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Contact Officer:
Nicola Gittins 01352 702345

To: Robert Dewey (Chairman)

Councillors: Patrick Heesom, Paul Johnson and Arnold Woolley

Co-opted Members:

Jonathan Duggan-Keen, Phillipa Earlam, Julia Hughes and Mark Morgan

23 February 2021

Dear Sir/Madam

NOTICE OF REMOTE MEETING
STANDARDS COMMITTEE
MONDAY, 1ST MARCH, 2021 at 6.30 PM

****Please note that a training session for the Standards Committee members will be held from 6.00 p.m. to 6.30 p.m.****

Yours faithfully

Robert Robins
Democratic Services Manager

Please note: Due to the current restrictions on travel and the requirement for physical distancing, this meeting will not be held at its usual location. This will be a remote meeting and 'attendance' will be restricted to Committee Members. The meeting will be recorded.

If you have any queries regarding this, please contact a member of the Democratic Services Team on 01352 702345.

AGENDA

1 **APOLOGIES**

Purpose: To receive any apologies.

2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

Purpose: To receive any Declarations and advise Members accordingly.

3 **MINUTES** (Pages 5 - 8)

Purpose: To confirm as a correct record the minutes of the meeting held on 11th January 2021.

4 **DISPENSATIONS**

Purpose: To receive any requests for dispensations.

Members of the press/public will be able to remain at the meeting whilst an application for dispensation is presented to the Committee and will be able to return to hear the Committee's decision. However, under Paragraph 18C Schedule 12A Local Government Act 1972 the Committee will exclude the press and public from the meeting whilst it deliberates on any application for a dispensation.

5 **PUBLIC SERVICES OMBUDSMAN FOR WALES (PSOW) CONSULTATION ON REVISED GUIDANCE ON THE CODE OF CONDUCT** (Pages 9 - 12)

Purpose: To approve a response on the PSOW consultation in respect of revised guidance on the Code of Conduct.

6 **REVIEW OF PROTOCOL FOR MEETING CONTRACTORS** (Pages 13 - 22)

Purpose: To undertake a rolling review of the Protocol to ensure it is still up to date and pertinent.

7 REPORTS FROM INDEPENDENT MEMBER VISITS TO COUNTY COUNCIL MEETINGS

Purpose: To receive verbal reports from Independent Members of the Committee on their visits to the following meetings:

- 19.01.21 – Cabinet (Julia Hughes)
- 20.01.21 – Community, Housing and Assets Overview and Scrutiny Committee (Rob Dewey)
- 21.01.21 – Social and Health Overview and Scrutiny Committee (Phillipa Earlam)
- 26.01.21 – Flintshire County Council (Julia Hughes)
- 09.02.21 – Environment and Economy Overview and Scrutiny Committee (Rob Dewey)
- 11.02.21 – Corporate Resources Overview and Scrutiny Committee (Mark Morgan)

8 OVERVIEW OF ETHICAL COMPLAINTS (Pages 23 - 28)

Purpose: That the Committee notes the number and type of complaints.

9 FORWARD WORK PROGRAMME (Pages 29 - 32)

Purpose: For the Committee to consider topics to be included on the attached Forward Work Programme.

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STANDARDS COMMITTEE **11 JANUARY 2021**

Minutes of the meeting of the Standards Committee of Flintshire County Council held as a remote attendance meeting on Monday, 11 January 2021

PRESENT: Rob Dewey (Chairman)

Councillors:

Patrick Heesom, Paul Johnson and Arnold Woolley

Co-opted members:

Jonathan Duggan-Keen, Phillipa Earlam, Julia Hughes and Mark Morgan

IN ATTENDANCE:

Monitoring Officer, Deputy Monitoring Officer, Democratic Services Officer and Democratic Services Support Officer

20. TRIBUTE TO THE LATE COUNCILLOR KEVIN HUGHES

At the start of the meeting, all those present paid a silent tribute to commemorate Councillor Kevin Hughes who had sadly passed away.

21. STANDARDS COMMITTEE MEMBERSHIP

The Chairman advised that a letter had been sent to thank Ken Molyneux for his service, following his resignation as a co-optee of the Committee.

22. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None.

23. MINUTES

The minutes of the meeting held on 20 October were approved, subject to a minor amendment to the resolution on minute number 10. The minutes of the meetings on 2 November and 30 November 2020 were approved without change.

RESOLVED:

That subject to the amendment, the minutes be approved as a correct record.

24. DISPENSATIONS

None.

