

To: Chair and Members of Standards  
Committee

Date: 3 March 2017

Direct Dial: 01824 706204

e-mail: democratic@denbighshire.gov.uk

Dear Member of the Committee,

You are invited to attend a meeting of the **STANDARDS COMMITTEE** to be held at **10.00 am** on **FRIDAY, 10 MARCH 2017** in **CONFERENCE ROOM 1A, COUNTY HALL, RUTHIN.**

Yours sincerely

G. Williams  
Head of Legal, HR and Democratic Services

## **AGENDA**

### **PART 1: THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING**

#### **1 APOLOGIES**

#### **2 DECLARATION OF INTERESTS (Pages 5 - 6)**

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

#### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

#### **4 MINUTES OF THE LAST MEETING (Pages 7 - 14)**

To receive the minutes of the Standards Committee meeting held on 2 December 2016 (copy enclosed).

#### **5 ACCESSIBILITY OF INFORMATION FROM CITY, TOWN AND COMMUNITY COUNCILS - ANNUAL REVIEW**

To receive a verbal report from Julia Hughes (Independent Member).

**6 PREPARATION OF CHAIR'S ANNUAL REPORT TO FULL COUNCIL**  
(Pages 15 - 22)

To consider a report by the deputy Monitoring Officer (Copy enclosed) presenting the Chair's Annual Report for consideration prior to submission to full Council.

**7 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT CASEBOOK** (Pages 23 - 34)

To consider a report by the Monitoring Officer (copy enclosed) informing members of the most recent edition of the Ombudsman's Code of Conduct Casebook.

**8 TRAINING - WELSH LOCAL GOVERNMENT ASSOCIATION INDUCTION MATERIALS** (Pages 35 - 84)

To consider a report by the Monitoring Officer (copy enclosed) informing members of the induction materials that have been produced by the Welsh Local Government Association (WLGA) for training new and returning members after the Local Government Elections in May 2017.

**9 LOCAL RESOLUTION PROCESS FOR CITY/TOWN/COMMUNITY COUNCILS**

To receive a verbal report by the Monitoring Officer

**10 REVIEW OF THE COUNCIL'S SELF-REGULATORY PROTOCOL**

To receive a verbal report by the Monitoring Officer.

**11 WHITE PAPER- REFORMING LOCAL GOVERNMENT RESILIENT AND RENEWED**

To receive a verbal report by the Monitoring Officer.

**12 ATTENDANCE AT MEETINGS**

To note the attendance by members of the Standards Committee at County, Town and Community Council and to receive their reports.

**13 STANDARDS COMMITTEE FORWARD WORK PROGRAMME** (Pages 85 - 86)

To consider the Standards Committee Forward Work Programme (copy attached).

**14 DATE OF NEXT MEETING**

The next meeting of the Standards Committee is scheduled for 10.00 a.m. on Friday, 30 June 2017 in Conference Room 1a, County Hall, Ruthin.

## **PART 2: CONFIDENTIAL ITEMS**

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item(s) of business because it is likely that exempt information (as defined in paragraph 12 and 13 of Part 4 of Schedule 12A of the Act) would be disclosed.

### **15 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000 (Pages 87 - 88)**

To consider a confidential report by the Monitoring Officer (copy enclosed) providing an overview of complaints against members lodged with the Public Services Ombudsman for Wales.

## **MEMBERSHIP**

Independent Members:

Mr Ian Trigger (Chair), Mrs Paula White, Julia Hughes and Anne Mellor

Town/Community Council Member

Councillor David E Jones

County Councillors

Councillor Barry Mellor

Councillor Meirick Lloyd Davies

## **COPIES TO:**

All Councillors for information

Press and Libraries

Town and Community Councils

This page is intentionally left blank

## LOCAL GOVERNMENT ACT 2000

---

### Code of Conduct for Members

### DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a \*member/co-opted member of  
*(\*please delete as appropriate)*

**Denbighshire County Council**

**CONFIRM** that I have declared a \***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-  
*(\*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)\**

Signed

Date

\*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

This page is intentionally left blank

## STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in Conference Room 1a, County Hall, Ruthin on Friday, 2 December 2016 at 10.00 am.

### PRESENT

Independent Members Julia Hughes, Anne Mellor, Ian Trigger (Chair) and Paula White together with Councillor David Jones

### ALSO PRESENT

Monitoring Officer (GW) and Committee Administrators (KEJ & SJ)

### REVEREND WAYNE ROBERTS - TRIBUTE

Members referred to the sad loss of Reverend Wayne Roberts, former member of the Standards Committee, who had recently passed away in tragic circumstances. Tribute was paid to Reverend Roberts both in terms of his contribution to meetings during his membership on the committee and his work in the wider community.

#### 1 APOLOGIES

Councillor Barry Mellor

#### 2 DECLARATION OF INTERESTS

No declarations of personal or prejudicial interest had been raised.

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

#### 4 MINUTES OF THE LAST MEETING

The minutes of Standards Committee held on 16 September 2016 were submitted.

#### Matters Arising –

Page 9 – Item No. 6: Public Services Ombudsman for Wales (PSOW) Annual Report 2015/16 – In response to a question from the Chair regarding how people contacted the PSOW the Monitoring Officer explained that the Council's website contained information regarding complaints and provided the necessary links and contact details to enable members of the public to lodge a complaint as appropriate. The differences between the standards regime in England was also highlighted.

Page 10 – Item No. 7: PSOW – Code of Conduct Casebook – The Monitoring Officer confirmed he had written to all City, Town and Community Councils that week explaining the importance of declaring personal and prejudicial interests.

Page 10 – Item No. 8: Attendance at Meetings – The committee had agreed that a list of all City, Town and Community Councils visited over the last three years be compiled and circulated to members. The Monitoring Officer apologised for the delay and confirmed he would arrange for the list to be compiled and sent out as soon as possible. **[GW to action]**

**RESOLVED** that the minutes of the meeting held on 16 September 2016 be received and approved as a correct record.

[At this point it was agreed to vary the agenda order and consider the Standards Committee Forward Work Programme near the end.]

## **5 NORTH WALES STANDARDS COMMITTEE FORUM**

The Chair introduced the item advising of his attendance, with the Monitoring Officer, at the North Wales Standards Committee Forum held on 17 October 2016 in Llangefni. Following that meeting he had received an email from the Chair of Ceredigion Standards Committee regarding the potential for other mid Wales authorities to join the Forum. The Chair had agreed to raise the matter at the next Forum meeting to consider whether membership of the Forum could be extended beyond North Wales to accommodate those interested in joining.

The Monitoring Officer (MO) submitted the report (previously circulated) informing the committee of the matters discussed at the meeting of the Forum held on 17 October 2016 which was also attended by the Public Services Ombudsman for Wales (PSOW) who gave a presentation and answered questions, details of which had been attached to the report. [The minutes of the Forum meeting had been made available that week and were circulated at the meeting].

In presenting the report the MO drew attention to the following –

- the PSOW reiterated his support for the local resolution of complaints made by elected members about each other and believed it would be useful to extend the process to Town, City and Community Councils but it would be a matter for local standards committees to consider
- the PSOW welcomed the decrease in the number of complaints received in respect of county councillors across Wales but there had been an increase in the number of complaints relating to town and community councillors (three town and community councils having accounted for 50 of those complaints)
- it was pointed out by the PSOW that most complaints were closed after initial consideration and that numbers referred to Standards Committees or the Adjudication Panel for Wales were very low which was cause for celebration. He also reflected on the operation of his public interest test and factors to be taken into account when applying that test which he did not consider had a significant impact on that outcome



- the management of resources remained an important issue for the Ombudsman who advised of an increase in complaints from the health sector with 75% of resources currently being used for consideration of health complaints – in that context he would not use his powers to investigate low level complaints in respect of elected members but would only deal with the most serious breaches including abuse of power, bullying and corruption
- following the Ombudsman's item the Forum considered its future operation and agreed it remained a useful tool for learning and sharing of practice. It was decided that the Forum would meet twice each year at a different authority in rotation and be chaired and administered by the hosting authority with the MO of the host authority in attendance. Denbighshire would host the next meeting in March/April 2017
- the Forum also considered an issue regarding the bilingual completion of the register of interests by members and it was agreed that each authority would check the situation in their own authorities. There was also a discussion on the availability of mediation training for standards committee members who may be involved in local resolution procedures. The MO was making further enquires in that regard with HR colleagues across North Wales given that a collaborative approach to training would help minimise costs.

The MO also took the opportunity to elaborate upon the questions put to the PSOW and the answers given which had been included in the appendix to the report. Members' particular attention was drawn to the following –

- some questions related to the local resolution protocol and the MO reminded members of the issues raised in the draft Local Government (Wales) Bill consulted upon previously, including the suggestion that City/Town/Community Councils become larger which may have an impact on the resources they had to support this
- it was noted that not all City/Town/Community Councils were members of One Voice Wales but it was hoped that they could all use the draft model they had produced on local resolution protocols if they wished to do so
- guidance on sanction had been issued by the Adjudication Panel for Wales which standards committees might find useful and the MO agreed to try and obtain that guidance for circulation to committee members **[GW to action]**
- there was some discussion on the new SI. i.e. suspension only within current term of office and the PSOW had advised that the issue related only to a very small number of cases. The Chair pointed out that the issue was not restricted to elected members and also occurred in other sectors where individuals were sworn into office under a particular Act – once the individual no longer held that position there was no power to enforce a sanction against them
- it was clarified that if the statutory requirement for City/Town/Community Councils to have a website was not met it was not an issue to be considered under the Code but it may amount to maladministration. The PSOW did not have proactive powers and a complaint would be needed from the public for him to investigate. Councillor David Jones referred to the declaration of interest process for City/Town/Community Councils and the MO confirmed there had been some confusion in that regard and he would check whether there was a statutory requirement for them to publish a register of interests **[GW to action]**.

