

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL

MEETING:	Standards Committee
DATE:	16 June 2021
TITLE OF REPORT:	Report following a Review of the Town and Community Councils' Registers of Interests
PURPOSE OF THE REPORT:	To report on the findings made during a review of a sample of the Town and Community Councils' Registers of Interests
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1. INTRODUCTION AND BACKGROUND

- 1.1 As part of its work programme for 2020-2021, the Standards Committee decided to conduct a review of the registers 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 15 December 2020, the Committee resolved that the Chair and Vice-Chair would decide which town and community councils to review after considering the precept amount and which councils had been reviewed previously, whilst ensuring that two councils with the same Clerk would not be selected.
- 1.3 The five councils were selected during a meeting on 27 January 2021.
- 1.4 Initial contact, via telephone calls by the Chair or Vice Chair of the Committee, was made with the Clerks of the selected councils on 3 and 4 February 2021.
- 1.5 Letters of explanation were subsequently sent to the Clerks and Chairs of the five councils on 10 February 2021.
- 1.6 The Standards Committee met informally on 10 March 2021 to discuss the process to be held for the reviews in the five councils. The Committee agreed on the use and contents of a [Methodology Note](#); this was to be followed by each pair conducting the reviews so as to ensure consistency of approach at each review meeting. It was also agreed that personal letters would be sent to the reviewed councils providing specific feedback for their council; this would not be made public. To conclude, a report would be sent to all town and community councils

detailing the general findings made, in an attempt to assist all councils by sharing identified good practice and recognising matters which commonly need to be addressed.

- 1.7 The reviews took place in the five selected councils during March, April and May 2021. These were conducted by two members of the Standards Committee, namely the Chair or Vice-Chair and one other member.
- 1.8 The review is deemed to have been a beneficial exercise. It has given insight to the Standards Committee members of how town and community councils are complying with the code of conduct requirements and several Clerks commented they had also found the meeting constructive and helpful for the future.

2. PERSONAL LETTERS

- 2.1 A personalised letter has been prepared for each council that was subject to the review, providing specific advice to that council. These letters are personal to each council (Clerk and the members) and have not been circulated or shared with others.

3. GENERAL FINDINGS FROM THE REVIEW

- 3.1 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, it is hoped that identifying these and discussing how to improve/implement them will assist the Clerks to support their councils.
- 3.2 A report detailing the general findings made has been prepared and a copy is attached as **Enclosure 1**.

4. CONFIRMATION OF DISTRIBUTION OF THE REPORT BY TOWN AND COMMUNITY COUNCIL CLERKS

- 4.1 When sending the general report to the clerks of the town and community councils it is intended to follow the same practice as in 2017 and 2019 when a request was made for:
 - (a) The general report to be included on the agenda for the town/community council's meeting, to ensure its content is brought to the attention of members,and
 - (b) a copy of the minutes for the relevant meeting, which confirm the report has been discussed, be forwarded for the attention of the Standards Committee.

It is intended to send the general report to the town and community councils soon after this Standards Committee meeting under cover of correspondence, a draft of which is included as **Enclosure 2**.

- 4.2 There will not be a request by the Standards Committee for the personal letters (discussed in paragraph 2 above) to be published by the councils. This will be a decision for each reviewed council.

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 general report in **Enclosure 1** may be sent to all town and community councils, under cover of the correspondence included as **Enclosure 2**, with a request for the report to be discussed at a town / community council meeting and a copy of the Minutes be forwarded to the Standards Committee; and
- 5.3 That a further report be produced in readiness for the next Standards Committee meeting detailing the responses received to the request in 4.1 above.

The Standards Committee would like to take this opportunity to thank the clerks, and members, from the five Town and Community Councils that were reviewed for their time and co-operation.

The reviews are deemed to have been a productive 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.

The documents requested:

At each Council the following documents, dating back to May 2017 (i.e. the date of the last election), were requested for the review:

- The Register of Personal Interests – namely the Declarations made at Meetings Register and the Gifts and Hospitality Register
- Copy of the declaration form used by members for declaring personal / prejudicial interests in meetings
- The Council's Code of Conduct
- A list of names of all Councillors [including details of any vacant seats] and confirmation that each current member has undertaken to comply with the Code of Conduct
- Members' Training Records
- Information on Clerk Training
- The Council's Local Resolution Protocol and information on its adoption
- Website address
- Copies of all Council and sub-committee Agenda and Minutes of meetings
- Details of any dispensation granted to Councillors.

