

CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Committee
5th February 2014**REPORT BY:** Solicitor to the Council**SUBJECT:** Matters appertaining to Standards Issues

REPORT FOR: Decision, Information and Discussion

A. General Standards Issues for County Councillors and Co-opted Members**A1 Code of Conduct Training**

Two vacancies have arisen amongst the co-opted Members on the People Scrutiny Committee. Training will be arranged for these two Members as they are appointed.

A2 Member Development

At the last meeting of the Standards Committee Members requested that the Member Development Working Group provide a list of or proposed Mandatory Training. A copy of this is attached at **Appendix 1**. The Standards Committee are asked to comment on the proposals, as well as consider possible sanctions for recommendation to the Council.

B. Referral of Councillors to Public Services Ombudsman**B1. County Councillor Referrals****B1.1** Since the last meeting the Ombudsman has advised that:

1/13/CC – found that there was no evidence that the Member had failed to comply with the Code of Conduct.

6/13/CC – found that there was no evidence that the Member had failed to comply with the Code of Conduct.

C. Other Standards Issues**C1.1 Local Resolution Panels**

It has not been possible to prepare a draft document for consideration by the Committee, and the Committee is asked to defer this item to the next meeting.

D Dispensations

D1. Applications - County Councillors

No applications have been received.

E. Late payment of expenses

No late claims have been submitted.

F. Attendance

All County Councillors have attended 60% or more of the main meetings of the County Council between the Annual Meeting on 16th May 2013 to 30th November 2013 except Cllr George whose attendance was 50% (5/10 meetings). Cllr George who has received a letter requesting reasons for his attendance level. His response will be reported to Committee.

G. Indemnity Cap

At the last meeting of the Standards Committee the following decision was made:

The Committee is requested to consider recommending to the County Council that a cap of £20,000 for the Members' indemnity scheme is set by the Council, in accordance with the guidance by the Ombudsman and the Welsh Local Government Association.

The Risk and Resilience Team have confirmed that cover is only available to a minimum of £50,000 and therefore any cap set by the Council could not be less than this figure. The Corporate Solicitor will give a verbal update to the meeting.

H. Appointment of Independent (Lay) Member of Standards Committee

The process for appointing an Independent (Lay) Member to replace Independent Member Mrs Harris has commenced.

Details of the vacancy were included in the Red Kite, the Council newsletter circulated to all addresses in Powys. This has elicited to date 57 expressions of interest although 4 have already confirmed their ineligibility. An advertisement will appear in local papers covering the county the week commencing 27th January 2014..

A provisional date for shortlisting has been set for Thursday 6th March 2013 and an agreed date for the Appointment Panel has been set for Thursday 13th March 2013. The Appointment Panel will be comprised of the following representatives:

Independent (Lay) Chair	High Sheriff Mr Bernard Harris
Chair of Standards Committee	Independent Member Mrs Helen Rhydderch-Roberts
Vice Chair of Standards Committee	Independent Member Mr Ralph Harris
County Councillor Representative from Standards Committee	To be appointed
Community Councillor Representative from Standards Committee	To be appointed

The final two appointments will be made at the meeting of the Standards Committee and Standards Community Sub-Committee.

The committee is asked to appoint the County Councillor representative on the Panel.

I. Constitution

The Democratic Services Committee has been working on producing an updated Constitution. A copy of Section 18 relating to the Members' Code of Conduct is attached at **Appendix 2**. This includes a new section on the Procedure for Dealing with Allegations made against Councillors and referred to the Standards Committee. In the past it has been necessary to agree the procedure each time there has been a referral.

The Democratic Services Committee seek comments from the Standards Committee on the proposed amendments to Section 18.

J. Ombudsman's Case Book

The Public Services Ombudsman for Wales has published the first Code of Conduct Casebook which covers the period April – September 2013 and is attached at **Appendix 3**. These casebooks will now be published on a six monthly basis.

Members are asked if they would wish for training following the next meeting based on the Casebook.

K. Meeting Dates

K1 To note dates of future meetings as follows:

9th April 2014
25th June 2014
3rd September 2014
3rd December 2014

All meetings to commence at 10.00am with the option of training available afterwards.

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Draft – agreed by Member Development Working Group 16th January, 2014

Member Development – Mandatory and other development

In response to Members' comments and requests Member Development has been classified into – mandatory and other development.

The following information has been developed by the Member Development Working Group and has been endorsed by the Democratic Services Committee, Standards Committee and Council.

Mandatory development

Mandatory development is divided between the following:

- **Mandatory development for all Members** - all Councillors must undertake to ensure that they and the Council can stand up to scrutiny from relevant inspectors etc and
- **Mandatory development for specific Committees** - Councillors as members of specific Committees must undertake to be in a position to undertake their roles [this position has previously been agreed by Council].

Details of the two areas of mandatory development are provided in the Table on pages 3 – 8.

Development dates will be published in advance. Wherever possible, Mandatory development for all Members will be grouped together so that the number of times Members will need to travel to County Hall is kept to a minimum.

With the development of the IT and other equipment in the Chamber, County Hall, development sessions will be provided from this location with direct links to other meeting rooms/equipment across the County, so reducing the need for Members to always travel to County Hall. It is hoped that this equipment will be available in 2015.

Members should be aware that non-attendance at the scheduled sessions increases the cost of providing training, as either outside providers have to return or staff have to provide these sessions again.

If Members do not attend Mandatory development they will:

- be asked to explain their non-attendance to the Standards Committee in respect of Mandatory development for all Members
- not be able to sit on the respective Committee until the development has been completed.

Other development

A range of other Member Development sessions are provided each year to develop Members' knowledge and skills. These sessions will for example develop Members' knowledge of service areas and associated issues, changes in legislation and how local authorities need to respond to these.

Members are encouraged to attend as many of these sessions as possible, so that their breadth and depth of knowledge will develop. These sessions will support them in their roles. The Council supports the continuous professional development of Members and encourages Members to see this as part of their councillor role. Development dates will be published in advance.

Mandatory development for all Members

Topic	Frequency	Reason for development	Type of decision/action which requires this information	Legislation and/or Impact of non attendance
Members Code of Conduct	Induction Update mid-term, plus any further updates as required	The responsibility for complying with this Members' Code of Conduct, dispensation requirements and issues around pre-determination rests with the individual Councillor. On signing their Acceptance of Office a Councillor undertakes to observe the Members' Code of Conduct. Development is provided to ensure that Members both understand the Code and adhere to the principles.	All	<p>The Local Authorities (Model Code of Conduct) (Wales) Order 2008 Part III of the Local Government Act 2000 ("the Act") established a new ethical framework for local government in Wales.</p> <p>Members in breach of the Code of Conduct can open themselves to challenge by the Ombudsman with potential for sanction and effect on a Councillor's reputation.</p>
Data Controller responsibilities	Induction Repeat in 3 rd year	Members need to understand the law relating to handling personal/sensitive information, i.e. personal information, to which they have access from constituents and other services and understand the requirements to protect that	All/Ward activities	<p>To ensure that Members and the Council comply with the Data Protection Act 1998.</p> <p>If Members are found to be in breach of the Act the Council and Members individually can face substantial fines.</p>

Topic	Frequency	Reason for development	Type of decision/action which requires this information	Legislation and/or Impact of non attendance
		<p>information. They must understand their responsibility to handle personal information appropriately and meet their obligations under the Data Protection Act 1998. After the development Members must register as Data Controllers on an annual basis.</p>		
Corporate parenting	Induction Annual update	<p>All members share a responsibility as “corporate parents” for looked after children to ensure that they thrive under the authority’s care. Members need to understand their roles and responsibilities and can challenge how services are provided for these children.</p>	All	<p>Mandatory and best practice to ensure that members and the Council comply with their statutory duty under the Children Act 2004 to safeguard and promote the welfare of children (All Wales Child Protection Procedures 2008).</p> <p>Also considered as good practice to receive mandatory training at induction and refresher training during term of office [Local Government Association and National Childrens Bureau] and the Welsh Local Leadership Academy, Welsh Local Government Association [WLGA].</p>

Topic	Frequency	Reason for development	Type of decision/action which requires this information	Legislation and/or Impact of non attendance
Adult and child protection	Induction Annual update	Members need to be aware of safeguarding issues and legislative requirements and how they can raise concerns about adult and child protection.	Ward activities	Mandatory and best practice to ensure that members and the Council comply with their statutory duty under the Children Act 2004 to safeguard and promote the welfare of children (All Wales Child Protection Procedures 2008).
Violence and aggression and Personal safety Register	Induction Update mid-term	Members need to be aware of violence and aggression issues and how they and staff are protected and how the Personal Safety Register is managed. Members also need to understand how to identify and manage risks when they are working alone in the community.	Ward activities	Provided by the Council in its role as a good employer.
Health and Safety Responsibilities	Induction Update mid-term	Members need to understand health and safety legislation in relation to employees, service users, contracted services, premises and the public.	All	If Members are found in breach of the Act the Council, Members and others can face substantial fines or imprisonment.

Topic	Frequency	Reason for development	Type of decision/action which requires this information	Legislation and/or Impact of non attendance
Budget and Council Tax Setting	Induction Update mid-term	Tax setting is a key power available to Councils. It is essential members understand their statutory responsibilities and the legislative framework.	Budget and Council Tax setting (Annual)	Inability to understand their role at Budget setting and Council Tax setting.
Treasury Management	Two sessions held each year. Members have to attend at least one session per annum.	Members have to have an understanding of what Treasury Management means, how this is managed on a daily basis and also the risks.	Treasury Management	The CIPFA Code of Practice for Treasury Management (TM) requires all members involved in TM decisions to ensure they are suitably trained in TM. In Wales the TM Annual Strategy report is required to go to Full Council and it is necessary for all members to ensure they meet this training requirement.

Mandatory development for specific Committees

If Members do not attend the development detailed below they will be unable to sit on the respective Committee until this has been completed. This position was agreed by Council in April 2008.