Denbighshire had raised two questions with the PSOW as follows –

**(1) There is a concern that the public may lose confidence in the enforcement of the Code of Conduct if they feel that legitimate complaints have been considered not worthy of investigation. Would the Ombudsman consider referring cases that he has determined not to investigate for local investigation?**

The Ombudsman felt that the public could lose confidence if trivial complaints were investigated which was also the reason behind the public interest test. Cases had been referred for local investigation in the past but take up had been low and there was some reluctance from Monitoring Officers given the demand on their resources – however the ability to refer matters still applied and could be done if deemed appropriate. One of the factors to be taken into account was evidence of similar complaints having been made previously and when asked by the Chair how long complaints were kept on file he referred to retained knowledge in the office and that moving forward he would ensure that they kept a good feel for what was happening.

The Chair did not consider that to be a satisfactory response given that there appeared to be no robust system for retaining low level complaints with reliance on the knowledge of individual staff meaning valuable information could be lost following staffing changes. The MO referred to the forthcoming General Data Protection Regulations and provided an overview of the changes in a number of provisions within the Data Protection Act including ‘the right to be forgotten’ in particular cases with legislation around how long particular information about an individual could be retained which would also have an impact.

**(2) Does the Ombudsman consider that the setting of minimum standards and mandatory training for Clerks to Town, City and Community Councils would assist in the maintenance of high standards of conduct and the operation of Local Resolution Procedures in those Councils?**

The Ombudsman felt this would be highly beneficial but he was not something he could resource. However he would support by attending conferences and promoting the issues.

The Chair highlighted the prevailing theme from the PSOW was on local resolution. While there was some sympathy for the Ombudsman in managing the pressure on his resources the result was a greater emphasis on local resolution and the Chair stressed the importance of standards committees being in a position to contribute to that process where possible.

In responding to the emphasis on local resolution and given the potential impact arising from the latest draft Local Government (Wales) Bill (due out for consultation in early 2017) members agreed the following actions suggested by the MO –

- consideration be given as to what practical actions could be undertaken in Denbighshire with regard to the local resolution process for City/Town/Community Councils – this should include training, the level of engagement between local councils and the role of the standards committee in

that regard. Given that the PSOW had welcomed the draft model template for local resolution protocols produced by One Voice Wales it was felt that model could also help inform the process. The MO was attending a meeting with Clerks of some of the largest town/community councils the following week and would gauge opinion on the appetite for the process. It was agreed that the committee would receive a report back on that work at their meeting in March

- the draft Local Government (Wales) Bill would likely include reform which would impact on both county and city/town/community councils. Members were reminded of the proposals arising from the previous draft Bill, including suggestions of minimum standards for councils and councillors reportable to standards committees. Given the potential reform issues and impact on standards committees as a result of proposals in the new draft Bill the committee agreed to receive a report back in March (providing the draft Bill had been published in time and consultation timescales were sufficient – it was accepted that a special meeting may need to be convened if necessary).

The Chair thanked the MO for his comprehensive report and bringing the most pertinent issues to the committee's attention.

**RESOLVED** that –

- (a) *the report on the matters discussed at the last meeting of the North Wales Standards Committee Forum be received and noted;*
- (b) *a report on a local resolution process for City, Town and Community Councils be submitted to the committee in March 2017 [GW to action], and*
- (c) *a report on the draft Local Government (Wales) Bill be submitted to the committee in March 2017 (timescales permitting) [GW to action].*

At this juncture (11.10 a.m.) the meeting adjourned for a refreshment break.

## **6 SELF-REGULATORY PROTOCOL**

The Monitoring Officer (MO) submitted a report (previously circulated) regarding the potential to include complaints by council officers about the conduct of elected members in the Council's Self-Regulatory Protocol as requested by the committee. A copy of the Self-Regulatory Protocol together with Protocol for Member/Officer Relations had been attached as appendices to the report.

The MO explained that the PSOW was a keen advocate of local resolution procedures and whilst the Members' Self-Regulatory Protocol usually dealt with local resolution of member complaints against other members, for officer complaints against members formal recourse had been via complaint to the Ombudsman. In reality an informal process was usually undertaken involving the relevant Head of Service and Monitoring Officer to reach a satisfactory resolution and those mechanisms had also been included in the Protocol for Member/Officer Relations in terms of how breaches should be dealt with together with reference to more formal procedures that could lead to the Standards Committee. However the

corresponding changes to the Members' Self-Regulatory Protocol to include reference to local resolution processes for officer complaints against members had not been made due to the development of local resolution being in its infancy at the time. Reference was also made to research conducted with other authorities which suggested a mixed picture in respect of the use of such procedures for issues raised by officers. The MO provided a number of examples to illustrate how complaints made by officers and members against members could be resolved.

During debate the need for more formalised mechanisms in the Self-Regulatory Protocol for officer complaints was highlighted together with the need for flexibility. Members felt that an emphasis on informal resolution in the first instance would be the best approach with formal hearing as a last resort. It was agreed that the MO review the protocol on that basis taking into account best practice from other authorities and models used, including the One Voice Wales template. The Chair also felt it would be a matter for the North Wales Standards Committee Forum to consider in order to solicit views and share local resolution procedure. The MO agreed there may be merit in having a North Wales protocol transferable to City/Town/Community Councils. It was agreed to receive a report back to the committee thereon in March.

***RESOLVED*** that the Monitoring Officer undertake a review the Self-Regulatory Protocol and report back to the committee thereon in March 2017 **[GW to action]**.

## **7 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT CASEBOOK ISSUE 10**

The Monitoring Officer (MO) submitted a report (previously circulated) informing members of the most recent edition of the Ombudsman's Code of Conduct Casebook covering the period July to September 2016 (Appendix 1 to the report).

The Casebook was produced on a quarterly basis and summarised the code of conduct complaints the Ombudsman had finished investigating during the relevant period. Of the 8 complaints reported, 2 related to the disclosure of interests, 2 to objectivity and propriety, and 1 each in respect of accountability and openness, duty to uphold the law, equality and respect, and selflessness and stewardship. Of the 8 investigations conducted, 4 cases resulted in a finding that there was no evidence of breach, 3 found that although there may have been a breach no action was necessary (it had not been considered in the public interest to pursue those matters further), and 1 was referred to the standards committee. No cases had been referred directly to the Adjudication Panel for Wales and none related to any elected member of any council in Denbighshire.

Members noted that the report provided an indication of the types of complaints investigated by the Ombudsman. The Chair drew attention to the case referred to the standards committee which involved a member failing to make an appropriate declaration of interest and having been improperly involved in discussions at a planning committee meeting. The standards committee found that the councillor was in breach of the code of conduct and imposed a 2 month suspension. The councillor appealed to the Adjudication Panel for Wales who agreed there had been

a breach and increased the suspension period to 3 months. It was important to remember that the outcome of an appeal could also result in a harsher sanction.

**RESOLVED** that the information contained within the Code of Conduct Casebook be noted.

## **8 ATTENDANCE AT MEETINGS**

Members had previously requested a list of City/Town/Community Councils which had been visited over the past three years. Independent Member Julia Hughes suggested it would also be useful for that list to identify where local clerks had changed over the last twelve months and those councils which had not been subject to a visit over recent times which could be taken into account by standards committee members when planning their visits **[GW to action]**.

Councillor David Jones reported upon the annual liaison meeting between representatives of the County Council and City/Town/Community Councils which was held on 16 November 2016 in County Hall, Ruthin. He gave an overview of topics discussed which included the council elections in May 2017; community resilience, county vision and a question and answer session. He also referred to a workshop session on clerks succession planning and highlighted concerns raised about the pressures placed on local councils arising from the financial audit process. Councillor Jones advised that the matter would be taken up by the Society of Local Council Clerks. Whilst not a matter for the standards committee the Chair was saddened to hear of the problem and hoped the matter could be resolved. The MO advised that there may also be implications arising from the forthcoming Local Government (Wales) Bill for local councils in that regard.

**RESOLVED** that the verbal report be received and noted.

## **9 STANDARDS COMMITTEE FORWARD WORK PROGRAMME**

The Standards Committee Forward Work Programme was presented for consideration and members agreed the following additions –

- Local Resolution Process for City/Town/Community Councils – March
- Review of the Council's Self-Regulatory Protocol (linked to above item) – March
- Draft Local Government (Wales) Bill – March
- PSOW Code of Conduct Casebook – be included as a standing agenda item

The MO clarified that the 'Training' programmed for March involved the training produced by the Welsh Local Government Association on ethical issues for new councillors following elections in May 2017 together with any other training offered to new members as part of their induction which was under the remit of the standards committee.

Members agreed that the work programme be featured near the end of the agenda in future for ease of reference in recording items agreed during the meeting.

***RESOLVED** that, subject to the above amendments, the Standards Committee's Forward Work Programme be agreed.*

## **10 DATE OF NEXT MEETING**

Members noted the Standards Committee's next meeting had been scheduled for 10.00 a.m. on Friday 10 March 2016 in Conference Room 1a, County Hall, Ruthin.

The Chair reminded members that Denbighshire would also be hosting the North Wales Standards Committee Forum in March/April 2017.

## **EXCLUSION OF PRESS AND PUBLIC**

***RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.*

## **11 CODE OF CONDUCT - PART 3 LOCAL GOVERNMENT ACT 2000**

The Monitoring Officer (MO) submitted a confidential report (previously circulated) providing an overview of complaints against members lodged with the Public Services Ombudsman for Wales since 1 April 2014. 13 cases had not been pursued, 2 cases had been discontinued, and 3 cases had not been investigated.

The MO provided an update on the one on-going complaint. In response to questions the MO also provided some context and reasoning behind the number of complaints attributed to one local council in particular.

