

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

STANDARDS COMMITTEE

At: Committee Room 5, Guildhall, Swansea

On: Friday, 3 June 2016

Time: 9.35 am

Chair: Meirion Howells

Membership:

Councillors: J A Hale, C E Lloyd and L G Thomas

Co-opted Members: J Burgess, P Crayford, G Evans, J Gomes and M Williams

AGENDA

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1 Apologies for Absence.	
2 Disclosures of Personal and Prejudicial Interests. www.swansea.gov.uk/disclosuresofinterests	
3 Minutes. To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 3
4 New Model Code of Conduct.	4 - 27
5 Local Government Ethical Framework - New Statutory Provision.	28 - 56
6 Public Services Ombudsman for Wales Code of Conduct Casebook (For Information) <i>Issue 6 – October 2015</i> <i>Issue 7 – January 2016</i>	57 - 73
7 Process for Appointment of Independent Member to Standards Committee (Verbal). <i>Huw Evans, Head of Democratic Services</i>	
8 Workplan 2016-2017.	

Next Meeting: Friday, 2 September 2016 at 9.35 am



Patrick Arran
Head of Legal and Democratic Services
Friday, 27 May 2016

Contact: Democratic Services: (01792) 636923

STANDARDS COMMITTEE (4)

Councillors

Labour Councillors: 3

Joe A Hale	Clive E Lloyd
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Liberal Democrat Councillor: 1

L Graham Thomas	
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Name	Term of Office	Name	Term of Office
Jill Burgess	19.10.2012 to 18.10.2018	Jennifer Gomes*	05.12.2008 to 04.12.2016
Philip Crayford	26.11.2015 to 25.11.2019	Meirion Howells*	01.08.2008 to 31.07.2016
Gareth Evans	01.04.2015 to 31.03.2021	Margaret Williams	01.04.2015 to 31.03.2021

NOTE:

1. * Denotes that the **period of office cannot be extended further.**
2. The **term of office for Independent Members** can be for not less than 4 nor more than 6 years. They can be reappointed for one further consecutive term but that term cannot be for more than 4 years.
3. **Members of the Local Authority/Community Town Councillors** who are members of the Standards Committee will have a term of office of no more than 4 years or ending at the next ordinary local government election following their election, whichever is the shorter.
4. The Standards Committee **shall not sit if the Independent Members are outnumbered by Councillors.** A Councillor shall remove him/herself from the meeting in order for the business to be transacted.

CITY AND COUNTY OF SWANSEA

MINUTES OF THE STANDARDS COMMITTEE

HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON FRIDAY, 4
MARCH 2016 AT 9.35 AM

PRESENT: M Howells (Chair) Presided

Councillor(s)

J A Hale

Councillor(s)

C E Lloyd

Councillor(s)

Co-opted Member(s)

J Burgess
M Williams

Co-opted Member(s)

G Evans

Co-opted Member(s)

J Gomes

Officer(s)

Patrick Arran
Allison Lowe

Head of Legal & Democratic Services / Monitoring Officer
Democratic Services Officer

Apologies for Absence

Councillor(s): L G Thomas

Independent Member(s): P Crayford

32 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS**

In accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

33 **MINUTES**

RESOLVED that the minutes of the Standards Committee held on 4 December 2015 and the Special Standards Committee held on 22 January 2016 be approved as a correct record.

34 **FEEDBACK ON ANNUAL MEETINGS WITH POLITICAL GROUP LEADERS, CHIEF EXECUTIVE AND CHAIRS OF COMMITTEES.**

The Chair reported on the feedback following discussions with the Political Group Leaders, Chief Executive and Chairs of Committees.

The Committee discussed the recurring themes and key issues raised.

Due to the new guidelines being issued by the Welsh Government in relation to the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016, the Committee agreed to focus on points 2.5 and 2.6 of the report.

RESOLVED that:

- 1) The Standards Committee members continue to attend various Committees of the City & County of Swansea in order to promote good practice and ensure that respect is maintained;
- 2) The Independent Members of the Standards Committee attend Community / Town Council meetings as an evidence gathering exercise in relation to Code of Conduct issues.

35 **DISCUSSION ON RESPONSE FROM THE PUBLIC SERVICES OMBUDSMAN FOR WALES IN RELATION TO CHAIRS LETTER RE CODE OF CONDUCT CASEBOOK (JULY 2015).**

The Chair of the Standards Committee reported that the Public Services Ombudsman for Wales had responded to the letter from the Chair dated 21 December 2015 in relation to the PSOW Code of Conduct Casebook – July 2015.

The Committee discussed whether to respond further, however it was decided that owing to the forthcoming changes to the Model Code of Conduct, the Committee would continue to monitor the situation over the next few months.

RESOLVED that the contents of the letter are noted.

36 **THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) (WALES) (AMENDMENT) ORDER 2016.**

The Monitoring Officer provided a verbal update to the Committee in relation to the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 which would come into effect on 1 April 2016.

The City & County of Swansea and all Community and Town Councils will have to adopt the new Model Code of Conduct by the 26 July 2016 at the latest and it is recommended that this will be done at the next available Council meeting. Until the new Model Code of Conduct is adopted, the existing one will continue to apply.

He outlined the main changes to the Order and stated he would circulate a briefing note to the Standards Committee.

RESOLVED that:

- 1) The update is noted;
- 2) The Monitoring Officer circulate a briefing note to the Standards Committee outlining the main changes to the Order.

37 **DISCLOSURE OF COUNCIL REPORTS TO THE PUBLIC.**

Gareth Evans, Independent Co-Opted Member referred to an article in the Evening Post dated 15 February 2016 regarding internal audit reports that appeared to have been published in advance of an Audit Committee meeting scheduled for 16 February 2016.

Mr Evans queried the timing of the publication of these reports, ie in advance of the reports being considered by the Audit Committee.

It was confirmed that as the City & County of Swansea is a publicly accountable organisation, unless reports are deemed as commercially sensitive or "exempt" that all agenda packs for public meetings are published on the Authority's website 3 days (or 5 days in the case of Council and Cabinet) prior to the date of the meeting. This was to promote openness and transparency of Council business.

The meeting ended at 10.20 am

CHAIR

Agenda Item 4

Report of the Deputy Monitoring Officer

Standards Committee – 3 June 2016

THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) (WALES) (AMENDMENT) ORDER 2016 – ADOPTION OF NEW MEMBERS CODE OF CONDUCT

Purpose:	To update the Standards Committee of the adoption of a new Members' Code of Conduct as a result of legislative changes.
Policy Framework:	Council Constitution.
Reason for Decision:	For Information Only.
Consultation:	Access to Services, Finance, Legal.
Report Author:	Tracey Meredith
Finance Officer:	Ben Smith
Legal Officer:	Stephanie Williams
Access to Services Officer:	Ann Williams

1. Introduction

- 1.1 The attached report was presented to Council on 19 May 2016. Council resolved to adopt the new Code of Conduct.

2. Equality and Engagement Implications

- 2.1 As per the attached report.

3. Financial Implications

- 3.1 As per the attached report.

4. Legal Implications

- 4.1 As per the attached report.

Background Papers:

Appendices:

Report to Council

Appendix A – The Model Code of Conduct

Report of the of the Deputy Monitoring Officer

Annual Meeting of Council – 19 May 2016

THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) (WALES) (AMENDMENT) ORDER 2016 - ADOPTION OF NEW MEMBERS CODE OF CONDUCT

Purpose:	To seek members approval for the adoption of a new Members' Code of Conduct as a result of legislative changes
Policy Framework:	Council Constitution
Consultation:	Access to Services, Finance, Legal
Recommendation(s)	It is recommended that: 1) the new Model Code of Conduct set out in Appendix A be adopted; 2) the Council's Constitution is amended to include the new Model Code of Conduct.
Report Author:	Tracey Meredith
Finance Officer:	Ben Smith
Legal Officer:	Stephanie Williams
Access to Services Officer:	Ann Williams

1. Introduction

- 1.1 Swansea's Code of Conduct for Members is based on the prescribed national model. The Welsh Government have made the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 which amends the previous Code of Conduct. This amended Code of Conduct is attached at Appendix A.

2. New Model Code of Conduct

- 2.1 Welsh Government has made a number of changes to the national model of which the following are the most significant:
- a. Paragraph 6(1) c- the obligation to report suspected breaches of the Code of Conduct to the Public Services Ombudsman for Wales is

removed (Note- the obligation to report suspected breaches to the Monitoring Officer remains).

- b. Paragraph 10 (2) b- the obligation to declare an interest in the case of possible/perceived conflicts of interest between representing the need of a Councillor's ward and the duties of the Council as a whole is removed. This is to overcome unintended difficulties in relation to Members participation in business relating to their ward. Members are however, reminded that when participating in decisions relating to their ward, they must be mindful of the general obligation to act objectively and in the wider public interest (pursuant to paragraph 8 of the Code)
- c. Paragraph 14- by making it clear that a Councillor with a prejudicial interest in a matter can send written representations to a meeting about that item of business provided the public is able to speak at that meeting as of right.
- d. Paragraph 15- by imposing an obligation on town and community councillors to register any interest disclosed for the first time under paragraph 10 (2) a (thereby creating the register of interest for each town and community Council).
- e. Paragraph 15- by requiring town and community councillors to register their interests with their clerk (rather than the Monitoring Officer at the County Council).

3. Equality and Engagement Implications

- 3.1 There are no direct implications arising from this report. The adoption of the Code is a Statutory requirement.

4. Financial Implications

- 4.1 Under s51 (6) Local Government Act 2000 any changes to the Code of Conduct must be advertised as soon as reasonably practical. The advert must be in a local newspaper and must say where a copy of the Code can be inspected.

5. Legal Implications

- 5.1 All relevant Authorities must within six months of the Amendment Order adopt a revised Code of Conduct. The Order was made on 27th January 2016 and, therefore, the Council has until 26th July, 2016 in which to adopt a revised Code. However, it has been suggested by Welsh Government that it would be sensible for Local Authorities to do so no later than at their 2016 Annual Meeting.
- 5.2 There is no legal requirement for existing Members to sign a further declaration mid-term undertaking to observe the Members' Code of

Conduct as amended, given that the current declaration extends to revisions of the Members' Code of Conduct.

