

Agenda



Standards Committee

Date: Thursday, 25 January 2018

Time: 5.30 pm

Venue: Committee Room 4 - Civic Centre

To: Councillors Westwood (Chair), Davies, D Fouweather, H Thomas, P Hourahine, John, Britton, A Mitchell and Watkins

Item	Wards Affected
1	<u>Apologies for Absence</u>
a	<u>Agenda - Cym</u> (Pages 3 - 4)
2	<u>Declarations of Interest</u>
3	<u>Minutes of the Previous Meeting: 26 October 2017</u> (Pages 5 - 8)
4	<u>Matters Arising</u>
5	<u>Chair's Announcements</u> To receive any announcements the Chair wishes to make.
6	<u>Complaints</u> The Monitoring Officer will report on any complaints received since the last meeting.
7	<u>Protocol on Member/Officer Relations</u> (Pages 9 - 22)
8	<u>Letter to Community Councils - Review of Ethical Standards</u> (Pages 23 - 24)
9	<u>Date of Next Meeting: 19 April 2018</u>

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Agenda

Pwyllgor Safonau

Dyddiad: 26 Hydref 2017

Amser: 5.30pm

Lleoliad: Ystafell Bwyllgor 4

At: Cynghorwyr H Thomas, Fouweather a Hourahine
Mr P Westwood (Cadeirydd), Mr B John, Ms T Britton, Mr A Mitchell a Mr K Watkins

Eitem

Wardiau a Effeithir

Rhan 1

1. Ymddiheuriadau dros Absenoldeb
2. Datganiadau Diddordeb
3. Cyhoeddiadau'r Cadeirydd
I dderbyn unrhyw gyhoeddiadau y bydd y Cadeirydd yn dymuno eu gwneud.
4. Cofnodion y cyfarfod blaenoroal
5. Materion yn codi
6. Cwynion
Bydd y Swyddog Monitro yn adrodd ar unrhyw gwynion y derbyniwyd ers y cyfarfod diwethaf.
7. Protocol ar Perthnasau Aelod / Swyddog
8. Llythyr at Gynghorau Cymuned - Adolygiad o Safonau Moesegol
9. Dyddiad y Cyfarfod Nesaf
19 Ebrill 2018 yn 5.30pm, yn ystafell bwyllgor 4

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Minutes

Standards Committee

Date: 26 October 2017

Time: 5.30 pm

Present: Councillors Westwood (Chair), Davies, H Thomas, P Hourahine, A Mitchell and Watkins

Apologies: Councillors D Fouweather and Britton

1 **Declarations of Interest**

None received.

2 **Minutes of the Previous Meeting: 29 June 2017**

The minutes of the meeting of 29 June 2017 were submitted.

Agreed:

That the Minutes of the meeting were accepted as a true record.

The Chair advised those present that the Minutes were sent to Council.

3 **Matters Arising**

- Network group will be picked up under the work programme. Would need to set up a meeting as soon as possible to ensure not missing anything on policies and procedures.
- Code of Conduct – set up a training session agreed amongst ourselves and book a session and invite the councillors.

4 **Chair's Announcements**

The Chair welcomed Mr J Davies, Bishton Community Council to the meeting. Community Councillor Davies was the successful candidate recent interviews of Community Council Representative. The appointment would be confirmed at Council on 28 November 2017, however Mr Davies was invited to attend and observe the meeting.

The Chair did meet with the Independent Remuneration Panel (IRP) and there was not much to report other than the basic questions asked by the IRP regarding the committee and how the Chair was happy with the proceedings of the committee. One point was activity around the meeting and using the time and best practice.

5 **Complaints**

There were no complaints to report to the Committee.

6 **Standards Committee Annual Report**

The Standards Committee Annual Report for 2016/17 was circulated to committee members for comment. The Annual Report would be presented to Council by the Chair of Standards Committee on 28 November 2017. The report outlined the work carried out by the Committee during the past 12 months, identifying particular issues that had arisen and setting out the forward work programme for the year.