***RESOLVED** that the report be received and noted.*

The Chair thanked all members for their attendance and contributions and the Monitoring Officer for his guidance.

The meeting concluded at 12.20 p.m.

## Agenda Item No.

**Report To:** Standards Committee

**Date of Meeting:** 10<sup>th</sup> March 2017

**Lead Member / Officer:** Ian Trigger, Chair of Standards Committee

**Report Author:** Lisa Jones – Deputy Monitoring Officer

**Title:** Chair's Annual Report 2016

---

### 1. What is the report about?

This report to Standards Committee is to enable the full Committee to have sight and contribute to the Chair's Annual Report, in advance of the item being presented to the full council. The draft report is attached as Appendix 1.

### 2. What is the reason for making this report?

It was agreed by Members of this Committee that an Annual Report should be presented on the work of the committee each year and its findings and observations, to all Council Members as part of the Committee's drive to increase standards of ethical behaviour and compliance with the Members Code of Conduct.

### 3. What are the Recommendations?

That Members:

- (a) Note the contents of the report.
- (b) Provide the Monitoring Officer with comments on its content in order to ensure that it accurately reflects the views of this Committee.
- (c) Recommend its presentation by the Chair to the Full Council

### 4. Report details

The Report is attached as Appendix 1 for consideration.

Rather than delivering a draft complete report to the Committee as has been the approach in previous years, the Committee are asked to advise the Monitoring Officer of the areas of note or priority that the Chair should be highlighting to the full Council. (see paragraph 4.6 of the appendix). The attached draft follows the same format as previously presented, however in the event the Committee feels that it should be varied in any way, then the Monitoring Officer would be pleased to hear member's views.

### 5. How does the decision contribute to the Corporate Priorities?

A fully functioning and representative Standards Committee which upholds the high standards expected of members helps underpin the Council's exercise of its democratic functions.

**6. What will it cost and how will it affect other services?**

There are no implications for other services as a result of this report. .

**7. What consultations have been carried out?**

No consultations have been carried out save for this report to the Standards Committee, as a consultee, to obtain feedback on its appropriateness, content and recommendations.

**8. Chief Finance Officer Statement**

Not required.

**9. What risks are there and is there anything we can do to reduce them?**

There are no identified risks.

**10. Power to make the Decision**

The Local Government Act 2000; the Standards Committee (Wales) Regulations 2001 and the Standards Committee (Wales) (Amendment) Regulations 2006.



**Report To:** Full Council

**Date of Meeting:** May 2017

**Lead Member / Officer:** Ian Trigger, Chair of Standards Committee

**Report Author:** Lisa Jones – Deputy Monitoring Officer

**Title:** Standards Committee Annual Report

---

**1. What is the report about?**

This is the third Annual Report of Standards Committee to the Full Council and covers the calendar year January to December 2016 only. It was agreed that the Chair will present their report on this basis annually to the Full Council, in order to keep Members informed of trends; issues in respect of compliance with the Members Code of Conduct generally across the County and the work of the Committee in driving up standards of behaviour at the County level, but also at Town, City and Community levels.

**2. What is the reason for making this report?**

It was agreed by Standards Committee that an Annual Report should be presented on the work of the committee and its findings and observations, to all Council Members as part of the Committee's drive to increase standards of ethical behaviour and compliance with the Members Code of Conduct.

**3. What are the Recommendations?**

That Members note the contents of the report.

**4. Report details**

4.1 Standards Committee main role is to monitor adherence to the Members Code of Conduct. All members are aware that their Code is founded (and should be read in conjunction with) the 7 Nolan Principles of Public Life. In Wales there are ten principles (those which were not included in the Nolan recommendations indicated with an \*) as follows: -

Selflessness  
Honesty

Integrity and propriety  
Duty to uphold law \*  
Stewardship \*  
Objectivity in decision making  
Equality and respect \*  
Openness  
Accountability  
Leadership

Standards Committee during 2016 was particularly interested in the final principle of 'Leadership' and over this last year was keen to explore any initiatives that the Council may follow which supports the concept of community leaders; similar to the Officer 'leadership strategy' which has been developed at County level. This approach may mirror the Public Services Ombudsman for Wales with respect to focusing on leadership and leading by example, particularly in these straitened economic times where scarce resources should not be utilised in investigating complaints which have no merit and impact on the Monitoring Officer's time and that of the office of the Ombudsman himself.

- 4.2 Standards Committee consists of the following Member types – 2 County Councillors, 4 Independent (co-opted) Members, and 1 Community Council Member (who is not also a twin hatted Member). The majority of the Members are therefore not elected, but are recruited from members of the public as per the requirements of the Standards legislation in Wales. The Committee can also only be quorate when at least half of those Members present are the independents.

Independent members are recruited via a public advert, which is open to all save for strict criteria in respect of previously being an Officer or Member of the Council within certain time frames, being of good standing and having certain attributes as laid down in the legislation. Other than this the opportunity is open to persons from all walks of life, in order to represent the views of the public with regard to the standards they expect of their elected members; and who will also then if required to do so, sit in judgement in respect of any references to the Committee from the Public Services Ombudsman for Wales, where there has been a breach of the Code of Conduct, which falls above the relevant threshold. The decision to investigate a breach, is at the discretion of the Ombudsman; based on the facts, evidence and nature of the breach and whether there is corroborative evidence or not, and if there is a public interest in exhausting time and public financial resources in the investigation and hearing itself; similar to the Crown Prosecution Service (CPS) approach to charges and prosecutions.

The Committee which receives a reference from the Public Services Ombudsman for Wales following his investigation into the complaint, will then sit in a quasi-judicial capacity whilst they hear the matter. They have powers to suspend a Member from Office for a maximum of 6 months, during which time they will not be able to act in their capacity as an elected member and will not receive any member salary. The Committee has discretion to impose lesser

sanctions such as a partial suspension from duties or a ‘public censure’ and to impose other conditions such as attendance at training.

There is also the option where the PSOW seeks the views of the Monitoring Officer and Standards Committee on whether in those circumstances where the Ombudsman decides not to investigate, that the Monitoring Officer may wish to investigate locally. In these circumstances, the Monitoring Officer consults the Chair and/or the Committee and each case is considered on its merits.

4.3 During the past year the Committee met on 4 occasions and 1 meeting was cancelled. The table below sets out a summary of the items under discussion: -

<b>Date of Meeting</b>	<b>Report Items/Area s</b>
4/3/16	<ul style="list-style-type: none"> <li>• Standing Item: Attendance at meetings</li> <li>• Forward Work Programme</li> <li>• Draft Chairs Annual Report</li> <li>• Accessibility of information from Town, City and Community Councils</li> <li>• Public Services Ombudsman for Wales Code of Conduct Casebook</li> <li>• Clerks Training Event</li> <li>• Draft Local Government Bill</li> <li>• Standing Item : overview of complaints in Denbighshire against Members</li> </ul>
8/4/16	<ul style="list-style-type: none"> <li>• Rhyl Town Council Application for Dispensation</li> <li>• Changes to the Model Code of Conduct</li> </ul>
24/6/16	Meeting cancelled.
16/9/16	<ul style="list-style-type: none"> <li>• Standing Item: Attendance at meetings</li> <li>• Forward Work Programme</li> <li>• PSOW Annual Report</li> <li>• PSOW Code of Conduct Casebooks</li> <li>• Standing Item: Overview of Complaints against Members.</li> </ul>
2/12/16	<ul style="list-style-type: none"> <li>• Standing Item: Attendance at meetings</li> <li>• Forward Work Programme</li> <li>• NW Standards Committee Forum</li> <li>• County Council’s Self Regulatory Protocol</li> <li>• PSOW Code of Conduct Casebook</li> <li>• Standing Item: Overview of Complaints against Members.</li> </ul>

#### 4.4 Standing Items

The 3 standing items the Committee receives is working well : -

- (a) Reports from Standards Members in respect of their attendance and observations at Committee and Council meetings whether at County or Community level. Denbighshire County Council Standards Committee is fairly unique in it's proactive approach to raising standards and awareness of the Code of Conduct. Committee Members attend to observe conduct and general effectiveness of the meetings; will then feed back to the Committee, who may make recommendations in respect of any training needs or trends or patterns of conduct in particular communities or at County level.

On the whole, the general ethical framework functions are at a good level in the community and at county level; and this is reflected in the continued downturn in complaints to the PSOW.

As emphasised last year, the Committee is keen to make it clear that their approach in attending in person at meetings is from a support and educational angle; in order to target resources in order to improve standards and the public's confidence in the vital work being done at community level, on a voluntary basis; and not from any enforcement or critical angle. The Committee fully recognises the value such councils and their members add to local communities. The Committee believes that the Code is there to give public confidence, but to also protect members and any efforts to raise this awareness for all serving members is a key theme they continually endorse.

- (b) Overview of Complaints lodged against Members with the Public Services Ombudsman for Wales. The report is presented in a closed session and members are provided with a limited amount of detail in respect of the complaint but with sufficient detail to enable members to consider if training or other actions can be recommended to particular town city and community councils which are experiencing issues or an increase in complaints.
- (c) Forward Work Programme. This aligns the approach of other council committees and encourages a more strategic approach to the role of the Committee as a proactive one not just reactive to complaints.

4.5 During this year the Chair has attended the North Wales Standards Forum. The Public Services Ombudsman for Wales, Nick Bennett attended on one occasion in order to introduce his approach to dealing with member complaints under the Code of Conduct.

4.6 The Committee wish to draw the Council's attention to the following areas of note as a result of its work during 2016: [STANDARDS COMMITTEE TO DEBATE AND AGREE AREAS AT ITS MEETING ON THE 10<sup>TH</sup> MARCH 2017]

#### **5. How does the decision contribute to the Corporate Priorities?**

A fully functioning and representative Standards Committee which upholds the high standards expected of members helps underpin the Council's exercise of its democratic functions.

