

## CJC - Standards Sub-Committee

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Meeting Venue  
**By Zoom Event**

Meeting Date  
**Thursday, 25 April 2024**

Meeting Time  
**2.30 pm**

For further information please contact



**nicola.williams@powys.gov.uk,**  
**julie.williams2@powys.gov.uk**

Issue Date  
18<sup>th</sup> April 2024

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Mae croeso i chi siarad yn Gymraeg neu yn Saesneg yn y cyfarfod. Rhowch wybod pa iaith rydych am ei defnyddio erbyn hanner dydd, ddau ddiwrnod gwaith cyn y cyfarfod.

You are welcome to speak Welsh or English in the meeting. Please inform us of which language you wish to use by noon, two working days before the meeting.

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### AGENDA

<b>1.</b>	<b>WELCOME AND INTRODUCTIONS</b>
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<b>2.</b>	<b>APOLOGIES</b>
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To receive apologies of absence –

Emma Palmer, Chief Executive PCC

<b>3.</b>	<b>DECLARATIONS OF INTEREST</b>
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To receive any disclosures of personal interest relating to matters to be considered on the agenda.

<b>4.</b>	<b>APPOINT (LAY) CHAIR &amp; VICE-CHAIR</b>
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To appoint a Chair and Vice-Chair

<b>5.</b>	<b>CONFIRMATION THAT MEMBERS HAVE UNDERTAKEN CODE OF CONDUCT TRAINING WITH CEREDIGION AND POWYS COUNTY COUNCILS</b>
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The Monitoring Officer to confirm that Members of Ceredigion and Powys County Councils have undertaken the Code of Conduct Training

<b>6.</b>	<b>WG STATUTORY GUIDANCE ON ROLE OF SUB COMMITTEES</b>
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[Statutory and non-statutory guidance on democracy within principal councils | GOV.WALES](#) (see pages 28-29)

<b>7.</b>	<b>REPORT OF MONITORING OFFICER</b>
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To receive a report from the Monitoring Officer.  
(Pages 3 - 4)

<b>8.</b>	<b>ANY OTHER BUSINESS</b>
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<b>9.</b>	<b>DATE OF NEXT MEETING</b>
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**Cyd-Bwyllgor Corfforedig y Canolbarth**

**Mid Wales Corporate Joint Committee**

**Standards Sub -Committee**

**25<sup>th</sup> April 2024**

**REPORT BY: Monitoring Officer**

**SUBJECT: Standards Issues**

**REPORT FOR: Decision, Information and Discussion**

**A. Terms of Reference for the Standards**

Appendix 6 of Section of the CJC Constitution sets out the terms of reference for the Standards Sub-Committee as follows:

**Composition**

**Membership of the Standards Committee.**

- 1.1 The Standards Committee is composed of 9 Members. Its Membership includes:
- 1.2 3 'Independent' (Lay) Members from the Standards Committee of each Constituent Council.

The following persons are not eligible to serve as Independent (Lay) Members of the Standards Committee:

- (a) A person who is a Councillor or Officer of the Constituent Councils or the spouse or civil partner of a Councillor or an Officer;
- (b) A person who has been, but is no longer a Councillor or Officer of the Constituent Councils;
- (c) A person who is a member or an officer, or the spouse or civil partner of a member or an officer of:

Any other County Council;  
 Any County Borough Council;  
 Any National Park Authority;  
 Any Fire Authority;

Any Community Council.

- (d) For the period of 12 months commencing with the date on which that person ceased to be a member or officer of any of the bodies listed below, a person who has been, but is no longer a member or officer of;

Any other County Council;  
Any other County Borough Council;  
A National Park Authority;  
A Fire Authority.

- 1.3 1 Councillor from each Constituent Council (not a Member of the Cabinets of either Constituent Council) appointed by the Constituent Council at their Annual Meetings following the ordinary local government elections for the County Council, or at an ordinary meeting in the event of a vacancy occurring.

#### **Term of Office**

- 1.4 Independent (Lay) Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.
- 1.5 Councillors of Constituent Councils who are Members of the Standards Committee will have a term of office of no more than five years or until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further consecutive term. A Councillor ceases to be a Member of the Standards Committee upon ceasing to be a Councillor of a Constituent Council.

#### **Quorum of Standards Committee**

- 1.6 A meeting of the Standards Committee shall only be quorate when:
- 1.7 at least 3 Members, including the Chair, are present; and
- 1.8 at least half the Members present (including the Chair) are Independent (Lay) Members.

#### **Voting**

- 1.9.1 All Members including Independent (Lay) Members will be entitled to vote at meetings.
- 1.9.2 A question to be decided by the Standards Committee shall be decided by a majority of the votes cast by those members present at the meeting and eligible to vote.
- 1.9.3 In the case of an equality of votes, the person presiding at a meeting of the Standards Committee shall have a second, casting vote.

### **Chairing the Committee.**

- 1.10.1 Only an Independent (Lay) Member of the Standards Committee may be the Chair or Vice-Chair.
- 1.10.2 If the Chair is absent from a meeting of the Standards Committee, then the Vice-Chair of the Committee, if present, shall preside.
- 1.10.3 If both the Chair and the Vice-Chair of the Standards Committee are absent from a meeting, an independent member as chosen by the Standards Committee shall preside.
- 1.10.4 Subject to Paragraphs 1.10.1 and 1.11 the Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:
  - (i) not less than four years or no more than six years; or
  - (ii) until the term of office of the Independent Member comes to an end.
- 1.11 A Chair or Vice-Chair can be re-elected following their re-appointment as a Member of the Committee as the case may be.

