglesey was ranked 2nd in Wales. Anglesey is also amongst the safest of places to live in Wales.



Purpose of this 5 year Plan

This document sets out the Council's Aims and Objectives for the next five years. It will be the reference point for the decision-making process at all levels. It will also:

- set the framework we use to plan and drive the implementation of our priorities;
- direct the way we shape our spending in the context of substantial funding reduction;
- be used to monitor the progress of the priorities noted.

Our AIM is that we will be working towards an Anglesey that is healthy and prosperous where families can thrive.

We will also do our very best to ensure that our work aligns with the goals and the principle of sustainable development embodied in the Wellbeing of Future Generations [WFG] Act.

OBJECTIVE 1

Ensure that the people of Anglesey can thrive and realise their long-term potential.



Why do we want to do this?

To enable residents to reach their full potential requires the successful combination of a number of factors like good employment opportunities, the correct mix of skills and training; the availability of quality and affordable housing and access to a high quality natural and built environment. We will create the conditions for residents to **reach their full potential, improve the quality of their lives and their wellbeing.**



Although Anglesey has long suffered from a declining economy with significant pockets of socio-economic deprivation the median weekly wage on the Island is higher (by 8%) than the Wales average. The percentage of people in employment is similar to the national figure.

More of our working-age population are either managers, directors or senior officials than the Welsh average. We have one of the highest rates of self-employment in the country – we are innovative and dynamic as an Island and we'd like to see this develop further.

How will we achieve this objective?

Jobs and work opportunities

We will make every effort to improve employment opportunities, skills and training.



1. We will promote Anglesey to encourage major developers to invest in the Island and use this as a catalyst for business development and jobs on the Island.

2. Work with the other North Wales Councils to attract investment to ensure that key projects that offer local employment opportunities go ahead.

3. Do our very best to create the conditions for local businesses to develop and create good quality jobs in Anglesey. This will include ensuring that Council spending supports local businesses.

4. Promote apprenticeships arising from new developments and ensure that young people and adults have the right skills and expertise for work. We will also create opportunities within the Council to develop staff.

How will we achieve this objective?

Education and skills

We will continue to raise standards in education and ensure that our young people have the correct skills for employment and training.

1. Continue with our school modernisation programme by publishing a revised strategy that will address the long term sustainability of primary and secondary education across the Island. This will include the possibility of 3-18 learning campuses in specific locations.
2. Complete the work on Ysgol Santes Dwynwen, Newborough, the Seiriol and Llangefni areas.
3. Increase the number applying for leadership roles in primary and secondary schools by delivering an in-house programme that will identify and develop future school leaders.
4. Work with partners to offer the best opportunities in education and skills for our young people.



How will we achieve this objective? Health and Wellbeing



We will create the conditions for individuals to improve their health and wellbeing.

1. Encourage individuals to improve their own health and wellbeing by promoting active lifestyles amongst children, young people and adults.
2. Use our own resources, and those of external partners, to increase the number of affordable and council owned homes and bring empty houses back into use.
3. Work with external partners to ensure that all parts of the island can access fast and reliable broadband service to promote flexible methods of working and allow residents to do their council business on-line.

OBJECTIVE 2

Support vulnerable adults and families to keep them safe, healthy and as independent as possible.



Why do we want to do this?

The Council faces many social care challenges - a rising elderly population, increasing numbers of patients with chronic conditions and rising obesity rates. Social care costs are increasing continuously while budgets are being cut.

Over the last thirty years the number of people over the age of 65 has grown to around 17,000 [an increase of 12%]; the corresponding increase for over 85 years old is 16%.

Predictions suggest that this trend will continue over the period of the plan and this will increase the pressure on Health and Social care.

As a result, the Council will need to work closer with the Health Board and the Third Sector to promote good health through preventative action and early intervention.

In this context, priority will be given to developing community based hubs to deliver preventative services that respond to local care and support needs which in turn will lead to greater independence amongst our adults.

The number of looked after children and applications for suitable housing, often to avoid homelessness, have also increased over the last two years.

As a result, the Council will need to prioritise support for families to ensure that all children have the best start in life and that preventative support services are timely and successful in keeping children at home.

The Council will also need to ensure that it has the correct type of housing in the right places to meet local needs and that suitable support is available for those families who find it difficult to respond to Welfare Reform changes.

How will we achieve this objective? Support for older and vulnerable adults

We will provide support for individuals to remain independent

1. Agree on plans to provide extra care housing provision in the centre, north and south-east of the Island.
2. Develop flexible models of accommodation and support for individuals with learning disabilities and mental health needs in order to promote independent living within our communities.
3. Ensure that the Council, Health Board and the Third Sector work together to provide 24/7 support to allow individuals to remain at home or return home from hospital.



4. Ensure that community hubs are available across the Island to support older adults to remain independent, reduce isolation, stay active and improve personal wellbeing.
5. Improve provision for adults with dementia.

How will we achieve this objective? Support for families and children

We will develop preventative services and support for families.

1. Provide robust early intervention and prevention services to ensure that children are safe and supported in order to minimise harmful childhood experiences.
2. Ensure that Council services designed to tackle poverty are coordinated and effective.



3. Ensure suitable housing provision is available to prevent homelessness.

4. Address the impacts of Welfare Reform by ensuring that suitable support is available for families most at risk.

5. Promote our Teulu Môn service to all families on Anglesey

OBJECTIVE 3

Work in partnership with our communities to ensure that they can cope effectively with change and developments whilst protecting our natural environment.



Why do we want to do this?



The island's natural and built environments are vital to the tourism sector. These unique features need to be safeguarded and enhanced and their value as socio-economic resources maximised. In this context, the need to balance the effects of proposed major developments on the local environment will need to be minimised and mitigated.

The Council's own developments will be guided by financial responsibility and longer-term sustainability.

The current difficult financial environment is likely to continue and will drive the case for change.

As a result, the Council will need to consider whether it can continue providing some services in their current form. The involvement of our stakeholders and our willingness to listen will be crucial in this context.

Safeguarding and developing the use of the Welsh language and its contribution to the island's cultural identity and heritage will be given priority.

How will we achieve this objective? Development and Promotion

We will develop the Island sensitively whilst safeguarding its natural assets.

1. Promote the Island as a popular tourist destination and advertise what it has to offer both nationally and internationally.



2. Make sure that Planning decisions support the aims and objectives of this Plan.

3. Increase recycling rates to 70% and reduce the amount of landfill waste.



4. Reduce flooding risk in areas of concern.

5. Become more energy efficient and decrease our carbon emissions by concentrating on Leisure Centres, Schools and street lighting.



How will we achieve this objective? Transformation

We will work with others to enable innovative change to happen.

1. Work with communities to keep important assets open.
2. Increase the use of the Welsh Language in the Council and promote its use across communities and local organisations.
3. Change the way we deliver services by working with others to find alternative models.
4. Use IT to transform the way Council services are delivered to ensure that they remain cost effective and efficient.



Alignment with the Wellbeing of Future Generations [WFG] Act

The actions listed above highlight the fact that decisions taken today will improve the lives and opportunities for future generations.

- School modernisation will lead to improved standards and more sustainable teaching environments which will benefit the children of our future.
- Early intervention and preventative services will enable vulnerable adults to be more independent and reduce adverse childhood experiences;
- Increasing the availability of suitable housing in specific locations will create the conditions for families to succeed;
- Encouraging our citizens to use our natural environment can lead to improved health.

The actions will be undertaken using the 5 ways of working (opposite). These ways of working will help us work together better, avoid repeating past mistakes and tackle some of the long-term challenges we are facing together.



The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.



How acting to prevent problems occurring or getting worse may help public bodies meet their objectives.



Considering how the public body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.



Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.



The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

How can you get involved?

The Council will need to work with citizens, communities and partners to realise the aims and objectives outlined in this plan. This will create the partnership required to:

- address the demands placed on services during this period of financial austerity;
- encourage communities to take ownership of specific assets;
- agree on alternative models to deliver specific services.

The following examples highlight how citizens, communities and partners can provide the necessary support.

- Ensure that children attend school and provide the support so that they make the most of the opportunities offered whilst in school.
- Volunteer to be part of the change especially in relation to helping older people in your community to live independently.
- Encourage the use of Welsh Language in your community and take part in community, cultural and heritage activities.
- Grasp the opportunity to contact the Council and services in different ways.
- Use the natural resources on the Island for activities to improve personal wellbeing
- Promote opportunities to offer apprenticeships, work placements and volunteering opportunities.
- Encourage local businesses to work together to apply for larger Council contracts.
- Encourage friends and family to recycle and be more energy efficient.

How will we deliver?

A **'One Council'** approach to service delivery has been developed. We will continue to modernise and change delivery models to ensure high quality services are available in a cost-effective manner.

The services will be provided in the language choice of the citizen.

The Council's work will continue to be underpinned by a set of values which outline expectations and behaviours at all levels across the organisation.

- **Professional and Well Run**
- **Innovative, Ambitious and Outward Looking**
- **Customer, Citizen and Community Focused**
- **Valuing and Developing our People**
- **Committed to Partnership**
- **Achieving**



How will we ensure that the plan is realised?

The Council will:

- establish robust arrangements to address the severe financial challenges, ensuring priority areas are protected whilst recognising that service transformation and innovative delivery will be integral to ensure the Council's long term viability;
- use our integrated performance management framework to link priorities to the Medium Term Financial Strategy (MTFS);
- collect data and information to monitor performance against our plans - performance reports will be published on our website;
- continue to engage with and involve Anglesey citizens in the way it makes its decisions.



Further Information

To find out more about anything in this document or to make any comments please contact:

Transformation Office
Isle of Anglesey County Council
Council Offices
Llangefni
Anglesey
LL77 7TW
tel - 01248 752111
email - GethinMorgan@anglesey.gov.uk

This document can be made available in Welsh, on disk, in braille and on the Council's website: <http://www.anglesey.gov.uk/councilplan>

Further information may also be obtained as follows:

Policies, plans and strategies which support the implementation of this plan are published by the Council and can be accessed at:
www.anglesey.gov.uk

Audit and Inspection Reports produced by the Council's Regulators are available from their respective websites, as follows:

- Wales Audit Office: www.wao.gov.uk
- Care and Social Services Inspectorate Wales: www.cssiw.org.uk
- Estyn: www.estyn.gov.uk

If you do not have access to the internet, or would like to obtain a document that is not listed above, please contact the Council via the contact details outlined at the top of this page.



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

www.Anglesey.gov.uk



ioacc



@angleseycouncil

Isle of Anglesey
County Council
**Annual Delivery Document
2018 - 2019**



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

www.Anglesey.gov.uk Page 156



@cyngormon



ioacc



@angleseycouncil

CONTENTS

INTRODUCTION: The Leader of the Isle of Anglesey County Council	3
Objective 1	5
Objective 2	9
Objective 3	12
Further information	15

INTRODUCTION

I am privileged to present our annual delivery document which focuses on the work we are undertaking to accomplish the ambitious aspirations set in the Council's Plan for 2017-2022.

The Plan sets targets that we can work towards and is ambitious but realistic. Our plan was developed and formed based on the opinion of local people, our partners as well as local and national political priorities such as the welfare agenda. These priorities are the core of the Council Plan and are central to driving our expectations and day to day strategic work until 2022.

As a result of the feedback received, the Council has adopted its main aim, that we will, "work towards an Anglesey that is healthy, thriving and prosperous" and the key theme that runs through all our day to day work is the need to ensure services of a high standard that will improve the quality of life for everyone on the Island.

In order to achieve this aim, the Council has decided on appropriate objectives for the next few years, which are:

- Ensure that the people of Anglesey can thrive and realise their long-term potential
 - Jobs and Work Opportunities
 - Education and Skills
 - Health and Well-being
- Support vulnerable adults and families to keep them safe, healthy and as independent as possible.
 - Support for older and vulnerable adults
 - Support for families and children
- Work in partnership with our communities to ensure that they can cope effectively with change and developments whilst protecting our natural environment.
 - Development and Promotion
 - Transformation

INTRODUCTION CONTINUED

This is the first year during the term of the current Council that we have produced an Annual Delivery Plan. The document (which is also referred to as an Improvement Plan) shows how we will achieve our key priorities over the next twelve months and highlights our motivation to ensure continuous improvement in the services as expected by Welsh Government. We will also make the improvements while always bearing in mind the principles of sustainability and equality at a time of extreme financial austerity. It is important to note that this Annual Delivery document sets out a number of work initiatives which will be undertaken during the forthcoming year. These initiatives and their associated funding has been assessed and can either be delivered from:

- resources provided for in the Council's revenue budget or from
- funds which have been identified in the Council's capital programme.

Any projects or work initiatives which will require funding beyond 2018/19 have been taken into account in the Council's Medium Term Financial Plan or the Council's rolling capital programme.

Listening to what you as residents and local businesses in Anglesey had to say has been an essential part of this process. This kind of consultation will continue to be a key part of the way we work.

We look forward to delivering with your co-operation.



Llinos Medi
Council Leader

OBJECTIVE 1

Delivery for 2018 - 2019

Ensure that the people of Anglesey can thrive and realise their long-term potential.

What will we deliver in 2018 - 2019

Jobs and work opportunities

We will:

1. As part of the North Wales Growth Bid, we will work with others to ensure investment from the UK Government and Welsh Government to ensure that powers are devolved to North Wales so that 5,000 jobs can be created, to support the local economy and to improve transport links and communication.

2. Support the local economy by building a total of 15 new business units in Llangefni and Holyhead, by also extending the Anglesey Business Centre in Bryn Cefni in order to expand the space which is available for local businesses.

3. Complete the Llangefni Link Road to enable a better link between the A55 and Coleg Menai which, as a result, will create the opportunity for skills development and further training while also opening new industrial land.

4. Complete the work of regenerating the Market Hall in Holyhead for the purpose of housing local businesses and re-locating the current library.



What will we deliver in 2018 - 2019

Education and skills

We will:

1. Draft, consult and adopt the new school modernisation strategy. This will highlight the importance of developing new learning environments in order to improve the provision and raise standards and the achievement of our children over the coming years. The strategies early focus will be on creating an educational model in the Amlwch catchment area.
2. Work on completing the new school in Newborough – Ysgol Santes Dwynwen, so that it is a sustainable resource for the future.
3. Make decisions on the future of the primary schools in Llangefni and the surrounding area, ensuring that we work with Welsh Government to realise and start on the building work.
4. Decide on the future of education in the Seiriol area by considering the future of Llandegfan, Beaumaris and Llangoed Schools.
5. Continue to work with new Head Teachers in the County (13) by offering them regular support and also by developing temporary Head Teachers (3). We will recognise the Heads of the future and support them by offering them experiences and opportunities to develop.
6. launch the new **Denu Talent Môn** (Attracting Anglesey Talent) this year which will be an opportunity for 9 or 10 people 16 years old and over to have up to 12 weeks of paid work experience with the Council over the Summer. This will be a valuable opportunity for them to get a flavour of the work of a modern local authority by completing specific projects and tasks.

What will we deliver in 2018 - 2019

Health and Wellbeing

We will:

1. Work to increase the contribution made by our residents (with the emphasis on our young people) in sport and leisure activities.
2. Work with others and use capital funds to establish the first 3G pitch at Plas Arthur Leisure Centre in Llangefni. We will also invest in new fitness equipment at Holyhead Leisure Centre.
3. Work with others to bring 75 new houses back into use and will increase the number of affordable homes that are built.



OBJECTIVE 2

Delivery for 2018 - 2019

Support vulnerable adults and families to keep them safe, healthy and as independent as possible.

What will we deliver in 2018 - 2019

Support for older and vulnerable adults

We will:

1. Complete the development of extra care housing in Llangefni – Hafan Cefni, which will enable 63 people to live independently within a supportive environment.

