

# Agenda



## Standards Committee

---

Date: Thursday, 1 November 2018

Time: 5.30 pm

Venue: Committee Room 4 - Civic Centre

To: P Westwood (Chair), Davies, V Dudley, H Thomas, P Hourahine, H Britton, A Mitchell, Watkins and Worthington

---

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</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>Standards Committee Annual Report 2017-2018</u> (Pages 9 - 28)	
8	<u>Ombudsman Annual Letter 2017-2018</u> (Pages 29 - 38)	
9	<u>Adjudication Panel for Wales: Sanctions Guidance</u> (Pages 39 - 64)	
10	<u>Staff/Councillor Survey: Verbal Update</u>	
11	<u>Letter to Community Councils - Review of Ethical Standards: Questionnaire Follow-up</u> (Pages 65 - 94)	

This page is intentionally left blank



# Agenda

## Pwyllgor Safonau

---

Dyddiad: 1 Tachwedd 2018

Amser: 5.30pm

Lleoliad: Ystafell Bwyllgor 4

At: Cynghorwyr H Thomas, V Dudley a Hourahine  
Mr P Westwood (Cadeirydd), Ms T Britton, Mr A Mitchell, Mr K Watkins a Dr P Worthington

---

### 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. Dyddiad y Cyfarfod Nesaf  
17 Ionawr 2019 yn 5.30pm, yn ystafell bwyllgor 4

This page is intentionally left blank



# Minutes

## Standards Committee

---

Date: 12 July 2018

Time: 5.30 pm

Present: P Westwood (Chair), Davies, H Britton along with Councillors V Dudley, P Hourahine

In attendance: Gareth Price (Head of Law & Regulation), Juliet Owen (Chief Legal Officer) and Michele Chesterman (Governance Officer)

Apologies: K Watkins, A Mitchell and Councillor H Thomas

---

### 1 Apologies for Absence

### 2 Declarations of Interest

None received.

### 3 Minutes of the Previous Meeting: 19 April 2018

The minutes of the meeting of 19 April 2018 were submitted.

#### Agreed

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

### 4 Matters Arising

#### Item 4:

- Standards Conference Wales (14 September 2018): to be raised under item 9 in the Agenda.
- Code of Conduct Training: Only three Council members had not attended the training in May/June 2017. A letter had been sent to those members who did not attend the training along with a copy of the PowerPoint presentation and copied to the Leader, Business Managers and Chair of Standards.

#### Item 7:

- Officer/Member Protocol: The protocol had been circulated. There had been no further comments/amendments. The Head of Law and Regulations asked Committee members if they were happy to recommend to Council for adoption. All agreed. The intention was to take to Council on 24 July 2018 but it may need to be deferred until the Council meeting in September 2018.

## **Item 8:**

- **Community Councils Review:** In the minutes of the last meeting on 19 April 2018 it was mentioned that one of the community councils had declined to respond. Councillor Dudley asked which one. This would be reported back to the next meeting. The Head of Law and Regulation explained that they should give a reason for declining. Most of the responses received from the community councils stated that they had made steps to comply with the legislation and code of conduct and there were no signs of non-compliance. For those community councils that had responded the responses were satisfactory and members had received some training.

## **5 Chair's Announcements**

Interviews had taken place to appoint a co-opted member of the Standards Committee. Subject to the new appointment being ratified at the next Council meeting they would be invited to attend the Standards Committee meeting on 1 November 2018.

The Head of Law and Regulation explained that the co-opted member had to be independent. It could not be a former Council member or officer. Other than that they should have experience of the public sector, ethical standards. The job specification had a number of performance skills to compare against. A DBS check was not a requirement of the post.

The Head of Law and Regulation stated that councillors were not required to undertake DBS checks as a matter of routine. Unless there is unsupervised contact with vulnerable persons it was not required although some councils do carry out DBS checks.

Councillor Dudley asked about residential home visits. The Head of Law and Regulation responded that this was one reason why a DBS check would be carried out but as the visits were supervised this was felt to be unnecessary.

## **6 Complaints**

The Head of Law and Regulation had received no further reports of complaints.

## **7 Protocol on Member/Officer Relations**

The Head of Law and Regulation reported that there had been no further comments. It was recommended that the Officer/Member Protocol be taken to Council for adoption.

The Chair referred to a survey in the Assembly of staff as opposed to members and asked if there was an appetite for the same in the Council. The Head of Law and Regulation responded that Council staff were surveyed in terms of satisfaction but one is not undertaken in relation to staff views on Members as out of the 3000 plus council staff not all will have contact with councillors. If there were complaints they would be brought back to Standards Committee. A survey had been undertaken of members previously on how ethical standards were working. This could be resurrected if felt worthwhile. Some of the questions used last time could be asked.

Councillor Dudley felt that with the proportion of new members in the Council this could be a good idea.

The Head of Law and Standards explained that it would be necessary to identify which staff had working relationships with members and how far the survey should be rolled out. For instance some staff might not have direct contact with members but may have contact via telephone calls etc. There would be a difficulty selecting staff but it could be done if

Committee members felt it was worthwhile. Agreed to place on the agenda for the next meeting in November and provide the Committee with examples of questions asked in the previous survey.

**Agreed**

- To recommend the Officer/Member Protocol to Council for adoption.
- Survey of staff relationship to Councillors to be placed on the agenda for the next meeting along with examples of questions asked in a previous survey.

**8 Letter to Community Councils - Review of Ethical Standards: Questionnaire Follow-up**

Since the last meeting Bishton and Penhow CC had sent in their responses for the Standards Ethical Review. The Bishton CC response was attached to the agenda but not the Penhow CC response. This would be circulated with the minutes.

The Chair asked if there was a common thread to the responses received.

The Head of Law and Regulation responded that there were two aspects –compliance and training requirements. All the responses so far had showed that members register and were up to date. In terms of training some attended sessions with One Voice Wales and some with training provided by Newport City Council. A composite response would be circulated for the next meeting.

The Head of Law and Regulation noted that Newport City Council had provided training previously for community councils, city councils or combined. This could be considered if members felt appropriate.

**Agreed:**

- The Penhow Community Council response, to the Review of Ethical Standards Questionnaire, to be circulated with the minutes.
- A composite response of the community councils, to the Review of Ethical Standards Questionnaire, to be circulated for the agenda of the next Standards Committee meeting on 1 November 2018.

**9 Standards Conference: Aberystwyth**

The Chair informed members that they had been circulated with correspondence on the Standards Conference Wales 2018 which would take place in Aberystwyth on 14 September 2018.

Each council in Wales was allocated 4 places. The Head of Law and Regulation had asked the Governance Team Leader to liaise with the Democracy and Communication Manager in terms of budget. Officers and members were welcome to attend. The Head of Law and Regulation and the Chief Legal Officer had attended previously but were happy to stand down if members wished to attend.

The Chair mentioned that A Mitchell had indicated he would like to attend.

**Agreed:**

- An invitation to the Standards Conference Wales 2018 be extended to all members of Standards Committee.
- Members to contact [Democratic.services@newport.gov.uk](mailto:Democratic.services@newport.gov.uk) if interested in attending
- An email to be sent to A Mitchell to confirm he wishes to attend.

10 **Date of Next Meeting: 1 November 2018 in Committee Room 4 at 5.30pm**

The meeting terminated at 6.00 pm





# Report

## Standards Committee

---

### Part 1

Date: 1<sup>st</sup> November 2018

Item No: 7

**Subject** Standards Committee Annual Report 2017/2018

**Purpose** To submit a draft of the Standards Committee Annual Report 17/18 for comment and approval

**Author** Head of Law and Regulation

**Ward** General

**Summary** Standards Committee present an Annual Report to the Council which provides information about the work carried out by the Committee during the past 12 months, identifies particular issues that have arisen and sets out the forward work programme for the forthcoming year.

A draft of the Annual Report for 17/18 is attached for comment and approval prior to its presentation to the next meeting of full council on 27<sup>th</sup> November 2018.

**Proposal** To comment and approve the Annual Report for presentation to full Council on 27<sup>th</sup> November 2018

**Action by** Head of Law and Regulation

**Timetable** Immediate

## **Background**

1. Standards Committee present an Annual Report to the Council, which provides information about the work carried out by the Committee during the past 12 months, identifies particular issues that have arisen and sets out the forward work programme for the forthcoming year.
2. A draft of the Annual Report for 17/18 is attached for comment and approval prior to its presentation to the next meeting of full Council on 27<sup>th</sup> November 2018
3. The Report contains reference to the new Protocol for Member Officer Relations which was recommended by Committee and adopted by council in September.
4. There is an update on member training and development, with 47 of the 50 City Councillors having undertaken the mandatory training and information about the review of community council compliance arrangements
5. The Report also highlights the fact that there were no formal findings of misconduct against any local Councillors during the past 12 months. Three complaints have been made to the Ombudsman but none have been accepted for investigation. Three complaints were also made about local community councillors but, again, they were not investigated. No formal complaints were dealt with under the Local Resolution Protocol.
6. The Annual Report also contains a draft forward work programme for the forthcoming 12 months.

## **Financial Summary**

7. There are no financial implications.

## **Options Available**

9. To note the Report;

## **Comments of Chief Financial Officer**

10. There are no financial implications.

## **Comments of Monitoring Officer**

11. Included in the Report.

## **Staffing Implications: Comments of Head of People and Business Change**

12. There are no staffing or policy implications.

Dated: 25<sup>th</sup> October 2018



# **Standards Committee Annual Report 2017-18**

## **Foreword by the Chair**

I am pleased to present the fifth Annual Report of the Standards Committee for 2017/18. The Annual Report provides information to the Council about the work carried out by the Committee during the past 12 months and identifies particular issues that have arisen.

This fifth Annual Report covers the period from November 2017 to November 2018 and follows on from the last report presented to Council in November 2017.

The Standards Committee is committed to promoting high standards of ethical conduct among elected Members and officers in order to maintain public confidence in local government.

We are pleased to report that, once again, no serious complaints of misconduct were referred to the Standards Committee by the Ombudsman during the past 12 months and no complaints were referred for determination by the Committee under Stage 3 of the Local Resolution Protocol. The Council's proud record of never having any complaints upheld and sanctions imposed against individual Members has again been upheld, and long may this continue.

However, as I have mentioned previously, there is no room for complacency and it is essential that these standards are maintained. The Standards Committee will continue to proactively review all ethical standards policies and procedures as part of the forward work programme. We hope that the new Member/Officer Protocol that we produced, and which was adopted by the Council in September, will assist in avoiding issues and complaints arising in the future.

The Committee was pleased to note that 47 out of 50 City Councillors had now attended the mandatory Code of Conduct training and the presentation slides and documents have been provided to those who have not attended. Many community councillors have also received appropriate training and good feedback was received about the quality of this training as part of our ethical standards review of community councils.

There have been changes to the membership of the Standards Committee during the past year. John Davies from Bishton Community Council was confirmed as the community council representative by the Council on 28<sup>th</sup> November 2017. Councillor Val Dudley replaced Councillor Fouweather as the elected representative from the Conservation Group, following the Council AGM in May 2018. Following a rigorous short-listing and interview process, Dr Paul Worthington was appointed to the vacancy for the final independent member position and this was ratified by Council in July 2018.

Finally, I would like to thank all Members of the Committee and Council officers for their advice and support throughout the last 12 months.

Phillip Westwood  
Chair of Standards Committee

## 1. **Introduction**

### 1.1 **Terms of Reference**

The Local Government Act 2000 Part III requires the Council to establish a Standards Committee to carry out the following statutory functions:-

- (a) Promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) Assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) Granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) Dealing with any reports from the Monitoring Officer and hearing any complaints of misconduct or breaches of the Members' Code of Conduct referred by the Public Services Ombudsman for Wales and determining appropriate action, including the imposition of any sanctions;
- (h) The exercise of (a) to (g) above in relation to the community councils and the members of those community councils.

Standards Committee also carries out the following additional functions, making recommendations to the Council, as appropriate:-

- (i) The hearing and determination of "low level" complaints of misconduct at Stage 3 of the Local Resolution Protocol;
- (ii) Providing advice to the Council on the Council's Codes of Practice, including the Officers' Code of Conduct and the Whistle Blowing policy;
- (iii) Monitoring and updating the Codes of Practice as required; and
- (iv) Overseeing the Council's confidential complaints procedure;

### 1.2 **Structure and Membership**

The composition and membership of the Standards Committee is prescribed by the Standards Committees (Wales) Regulations 2001 (as amended).

The Standards Committee comprises:-

5 Independent Members (persons who have no connection with the local authority)

- Phillip Westwood (Chair)
- Andrew Mitchell (Vice Chair)
- Tracey Britton
- Kerry Watkins
- Dr Paul Worthington

3 councillor representatives:-

- Councillor Herbie Thomas
- Councillor Phil Hourahine
- Councillor Val Dudley

1 community council representative (subject to ratification By Council on 28<sup>th</sup> November 2017):-

- John Davies (Bishton Community Council)

The independent members serve a term of office of 4 years, although they are eligible to serve two consecutive terms of office. The Councillors are appointed annually by the Council at the AGM and replacement members can be appointed, as necessary, at any time. The community council representative continues as a member of the Committee until his term of office ends or he ceases to be a community councillor, or until he is replaced by another nominee.

