

Report

Standards Committee

Part 1

Date: 22nd October 2015

Item No: 7

Subject Future Work Programme

Purpose To agree the Forward Work programme for Standards Committee

Author Head of Law and Regulation

Ward General

Summary The Standards Committee Annual Report for 2014/15 was received by full Council meeting on 29th September 2015.

The Annual Report contained a draft Forward Work programme for the next 12 months. Standards Committee are asked to approve the Work Programme, identify any further items of work that should be included and to prioritise specific items for review.

Proposal To agree the Forward Work programme and prioritise specific items for review

Action by Head of Law and Regulation

Timetable Immediate

Background

1. The Standards Committee Annual Report for 2014/15 was received by full Council meeting on 29th September 2015.
2. The Annual Report contained the following draft Forward Work programme for the next 12 months.

Date	Topic	Information
September	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
Monthly	Complaints of Misconduct	<p>Update of numbers of complaints received and outcomes.</p> <p>Update on complaints resolved through Local Resolution Protocol.</p>
By September 2016	Member training and development	Carry out review of member training, re-assessing the need for refresher training in the light of any changes in legislation, guidance and Code of Conduct. Arrange and deliver any necessary refresher training
Annually	Ethical standards audit	Check that statutory registers are being properly maintained procedures for declarations are being followed
Annually	Review of community councils	<p>Check that statutory registers are being 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>

By September 2016	Review of Council Protocols	(a) Member /Officer relations (b) Planning Protocol How they are implemented, communicated to staff, training and compliance monitoring.
On-going	Review of Council Policies and procedures relating to ethical standards	(a) Bullying and Harassment. (b) Grievance and complaints policies. (c) Ethical Procurement policy How they are implemented and communicated, monitor compliance.
By September 2016	Succession Planning for new independent members of Standards Committee	Advertise and recruit new independent members of Committee. Deliver training and induction.

3. Standards Committee are asked to approve the Work Programme, identify any further items of work that should be included and to prioritise specific items for review.

Financial Summary

4. There are no financial implications.

Options Available

5. To note the Report

Comments of Chief Financial Officer

6. There are no financial implications.

Comments of Monitoring Officer

7. Included in the Report.

Staffing Implications: Comments of Head of People and Business Change

8. There are no staffing or policy implications.

Background Papers

Standards Committee Annual Report 2014/2015.

Dated: 16th October 2015



Standards Committee Annual Report 2014-15

Foreword by the Chair

I am pleased to present the second Annual Report of the Standards Committee for 2014/15. Last year, as part of the forward work programme, we decided that it would be helpful and appropriate to publish an annual report to provide information to the Council about the work carried out by the Committee during the previous 12 months and to identify any specific issues that have arisen.

This second Annual Report covers the period from August 2014 to July 2015 and follows on from the first report presented to Council last October.

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 raised under 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 mentioned last year, there is no room for complacency and it is essential that these standards are maintained. The Standards Committee will be proactively reviewing all ethical standards policies and procedures as part of the forward work programme and will be re-assessing the need for all Councillors to undertake refresher training, in the light of proposed changes to the ethical standards framework in Wales and the Members Code of Conduct.

To assist Members in meeting their obligations under the Code of Conduct, the Committee has produced a Protocol for the Registration of Gifts and Hospitality. This is intended to provide general advice and assistance to Members in connection with the acceptance and registration of gifts and hospitality. The Committee has also recommended that the threshold for the registration of gifts and hospitality should be reduced from £80 to £25 in line with most other Welsh local authorities.

There have been no changes to the membership of the Standards Committee during last year although, as part of the forward work plan for the next 12 months, we will need to consider succession planning for those independent members whose second terms of office are due to end next September.

I would like to take this opportunity to mention Rob Bailey, our Democratic Services Officer, who retired recently after many years' service with Newport and Gwent and to record the Committee's appreciation of all his hard work and support.

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

Hazel Taylor OBE
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:-

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

- Hazel Taylor OBE (Chair)
- John Pickering (Vice Chair)
- Phillip Westwood
- Bernard John
- Tracey Britton

Three councillor representatives:-

- Councillor Herbie Thomas
- Councillor John Guy
- Councillor David Fouweather

One community council representative (nominated by the community councils for the area):-

- Gerard Hancock (Langstone 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 2013/14

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 between July 2014 and July 2015:-

- 23rd October 2014
- 15th January 2015
- 24th March 2015
- 16th July 2015

2.1 Dispensation Applications

Last year, most of the work of the Committee was taken up in determining individual applications for dispensation under the Members Code of Conduct from Newport City Councillors and local Community Councillors, in accordance with the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 and Section 81(4) of the Local Government Act 2000.

In total, we considered 13 dispensation applications, most of which involved requests to make financial contributions to voluntary organisations with which the Councillors had some close personal association

or membership. Most of the applications were rejected because of concerns about public perception of favouritism and, therefore, the Committee identified a number of general principles to assist Members in dealing with these requests in the future.

This year, we only had to consider one request for dispensation. Again, this was in relation to a request from a Newport City Councillor to make a £300 donation from her Neighbourhood Allowance to a voluntary group, of which she was a Committee Member. The Standards Committee refused the application because the funding was in connection with a social event, rather than for the work of the organisation, and there was a concern that this could undermine public confidence in the use of public monies, particularly if the Councillor concerned had attended the social event.

The Committee understands that, as from April 2015, Newport City Council has tightened up the rules on the use of these Neighbourhood Allowances and that they can now only be used to support voluntary or community groups where there is a wider public benefit, and not to support private clubs and organisations. The application forms have also been updated to require Members to identify any "personal" interest that they or their family and friends may have in the management of the group, and whether the proposed donation would require special dispensation from Standards Committee.

The tightening up of the rules may account for the significant reduction in dispensation applications during the past 12 months, but the same general principles will apply and, in particular, the Committee will still need to be satisfied that the allocation of the funding will not undermine public confidence or give rise to any perception of favouritism.