**6. What will it cost and how will it affect other services?**

There are no implications for other services as a result of this report. .

**7. What consultations have been carried out?**

No consultations have been carried out save that Standards Committee has been consulted on the content.

**8. Chief Finance Officer Statement**

Not required.

**9. What risks are there and is there anything we can do to reduce them?**

There are no identified risks.

**10. Power to make the Decision**

The Local Government Act 2000; the Standards Committee (Wales) Regulations 2001 and the Standards Committee (Wales) (Amendment) Regulations 2006.

This page is intentionally left blank

**Report To:** Standards Committee

**Date of Meeting:** 10<sup>th</sup> March 2017

**Lead Member / Officer:** Gary Williams, Monitoring Officer

**Report Author:** Gary Williams, Monitoring Officer

**Title:** Public Services Ombudsman for Wales – Code of Conduct Casebook

---

**1. What is the report about?**

The report is about the Code of Conduct Casebook produced by the Public Services Ombudsman for Wales (the Ombudsman).

**2. What is the reason for making this report?**

To inform the Committee of the most recent editions of the Ombudsman's Code of Conduct Casebook.

**3. What are the Recommendations?**

That members of the Committee note the information contained within the Code of Conduct Casebook.

**4. Report details.**

4.1 The Ombudsman has since 2013 produced a Code of Conduct Casebook (the Casebook). The Ombudsman had for some time previously produced a casebook relating to the complaints he investigated in respect of alleged maladministration by public bodies. Following calls for a similar approach to be taken with regard to code of conduct complaints, the Ombudsman began publishing the Casebook in 2013.

4.2 The Casebook was originally published twice a year, however the Ombudsman decided to produce the casebook on a quarterly basis from April 2015. The Casebook contains summaries of all of the cases in respect of which the Ombudsman has completed an investigation during the relevant period.

4.3 Where those cases have been referred to a Standards Committee or the Adjudication Panel for Wales, a link is provided in the electronic version of the Casebook to the full report of the outcome of the case produced by the relevant Committee or Panel.

4.4 The production of a Casebook is intended to help Members and others in considering whether circumstances that they may be experiencing amount to

a breach of the Code. This is an extension of the publication of real life examples in the Ombudsman's Guidance on the Code.

- 4.5 The casebook also assists local authority Standards Committees by giving them access to information about the way in which other Standards Committees in Wales are imposing sanctions and disposing of cases and help to explain why in some cases the Ombudsman may decline to investigate alleged breaches on the basis that previous similar allegations have not resulted in a sanction.
- 4.6 Appendix 1 to this report contains Issue 11 of the Casebook published in January 2017 covering the period October 2016 to December 2016. Members will note that there are only 2 case summaries in this edition of the casebook, neither of which involved a referral to a Standards Committee or the Adjudication Panel for Wales. Neither of these cases involved any Councillors in Denbighshire.
- 4.7 In the first case summary the Ombudsman found that there was no evidence of a breach of the Code of Conduct. This case involved a complaint made that a County Councillor during a debate condemning hate crime at a Monmouthshire County Council meeting spoke to defend racially offensive language. The Ombudsman found that Members have a duty to scrutinise the subject of any debate no matter how sensitive. Attempts to restrict that scrutiny and analysis would unjustifiably affect a Member's freedom of expression. The Councillor in question had supported the motion and had not at any time suggested that racism or hate crimes should be tolerated. Whilst the member's words were, in the Ombudsman's view, clumsy, there was no evidence that he used overtly racist or hateful language.
- 4.8 The second case summarised in the Casebook involved a complaint that a Tywyn Town Councillor had failed to declare a prejudicial interest at a caravan park committee even though he was the owner of a nearby caravan park. The Member concerned had been informed by the Monitoring Officer that he had a prejudicial interest. The Member applied for a dispensation which was rejected. The Ombudsman found that the Member may have breached the Code of Conduct but, as he had subsequently resigned from the Town Council, no further action was required.

**5. How does the decision contribute to the Corporate Priorities?**

The report has no direct impact on the corporate priorities.

**6. What will it cost and how will it affect other services?**

There are no costs directly associated with the report.

**7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

This report does not require an equality impact assessment.



**8. What consultations have been carried out with Scrutiny and others?**

This matter has not been reported or consulted upon elsewhere.

**9. Chief Finance Officer Statement**

There are no direct financial consequences as a result of this report.

**10. What risks are there and is there anything we can do to reduce them?**

There are no risks directly associated with this report

**11. Power to make the Decision**

There is no decision required.

This page is intentionally left blank

# The Code of Conduct Casebook

Issue 11 January 2017

## Contents

Introduction	1
<a href="#">Case summaries</a>	3
<a href="#">No evidence of breach</a>	3
<a href="#">No action necessary</a>	4
<a href="#">Referred to Standards Committee</a>	5
<a href="#">Referred to Adjudication Panel for Wales</a>	6
<a href="#">More information</a>	7

---

## Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- (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).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers October to December 2016.

## Case summaries

### No evidence of breach

Monmouthshire County Council – Promotion of equality and respect  
Case Number 201602663 – Report issued in November 2016

The Ombudsman received a complaint that during a debate condemning hate crime at a Council meeting on 28 July 2016, a member of Monmouthshire County Council (“the Councillor”) spoke to defend and justify racially offensive language when, in his view, it was used without malice. Furthermore, the Councillor used examples of such language during his speech and caused offence.

The investigation found that Members have a duty to consider any motion proposed, subjecting it to critical analysis and scrutiny. The extent to which that function is exercised should not be restricted by the nature of the motion in question, no matter how sensitive, and the enforcement of such a restriction would unjustifiably affect a member’s freedom of expression.

The Ombudsman found that during his address, the Councillor stated that he supported the motion but requested a definition of the term hate crime. At no point did the Councillor suggest that racism, xenophobia or hate crime should be tolerated. The Ombudsman also found that whilst the Councillor’s examples were clumsily worded, there was no evidence that he used overtly racist, xenophobic or hateful language, nor were his comments directed at one person or a group of people.

The Ombudsman found that there was no breach of the Code of Conduct.

## No action necessary

Tywyn Town Council – Disclosure and registration of interests

Case Number 201600999 – Report issued in November 2016

A complaint was made that Former Councillor X failed to declare a personal and prejudicial interest at a meeting of the Ynysymanengwyn Caravan Park Committee on 16 March 2016. Former Councillor X's interest arose as the owner of a nearby caravan park.

On 10 February, the Monitoring Officer had advised the Former Councillor that he had a prejudicial interest in this Committee. The Former Councillor subsequently applied for a dispensation from the Council's Standards Committee to attend these meetings, which was rejected.

The Ombudsman invited the Former Councillor for interview, but on 4 October he tendered his resignation as a Councillor. The Ombudsman considered that the Former Councillor's conduct may have breached elements of the Code in relation to having regard to advice given by the Monitoring Officer; having a personal interest at meetings; declaring a personal interest and withdrawing from the meeting. However, in view of Former Councillor X's resignation, no further action was required.

## Referred to Standards Committee

There are no summaries in relation to this finding

## Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding



## More information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to [Matthew.Aplin@ombudsman-wales.org.uk](mailto:Matthew.Aplin@ombudsman-wales.org.uk) or [Lucy.John@ombudsman-wales.org.uk](mailto:Lucy.John@ombudsman-wales.org.uk) or sent to the following address:

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](mailto:ask@ombudsman-wales.org.uk) (general enquiries)

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

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

This page is intentionally left blank

**Report To:** Standards Committee

**Date of Meeting:** 10<sup>th</sup> March 2017

**Lead Member / Officer:** Gary Williams, Monitoring Officer

**Report Author:** Gary Williams, Monitoring Officer

**Title:** Ethics and Standards induction materials

---

**1. What is the report about?**

**1.1** This report is about the induction materials that have been produced by the Welsh Local Government Association (WLGA) for use by local authorities in training new and returning members after the Local Government Elections in May 2017.

**2. What is the reason for making this report?**

**2.1** To inform the Committee of the creation of the induction materials and to seek their views as to their use by the Council.

**3. What are the Recommendations?**

**3.1** That the Committee considers the contents of the induction materials provided by the WLGA and confirms that it is content that they be used by the Monitoring Officer in the training provided to new and returning members of the County Council and City, Town and Community Councils.

**4. Report details**

**4.1** One of the roles of the Standards Committee is to advise and arrange training for Councillors and co-opted members on the Code of Conduct.

**4.2** The WLGA has produced an induction pack consisting of a slideshow presentation (Appendix 1), and notes for facilitators (Appendix2), in order to assist Councils in the provision of training on ethical and standards issues after the elections. This is intended to provide a common set of resources that can be used throughout Wales and encourage a common understanding of the requirements of the Code of Conduct among elected members.

**4.3** The pack has been prepared by a colleague at Flintshire County Council and has been translated in order that it may be delivered in both English and Welsh.

**4.4** The Ombudsman has made a short video presentation which will be available for use in training events and Members of the Committee will be able to view it at their meeting. An e-learning package is also in development and will be available for use after the election.

**4.5** The Denbighshire Code of Conduct has previously been amended to make it a requirement of the Code that County Councillors attend at least one training event on the Code of Conduct in each council term. A training event will be held shortly after the election for County Councillors and there will be a programme of events held across the County for City, Town and Community Councillors. The attendance at the events held for City, Town and Community Councillors has been disappointing in the past. The development of an e-learning package may help to reach many of those Councillors who are unable to attend our events.

**5. How does the decision contribute to the Corporate Priorities?**

**5.1** The decision has no direct impact on the Corporate Priorities.

**6. What will it cost and how will it affect other services?**

**6.1** There no direct costs associated with this report. The training will be provided by staff whose costs are contained within existing budgets.