2. Begin the work of planning for extra care housing in the Seiriol area, Beaumaris.

3. Work with the Health Board at Garreglwyd to provide better dementia care with the aim of preventing non-essential transfers to alternative and unsuitable care locations e.g. hospitals or out of county residential care

4. Complete the work of re-tendering the home care contract, in partnership with the Health Board, into smaller areas so that there is a better provision.

5. Increase the number of community hubs across the Island in areas such as:

- Amlwch,
- Llangefni,
- Cemaes,
- Menai Bridge,
- Newborough and
- Benllech

which will help the preventative agenda and keep individuals active and busy within their communities.

6. Revise and change the day care arrangements which are provided by the Council and other providers so that more emphasis is placed on achieving personal aspirations.

7. Complete the Llawr y Dref development in Llangefni which will provide the opportunity for those with learning difficulties to move to temporary flats so that they can be assessed and supported in preparation for independent living.

What will we deliver in 2018 - 2019

Support for families and children

We will:

1. Look at ways of strengthening our preventative and wellbeing services for children, young people and vulnerable people in society. Our aim will be to develop the resilience of individuals, families and communities.
2. Work with others to build approximately 60 new social houses on the Island this year in the following areas –
 - Llanddeusant
 - Cemaes
 - Holyhead
 - Dwyran
 - Penysarn
 - Newborough
3. Continue with the work of promoting Teulu Môn. This will ensure that all families on Anglesey have a specific place where they can access information, advice and support in relation to children and families who have children between 0 and 25 years old.
4. Continue to safeguard the children and young people of the Island
5. Trial a wider choice of placements for some of our looked after children either by offering more services, increasing the available foster placements or by providing care in a different (alternative) way.



OBJECTIVE 3

Delivery for 2018 - 2019

Work in partnership with our communities to ensure that they can cope effectively with change and developments whilst protecting our natural environment.

What will we deliver in 2018 - 2019

Development and Promotion

We will:

1. Realise the destination management plan by mainly concentrating on marketing the Island in collaboration with the annual Visit Wales campaign – ‘Year of the Sea’
2. Welcome 52 cruise ships and over 32,000 visitors to Holyhead and encourage visitors to visit local tourist attractions and to receive a typical Welsh welcome.
3. Continue with our intention and achievement of ensuring that over 70% of all household waste is recycled which in turn, prevents waste from going to landfill sites
4. Invest £250,000 in a number of energy efficiency projects across the Council estate, concentrating on our schools and leisure centres.
5. Also, complete the work of researching into those areas of the estate where further investment can create more energy efficiency savings and prepare plans for future years.
6. Co-ordinate the Energy Island programme to mitigate the effects and improve the benefits which result from large energy projects.
7. Ensure that the County Council influences the DCO processes and the Horizon Nuclear Power and National Grid plans.
8. Concentrate on developing flood defence plans at Pentraeth, Beaumaris and Bodffordd this year as well as working with partners (Welsh Water and Natural Resources Wales) to investigate issues in Llangefni and Dwyran. We will research options for funding applications for plans in Menai Bridge, Llanfairpwll, Holyhead and Valley in 2019/20 (in order to defend them in future from the effects of various environmental issues)

What will we deliver in 2018 - 2019

Transformation

We will:

1. Continue to work with communities regarding the shaping of place with the aim of enabling them to take more responsibility and ownership for their own communities
2. Work with Beaumaris Town Council to outsource the management of the Court and Gaol for the purpose of maintaining a historical tourist attraction in the town.
3. Pilot an extension of our Cyswllt Môn service in the community in libraries in order to promote access to information, advice and support more extensively.
4. Re-design the corporate website to make it easier for the residents of the Island to be able to receive / search for and provide essential information in a new and meaningful way.
5. Motivate and support the Public Protection and Leisure services to increase the use of Welsh among the workforce by working intensely and proactively on successful interventions.



Further Information

For more information on any element of this document or if you have any comments, please contact:

Human Resources and Transformation

Anglesey County Council

Council Offices

Llangefni, Anglesey

LL77 7TW

Phone - 01248 752111

E-mail:-

CarysEdwards@ynysmon.gov.uk

GethinMorgan@ynysmon.gov.uk

This document can be made available in Welsh, on disk, in braille and is on the Council's website: <http://www.anglesey.gov.uk/councilplan>

Further information may also be obtained as follows:

Policies, plans and strategies published by the Council and can be accessed at: www.anglesey.gov.uk

The Annual Improvement Plan is available available on the Council website: www.anglesey.gov.uk

Audit and Inspection Reports produced by the Council's Regulators are available from their respective websites, as follows:

- Wales Audit Office: www.wao.gov.uk
- Care and Social Services Inspectorate Wales: www.cssiw.org.uk
- Estyn: www.estyn.gov.uk



CYNGOR SIR
YNYS MÔN
ISLE OF ANGLESEY
COUNTY COUNCIL

WWW.Anglesey.gov.uk

Page 171



@cynngormon



ioacc



@angleseycouncil

DISPENSATION PANEL OF THE STANDARDS COMMITTEE

Minutes of the meeting held on 28 January 2019 (2.30 pm)

PRESENT: Independent Members

Mr Michael Wilson (Chair)
Ms Denise Harris Edwards
Mr John Robert Jones

IN ATTENDANCE: Head of Function (Council Business)/Monitoring Officer
Solicitor (Corporate Governance) (MY)
Programme, Business Planning and Performance Manager (GM)
Committee Officer (SC)

ALSO PRESENT: Councillor Llinos Medi Huws (Leader of the Council)

APOLOGIES: None

1. DECLARATION OF INTEREST

No declaration of interest was received.

2. APPLICATION FOR DISPENSATION

An application was made by Councillor Llinos Medi Huws (Leader of the Council), requesting that the Standards Committee should consider granting dispensations in relation to prejudicial interests regarding the following:-

1. The Schools Modernisation Programme in the Amlwch catchment area;
2. Post-16 Education Provision in the County

The Monitoring Officer reported that a report will be taken to the Executive at the end of March 2019 with a view to beginning the process of a formal public statutory consultation on schools modernisation in the Amlwch area. Llanfechell primary school, where Councillor Huws' cousin is a pupil, is one of the schools under consideration in the consultation process. Any decision regarding the future of Llanfechell primary school will impact on the child making the personal interest a prejudicial one.

The Monitoring Officer referred to the Members' Code of Conduct, and explained that Councillor Huws' close relationship with the child and the child's mother, creates a personal interest in the context of the project and, under the Code. This in itself would require the Leader to declare her personal interest. Given the close relationship, however, and the potential of the decision to have a significant impact on the child, the interest is potentially prejudicial which means that the applicant would not be allowed to take part without obtaining a dispensation from the Standards Committee.

The Programme, Business, Planning and Performance Manager reported that the School Modernisation Strategy was adopted by the Executive in October, 2018. The Strategy sets out the Authority's direction for the process of modernising schools over the next decade. The following three bands have been formulated for the Wales Programme for 21st Century Schools:-

BAND A - projects which have been completed, or are nearing completion;
BAND B - projects which are under way, or will be commencing soon;
BAND C - longer term projects, which will be achieved over years to come.

The Programme, Business, Planning and Performance Manager reported that the Wales Programme for 21st Century Schools involves modernising schools by ensuring that new models of learning are put in place that will benefit the County's children, both currently and for generations to come. The long-term plan is one of the cornerstones of the Well-being and Future Generations (Wales) Act 2015, which the Council is delivering against. It was noted that Councillor Huws is the Council's spokesperson associated with the Act, and represents the Council in discussions with the WLGA.

Schools Modernisation Programme - Amlwch area

With regard to the engagement process to transform Anglesey's schools, informal discussions have taken place recently with members of the public, parents, teachers etc. to gauge public opinion within communities in the Amlwch area; which includes Llanfechell School. It was noted that the next stage of the process will involve a report to the Corporate Scrutiny Committee for consideration, followed by the Executive for approval, and a formal statutory consultation period of 6 weeks to consider the possible options. Thereafter the Scrutiny Committee will decide on its preferred options, and present its recommendations to the Executive for final decision. An Outline Business Case will then be submitted to the Scrutiny Committee for comment, followed by the Executive and Welsh Government for approval.

Councillor Huws explained that she sought a dispensation because she has a very close relationship with her second cousin, whose daughter attends Llanfechell School. She stated that their relationship could be prejudicial in the context of the current phase of the Schools Modernisation Programme, as the future of education in the Amlwch district is uncertain. She further stated that currently, it is impossible to judge what local opinion will be on the school modernisation project in the future. Councillor Huws reported that she already declares an interest in relation to Llanfechell School, as she is the Councillor representative for the Authority, as School Governor.

Councillor Huws referred to Plaid Cymru's Manifesto, which she formulated in 2017, and cited the following as part of her vision for the future, and what she wishes to see - "I want to see every child in Anglesey attaining his/her potential". It was noted that the Leader's Manifesto has been adopted as a driver for the Council Plan. The Schools Modernisation Programme is a cornerstone of that plan.

Post-16 Education Provision in Anglesey

The Programme, Business, Planning and Performance Manager reported that the procedure is very similar with post-16 education, to the process outlined in the Amlwch area. The Council has already engaged with residents across the Island. The statutory consultation process will start during the Autumn and last for 6 weeks, before moving ahead to act on any decision that is eventually made. As regards possible results, any of the Island's five secondary schools could be affected. It was noted that possible results are currently varied and complex, and the implications of these decisions on pupils in secondary schools will need to be considered.

Councillor Huws referred to the model from Plaid Cymru's Manifesto: "that we continue to give our children the best possible opportunities, which are achievable goals". The Leader stated that her daughter might be one of the first to be included in post-16 education, when any new model has been finalised. She highlighted the importance of collaborating with partners to ensure that our young people nurture essential work skills, and have the best educational facilities.

The Chair questioned the Leader and asked where her interest becomes prejudicial? Councillor Huws responded that she does not have a prejudicial interest at present, but is concerned that questions could be asked outside the Council regarding any decisions she may take in the future. She stated that her interest could be perceived as prejudicial, as her daughter could be part of the new 6th form provision model when it is finalised.

Members of the Panel deliberated in private session. Following discussion, the Chair announced that the Standards Committee had **RESOLVED to grant the dispensations to Councillor Llinos Medi Huws in respect of those interests referred to in the Application, which permit the Councillor to:-**

- **write to officers [and/the Executive/Committee/Council] about the issue;**
- **speak to officers of the Council about the issue, provided a note is taken of any such discussions;**
- **speak at Executive/Committee/Council meetings and answer any questions about the issue;**
- **remain in the room during any debate/voting on the issue;**
- **vote at such meetings;**
- **participate in all external meetings in her elected capacity**

The dispensations are granted on the following grounds:-

- 1. The nature of the Member's interest is such that the Member's participation in the business to which the interest relates, would not damage public confidence in the conduct of the Council's business;**

[The Panel were satisfied that the applicant is motivated to act in the public interest and in particular in the best interests of the children who

will be affected by these decisions in the short, medium and long term.]

- 2. The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;**

[The Panel were satisfied that because of the applicant's role as Leader of the Council, and the significance of this project, both to those affected and as part of the Council's priorities, that the project should be led, and be seen to be led by the Leader of the Council]

- 3. It appears to the Standards Committee to be in the interests of the inhabitants of the area of the Council that the disability should be removed, provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within 7 days. Such a notification should specify the Member to whom the dispensations would apply and the Standards Committee's reasons why the disability should be removed.**

[For the reasons described in 1 and 2 above the Standards Committee were satisfied that the same facts also justified the granting of a dispensation on this third ground]

Action:

- The Monitoring Officer to write to Councillor Huws confirming that the Panel has granted a dispensation permitting her to write, speak and vote on all matters relating to the School Modernisation Programme in the Amlwch catchment area. Councillor Huws must declare a personal and prejudicial interest when attending the above meetings.**
- The Monitoring Officer to notify the National Assembly for Wales in writing of Councillor Hughes' grant of dispensations within 7 days of the dispensations being granted.**
- The Monitoring Officer to notify the National Assembly for Wales that the disability element has been removed, and provide the reason why the Standards Committee has decided to remove it.**

The meeting concluded at 3.55 pm

**MICHAEL WILSON
CHAIR**

This page is intentionally left blank

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	13.03.2019
REPORT TITLE:	Town and Community Council - Precept and Training for Clerks
PURPOSE OF THE REPORT:	To provide an update to the Committee following a discussion at the 12.09.2018 meeting
REPORT BY:	Mared Wyn Yaxley Solicitor – Corporate Governance mwy@ynysmon.gov.uk
LINK OFFICER:	Lynn Ball Head of Function (Council Business) / Monitoring Officer lbx@anglesey.gov.uk 01248 752586

1. BACKGROUND

- 1.1. The Standards Committee was provided with a report at its meeting on 12th September 2018 in relation to including a sum for training (for Clerks and members) within the precept amount set by each Town and Community Council. ([Agenda Item 18](#))

2. FURTHER CORRESPONDENCE

- 2.1 Correspondence was sent to the 16 Town and Community Councils who had responded positively (as per Appendix 1 to the aforementioned report) on 6th November 2018. A copy of the email can be seen at **Enclosure 1**.
- 2.2 No contact has been made in relation to the 24 Town and Community Councils who did not respond to the query reported in the September 2018 meeting.
- 2.3 The responses received to the 6th November 2018 correspondence appears at **Enclosure 2**.

3. RECOMMENDATION

- 3.1 The Committee is asked to note the information detailed with regard to the Town and Community Councils in **Enclosure 2**.

From: [Medwen Jones](#)
To: [Amlwch](#); [Bryngwran](#); ["llanbadrig@live.co.uk"](#); ["cyngor.cymuned.llanddaniel@gmail.com"](#); [Geraint Parry \(geraintparry@pazpar57.plus.com\)](#); ["llanddyfnancc@btinternet.com"](#); ["bimff@btinternet.com"](#); [Llanerchymedd](#); ["llanfair.m.e@talktalk.net"](#); [Geraint Parry \(geraintparry@pazpar57.plus.com\)](#); ["Llangratiolus"](#); ["Llanidan"](#); ["townclerk@menaibridgetowncouncil.co.uk"](#); ["Cyngor Cymuned Penmynydd Community Council"](#); ["Trewalchmai"](#); ["Valley"](#)
Cc: [Mared W. Yaxley](#)
Subject: Hyfforddiant a Datblygiad ar gyfer Cynghorwyr a Chlercod Cynghorau Tref/Cymuned / Training and Development for Town/Community Councillors and Clerks (019486)
Date: 08 November 2018 10:06:23

Annwyl Glerc,

Trafodwyd yr ymatebion a dderbyniwyd i gais y Pwyllgor Safonau ar 4ydd Gorffennaf 2018 (gweler ebyst isod) yng nghyfarfod y Pwyllgor Safonau ar 12.09.2018. [Os am fwy o wybodaeth, gweler y linc i'r [adroddiad](#).]

Yn ei ymateb, nododd eich Cyngor chi y byddai'n ystyried cynnwys cost ychwanegol ar gyfer Hyfforddiant i'r Clerc a/neu'r Aelodau pan yn gosod y praesept ar gyfer y flwyddyn nesaf. Er gwybodaeth, dyma linc i dudalen [Hyfforddiant Un Llais Cymru](#).

Byddem yn ddiolchgar pe byddech yn cysylltu efo MedwenJones@ynysmon.gov.uk erbyn **31 Ionawr 2019** er mwyn cadarnhau os wnaethoch chi gynnwys cost ychwanegol ar gyfer Hyfforddiant yn y praesept ar gyfer 2019/2020 a'i pheidio, os gwelwch yn dda?

Diolch yn fawr.

Yn gywir iawn,

Michael Wilson
Cadeirydd y Pwyllgor Safonau

Dear Clerk,

The responses received to the Standards Committee's email on 4th July 2018 (see emails below) were discussed at the Standards Committee's meeting on 12.09.2018. [For further information, please see the link to the [report](#).]