25. INDEPENDENT MEMBER ATTENDANCE AT COMMITTEE MEETINGS

The Deputy Monitoring Officer presented a report to agree a rota of attendance for Independent Members to attend Committee meetings and associated guidelines. He asked that the Committee consider a draft rota and five suggested guidelines to clarify the process and purpose for the visits.

It had previously been agreed that one Independent Member was required to attend each meeting and that two should attend full County Council meetings where possible. On guideline (3), it was agreed that the officers would provide a brief statement for the attendees to read out at meetings, should they be asked to do so.

It was suggested that the meeting on 8 March should be moved to 1 March 2021 to accommodate the end of the Chairman's term of office and that the aim was to include feedback from attendance at meetings on that agenda. On that basis, it was agreed that the Independent Members would provide the Democratic Services Officer with their preferred meeting dates to populate the rota.

The Monitoring Officer drew attention to the library of recorded meetings available on the Council's website as a useful reference. He also advised that meetings in April would be cancelled to divert resources to the Elections in May.

RESOLVED:

That the Committee agrees a rota of attendance and the guidelines for how they should be undertaken.

26. RECRUITMENT OF INDEPENDENT MEMBERS TO THE STANDARDS COMMITTEE

The Monitoring Officer presented a report to agree the timetable and process for recruiting Independent Members to the Standards Committee. The two vacancies were to replace Ken Molyneux who had resigned and Rob Dewey (the Chairman) whose term of office was coming to an end.

Having sought volunteers, it was agreed that the recruitment panel would comprise of Councillors Patrick Heesom and Paul Johnson, Julia Hughes and Mark Morgan, together with the lay person (Noella Jones). In the event that Mark Morgan was unavailable, Phillipa Earlam would be called upon.

The County Council would need to approve the establishment of the recruitment panel at its meeting on 26 January, prior to the vacancies being advertised. The Monitoring Officer would contact panel members to confirm the interview dates which were likely to take place in March.

RESOLVED:

That the Committee accepts the report and nominates Councillors Patrick Heesom and Paul Johnson, Julia Hughes and Mark Morgan (or Phillipa Earlam if not available) to the proposed appointment panel.

27. STANDARDS FORUM & ETHICAL LIAISON PRE-BRIEFING

The Monitoring Officer presented a report to seek the Committee's views on issues to be raised at forthcoming meetings of the Mid and North Wales Standards Forum and the biennial meeting between the Chair and Vice-Chair of the Standards Committee with the Chair and Leader of the Council (which had been deferred due to the emergency situation).

In preparation for the latter meeting, the Committee was asked to consider suggestions to put to Group Leaders which would help the Committee to fulfil its role and meet requirements of the new legislation. During discussion, it was agreed that the suggestions would be better informed once Independent Members had taken the opportunity to observe formal meetings (as discussed earlier on the agenda) and reported back on their findings at the March meeting.

In welcoming this, Phillipa Earlam suggested attendance at training could be one of the issues to raise. Councillor Johnson said that the Committee itself could explore this issue at a future meeting.

As requested by Julia Hughes, it was agreed that the meeting with the Chair and Leader of the Council would take place first to seek their views prior to the meeting with Group Leaders. The Monitoring Officer would make the necessary arrangements.

It was noted that the next meeting of the Standards Forum was scheduled to be held in October, to be hosted by Powys County Council.

RESOLVED:

That an item on the suggested topics for discussion with the Chair and Leader of the Council be considered at the March meeting, following feedback from Independent Members attending formal committee meetings.

28. REVIEW PROTOCOL ON THE PRODUCTION OF COUNCILLOR NEWSLETTERS

The Monitoring Officer presented the report to review the protocol on the production of Councillor newsletters, which was part of the rolling review of codes and protocols undertaken by the Committee.

The Committee was reminded that during the last review, a survey had been carried out to establish the number of Councillors who produced their own newsletter.

During discussion about the impact of the emergency situation and greater reliance on social media, Julia Hughes asked about the merits in conducting another survey to establish how many Councillors had produced a newsletter in 2020 and whether any were intending to produce do so in 2021 and also whether the methodology had changed.

The suggestion that a further survey be undertaken was supported. Due to other workload commitments, it was agreed that the results of that survey would be scheduled on the Forward Work Programme for later in the year.

RESOLVED:

- (a) That the current protocol is not amended; and
- (b) That a report on the results of a further survey of Councillor newsletters be scheduled for later in the year.

29. FORWARD WORK PROGRAMME

The Monitoring Officer presented the Forward Work Programme for consideration and advised that the public consultation on the Public Services Ombudsman Wales (PSOW) revised guidance to the Code of Conduct would be scheduled when it became available.