5.3 Section 51 (6) of the Local Government Act 2000 requires the Authority as soon as reasonable practicable after revising its Members Code of Conduct:

- To ensure that copies are available at an office of the authority for inspection by the public at all reasonable hours;
- To publish in one or more newspaper circulating in the area a notice which states that the Authority has revised the Code and made it available for inspection; and
- To send a revised copy of the Code to the Public Services Ombudsman for Wales

Background Papers: The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

Appendices: Appendix A: Revised Code of Conduct

THE MODEL CODE OF CONDUCT

PART 1 INTERPRETATION

1.—(1) In this code —

"co-opted member" ("*aelod cyfetholedig*"), in relation to a relevant authority, means a person who is not a member of the authority but who —

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority, and who is entitled to vote on any question which falls to be decided at any meeting of that committee or subcommittee;

"meeting" ("*cyfarfod*") means any meeting —

- (a) of the relevant authority,
- (b) of any executive or board of the relevant authority,
- (c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or
- (d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

"member" ("*aelod*") includes, unless the context requires otherwise, a co-opted member;

“registered society” means a society, other than a society registered as a credit union, which is —

- (a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or
- (b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

“register of members’ interests” (“*cofrestr o fuddiannau’r aelodau*”) means the register established and maintained under section 81 of the Local Government Act 2000;

"relevant authority" ("*awdurdod perthnasol*") means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,

(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

(e) a National Park authority established under section 63 of the Environment Act 1995;

"you" ("*chi*") means you as a member or co-opted member of a relevant authority; and

"your authority" ("*eich awdurdod*") means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council—

(a) “proper officer” (“*swyddog priodol*”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and

(b) “standards committee” (“*pwyllgor safonau*”) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

PART 2 GENERAL PROVISIONS

2.—(1) Save where paragraph 3(a) applies, you must observe this code of conduct —

(a) whenever you conduct the business, or are present at a meeting, of your authority;

(b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;

(c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or

(d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —

(a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or

(b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

(a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

6.—(1) You must —

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

(c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of your authority —

(i) imprudently;

(ii) in breach of your authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must —

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —

(i) the authority's head of paid service;

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

(iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

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

PART 3 INTERESTS

Personal Interests

10.—(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —

(a) it relates to, or is likely to affect —

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

4.

(vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any —

(aa) public authority or body exercising functions of a public nature;

(bb) company, registered society, charity, or body directed to charitable purposes;

(cc) body whose principal purposes include the influence of public opinion or policy;

(dd) trade union or professional association; or

(ee) private club, society or association operating within your authority's area,

in which you have membership or hold a position of general control or management;

(x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

[Note: subparagraph (b) is omitted.]

(c) a decision upon it might reasonably be regarded as affecting —

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2)(c)(i);

(iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

(aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11.—(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

(a) 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; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing —

(a) details of the personal interest;

(b) details of the business to which the personal interest relates; and

(c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to —

(i) another relevant authority of which you are also a member;

(ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

- (iii) a body to which you have been elected, appointed or nominated by your authority;
- (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
- (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;

(b) relates to —

- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
- (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
- (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
- (iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in subparagraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.—(1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
 - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event

before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4

THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

15.—(1) Subject to sub-paragraph (4), you must, within 28 days of—

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

Sensitive information

16.—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Registration of Gifts and Hospitality

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

Y COD YMDDYGIAD ENGHREIFFTIOL

RHAN 1 DEHONGLI

1.—(1) Yn y cod hwn —

mae "aelod" ("*member*") yn cynnwys aelod cyfetholedig onid yw'r cyd-destun yn mynnu fel arall;

ystyr "aelod cyfetholedig" ("*co-opted member*"), mewn perthynas ag awdurdod perthnasol, yw person nad yw'n aelod o'r awdurdod ond—

(a) sy'n aelod o unrhyw bwyllgor neu is-bwyllgor i'r awdurdod, neu

(b) sy'n aelod o unrhyw gyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod, ac sy'n cynrychioli'r awdurdod arno,

ac sydd â'r hawl i bleidleisio ar unrhyw gwestiwn sydd i'w benderfynu mewn unrhyw gyfarfod o'r pwyllgor neu o'r is-bwyllgor hwnnw;

ystyr "eich awdurdod" ("*your authority*") yw'r awdurdod perthnasol yr ydych chi'n aelod neu'n aelod cyfetholedig ohono;

ystyr "awdurdod perthnasol" ("*relevant authority*") yw—

(a) cyngor sir,

(b) cyngor bwrdeistref sirol,

(c) cyngor cymuned,

(ch) awdurdod tân ac achub a gyfansoddwyd drwy gynllun o dan adran 2 o Ddeddf Gwasanaethau Tân ac Achub 2004 neu gynllun y mae adran 4 o'r Ddeddf honno yn gymwys iddo,

(d) awdurdod Parc Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995;

ystyr "cofrestr o fuddiannau'r aelodau" ("register of members' interests") yw'r gofrestr a sefydlir ac a gedwir o dan adran 81 o Ddeddf Llywodraeth Leol 2000;

ystyr "cyfarfod" ("*meeting*") yw unrhyw gyfarfod —

(a) o'r awdurdod perthnasol,

(b) o unrhyw weithrediaeth neu fwrdd i'r awdurdod perthnasol,

(c) o unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod perthnasol neu unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor o'r fath i unrhyw weithrediaeth neu fwrdd i'r awdurdod, neu

(ch) y mae aelodau neu swyddogion yr awdurdod perthnasol yn bresennol ynddo ac eithrio cyfarfod grŵp gwleidyddol a gyfansoddwyd yn unol â rheoliad 8 o Reoliadau Llywodraeth Leol (Pwyllgorau a Grwpiau Gwleidyddol) 1990,

ac mae'n cynnwys amgylchiadau pan fo aelod o weithrediaeth neu fwrdd neu swyddog sy'n gweithredu ar ei ben ei hun yn arfer un o swyddogaethau awdurdod; ac

ystyr "chi" ("you") yw chi fel aelod neu aelod cyfetholedig o awdurdod perthnasol.

(2) Mewn perthynas â chyngor cymuned—

(a) ystyr “swyddog priodol” (“proper officer”) yw swyddog o’r cyngor hwnnw o fewn ystyr adran 270(3) o Ddeddf Llywodraeth Leol 1972; a

(b) ystyr “pwyllgor safonau” (“standards committee”) yw pwyllgor safonau’r cyngor sir neu’r cyngor bwrdeistref sirol sydd â swyddogaethau mewn perthynas â’r cyngor cymuned y mae’n gyfrifol amdano o dan adran 56(1) a (2) o Ddeddf Llywodraeth Leol 2000.

RHAN 2 DARPARIAETHAU CYFFREDINOL

2.—(1) Ac eithrio pan fo paragraff 3(a) yn gymwys, rhaid i chi gydymffurfio â’r cod ymddygiad hwn —

(a) pa bryd bynnag y byddwch yn cynnal busnes eich awdurdod, neu'n bresennol mewn un o gyfarfodydd eich awdurdod;

(b) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu yn rôl aelod y cawsoch eich ethol neu eich penodi iddi;

(c) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu fel un o gynrychiolwyr eich awdurdod; neu

(ch) ar bob adeg ac mewn unrhyw gapasiti, mewn cysylltiad ag ymddygiad a nodir ym mharagraffau 6(1)(a) a 7.

(2) Dylech ddarllen y cod hwn ar y cyd â’r egwyddorion cyffredinol a ragnodir o dan adran 49(2) o Ddeddf Llywodraeth Leol 2000 o ran Cymru.

3. Os byddwch wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i wasanaethu —

(a) ar awdurdod perthnasol arall, neu ar unrhyw gorff arall, sy'n cynnwys Bwrdd Iechyd Lleol rhaid i chi, pan fyddwch yn gweithredu ar ran yr awdurdod arall neu'r corff arall hwnnw, gydymffurfio â chod ymddygiad yr awdurdod arall neu'r corff arall hwnnw; neu

(b) ar unrhyw gorff arall nad oes ganddo god sy'n ymwneud ag ymddygiad ei aelodau, rhaid i chi, pan fyddwch yn gweithredu ar ran y corff arall hwnnw, gydymffurfio â’r cod ymddygiad hwn, ac eithrio pan yw'n gwrthdaro ag unrhyw rwymedigaethau cyfreithlon eraill y gall y corff hwnnw fod yn ddarostyngedig iddynt neu i'r graddau y mae'n gwrthdaro â’r cyfryw rwymedigaethau.

4. Rhaid i chi —

(a) cyflawni eich dyletswyddau a'ch cyfrifoldebau gan roi sylw dyladwy i'r egwyddor y dylai fod cyfle cyfartal i bawb, waeth beth fo'u rhyw, eu hil, eu hanabledd, eu cyfeiriadedd rhywiol, eu hoed neu eu crefydd;

(b) dangos parch at eraill ac ystyriaeth ohonynt;

(c) peidio ag ymddwyn fel bwli neu harasio unrhyw berson; a

(ch) peidio â gwneud dim sy'n cyfaddawdu, neu sy'n debygol o gyfaddawdu, didueddrwydd y sawl sy'n gweithio i'ch cyngor neu ar ei ran.

5. Rhaid i chi —

(a) peidio â datgelu gwybodaeth gyfrinachol neu wybodaeth y byddai'n rhesymol ystyried ei bod o natur gyfrinachol, heb gydsyniad datganedig person a awdurdodwyd i roi cydsyniad o'r fath, neu onid yw'r gyfraith yn mynnu eich bod yn gwneud hynny;

(b) peidio â rhwystro unrhyw berson rhag gweld gwybodaeth y mae gan y person hwnnw hawl i'w gweld yn ôl y gyfraith.

6.—(1) Rhaid i chi —

(a) peidio ag ymddwyn mewn ffordd y gellid yn rhesymol ei hystyried yn un sy'n dwyn anfri ar eich swydd neu ar eich awdurdod;

(b) adrodd, p'un ai drwy weithdrefn adrodd gyfrinachol eich awdurdod neu'n uniongyrchol i'r awdurdod priodol, ar unrhyw ymddygiad gan aelod arall neu gan unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran ac y mae'n rhesymol i chi fod o'r farn ei fod yn golygu neu'n debygol o olygu ymddygiad troseddol (nad yw at ddibenion y paragraff hwn yn cynnwys tramgwyddau neu ymddygiad y gellir ei gosbi drwy gosb benodedig);

(c) adrodd i swyddog monitro eich awdurdod ar unrhyw ymddygiad gan aelod arall y mae'n rhesymol i chi fod o'r farn ei fod yn groes i'r cod ymddygiad hwn;

(ch) peidio â gwneud cwynion blinderus, maleisus neu wacsaw yn erbyn aelodau eraill neu unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran.

(2) Rhaid i chi gydymffurfio ag unrhyw gais gan swyddog monitro eich awdurdod, neu gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru, mewn cysylltiad ag ymchwiliad a wneir yn unol â'u gwahanol bwerau statudol.