The Head of Law & Regulation advised members to peruse the report and if they had any comments to send them in to A Jenkins via email.

The Head of Law & Regulation also asked the Chair if he would like to attend Council to present the Annual Report, or nominate a Council representative from the Committee seek the Council's approval on the Annual Report.

The Chair would meet with Gareth subject to member's comments and make a decision on whether to report to Council.

Agreed:

Any comments to be sent to A Jenkins by 21 November 2017.

7 **Work Programme**

The Committee Members gave consideration to the Annual Work Programme.

The Chair referred to the Annual Review of Community Councils and it was agreed that a questionnaire would be sent to clerks to ensure that the information within the work programme was being maintained. Once information had been gathered from a questionnaire, it would be brought back to a future next meeting.

K Watkins referred to the deadline dates and suggested setting specific timescales. The Head of Law & Regulation advised that it was an indicative programme on what types of policies the Standards Committee would like to review. Discussion ensued regarding the topics that were tabled and it was felt that a meeting with other councils might be productive in relation to policy review. It was noted that only policies that had any relevance to ethical standards were reviewed by the Committee.

Whilst Councillor H Thomas suggested that it was a positive sign that no policies had been reviewed. K Watkins however suggested that lack of policy review could result in complacency.

In response to Councillor Hourahine query on whether declarations of interest should be reviewed, the Head of Law & Regulation advised that this was already on the work programme under the ethical standards audit.

It was once more reiterated that meaningful discussion with other councils would be productive and help towards building a framework.

Agreed:

- That a questionnaire was to be sent out community councils to ensure compliance and identify training and development needs.
- To arrange a networking meeting with other councils.

8 **Employee Code of Conduct**

The Employee Code of Conduct was considered by the Committee. The document had been sent out to union representatives recently for their comments, with a deadline for the end of October, the document would then be shown to the Cabinet Member for his endorsement.

There were elements of the document that did not relate to ethical standards. It was a different enforcement regime to the Member's Code of Conduct however the Head of Law & Regulation thought that it should be brought to the committee so that members were aware of its existence.

K Watkins asked if there were similar clauses in the code of conduct for employees and members, as one was staffing related and the other ethical. There were differences but the underlying principles were the same.

The Head of Law & Regulation mentioned those present that on a work programme in recent years was a protocol of officer/member relationships, which did go to Council but was not accepted as there was a lack of understanding on the policy. Standards had a 'good practice' protocol on how members and officers should work together and committee members could consider whether additional guidance should be in place.

It was therefore agreed that the original protocol would be brought to the next meeting with a view to adding it to the work programme for review.

Discussion ensued regarding officer/member relationships and how communication could be improved, for example how should junior officers deal with members requesting information or asking to carry out certain duties, which might be more than their position allows. This was one area that could be included in protocol.

Agreed:

That an officers/member protocol be brought to the next meeting.

9 Community Councils: Draft Complaints Resolution Protocol - to follow

The Chair asked the Head of Law and Regulation to give a brief overview on the One Voice Wales Model Local Resolution Protocol for Community and Town Councils.

The Ombudsman had requested a protocol for Town and Community Councils, as there had been many complaints. This was similar to the council's protocol which the Ombudsman had asked the Community Councils to adopt originally. One Voice Wales however had also put together a framework, which they felt were the appropriate and proper procedures to deal with complaints.

It was explained that One Voice Wales was an independent body that provided support, training and information to Town and Community Councils for a subscribed membership fee of about £200 although not all Community Councils were members. The Ombudsman was keen for Community Councillors to adopt the One Voice Wales protocol, which was why the protocol was brought to Committee Members with a view to discussing whether the document should be circulated to the Community Council Clerks. A questionnaire would also be resent to the clerks regarding training, code of conduct compliance and protocol.

The Community Council representative invited to attend and observe the meeting mentioned that Bishton was a member of One Voice Wales and they received a lot of information and attended courses, however the courses were not free, there was an additional cost which could on occasion be high, such as mediation training courses.