Committee	Induction	Requirements
Audit Committee	<ul style="list-style-type: none"> • The role of the Audit Committee • The role of Internal Audit and the Committee's role • Finance monitoring • Risk management and corporate governance 	<p>Induction</p> <p>Ongoing development as required, usually provided as part of Committee Agendas.</p>
Employment and Appeals Committee	<ul style="list-style-type: none"> • The role of the Committee and the Disciplinary Appeals Sub Committees, Grievance Appeals Sub Committees and Appointments Sub Committees. • Mock employment tribunal hearings • Interview skills for senior posts and safeguarding training. 	<p>Induction.</p> <p>Ongoing development as required, usually provided as part of Committee Agendas.</p>
Licensing Act 2003 Committee	<ul style="list-style-type: none"> • The law governing licensing of premises etc and the role of councilors • Gambling Act 2005 • Licensing hearings and the quasi-judicial role of sub-committees and/or panels 	<p>Induction – mandatory</p> <p>Refresher training on licensing law and hearings - mandatory.</p> <p>Other training as required – not mandatory and usually provided as part of Committee Agendas.</p>

Committee	Induction	Requirements
Planning, Taxi Licensing and Rights of Way Committee	<p>Planning:</p> <ul style="list-style-type: none"> • A briefing on planning in Wales • The role of councillors in planning: Propriety and good practice • Planning for windfarms <p>Taxi and other licensing:</p> <ul style="list-style-type: none"> • Law and Practice governing Hackney Carriages and Private Hire Vehicles • The role of councillors, licensing hearings and the Quasi-Judicial role of sub-committees and/or panels • The law governing other licensing issues such as caravan sites, scrap metal and animal health. <p>Rights of Way:</p> <ul style="list-style-type: none"> • The law relating to rights of way, common land and village greens • The role of councillors and the Quasi-Judicial role of the committee 	<p>Induction and as required, usually provided as part of Committee Agendas.</p> <p>Taxi and other licensing: Induction – mandatory.</p> <p>Refresher training on licensing law and hearings – mandatory.</p> <p>Other training as required – not mandatory and usually provided as part of Committee Agendas.</p> <p>Rights of Way etc training – updates given prior to specific applications –mandatory.</p>
Pensions and Investments Committee	No induction. However, Local Government Pension Scheme [LGPS] Fundamentals 3 day training to be undertaken within first 12 months.	Minimum 10hrs per year training required, based on Knowledge & Skills Framework.
Standards Committee and Standards Community Sub-Committee	<ul style="list-style-type: none"> • Members Code of Conduct – induction and update mid-term, plus any further updates as required. • Undertaking of Code of Conduct hearings. 	Induction and as required, usually provided as part of Committee Agendas.

SECTION 18

18. CODE OF CONDUCT FOR MEMBERS

DRAFTING NOTE

Set out below is the Model Code of Conduct from the Local Authorities (Model Code of Conduct) (Wales) Order 2008. ~~This can be adapted to suit the needs of individual authorities.~~

18.1

THE MEMBERS' CODE OF CONDUCT

Adopted by Powys County Council at a meeting held on 24th April, 2008.

Operational Date – 5th May, 2008.

PART 1 **INTERPRETATION**

1. (1) In this code:

“co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who:

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” means any meeting:

(a) of the relevant authority,

(b) of any executive or board of the relevant authority,

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990(1),

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

“member” includes, unless the context requires otherwise, a co-opted member;

“relevant authority” 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(2) 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(3);

“you” means you as a member or co-opted member of a relevant authority; and

“your authority” means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council, references to an authority’s monitoring officer and an authority’s standards committee are to be read, respectively, as references to the monitoring officer and the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.

PART 2 GENERAL PROVISIONS

2. (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 your authority;

(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 your authority; 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.

3. Where you are elected, appointed or nominated by your authority to serve:

(a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or 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.

4. 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, your authority.

5. 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.

6. (1) You must:

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
 - (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority 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 Public Services Ombudsman for Wales and to your authority'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, your authority.
- (2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. 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 your authority

 - (i) imprudently;
 - (ii) in breach of your authority'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 authority or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes.

8. You must:

- (a) when participating in meetings or reaching decisions regarding the business of your authority, 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 your authority's officers, in particular by
- (i) the authority's head of paid service;
 - (ii) the authority's chief finance officer;
 - (iii) the authority's monitoring officer;
 - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must:

- (a) observe the law and your authority'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 your authority), 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.

- 10. (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 your authority 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 your authority, 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 your authority'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 your authority 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 sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

(vii) any land where the landlord is your authority 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 sub-paragraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any

(aa) public authority or body exercising functions of a public nature;

(bb) company, industrial and provident 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 your authority's area,

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

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

(b) 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; or

(c) 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

(aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11. (1) Where you have a personal interest in any business of your authority 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 your authority and you make

(a) 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; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority 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 your authority 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 your authority in accordance with any requirements identified by your authority's monitoring officer from time to time 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 your authority.

(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

12 (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority 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 your authority;

(iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;

(v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to:

(i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;

(ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(iii) the functions of your authority 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 your authority;

(iv) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(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.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint 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.

14. (1) Subject to sub-paragraphs (2), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee

(a) withdraw from the room, chamber or place where a meeting considering 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 executive or board 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 your authority 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.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if

(a) you are required to attend a meeting of an overview or scrutiny 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 your authority 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 your authority 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 your authority within 14 days of making the representation.

PART 4

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests and Memberships and Management Positions

15. (1) Subject to sub-paragraph (3), you must, within 28 days of:

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's monitoring officer.

(2) You must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under sub-paragraph (1), register that new personal interest or change by providing written notification to your authority's monitoring officer.

(3) Sub-paragraphs (1) and (2) do not apply to sensitive information determined in

accordance with paragraph 16(1).

(4) Sub-paragraph (1) will not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

Sensitive Information.

16. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority'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 your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" 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.

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

18.1 Interpretation

18.1.1 In this code:

~~"co-opted Member" ("aelod in relation to a relevant authority, means a person who is not a Member of the authority but who:~~

~~(a) is a Member of any committee or sub-committee of the authority; or~~

~~(b) is a Member of, and represents the authority on, any joint committee or joint sub-committee of the authority,~~

~~and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-~~

	committee;
“meeting” (“cyfarfod”)	<p>means any meeting:</p> <p>(a) of the relevant authority;</p> <p>(b) of any executive or board of the relevant authority;</p> <p>(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority; or</p> <p>(d) where Members or Officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990(1),</p> <p>and includes circumstances in which a Member of an executive or board or an Officer acting alone exercises a function of an authority;</p>
“Member” (“aelod”)	includes, unless the context requires otherwise, a co-opted Member;
“relevant authority” (“awdurdod perthnasol”)	<p>means:</p> <p>(a) a county council;</p> <p>(b) a county borough council;</p> <p>(c) a community council;</p> <p>(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies;</p> <p>(e) a National Park authority established under section 63 of the Environment Act 1995(3);</p>
“you” (“chi”)	means you as a Member or co-opted Member of a relevant authority; and
“your authority” (“eich awdurdod”)	means the relevant authority of which

~~you are a Member or co-opted Member.~~

~~18.1.2—~~

~~In relation to a community council, references to an authority's Monitoring Officer and an authority's standards committee are to be read, respectively, as references to the Monitoring Officer and the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(2) of the Local Government Act 2000.~~

~~18.2 General Provisions~~

~~18.2.1— Save where paragraph 18.2.3 applies, you must observe this code of conduct:~~

- ~~(a) whenever you conduct the business, or are present at a meeting, of your authority;~~
- ~~(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 your authority; or~~
- ~~(d) at all times and in any capacity, in respect of conduct identified in paragraphs 18.2.6(a) and 18.2.8.~~

~~18.2.2— 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.~~

~~18.2.3— Where you are elected, appointed or nominated by your authority to serve:~~

- ~~(a) on another relevant authority, or any other body, which includes a police authority or Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or 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.~~

~~18.2.4— 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, your authority.~~

~~18.2.5— 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.~~

~~18.2.6— You must:~~

~~(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;~~

~~(b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another Member or anyone who works for, or on behalf of, your authority 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 Public Services Ombudsman for Wales and to your authority'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, your authority.~~

~~18.2.7— You must comply with any request of your authority's Monitoring Officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.~~

~~18.2.8— 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 your authority;~~

- ~~(i) — imprudently;~~
- ~~(ii) — in breach of your authority'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 authority or of the office to which you have been elected or appointed;~~
- ~~(v) — improperly for political purposes; or~~
- ~~(vi) — improperly for private purposes.~~

~~18.2.9 — You must:~~

- ~~(a) — when participating in meetings or reaching decisions regarding the business of your authority, 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 your authority's Officers, in particular by:
 - ~~(i) — the authority's head of paid service;~~
 - ~~(ii) — the authority's chief finance Officer;~~
 - ~~(iii) — the authority's Monitoring Officer;~~
 - ~~(iv) — the authority's chief legal Officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);~~~~
- ~~(b) — give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.~~

~~18.2.10 — You must:~~

- ~~(a) — observe the law and your authority'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 your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.~~

~~18.3 — **Interests**~~

18.3.1 Personal Interests

- ~~(a) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.~~
- ~~(b) You must regard yourself as having a personal interest in any business of your authority if:
 - ~~(i) it relates to, or is likely to affect:
 - ~~(A) any employment or business carried on by you;~~
 - ~~(B) 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;~~
 - ~~(C) any person, other than your authority, 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;~~
 - ~~(D) any corporate body which has a place of business or land in your authority'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;~~
 - ~~(E) any contract for goods, services or works made between your authority 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 paragraph (D) above;~~
 - ~~(F) any land in which you have a beneficial interest and which is in the area of your authority;~~
 - ~~(G) any land where the landlord is your authority 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 paragraph (D) above;~~
 - ~~(H) any body to which you have been elected, appointed or nominated by your authority;~~~~
 - ~~(i) any:
 - ~~1 public authority or body exercising functions of a public nature;~~
 - ~~2 company, industrial and provident society, charity, or body directed to charitable purposes;~~
 - ~~3 body whose principal purposes include the influence of public opinion or policy;~~
 - ~~4 trade union or professional association; or~~~~~~