7. Rhaid i chi —

(a) yn eich capasiti swyddogol neu fel arall, beidio â defnyddio neu geisio defnyddio eich safle yn amhriodol i roi neu i sicrhau mantais i chi eich hun neu i unrhyw berson arall, neu i greu neu i osgoi anfantais i chi eich hun neu i unrhyw berson arall;

(b) peidio â defnyddio adnoddau eich awdurdod, neu awdurdodi eraill i'w defnyddio—

(i) yn annoeth;

(ii) yn groes i ofynion eich awdurdod;

(iii) yn anghyfreithlon;

(iv) ac eithrio mewn dull a fwriedir i hwyluso neu i ffafrio cyflawni swyddogaethau'r awdurdod neu'r swydd yr ydych wedi eich ethol neu eich penodi iddo neu iddi;

(v) yn amhriodol at ddibenion gwleidyddol; neu

(vi) yn amhriodol at ddibenion preifat.

8. Rhaid i chi —

(a) pan fyddwch yn cyfrannu mewn cyfarfodydd neu'n gwneud penderfyniadau ynghylch busnes y mae a wnelo eich awdurdod ag ef, wneud hynny ar sail rhinweddau'r amgylchiadau o dan sylw ac er budd y cyhoedd gan roi sylw i unrhyw gyngor perthnasol a ddarperir gan swyddogion eich awdurdod, ac yn benodol gan —

- (i) pennaeth gwasanaeth taledig yr awdurdod;
 - (ii) prif swyddog cyllid yr awdurdod;
 - (iii) swyddog monitro'r awdurdod;
 - (iv) prif swyddog cyfreithiol yr awdurdod (y dylid ymgynghori ag ef pan fo unrhyw amheuaeth ynghylch pw^er yr awdurdod i weithredu, ynghylch a yw'r cam a arfaethir yn dod o fewn y fframwaith polisi y cytunwyd arno gan yr awdurdod neu os gallai canlyniadau cyfreithiol gweithredu neu fethu â gweithredu gan yr awdurdod gael ôl-ffeithiau pwysig);
- (b) rhoi rhesymau dros bob penderfyniad yn unol ag unrhyw ofynion statudol ac unrhyw ofynion rhesymol ychwanegol a osodir gan eich awdurdod.

9. Rhaid i chi —

- (a) parchu'r gyfraith a rheolau eich awdurdod sy'n llywodraethu hawlio treuliau a lwfansau mewn cysylltiad â'ch dyletswyddau fel aelod;
- (b) osgoi derbyn rhoddion oddi wrth neb, na lletygarwch (ac eithrio lletygarwch swyddogol, megis derbyniad dinesig neu weithio dros ginio, a awdurdodir yn briodol gan eich awdurdod) na buddiannau materol neu wasanaethau i chi eich hun neu i unrhyw berson os byddai gwneud hynny'n eich rhoi o dan rwymedigaeth amhriodol, neu os gallai'n rhesymol ymddangos fel pe bai'n gwneud hynny.

RHAN 3 BUDDIANNAU

Buddiannau Personol

10.—(1) Ym mhob mater rhaid i chi ystyried a oes gennych fuddiant personol, ac a yw'r cod ymddygiad hwn yn ei gwneud yn ofynnol i chi ddatgelu'r buddiant hwnnw.

(2) Rhaid i chi ystyried bod gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef —

(a) os yw'n gysylltiedig â'r canlynol, neu'n debygol o effeithio arnynt —

- (i) unrhyw gyflogaeth yr ydych yn ymgymryd â hi neu fusnes yr ydych yn ei redeg;
- (ii) unrhyw berson sy'n eich cyflogi neu sydd wedi eich penodi, unrhyw ffyrn yr ydych yn bartner ynddi neu unrhyw gwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl;
- (iii) unrhyw berson, ac eithrio eich awdurdod, sydd wedi rhoi taliad i chi mewn cysylltiad â'ch ethol neu mewn cysylltiad ag unrhyw dreuliau a dynnwyd gennych wrth i chi gyflawni eich dyletswyddau fel aelod;
- (iv) unrhyw gorff corfforaethol y mae ganddo le busnes neu dir yn ardal eich awdurdod, ac y mae gennych chi fuddiant llesionol mewn dosbarth o warannau sydd gan y corff hwnnw ac sy'n werth mwy na'r gwerth enwol o £25,000 neu un ganfed ran o gyfanswm cyfalaf cyfrannau dyroddedig y corff hwnnw;
- (v) unrhyw gontract am nwyddau, gwasanaethau neu waith neu weithfeydd a wnaed rhyngoch chi, rhwng ffyrn yr ydych yn bartner ynddi, neu rhwng cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu rhwng corff o'r math a ddisgrifir yn is-baragraff (iv) uchod a'ch awdurdod;

- (vi) unrhyw dir y mae gennych fuddiant llesiannol ynddo ac sydd yn ardal eich awdurdod;
- (vii) unrhyw dir y mae eich awdurdod yn landlord arno ac y mae ffyrm yr ydych yn bartner ynddi, cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu gorff o'r math a ddisgrifir yn is-baragraff (iv) uchod yn denant arno;
- (viii) unrhyw gorff yr ydych wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;
- (ix) unrhyw —
 - (aa) awdurdod cyhoeddus neu gorff sy'n arfer swyddogaethau o natur gyhoeddus;
 - (bb) cwmni, cymdeithas ddiwydiannol a darbodus, elusen, neu gorff arall a chanddo ddibenion elusennol;
 - (cc) corff y mae dylanwadu ar farn neu bolisi cyhoeddus ymhlith ei brif ddibenion; (chch)undeb llafur neu gymdeithas broffesiynol; neu
 - (dd) clwb preifat neu gymdeithas breifat sy'n gweithredu o fewn ardal eich awdurdod, yr ydych yn aelod ohono neu ohoni neu mewn safle rheolaeth neu reoli cyffredinol ynddo neu ynddi;
- (x) unrhyw dir yn ardal eich awdurdod y mae gennych drwydded (ar eich pen eich hun neu ar y cyd ag eraill) i'w feddiannu am 28 o ddiwrnodau neu fwy;

[Nodyn: Mae is-baragraff (b) wedi ei hepgor.]

- (c) pe byddai'n rhesymol ystyried penderfyniad arno yn benderfyniad a fyddai'n effeithio —
 - (i) ar eich llesiant neu eich sefyllfa ariannol, neu lesiant neu sefyllfa ariannol person yr ydych yn byw gydag ef, neu unrhyw berson y mae gennych gysylltiad personol agos ag ef;
 - (ii) ar unrhyw gyflogaeth yr ymgymerir â hi neu fusnes a redir gan bersonau fel a ddisgrifir yn 10(2)(c)(i);
 - (iii) ar unrhyw berson sy'n cyflogi neu sydd wedi penodi'r cyfryw bersonau ag a ddisgrifir yn 10(2)(c)(i), unrhyw ffyrm y mae'r cyfryw bersonau'n bartneriaid ynddi, neu unrhyw gwmni y maent yn gyfarwyddwyr arno;
 - (iv) ar unrhyw gorff corfforaethol y mae gan bersonau fel a ddisgrifir yn 10(2)(c)(i) fuddiant llesiannol mewn dosbarth o warannau sy'n werth mwy na'r gwerth enwol o £5,000; neu
 - (v) ar unrhyw gorff a restrir ym mharagraffau 10(2)(a)(ix)(aa) i (dd) y mae personau a ddisgrifir yn 10(2)(c)(i) mewn safle rheolaeth neu reoli cyffredinol ynddo,

a hynny i raddau mwy—

- (aa) yn achos awdurdod â dosbarthiadau etholiadol neu wardiau, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn y dosbarth etholiadol neu'r ward, yn ôl y digwydd, y bydd y penderfyniad yn effeithio arnynt; neu
- (bb) ym mhob achos arall, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, o bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn ardal yr awdurdod.

Datgelu Buddiannau Personol

11.—(1) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn bresennol mewn cyfarfod lle y caiff y busnes hwnnw ei ystyried, rhaid i chi ddatgelu ar lafar gerbron y cyfarfod hwnnw fodolaeth a natur y buddiant hwnnw cyn i'r cyfarfod ystyried y busnes neu ar ddechrau'r ystyriaeth, neu pan ddaw'r buddiant i'r amlwg.

(2) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn gwneud —

(a) cynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod ynghylch y busnes hwnnw, dylech gynnwys manylion am y buddiant hwnnw yn y gyfathrebiaeth ysgrifenedig; neu

(b) cynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod dylech ddatgelu'r buddiant ar ddechrau'r cyfryw gynrychioliadau, neu pan ddaw'n amlwg i chi fod gennych fuddiant o'r fath, a chadarnhau'r cynrychioliad a'r buddiant yn ysgrifenedig o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

(3) Yn ddarostyngedig i baragraff 14(1)(b) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch wedi gwneud penderfyniad wrth arfer un o swyddogaethau gweithrediaeth neu fwrdd, rhaid i chi mewn perthynas â'r busnes hwnnw sicrhau bod unrhyw ddatganiad ysgrifenedig ynghylch y penderfyniad hwnnw'n cofnodi bodolaeth a natur eich buddiant.

(4) Rhaid i chi, mewn cysylltiad â buddiant personol nas datgelwyd eisoes, cyn cyfarfod neu'n syth ar ôl diwedd cyfarfod pan ddatgelir y buddiant yn unol ag is-baragraff 11(1), roi hysbysiad ysgrifenedig i'ch awdurdod yn unol ag unrhyw ofynion a nodir gan swyddog monitro eich awdurdod, neu mewn perthynas â chynghor cymuned, swyddog priodol eich awdurdod o bryd i'w gilydd ond, rhaid cynnwys o leiaf —

(a) manylion am y buddiant personol;

(b) manylion am y busnes y mae'r buddiant personol yn gysylltiedig ag ef; ac

(c) eich llofnod.

(5) Pan fydd eich swyddog monitro wedi cytuno bod yr wybodaeth sy'n ymwneud â'ch buddiant personol yn wybodaeth sensitif, yn unol â pharagraff 16(1), mae eich rhwymedigaethau o dan y paragraff 11 hwn i ddatgelu'r cyfryw wybodaeth, p'un ai ar lafar neu'n ysgrifenedig, i'w disodli gan rwymedigaeth i ddatgelu bodolaeth buddiant personol ac i gadarnhau bod eich swyddog monitro wedi cytuno bod y cyfryw fuddiant personol o natur gwybodaeth sensitif.

(6) At ddibenion is-baragraff (4), dim ond os bod hysbysiad ysgrifenedig wedi ei ddarparu yn unol â'r cod hwn ers y dyddiad diwethaf pryd yr etholwyd chi, y penodwyd chi neu yr enwebwyd chi'n aelod o'ch awdurdod y bernir bod buddiant personol wedi ei ddatgelu eisoes.

(7) At ddibenion is-baragraff (3), os na ddarperir hysbysiad ysgrifenedig yn unol â'r paragraff hwnnw bernir na fyddwch wedi datgan buddiant personol yn unol â'r cod hwn.