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. The vast majority of Councillors attended ethical standards training as part of their Induction Programme following the last elections in May 2012. In view of the changes that have taken place since then and, in the light of proposed changes to the ethical standards framework in Wales and the Members Code of Conduct, we will be reviewing the need for updated training as part of our work programme in 2015/16.

Further training was delivered for community councillors and their Clerks in June 2014. 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, all councils in Wales were required to adopt an internal procedure for dealing with "low-level" member/member and officer/member complaints that were not sufficiently serious as to warrant formal investigation and sanction. We considered a number of different models, but recommended to Council a protocol where the final determination should be left to the Standards Committee because it was considered that the independence of the Committee would make the process more open and transparent. This recommendation was approved by the Council at its AGM in May 2013 and we subsequently approved the detailed Protocol in July 2013.

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, but maintaining the anonymity of both the complainant and the Councillor concerned.

No complaints under the Local Resolution Protocol were reported in 2014/15.

2.4 Gifts and Hospitality

As part of the Forward Work Programme, Standards Committee carried out a review of the current arrangements for registration of gifts and hospitality by officers and Members, re-assessed the current financial threshold for registration of member gifts and hospitality and considered whether any further guidance was required.

The statutory Code of Conduct for Local Government Employees provides that all employees must comply with any rules of their relevant Authority on the declaration of hospitality or gifts offered to or received by them from any person or organisation doing or seeking to do business or otherwise benefiting or seeking to benefit from a relationship with the Authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant Authority. Section 14 of the Newport City Council's Employee Code of Conduct sets out detailed advice and guidance regarding the acceptance and declaration of gifts and hospitality by officers and this form part of their contracts of employment.

The Employee Code of conduct also provides that Each Head of Service/Head Teacher must establish and maintain a register of gifts and hospitality for themselves and the employees under their control, detailing the nature of the hospitality and indicating whether it has been declined or accepted. All registers are subject to periodic review by the Head of Law and Regulation. Each employee is responsible for declaring this information in the appropriate register

The Members Code of Conduct provides that all Councillors must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch authorised by the Council), material benefits or services for themselves or any person which might place them, or reasonably appear to place them, under an improper obligation.

Councillors must register any gifts or hospitality above a specified value within 28 days.

The Employees Register of Gifts and Hospitality and the Members register are both open to public inspection. There is no specified financial limit for the registration of officers' gifts and hospitality but the Council has previously specified a de minimis level of £80 for the registration of members' gifts and hospitality. Gifts and hospitality valued at less than £80 do not need to be registered, although this does not mean that anything of less value should be accepted.

We considered the number and types of items registered by officers and members over the past few years. We were concerned about the lack of detailed information provided by some service areas and this is a matter that we will be taking up with the relevant Heads of Service. We will also be checking that School Governing Bodies are maintaining their own registers, for both staff gifts and hospitality and Governors. But, otherwise, the arrangements made for compiling and publishing these registers appeared to be satisfactory and fully compliant with statutory requirements.

We also considered the financial limits fixed by other Welsh local authorities for the registration of Members' gifts and hospitality. The lowest value was £10 and the highest (apart from Newport) was £50, with the average being £25. In view of the fact that Newport's figure of £80 has not been reviewed for over 10 years and it now appears to be out of step with the other Welsh local authorities, standards committee is recommending that this should now be reduced to £25 to bring it into line with other councils.

We would stress that this revised figure of £25.00 is still only relevant when considering whether the gift or hospitality needs to be registered. It does not mean that Members can accept all gifts or hospitality worth less than that. Members must consider very carefully whether or not to accept any offer, whatever its value.

We also considered that there would be benefit in the Council adopting a similar protocol to that contained in the Employee Code of Conduct, to provide further guidance and advice for Members, to supplement the provisions in the Code of Conduct. Therefore, we have produced a local Protocol for the Registration of Gifts and Hospitality, a copy of which is attached at [Appendix 1](#). We hope that Councillors will find this helpful.

2.5 Procedures for dealing with ombudsman complaints and conducting Standards Committee hearings

Although the Committee have not been called upon to determine any Ombudsman complaints and conduct any misconduct hearings, we need to be fully prepared for such an eventuality, should the need arise. This may become even more important if there are changes to the ethical framework in Wales and the Ombudsman's role is devolved more to Monitoring Officers and Standards Committees in connection with the investigation and determination of all misconduct complaints.

Therefore, we have developed a written procedure for dealing with complaints referred by the Ombudsman and a protocol for conducting misconduct hearings to ensure that the procedures are fully compliant with the statutory requirements and that any Members who are the subject of misconduct complaints are given a fair and impartial hearing. A copy of the written Procedure is attached to this Report at [Appendix 2](#).

We have also considered case studies and "mock" hearing papers, to understand how this procedure is put into practice and will be reviewing any additional training that may be required to develop the necessary skills to conduct these proceedings.

2.6 General work

The Committee carried out a review of the Council's Whistleblowing Policy and the Action Plan produced in response to the Wales Audit Office Report. It was pleasing to note that the revised policy was fully compliant with changes in legislation and the Public Concern at Work Code of Practice. We were satisfied with the steps taken by the Council to implement the measures set out in the Action Plan to address the areas for improvement identified by the Wales Audit Office and the procedures for communicating this Policy to the staff. There had only been 2 recorded complaints of whistleblowing and we were assured that this was not due to any lack of awareness about the Policy or the right to complain, but the nature of the malpractice covered by the Policy. Other complaints and grievances were dealt with through the Council's employment policies.

We received updates on the implementation of the Local Democracy (Wales) Act 2013 and, in particular, the changes to the requirements for community councils to maintain the statutory register of members' interests. This duty is now devolved to the proper officer of the community council and there is an obligation to publish the register electronically on the community council website. Further changes have also been introduced to allow for the establishment of joint Standards Committees and for Regulations to be made to allow misconduct cases and dispensation applications to be referred to another local authority's standards committee for determination.

We will be writing to all of the community council clerks to ensure that proper arrangements are in place to maintain and publish these registers.