The Chair referred to the written protocol on how to perform misconduct hearings and suggested it might also be of use to Community Councils. This would also be circulated to clerks and included in the work programme.

Agreed:

- That the One Voice Wales Protocol be circulated to Community Council Clerks.

- A training questionnaire/audit form be resent to Community Council Clerks.
- Send out information on how to perform a Misconduct Hearing to Community Council Clerks and include in the work programme.

10 **Meetings Dates for 2018**

To agree the following dates for 2018:

25 January
19 April
19 July
25 October

The meeting terminated at Time Not Specified



Report

Standards Committee

Part 1

Date: 25th January 2018

Item No: 07

Subject Protocol on Member/Officer Relations

Purpose To submit the current Protocol on Member/Officer Relations to the Standards Committee for reconsideration and review

Author Head of Law & Regulation

Ward General

Summary As part of the forward work-programme, Standards Committee agreed to review the current Protocol on Member/Officer Relations.

The Committee are asked to consider whether there is a continuing need for the Protocol, to supplement the regulatory codes and, if so, whether the current document is in need of revision. Any revised Protocol will need to be recommended to full Council for adoption as part of the written Constitution

Proposal To consider the current Protocol on Member/Officer Relations and make recommendations to Council regarding any revised document.

Action by Head of Law & Regulation

Timetable Immediate

This Report was prepared after consultation with:

- Head of Democratic Service
- Head of Finance
- Head of People & Business Change

Signed

Background

1. As part of the forward work-programme, Standards Committee agreed to review the Protocol on Member/Officer Relations. A copy of the current Protocol is set out in [Appendix 1](#).
2. The original Protocol was agreed by Standards Committee over 15 years ago, prior to the introduction of the Model Code of Conduct in Wales. It was intended to give practical advice to both officers and councillors as to how they should work together in a relationship of mutual trust and respect, so as to maintain public confidence in the integrity of public service. It was not intended to replace or supersede either of the regulatory codes – the Employee Code of Conduct and the Member Code of Conduct – but to provide practical advice on how the underlying principles of both Codes should be applied in practice to working relationships.
3. Any breaches of the Employee Code of Conduct would be dealt with as disciplinary matters under the Council's terms and conditions of employment. The provisions of the Code are incorporated within individual contracts of employment and are enforceable through the Council's Disciplinary Code. Breaches of the Members Code of Conduct are either dealt with under the Local Resolution Protocol (for low-level breaches) or referred to the Ombudsman and dealt with by Standards Committee.
4. The Protocol has been updated periodically over the years on a piecemeal basis, but it has never been comprehensively reviewed. Standards Committee did recommend a wholesale review some years ago but the proposal was never approved by full council, due to a misunderstanding about the nature and effect of the Protocol.
5. Standards Committee are, therefore, asked to consider whether there is a continuing need for the Protocol, to supplement the regulatory codes and, if so, whether the current document is in need of revision.
6. Some of the document would benefit from updating, particularly the references to the National Code of Conduct – which no longer exists – and some of the Council's internal processes and procedures, which have also changed since this protocol was first introduced.
7. An alternative version of the Protocol, which was drafted as part of the new Model Welsh Constitution, is attached at [Appendix 2](#).
8. If any revisions to the Protocol are agreed by Standards Committee, then this will need to be a recommendation to full Council, as the revised document will then have to be agreed and adopted by Council because it forms part of the written Constitution.

Comments of Chief Financial Officer

9. There are no financial implications

Comments of Monitoring Officer

10. Set out in the Report

Staffing Implications: Comments of Head of People and Business Change

11. There are no staffing or policy implications.

Background Papers

Dated: 17th January 2018

Constitution

Part 5: Codes and Protocols

Appendix 3: Protocol on Member / Officer Relations

1. The purpose of this protocol is to guide councillors and officers of the council in their relations with one another. It is not a regulatory document
2. This protocol does not seek to be either prescriptive or comprehensive. It seeks to offer guidance on some of the issues which most commonly arise.
3. The protocol produced here is based on current practices. The intention is to provide a protocol which provides clarity about these relationships
4. This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to councillors and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
5. A relevant extract from the National Code of Local Government Conduct for councillors is reproduced below:

23. Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to councillors and the council, and to carry out the council's work under the direction and control of the council, their committees and sub-committees.

24. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.

6. In line with the National Code's reference to "mutual respect", it is important that any dealings between councillors and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
7. Councillors and officers should not only seek to avoid actual impropriety they should also at all times avoid any occasion for suspicion or any appearance of improper conduct.

Personal Relationships

8. Councillors should declare to the Leader of his or her Political Group or to the Leader of the Council or to the Monitoring Officer, any relationship with an employee, which could be considered as influencing their work as a councillor. This might be a family relationship, a business relationship, or another close relationship, which might be considered such as might influence the Councillor's decision-making.
9. Officers also have a duty to declare any such relationships to their Manager or to his or her Head of Service, where appropriate.
10. Councillors should not accept any Cabinet position or sit on any Committee which is responsible for any Service Area where a councillor's relationship with an employee might be considered as such that it could influence the Councillor's decision-making or the work of the Service Area in question or be perceived as such.
11. Councillors should not accept any Cabinet position or sit on any Committee where his or her family, personal or business relationships might be considered as such that it could influence the Councillor's decision-making.
12. Employees and councillors have statutory duties in relation to disclosure of personal interests.
13. Officers must:
 - serve all councillors of the Council;
 - avoid close, personal familiarity with councillors; and
 - Inform managers at any time that a councillor or employee asks for, or seeks to influence an employee to deal with a matter outside the Council procedures or outside of policy. Any request to act illegally or improperly will be reported to the Monitoring Officer or to the Head of Finance and Scrutiny (Acting as Section 151 Officer) if financial impropriety is suspected.

Guidance and Advice

14. Council employees have an obligation to give impartial advice and to implement the Council's decisions. They have operational responsibilities and powers which are generally set out in the Council's scheme of delegation.
15. Councillors taking decisions must reach those decisions having regard to any relevant advice by the authority's officers. In advising, officers are free to give their professional advice wherever appropriate. Councillors may wish to test this advice by questioning and challenging in an appropriate manner and not in a way that could be interpreted as intimidating, threatening or bullying.

16. Councillors should ensure that any challenge of advice given is made to an employee of suitable seniority, generally a Chief Officer.
17. Employees should remember that councillors are entitled to question advice given, and to receive a full and complete explanation.
18. The Council has three main statutory officers; the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, who have duties to advise the Council as a corporate body or the Executive in relation to executive functions, and have a statutory right to advise as they believe appropriate within their statutory duties. The Head of Service that deals with Human Resources should provide advice on staffing issues or procedures.

Correspondence with Councillors and others

19. Officers should always respond to Councillors within the Council's target timescales for response, and if they cannot, should keep the councillor informed as to progress.

Relationships between Officers and Councillors

20. Councillors should not, by their conduct, language, or actions, make any employee(s) feel intimidated, threatened or bullied. Similarly, officers should not, by their conduct, language, or actions, make any councillor(s) feel intimidated, threatened or bullied.
21. All councillors and employees will demonstrate mutual respect and will deal with each other sympathetically, efficiently and without bias. Officers are responsible for advising the whole Council but may occasionally be called upon by individual Councillors to advise or give information on particular issues that relate to the councillor's representational or constituency roles. This is entirely proper and, within available resources, advice should be given.
22. Officers must not advise councillors on or to assist them in personal or political capacities unless employed as a political assistant.

Leader, Cabinet, Councillors and Chairs

23. Certain employees will work closely with the Leader and Cabinet members on policy matters. Certain employees will also work closely with Chairs of Committees. These employees may be asked to brief these councillors on legal or constitutional issues, the implementation of policies and/or available options. This is entirely acceptable, whether done individually or collectively. However, the relationship should not be so close (or appear to be so close) as to bring into question the employees ability to deal impartially with other councillors or party groups.