Buddiannau sy'n Rhagfarnu

12.—(1) Yn ddarostyngedig i is-baragraff (2) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef bydd gennych hefyd fuddiant sy'n rhagfarnu yn y busnes hwnnw os bydd y buddiant yn un y bydd yn rhesymol i aelod o'r cyhoedd sy'n gwybod y ffeithiau perthnasol fod o'r farn ei fod mor arwyddocaol fel y bydd yn debygol o ragfarnu eich barn ynghylch buddiant cyhoeddus.

(2) Yn ddarostyngedig i is-baragraff (3), nid ystyrir bod gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes os bydd y busnes hwnnw—

(a) yn gysylltiedig—

(i) ag awdurdod perthnasol arall yr ydych hefyd yn aelod ohono;

(ii) ag awdurdod cyhoeddus arall neu gorff sy'n arfer swyddogaethau o natur gyhoeddus lle yr ydych mewn safle rheolaeth neu reoli cyffredinol;

(iii) â chorff yr ydych wedi cael eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;

(iv) â'ch rôl fel llywodraethwr ysgol (os na chawsoch eich penodi neu eich enwebu gan eich awdurdod) oni bai bod y busnes yn benodol gysylltiedig â'r ysgol yr ydych yn un o'i llywodraethwyr;

(v) â'ch rôl fel aelod o Fwrdd Iechyd Lleol os na chawsoch eich penodi neu eich enwebu gan eich awdurdod i fod arno;

(b) yn gysylltiedig:

(i) â swyddogaethau tai eich awdurdod os oes gennych denantiaeth neu les gyda'ch awdurdod, ar yr amod nad oes arnoch i'ch awdurdod ôl-ddyledion rhent o fwy na deufis, ac ar yr amod nad yw'r swyddogaethau hynny'n ymwneud yn arbennig â'ch tenantiaeth neu â'ch les;

(ii) â swyddogaethau eich awdurdod mewn cysylltiad â phrydau ysgol, cludiant a threuliau teithio, os ydych chi'n warchodwr, yn rhiant, yn fam-gu neu'n nain neu'n dad-cu neu'n daid, neu os oes gennych gyfrifoldeb rhiant (fel y'i diffinnir yn adran 3 o Deddf Plant 1989) dros blentyn sy'n cael addysg lawnamser, onid yw'r busnes yn benodol gysylltiedig â'r ysgol y mae'r plentyn hwnnw'n ei mynychu;

(iii) â swyddogaethau eich awdurdod mewn cysylltiad â thâl salwch statudol o dan Ran XI o Ddeddf Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992, os ydych yn cael, neu os oes gennych hawl i gael, taliad o'r fath gan eich awdurdod;

“(iv) â swyddogaethau eich awdurdod mewn cysylltiad â lwfans neu daliad a wneir yn unol â darpariaethau Rhan 8 o Fesur Llywodraeth Leol (Cymru) 2011, neu lwfans neu bensiw'n a ddarperir o dan adran 18 o Ddeddf Llywodraeth Leol a Thai 1989;

(c) yn gysylltiedig â'ch rôl fel cynghorydd cymunedol mewn perthynas â grant, benthyciad neu fath arall ar gymorth ariannol a wnaed gan eich cyngor cymuned i gyrff cymunedol neu wirfoddol hyd at uchafswm o £500.

(3) Nid yw'r esemptiadau yn is-baragraff (2)(a) yn gymwys os yw'r busnes yn gysylltiedig â dyfarnu ar unrhyw gymeradwyaeth, cydsyniad, trwydded, caniatâd neu gofrestrriad.

Pwyllgorau Trosolygu a Chraffu

13. Bydd gennych hefyd fuddiant sy'n rhagfarnu mewn unrhyw fusnes sydd gerbron un o bwyllgorau trosolygu a chraffu eich awdurdod (neu un o is-bwyllgorau pwyllgor o'r fath)—

(a) os bydd y busnes hwnnw'n gysylltiedig â phenderfyniad a wnaed (p'un a gafodd ei weithredu ai peidio) neu gam a gymerwyd gan weithrediaeth, bwrdd, neu un arall o bwyllgorau, is-bwyllgorau, cyd-bwyllgorau neu o gyd-is-bwyllgorau eich awdurdod; a

(b) os oeddech chi, ar yr adeg pan wnaed y penderfyniad neu pan gymerwyd y cam, yn aelod o'r weithrediaeth, y bwrdd, y pwyllgor, yr is-bwyllgor, y cyd-bwyllgor neu'r cyd-is-bwyllgor a

grybwyllir yn is-baragraff (a) a'ch bod chi'n bresennol pan wnaed y penderfyniad hwnnw neu pan gymerwyd y cam hwnnw.

Cyfrannu mewn Perthynas â Datgelu Buddiannau

14.—(1) Yn ddarostyngedig i is-baragraffau (2), (2A), (3) a (4), os bydd gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef rhaid i chi, oni roddwyd i chi ollyngiad gan bwyllgor safonau eich awdurdod —

(a) ymadael â'r ystafell, y siambr neu'r man lle y mae cyfarfod i ystyried y busnes yn cael ei gynnal—

(i) pan fo is-baragraff (2) yn gymwys, yn syth ar ôl i'r cyfnod ar gyfer gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes ddod i ben a beth bynnag cyn i ystyriaeth bellach o'r busnes ddechrau, p'un a ganiateir i'r cyhoedd aros yn bresennol ar gyfer y cyfryw ystyriaeth ai peidio; neu

(ii) mewn unrhyw achos arall, pa bryd bynnag y daw i'r amlwg bod y busnes hwnnw'n cael ei ystyried yn y cyfarfod hwnnw;

(b) peidio ag arfer swyddogaethau gweithrediaeth neu fwrdd mewn perthynas â'r busnes hwnnw;

(c) peidio â cheisio dylanwadu ar benderfyniad ynghylch y busnes hwnnw;

(ch) peidio â gwneud unrhyw gynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) mewn perthynas â'r busnes hwnnw; a

(d) peidio â gwneud unrhyw gynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) mewn cysylltiad â'r busnes hwnnw neu rhaid i chi roi'r gorau ar unwaith i wneud y cyfryw gynrychioliadau llafar pan ddaw'r buddiant sy'n rhagfarnu i'r amlwg.

(2) Os oes gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef cewch fod yn bresennol mewn cyfarfod ond dim ond er mwyn gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes, ar yr amod y caniateir hefyd i'r cyhoedd fod yn bresennol yn y cyfarfod i'r un diben, p'un ai o dan hawl statudol neu fel arall.

(2A) Os oes gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef cewch gyflwyno cynrychioliadau ysgrifenedig i gyfarfod sy'n ymwneud â'r busnes hwnnw, ar yr amod y caniateir i'r cyhoedd fod yn bresennol yn y cyfarfod at y diben o wneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes, pa un ai o dan hawl statudol neu fel arall.

(2B) Pan fyddwch yn cyflwyno cynrychioliadau ysgrifenedig o dan is-baragraff (2A), rhaid i chi gydymffurfio ag unrhyw weithdrefn y caiff eich awdurdod ei fabwysiadu ar gyfer cyflwyno cynrychioliadau o'r fath.

(3) Nid yw is-baragraff (1) yn eich rhwystro rhag bod yn bresennol a chyfrannu mewn cyfarfod —

(a) os gofynnir i chi fod yn bresennol mewn cyfarfod pwyllgor trosolwg neu graffu, gan y cyfryw bwyllgor ac yntau'n arfer ei bwerau statudol; neu

(b) os oes gennych y fantais o fod gollyngiad wedi ei roi i chi ar yr amod—

(i) eich bod yn datgan yn y cyfarfod eich bod yn dibynnu ar y gollyngiad; a

(ii) eich bod, cyn y cyfarfod neu'n syth ar ôl i'r cyfarfod orffen, yn rhoi hysbysiad ysgrifenedig i'ch awdurdod a bod hwnnw'n cynnwys —

(aa) manylion y buddiant sy'n rhagfarnu;

(bb) manylion y busnes y mae'r buddiant sy'n rhagfarnu'n gysylltiedig ag ef;

(cc) manylion y gollyngiad a'r dyddiad pryd y'i rhoddwyd; a

(chch) eich llofnod.

(4) Os bydd gennych fuddiant sy'n rhagfarnu a'ch bod yn gwneud cynrychioliadau ysgrifenedig neu lafar i'ch awdurdod gan ddibynnu ar ollyngiad, rhaid i chi ddarparu manylion am y gollyngiad o fewn unrhyw gynrychioliad ysgrifenedig neu lafar o'r fath ac, yn yr achos olaf hwn, rhaid i chi ddarparu hysbysiad ysgrifenedig ar gyfer eich awdurdod o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

RHAN 4 COFRESTR BUDDIANNAU AELODAU

Cofrestru Buddiannau Personal

15.—(1) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl—

(a) i god ymddygiad eich awdurdod gael ei fabwysiadu neu i ddarpariaethau gorfodol y cod enghreifftiol hwn gael eu cymhwyso i'ch awdurdod; neu

(b) i chi gael eich ethol neu eich penodi i swydd (os digwydd hynny'n ddiweddarach),

gofrestru eich buddiannau personol, os ydynt yn dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(2) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw fuddiant personol newydd sy'n dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), gofrestru'r buddiant personol newydd hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(3) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw newid i fuddiant personol a gofrestrwyd sy'n dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), gofrestru'r newid hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod, neu, yn achos cyngor cymuned, swyddog priodol eich awdurdod.

(4) Nid yw is-baragraffau (1), (2) a (3) yn gymwys i wybodaeth sensitif a benderfynir yn unol â pharagraff 16(1).

(5) Nid yw is-baragraffau (1) a (2) yn gymwys os ydych yn aelod o awdurdod perthnasol sy'n gyngor cymuned pan fyddwch yn gweithredu yn eich capasiti fel aelod o awdurdod o'r fath.

(6) Pan fyddwch yn datgelu buddiant personol yn unol â pharagraff 11 am y tro cyntaf, rhaid i chi gofrestru'r buddiant personol hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod, neu, yn achos cyngor cymuned, swyddog priodol eich awdurdod.

Gwybodaeth sensitif

16.—(1) Os byddwch yn ystyried bod yr wybodaeth sy'n ymwneud ag unrhyw un neu rai o'ch buddiannau personol yn wybodaeth sensitif, a bod swyddog monitro eich awdurdod yn cytuno, nid oes angen i chi gynnwys yr wybodaeth honno pan fyddwch yn cofrestru'r buddiant hwnnw, neu, yn ôl y digwydd, newid i'r buddiant o dan baragraff 15.

(2) Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi ddod yn ymwybodol o unrhyw newid yn eich amgylchiadau sy'n golygu nad yw gwybodaeth sydd wedi ei heithrio o dan is-baragraff (1) mwyach yn wybodaeth sensitif, hysbysu swyddog monitro eich awdurdod, neu mewn perthynas â chyngor cymuned, swyddog priodol eich awdurdod gan ofyn am i'r wybodaeth gael ei chynnwys yng nghofrestr buddiannau aelodau eich awdurdod.

(3) Yn y cod hwn, ystyr "gwybodaeth sensitif" ("*sensitive information*") yw gwybodaeth y mae ei rhoi ar gael i'w harchwilio gan y cyhoedd yn creu, neu'n debygol o greu, risg ddifrifol y gallech chi neu berson sy'n byw gyda chi fod yn destun trais neu fygythion.

Cofrestru Rhoddion a Lletygarwch

17. Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi gael unrhyw rodd, lletygarwch, buddiant materol neu fantais faterol, sy'n fwy na gwerth a bennir mewn penderfyniad gan eich awdurdod, ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod, neu mewn perthynas â chyngor cymuned, swyddog priodol eich awdurdod yn nodi bodolaeth a natur y rhodd honno, y lletygarwch hwnnw, y buddiant materol hwnnw neu'r fantais faterol honno.

Agenda Item 5

Report of the Deputy Monitoring Officer

Standards Committee – 3 June 2016

Local Government Ethical Framework – new statutory provision

Purpose:	To update the Standards Committee of recent changes made by Welsh Government in relation to the local government ethical framework.
Policy Framework:	None.
Reason for Decision:	To note the provisions of The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016.
Consultation:	Access to Services, Finance, Legal.
Report Author:	Tracey Meredith
Finance Officer:	Ben Smith
Legal Officer:	Tracey Meredith
Access to Services Officer:	Phil Couch

1. Introduction

1.1 Following a technical consultation undertaken between 30 November 2015 and 10 January 2016, The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 came into force on 1 April 2016.

1.2 The above 2016 Regulations amend the following regulations:

- The Standards Committees (Wales) Regulations 2001
- The Local Government Investigations (Functions of Monitoring Officers and Standards Committee) (Wales) Regulations 2001
- Local Authorities (Grant of Dispensations) (Wales) Regulations 2001.

1.3 Attached at Appendix 1 is a letter dated 2 March 2016 from Welsh Government which outlines the changes made to the Local Government Ethical Framework and at Appendix 2 is the Explanatory Memorandum which the Committee is asked to note.

2. Equality and Engagement Implications

2.1 There are no direct equality or engagement implications associated with this report.

3. Financial Implications

- 3.1 There are no likely materially different financial implications flowing from any dispensations granted, or for any referrals, appeals or reviews of alleged breaches of the Code of Conduct following the amended Regulations.

4. Legal Implications

- 4.1 There are no legal implications.

Background Papers: None.

Appendices:

Appendix 1 - Welsh Government letter dated 2 March 2016

Appendix 2 – Explanatory Memorandum from Welsh Government

Appendix 1



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref:
Ein cyf/Our ref: qA1240007

2 March 2016

Dear Colleague

Local Government Ethical Framework

Following a technical consultation undertaken between 30 November 2015 and 10 January 2016, the Minister for Public Services signed the following statutory instruments on 27 January 2016:

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 (No. 2016 / 84)

The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (No. 2016 / 85)

The instruments amend existing subordinate legislation made under Part III of the Local Government Act 2000, consequential upon provisions in the Local Government (Democracy) (Wales) Act 2013 ("the 2013 Act"). They also implement other proposals to improve the operation of the local government ethical standards framework in Wales, described in a number of previous policy statements.

The instruments, which come into force on **1 April 2016**, are available via the following links:

http://www.legislation.gov.uk/wsi/2016/84/pdfs/wsi_20160084_mi.pdf

http://www.legislation.gov.uk/wsi/2016/85/pdfs/wsi_20160085_mi.pdf

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

The Order amends the Model Code of Conduct for local government members, set out in the schedule to the Local Authorities (Model Code of Conduct) (Wales) Order 2008 as follows:

- The 2013 Act transferred responsibility for maintaining the register of interests of members of community councils from the monitoring officer of the principal local authority for the area to the 'proper officer' of each community council, with effect from 1 May 2015. A number of consequential amendments are made to the Model Code to reflect this change,



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so that, in relation to a community council, a reference to a monitoring is replaced with a reference to the proper officer of the community council.

- Paragraph 15 of the Model Code, dealing with the register of member's interests, is amended to clarify that any interest disclosed for the first time must be entered in the register. This is not a change of policy, but clarifies the original intention. The exemption for community councillors from the requirement to register certain financial and other interests upfront is maintained.
- The obligation on a member to report a potential breach of the Code of Conduct to the Public Services Ombudsman for Wales is omitted from the Code.
- Paragraph 10(2)(b) of the Model Code is omitted. This is to overcome unintended difficulties in the practical application of this paragraph in relation to participation in business relating to constituency interests. A member participating in the consideration of a ward matter is nonetheless under an obligation to act objectively and in the wider public interest in accordance with paragraph 8 of the Model Code.

The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016

The Regulations amend three statutory instruments as follows:

The Standards Committees (Wales) Regulations 2001 ("the Standards Committee Regulations")

- A number of consequential amendments are made to the Standards Committee Regulations following commencement of section 68 of the 2013 Act, which enables two or more relevant authorities to establish a joint standards committee.
- As a consequence of the postponement of the 2016 local government elections, provision is made to enable a relevant authority to determine that local authority and community council members of its standards committee who are in place on 1 April 2016 may continue to serve until the next ordinary election in 2017. In addition, the current four year restriction on the term of office of such a member is removed.
- Provision is made to enable a standards committee to delay publication of agendas, records or information connected to its consideration of the report of a misconduct investigation until such time as the misconduct proceedings are concluded. However, the presumption remains that misconduct hearings will be held in public, unless there are particular reasons for some or all of the proceedings being held in private.

The Local Government Investigations (Functions of Monitoring Officers and Standards Committee) (Wales) Regulations 2001

- Provision is made to enable a standards committee or a monitoring officer, with the prior written agreement of the Chairperson of the standards committee, to refer the report of a misconduct investigation to another authority's standards committee for determination.

This is to overcome any potential conflict of interest a standards committee may have in dealing with a report.

- The wording of Regulation 9 is amended to clarify that a period of suspension imposed by a standards committee is limited to a maximum of 6 months or, if shorter, the remainder of a member's term of office. This addresses an ambiguity in the current wording and brings the provision into line with the comparable power of an Adjudication Panel for Wales case tribunal.
- A member seeking to appeal the determination of a standards committee will in future first need to obtain the permission of the President, or a nominated panel member, of the Adjudication Panel for Wales.

Local Authorities (Grant of Dispensations) (Wales) Regulations 2001

- Provision is made to enable a standards committee or a monitoring officer, with the prior written agreement of the Chairperson of the standards committee, to refer a dispensation application to another authority's standards committee for determination. The Vice-Chairperson of the standards committee may give permission in the absence of the Chairperson. Again, this is primarily to overcome any potential conflict of interest a standards committee may have in dealing with an application. It may also enable an urgent application to be expedited.
- A general category of dispensation is introduced. This will enable a standards committee to grant a dispensation, if it considered it appropriate in all the circumstances to do so, where it was not otherwise possible to make reasonable adjustments to accommodate a person's disability. A dispensation granted under this category which has ongoing effect is subject to annual review.

Further background to these changes is contained in the consultation paper and summary of consultation responses, which can be accessed on the Welsh Government's website:

<http://gov.wales/consultations/localgovernment/amendments-to-subordinate-legislation/?status=closed&lang=en>

Action required

In accordance with section 51 of the 2000 Act, all relevant authorities (ie a county / county borough council, community council, fire and rescue authority and a national park authority) must, within six months of the date the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 was 'made', adopt a revised code of conduct. The Order was made (ie signed) on 27 January 2016. Authorities, therefore, have until **26 July 2016** in which to adopt a revised code of conduct. However, it is suggested that it would be sensible for authorities to adopt revised codes no later than at their forthcoming annual meetings.

The text of the amended Model Code of Conduct is enclosed. This does not form part of an official or statutory instrument, but is intended to assist those authorities which do not have access to a legal database.

Any queries should be sent to:

Local Government Democracy Division
Welsh Government
1st Floor, North Wing (N02)
Cathays Park
Cardiff
CF10 3NQ

Email: ReformingLG@wales.gsi.gov.uk

or made by telephone to 029 2082 6414.

Yours faithfully



STEPHEN PHIPPS
Local Government Democracy Division

Explanatory Memorandum to the Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016

This Explanatory Memorandum has been prepared by the Welsh Government Department for Local Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016. I am satisfied that the benefits outweigh any costs.

Leighton Andrews AM
Minister for Public Services
1 February 2016

1. Description

1.1 The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (“the Amendment Regulations”) amend three sets of existing regulations made under the Local Government Act 2000 (“the 2000 Act”), as a consequence of provisions in the Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”) enabling the establishment of joint standards committees and other proposals to improve the operation of the local government ethical standards framework in Wales.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

2.1 None.

3. Legislative background

3.1 The powers enabling the Amendment Regulations to be made are contained in sections 53, 56, 73, 81, 105 and 106 of the 2000 Act. In accordance with section 106 of the 2000 Act, together with paragraphs 30 and 34 of Schedule 11 to the Government of Wales Act 2006, the Amendment Regulations are subject to annulment in pursuance of a resolution of the National Assembly for Wales (ie the negative resolution procedure).

4. Purpose & intended effect of the legislation

4.1 Overview

4.1.1 The purpose of the Amendment Regulations is to amend the following statutory instruments:

- Standards Committees (Wales) Regulations 2001 (SI 2001 / 2283) (“the 2001 Standards Committees Regulations”)
- Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (SI 2001 / 2281) (“the 2001 Functions Regulations”)
- Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (SI 2001 / 2279) (“the 2001 Dispensation Regulations”)

Amendments to the 2001 Standards Committees Regulations

4.1.2 The amendments to these Regulations make provision for:

- i. The composition and operation of joint standards committees, as a consequence of section 68 of the 2013 Act which introduced a power for one or more relevant authorities in Wales (ie a county / county borough council, fire and rescue authority and national park authority) to establish such a joint committee;
- ii. Changes to the term of office of a local authority and community council member of a standards committee; and
- iii. Providing an exemption from the requirement to publish the report of an investigation into an alleged breach of the Code of Conduct and related information until the conclusion of any standards committee proceedings in relation to that report.

Amendments to the 2001 Functions Regulations

4.1.3 The amendments to these Regulations make provision as follows:

- i. Enabling a monitoring officer or a standards committee to refer the report of an investigation into an alleged breach of the Code of Conduct to another authority's standards committee for adjudication. This gives effect to section 69 of the 2013 Act;
- ii. Clarifying that a period of suspension imposed by a standards committee cannot extend beyond the end of a member's term of office; and
- iii. Requiring a member seeking to appeal the decision of a standards committee to first obtain the permission of the President of the Adjudication Panel for Wales ("Adjudication Panel"), or a nominated person

Amendments to the 2001 Dispensations Regulations

4.1.4 The amendments to these Regulations make provision as follows:

- i. Enabling a monitoring officer or a standards committee to refer an application by a member for a dispensation to another authority's standards committee to determine;
- ii. Providing a general category under which a standards committee may grant a dispensation; and
- iii. Removing the requirement for a standards committee granting a dispensation under regulation 2(i) of the 2001 Dispensation Regulations to give written notice to the Welsh Ministers.

4.2 Groups Affected by the Amendment Regulations

4.2.1 Those likely to be affected by the Amendment Regulations are:

- **Relevant local authorities** in respect of the new powers available to them to establish joint standards committees and increased flexibility in respect of the terms of office of members of standards committees.
- **Standards committees** in respect of new powers to refer misconduct reports and dispensation applications to another authority's standards committee, the exemption from publishing misconduct reports whilst proceedings are ongoing and reduced bureaucracy and increased flexibility in respect of dispensations.
- **Members of relevant authorities** whose misconduct case or dispensation application may be referred to another authority's standards committee, the requirement to obtain permission to bring an appeal against the decision of a standards committee and the introduction of a general dispensation category.

4.3 Policy Objectives

4.3.1 The main policy objectives of the Amendment Regulations are set out below. Further detail is provided in the 'Effect of the Amendment Regulations', section of this Memorandum.

Amendments to the 2001 Standards Committees Regulations

Joint Standards Committees

4.3.2 Section 53 of the 2000 Act requires a relevant authority (other than a community council) to establish a standards committee. Section 68 of the 2013 Act amended section 53 so that one or more authorities may establish a joint committee. The arrangements for establishing a joint committee, including the apportionment of costs, are a matter for agreement between the authorities contemplating entering into such an arrangement.

4.3.3 The 2001 Standards Committees Regulations (as amended) make provision as to the size and composition of standards committees and matters relating to the conduct of meetings, including public access to meetings, agendas and papers etc.

4.3.4 The Amendment Regulations make consequential amendments to the 2001 Standards Committees Regulations, reflecting authorities' new powers to establish joint committees.

Local Authority Members of Standards Committees - Term of Office

4.3.5 The term of office of a member of a local authority or a community committee member (i.e. a community councillor) serving on a standards committee is currently limited to the shorter of four years or the period to the next ordinary local government election following a member's appointment. A member may serve two such terms. Similar provision applies to a member

appointed to a fire and rescue authority or a national park authority standards committee.

4.3.6 In November 2014, the Welsh Ministers made the '*Local Authority Elections (Wales) Order 2014*', which postponed the next ordinary local government elections until 2017. An unintended consequence of this postponement is that authorities would need to appoint new local authority and community committee members of standards committees for a period of one year only, i.e. to cover the period from the date of the original planned elections in May 2016 to May 2017. The 2001 Standards Committees Regulations are amended to remove this unintended consequence.

Publication of Misconduct Reports – Exemption

4.3.7 Standards committees have functions under the 2001 Functions Regulations to consider and adjudicate upon alleged breaches of the Code of Conduct, following investigation by the Ombudsman or by the relevant authority's monitoring officer.

4.3.8 It is expected that a standards committee would normally hear evidence and submissions in relation to an alleged breach of the Code of Conduct in public. Among other things, this recognises a member's right under Article 6 of the European Convention on Human Rights to a fair and public hearing. However, the legislative framework recognises there may be circumstances in which it is appropriate for a standards committee to consider matters in private, including when deliberating the evidence and submissions it has received prior to making a determination.

4.3.9 Regulation 26 of the 2001 Standards Committees Regulations applies, with modification, certain provisions of Part VA and schedule 12A of the Local Government Act 1972 (access to meetings etc) to a standards committee. These, and related provisions in other subordinate legislation, have been interpreted by some standards committees as requiring the report of a misconduct investigation to be published in advance of a standards committee meeting at which the matter is to be considered, along with the agenda and other papers for that meeting. This has given rise both to unhelpful advance publicity in the media, and the potential for witness evidence that is to be given orally at a hearing to be influenced by prior knowledge of the contents of the report, such as the written statements of other witnesses. The Amendment Regulations amend the 2001 Standards Committees Regulations to provide an exemption from the requirement to publish papers relating to a misconduct matter until proceedings are concluded.

Amendments to the 2001 Functions Regulations

Referral of Misconduct Cases

4.3.10 The 2001 Functions Regulations, made under section 73 of the 2000 Act, make provision for the way in which a monitoring officer and standards

committee are to deal with alleged breaches of the Code of Conduct referred to them by the Ombudsman.

4.3.11 Section 69 of the 2013 Act amended the regulation-making power in section 73 of the 2000 Act, with effect from 1 May 2015, so that the Welsh Ministers may make provision enabling a monitoring officer or a standards committee to refer a report or recommendations relating to a misconduct investigation to another relevant authority's standards committee. The Welsh Ministers do not intend to prescribe specific circumstances in which these powers might be utilised, but typically this would enable arrangements to be made where the "home" standards committee considers it may have a conflict of interest in dealing with a misconduct report. The terms of any referral are to be a matter for agreement between the relevant authorities concerned.

Period of Suspension

4.3.12 The 2001 Functions Regulations provide that a standards committee may suspend, or partially suspend, a member who has failed to comply with the authority's Code of Conduct for a period not exceeding six months. The 2001 Functions Regulations do not, however, make express provision for cases where a local election is due to take place within six months of such a determination.

4.3.13 In contrast, the corresponding provision in section 79(5) of the 2000 Act relating to a decision of an Adjudication Panel case tribunal provides that a period of suspension must not exceed one year '*....or, if shorter, the remainder of the person's term of office.*'

4.3.14 Questions have arisen from time-to-time as to whether a suspension imposed by a standards committee is subject to the same limitation, given the absence of such wording in the 2001 Functions Regulations. The 2001 Functions Regulations are amended to put beyond doubt that the same limitation applies.

Appeals to the Adjudication Panel

4.3.15 Regulation 10 of the 2001 Functions Regulations provides a right of appeal against the determination of a standards committee to an appeal tribunal drawn from the Adjudication Panel.

4.3.16 In contrast, a member seeking to appeal the decision of an Adjudication Panel case tribunal under section 79 of the 2000 Act requires the leave of the High Court to bring the appeal. Further, prior to the abolition of police authorities, the equivalent regulations that governed appeals against the decision of a standards committee of such an authority required a member to obtain the permission of the President of the Adjudication Panel to do so.

4.3.17 The absence of a similar requirement in the 2001 Functions Regulations means that a member could make an appeal where there are no reasonable

grounds for doing so and it must be dealt with by the Adjudication Panel at a cost to the public purse.

4.3.18 Introducing a requirement for a member seeking to appeal the decision of a standards committee to obtain the permission of the President of the Adjudication Panel (or a nominated person) is intended to ensure that only appeals that have a reasonable prospect of success (in whole or in part) will proceed. It will also prevent a member from seeking to delay implementation of a sanction imposed by a standards committee on entirely frivolous or spurious grounds.

Amendments to the 2001 Dispensation Regulations

Referral of Dispensation Applications

4.3.19 Section 81(3)(b) of the 2000 Act provides that the Model Code of Conduct must include provision preventing or restricting the participation of a member in any business of that member's authority for which that member has disclosed an interest.

4.3.20 Section 81(4) provides that participation by a member in any business in which that member has an interest and which is otherwise prohibited by the Code, is not a failure to comply with the Code if the member has acted in accordance with a dispensation granted by the authority's standards committee.

4.3.21 Section 81(5) of the 2000 Act empowers the Welsh Ministers to prescribe in regulations the circumstances in which a standards committee may grant a dispensation. Section 69 of the 2013 Act, amends sections 81(4) and (5) of the 2000 Act so that:

- i. A dispensation may be granted by the standards committee of the member's authority or by the standards committee of another relevant authority; and
- ii. regulations under section 81(5) may prescribe the procedure to be followed for the granting of a dispensation.

4.3.22 The underlying policy objective of these amendments is to enable a standards committee to refer a dispensation application to another relevant authority's standards committee. As with the referral of misconduct reports, it is not intended to prescribe the circumstances in which such arrangements may be made, but typically it would enable a dispensation application to be referred where a standards committee considered that it may have a conflict of interest in dealing with a dispensation application. However, it might also enable an urgent application to be dealt with in circumstances where it is impractical for the member's home standards committee to meet at short notice, e.g. due to the unavailability of members. The terms of any referral are to be a matter for agreement between the relevant authorities concerned. The procedure to be

followed on referral of an application is however set out in the Amendment Regulations.

Criteria for Granting Dispensations - Disability

4.3.23 As a general principle, the Welsh Ministers consider it is right that a member with a prejudicial interest in any business being considered at a meeting of that member's authority should, as required by the Code of Conduct, disclose that interest and withdraw from the meeting. This approach recognises that a member's continued presence at a meeting may (inadvertently or otherwise) inappropriately influence the authority's consideration of a matter, even if the member does not actively participate in the discussion or decision. The Courts¹ considered this general principle in relation to the Code of Conduct in England in place at the time. The former Standards Board for England and an Adjudication Panel case tribunal² subsequently interpreted the judgment as supporting the proposition that a member with a prejudicial interest should not remain in the room, chamber or place where the meeting was being held.

4.3.24 The Welsh Government is aware that requiring a member with a disability to withdraw from a meeting could be problematic for that member. In such circumstances, a local authority would be obliged to consider making reasonable adjustments (short of requiring the member to withdraw from the meeting) to accommodate that member's disability, for example, by placing the item of business in which the member has an interest at the end of the agenda. However, this approach may not always be possible, particularly where the interest only becomes apparent during the course of a meeting.

4.3.25 The law in relation to dispensations in England differs from that in Wales. In England, dispensation provisions are governed by section 33 of the Localism Act 2011 (the "Localism Act"). In addition to a number of specific circumstances specified in the Localism Act, section 33 includes a broad general provision which enables a local authority to grant a dispensation in circumstances where the authority "*considers that it is otherwise appropriate to grant a dispensation.*"

4.3.26 Whilst it is unclear whether it was intended to have such a purpose, it would be possible to utilise the general provision in section 33(2)(e) of the Localism Act to grant a dispensation for a member on the grounds of their disability. The Welsh Ministers consider that a similar general power should be available in Wales. It is recognised that such a general power could have wider application and might potentially be utilised by a standards committee where a member seeks a dispensation in circumstances which are not covered by one of the specific dispensation categories in the 2001 Dispensation Regulations. However, a standards committee would need to weigh carefully whether to grant a dispensation under the general category against the potential risk of

¹ Richardson & Orme v North Yorkshire County Council [2003] EWCA Civ 1860

² APW-006-2006-07-CT

external challenge to a decision taken by the authority in which that member had participated in reliance upon that dispensation.

4.3.27 In addition, regulation 2(i) of the 2001 Dispensation Regulations enables a standards committee to grant a dispensation where it appears to the committee to be in the interests of the inhabitants of the area to do so. Written notification of such a dispensation must be sent to the Welsh Ministers within seven days.

4.3.28 Only a handful of such notifications have been received over the past 14 years. The Welsh Government is not aware of any concerns about the granting of dispensation applications under this category. Consequently, the Amendment Regulations remove this notification requirement.

4.4 Effect of the Amendment Regulations

Amendments to the 2001 Standards Committees Regulations

Joint Standards Committees

4.4.1 The Amendment Regulations amend the 2001 Standards Committees Regulations as follows:

- i. Minor consequential amendments to the interpretation and other provisions to insert a definition of “joint committee” and to clarify the meaning of other terms in the 2001 Standards Committees Regulations as they relate to a joint standards committee. The opportunity is also taken to update the 2001 Standards Committees Regulations to reflect changes in other legislation eg to amend references to a ‘fire authority’ to read ‘fire and rescue authority’;
- ii. Subject to the other requirements of the 2001 Standards Committees Regulations, a joint standards committee may include no more than one executive member from each of the committee’s constituent authorities;
- iii. A requirement of, or act by, a relevant authority in respect of its area includes the combined area of the constituent authorities in the case of a joint committee;
- iv. Certain functions (eg the appointment of members) of a relevant authority in relation to a joint standards committee may be exercised by one of the constituent authorities as agreed between them.
- v. A monitoring officer or representative from any one of the constituent authorities must attend a meeting of a joint standards committee;
- vi. Minutes of a joint standards committee meeting must be drawn up by the proper officer of a constituent authority; and

- vii. Terms of reference for a joint standards committee must be drawn up and sent to the Ombudsman by one of the committee's constituent relevant authorities.

Local Authority Members of Standards Committees - Term of Office

4.4.2 Regulation 30 of the 2001 Standards Committees Regulations is amended to enable a relevant authority to determine that local authority and community committee members of a standards committee in place on the date the Amendment Regulations come into force may continue to serve on the standards committee until the date of the next ordinary local government elections (ie in 2017).

4.4.3 In order to future-proof the 2001 Standards Committees Regulations, further amendments are made to regulations 18-19 to remove the four year restriction on a member's term of office. In future, the term of office of local authority and community committee members is to be such as the authority determines, up to the period ending with the next ordinary elections following the member's appointment. In the case of a member appointed to a fire and rescue authority or national park authority standards committee, the term of office is the period until the member's appointment to the authority ceases.

Publication of Misconduct Reports – Exemption

4.4.4 The Amendment Regulations amend the 2001 Standards Committees Regulations by inserting a new regulation 26(2A) which provides that:

- i. A standards committee is exempt from the requirement to publish agendas and information relating to the consideration of a misconduct report, until such time as the misconduct proceedings are concluded.
- ii. The conclusion of proceedings is the later of:
 - a) the expiration of the time allowed to lodge a notice seeking the permission of the President of the Adjudication Panel to appeal the standards committee's decision, under Regulation 10(2) of the 2001 Functions Regulations (as amended);
 - b) receipt of notification of the decision of the President of the Adjudication Panel on the application for permission to appeal;
 - c) receipt of notification of the conclusion of an appeal where the Adjudication Panel appeal tribunal endorses a finding by the standards committee that there has been a breach of the Code of Conduct and the sanction imposed, or where it overturns the determination of the standards committee that there has been a breach of the Code; or

- d) a further determination by the standards committee after receiving a recommendation from an appeal tribunal that a different sanction should be imposed.

4.4.5 The period of exemption does not extend to any application for judicial review of the appeal tribunal's determination. Such a review is concerned primarily with potential procedural failings and is unlikely to be affected by the concerns described above regarding adverse publicity and potential influence of oral evidence.

Amendments to the 2001 Functions Regulations

Referral of Misconduct Cases

4.4.6 To give effect to section 73 of the 2000 Act (as amended), the 2001 Functions Regulations are amended to provide that:

- i. A monitoring officer who is to make a report, or recommendations, to the standards committee of the relevant authority concerned may, with the written agreement of the Chair of that standards committee, make arrangements for the report or recommendations to be made to another authority's standards committee.
- ii. A standards committee which receives a report or recommendations from a monitoring officer may make arrangements with another authority's standards committee to exercise its functions under the 2001 Functions Regulations in relation to that report or recommendations.
- iii. Where a monitoring officer or standards committee make such arrangements, the monitoring officer or the standards committee, as appropriate, must give written notice to any person who is the subject of the investigation, to any person who made an allegation giving rise to the investigation and to the Ombudsman stating:
 - that the matter has been referred to another relevant authority's standards committee for determination;
 - the name of the other relevant authority; and
 - the reason why the matter has been referred.
- iv. A standards committee that has dealt with a matter referred to it under these provisions must, in addition to the previous requirements of regulation 9(3) to give notification of its determination to certain persons, give written notice of its determination to the referring standards committee.
- v. The requirement in regulation 13(1) to produce a report of the outcome of the investigation is a function of the standards committee determining the matter. The monitoring officer to whom the report must be sent

under this regulation is the monitoring officer of the member's home authority.

- vi. The obligation in regulation 13(2) to publish the standards committee's report etc. is a function of the monitoring officer of the member's home authority.

Period of Suspension

4.4.7 Regulation 9(1)(d) of the 2001 Functions Regulations is amended to provide that a period of suspension, or partial suspension, cannot exceed 6 months or, if shorter, the remainder of a member's term of office.

Appeals to the Adjudication Panel

4.4.8 The Amendment Regulations introduce a requirement for a member seeking to appeal the decision of a standards committee to obtain the permission of the President of the Adjudication Panel (or nominated person) to do so.

4.4.9 Specifically, the amendments to the 2001 Functions Regulations provide that:

- i. A member seeking permission to appeal must give written notice to that effect to the President of the Adjudication Panel within 21 days of receiving notification of the standards committee's determination.
- ii. The member's notice seeking permission to appeal must specify:
 - a) The grounds for appeal; and
 - b) If permission to appeal is granted, whether or not the member consents to the appeal being conducted by way of written representations.
- iii. An application for permission to appeal will be decided by the President of the Adjudication Panel or, in his/her absence, a member of the Panel nominated by the President for this purpose.
- iv. Unless the President or nominated person considers that special circumstances render a hearing desirable, the decision on whether or not to give permission to appeal is to be made in the absence of the parties.
- v. The President, or nominated person, may request further information from the parties, to be submitted within 14 days from receipt of the request.

- vi. In reaching a decision on an application for permission to appeal, regard must be had to whether there is a reasonable prospect of the appeal being successful, either wholly or in part.
- vii. Written notice of the decision on whether or not to grant permission to appeal must be given no later than 21 days after receipt of the application for permission to appeal, or no later than 14 days after the deadline for receipt of any further information requested by the President of the Adjudication Panel or a nominated person.
- viii. Written notice of the decision made on the application for permission to appeal must be sent to:
 - i. The member seeking permission to appeal;
 - ii. The Ombudsman; and
 - iii. The standards committee of the relevant authority concerned.
- ix. If permission to appeal is refused, the notice must give the reasons for that decision.
- x. Where permission is granted, the person making the decision shall refer the matter to an appeal tribunal for adjudication under the provisions of regulations 11 and 12 of the 2001 Functions Regulations.

Amendments to the 2001 Dispensation Regulations

Referral of Dispensation Applications

4.4.10 To give effect to this provision, the 2001 Dispensation Regulations are amended to provide that:

- i. Where an application for dispensation has been submitted to the standards committee of a relevant authority, the committee may determine not to consider the application and to make arrangements for the application to be considered and determined by another authority's standards committee.
- ii. The monitoring officer of a relevant authority, with the prior written agreement of the Chairperson of the authority's standards committee, may make arrangements for a dispensation application from a member to be considered and determined by another authority's standards committee.
- iii. The Vice-Chairperson of the standards committee may exercise the above function where reasonable efforts to contact the Chairperson have been unsuccessful (this may be appropriate when an application requires urgent consideration).

- iv. Where a monitoring officer or standards committee make such arrangements, the monitoring officer or the standards committee, as appropriate, must give written notice to the member requesting a dispensation stating:
 - that the application has been referred to another relevant authority’s standards committee for determination;
 - the name of the other relevant authority; and
 - the reason why the matter has been referred.
- v. A standards committee that has dealt with a dispensation request referred to it by another authority’s monitoring officer or standards committee must give written notice of its determination to the member applying for the dispensation and to the standards committee of the referring authority.

Criteria for Granting Dispensations - Disability

4.4.11 The 2001 Dispensation Regulations are amended to add a further category of dispensation comparable to that in section 33(2)(e) of the Localism Act 2011. It is anticipated that such provision would enable a standards committee to grant a dispensation, if it considered it appropriate in all the circumstances to do so, where it was not otherwise possible to make reasonable adjustments to accommodate a member’s disability. Where a dispensation granted under this category remains in effect for a period of 12 months or more, the standards committee must review the dispensation once in every 12 month period from the date on which the dispensation was granted and determine whether it should continue to have effect.

5. Consultation

5.1 The details of consultation undertaken are included in the Regulatory Impact Assessment below.

PART 2 – REGULATORY IMPACT ASSESSMENT

6.1 Introduction

6.1.1 The expected costs and benefits associated with each of the provisions are summarised below. None of the provisions are expected to result in significant additional costs for the public or private sectors in Wales.

6.2 Joint Standards Committees

Options

6.2.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Standards Committees Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.2.2 There are no additional costs arising from either option. The duty on a relevant authority in section 53 of the 2000 Act to establish a standards committee is amended by section 68 of the 2013 to enable one or more relevant authorities in Wales to establish a joint standards committee. There is no obligation upon them to do so.

6.2.3 The Amendment Regulations make technical and consequential amendments to the 2001 Standards Committees Regulations to clarify their practical application in the context of a joint standards committee. The assessment of the costs and benefits and the subsequent apportionment of the ongoing administrative and related costs of a joint committee are a matter for the relevant authorities contemplating entering into such arrangements.

6.3 Local Authority Members of Standards Committees – Term of Office

Options

6.3.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Standards Committees Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.3.2 There are no additional costs arising from either option.

