

ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	8 March 2017
REPORT TITLE:	Briefing Note on the legal requirements in relation to the disclosure and registration of interests by Town and Community Council members
PURPOSE OF THE REPORT:	To report on the responses received from Town and Community Councils
REPORT BY:	Solicitor – Corporate Governance
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## 1. INTRODUCTION AND BACKGROUND

A report was discussed under item 12 on the Standards Committee Agenda on 14 September 2016 which included information about the requirements under the code of conduct for town and community councillors.

## 2. BRIEFING NOTE

A Briefing Note, as in **Appendix 1**, was sent to Town and Community Council Clerks on 14 December 2016.

Clerks were asked to bring the briefing note to their members' attention and to contact the Solicitor – Corporate Governance before 20 February 2017 to provide a copy of the minutes of the relevant meeting to confirm (a) that the Community Council had discussed the matter, and (b) that members of the Community Council had received a copy of the briefing note. **Appendix 2** provides a summary of responses received.

## 3. FURTHER INFORMATION

On the same day that the Briefing Note was sent to Town and Community Council Clerks an e-mail was also sent to the Elected Members of the Isle of Anglesey County Council. The purpose of this e-mail was to advise them to be careful. There was concern that Members, in their role on town and community councils, would become aware of the briefing note and would be uncertain regarding their duties. It was explained that the briefing note is correct in terms of the duties of individuals who are only Town or Community Councillors and that their role as a Councillor with the Isle of Anglesey Council means that they must comply with further requirements.

## 4. RECOMMENDATION

The Standards Committee is asked to:

- A. note the contents of the report and briefing note in **Appendix 1**; and
- B. to confirm the steps that should be taken with regard to those councils which have not responded or have responded but have not provided the information requested, as noted in **Appendix 2**.

# ATODIAD / APPENDIX

1

BRIEFING NOTE FOR CLERKS OF TOWN AND COMMUNITY COUNCILS  
The Legal requirements regarding Declaration of Interests by Members

A. Background

The Local Government (Democracy) (Wales) Act 2015 has clarified the position with regard to declaration (oral) and registration (written) of interests by Town and Community Council Members. The aim of this Briefing Note is to summarise those requirements.

B. The Requirements

**Appendix 1** includes an extract of advice circulated by One Voice Wales. Clerks are advised to read this advice and to bring it to the attention of their Members.

(i) A Member's Duty:

- To comply with the standards set out in their Council's Code of Conduct.
- **Not to use their status to influence any decision which is likely to benefit / disadvantage them (or their close personal associate/s) more than the majority of those living in the ward.**
- To make an oral declaration of a personal\* or prejudicial\*\* interest as and when that interest relates to a matter under consideration. This applies regardless of whether the meeting is formal or informal.
- The requirement to declare personal\* or prejudicial\*\* interests also includes any gift and / or hospitality received if it is connected to the matter under consideration.
- In formal meetings:
  - ☐ If a Member declares a personal\*/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.

If the interest is prejudicial\*\*, the Member's written confirmation must also state that he / she left the meeting room and did not participate in the matter.

For convenience, it is recommended that Clerks use a standard document for this registration.

- ☐ In the absence of registration, an oral declaration alone will not be sufficient and the Member will be in breach of the Code of Conduct.
- ☐ Any changes to personal\*/prejudicial\*\* interests must be confirmed in writing within 28 days of the change having occurred.

(ii) The Clerk's Duty:

- To record any interests registered by Members for the first time at a formal meeting, in the Council's Register of Interests.
- There is no prescribed format for the Register, but using a standard form for every registration and collating them in a single collected file, by date, or by Member, is sufficient. These individual forms then, collectively, constitute the Register.
- To make the Register available for public inspection at all reasonable times, and electronically on the Council's website
- To add any new entries to the Register as soon as reasonably practicable after each meeting.
- To record oral declarations made in meetings, in the minutes, and to ensure those minutes are published, once approved.

(iii) Generally:-

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.

Members also need to bear in mind that they must declare personal\* and prejudicial\*\* interests at informal meetings, and outside the Council, if they are acting in their capacity as Members. The declaration is likely to be oral only, as there will likely be no system for recording such declarations. It may be good practice for Members to keep their own record of any declarations made in such circumstances.