Following discussion on the earlier item, Councillor Heesom proposed that the meeting scheduled for 8 March be moved to 1 March 2021. This was seconded by Councillor Woolley and supported by the Committee.

As discussed, the Forward Work Programme would also be amended to include feedback from Independent Members attending committee meetings at the March meeting. To allow for this, the Review of Dispensation Procedures at Conwy, Denbighshire and Wrexham would be moved to the May meeting.

RESOLVED:

That the Forward Work Programme be amended.

30. MEMBERS OF THE PRESS IN ATTENDANCE

There were no members of the press in attendance.

(The meeting started at 6.30pm and ended at 7.20pm)

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Chairman



STANDARDS COMMITTEE

Date of Meeting	Monday 1 st March 2021
Report Subject	Public Services Ombudsman for Wales Consultation on Revised Guidance on the Code of Conduct
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

The PSOW publishes guidance for Councillors on how to interpret the Code of Conduct. The guidance applicable to County Councillors also covers Fire Authorities and National Parks - link [here](#) to current guidance.

The Ombudsman has published a consultation on proposed revisions to the guidance - link [here](#) to the draft revisions

In addition, the PSOW publishes separate guidance for Town and Community Councillors (link [here](#)) which has also been revised. The revised guidance is [here](#).

The changes to both sets of guidance do not fundamentally alter current advice on the meaning of the Code. Rather the changes seek to improve layout, improve clarity and to provide recent examples of the outcome of real life cases.

RECOMMENDATIONS

1	That the Committee welcomes the proposed changes to the guidance by the closing date of 21 March 2021.
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REPORT DETAILS

1.00	EXPLAINING THE PSOW CONSULTATION ON REVISED GUIDANCE ON THE CODE OF CONDUCT
1.01	The Ombudsman issues guidance on the Code of Conduct to help Councillors and officials understand and interpret its provisions. He issues separate guidance to County Councillors and Town/Community Councillors. The guidance is referred to collectively in the singular for ease of reference.
1.02	The Ombudsman last reviewed his guidance on the Code in July 2016. The Code has not changed significantly since then nor have there been

	any legal cases in the courts which might affect its interpretation.
1.03	As the Code has not changed so too the fundamental elements of the guidance have not changed. The revised guidance seeks to improve wording to aid clarity, place greater emphasis on key messages (e.g. through the use of bold text) and provides fresh examples from real life of where the Code has been breached.
1.04	The principle changes appear to be: <ul style="list-style-type: none"> a. Ombudsman has expanded the explanation of the 2 stage test applied to decide whether to investigate a complaint; b. Slightly clearer and more emphatic guidance on freedom of speech as it effects the requirement to treat people with respect, the prohibition on bullying and disrepute; c. The guidance on what to do if one has a personal interest is expanded and more explicit.
1.05	Whilst most changes are small, they do add clarity and/or emphasis to the guidance. The changes appear to make the guidance easier to follow.

2.00	RESOURCE IMPLICATIONS
2.01	None associated with this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None.

4.00	RISK MANAGEMENT
4.01	None associated with this report.

5.00	APPENDICES
5.01	None

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	None

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STANDARDS COMMITTEE

Date of Meeting	Monday, 1 March 2021
Report Subject	Review of Protocol for Meeting Contractors
Report Author	Gareth Owens

EXECUTIVE SUMMARY

The Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties provides advice to Members on how to avoid inadvertently compromising required levels of impartiality and transparency required of them and the Council when awarding contracts or considering planning applications.

The protocol is due for review as part of the Committee's rolling programme of reviewing the Constitution. This periodic refresh of the protocol is an opportunity to check that the document remains up to date and pertinent.

The guidance on dealings with potential contractors remains necessary and needs only minor updating. The guidance on dealings with developers does need updating. However, in addressing these matters the protocol overlaps with the Planning Code of Guidance. It would be better if the protocol did not seek to duplicate advice given elsewhere. The parts of the document relating to planning should be removed and the Planning Code of Guidance be updated instead.

RECOMMENDATIONS

1	That the parts of the Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties relating to dealings with parties who might be bidding for or seeking a contract with the Council be amended as shown in the Appendix.
2	That the parts of the Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties relating to Planning be transferred to the Planning Code of Guidance (to the extent that they are not already incorporated therein) and that the Planning Code of Guidance be updated.