### **1.3 Enforcement of the Members Code of Conduct**

The Council's Monitoring Officer is Gareth Price, the Head of Law & Standards, and the Deputy Monitoring Officer is Juliet Owen, the Chief Legal Officer.

The Monitoring Officer and Deputy Monitoring Officer are responsible for:-

- advising Standards Committee on law and procedure,
- ensuring compliance with statutory requirements (Registers of Members interest etc.)
- resolution of "low-level" complaints under Stage 2 of the Local Resolution Protocol
- investigation of complaints referred by the Ombudsman

The Public Services Ombudsman for Wales ("Ombudsman") is responsible for:-

- considering all formal complaints of breaches of the Members Code of Conduct and applying a two stage test of (1) prima facie evidence of misconduct and (2) whether the breach is so serious as to warrant any sanction
- investigating and reporting (where appropriate) any serious breaches of the Code to the Standards Committee or a Case Tribunal of the Adjudication Panel for Wales

The Adjudication Panel for Wales:-

- Case Tribunals hear serious misconduct cases referred by the Ombudsman
- Interim Case Tribunals can suspend Councillors for up to 6 months pending investigation of serious complaints
- Determine appeals against Standards Committee decisions or sanctions
- Can suspend Councillors for up to 1 year or disqualify for up to 5 years

The Standards Committee

- Conduct hearings and determine complaints referred to them by the Ombudsman and the Monitoring Officer
- Can censure or suspend Councillors for up to 6 months

## **2. The Committee's work in 2017/18**

The Standards Committee is required to meet at least once annually in accordance with the Local Government Act 2000. In practice, the Committee meets on a scheduled quarterly basis and additional special meetings are arranged, as necessary, to deal with specific matters such as misconduct hearings and requests for dispensation.

Three members are required to attend for a quorum at meetings (including the independent Chair or Vice Chair) and at least half of those present must be independent. The community council representative is not "independent" for this purpose.

The Standards Committee met on 4 occasions during the past 12 months:-

- 25<sup>th</sup> January 2018
- 19<sup>th</sup> April 2018
- 12<sup>th</sup> July 2018
- 1<sup>st</sup> November 2018

The Appointments Sub-Group also met on 18<sup>th</sup> May 2018 to interview short-listed candidates for the vacant independent Member position.

## **2.1 Dispensation Applications**

There have been no applications for dispensations during the past year in accordance with the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 and Section 81(4) of the Local Government Act 2000.

Previously, most of the work of the Committee had been taken up with determining applications regarding the use of Neighbourhood Allowances. These Neighbourhood Allowances were discontinued in April 2016 as part of Council budget savings.

## **2.2 Training**

The Standards Committee has always stressed the importance of regular Member training, to ensure that Councillors keep up to date with the requirements of the Code of Conduct and any changes in the law or procedures.

It is the responsibility of each individual Councillor to ensure that they fully understand the requirements of the Code and that they comply fully with their obligations. As always, “ignorance of the law is no excuse” and a lack of understanding or training would be no mitigation if there is any breach of the Code.

The Committee has previously recommended to the Council that it should be compulsory for all City Councillors to attend training on the Code of Conduct. A training programme for Councillors was delivered as part of the induction arrangements following the May 2017 elections, in the light of the legislative changes to the ethical standards framework and the new Members Code of Conduct adopted by the Council in May 2016. The Committee was pleased that 40 City Councillors and many community councillors attended these training sessions, and the training appeared to be well-received.

In July 2017, a letter was sent by the Chair of the Committee to the remaining 10 Councillors, with a copy to the group Business Managers, urging them to arrange a further training session as soon as possible. The Monitoring officer and Deputy Monitoring Officer then delivered a further training session on 18<sup>th</sup> January 2018, when 7 of the 10 Councillors attended. The Committee is pleased to note that 47 out of 50 City Councillors have now attended the mandatory Code of Conduct training. It was agreed that no further additional training sessions were required and that no further action was necessary to compel the remaining 3 Councillors to undertake the mandatory training. However, they have been provided with electronic copies of the training presentation slides and documents and a link to the Ombudsman training video.

The Standards Committee will continue to proactively review all ethical standards policies and procedures as part of the forward work programme.

The training requirements of the community councils and their compliance arrangements will continue to be monitored and reviewed as part of the Committee’s forward work programme.

## **2.3 Local Resolution Protocol**

In accordance with the recommendations of the Minister for Local Government and the Ombudsman, the Council has adopted an internal procedure for dealing with “low-level” member/member and

officer/member complaints that are not sufficiently serious as to warrant formal investigation and sanction.

It was agreed that the Monitoring Officer would periodically update the Committee on the numbers and types of complaints determined at officer level under Stages 1 and 2 of the Protocol, but maintaining the anonymity of both the complainant and the Councillor concerned.

We were pleased to note that no complaints were received under the Local Resolution Protocol in 2017/18.

One Voice Wales has developed a similar Local Resolution Protocol for community councils, in conjunction with the Ombudsman, and further guidance has been provided. Those local community councils who are members of One Voice Wales have adopted this protocol within their councils. The responsibility for resolving these minor complaints rests with the community council clerk, the Chair and Vice-Chair. Other community councils have expressed an interest in their local complaints being resolved under the Council's Local Resolution Protocol and this is something that we are considering.

#### **2.4 Revised Ethical Standards Framework and Procedures.**

The Local Authorities (Model Code of Conduct) (Wales) Amendment Order 2016 was made on 27<sup>th</sup> January 2016 and came into force on 1<sup>st</sup> April 2016. The Order amended the Model Code of Conduct for elected members of the Council and co-opted members with voting rights.

In accordance with Section 51 of the Local Government Act 2000 ("the 2000 Act"), all local authorities were required to formally adopt this new Model Code of Conduct before 26<sup>th</sup> June 2016. Newport City Council formally adopted the new Code at its Annual General Meeting held on 17<sup>th</sup> May 2016.

The Local Government Democracy (Wales) Act 2013 transferred responsibility for maintaining the register of members' interests for community councils from the Council's Monitoring Officer to the "Proper Officer" of the community council as from 1<sup>st</sup> May 2016. However, Standards Committee still has the responsibility for ensuring that community councils continue to comply with these requirements.

As part of the ethical standards review of community councils undertaken in 2017/18, 10 out of the 14 community councils responded to the questionnaire and confirmed their compliance with the requirements of the legislation. Standards Committee was pleased to note that all of the councils who responded had formally adopted the new Model Code within the prescribed timescale, all their members had signed an undertaking to abide by the Code and the community council clerks (as designated "Proper Officers") has made satisfactory arrangements for publishing the register of members' interests. The community councils were also publishing electronic copies of agendas and minutes on their website, in accordance with sections 55-57 of the 2013 Act.

#### **2.5 Succession Planning**

There have been further changes to the membership of the Standards Committee during last year.

John Davies from Bishton Community Council was confirmed as the community council representative by the Council on 28th November 2017. Councillor Val Dudley replaced Councillor Fouweather as the elected representative from the Conservation Group, following the Council AGM in May 2018.

The final vacancy for an independent member was advertised on the Council's web-site and in the South Wales Argus in November 2018 and a large number of high-quality applications were received. A final short-list of 4 applicants was agreed by Standards Committee, based on their local connection with Newport and their relevant experience. A panel of Committee members was established to interview the short-listed candidates on 18<sup>th</sup> May and Dr Paul Worthington was selected, with his appointment subsequently being ratified by the Council in July 2018.



## 2.6 General work

The Committee has continued to carry out review of Council policies and procedures relating to ethical standards.

The Employee Code of Conduct was revised and updated, to reflect changes in legislation and the Council's human resources policies. This was subject to consultation with the staff and recognised trade unions. The final approved version was presented to Standards Committee and was approved by the relevant Cabinet Member. This will now be incorporated into employees' terms and conditions of employment and it will form part of the Council's written Constitution. The provisions in relation to relationships with Councillors and conflicts of interest replicate and compliment the relevant provisions in the Councillor Code.

The previous Protocol for Member Officer Relations was identified as being in need of revision and updating to reflect changes in legislation and policies. The original Protocol had been 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.

The Protocol had been updated periodically over the years on a piecemeal basis, but it had 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. The Committee agreed that there was a continuing need for the Protocol, to supplement the regulatory codes and the previous document needed to be substantially revised to take out all references to the old National Code of Conduct and to reflect changes in the Council's internal processes and procedures. In July 2018, Standards Committee agreed a revised Protocol, which incorporates elements of the previous guidance and parts of the draft guidance which forms part of the new Welsh model constitution. This was recommended to Council and formally adopted in September 2018.

A copy of the new Protocol for Member Officer Relations is attached at [Appendix 1](#) to this report.

The Committee considered that it would be helpful to resurrect the networking forum that had previously existed with the other Standards Committees in Gwent, in order to discuss matters of common interest and share good practice. However, there was a lack of enthusiasm for these meetings on the basis that the annual Welsh Standards Committee Conference provided an opportunity for training and exchanging good practice. Nevertheless, members were encouraged to attend public meetings of other Standards Committees, to observe proceedings and to consider work programmes, and (where available) to view the webcasts of their meetings. The Chair has attended other Standards Committee meetings as an observer.

The Committee again wrote to all of the community council clerks to ensure that proper arrangements are in place to maintain and publish the registers of members' interests. 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 the public register of members' interests, 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.

Responses were received from 10 out of the 14 local community councils and each council confirmed that proper arrangements were in place to publish the registers and other information, to meet the requirements of the legislation.

The Committee has also considered reports on revised Sanctions Guidance issued by the Adjudication Panel for Wales and the Ombudsman's Annual letter for 17/18. The Guidance came into effect as from September 2018 and sets out the approach taken by case, appeal and interim case tribunals of the Adjudication Panel for Wales in order to reach fair, proportionate and consistent decisions on the sanctions that should be applied in relation to an individual's breach of the local Code of Conduct. As such, it provides useful guidance to Standards Committee on the approach it should take in relation to any misconduct hearings, following the referral of a complaint by the Ombudsman, and the principles to be followed when considering the proportionality of any sanction.

With regard to the Ombudsman's report, the Committee notes that nationally the number of Code of Conduct complaints had increased by 14% in the past year, and this was attributed to a 33% increase in Code of Conduct complaints involving Community Councils. Many of these complaints have arisen following changes in the membership of councils. 42% of Code of Conduct complaints received related to the promotion of equality and respect, 19% related to disclosure and registration of interests and 16% related to integrity. However, it was pleasing to note that none of these complaints related to Newport city Councillors or local Community Councils.

## **2.7 Ombudsman complaints**

The Ombudsman advises the Monitoring Officer of complaints made against elected members of Newport City Council and community councillors and the outcome. The Monitoring Officer updates the Committee at each meeting about the numbers of on-going complaints being referred to and considered by the Ombudsman's office. This information is provided on a general basis, without disclosing precise details of individual complaints, to avoid any issues about pre-determination in case the complaints are reported to the Standards Committee for determination.

The Committee was advised that 3 complaints were referred to the Ombudsman about City Councillors in 2017/18. However, none of these complaints was accepted for investigation on the basis that there was no evidence of any serious breaches of the Code.

Three complaints were also referred to the Ombudsman regarding alleged breaches of the Code by local community councillors, one in relation to Bishton Community Council and 2 in relation to Langstone Community Council, but, again, none of these complaints was accepted for formal investigation.

No complaints were referred to Standards Committee in 2017/18 for hearing and determination.

### 3. Forward Work Programme for 2017/18

Date	Topic	Information
November 2018	Annual Report to Council	<p>Review of work undertaken in the past 12 months, identifying any specific ethical standards issues facing the Council and priorities for the forthcoming year.</p> <p>Summary of numbers of complaints received and outcomes.</p>
<p>As and when applications received</p> <p>Review annually</p>	Dispensations	<p>Granting individual and blanket dispensations to Councillors.</p> <p>Reviewing decisions annually to identify common issues and consistency of approach.</p> <p>Produce guidance to Members on any issues arising.</p>
As and when required	Local Resolution Protocol complaints	Conducting hearings into any Stage 3 complaints by Members or Officers
Quarterly	Complaints of Misconduct	<p>Update of numbers of complaints received and outcomes.</p> <p>Update on complaints resolved through Local Resolution Protocol.</p>
By January 2018	Member training and development	Carry out review of community council training, re-assessing the need for training for new councillors and refresher training for existing members. Arrange training sessions, as necessary.
By March 2018	Ethical standards survey.	Undertake a Councillor survey of ethical standards and identify any areas for improvement.
By March 2019	Ethical standards audit	<p>Check that statutory registers are being properly maintained procedures for declarations are being followed</p> <p>Review Gifts and Hospitality Protocol and Protocols for hearings and recommend amendments, as necessary.</p>
Annually	Review of community councils	Check that statutory registers are being

		<p>properly maintained procedures for declarations are being followed</p> <p>Engage with community councils to ensure compliance and to identify any training and development needs.</p> <p>Review adoption of Local Resolution Protocols by community councils.</p>
By September 2018	Review of Council Policies, Protocols and procedures relating to ethical standards	<p>(a) Member /Officer relations</p> <p>(b) Planning Protocol</p> <p>How they are implemented, communicated to staff, training and compliance monitoring.</p>

#### 4. Helpful Information

##### 4.1 **Can I attend Meetings of the Standards Committee?**

Yes, all of our meetings are open to the public, except for specific items where personal or confidential information is likely to be disclosed and the public interest requires that these meetings are conducted in private, for example hearings into misconduct complaints

Dates of forthcoming meetings, agendas, reports and minutes are available on our own webpage on the Council website which can be accessed by clicking here: [Standards Committee Webpage](#)

##### 4.2 **Who do I contact if I want to know more?**

If you wish to find out more about the Standards Committee or make a comment or suggestion, please visit our website: [Standards Committee Webpage](#) where you will find an online contact form or email us at [info@newport.gov.uk](mailto:info@newport.gov.uk)

Phillip Westwood  
Chair of the Standards Committee;

Gareth Price  
Head of Law & Regulation and Monitoring Officer

Juliet Owen  
Chief Legal Officer and Deputy Monitoring Officer

Ellie Mulligan  
Democratic Services and Communications Manager

## **Protocol on Member / Officer Relations**

### **1. Introduction**

- 1.1 The purpose of this Protocol is to guide Councillors and officers of the Council in their relations with one another.
- 1.2 The Protocol seeks to reflect the underlying principles of both the Councillor Code of Conduct and the Employee Code of Conduct. The shared purpose of these Codes is to enhance and maintain the integrity of local government by promoting high standards of personal conduct and ethical behaviour. It is essential that both Councillors and officers 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.
- 1.3 Mutual respect between Councillors and officers is essential to good local government. However, close personal familiarity between individual Councillors and officers can damage this relationship and prove embarrassing to other Councillors and officers.
- 1.4 The relationship has to function without compromising the ultimate responsibilities of officers to the Council as a whole, with due regard to such technical, financial, professional and legal advice that officers can legitimately provide to Councillors. The Protocol seeks to set a framework that assists the working relationships between Councillors and officers.