~~5— private club, society or association operating within your authority's area, in which you have membership or hold a position of general control or management;~~

~~(J)— any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;~~

~~(K)— 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; or~~

~~(ii)— a decision upon it might reasonably be regarded as affecting:~~

~~(A)— your wellbeing or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;~~

~~(B)— any employment or business carried on by persons as described in (A);~~

~~(C)— any person who employs or has appointed such persons described in (A), any firm in which they are a partner, or any company of which they are directors;~~

~~(D)— any corporate body in which persons as described in (A) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or~~

~~(E)— any body listed in paragraphs 18.3.1(b)(i)(l)1 to 18.3.1(b)(i)(l)5 in which persons described in hold a position of general control or management,~~

~~to a greater extent than the majority of:~~

~~1— in the case of an authority with electoral divisions or wards, other council taxpayers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or~~

~~2— in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.~~

18.3.2— Disclosure of Personal Interests

~~(a)— Where you have a personal interest in any business of your authority 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.~~

~~(b)— Where you have a personal interest in any business of your authority and you make:~~

- ~~(i) 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; or~~
- ~~(ii) oral representations (whether in person or some form of electronic communication) to a Member or Officer of your authority 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.~~
- ~~(c) Subject to paragraph 18.3.5(a)(ii) below, where you have a personal interest in any business of your authority 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.~~
- ~~(d) 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 paragraph 18.3.2(a), give written notification to your authority in accordance with any requirements identified by your authority's Monitoring Officer from time to time but, as a minimum containing:
 - ~~(i) details of the personal interest;~~
 - ~~(ii) details of the business to which the personal interest relates; and~~
 - ~~(iii) your signature.~~~~
- ~~(e) Where you have agreement from your Monitoring Officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 18.4.2(a), your obligations under this paragraph 18.3.2 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.~~
- ~~(f) For the purposes of paragraph (d), 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 your authority.~~
- ~~(g) For the purposes of sub-paragraph (c), 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.~~

~~18.3.3~~ Prejudicial Interests

- ~~(a) Subject to paragraph (b) below, where you have a personal interest in any~~

~~business of your authority 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.~~

~~(b) Subject to paragraph (c), you will not be regarded as having a prejudicial interest in any business where that business:~~

~~(i) relates to:~~

~~(A) another relevant authority of which you are also a Member;~~

~~(B) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;~~

~~(C) a body to which you have been elected, appointed or nominated by your authority;~~

~~(D) role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a member;~~

~~(E) your role as a Member of a Local Health Board where you have not been appointed or nominated by your authority;~~

~~(ii) relates to:~~

~~(A) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;~~

~~(B) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in fulltime education, unless it relates particularly to the school which that child attends;~~

~~(C) the functions of your authority 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 your authority;~~

~~(D) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;~~

~~(iii) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to~~

~~community or voluntary organisations up to a maximum of £500.~~

- ~~(c) The exemptions in paragraph 18.3.3(b)(i) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.~~

~~18.3.4 Overview and Scrutiny Committees~~

~~You also have a prejudicial interest in any business before an Environment, Infrastructure, and Crime and Disorder where:~~

- ~~(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and~~
- ~~(b) at the time the decision was made or action was taken, you were a Member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.~~

~~18.3.5 Participation in Relation to Disclosed Interests~~

- ~~(a) Subject to paragraphs (b), (c) and (d), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee:~~
- ~~(i) withdraw from the room, chamber or place where a meeting considering the business is being held;~~
- ~~(A) where paragraph (b) 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~~
- ~~(B) in any other case, whenever it becomes apparent that that business is being considered at that meeting;~~
- ~~(ii) not exercise executive or board functions in relation to that business;~~
- ~~(iii) not seek to influence a decision about that business;~~
- ~~(iv) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and~~
- ~~(v) 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.~~

- ~~(b) Where you have a prejudicial interest in any business of your authority 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.~~
- ~~(c) Paragraph (a) does not prevent you attending and participating in a meeting if:~~
- ~~(i) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or~~
 - ~~(ii) you have the benefit of a dispensation provided that you:~~
 - ~~(A) state at the meeting that you are relying on the dispensation; and~~
 - ~~(B) before or immediately after the close of the meeting give written notification to your authority containing:~~
 - ~~1 details of the prejudicial interest;~~
 - ~~2 details of the business to which the prejudicial interest relates;~~
 - ~~3 details of, and the date on which, the dispensation was granted; and~~
 - ~~4 your signature.~~
- ~~(d) Where you have a prejudicial interest and are making written or oral representations to your authority 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 your authority within 14 days of making the representation.~~

18.4 The Register of Members' Interests

18.4.1 Registration of Financial and Other Interests and Memberships and Management Positions

- ~~(a) Subject to sub-paragraph (c), you must, within 28 days of:~~
- ~~(i) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or~~
 - ~~(ii) your election or appointment to office (if that is later),~~
- ~~register your financial interests and other interests, where they fall within a category mentioned in paragraph 18.3.1(b)(i) in your authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to your authority's Monitoring Officer.~~
- ~~(b) You must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph~~

~~(a), register that new personal interest or change by providing written notification to your authority's Monitoring Officer.~~

~~(c) Paragraphs (a) and (b) do not apply to sensitive information determined in accordance with paragraph 18.4.2(a).~~

~~(d) Paragraph (a) will not apply if you are a Member of a relevant authority which is a community council when you act in your capacity as a Member of such an authority.~~

~~18.4.2 Sensitive information~~

~~(a) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority'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 18.4.1.~~

~~(b) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under subparagraph (a) is no longer sensitive information, notify your authority's Monitoring Officer asking that the information be included in your authority's register of Members' interests.~~

~~(c) 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.~~

~~18.4.3 Registration of Gifts and Hospitality~~

~~You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's Monitoring Officer of the existence and nature of that gift, hospitality, material benefit or advantage.~~

Appendix 1 to Section 18

18.2 Conduct of Members – The Principles

18.2.1. 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.

18.2.2. 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.

18.2.3. 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.

18.2.4. 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.

18.2.5. STEWARDSHIP

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

18.2.6. OBJECTIVITY IN DECISION-MAKING

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.

18.2.7. EQUALITY AND RESPECT

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.

18.2.8. 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.

18.2.9. ACCOUNTABILITY

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.

18.2.10. 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.

Appendix 2 to Section 18

18.3 Protocol - Standard of Conduct Expected by Members

This protocol sets out the standards of conduct expected from Members within **Powys County Council** in dealing with each other. It should be read in conjunction with the Members Code of Conduct ¹and the Member-Officer Protocol². It adds to these documents and does not detract from them.

Members are expected to:

11. PUBLIC BEHAVIOUR

- 11.1 show respect to each other;
- 11.2 not to make personal abusive comments about each other;
- 11.3 not to publish anything insulting about each other;
- 11.4 not to make malicious allegations against each other;
- 11.5 not to publish or spread any false information about each other;
- 11.6 show respect to diversity and equality;

12. BEHAVIOUR IN MEETINGS

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

13. CONFIDENTIALITY

- 13.1 keep the confidentiality of exempt papers and any other documents which are not public;
- 13.2 not to release confidential information to the press or the public;
- 13.3 not to use confidential information for purposes other than intended;

14. LOCAL MEMBERS

- 14.1 work with Members of adjoining electoral divisions for the benefit of the locality;

¹ See Section 18.1 above.

² See Section 21.

- 14.2 if dealing with any matter relating to another electoral division:
- 14.2.1 explain to anyone seeking assistance that he/she is not the local Member;
- 14.2.2 inform the local Member, unless it would lead to a breach of confidentiality.

Appendix 3 to Section 18

18.4 Procedure for Dealing with Allegations made against Councillors and referred to the Standards Committee

15. INTRODUCTION

This document sets out the procedure that the Council's Standards Committee will follow where it is required to make decisions about the conduct of Councillors following investigations by the Public Services Ombudsman for Wales or the Council'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.

16. INTERPRETATION

In this procedure:

- 16.1 the "Act" means the Local Government Act 2000;
- 16.2 the "Council" means **Powys County Council**;
- 16.3 the "Code of Conduct" means the code of conduct for members³ adopted by the Council or the community councils within the Council's area in 2008 in accordance with section 51 of the Act, including any revisions;
- 16.4 the "Complainant" means any person who made any allegation which gave rise to the investigation;
- 16.5 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;
- 16.6 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

³ See Section 18.1

Officer under the Regulations;

- 16.7 the “Member” means any person who is the subject of an investigation into any alleged breach of the Code of Conduct;
- 16.8 the “Monitoring Officer” means the officer for the time being appointed by the Council under section 5 of the Local Government and Housing Act 1989;
- 16.9 the “Ombudsman” means the Public Services Ombudsman for Wales;
- 16.10 the “Regulations” means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended;
- 16.11 the “Standards Officer” means the officer for the time being appointed by the Council to support the work of the Standards Committee.

17. SUMMARY OF THE PROCEDURE

- 17.1 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 Council or a community council in the Council’s area.
- 17.2 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 Committee.
- 17.3 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 and the Council’s Standards Committee. The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, making recommendations to the Standards Committee.
- 17.4 The Standards Committee will then make an initial determination either:
 - 17.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or
 - 17.4.2 that the Member should be given the opportunity to make representations, either orally or in writing.
- 17.5 Where the Member is given an opportunity to make representations, the Standards 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:

- 17.5.1 there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken;
- 17.5.2 the Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
- 17.5.3 the Member has failed to comply with the Code of Conduct and should be censured; or
- 17.5.4 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 his/her authority for a period not exceeding six months

and take any such action accordingly.