If you have any questions with respect to this Briefing Note, please contact:  
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#### Footnote

- \* Personal Interests – Please refer to the Code of Conduct which contains the definitive list of possible personal interests
- \*\* 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



### Register of Members Interests

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

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

#### What councils need to do :

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

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



### What declarations to record :

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

### Template for register/declarations :

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

<b>Cyngor Council</b>	<b>Dyddiad y cyfarfod Date of Meeting</b>	<b>Copi o'r Cofnodion wedi eu darparu? Copy of Minutes supplied?</b>
Cyngor Cymdeithas Aberffraw / <i>Aberffraw Community Council</i>		
Cyngor Tref Amlwch / <i>Amlwch Town Council</i>		
Cyngor Tref Biwmares / <i>Beaumaris Town Council</i>		
Cyngor Cymdeithas Bodedern / <i>Bodedern Community Council</i>		
Cyngor Cymdeithas Bodffordd / <i>Bodffordd Community Council</i>		
Cyngor Cymdeithas Bodorgan / <i>Bodorgan Community Council</i>		
Cyngor Cymdeithas Bryngwran / <i>Bryngwran Community Council</i>		
Cyngor Tref Caergybi / <i>Holyhead Town Council</i>		
Cyngor Bro Cwm Cadnant/ Cwm Cadnant Community Council		
Cyngor Bro Cylch y Garn / <i>Cylch y Garn Community Council</i>		
Cyngor Cymuned Llanbadrig / <i>Llanbadrig Community Council</i>	15.12.2016	Do / Yes
Cyngor Cymdeithas Llanddaniel-Fab / <i>Llanddaniel-Fab Community Council</i>		
Cyngor Cymdeithas Llanddona / <i>Llanddona Community Council</i>	18.01.2017	Do / Yes
Cyngor Cymdeithas Llanddyfnan / <i>Llanddyfnan Community Council</i>		
Cyngor Cymdeithas Llaneilian / <i>Llaneilian Community Council</i>		
Cyngor Cymuned Llanerchymedd / <i>Llanerchymedd Community Council</i>		
Cyngor Cymuned Llaneugrad / <i>Llaneugrad Community Council</i>		
Cyngor Cymdeithas Llanfachraeth / <i>Llanfachraeth Community Council</i>		
Cyngor Cymdeithas Llanfaelog / <i>Llanfaelog Community Council</i>		
Cyngor Cymdeithas Llanfaethlu / <i>Llanfaethlu Community Council</i>		
Cyngor Cymuned Llanfair Mathafarn Eithaf / <i>Llanfair Mathafarn Eithaf Community Council</i>	Ionawr 2017 / January 2017	Do / Yes
Cyngor Cymuned Llanfairpwll/ Llanfairpwll Community Council		
Cyngor Cymdeithas Llanfair yn Neubwll / <i>Llanfair yn Neubwll Community Council</i>	17.01.2017	Do / Yes
Cyngor Cymdeithas Llanfihangelesceifiog/ Llanfihangelesceifiog Community Council		

Cyngor Tref Llangefni / <i>Llangefni Town Council</i>		
Cyngor Cymdeithas Llangoed a Penmon / <i>Llangoed &amp; Penmon Community Council</i>	11.01.2017	Do / Yes
Cyngor Cymdeithas Llangristiolus / <i>Llangristiolus Community Council</i>		
Cyngor Cymdeithas Llanidan / <i>Llanidan Community Council</i>	31.01.2017	Na / No
Cyngor Cymdeithas Mechell/ Mechell Community Council		
Cyngor Cymuned Moelfre / <i>Moelfre Community Council</i>	09.01.2017	Na / No
Cyngor Cymuned Penmynydd a Star / <i>Penmynydd &amp; Star Community Council</i>		
Cyngor Cymdeithas Pentraeth / <i>Pentraeth Community Council</i>		
Cyngor Tref Porthaethwy / <i>Menai Bridge Town Council</i>		
Cyngor Cymdeithas Rhoscolyn/ Rhoscolyn Community Council		
Cyngor Cymuned Rhosybol/ Rhosybol Community Council		
Cyngor Rhosyr / <i>Rhosyr Council</i>		
Cyngor Cymdeithas Trearddur / <i>Trearddur Community Council</i>	31.01.2017	Do / Yes
Cyngor Cymdeithas Tref Alaw/ Tref Alaw Community Council		
Cyngor Bro Trewalchmai / <i>Tregwalchmai Community Council</i>	09.01.2017	Do / Yes
Cyngor Cymuned Y Fali / <i>Valley Community Council</i>	21.12.2016	Do / Yes