### **2. Roles and Responsibilities.**

#### **2.1 Councillors**

Councillors have a wide range of roles and responsibilities:

- 2.1.1 Councillors express political values and support the policies of the party or group to which they belong (if any).
- 2.1.2 Councillors represent their electoral division and are advocates for the citizens who live in the area.
- 2.1.3 Councillors are involved in active partnerships with other organisations as community leaders.
- 2.1.4 Councillors contribute to the decisions taken in Full Council and the various Committees and bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
- 2.1.5 Councillors help develop and review policy and strategy.
- 2.1.6 Councillors monitor and review policy implementation and service quality.
- 2.1.7 Councillors are involved in quasi-judicial work through their Membership of regulatory committees, such as Planning and Licensing.

#### **2.2 Officers**

Officers have the following general roles and responsibilities:-

- 2.2.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- 2.2.2 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.
- 2.2.3 Initiating policy proposals.
- 2.2.4 Implementing agreed policy.
- 2.2.5 Ensuring that the Council always acts in a lawful manner.

### **3. Respect and Courtesy**

- 3.1 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 Councillors and Officers. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Councillors and Officers remember their respective obligations to enhance the Council's reputation.
- 3.2 Councillors should avoid personal criticism of individual officers or identifiable groups of officers in public forums (including the media and social media). Similarly, officers should avoid personal criticism of elected Councillors or groups of councillors in public forums (including the media and social media).

### **4. Undue Pressure.**

- 4.1 It is important in any dealings between Councillors and Officers that neither should seek to take unfair advantage of their position. In their dealings with Officers (especially junior staff), Councillors need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Councillors hold senior official and/or political office. Wherever possible, Councillors should direct enquiries through Heads of Service or senior managers rather than approach more junior staff directly.
- 4.2 A Councillor should not apply undue pressure on an Officer either to do anything that he/she 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 Officer must neither seek to use undue influence on an individual Councillor to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other staff. *(The Council has formal procedures for consultation, grievance and discipline, and Officers have the right to report possible wrongdoing under the Council's Confidential Whistleblowing Policy).*
- 4.3 Councillors should not, by their conduct, language, or actions, make any officer feel intimidated, harassed, threatened or bullied. Similarly, officers should not, by their conduct, language, or actions, make any Councillor feel intimidated, harassed, threatened or bullied.

### **5. Personal Relationships.**

- 5.1 Close personal familiarity between individual Councillors and Officers 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 Councillors and/or other Officers and even give rise to suspicions of favouritism. For these reasons close personal familiarity should be avoided.

- 5.2 Councillors should declare to the Leader their Political Group or to the Leader of the Council or to the Monitoring Officer, any close personal relationship with an Officer, which could be considered as influencing their work or decision-making. This might be a family relationship, a business relationship, or another close relationship, which might be perceived as so significant that it is likely to prejudice their judgement.
- 5.3 Officers also have a duty to declare any such close personal relationships with individual Councillors to their Manager or Head of Service, where appropriate.
- 5.4 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 officer could unduly influence the Councillor's decision-making or the work of the Service Area in question or be perceived as such.

## **6. Provision of Advice and Guidance**

- 6.1 Council officers 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.
- 6.2 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 test this advice by questioning and challenging in an appropriate manner but not in a way that could be interpreted as intimidating, harassing, threatening or bullying. Councillors should ensure that any such challenge is made to an officer of suitable seniority, generally a statutory officer, Corporate Director or Head of Service.
- 6.3 Officers should accept that Councillors are entitled to question advice given, and to receive a full and complete explanation.
- 6.4 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 Cabinet in relation to executive functions, and have a statutory right to advise as they believe appropriate within their statutory duties.
- 6.5 Officers have to advise Councillors from time to time that a certain course of action cannot be carried out. Councillors 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 Councillors might achieve some or all of their objectives in other ways.

## **7. Access to Information and Documents**

- 7.1 Councillors are free to approach Officers of the Council to provide them with such information 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.
- 7.2 Officers should always endeavour to respond to requests for information promptly and should in any event inform the Councillor 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.

- 7.3 The legal rights of Councillors to inspect Council documents are covered partly by statute and partly by common law.
- 7.4 The Access to Information Procedure Rules (as set out in the Council's Constitution) and the provisions of the Local Government Act 1972 Part VA and Schedule 12A provide a statutory right of access to papers relating to Council business, including agendas, reports, background papers and minutes of meetings.
- 7.5 The Monitoring Officer has the initial 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 and whether it is in the public interest that this information is not made public. However, the decision as to whether they remain confidential is for the Committee to determine at the relevant meeting.
- 7.6 If any report is issued within the confidential Part 2 of the agenda for a meeting and unless the Council, Cabinet or Committee decides that it should be discussed in public, all Officers and Councillors must respect the confidentiality of the report and not disclose it to a third party.
- 7.7 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 2; other aspects may already be within the public domain or otherwise outside the definition of 'exempt'. In such circumstances, an Officer or Councillor 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 Officer or Councillor should consult with the Monitoring Officer before doing so.
- 7.8 The Council promotes openness and access to information by all its Councillors. Whilst Councillors have no automatic statutory right to Part 2 reports and "exempt information", generally reports to be considered by the Council, the Cabinet, Cabinet Members, Committees are made available to all Members of the Council. Confidential or exempt information provided to Councillors as part of these reports must be used properly and should not be released or disclosed to any third party. It is not necessary for a Councillor to establish an individual "need to know" in relation to exempt information contained in Part 2 reports.
- 7.9 The common law right of Councillors is based on the principle that any councillor has a right to inspect any 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 Member of the Council. This principle is commonly referred to as the "need to know" principle.
- 7.10 The exercise of the common law right depends upon a Councillor's ability to demonstrate a "need to know". In this respect a Councillor has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 7.11 The information sought by a Councillor should only be provided by the respective Service Area as long as it is within the limits of their resources. For their part, Councillors, should seek to act reasonably in the number and content of the requests they make.
- 7.12 It is important for Service Areas and their staff to keep Councillors informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the wards that they 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.
- 7.13 If a Councillor asks for specific information relating to the work of a particular Service Area, 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.



7.14 Councillors 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 Councillors without the need for a formal FOI request if it is apparent from the Member’s enquiry that any member of the public 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.

## **8. Confidentiality**

8.1 In accordance with the Councillor Code of Conduct, 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:

8.1.1 he/she has the consent of a person authorised to give it;

8.1.2 he/she is required by law to do so;

8.1.3 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

8.1.4 the disclosure is:

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the Council

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. 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.

8.3 Information and correspondence about an individual’s private or business affairs will normally be confidential.

8.4 Officers should make it clear to Councillors if they are giving them confidential information. If a Councillor is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.

8.5 Any Council information provided to a Councillor must only be used by the Councillor in connection with the proper performance of his/her duties as a Member of the Council.

8.6 If a Councillor 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.

## **9. Provision of Member Support**

9.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc.) to Councillors 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.

### **9.2 Correspondence.**

Official letters on behalf of the Council should be sent in the name of the appropriate Officer, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Councillor 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 Councillor

### 9.3 Media.

Communication with the media on behalf of the Council or in relation to council business can be an important part of a Member's workload. In general, Councillors provide comment and views while Officers provide factual information. If a Councillor is unsure about the circumstances of a particular issue he/she should contact the appropriate Corporate Director or Head of Service concerned or ask the Public Relations and Communications Team to do so.

## 10. The Council's role as Employer.

10.1 In their dealings with Officers, Councillors should recognise and have regard to the Council's role as employer. Councillors should be aware that Officers could rely on inappropriate behaviour of a Councillor in an employment case against the Council.

10.2 Councillors will play no part in the appointment of Council staff, other than the appointment of Chief Officers.

10.3 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 it is appropriate, and in accordance with the principles of this Protocol, for them to act as referee for any Officer applying for a post outside the Council.

## 11. Political Activity.

11.1 There are a number of constraints that apply to an Officer who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

11.2 In summary, such Officers are prevented from:

11.2.1. being a Member of Parliament, European Parliament or local authority;

11.2.2. acting as an election agent or sub-agent for a candidate for election as a Member of any these bodies;

11.2.3. 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:

(a) participate in the general management of the party or branch; or

(b) act on behalf of the party or branch in dealings with persons other than members of the party;

11.2.4 canvassing on behalf of a political party or a candidate for election to any the bodies referred to in 11.2.1;

11.2.5 speaking to the public with the apparent intent of affecting public support for a political party; and

11.2.6 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.

11.3 It is common for party groups within the Council to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Officers should not, however, attend any political party meetings which include individuals who are not Members of the Council. Officers 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. If an officer gives a briefing to any political group represented on the Council, then a similar briefing will be made available to the other party groups on the Council. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers.

- 11.4 Usually the only Officers involved in attending group meetings will be the Chief Executive, Corporate Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
- 11.5 Officers are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Corporate Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold. However, officers 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 role, provided that they do not advise or assist Members in relation to any personal or political matters.
- 11.6 Certain Officers will work closely with the Leader and Cabinet Members on policy matters. Other officers will also work closely with Chairs of Committees. These officers may be asked to brief those 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 officer's ability to deal impartially with other Councillors or party groups.

## **12. Complaints**

- 12.1 Any complaints about the conduct of particular officers or any breach of this Protocol by a member of staff should be referred to the appropriate Head of Service. In the case of complaint is against a Head of Service, the matter should be raised with the appropriate Corporate Director or Chief Executive. Any complaints about Corporate Directors should be referred to the Chief Executive. If the complaint is about the Chief Executive, this must be raised with the Leader of the Council. In all such cases the complaints will be handled in accordance with the Council's confidential internal staffing procedures. The outcome of the process is the only information that the complainant will be entitled to.
- 12.2 Any complaints about the conduct of a particular Councillor or any breach of this Protocol by an elected Member should be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be dealt with in accordance with the Council's Local Resolution Protocol or, in the case of a more serious breach, referred to the Public Services Ombudsman for Wales..

## **13. Conclusion**

By following good practice and securing sensible and practical working relationships between Councillors and Officers, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the public. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Officers.