18. INVESTIGATIONS BY THE MONITORING OFFICER (REFERRALS UNDER SECTION 70(4) OF THE ACT)

18.1 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:

- 18.1.1 conduct an investigation; and
- 18.1.2 report, and if appropriate, make recommendations to the Council's Standards Committee.

18.2 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.

18.3 After concluding an investigation, the Monitoring Officer must:

- 18.3.1 produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards Committee;
- 18.3.2 send a copy of the report to the Member; and
- 18.3.3 take reasonable steps to send a copy of the report to the Complainant.

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

19. INVESTIGATIONS BY THE OMBUDSMAN (REFERRALS UNDER SECTION 71(2) OF THE ACT)

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

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

20. THE FIRST MEETING OF THE STANDARDS COMMITTEE - INITIAL DETERMINATION

20.1 After the Monitoring Officer has:

20.1.1 produced an investigation report in accordance with paragraph 18.3;
or

20.1.2 considered the Ombudsman's investigation report in accordance with paragraph 19.1

he/she will arrange for a meeting of the Standards 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 Committee.

20.2 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.

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

20.4 The business of the Standards 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:

20.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or

20.4.2 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.

21. AFTER THE FIRST MEETING OF THE STANDARDS COMMITTEE

- 21.1 Where the Standards 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.
- 21.2 Where the Standards 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.

22. PREPARING FOR THE HEARING TO CONSIDER THE MEMBER'S REPRESENTATIONS

- 22.1 The Standards Officer, in consultation with the Chair of the Standards 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 to ask the Member to respond in writing within 14 days to confirm whether he/she:
- 22.1.1 is able to attend the hearing;
 - 22.1.2 wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response;
 - 22.1.3 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;
 - 22.1.4 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;
 - 22.1.5 wants to give evidence to the Standards Committee, either orally or in writing;
 - 22.1.6 wants to call relevant witnesses to give evidence to the Standards Committee;
 - 22.1.7 wants any part of the meeting to be held in private;
 - 22.1.8 wants any part of the investigation report or other relevant documents to be withheld from the public
- 22.2 The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether he or she will be attending the hearing.
- 22.3 The Standards Officer will send a copy of the Member's response under paragraph 22.1 to the Investigating Officer and will ask him/her to confirm in writing within seven days whether he/she:

- 22.3.1 has any comments on the Member's response;
 - 22.3.2 wants to be represented at the hearing;
 - 22.3.3 wants to call relevant witnesses to give evidence to the Standards Committee;
 - 22.3.4 wants any part of the meeting to be held in private; and
 - 22.3.5 wants any part of the investigation report or other relevant documents to be withheld from the public.
- 22.4 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:
- 22.4.1 confirm the date, time and place for the hearing;
 - 22.4.2 summarise the allegation;
 - 22.4.3 outline the main facts of the case that are agreed;
 - 22.4.4 outline the main facts which are not agreed;
 - 22.4.5 note whether the Member or the Investigating Officer will attend or be represented at the hearing;
 - 22.4.6 list those witnesses, if any, who will be asked to give evidence;
 - 22.4.7 enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
 - 22.4.8 outline the proposed procedure for the meeting.

23. POWERS OF THE STANDARDS COMMITTEE

- 23.1 The Standards 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. It must so far as appears to it appropriate seek to avoid formality and inflexibility in its proceedings. The Standards Committee will decide factual evidence on the balance of probabilities.
- 23.2 The Member or the Investigating Officer may be represented or accompanied whether or not legally qualified but if in any particular case the Standards 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.

23.3 The Standards Committee may take legal advice from a Council 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.

23.4 Where appropriate, and in accordance with the Regulations, the Standards Committee has power to censure the Member, or suspend or partially suspend the Member for a period not exceeding six months.

24. PROCEDURE AT THE HEARING

24.1 The hearing will be held in public unless the Standards Committee is persuaded that there is a good reason to exclude the public.

24.2 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.

24.3 Introduction

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

24.4 First Stage - Preliminary Procedural Issues

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

24.5 Second Stage - Making Findings of Fact

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

24.5.1 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 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 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.

24.5.2 At any time, the Standards Committee may question any of the people involved or any of the witnesses.

24.5.3 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 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.

24.5.4 At the conclusion of the representations as to matters of fact, the Standards Committee will retire to deliberate in private on the representations, after which the Chair of the Standards Committee will announce their findings of fact.

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

24.6.1 The Standards Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.

24.6.2 The Standards Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Committee has found, the Member has failed to comply with the Code of Conduct.

24.6.3 The Standards 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 Committee has found, he or she has failed to comply with the Code of Conduct.

24.6.4 The Standards Committee may, at any time, question anyone involved on any point they raise in their representations.

24.6.5 The Member will be invited to make any final relevant points.

24.6.6 The Standards 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 Committee will announce their findings.

24.7 Fourth Stage - Action to be Taken

24.7.1 If the Standards Committee decides that the Member has not failed to comply with the Code of Conduct, it will formerly 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.

24.7.2 If the Standards 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.

24.7.3 The Standards 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
- (c) the Member should be suspended or partially suspended from being a member or Co-Opted Member of his or her authority for a period not exceeding six months,

after which the Chair of the Standards Committee will announce their decision.

24.7.4 After making a decision the Standards 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.

25. FAILURE TO MAKE REPRESENTATIONS / ATTEND THE HEARING

25.1 If the Member fails to make representations, the Standards Committee may:

25.1.1 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

25.1.2 give the Member a further opportunity to make representations.

25.2 If a party fails to be present or represented at a hearing, the Standards 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:

25.2.1 hear and decide the matter in the party's absence; or

25.2.2 adjourn the hearing.

26. ILLNESS OR INCAPACITY

If the Standards Committee is satisfied 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 Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter.

27. SUSPENSION

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

27.1 the expiry of the time allowed to lodge a notice of appeal to an appeals tribunal under the Regulations (i.e. within 21 days of receiving notification of the Standards Committee's determination);

27.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations;

27.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last.

28. REFERRAL BY AN APPEALS TRIBUNAL

28.1 Where the Standards Committee determines that the Member has failed to comply with the Code of Conduct, the Member may appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales.

28.2 An appeals tribunal may endorse the decision of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the decision.

28.3 If:

28.3.1 the Standards Committee determines that the Member failed to comply with the Code of Conduct;

28.3.2 the Member appeals to an appeals tribunal drawn from the Adjudication Panel for Wales; and

28.3.3 the said tribunal refers the matter back to the Standards Committee with a recommendation that a different penalty be imposed,

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

28.4 After making its determination the Standards 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 Adjudication Panel for Wales as soon as reasonably practicable.

29. PUBLICATION OF THE STANDARDS COMMITTEE'S REPORT

29.1 The Standards Committee will cause to be produced within 14 days after:

29.1.1 the expiry of the time allowed to lodge a notice of appeal under the Regulations, or

29.1.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations, or

29.1.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last, 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.

29.2 Upon receipt of the report of the Standards Committee, the Monitoring Officer shall:

29.2.1 for a period of 21 days publish the report on the Council's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available;

29.2.2 supply a copy of the report to any person on request if he or she pays such charge as the Council may reasonably require, and

29.2.3 not later than seven days after the report is received from the Standards 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 29.2.1 and 29.2.2 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.

30. COSTS

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

The Code of Conduct Casebook

Issue 1 November 2013

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A word from the Ombudsman

I'm very pleased to introduce the first edition of 'The Code of Conduct Casebook'. 'The Ombudsman's Casebook' featuring investigations into complaints about maladministration and service failure is published quarterly and has proved of interest and value to its many readers. It's designed above all to highlight the findings of investigations and quick fixes so the other service providers can learn from them and improve public services.

For quite some time there have been calls for an equivalent publication on Code of Conduct investigations, but this has proved more challenging to produce. While maladministration cases result in reports and recommendations from my office, cases where there is evidence of a breach of the Code of Conduct are referred to either a Standards Committee or a Tribunal convened by the Adjudication Panel for Wales for a decision. Consequently, it is harder to provide the full story of a case in our summary. We have used the learning from Code cases in the form of case examples, however, in developing guidance for County Councillors and Community Councillors which is available here.

In order to develop the Code of Conduct Casebook, we have been including summaries in each report we produce, whether the case is referred or not. We're also grateful to the Local Authority Monitoring Officers and to the Adjudication Panel for Wales for allowing us to include links to their judgements so that the full story of each case can be told.

(Continued overleaf)

I hope you find them useful, and hope also that members of county and town and community councils will find them helpful in considering situations where the Code might possibly be breached. Recently, we have seen a welcome reduction in the number of cases being investigated by my office and I believe that the introduction of local resolution mechanisms by county councils has played an important part in this. Ideally, it would be good to see a further reduction in the months ahead.

The vast majority of councillors pursue their duties in a public spirited, open and transparent fashion. Examples of poor behaviour are thankfully rare. The real problems often arise where acrimony between councillors is allowed to develop to the point of continuous argument with sides being taken and entrenched positions adopted. Typically, this happens within town or community councils and the issues at the heart of the disputes, if they can even be remembered, are often trivial.

I hope that the councils concerned will take a long objective look at themselves, realise they are bringing themselves and their councils into disrepute, and seek assistance either from their monitoring officer or One Voice Wales to resolve the dispute. I would like to pay particular tribute to the Monitoring Officer of the City and County of Swansea who personally engaged in mediation in an attempt to end one particularly protracted squabble. His work, and that of his colleagues across Wales, has been of particular support to my office in improving adherence to the Code of Conduct.

Although this is the first Code of Conduct Casebook, I also anticipate it will be my last as I expect to move to a new role shortly. I would like to take the opportunity to wish all of those in local government in Wales the very best as they head into some very difficult times ahead, and also to pay tribute to the work of some key individuals and organisations who have contributed to driving up standards including the Adjudication Panel for Wales under the capable leadership of its president, Peter Davies; Stephen Phipps both as long time clerk to the Panel and in developing policy for the Welsh Government, and Steve Thomas and Daniel Hurford at the WLGA.