### **Role and Function**

- 1.12 The Standards Committee will have the following roles and functions:
  - 1.12.1 promoting and maintaining high standards of conduct by Members;
  - 1.12.2 assisting Members to observe the Members' Code of Conduct;
  - 1.12.3 advising the CJC on the adoption or revision of the Members' Code of Conduct;
  - 1.12.4 monitoring the operation of the Members' Code of Conduct;
  - 1.12.5 advising on training or arranging to train Members on matters relating to the Members' Code of Conduct;
  - 1.12.6 granting dispensations to Members from requirements relating to interests set out in the Members' Code of Conduct;
  - 1.12.7 dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales.
  - 1.12.8 overseeing the CJC's whistle-blowing regime;
  - 1.12.9 providing advice to individual Members on such issues as the treatment of personal interest and on conduct matters generally;
  - 1.12.10 determining appropriate action on matters referred to it by the Public Services Ombudsman for Wales.
  - 1.12.11 overseeing the Register of Interest of Members and Officers.
  - 1.12.12 overseeing the CJC's rules and protocols on accountability of members.
  - 1.12.13 overseeing the attendance of Members at relevant meetings;

- 1.12.14 As soon as reasonably practicable after the end of each financial year, the Standards Committee will make an annual report to the CJC setting out the following:
- (a) how the Committee's functions have been discharged
  - (b) what has been done to discharge the general and specific functions set out in Paragraphs 1.12.1 to 1.12.5 above;
  - (c) reports and recommendations made or referred to the Committee by the Ombudsman;
  - (d) action taken by the Committee following its consideration of such reports and recommendations;
  - (e) notices given to the Committee by the Adjudication Panel for Wales.
  - (f) such other matters as the Committee may wish to draw to the attention of CJC in relation to the Standards Committee's functions.

#### **Rules of Procedure and Debate**

- 8.10.1 Rule 5.6 above will apply to the meetings of the Standards Committee Members.
- 8.10.2 When considering the conduct of individual Members, the procedures outlined in Section 9 will apply.

### **B. Code of Conduct**

The Code of Conduct for members of the CJC is set out in Section 9 of the CJC Constitution and is based upon the Model Code of Conduct prescribed by the Local Authorities (Model Code of Conduct) ( Wales ) Order 2008 ( as amended from time to time

A Copy of the Code of Conduct is found at Appendix 1

### **C. General Standards Issues**

No update required.

### **D. Referral to the Ombudsman Wales**

None

### **E. Dispensations Applications - County Councillors**

No applications for dispensation have been received.

### **F. Ombudsman Wales – Our Findings**

Details of cases are available in [Ombudsman Wales - Our Findings](#)

It should be noted that “Our Findings” covers all matters investigated by the Ombudsman and not just Code of Conduct matters. “Our Findings” is updated on a monthly basis.

‘Our Findings’ contains a search facility, which includes “Subject”. Under the “Subject” heading the following categories of the Code are listed:

- Integrity
- Promotion of equality and respect
- Disclosure and registration of interest
- Duty to uphold the law
- Selflessness and Stewardship

At a recent meeting of all Welsh Monitoring Officers, the Ombudsman’s office was asked to consider re-instating the “ Casebook”, which was considered to be more helpful. The Ombudsman has declined to reinstate the casebook but is committed to improve the searchability of its website.

### **G. Adjudication Panel for Wales**

Details of cases considered by the APW are available via the following link:

[Decisions | The Adjudication Panel for Wales \(gov.wales\)](#)

### **H. National Forum for Standards Committees**

The Forum met on 29 January 2024. The Minutes of the meeting are found at Appendix 2..

### **I. Meeting Dates**

TBA

Contact Officer Name:	Tel:	Email:
Clive Pinney –Monitoring Officer	01597 826746	<a href="mailto:clive.pinney@powys.gov.uk">clive.pinney@powys.gov.uk</a>

## Appendix 1.

### **CODE OF CONDUCT**

- 9.1 The Conduct of Members (Principles)(Wales) Order 2001 which sets out the principles which are to govern the conduct of members of a Constituent Authorities in Wales apply to Members and Co-Opted Members of the CJC.
- 9.2 The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001 applies to an officer of a corporate joint committee as it applies to an employee of a Constituent Authorities.
- 9.3 Appendix A (below) sets out the text of the Model Code of Conduct prescribed by the Local Authorities (Model Code of Conduct) (Wales) Order 2008, as amended.

### **Conduct of Members – The Principles<sup>1</sup>**

#### **SELFLESSNESS**

- 9.4 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.

#### **HONESTY**

- 9.5 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.

#### **INTEGRITY AND PROPRIETY**

- 9.6 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.

#### **DUTY TO UPHOLD THE LAW**

- 9.7 Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

#### **STEWARDSHIP**

- 9.8 In discharging their duties and responsibilities Members must ensure that their authority's resources are used both lawfully and prudently.

#### **OBJECTIVITY IN DECISION-MAKING**

- 9.9 In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

#### **EQUALITY AND RESPECT**

- 9.10 Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

#### **OPENNESS**

- 9.11 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.

#### **ACCOUNTABILITY**

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<sup>1</sup> The Conduct of Members (Principles) (Wales) Order 2001 – S.I. 2276



- 9.12 Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a Member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

### **LEADERSHIP**

- 9.13 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.

### **Protocol - Standard of Conduct Expected by Members**

- 9.14 This protocol sets out the standards of conduct expected from Members within the CJC in dealing with each other. It should be read in conjunction with the Members Code of Conduct. It adds to these documents and does not detract from them.

Members are expected:

### **PUBLIC BEHAVIOUR**

- 9.15.1 to show respect to each other;
- 9.15.2 not to make personal abusive comments about each other;
- 9.15.3 not to publish anything insulting about each other;
- 9.15.4 not to make malicious allegations against each other;
- 9.15.5 not to publish or spread any false information about each other;
- 9.15.6 to show respect to diversity and equality;

### **BEHAVIOUR IN MEETINGS**

- 9.16.1 to behave with dignity;
- 9.16.2 to show respect to the Chair and obey his/her decisions;
- 9.16.3 not to use indecent language nor make racial remarks or remarks which prejudice any section of society;

### **CONFIDENTIALITY**

- 9.173.1 to keep the confidentiality of exempt papers and any other documents 9.17.2 not to release confidential information to the press or the public;
- 9.17.3 not to use confidential information for purposes other than intended;

**Procedure for Dealing with Allegations made against Members and referred to the Standards Sub-Committee**

9.18 The procedure for dealing with allegations against members is set out at Appendix B.

**Gifts and Hospitality to Members**

9.19 The Protocol Concerning Gifts and Hospitality is set out at Appendix C below.

**Section 9  
Local Government Act 2000  
Model Code of Conduct for Members and Co-opted Members with voting rights**

Adopted by the CJC at a meeting held on 4<sup>th</sup> July 2022.