In its response, your Council noted that it would consider including an additional amount for Training for the Clerk and/or the Members when setting the precept amount for next year. For your information, here is the link to [One Voice Wales' Training page](#).

We should be grateful if you could please contact MedwenJones@ynysmon.gov.uk by **31 January 2019** to confirm whether you have included an additional amount for Training in the precept for 2019/2020?

Thank you very much.

Yours sincerely,

Michael Wilson
Chair of the Standards Committee

Document: CC-019486-MY/471469

From: Medwen Jones [<mailto:MedwenJones@ynysmon.gov.uk>]
Sent: 04 July 2018 18:29
To: 'Cwyrtaï@btconnect.com'; swyddfa@cyngortrefamlwch.co.uk;
'beumaristowncouncil@tiscali.co.uk'; 'cyngorcymunedbodedern@outlook.com';
derekowen1946@hotmail.co.uk; 'gwil22@btinternet.com'; Bryngwran; alun1965@btinternet.com;
'clerc@cylchygarn.co.uk'; 'townclerk@holyheadcouncil.co.uk'; 'llanbadrig@live.co.uk';
'cyngor.cymuned.llanddaniel@gmail.com'; Geraint Parry (geraintparry@pazpar57.plus.com);
'llanddyfnancc@btinternet.com'; 'bimff@btinternet.com'; 'Llanerchymedd'; 'Llanfaelog';
'johnarf@live.co.uk'; 'llanfair.m.e@talktalk.net'; 'llanfairnb@hotmail.co.uk'; 'llanfairpwill@outlook.com';
Llangefni; Llangrystiolus; Llanidan; 'cmechell@hotmail.com'; cyngordref@hotmail.com;
'gwendaparry@hotmail.co.uk'; penmynyddcc@btinternet.com;
'cyngor.pentraeth.council@hotmail.co.uk'; 'cc.rhosybol@yahoo.co.uk'; morwennaowen7@gmail.com;
Treaddur; trefalaw@gmail.com; Trewalchmai; 'Valley'
Cc: Mared W. Yaxley
Subject: Hyfforddiant a Datblygiad ar gyfer Cyngorwyr a Chlercod Cyngorau Tref/Cymuned /
Training and Development for Town/Community Councillors and Clerks (019486)

Annwyl Gadeirydd,

Anfonwyd yr ebost isod atoch ym mis Tachwedd y llynedd. Mae'r Pwyllgor Safonau yn awyddus i wybod a wnaethoch ystyried y cyngor a chynnwys elfen ar gyfer costau hyfforddiant wrth benderfynu ar braesept eich Cyngor Tref / Cymuned ar gyfer 2018/2019?

Tybed a fedrwch ymateb i'r cwestiynau isod erbyn **Awst 13eg, 2018** os gwelwch yn dda?

Enw'r Cyngor Cymuned / Name of Community Council	A ystyriwyd y cyngor yn yr ebost dyddiedig 10.11.2017 yn y cyfarfod pan gafodd y praesept ei drafod? / Was the email dated 10.11.2017 considered in the meeting	Wnaethoch chi gynnwys cost ychwanegol ar gyfer hyfforddiant yn y praesept? / Did you include an additional amount for training within the precept	Os do, oedd yr hyfforddiant yma ar gyfer: / If yes, was this training for:	Ydi cynnwys cost ychwanegol ar gyfer hyfforddiant yn rhywbeth y byddwch yn ei ystyried ar gyfer praesept 2019/2020? / Is including an additional amount for training something
--	---	---	--	--

	when the precept amount was decided?	amount?		you will consider for 2019/2020's precept?
	Do / Yes Naddo / No	Do / Yes Naddo / No	Y Clerc / The Clerk? Aelodau / Members? Y ddau / Both?	

Anfonwch eich ymateb i MedwenJones@ynysmon.gov.uk os gwelwch yn dda.

Diolch yn fawr.

Yn gywir iawn,

Michael Wilson
Cadeirydd y Pwyllgor Safonau

Dear Chairperson,

The below email was sent to you in November 2017. The Standards Committee wishes to know if you considered this advice and included a portion for training costs when deciding on the Town / Community Council's precept amount for 2018/2019?

Is it possible to provide replies to the following questions by **13th August 2018**, please?

Enw'r Cyngor Cymuned / Name of Community Council	A ystyriwyd y cyngor yn yr eost dyddiedig 10.11.2017 yn y cyfarfod pan gafodd y praesept ei drafod?/ Was the email dated	Wnaethoch chi gynnwys cost ychwanegol ar gyfer hyfforddiant yn y praesept? / Did you include an additional	Os do, oedd yr hyfforddiant yma ar gyfer: / If yes, was this training for:	Ydi cynnwys cost ychwanegol ar gyfer hyfforddiant yn rhywbeth y byddwch yn ei ystyried ar gyfer praesept 2019/2020? / Is including an
---	---	---	---	--

	10.11.2017 considered in the meeting when the precept amount was decided?	amount for training within the precept amount?		additional amount for training something you will consider for 2019/2020's precept?
	Do / Yes Naddo / No	Do / Yes Naddo / No	Y Clerc / The Clerk? Aelodau / Members? Y ddau / Both?	

Please send your responses to MedwenJones@ynysmon.gov.uk

Thank you very much.

Yours sincerely

Michael Wilson
Chair of the Standards Committee

Document: CC-019486-MY/449130

From: Medwen Jones

Sent: 10 November 2017 13:48

To: Medwen Jones <MedwenJones@ynysmon.gov.uk>

Subject: Hyfforddiant a Datblygiad ar gyfer Cynghorwyr a Chlercod Cynghorau Tref/Cymuned / Training and Development for Town/Community Councillors and Clerks (16647)

Annwyl Gadeirydd

Yn ei gyfarfod ym mis Medi 2017, bu'r Pwyllgor Safonau yn trafod anghenion hyfforddiant a datblygiad y Cynghorau Cymuned.

Fel y gwyddoch, mae'r Pwyllgor Safonau yn trefnu hyfforddiant i Gynghorau Cymuned ar y Côt Ymddygiad ond mae'n ymwybodol hefyd y gall fod anghenion datblygu eraill, yn enwedig ar gyfer clercod mewn perthynas â rheolaeth ariannol, rheolau sefydlog a TGCh. Mae hyn yn arbennig o wir yn achos clercod sydd newydd gael eu penodi neu a benodwyd yn ddiweddar neu glercod sydd wedi bod yn eu swyddi'n hirach sydd heb gael y cyfle gan eu Cynghorau i fynychu

hyfforddiant sy'n addas ac yn gymesur ar gyfer y rôl y mae disgwyl iddynt ei chyflawni.

Pryd bynnag y mae'r Pwyllgor Safonau wedi codi'r mater hwn yn y gorffennaf, yr ymateb a gafwyd yn aml gan rai oedd nad yw Cyngorau'n gallu cefnogi unrhyw hyfforddiant ychwanegol oherwydd nad oes ganddynt gyllideb benodol ar gyfer hynny.

Fodd bynnag, mae'r Pwyllgor Safonau yn ymwybodol y bydd Cyngorau Cymuned yn o fuan yn cael cais gan Wasanaeth Cyllid y Cyngor Sir i weithio allan eu praesept ar gyfer y flwyddyn ariannol nesaf. Yn yr amgylchiadau, ac wedi trafod y mater yn barod gyda Gwasanaeth Cyllid y Cyngor, mae'r Pwyllgor Safonau yn argymhell y dylai costau hyfforddiant priodol, yn enwedig ar gyfer clercod (ond hefyd ar gyfer aelodau lle mae hynny'n briodol), gael ei gymryd i ystyried pan fydd eich Cyngor yn cyfarfod i benderfynu ar ei braesept nesaf.

Fel y gwyddoch, mae Un Llais Cymru yn darparu sesiynau hyfforddiant ar gyfer aelodau etholedig. Dyma eu manylion:

Un Llais Cymru	One Voice Wales
24c Stryd y Coleg	24c College Street
Rhydaman	Ammanford
Sir Gaerfyrddin	Carmarthenshire
SA18 3AF	SA18 3AF

Rhif Ffôn/Tel 01269 595400
Ffacs/Fax 01269 598510

Gwefan: www.unllaiscymru.org.uk / Website: www.onevoicewales.org.uk

Mae'r Gymdeithas ar gyfer Clercod Cyngorau Lleol yn darparu hyfforddiant ar gyfer clercod. Mae'r sesiynau'n rhai modiwlwr ac ar gael i'w mynychu o bell. Mae eu gwefan yn cynnwys rhai opsiynau diddorol. Dyma eu manylion:

The Society of Local Council Clerks
Main Office
No.8 The Crescent
Taunton
Somerset TA1 4EA

Rhif Ffôn: 01823 253646

Gwefan: <http://www.slcc.co.uk>

Mae costau'r sesiynau hyfforddiant yn ymddangos yn rhesymol ac yn cychwyn oddeutu £30 ar gyfer aelodau etholedig. Mae disgowntiau hyd at 50% hefyd ar gael gan yr SLCC ar gyfer Cyngorau â throsiant sy'n llai na £40,000.00.

Mae'r Pwyllgor Safonau yn awgrymu'n gryf eich bod yn ystyried teilwra'r hyfforddiant sydd ar gael i anghenion penodol eich Cyngor chi, ei aelodau a'r clerco ac rydym yn gofyn i chi rannu'r llythyr hwn gyda'ch Cyngor pan mae'n cyfarfod i

drafod y praesept nesaf.

Diolch yn fawr.

Yn gywir iawn

Michael Wilson
Cadeirydd y Pwyllgor Safonau / Chair of the Standards Committee

Dear Chairperson

At its meeting in September 2017, the Standards Committee discussed the training and development needs of Community Councils.

As you know, the Standards Committee arranges training for Community Councils on the Code of Conduct, but is also aware that there may be other development needs, particularly for clerks in connection with financial management, standing orders and ICT. This is especially so for recently or newly appointed clerks or those of longer standing whose Councils have not previously provided them with the opportunity to undertake training that is suitable and proportionate to the role which they are expected to undertake.

Whenever the Standards Committee has raised this issue in the past, the response from some has often been that Community Councils are unable to support any additional training as they have no designated budget.

However, the Standards Committee is aware that Community Councils will soon be asked, by the County Council's Finance Service, to calculate their precept for the next financial year. In the circumstances, and having already discussed the matter with the Council's Finance Service, the Standards Committee recommends that the cost of appropriate training, particularly for clerks (but also for members where appropriate), is taken into consideration when your Council meets to decide its next precept.

As you know, One Voice Wales provides training sessions for elected members. Their details are:

Un Llais Cymru
24c Stryd y Coleg
Rhydaman
Sir Gaerfyrddin
SA18 3AF

One Voice Wales
24c College Street
Ammanford
Carmarthenshire
SA18 3AF

Ffon/Tel 01269 595400
Ffacs/Fax 01269 598510

Gwefan: www.unllaiscymru.org.uk / Website: www.onevoicewales.org.uk

The Society for Local Council Clerks provides training for clerks. Many of their sessions are modular and available by remote attendance. Their website includes some interesting options. Their details are:

The Society of Local Council Clerks
Main Office
No.8 The Crescent
Taunton
Somerset TA1 4EA

Tel: 01823 253646

Website: <http://www.slcc.co.uk>

The costs of training sessions appear reasonable, starting from around £30 for elected members. There are also discounts of up to 50% available with the SLCC for Councils with a turnover of less than £40,000.00.

The Standards Committee strongly recommends that you consider tailoring the training available to the particular needs of your Council, its members and your clerk, and we would ask that this letter be shared with your Council when it meets to discuss the next precept.

Many thanks

Yours sincerely

Michael Wilson
Cadeirydd y Pwyllgor Safonau / Chair of the Standards Committee
Cyngor Sir Ynys Môn / The Isle of Anglesey County Council
Ffôn / Phone: 07801446330
E-bost / E-mail: mxwcs@anglesey.gov.uk
Document: CC-016647-LB/406812

A yw'r e-bost hwn wedi ei farcio'n 'Swyddogol-Sensitif'? Os ydyw, rhaid i chi ystyried a oes gennych hawl i'w ddyblygu, ei argraffu neu ai anfon ymlaen. Os oes, sicrhewch os gwelwch yn dda fod yr e-bost ynghyd ag unrhyw atodiadau'n cael eu marcio'n 'Swyddogol-Sensitif'. Eich cyfrifoldeb chi yw sicrhau fod mesurau'n cael eu cymryd i ddiogelu, storio a chael gwared ar y wybodaeth mewn modd priodol. Mae hyn yn golygu fod rhaid diogelu'r wybodaeth gyda chyfrinair neu ei chadw mewn cwpwrdd ffeilio y mae modd ei gloi. Rhaid cael gwared ar ddogfennau 'Swyddogol-Sensitif' yn y biniau gwastraff y mae modd eu cloi. Os ydych yn ansicr ynghylch sut i ddefnyddio gwybodaeth 'Swyddogol-Sensitif', yna cysylltwch os gwelwch yn dda gyda llywodgwyb@ynysmon.gov.uk

Croeso i chi ddelio gyda'r Cyngor yn Gymraeg neu'n Saesneg. Cewch yr un safon o wasanaeth yn y ddwy iaith.

Has this e-mail been marked 'Official-Sensitive'? If so you must consider whether you have the right to duplicate, print or forward it on. If so please ensure that the e-mail and any attachments are marked as 'Official-Sensitive'. It is your responsibility to ensure that appropriate measures are taken to protect, store and dispose of this information properly. This means that the information must be password protected or kept in a lockable filing cabinet. 'Official-Sensitive' documents must be disposed of in the lockable waste bins. If you are unsure about how to use Official-Sensitive information please contact infogov@anglesey.gov.uk

You are welcome to deal with the Council in Welsh or English. You will receive the same standard of service in both languages. A yw'r e-bost hwn wedi ei farcio'n 'Swyddogol-Sensitif'? Os ydyw, rhaid i chi ystyried a oes gennych hawl i'w ddyblygu, ei argraffu neu ai anfon ymlaen. Os oes, sicrhewch os gwelwch yn dda fod yr e-bost ynghyd ag unrhyw atodiadau'n cael eu marcio'n 'Swyddogol-Sensitif'. Eich cyfrifoldeb chi yw sicrhau fod mesurau'n cael eu cymryd i ddiogelu, storio a chael gwared ar y wybodaeth mewn modd priodol. Mae hyn yn golygu fod rhaid diogelu'r wybodaeth gyda chyfrinair neu ei chadw mewn cwpwrdd ffeilio y mae modd ei gloi. Rhaid cael gwared ar ddogfennau 'Swyddogol-Sensitif' yn y biniau gwastraff y mae modd eu cloi. Os ydych yn ansicr ynghylch sut i ddefnyddio gwybodaeth 'Swyddogol-Sensitif', yna cysylltwch os gwelwch yn dda gyda llywodgwyb@ynysmon.gov.uk

Croeso i chi ddelio gyda'r Cyngor yn Gymraeg neu'n Saesneg. Cewch yr un safon o wasanaeth yn y ddwy iaith.

Has this e-mail been marked 'Official-Sensitive'? If so you must consider whether you have the right to duplicate, print or forward it

on. If so please ensure that the e-mail and any attachments are marked as 'Official-Sensitive'. It is your responsibility to ensure that appropriate measures are taken to protect, store and dispose of this information properly. This means that the information must be password protected or kept in a lockable filing cabinet. 'Official-Sensitive' documents must be disposed of in the lockable waste bins. If you are unsure about how to use Official-Sensitive information please contact infogov@anglesey.gov.uk

You are welcome to deal with the Council in Welsh or English. You will receive the same standard of service in both languages.