These amendments will require a number of small consequential amendments to the Model Code of Conduct. However, the Welsh Government is working to bring forward a number of amendments to the Model Code for consultation later this year.

Standards Committee also considered the Ombudsman's Annual Report and the Annual report of the Adjudication Panel for Wales, to identify any specific issues and lessons to be learnt.

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 2 complaints were referred to the Ombudsman about City Councillors in 2014/15. However, neither of these complaints was accepted for investigation on the basis that there was no evidence of any serious breaches of the Code.

No complaints were referred to Standards Committee in 2014/15 for hearing and determination.

3. Forward Work Programme for 2014/15

Date	Topic	Information
September	Annual Report to Council	Review of work undertaken in the past 12 months, identifying any specific ethical standards issues facing the Council and priorities for the forthcoming year. Summary of numbers of complaints received and outcomes.
As and when applications received Review annually	Dispensations	Granting individual and blanket dispensations to Councillors. Reviewing decisions annually to identify common issues and consistency of approach. Produce guidance to Members on any issues arising.
As and when required	Local Resolution Protocol complaints	Conducting hearings into any Stage 3 complaints by Members or Officers
Monthly	Complaints of Misconduct	Update of numbers of complaints received and outcomes. Update on complaints resolved through Local Resolution Protocol.
By September 2016	Member training and development	Carry out review of member training, re-assessing the need for refresher training in the light of any changes in legislation, guidance and Code of Conduct. Arrange and deliver any necessary refresher training
Annually	Ethical standards audit	Check that statutory registers are being properly maintained procedures for declarations are being followed
Annually	Review of community	Check that statutory registers are being properly

	councils	maintained procedures for declarations are being followed Engage with community councils to ensure compliance and to identify any training and development needs.
By September 2016	Review of Council Protocols	(c) Member /Officer relations (d) Planning Protocol How they are implemented, communicated to staff, training and compliance monitoring.
On-going	Review of Council Policies and procedures relating to ethical standards	(d) Bullying and Harassment. (e) Grievance and complaints policies. (f) Ethical Procurement policy How they are implemented and communicated, monitor compliance.
By September 2016	Succession Planning for new independent members of Standards Committee	Advertise and recruit new independent members of Committee. Deliver training and induction.

4. Helpful Information

4.1 Can I attend Meetings of the Democratic Services 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

Hazel Taylor OBE
Chair of the Standards Committee;

Gareth Price
Head of Law & Regulation and Monitoring Officer

Juliet Owen
Chief Legal Officer and Deputy Monitoring Officer

Richard Jefferies
Chief Democratic Services Officer

APPENDIX 1

PROTOCOL FOR MEMBERS ON GIFTS AND HOSPITALITY

1. Introduction

- 1.1 This Protocol is intended to provide general guidance for Members (and co-opted members) of the Council in connection with the acceptance and registration of gifts and hospitality. It is not possible to provide comprehensive and definitive advice in relation to every conceivable scenario, only general principles and guidelines to assist Members in taking decisions.
- 1.2 If Members have any doubt about whether to accept any specific offers of gifts or hospitality, or whether there is any need to record such gifts or hospitality in the Register of Members interests, then they should seek further advice from the Monitoring or Deputy Monitoring Officer. However, the final decision and responsibility rests with each individual Member.
- 1.3 As an overriding principle, Members should treat with extreme caution any offer of a gift or hospitality made to them personally in any official capacity or in their role as Councillors or members of the Council. Members are personally responsible for any decision to accept an offer of a gift or hospitality, and any inappropriate acceptance of such an offer can give rise to a serious breach of the Members Code of Conduct and seriously damage the reputation of both the individual Member concerned and the Council.

2. The Legal Framework.

2.1 Criminal Offences.

Accepting any bribe or any other fee or inducement in return for any favour in connection with Council business is a criminal offence under the Bribery Act 2010 and the Prevention of Corruption Acts. An abuse of public trust by anyone holding public office can also constitute an offence of misconduct in public office. If any Member has received any gift, loan, fee, reward or advantage from somebody seeking to obtain a contract or any favourable decision from the Council, then the onus will be on the Member concerned (and the person giving the gift or reward) to prove that there was no dishonesty involved.

2.2 The Members Code of Conduct.

Paragraph 9(b) of the Code provides that:-

"You must - avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation."

Paragraph 7(a) provides that:-

"You must not - in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage."

Paragraph 17 provides that:-

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

3. General Principles.

3.1 Improper obligation

A gift or hospitality should never be accepted as a reward or inducement to act or vote in a particular way as a Councillor or as a means of obtaining influence. They should also be refused where acceptance of the gift or hospitality could give the impression that this would place the member under any improper obligation.

3.2 Benefit to the Council

Gifts or hospitality should only be accepted if there is a clear benefit to the Council (rather than to Members personally). The benefit should be proportionate to the value of the gift or hospitality.

Any offers which do not have any proper purpose connected with the Council should be refused (e.g. private holidays, hospitality for purely sporting or social events outside the Council area where there is no general expectation that the Council should be represented, nor any clear connection with Council functions).

3.3 Public perception

Gifts or hospitality should not be accepted if to do so would leave the Council or the Member open to accusations of misconduct. Members must not only conduct themselves properly, they must also avoid any perception of impropriety.

3.4 Soliciting a gift or hospitality

Gifts or hospitality should never be sought or invited in connection with a Member's official role.

3.5 Private gifts and hospitality

Members do not need to register gifts and hospitality which are not related to their role as a Member, such as personal gifts from friends and family.

4. Gifts

4.1 A "gift" includes free goods and services, the opportunity to buy goods/services subject to a discount or terms which are not available to the public, or the opportunity to buy goods/services that are not available to the public. It also includes any material benefit or advantage offered to a Member which is not available to the general public.

4.2 Members may accept civic gifts on behalf of the Council and such gifts do not need to be registered. For example, the Mayor or Leader of the Council may accept commemorative gifts and items in recognition of events or work that the Council has been involved in, such as twinning arrangements, civic functions or major projects. Such civic gifts are the property of the Council, not the individual Member, and must be retained at the Council offices.