REPORT DETAILS

1.00	EXPLAINING THE REVIEW OF PROTOCOL
1.01	The Council spends about £198m every year on contracts. It also buys and sells land/buildings. Contracts should be awarded and planning applications should be decided fairly, impartially and in a transparent manner. In addition, the Council considers planning applications, which, if granted, can generate many thousands of pounds for developers. The Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties (“the Protocol”) gives advice to members on how to ensure they do not inadvertently compromise the fairness or transparency of such matters.
1.02	The Protocol explains the considerations that apply to the award of contracts and also the determination of planning applications. It gives guidance on whether Members should meet with people seeking contracts with the Council and safeguards that should be applied if they do so. This guidance remains both necessary and pertinent though some of the terminology needs updating. Some scenarios to illustrate the situations covered by the Protocol have also been included. The proposed changes are tracked in the document at Appendix 1.
1.03	The Protocol also gives advice on what Members should do if they are approached or lobbied by either planning applicants or objectors. In summary Members must declare if they have been spoken to four or more times. However, the Protocol does not then impose any obligation on Members to take any action in respect of being lobbied to this degree and further advice on the issue is needed. This is a lacuna that should be addressed. A similar requirement to declare being lobbied is included in the Planning Code of Guidance. That Code of Guidance is also similarly silent on what Members should do if they are lobbied. It would be better if the issues were handled comprehensively in the Planning Code of Guidance. That document will be updated and reported to Planning Strategy Group before being coming to this Committee.
1.04	The amended protocol should then be included within training and induction programmes for officers who award contracts and Members of Cabinet.

2.00	RESOURCE IMPLICATIONS
2.01	None associated with this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	If approved this Protocol will be considered by the Constitution and Democratic Services Committee and Full Council.

4.00	RISK MANAGEMENT
4.01	The Protocol is designed to avoid or minimise the risk of Council processes being compromised by inadvertent behaviour.

5.00	APPENDICES
5.01	Appendix One – Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None. Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Planning Strategy Group – an internal working group drawn from the Planning Committee that advises the Council on procedures and other matters pertaining to the planning process.

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SECTION 21

12. PROTOCOL FOR MEMBERS IN THEIR DEALINGS WITH CONTRACTORS/DEVELOPERS AND OTHER THIRD PARTIES SEEKING OR ENGAGED IN CONTRACTS WITH THE COUNCIL

1. INTRODUCTION

- 1.1 This Protocol has been developed to assist Members by identifying some of the existing provisions in Codes of Conduct, Guidance and Procedure Rules most relevant to dealings with existing or would be contractors/~~developers~~ for easy access when advice on individual circumstances is needed. It also extends to include advice on meetings or discussions with external bodies, and in particular private companies, which might at some stage be seeking to benefit from an association with the Council and/or its partner organisations.
- 1.2 It is recognised that Members may be contacted by a range of public, private and voluntary organisations for various reasons and in various ways. Occasionally this will be to acquaint a Member with an event that is planned for the Member's particular ward. However, more often than not the contact will be in the hope that the Member will support a proposal in one way or another.
- 1.3 The Code of Conduct for Members sets out general principles which Members must have regard to in the roles they fulfil. The Planning Code of Conduct builds upon the Members' Code of Conduct and ~~in relation to planning applications requires Members to declare circumstances where there has been significant contact and indicates that this is where a Member has been contacted on more than 4 occasions by the same person whether that was an applicant or an objector~~ members should refer to that document on what to do if they are lobbied by a planning applicant or objector.
- 1.4 This Protocol covers any situation where a person or business may be seeking a contract, or may already be in a contract, with the Council. For example
— A company might approach a councillor offering to sell land or buildings to the Council at a "good price"
- A software company might send a promotional email to a councillor explaining how its products could save the Council money
 - A company which is not fulfilling its contractual obligations complain to a Cabinet member that it is being "unfairly treated"

2. CODE OF CONDUCT

- 2.1 The Members' Code of Conduct includes the following provisions which are particularly relevant in relation to Members in their dealings with would be contractors/~~developers~~ and other third parties.
- 2.2 Paragraph 4 of the Members' Code requires that Members must carry out their duties and responsibilities with due regard to the principle of equality of

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opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion.