**Hyfforddiant a Datblygiad ar gyfer Cynghorwyr a Chlercod Cynghorau Tref/Cymuned /
Training and Development for Town/Community Councillors and Clerks**

Ymatebion y Cynghorau Tref a Chymuned
Responses from Town and Community Councils

	Ymateb a dderbyniwyd / Response Received	Dyddiad derbyn / Date received
Amlwch	<p>Yn unol ag ebost Michael Wilson 8/11/2018, nodyn byr i gadarnhau bod Cyngor Tref Amlwch wedi clustnodi £2000 tuag at hyfforddiant yng nghyllideb y flwyddyn ariannol nesaf.</p> <p>Nodyn byr i gadarnhau bod y cynghorau canlynol wedi cynnwys peth arian tuag at hyfforddiant mewn pennawd penodol yn y gyllideb ar gyfer 2019/20. Cyngor Cymuned Llaneilian Cyngor Cymuned Llanbadrig Cyngor Tref Amlwch</p> <p>In accordance with Michael Wilson's email dated 8/11/2018, a brief note to confirm that Amlwch Town Council has earmarked £2000 towards training in its budget for next year.</p> <p>A brief note to confirm that the following community councils have included some funding for training under a specific heading in the budget for 2019/20. Llaneilian Community Council Llanbadrig Community Council Amlwch Town Council</p>	<p>7/1/2018</p> <p>23/1/2019</p>
Bryngwran	<p>'Rwyf yn cadarnhau bod ein cyngor wedi cynnwys cost ychwanegol ar gyfer hyfforddiant yn y praesept</p> <p>I confirm that our council has included an additional cost for training in the precept</p>	29/1/2019
Llanbadrig	<p>Nodyn byr i gadarnhau bod y cynghorau canlynol wedi cynnwys peth arian tuag at hyfforddiant mewn pennawd penodol yn y gyllideb ar gyfer 2019/20. Cyngor Cymuned Llaneilian Cyngor Cymuned Llanbadrig Cyngor Tref Amlwch</p>	23/1/2019

	<p>A brief note to confirm that the following community councils have included some funding for training under a specific heading in the budget for 2019/20.</p> <p>Llaneilian Community Council Llanbadrig Community Council Amlwch Town Council</p>	
Llanddaniel Fab	<p>Fe wnaethon ni drafod ein cyllideb a'r praesept yn y cyfarfod neithiwr. Yn y gyllideb, wnaethon ni ddim rhoi Hyfforddiant i lawr fel categori ar wahân, ond mi fyddai o'n dod dan 'gweinyddu cyffredinol'. Felly, mae cynnydd yn y praesept, ond does dim byd i nodi Hyfforddiant yn benodol. Rydym fodd bynnag yn awyddus i'r cynghorwyr fynychu mwy o gyrsiau!</p> <p>We discussed our budget and the precept in last night's meeting.</p> <p>In the budget, we did not include Training as a separate category, but it will come under 'general administration'. Therefore, there is an increase in the precept but nothing specifically for Training.</p> <p>We are however eager for the councillors to attend more courses!</p>	22/1/2019
Llanddona	<p><i>Dim ymateb</i></p> <p><i>No response</i></p>	
Llanddyfnan	<p>'Rwyf yn cadarnhau bod ein cyngor wedi cynnwys cost ychwanegol ar gyfer hyfforddiant yn y praesept</p> <p>I confirm that our council has included an additional cost for training in the precept</p>	29/1/2019
Llaneilian	<p>Nodyn byr i gadarnhau bod y cynghorau canlynol wedi cynnwys peth arian tuag at hyfforddiant mewn penawd penodol yn y gyllideb ar gyfer 2019/20. Cyngor Cymuned Llaneilian Cyngor Cymuned Llanbadrig Cyngor Tref Amlwch</p> <p>A brief note to confirm that the following community councils have included some funding for training under a specific heading in the budget for 2019/20.</p>	23/1/2019

	Llaneilian Community Council Llanbadrig Community Council Amlwch Town Council	
Llanerchymedd	Dim ymateb <i>No response</i>	
Llanfair Mathafarn Eithaf	Dim ymateb <i>No response</i>	
Llangoed Phenmon a	Ar ran Cyngor Cymuned Llangoed a Penmon – maent wedi ystyried costau hyfforddiant wrth osod y praesept ar gyfer 2019/20. On behalf of Llangoed and Penmon Community Council – they have taken training costs into consideration when setting the precept for 2019/20.	31/12/2018
Llangristiolus Cerrigceinwen a	'Rwyf yn cadarnhau bod ein cyngor wedi cynnwys cost ychwanegol ar gyfer hyfforddiant yn y praesept I can confirm that our council has included an additional cost for training in the precept	29/1/2019
Llanidan	Dim ymateb <i>No response</i>	
Porthaethwy	Wedi cadarnhau ar 5/7/2018 Confirmed on 5/7/2018	5/7/2018
Penmynydd a Star	'Rwyf yn cadarnhau bod ein cyngor wedi cynnwys cost ychwanegol ar gyfer hyfforddiant yn y praesept I can confirm that our council has included an additional cost for training in the precept	29/1/2019
Trewalchmai	Nid yw Cyngor Cymuned Trewalchmai wedi ystyried praesept 2019/20 eto. Bydd hynny'n digwydd ym mis Ionawr 2019. Gallaf eich sicrhau y bydd arian wedi'i neilltuo ar gyfer hyfforddiant, fel ac y gwnaethpwyd ar gyfer y flwyddyn ariannol 2018/19. Bydd y Clerc yn mynychu hyfforddiant Un Llais Cymru ar yr 20/11/2018 hyfforddiant fydd yn cynnwys GDPR. Trewalchmai Community Council has not yet considered the precept for 2019/20. The discussion will	8/11/2018

	<p>take place in January 2019. I can assure you that money will be earmarked for training, as happened in the 2018/19 financial year. The Clerk will attend One Voice Wales training on 20/11/2018 which will include GDPR.</p>	
<p>Y Fali Valley</p>	<p>Fe fyddwn yn rhoi arian am hyfforddiant flwyddyn nesaf gan fod ganddom aelodau newydd fydd gydag angen am hyfforddiant.</p> <p>We will earmark funding for training next year as we have new members who will required training.</p>	<p>8/11/2018</p>

This page is intentionally left blank

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	Standards Committee
DATE:	13 March 2019
TITLE OF REPORT:	Report following a Review of the Town and Community Councils' Register of Interests
PURPOSE OF THE REPORT:	To report on the findings made during a review of a sample of the Town and Community Councils' Register of Interests.
REPORT BY:	Mared Wyn Yaxley Solicitor (Corporate Governance) mwyys@anglesey.gov.uk 01248 752566
CONTACT OFFICER:	Lynn Ball Head of Function (Council Business) / Monitoring Officer lbxcs@anglesey.gov.uk 01248 752586

1. INTRODUCTION AND BACKGROUND

- 1.1 As part of its work programme for 2018-2019, the Standards Committee decided to conduct a review of the register of members' interests in a sample of the town and community councils, to ensure compliance with the code of conduct.
- 1.2 At its meeting on 12 September 2018, the Standards Committee decided to review the Town Councils. The reviews took place between December 2018 and February 2019.
- 1.3 It was decided in September 2018 that a general report would be distributed to all town and community councils, detailing the findings made following the review, in an attempt to assist all town and community councils by way of sharing good practice and identifying matters which commonly need to be addressed.
- 1.4 A general report has been prepared and a copy of the report is attached as **ENCLOSURE 1**.
- 1.5 A personalised letter has also been sent to each council that was subject to the review, providing specific advice to that council, following each review meeting. Such reports were not circulated or shared with others.

2. GENERAL FINDINGS

- 2.1 The review is deemed to have been a beneficial exercise. The Standards Committee was generally pleased with the findings made as several good practices

were noted. Some common areas of concern were also identified and, as explained in the report (**ENCLOSURE 1**) these require attention.

2.2 Details of the findings made are included in section D of **ENCLOSURE 1**.

3. CONFIRMATION OF DISTRIBUTION OF REPORT BY TOWN AND COMMUNITY COUNCIL CLERKS

3.1 When sending the report to the clerks of the town and community councils it is intended to follow the same practice as in 2017 when a request was made for:

(a) The report to be included on the agenda for the town/community council's meeting, to ensure its content was brought to the attention of members,

and

(b) a copy of the minutes for the relevant meeting, which confirm the report was discussed, be forwarded for the attention of the Standards Committee.

It is intended to send the report to the town and community councils soon after this meeting with a request for (a) confirmation and (b) copy minutes by the end of July 2019. This should provide sufficient time for the town and community councils to respond and for officers to be able to bring a report on the responses received to the Standards Committee's next scheduled meeting in September 2019.

4. BRIEFING NOTE ON PERSONAL INTEREST REQUIREMENTS IN THE TOWN AND COMMUNITY COUNCIL

4.1 Whilst conducting the review, the contents of the Briefing Note for Town and Community Councillors in relation to the disclosure of personal and prejudicial interests was considered. That Briefing Note was prepared in 2016 and it is considered timely to review it and send a copy of the new Briefing Note to all town and community councillors as part of the Report on the Reviews.

4.2 An amended draft Briefing Note on the disclosure of personal and prejudicial interests is included in **ENCLOSURE 2**.

5. RECOMMENDATION

5.1 The Standards Committee is asked to note the contents of the report in **ENCLOSURE 1**.

5.2 The Standards Committee is asked to confirm the report in **ENCLOSURE 1** may be sent to all town and community councils with a request for the same to be discussed at a town / community council meeting and a copy of the Minutes be forwarded.

5.3 A further report be produced in readiness for the Standards Committee meeting in September 2019 detailing the responses received to the request in 3.1 above.

5.4 The Standards Committee is asked to consider the Briefing Note in **ENCLOSURE 2**.

5.5 In light of the developments during this Review, the Standards Committee is asked to confirm its agreement for the Solicitor (Corporate Governance) to review the Methodology Advice Note (Standards Committee: Review of the Register of Interests of the Town and Community Councillors – Methodology Advice Note (September 2018)).

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

Report prepared February 2019

A) INTRODUCTION AND BACKGROUND

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

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

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

B) GENERAL COMMENTS

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

C) DOCUMENTS / PAPERWORK REVIEWED

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

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

Information was also requested as to:

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

D) FINDINGS

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

Services Ombudsman for Wales. A further copy of the statutory Code of Conduct is enclosed as **Appendix 1** for ease of reference.

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

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

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

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

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

- 3) The Standards Committee is concerned that, in some Town and Community Councils, members do not understand the requirement to declare personal and/or prejudicial interests when they arise. This failing, together with the absence of any record of training (discussed in 8 below) leads the Standards Committee to believe that there is a lack of understanding on the part of some members. It may be worth reminding members that:-
 - A personal interest is one of those contained within the definitive list in the Code of Conduct;
 - A prejudicial interest is a personal interest which an objective observer would consider so significant that it is likely to compromise a member's ability to make a decision in the public interest;
 - The distinction is important because members are allowed to participate when they have a personal interest, but not when they have a personal interest which is also prejudicial. If an interest is prejudicial, members must also physically leave the meeting while the item is under discussion.

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

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

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

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

- 5) One of the documents which must be published on the Council's website is the Register of Interests. There is no specific format for this Register, but the majority of the Town and Community Councils reviewed had Registers consisting of the Minutes for the relevant meeting (which confirm the oral declaration of interest made) and the Declaration of Interest forms, completed by each member following an oral declaration of personal and/or prejudicial interest for the first time at a meeting. This is a satisfactory format.

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

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

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

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

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

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

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

public in ensuring that decisions are made transparently and in the public interest. It may also be good practice, when an oral declaration relates to an interest which a Member has already registered (i.e. declared orally for the first time and then confirmed the same in writing) for the Minutes to confirm the details of when the interest was registered by the Member – this would ensure transparency for the public should they question the same.

- 8) All the Councils reviewed had a Training Record albeit it was apparent members are reluctant (for various reasons) to attend training. There is no statutory requirement to maintain a Training Record, but the Standards Committee considers it to be good practice. Attending training will assist members with matters such as noted in 3 above (personal / prejudicial matters). Clerks appear to be advising members of training by Un Llais Cymru / One Voice Wales, but members are unable/unwilling to attend training. The Standards Committee would encourage Town/Community Councils to consider training needs of both members and staff and have a training plan in place, and for the same to be actioned. It would be prudent to ensure the training plan is reviewed, perhaps biannually, to ensure it is being followed.
- 9) It was clear from the review that where there is mutual respect between the clerk and the members, requirements are being adhered to more effectively. Members are reminded that clerks are the proper officers within the Town/Community Councils and that their advice should be given due consideration. A properly trained and resourced clerk will assist the Council collectively, being better equipped to advise members, both inside and outside meetings. To this end, Councils are reminded that an element for training (for Clerks and Members) could be included when the Council sets its precept amount. The Councils reviewed as part of this exercise did have a training budget available but it appeared it was not being utilised; the Standards Committee would encourage Town/Community Councils to make use of the money available for any identified training needs.
- 10) It is understood that the majority of Town/Community Councils are members of One Voice Wales. Perhaps it would be prudent for some Councils to ask One Voice Wales for its support in relation to (a) the standing orders/policies which some Town/Community Councils have yet to adopt, (b) training for clerks and members (perhaps jointly with other Town/Community Councils in the locality?), as required and (c) the development / maintenance / content of websites.
- 11) Of the five Town/Community Councils reviewed, two had adopted the Local Resolution Protocol model prepared by One Voice Wales. The Standards Committee welcomes the adoption of such Protocol in the Town/Community Councils, as it is good practice, although not mandatory. The Standards Committee also welcomed the fact that none of the Town/Community Councils where the Protocol had been adopted had reason to use it since its adoption.
- 12) Not many Town/Community Council members seem to be applying for dispensations. Dispensations are available for Members when they have a prejudicial interest, but, because of one of the statutory grounds, the member should be able to participate in the discussion, despite the prejudicial interest (e.g. because of the Member's expertise, or more than half the members of the Town/Community Council has a prejudicial interest). A Briefing Note – which incorporates the Application Form itself – on Dispensations is attached as **Appendix 5**.

E. CONCLUSION/RECOMMENDATIONS

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

- (1) records showing that members sign an undertaking to abide by the Code of Conduct at the commencement of their new term of office;
- (2) the maintenance of the paper Register of Members' Interests;

(3) the 'Declaration Forms' used for declaring personal/prejudicial interests at formal meetings.

However, some areas for improvement were noted:

(1) some members' apparent lack of understanding of the distinction between personal and/or prejudicial interests needs to be addressed;

(2) failing to fully complete the 'Declaration Forms';

(3) a lack of information on websites (including the publication of the Register of Members' Interests);

(4) attendance at, and the recording of, Training by Members and officers;

(5) details of interests declared to be included on the Agendas/Minutes for all Council meetings.

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

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

Michael Wilson
Chairman of the Standards Committee



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2008 Rhif 788 (Cy.82)

2008 No. 788 (W.82)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

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

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

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Order)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 1 of the model code deals with interpretation.

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

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

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

2008 Rhif 788 (Cy.82)

**LLYWODRAETH LEOL,
CYMRU**

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

Gwnaed 20 Mawrth 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 25 Mawrth 2008

Yn dod i rym 18 Ebrill 2008

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

Enwi, cychwyn a chymhwyso

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

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

-
- (1) 2000 p.22. Diwygir adran 50 gan adran 183 o Ddeddf Llywodraeth Leol a Chymhwys y Cyhoedd mewn Iechyd 2007 (p.28).
- (2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan adrannau 50, 81 a 105 i Weinidogion Cymru o dan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).
- (3) O.S. 2001/2276 (Cy.166) fel y'i diwygiwyd gan O.S. 2005/2929 (Cy.214).