Code of Conduct:

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 came into force on 1st April 2016. There was a requirement for all Town and Community Councils to adopt this amended Code and, once adopted, 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 copy of the statutory Code of Conduct can be seen [here](#) (Appendix 1).**

The Standards Committee was pleased to note that the majority of the Councils reviewed had adopted the same fully.

- **All Councils are asked to ensure the updated Code is brought to the attention of its members and adopted if not already done so.**

Agenda and Minutes:

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. This was done at all Councils reviewed.

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 members of the public to ensure 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.

Undertaking to comply with the Code of Conduct:

It is a requirement for each member to sign a new undertaking to abide by the council's adopted Code of Conduct 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 Council; or when that member had been co-opted. Whilst this was done for the vast majority of members in the Councils reviewed, some were missing and other pre-dated May 2017.

The Standards Committee was pleased that, where there are completed Undertaking forms, these have been 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].

- Members should check they have signed an undertaking to conform to the Code of Conduct, in the presence of the Clerk, since May 2017.
- Councils are reminded that undertakings must be signed by new and returning Councillors following the May 2022 election.

Clerk Forum:

Several Clerks have suggested they would welcome a "peer support group" and....

More details being obtained about a Clerk Forum – will signpost here

Register of Personal Interests (declared in meetings):

→Format of the Register:

- When the previous review was conducted, the majority of the Councils had Registers consisting of (a) the Minutes for the relevant meeting (which confirm the oral declaration of interest made) and (b) 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 was considered a satisfactory format. During this review, the majority of the Councils had Registers consisting of a Table format, where the Clerk will input certain information as received from the Councillor. There is no specific format for the Register, but if a Table is to be relied upon, all relevant information must be included in the summary Table.
- It was noted that many 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 Council. Members should bear this in mind particularly following the May 2022 election.

→Publication:

The Register of Interests must be published on the Council's website. The Standards Committee was pleased to note that this was done in all reviewed Councils; this is an improvement since both the 2016 and 2018 Reviews.

→Confirmation of declarations of interests made at meetings Form:

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 followed the IOACC standard document and were satisfactory in terms of the information requested by Members. **A copy of the IOACC Form can be seen [here](#).**

The Standards Committee was not provided with copies of completed forms in several of the reviewed Councils. The Committee therefore had to rely on the information included in the Table register, and this did not always provide a full picture.

It is on this basis that the Committee would suggest publishing the Declaration Forms so that they form part of the Register by sitting behind the Table.

Members are reminded to fully answer all relevant questions on the Declaration Form.

Personal and Prejudicial Interests:

Members do not always appear to understand the requirement to declare personal and/or prejudicial interests when they arise, or which applies when. Members are reminded 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/virtually 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.

A Briefing Note on the declaration of personal and prejudicial interests by Members of Town and Community Councils can be seen [here](#).

If Members have any specific questions, they should be seeking advice from their clerk or contacting the Monitoring Officer at the IOACC on lbxc@ynysmon.gov.uk

Gifts and Hospitality Register:

Whilst there is no requirement for Town and Community Councils to have a Standing Register (i.e. pre-registration of certain interests), your Councils are obliged to maintain the other two Registers required under the Code. There is therefore a requirement for Members to register any gifts and hospitality received by them in their role as Councillors, above a financial threshold which is to be agreed by each Council. This area requires attention as the majority of the Councils reviewed did not have a Register and were unaware of this requirement.

- Councils should have a Register even if it confirms that no declarations have been made.
- Members must appreciate the requirement to register such receipts, and each Council needs to agree on a limit above which all gifts and hospitality must be registered.

Training:

→ Clerk Training:

A properly trained and resourced clerk will assist the Council collectively, being better equipped to advise members, both inside and outside meetings. Members are reminded that clerks are the proper officers within the Councils and that their advice should be given due consideration.

→ Member Training:

Clerks appear to be advising members of training, but members seem to be generally unable/unwilling to attend training. Attending training will assist members with matters such as personal / prejudicial matters and the Standards Committee would encourage Members to consider their training needs.

Councils are advised that, as of May 2022, Town and Community Councils will be required to produce a Training Plan setting out their proposals in relation to the provision of training for Councillors and staff ([section 67 of the Local Government and Elections \(Wales\) Act 2021](#)).