4.3 Members should not accept personal gifts in connection with their position as a Councillor. However, Members may accept small and insignificant gifts such pens, diaries etc.

4.4 Members should refuse any gift offered to them, or to members of their immediate family, from any person or organisation doing business or seeking to do business with the Council or applying to the Council for any decision (e.g. licensing or planning applications or tendering for any Council contract).

4.5 When a gift has to be declined, the offerer should be courteously but firmly informed of the procedures and standards operating within the Council. If such a gift is delivered:

- it must be returned immediately to the sender giving reasons for its rejection
- the acceptance and return of gifts over £25.00 should be registered
- where an offerer insists that a Member accepts the gift, with the agreement of the offerer it may be donated to the Mayor's charity or some other suitable charitable purpose.

5. Hospitality.

- 5.1 It is accepted that events which include hospitality can often be an appropriate and successful forum for promoting the Council and its aims and objectives, economic, social or otherwise. A balance therefore needs to be achieved between the aims of promoting the Council and the City of Newport and the need for Members to be mindful of the perception of others when accepting hospitality. The following principles should be observed by Members.
- 5.2 Members should never ask for or solicit hospitality at any time.
- 5.3 Members should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the event where hospitality is provided. Particular care should be taken that the level of hospitality provided is proportionate to the nature and importance of any issues to be discussed at such an event.
- 5.4 Members should avoid hospitality in any situation where they would be the sole guest or where the offer of hospitality is from anyone doing business or seeking to do business with the Council or applying to the Council for any decision.
- 5.5 Offers to attend social or sporting functions should only be accepted when there is a legitimate reason to promote the economic or social wellbeing of the City, and the Monitoring Officer's advice should be obtained in respect of any such functions which are outside the Newport area
- 5.6 Where site visits are required as part of the process of making decisions, Members should ensure that the Council meets the cost of such visits to avoid undermining or compromising the integrity of subsequent decisions.
- 5.7 Members may accept hospitality through attendance at relevant conferences and courses where it is clear that the hospitality is corporate rather than personal, and where attendance is an approved Council duty.
- 5.8 Members may accept normal refreshment in connection with their work as a Councillor (tea, coffee, biscuits etc.).
- 5.9 Attendance at Civic or other events organised or sponsored by the Council do not need to be registered, for example, Mayor-making, Civic Sunday, Remembrance Sunday.
- 5.10 If a Member receives hospitality as a representative of an outside body, then the Member concerned should comply with that organisation's Protocol on Gifts and Hospitality.
- 5.11 When receiving authorised hospitality, Members should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

6. Registration

- 6.1 Under the Council's Code of Conduct, a Member must register any gift or hospitality that he/she receives that is worth more than £25.00. In accordance with the Ombudsman's Guidance, it is also good practice to provide a written note of any offers of gifts and hospitality which have been refused or declined.

- 6.2 The register of gifts and hospitality register is maintained by the Monitoring Officer who should be informed in writing of any gift or hospitality received or refused that is worth more than £25.00. Members should complete and return the attached Form within 28 days of being offered the gift or hospitality. The register of gifts and hospitality will be available for public inspection.
- 6.3 The figure of £25.00 is only relevant when considering whether the gift or hospitality needs to be registered. It does not mean that Members can accept all gifts or hospitality worth less than that. Members must consider very carefully whether or not to accept any offer, whatever its value, in accordance with the Code of Conduct and the advice contained in this Protocol.
- 6.4 The Ombudsman's Guidance provides that, if a Member is in any doubt as to the value of any gift or hospitality, you should err on the side of caution and register it as a matter of good practice, in accordance with the principles of openness and accountability in public life.
- 6.5 Members may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts received from the same source over a short period of time that add up to more than £25 should be registered.
- 6.6 The Code of Conduct also refers to any "material benefit or advantage". The test is whether an informed independent observer could conclude that a Member might be perceived to be better off as a consequence of receiving this benefit or advantage.
- 6.7 The Ombudsman's Guidance also refers to the need to register a separate "personal interest" under the Code, where a gift or hospitality is offered or received in particular circumstances. If any matter is under consideration by the Council which is likely to affect the person who gave a Member any gift or hospitality, then that should be declared and recorded in the register of members' interests where that is considered to be a "personal interest" under the Code. If the interest is also a "prejudicial" one, then the Member should not participate in the Council decision.

APPENDIX 2

NEWPORT CITY COUNCIL STANDARDS COMMITTEE

PROCEDURE FOR DEALING WITH COMPLAINTS OF BREACHES OF THE MEMBERS CODE OF CONDUCT

1. Introduction

- 1.1 This procedure will be followed when the Standards Committee are required to reach a decision following an investigation by the Public Services Ombudsman for Wales (“the Ombudsman”) or the Council’s Monitoring Officer under Part III of the Local Government Act 2000 and the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (“the Regulations”).
- 1.2 If there is any conflict between this document and any statutory provisions, then the statutory provisions will prevail.

2 Statutory Background

- 2.1 In accordance with Section 69 of the Local Government Act 2000 (“the 2000 Act”), the Ombudsman may investigate any alleged breach of the adopted Members Code of Conduct by elected Councillors or co-opted members of Newport City Council (“the Council”) or members of any of the community councils within the Council’s area (or former councillors or co-opted members).
- 2.2 Where the Ombudsman ceases such an investigation into allegations that a Councillor or co-opted member has breached the Code of Conduct before it is completed, he or she may refer the matters which are the subject of the investigation to the Council’s Monitoring Officer in accordance with Section 70(4) of the 2000 Act.
- 2.3 Alternatively, the Ombudsman may decide after completing the investigation that there is evidence of a failure to comply with the Code and that action should be taken in respect of the matters which are the subject of the investigation. A Report will then be produced on the outcome of the investigation, which will be sent to the Council’s Monitoring Officer and the Standards Committee in accordance with Section 71(2) of the 2000 Act.
- 2.4 In accordance with the Regulations, the Council’s Monitoring Officer is required to:-
 - (a) investigate matters referred by the Ombudsman under Section 70(4) before reporting and, if appropriate, making recommendations to the Standards Committee; or
 - (b) where a matter has been investigated by the Ombudsman and referred under Section 71(2), the Monitoring Officer will consider the Ombudsman’s Report and, if appropriate, make recommendations to the Standards Committee.
- 2.5 In carrying out an investigation, the Monitoring Officer may follow such procedures as he/she considers appropriate in the circumstances of the case and, in particular, may:-
 - (a) make such enquiries of any person as he/she thinks necessary for the purposes of carrying out the investigation;
 - (b) require any person to provide him/her with such information, explanation or documents as he/she considers necessary;
 - (c) require any member or co-opted member or officer of the Council to appear before him/her for the purposes of (a) and (b) above

- 2.6 In conducting the investigation, the Monitoring Officer may be assisted by any person and may obtain expert or other advice. In certain cases, expenses may be paid to persons attending or assisting the Monitoring Officer or providing advice to him/her. The Monitoring Officer may also appoint or nominate another suitably qualified person to undertake the role of Investigating Officer where he/she wishes to maintain independence and undertake the Legal Advisor's role in advising Standards Committee.
- 2.7 After concluding an investigation, the Monitoring Officer must:-
- (a) produce a report on the findings of his/her investigation and, if appropriate, may make recommendations to the Standards Committee;
 - (b) send a copy of the report to any person who is the subject of the investigation; and
 - (c) take reasonable steps to send a copy of the report to any person who made any allegation which gave rise to the investigation.
- 2.8 The Standards Committee must consider a report from the Monitoring Officer on his/her investigation or a report from the Ombudsman, together with any recommendations of the Monitoring Officer. The Committee must then make an initial determination that either:-
- (a) that there is no evidence of a failure to comply with the Code of Conduct; or
 - (b) that any person who is the subject of the investigation must be given an opportunity to respond, either orally or in writing.
- 2.9 Where the Standards Committee decides that an opportunity to respond needs to be given and, after considering any response made by any such person, the Committee must come to one of three conclusions:-
- (a) there is no evidence of a failure to comply with the Code of Conduct and no further action should be taken;
 - (b) there is evidence of a failure to comply with the Code of Conduct but no further action should be taken; or
 - (c) there is evidence of a failure to comply with the Code of Conduct and the councillor or co-opted member should be censured or suspended.
- 2.10 The Standards Committee must take any appropriate action arising from the conclusions it has drawn
- 2.11 The decision of the Standards Committee is subject to a right of appeal to an Appeals Tribunal drawn from the Adjudication Panel for Wales.
- 2.12 An Appeals Tribunal may endorse the decision of the Standards Committee, refer a matter back to it recommending a different sanction, or overturn the decision.

3 Initial Determination

- 3.1 Following receipt of the Investigating Officer's Report from the Ombudsman or the Monitoring Officer, the Democratic Services Officer will arrange a meeting of the Standards Committee (or a sub-Committee if the function has been delegated) as soon as possible.
- 3.2 The Access to Information provisions of the Local Government Act 1972 Part VA and Schedule 12A will apply to the meeting. The agenda papers will need to be sent out at least 3 clear days before the date of the meeting and would be open to public inspection unless they contained "exempt information" as defined in Schedule 12A and the public interest in maintaining confidentiality outweighed the public interest in disclosure. Because the Investigating Officer's Report will contain personal information relating to individuals, this will usually be treated as a confidential Part 2 agenda item and not sent out to anyone other than the members of the Standards Committee. However, if the Committee decides not to exclude the press and public at

the meeting, then the agenda and the Report (with any redactions, if necessary) will then be made public.

- 3.3 The business of the meeting will be confined to considering the Investigating Officer's Report. Where the Ombudsman has investigated the complaint, the Monitoring Officer will act as Legal Advisor to the Standards Committee. Where the Monitoring Officer has investigated the complaint, the Council's Deputy Monitoring Officer or some other suitably qualified person, who has not been involved in the investigation, will advise the Committee.
- 3.4 The Standards Committee shall determine, on the basis of the Investigating Officer's Report:
- (a) whether there is no evidence of any failure to comply with the Code of Conduct; or
 - (b) that any person who is the subject of the investigation should be given the opportunity to make representations, either orally or in writing in respect of the investigation and any allegation that he/she has failed, or may have failed, to comply with the Code of Conduct.
- 3.5 Where the Standards Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the decision will be recorded in the Minutes of the meeting and written confirmation of the decision will be sent to the person who is the subject of the investigation, any person who made any allegation which gave rise to the investigation and the Ombudsman. Where the proceedings were conducted in private, under Part 2 of the agenda, then the Investigating Officer's report and the identity of the individuals involved shall remain confidential.
- 3.6 Where the Standards Committee decides that that any person who is the subject of the investigation should be given the opportunity to make representations, then the matter will proceed to a full hearing in accordance with the **Procedure for Standards Committee Hearings (Annex A)**.

4 Pre- Hearing Procedure.

- 4.1 The Democratic Services Officer will liaise with the Monitoring Officer and the Chairman of Standards Committee to arrange a provisional date for the full hearing.
- 4.2 The Monitoring Officer or Legal Adviser will write to the person who is the subject of the investigation with details of the provisional date, time and place of the hearing, an outline of the procedure to be adopted at the hearing and the person's rights.
- 4.3 The person who is the subject of the investigation will be required to confirm, in writing, within 14 days of receiving notification of the hearing, whether or not he/she:-
- (a) is able to attend the hearing or wishes to request a postponement;
 - (b) wishes to submit any written representations or wishes to attend the hearing to make oral representations;
 - (c) disagrees with any of the findings of fact in the Investigating Officer's Report and, if so, the reasons for any such disagreement;
 - (d) intends to be represented at the hearing by a Solicitor, Barrister or any other person;
 - (e) wishes to call any witnesses to give evidence at the hearing or wishes to submit any written evidence;
 - (f) wants any part of the meeting to be held in private and, if so, the reasons why;
 - (g) wants any part of the Investigating Officer's Report or other relevant documents to be treated as confidential and withheld from the public and, if so, the reasons why.
- 4.4 The Investigating Officer shall be advised of the date and time and place of the hearing and asked whether he/she intends to attend.