2008 No. 788 (W.82)

**LOCAL GOVERNMENT,
WALES**

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

Made 20 March 2008

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

Coming into force 18 April 2008

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

Title, commencement and application

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

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

-
- (1) 2000 c.22. Section 50 is amended by section 183 of the Local Government and Public Involvement in Health Act 2007 (c.28).
- (2) The functions of the National Assembly for Wales under sections 50, 81 and 105 were transferred to the Welsh Ministers under paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).
- (3) S.I. 2001/2276 (W.166) as amended by S.I. 2005/2929 (W.214).

Dehongli

2. Yn y Gorchymyn hwn —

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

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

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

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

Cod Ymddygiad Enghreifftiol

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

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

Darpariaethau i'w datgymhwysu

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

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

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

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

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

-
- (1) 1972 p.70.
 - (2) 1989 p.42.
 - (3) 1995 p.25.
 - (4) 1978 p.30.

Interpretation

2. In this Order —

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

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

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

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

Model Code of Conduct

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

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

Provisions to be disapplied

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

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

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

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

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

-
- (1) 1972 c.70.
 - (2) 1989 c.42.
 - (3) 1995 c.25.
 - (4) 1978 c.30.

Dirymu

5. Dirymir y gorchmynion canlynol:

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

Darpariaethau Trosiannol ac Arbedion

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

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

Revocation

5. The following orders are revoked:

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

Transitional Provisions and Savings

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

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

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

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

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

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

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

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

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

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

Brian Gibbons

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

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

20 Mawrth 2008

20 March 2008

YR ATODLEN

Y COD YMDDYGIAD ENGHREIFFTIOL

RHAN 1 DEHONGLI

1.—(1) Yn y cod hwn —

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

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

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

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

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

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

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

(a) cyngor sir,

(b) cyngor bwrdeistref sirol,

(c) cyngor cymuned,

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

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

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

(a) o'r awdurdod perthnasol,

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

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

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

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

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

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

(1) 2004 p.21.

(2) 1995 p.25.

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

RHAN 2

DARPARIAETHAU CYFFREDINOL

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

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

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

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

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

4. Rhaid i chi —

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

5. Rhaid i chi —

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

6.—(1)Rhaid i chi —

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

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

7. Rhaid i chi —

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

8. Rhaid i chi —

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

9. Rhaid i chi —

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

RHAN 3

BUDDIANNAU

Buddiannau Personol

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

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

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

aelod;

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

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

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

a hynny i raddau mwy—

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

Datgelu Buddiannau Personol

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

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

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

manyllion am y buddiant hwnnw yn y gyfathrebiaeth ysgrifenedig; neu

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

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

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

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

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

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

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

Buddiannau sy'n Rhagfarnu

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

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

(a) yn gysylltiedig—

- (i) ag awdurdod perthnasol arall yr ydych hefyd yn aelod ohono;
- (ii) ag awdurdod cyhoeddus arall neu gorff sy'n arfer swyddogaethau o natur gyhoeddus lle yr ydych mewn safle rheolaeth neu reoli cyffredinol;
- (iii) â chorff yr ydych wedi cael eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;
- (iv) â'ch rôl fel llywodraethwr ysgol (os na chwsoch eich penodi neu eich enwebu gan eich awdurdod) oni bai bod y busnes yn benodol gysylltiedig â'r ysgol yr ydych yn un o'i llywodraethwyr;
- (v) â'ch rôl fel aelod o Fwrdd Iechyd Lleol os na chwsoch eich penodi neu eich enwebu gan eich awdurdod i fod arno;

(b) yn gysylltiedig:

- (i) â swyddogaethau tai eich awdurdod os oes gennych denantiaeth neu les gyda'ch awdurdod, ar yr amod nad oes arnoch i'ch awdurdod ôl-ddyledion rhent o fwy na deufis, ac ar yr amod nad yw'r swyddogaethau hynny'n ymwneud yn arbennig â'ch tenantiaeth neu â'ch les;
- (ii) â swyddogaethau eich awdurdod mewn cysylltiad â phrydau ysgol, cludiant a threuliau teithio, os ydych chi'n warchodwr, yn rhiant, yn fam-gu neu'n nain neu'n dad-cu neu'n daid, neu os oes gennych gyfrifoldeb rhiant (fel y'i diffinnir yn adran 3 o Deddf Plant 1989) dros blentyn sy'n cael addysg lawnamser, onid yw'r busnes yn benodol gysylltiedig â'r ysgol y mae'r plentyn hwnnw'n ei mynychu;
- (iii) â swyddogaethau eich awdurdod mewn cysylltiad â thâl salwch statudol o dan Ran XI o Ddeddf

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

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

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

Pwyllgorau Trosolygu a Chraffu

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

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

Cyfrannu mewn Perthynas â Datgelu Buddiannau

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

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

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

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

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

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

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

RHAN 4

COFRESTR BUDDIANNAU AELODAU

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

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

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

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

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

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

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

Gwybodaeth sensitif

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

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

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

Cofrestru Rhoddion a Lletygarwch

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

SCHEDULE

THE MODEL CODE OF CONDUCT

PART 1 INTERPRETATION

1.—(1) In this code —

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

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

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

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

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990(1),

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

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

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

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995(3);

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

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

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

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

(2) 2004 c.21.

(3) 1995 c.25.

PART 2

GENERAL PROVISIONS

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

- (a) whenever you conduct the business, or are present at a meeting, of your authority;
- (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

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

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

- (a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
- (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

6.—(1) You must —

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

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

7. You must not —

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority —

- (i) imprudently;
- (ii) in breach of your authority's requirements;
- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

8. You must —

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —
 - (i) the authority's head of paid service;
 - (ii) the authority's chief finance officer;
 - (iii) the authority's monitoring officer;
 - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3

INTERESTS

Personal Interests

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

- (2) You must regard yourself as having a personal interest in any business of your authority if —
 - (a) it relates to, or is likely to affect —
 - (i) any employment or business carried on by you;
 - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
 - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
 - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

- (vi) any land in which you have a beneficial interest and which is in the area of your authority;
- (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (viii) any body to which you have been elected, appointed or nominated by your authority;
- (ix) any —
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) trade union or professional association; or
 - (ee) private club, society or association operating within your authority's area,
 in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or
- (c) a decision upon it might reasonably be regarded as affecting —
 - (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
 - (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
 - (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
 - (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,
 to a greater extent than the majority of—
 - (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

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

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

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

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

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

time but, as a minimum containing —

- (a) details of the personal interest;
- (b) details of the business to which the personal interest relates; and
- (c) your signature.

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

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

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

Prejudicial Interests

12.—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

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

(a) relates to —

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
- (iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
- (c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

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

Overview and Scrutiny Committees

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

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

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

- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
 - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
 - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
- (b) not exercise executive or board functions in relation to that business;
- (c) not seek to influence a decision about that business;
- (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
- (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

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

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

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

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

PART 4

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests and Memberships and Management Positions

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

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

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

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

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

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

Sensitive information

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

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

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

Registration of Gifts and Hospitality

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

© Hawlfraint y Goron 2008

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

© Crown copyright 2008

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£3.50

W284/04/08

ON

ITEM 11

ENCLOSURE 1 TO THE REPORT

APPENDIX 2:

Briefing Note on Personal and Prejudicial Interests

This document is what appears as ENCLOSURE 2 TO THE ITEM 11 REPORT (subject to any changes)



Llywodraeth Cymru
Welsh Government

www.gov.wales

Statutory Guidance

Access to Information on Community And Town Councils

May 2015



WELSH GOVERNMENT GUIDANCE

ACCESS TO INFORMATION ON COMMUNITY AND TOWN COUNCILS

Status and Application

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

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

Background

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

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

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

Community Council websites – section 55

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

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

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

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

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

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

Guidance about Community Council websites

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

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

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

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

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

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

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

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

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

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

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

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

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

Information about meetings and proceedings

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

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

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

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

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

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

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

MEMBERS' DECLARATION OF INTEREST AT MEETINGS

Enclosure 1
Appendix 4

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

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

1. The nature of the personal interest is :
--

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

3. Members are required to tick one box
<input type="checkbox"/> The personal interest is not prejudicial* and I took part in the item OR
<input type="checkbox"/> The personal interest is prejudicial* and I left the meeting when the item was discussed OR
<input type="checkbox"/> The personal interest is prejudicial* but I have a dispensation
<small>*A prejudicial interest is a personal interest which is so significant that a well-informed member of the public would reasonably believe that the Member would be unable to act on the matter in the public interest.</small>

4. Members are required to tick one box and to provide reasons
<input type="checkbox"/> I believe my personal interest is not prejudicial* Because: _____ _____ _____
OR
<input type="checkbox"/> I believe my personal interest is prejudicial* Because: _____ _____ _____

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

Briefing Note for Town and Community Councillors on Anglesey

Dispensations

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

Lynn Ball - lbxcs@anglesey.gov.uk

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

Grounds on which a dispensation may be granted

The grounds on which a dispensation may be granted are set out in statute and are:-

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

How does a Community Councillor obtain a Dispensation?

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

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

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

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

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

Requirements on Councillors when relying on a dispensation

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

(a) In formal Meetings:

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

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

The notification must include:

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

(b) In informal meetings:

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

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

(c) In writing:

When a Councillor has been provided with a dispensation, and is making written representations to their Community Council, the Councillor must provide details of

the dispensation in any correspondence on the subject to which the dispensation relates.

Footnote/definitions

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

THE ISLE OF ANGLESEY COUNTY COUNCIL

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

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

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

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

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

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

THE ISLE OF ANGLESEY COUNTY COUNCIL

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

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

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

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

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

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

- declare an interest in the matter; and

- confirm that a dispensation has been granted to allow the Councillor to speak [and vote] about it; and
- complete a written notification to the clerk setting out the interest and the dispensation.

By authority of the Isle of Anglesey Standards Committee

Dated: _____

BRIEFING NOTE FOR TOWN AND COMMUNITY COUNCILLORS

The Declaration of Personal and Prejudicial Interests by Members

Enclosures:

Appendix 1: Model Code of Conduct

Appendix 2: Guidance from the Public Services Ombudsman for Wales

Appendix 3: IOACC Declaration at Meetings Form

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

A. Background

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

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

B. When does the Code apply?

The Code of Conduct applies

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

The general obligations under the Code include:

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

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

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

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

PERSONAL INTERESTS

What is a personal interest?

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

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

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

OR

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

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

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

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

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

DECLARING PERSONAL INTERESTS

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

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

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

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

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

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

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

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

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

(2) **GIFTS AND HOSPITALITY**

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

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

PREJUDICIAL INTERESTS

What is a prejudicial interest?

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

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

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

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

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

DECLARING PREJUDICIAL INTERESTS

MEETINGS:-

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

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

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

Example:-

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

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

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

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

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

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

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

WRITTEN AND ORAL REPRESENTATIONS:-

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

REGISTER OF INTERESTS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2008 Rhif 788 (Cy.82)

2008 No. 788 (W.82)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

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

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

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Order)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 1 of the model code deals with interpretation.

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

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

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

2008 Rhif 788 (Cy.82)

2008 No. 788 (W.82)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

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

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

Gwnaed 20 Mawrth 2008

Made 20 March 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 25 Mawrth 2008

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

Yn dod i rym 18 Ebrill 2008

Coming into force 18 April 2008

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

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

Enwi, cychwyn a chymhwyso

Title, commencement and application

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

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

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

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

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

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

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

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

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

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

Dehongli

2. Yn y Gorchymyn hwn —

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

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

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

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

Cod Ymddygiad Enghreifftiol

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

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

Darpariaethau i'w datgymhwysio

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

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

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

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

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

-
- (1) 1972 p.70.
 - (2) 1989 p.42.
 - (3) 1995 p.25.
 - (4) 1978 p.30.

Interpretation

2. In this Order —

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

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

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

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

Model Code of Conduct

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

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

Provisions to be disapplied

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

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

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

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

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

-
- (1) 1972 c.70.
 - (2) 1989 c.42.
 - (3) 1995 c.25.
 - (4) 1978 c.30.

Dirymu

5. Dirymir y gorchmynion canlynol:

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

Darpariaethau Trosiannol ac Arbedion

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

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

Revocation

5. The following orders are revoked:

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

Transitional Provisions and Savings

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

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

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

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

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

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

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

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

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

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

Brian Gibbons

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

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

20 Mawrth 2008

20 March 2008

YR ATODLEN

Y COD YMDDYGIAD ENGHREIFFTIOL

RHAN 1
DEHONGLI

1.—(1) Yn y cod hwn —

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

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

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

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

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

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

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

(a) cyngor sir,

(b) cyngor bwrdeistref sirol,

(c) cyngor cymuned,

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

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

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

(a) o'r awdurdod perthnasol,

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

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

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

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

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

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

(1) 2004 p.21.

(2) 1995 p.25.

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

RHAN 2

DARPARIAETHAU CYFFREDINOL

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

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

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

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

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

4. Rhaid i chi —

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

5. Rhaid i chi —

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

6.—(1)Rhaid i chi —

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

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

7. Rhaid i chi —

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

8. Rhaid i chi —

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

9. Rhaid i chi —

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

RHAN 3

BUDDIANNAU

Buddiannau Personol

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

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

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

aelod;

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

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

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

a hynny i raddau mwy—

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

Datgelu Buddiannau Personol

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

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

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

manylion am y buddiant hwnnw yn y gyfathrebiaeth ysgrifenedig; neu

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

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

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

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

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

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

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

Buddiannau sy'n Rhagfarnu

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

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

(a) yn gysylltiedig—

- (i) ag awdurdod perthnasol arall yr ydych hefyd yn aelod ohono;
- (ii) ag awdurdod cyhoeddus arall neu gorff sy'n arfer swyddogaethau o natur gyhoeddus lle yr ydych mewn safle rheolaeth neu reoli cyffredinol;
- (iii) â chorff yr ydych wedi cael eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;
- (iv) â'ch rôl fel llywodraethwr ysgol (os na chwsoch eich penodi neu eich enwebu gan eich awdurdod) oni bai bod y busnes yn benodol gysylltiedig â'r ysgol yr ydych yn un o'i llywodraethwyr;
- (v) â'ch rôl fel aelod o Fwrdd Iechyd Lleol os na chwsoch eich penodi neu eich enwebu gan eich awdurdod i fod arno;

(b) yn gysylltiedig:

- (i) â swyddogaethau tai eich awdurdod os oes gennych denantiaeth neu les gyda'ch awdurdod, ar yr amod nad oes arnoch i'ch awdurdod ôl-ddyledion rhent o fwy na deufis, ac ar yr amod nad yw'r swyddogaethau hynny'n ymwneud yn arbennig â'ch tenantiaeth neu â'ch les;
- (ii) â swyddogaethau eich awdurdod mewn cysylltiad â phrydau ysgol, cludiant a threuliau teithio, os ydych chi'n warchodwr, yn rhiant, yn fam-gu neu'n nain neu'n dad-cu neu'n daid, neu os oes gennych gyfrifoldeb rhiant (fel y'i diffinnir yn adran 3 o Deddf Plant 1989) dros blentyn sy'n cael addysg lawnamser, onid yw'r busnes yn benodol gysylltiedig â'r ysgol y mae'r plentyn hwnnw'n ei mynychu;
- (iii) â swyddogaethau eich awdurdod mewn cysylltiad â thâl salwch statudol o dan Ran XI o Ddeddf

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

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

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

Pwyllgorau Trosolygu a Chraffu

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

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

Cyfrannu mewn Perthynas â Datgelu Buddiannau

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

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

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

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

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

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

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

RHAN 4

COFRESTR BUDDIANNAU AELODAU

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

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

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

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

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

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

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

Gwybodaeth sensitif

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

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

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

Cofrestru Rhoddion a Lletygarwch

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

SCHEDULE

THE MODEL CODE OF CONDUCT

PART 1 INTERPRETATION

1.—(1) In this code —

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

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

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

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

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990(1),

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

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

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

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995(3);

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

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

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

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

(2) 2004 c.21.

(3) 1995 c.25.