Peter Tyndall
Ombudsman

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 the summaries of all reports issued by this office during the last six months, for which the findings were one of the four set out above. 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.

Case Summaries

No evidence of breach

Promotion of equality and respect - City and County of Swansea July 2013 - Case references 201204336, 201204337, 201204338, 201204389 & 201204706

Following complaints made by five individuals, the Ombudsman investigated whether a Councillor had made insulting and abusive comments and behaved in an inappropriate manner during a Special Development Management and Control Committee meeting.

The Ombudsman obtained copies of relevant documents from the Council. The Ombudsman also obtained accounts of events from persons present at the meeting, which included members of the public, elected members and Council officers. The Councillor in question was also given an opportunity to respond to the complaint.

Having considered the available information, the Ombudsman concluded that there was no evidence that the Councillor had breached the Code of Conduct.

Promotion of equality and respect – Powys County Council June 2013 - Case reference 201203179

The Ombudsman received a complaint that a member of Powys County Council breached the code of conduct by sending letters to members of Llandrindod Wells Town Council which contained untrue statements which caused the complainant to suffer harassment, alarm and distress.

The investigation considered whether the Councillor had breached the paragraphs of the Code relating to bullying and harassment and bringing the office of the member into disrepute. The Ombudsman obtained evidence from the Police and County Court; the Councillor in question also provided written comments. Having considered the evidence gathered, it was concluded that, in circulating the letters, it was not the Councillor's intention to cause harassment, alarm or distress to the complainant. It was also established that the statement made in the Councillor's letters (notwithstanding the probable misapplication of terminology in respect of one statement) were in the main representative of the truth.

The finding was that there was no evidence of any failure to comply with the Code of Conduct.

Disclosure and registration of interests – Cefn Community Council July 2013 - Case reference 201202501

Mr A complained that a member of Cefn Community Council had failed to declare a personal and prejudicial interest in the business of a charitable trust of which he was a trustee by virtue of his status as a Cefn Community Council councillor. Mr A said that the interest was that the Councillor's close personal friend was the General Manager of a football club which played on a pitch owned by the charitable trust. Mr A also complained that the Councillor had used his position to disadvantage the football club after his friend had resigned from the club.

The Ombudsman considered various minutes arising out of Community Council and charitable trust meetings, as well as copies of documentation relating to the status of the charitable trust. The Ombudsman considered complaint correspondence which had been exchanged by the Community Council and also interviewed three members of the Community Council as well as the Clerk.

The Ombudsman found no evidence that the Councillor had used his position to disadvantage the football club. The Ombudsman did not consider that the Councillor's association with the Football Club's General Manager was such that it gave rise to the need to declare a personal interest.

The Ombudsman's finding was that there was no evidence of a breach of the Code.

No action necessary

Promotion of equality and respect – Isle of Anglesey County Council August 2013 - Case reference 201204406

A complaint was made that a member of the Isle of Anglesey County Council had breached the code of conduct during the live broadcast of a current affairs programme in conflict with one of the panellists by making comments about the panellist that were considered to be personal, insulting and unnecessary.

The conclusion was that the Councillor's comments were in general political rather than personal expressions and that they were not a matter of breaching the code. However, during part of the discussion, the Councillor made a comment regarding the panellist's lineage. It was considered that what was said could possibly be interpreted as being a personal and unnecessary expression and not a political one. It was considered that his comments were unwise and inappropriate.

The finding was that there was no need to take action in respect of the matters investigated.

Promotion of equality and respect – Caerphilly County Borough Council August 2013 - Case reference 201203463

The Ombudsman received a complaint that a member of Caerphilly County Borough Council had failed to observe the code of conduct for members of the Council. It was alleged that, during a meeting of Pentricwm Community Association (PCA), the Councillor had accused the complainant of failing to maintain confidentiality in the context of their work in cancer care. The complainant said that the accusation damaged their reputation and lowered their standing in the community. The complainant also alleged that the Councillor pointed their finger and shouted directly at them. The complainant said that the Councillor continued to verbally attack them and refused several requests from the chairperson to stop.

During the investigation evidence was obtained from the Council and the PCA. The Councillor in question, the complainant, and four witnesses were also interviewed.

The investigation found that there was evidence to suggest that the Councillor may have breached the Code by failing to show respect and consideration towards the complainant. However, there was conflicting evidence about exactly what was said and how it was said. There was also evidence to suggest that whatever exchange did take place was in the heat of the moment following an element of provocation from other people. The Councillor was reminded of their obligation under the Code and it was found that no action needed to be taken in respect of the matters investigated.

**Promotion of equality and respect – Penmaenmawr Town Council
July 2013 - Case reference 201201768**

Ms W complained that a member of the Town Council had acted aggressively towards her. This was witnessed by others.

The Councillor was interviewed and strenuously denied the allegation. Having investigated, the Ombudsman determined that, as the evidence was contradictory, no further action would be taken.

**Promotion of equality and respect – Member of Llanfaelog Community Council
July 2013 - Case references 201201908, 201201909, 201201910, 201201911 &
201201913**

A number of complaints were made regarding the behaviour of a Councillor from Llanfaelog Community Council. It was alleged that the Councillor had used bad language and had behaved inappropriately during a meeting.

The Ombudsman decided to investigate the matter to determine whether there was evidence of breaches of the Code of Conduct, which requires members to show respect and consideration to others and not to conduct themselves in a manner which could bring the role of member or the Council itself into disrepute.

Evidence was obtained from all members of the Council who were present at the meeting. The evidence gathered supported the fact that the Councillor was heard muttering offensive words under his breath. However, it does not appear that the language used was specifically directed at an individual. The Councillor said that it was possible he used the language described as a means of voicing his frustration during the meeting.

The Ombudsman found that the evidence suggested that the Councillor's actions may have breached the Code. However, whilst he would not in any circumstances condone the use of such language, when reaching his decision, the Ombudsman was mindful of the fact that this was an isolated incident, the comments were made in the heat of the moment and were not directed at a particular person. On this basis, the Ombudsman decided that no further action needed to be taken in respect of the matters investigated.

Disclosure and registration of interests – Cefn Community Council July 2013 - Case reference 201202499

Mr A complained that a member of Cefn Community Council had failed to declare a personal and prejudicial interest in the business of a charitable trust of which he was a trustee by virtue of his status as a Cefn Community Council councillor. Mr A said that the interest was that the Councillor's son was the Assistant Manager of a football club which played on a pitch owned by the trust. Mr A also complained that the Councillor had used his position as councillor to disadvantage the football club after his son had resigned from the club.

Having investigated, the Ombudsman found no evidence that the Councillor had used his position to disadvantage the football club but did find that he may have failed to properly declare a personal and prejudicial interest. Whilst the Ombudsman concluded that the evidence was suggestive of a breach of the Code of Conduct, there was no evidence to suggest that the Councillor had done so deliberately.

The Ombudsman's finding was that no further action was necessary in respect of the matters complained about.

Disclosure and registration of interests – Cefn Community Council July 2013 - Case reference 201202500

Mr A complained that a member of Cefn Community Council had failed to declare a personal and prejudicial interest in the business of a charitable trust of which he was a trustee by virtue of his status as a Cefn Community Council councillor. Mr A said that the interest was that the Councillor's brother-in-law was the general manager of a football club which played on a pitch owned by the trust. Mr A also complained that the Councillor had used his position as councillor to disadvantage the football club after his brother in law had resigned from the club.

Having investigated, the Ombudsman found no evidence that the Councillor had used his position to disadvantage the football club but did find that he may have failed to properly declare a personal and prejudicial interest. Whilst the Ombudsman concluded that the evidence was suggestive of a breach of the Code of Conduct, there was no evidence to suggest that the Councillor had done so deliberately.

The Ombudsman's finding was that no further action was necessary in respect of the matters complained about.

Disclosure and registration of interests – Rogiet Community Council June 2013 - Case reference 201204415

The Ombudsman received a complaint that a former member of Rogiet Community Council had breached the Code of Conduct. It was alleged that the former Councillor had failed to declare an interest during meetings of the Community Council. The former Councillor was co-opted to the Community Council in July 2012. The Community Council managed allotments on behalf of the County Council. The former Councillor had been an allotment holder for several years.

The investigation considered information from the complainant, the former Councillor, the Community Council and Monmouthshire County Council. The investigation concluded that the former Councillor had, on occasion, failed to declare a personal interest in the Community Council's discussions about the allotments. The former Councillor's conduct was therefore suggestive of a breach of the Code. However, the former Councillor had stepped down from the Council in April 2013. Therefore, the Ombudsman found that no action needed to be taken in respect of the matters investigated. The former Councillor was reminded that, if he were to be elected as a member of a council in the future, he should be mindful of his obligation to comply with the Code.

Disclosure and registration of interests – Blaengwrach Community Council June 2013 - Case reference 201204755

The Ombudsman received a complaint that a Councillor had breached the Code of Conduct on 14 February 2013 by remaining in the room when the Community Council discussed matters relating to her husband. The complainant also complained that the Councillor and others made inappropriate remarks to her for having reported her husband's behaviour to the Community Council. This had caused the complainant concern.

Although the recollections of the parties varied as to the exact circumstances under which the Councillor remained in the room when matters relating to her husband were discussed, it was the Ombudsman's view that she should not have remained. It is the responsibility of each member to decide whether or not they have a personal interest and the views of other members on the matter are not relevant. Further, it is clear that a matter concerning a person so closely related to a member gives rise to a personal and prejudicial interest.

The Code itself and the Ombudsman's Guidance to Members are quite clear on these matters. The Ombudsman provisionally found that there was evidence that a breach may have occurred under the relevant provisions of the Code, but that it was unlikely that a sanction would be applied if the breach were found. In accordance with his procedures, the Ombudsman consulted with the Monitoring Officer, who agreed that a sanction was unlikely but said that he would issue appropriate advice to the Community Council on the subject of personal interests. The Ombudsman concluded that in the circumstances of this particular complaint, no further action was necessary.

With regard to the concerns about inappropriate comments being made by the Councillor, the Ombudsman was not persuaded that the comments as reported provided sufficient evidence of a breach. The Ombudsman's finding in relation to that matter was that there was no evidence of a breach under the relevant provision.

**Duty to uphold the law – Pembrokeshire County Council
July 2013 - Case reference 201201986**

A complaint was made that a former Councillor had used the Council's computer systems to produce election leaflets for his colleagues. The former Councillor was interviewed and accepted that he had created, or been the last person to have saved, 23 files of election material and manifestos for some candidates who had difficulty using computers. He said that none of the files were printed using the Council's resources.

The former Councillor accepted that the Council's internal policy and the Code of Conduct did not permit members to use its resources for political purposes. He also accepted that he was wrong to have done so and was of the view that the rules concerning the use of Council computers should be changed.

There was evidence suggestive of a breach of the Code and the matter was referred to the Council's Monitoring Officer to determine whether he wanted to consider the matter locally. The Monitoring Officer agreed with the Ombudsman that, as the former Councillor had resigned and moved away from the area, no further action needed to be taken

**Objectivity and propriety – Llandrindod Wells Town Council
April 2013 - Case reference 201204096**

The complaint arose as a consequence of another complaint which was being investigated. The investigation considered that the Councillor may have breached the Code of Conduct in the way that he handled a complaint to the Council about another Councillor's behaviour.

It appeared that the Councillor had not considered his personal association with the person complained about, and also failed to comply with the Council's procedure and this may have brought the Council into disrepute. The evidence also indicated that the Councillor may have disclosed information which could reasonably be regarded as confidential.

The Ombudsman decided that, whilst there was evidence to suggest breaches of the Code of Conduct, the matters were minor in nature and it was unlikely that a standards committee would impose a sanction. The matter was referred to the Council's Monitoring Officer, who considered that further local investigation was not appropriate.

Referred to standards committee

Objectivity and propriety – Gorseinon Town Council April 2013 - Case reference 201201628

The Ombudsman received a complaint that a member of Gorseinon Town Council had failed to observe the Code of Conduct. It was alleged that the Councillor had made untrue and malicious statements about a local bar and restaurant in a Town Council meeting. The complainant said the comments were later reported by the South Wales Evening Post and associated website. The complainant said that the Councillor lived close to the premises and was using his position to “continue a vendetta” against it.

The Councillor said that he had not received training on the Code and he did not believe he had breached it. He said his comments were “...genuinely held, reasonable and honest beliefs and represented ...the views of [his] constituents [and] many residents of Gorseinon...”. He confirmed that he made the comments but said he did not know the press were present. He said that if he had known he may “...have chosen [his] words differently...”.

The investigation established that the Councillor may have had a personal and prejudicial interest in the Council’s discussions about the restaurant. The Ombudsman concluded that the Councillor’s conduct was suggestive of a breach of the Code. The Ombudsman’s report was referred to the Monitoring Officer of the City and County of Swansea for consideration by its Standards Committee. It determined that the Councillor’s conduct had breached the Code but concluded that no further action should be taken.

The decision of the Standards Committee can be found [here](#).

Promotion of equality and respect – Monmouthshire County Council March 2013 – Case reference 201102666

The Ombudsman received a complaint from an officer of Monmouthshire County Council that a member of the Council had failed to observe the Code of Conduct. It was alleged that the Councillor had provided information about the officer’s private life to other members and a member of the public.

It became apparent during the course of the investigation that the Councillor may also have failed to act within the scope of the dispensation awarded to him by the Council’s Standards Committee. That dispensation restricted his ability to participate in discussions involving the operation of a local attraction in which his wife worked, and in which he therefore had a personal and prejudicial interest.

The evidence found by the Ombudsman's investigation suggested that the Councillor may have breached provisions of the Code of Conduct. The Ombudsman decided to refer the matter to the Council's Monitoring Officer, for consideration by the Council's Standards Committee. It concluded that the Councillor had breached the specified paragraphs of the Code and determined that he should be suspended for four months.

The decision of the Standards Committee can be found [here](#).

Integrity – Neath Port Talbot County Borough Council February 2013 – Case reference 201200387

A member of the public complained that a member of Neath Port Talbot County Borough Council had sent out an election letter using Council-headed paper before the election that took place on 3 May 2012.

The Ombudsman concluded that the evidence that he had obtained during his investigation suggested that the Councillor may have misused the Council's resources for political purposes, thereby bringing their office or authority into disrepute. The Ombudsman decided that he should refer his report on this investigation to the Monitoring Officer of Neath Port Talbot County Borough Council, for consideration by the Council's Standards Committee.

It found that the Councillor had breached the Code and censured him for both breaches and required him to attend training, on the Code, within three months.

The decision of the Standards Committee can be found [here](#).

Objectivity and propriety – Llandudno Town Council February 2013 – Case reference 201103150

An individual complained that a member of Llandudno Town Council breached the Code of Conduct for members when she attempted to enter their licensed premises after hours by saying that she was a Town Councillor. The complainant said that, when her request was refused, she became abusive and made threats concerning their licence and business. Subsequently, the member circulated unfounded written allegations about the complainant's behaviour to other town councillors and senior elected members, which were investigated by the County Council's licensing officer.

The Ombudsman concluded that the Councillor's actions in attempting to gain entry to the licensed premises after hours, and subsequent e-mail to other town councillors and elected members making unfounded comments about the complainant's behaviour, suggested that she had misused her position as a councillor and thereby brought the office into disrepute. He referred the matter to the Monitoring Officer of Conwy County Borough Council for consideration by the Council's Standards Committee.

It found that the Councillor's actions, in using her position in order to confer an advantage for herself, had brought her office into disrepute. The Standards Committee also found that the Councillor had failed to comply with requests made by the Ombudsman's office during the investigation. The Councillor was suspended for a period of six months.

The decision of the Standards Committee can be found [here](#).

Objectivity and propriety – Powys County Council February 2013 – Case reference 201200003

It was alleged that a Councillor had breached the Code of Conduct for members of Powys County Council in that he disclosed sensitive information which was given to him in confidence and which he knew, or reasonably should have known, it to be confidential.

The Ombudsman concluded that the evidence suggested the Councillor had been provided with confidential information which he had then disclosed, and that in doing so, he may have breached the Code of Conduct. The Ombudsman decided that his report on this investigation should be referred to the Monitoring Officer of Powys County Council for consideration by its Standards Committee.

It found that the Councillor had disclosed information he knew to be confidential and so had breached the Code and, in so doing, brought his office as a member into disrepute. The Councillor was suspended for a period of one calendar month.

The decision of the Standards Committee can be found [here](#).

Referred to Adjudication Panel for Wales

Promotion of equality and respect – Flintshire County Council July 2010 – Case reference 200802503

The Ombudsman investigated a complaint against a member of Flintshire County Council. The complaint alleged that the Councillor breached the Code of Conduct by failing to show respect and consideration for officers of the Council; by using bullying or harassing behaviour; attempting to compromise the impartiality of officers and, in so doing; that he conducted himself in a manner likely to bring the office of member of the Council into disrepute.

The Adjudication Panel found that the Councillor had breached the Council's Codes of Conduct which were in force at the time of the events being complained about. It decided that the Councillor should be disqualified from being or becoming a member of an authority for a period of two and a half years.

The decision of the Adjudication Panel can be found [here](#). The former Councillor has been granted leave to appeal the decision to the High Court.

Integrity – Ceredigion County Council January 2013 – Case reference 201102175

The Ombudsman received a complaint that a former Councillor had failed to observe the Code of Conduct for members of Ceredigion County Council. It was alleged that the Councillor had over-claimed mileage expenses over a period of 11 years.

During his investigation, the Ombudsman took account of the fact that a Council investigation found that the Councillor had over-claimed expenses as a Member and as Chairman of the Council. The Councillor repaid £5100.42 to the Council.

The Ombudsman concluded that the evidence suggested breaches of the Code relating to misusing his position to gain an advantage for himself, failing to follow the Council's requirements when claiming expenses thereby bringing the office into disrepute. His report on the investigation was referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal. The tribunal found that the Councillor had breached the Code and that he should be disqualified, for a period of three months, from being or becoming a member of Ceredigion County Council or any other relevant authority.

The decision of the Adjudication Panel for Wales can be found [here](#).

Integrity – Mumbles Community Council January 2012 – Case reference 201002266

A Councillor alleged that another member of Mumbles Community Council had failed to observe the Code of Conduct. It was alleged that the accused Councillor had brought the office of Councillor and the Council into disrepute by making misleading statements about his assets to an Employment Tribunal.

The Ombudsman concluded that there was evidence to suggest that the Councillor's conduct may have breached the Code. His finding was that his report should be referred to the Monitoring Officer of the City and County of Swansea, for consideration by the Standards Committee.

It found that the Councillor's conduct in relation to misleading statements he had made about his assets amounted to a breach of the Code in that it had brought his office as Councillor and the Council into disrepute. It decided that the Councillor should be suspended from being a member of the Council for a period of 18 weeks.

The Councillor subsequently appealed to the Adjudication Panel for Wales. The Adjudication Panel for Wales unanimously endorsed the decision that the Councillor had breached the Code of Conduct. It also endorsed the decision to suspend him from being a member of the Council for a period of 18 weeks.

The decision of the Adjudication Panel for Wales can be found [here](#).