Councils are reminded that an element for training (for Clerk/staff 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 always being utilised; the Standards Committee would encourage Councils to make use of the money available for any identified training needs.

Dispensations:

Not many 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 Council has a prejudicial interest). **A Briefing Note on Dispensations, which incorporates the Application Form itself, is available [here](#).**

Websites:

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 can be seen [here](#).**

The Standards Committee welcomes the work done in relation to the creation and publication of information on websites, and notes this is an improvement since the last Review in 2018.

- Councils are reminded of the minimum requirements noted in the statutory guidance and are encouraged to comply so as to be visible for the public.

Virtual meetings:

All reviewed Councils were praised for their approach in ensuring Council meetings have been held virtually during the past year, with several Councils allowing the public to access the virtual meetings too.

Councils have also been praised for their adaptations to ensure the requirement under the Code of Conduct for a member who declares a prejudicial interest to leave a meeting is being observed. Councils reported that they have (a) moved Agenda items so that the item is considered last [and the Councillor with the prejudicial interest can leave the meeting] or (b) made use of the "Zoom waiting room" [and Clerks have placed the Councillor with a prejudicial interest in this virtual room until the item has closed].

With [section 47 of the Local Government and Elections \(Wales\) Act 2021](#) detailing that Community Councils must continue with allowing remote access to meetings in the future, the Standards Committee encourages all Councils to adopt similar arrangements for dealing with Code of Conduct requirements.

Local Resolution Protocol:

Of the five Councils reviewed, four had adopted a Local Resolution Protocol (with three using the model prepared by One Voice Wales). The Standards Committee welcomes the adoption of such Protocol in the Councils, as it is good practice, although not mandatory. The Standards Committee also welcomed the fact that none of the Councils where the Protocol had been adopted had reason to use it since its adoption.

- Where Clerks are required to act as mediators under this process, the Standards Committee encourages Clerks to complete relevant training.

GOOD PRACTICE IDENTIFIED IN THE REVIEWS:

- (1) An improvement on the amount of information, including the Register of Personal Interests, published on the Council websites since the last review;
- (2) Councils' willingness to adopt a Local Resolution Protocol;
- (3) Councils have adapted well with ensuring compliance with the Code when conducting virtual meetings;
- (4) The inclusion of "Declarations of Interest" as a standing item on each Council Agenda;
- (5) The format of the 'Declaration Forms' used for declaring personal/prejudicial interests at formal meetings.

AREAS FOR IMPROVEMENT:

- (1) Need to ensure adequate records showing that members sign an undertaking to abide by the Code of Conduct (2016 version) at the commencement of their new term of office;
- (2) The format for the Register of Members' Personal Interests so as to ensure it includes adequate information and is clear for the public;
- (3) Some members' apparent lack of understanding of the distinction between personal and/or prejudicial interests needs to be addressed;
- (4) For councils to maintain a Register of Gifts and Hospitality and that members are aware of the financial limit agreed by their council;
- (5) Attendance at, and the recording of, training by members and officers, particularly in light of the requirement to develop Training Plans as of 2022;
- (6) More details of the interests declared to be included on the Agendas/Minutes for all Council meetings.

Dear Clerks

The Isle of Anglesey County Council's Standards Committee Report on the Town and Community Councils Registers of Members' Interests - Report prepared June 2021

As part of its work programme for 2020-2021, the Standards Committee decided to conduct a review of the registers of members' personal interests in a sample of the town and community councils, to ensure compliance with the code of conduct. The reviews took place in March, April and May 2021.

The Standards Committee would like to express their sincere thanks to the clerks, and members, from the five Town and Community Councils that were reviewed for their time and co-operation. From the Committee's perspective, the reviews are deemed to have been a productive exercise; Clerks have also expressed they found the discussion to have been beneficial.

Please find attached a copy of a Report prepared by the Standards Committee so as to provide a general overview of the findings made during the recent review. No individual council is identified in the Report. The Standards Committee hopes that the contents of the Report will assist town and community councils collectively by providing details of (a) good practice and (b) areas where further attention is required. We hope it can be a useful guide on what needs to be done for the future.

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 emailing mwjcs@ynysmon.gov.uk

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).

Yours faithfully

John R Jones
Chair – Standards Committee