PART 2

GENERAL PROVISIONS

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

- (a) whenever you conduct the business, or are present at a meeting, of your authority;
- (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

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

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

- (a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
- (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

6.—(1) You must —

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to the Public Services Ombudsman for Wales and to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

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

7. You must not —

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of your authority —

- (i) imprudently;
- (ii) in breach of your authority's requirements;
- (iii) unlawfully;
- (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
- (v) improperly for political purposes; or
- (vi) improperly for private purposes.

8. You must —

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —
 - (i) the authority's head of paid service;
 - (ii) the authority's chief finance officer;
 - (iii) the authority's monitoring officer;
 - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

- (a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3

INTERESTS

Personal Interests

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

- (2) You must regard yourself as having a personal interest in any business of your authority if —
 - (a) it relates to, or is likely to affect —
 - (i) any employment or business carried on by you;
 - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
 - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
 - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

- (vi) any land in which you have a beneficial interest and which is in the area of your authority;
- (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (viii) any body to which you have been elected, appointed or nominated by your authority;
- (ix) any —
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) trade union or professional association; or
 - (ee) private club, society or association operating within your authority's area,
 in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or
- (c) a decision upon it might reasonably be regarded as affecting —
 - (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
 - (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
 - (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
 - (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,
 to a greater extent than the majority of—
 - (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

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

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

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

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

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

time but, as a minimum containing —

- (a) details of the personal interest;
- (b) details of the business to which the personal interest relates; and
- (c) your signature.

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

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

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

Prejudicial Interests

12.—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

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

(a) relates to —

- (i) another relevant authority of which you are also a member;
- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
- (iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
- (c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

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

Overview and Scrutiny Committees

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

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

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

- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
 - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
 - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
- (b) not exercise executive or board functions in relation to that business;
- (c) not seek to influence a decision about that business;
- (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
- (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

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

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

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

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

PART 4

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests and Memberships and Management Positions

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

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

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

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

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

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

Sensitive information

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

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

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

Registration of Gifts and Hospitality

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

© Hawlfraint y Goron 2008

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

© Crown copyright 2008

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£3.50

W284/04/08

ON



The Code of Conduct for members of local authorities in Wales

Guidance from the
Public Services Ombudsman for Wales

Preface

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

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

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

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

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

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

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

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

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

Nick Bennett Public Services Ombudsman for Wales

July 2016

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

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

Acknowledgement

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

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

Content	Page
Part 1 – Introduction	6
• The Principles	10
• Deciding when the Code applies to you	12
Part 2 – General obligations under the Code of Conduct	14
• Equality	14
• Treating others with respect and consideration	15
• Bullying and harassment	17
• Compromising the impartiality of officers of the authority	18
• Disclosing confidential information	19
• Preventing access to information	20
• Disrepute	20
• Reporting breaches of the Code	22
• Vexatious complaints	22
• Co-operating with investigations	23
• Using your position improperly	24
• The authority’s resources	25
• Using resources for proper purposes only	25
• Reaching decisions objectively	26
• Considering advice provided to you and giving reasons	26
• Expenses	27
• Gifts and hospitality	27
Part 3 – Personal and prejudicial interests	28
• Personal Interests	28
• What to do when you have a personal interest	29
• Prejudicial Interests	32
• What to do when you have a prejudicial interest	33
• Dispensations	36
Part 4 – Registration of Interests	37
• Gifts and hospitality	37
Appendix – Interests Flowchart	39

1. Introduction

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

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

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

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

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

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

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

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

Public interest factors include:

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

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

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

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

Local Resolution Process

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

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

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

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

Standards Committee

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

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

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

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

Adjudication Panel for Wales

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

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

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

The Role of the Clerk

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

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

for advice (see below).

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

The Role of the Monitoring Officer

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

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

The Principles

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

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

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

1. Selflessness

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

2. Honesty

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

3. Integrity and Propriety

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

4. Duty to Uphold the Law

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

5. Stewardship

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

6. Objectivity in Decision-making

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

7. Equality and Respect

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

8. Openness

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

9. Accountability

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

10. Leadership

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

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

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

Deciding when the Code applies to you

See paragraphs 2 and 3

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

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

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

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

When does the Code apply?

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

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

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

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

other body has to comply with.

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

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

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

Example

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

Example

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

2. General obligations under the Code of Conduct

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

Equality

See paragraph 4(a)

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

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

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

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

Example

A member of a county council was a member of the Council's Recruitment Panel to appoint a new Chief Executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room Councillor A said "good candidate, shame he's black".

The Adjudication Panel for Wales found that paragraph 4(a) of the Code had been breached and that Councillor A had brought the office of member and his authority into disrepute (in breach of paragraph 6(1)(a) of the Code).

Treating others with respect and consideration

See paragraph 4(b)

Political comments can attract Article 10 rights

You must show respect and consideration for others. Freedom of expression is a right which applies to all information and ideas, not just those that are found favourable. However it is a right that may be restricted in certain circumstances, for example, for the protection of the rights and interests of others. A member's freedom of expression attracts enhanced protection when the comments are political in nature. Therefore, the criticism of opposition ideas and opinion is considered to be part of democratic debate, and it is unlikely that such comments would ever be considered to be a breach of the Code.

"Political" comments are not confined to those made within council meetings and, for example, include comments members may generally make on their Council's policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that I will investigate complaints made in this context and councillors need a "thicker skin".

I may also decline to investigate a complaint where the member has raised "political" issues with officers, for example, the Clerk to a council. This would not however include threats to an officer's position or wellbeing. Recent case law has confirmed that council officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to unwarranted comments that disenable them from carrying out their duties or undermine public confidence in the administration. That said, the officers who are in more senior positions will also be expected to have a greater degree of robustness.

I expect members to afford colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. Whilst I recognise that political debate can, at times, become heated, the right to freedom of expression should not be used as an excuse for poor conduct generally. Such poor conduct can only discredit the role of member in the eyes of the public.

When considering such complaints I will take into account the specific circumstances of the case, whether, in my view, the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what has been said.

Example

An appeal tribunal of the Adjudication Panel for Wales considered an appeal by Councillor X against the decision of the Council's Standards Committee. The Standards Committee found that Councillor X had failed to show respect and consideration to another member by prohibiting him from e-mailing the clerk and accessing the Council's website. Councillor X also made comments in an e-mail to the other members regarding his colleague's shower habits. In doing this the Standards Committee found that Councillor X had brought the Council into disrepute.

The Adjudication Panel found that Councillor X's comments were political in nature and attracted the enhanced protection of Article 10 of the European Convention on Human Rights. The Standards Committee's decision was overturned and the sanction rescinded. The decision of the Adjudication Panel can be found [here](#).

Example

The Adjudication Panel upheld a finding of a standards committee about a councillor who was accused of failing to show respect and consideration for others by posting online comments about other councillors and the way in which the Council was run. The member sought judicial review of this decision. The Court found that whilst the comments which were posted were sarcastic and mocking and the tone ridiculed his fellow members, because the majority of the comments related to the way in which the Council was run, how its decisions were recorded and the competence of the councillors, the comments were "Political Expression". The ruling said no account had been taken of the need for politicians to have "thicker skins". In view of the member's freedom of expression and the fact that the majority of comments were directed at fellow councillors, the finding of a breach in this case was a disproportionate interference with the member's rights under Article 10 of the European Convention on Human Rights. The Standards Committee's decision to censure the member was therefore set aside.

Example

A member of a town council wrote to a Deputy Minister of the Welsh Assembly Government about an employee ("Mr Smith") of a county council, a letter which was also copied to the Council. In the letter the member questioned Mr Smith's competence and motivation and he made a number of comments of a disparaging and personal nature about Mr Smith and his associates. He raised the issue of homosexuality and referred to it as a "notorious disability" and that "homosexuality is only a demon which can be driven out". The member was referred to the Adjudication Panel for Wales.

The Panel found that the member had breached paragraph 4(b) of the Code in that he had failed to show respect and consideration for others. It also found that by his use of words he had brought the office of member into disrepute in breach of paragraph 6(1)(a) of the

Code.

The member was disqualified for 12 months from being or becoming a member of a local authority.

**Consider your conduct
from the other person's
perspective**

Bullying and harassment

See paragraph 4(c)

You must not use any bullying behaviour or harass any person including other councillors, council officers (the Clerk or Proper Officer) or members of the public.

Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

When considering allegations of bullying and harassment I will consider both the perspective of the alleged victim, and whether the member intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied. Bullying is often carried out face to face, but increasingly, it can be carried out in print or using electronic media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

Example

Community Councillor P disagreed with the County Council's arrangements for the enforcement of parking breaches within the town. Councillor P used disrespectful and abusive language and behaved in a bullying and intimidating manner towards Council Civil Enforcement Officers on four occasions. He also sought to use his position as a councillor improperly in relation to a parking offence. The Standards Committee found that Councillor P had breached paragraph 4(c) of the Code as he had pursued a course of conduct of threatening behaviour towards the County Council employees. The Standards Committee also established that Councillor P breached paragraphs 4(b), 7(a) and 6(1)(a) of the Code. He was suspended from acting as a Councillor for 12 months.

You need to ensure that your behaviour does not cross the line between being forceful and bullying. There can be no hard and fast rules governing every set of circumstances but the

relative seniority of the officer will be a factor in some cases. As outlined under paragraph 4(b) of the Code very senior officers can be involved in robust discussion with members and be well placed to put their own point of view forcefully. The same is not true of more junior officers and members need to be aware of this. This is not to say that I condone the bullying of senior officers, only that the greater the power difference between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.

Recently, the High Court found that there is a public interest in protecting public confidence in unelected public servants which is to be balanced against the interests of open discussion on matters of public concern. It also found that all members should equally respect the mutual bond of trust and confidence between themselves and the officers which is crucial to good administration.

Local Authorities have appropriate channels for expressing concern about the performance of an officer and it is important that you raise issues about poor performance in the correct way and proper forum. Raising such issues in the context of a meeting with others present, especially if they are from outside bodies or are members of the public, is not acceptable. Neither is it acceptable to do so in the media, in your own publications or using blogs, tweets, Facebook or other electronic means. If your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

Example

A county council member was disqualified from office for 2 years and 6 months by the Adjudication Panel for Wales following allegations of bullying, harassment, disrespect and bringing the office of member into disrepute. The alleged incidents occurred over a period of two years. During that time the member had made threatening comments to officers of both junior and senior grades. For example, comments such as, a number of managers of the Council had been dispensed with and there were more to go and "You won't like the man I'll become if I don't get what I want....I don't need to threaten you you're an intelligent woman I know you're listening to me".

The member appealed the decision and the matter was referred to the High Court where all but three breaches were upheld. The decision can be found [here](#).

Compromising the impartiality of officers of the authority **See paragraph 4(d)**

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, your Council. You should not approach anyone who works for, or on behalf of, the Council with a view to pressurising them to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not

provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision or threaten someone if they are not minded to act in a particular way. If a member develops a close personal relationship with an officer, this becomes a personal and possibly a prejudicial interest under the Code.

Hypothetical Scenario

The Clerk is responsible for allocating allotments from a waiting list, the allotments are very popular and vacancies very rarely arise. The Clerk advised the Council that an allotment had become vacant and that they would consult the list and allocate the allotment to the person who had been waiting the longest in accordance with the Council's allotment allocation procedure. Councillor D's father had been waiting for an allotment for almost seven years. Councillor D approached the Clerk after the meeting and asked to see the list. He noted that one person was ahead of his father by only one month. Councillor D asked the Clerk to give the vacant allotment to his father, he said that as so much time had elapsed since his father and the other person had applied, the other person was unlikely to question who was first and in any event it would not be difficult to retype the list. Councillor D suggested that in return for this favour he would encourage the Council to look favourably on the charity suggested by the Clerk when it came time to decide where to allocate funds raised at a fun day the following month.

Disclosing confidential information

See paragraph 5(a)

You must not disclose confidential information, or information which should be reasonably regarded to be of a confidential nature, except in any of the following circumstances:

- you have the consent of the person authorised to give it
- you are required by law to do so.

The Information Commissioner has issued helpful guidance on the Freedom of Information Act and Data Protection Act which is available on his website at www.ico.gov.uk or by calling 0303 123 1113. As a community councillor you may have sight of sensitive information, for example of a commercial nature. You must also be mindful that, as a councillor, you hold a position of trust and you may find that members of the public will provide you with information that could reasonably be regarded as confidential and you should always confirm (where possible obtain an agreement in writing) that you have the permission to disclose such information before doing so. As a general rule, you should treat items discussed in the confidential sections of meetings (exempt items) as confidential. Similarly, legal advice is almost always covered by legal privilege and should not be disclosed.

Example

A Community Councillor S received an e-mail from another Councillor T regarding the employment of the caretaker. The e-mail was marked as confidential. Councillor S disclosed

the e-mail to the caretaker's wife, information in the e-mails was subsequently used against the Council in a tribunal hearing relating to the caretaker's employment. I concluded that Councillor S might have breached paragraph 5(a) of the Code.

Preventing access to information

See paragraph 5(b)

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the Freedom of Information Act 2000 or those copies of minutes, agendas, reports and other documents of your Council which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting www.ico.gov.uk or by calling 0303 123 1113 or for specific queries, you should ask your Monitoring Officer or Clerk.

Any information that you produce in your official capacity is liable to be subject to the disclosure requirements of the Freedom of Information Act, and your Council may be required to release it in response to a request. If you do not provide the information to the Clerk on request, you will be in breach of the Code.

Your Council needs to decide whether to disclose information or whether it may be covered by an exemption. Even if you believe that information you hold is exempt, you must provide it to your Clerk if requested to allow the Council to reach a decision. As well as being a breach of the Code, it is a criminal offence if information is destroyed after a Freedom of Information Act request has been received.

Example

A leader of a county council refused to give the Council's Information Officer a letter he had written to the Wales Audit Office on behalf of the Council's Executive. As a result the Council could not respond appropriately to a Freedom of Information Act request which resulted in a complaint being made to the Information Commissioner's Office. The member continued to refuse to disclose the letter despite having received clear and unequivocal advice from the Information Officer. His refusal led to an adverse finding from the Information Commissioner's Office. The Adjudication Panel found that the member had breached paragraphs 5(b) and 6(1)(a) (disrepute) in respect of this matter and other related matters. By the time the case was considered by the Panel the member had resigned from office. He was disqualified from holding office for 12 months.

Disrepute

See paragraph 6(1)(a)

You must not behave in a way which could reasonably be regarded as bringing your office or authority into disrepute at any time. As a member, your actions and behaviour are subject

**Any conduct unbecoming
of a member can constitute
disrepute**

to greater scrutiny than those of ordinary members of the public. You should be aware that your actions in both your public and private life might have an adverse impact on your Council.

Dishonest and deceitful behaviour will bring your Council into disrepute, as may conduct which results in a criminal conviction, especially if it involves dishonest, threatening or violent behaviour, even if the behaviour happens in your private life. Making unfair or inaccurate criticism of your Council in a public arena might well be regarded as bringing your Council into disrepute. Inappropriate e-mails to constituents or posts on social media might well bring the office of member into disrepute.

Example

A community councillor had been abusive to a shop proprietor and two members of her staff and had attempted to obtain a discount on a private purchase by saying it was being bought on behalf of the Community Council, and when his request for a discount was refused he had made threats against the business. The Adjudication Panel found that the member had brought the office of member into disrepute and suspended him for 9 months.

Example

A member of a county borough council who regularly wrote an article for a local monthly publication referred in his article to a recent road traffic accident in which a 10 year old boy was injured. The complainant was the mother of the boy who was with the injured child. After the article was published she telephoned the councillor who she said was abusive towards her during the call. In a subsequent e-mail exchange the councillor told her that she had "failed to take any responsibility for her child allowing him out alone", that her "ill educated in the highway code son" was to blame and said "don't you dare try and shift your inadequacies as a parent upon me".

The member was found in breach of paragraphs 4(b) (respect & consideration) and 6(1) (a) (disrepute). The matter was referred to the Adjudication Panel for Wales. Although the member had claimed to have apologised for his behaviour what he had actually said was "I have nothing to apologise for... I do apologise if, for some reason it upset you".

The Panel found that the member had breached paragraphs 4(b) (treating others with respect) and 6(1)(a) (disrepute). He had previously been suspended by the Panel for 2 months for sending inappropriate e-mails in 2006. He was suspended for 12 months in respect of these breaches.

Reporting breaches of the Code

See paragraph 6(1)(c)

If you reasonably believe that a breach of the Code has occurred, you must report it to the Monitoring Officer of the principal Council. There is no longer a need to report the matter to me. In order to have a reasonable belief that a breach has occurred, you will need to have evidence which supports this. If you are in doubt as to whether a breach has occurred, you should consult your Monitoring Officer as soon as possible. Where the breach is a very minor or technical one, or where there is no clear evidence that a breach occurred, your Monitoring Officer may advise you of the likely threshold I will set. In the most serious of cases the Monitoring Officer may, as an exception, decide to refer matters to me directly or on your behalf. In most other cases you will be advised you to do so.

Nonetheless, the decision as to whether to investigate a breach rests with me. The balance of any doubt should always favour reporting. It is helpful if you specify which aspect of the Code you believe has been breached.

In determining whether to investigate a complaint of a breach I will use the two stage test which I have outlined on pages 6 and 7 above. You should ensure that you provide any evidence you have available when you make a complaint including minutes of meetings, correspondence, contemporaneous notes or e-mails. If there are other individuals who have witnessed the alleged breach, you should let us know who they are. This latter point is especially important as if I only have one person's word against another's, it is usually not possible for me to make a finding that a breach has occurred, and in the absence of independent confirmation, I may not be able to conclude with sufficient certainty that there is enough evidence to warrant pursuing the matter.

To report such matters, you can contact my office by phone at 0845 6010987, by email to ask@ombudsman-wales.org.uk or via the website at www.ombudsman-wales.org.uk. A special leaflet on making complaints about alleged breaches of the Code is available on request or on the website.

Vexatious complaints

See paragraph 6(1)(d)

You must not make complaints against other members or staff members or people working on behalf of your Council which are not founded in fact and which are motivated by malice (a desire to do them harm) or by political rivalry. Unfortunately, there have been instances where members have sought to bring complaints about rivals which are designed to disadvantage them, sometimes in the run-up to elections, and where the evidence of any breach is weak or non-existent. I consider that in the first instance such conduct should be considered under the relevant authority's local resolution process if there is one in place.

Where specific details of such complaints are passed to local press and media, this may prejudice an investigation and so also may be a breach of the Code. You must report well-founded alleged breaches to the Monitoring Officer of the principal Council, not to your local newspaper or radio station. The press will properly cover the business of any hearings and their outcomes, and members making allegations should not generate publicity in advance of these.

The Code should not be used by members to pursue their political or private differences. You should also avoid making complaints which have little or no substance (frivolous complaints) which are designed mainly to annoy the person complained about. In the past it has been necessary for my predecessor to correspond with the Clerk of a council in relation to their mutual concerns about the number of complaints received in respect of its members. As previously stated, since taking up my office I too have had concerns about the number of low level complaints that are still being received from members. Although these complaints appear to be generated by a small number of members, they can create a negative impression of those members and councils and generally harm public confidence in our elected members. Where it becomes apparent that repeated member against member complaints are being made to my office, I would urge those councils to reflect on the culture which has resulted in these complaints and consider how this behaviour might be changed to avoid such complaints.

Where I find evidence to suggest that a complaint has been made to my office which is not founded in fact and has been motivated by malice or political rivalry, I will consider this to be a serious matter and I may investigate. Making vexatious, malicious or frivolous complaints is not only a breach of this paragraph but may also be contrary to your other obligations under the Code such as the requirement not to bring your position as councillor into disrepute or not to use your position for an improper purpose.

You should note that the Code only applies to those who have been elected, co-opted or otherwise appointed to a body which is covered by the Code. It does not apply to members of the public. Whilst I appreciate that it can be frustrating if a member of the public makes repeated complaints against you which you consider to be vexatious or frivolous in nature, I am required to consider each complaint on its own merit. However, it is likely that such complaints would not pass the two stage test and result in an investigation.

Co-operating with investigations

See paragraph 6(2)

You must co-operate with an investigation when it is being conducted by me or by your Monitoring Officer using our statutory powers. Not to do so is itself a breach of the Code. This means that you should reply promptly to all correspondence and telephone calls, make yourself available for interview if required and make available copies of any requested

documents. It would be helpful if you could identify any concerns that you may have during the course of the investigation so that these can be promptly resolved. My office and your Monitoring Officer will make reasonable allowances for urgent pressures you face and arrangements previously made, for example, for holidays. However, they will expect you to give priority to their investigations, to avoid matters being needlessly drawn out. The requirement to co-operate with an investigation applies whether you are a witness or the subject of the investigation.

I am aware of instances where members accused of breaches of the Code have sought to put pressure on the individuals making the complaint or on other witnesses. I regard such behaviour as entirely unacceptable. You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you have breached paragraph 4(c) of the Code with regard to bullying or harassment, for example, or paragraph 6(1)(a) in respect of bringing the office of member into disrepute.

Using your position improperly

See paragraph 7(a)

You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else. This paragraph applies at all times and not just when you are carrying out your duties as a member. You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member. This also applies if you use your office to improve your wellbeing at the expense of others.

Members who own land, or whose close personal associates own land, need to be particularly cautious where planning matters are concerned. If you are in any doubt, you should take advice. This applies equally to members of community councils when your Council is consulted on planning matters. Similarly, while it is reasonable to expect members to help constituents apply to the Council, for example, for housing, it is quite inappropriate to seek to influence the decision to be taken by the officers.

The provisions of the Bribery Act 2010 apply to members carrying out their public functions. Should a member be convicted of a criminal offence under this Act then it is likely that they will also have used their position improperly (in breach of paragraph 7(a)) and be likely to have brought the office of member or their authority into disrepute in breach of paragraphs 6(1)(a) and (b). If any complaint which is made to me concerns conduct which may amount to a criminal offence then I am likely to refer the matter to the police.

Example

Councillor D was a 'joint co-ordinator' of a community group. Councillor D did not notify the Council of her position in this group. She took part in the considerations and voted on the decision to negotiate a new lease in respect of a workshop used by this community group. A standards committee found that she had used her position on the Council improperly as the decision on which she voted benefited a group in which she clearly had an interest which she had not made the Council aware of. She was found in breach of paragraph 7(a) of the Code and suspended from acting as a councillor for four weeks.

The authority's resources

See paragraph 7(b)

You must only use or authorise the use of the resources of the Council in accordance with its requirements. This paragraph also applies at all times. If your Council provides you with access to resources (for example telephone, computer and other IT facilities), you must only use these resources for carrying out your Council business and any other activity which your Council has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your Council.

Failure to comply with your Council's rules is likely to amount to a breach of the Code. If you authorise someone (for example a member of your family) to use your Council's resources, you must take care to ensure that this is allowed by your Council's rules.

Using resources for proper purposes only

See paragraphs 7(b)(v) and 7(b)(vi)

You must make sure you use the Council's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the Council's resources, you must have regard, if applicable, to any guidance issued by your Council.

Example

A member of a county council was found in breach of the Code for making improper use of his council-owned computer equipment for private purposes by downloading inappropriate adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as being from members of the public. The Adjudication Panel found that the member had misused the Council equipment in breach of the Code and had brought the office of member into disrepute. He was disqualified from being or becoming a member of a local authority for 2 years and 6 months.

Reaching decisions objectively

See paragraph 8(a)

When taking part in meetings of your Council, or when arriving at decisions relating to the Council's business, you must do so with an open mind and objectively. During the decision-making process you must act fairly and take proper account of the public interest.

Most decisions taken by a community council relate to local matters and funding of local projects. Although the amounts of money being spent are smaller than at county level, all decisions must be taken on the basis of the facts in front of you, and you must not have made your mind up in advance to such an extent that you are entirely unprepared to consider all of the evidence and advice you receive. Having a completely closed mind is known as pre-determination. You are entitled to hold a preliminary view about a particular matter in advance of a meeting (pre-disposition) as long as you keep an open mind and are prepared to consider the merits of all the arguments and points made about the matter under consideration before reaching your decision. Pre-determination on the other hand would be where you have clearly decided on a course of action in advance of a meeting and are totally unwilling to consider the evidence and arguments presented on that matter during the meeting. Pre-determination could not only invalidate the decision, it would also amount to a breach of the Code.

Considering advice provided to you and giving reasons

See paragraph 8(b)

You must have regard to all of the advice you receive from your Clerk. The Clerk is usually also the Proper Officer and it is part of their role to research the policy, guidelines and legislation relevant to advice given when taking decisions.

It is always helpful, if you can, to get advice as early as possible. If you can, ask for advice in good time before a meeting, rather than at the meeting or immediately before it starts. Make sure you give the Clerk all of the information they need to take into account when giving you advice.

If you seek advice, or advice is offered to you, for example, on whether you should register

a personal interest, you should have regard to this advice before you make up your mind. Failure to do so may be a breach of the Code.

As a matter of good practice, where you disagree with the Clerk's recommendations in making a decision, you should give clear reasons for your decision. If you decide to vote against their advice, you should ensure that your reasons for doing so are recorded in the relevant minutes.

Expenses

See paragraph 9(a)

You need to follow the law and your Council's requirements in claiming expenses and allowances. If you are in any doubt about your entitlements, or the proper way to claim, you should ask your Clerk for advice. You need to keep proper records of expenditure supported by receipts where appropriate, so that you can properly evidence your claims. Even if a particular scheme does not require you to submit receipts, you are strongly advised to keep these so that you can prove how much you have actually spent on the items you are claiming for.

Gifts and hospitality

See paragraph 9(b)

It is important that you do not accept any gifts or hospitality for yourself, or on behalf of others, which would place you under obligation or appear to do so. Accepting such gifts or hospitality could be regarded as compromising your objectivity when you make decisions or carry out the work of your Council. This is also true of any services or gifts in kind. This does not prevent you from attending official events such as a civic reception or working lunch where these are authorised by your Council.

3. Personal and prejudicial interests

The elements of the Code which cover personal and prejudicial interests give rise to many questions from members. They are designed to safeguard the principles of selflessness and objectivity. They are intended to give members of the public confidence that decisions are being taken in their best interests, and not in the best interests of members of authorities or their close personal associates.

Personal interests relate to issues where you or a close personal associate may have some link to a matter under discussion. These interests become prejudicial where an informed independent observer could conclude that the interest would influence your vote, or your decision.

In my experience it is the distinction between personal and prejudicial interests, and what action a member should take depending on the nature of their interest, that causes the most difficulty for members.

The paragraphs below are designed to offer guidance in this area. I would strongly recommend that if you are in any doubt about whether you have a personal or prejudicial interest, and, if so, what you need to do, you should ask your Clerk for advice. However, the decision on what course of action should be taken remains with you.

To provide some further assistance, I have attached a flowchart to this guidance, based on a document prepared by Rhondda Cynon Taf County Borough Council, which is designed to take you through the questions that you should ask when deciding whether you have an interest. It is for illustration purposes only and is not definitive.

Guidance on registering interests is at Section 4.

Personal Interests **See paragraph 10**

Do you have a link or close connection to the item to be considered?

While you are carrying out your duties, you need to decide if you have a personal interest, and if so, whether you need to disclose it. Most members know that you need to disclose personal interests at meetings, but as you will read below, there are other occasions, such as when speaking to the Clerk about the matter concerned, when you may also need to do so.

Listed below are some questions that you should ask when deciding if you have an interest

Do I have a personal interest?

You have a personal interest in any business of your Council, including when making a decision, where it relates to or is likely to affect:

1. your job or your business

2. your employer, or any firm in which you are a partner or paid director
3. any person who has paid towards the cost of your election or your expenses as a member
4. any company in which you hold shares with a nominal value of more than £25,000 or where your holding is more than 1% of the total issued share capital, which has premises or land in your Council's area
5. any contract that your Council makes with a firm in which you are a partner, paid director or hold shares in as described in 4
6. any land in which you have an interest and which is in your Council's area (this is especially important in all planning matters including strategic plans)
7. any land let by your Council to a firm in which you're a partner, paid director or a body as set out in 4
8. any body to which you've been elected, appointed or nominated by your Council
9. any
 - public authority or body exercising functions of a public nature
 - company, industrial and provident society, charity or body directed to charitable purposes
 - body whose main role is influencing public opinion or policy
 - trade union or professional association
 - private club, society or association operating in your Council's area in which you have membership or are in a position of general control or management, or
10. any land in your Council's area which you have a license to occupy for at least 28 days.

It is always safer to declare an interest, however, if in doubt, consult your Clerk or your Monitoring Officer.

Matters affecting your well being or financial position

If a decision might be seen as affecting your well being or financial position or the well being or financial position of any person who lives with you or with whom you have a close personal association to a greater extent than other people in your Council's area, you have a personal interest.

Examples of decisions of this kind include obvious issues like contracts being awarded to your partner's company but also issues about the location of developments, where it might make a big difference to where you or your close personal associates live. Examples have included the location of playgrounds, where elected members have opposed them near their

houses because of issues about noise.

What is “a body exercising functions of a public nature”?

The phrase “a body exercising functions of a public nature” has been subject to broad interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether or not a body meets that definition:

- Does that body carry out a public service?
- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

When conducting community council business it is likely that you will be acting on a body which is exercising functions of a public nature. You may also be doing this if you have been appointed to act on behalf of the Council on a community project or interest group.

What does “affecting well-being or financial position” mean?

The term ‘well-being’ can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being. A personal interest can affect you or your close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, you need to declare a personal interest in both situations.

Close personal associates include friends, relatives, business associates and those with whom you have been in dispute

Who is a close personal associate?

Close personal associates include people such as close friends, colleagues with whom you have particularly strong connections, business associates and close relatives. It does not include casual acquaintances, distant relatives or people you simply come in contact with through your role as member or your work in the local community.

Close personal associates can also include someone with whom you have been in dispute, or whom you may be regarded as having an interest in disadvantaging. For example, being a member of the same golf club as another person would not of itself constitute a close personal association but having that person as a weekly golf partner might well do. If you are in doubt, you should ask your Clerk or your Monitoring Officer.

“Twin hatted” members

If you are a member of both a community council and a county council you are not prevented from discussing the same matters at both. You may, for example, take part in a discussion about a planning application about which your Community Council has been consulted and still go on to participate in a decision about the application if you sit on the Planning Committee of

your County Council.

If you do so, you would be well advised to state at the Community Council meeting that you would be looking at the matter afresh when you consider it at the County Council meeting, and that you would take into account all of the information and advice provided to you. At the Planning Committee, you should make it clear that you are not bound by the views of the Community Council. The advice about objective decision making in respect of paragraph 8 of the Code is also relevant here.

Obviously, if the application was one submitted by the Community Council, then you would have both a personal and a prejudicial interest, and you would be required to declare it and withdraw in line with the guidance on “what to do if you have a prejudicial interest” below.

Example

A member of a Community Council was found in breach of the Code for failing to declare a personal and prejudicial interest at a meeting which considered the Clerk’s remuneration package; the member and the Clerk were in a relationship and engaged to be married at the time. The Adjudication Panel found that the member should have declared a personal interest the item of business by virtue of his close personal association with the Clerk. It considered also that the nature of the member’s relationship with the Clerk was one that gave rise to a prejudicial interest as it concerned a significant benefit for the future spouse. The Adjudication Panel considered that the interest was one that would affect public perception of the members’ ability to make a decision in the public interest.

The Adjudication Panel reiterated that the test was not whether the member took the decision without prejudice but whether he would have been seen as doing so. The member was suspended for 3 months.

What if I am not aware of my personal interest?

Your obligation to disclose a personal interest to a meeting only applies when you are aware of or reasonably ought to be aware of the existence of the personal interest. Clearly you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

What to do when you have a personal interest

See paragraph 11

Once disclosed you can stay & participate if your interest is not prejudicial

If you decide that you have a personal interest then you must take the following action before the matter is discussed or as soon as it becomes apparent to you except in limited

circumstances:

- Declare that you have a personal interest, and the nature of that interest
 - at meetings
 - when making written representations (including e-mails, faxes etc.)
 - when making oral representations, even if your interest is on the register of interests.
- Confirm your interest by e-mail or in writing to the officer concerned and to the Clerk within 14 days
- Consider whether you have a prejudicial interest (see below).

If you have agreed with your Clerk or your Monitoring Officer that the information about your personal interest is sensitive information then you should disclose the existence of a personal interest, and confirm that the Clerk or Monitoring Officer has agreed that the information about it is sensitive. More information about this is included in the separate section below.

If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest. What constitutes a prejudicial interest is outlined in the following section.

Do not be swayed by what you think - consider what a member of the public would reasonably think

Prejudicial Interests

See paragraph 12

Do I have a prejudicial interest?

Your personal interest will also be a prejudicial interest in a matter if a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest. There are exemptions to this which are contained in paragraph 12(2) of the Code although many of the examples are unlikely to apply to business undertaken by a community council.

What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest. This is an objective test. You must decide not whether you would take the decision without prejudice, but whether you would be seen as doing so.

You must ask yourself whether a member of the public, if he or she knew all the relevant facts, would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm

or impair your ability to judge the public interest.

The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of any close personal associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.

You would have a prejudicial interest in the consideration and decision on whether to support a planning application proposal if a close personal associate of yours (for example your son or a good friend) lives next to the proposed site. This is because your close personal associate would be likely to be affected by the application to a greater extent than the majority of the inhabitants of your Council area and this gives you a personal interest in the issue. The close personal association means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application. It does not matter whether it actually would or not.

In other cases, where there has been a dispute between you and an individual who could be disadvantaged by a decision, an informed reasonable member of the public might conclude that you would be inclined to vote accordingly, whether this is the case or not.

Community councillors do not have a prejudicial interest in decisions made by their Council in respect of grants, loans or other financial assistance to community groups or voluntary organisations where the value does not exceed £500. Furthermore community councillors who have been appointed to the community group or voluntary organisation concerned by their Community Council, for example, e.g. to the board of a community hall, will not have a prejudicial interest in decisions made by their Council in respect of any grants, loans or other financial assistance. If, on the other hand, you are on such a board in your own capacity and have not been appointed by your Council, then you will have a prejudicial interest.

What to do when you have a prejudicial interest

See paragraph 14

If you consider that you have a prejudicial interest in your Council's business you must take certain action.

Nevertheless, even where you have a prejudicial interest, the Code supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.

Key point: If you have a **prejudicial interest** in a matter being discussed at a meeting,

you must, having declared your personal interest in the matter, leave the room (or any other venue in which the meeting is being held including, for example, the location of a site meeting).

This is unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise.

If that is the case, you can also attend the meeting for that purpose or submit written representations to the public meeting. However, where you attend you must immediately leave the room or chamber once the period for considering representations has finished, and before any discussion on the item begins, even if members of the public are allowed to remain. You cannot remain in the public gallery to observe the vote on the matter.

In addition, **you must not seek to influence a decision in which you have a prejudicial interest**. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage. This means that as well as leaving meetings where the item is discussed, you should also not write or make any oral representations about the matter.

The Code does not provide you with a general right to speak to a meeting where you have a prejudicial interest. The Code aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your Council's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item. Recent changes to the Code also provide the right to submit written representations to the public meeting in these circumstances. You may not however take part in the discussion or observe the vote.

When must I leave the place where the meeting is held?

You must leave immediately after the time for making representations, giving evidence or answering questions is finished, and before any debate starts.

What does influencing a decision mean?

You must not make any representations or have any involvement with decisions in which you have a prejudicial interest, except where you are entitled to speak as described above. Your presence itself could be perceived to be capable of influencing the decision making process.

What if the public are not allowed to speak to the meeting on the matter?

If an ordinary member of the public is not allowed to speak on the matter, you cannot do so or submit written representations if you have a prejudicial interest. You must leave the place where the debate is being held and not seek to influence the debate in any way.

This may be the case, for example, where your Council is discussing a confidential matter in closed session or does not have procedure rules or standing orders in place that allow members of the public to speak at a meeting of your Council. Like the public, you are not allowed to participate if you have a prejudicial interest. However, where the public may be allowed to sit in the public gallery to observe the meeting, you will be required to leave the room during the debate and vote.

Example

A member of a Community Council was found in breach of the Code for failing to declare a personal and prejudicial interest at a meeting which considered a planning application for a wind farm on land adjacent to a farm owned by her; the member having entered into a Lease of Rights agreement over her land to facilitate access to the proposed development. The member initially relied on the fact that this agreement contained a confidentiality clause to explain her actions. Nonetheless the member participated in a secret ballot held in order to decide whether the Community Council would support or oppose the application.

Immediately prior to the hearing before the Adjudication Panel the member accepted that she had a personal interest in the item and later that it was prejudicial in nature. The Adjudication Panel found that the member had failed to comply with paragraphs 11(1) and 14(1) of the Code. It considered that she had allowed her personal interests to prevail and to keep those private conflicted with her duties and responsibilities as an elected member. She was suspended from office for 3 months.

Dispensations

If I have a prejudicial interest, can I obtain a dispensation to allow me to take part in the meeting?

You can apply in writing to your County Council's Standards Committee for a dispensation on one or more of the following grounds:

- at least 50 per cent of the Council or Committee members would be prevented from taking a full part in a meeting because of prejudicial interests
- the nature of your interest is such that your participation would not harm public confidence
- your interest is common to a significant proportion of the general public

- you have a particular role or expertise which would justify your participation
- the business relates to the finances or property of a voluntary organisation and you sit on its board or committee in your own right and you do not have any other interest, although in this instance, any dispensation will not let you vote on the matter, or
- the Committee believes that your participation would be in the interests of the people in your Council's area and that the committee notifies Welsh Ministers within seven days.
- the committee considers if appropriate in all circumstances, where it was not otherwise possible, to make reasonable adjustments to accommodate a person's disability.

You can apply for a dispensation individually and in certain circumstances, you can make joint applications where a number of members want to obtain a dispensation to speak or vote on the same matter. If the Standards Committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible.

Only the Standards Committee can grant the dispensation and will do so at its discretion. The Standards Committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the Council. If failure to grant a dispensation will result in a council or committee not achieving a quorum, this may well constitute grounds for granting a dispensation.

Where you hold a dispensation, you can also make written representations but you must provide details of the dispensation in any correspondence. If you make oral representations, whether in person or by phone, you must refer to the dispensation and confirm this in writing within 14 days.

4. Registration of Interests

See Paragraph 15

Key points

Community councils are required to maintain and publish electronically a record of its members' interests in a public register of interests. This record is maintained by your Clerk. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

The register also protects you. You are responsible for deciding whether you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

Recent changes to the Code now also require you, where you become aware of a change to a registered personal interest, to register that change by providing written notice to your Clerk within 28 days. You are also required when disclosing any personal interest for the first time to register it in the register of interests by giving written notice to your Clerk.

Gifts and hospitality

See Paragraph 17

Key points

You must notify your Clerk of any gifts or hospitality worth more than the amount specified by your Council that you receive in connection with your official duties as a member, and the source of the gift or hospitality.

Like other interests in your register of interests, you may have a personal interest in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person, and then decide whether that interest is also a prejudicial interest. It is also good practice to provide a note of any offers of gifts which you have declined.

Is the gift or hospitality connected to my official duties as a member?

You should ask yourself, would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, I recommend that you register it or speak to your Clerk.

You do not need to notify your Clerk of gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always notify your Clerk of any gift or hospitality if it could be perceived as something given to you because of your position or if your Council requires you to.

What if I do not know the value of a gift or hospitality?

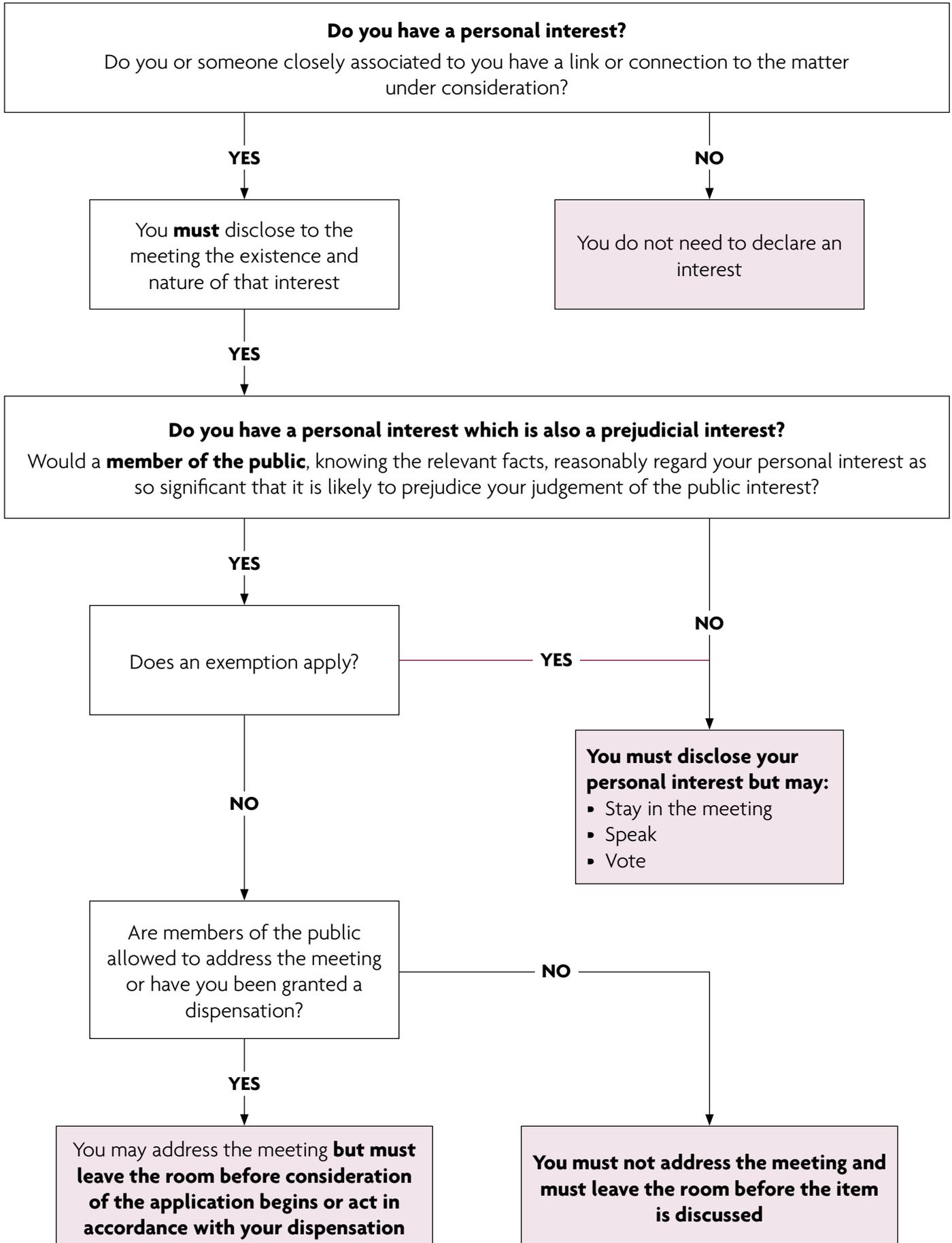
The general rule is, if in doubt as to the value of a gift or hospitality, you should notify your Clerk of it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.

You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to the value specified by your Council or over should be registered.

The Code also refers to material benefit or advantage. The measure of this would be if an informed independent observer could conclude that you might be perceived to be better off as a consequence.

Declaration of personal and prejudicial interests

Questions to ask yourself. If in doubt you should ask your Clerk or your Monitoring Officer.



Contact us

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel: 0300 790 0203

Fax: 01656 641199

e-mail: 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

MEMBERS' DECLARATION OF INTEREST AT MEETINGS

Enclosure 2
Appendix 3

Name of Member:
Name of Meeting:
Date of Meeting:
Agenda Item (number and title):

Members are required to complete boxes 1, 2, 3 and 4 below.

1. The nature of the personal interest is :

2. The Council business to which the personal interest relates is :

3. Members are required to tick one box

The personal interest **is not prejudicial*** and I took part in the item **OR**

The personal interest **is prejudicial*** and I left the meeting when the item was discussed **OR**

The personal interest **is prejudicial*** but I have a dispensation

*A prejudicial interest is a personal interest which is so significant that a well-informed member of the public would reasonably believe that the Member would be unable to act on the matter in the public interest.

4. Members are required to tick one box and to provide reasons

I believe my personal interest **is not prejudicial***
Because:

OR

I believe my personal interest **is prejudicial***
Because:

Signed Date of signature

THIS COMPLETED FORM SHOULD BE HANDED TO A MEMBER OF THE COMMITTEE SERVICES STAFF DURING THE COURSE OF, OR IMMEDIATELY AFTER, THE MEETING

Register of Members Interests

A register of member's declared interests is a concept that is included in various pieces of local government legislation, in particular in legislation that has been implemented during the current century. This concept is consistent with open and transparent government. A similar concept exists in respect of the recording of the receipt of any gifts or hospitality by elected members. However, mostly, the implementation of such items has been confined to the larger public sector bodies such as unitary councils. More recently, guidance from the Welsh Government has confirmed that community and town councils in Wales now also need to maintain such a "register" and that this register must also be displayed electronically on the council's website, which, from 2015/2016, all local councils must have in place.

Frustratingly, there has been confusion and there have been differences of opinion and challenges in relation to this issue, in terms of what is actually required. One Voice Wales views the existence of a "register" as meaning any format of documentation where members' interests are shown (and the same would be so for any gifts or hospitality received by members). The Welsh Government civil servants do not promote any specific formats for this purpose within their published guidelines. One Voice Wales has developed a model form for such a purpose (see below).

What councils need to do :

Following discussions with the Welsh Government, it has become clear that the new responsibility for publishing the register of interests on-line does not require the completion of the form that One Voice Wales had circulated to member councils on 28th May 2015. It had been initially thought that the exemption for community and town councillors from the requirements of paragraph 15(1) of the model code of conduct to register certain financial and other interests within 28 days of taking up office had been removed by the 2013 Act. However, following discussion with the relevant Welsh Government policy official, this is not the case. The official is aware that there may well have been confusion on this point and has confirmed that the 2013 Act has no impact on the requirements of the code of conduct relating to the disclosure and registration of interests. In summary, the requirements of the code of conduct, as it applies to community and town councils, are as follows:

- a) Councillors are required to declare a personal and, if appropriate, prejudicial interest in relation to pertinent matters when they are present at meetings.
- b) When councillors disclose a personal interest for the first time, they must give written confirmation of the interest to the Proper Officer, before or immediately after the close of the meeting. It is good practice for the Proper Officer to record these declarations in the minutes of the meeting.
- c) The Proper Officer should record interests disclosed at meetings for the first time in the register of interests required under section 81 of the Local Government Act 2000. The register must be available for public inspection at all reasonable hours and, following commencement of the 2013 Act, must be made available on the council's website.
- d) The register should be updated as soon as reasonably practicable after each and every meeting when new interests are disclosed.

10/8/15

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.

This page is intentionally left blank