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 James.Merrifield@ombudsman-wales.org.uk or sent to the following address:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel: 01656 644200
Fax: 01656 641199
e-mail: ask@ombudsman-wales.org.uk (general enquiries)

Follow us on Twitter: @OmbudsmanWales

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

Application by	County Councillor H Williams
Council	Powys County Council
Involvement With	(i) Matters relating to the proposed changes to ALN (Assisted Learning Needs) provision for primary age children across Powys.
Business To Be Considered	All Matters relating to the proposed changes to ALN provision for primary age children across Powys.
Background	<p>The County Council is currently consulting on proposed changes to ALN provision for pupils with Additional Learning Needs in the 3 to 11 age group. Councillor Williams' wife is a support worker working in and ASD unit at Bro Tawe primary school which is not in Councillor Williams' ward. She has worked for the service for approximately 25 years. However she does not work in the school where Councillor Williams is a governor (Ysgol Golwg y Cwm).</p> <p>Councillor Williams is an LEA appointed governor at Ysgol Golwg y Cwm and due to his personal and prejudicial interest is unable to represent the views of the school, the parents, staff, pupils and other constituents regarding the matter. There are 3 ALN units at the school and there will be significant educational, staffing and financial implications for the school arising from the proposals.</p> <p>There is another County Councillor who is also a LEA Governor at the school.</p> <p>The matter is likely to be discussed at meetings of the Cabinet, the Shire Committee, and meetings of the County Council. In addition the matter is likely to be discussed at meetings of the Governing Body and public meetings in the Ystradgynlais area.</p> <p>The types of matters which could be considered at these meetings relate to the budget, the proposed re-configuration of the service and how the service will be delivered across the County.</p> <p>The applicant is seeking a dispensation to:</p> <ul style="list-style-type: none"> (i) Attend a meeting. (ii) Speak at a meeting. (iii) Seek to influence a decision on the matter. (iv) Make written representations. (v) Make oral representations.
STEP 1 Personal Interest(s) under paragraph 10 of the Code.	<p>Councillor Williams has the following personal interests:</p> <p>10 (2) (a) (viii) - You must regard yourself as having a personal interest in any business of your authority if it relates to, or is likely to affect any body to which you have been elected appointed or nominated by your authority.</p>

	<p>10 (2) (a) (ix) (aa) - You must regard yourself as having a personal interest in any business of your authority if it relates to, or is likely to affect any public authority or body exercising functions of a public nature in which you have membership or hold a position of general control or management.</p> <p>10 (2) (c) (i) (bb) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting 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 to a greater extent than the majority of in all other cases, other council tax payers, rate payers or inhabitants of the authority's area</p>
<p>STEP 2 Exemptions under paragraph 12 (2) & (3) of the Code.</p>	<p>In relation to County Councillor Williams, the following exemptions in Paragraph 12(2) would apply in relation to the personal interests in paragraphs 10 (2) (a) (viii) and 10 (2) (a) (ix) (aa) :</p> <p>12 (2) (a) (ii) - Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business relates to (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management</p> <p>12 (2) (a) (iii) - Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business relates to a body to which you have been elected, appointed or nominated by your authority</p> <p>12 (3) - The exemptions in sub-paragraph (2) (a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration</p> <p>However in relation to the paragraph 10 (2) (c) (i) (bb) interest, none of the exemptions in the Paragraph 12(2) would apply.</p>
<p>STEP 3 Application of "public perception" test under paragraph 12 (1) of the Code.</p>	<p>In applying the Paragraph 12(1) test in relation to the business involving the restructuring of the provision for pupils with Additional Learning Needs [relating to the personal interest under paragraph 10 (2) (c) (i) (bb)] it is suggested that the Committee approach the issue in this way i.e. to ask itself:</p> <p>"Is it reasonable to suppose that the public perception would regard the Councillor's personal interest, as so significant that whenever a proposal regarding ALN provision was discussed at a committee the potential conflict of interest would be so significant as to be likely to prejudice his / her judgement of the public interest in performing his / her role as a County Councillor?"</p>

	<p>In applying the Paragraph 12(1) test in relation to this matter (and particular interest) it is difficult to conclude that the Committee would answer this question otherwise than in the affirmative i.e. that a prejudicial interest would exist in this situation, unless the business under discussion is of such a nature that it would be categorised as trivial, insignificant or uncontentious.</p>
<p>STEP 4 Ground(s) on which dispensation could be granted</p>	<p>In relation to the County Councillor the grounds which could be considered for this matter would be grounds (d) and (f), namely:</p> <p style="padding-left: 40px;">(d) The nature of the Member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business.</p> <p>This ground enables the grant of dispensation to speak and vote or to speak only.</p> <p style="padding-left: 40px;">(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise.</p> <p>This ground enables the grant of dispensation to speak and vote or to speak only.</p>
<p>STEP 5 Determine the application:-</p> <p>(i) Refuse</p> <p>(ii) Approve:-</p> <p style="padding-left: 20px;">(a) attend</p> <p style="padding-left: 20px;">(b) speak</p> <p style="padding-left: 20px;">(c) vote</p> <p style="padding-left: 20px;">(d) exercise Board Function</p> <p style="padding-left: 20px;">(e) seek to influence</p> <p style="padding-left: 20px;">(f) make written communications</p> <p style="padding-left: 20px;">(g) make oral representations</p>	<p>The applicant has requested a dispensation to attend meetings and to speak, seek to influence and make oral and written representations but not to vote, on matters relating to the proposed restructuring of ALN provision.</p> <p>The issue for consideration is to what extent can Councillor Williams be involved in discussions on this matter (undertaking his representational role as a County Councillor) which can have a material effect on his wife's own wellbeing / financial position.</p>
<p>RECOMMENDATION:</p>	<p>It is difficult to make a recommendation as this is quite complex and the committee will need to consider whether a dispensation or partial dispensation can be granted to Councillor Williams under paragraphs (d) and (f) and under which circumstances.</p>

POWYS STANDARDS COMMITTEE / COMMUNITY SUB-COMMITTEE

APPLICATION FOR DISPENSATION BY MEMBER WITH PREJUDICIAL INTEREST

I, Councillor David Huw Williams

of Powys County Council COUNCIL

hereby apply to the Powys Standards Committee/Community Sub-Committee for a Dispensation to participate, as described in Section 1 below, in that business of the Council described in Section 2 below notwithstanding that I have the Prejudicial Interest(s) detailed in Section 3 below.

I make this application on the ground(s) set out in Section 4 below which I submit apply because of the reasons detailed in Section 5 below.

SECTION 1

How you wish to participate – please tick all relevant categories below:

Attend a meeting	<input checked="" type="checkbox"/>
Speak at a meeting	<input checked="" type="checkbox"/>
Vote at a meeting	<input type="checkbox"/>
Seek to influence a decision on a matter	<input checked="" type="checkbox"/>
Make written representations	<input checked="" type="checkbox"/>
Make oral representations	<input checked="" type="checkbox"/>
Exercise Board functions (County Councillor only)	<input type="checkbox"/>

SECTION 2

(A) Describe in the box below:

- i) the business in which you wish to participate;
- ii) how your Council will deal with the matter;
- iii) how many Members there are on your Council;
- iv) what meetings will be held to consider it, when and where they will be held; and
- v) those taking part.

Re: Proposed changes to ALN provision across Powys.

I would wish to participate in meetings, debate, consultation and in writing about the proposed plans to re-configure ALN provision for primary age children across Powys.

(B) If the business relates to or affects an organisation(s) please detail below:

- how were you appointed to that organisation (i.e. by appointment by the Town or Community Council or by other means), and

- what is the nature of the business:
 - A Funding
 - B Planning – applications, building improvement/changes
 - C Licences – liquor/entertainment
 - D Land
 - E Management/operation of the organisation
 - F General matters

N/a

(C) Is the organisation a registered charity? If so, are you a Trustee of the charity?

No

SECTION 3

Detail the PREJUDICIAL interest(s) you have in the business referred to in Section 2 above. Please refer to the attached Guidance Notes (Attached) and include the relevant category reference e.g C.4 if the matter concerns a good friend of yours who stands to benefit as a result of a decision on the matter.

Re: ALN proposal and consultation

I have to declare a personal prejudicial interest in the above proposal because my wife works in an ASD unit located in Bro Tawe primary school, Ystradgynlais. Bro Tawe CP school is not in my ward. I would, therefore, wish to apply for dispensation in order to represent the views of Golwg y Cwm CP school, the parents, staff, pupils and other constituents regarding this matter. I am an LEA appointed member of the Governing body. I also have a broader County wide philosophical and educational interest in the proposal which I feel I am being denied a platform for. There are three ALN units in Golwg y Cwm and I feel it's important to express parental and other views in meetings and in writing. It is a significant issue for the school from an educational, staffing and financial point of view.

SECTION 4

Set out the GROUND(S) upon which you rely by placing a tick in the right hand column against the relevant category/ies below.

Eligible Applicant	Ground		
County Councillors and Town and Community Councillors	(a) No fewer than half of the Members of the relevant Authority or of a committee of the Authority (as the case may be) by which the business is to be considered has an interest which relates to that business;	Speak and Vote Speak only	-
County Councillors only	(b) No fewer than half of the Members of a leader and cabinet executive of the relevant Authority by which the business is to be considered has an interest which relates to that business and either Paragraph (d) or (e) also applies;	Speak and Vote Speak only	-
County Councillors only	(c) In the case of a County or County Borough Council, the inability of the Member to participate would upset the political balance of the relevant Authority or of the committee of the Authority by which the business is to be considered to such an extent that the outcome would be likely to be affected.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(d) The nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business;	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(e) The interest is common to the Member and a significant proportion of the general public;	Speak and Vote Speak only	- x
County Councillors and Town and Community Councillors	(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;	Speak and Vote Speak only	- x
County Councillors only	(g) The business to which the interest relates is to be considered by an Overview and Scrutiny Committee of the relevant Authority and the Member's interest is not a pecuniary interest.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(h) The business which is to be considered relates to the finances or property of a voluntary organisation of whose Management Committee or Board the Member is a Member otherwise than as a representative of the relevant Authority and the Member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or	Speak only	
County Councillors and Town and Community Councillors	(i) It appears to the committee to be in the interests of the inhabitants of the area of the relevant Authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.	Speak and Vote Speak only	-

SECTION 5

Detail in full the reasons why you submit the grounds selected in Section 4 apply in the case of your application and justify the grant of the dispensation you seek

There is a wider philosophical and political debate about the ALN provision in Powys which is broader than one school. The proposals as set out effect schools across the County and I feel that I am being denied a voice in this debate because my wife works in a single unit. I also feel that Golwg y Cwm is being denied it's full representation in meetings and in writing because of my situation. The ward members of Ystradgynlais are also being disenfranchised by the lack of representation.