Political Parties and Groups

24. No officer may be compelled to attend a meeting of the Council's political groups. No officer may insist on doing so.

25. Officers will not attend party group meetings which include individuals other than City Councillors or Council officers acting in that capacity.
26. If an officer gives a briefing to any political group represented on the Council, he/she will be available for a similar briefing to the other party groups.
27. Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business.

Conduct and Effectiveness / Complaints

28. Personal criticism by elected Councillors of individual officers or identifiable groups of officers will not take place in public forums (including the media). Similarly personal criticism by employees of elected Councillors or groups of councillors will not take place in public forums (including the media).
29. If councillors have any concerns about the effectiveness or conduct of particular officers, they must take this up directly and confidentially with the appropriate Chief Officer with responsibility for the officer's service area. In the case of a Chief Officer the councillor should raise the matter with the appropriate Director of the Head of Paid Service. If the complaint is about the Head of Paid Service, this must be raised with the Leader of the Council. In all such cases the issue raised will be handled in accordance with the Council's procedures and the Councillor and officer concerned will be advised of the outcome, unless there are legal reasons why they may not. The outcome of the process is the only information Councillors will be entitled to.
30. If any employee has concerns about the conduct of a particular Councillor, he/she will raise it in the first instance with his/her Chief Officer or Corporate Director so that attempts can be made to resolve the issue. If this is not possible, or the alleged misconduct is of a serious nature, the matter will be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be referred to the Local Government Ombudsman.
31. In certain circumstances, appeals by employees are heard by the cabinet member who is responsible for Human Resources unless the Cabinet Member has been involved in the case. In such cases the appeal will be heard by an alternative Cabinet Member

Access to Information and Documents

32. The common law right of councillors is based on the principle that any councillor has a right to inspect Council documents so far as his/ her access to the document is reasonably necessary to enable the councillor properly to perform his/her duties as a councillor of the Council. This principle is commonly referred to as the "need to know" principle.

33. Councillors have a right to see some information on Cabinet, Forum or Committee agendas, which is judged to be exempt from disclosure to the public. This access is on a "need to know" basis.
34. The Council promotes openness and access to information by all its councillors. Whilst Councillors have no automatic right to exempt information, and they may have to establish a 'need to know', generally reports to be considered by the Council, the Cabinet, Cabinet Members, Committees or Forums are made available to all councillors of the Council. Employees and councillors will abide by the Access to Information Procedure Rules set out in the Council's Constitution. Confidential information or exempt information provided to Councillors must be used properly, and only for the purposes for which it has been released.
35. Reports relating to specific councillors of staff will not be released to any member of the Council, other than the appropriate decision maker, unless a 'need to know' is established.
36. The Monitoring Officer has the overriding responsibility to determine whether consideration of reports to the Council, Cabinet, Cabinet members or Committees are likely to disclose confidential or 'exempt' information as defined in legislation.
37. If any report is issued within Part 2 of the agenda for a meeting and unless the Council, Cabinet or Committee decides that it should be discussed in public, all employees and councillors must respect the confidentiality of the report and not disclose it to a third party.
38. It does not however follow that all the contents of a Part 2 report must be regarded as secret. It may only be certain items of information or terms of negotiations justify the inclusion of that report within Part II: other aspects may already be within the public domain or otherwise outside the definition of 'exempt'. In such circumstances, an employee of councillor member may refer to these 'public' aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected. Any employee or councillor must consult with the Monitoring Officer before doing so.

Appointment of Staff / Referee

39. Councillors will play no part in the appointment of staff to the Council, other than the appointment of Chief Officers.
40. Councillors should not act as referee or canvass the appointment of any individual for a post within the City Council. Councillors will take their own personal view as to whether to act as referee for any councillor of staff applying for a post which is not within the City Council.

