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To: Edward Michael Hughes (Chairman)

Councillors: David Cox, Hilary McGuill and Arnold Woolley

Co-opted Members

Robert Dewey, Jonathan Duggan-Keen, Phillipa Ann Earlam and Kenneth Harry Molyneux

28 March 2017

Dear Councillor

You are invited to attend a meeting of the Standards Committee which will be held at 6.00 pm on Monday, 3rd April, 2017 in the Clwyd Committee Room, County Hall, Mold CH7 6NA to consider the following items

A G E N D A

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 3 - 6)

Purpose: To confirm as a correct record the minutes of the meeting held on 6th March 2017.

4 DISPENSATIONS

Purpose: To receive any requests for dispensations.

5 WHITE PAPER - REFORMING LOCAL GOVERNMENT: RESILIENT AND RENEWED (Pages 7 - 16)

To update members about the proposed local government bill, to highlight the key differences from the previous proposals and to take views on those proposals in order to provide a consultation response.

6 **TRAINING MATERIALS FOR NEW AND RETURNING COUNTY COUNCILLORS & TOWN AND COMMUNITY COUNCILLORS** (Pages 17 - 68)

To advise members of the proposed training materials agreed with the WLGA and to seek approval of those materials for use by the Monitoring Officer and Deputy Monitoring Officer for delivering training to new and returning councillors.

7 **FORWARD WORK PROGRAMME** (Pages 69 - 70)

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert Robins', with a horizontal line extending to the right.

Robert Robins
Democratic Services Manager

STANDARDS COMMITTEE **6th MARCH 2017**

Minutes of the meeting of the Standards Committee of the Flintshire County Council held at County Hall, Mold, on Monday, 6th March 2017.

PRESENT: Ed Hughes (Chair).

Councillors:

Hilary McGuill and Arnold Woolley.

Co-opted Members:

Robert Dewey, Jonathan Duggan-Keen, Phillipa Earlam and Ken Molyneux.

APOLOGY:

Councillor David Cox.

IN ATTENDANCE:

Monitoring Officer, and Team Leader – Democratic Services.

28. DECLARATIONS OF INTEREST (including whipping declarations)

None were received.

29. MINUTES

The minutes of the meeting held on 5th December 2016 were submitted.

On minute number 26 on dispensations being referred to other Councils for determination by agreement, the Monitoring Officer explained that he had spoken to other councils with the outcome being that there was some reluctance to work in such a way. He added that Wrexham County Borough Council Standards Committee only met four times a year so using the dispensation for consideration today as an example, there would not have been a convenient meeting to submit it to for a timely decision. Also, other councils did not receive as many requests for dispensation as Flintshire did.

Mr Ken Molyneux identified two typographical errors on minute number 24.

RESOLVED:

That subject to the typographical errors being amended, the minutes be signed by the Chair as a correct record.

30. DISPENSATIONS

Following despatch of the agenda, a dispensation request had been received from County Councillor Marion Bateman. The request was to speak at meetings of the Planning and Development Control Committee for five

minutes, as local Member, instead of three in relation to planning application number 054548 – the full application for the erection of 43 No. dwellings and associated works at Ffordd Eldon.

She was the local Member for the area in which the proposed development was situated and a member of the Planning and Development Control Committee. She was also a Governor of Sychdyn Primary School and the proposed development would have an impact on that school. As such, there was a recommendation that an education contribution was paid by the developer for the benefit of that school in order to seek to mitigate the impact of the proposed development upon it.

Following a discussion it was agreed that permission be granted as follows: Councillor Marion Bateman be granted dispensation to correspond with officers on planning application number 054548 – the full application for the erection of 43. No. dwellings and associated works at Ffordd Eldon. Also to speak to officers provided that there was a witness which would ensure that at least three people would be present, and that the conversation be minuted. To speak for five minutes prior to the matter being debated at Committee and to leave the room whilst the matter was debated and voted on. The duration of the dispensation was granted for 12 months ceasing on 5th March 2018 or 8th May 2017 if Councillor Bateman was not re-elected. The dispensation would apply to any other application, which, in the Monitoring Officer's view, were substantially the same.

RESOLVED:

That Councillor Marion Bateman be granted dispensation under paragraphs (d) and (f) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to correspond with officers on planning application number 054548 – the full application for the erection of 43. No. dwellings and associated works at Ffordd Eldon. Also to speak to officers provided that there was a witness which would ensure that at least three people would be present, and that the conversation be minuted. To speak for five minutes prior to the matter being debated at Committee and to leave the room whilst the matter was debated and voted on. The duration of the dispensation was granted for 12 months ceasing on 5th March 2018 or 8th May 2017 if Councillor Bateman was not re-elected. The dispensation would apply to any other application, which, in the Monitoring Officer's view, were substantially the same.

31. FORWARD WORK PROGRAMME

The Monitoring Officer introduced the Forward Work Programme. He suggested that an item for the next meeting of the Committee could be presented on the recently published **Welsh Government White Paper: Reforming Local Government: Resilient and Renewed**. The White Paper was a statement of intent for the future of local government in Wales, which was agreed.

He explained that the White Paper re-included some of the provision of the earlier Local Government (Wales Bill) and added new provisions for local government governance, the powers and functions of local authorities, performance and improvement, the roles of Councillors, local democracy, workforce, community councils and electoral reform.

It was agreed that the Team Leader – Democratic Services, would send a link to the White Paper to the Committee in advance of the next meeting.

RESOLVED:

- (a) That the Forward Work Programme be noted; and
- (b) That an item be submitted to the next meeting on the Welsh Government White Paper: *Reforming Local Government: Resilient and Renewed*.

32. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were no members of the press or public in attendance.

The meeting commenced at 6.00pm and ended at 6.25 pm.

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Chairman

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STANDARDS COMMITTEE

Date of Meeting	Monday, 3 April 2017
Report Subject	White Paper – Reforming Local Government: Resilient and Renewed
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The White Paper makes proposals for the reform of local government and provides consultation questions which are open for response until the 11 April 2017.

The White Paper appends a table of the proposals set out in the Local Government Bill which was published in November 2015 (the Bill), and summarises which of those proposals will be omitted, amended or retained in a new local government bill, and the consultation questions seek views on those proposals.

The provisions about mandatory mergers of councils will be removed from the Bill. There is proposed provision for some mandatory regional working (e.g. Transport and Social Services) and scope for voluntary mergers or voluntary shared services where authorities have to put their proposals to WG for approval. However, where such shared services exist councillors will of course still be bound by the code of conduct in undertaking their role in those services.

As well as re-organisation the White Paper contains proposals on how to improve behaviour within councils. The main matters relating to the duties and business of standards committees are:-

- Duties on members of County Councils to show how they communicate and engage with their electorate and the role of standards committees in providing advice and training to members about their new duties
- Duties on leaders of political groups to promote good standards of conduct amongst their members;
- Proposals for triggering a by-election where a member is subject to a sanction for breach of their duties;
- Training requirements for Town and Community Councillors; and
- Annual reporting for standards committees

This report will summarise the above matters, including where provisions from the Bill are retained or amended, or where new provisions are proposed.