This page is intentionally left blank



# Report

## Standards Committee

---

### Part 1

Date: 1<sup>st</sup> November 2018

Item No: 08

**Subject** Ombudsman Annual Letter 2017/18

**Purpose** To report the Ombudsman's Annual letter and the numbers of complaints of maladministration and misconduct dealt with during 2017/18

**Author** Head of Law and Regulation

**Ward** General

**Summary** Following the publication of his Annual Report for 2017/18, the Ombudsman has now issued the Council with his Annual letter, which sets out information relating to the numbers of complaints of maladministration and misconduct which were referred to his office during this period relating to Newport City Council and its Councillors

**Proposal** To note the Report and the Ombudsman's Annual letter

**Action by** Head of Law and Regulation

**Timetable** Immediate

## **Background**

1. Following the publication of his Annual Report for 2017/18, the Ombudsman has now issued the Council with his Annual letter, which sets out information relating to the numbers of complaints of maladministration and misconduct which were referred to his office during this period relating to Newport City Council and its Councillors
2. A copy of the Annual letter is set out in the Appendix to this Report.
3. Overall the number of complaints and enquiries received by the Ombudsman has increased by 5%, which is attributed to an 8% rise in enquiries. There was a 4% decrease in public body complaints. Despite complaints against NHS bodies increasing by 7%, there was a 10% reduction in complaints against councils.
4. After Health, which comprises 41% of all complaints, housing (11%), social services (9%) and planning and building control (8%) remain significant areas of complaint.
5. The number of maladministration complaints received by the Ombudsman concerning Newport has increased by 40% in the past year from 26 to 37. The number of complaints received concerning Planning and Building Control increased from 3 to 7. Complaints concerning Adult Social Services have significantly declined from 11 to 3.
6. However, there were no public interest reports issued in 2017/18 relating to findings of maladministration. Two complaints were upheld in part.
7. The number of Code of Conduct complaints increased by 14% in the past year, this is attributed to a 33% increase in Code of Conduct complaints involving Community Councils. Many of these complaints have arisen following changes in the membership of councils.
8. 42% of Code of Conduct complaints received related to the promotion of equality and respect, 19% related to disclosure and registration of interests and 16% related to integrity.
9. However, in Newport only 3 complaints were referred to the Ombudsman about City Councillors in 2017/18. None of these complaints was accepted for investigation on the basis that there was no evidence of any serious breaches of the Code.
10. Three complaints were also referred to the Ombudsman regarding alleged breaches of the Code by local community councillors, one in relation to Bishton Community Council and 2 in relation to Langstone Community Council, but, again, none of these complaints was accepted for formal investigation

## **Financial Summary**

11. There are no financial implications.

## **Options Available**

12. To note the Report

## **Comments of Chief Financial Officer**

13. There are no financial implications.

## **Comments of Monitoring Officer**

14. Included in the Report.

## **Staffing Implications: Comments of Head of People and Business Change**

15 There are no staffing or policy implications.

### **Background Papers**

Ombudsman's Annual Report and letter 2017/18

Dated: 25<sup>th</sup> October 2018

Our Ref: NB/CW/MA



[Catrin.wallace@ombudsman-wales.org.uk](mailto:Catrin.wallace@ombudsman-wales.org.uk)

[Matthew.aplin@ombudsman-wales.org.uk](mailto:Matthew.aplin@ombudsman-wales.org.uk)

15 October 2018

Councillor Debbie Wilcox

Sent by email: [debbie.wilcox@newport.gov.uk](mailto:debbie.wilcox@newport.gov.uk)

### **Annual Letter 2017/18**

Following the recent publication of my Annual Report, I am delighted to provide you with the Annual Letter (2017/18) for **Newport City Council**.

Despite a challenging complaints context, I am delighted to be able to report positive progress in the activities of the office over the past year.

Four public interest reports have been published in the past year, but none related to local authorities.

A new Public Services Ombudsman Bill has been introduced to the National Assembly and is currently at the second stage in the legislative process. This means that Members have agreed the general principles of the Bill and a Financial Resolution was agreed on 17 July 2018. This new legislation will help drive up public service standards as it is important that Wales continues to adopt best practices in complaints handling and public service improvement. If the Bill progresses I will be engaging with public bodies in Wales in preparation for the introduction of the new powers within the Bill.

### **Overview of complaints**

Overall the number of complaints and enquiries received by my office has increased by 5% this year, this is attributed to an 8% rise in enquiries.

This year my office saw a 4% decrease in public body complaints. Despite complaints against NHS bodies increasing by 7%, we have seen a 10% reduction in complaints against councils.

After Health, which comprises 41% of all complaints, housing (11%), social services (9%) and planning and building control (8%) remain significant areas of complaint.

The number of Code of Conduct complaints increased by 14% in the past year, this is attributed to a 33% increase in Code of Conduct complaints involving Community Councils. Many of these complaints have arisen following changes in the membership of councils.

42% of Code of Conduct complaints received were with regards to the promotion of equality and respect, 19% were with regards to disclosure and registration of interests and 16% were with regards to integrity.



We note that the number of complaints received by the Ombudsman concerning Newport has increased by 40% in the past year from 26 to 37. We would like to draw your attention to the number of complaints received concerning Planning and Building Control which have increased from 3 to 7. However, we are pleased to note that complains concerning Adult Social Services have significantly declined from 11 to 3.

Whilst we have encountered difficulties in receiving timely responses to our requests for information from the Council, I am pleased that your staff have positively engaged with my office in an attempt to improve the position. We understood that consideration would be given to allocating extra resource to the corporate complaints department, and I would appreciate an update in respect of that as we have continued to encounter delays. We will be reviewing the position during this year to see whether further engagement with your Council is required.

You will find below a factsheet giving a breakdown of complaints data relating to your Local Authority. This year we have included a new set of statistics regarding Ombudsman interventions. These include all cases upheld by my office as well as early resolutions and voluntary settlements.

Please would you present my annual letter to the Cabinet to assist Members in their review of the Council's performance.

This correspondence has been copied to the Chief Executive of the Council and to your Contact Officer within your organisation. I would again reiterate the importance of this role. Finally, a copy of all annual letters will be published on my website

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nick Bennett', with a stylized flourish at the end.

Nick Bennett

Public Services Ombudsman for Wales

CC: Will Godfrey, Chief Executive

Gareth Price, Contact Officer

## Factsheet

### A. Complaints Received and Investigated with Local Authority average adjusted by population

Local Authority	Complaints Received	Average	Complaints Investigated	Average
Blaenau Gwent County Borough Council	10	17	0	0
Bridgend County Borough Council	40	36	1	1
Caerphilly County Borough Council	40	45	1	1
Cardiff Council	109	90	5	3
Carmarthenshire County Council	25	46	3	1
Ceredigion County Council	35	18	5	1
City and County of Swansea	62	61	1	2
Conwy County Borough Council	36	29	3	1
Denbighshire County Council	20	24	3	1
Flintshire County Council	50	39	6	1
Gwynedd Council	29	31	2	1
Isle of Anglesey County Council	29	17	2	0
Merthyr Tydfil County Borough Council	13	15	2	0
Monmouthshire County Council	16	23	0	1
Neath Port Talbot County Borough Council	35	35	2	1
Newport City Council	37	37	2	1
Pembrokeshire County Council	34	31	0	1
Powys County Council	39	33	3	1
Rhondda Cynon Taf County Borough Council	36	60	0	2
Torfaen County Borough Council	15	23	0	1
Vale of Glamorgan Council	30	32	4	1
Wrexham County Borough Council	41	34	3	1

**B. Complaints Received by Subject**

<b>Newport City Council</b>	<b>Complaints Received</b>
Adult Social Services	3
Benefits Administration	2
Children s Social Services	4
Complaints Handling	4
Education	4
Environment and Environmental Health	3
Housing	4
Planning and Building Control	7
Roads and Transport	2
Various Other	4

**C. Comparison of complaint outcomes with average outcomes for Local Authorities, adjusted for population distribution**

<b>County/County Borough Councils</b>	<b>Out of Jurisdiction</b>	<b>Premature</b>	<b>Other cases closed after initial consideration</b>	<b>Early Resolution/Voluntary settlement</b>	<b>Discontinued</b>	<b>Other Report - Not upheld</b>	<b>Other Report Upheld - in whole or in part</b>	<b>Public Interest Report</b>	<b>Total Cases closed</b>
Newport City	6	11	9	6	0	0	2	0	34
Newport City (adjusted)	7	10	13	5	0	1	1	0	37

**D. Number of cases with PSOW intervention**

	<b>No. of complaints with PSOW intervention</b>	<b>Total number of closed complaints</b>	<b>% of complaints with PSOW interventions</b>
<b>Local Authority</b>			
Blaenau Gwent County Borough Council	3	11	27
Bridgend County Borough Council	5	39	13
Caerphilly County Borough Council	3	39	8
Cardiff Council	37	123	30
Carmarthenshire County Council	1	24	4
Ceredigion County Council	4	35	11
City and County of Swansea	11	62	18
Conwy County Borough Council	4	32	13
Denbighshire County Council	1	15	7
Flintshire County Council	11	47	23
Gwynedd Council	1	26	4
Isle of Anglesey County Council	2	26	8
Merthyr Tydfil County Borough Council	3	13	23
Monmouthshire County Council	1	14	7
Neath Port Talbot County Borough Council	4	31	13
Newport City Council	8	34	24
Pembrokeshire County Council	3	32	9
Powys County Council	6	38	16
Rhondda Cynon Taf County Borough Council	6	36	17
Torfaen County Borough Council	1	16	6
Vale of Glamorgan Council	3	32	9
Wrexham County Borough Council	8	41	20

**E. Code of Conduct Complaints Closed**

County/County Borough Councils	Closed after initial consideration	Discontinued	No evidence of breach	No Action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total
Newport	3							3

**F. Town / Community council Code of Conduct Complaints**

Town/Community Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total
Bishton CC	1							1
Langstone CC	2							2

## **Appendix**

### **Explanatory Notes**

Section A compares the number of complaints against the Local Authority which were received and investigated by my office during 2017/18, with the Local Authority average (adjusted for population distribution) during the same period.

Section B provides a breakdown of the number of complaints about the Local Authority which were received by my office during 2017/18. The figures are broken down into subject categories.

Section C compares the complaint outcomes for the Local Authority during 2017/18, with the average outcome (adjusted for population distribution) during the same period.

Section D provides the numbers and percentages of cases received by the PSOW in which an intervention has occurred. This includes all upheld complaints, early resolutions and voluntary settlements.

Section E provides a breakdown of all Code of Conduct complaint outcomes against Councillors during 2017/18.

Section F provides a breakdown of all Code of Conduct complaint outcomes against town or community councils.

### **Feedback**

We welcome your feedback on the enclosed information, including suggestions for any information to be enclosed in future annual summaries. Any feedback or queries should be sent to [catrin.wallace@ombudsman-wales.org.uk](mailto:catrin.wallace@ombudsman-wales.org.uk) or [matthew.aplin@ombudsman-wales.org.uk](mailto:matthew.aplin@ombudsman-wales.org.uk)



# Report

## Standards Committee

---

### Part 1

Date: 1<sup>st</sup> November 2018

Item No: 09

**Subject** Adjudication Panel for Wales – Sanctions Guidance

**Purpose** To advise the Committee regarding Guidance issued by the Adjudication Panel for Wales regarding sanctions for misconduct

**Author** Head of Law and Regulation

**Ward** General

**Summary** The Adjudication Panel for Wales has issued statutory Guidance which sets out the approach taken by case, appeal and interim case tribunals in order to reach fair, proportionate and consistent decisions on the sanctions that should be applied in relation to an individual's breach of the Members Code of Conduct.

As such, it provides useful guidance to Standards Committee on the approach it should take in relation to any misconduct hearings, following the referral of a complaint by the Ombudsman, and the principles to be followed when considering the proportionality of any sanction.

**Proposal** To note the Report and the Adjudication Panel Sanctions Guidance

**Action by** Head of Law and Regulation

**Timetable** Immediate

## **Background**

1. Guidance has been issued by the President of the Adjudication Panel for Wales (APW) using powers available to her under the Local Government Act 2000. Its primary purpose is to assist the APW's case, appeal and interim case tribunals when considering the appropriate sanction to impose on a member, or former member, who is found to have breached their authority's Code of Conduct.
2. The statutory guidance will come into effect as from September 2018.
3. The purpose of sanctions and the Guidance are built on the values that underpin the Code of Conduct, in particular the fundamental importance of promoting the highest standards in local public life. The Guidance aims to assist tribunals in determining sanctions that are, in all cases, fair, proportionate and consistent
4. The Guidance is not prescriptive and recognises that the sanction decided by an individual tribunal will depend on the particular facts and circumstances of the case. In setting out the factors to be considered by a tribunal in its determination of an appropriate sanction, the Guidance offers a transparent approach for the benefit of all parties involved tribunal proceedings. It aims to ensure that everyone is aware, from the outset, of the way in which the tribunal is likely to arrive at its decision on sanction.
5. The Guidance seeks to fulfil a wider role and support all those with an interest in maintaining, promoting and adjudicating on the Code of Conduct. It aims to complement the statutory Guidance published by the Public Services Ombudsman for Wales, confirming the expectations on local members in terms of their conduct and emphasising the central importance of public confidence in local democracy. It should be of value to individual members, Monitoring Officers and Standards Committees of county and county borough councils, fire and rescue authorities, and national park authorities in Wales, and the Public Services Ombudsman for Wales.
6. As such, it provides useful guidance to Standards Committee on the approach it should take in relation to any misconduct hearings, following the referral of a complaint by the Ombudsman, and the principles to be followed when considering the proportionality of any sanction. In particular, it sets out the underlying principles of applying sanctions and the processes to be followed in assessing the seriousness of any breach, any mitigating factors and the fairness and proportionality of any sanction imposed by the Committee.

## **Financial Summary**

7. There are no financial implications.

## **Options Available**

8. To note the Report

## **Comments of Chief Financial Officer**

9. There are no financial implications.

## **Comments of Monitoring Officer**

10. Included in the Report.

## **Staffing Implications: Comments of Head of People and Business Change**



11 There are no staffing or policy implications.

## **Background Papers**

Ombudsman's Annual Report and letter 2017/18

Dated: 25<sup>th</sup> October 2018



PANEL DYFARNU CYMRU  
ADJUDICATION PANEL FOR WALES

## Sanctions Guidance

Issued by the President of the Adjudication Panel for Wales under Section 75(10) of the Local Government Act 2000.

---

### Foreword by the President

I am pleased to introduce our new *Sanctions Guidance* which sets out the approach to be taken by case, appeal and interim case tribunals of the Adjudication Panel for Wales in order to reach fair, proportionate and consistent decisions on the sanctions that should be applied in relation to an individual's breach of the local Code of Conduct.

The Guidance has been developed by members of the Adjudication Panel for Wales in consultation with the Public Services Ombudsman for Wales, Monitoring Officers and other interested parties. I would like to thank everyone for their contributions. In publishing this Guidance, I hope it will help all those with whom we share an interest in the Code - most importantly members of county and community councils, fire and rescue authorities, and national park authorities in Wales. I hope it reflects the importance we attach to the role of local members, the value of local democracy and the Adjudication Panel's commitment to promoting the highest standards in public life in Wales.

**Claire Sharp**  
**President, Adjudication Panel for Wales**

## CONTENTS

### Introduction

page 2

- the status, purpose and intended use of the Guidance, and its relevance to the public, individual members, Monitoring Officers and Standards Committees of councils, fire and rescue authorities, and national park authorities in Wales, the Public Services Ombudsman for Wales and the Adjudication Panel for Wales.

### Standards in Public Life

page 3

- the Code of Conduct, expectations for local members and the process to be followed when a breach of the Code is alleged.

### The Adjudication Panel for Wales

page 5

- the role of the Adjudication Panel for Wales, the purpose of the sanctions regime and sanction powers available to case, appeal and interim tribunals of the Adjudication Panel for Wales.

### The Tribunals' Approach: underlying principles

page 7

- an overview of the general principles that underpin the broad approach of case, appeal and interim case tribunals, specifically fairness, public interest, proportionality, consistency, equality and impartiality, and Article 10 of the European Convention on Human Rights.

### Case and Appeal Tribunals: determining sanction

page 9

- the specific sanctions available to case and appeal tribunals and the five stage process to be used to assess the seriousness of a breach, relevant mitigating and aggravating circumstances and any wider factors, and guidance on how to determine the specific sanction and duration; it also addresses the tribunal's power to make recommendations.

### Interim Case Tribunals: determining sanction

page 18

- the distinct aims of interim case tribunals to facilitate an ongoing investigation and the specific powers available in response to a report, and any recommendation, from the Ombudsman.

### Annex: other relevant documents and guidance

page 21

## Introduction

1. This Guidance is issued by the President of the Adjudication Panel for Wales (APW) using powers available to her under the Local Government Act 2000<sup>1</sup>. Its primary purpose is to assist the APW's case, appeal and interim case tribunals when considering the appropriate sanction to impose on a member, or former member, who is found to have breached their authority's Code of Conduct.
2. This Guidance describes:
  - i. the role of the ethical framework and Code of Conduct in promoting high public standards amongst members of councils, fire and rescue authorities, and national park authorities in Wales;
  - ii. the role of the Adjudication Panel for Wales (APW) and the purpose of the sanctions regime;
  - iii. the approach to be taken by its tribunals in determining sanction following a finding that the Code has been breached.
3. The purpose of sanctions and this Guidance are built on the values that underpin the Code of Conduct, in particular the fundamental importance of promoting the highest standards in local public life. The Guidance aims to assist tribunals in determining sanctions that are, in all cases, fair, proportionate and consistent.
4. The Guidance is not prescriptive and recognises that the sanction decided by an individual tribunal will depend on the particular facts and circumstances of the case. Any examples should be considered to be by way of illustration and not exhaustive. Tribunals have ultimate discretion when imposing sanctions and can consider in addition to this Guidance other factors that they consider necessary and appropriate. Nor does the Guidance affect the responsibility of the legal member of a tribunal to advise on questions of law, including the specific applicability of relevant sections of this Guidance.
5. In setting out the factors to be considered by a tribunal in its determination of an appropriate sanction, the Guidance offers a transparent approach for the benefit of all parties involved tribunal proceedings. It aims to ensure that everyone is aware, from the outset, of the way in which the tribunal is likely to arrive at its decision on sanction.
6. The Guidance seeks to fulfil a wider role and support all those with an interest in maintaining, promoting and adjudicating on the Code of Conduct. It aims to complement the statutory Guidance published by the Public Services Ombudsman for Wales<sup>2</sup>, confirming the expectations on local members in

---

<sup>1</sup> Section 75(10) of the Local Government Act 2000 ("the 2000 Act") provides a power for the President of the Adjudication Panel for Wales to issue guidance on how its tribunals are to reach decisions

<sup>2</sup> The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils:

terms of their conduct and emphasising the central importance of public confidence in local democracy. It should be of value to individual members, Monitoring Officers and Standards Committees of county and county borough councils, fire and rescue authorities, and national park authorities in Wales, and the Public Services Ombudsman for Wales.

7. This Guidance comes into effect on 1 September 2018. It is a living document that will be updated and revised as the need arises, following consultation.

## Standards in Public Life

### The Code of Conduct

8. The Local Government Act 2000 introduced an ethical framework to promote high standards of conduct in public life in Wales. The framework's central mechanism is the Code of Conduct. All local authorities, community councils, fire and rescue authorities and national park authorities in Wales must have in place a Code of Conduct. All elected members and co-opted members (with voting rights) must, on taking office, sign an undertaking to abide by their authority's Code for the duration of their term of office.
9. The Welsh Government has issued a model Code of Conduct<sup>3</sup> in order to ensure consistency across Wales and to give certainty to members and the public as to the minimum standards expected. The model Code is consistent with ten core principles of conduct<sup>4</sup> prescribed by the National Assembly for Wales in 2001, which are themselves derived from the Nolan Committee's Principles for Public Life<sup>5</sup>:
  - i. Selflessness
  - ii. Honesty
  - iii. Integrity and Propriety
  - iv. Duty to Uphold the Law
  - v. Stewardship
  - vi. Objectivity in Decision-making
  - vii. Equality and Respect
  - viii. Openness
  - ix. Accountability
  - x. Leadership

---

Guidance (August 2016), issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000

<sup>3</sup> The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2008, as amended by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016  
[www.legislation.gov.uk/wsi/2016/84/pdfs/wsi\\_20160084\\_mi.pdf](http://www.legislation.gov.uk/wsi/2016/84/pdfs/wsi_20160084_mi.pdf) and  
[www.legislation.gov.uk/wsi/2016/85/pdfs/wsi\\_20160085\\_mi.pdf](http://www.legislation.gov.uk/wsi/2016/85/pdfs/wsi_20160085_mi.pdf)

<sup>4</sup> The Conduct of Members (Principles) (Wales) Order 2001 SI 2001 No.2276 (W.166)  
[http://www.legislation.gov.uk/wsi/2001/2276/pdfs/wsi\\_20012276\\_mi.pdf](http://www.legislation.gov.uk/wsi/2001/2276/pdfs/wsi_20012276_mi.pdf)

<sup>5</sup> Nolan Report "Standards of Conduct in Local Government in England, Scotland and Wales"

Local codes must incorporate any mandatory provisions of the model Code and may incorporate any optional provisions of the model Code. At this time, all provisions of the model Code are mandatory.

### **Expectations on local members**

10. Members of county councils, county borough councils, community councils, fire and rescue authorities and national park authorities in Wales must abide by their authority's Code:
  - whenever they are acting or present at a meeting of their authority, claiming to act or giving the impression of acting in an official capacity in the role of member to which they were elected or appointed or as a representative of their authority;
  - at any time, if they are conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute, or if using or attempting to use their position to gain an advantage or avoid a disadvantage for anyone or if they misuse the authority's resources.
11. Members are expected to engage in any training and access ongoing advice, as the need arises, from their local Monitoring Officer and Standards Committee. Members are also expected to be familiar with and have regard to the Public Services Ombudsman's statutory guidance on the Code<sup>6</sup>. It addresses each of the Code's requirements in order to help members understand their obligations in practical terms. It offers advice on the fundamental ethical principles that many members need to consider on a regular basis – for example, declarations of interest, confidentiality and whether their actions constitute bullying or harassment– in addition to those less frequently encountered.
12. Ultimately, members must use their judgment in applying the Code and the Principles to their own situation. They cannot delegate responsibility for their conduct under the Code.

### **Allegations of breach**

13. There are non-statutory local protocols in place for low-level member-on-member complaints which do not result in case or appeal tribunals. Allegations that a member's conduct is in breach of the Code can be made to the Ombudsman, who will decide whether to investigate a complaint. If, following an investigation, the Ombudsman finds that there is evidence of a breach of the Code, he can refer his report to the relevant local Standards Committee or to the President of the Adjudication Panel for Wales. The Ombudsman may also refer reports from an ongoing investigation to the President for consideration by an interim case tribunal.

---

<sup>6</sup> The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils: Guidance (August 2016), issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000

## **The Adjudication Panel for Wales**

14. The introduction of the ethical framework included the establishment of the Adjudication Panel for Wales<sup>7</sup> as an independent, judicial body with powers to form tribunals to deal with alleged breaches of the Code. The Panel's operation is subject to regulation by the Welsh Government.

### ***Case tribunals***

15. Case tribunals are appointed by the President of the Adjudication Panel for Wales in order to consider a report from the Ombudsman following an investigation into an allegation of a member's misconduct. Case tribunals are responsible for deciding whether a local member has breached the Code of Conduct of their authority and, if so, for determining an appropriate sanction (if any).

### ***Appeal tribunals***

16. Appeals tribunals are appointed by the President to consider appeals from members against a decision of a local Standards Committee. Appeal tribunals are responsible for reviewing the decision that a local member has breached the Code of Conduct and any sanction imposed. They may uphold and endorse any sanction imposed or refer the matter back to the Standards Committee with a recommendation as to a different sanction or overturn the determination of the Committee that there has been a breach of the Code. An appeal tribunal cannot recommend a sanction which was not available to the Standards Committee.

### ***Interim case tribunals***

17. Interim case tribunals are appointed by the President to consider a report, and any recommendation to suspend a member, from the Ombudsman during an ongoing investigation into alleged misconduct. The tribunal is responsible for determining the need to suspend, or partially suspend, the member or co-opted member from the authority or a role within the authority. The maximum duration of the suspension or partial suspension is 6 months. Unlike case and appeal tribunals, suspension by an interim case tribunal is a neutral act, given the ongoing nature of the Ombudsman's investigation.

## **The sanctions regime**

18. The Committee on Standards in Public Life<sup>8</sup> had a key role in developing the ethical framework and identified the need for mechanisms to enforce and punish public office holders who breached the standards expected of them, if the ethical framework was to command public credibility. The purpose of the sanctions available to Adjudication Panel for Wales case and appeal tribunals are to:

---

<sup>7</sup> Part III, Local Government Act 2000

<sup>8</sup> Reference to the report on enforcement

- provide a disciplinary response to an individual member's breach of the Code;
- place the misconduct and appropriate sanction on public record;
- deter future misconduct on the part of the individual and others;
- promote a culture of compliance across the relevant authorities;
- foster public confidence in local democracy.

19. The sanctions available to a case tribunal that has found a breach of the Code are<sup>9</sup>:

- a. to take no action in respect of the breach;
- b. to suspend or partially suspend the member from the authority concerned for up to 12 months;
- c. to disqualify the member from being, or becoming, a member of the authority concerned or any other relevant authority to which the Code of Conduct applies for a maximum of 5 years.

The sanctions available to an appeal tribunal that has found a breach of the Code are:

- d. censure;
- e. to suspend or partially suspend the member from the authority concerned for up to 6 months.

20. The different types and scope of duration of sanction are designed to provide tribunals with the flexibility to apply sanctions of considerable difference in impact and enable a proportionate response to the particular circumstances of an individual case. This Guidance does not propose a firm tariff from which to calculate the length of suspension or disqualification that should be applied to specific breaches of the Code. Instead, it offers broad principles for consideration by all tribunals whilst respecting the details that make each and every case different.

---

<sup>9</sup> Section 79, Local Government Act 2000



## **The Tribunal approach – underlying principles**

21. Tribunals must always have in mind that every case is different and requires deciding on its own particular facts and circumstances. Following a finding that the Code of Conduct has been breached, tribunals must exercise their own judgment as to the relevant sanction in line with the nature and impact of the breach, and any other relevant factors. They must also ensure that the sanctions take account of the following underlying principles in order to ensure that their decisions support the overall ambitions of the ethical framework, fulfilling the purpose of the sanctions, and are in line with the tribunal's wider judicial obligations.

### **Fairness**

22. The tribunal should take account and seek to find an appropriate balance between the various interests of the Respondent/Appellant, the Complainant, other interested parties to a case, the Ombudsman, the authority, the electorate and the wider public.

### **Public interest**

23. Whilst seeking to ensure that the sanction imposed is appropriate, fair and proportionate to the circumstances of the case, the tribunal should consider the reputation of and public confidence in local democracy as more important than the interests of any one individual.

### **Proportionate**

24. Tribunals will take account of the good practice identified in the Ombudsman's Guidance and Code of Conduct Casebook<sup>10</sup> in order to assist their sense of proportionality when determining the sanction appropriate to the scale and/or nature of the breach.

### **Consistent**

25. Tribunals will aim to achieve consistency in their sanctions in order to maintain the credibility of the ethical framework. They will take account of the good practice identified by the Ombudsman (para.24) in addition to this Guidance and its own previous decisions. Where a tribunal panel has reason to depart from the Guidance, it should clearly explain why it has done so.

