

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	Standards Committee
DATE:	14 September 2016
TITLE OF REPORT:	Community Councils under the Local Government (Democracy) (Wales) Act 2015
PURPOSE OF THE REPORT:	To report on current requirements regarding disclosure of interests by Community Councillors
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1. INTRODUCTION & BACKGROUND

The Local Government (Democracy) (Wales) Act 2015 has clarified the position with regard to registration of interests by town and community councillors. In advance of the reviews described in agenda item 12, the Standards Committee needs to be aware of the statutory expectations as these are the standards against which the forthcoming reviews will assess compliance.

2. REQUIREMENTS UPON TOWN AND COMMUNITY COUNCILLORS

Attached at **Enclosure 1** is an extract from an advice which One Voice Wales sent out to its members, dated 10.08.2015. This explains that there is no requirement for town and community councillors to complete a “standing” register of interests.

It is clear from the advice that there has been some confusion on this issue, with various different advices published at various intervals with conflicting expectations. It is agreed that the information contained in **Enclosure 1** correctly explains the current position.

Additionally, guidance dated the 2nd March 2016 from the Local Government Democracy Division of the Welsh Government also confirmed that: **“the exemption for community councillors from the requirement to register certain financial and other interests upfront is maintained”**.

So, the registration requirements under the code of conduct for town and community councillors is summarised below:-

- a) Councillors must disclose orally, both personal, and if appropriate, prejudicial interests, as and when the interest becomes relevant to the matter under consideration.

- b) When Councillors disclose an interest, for the first time at a meeting, they must give written confirmation of that interest to the clerk before the close of the meeting or immediately after the close of the meeting.

The written notification must include, as a minimum:-

- details of the personal/prejudicial interest;
- details of the business to which the interest relates;
- the member's signature.

If the interest is prejudicial the member should confirm that they have left the meeting and not taken part in the matter.

- c) The clerk should record interests disclosed, for the first time at a meeting, in the register of interests. There does not appear to be a specific format for this purpose but the register must be available for public inspection at all reasonable hours and **must be electronically available on the Council's website.**
- d) The register should be updated if necessary, as soon as reasonably practicable after each and every meeting when interests are disclosed.
- e) If there is a failure to provide written notification then it will be deemed that the personal/prejudicial interest has not been declared.
- f) The requirement to declare personal and prejudicial interests also includes gifts and hospitality if they are relevant to the matter under consideration. There is no requirement for a separate register to be kept for gifts and hospitality.
- g) One Voice Wales recommends that any declarations made at meetings be recorded in the minutes of those meetings.
- h) Any Councillors who have not declared an interest will not have any completed forms within 'the Register'; it is up to the community / town council in question as to whether or not it decides to present any 'blank' forms on the Council's website for those members.
- i) If there are any changes to the Councillors' registered interests, he / she must provide written notification to the clerk within 28 days of that change.

Councillors also need to bear in mind that personal and prejudicial interests must be declared in informal meetings and outside the Council. The declaration can only be oral, and there is no mechanism for recording such declarations. Councillors must not try to use their status to influence any decision-making; members should not participate if they have a prejudicial interest.

3. RECOMMENDATION

- A. To note the requirements in terms of the Register of Interests which clerks are required to maintain following disclosure by members of their Town/Community Council.
- B. To consider these requirements when conducting the reviews of the Register of Interests of a sample of Town and Community Councils by the Standards Committee, discussed in further detail at agenda item 12.

ATODIAD / ENCLOSURE

1

Register of Members Interests

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

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

What councils need to do :

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

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

What declarations to record :

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

Template for register/declarations :

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