RECOMMENDATIONS

1	To consider and discuss the White Paper and share views on the proposals within the White Paper relating to the business of the standards committee so that those views can be reported in response to the consultation.
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REPORT DETAILS

1.00	THE WHITE PAPER
1.01	<p>Duties on members of County Councils to show how they communicate and engage with their electorate and the role of standards committees in providing advice and training to members about their new duties</p> <p>The Bill sets out new duties of Councillors to show, amongst other matters, engagement with their constituents. Those duties are set out under Part 4, Chapter 2 of the Bill and include specific duties to attend meetings, hold surgeries for their constituents, respond to correspondence within 14 days, complete training and complete an annual report on compliance with those duties. Part 4, Chapter 3 of the Bill set out procedures for investigating breaches of those new duties and then provisions for the standards committee to make decisions about alleged breaches. The standards committee would therefore have a new role over and above the role of considering ethical breaches under the code of conduct.</p> <p>The intention set out in the White Paper is to retain these provisions in principle but make some minor amendments such as replacing the duty to hold surgeries to one of facilitating discussion of constituents' issues with them in private; the annual reports duty is to be replaced by one requiring Councillors to say how they have carried out communications with their electorate. There is an intention to extend the period of time from two to three weeks for Councillors to respond to correspondence from their constituents.</p> <p>The intention is to offer a "menu of choices" for councillors so that they can chose the best way to engage with their constituents, depending on the local needs of constituents.</p> <p>In terms of sanctions for breaching those new proposed duties there is a proposed amendment to the Bill to include a provision that if a member is subject to a sanction for breach from the Standards Committee, and a petition of more than 20% of the electorate is signed seeking removal of the member from office, then there will be a by-election.</p> <p>Of some concern to Monitoring Officers is the proposed duty to report to the Standards Committee where they have information to suspect a breach of this duty. This would alter the relationship between councillors</p>

	<p>and officers and might deter councillors from seeking advice and support from the monitoring officer. The monitoring officer group, Lawyers in Local Government, is providing comments in response to the White Paper on this issue.</p> <p>The standards committee will be required to provide advice and training to councillors about these new duties.</p>
1.02	<p>Duties on leaders of political groups to promote good standards of conduct amongst their members and to co-operate with standards committees in exercising their functions</p> <p>This duty is to be included in the new Bill, as are the provisions relating to the role of standards committees in providing advice and training about their new duties.</p>
1.03	<p>Training requirements for Town and Community Councillors</p> <p>The provisions about reviewing community council arrangements, and placing various accounting duties upon community councils (annual reports etc.) are to be omitted from the Bill. The Bill also set out detailed duties for community councillors to undertake training and set out provisions for community councillors who breach those very specific duties.</p> <p>The White Paper proposes removing the duty to undertake specific training and replace it with a duty for community councils to consider their training needs and prepare and publish a plan setting out how it proposes to respond to the training needs identified.</p>
1.04	<p>Annual reporting requirements for standards committees</p> <p>The Bill proposed a requirement for standards committees to produce an annual report of their functions and how they have been carried out. This will include reporting on their functions regarding the new duties set out above.</p>

2.00	RESOURCE IMPLICATIONS
2.01	Additional requirements placed on the standards committee may increase the need for the committee to meet.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The White Paper is open to consultation responses until the 11 April 2017.

4.00	RISK MANAGEMENT
4.01	N/A

5.00	APPENDICES
5.01	The White Paper, Annex one: Status of proposals consulted on as part of the Bill

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>https://consultations.gov.wales/sites/default/files/consultation_doc_files/170130-white-paper-en.pdf</p> <p>Contact Officer: Matthew Georgiou, Deputy Monitoring Officer Telephone: 01352 702330 E-mail: matthew_georgiou@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	PSOW:- the Public Services Ombudsman for Wales whose duty it is to investigate complaints made by members of the public in relation to the actions and decision making of public bodies in Wales.
7.02	WG: - Welsh Government

8. ANNEX ONE: Status of Proposals Consulted on as Part of the Previous Draft Bill Consultation

Table One: Status of Previous Draft Bill Provisions

Policy Proposal	Included in new Bill	Commentary
Part 1: Local Government Areas and Councils		
Local government areas (<i>Compulsory Mergers</i>)	Omit	Compulsory mergers are no longer Government policy.
County Councils	Retain	These sections are mainly intended to update and make clearer the language used to express the basic constitutional arrangements for Local Authorities in Wales. Retention is part of a long term process to make the ancient and sometimes complex law of Local Authority constitutions more open and transparent. Section 12 (change of name of Council) will be retained but amended to refer to county boroughs also, since county borough status will not be abolished as originally proposed.
Establishing the Councils for the new counties	Omit	Proposal was consequential upon compulsory mergers.
Part 2: General Power of Competence		
The general power	Include	There was widespread support for a general power of competence. This proposal will be included in the new Bill.
Eligibility for the general power for Community councils	Amend	Basic proposal remains, some changes to the community councils which meet the requirements and pass a resolution are referred to: and how long councils continue to hold the status after passing a resolution.
Part 3: Promoting Access to Local Government		
Public participation in local government	Retain	This proposal will be included in the new Bill. It would place a duty on Local Authorities to encourage local people to participate in the Council's decision-making processes, input their views and have them taken into account. would also require Councils will be required to consult widely on their budget proposals.
Community area committees	Amend	Omit requirement to have Area Committees of the kind expressed in previous provisions. The White Paper seeks views as to whether, for those local authorities which might wish to operate or continue to operate area committees, any changes are required to the current provisions.
Improvement requests	Omit	There was not sufficient support for this proposal.

Policy Proposal	Included in new Bill	Commentary
Access to meetings etc	Amend	Duty on Leaders/mayors to address public meetings to be modified to enable flexibility about how Leaders engage with the public. This will include a requirement to publish how they intend to do this and report on how successful their initiatives have been. Other proposals in this section retained for inclusion in the new Bill.
Duty to publish a constitution guide	Retain	This proposal will be included in the new Bill. It will require Councils to produce an easy-to-read summary of their constitution, enabling people to see how decisions are made and by whom.
Part 4: Functions of County Councils and Their Members		
Duties on members of county Councils	Amend	Retain in principle but make some minor amendments such as the duty to hold surgeries to be changed to one of facilitating discussion of constituents' issues with them in private; annual reports duty to be replaced by one requiring Councillors to say how they have carried out communications with their electorate. In response to consultation responses, we intend to extend the period of time from two to three weeks for Councillors to respond to correspondence.
Breaches of duties	Amend	A Member receiving a sanction from a standards committee can become subject to a petition which, if receiving sufficient signatures (at least 20% of the local electorate), would trigger a by election.
Further provisions about duties on members	Retain	Leaders of political groups to be required to promote good standards of conduct amongst their Members. This proposal will be included in the new Bill. The provisions relating to the role of standards committees in providing advice and training on the new duties of members will also be retained.
Executives of county Councils	Amend	We will retain the need for leaders to agree objectives with their Cabinet Members, but allow flexibility about the regularity of review.
Appointment of certain chief officers	Retain	This proposal will be included in the new Bill. It will require leaders to make arrangements to manage the performance of the chief executive and also provide that the Head of Democratic Services become a chief officer position.
Overview and scrutiny committees and standards committees	Retain	This proposal will be included in the new Bill and will require the establishment of joint overview and scrutiny committees where services are being delivered collaboratively.
Minor amendments to other legislation	Retain	These will be included in the new Bill.