### **Equality and impartiality**

26. Fair treatment is a fundamental principle for the Adjudication Panel for Wales and is embedded within individual members' judicial oath. Tribunals must ensure that their processes and practices safeguard their capacity for objective, independent and impartial decision-making, free from prejudice and partiality, in order to uphold their judicial responsibilities.

---

<sup>10</sup> <http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx>

## Human Rights (Articles 6 and 10)

27. Tribunals must ensure that their processes and practices respect human rights. This Guidance aims to support those principles. In particular, tribunals must ensure that they consider the relevance of Articles 6 and 10 of the European Convention on Human Rights in their deliberations. These articles enshrine the right to a fair hearing and freedom of expression.

28. Article 10 is a key provision when considering possible breaches of the Code. It provides that:

*“10(1) Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers...”*

*10(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”*

29. Enhanced protection of freedom of expression applies to political debate, including at local government level. Article 10(2) has the effect of permitting language and debate on questions of public interest that might, in non-political contexts, be regarded as inappropriate or unacceptable. This protection does not extend to gratuitous or offensive personal comment, nor to ‘*hate speech*’ directed at denigrating colour, race, disability, nationality (including citizenship), ethnic or national origin, religion, or sexual orientation.

30. In their consideration of Article 10, tribunals should apply the three-stage approach established by Mr Justice Wilkie<sup>11</sup> in the case of *Sanders v Kingston (No1)* and which applies to both decision about breach and sanction, as follows:

- i. Can the Panel as a matter of fact conclude that the Respondent’s conduct amounted to a relevant breach of the Code of Conduct?
- ii. If so, was the finding of a breach and imposition of a sanction *prima facie* a breach of Article 10?
- iii. If so, is the restriction involved one which is justified by reason of the requirement of Article 10(2)?

---

<sup>11</sup> Wilkie J in the case of *Sanders v Kingston No (1)* [2005] EWHC 1145

## **Case and Appeal Tribunals – determining sanction**

31. A tribunal will decide whether or not a sanction is appropriate after considering the facts of a case and finding that an individual has breached the Code of Conduct. In determining any appropriate sanction, the tribunal's approach should be sufficiently broad so as to accommodate its consideration of the various interests of those involved in the case, any specific circumstances of the individual respondent/appellant, the intended purpose of the sanctions available (in particular, the wider public interest) and the tribunal's wider judicial responsibilities.
32. Case tribunals will decide on the appropriate sanction to impose, if any, and the duration of any such sanction; appeal tribunals will consider the appropriateness of the sanction imposed by the Standards Committee.

## **The five-stage process**

33. Case and appeal tribunals will follow a five step process in determining sanction:
- 33.1 assess the seriousness of the breach and any consequences for individuals and/or the council (para.34 - 38)
  - 33.2 identify the broad type of sanction that the Tribunal considers most likely to be appropriate having regard to the breach; (para.39)
  - 33.3 consider any relevant mitigating or aggravating circumstances and how these might affect the level of sanction under consideration; (para.40 to 42)
  - 33.4 consider any further adjustment necessary to ensure the sanction achieves an appropriate effect in terms of fulfilling the purposes of the sanctions; (para.43)
  - 33.5 confirm the decision on sanction and include, within the written decision, an explanation of the tribunal's reasons for determining the chosen sanction in order to enable the parties and the public to understand its conclusions. (para.53)

## **Assessing the seriousness of the breach**

34. The relative seriousness of the breach will have a direct bearing on the tribunal's decision as to the need for a sanction and, if so, whether a suspension or partial suspension (of up to 12 months) or disqualification (up to 5 years) is likely to be most appropriate. It is important to bear in mind though that appeal tribunals can only recommend a suspension (partial or full) for up to 6 months and cannot recommend disqualification due to the constraints upon its powers.
35. The tribunal will assess seriousness with particular reference to:
- the nature and extent of the breach, and number of breaches;

- the member’s culpability, their intentions in breaching the Code, and any previous breaches of the Code;
- the actual and potential consequences of the breach – for any individual(s), the wider public and/or the council as a whole;
- the extent to which the member’s actions have, or are likely to have the potential to, bring his/her office or the relevant authority into disrepute.

36. Examples of the way in which tribunals might weight seriousness include:

- a breach involving deliberate deception for personal gain or discrimination is likely to be regarded as more serious than that involving the careless use of a council email address on a personal social media profile;
- a breach involving the systematic harassment or bullying of a junior officer is likely to be regarded as more serious than instances of disrespectful language in the course of a council debate;
- a breach of confidentiality that results in the disclosure of the address of a looked after child is likely to be regarded as more serious than the disclosure of a planning officer’s confidential advice;
- a breach resulting in significant negative reputational damage to the office or authority is likely to be regarded as more serious than an inappropriately worded email to a member of the public.

37. Breaches involving the blatant disregard of specific, authoritative advice given as to a course of conduct and/or the Code (particularly by the relevant authority’s monitoring officer), the deliberate abuse of confidential, privileged or sensitive information for personal gain or that of a close personal associate, and sexual misconduct, criminal, discriminatory, predatory, bullying and/or harassing behaviour are all likely to be regarded as very serious breaches.

38. A member who is subject to a term of imprisonment for three months or more without the option of paying a fine in the previous five years before their election or since their election is automatically subject to disqualification<sup>12</sup>.

### Choosing the potential sanction

39. Having assessed the relative seriousness of the member’s breach of the Code, the tribunal will consider which of the courses of action available to it is most appropriate<sup>13</sup>. In line with the principles of fairness and proportionality, the tribunal should start its considerations of possible sanctions with that of least impact.

### No action

39.1 The tribunal may decide that, despite the member having failed to follow the Code of Conduct, there is no need to take any further action in terms of sanction. Circumstances in which a tribunal may decide that no action is required may include:

<sup>12</sup> Section 80(1)(d), Local Government Act 1972

<sup>13</sup> Section 79, Local Government Act 2000

- an inadvertent failure to follow the Code;
  - an isolated incident with extremely limited potential for consequential harm;
  - an acceptance that a further failure to comply with the Code on the part of the member is unlikely, nor are there any wider reasons for a deterrent sanction;
  - specific personal circumstances, including resignation or ill health, which render a sanction unnecessary and/or disproportionate.
- 39.2 A tribunal that finds a breach of the Code but decides that no action is necessary in terms of sanction, should consider whether there is a need to warn the member as to their conduct and/or seek assurances as to future behaviour. This provides an effective means of placing the member's behaviour on record, reflected in the tribunal's written decision, so that the warning and/or reassurance may be taken into account in the event of the same member being found to have breached the Code in the future. A failure to comply with any assurances given to the tribunal may be brought to the attention of the tribunal in any future hearings.

### ***Suspension for up to 12 months***

- 39.3 A case tribunal may suspend the member for up to 12 months from the authority(ies) whose Code/s has/have been breached.
- 39.4 Suspension is appropriate where the seriousness of the breach is such that a time-limited form of disciplinary response is appropriate in order to deter such future action, temporarily remove the member from the authority/a role within the authority, safeguard the standards set by the Code and to reassure the public that standards are being upheld.
- 39.5 A suspension of less than a month is unlikely to meet the objectives of the sanctions regime and risks undermining its overall ambitions. Tribunals are also reminded that the highest sanction available to local Standards Committees is 6 months' suspension. They should bear this in mind when considering an Ombudsman's referral to the Adjudication Panel, in preference to the local Standards Committee, and when considering an appeal against a local Standards Committee sanction. It is possible for appeal tribunals to recommend an increase in the sanction originally imposed by the Standards Committee.
- 39.6 Circumstances in which a tribunal may decide that a suspension is appropriate may include:
- the member's action has brought the member's office or authority into disrepute but they have not been found in breach of any other paragraph of the Code (though the most appropriate sanction will depend on the specific facts of each case);

- the breach merits a disciplinary response but, in view of the circumstances of the case, it is highly unlikely that there will be a further breach of the Code;
- the member has recognised their culpability, shown insight into their misconduct, and apologised to those involved.

### ***Partial Suspension for up to 12 months***

- 39.7 The tribunal may impose a partial suspension, preventing the member from exercising a particular function or role (such as being a member of a particular committee or subcommittee or the holder of a particular office) for up to 12 months.
- 39.8 Partial suspension is appropriate where the seriousness of the breach merits a suspension (see above) but the circumstances of the case are such that the member is permitted to continue in public office except for the role/function/activity specifically limited by the suspension.
- 39.9 In the case of a partial suspension, the tribunal will need to decide from what role/function/activity the member is to be suspended and, in the case of membership of more than one authority, the impact of the partial suspension in each relevant authority.
- 39.10 Circumstances in which a partial suspension may be appropriate include:
- the member is capable of complying with the Code in general but has difficulty understanding or accepting the restrictions placed by the Code on their behaviour in a specific area of council/authority activity;
  - the misconduct is directly relevant to and inconsistent with a specific function or area of responsibility held;
  - the member should be temporarily removed or prevented from exercising executive functions for the body to which the Code applies.

### ***Disqualification for a maximum of 5 years***

- 39.11 A case tribunal may disqualify the member from being, or becoming, a member of the authority concerned or any other relevant authority to which the Code of Conduct applies for a maximum of 5 years.
- 39.12 Disqualification is the most severe of the sanctions available to a tribunal. It is likely to be appropriate where the seriousness of the breach is such that a significant disciplinary response is appropriate in order to deter repetition, make clear the unacceptable nature of such conduct in public office, underscore the importance of the Code and to safeguard the public's confidence in local democracy. A disqualification of less than 12 months is unlikely to be meaningful (except in circumstances when the term of office of the member is due to expire during that period or is no longer a member).

39.13 Circumstances in which a tribunal may decide that a disqualification is appropriate may include:

- deliberately seeking personal gain (for her/himself, a family member or personal associate) by exploiting membership of the authority and/or the authority's resources;
- deliberately seeking to disadvantage another by exploiting membership of the authority and/or the authority's resources;
- deliberately disregarding or failing to comply with the provisions of the Code and continuing to assert the right so to do;
- repeatedly failing to comply with the provisions of the Code and demonstrating the likelihood of continuing the pattern of behaviour;
- deliberately seeking political gain by misusing public resources or power within the authority;
- a second or subsequent breach, despite a warning and/or having given an assurance as to future conduct in a previous case before an Adjudication Panel for Wales tribunal;
- conduct that calls into question the Respondent's fitness for public office;
- bringing the relevant authority into serious disrepute.

#### **Mitigating and aggravating circumstances**

40. The tribunal will go on to consider how any particular circumstances of the member may mitigate and/or aggravate the level of sanction under consideration. This stage is designed to take account of any personal circumstances affecting the member's conduct including inexperience, capacity, insight, responsibility (for the breach), remorse, reparation and any previous findings. This process is likely to have significant bearing on the duration of the sanction, varying the term down or up in line with the mitigating or aggravating factors. Such factors may at times be sufficient to persuade a tribunal that a suspension (if any) may be more appropriate than a disqualification, and vice versa.

41. Tribunals are encouraged to work through the examples set out below but are reminded that these are not exhaustive. Where any mitigating/aggravating factor relates directly to the nature or seriousness of the breach and the tribunal has already considered that factor in its choice of appropriate sanction, care should be taken as to the extent to which that factor is included in mitigation/aggravation. For example:

- if the sanction under consideration is a suspension because the conduct is regarded as a 'one off', this factor should not also be regarded as mitigating unless the 'one off' nature of the breach is so exceptional that it should have a direct bearing on the length of the suspension;



- if the breach is regarded as serious because it includes ‘bringing the authority into disrepute’, this factor should not also be regarded as aggravating unless the disrepute is so exceptional as to have a direct bearing on the length of the disqualification.

42. Tribunals should also take care to respect a member’s legitimate right to appeal and to distinguish protestations or assertions made in the course of exercising that right from those actions that might be regarded as aggravating factors designed to obstruct the processes of the Ombudsman or Adjudication Panel.

### *Mitigating circumstances*

- i. substantiated evidence that the misconduct was affected by personal circumstances, including health and stress;
- ii. a short length of service or inexperience in a particular role;
- iii. a previous record of good service (especially if over a long period of time);
- iv. the misconduct was a one-off or isolated incident;
- v. that the member was acting in good faith, albeit in breach of the Code;
- vi. the misconduct arose from provocation or manipulation on the part of others;
- vii. the breach arose from an honestly held, albeit mistaken, view that the conduct involved did not constitute a failure to follow the Code, especially having taken appropriate advice;
- viii. the misconduct, whilst in breach of the Code, had some beneficial effect for the public interest;
- ix. political expression of an honestly held opinion, albeit intemperately expressed, or a political argument (see paragraphs 27-30 above and Aggravating factor xii below);
- x. self-reporting the breach;
- xi. recognition and regret as to the misconduct and any consequences;
- xii. an apology, especially an early apology, to any affected persons;
- xiii. co-operation in efforts to rectify the impact of the failure;
- xiv. co-operation with the investigation officer and the standards committee/APW;
- xv. acceptance of the need to modify behaviour in the future;
- xvi. preparedness to attend further training;
- xvii. commitment to seeking appropriate advice on the Code in the future;
- xviii. compliance with the Code since the events giving rise to the adjudication.