Interests

41. Advice on the circumstances in which a councillor should declare an interest is set out in the Code of Conduct. However, the Monitoring Officer or his/her nominee may advise individual councillors on the Councillor Code of Conduct and their responsibilities in relation to

declaration of interests. The responsibility on deciding whether or not to declare rests with the Councillor.

Use of Council Facilities and equipment

42. Councillors and employees must use any Council facilities and / or equipment provided for them for use in their role as councillor or employee strictly for that purpose. Premises and equipment must not be used for any personal, business related or party political matter or on behalf of any community group. Rooms will be made available only for meetings of political groups serving on the Council or for employees carrying out their duties.

43. Councillors and employees will sign an 'acceptable use policy for the use of ICT equipment provided and will use ICT equipment in accordance with acceptable use policy

Party Political Advisers

44. Councillors often are assisted by political party workers. Such party worker have the same rights of access to Council facilities, council employees or to information as any member of the public.

Appendix 2 – Alternative Form of Protocol

Protocol on Member / Officer Relations

1.1 Introduction

The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

1.2 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

1.3 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

1.4 Roles of Members

Members undertake many different roles. Broadly these are:

1.4.1 Members express political values and support the policies of the party or group to which they belong (if any).

1.4.2 Members represent their electoral division and are advocates for the citizens who live in the area.

1.4.3 Members are involved in active partnerships with other organisations as community leaders.

1.4.4 Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.

1.4.5 Members help develop and review policy and strategy.

1.4.6 Members monitor and review policy implementation and service quality.

1.4.7 Members are involved in quasi-judicial work through their Membership of regulatory committees.

1.5 Roles of Employees

Briefly, Employees have the following main roles:

1.5.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.

1.5.2 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.

1.5.3 Initiating policy proposals.

1.5.4 Implementing agreed policy.

1.5.5 Ensuring that the Council always acts in a lawful manner.

1.6 Respect and Courtesy

1.6.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's

reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

1.6.2 Undue Pressure

It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position. In their dealings with Employees (especially junior Employees), Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.

A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services. Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. *(The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Whistleblowing Policy).*

1.6.3 Familiarity

Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details. Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism. For these reasons close personal familiarity must be avoided.

1.6.4 Breach of Protocol

If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Director responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Director. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. "Low level2 breaches of the Code may be dealt with under the Council's Local Resolution Protocol. If the breach is more serious, this may warrant a formal reference to the Ombudsman as a complaint to be considered for potential investigation and referral to the Standards Committee. Many complaints will be capable of informal resolution under the Local Resolution Protocol. The Monitoring Officer and Deputy Monitoring Officer will assist in this process if necessary.

1.7 Provision of Advice and Information to Members

1.7.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

1.7.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any

appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.

- 1.7.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 1.7.4 The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 1.7.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 1.7.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 1.7.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed and consulted about proposals that affect their wards and should also be invited to attend Council initiated events within their wards.
- 1.7.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.
- 1.7.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.
- 1.7.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Monitoring Officer will be able to advise on whether any request would fall within the Freedom of Information Act.

1.8 **Confidentiality**

- 1.8.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:
 - (a) he/she has the consent of a person authorised to give it;
 - (b) he/she is required by law to do so;
 - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is:
 - (i) reasonable and in the public interest; and

- (ii) made in good faith and in compliance with the reasonable requirements of the authority.
- 1.8.2 Confidential [Part 2] Committee papers are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.
- 1.8.3 Information and correspondence about an individual's private or business affairs will normally be confidential.
- 1.8.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 1.8.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.
- 1.8.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.
- 1.9 **Provision of Support Services to Members**
- 1.9.1 The only basis on which the Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 1.9.2 **Correspondence**
Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.
- 1.9.3 **Media**
Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue he should contact the appropriate Director or Head of Service concerned or ask the Public Relations and Communications Team to do so.
- 1.10 **The Council's Role as Employer**
In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.
- 1.11 **Political Activity**
- 1.11.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.
- 1.11.2 In summary, such employees are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
- (b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in 0;
- (c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:
 - (i) participate in the general management of the party or branch; or
 - (ii) act on behalf of the party or branch in dealings with persons other than Members of the party;
- (d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in 0;
- (e) speaking to the public with the apparent intent of affecting public support for a political party; and
- (f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

- 1.11.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles, eg chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.
- 1.11.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
- 1.11.5 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.
- 1.11.6 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

1.12 **Sanctions**

- 1.12.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.
- 1.12.2 Complaints about any breach of this protocol by an Officer may be referred to the relevant Head of service or Director.