- 4.5 The response from the person who is the subject of the investigation will be sent to the Investigating Officer and he/she will be asked to confirm within 7 days whether he/she:
- (a) intends to be represented at the hearing;
 - (b) wishes to call any witnesses to give evidence at the hearing;
 - (c) wants any part of the meeting to be held in private and, if so, the reasons why;
 - (d) wants any part of his/her Investigation Report or other relevant documents to be treated as confidential and withheld from the public and, if so, the reasons why
- 4.6 It should be made clear to all parties that details should be provided beforehand of all the findings of fact that they intend to challenge and the evidence that they intend to produce.
- 4.7 The Democratic Services Officer and Legal Advisor will write to all members of the Standards Committee (or members of the sub-Committee if the matter has been delegated) at least 7 days before the hearing to confirm the date, time and place for the hearing and will send to the members;
- (a) a copy of the Investigating Officer's Report;
 - (b) any other relevant background documents;
 - (c) the response from the person who is the subject of the investigation;
 - (d) any further response from the Investigating Officer;
 - (e) a summary and outline of the allegation, the main facts of the case that have been agreed and those that have not been agreed;
 - (f) a list of the witnesses, if any, who will be giving evidence at the hearing;
 - (g) whether the parties intend to appear and/or be represented at the hearing;
 - (h) the procedure for the conduct of the hearing.
- 4.8 Depending on the responses from the parties regarding the need for confidentiality, much of this information will be treated as a confidential and will not sent out to anyone other than the members of the Standards Committee (or sub-Committee). However, if the Committee decides not to exclude the press and public for all or part of the hearing then some or all of the documents (with any redactions, if necessary) will then be made public.

ANNEX A

PROCEDURE FOR STANDARDS COMMITTEE HEARINGS

1. Interpretation.

In this Procedure, the following words and phrases shall have the meanings assigned to them unless the context otherwise requires:

- 1.1 “Committee” means the Standards Committee or any Standards Sub-Committee to which it has delegated the conduct of the hearing;
- 1.2 Democratic Services Officer” means the officer of the Council responsible for providing clerical and administrative support to the Committee, including the recording of decisions.
- 1.3 “Investigating Officer” means
 - (a) in the case of an investigation undertaken under Section 71(2) of the Local Government act 2000, the Ombudsman or his Investigator who referred the report to the Council and includes his or her nominated representative.
 - (b) In the case of an investigation referred for local investigation under Section 70(4) of the Local Government Act 2000, means the Monitoring Officer, Deputy Monitoring Officer or other investigating officer, and his or he nominated representative.
- 1.4 “Legal Advisor” means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.
- 1.5 “Member” means the elected or co-opted member of the Council (or community council) who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the member’s nominated representative.
- 1.6 “The Monitoring Officer” means the officer for the time being appointed by the Council under section 5 of the Local Government and Housing Act 1989 and shall include, where appropriate, the person appointed as Deputy Monitoring Officer.
- 1.7 “The Chairman” means the person presiding at the hearing;

2. Modification of Procedure.

The Chairman may agree to depart from or vary this Procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness and transparency.

3. Representation.

The Member may be represented or accompanied during the meeting by a solicitor, counsel or (with the permission of the Committee) another person. The costs of any such representation must be met by the Member, unless Standards Committee has expressly agreed to meet all or any part of that cost (and subject always to the financial cap on indemnities set by the Council, from time to time).

4. Legal advice

The Committee may take legal advice from its Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member and the Investigating Officer if they are present.

5. Setting the Scene

- 5.1 At the start of the hearing, the Chairman shall introduce each of the members of the Committee, the Legal Adviser and the Democratic Services Officer and shall invite the Member (if present), the Investigating Officer (if present) and any other persons in attendance to introduce themselves.
- 5.2 After all the Committee and everyone involved have been formally introduced, the Chairman will explain the procedure which the Committee will follow in the conduct of the hearing. The Committee will conduct the proceedings as informally as possible but will ensure that the Member is given a fair hearing, according to the rules of natural justice. The hearings will not usually be recorded and a verbatim note of the proceedings will not be taken, unless there are exceptional circumstances and good reason to do so.
- 5.3 The hearing will be conducted in English unless the Member expresses a preference to have the hearing conducted in Welsh and the Committee agrees that it is reasonably practicable to do so. If a hearing is conducted in Welsh, an instantaneous translation service will be provided for the Committee and any other persons attending the hearing who request it.
- 5.4 The Member has the right to make representations to the Committee and to be represented by counsel, a solicitor or any other person. The Member will be entitled to give evidence, call witnesses, question any witnesses and address the Committee both on the evidence and generally on the subject matter of the hearing. The right to make representations will not extend to the person making the complaint, though this may be allowed by the Committee if it is considered that their attendance would assist the Committee with any matter relevant to the proper determination of the complaint.
- 5.5 The Committee may limit the number of witnesses called by the Member, where this is conducive to the efficient and judicial hearing of the case. The circumstances in which the Committee may impose such a limitation include, for example, where it appears to the Committee that such witnesses will not be presenting significant new evidence or facts, or where an excessive number of witnesses are being called by the Member to give character testimony.
- 5.6 Witnesses will not be allowed to sit in the public gallery prior to being called to give evidence before the Committee and, where the Committee meeting is held in private, they will be required to leave after giving their evidence. A designated waiting room will be available for witnesses until they are called.
- 5.7 Evidence before the Committee may be given orally or by written statement. At any stage during the proceedings the Committee can request the attendance of any person making a written statement or any other person they consider will be able to assist them, but the Committee has no power to require the attendance of any person. Members of the Committee can ask questions of anybody present, at any time. No cross-examination of witnesses will be allowed by the parties, but questions can be directed through the chair.
- 5.8 The Committee can receive evidence of any fact that appears to it to be relevant even though such evidence would be inadmissible in proceedings before a court of law. The Committee shall not refuse to admit any relevant evidence.
- 5.9 Any witnesses may be required to give evidence on oath or affirmation, where there are disputes

of fact. The Member and the Investigating Officer shall be entitled to request that witnesses be required to give evidence on oath or affirmation, but the final decision shall rest with the Committee.