**7. What are the main conclusions of the Well-being Impact Assessment? The completed Well-being Impact Assessment report can be downloaded from the website and should be attached as an appendix to the report**

**7.1** This report does not seek to introduce a change or a proposal that would require such an assessment.

**8. What consultations have been carried out with Scrutiny and others?**

**8.1** There has been no consultation with Scrutiny in respect of this matter.

**9. Chief Finance Officer Statement**

**9.1** There are no direct financial consequences as a result of this report.

**10. What risks are there and is there anything we can do to reduce them?**

**10.1** There is a risk that if Members are not able to access appropriate training they may inadvertently breach the Code of Conduct.

**11. Power to make the Decision**

**11.1** Section 8.6.5 of the Council's constitution

# Member Induction Wales 2017



## Ethics and Standards

© 2017 Welsh Local Government Association  
For use by WLGA Member Authorities and no other without prior agreement from the WLGA



Place white  
box over  
this text &  
Insert Logo  
Here



# Ethical Governance

Effective local government requires high standards of conduct to ensure that there is public confidence in everything we do.



## Consequences for Councillors...

- “The committee found that [the] councillor had breached the code of conduct and that he should be suspended for a calendar month”
- “[The Councillor] had failed to show respect and consideration for others... the Committee agreed that they would publish the Committee’s findings ...and recommend to Council that the Member be issued with a formal censure”
- “Councillor breaches code of conduct for threatening behaviour...towards employee”

Place white  
box over  
this text &  
Insert Logo  
Here



# Exercise

## Questionnaire



Place white  
box over  
this text &  
Insert Logo  
Here



## **Your Responsibilities**

You have a legal duty to act ethically. This is set out in the Local Government Act 2000.

The Local Authorities (Model Code of Conduct) (Wales) Order 2008 requires a mandatory code of conduct in each authority based on a national model

Place white  
box over  
this text &  
Insert Logo  
Here



# The Ethical Framework

## The Nolan Committee in 1997 - origins of the ethical framework for Standards in Public Life

**As a Member you must have regard to these principles :**

Selflessness

Honesty

Integrity and Propriety

Duty to uphold the law

Stewardship

Objectivity in Decision making

Equality and respect

Openness

Accountability

Leadership



## Code of Conduct

- Shows you how to apply the ethical framework
- Unless you sign your Declaration of Acceptance and give a written undertaking to observe the Code of Conduct you cannot be a member
- If you fail to undertake or observe you can be suspended from office
- Applies to all members in Wales apart from members of Police Authorities who should comply with the English Code of Conduct

Place white  
box over  
this text &  
Insert Logo  
Here



## The Code Applies to You Whenever You Are ...

- In any “official” meeting of the authority
- In any meeting where members or officers of the authority are present
- Acting, claiming to act or giving the impression you are acting as a representative of the authority
- Conducting business of the authority as a member and acting as a representative of the authority
- Acting in an official capacity
- Acting as a representative on another body unless that body has conflicting legal rules or its own code.

Place white  
box over  
this text &  
Insert Logo  
Here



## **And Also...**

At any time if :

- You conduct yourself in a manner likely to bring your office or authority into disrepute or
- You use or attempt to use your position to gain advantage or avoid disadvantage for yourself or others or
- You misuse your authority's resources

Place white  
box over  
this text &  
Insert Logo  
Here



## **General Rules you Need to Follow Under the Code**

- Promote equality
- Treat others with respect and consideration
- Do not bully or harass people
- Do not compromise the impartiality of officers
- Do not disclose confidential information
- Do not prevent access to information

Place white  
box over  
this text &  
Insert Logo  
Here



## **General Rules you Need to Follow Under the Code**

- Do not bring your office or authority into disrepute
- You must report breaches of the code to your Monitoring Officer
- Do not make vexatious complaints
- You must cooperate with investigations
- You must not use your position improperly
- Do not misuse your authority's resources

Place white  
box over  
this text &  
Insert Logo  
Here



## **General Rules you Need to Follow Under the Code**

- Reach decisions objectively
- Consider advice that officers give you and give reasons if you don't take it
- Comply with the law and your authority's rules regarding expenses
- Do not accept any gifts or hospitality that would place you under an obligation or seem to do so.



Place white  
box over  
this text &  
Insert Logo  
Here



## Interests

The public must have confidence that you are making decisions in their best interests not yours!

Therefore, if you have an interest you must declare it.



# Personal Interests

You have a personal interest when a decision relates to or is likely to affect you or a “close personal associate” in relation to

- Your job or business
- Your employer or company in which you are a partner or director
- Someone who has contributed to your election costs or member expenses
- Any company where you have shares over £25K or more than 1% of the total share value which has premises or land in your area



- Any contract that your authority makes with a company in which you are a partner, paid director or hold shares
- Any land in which you have an interest in your authority's area
- Any land let by your authority to a firm in which you are a partner, paid director or hold shares
- Any land in your authority's area which you have a license to occupy for at least 28 days

Place white  
box over  
this text &  
Insert Logo  
Here



- Any body to which you have been elected appointed or nominated by your authority
- Any public authority or body exercising functions of a public nature, charity, public opinion or policy, trade union or professional association, private club or society in your authority's area of which you are a member or in a management position



## Who is ' a Close Personal Associate'

Not just your best friend but your worst enemy....

- Close friends
- Colleagues with whom you have strong connections
- Business associates
- Close relatives
- Or someone with whom you have been in dispute
  
- But not casual acquaintances, distant relatives or people who you come into contact with through your work.



## What Do You Do If You Have a Personal Interest ?

- You must declare it verbally at meetings
- You must declare it when making written or verbal representations outside of a meeting
- You must complete a declaration of interests form
- BUT you are entitled to take part in discussions and vote unless it is a prejudicial interest



## Prejudicial Interests

Are personal interests which a member of the public would regard as likely to influence your opinion or your ability to be objective for example:

- If your daughter lives next to a proposed site for a new housing development
- If your son attends a local school which is due for closure

Place white  
box over  
this text &  
Insert Logo  
Here



## What Do You Do if You Have a Prejudicial Interest?

You must leave the meeting during the discussion

You must not exercise delegated powers

You must not seek to influence the decision

You must not make written or verbal representations

### **UNLESS**

The Standards Committee has granted you a dispensation

The public have a right to speak in which case you have the same right to speak (but you must leave after you have spoken) or you can provide written representations to the meeting

You have been called before a scrutiny committee



Place white  
box over  
this text &  
Insert Logo  
Here



## Interests Exercise

In groups consider the scenarios and answer the questions.



## **Predisposition and Predetermination**

**Predisposition** – having an opinion on something but you have not yet made up your mind

**Predetermination** – having decided a position on something where no argument will change your mind

If you are involved in a decision you should avoid giving the impression that you have conclusively decided how you will vote at the meeting.

“I have a view on the subject but want to listen to all the arguments before I make up my mind”



## Bias

- Bias – Members need to remember that apparent bias can infect the whole decision and make it vulnerable to challenge as is highlighted by a recent case in the High court:- *Kelton v Wiltshire*
- Planning permission for a residential development was quashed due to the apparent bias of a member of the planning committee

Place white  
box over  
this text &  
Insert Logo  
Here



## How the Code is Policed

- The Monitoring Officer
- The Standards Committee
- The Public Services Ombudsman for Wales
- The Adjudication panel for Wales



## What Happens if you Breach the Code?

- Complaints are made to the Ombudsman
- If he believes them to be justified he refers them to the authority's standard's committee or to a tribunal convened by the Adjudication Panel for Wales
- If they find the complaint proven they can impose a range of sanctions from no action through suspension to disqualification for 5 years
- Even if you are suspended you are still subject to the Code!
- Remember also any local resolution procedures

Place white  
box over  
this text &  
Insert Logo  
Here



## Where to Find Further Information

- If in doubt ask the Monitoring Officer
- Guidance from the Public Service Ombudsman for Wales <http://www.ombudsman-wales.org.uk/>

# Member Induction Wales 2017



# Ethics and Standards

# Briefing Pack for Facilitators



**To be delivered by Monitoring officers with - if possible - a senior experienced member. To be used in conjunction with the video of the Ombudsman's contribution supplied on a memory stick. Members should also be provided with the copies of the Authority's Code of Conduct and Ombudsman's guidance.**

**Duration 2.5 Hours not including break**

### **Workshop Objectives**

The purpose of this session is:-

---

- To provide members with an overview of the ethical framework and Code of Conduct

### **At the end of this session, members should:-**

- Understand the importance of the ethical framework and the requirement upon them to work within it according to the Code of Conduct
- Understand how to act within the code particularly in relation to declaring interests.
- Understand what will happen if the code is breached
- Know where to go for advice and information

### **Programme:-**

---

1. Introductions: Programme description and objectives 10 mins
2. Introduction and questionnaire (questions only) 20 mins
3. Slides 1-11 incorporating questionnaire answers 40mins
4. Break
5. Slides 12-18 Interests and exercise 35 mins
6. Slides 19-22 Predetermination, breaching the code and further information. To include the Ombudsman's video. 45 mins



## Notes to Accompany Power Point Slides

---

### **Slide 1: Title and introduction**

In Local Government there are principles and standards that underpin the way members and officers interact with each other and the public. These ensure that everything that you do will reflect well on you and your authority. This workshop will help you understand those standards and how you should apply them and what can happen to you if you don't.

### **Slide 2: Ethical Governance**

As a member, how your behaviour is perceived by the public and the media impacts upon your ability to represent local government and the communities you serve. The public needs to feel confident that you are living up to the high standards that they have a right to expect from you.

### **Slide 3: Consequences for Councillors**

These are all real quotes from the press and a Council's website over the last 2-3 years. Clearly it's important for your personal reputation and the reputation of the Council that you understand your responsibilities in this area. Facilitators might want to add some press cuttings of their own.