**THE MODEL CODE OF CONDUCT**

**PART 1  
INTERPRETATION**

**A1.**

(1) In this code

"co-opted member" ("*aelod cyfetholedig*"), means a person who is appointed as a Co-Opted Member by the CJC

"meeting" ("*cyfarfod*") means any meeting —

- (a) of the CJC,
- (b) of any sub-committee, of the CJC, or
- (c) where members or officers of the CJC are present ,

and includes circumstances in which a Member or an officer acting alone exercises a function of the CJC;

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

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

- (a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or
- (b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

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

"relevant authority" ("*awdurdod perthnasol*") means—

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

- (e) a National Park authority established under section 63 of the Environment Act 1995;
- (f) Another Corporate Joint Committee

"you" ("*chi*") means you as a member or co-opted member of the CJC; and

The Mid Wales Corporate Joint Committee ("the CJC") ("*eich awdurdod*") means the Corporate Joint Committee of which you are a member or co-opted member.

## PART 2 GENERAL PROVISIONS

- A2.** (1) Save where paragraph 3(a) applies, you must observe this code of conduct
- (a) whenever you conduct the business, or are present at a meeting, of the CJC ;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of the CJC ; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.
- (2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.
- A3.** Where you are elected, appointed or nominated by the CJC to serve —
- (a) on another body, you must, when acting for that other authority or body, comply with the code of conduct of that other body; or
  - (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- A4.** You must
- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
  - (b) show respect and consideration for others;
  - (c) not use bullying behaviour or harass any person; and
  - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the CJC .
- A5.** You must not
- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express

consent of a person authorised to give such consent, or unless required by law to do so;

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

**A6.** (1) You must

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the CJC into disrepute;
  - (b) report, whether through the CJC 's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, the CJC which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
  - (c) report to the CJC 's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
  - (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the CJC .
- (2) You must comply with any request of the CJC 's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

**A7.** You must not

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the CJC —
  - (i) imprudently;
  - (ii) in breach of the CJC 's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the CJC or of the office to which you have been elected or appointed;
  - (v) improperly for political purposes; or
  - (vi) improperly for private purposes.

**A8.** You must

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

- (ii) the CJC's Section 151 officer;
  - (iii) the CJC's Monitoring Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the CJC .

**A9.** You must

- (a) observe the law and the CJC 's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by the CJC), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

### **PART 3 INTERESTS**

#### **Personal Interests**

**A10.**

- (1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- (2) You must regard yourself as having a personal interest in any business of the CJC if
  - (a) it relates to, or is likely to affect
    - (i) any employment or business carried on by you;
    - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
    - (iii) any person, other than the CJC , who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
    - (iv) any corporate body which has a place of business or land in the CJC's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
    - (v) any contract for goods, services or works made between the CJC and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;
    - (vi) any land in which you have a beneficial interest and which is in the area of the CJC;
    - (vii) any land where the landlord is the CJC and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;
    - (viii) any body to which you have been elected, appointed or nominated by the CJC;

- (ix) any
  - (aa) public authority or body exercising functions of a public nature;
  - (bb) company, registered society, charity, or body directed to charitable purposes;
  - (cc) body whose principal purposes include the influence of public opinion or policy;
  - (dd) trade union or professional association; or
  - (ee) private club, society or association operating within the CJC 's area,

in which you have membership or hold a position of general control or management;

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

- (b) a decision upon it might reasonably be regarded as affecting
  - (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
  - (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
  - (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
  - (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of other tax payers, ratepayers or inhabitants of the CJC's area.

## **Disclosure of Personal Interests**

### **A11.**

- (1) Where you have a personal interest in any business of the CJC and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of the CJC and you make
  - (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of the CJC regarding that business, you should include details of that interest in the written communication; or

- (b) oral representations (whether in person or some form of electronic communication) to a member or officer of the CJC you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.
- (3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of the CJC and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
  - (4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to the CJC in accordance with any requirements identified by the CJC's monitoring officer, but, as a minimum containing
    - (a) details of the personal interest;
    - (b) details of the business to which the personal interest relates; and
    - (c) your signature.
  - (5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.
  - (6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of the CJC .
  - (7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

## **Prejudicial Interests**

### **A12.**

- (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of the CJC you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—
  - (a) relates to
    - (i) another relevant authority of which you are also a member;



- (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
  - (iii) a body to which you have been elected, appointed or nominated by the CJC ;
  - iv) your role as a school governor (where not appointed or nominated by the CJC ) unless it relates particularly to the school of which you are a governor;
- (b) relates to
- (i) the functions of the CJC in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from the CJC ;
  - (ii) the functions of the CJC in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;
- (3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

### **Scrutiny Sub-Committee**

- A13.** You also have a prejudicial interest in any business before the scrutiny Sub-committee of the CJC where
- (a) that business relates to a decision made (whether implemented or not) or action taken by the CJC, or sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the CJC, sub-committee, mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

### **Participation in Relation to Disclosed Interests**

**A14.**

- (1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of the CJC you must, unless you have obtained a dispensation from the CJC 's Standards Sub-Committee
- (a) withdraw from the meeting where the business is being held
    - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
    - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

- (b) not exercise CJC functions in relation to that business;
  - (c) not seek to influence a decision about that business;
  - (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
  - (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.
- (2) Where you have a prejudicial interest in any business of the CJC you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- (2A) Where you have a prejudicial interest in any business of the CJC you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.
- (2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that the CJC may adopt for the submission of such representations.
- (3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if
- (a) you are required to attend a meeting of the scrutiny sub-committee, by such committee exercising its statutory powers; or
  - (b) you have the benefit of a dispensation provided that you
    - (i) state at the meeting that you are relying on the dispensation; and
    - (ii) before or immediately after the close of the meeting give written notification to the CJC containing
      - (aa) details of the prejudicial interest;
      - (bb) details of the business to which the prejudicial interest relates;
      - (cc) details of, and the date on which, the dispensation was granted; and
      - (dd) your signature.
- (4) Where you have a prejudicial interest and are making written or oral representations to the CJC in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to the CJC within 14 days of making the representation.

**PART 4**  
**THE REGISTER OF MEMBERS' INTERESTS**

**Registration of Personal Interests**

**A15.**

- (1) Subject to sub-paragraph (4), you must, within 28 days of
  - (a) the CJC 's code of conduct being adopted or the mandatory provisions of this model code being applied to the CJC ; or
  - (b) your election or appointment to office (if that is later),register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.
- (2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.
- (3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.
- (4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).
- (5) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.

**Sensitive information**

**A16.**

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and the CJC 's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify the CJC 's monitoring officer, asking that the information be included in the CJC 's register of members' interests.
- (3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **Registration of Gifts and Hospitality**

- A17.** You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of the CJC , provide written notification to the CJC 's monitoring officer, of the existence and nature of that gift, hospitality, material benefit or advantage.

### INTRODUCTION

B1 This document sets out the procedure that the CJC's Standards Sub-Committee will follow where it is required to make decisions about the conduct of Members following investigations by the Public Services Ombudsman for Wales or the CJC's Monitoring Officer under Part III of the Local Government Act 2000 and related regulations. If there is any conflict between this document and any statutory requirements then those statutory requirements will prevail.

### INTERPRETATION

B2 In this procedure:

- B2.1 the "Act" means the Local Government Act 2000;
- B2.2 the "Authority" means the CJC;
- B2.3 the "Code of Conduct" means the code of conduct for members <sup>2</sup>adopted by the CJC in accordance with section 51 of the Act, including any revisions;
- B2.4 the "Complainant" means any person who made any allegation which gave rise to the investigation;
- B2.5 the "Investigating Officer" means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer;
- B2.6 an "investigation report" means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under s71(2) of the Act or by the Monitoring Officer under the Regulations;
- B2.7 the "Member" means any person who is the subject of an investigation into any alleged breach of the Code of Conduct;
- B2.8 the "Monitoring Officer" means the officer for the time being appointed by the CJC under section 5 of the Local Government and Housing Act 1989;
- B2.9 the "Ombudsman" means the Public Services Ombudsman for Wales;
- B2.10 the "Regulations" means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended;
- B2.11 the "Standards Officer" means the officer for the time being appointed by the CJC to support the work of the Standards Sub-Committee.

### SUMMARY OF THE PROCEDURE

- B3 Under section 69 of the Act, the Ombudsman may investigate any alleged breach of the Code of Conduct by Members or Co-Opted Members (or former Members or co-opted Members) of the CJC in the CJC's area.
- B4 Under section 70(4) of the Act, where the Ombudsman ceases such an investigation before it is completed, he/she may refer the matters which are the subject of the investigation to the Monitoring Officer. The Monitoring Officer will then investigate matters in accordance with the Regulations before reporting and, if appropriate, making recommendations to the Standards Sub-Committee.
- B5 Alternatively, under section 71(2) of the Act, where the Ombudsman decides after investigating that it is appropriate, he/she will produce a report on the outcome of the investigation and send it to the Monitoring Officer. The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, present the report and make recommendations to the Standards Sub-Committee.
- B6 The Standards Sub-Committee will then make an initial determination either:
- (a) that there is no evidence of any failure to comply with the Code of Conduct; or
  - (b) that the Member should be given the opportunity to make representations, either orally or in writing.

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<sup>2</sup> See Section 18.1

- B7 Where the Member is given an opportunity to make representations, the Standards Sub-Committee will convene a hearing to consider any response made by the Member and it must determine under regulation 9(1) of the Regulations either that:
- (a) there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken;
  - (b) the Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
  - (c) the Member has failed to comply with the Code of Conduct and should be censured; or
  - (d) the Member has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted Member of the CJC for a period not exceeding six months

and take any such action accordingly.

#### **INVESTIGATIONS BY THE MONITORING OFFICER (REFERRALS UNDER SECTION 70(4) OF THE ACT)**

- B8 Where the Ombudsman ceases his/her investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:
- (a) conduct an investigation; and
  - (b) report, and if appropriate, make recommendations to the CJC's Standards Sub-Committee.

B9 The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as he or she considers appropriate in the circumstances of the case.

B10 After concluding an investigation, the Monitoring Officer must:

- (a) produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards Sub-Committee;
- (b) send a copy of the report to the Member; and
- (c) take reasonable steps to send a copy of the report to the Complainant.

B11 The Standards Sub-Committee will consider the Monitoring Officer's report and any recommendations in accordance with the procedure set out below.

#### **INVESTIGATIONS BY THE OMBUDSMAN (REFERRALS UNDER SECTION 71(2) OF THE ACT)**

B12 Where the Ombudsman completes his or her investigation and sends a report to the Monitoring Officer and the CJC's Standards Sub-Committee under section 71(2) of the Act, the Monitoring Officer must consider the Ombudsman's report and, if appropriate, make recommendations to the CJC's Standards Sub-Committee.

B13 The Standards Sub-Committee will consider the Ombudsman's report together with any recommendations made by the Monitoring Officer in accordance with the procedure set out below.

#### **THE FIRST MEETING OF THE STANDARDS SUB-COMMITTEE - INITIAL DETERMINATION**

B14 After the Monitoring Officer has:

- (a) produced an investigation report in accordance with Rule B10(a); or
- (b) considered the Ombudsman's investigation report in accordance with Rule B13

he/she will arrange for a meeting of the Standards Sub-Committee to be convened as soon as possible and for a copy of the investigation report, together with the Monitoring Officer's recommendations (if any), to be sent to each of the members of the Standards Sub-Committee.

B14 Notice of the time and place of the meeting will be given in accordance with Part VA of the Local Government Act 1972 as amended by the Standards Committees (Wales)

Regulations 2001. The agenda will name the Member against whom the allegation of misconduct have been made. The first substantive item on the agenda will be to determine whether the members of the public and Members should be excluded in accordance with Rule 4.56 and 4.57.

B15 If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Standards Sub-Committee. If the investigation report is produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Standards Sub-Committee.

B15 The business of the Standards Sub-Committee meeting will be limited to considering the investigation report and the Monitoring Officer's recommendations (if any) and to making an initial determination either:

- (a) that there is no evidence of any failure to comply with the Code of Conduct; or
- (b) that the Member should be given the opportunity to make representations,

either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

B16 The decision of the Committee under Rule B15 will be published and the name of the Member against whom the allegation of misconduct has been made will be made public even if the Committee decides that there is no failure to comply with the Members' Code of Conduct.

#### **AFTER THE FIRST MEETING OF THE STANDARDS SUB-COMMITTEE**

B17 Where the Standards Sub-Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the Standards Officer will accordingly notify the Member, the Complainant and the Ombudsman.

B18 Where the Standards Sub-Committee decides that the Member should be given the opportunity to make representations, the Standards Officer will notify the Member of the Committee's decision and the procedure which the Committee proposes to adopt to receive and consider any representations that he or she may wish to make.

#### **PREPARING FOR THE HEARING TO CONSIDER THE MEMBER'S REPRESENTATIONS**

B19 The Standards Officer, in consultation with the Chair of the Standards Sub-Committee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and the Member will respond in writing within 7 days indicating whether he / she wishes to attend the hearing and his / her ability to attend the hearing. In the event that the Member is unable to attend a hearing on the date(s) proposed, the Member will be able to propose alternative dates for consideration by the Chair of the Standards Sub-Committee, who will decide the reasonableness or otherwise of the proposed alternative date and arrange the date for the hearing to take place at which meeting the Committee will decide whether or not to proceed in the event that the Member fails to attend the hearing.

B20 The letter from the Standards Officer in accordance with B19 will also ask the member to respond in writing within 14 days of that letter to confirm whether he / she:

- (a) wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response;
- (b) disagrees with any of the findings of fact in the investigation report, and if so, which matters he or she disagrees with and the reasons for any disagreements in addition to the disputed facts set out in the investigation report;
- (c) wants to appear before the Committee in person or be represented at the hearing by a solicitor, barrister or any other person, in accordance with his/her right under the Regulations;
- (d) wants to give evidence to the Standards Sub-Committee, either orally or in writing;
- (e) wants to call relevant witnesses to give evidence to the Standards Sub-Committee and confirm their identity and either provide a statement of their evidence or the substance of the evidence to be given orally to the Standards Sub-Committee;

- (f) wants any part of the meeting to be held in private and the reasons why the meeting should not be in public;
- (g) wants any part of the investigation report or other relevant documents to be withheld from the public and the reasons why the document should not be made public

- B21 The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether he or she will be attending the hearing.
- B22 The Standards Officer will send a copy of the Member's response under rule B19 to the Investigating Officer and will ask him/her to confirm in writing within seven days whether he/she:
- (a) has any comments on the Member's response;
  - (b) wants to be represented at the hearing;
  - (c) wants to call relevant witnesses to give evidence to the Standards Sub-Committee;
  - (d) wants any part of the meeting to be held in private; and
  - (e) wants any part of the investigation report or other relevant documents to be withheld from the public.

- B23 The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least two weeks before the hearing to:
- (a) confirm the date, time and place for the hearing;
  - (b) summarise the allegation;
  - (c) outline the main facts of the case that are agreed;
  - (d) outline the main facts which are not agreed;
  - (e) note whether the Member or the Investigating Officer will attend or be represented at the hearing;
  - (f) list those witnesses, if any, who will be asked to give evidence;
  - (g) enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
  - (h) outline the proposed procedure for the meeting.

#### **POWERS OF THE STANDARDS SUB-COMMITTEE**

- B24 The Standards Sub-Committee may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings. The Committee must to whatever extent it considers to be appropriate, seek to avoid formality and inflexibility in its proceedings. The Standards Sub-Committee will decide factual evidence on the balance of probabilities.
- B25 The Member or the Investigating Officer, whether or not they are legally qualified, may be represented or accompanied by another person but if in any particular case the Standards Sub-Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.
- B26 The Standards Sub-Committee may take legal advice from a CJC officer appointed for this purpose at any time during the meeting or while they are considering the outcome. The substance of any legal advice given to the Committee will be shared with the Member and the Investigating Officer if they are present.
- B27 Where appropriate, and in accordance with the Regulations, the Standards Sub-Committee has power to censure the Member, or suspend or partially suspend the Member for a period not exceeding six months.

#### **PROCEDURE AT THE HEARING**

- B28 The hearing will be held in public unless the Standards Sub-Committee is persuaded that there is a good reason to exclude the public.
- B29 The procedure at the meeting shall be as set out below, subject to the Chair making such changes as he or she thinks fit in order to ensure a fair and efficient hearing.

#### **Introduction**



B30 The Chair of the Standards Sub-Committee will introduce those persons present and will explain the manner and order of proceedings

### **First Stage - Preliminary Procedural Issues**

B31 The Standards Sub-Committee will then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the prehearing process.

### **Second Stage - Making Findings of Fact**

B32 The Standards Sub-Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.

- 1 If there is a disagreement as to the facts:
  - (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report;
  - (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Standards Sub-Committee's permission and the Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer;
  - (c) the Member will then be invited to make representations to support his or her version of the facts;
  - (d) the Member may call any necessary witnesses to give evidence, with the Standards Sub-Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.
- 2 At any time, the Standards Sub-Committee may question any of the people involved or any of the witnesses.
- 3 If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Standards Sub-Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
  - (a) continue with the hearing, relying on the information in the investigation report;
  - (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
  - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
- 4 At the conclusion of the representations as to matters of fact, the Standards Sub-Committee will retire to deliberate in private on the representations, after which the Chair of the Standards Sub-Committee will announce their findings of fact.

### **Third Stage - Deciding whether the Member has failed to comply with the Code**

**B33**

- 1 The Standards Sub-Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.
- 2 The Standards Sub-Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Sub-Committee has found, the Member has failed to comply with the Code of Conduct.
- 3 The Standards Sub-Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to

whether or not, based on the facts the Sub-Committee has found, he or she has failed to comply with the Code of Conduct.

- 4 The Standards Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.
- 5 The Member will be invited to make any final relevant points.
- 6 The Standards Sub-Committee will retire to deliberate in private on the representations and decide whether or not the Member has failed to comply with the Code of Conduct, after which the Chair of the Standards Sub-Committee will announce their findings.

#### **Fourth Stage – Action to be Taken**

##### **B34**

- 1 If the Standards Sub-Committee decides that the Member has not failed to comply with the Code of Conduct, it will formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.
- 2 If the Standards Sub-Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:
  - (a) whether or not the Committee should apply a sanction; and
  - (b) what form any sanction should take.
- 3 The Standards Sub-Committee will retire to deliberate in private on the representations and decide either that:
  - (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct;
  - (b) the Member should be censured; or
  - l the Member should be suspended or partially suspended from being a member or Co-Opted Member of the CJC for a period not exceeding six months (or, if shorter, for the remainder of that person's term of office);after which the Chair of the Standards Sub-Committee will announce their decision in public.
- 4 After making a decision the Standards Sub-Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision (including details of the Member's right of appeal) to the Member, the Complainant and the Ombudsman as soon as reasonably practicable.
- 5 The decision of the Standards Sub-Committee will be deemed to have been received by the Member on the second day after the date the letter was sent by first class post, provided that the Standards Officer has proof of postage.

#### **FAILURE TO MAKE REPRESENTATIONS / ATTEND THE HEARING**

B35 If the Member fails to make representations, the Standards Sub-Committee may:

- (a) unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
- (b) give the Member a further opportunity to make representations.

B36 If a party fails to be present or represented at a hearing, the Standards Sub-Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence:

- (a) adjourn the hearing; or
- (b) hear and decide the matter in the party's absence;

- (c) and in either case the Standards Officer will inform the Member of the outcome of the hearing by email or telephone and will thereafter arrange for the outcome to be notified to the press.

#### **ILLNESS OR INCAPACITY**

B37 If the Standards Sub-Committee is satisfied, based upon the medical evidence supplied, that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Sub-Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter, which may include adjourning the hearing to a suitable date or proceeding with the hearing in the absence of the party if appropriate to do so in the opinion of the Standards Sub-Committee.

#### **SUSPENSION**

B38 A period of suspension or partial suspension will commence on the day after:

- B38.1 the expiry of the time allowed to lodge a notice of appeal to the Adjudication Panel for Wales under the Regulations (i.e. 21 days after receiving notification of the Standards Sub-Committee's determination in accordance with Rule 44(5); or
  - B38.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations; or
  - B38.3 a further determination by the Standards Sub-Committee made after receiving a recommendation from the Adjudication Panel for Wales under the Regulations,
- whichever occurs last.

#### **REFERRAL TO THE ADJUDICATION PANEL FOR WALES**

B39 Where the Standards Sub-Committee determines that the Member has failed to comply with the Code of Conduct, the Member may seek permission to appeal against the determination from the President of the Adjudication Panel for Wales (APW) within 21 days of receiving notification of the Standard Committee's determination.

B54 The APW may endorse the decision of the Standards Sub-Committee, refer a matter back to the Standards Sub-Committee recommending it impose a different penalty, or overturn the decision.

B41 If:

- (a) the Standards Sub-Committee determines that the Member failed to comply with the Code of Conduct; and
- (b) the Member appeals to an APW drawn from the Adjudication Panel for Wales; and
- (c) the APW refers the matter back to the Standards Sub-Committee with a recommendation that a different penalty be imposed,

the Standards Sub-Committee shall meet as soon as reasonably practicable to consider the recommendation of the APW and will determine whether or not it should uphold its original determination or accept the recommendation.

- (d) After making its determination the Standards Sub-Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the APW as soon as reasonably practicable.

#### **PUBLICATION OF THE STANDARDS SUB-COMMITTEE'S REPORT**

B42 The Standards Sub-Committee will produce a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant within 14 days after either:

- (a) the expiry of the time allowed to lodge a notice of appeal under the Regulations, or
  - (b) receipt of notification of the conclusion of any appeal in accordance with the Regulations, or
  - (c) a further determination by the Standards Sub-Committee made after receiving a recommendation from an Adjudication Panel for Wales under the Regulations,
- whichever occurs last.

B43 Upon receipt of the report of the Standards Sub-Committee, the Monitoring Officer shall:

- (a) publish the report on the CJC's website for a minimum period of 21 days and make copies available for inspection by the public without charge during office hours at one or more of the CJC's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available;
- (b) supply a copy of the report to any person on request if he or she pays such charge as the CJC may reasonably require, and
- (c) not later than seven days after the report is received from the Standards Sub-Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by paragraphs (a) and (b) above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

#### **COSTS**

B44 The Standards Sub-Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

#### **Exclusion of Public and Members from Standard Committee Hearings**

B45 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 8 of this Constitution or Rules 59 (Disturbance by the Public).

B46 For the purposes of Rule B55 no Member is entitled to attend (save for the Members present and appearing before the Standards Sub-Committee).

## Gifts and Hospitality to Members.

### Protocol Concerning Gifts and Hospitality to Members

- C1 The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly upon the perception of Members and the CJC as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Members can get out of their position.
- C2 The law on the acceptance of gifts and hospitality is set out in the CJC's Code of Conduct for Members and in the Prevention of Corruption Acts. These requirements are then supplemented by this Protocol which has been adopted by the CJC, to provide a clear set of rules for the protection of both Members and the CJC. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.
- C3 This Protocol sets out:
- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
  - (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;
  - (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the CJC.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by the CJC.

### General Principles.

- C4 You should never accept any gift or hospitality in any of the Precluded Situations described in paragraph 9.84 of this Protocol
- C5 In deciding whether in situations, other than Precluded situations, it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:
- (a) **Never accept a gift or hospitality as an inducement or reward for anything you do as a Member**
    - (i) As a Member, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
    - (ii) The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the CJC is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

- (iii) Further, the CJC's Code of Conduct for Members provides that you must act in the public interest, serving the CJC and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.
- (b) You should only accept a gift or hospitality if there is a commensurate benefit to the CJC.**
  - (i) The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the CJC which would not have been available but for the acceptance of that gift or hospitality.
  - (ii) Acceptance of hospitality can confer an advantage on the CJC, such as an opportunity to progress the business of the CJC expeditiously through a working lunch, or to canvass the interests of the CJC and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the CJC is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
  - (iii) As set out above, the CJC's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Member of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the CJC, would be a breach of the Code.
- (c) Never accept a gift or hospitality if acceptance might be open to misinterpretation**
  - (i) The appearance of impropriety can be just as damaging to the CJC and to you as a Member as actual impropriety. The CJC's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the CJC favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
  - (ii) Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
    - (a) occasions when the CJC is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
    - (b) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
    - (c) funding decisions, when the CJC is determining a grant application by any person or organisation.

- (d) Never accept a gift or hospitality which puts you under an improper obligation.**
- (i) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the CJC.
- (e) Never solicit a gift or hospitality**
- (i) You must never solicit or invite an offer of a gift or hospitality in connection with your position as a CJC or unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

## **Consent Regimes**

### **C6 General consent provisions**

C6.1 For clarity, the CJC has agreed that in situations other than the Precluded Situations you may accept gifts and hospitality in the following circumstances provided that to do so would not be in breach of any one or more of the general principles contained in paragraph C3 above:

- (i) civic hospitality provided by another public CJC
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the CJC
- (iv) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the CJC if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (vi) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the CJC has an existing business connection where this is required in order to facilitate the conduct of that business. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head

- (vii) modest souvenir gifts with a value below £25 from another public CJC given on the occasion of a visit by or to the CJC
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the CJC. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Members and officers is to be no more than commensurate with the nature of the visit
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the CJC deals with the gift strictly in accordance with the following procedure: The CJC must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Chairman of the CJC together with a written statement identifying the information set out in Paragraphs C8 below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chairman's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

## **C7 Special consent provisions**

C7.1 If you wish to accept any gift or hospitality, in a situation, other than the Precluded Situations, which is in accordance with the General Principles set out in Paragraph C3, but is not within any of the general consents set out in Paragraph C6, you may only do so if you have previously obtained specific consent in accordance with the following procedure:

C7.2 You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the CJC in which they have been involved
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the CJC
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

C7.3 You must not accept the gift or hospitality until you have received the appropriate consent.

C7.4 The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the CJC's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraphs C8 and C9, below.



## **Reporting**

- C8 Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater,(or where you accept a working lunch of the type described in paragraph C6.1 (vi) above where the cost or value exceeds £10) you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer , setting out the information set out in Paragraphs C7.2 above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the CJC's accounts for the year in question.
- C9 Even if the value of the gift or hospitality is less than £25, (or less than £10 in respect of a working lunch of the type described in paragraph C6.1 (vi)) if you are concerned that its acceptance might be misinterpreted, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## **Gifts to the CJC**

- C10 Gifts to the CJC may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the CJC. You should not solicit any such gift on behalf of the CJC except where the CJC has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the CJC, you must first consider whether it is appropriate for the CJC to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the CJC under any improper obligation, whether there is a real benefit to the CJC which would outweigh any dis-benefits). If you do not have delegated CJC to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated CJC, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the CJC. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the CJC to accept the gift, you should consult the Monitoring Officer directly.

## **Definitions**

- C11 "Gift or hospitality" includes any:
- (i) the free gift of any goods or services
  - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
  - (iii) the opportunity to obtain any goods or services which are not available to the general public
  - (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

C12 References to the “value” or “cost” of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration
- (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

C13 References to “Precluded Situations” are references to situations where a member MUST NEVER accept any gift or hospitality and are:-

- (i) situations where the gift or hospitality would be provided by an individual who is an applicant for any order, licence, permission or consent to be made or granted by the CJC or any objector to, or supporter of the grant of such order, licence, permission or consent or any other individual who may be affected by the grant or refusal of such order, licence, permission or consent; and
- (ii) situations where the gift or hospitality would be provided by an individual who is in negotiation with the CJC or has submitted a tender or offer to the CJC in relation to any proposed contract or transaction for the acquisition or disposal of any estate or interest in land or for the supply of goods or services to or from the CJC.

C14 For the purposes of this definition:-

- “individual” includes any public or statutory body, a company, a partnership, an unincorporated association and any other organisation or legal entity or legal person known to and recognised by the law of England and Wales;

To: Monitoring Officer.

**Declaration of Receipt of Gifts or Hospitality**

Name	
Address	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact with the person or organisation providing the gift or hospitality?	
Signed	Date

## **GIFTS AND HOSPITALITY.**

A Member who is a “Decision Maker” must:

- not accept any gifts or hospitality from anyone connected with a matter;
- register any offers of gifts or hospitality refused in a register kept for that purpose maintained by the Monitoring Officer.

All other Members must comply with the Protocol Concerning Gifts and Hospitality to Members as set out in Appendix C.

“

## APPENDIX 2

### **Standards Committees Chairs Forum - Wales Monday, 29<sup>th</sup> of January 2024 @ 2pm, via Teams Notes**

#### **1. Chairs Announcements**

- a) Welcome new Panel Advisor, Justine Cass, Deputy Monitoring Officer and Solicitor, Legal Services, Torfaen County Borough Council.

#### **2. Notes from the previous meeting – 30<sup>th</sup> of June 2023.**

- Notes shared with Standards Committees would be in the public domain, and must be published as they are received, to ensure that any issues raised on individual ongoing cases or potential cases to assist with the process/problem solving/best practise were anonymised to ensure individual members and councils could not be identified.

#### **3. Michelle Morris, Public Services Ombudsman for Wales – Update**

##### **Code of Conduct Cases 2023/24.**

- Increase in the number of cases since last year – 18% Increase – 116 Open Cases
- Increase in Closed Cases
  - Pre-Assessment +18%
  - Assessment +2%
  - Investigation +32%
  - Challenge of “Aged Cases” (over 12 months)

- Quarter (15 cases) of investigations at end of December '23
- Target to halve by end of the financial year.

## **Referrals & Hearings**

- 11 concluded to end of December '23
- 9 pending, 2 Adjudication Panel for Wales (APW) including 1 Appeal.
- Anticipate further referrals before end of the financial year.

Points of Interest – APW granted Interim Suspension (July 2023) – final report will be with Panel next month.

## **Questions and comments**

- The dynamics of the situation – “aged cases” and increase in number of current cases, balancing with an increase in health board cases, challenge in terms of staffing resources. Is that likely to slow down progress?
  - It was a challenge, and the increase of maladministration cases was 5% - a smaller figure but in the context of a much larger case load. It was a challenge to look at the best use of resources. Finance Committee in the Senedd had agreed to recommend an increase in budget for two extra members of staff, which will be hopefully agreed in the draft budget. Must focus on the most serious cases, there is an impact and a judgement call to be made.
- Is there anything more that Standards Committees can do in terms of helping with the PSOW workload?
  - Local resolution is important, particularly if there are patterns emerging locally where perhaps things can be “nipped in the bud” – Group Leaders have a role in this with having conversations about appropriate behaviours.
- If a hearing is conducted and a decision made with a sanction given on a LA councillor, if the complainant doesn't agree – what is the process for the Standards Committee?

- The issue with this case is that the PSOW has not investigated it before going to the Standards Committee. The normal process would be for the PSOW to investigate and refer to the Standards Committee to conduct the hearing. PSOW will confirm the process to the LA with this case.
- The recently circulated PSOW newsletter for Q3 was very useful, particularly the links.
- There was positive feedback from a Local Authority in terms of their engagement with PSOW who had been most helpful and supportive with two recent hearings.
- In a recent case there was a hearing concerning a community councillor, and the outcome was a decision to suspend him. After this, the councillor said he was a community councillor at a neighbouring community council– the decision was to just suspend him for the community councillor that the complaint had been raised. Was this the wrong decision?
  - The circumstances mentioned previously in a different case would have been different, and if the Standards Committee had sought advice from the PSOW team, their advice would be correct.

#### **4. Corporate Joint Committees (CJCs) and Joint Standards Committees – Iwan Gwilym Evans**

- See attached presentation.



CJC\_Overview-Biling  
ual - Fforwm Forum.r

#### **Questions and comments**

- Powys and Ceredigion are one CJC – there seems to be a duplication of effort and cost. What are your thoughts on two separate Standards Committees?

- The regulations mean that a Standards Committee must be established going forward, reflects the approach Welsh Government are taking of CJs as a developing body who may have more influence.
- Members are allocated to the National Park Authorities, the formation of the CJs had the thoughts about the powers that the CJC Standards Committee has. Some of their members are allocated to the Authorities and Standards Committees do not have the same powers of sanction.
  - Will have the same powers as a local authority Standards Committee but will only deal with issues relevant to the member CJC.

**ACTION: PowerPoint slides to be circulated to the Chairs. IE, CT**

**ACTION: Consider how the Forum engages with the emerging CJC Standards protocols and groups before the next meeting. CW, JC, CT.**

## **5. Resourcing of Standards Committees**

- Resourcing issues to ensure they are fit for purpose to undertake the work that is required.
- Missed the opportunity to respond to this year's IRPW report but want to look at how we engage going forward. Standards committee co-opted members not consulted as part of IRPW stakeholder engagement. Payments to co-opted members did not seem to be a focus for the IRPW.
- The determination around the interpretation of remuneration is different across Councils as well as different levels of support e.g., provision of IT equipment and an email address. Do we want to map out the differences between councils?
- Do we want to engage with the issue, if we do, do we ask someone from IRPW to come along, mapping to feed into a future report?

## **Comments**

- Fully support the thoughts in terms of engaging with the IRPW. The way forward is to do some mapping to ensure there is an understanding of issues.



- Consistency with the application of remuneration and support was important to ensure it attracted people to the role. Monitoring vacancies might be an indicator the IRPW would consider as part of their work.
- Monitoring officers interested in changes going forward, in terms of hourly rates etc. ensure that there are different scenarios in the mapping exercise.
- Head of Democratic Services (HoDS) in Swansea was consulted by the IRPW – supported the hourly rate. It would be an additional hour – if it went over the 8 hours day rate, it would allow additional payment over the full day rate. Up to the HoDS to say how long the meeting lasts, if the HoDS said 8 hours but the meeting only lasts 30 minutes, the HoDS is still obliged to pay 8 hours to ensure there was no detriment to the members who might otherwise have cleared their diary resulting in lost opportunity costs or additional costs incurred.

**ACTION: Issue to be highlighted with Monitoring Officers at their national governance group meeting. JC, CT.**

**ACTION: Response to the 2024/25 report from IRPW, what the role ought to be in future consultations and discussions. Need to ensure the forum is a part of the discussion for the future All.**

**ACTION: Issue of the hourly rate – how attendance is regarded and funded – consistency across Wales would be welcomed, need to give this consideration All.**

**ACTION: The broader question, how does the forum engage going forward? The mechanism rather than the practicalities All.**

**ACTION: Invite Chair of the IRPW to the next meeting CT.**

**ACTION: Julia Hughes to share mapping template with the Forum JH.**

**6. Local resolution protocols, how do they operate in your area and are they effective?**

- Feedback from council said that local resolution had not been used often, in situations when it had been used it was a mediation type meeting resulting in

an apology or a handshake, and both parties moved forward. Some members did not want to go down the local resolution route and had decided to be civil with each other. Within group Leaders interest to involve themselves in this process to fulfil their duties. It works if both parties want to make it work.

- Recommended to 26 town and community councils in VoG and all but one had adopted the protocol. It seemed to be working well.
- A lot depends on local politics in the area, whether the constitution includes a clear process for a local resolution protocol and the dynamics of local relationships. Issues sometimes increased around elections and it's not always easy to progress matters using a local protocol.
- If it's not possible to resolve matters informally and they eventually result in a hearing, that can be a difficult process to manage involving time and expense. The informal resolution option was preferable where possible.
- Some local resolution schemes did not allow for an appeal.

## **7. Items raised by the Monitoring Officers Group - JC**

- a) Group Leaders duty to promote good standards – potential for perceived conflict of interest, assessing their own performance and the performance of their political opponents if they were to join their Standards Committee.
- A scenario referenced where this was put this forward to the MO. Two examples which are very different, on one standards committee – county councillor on the standards committee, became a group leader and said it was now a conflict of interest for him and stood down. Another standards committee which has a group leader on the committee, not considering standing down.
    - Personal view that it is a conflict of interest. The person of interest in another council, does not turn up to meetings, does not send apologies and does not send a sub. A letter has been sent to the group leader by the chair noting this.

**ACTION: Ongoing, place on agenda of next meeting.**

- b) Progress on adopting the agreed common threshold of £25 for the registration of gifts and hospitality. Not perceived as an issue.

- Two of the committees have agreed £25, constitutional democratic committee decided to stick at £10.
- c) Do authorities have any guidance on the use of social media over and above that published by the WLGA.

**ACTION Circulate the link to WLGA guidance CT.**

<https://www.wlga.wales/social-media-and-online-abuse>

**ACTION WLGA Cyber training details to be made available CT.**

- d) Whether authorities encourage their town & community councils to sign the civility and respect pledge. If they do not whether they would consider doing so.
- Flintshire hold joint Standards Committee meetings once a year with Town and Community Councils. They are beneficial and attendance is encouraged and promoted.

## **8. Training for Standards Committee Chairs**

- Email about two training sessions.
- Generic chairing skills session – 12<sup>th</sup> February 2pm-4pm
- Training around how to conduct hearings – external provider who is able to facilitate the training on behalf of the WLGA. Ideally, we would like to deliver this training before the end of this financial year. Alternatively, we may need to arrange it in April.

## **9. AOB**

- Are members of Standards Committees required to be DBS checked?
  - The Chairs in attendance are not required to have a DBS check for their role.

**ACTION Update on the rules for DBS checks to be provided at the next meeting JC.**

**10. Date of next meeting**

- Monday, 24<sup>th</sup> of June 2024.