- 2.3 Paragraph 7 of the Members' Code provides that Members must not use their position improperly to confer on or secure for themselves ~~or any other person~~ an advantage ~~nor create or avoid for themselves or any other person a seek to avoid a~~ disadvantage. ~~Likewise, they should not do these things in respect of other people.~~
- 2.4 Part 3 of the Members' Code contains detailed provisions concerning the disclosure of personal interests and where Members believe these provisions may be relevant they should seek advice from the Monitoring Officer ~~or Deputy Monitoring Officer at the earliest opportunity a Deputy Monitoring Officer or other senior officer in Legal & Democratic Services.~~ These provisions are particularly important in dealings with contractors, ~~people or companies seeking business with the Council /developers~~ or third parties with whom the Member has a close personal association.
- 2.5 Paragraph 8 of the Members' Code requires~~d~~ that when reaching decisions Members must do so on the basis of the merits of the circumstances involved and in the public interest having regard to relevant advice provided by officers.
- 2.6 Paragraphs 9, 17 and 18 of the Members' Code contain provisions concerning accepting from anyone gifts or hospitality. Where a Member is in any doubt as to the application of these provisions, advice should be obtained from the Monitoring Officer ~~or Deputy Monitoring Officer or other senior officer within Legal & Democratic Services, at the earliest opportunity.~~
- 2.7 The above provisions are merely a summary of some of the contents of the Members' Code of Conduct, the full details of which appear elsewhere in this Constitution.

3. **PROCEDURE RULES**

- 3.1 The Council's Financial Procedure Rules make reference to the Council's responsibility to achieve the most favourable terms possible from suppliers and requires ~~central~~ procurement ~~arrangements rules and procedures~~ to be set up for that purpose.
- 3.2 The Contract Procedure Rules have been adopted by the Council based upon a number of basic principles and emphasise that purchasing and disposal procedures must:-
- Seek value for money ~~and achieve the aims of the Council's procurement strategy such as social value, carbon reduction etc~~
 - Show no undue favour to any contractor, nor discriminate against any contractor.
 - Ensure that all procurement is in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information).

- Do nothing that contravenes EU or domestic law
- Ensure that adequate contract files are kept.
- ~~Ensure that contracts are packaged to ensure best value for money.~~

1.3. One of the overriding principles that must be complied with is that officers should show no undue favour to any contractor. This principle applies equally to Members.

4. PLANNING CODE OF CONDUCT

4.1 ~~The Planning Code of Conduct provides a set of principles which apply primarily to the manner in which individual planning applications should be dealt with and to the decision-making process relating to the Development Plan, Supplementary Planning Guidance and associated documentation.~~

4.2 ~~The Code makes it clear that whilst lobbying is a part of the political process, and it is quite common for applicants or other interested parties to wish to discuss a proposed development with Members before a planning application is determined, Planning Committee Members are under an obligation to determine matters on their merits. Accordingly the Code provides advice that all Members should amongst other things:-~~

- ~~Refer applicants/developers who approach them for planning or procedural advice to the appropriate Planning Officer.~~
- ~~Not put pressure on Officers to make a particular recommendation in their report.~~
- ~~Direct lobbyists or objectors to the appropriate Planning Officer who will include reference to their opinions where relevant in their report.~~

~~Those Members who sit on the Planning Committee are also advised:-~~

- ~~Not to openly declare which way they intend to vote in advance of the committee meeting.~~
- ~~Avoid campaigning actively in support of a particular outcome on a planning application.~~
- ~~Where a member of the committee has made it clear which way they intend to vote prior to the committee meeting they should not participate in the committee's debate or vote on the matter.~~

4.3 ~~The above is a summary of some of the points in the Flintshire Planning Code and full details of the code are contained in the Council's Constitution.~~

5. ROLES AND RESPONSIBILITIES OF MEMBERS

5.1 The Council has adopted role descriptions for the various roles that Members undertake such as Leader of the Council, Cabinet Member, Committee Chair and ordinary Member. These are all available on the Council's Infonet.