1.13 **Conclusion**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

Ask Ior/Gofynnwch am
Our Rel/Ein Cyf
Your Rel/Eich Cyf
Tel/Efôn
Direct Dial/Rhif Union
Fax/Ffacs
DX
E-Mail/E-Bost

Gareth Price
GDP.CO1.7
01633 656656
01633 232123
01633 233356
99463 Newport (Gwent) 3
gareth.price@newport.gov.uk



Civic Centre/Canolfan Ddinesig
Newport/Casnewydd
South Wales/De Cymru
NP20 4UR

[Clerks to Community Councils]

January 2018

Dear Community Council Clerk,

RE: STANDARDS COMMITTEE – REVIEW OF ETHICAL STANDARDS

As part of their current Work Programme, the Standards Committee is carrying out a review of ethical standards arrangements within Community Councils.

Standards Committee is responsible for promoting and maintaining high standards of ethical behaviour both in relation to Newport City Councillors and also local Community Councillors. The Committee also has a statutory responsibility to ensure compliance with the Member Code of Conduct and the ethical standards framework set out in the Local Government Act 2000.

The Committee is particularly concerned to ensure that suitable arrangements have been put in place by Community Councils to maintain and publish the statutory registers of members' interests, in the light of recent legislative changes, and to identify any training and development needs.

Sections 55-57 of the Local Government (Democracy) (Wales) Act 2013 Act require Community Councils to publish certain information electronically (i.e. on a website). This includes information about the council's clerk and Members, Minutes of council meetings and any audited statement of the council's accounts. Community Councils are also required to publish public notices electronically, and to make certain information about their meetings and proceedings available electronically

On behalf of the Chair of Standards Committee, I have been asked to write to all Community Councils to request the following information:-

- (1) *Confirmation of when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).*
- (2) *Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct;*
- (3) *Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests;*
- (4) *What arrangements have you made for maintaining the Register of Members interests in accordance with Section 81 of the Local Government Act 2000? In particular, who is the designated "proper officer, what arrangements are made for making the register available for public inspection and where are the records held?*
- (5) *If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?*

- (6) *Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act?*
- (7) *Have your Community Councillors received any training on the Member Code of Conduct, their obligations under the Code and the enforcement of the Code, including the role of the Standards Committee, the Ombudsman and the Adjudication Panel for Wales?*
- (8) *If so, how many of them have been trained?*
- (9) *How was the training provided:-*
- *Informally, as part of their induction*
 - *By the City Council*
 - *By an external training provider e.g. One Voice Wales.*
- (10) *Do members of the Community Council have any need for refresher training on the Members Code of Conduct or are there any particular areas of the Code on which they would benefit from training?*
- (11) *Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?*
- (12) *Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?*
- *Dedicated training session for your community council*
 - *A joint session with other community councils*
 - *A joint training session for Clerks, who could then cascade the training to their Members.*
- (13) *Has your Community Council adopted the Model Local Resolution Protocol for Community and Town Councils, produced by One Voice Wales [see copy attached] or any local variation?*
- (14) *Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?*

Could you please provide this information as soon as possible to:

Anne Jenkins
 Democratic Services Officer / *Swyddog Gwasanaethau Democraidd*
 Law & Regulation / *Y Gyfraith a Rheoleiddio*
 Newport City Council / *Cyngor Dinas Casnewydd*
 01633 656656
anne.jenkins@newport.gov.uk

Thank you in anticipation of your co-operation and assistance.

Yours faithfully,

G D PRICE
 Head of Law & Regulation