Applicant's home address:	
Applicant's telephone number:	
Applicant's fax number:	
Applicant's E Mail address:	

SIGNED: _____ D.H Williams _____

DATED: 3.2.14 _____

This form fully completed, signed and dated should be returned to:

Mrs Elizabeth Patterson, Committee Clerk, Legal, Scrutiny and Democratic Services, County Hall, Llandrindod Wells, Powys, LD1 5LG.

Tel No: 01597 826980

Fax No: 01597 826220

E-Mail: Elizabeth.patterson@powys.gov.uk

From whom further information and advice may be obtained.

MEMBERS CODE OF CONDUCT

GUIDANCE FOR MEMBERS MAKING WRITTEN NOTIFICATIONS/DISPENSATION APPLICATIONS

CATEGORIES OF PERSONAL INTERESTS (INCLUDING SOME NOTES ON PREJUDICIAL INTERESTS AND DISPENSATIONS)

CATEGORY A

- A. ANY business of the Council which RELATES TO OR IS LIKELY TO AFFECT:
- 1 any employment or business carried on by you.
 - 2 a person who employs you
 - 3 any person who has appointed you
 - 4 Any firm in which you are a partner
 - 5 Any company of which you are a paid director
 - 6 Any person who has contributed to your election expenses
 - 7 Any person who has contributed to your councillor expenses
 - 8 any company in which you have shares with a face value of more than £25,000 or in which you own 1/100th of the share capital AND the company has a place of business or land in your Council's area
 - 9 Any contract for goods, services or works made between your council and you, your firm (where you are a partner), your company (where you are a paid director) or a company of the type mentioned in 8 above.
 - 10 Any land in the area of the Council –
 - (i) which you own (alone or jointly with others)
 - (ii) which is held in trust for you (alone or jointly with others)
 - (iii) which you hold on lease/tenancy (alone or jointly with others)
 - (iv) which you hold on licence to occupy for 28 days or longer (alone or jointly with others)
 - 11 Any land leased by your Council to –
 - (i) your firm (where you are a partner)
 - (ii) your company (where you a paid director)
 - (iii) any company of the type mentioned in 8 above
 - 12 Any body to which you have been elected, appointed or nominated by your authority
**
 - 13 Any of the following organisations in which you have membership or hold a position of general control or management
 - (i) a public authority or body exercising functions of a public nature**
 - (ii) a company, industrial and provident society, charity, or body directed to charitable purposes
 - (iii) a body whose principle purposes include the influence of public opinion or policy
 - (iv) trade union or professional association
 - (v) private club, society or association operating within your council's area (including national organisations if they operate locally)

** Although these are personal interests which must always be disclosed they are not PREJUDICIAL interests and thus will NOT require a DISPENSATION - UNLESS the business relates to the DETERMINATION of any approval, consent, licence, permission or registration concerning the body in question.

NB. FOR THE AVOIDANCE OF DOUBT in those 5 cases listed below although you will always have a personal interest in Council business relating to these bodies that must always be disclosed you will NOT have a PREJUDICIAL interest (and thus will NOT require a DISPENSATION) EXCEPT where the

business relates to the DETERMINATION of any approval, consent, licence, permission or registration concerning the body in question.

1. Another local authority (County or Town/Community Council) or a Fire and Rescue Authority or a National Park Authority of which you are also a member;
2. Another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
3. Any body to which you have been elected, appointed, or nominated by your authority;
4. A school where you are a governor***;
5. A local health board of which you are also a member where you have not been appointed or nominated by your Council.

*** If you have not been appointed a Governor by your Council you will have a PREJUDICIAL interest if the business relates particularly to the school of which you are a governor and therefore you will not be allowed to speak or vote unless you obtain a dispensation.

CATEGORY B

- B. ANY business of the Council where a member of the public MIGHT REASONABLY PERCEIVE there to be a conflict between your ward/electoral division role and your role in representing the authority as a whole

CATEGORY C

- C. ANY business of the Council, a decision upon which, MIGHT REASONABLY BE REGARDED as AFFECTING

1. The well-being or financial position of yourself
2. The well-being or financial position of a person with whom you live
3. The well-being or financial position of a member of your family
4. The well-being or financial position of any person with whom you have a close personal association
5. Any employment or business carried on by a person mentioned in C 2, 3 or 4.
6. Any person who employs or has appointed a person mentioned in C 2, 3 or 4.
7. Any firm in which a person mentioned in C 2, 3 or 4 is a partner.
8. Any company which a person mentioned in C 2, 3 or 4 is a director.
9. Any company in which shares exceeding the face value of £5,000 are owned or held in trust on behalf of a person mentioned in C 2, 3 or 4
10. Any of the organisations listed in A 13 in which a person mentioned in C 2, 3 or 4 holds a position of general control or management

TO A GREATER EXTENT than the majority of Council Tax payers / ratepayers inhabitants

CATEGORY D (County Councillors only)

- D1. Any business before an OVERVIEW AND SCRUTINY committee of the Council (or of a sub-committee of such a committee) where:-
- (a) the business relates to a decision made (whether implemented or not) or action taken by the Board of other committee/sub-committee; and
 - (b) at the time the decision was made or action was taken, you were a member of the Board/committee/sub-committee mentioned in (a) above and you were PRESENT when that decision was made or action was taken.)

(NB although you must always disclose this as a personal interest you will NOT have a PREJUDICIAL interest (and thus will NOT require a DISPENSATION) where you are required by the committee/sub-committee in exercise of its statutory powers to attend a meeting of the Scrutiny committee/sub-committee)

D2. ANY business of the Council which RELATES TO:-

- (a) the HOUSING FUNCTIONS of your authority where you hold a tenancy or lease with your authority,**

(NB provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease you will not have a PREJUDICIAL interest (and thus will NOT require a DISPENSATION) but you must always disclose your personal interest);

- (b) the functions of your authority in respect of SCHOOL meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education,**

(NB unless it relates particularly to the school which that child attends you will not have a PREJUDICIAL interest (and thus will NOT require a DISPENSATION) but you must always disclose your personal interest);

- (c) the functions of your authority 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 your authority**

(NB although you must always disclose this as a personal interest you will NOT have a PREJUDICIAL interest (and thus will not require a dispensation); and

- (d) the functions of your authority in respect of an ALLOWANCE or payment under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000.**

(NB although you must always disclose this as a personal interest you will NOT have a PREJUDICIAL interest (and thus will NOT require a DISPENSATION))

REMINDER FOR BOARD MEMBERS:

Unless you have a DISPENSATION you CANNOT take a decision or exercise Portfolio functions (e.g. discuss or give advice to members or officers) in respect of business where you have a personal interest which is also a PREJUDICIAL interest.

If your interest is ONLY a personal interest and NOT also a prejudicial interest you must in relation to the business in question ensure that all decisions you take as Portfolio Holder are recorded in writing which includes a statement recording the existence and nature of your interest. This is in addition to making the usual member's notification of a personal interest.

CATEGORY E
(Town/Community Councillors only)

E1. A grant, loan or other form of financial assistance made by your Town/Community Council to community or voluntary organisations of which you are also a member.

(NB although you must always disclose this as a personal interest you will not have a PREJUDICIAL interest (and thus will NOT require a DISPENSATION) where :-

- (i) you have been elected, appointed or nominated to the organisation by your Council (irrespective of the amount involved); or**
- (ii) if you do not qualify under(i) the amount of the grant, loan etc does not exceed £500.**

A PREJUDICIAL INTEREST:

Members are reminded that there is now a single test in Paragraph 12 (1) of the Members' Code of Conduct for determining whether a PERSONAL interest is ALSO a PREJUDICIAL interest. It reads:-

“where you have a personal interest in any business of your authority 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 judgment of the public interest”.

Unless one of the exemptions applies (as indicated at various points in the text of this guidance note) if you conclude OBJECTIVELY (it is public perception which matters not your own subjective view) that a member of the public would regard your interest as so significant that it is LIKELY to prejudice your judgement of the public interest then you will have a prejudicial interest which will curtail your participation in Council business to which the interest relates as indicated in the Members' Code of Conduct (e.g. withdraw from the meeting room, not make oral or written representations, seek to influence a decision about the business etc) unless you obtain a dispensation.

FLOWCHART:

A flow chart has also been prepared to be used in conjunction with this guidance note in assisting Members complying with their requirements to make various written notifications under the Members' Code of Conduct and where they are minded to make applications for dispensation.

AND FINALLY:

- (1) You are only required to give WRITTEN notification about a personal interest ONCE. So, for example, if that item of business is dealt with at a succession of meetings you only need to give the written notification before or immediately after the first such meeting. You must of course ORALLY disclose the interest at every meeting. However if after taking office you registered the interest then you will be covered and will not be required to provide written notification after every occasion you disclose the interest at meetings.**
- (2) Despite having a prejudicial interest you will not require a dispensation to attend a MEETING only for the purpose of making representations, answering questions or giving evidence relating to the business in which you have the interest PROVIDED:-**
 - (i) That the PUBLIC are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise; and**
 - (ii) That you WITHDRAW from the meeting room immediately after the period for**

making representations, answering questions or giving evidence relating 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.

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