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- 5.2 The roles and responsibilities envisage Members, particularly at Cabinet level, having significant input into the development of policy in relation to the Authority's functions.
- 5.3 In the formulation of policy, Members will often rely on developmental work undertaken by Officers and in such circumstances there will often be a necessary overlap in this area. However, care should be taken to ensure that ~~the management/operational role of Officers is not compromised~~ members do not become embroiled in operational matters.
- 5.4 In fulfilling their respective roles, Cabinet Members and Officers will frequently find it convenient to be present in discussions with private companies and other external bodies in the development of options for service provision. There may be occasions when non-Cabinet Members are present at such meetings and this Protocol also covers such situations.
- 5.5 Such discussions with private companies and other external bodies will often be held for explanatory reasons to assist in undertaking an options appraisal exercise or in an attempt to understand and gain knowledge of the market ahead of a procurement exercise. Accordingly, great caution is needed in all such discussions to ensure that there can be no perception that an expectation is created that the discussions were anything more than exploratory in nature.
- 5.6 Accordingly a few simple precautions should always be put in place to avoid any ambiguity on the part of the private company or any perception by others who get to hear of the discussions that they were for irregular purposes. Such precautions will include:-
- ~~First of all, serious~~ Serious consideration should be given to the appropriateness of Members attending the meeting of that company or its representatives ~~in the first place~~ at all;
 - ~~:-~~ the risks involved should be assessed and the potential benefits/disadvantages identified, e.g. where there is a major contract to be awarded ~~or a major planning application to be determined~~ it may not be appropriate to meet;
 - The Council must comply both with statutory requirements in relation to procurement as well as its Contract Procedure Rules; ~~and~~
 - ~~It~~ it is important that no discussions or meetings prejudice the ability of the Council to demonstrate equal treatment and transparency. Officers should always provide objective advice to Members in such circumstances. If there are any doubts, advice should be sought from the Council's Statutory Officers; ~~and~~
 - An audit trail should be kept as to why the decision was taken for Members to attend the meetings of that company or its representatives ~~in the first place.~~
- 5.7 If it is considered appropriate for the discussions to proceed with Members, further precautions should be put in place:-

- A written invitation to the company in question setting out the purpose of the proposed discussions.
- Where the invitation is from a private company, the purpose of the discussions should be ascertained and contained in a letter accepting the invitation.
- Appropriate Officers should always be present to advise Members.
- Notes should be taken of the discussion and where possible agreed by the attendees. These should set out any conclusions arrived at. It should always be borne in mind that such notes could be the subject of a Freedom of Information Act request and the extent to which any commercially sensitive information needs to be discussed should be assessed and agreed in advance with the contractor.
- It should be made clear to the company that similar discussions may be held with any other interested party.
- Where the matter to be discussed is likely to lead to a procurement exercise, either because of the Procurement Rules, Contract Procedure Rules or best practice, it should be made clear that all interested tenderers will need to be financially vetted and comply with all other pre-tender requirements. This will probably be required even in circumstances where procurement is not at issue if it is likely to lead to a contractual arrangement if discussions are successful.
- Care should be taken to ensure that no company is given any advantage over others as a consequence of the discussions.
- Unless there is a good reason for doing so, which can be objectively justified, discussions should take place in the Council's offices.
- The Council should meet all costs associated with a visit to a contractor or to a development site or developer.

5.8 If Members are in any doubt about the provisions of this Protocol they should seek advice from either the Monitoring Officer or the Deputy Monitoring Officer as the impact of their actions could potentially have serious consequences for themselves and the Council.

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STANDARDS COMMITTEE

Date of Meeting	Monday 1 st March 2021
Report Subject	Overview of Ethical Complaints
Report Author	Chief Officer Governance

EXECUTIVE SUMMARY

This report shows a summary of the ethical complaints alleging a breach of the Code that have been submitted to the Public Services Ombudsman for Wales (PSOW). As per the Committee's resolution, the complaints distinguish between different Councils and Councillors whilst still remaining anonymous.

The report gives the Committee an understanding of the number and types of complaints being made, and the outcome of consideration by the PSOW. Since the last report (November 2020) 9 complaints have been received. 3 complaints have been resolved since the last report. Six remain outstanding. As with previous reports one Council is experiencing the majority of complaints and the Monitoring Officer has recently engaged with the PSOW and an external facilitator in an attempt to improve the position within that Council.

RECOMMENDATIONS

1	That the Committee notes the number and type of complaints.
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REPORT DETAILS

1.00	NUMBER OF COMPLAINTS
1.01	The attached spreadsheet at Appendix A lists in summary form the complaints received during 2019/20. Each entry lists: <ul style="list-style-type: none"> the Ombudsman's reference number (year/4 digit reference) the type of Council (Community, County or Town) the complainant (Councillor, officer, public) the provisions which are alleged to have been breached the decision at each of the 3 stages of investigation
1.02	Since the last report nine complaints have been received. Two complaints were made against the same Community Council arising out of one incident. One was made against another Community Council. The six outstanding complaints are all against the same Town Council. One

	complaint was a self-referral and the other five relate to a single incident at that Town Council. The Monitoring Officer has undertaken work with that Council in conjunction with the Ombudsman and an external facilitator to try and improve relations within the Council. A verbal update will be given at the meeting.
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2.00	RESOURCE IMPLICATIONS
2.01	None associated with this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None.