NB:(QUOTE 1 is from BBC Wales website 2013 article re Powys; Quote 2 is 2016 article from England - North Hertfordshire website; and Quote 3 is Newham Recorder 2016 )

### **Slide 4: Exercise (see appendix 1)**

Members undertake the exercise in groups using copies of **appendix 1**. Allow each group to discuss the issue then give their answer. **Do not give out the answers (appendix 2)** they will be provided in the commentary to the PowerPoint. As each answer emerges, flag this up against the original questions. Give out **appendix 2** at the end of the session so that members have something to refer to in the future.

**Slide 5: Your Responsibilities** Are enshrined in this legislation. The Local Government Act of 2000 established a new ethical framework, the Model Code of Conduct (Wales) Order in 2008 said that all authorities would have a mandatory code of conduct based on a national model.

Paragraph 6.1(c) of the Code which previously required a member to report to the PSOW and the Monitoring Officer ("the MO") any conduct by another member which they reasonably believe breaches the code has been removed. Duty is now to report to MO only but a Member is still entitled to report a breach to the PSOW if considers it is serious.

10(2)(b) of the code which previously provided that there is a personal interest if "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" has been removed.

### **Slide 6: The Ethical Framework**

Originated in the Nolan Committee 1997 Report on *Standards in Public Life* which set out the earliest version of these standards. On the slide are the most recent versions as set out in The Conduct of Members (Wales) Order 2001.

Remind members that this is an answer to **Question 1 of the questionnaire**

**Use the answers to question 1 in appendix 2 to expand the definitions**

### **Slide 7: The Code of Conduct**

Is underpinned by the ethical framework.

Remind members of the content of your Code of Conduct – hand out copies if necessary

If you follow the Code of Conduct you should not go wrong, but if you don't understand it - ask the monitoring officer. One common misunderstanding is that the code only applies to you when you are on official business. THIS IS NOT THE CASE.

**Slide 8: The Code applies to you whenever you are ...**

### **Slide 9: And Also...**

When not 'doing your job' as a member

**Remind Members that this is an answer to Question 6 of the questionnaire**

### **Slide 10-12: General rules you need to follow under the code**

Provide Members with a copy of the Ombudsman's guidance to expand the definitions  
Give the **answers to question 2, 4 and 6 of the questionnaire** explaining which elements of the code have been breached.

### **Slide 13: Interests**

#### **Slide 14-16: Personal Interests**

Refer members to the Ombudsman's guidance,

Give the **answers to Question 3, of the questionnaire**

Outline the procedure of registering interests in your authority

#### **Slide 17: Who is a 'close personal associate'**

Refer members to the Ombudsman's guidance

#### **Slide 18: What do you do if you have a Personal Interest?**

#### **Slide 19: Prejudicial Interests**

Ask members of further examples of prejudicial interests

#### **Slide 20: What do you do if you have a Prejudicial interest?**

#### **Slide 21: Interests exercise Appendix 3**

Distribute the scenarios and ask members to work in small groups or pairs to consider if there is an interest, the nature of that interest and the action the member should take. Suggested answers are in **Appendix 4.**

## **Slide 22: Predetermination and Predisposition**

### **Definitions from the Standards Board for England Website**

It is not a problem for councillors to be predisposed to a particular view. That predisposition can be strong and can be publicly voiced. They may even have been elected specifically because of their views on this particular issue. It might be in favour of or against a particular point of view, for example an application for planning permission.

However, the councillor must be open to the possibility that, however unlikely, they will hear arguments during the debate about the issue that will change their mind about how they intend to vote. As long as they are willing to keep an open mind about the issue they are entitled to take part in any vote on it.

### ***What is predetermination or bias?***

Predetermination is where a councillor's mind is closed to the merits of any arguments which differ from their own about a particular issue on which they are making a decision, such as an application for planning permission. The councillor makes a decision on the issue without taking them all into account.

If councillors are involved in making a decision they should avoid giving the appearance that they have conclusively decided how they will vote at the meeting, such that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

Rarely will membership of an organisation on its own, such as a national charity, amount to apparent bias. This is unless the organisation has a particular vested interest in the outcome of a specific decision that a councillor is involved in making, or the decision is quasi-judicial in nature.

Bias:-

Kelton v Wiltshire [2015] EWHC 2853 (Admin);

The developers had identified a local housing association as a prospective partner to provide the affordable housing segment of the proposed development. One of the councillors (M) involved in the subsequent planning committee meeting was a director of the association. He declared that he was a member of its board but, because it was only a prospective partner rather than the applicant for permission, he decided to vote on the planning application, which was passed by one vote. Had he withdrawn from the debate and not voted, the application would have been refused. The association subsequently became the developers' preferred bidder for the affordable housing.

M's participation in the planning meeting gave rise to an appearance of potential bias. It was plainly in the association's interests, and those of M as director, for the planning application to be approved. The association had committed time, resources and expertise in working with the developers on the affordable housing. It was highly unlikely that it would have done so unless it believed that it would be awarded a contract once

permission was granted. Apparent bias could arise even in a case where a councillor had not voted, *Darker Enterprises v Dacorum BC [1992] C.O.D. 465* considered. M's private interests were engaged by the vote and it had been wrong for him to have participated in the meeting. The decision to grant planning permission was, accordingly, quashed.

### ***Making the decision***

There is an important difference between those councillors who are involved in making a decision and those councillors who are seeking to influence it. This is because councillors who are not involved with making a decision are generally free to speak about how they want that decision to go.

When considering whether there is an appearance of predetermination or bias, councillors who are responsible for making the decision should apply the following test: would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the councillor had predetermined the issue or was biased?

However, when applying this test, they should remember that it is legitimate for a councillor to be predisposed towards a particular outcome as long as they are prepared to consider all the arguments and points made about the specific issue under consideration.

Also the importance of appearances is generally more limited when the context of the decision-making is not judicial or similar to judicial. Planning decisions are not similar to judicial decisions, they are administrative. Therefore councillors can appear strongly predisposed for or against a particular planning decision.

Slide 23

Kelton v Wiltshire [2015] EWHC 2853 (Admin);

The developers had identified a local housing association as a prospective partner to provide the affordable housing segment of the proposed development. One of the councillors (M) involved in the subsequent planning committee meeting was a director of the association. He declared that he was a member of its board but, because it was only a prospective partner rather than the applicant for permission, he decided to vote on the planning application, which was passed by one vote. Had he withdrawn from the debate and not voted, the application would have been refused. The association subsequently became the developers' preferred bidder for the affordable housing.

M's participation in the planning meeting gave rise to an appearance of potential bias. It was plainly in the association's interests, and those of M as director, for the planning application to be approved. The association had committed time, resources and expertise in working with the developers on the affordable housing. It was highly unlikely that it would have done so unless it believed that it would be awarded a contract once permission was granted. Apparent bias could arise even in a case where a councillor had not voted, *Darker Enterprises v Dacorum BC [1992] C.O.D. 465* considered. M's private interests were engaged by the vote and it had been wrong for him to have participated in the meeting. The decision to grant planning permission was, accordingly, quashed.

## **Slide 24: How the Code is Policed**

### **This is the answer to question 8**

Use the answer in **Appendix 2** to explain the roles of the different bodies

## **Slide 25: What happens if you breach the Code?**

This is the procedure if there is a breach of the code

## **Video 5 mins**

## **Slide 26: A further exhortation to ask the Monitoring Officer if members are in any doubt about ethical behaviour!**

## **Appendix 1**

### **Questionnaire**

Answers are not provided immediately but through a PowerPoint presentation which also gives greater detail and background and which can be kept by members for reference.

#### Question 1

Can you set out the ten principles of conduct for Members which underpin the Code of Conduct?

#### Question 2

The Council is involved in negotiations with a private contractor to develop a regeneration scheme involving the building of a leisure, residential and retail development in two Council wards. The contractor's Managing Director has invited members of Regeneration Scrutiny Committee (some of whom are also members of the Planning Committee) and officers from the Regeneration Department to a presentation of its company's proposals in a corporate box at a premiership football ground. There will be a champagne reception followed by a premiership football match. Should they accept the offer?

#### Question 3

A Councillor is an active member of Greenpeace and a member of the Council's Planning Committee. The Council is supportive of the local nuclear power plant and is engaged in discussions to develop a site to process nuclear waste from other parts of the Country. What kind of interest, if any, does the Member have in those discussions?

#### Question 4

A man wishes to move his family to a Council house closer to their elderly family members and want to move as soon as possible. He approaches a Councillor, who the man knows through their mutual membership of the local football team, and who is also the chair of

the Housing Scrutiny Committee. The Councillor promises to take the matter forward. Processing particular housing applications are dealt with by housing allocations officers and not by Councillors. The Councillor tells a Housing Officer of the Council to elevate the application to the top of the waiting list. The area that the family wish to move to is based in the Councillor's Ward.

Is the Councillor breaching the Code of Conduct?

#### Question 5

A member of the public has written a letter of complaint about a Member. She said that last Saturday she was working at an evening function at a cricket club and bar when a man swore at her and called her an offensive name. On leaving the function the man kicked the door cracking some glass in the door panel. Another person who witnessed the incident told her the man was a local Councillor.

Do you believe the Code of Conduct has been breached and what might an appropriate response be to the alleged misconduct?

#### Question 6.

A Councillor built dog-kennels to accommodate 20 dogs in the basement of her home without first obtaining planning permission. She placed an advert in the local paper that stated that in March, the Kennels would be ready to open, and that they were fully licenced. She had not obtained a licence when she placed the advert. She then submitted a Planning Application in July. She did not state in her application that she had an interest as a councillor.