Policy Proposal	Included in new Bill	Commentary
Part 5: County Councils: Improvement of Governance		
Duty to make arrangements to secure good governance	Retain	This proposal will be included in the new Bill.
Corporate plans	Omit	The WFG Act in effect already asks local authorities to produce a corporate plan.
Assessments of governance arrangements	Retain	This proposal will be included in the new Bill. Local Authorities will be required to secure good governance, this will be tested through regular self assessment and period peer review.
Governance reviews and intervention	Retain	This proposal will be included in the new Bill.
Co-ordination between regulators	Amend	This proposal will be included in the new Bill but amended following feedback from regulators.
Corporate governance and audit committees	Retain	This proposal will be included in the new Bill.
Part 6: Community Councils		
Review of Community Council arrangements	Omit	An independent review to take a more comprehensive look at the future of the community council sector is being commissioned, .
Members of Community Councils to complete training	Amend	Rather than require Community Councillors to undertake specific training community councils will be placed under a duty to consider their training needs and prepare and publish a plan setting out how it proposes to respond to the training needs identified.
Community Council election dates	Amend	The proposal to change the term of office from four years to five years is retained but the change no longer needs to be linked to the timescales for introducing compulsory mergers and will be linked to the introduction of five year terms for principal authorities generally.
Part 7: Workforce Matters		
Guidance on workforce matters	Amend	Consideration will be given to retaining a statutory guidance power, enabling Welsh Ministers to issue guidance about workforce matters.
Public Services Staff Commission	Omit	The Staff Commission will not be put on a statutory footing but will continue until April 2018.
Part 8: General and Schedules		
General		
Interpretation	Amend	Will need to reflect final content of Bill on introduction.

Policy Proposal	Included in new Bill	Commentary
Application of Act in relation to counties and county boroughs until 1 April 2020	Omit	Provision was consequential upon compulsory mergers.
Powers to make consequential etc provision / regulations and orders	Amend	Will need to reflect final content of Bill on introduction.
Coming into force	Amend	Will need to reflect final content of Bill on introduction.
Schedules		
Counties in Wales	Omit	Provision was consequential upon part 1, chapter 1
New Councils: first ordinary elections	Omit	Provision was consequential upon part 1, chapter 1
New Councils: finance	Omit	Provision was consequential upon part 1, chapter 1
Transitional etc provision	Omit	Provision was consequential upon part 1, chapter 1
The 1972 Act: amendments and transitional provision	Retain with some omitted	Most of these provisions are linked to the intention to update and make clearer the language used to express Local Authorities' constitutional arrangements and these will be retained. County borough status will continue so the provisions which removed the status are not needed and will be omitted. Omit the provisions which removed the options to have elections by halves and thirds. Principal authorities will continue to have the options available to them.
Assistants to Local Authority executives	Retain	Enables appointment of deputy cabinet members.
Consequential amendments: chief executive	Retain	Council Leaders will be required to set objectives for chief executives.
Community area committees: further amendments and repeals	Omit	Consideration now being given to amending existing legislation which provides for local authorities to have area committees, rather than replacing it.
Renaming of county Council audit committees	Retain	Broadens power of audit committees and renames as Audit and Corporate Governance Committees

Table Two: Status of Proposals in the Accompanying Consultation Document to the Draft Bill (where not covered in the White Paper above)

Policy Proposal	Included in new Bill	Commentary
Part 1: Local Government Areas and Councils		
Accounts and Audit Requirements	Include	If there are any changes required to the existing framework as a result of mandatory and systematic regional working, these will need to be reflected in the new Bill.
Council Tax	Exclude	Linked to Local Authority merger proposals.
Non-Domestic Rates	Include	Additional powers for Billing Authorities to require information from non-domestic rate payers and inspect non-domestic properties, where necessary for the investigation of potential fraud or avoidance of rates.
Part 3: Promoting Access to Local Government		
Conduct of business (review of schedule 12, LGA 1972)	Include	This will enable notices of meetings and other papers to be produced electronically only, if so desired.
Removal of the restriction on having community council meetings in licensed premises	Include	This will enable community councils to hold meetings in licensed premises. There is no longer an intention to propose that community councils adopt standing orders prohibiting the consumption of alcohol at meetings.
Part 4: General Power of Competence		
Delegation of functions to third parties	Include	It is proposed to reform Part 2 of the Deregulation and Contracting Out Act 1994 to provide for a new regime that will allow Local Authorities to delegate the exercise of certain of their functions to third parties, by order made by the Welsh Ministers.
Electoral Qualifications – 'serving on more than one council	Exclude	Consideration of whether an elected member of a principal council should be able to serve on a Community Council, or a community Councillor should be able to serve more than one community council, will form part of the review of the community council sector.
Remote attendance at meetings	Include	This will make it a requirement for Local Authorities to have arrangements for remote attendance.
Remuneration of members: power for WMS to guide the	Exclude	Welsh Ministers can provide view to IRP in the remit letter if so desired.

Policy Proposal	Included in new Bill	Commentary
IRP to review model of remuneration.		
Powers to dismiss Senior Officers	Exclude	No enthusiasm to follow English route of dispensing with role of Independent Person.
Transfer of Local Authority assets / community asset transfer	Exclude	Existing guidance on community asset transfers was updated in March 2016 and will continue to be kept under review.
Part 5: County Councils: Improvement of Governance		
State of Local Government Report	Omit	We do not intend to pursue powers in this area.
Single Information Portal	Omit	Legislation would not be required to create an information portal
Complaints	Omit	Complaints handling would be considered under the broader 'good governance' requirement
Part 6: Community Councils		
Community councils: publication of annual report	Omit	No longer proceeding with this requirement.
Performance Management of Community Councils	Omit	Consultation on the previous draft bill showed general support for performance management but confirmed this was already happening as part of good employment practices and did not need to be further legislated for.
Review of Community Council legislation	Omit	Consideration is being given to potential for consolidation of existing legislation but any proposed changes to the provisions in the Local Government Act 1972 would need to be informed by the review of the community council sector.
Community Polls	Omit	Provisions in relation to polls conducted for the purpose of forming or dissolving a community council will stay in place pending the review of the community council sector and any legislative reform which follows.



STANDARDS COMMITTEE

Date of Meeting	Monday, 3 April 2017
Report Subject	Training Materials for New and Returning County Councillors & Town and Community Councillors
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

The WLGA have produced training materials for new and returning councillors to assist them with understanding the implications of the code of conduct and to assist them to abide by it.

RECOMMENDATIONS

1	To comment on the training materials and approve their content for the purpose of providing training to new and returning county councillors and to town and community councillors.
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REPORT DETAILS

1.00	
1.01	The training materials include a facilitator's pack and power point slides, which include interactive workshops with several scenarios and case studies, as well as a short test on the code of conduct. It is intended to familiarise new councillors with, and remind returning councillors of, the provisions within the code of conduct, and potential breaches of the code of conduct with references to mock scenarios that members will have the opportunity to discuss and comment on.
2.00	RESOURCE IMPLICATIONS
2.01	None

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	Members of the WLGA have discussed and agreed the content of the training materials.

4.00	RISK MANAGEMENT
4.01	N/A

5.00	APPENDICES
5.01	Proposed training materials for new and returning county councillors & town and community councillors

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>PSOW's video:-</p> <p>Link to Welsh version: https://youtu.be/s-ju9nztRRk</p> <p>Link to English version: https://youtu.be/Cm4escGiBgk</p> <p>Contact Officer: Matthew Georgiou, Deputy Monitoring Officer Telephone: 01352 702330 E-mail: matthew_georgiou@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	PSOW:- the Public Services Ombudsman for Wales whose duty it is to investigate complaints made by members of the public in relation to the actions and decision making of public bodies in Wales.
7.02	WLGA:- Welsh Local Government Association

Member Induction Wales 2017



Ethics and Standards

Briefing Pack for Facilitators



To be delivered by Monitoring officers with - if possible - a senior experienced member. To be used in conjunction with the video of the Ombudsman's contribution supplied on a memory stick. Members should also be provided with the copies of the Authority's Code of Conduct and Ombudsman's guidance.

Duration 2.5 Hours not including break

Workshop Objectives

The purpose of this session is:-

- To provide members with an overview of the ethical framework and Code of Conduct

At the end of this session, members should:-

- Understand the importance of the ethical framework and the requirement upon them to work within it according to the Code of Conduct
- Understand how to act within the code particularly in relation to declaring interests.
- Understand what will happen if the code is breached
- Know where to go for advice and information

Programme:-

1. Introductions: Programme description and objectives 10 mins
2. Introduction and questionnaire (questions only) 20 mins
3. Slides 1-11 incorporating questionnaire answers 40mins
4. Break
5. Slides 12-18 Interests and exercise 35 mins
6. Slides 19-22 Predetermination, breaching the code and further information. To include the Ombudsman's video. 45 mins

Notes to Accompany Power Point Slides

Slide 1: Title and introduction

In Local Government there are principles and standards that underpin the way members and officers interact with each other and the public. These ensure that everything that you do will reflect well on you and your authority. This workshop will help you understand those standards and how you should apply them and what can happen to you if you don't.

Slide 2: Ethical Governance

As a member, how your behaviour is perceived by the public and the media impacts upon your ability to represent local government and the communities you serve. The public needs to feel confident that you are living up to the high standards that they have a right to expect from you.

Slide 3: Consequences for Councillors

These are all real quotes from the press and a Council's website over the last 2-3 years. Clearly it's important for your personal reputation and the reputation of the Council that you understand your responsibilities in this area. Facilitators might want to add some press cuttings of their own.

NB:(QUOTE 1 is from BBC Wales website 2013 article re Powys; Quote 2 is 2016 article from England - North Hertfordshire website; and Quote 3 is Newham Recorder 2016)

Slide 4: Exercise (see appendix 1)

Members undertake the exercise in groups using copies of **appendix 1**. Allow each group to discuss the issue then give their answer. **Do not give out the answers (appendix 2)** they will be provided in the commentary to the PowerPoint. As each answer emerges, flag this up against the original questions. Give out **appendix 2** at the end of the session so that members have something to refer to in the future.

Slide 5: Your Responsibilities Are enshrined in this legislation. The Local Government Act of 2000 established a new ethical framework, the Model Code of Conduct (Wales) Order in 2008 said that all authorities would have a mandatory code of conduct based on a national model.

Paragraph 6.1(c) of the Code which previously required a member to report to the PSOW and the Monitoring Officer ("the MO") any conduct by another member which they reasonably believe breaches the code has been removed. Duty is now to report to MO only but a Member is still entitled to report a breach to the PSOW if considers it is serious.

10(2)(b) of the code which previously provided that there is a personal interest if "a member of the public might reasonably perceive a conflict between your role in taking a decision, upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division" has been removed.

Slide 6: The Ethical Framework

Originated in the Nolan Committee 1997 Report on *Standards in Public Life* which set out the earliest version of these standards. On the slide are the most recent versions as set out in The Conduct of Members (Wales) Order 2001.

Remind members that this is an answer to **Question 1 of the questionnaire**

Use the answers to question 1 in appendix 2 to expand the definitions

Slide 7: The Code of Conduct

Is underpinned by the ethical framework.

Remind members of the content of your Code of Conduct – hand out copies if necessary

If you follow the Code of Conduct you should not go wrong, but if you don't understand it - ask the monitoring officer. One common misunderstanding is that the code only applies to you when you are on official business. THIS IS NOT THE CASE.

Slide 8: The Code applies to you whenever you are ...

Slide 9: And Also...

When not 'doing your job' as a member

Remind Members that this is an answer to Question 6 of the questionnaire

Slide 10-12: General rules you need to follow under the code

Provide Members with a copy of the Ombudsman's guidance to expand the definitions
Give the **answers to question 2, 4 and 6 of the questionnaire** explaining which elements of the code have been breached.

Slide 13: Interests

Slide 14-16: Personal Interests

Refer members to the Ombudsman's guidance,

Give the **answers to Question 3, of the questionnaire**

Outline the procedure of registering interests in your authority

Slide 17: Who is a 'close personal associate'

Refer members to the Ombudsman's guidance

Slide 18: What do you do if you have a Personal Interest?

Slide 19: Prejudicial Interests

Ask members of further examples of prejudicial interests

Slide 20: What do you do if you have a Prejudicial interest?

Slide 21: Interests exercise Appendix 3

Distribute the scenarios and ask members to work in small groups or pairs to consider if there is an interest, the nature of that interest and the action the member should take. Suggested answers are in **Appendix 4**.

Slide 22: Predetermination and Predisposition

Definitions from the Standards Board for England Website

It is not a problem for councillors to be predisposed to a particular view. That predisposition can be strong and can be publicly voiced. They may even have been elected specifically because of their views on this particular issue. It might be in favour of or against a particular point of view, for example an application for planning permission.

However, the councillor must be open to the possibility that, however unlikely, they will hear arguments during the debate about the issue that will change their mind about how they intend to vote. As long as they are willing to keep an open mind about the issue they are entitled to take part in any vote on it.

What is predetermination or bias?

Predetermination is where a councillor's mind is closed to the merits of any arguments which differ from their own about a particular issue on which they are making a decision, such as an application for planning permission. The councillor makes a decision on the issue without taking them all into account.

If councillors are involved in making a decision they should avoid giving the appearance that they have conclusively decided how they will vote at the meeting, such that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

Rarely will membership of an organisation on its own, such as a national charity, amount to apparent bias. This is unless the organisation has a particular vested interest in the outcome of a specific decision that a councillor is involved in making, or the decision is quasi-judicial in nature.

Bias:-

Kelton v Wiltshire [2015] EWHC 2853 (Admin);

The developers had identified a local housing association as a prospective partner to provide the affordable housing segment of the proposed development. One of the councillors (M) involved in the subsequent planning committee meeting was a director of the association. He declared that he was a member of its board but, because it was only a prospective partner rather than the applicant for permission, he decided to vote on the planning application, which was passed by one vote. Had he withdrawn from the debate and not voted, the application would have been refused. The association subsequently became the developers' preferred bidder for the affordable housing.

M's participation in the planning meeting gave rise to an appearance of potential bias. It was plainly in the association's interests, and those of M as director, for the planning application to be approved. The association had committed time, resources and expertise in working with the developers on the affordable housing. It was highly unlikely that it would have done so unless it believed that it would be awarded a contract once

permission was granted. Apparent bias could arise even in a case where a councillor had not voted, *Darker Enterprises v Dacorum BC [1992] C.O.D. 465* considered. M's private interests were engaged by the vote and it had been wrong for him to have participated in the meeting. The decision to grant planning permission was, accordingly, quashed.

Making the decision

There is an important difference between those councillors who are involved in making a decision and those councillors who are seeking to influence it. This is because councillors who are not involved with making a decision are generally free to speak about how they want that decision to go.

When considering whether there is an appearance of predetermination or bias, councillors who are responsible for making the decision should apply the following test: would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the councillor had predetermined the issue or was biased?

However, when applying this test, they should remember that it is legitimate for a councillor to be predisposed towards a particular outcome as long as they are prepared to consider all the arguments and points made about the specific issue under consideration.

Also the importance of appearances is generally more limited when the context of the decision-making is not judicial or similar to judicial. Planning decisions are not similar to judicial decisions, they are administrative. Therefore councillors can appear strongly predisposed for or against a particular planning decision.

Slide 23

Kelton v Wiltshire [2015] EWHC 2853 (Admin);

The developers had identified a local housing association as a prospective partner to provide the affordable housing segment of the proposed development. One of the councillors (M) involved in the subsequent planning committee meeting was a director of the association. He declared that he was a member of its board but, because it was only a prospective partner rather than the applicant for permission, he decided to vote on the planning application, which was passed by one vote. Had he withdrawn from the debate and not voted, the application would have been refused. The association subsequently became the developers' preferred bidder for the affordable housing.

M's participation in the planning meeting gave rise to an appearance of potential bias. It was plainly in the association's interests, and those of M as director, for the planning application to be approved. The association had committed time, resources and expertise in working with the developers on the affordable housing. It was highly unlikely that it would have done so unless it believed that it would be awarded a contract once permission was granted. Apparent bias could arise even in a case where a councillor had not voted, *Darker Enterprises v Dacorum BC [1992] C.O.D. 465* considered. M's private interests were engaged by the vote and it had been wrong for him to have participated in the meeting. The decision to grant planning permission was, accordingly, quashed.

Slide 24: How the Code is Policed

This is the answer to question 8

Use the answer in **Appendix 2** to explain the roles of the different bodies

Slide 25: What happens if you breach the Code?

This is the procedure if there is a breach of the code

Video 5 mins

Slide 26: A further exhortation to ask the Monitoring Officer if members are in any doubt about ethical behaviour!

Appendix 1

Questionnaire

Answers are not provided immediately but through a PowerPoint presentation which also gives greater detail and background and which can be kept by members for reference.

Question 1

Can you set out the ten principles of conduct for Members which underpin the Code of Conduct?

Question 2

The Council is involved in negotiations with a private contractor to develop a regeneration scheme involving the building of a leisure, residential and retail development in two Council wards. The contractor's Managing Director has invited members of Regeneration Scrutiny Committee (some of whom are also members of the Planning Committee) and officers from the Regeneration Department to a presentation of its company's proposals in a corporate box at a premiership football ground. There will be a champagne reception followed by a premiership football match. Should they accept the offer?

Question 3

A Councillor is an active member of Greenpeace and a member of the Council's Planning Committee. The Council is supportive of the local nuclear power plant and is engaged in discussions to develop a site to process nuclear waste from other parts of the Country. What kind of interest, if any, does the Member have in those discussions?

Question 4

A man wishes to move his family to a Council house closer to their elderly family members and want to move as soon as possible. He approaches a Councillor, who the man knows through their mutual membership of the local football team, and who is also the chair of

the Housing Scrutiny Committee. The Councillor promises to take the matter forward. Processing particular housing applications are dealt with by housing allocations officers and not by Councillors. The Councillor tells a Housing Officer of the Council to elevate the application to the top of the waiting list. The area that the family wish to move to is based in the Councillor's Ward.

Is the Councillor breaching the Code of Conduct?

Question 5

A member of the public has written a letter of complaint about a Member. She said that last Saturday she was working at an evening function at a cricket club and bar when a man swore at her and called her an offensive name. On leaving the function the man kicked the door cracking some glass in the door panel. Another person who witnessed the incident told her the man was a local Councillor.

Do you believe the Code of Conduct has been breached and what might an appropriate response be to the alleged misconduct?

Question 6.

A Councillor built dog-kennels to accommodate 20 dogs in the basement of her home without first obtaining planning permission. She placed an advert in the local paper that stated that in March, the Kennels would be ready to open, and that they were fully licenced. She had not obtained a licence when she placed the advert. She then submitted a Planning Application in July. She did not state in her application that she had an interest as a councillor.

In September, before the meeting of the Council's planning committee she emailed a member of that committee about the application, requesting that they should support it. She attended the Planning Committee meeting and spoke before her application was debated but then remained in the meeting throughout the debate on her application.

Has the Councillor breached the Code of Conduct?

Question 7

Can you set out the Council's processes for: -

1. Declaring and registering Members' interests.
2. Accepting offers of gifts or hospitality by members

Question 8

Can you explain the roles of the following:-

1. The Monitoring Officer

2. The Ethics & Standards Committee
3. The Public Services Ombudsman for Wales
4. The Adjudication Panel for Wales

Appendix 2

Questionnaire Answers

Question 1

Can you set out the ten principles of conduct for Members which underpin the Code of Conduct?

Answer

The starting point for much of the work was the 1997 Committee on Standards in Public Life (known as The Nolan committee). As a result of the Nolan Committee's recommendations, local government adopted a new ethical framework. The latest version of this in Wales is set out in "The Conduct of Members (Principles) (Wales) Order 2001.

The ten general principles of conduct for Members:-

1. Selflessness

Members must act solely in the public interest. They must never use their position as Members to improperly confer advantage on themselves or to improperly confer advantage or disadvantage on others.

2. Honesty

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

3. Integrity and Propriety

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

4. Duty to Uphold the Law

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

5. Stewardship

In discharging their duties and responsibilities, Members must ensure that their authority's resources are used both lawfully and prudently.

6. Objectivity In Decision Making

In carrying out their responsibilities, including making appointments, awarding contracts, or recommending individuals for awards and benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and must properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

7. Equality and Respect

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for people regardless of their gender, race, disability, sexual orientation, age or religion and show respect and consideration for others.

8. Openness

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

9. Accountability

Members are accountable to the electorate and the public generally for their actions and the way they carry out their responsibilities as a Member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

10. Leadership

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

Question 2

The Council is involved in negotiations with a private contractor to develop a regeneration scheme involving the building of the leisure, residential and retail development into Council wards. The contractor's Managing Director has invited members of Regeneration Scrutiny Committee (some of whom are also members of the Planning Committee) and officers from the Regeneration Department to a presentation of its company's proposals in

a corporate box at a premier football ground. There will be a champagne reception followed by a premier football match. Should they accept the offer?

Answer

The Members (and indeed the officers) should decline the offer as acceptance could potentially breach paragraph 6 of the Code i.e. you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. The perception of members of the public will be that by providing the hospitality, the contractor is attempting to influence the Council's decision about awarding the regeneration contract. Members of the public may also consider that at a future date, members of the Planning Committee when they consider the development, will not make a decision on the planning issues but instead be influenced by the generous hospitality offered.

In addition, Members should ensure that the fact that the offer had been made and the fact that it had been declined, is notified to the Monitoring Officer in case the issue became contentious at a later date.

If a Member had accepted such hospitality contrary to any advice, then a prejudicial interest would be incurred in respect of that contractor and any potential decisions relating to the contract or the planning development etc.

The hospitality would have a value of over your authority's limit and would have to be notified to the Monitoring Officer for inclusion in the register of gifts and hospitality. The duty is on the member to be aware of this limit

Question 3

A Councillor is an active member of Greenpeace and a member of the Council's Planning Committee. The Council is supportive of the local nuclear power plant and is engaged in discussions to develop a site to process nuclear waste from other parts of the Country. What kind of interest, if any, does the Member have in those discussions?

Answer:

This Member is likely to have a personal interest under paragraph 10 (2)(viii)(cc) by virtue of the membership of Greenpeace (a body whose principal purposes include the influence of public opinion or policy). The Member should refer to that interest in any written or oral representations referring to the matter under paragraph 11 (2)(a) and (b). It is probably unlikely that the interest becomes prejudicial. It would have to be considered when the Planning Committee determined any application on the plant. Greenpeace would not be the applicant; its financial position would not be affected and presumably

neither would the wellbeing of the Member concerned. Greenpeace tends to have views on waste disposal nationally rather than specifically so that the interest declared at the planning meeting is likely to be personal, but not prejudicial. However it needs careful consideration.

In addition, notification of the Councillor's membership of Greenpeace should properly have been sent to the Monitoring Officer for inclusion in the public Register of Members Interests because it is a body whose principal purposes include the influence of public opinion or policy.

Question 4

A man wishes to move his family to a Council house closer to their elderly family members and wants to move as soon as possible. He approaches a Councillor, who the man knows through their mutual membership of the local football team, and who is also the chair of the Housing Scrutiny Committee. The Councillor promises to take the matter forward. Processing particular housing applications are dealt with by housing allocations officers and not by Councillors. The Councillor tells a Housing Officer of the Council to elevate the application to the top of the waiting list. The area that the family wish to move to is based in the Councillor's Ward.

Is the Councillor breaching the Code of Conduct?

Answer:

There are three possible breaches of the Code.

1. 4(d) You must not do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of your authority.
2. 6(1)(a) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
3. 7 (a) In your official capacity or otherwise you must not 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.

In addition, the Councillor may have failed to declare a personal interest which is likely to be prejudicial in that he knows the man involved. This may fall into the category of close personal associate and would have to be carefully considered by the councillor.

It is not acceptable for any Member to seek preferential treatment for a constituent by telling the Housing Officer they must prioritise a particular application. Whilst it

is appropriate for Members to pass on constituents' concerns to the relevant officer and to ensure that the relevant processes are being undertaken in a timely fashion etc, it is not acceptable to interfere with that process as this undermines priorities agreed by the Council and established in other Council procedures and puts the Member concerned in breach of the Code of Conduct. A Member needs to also remember that when contacting an officer on a matter they must disclose any personal interest in the matter they are contacting them about.

Question 5

A member of the public has written a letter of complaint about a Member. She said that last Saturday she was working at an evening function at cricket club and bar, when a man swore at her and called her a rude name. On leaving the function the man kicked the door cracking some glass in the door panel. Another person who witnessed the incident told her the man was a local Councillor.

Do you believe the Code of Conduct has been breached and what might an appropriate response be to the alleged misconduct?

Answer

Mostly, the Code of Conduct applies to a Councillor whenever he or she is conducting the business or is present at a meeting of the authority or acting or claim to act or give the impression he or she is acting in the role of an elected Member or representative of the authority.

However, the Code of Conduct affects Members at all times and in any capacity in respect of paragraph 6 (1)(a) not conducting yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute and 7 (a) or (b) relating to using your position improperly to confer an advantage on yourself or another person or create a disadvantage to another person or using the resources of your authority improperly etc.

Here, the behaviour is clearly bringing the office and authority into disrepute and is a breach of paragraph 6.

It might be that the complainant would wish for an informal resolution by the Monitoring Officer. However, both parties would have to agree to the same and would not result in the sanction of the Member concerned. It is usually only suitable where an apology would be an acceptable solution or perhaps an agreement by the Member concerned to undergo further training regarding suitable behaviour under the Code.

However, there has been criminal damage in that the glass in the cricket club door was broken. It may be that there would be criminal proceedings in that regard and the complainant would not wish for an informal resolution and would wish to make a complaint directly to the Ombudsman.

Question 6

A Councillor built dog-kennels to accommodate 20 dogs in the basement of her home without first obtaining planning permission. She placed an advert in the local paper that stated that in March, the Kennels would be ready to open, and that they were fully licenced. She had not obtained a licence when she placed the advert. She then submitted a Planning Application in July.

In September, before the meeting of the Council's planning committee, where the Councillor's application was to be considered she emailed a member of that committee about the application, requesting that they should support it. She attended the Planning Committee meeting and spoke for 3 minutes before the application was debated and remained in the meeting throughout the debate on her application.

Has the Councillor breached the Code of Conduct?

(1) Contrary to Paragraph 6(1)(a) of the code (You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute) the Councillor carried out building works at her home without first applying for planning permission.

(2) Contrary to Paragraphs 10(1) of the code the Councillor (you must in all matters consider if you have a personal interest) failed to consider whether she had a personal interest in the Planning Application and whether she was required to disclose that interest when she e-mailed a member of the planning committee concerning the said Planning Application

(3) Contrary to Paragraphs 11(2)(a) (Where you have a personal interest in any business of your authority and you make written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication) of the Code of Conduct, the Councillor failed to include details of her personal interest in the planning application or in her written representations contained in her e-mail

(4) Contrary to Paragraph 14(1)(c) (not to influence that business) and / or Paragraph 14(1)(d) of the Code of Conduct (not to make written representations about that business), the Councillor sought to influence a decision about her Planning Application by her e-mail to the Councillor who considered the Councillor's Planning Application as a Member of the Planning Committee (despite having a personal interest in the said Planning Application and a prejudicial interest by virtue of Paragraph 12(1) of the Code of Conduct

(5) Contrary to Paragraph 6(1)(a) of the Code of Conduct, the Councillor advertised the Kennels as licensed albeit they were not licensed and therefore misrepresented the position.

(6) The councillor may have had the right to speak at the planning committee meeting and to make written representations to that meeting if a member of the public had a right to make representations, but not to write to members of the committee without declaring that interest. She should also have declared her interest to the meeting before she spoke and then left the meeting after she had spoken.

Question 7

Can you set out the Council's processes for:

3. Declaring and registering Member's interests.
4. Accepting offers of gifts or hospitality.

Answer

The law and the Council's Code of Conduct require Members to declare personal interests. Some personal interests have to be recorded in the statutory public register within 28 days of a Member's election or appointment to office. They must be updated by the Member within 28 days of any change.

There is an exemption from having to declare "sensitive information" upon which you can seek advice of the Monitoring Officer. The Monitoring Officer sends the Members information about the relevant form and reminds them to make updates regularly.

Members of the public are allowed to inspect the entries in the public register.

Separately, in oral and written communications as well as at meetings of the Council, Members are obliged to declare personal and prejudicial interests that are relevant to the matter being discussed in written or oral communications or as part of decisions made at committee and other meetings. Those interests are either noted by the officers or Members concerned and in relation to meetings are contained within the minutes.

The Monitoring Officer also maintains a public register of gifts and hospitality accepted by Members. Currently, the level at which any gifts and hospitality accepted must be registered is [the level is set by each individual authority]. [In certain authorities it may be that the Ethics and Standards Committee has also indicated it would be good practice for Members to notify the Monitoring Officer of offers of gifts or hospitality that have been declined in case there may be contentious at a future date].

Question 7

Can you explain the roles of the following:-

1. The Monitoring Officer
2. The Ethics & Standards Committee
3. The Public Services Ombudsman for Wales
4. The Adjudication Panel for Wales

Answer

1. Every principal authority in Wales (County Councils and County Borough Councils) must appoint a Monitoring Officer. The Monitoring Officer is responsible for maintaining ethical standards and advising and training Members on the Code of Conduct. The Monitoring Officer supports the work of the Council's Standards Committee. The Monitoring Officer is also responsible for advising and training Community Council Members on the Code of Conduct. In effect, the Monitoring Officer, in partnership with the Ethics and Standards Committee is the primary source of advice and guidance for both Members and Officers on ethical and standards issues and the operation of the Code of Conduct.
2. The Ethics & Standards Committee. Legislation sets out the requirements that every local authority must have an Ethics & Standards Committee. Regulations govern their composition, their powers and procedures. There are [again each committee will vary in size in each authority] members on the Committee which must be chaired by an independent Member and there must be a majority of independent members to establish a quorum. In this authority there are [] independent members, [] elected members and [] Community Council representatives. Tell members how often your committee meets and what its remit is as set out in the constitution. The committee has powers to determine matters relating to alleged breaches of the Code of Conduct reported to them by the Public Services Ombudsman for Wales. They also grant dispensations by enabling participation in business for Members which would otherwise be prohibited by the Code. Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 – provides for the Monitoring Officer to refer a matter to another authority's Standards Committee with the written consent of the Chair. Provides for joint standards committees to be established.
3. The Public Services Ombudsman for Wales investigates complaints made by members of the public about the way they have been treated by a public body and promotes good administration and high standards of conduct. He also investigates complaints alleging a Councillor has breached the Code of Conduct. Legislation sets out how he is able to decide whether to investigate complaints and how his report is then presented either to a Council's Ethics & Standards Committee or the Adjudication Panel for Wales.

4. The Adjudication Panel for Wales is an independent body established under Part 3 of the Local Government Act 2000. Its role is to form tribunals to consider whether elected Members or co-opted Members of County Borough Councils, Police, Fire and Rescue and National Park Authorities in Wales have breached their authority's statutory Code of Conduct. The Panel will also hear appeals by Members against decisions of their authority's Standards Committee. A Member wishing to appeal against the decision of a Standards Committee will have to first request permission to appeal from the Adjudication Panel for Wales. Usually three Members sit on a Tribunal, Chaired by one of the Legal members of the Panel. In cases referred direct by the Ombudsman, there is a range of sanctions available to the Tribunal including suspension or partial suspension of a Member from office for up to one year or disqualification for up to five years.

Appendix 3

Interests exercise

1. Councillor Arkwright

Councillor Arkwright is the owner of the one of the largest convenience stores in a seaside town. He is a member of the Planning Committee and Licensing Committee. The following applications are on the agenda for the next meeting:

- (a) an application by a local petrol station to build an extension to include a larger shop with a better selection of convenience goods for their customers in the same town;
- (b) an application by the owner of a convenience store in another seaside town, 10 miles away, to build a car park on a piece of land behind the convenience store;
- (c) an application by the owner of a news agents on the outskirts of the town for a licence to sell alcohol. Councillors Arkwright is also involved in a legal dispute with the same person over the ownership of a piece of land.

2. Councillor Speed

- Councillor Stokes works voluntarily with a local youth cricket team. The team hold their training sessions on a field owned by the Council.
- The Council is considering selling the field to a local developer who wishes to build a block of flats. The final decision will be made by the Area Committee on the basis of a report by the Head of the Property Service. Councillor Stokes is the local member.
- Councillor Stokes will not be attending the meeting as he will be on holiday. However, he intends sending an e-mail to the Head of Property before going away, emphasising the importance of the cricket team to the local youth. He has also asked for a meeting with the estates officer dealing with the matter.

3. Councillor Jones.

Councillor Jones is a member of the Planning Committee. At its next meeting, the Committee will be considering the two following applications:

(a) An application by a company to build a small office block in a conservation area. One of the senior managers of the company is married to Councillor Jones' cousin.

(b) An application to build a new classroom for a local primary school. The Councillor is one of the school's governors.

Appendix 4

Interests exercise suggested answers

1. Councillor Arkwright

Does he have a personal interest?

- ⤴ In all matters, a member must consider whether or not he/she has a personal interest whether that interest must be disclosed. [10. (1)]
- ⤴ He would have a personal interest if it relates to, or is likely to affect any employment or business carried out by him. [10 (2)(a) (i)]
- ⤴ Would a decision on the application affect Cllr. Arkwright's business?
- ⤴ He will have an interest if it is reasonable to consider that a decision on that matter would affect the wellbeing or financial position of the member or anyone with whom he has a close personal association, to a greater extent than the majority of other inhabitants in the electoral division or ward. [10 (2) (c) (i)]
- ⤴ *"Close personal associates can include someone with whom you have been in dispute, and where you may be regarded as having an interest in disadvantaging."* (Ombudsman's guidelines).

Is it a prejudicial interest?

- ⤴ Is there an exemption under the code? [paragraph 12(2) & (3)]
- ⤴ Would it be reasonable for a member of the public with knowledge of the relevant facts to regard the interest as being so significant that it is likely to prejudice the member's judgement of the public interest? [12(1)]
- ⤴ *"Where there has been a dispute between you and an individual where that individual could be disadvantaged by a decision, an informed reasonable member of the public might conclude that you would be inclined to vote accordingly, whether this is the case or not."* The Code of Conduct for members of local authorities in Wales, Guidance from the Public Services Ombudsman for Wales.

What should he do?

- ⤴ If it is a prejudicial interest then a member must (unless he/she has obtained a dispensation from the Standards Committee) :
 - withdraw from the room or place where a meeting considering the business is being held. [14(1)] unless a member of the public has a right to make representations to the meeting and he can then exercise the same right to speak as long as he withdraws from the room before the matter is debated,

or he can make written representations to the meeting. He should still declare his interest and the nature of that interest.

2. Councillor Stokes

- ⤴ In all matters, a member must consider whether or not he/she has a personal interest whether that interest must be disclosed. [10. (1)]
- ⤴ He will have an interest if it relates to, or is likely to affect a private club, society or association operating within the authority's area in which he has membership or holds a position of general control or management [10 (2) (a) (ix)]
- ⤴ Further information is required as to the exact nature of the councillor's relationship with the Club. What if he were a member of the managing committee of the Club?

Is it a prejudicial interest?

- ⤴ Is there an exemption under the Code? [paragraph 12(2) & (3)]
- ⤴ Would it be reasonable for a member of the public with knowledge of the relevant facts to regard the interest as being so significant that it is likely to prejudice the member's judgement of the public interest? [12(1)]

What should he do?

- ⤴ If it is a personal interest only, that interest must be disclosed at any meeting where the matter is discussed, and in any letter, e-mail, etc. to a member or an officer of the authority. [para 11]
- ⤴ If it is a prejudicial interest, then the member must (unless he has obtained a dispensation from the Standards Committee):
 - not to seek to influence decision about that business;
 - not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business. [14(1) (c) & (d)]

"...you must not seek to influence a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage."

- Is there anybody else who can discuss the matter with the Council on behalf of the club?
- The interest (i.e. the involvement with the youth club) should be registered on the Council's Register of Interests.

3. Councillor Jones.

(a) The Member should consider whether he/she has a personal and prejudicial interest in the Planning Application. The Member will have a personal interest under 10 (2) (c) (i) if her wellbeing or financial position, or that of a person with whom she lives, or any person with whom she has a close personal association is affected by the decision.

It is not clear on the facts given of the nature of the relationship between the Member and the senior manager. The Public Services Ombudsman for Wales has issued guidance to help clarify this definition:

"Close personal associates include people such as close friends, colleagues with whom you have particularly strong connections, business associates and close relatives. It does not include casual acquaintances, distant relatives or people you simply come in contact with through your role as Member or you work in a local community."

(b) She has a personal interest by virtue of a fact that the governing body of the school is a body to which she has been elected, appointed or nominated by her authority[10(2)(a)(viii)]

Such a body is also one of the exemptions under the Code which will usually means that it is not a prejudicial interest. [12(2) (a) (iii)]

However, because the matter under consideration relates to the determination of an approval, consent, licence, permission or registration, this exemption does not apply. The usual test must therefore be considered to decide whether or not the interest is a prejudicial one. [10(3)]

Member Induction Wales 2017



Ethics and Standards

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Ethical Governance

Effective local government requires high standards of conduct to ensure that there is public confidence in everything we do.



Consequences for Councillors...

- “The committee found that [the] councillor had breached the code of conduct and that he should be suspended for a calendar month”
- “[The Councillor] had failed to show respect and consideration for others... the Committee agreed that they would publish the Committee’s findings ...and recommend to Council that the Member be issued with a formal censure”
- “Councillor breaches code of conduct for threatening behaviour...towards employee”

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Exercise

Questionnaire

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Your Responsibilities

You have a legal duty to act ethically. This is set out in the Local Government Act 2000.

The Local Authorities (Model Code of Conduct) (Wales) Order 2008 requires a mandatory code of conduct in each authority based on a national model

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The Ethical Framework

The Nolan Committee in 1997 - origins of the ethical framework for Standards in Public Life

As a Member you must have regard to these principles :

Selflessness

Honesty

Integrity and Propriety

Duty to uphold the law

Stewardship

Objectivity in Decision making

Equality and respect

Openness

Accountability

Leadership



Code of Conduct

- Shows you how to apply the ethical framework
- Unless you sign your Declaration of Acceptance and give a written undertaking to observe the Code of Conduct you cannot be a member
- If you fail to undertake or observe you can be suspended from office
- Applies to all members in Wales apart from members of Police Authorities who should comply with the English Code of Conduct

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The Code Applies to You Whenever You Are ...

- In any “official” meeting of the authority
- In any meeting where members or officers of the authority are present
- Acting, claiming to act or giving the impression you are acting as a representative of the authority
- Conducting business of the authority as a member and acting as a representative of the authority
- Acting in an official capacity
- Acting as a representative on another body unless that body has conflicting legal rules or its own code.

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And Also...

At any time if :

- You conduct yourself in a manner likely to bring your office or authority into disrepute or
- You use or attempt to use your position to gain advantage or avoid disadvantage for yourself or others or
- You misuse your authority's resources

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General Rules you Need to Follow Under the Code

- Promote equality
- Treat others with respect and consideration
- Do not bully or harass people
- Do not compromise the impartiality of officers
- Do not disclose confidential information
- Do not prevent access to information

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General Rules you Need to Follow Under the Code

- Do not bring your office or authority into disrepute
- You must report breaches of the code to your Monitoring Officer
- Do not make vexatious complaints
- You must cooperate with investigations
- You must not use your position improperly
- Do not misuse your authority's resources

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General Rules you Need to Follow Under the Code

- Reach decisions objectively
- Consider advice that officers give you and give reasons if you don't take it
- Comply with the law and your authority's rules regarding expenses
- Do not accept any gifts or hospitality that would place you under an obligation or seem to do so.

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Interests

The public must have confidence that you are making decisions in their best interests not yours!

Therefore, if you have an interest you must declare it.



Personal Interests

You have a personal interest when a decision relates to or is likely to affect you or a “close personal associate” in relation to

- Your job or business
- Your employer or company in which you are a partner or director
- Someone who has contributed to your election costs or member expenses
- Any company where you have shares over £25K or more than 1% of the total share value which has premises or land in your area

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- Any contract that your authority makes with a company in which you are a partner, paid director or hold shares
- Any land in which you have an interest in your authority's area
- Any land let by your authority to a firm in which you are a partner, paid director or hold shares
- Any land in your authority's area which you have a license to occupy for at least 28 days

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- Any body to which you have been elected appointed or nominated by your authority
- Any public authority or body exercising functions of a public nature, charity, public opinion or policy, trade union or professional association, private club or society in your authority's area of which you are a member or in a management position

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Who is ' a Close Personal Associate'

Not just your best friend but your worst enemy....

- Close friends
- Colleagues with whom you have strong connections
- Business associates
- Close relatives
- Or someone with whom you have been in dispute

- But not casual acquaintances, distant relatives or people who you come into contact with through your work.

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What Do You Do If You Have a Personal Interest ?

- You must declare it verbally at meetings
- You must declare it when making written or verbal representations outside of a meeting
- You must complete a declaration of interests form
- BUT you are entitled to take part in discussions and vote unless it is a prejudicial interest

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Prejudicial Interests

Are personal interests which a member of the public would regard as likely to influence your opinion or your ability to be objective for example:

- If your daughter lives next to a proposed site for a new housing development
- If your son attends a local school which is due for closure

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What Do You Do if You Have a Prejudicial Interest?

You must leave the meeting during the discussion

You must not exercise delegated powers

You must not seek to influence the decision

You must not make written or verbal representations

UNLESS

The Standards Committee has granted you a dispensation

The public have a right to speak in which case you have the same right to speak (but you must leave after you have spoken) or you can provide written representations to the meeting

You have been called before a scrutiny committee

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Interests Exercise

In groups consider the scenarios and answer the questions.

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Predisposition and Predetermination

Predisposition – having an opinion on something but you have not yet made up your mind

Predetermination – having decided a position on something where no argument will change your mind

If you are involved in a decision you should avoid giving the impression that you have conclusively decided how you will vote at the meeting.

“I have a view on the subject but want to listen to all the arguments before I make up my mind”



Bias

- Bias – Members need to remember that apparent bias can infect the whole decision and make it vulnerable to challenge as is highlighted by a recent case in the High court:- *Kelton v Wiltshire*
- Planning permission for a residential development was quashed due to the apparent bias of a member of the planning committee

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How the Code is Policed

- The Monitoring Officer
- The Standards Committee
- The Public Services Ombudsman for Wales
- The Adjudication panel for Wales



What Happens if you Breach the Code?

- Complaints are made to the Ombudsman
- If he believes them to be justified he refers them to the authority's standard's committee or to a tribunal convened by the Adjudication Panel for Wales
- If they find the complaint proven they can impose a range of sanctions from no action through suspension to disqualification for 5 years
- Even if you are suspended you are still subject to the Code!
- Remember also any local resolution procedures

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Where to Find Further Information

- If in doubt ask the Monitoring Officer
- Guidance from the Public Service Ombudsman for Wales <http://www.ombudsman-wales.org.uk/>

FLINTSHIRE COUNTY COUNCIL – STANDARDS COMMITTEE – FORWARD WORK PROGRAMME

Date of Meeting	Topic	Notes/Decision/Action
October 2017		Joint meeting with Town and Community Councils Dec 2016 meeting - That the Ombudsman be invited to the next meeting with Town and Community Councils
July 2017	Annual Report	April 2016 meeting - It was agreed that a template Annual Report would be provided to Members on an annual basis which would act as a prompt for producing the document.
May 2017	<ul style="list-style-type: none"> • Member Communications 	May 2016 meeting - That Members be contacted in May each year with a template annual report and be advised that any completed annual reports could be placed on the Council's website by Democratic Services.
April 2017	<ul style="list-style-type: none"> • Training • Dispensations 	Welsh Government White Paper: Reforming Local Government: Resilient and Renewed The Team Leader – Democratic Services, would send a link to the White Paper to the Committee in advance of the next meeting.

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