### **Aggravating factors**

- i. long experience, seniority and/or position of responsibility;
- ii. seeking to unfairly blame others for the member's own actions;
- iii. deliberate conduct designed to achieve or resulting in personal (for her/himself, a family member or close personal associate) benefit or disadvantage for another;
- iv. deliberate exploitation of public office and/or resources for personal (for her/himself, a family member or close personal associate) or political gain;
- v. abuse or exploitation of a position of trust;
- vi. repeated and/or numerous breaches of the Code, including persisting with a pattern of behaviour that involves repeatedly failing to abide by the Code;
- vii. dishonesty and/or deception, especially in the course of the Ombudsman's investigation;
- viii. lack of understanding or acceptance of the misconduct and any consequences;
- ix. refusal and/or failure to attend available training on the Code;
- x. deliberate or reckless conduct with little or no concern for the Code;
- xi. deliberately or recklessly ignoring advice, training and/or warnings as to conduct;
- xii. the expression of views which are not worthy of respect in a democratic society, are incompatible with human dignity and conflict with the fundamental rights of others (see paragraphs 27 – 30 above);
- xiii. obstructing and/or failing to co-operate with any Ombudsman's investigation, Standards Committee, and/or the Adjudication Panel for Wales's processes;
- xiv. refusal to accept the facts despite clear evidence to the contrary;
- xv. action(s) that has/have brought the relevant authority and/or public service into disrepute;
- xvi. failure to heed previous advice and/or warnings and to adhere to any previous assurances given as to conduct relevant to the Code.
- xvii. Previous findings of failure to follow the provisions of the Code.
- xviii. Continuing to deny the facts, despite clear evidence to the contrary.

### **Fulfilling the purpose of the sanctions regime**

43. The tribunal may need to consider further adjustments to the chosen sanction or length of sanction in order to achieve an appropriate deterrent effect, for the

individual and/or the wider council membership, or to maintain public confidence. Tribunals will also need to have regard to external factors that may exacerbate or diminish the impact of the chosen sanction.

### ***Public interest***

44. The overriding purpose of the sanctions regime is to uphold the standards of conduct in public life and maintain confidence in local democracy. Tribunals should review their chosen sanction against previous decisions of the Adjudication Panel for Wales and consider the value of its chosen sanction in terms of a deterrent effect upon councillors in general and its impact in terms of wider public credibility. If the facts giving rise to a breach of the code are such as to render the member entirely unfit for public office, then disqualification rather than suspension is likely to be the more appropriate sanction.

### ***Eligibility for public office in other relevant authorities***

45. Disqualification will automatically apply to a Respondent's current membership of all authorities to which the Local Government Act 2000 applies, irrespective of whether the other authorities' Codes have been breached. Disqualification will also prevent the Respondent from taking up public office, through election or co-option, on any other authorities to which the Act applies until the expiration of the disqualification period.

46. A suspension will preclude the member from participating as a member of the authority whose Code s/he has been found to have breached but not necessarily any other authorities of which the Respondent/Appellant is a member. Where the facts of a case call into question the member's overall suitability to public office, a disqualification may be more suitable than a suspension.

### ***Former members***

47. In circumstances where the tribunal would normally apply a suspension but the Respondent is no longer a member, a short period of disqualification may be appropriate (this can only apply in case tribunals). This will ensure that the Respondent is unable to return to public office, through co-option for example, sooner than the expiry of the period of suspension that would have been applied but for their resignation or not being re-elected. For appeal tribunals, a censure remains an option.

### ***Financial impact***

48. Tribunals should take into account the financial impact on members of a sanction: during suspension and disqualification, a member will be denied payment of their salary and allowances. The financial impact varies from an annual expenses reimbursement for community councillors to a basic salary

plus expenses for county councillors to the higher salaries paid to leaders of larger councils<sup>14</sup>.

### ***Impact on the electorate***

49. The High Court has recognised that Parliament has expressly provided case tribunals with a power to interfere with the will of the electorate and that such ‘interference’ may be necessary to maintain public trust and confidence in the local democratic process. Tribunals should be confident in their right to disqualify members whose conduct has shown them to be unequal to fulfilling the responsibilities vested in them by the electorate.
50. Suspension has the effect of temporarily depriving the electorate of local representation whereas disqualification triggers a process, either by-election or co-option, to replace the disqualified member.

### ***Timing of local elections***

51. In general, the length of a disqualification should be determined in relation to the nature of the breach and circumstances of the case, and be applied irrespective of the imminence or otherwise of local elections. There may be exceptional times when the duration of a disqualification might have a particularly disproportionate effect on the member. For example: a disqualification of 18 months, imposed in December 2020, would prevent a member from standing for local government election until May 2027, as the period of disqualification would overlap the May 2022 elections by one month. Tribunals should be willing to hear submissions as to why the length of disqualification should be varied, whilst bearing in mind the overriding public interest principle.

### ***Automatic disqualifications***

52. The law imposes an automatic disqualification for five years on any member who is subject to a term of imprisonment for three months or more (whether suspended or not). That a Court has imposed a lesser sanction does not mean that a five-year disqualification is inappropriate. If the case tribunal is of the view that the member concerned is unfit to hold public office and is unlikely to become fit over the next five years, then it may well be appropriate to impose such a disqualification.

### ***Confirming the sanction***

53. Tribunals should confirm their final determination on sanction, notifying the hearing and recording it in the decision notice. Tribunals will make sure that the reasons for their determination, including any significant mitigating and aggravating factors, are included in the full written record of proceedings in order to ensure that the parties and the public are able to understand its conclusions on sanction.

---

<sup>14</sup> <http://gov.wales/irpwsb/home/?lang=en>

## Recommendations

54. Case tribunals also have the power to make recommendations<sup>15</sup> to the relevant authority whose Code it has considered about any matters relating to:

- the exercise of the authority's functions
- the authority's Code of Conduct;
- the authority's Standards Committee.

55. The authority to whom the recommendations are made is under a duty to consider them within three months and then prepare a report for the Ombudsman outlining what the action it, or its Standards Committee, has taken or proposes to take. If the Ombudsman is not satisfied with the action taken or proposed, he/she has the power to require the authority to publish a statement giving details of the recommendations made by the case tribunal and of the authority's reasons for not fully implementing them. As such, tribunals are advised to consider their use of this power with care.

## Interim case tribunals – determining sanction

56. Interim case tribunals will decide, after considering a report (including any recommendation) from the Ombudsman on an ongoing investigation into alleged misconduct, whether to suspend or partially suspend, the member or co-opted member from the authority or a role within the authority.

57. Unlike case and appeal tribunals, interim case tribunals are not disciplinary. Interim case tribunals aim to:

- facilitate the Ombudsman's effective and expeditious investigation of the respondent's conduct;
- minimise any disruption to the business of the authority concerned during the investigation;
- maintain the reputation of the authority concerned;
- protect the authority concerned from legal challenge.

58. The powers available to an interim case tribunal<sup>16</sup> are to suspend the Respondent, wholly or partially from being a member or co-opted member of the authority concerned, for not more than six months (or, if shorter, the remainder of the member's term of office). In the case of a partial suspension, the interim case tribunal will need to decide from what activity the respondent is to be suspended.

## Purpose and process

59. Interim case tribunals recognise that no definitive finding has yet been made on the validity of the allegations about the Respondent and that any form of suspension can have a significant impact on a member's role, credibility and finances.

---

<sup>15</sup> Section 80, <http://www.legislation.gov.uk/ukpga/2000/22/section/80>

<sup>16</sup> Section 78(1), Local Government Act 2000

60. Interim case tribunals will therefore seek to take the minimum action necessary to ensure the effective completion of the investigation, the proper functioning of the authority concerned and the maintenance of public confidence. The tribunal will only decide on full suspension if its aims cannot be met otherwise.

### ***The nature of the allegation(s)***

61. Interim case tribunals will start by considering the nature of the allegations against the Respondent in order to decide whether, if the allegation were substantiated, a suspension or partial suspension would be an appropriate sanction.

### ***No action***

62. If the tribunal concludes that neither suspension nor partial suspension would follow a finding of breach, it is highly unlikely to make such an order without compelling reasons as to why the Ombudsman's investigation cannot effectively proceed without such action.

63. If the tribunal concludes that a finding on breach would result in a suspension or partial suspension, it will still require a compelling argument that it is in the public interest for a suspension or partial suspension of the Respondent in advance of the Ombudsman completing his investigation and referring a final report to the Adjudication Panel for Wales.

### ***Partial Suspension***

64. Partial suspension offers the possibility of safeguarding public confidence in an authority and enabling it to function effectively without depriving the member's constituents of ward representation. Interim case tribunals may wish to draw on the principles that apply to case and appeal tribunals' approach to partial suspension.

65. Partial suspension may be appropriate in circumstances where the allegations are directly relevant to and inconsistent with a specific function or area of responsibility held or the Respondent exercises executive functions for the authority whose Code s/he is alleged to have breached or – the Respondent may be excluded from their specific or executive responsibilities in order to reassure the public whilst not undermining the authority's ability to function effectively or depriving the electorate of their division/ward representation.

### ***Suspension***

66. Suspension is likely to be appropriate if there is a legitimate concern as to any of the following:

- the Respondent may interfere with evidence or with witnesses relevant to the matter under investigation;
- the business of the authority concerned cannot carry on effectively if the Respondent were to continue in office whilst the allegation against him or her

remained unresolved – the tribunal will have particular regard to any breakdown or potential breakdown in relations between the Respondent, other members and/or key staff of the authority;

- the allegations raise issues of such gravity that they jeopardise public confidence in the authority concerned if the Respondent were to continue in office whilst the allegations remained unresolved.

## **Annex: other documents and guidance relevant to tribunals**

Adjudication Panel for Wales : Members Handbook (2017)

Public Services Ombudsman for Wales –The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils: Guidance (August 2016)

Equal Treatment Bench Book, Judicial College (as amended)

The Adjudications by Case Tribunals and Interim Case Tribunals (Wales Regulations 2001 No. 2288 (W.176), as amended by the Local Authorities (Case and Interim Case Tribunals and Standards Committees) (Amendment) (Wales) Regulations 2009 2578 (W. 209)

The Local Government Investigations (Functions of Monitoring Officers and Standards Committee) (Wales) Regulations 2001 No. 2281 (W171), as amended by the Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 No. 85 (W.39)

This page is intentionally left blank





# Report

## Standards Committee

---

### Part 1

Date: 1<sup>st</sup> November 2018

Item No: 11

**Subject** Community Council Review

**Purpose** To advise Committee of the comments received in response to the community council review.

**Author** Head of Law and Regulation

**Ward** General

**Summary** As part of the Forward Work programme, Standards Committee have agreed to undertake a periodic review of local community councils to check that statutory registers are being properly maintained and procedures for declarations are being followed. A letter was sent by the Monitoring Officer to all 14 community council Clerks in January 2018, asking about the arrangements for maintaining and publishing statutory registers and any training and development needs. Further reminder letters were sent in April 2018 and 12 out of the 14 community councils have now responded. Copies of the responses received to date are attached.

**Proposal** To note the Report and agree any further action

**Action by** Head of Law and Regulation

**Timetable** Immediate

## **Background**

1. As part of the Forward Work programme, Standards Committee have agreed to undertake a periodic review of local community councils to check that statutory registers are being properly maintained and procedures for declarations are being followed. The review is also intended to engage with community councils to ensure compliance with the ethical framework and to identify any training and development needs.
2. A letter was sent by the Monitoring Officer to all 14 community council Clerks in January 2018, asking whether:-
  - (a) they had adopted the new Model Code of Conduct before 26<sup>th</sup> June 2016, as required by the legislation;
  - (b) all of their councillors had signed a declaration to abide by the new Code;
  - (c) arrangements are in place for maintaining and publishing statutory registers and who they had designated as the responsible "proper officer".
  - (d) Agendas, minutes and other documents are being published electronically;
  - (e) they have adopted any local resolution protocols
  - (f) they have any identified training and development needs.
3. Nine responses were originally received and reminder letters were sent to the Clerks in April 2018. A further 3 responses have since been received, making a total of 12 out of the 14 community councils.
4. Copies of the 12 responses received to date are attached. Only Michaelstone –Y- Fedw and Redwick Community Councils have failed to respond.
5. All of the responding councils have made arrangements to maintain and publish the registers, as required by the Local Government Act 2000 and the Local Government (Wales) Measure and are, therefore, complying with their statutory duties. The Community Council Clerks have been designated as "proper officers" for this purpose. All of their Members have also signed their undertakings to abide by the Code of Conduct.
6. Most of the responding Councils have adopted the "One Voice Wales" model local resolution protocol.
7. Most of the Councils also publish their agendas and minutes electronically, on their websites, but some of the outlying rural communities have problems with internet connectivity and only publish them in hard copy.
8. They have not identified any specific training needs or ethical standards problems. Most training has been delivered through a mix of One Voice Wales and Newport City Council. But there appears to be a general consensus that further refresher training at a joint session of the community councils would be beneficial, particularly for newly co-opted members.