In September, before the meeting of the Council's planning committee she emailed a member of that committee about the application, requesting that they should support it. She attended the Planning Committee meeting and spoke before her application was debated but then remained in the meeting throughout the debate on her application.

Has the Councillor breached the Code of Conduct?

#### Question 7

Can you set out the Council's processes for: -

1. Declaring and registering Members' interests.
2. Accepting offers of gifts or hospitality by members

#### Question 8

Can you explain the roles of the following:-

1. The Monitoring Officer

2. The Ethics & Standards Committee
3. The Public Services Ombudsman for Wales
4. The Adjudication Panel for Wales

## Appendix 2

### Questionnaire Answers

#### Question 1

Can you set out the ten principles of conduct for Members which underpin the Code of Conduct?

#### Answer

The starting point for much of the work was the 1997 Committee on Standards in Public Life (known as The Nolan committee). As a result of the Nolan Committee's recommendations, local government adopted a new ethical framework. The latest version of this in Wales is set out in "The Conduct of Members (Principles) (Wales) Order 2001.

The ten general principles of conduct for Members:-

#### 1. Selflessness

Members must act solely in the public interest. They must never use their position as Members to improperly confer advantage on themselves or to improperly confer 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 awards and benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and must 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 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 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.

### Question 2

The Council is involved in negotiations with a private contractor to develop a regeneration scheme involving the building of the leisure, residential and retail development into Council wards. The contractor's Managing Director has invited members of Regeneration Scrutiny Committee (some of whom are also members of the Planning Committee) and officers from the Regeneration Department to a presentation of its company's proposals in

a corporate box at a premier football ground. There will be a champagne reception followed by a premier football match. Should they accept the offer?

Answer

The Members (and indeed the officers) should decline the offer as acceptance could potentially breach paragraph 6 of the Code i.e. you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. The perception of members of the public will be that by providing the hospitality, the contractor is attempting to influence the Council's decision about awarding the regeneration contract. Members of the public may also consider that at a future date, members of the Planning Committee when they consider the development, will not make a decision on the planning issues but instead be influenced by the generous hospitality offered.

In addition, Members should ensure that the fact that the offer had been made and the fact that it had been declined, is notified to the Monitoring Officer in case the issue became contentious at a later date.

If a Member had accepted such hospitality contrary to any advice, then a prejudicial interest would be incurred in respect of that contractor and any potential decisions relating to the contract or the planning development etc.

The hospitality would have a value of over your authority's limit and would have to be notified to the Monitoring Officer for inclusion in the register of gifts and hospitality. The duty is on the member to be aware of this limit

Question 3

A Councillor is an active member of Greenpeace and a member of the Council's Planning Committee. The Council is supportive of the local nuclear power plant and is engaged in discussions to develop a site to process nuclear waste from other parts of the Country. What kind of interest, if any, does the Member have in those discussions?

Answer:

This Member is likely to have a personal interest under paragraph 10 (2)(viii)(cc) by virtue of the membership of Greenpeace (a body whose principal purposes include the influence of public opinion or policy). The Member should refer to that interest in any written or oral representations referring to the matter under paragraph 11 (2)(a) and (b). It is probably unlikely that the interest becomes prejudicial. It would have to be considered when the Planning Committee determined any application on the plant. Greenpeace would not be the applicant; its financial position would not be affected and presumably

neither would the wellbeing of the Member concerned. Greenpeace tends to have views on waste disposal nationally rather than specifically so that the interest declared at the planning meeting is likely to be personal, but not prejudicial. However it needs careful consideration.

In addition, notification of the Councillor's membership of Greenpeace should properly have been sent to the Monitoring Officer for inclusion in the public Register of Members Interests because it is a body whose principal purposes include the influence of public opinion or policy.

#### Question 4

A man wishes to move his family to a Council house closer to their elderly family members and wants to move as soon as possible. He approaches a Councillor, who the man knows through their mutual membership of the local football team, and who is also the chair of the Housing Scrutiny Committee. The Councillor promises to take the matter forward. Processing particular housing applications are dealt with by housing allocations officers and not by Councillors. The Councillor tells a Housing Officer of the Council to elevate the application to the top of the waiting list. The area that the family wish to move to is based in the Councillor's Ward.

Is the Councillor breaching the Code of Conduct?

Answer:

There are three possible breaches of the Code.

1. 4(d) You must not do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of your authority.
2. 6(1)(a) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
3. 7 (a) In your official capacity or otherwise you must not 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.

In addition, the Councillor may have failed to declare a personal interest which is likely to be prejudicial in that he knows the man involved. This may fall into the category of close personal associate and would have to be carefully considered by the councillor.

It is not acceptable for any Member to seek preferential treatment for a constituent by telling the Housing Officer they must prioritise a particular application. Whilst it

is appropriate for Members to pass on constituents' concerns to the relevant officer and to ensure that the relevant processes are being undertaken in a timely fashion etc, it is not acceptable to interfere with that process as this undermines priorities agreed by the Council and established in other Council procedures and puts the Member concerned in breach of the Code of Conduct. A Member needs to also remember that when contacting an officer on a matter they must disclose any personal interest in the matter they are contacting them about.

### Question 5

A member of the public has written a letter of complaint about a Member. She said that last Saturday she was working at an evening function at cricket club and bar, when a man swore at her and called her a rude name. On leaving the function the man kicked the door cracking some glass in the door panel. Another person who witnessed the incident told her the man was a local Councillor.

Do you believe the Code of Conduct has been breached and what might an appropriate response be to the alleged misconduct?

### Answer

Mostly, the Code of Conduct applies to a Councillor whenever he or she is conducting the business or is present at a meeting of the authority or acting or claim to act or give the impression he or she is acting in the role of an elected Member or representative of the authority.

However, the Code of Conduct affects Members at all times and in any capacity in respect of paragraph 6 (1)(a) not conducting yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute and 7 (a) or (b) relating to using your position improperly to confer an advantage on yourself or another person or create a disadvantage to another person or using the resources of your authority improperly etc.

Here, the behaviour is clearly bringing the office and authority into disrepute and is a breach of paragraph 6.

It might be that the complainant would wish for an informal resolution by the Monitoring Officer. However, both parties would have to agree to the same and would not result in the sanction of the Member concerned. It is usually only suitable where an apology would be an acceptable solution or perhaps an agreement by the Member concerned to undergo further training regarding suitable behaviour under the Code.

However, there has been criminal damage in that the glass in the cricket club door was broken. It may be that there would be criminal proceedings in that regard and the complainant would not wish for an informal resolution and would wish to make a complaint directly to the Ombudsman.

## Question 6

A Councillor built dog-kennels to accommodate 20 dogs in the basement of her home without first obtaining planning permission. She placed an advert in the local paper that stated that in March, the Kennels would be ready to open, and that they were fully licenced. She had not obtained a licence when she placed the advert. She then submitted a Planning Application in July.

In September, before the meeting of the Council's planning committee, where the Councillor's application was to be considered she emailed a member of that committee about the application, requesting that they should support it. She attended the Planning Committee meeting and spoke for 3 minutes before the application was debated and remained in the meeting throughout the debate on her application.

Has the Councillor breached the Code of Conduct?

(1) Contrary to Paragraph 6(1)(a) of the code (You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute) the Councillor carried out building works at her home without first applying for planning permission.

(2) Contrary to Paragraphs 10(1) of the code the Councillor (you must in all matters consider if you have a personal interest) failed to consider whether she had a personal interest in the Planning Application and whether she was required to disclose that interest when she e-mailed a member of the planning committee concerning the said Planning Application

(3) Contrary to Paragraphs 11(2)(a) (Where you have a personal interest in any business of your authority and you make 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) of the Code of Conduct, the Councillor failed to include details of her personal interest in the planning application or in her written representations contained in her e-mail

(4) Contrary to Paragraph 14(1)(c) (not to influence that business) and / or Paragraph 14(1)(d) of the Code of Conduct (not to make written representations about that business), the Councillor sought to influence a decision about her Planning Application by her e-mail to the Councillor who considered the Councillor's Planning Application as a Member of the Planning Committee (despite having a personal interest in the said Planning Application and a prejudicial interest by virtue of Paragraph 12(1) of the Code of Conduct

(5) Contrary to Paragraph 6(1)(a) of the Code of Conduct, the Councillor advertised the Kennels at as licensed albeit they were not licensed and therefore misrepresented the position.

(6) The councillor may have had the right to speak at the planning committee meeting and to make written representations to that meeting if a member of the public had a right to make representations, but not to write to members of the committee without declaring that interest. She should also have declared her interest to the meeting before she spoke and then left the meeting after she had spoken.

### Question 7

Can you set out the Council's processes for:

3. Declaring and registering Member's interests.
4. Accepting offers of gifts or hospitality.

### Answer

The law and the Council's Code of Conduct require Members to declare personal interests. Some personal interests have to be recorded in the statutory public register within 28 days of a Member's election or appointment to office. They must be updated by the Member within 28 days of any change.

There is an exemption from having to declare "sensitive information" upon which you can seek advice of the Monitoring Officer. The Monitoring Officer sends the Members information about the relevant form and reminds them to make updates regularly.

Members of the public are allowed to inspect the entries in the public register.

Separately, in oral and written communications as well as at meetings of the Council, Members are obliged to declare personal and prejudicial interests that are relevant to the matter being discussed in written or oral communications or as part of decisions made at committee and other meetings. Those interests are either noted by the officers or Members concerned and in relation to meetings are contained within the minutes.

The Monitoring Officer also maintains a public register of gifts and hospitality accepted by Members. Currently, the level at which any gifts and hospitality accepted must be registered is [the level is set by each individual authority]. [In certain authorities it may be that the Ethics and Standards Committee has also indicated it would be good practice for Members to notify the Monitoring Officer of offers of gifts or hospitality that have been declined in case there may be contentious at a future date].