- 5.10 The Public Service Ombudsman for Wales (“the Ombudsman”) shall be entitled to attend before the Committee for the purposes of:
- (a) presenting the Investigating Officer’s Report and/or explaining any matters in it; and
 - (b) otherwise playing such part or assisting the Committee as the Committee considers appropriate.
- 5.11 The Investigating Officer may attend on behalf of the Ombudsman, and the Ombudsman/Investigating Officer may be represented by Counsel or a solicitor.
- 5.12 The usual procedure to be followed is set out in the following paragraphs, but the Committee is free to depart from that procedure where it considers it appropriate to do so. The Committee will decide factual evidence on the balance of probabilities. There will be four possible stages to a hearing.

6. Stage 1 – Preliminary procedural issues

The following procedural matters shall be dealt with in the following order:-

6.1. Disclosure of interests.

The Chairman shall ask the members of the Committee to disclose the existence and nature of any personal and/or prejudicial interests that they may have in the matter and to withdraw from the consideration of the matter, if so required.

6.2 Quorum.

At least 3 members of the Committee must be present at all times during the hearing for the meeting to be quorate. The 3 members must include a majority of independent members. If the Committee is dealing with a complaint against a community councillor, then it must include at least one community councillor representative, but there is no requirement for him/her to actually attend the meeting for the hearing to be quorate. The Chairman shall confirm that the Committee is quorate before proceeding with the hearing;

6.3 Exclusion of Press and Public

The hearings should generally be conducted in public. The Committee should only exclude the press and public where “exempt information” within the meaning of Schedule 12A of the Local Government Act 1972 is likely to be disclosed during the hearings and the public interest in maintaining confidentiality outweighs the public interest in disclosure. There is a presumption that the public interest is best served by holding hearings in public unless there are overriding and compelling reasons to the contrary.

The Chairman shall, in turn, ask the Member, the Investigating Officer and the Legal Adviser whether they wish to ask the Committee to exclude the press and public from all or part of the hearing. If any of them so request, they should be invited to put forward their reasons for so doing and the Chairman shall ask for responses from the others. The Committee shall then resolve, by majority vote, whether to exclude the press and public from all or any part of the hearing.

Where the agenda papers or any reports have been classified as confidential Part 2 items and withheld in advance of the meeting, and the Committee does not resolve to exclude the press and public, the papers should now be provided to the press and public.

6.4 Hearing procedure

The Chairman shall confirm that all present know and understand the procedure which the Committee will follow in determining the matter.

6.5 Proceeding in the absence of any Member.

If the Member fails to attend or is not represented at the hearing, the Committee may:

- (a) hear and decide the matter in the absence of the Member, if it is satisfied that the Member was duly notified of the hearing and that there is no good reason for such absence or
- (b) adjourn the hearing.

Before deciding to hear and determine any matter in the absence of the Member, the Committee shall consider any written representations submitted by the Member and whether the Member had indicated that he/she did not intend to attend the hearing.

Where the Member has failed to attend, without good reason and the Committee has decided the matter in his/her absence, there is no further right of appeal or re-hearing of the matter.

If the Standards Committee is satisfied (after receiving a medical certificate) that any party is unable, through sickness, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter.

7. **Stage 2 – Findings of Fact**

- 7.1 After dealing with any preliminary issues, the Committee will next seek to resolve any remaining disputes of fact that have been identified in the Investigating Officer's Report.
- 7.2 If there is no disagreement about the facts, the Committee can move on to the next **Stage 3** of the hearing.
- 7.3 If there is disagreement, the Ombudsman/Investigating Officer, if present, should be invited to make any necessary representations to support the relevant findings of fact in the Investigation Report. With the Committee's permission, the Ombudsman / Investigator may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witnesses called by the Ombudsman / Investigating Officer.
- 7.4 The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any witnesses to give evidence.
- 7.5 At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Ombudsman/Investigating Officer to challenge any evidence put forward by witnesses called by the Member.
- 7.6 If the Member disagrees with any relevant fact in the Ombudsman/Investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Ombudsman/ Investigating Officer is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:

- (a) Continue with the hearing, relying on the information in the Ombudsman/Investigating Officer's Report;
- (b) Allow the Member to make representations about the issue, and invite the Ombudsman/Investigating Officer to respond and call any witnesses, as necessary; or
- (c) Postpone the hearing to arrange for appropriate witnesses to be present, or for the Ombudsman/Investigating Officer to be present if he or she is not already.

- 7.7 At the conclusion of the representations as to matters of fact, the Chairman shall ensure that each member of the Committee is satisfied that he/she has sufficient factual information to enable him/her to determine whether there has been a failure to comply with the Code of Conduct, as set out in the Investigating Officer's Report.
- 7.8 The Committee will then adjourn the meeting and retire in private to consider its decision. The Committee shall reach its decision on the balance of probability based on the evidence which it has received at the hearing.
- 7.9 The Committee may, at any time, reconvene the meeting in order to seek additional evidence from the investigating Officer, the Member or any of the witnesses, or to seek advice from the Monitoring Officer or Legal Advisor. If the Committee requires any further information, it may adjourn the proceedings pending the production of further evidence.
- 7.10 Once the decision has been reached, the meeting shall be reconvened and the Chairman will announce the Committee's findings of facts.

8. Stage 3 – Did the Member fail to follow the Code?

- 8.1 The Committee will then need to consider whether or not, based on its findings of fact and/or the facts that have been agreed by the parties, the Member has failed to comply with the Code of Conduct, on the basis set out in the Investigating Officers' Report. The function of the Committee is to make a determination based on the failures to comply with the Code of Conduct set out in the Investigation Report and any additional or alternative breaches of the Code that may come to light during the hearing shall not be taken into account in reaching a decision.
- 8.2 The Committee shall invite the Investigating Officer to make representations regarding the alleged breaches of the Code of Conduct by the Member, as set out in the Investigation Report, having regard to the findings of fact or agreed facts.
- 8.3 The Member should then be invited to respond to the representations from the Investigating Officer and give reasons why he or she has not failed to follow the Code of Conduct.
- 8.4 The Committee may, at any time, question anyone involved on any point they raise in their representations.
- 8.5 The Member should be invited to make any final relevant points.
- 8.6 The Committee will then ask all those present to leave the room and will retire in private to consider its decision. The Democratic Services Officer and Legal Adviser will remain to take notes and give legal advice respectively.
- 8.7 Once a decision has been reached and the meeting reconvened, the Chairman will announce the Committee's decision as to whether or not the Member has breached the Code of Conduct
- 8.8 If the Committee decides that there is no evidence of any failure to comply with the Code of Conduct and no further action needs to be taken, the Member will be informed at this point. In this case, the Committee may also consider whether it should make any general recommendations to the Council (or community council, as the case may be).

9. Stage 4 – If the Member has failed to comply with the Code

- 9.1 If the Committee finds that a failure to comply with the Code of Conduct has occurred, the Committee will invite the Ombudsman/Investigating Officer whether in his/her opinion the breach of the Code is such that the Committee should impose any sanction and, if so, what the appropriate sanction should be.
- 9.2 The Committee will then invite the Member to respond and to make representations as to what action the Committee should take, including any mitigating factors.
- 9.3 The Committee may question the Ombudsman/Investigating Officer and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 9.4 The Committee will then adjourn to and retire in private to consider whether the failure to comply with the Code of Conduct warrants no action, a censure, or a suspension of the Member, before announcing its decision.
- 9.5 In coming to its decision, the Committee must determine one of the following:-
- (a) That the Member has failed to comply with the Code of Conduct but that no action needs to be taken; or
 - (b) That the Member has failed to comply with the Code of Conduct and should be censured; or
 - (c) That the Member has failed to comply with the Code of Conduct and should be suspended or partially suspended for a period not exceeding 6 months.

10. Decision of the Committee.

- 10.1 The decision of the Committee may be taken by a simple majority of votes cast, with the Chairman having a second and casting vote, in the case of equality of voting. The decision will record whether it was unanimous or taken by a majority.
- 10.2 Once the Committee has reached a decision, the meeting shall be reconvened and the Chairman will announce the Committee's decision. The decision will be recorded in the Minutes of the meeting by the Democratic Services Officer and the Legal Adviser/Monitoring Officer will, in consultation with the Chairman, prepare a written record of the Committee's decision, setting out the relevant findings of fact and the reasons for the decision.
- 10.3 The Committee may also consider whether or not it should make any recommendations to the Council (or community council, as the case may be) , with a view to promoting high standards of conduct among Members.
- 10.4 Where a document refers to evidence that has been heard in private, only a summary of the document will be entered in the Minutes, with such material omitted as the Committee may direct.

11. Procedure after the Committee determination.

- 11.1 As soon as possible after the hearing, the written decision of the Committee will be sent to the Member, the person who made any allegation which gave rise to the investigation (if known) and the Ombudsman.
- 11.2 If the Committee impose a period of suspension or partial suspension, then that period of suspension or partial suspension will commence on the day after the expiry of 21 days from receiving the written notification of the Committee's determination (in order to allow for any appeal to the Adjudication Panel for Wales, as set out below). If an appeal is lodged, then any such sanction, if upheld, will not commence until the day after the final determination of the appeal process.

- 11.3 Within 14 days after the expiry of the time allowed to lodge a notice of appeal (i.e. 14 days after the 21 day appeal period), or upon receipt of notification of the conclusion of an appeal process, the Committee must cause to be produced a Report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to any person who made any allegation which gave rise to the investigation.
- 11.4 Upon receipt of the Report of the Committee, the Monitoring Officer must, for a period of 21 days, publish the Report on the Council web site, make copies available for public inspection and not later than 7 days after the Report is received from the Committee give public notice, by advertisement, that copies of the Report are available and specify the date (being a date not more than 7 days after public notice is first given) from which the period of 21 days will begin. If the matter involves a Community Councillor, a copy of the Report will be sent to the Clerk of that Community Council.

12. Orders for Costs and Expenses

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

13. Appeals

- 13.1 Where the Committee decides that a Member has failed to comply with the Code of Conduct, the Member may appeal against the determination to an Appeals Tribunal drawn from the Adjudication Panel for Wales. The appeal process is in accordance with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended.
- 13.2 An appeal must be instigated by giving notice in writing within 21 days of receiving notification of the Committee's determination to:

The President,
The Adjudication Panel for Wales,
Welsh Assembly Government,
Cathays Park,
Cardiff
CF10 3NQ

- 13.3 The notice of appeal must specify:
- (a) The grounds for appeal; and
 - (b) Whether or not the person giving notice of appeal consents to the appeal being conducted by way of written representations.

14. Referral Back from the Adjudication Panel

- 13.1 In circumstances where there is a referral back to Standards Committee from the Adjudication Panel for Wales with a recommendation that a different sanction should be imposed, the Committee shall meet as soon as reasonably practicable to consider the recommendations of the Appeals Tribunal and shall determine whether to uphold its original determination or accept the recommendation.
- 13.2 As soon as possible after meeting to reconsider its determination, the written decision of the Committee will be sent to the Member, the person who made any allegation which gave rise to the investigation (if known), the Ombudsman and the President of the Adjudication Panel for Wales.