4.00	RISK MANAGEMENT
4.01	None

5.00	APPENDICES
5.01	Appendix A - Number of complaints.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Public Services Ombudsman for Wales – the Ombudsman investigates service complaints and alleged breaches of the code. The Ombudsman will only investigate an alleged breach of the Code if there is clear evidence of a breach and it is in the public interest to do so.

PSOW Reference	Council	Councillor	Complainant	Alleged breach	Gatekeeper	Investigation	Hearing
16/1611	County	A	Officer	Bullying, disrespect	Investigate	Evidence of breach	APW disqualified for 14 months
16/6253	Town 1	B	Councillor	Failure to declare an interest, voting with an interest	Investigate	Apology given by councillor. Not in public interest to proceed	
16/7019	Community 1	C	Officer	Bullying, disrespect, disrepute	Insufficient evidence		
16/7020	Community 1	D	Officer	Bullying, disrespect, disrepute	Insufficient evidence		
16/7053	Community 1	D	Officer	Failure to co-operate with local resolution	Not in public interest		
16/7054	Community 1	D	Officer	Failure to co-operate with local resolution	Not in public interest		
16/7173	Community 1	C	Councillor	Bullying, disrespect, disrepute, making malicious complaints	Insufficient evidence		
16/7174	Community 1	D	Councillor	Bullying, disrespect, disrepute, making malicious complaints	Insufficient evidence		

PSOW Reference	Type of Council	Councillor	Complainant	Alleged breach	Outcome by stage		
					Gatekeeper	Investigation	Hearing
17/0516	County	A	Public	Disrepute, respect	Alleged actions not a breach of the code		
17/2548	County	B	Public	Disrepute	Alleged actions not a breach of the code		
17/7733	Community 1	Councillor	Public	Disrepute	Alleged actions not a breach of the code		
17/7836	Town 1	D	Councillor	Bullying	Duplicate of a complaint that will be investigated		
17/7924	Town 1	E	Councillor	Voting with a prejudicial interest	Duplicate of a complaint already being investigated.		
17/7925	Town 1	E	Councillor	Voting with a prejudicial interest	Investigate	Clr following MO advice so no breach of code	
17/7956	Town 1	F	Councillor	Respect	Alleged actions not a breach of the code		
17/7957	Town 1	G	Councillor	Bullying	Alleged actions not a breach of the code		
17/7965	Town 1	E	Councillor	Voting with a prejudicial interest	Duplicate of a complaint already being investigated.		
17/8009	Town 1	E	Councillor	Voting with a prejudicial interest	Duplicate of a complaint already being investigated.		
18/0177	Town 1	A	Public	Bullying	investigate	Breach but no action necessary	
18/0178	Town 1	B	Public	Bullying	investigate	Breach but no action necessary	
18/0179	Town 1	Councillor	Public	Bullying	investigate	Breach but no action necessary	
18/0180	Town 1	D	Public	Bullying	investigate	Breach but no action necessary	
18/1691	County	E	Public	Disrepute, misuse of position	investigate	Refer to APW	(1) Member improperly conferred an advantage thereby bring ing office into disrepute and (2) Member had an inappropriae relationship thereby bringing his office into disrepute
18/1844	Community 1	F	Public	Disrepute	Allegations not capable of being a breach. Possibly acting in private capacity		
18/2293	Town 1	G	Public	Disrepute	Comments in private capacity and not in public interest		
18/2299	Town 1	G	Public	Disrepute	Comments in private capacity and not in public interest		
18/4124	Town 1	H	Public	Disrepute, respect	Insufficient evidence and complaint not sufficiently serious to warrant investigation		
18/04263	Community 2	I	Public	Disrepute, bullying, respect	Allegations do not relate to official capacity. Insufficient evidence, would need strong evidence to suggest a member has breached the code.		
18/05023	Town 1	D	Councillor	Bullying, respect	Withdrawn by complainant		

PSOW Reference	Type of Council	Councillor	Complainant	Alleged breach	Outcome by stage		
					Gatekeeper	Investigation	Hearing
2019/01539	County	A	Public	Disrespect and disrepute	Insufficient evidence		
2019/01542	Community 1	B	Public	Disrespect and bullying	Not official capacity PSOW did not investigate		
2019/001823	Community 2	C	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001824	Community 2	D	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001825	Community 2	E	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001826	Community 2	F	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001827	Community 2	G	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001828	Community 2	H	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001829	Community 2	I	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001830	Community 2	J	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/001831	Community 2	K	Councillor	Disrespect and bullying	Complaints not related to the code and insufficient evidence		
2019/03873	Town 1	L	Councillor	Defamation of character and slanderous comments	Suitable for local resolution which had already been invoked		
2019/06280	Town 1	M	Councillor	Inability to control a Councillor's behaviour during Council meetings and misreporting of information	Complaint not related to the code and insufficient evidence		
2019/06288	Town 1	N	Councillor	Disorderly conduct outside T&CC meeting	Not official capacity		
2019/06842	Town 1	N	Councillor	Disorderly conduct at T&CC meeting	Political expression		

PSOW Reference	Type of Council	Councillor	Complainant	Alleged breach	Outcome by stage		
					Gatekeeper	Investigation	Hearing
2020/02107	Community 1	A	Public	Threatening behaviour towards a member of the public	Lack of evidence and acting in private capacity		
2020/03161	Community 2	B	Public	Accusations made during virtual meeting	Political expression and not in public interest		
2020/03162	Community 2	C	Public	Failure to stop accusations being made during virtual meeting	Behaviour arguably not a breach and not in public interest		
2020/03596	Community 3	D	Public	Comments made which were humiliating and upsetting to the Clerk during virtual meeting.	Questions were reasonable and insufficient evidence that code was breached		
2020/04182	Town 1	E	Councillor	Self referral for potentially bringing office into disrepute	Investigate	Decision pending	
2020/04855	Town 1	F	Councillor	Letter received by complainant perceived to be of a bullying nature	Decision pending		
2020/04856	Town 1	G	Councillor	Letter received by complainant perceived to be of a bullying nature	Decision pending		
2020/04858	Town 1	H	Councillor	Letter received by complainant perceived to be of a bullying nature	Decision pending		
2020/04859	Town 1	I	Councillor	Letter received by complainant perceived to be of a bullying nature	Decision pending		
2020/05071	Town 1	F	Public	Cyber bullying of another Councillor through Social Media posts	Decision pending		

FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME 2020/21

Date of Meeting	Topic	Notes/Decision/Action
March 2022	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Forward Work Plan 	
January 2022	<ul style="list-style-type: none"> • Training • Dispensations • Independent member visits to meetings • Forward Work Plan 	
November 2021 Joint meeting with T&CCs	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • PSOW Annual Report/Casebook Issue 25 • Items raised by Town and Community Councils • Forward Work Plan 	
September 2021	<ul style="list-style-type: none"> • Training • Dispensations • Standards Forum & ethical liaison pre briefing • Forward Work Plan 	
July 2021	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Independent member visits to meetings • Forward Work Plan 	
May 2021	<ul style="list-style-type: none"> • Training • Dispensations 	

	<ul style="list-style-type: none"> • PSOW Casebook Issue 24 • APW Annual Report • Review of Dispensation Procedures at Conwy, Denbighshire and Wrexham • Standards forum & ethical liaison debriefing • Forward Work Plan 	<p>Report by Matt Georgiou Report by Matt Georgiou Report by Matt Georgiou</p>
March 2021	<ul style="list-style-type: none"> • Training • Dispensations • Overview of Ethical Complaints • Review of Protocol for meeting Contractors • Independent Member Visits to Meetings • Public Services Ombudsman for Wales (PSOW) Consultation on Revised Guidance on the Code of Conduct • Forward Work Plan 	<p>Report by Gareth Owens Report by Gareth Owens Verbal Update Report by Gareth Owens</p>
January 2021	<ul style="list-style-type: none"> • Training • Dispensations • Review Protocol on the Production of Councillor Newsletters • Standards Forum & Ethical Liaison Pre-briefing • Recruitment of Independent Members to the Standards Committee • Independent Member attendance at Committee Meetings • Forward Work Plan 	<p>Report by Gareth Owens Report by Gareth Owens Report by Gareth Owens</p> <p>Report by Matt Georgiou and Nic Gittins</p>
November 2020 Joint Meeting with T&CC	<ul style="list-style-type: none"> • Training • Dispensations • PSOW Annual Report/Casebook Issue 23 (Oct –Dec 2019) and the Annual letter from the PSOW • Overview of Ethical Complaints • Directions from President of the APW • Items raised by Town and Community Councils • Forward Work Plan 	<p>Report by Matt Georgiou</p> <p>Report by Gareth Owens Report by Gareth Owens Verbal</p>

September 2020	<ul style="list-style-type: none">• Training on LDP• Dispensations for LDP• Review of Dispensation Procedures• Forward Work Plan	
Reports to be scheduled Survey on the Production of Councillor Newsletters		

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