### Question 7

Can you explain the roles of the following:-

1. The Monitoring Officer
2. The Ethics & Standards Committee
3. The Public Services Ombudsman for Wales
4. The Adjudication Panel for Wales

Answer

1. Every principal authority in Wales (County Councils and County Borough Councils) must appoint a Monitoring Officer. The Monitoring Officer is responsible for maintaining ethical standards and advising and training Members on the Code of Conduct. The Monitoring Officer supports the work of the Council's Standards Committee. The Monitoring Officer is also responsible for advising and training Community Council Members on the Code of Conduct. In effect, the Monitoring Officer, in partnership with the Ethics and Standards Committee is the primary source of advice and guidance for both Members and Officers on ethical and standards issues and the operation of the Code of Conduct.
2. The Ethics & Standards Committee. Legislation sets out the requirements that every local authority must have an Ethics & Standards Committee. Regulations govern their composition, their powers and procedures. There are [again each committee will vary in size in each authority] members on the Committee which must be chaired by an independent Member and there must be a majority of independent members to establish a quorum. In this authority there are [ ] independent members, [ ] elected members and [ ] Community Council representatives. Tell members how often your committee meets and what its remit is as set out in the constitution. The committee has powers to determine matters relating to alleged breaches of the Code of Conduct reported to them by the Public Services Ombudsman for Wales. They also grant dispensations by enabling participation in business for Members which would otherwise be prohibited by the Code. Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 – provides for the Monitoring Officer to refer a matter to another authority's Standards Committee with the written consent of the Chair. Provides for joint standards committees to be established.
3. The Public Services Ombudsman for Wales investigates complaints made by members of the public about the way they have been treated by a public body and promotes good administration and high standards of conduct. He also investigates complaints alleging a Councillor has breached the Code of Conduct. Legislation sets out how he is able to decide whether to investigate complaints and how his report is then presented either to a Council's Ethics & Standards Committee or the Adjudication Panel for Wales.

4. The Adjudication Panel for Wales is an independent body established under Part 3 of the Local Government Act 2000. Its role is to form tribunals to consider whether elected Members or co-opted Members of County Borough Councils, Police, Fire and Rescue and National Park Authorities in Wales have breached their authority's statutory Code of Conduct. The Panel will also hear appeals by Members against decisions of their authority's Standards Committee. A Member wishing to appeal against the decision of a Standards Committee will have to first request permission to appeal from the Adjudication Panel for Wales. Usually three Members sit on a Tribunal, Chaired by one of the Legal members of the Panel. In cases referred direct by the Ombudsman, there is a range of sanctions available to the Tribunal including suspension or partial suspension of a Member from office for up to one year or disqualification for up to five years.



## **Appendix 3**

### **Interests exercise**

#### **1. Councillor Arkwright**

Councillor Arkwright is the owner of the one of the largest convenience stores in a seaside town. He is a member of the Planning Committee and Licensing Committee. The following applications are on the agenda for the next meeting:

- (a) an application by a local petrol station to build an extension to include a larger shop with a better selection of convenience goods for their customers in the same town;
- (b) an application by the owner of a convenience store in another seaside town, 10 miles away, to build a car park on a piece of land behind the convenience store;
- (c) an application by the owner of a news agents on the outskirts of the town for a licence to sell alcohol. Councillors Arkwright is also involved in a legal dispute with the same person over the ownership of a piece of land.

## **2. Councillor Speed**

- Councillor Stokes works voluntarily with a local youth cricket team. The team hold their training sessions on a field owned by the Council.
- The Council is considering selling the field to a local developer who wishes to build a block of flats. The final decision will be made by the Area Committee on the basis of a report by the Head of the Property Service. Councillor Stokes is the local member.
- Councillor Stokes will not be attending the meeting as he will be on holiday. However, he intends sending an e-mail to the Head of Property before going away, emphasising the importance of the cricket team to the local youth. He has also asked for a meeting with the estates officer dealing with the matter.

### **3. Councillor Jones.**

Councillor Jones is a member of the Planning Committee. At its next meeting, the Committee will be considering the two following applications:

(a) An application by a company to build a small office block in a conservation area. One of the senior managers of the company is married to Councillor Jones' cousin.

(b) An application to build a new classroom for a local primary school. The Councillor is one of the school's governors.

## Appendix 4 Interests exercise suggested answers

### 1. Councillor Arkwright

#### Does he have a personal interest?

- ⤴ In all matters, a member must consider whether or not he/she has a personal interest whether that interest must be disclosed. [10. (1)]
- ⤴ He would have a personal interest if it relates to, or is likely to affect any employment or business carried out by him. [10 (2)(a) (i)]
- ⤴ Would a decision on the application affect Cllr. Arkwright's business?
- ⤴ He will have an interest if it is reasonable to consider that a decision on that matter would affect the wellbeing or financial position of the member or anyone with whom he has a close personal association, to a greater extent than the majority of other inhabitants in the electoral division or ward. [10 (2) (c) (i)]
- ⤴ *"Close personal associates can include someone with whom you have been in dispute, and where you may be regarded as having an interest in disadvantaging."* (Ombudsman's guidelines).

#### Is it a prejudicial interest?

- ⤴ Is there an exemption under the code? [paragraph 12(2) & (3)]
- ⤴ Would it be reasonable for a member of the public with knowledge of the relevant facts to regard the interest as being so significant that it is likely to prejudice the member's judgement of the public interest? [12(1)]
- ⤴ *"Where there has been a dispute between you and an individual where that individual 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."* The Code of Conduct for members of local authorities in Wales, Guidance from the Public Services Ombudsman for Wales.

#### What should he do?

- ⤴ If it is a prejudicial interest then a member must (unless he/she has obtained a dispensation from the Standards Committee) :
  - withdraw from the room or place where a meeting considering the business is being held. [14(1)] unless a member of the public has a right to make representations to the meeting and he can then exercise the same right to speak as long as he withdraws from the room before the matter is debated,

or he can make written representations to the meeting. He should still declare his interest and the nature of that interest.

## 2. Councillor Stokes

- ⤴ In all matters, a member must consider whether or not he/she has a personal interest whether that interest must be disclosed. [10. (1)]
- ⤴ He will have an interest if it relates to, or is likely to affect a private club, society or association operating within the authority's area in which he has membership or holds a position of general control or management [10 (2) (a) (ix)]
- ⤴ Further information is required as to the exact nature of the councillor's relationship with the Club. What if he were a member of the managing committee of the Club?

### Is it a prejudicial interest?

- ⤴ Is there an exemption under the Code? [paragraph 12(2) & (3)]
- ⤴ Would it be reasonable for a member of the public with knowledge of the relevant facts to regard the interest as being so significant that it is likely to prejudice the member's judgement of the public interest? [12(1)]

### What should he do?

- ⤴ If it is a personal interest only, that interest must be disclosed at any meeting where the matter is discussed, and in any letter, e-mail, etc. to a member or an officer of the authority. [para 11]
- ⤴ If it is a prejudicial interest, then the member must (unless he has obtained a dispensation from the Standards Committee):
  - not to seek to influence decision about that business;
  - not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business. [14(1) (c) & (d)]

*"...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."*

- Is there anybody else who can discuss the matter with the Council on behalf of the club?
- The interest (i.e. the involvement with the youth club) should be registered on the Council's Register of Interests.

### 3. Councillor Jones.

(a) The Member should consider whether he/she has a personal and prejudicial interest in the Planning Application. The Member will have a personal interest under 10 (2) (c) (i) if her wellbeing or financial position, or that of a person with whom she lives, or any person with whom she has a close personal association is affected by the decision.

It is not clear on the facts given of the nature of the relationship between the Member and the senior manager. The Public Services Ombudsman for Wales has issued guidance to help clarify this definition:

*"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 you work in a local community."*

(b) She has a personal interest by virtue of a fact that the governing body of the school is a body to which she has been elected, appointed or nominated by her authority[10(2)(a)(viii)]

Such a body is also one of the exemptions under the Code which will usually means that it is not a prejudicial interest. [12(2) (a) (iii)]

However, because the matter under consideration relates to the determination of an approval, consent, licence, permission or registration, this exemption does not apply. The usual test must therefore be considered to decide whether or not the interest is a prejudicial one. [10(3)]

STANDARDS COMMITTEE FORWARD WORK PROGRAMME

**PLEASE NOTE AGENDA TO BE CIRCULATED 1 WEEK IN ADVANCE OF MEETING**

DATE OF MEETING	REPORT ITEMS / AREAS	REPORT AUTHOR
<b>30 June 2017</b>	Standing Item: Attendance at Meetings	N/A
	Standing Item: PSOW Code of Conduct Casebook	Gary Williams (Monitoring Officer)
	Standing Item: Standards Committee Forward Work Programme	Gary Williams (Monitoring Officer)
	Standing Part 2 Item: Overview of Complaints in Denbighshire	Gary Williams (Monitoring Officer)
<b>22 September 2017</b>	Standing Item: Attendance at Meetings	N/A
	Standing Item: PSOW Code of Conduct Casebook	Gary Williams (Monitoring Officer)
	Standing Item: Standards Committee Forward Work Programme	Gary Williams (Monitoring Officer)
	Standing Part 2 Item: Overview of Complaints in Denbighshire	Gary Williams (Monitoring Officer)
<b>24 November 2017</b>	Standing Item: Attendance at Meetings	N/A
	Standing Item: PSOW Code of Conduct Casebook	Gary Williams (Monitoring Officer)
	Standing Item: Standards Committee Forward Work Programme	Gary Williams (Monitoring Officer)
	Standing Part 2 Item: Overview of Complaints in Denbighshire	Gary Williams (Monitoring Officer)

This page is intentionally left blank



By virtue of paragraph(s) 12, 13 of Part 4 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank