

Report

Standards Committee

Part 1

Date: 1st 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 27th November 2018.

Proposal To comment and approve the Annual Report for presentation to full Council on 27th 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 27th 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: 25th 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 28th 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 28th 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:-

- 25th January 2018
- 19th April 2018
- 12th July 2018
- 1st November 2018

The Appointments Sub-Group also met on 18th 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 18th 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 27th January 2016 and came into force on 1st 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 26th June 2016. Newport City Council formally adopted the new Code at its Annual General Meeting held on 17th 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 1st 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 18th 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

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 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.