## **Financial Summary**

9. There are no financial implications.

**Options Available**

10. To note the Report and agree any further action required

**Comments of Chief Financial Officer**

11. There are no financial implications.

**Comments of Monitoring Officer**

12. Included in the Report.

**Staffing Implications: Comments of Head of People and Business Change**

13. There are no staffing or policy implications.

Dated: 25<sup>th</sup> October 2018

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE

GOLDCLIFF COMMUNITY COUNCIL

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>Adopted 14 June 2016</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>Yes by All Councillors in office 14 June 2016 Subsequent Co-option 21 February 2017 (1) All Council following contested elections May 2017 (2 changes) Declarations duly signed 16 May 2017 and Monitoring Officer advised GCC were compliant</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>Yes they have 16 May 2017</p>
<p>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 the records are held?</p>	<p>The Register is updated annually, usually at the AGM. The Clerk is designated as the Proper Officer and organises completion of the usual declarations. The register is available for inspection at any time if requested</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>GCC has a website but has had some problems including the continual unavailability of our website provider. It as has come to the end of its initial 5 year span with updating and new website provider currently being addressed.</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>GCC are well aware of the requirements to publish information electronically and when the requirements were introduced they were compliant. Due to the above problems and the fact that much of Goldcliff was without broadband for most of last year. We have continued to depend upon our static noticeboard which is regularly updated with information which might otherwise be circulated electronically</p>
<p>7. Have your Community Councillors received any</p>	<p>Three have been trained</p>

<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Informally, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	<p>By NCC One by NCC One by OVW</p>
<p>8. 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?</p>	<p>The Chair has reminded several times that members should attend CofC training particularly recommending the NCC course which ran a few years ago</p>
<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>There are no particular problems with the standards of ethical behaviour other than the apparent reluctance to attend appropriate training. Intention to do so was expressed last year by two members but they have not put themselves forwards to date.</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>Option 2</p>
<p>11. 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?</p>	<p>Yes</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>Possibly making Code of Conduct Training mandatory</p>

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE

**Response from Graig Community Council 26th January 2018**

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>Adopted on 30 March 2016</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>All Councillors signed new declarations to abide by the member code of conduct at 10 May 2017 Council AGM</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>As above</p>
<p>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 the records are held?</p>	<p>The Clerk is the designated proper officer and maintains the register. The register is published on Council's website and is updated if changes are made. The records are held by the Clerk and are available for inspection by arrangement with the Clerk</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>Yes, the register is on our website and is updated as and when new information is presented to the Clerk.</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>Yes, we publish all minutes, agendas and Clerk's reports for meetings. Also Councillor &amp; Clerk profiles for each member stating name, photo ID (in most cases), political affiliations, contact details, ward representation, which groups or committees each sits on and a short personal biography.</p>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Informally, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	<p>12 of our 15 have been trained on the code of conduct. 3 newest Councillors are yet to be trained. We have relied on the City Council to invite our Councillors to training and as yet there has been no opportunity for the newest Councillors to attend. Each Councillor is given a copy of the code of conduct at the induction stage along with the recommended Good Councillor Guide. Council has not engaged any external training other than that given by the City Council to date.</p>

<p>8. 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?</p>	<p>I believe all would find this beneficial, as would I, particularly our newest Councillors. There are no areas of particular concern except longer serving Councillors would probably benefit most from learning more about the latest changes made to the Code and any resulting effects.</p>
<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>No</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>Yes please, Either dedicated training sessions or joint sessions would suit us best. My workload is heavy. Attending and then cascading training to Members would be more time consuming. If this was the only option, we would obviously not refuse it.</p>
<p>11. 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?</p>	<p>Not as yet, we are currently reviewing all our policies and procedural documents which will be completed and approved no later than 28 March 2018. This will be added to our suite of documents and will be adopted at that time along with the new Data Protection policy that must be adopted by 25 May 2018</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>No</p>

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE  
LANGSTONE CC

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>12/04/2016</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>Confirmed</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>Confirmed</p>
<p>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 the records are held?</p>	<p>The Clerk is the Proper Officer. Each Councillor's Declaration of Interests is published on the Council's website. Signed paper copies are held at the Council's office.</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>Yes, each Councillor's Declaration of interests is published on the website and updated whenever there is a change</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>Yes.</p> <ul style="list-style-type: none"> <li>• Information about the council's clerk and Members – contact details, membership of Committees</li> <li>• Agendas and Minutes of council meetings</li> <li>• Audited statement of the council's accounts.</li> <li>• Public notices such as vacancies in the role of Councillor or Notices of rights to view accounts</li> </ul>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Informally, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	<p>Yes, all 7 Councillors (except one newly co-opted Councillor) have attended Code of Conduct training.</p> <p>Training was provided either by NCC or by One Voice Wales</p>



<p>8. 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?</p>	<p>There are no specific issues currently. I have requested training for the newly co-opted Councillor</p>
<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>No</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>Yes – a joint session with other Community Councils</p>
<p>11. 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?</p>	<p>Yes</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>No</p>

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE  
LLANVACHES CC

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>21<sup>st</sup> June 2016</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>Confirmed</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>Confirmed</p>
<p>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 the records are held?</p>	<p>Maintained by the Clerk and updated after every meeting where applicable. Available on the website.</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>Updated as and when interests are declared</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>All statutory information as required is published</p>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Informally, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	<p>Not that I am aware of</p>
<p>8. 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?</p>	<p>All areas as a refresher</p>

<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>No</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>A joint session for Councillors with other community councils</p>
<p>11. 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?</p>	<p>No</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>No</p>

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE  
MARSHFIELD CC

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>12<sup>th</sup> April 2016</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>Confirmed</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>Confirmed</p>
<p>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 the records are held?</p>	<p>Council Members are required by the Clerk to complete the Register of Interests form, as used by Newport CC, on taking office. The Clerk acts as the Proper Officer to hold the completed forms and arrange any amendments advised by Members. The hard copy file of the Register of Interests is made available for public inspection at each Council meeting and at other times is available to view on request.</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>Not included in the website.</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>Marshfield CC has a website. Public notices are published on the website. E.g. Vacancy notices, audit notices, meeting notices. The agenda and minutes of Council meetings are published on the website.</p>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <p>- Informally, as part of their induction</p>	<p>No specific external training for current Council Members.</p> <p>Councillors are provided with the Code of Conduct and the Public Services Ombudsman's guide when taking their seat.</p>

<ul style="list-style-type: none"> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	
<p>8. 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?</p>	<p>Not sure</p>
<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>There are no problems with Ethical behaviour at the moment. The most likely from past experience is clarity on interests but each case will be reviewed as it arises and advice from the Newport City Council Monitoring Officer.</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>Not sure</p>
<p>11. 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?</p>	<p>Adopted unamended on 12<sup>th</sup> September 2017.</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>No.</p>

--	--

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE  
LLANWERN CC

1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).	31 <sup>st</sup> May 2016
2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.	yes
3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.	yes
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 the records are held?	Annually  Clerk
5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?	no
6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?	yes
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?  If so, how many of them have been trained?  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.	yes          all      City Council
8. 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?	no

<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>no</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	
<p>11. 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?</p>	<p>yes</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	



COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE

NASH CC

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>Adopted in Community Council meeting on 2.6.16</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>All Community Councillors have signed a written declaration</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>All Community Councillors have signed a register of financial and other personal interests</p>
<p>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 the records are held?</p>	<p>The clerk is the designated proper officer and the records are kept with the clerk. Information is on the website for public inspection. Declaration of any interests on each meeting agenda</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>Register of Members interests is on the Community Council website. Is updated as and when required and declaration of interest forms completed at AGM</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>Information required under 2013 Act is published. Includes information about clerk, councillors, minutes, agendas, audit statements of accounts and public notices</p>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Informally, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	<p>Community Councillors have not received any formal training at present.</p> <p>An induction pack on code of conduct is given to each new Councillor</p>
<p>8. 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?</p>	<p>Community Councillors would welcome refresher training.</p>

<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	No
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	Joint session with Community Councils
<p>11. 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?</p>	Nash Community Council adopted the Model Local Resolution Protocol for Community and Town Councils on 7.12.17
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	No

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE  
RESPONSES FROM WENTLOOGE CC

1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).	Yes
2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.	Yes
3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.	Yes
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 the records are held?	Proper Officer is Josie Yeo (Clerk) Register Inspection can be requested via email or website to the Clerk Register held in Clerk's residence
5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?	No Not updated. Taken down as advised not necessary
6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?	Yes
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?  If so, how many of them have been trained?  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.	Yes  7  OVW & Newport CC
8. 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?	Yes. WCC arranging bespoke course via OVW

<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>No</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>Bespoke</p> <p>Yes</p> <p>Yes</p>
<p>11. 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?</p>	<p>Yes</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>No</p>

COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE  
COEDERN NEW COMMUNITY COUNCIL

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>7 June 2016</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>Yes</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>Yes</p>
<p>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 the records are held?</p>	<p>The clerk maintains the register and they are kept at the clerks office/home</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>Will be put on shortly as we have a new website, as necessary.</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>Minutes, notice of meetings, dates of audit and notice of audit</p>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Informally, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	<p>One member City Council trained (chairman)</p> <p>All other councillors trained informally.</p>
<p>8. 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?</p>	<p>Yes refresher courses would benefit members who are able to attend</p>

<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	No
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	Yes, clerk or chairs could carry out training for their members.
<p>11. 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?</p>	Yes
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	



COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE

ROGERSTONE COMMUNITY COUNCIL

1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).	The 2016 May AGM of RCC
2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.	Yes
3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.	Yes
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 the records are held?	Clerk to the Council & records held at Tydu Community Center. Appointment necessary to view at the above premises.
5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?	Yes, updated when notified of change of circumstances by Members & at election \ cooption as necessary
6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?	Please see website
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?  If so, how many of them have been trained?  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.	Invitation issued to Members, but not aware of any take up
8. 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?	None requested



<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>Not aware of any</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>Yes, will offer to Members as it becomes available</p>
<p>11. 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?</p>	<p>Yes</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>No</p>

**BISHTON COMMUNITY COUNCIL**  
**ETHICAL STANDARDS QUESTIONNAIRE RESPONSE**

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p>Adopted 5th October 2016</p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p>Confirmed</p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p>Confirmed</p>
<p>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 the records are held?</p>	<p>The Clerk is the designated officer, the records are held by the Clerk and are available for inspection by arrangement. Scanned copies are visible on the Bishton CC website as part of Councillor details.</p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p>Register published on the website, updated as and when changes are made by Councillors.</p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p>The Clerk publishes all minutes and agendas for meetings on the Council website. Also Councillor &amp; Clerk profiles for each member stating name, photo ID (in some cases), audited statement of the council's accounts and public notices such as vacancies in the role of Councillor.</p>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Initially, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider</li> </ul>	<p>Yes, 6 of our 11 Councillors have attended Code of Conduct training provided by NCC.</p> <p>In addition, each Councillor is given a copy of the Code of Conduct on taking office and signs to give an undertaking they have read and will comply with the code.</p>

<p>8. 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?</p>	<p>There are no specific issues currently though refresher training would probably be beneficial for both newer and long serving Councillors (and myself as a new Clerk).</p>
<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>No.</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>Yes – a joint session with other Community Councils would be appropriate.</p>
<p>11. 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?</p>	<p>Yes.</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	

**COMMUNITY COUNCILS  
ETHICAL STANDARDS QUESTIONNAIRE**

PENHOW COMMUNITY COUNCIL

<p>1. Please confirm when your community council formally adopted the new Model Code of Conduct (this should have been done before 26th June 2016).</p>	<p><i>14th May 2016. (Min. Ref 6623.2).</i></p>
<p>2. Please confirm that all Community Councillors have signed a written declaration to abide by the new Member Code of Conduct.</p>	<p><i>YES.</i></p>
<p>3. Please confirm that all Community Councillors have completed and signed a register of financial and other personal interests.</p>	<p><i>YES.</i></p>
<p>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 the records are held?</p>	<p><i>Hard copy records held by the CC Clerk (proper officer). Records available for inspection on request to the Clerk.</i></p>
<p>5. If your Community Council has a website, is the Register of Members interests published on the website and how often is this updated?</p>	<p><i>YES. Reviewed annually. - updated when nec.</i></p>
<p>6. Does the Council also publish other information electronically as required by Sections 55-57 of the 2013 Act and, if so, what?</p>	<p><i>Agenda, Minutes, Audit Reports, Councillor contact details</i></p>
<p>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?</p> <p>If so, how many of them have been trained?</p> <p>How was the training provided:-</p> <ul style="list-style-type: none"> <li>- Informally, as part of their induction</li> <li>- By the City Council</li> <li>- By an external training provider e.g. One Voice Wales.</li> </ul>	<p><i>YES.</i></p> <p><i>5 Officers trained by NCC</i></p>
<p>8. 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?</p>	<p><i>Yes - probably general refresher training</i></p>

<p>9. Are there any particular problems with standards of Ethical behaviour within the Community Council or particular problems regarding the application of the Code?</p>	<p>No.</p>
<p>10. Would you be interested in participating in any future training? If so, what would be the best way to organise and deliver that training?</p> <ul style="list-style-type: none"> <li>- Dedicated training session for your community council</li> <li>- A joint session with other community councils</li> <li>- A joint training session for Clerks, who could then cascade the training to their Members</li> </ul>	<p>We have never experienced behaviour problems and I believe a joint session with other CC's for the Clerk (or nominated Councillor) would be sufficient.</p>
<p>11. 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?</p>	<p>Not formally - but Clerk retains a copy on file for reference in case of need.</p>
<p>12. Do you have any other comments regarding Ethical standards issues or matters that you would wish the Standards Committee to consider?</p>	<p>No - we have no experience of such issues.</p>

This page is intentionally left blank