6.3.3 The term of office of a local authority or community council member of a standards committee is limited to the shorter of four years or the period to the next ordinary elections following the member's appointment. An unintended consequence of the postponement by one year of the 2016 local government elections is that relevant authorities would need to appoint new local authority and community council members to their standards committee for a limited period of one year to May 2017. The Amendment Regulations will enable a relevant authority, should it so wish, to extend the term of office of existing members until the 2017 elections.

6.4 Publication of Misconduct Reports – Exemption

Options

6.4.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Standards Committees Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.4.2 There are no additional costs arising from either option.

6.4.3 Doing nothing will perpetuate the problems encountered by standards committees when considering alleged breaches of the Code of Conduct, including the potential contamination of witness evidence.

6.4.4 Exempting a standards committee from the requirement to publish the report of an investigation and related information until proceedings are completed will protect the integrity of those proceedings.

6.5 Referral of Misconduct Cases

Options

6.5.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Functions Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.5.2 There are no additional costs arising from either option. However, the 'do nothing' option would perpetuate the risk of additional costs falling on the Adjudication Panel in hearing an appeal against the decision of a standards committee on the grounds that the committee was conflicted in dealing with an allegation that a member had breached the Code of Conduct. The average

cost of an appeal tribunal case conference and subsequent hearing is some £2,400, plus witness and tribunal staff expenses.

6.5.3 Section 73 of the 2000 Act enables the Welsh Ministers to make regulations for the way in which a monitoring officer and standards committee are to deal with an alleged breach of the Code of Conduct by a member of the authority, referred to them by the Ombudsman. Section 69 of the 2013 Act amended the regulation-making power, to enable provision to be made by the Welsh Ministers enabling a monitoring officer or a standards committee to refer such a matter to another standards committee.

6.5.4 Section 82A of the 2000 Act enables a monitoring officer who is unable to deal with a matter referred to him / her by the Ombudsman, perhaps due to a conflict of interest, to delegate the matter to another person.

6.5.5 Where a matter is referred to a standards committee and one or more members of that committee have a conflict of interest in dealing with that matter, it is possible for the committee to establish a sub-committee to deal with the matter, providing it remains quorate. Where this is not possible, the committee may be unable to deal with the matter without its proceedings being put at risk of challenge.

6.5.6 The do nothing option would not resolve the practical problems that may arise if a standards committee considers it is conflicted in dealing with a report referred to it by the Ombudsman or the authority's monitoring officer.

6.5.7 Making the Amendment Regulations in exercise of the Welsh Ministers' powers under section 73 of the 2000 Act (as amended), will enable a monitoring officer or a standards committee to make arrangements with another authority's standards committee to deal with the matter. The terms of a referral, including any cost recovery, is a matter for agreement between the relevant authorities concerned.

6.6 Period of Suspension

Options

6.6.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Functions Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.6.2 There are no additional costs arising from either option.

6.6.3 Doing nothing would perpetuate uncertainty over the interpretation of a standards committee's powers to suspend a member in the period leading up to

an election. Amending the 2001 Functions Regulations will clarify that a suspension may not extend beyond a member's term of office.

6.7 Appeals to the Adjudication Panel

Options

6.7.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Functions Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.7.2 A member seeking to challenge the decision of a standards committee that they have breached the Code of Conduct has an automatic right of appeal to the Adjudication Panel, regardless of the merits of the grounds for appeal. Each appeal must be heard by the Adjudication Panel at an average cost of £2,400 plus witness and tribunal staff expenses.

6.7.3 Amending the 2001 Functions Regulations to require a person seeking to appeal the decision of standards committee to first to obtain the permission of the President of the Adjudication Panel (or a nominated person) will ensure that only appeals which have a reasonable prospect of success will proceed. It will also prevent a member from seeking to delay a suspension on entirely frivolous or spurious grounds. Adding a permission requirement will also ensure there is consistency with an appeal against the decision of an Adjudication Panel 'case tribunal', which can only be brought with the permission of the High Court.

6.7.4 It is estimated that considering an application for permission to appeal would cost around £150 (assuming approximately 2 hours work), plus a limited opportunity cost associated with the administration of the application. Based on previous caseload trends, it is not possible to estimate with any certainty what the accumulative annual costs / savings might be (nor does it make practical sense to try, given the low case numbers involved), but the additional cost of considering a permission application would be more than offset in cases where permission is refused.

6.8 Referral of Dispensation Applications

Options

6.8.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Dispensation Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.8.2 There are no costs arising from either option.

6.8.3 Section 81(5) of the 2000 Act empowers the Welsh Ministers to prescribe in regulations the circumstances in which a standards committee may grant a dispensation from the requirement for a member with a prejudicial interest to leave a meeting. Section 69 of the 2013 Act amends the regulation-making power so that a dispensation may be granted by another relevant authority's standards committee; and to enable the Welsh Ministers to prescribe the procedure to be followed in regulations. The underlying policy intention of these amendments is to enable a standards committee which is unable, whether due to a conflict of interest or other reason, to consider a dispensation application to arrange for another standards committee to consider the application.

6.8.4 Doing nothing would create uncertainty as to the procedure for initiating the referral of a dispensation application to another authority's standards committee.

6.8.5 Making the Amendment Regulations in exercise of the Welsh Ministers' powers under section 81(5) of the 2000 Act (as amended), will put the procedure to be followed beyond doubt. It will enable a monitoring officer or a standards committee to make arrangements with another authority's standards committee to deal with a dispensation application. This would benefit the member concerned in that an application could be referred where a standards committee was otherwise unable to consider an application due to a conflict of interest or, for example, where a decision was required urgently and it was not possible to convene the 'home' standards committee within the required timescale. The terms of a referral, including any cost recovery, will be a matter for agreement between the relevant authorities concerned.

6.9 Criteria for Granting Dispensations – Disability

Options

6.9.1 Two options have been considered:

- i. Do nothing
- ii. Amend the 2001 Dispensation Regulations, as described in the Explanatory Memorandum above.

Costs / Benefits

6.9.2 There are no costs arising from either option.

6.9.3 The Code of Conduct requires a member of a relevant authority with a prejudicial interest in any business to be discussed at a meeting of the authority to disclose that interest and to vacate the meeting place, unless they have been granted a dispensation by the standards committee. Requiring a member with

a disability to withdraw from a meeting could be problematic for that member. Under the 'do nothing' option, a relevant authority would be required under equalities legislation to make reasonable adjustments, but this may not always be practicable, particularly where the interest only becomes apparent during the course of a meeting.

6.9.4 The Welsh Government is aware of circumstances in which a dispensation on the grounds of disability has been refused, on the basis there was no specific category within the 2001 Dispensation Regulations which allowed for this.

6.9.5 Making the Amendment Regulations would add a general category of dispensation to the 2001 Dispensation Regulations. This would allow a standards committee to grant a dispensation on the grounds of a person's disability, having regard to the full circumstances of the case. Whilst such a general category of dispensation could have wider application, a standards committee would need to weigh carefully the granting of a dispensation against the risk of external challenge to a decision taken by the authority in which a member had participated in reliance upon such a dispensation. Where a dispensation granted under this category remains in effect for a period of 12 months or more, the standards committee must review the dispensation once in every 12 month period from the date on which the dispensation was granted and determine whether it should continue to have effect.

7. Other Impacts

7.1 The Amendment Regulations have no impact on statutory partners under sections 74-75 (voluntary and business sectors), or the statutory duties in sections 78-79 (Welsh language and sustainable development) of the Government of Wales Act 2006.

7.2 The proposed amendment to the 2001 Dispensation Regulations to provide for a general category of dispensation has a potentially positive impact on equality of opportunity in that it removes any uncertainty about the ability of a standards committee to grant a dispensation on the basis of a person's disability, subject to the full circumstances of the case.

8. Consultation

8.1 The Welsh Government undertook a technical consultation on the draft Amendment Regulations with relevant stakeholders from 30 November 2015 to 10 January 2016. The draft Amendment Regulations were also published on the consultation pages of the Welsh Government's website.

8.2 Consultation on the draft Amendment Regulations formed part of a combined consultation also covering the draft Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order. Information about that Order and the

consultation response can be found in the associated Explanatory Memorandum.

8.3 A detailed analysis and report of the responses to the combined consultation will be available on the Welsh Government's website in due course.

8.4 A total of 10 responses to the consultation were received from:

Brecon Beacons National Park Authority / Pembrokeshire Coast National Park Authority (combined response)

City of Cardiff Council

Cyngor Cymuned Llanengan

Lawyers in Local Government

Neath Port Talbot County Borough Council

North Wales Fire and Rescue Authority

One Voice Wales

Powys County Council

Public Services Ombudsman for Wales

8.5 Those responding to the consultation were generally supportive. It should be noted that not all respondents addressed all questions in the consultation document. Insofar as the responses related to the Draft Amendment Regulations, the following main points were made:

Amendments to the Standards Committees (Wales) Regulations 2001

Joint Standards Committees

8.5.1 The consequential amendments set out in the Amendment Regulations were considered appropriate. One respondent commented that the council was not in favour of joint standards committees. Another considered that local authorities should be able to establish joint standards committees with local health boards.

8.5.2 The majority of respondents agreed that it was unnecessary to increase the maximum permissible number of members of a joint standards committee. One respondent considered the maximum number should be increased for both standards committees and joint standard committees to help overcome quorum problems.

Local Authority Members of Standards Committees – Term of Office

8.5.3 No unanticipated consequences were identified arising from proposed change to the term of office.

Publication of Misconduct Reports – Exemption

8.5.4 All but one respondent considered this proposal appropriately and sufficiently addressed the problem that had been identified. One respondent queried the relationship between the existing legal provisions relating to “exempt information” and the proposed amendment.

Amendments to the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001

Referral of Misconduct Cases

8.5.5 All respondents commenting on this proposal considered that adequate and appropriate provision was made for the referral of misconduct reports to another authority’s standards committee.

Period of Suspension

8.5.6 The majority (six) of respondents agreed that the provisions relating to the suspension of members by a standards committee should be brought into line with those applying to the Adjudication Panel for Wales. Two respondents considered that a suspension should be capable of having continuing effect beyond a local election. One respondent did not express a clear view either way.

8.5.7 One respondent commented that, if it was not already the case, the legislation should be amended so that an investigation or hearing which had commenced prior to an election can continue after that election if the member concerned is returned.

Appeals to the Adjudication Panel for Wales

8.5.8 All respondents commenting on this proposal agreed that the requirement and procedure for a member seeking to appeal the decision of a standards committee to first obtain the permission of the President of the Adjudication Panel for Wales was appropriate.

Amendments to the Local Authorities (Grant of Dispensations) (Wales) Regulations 2001

Referral of Dispensation Applications

8.5.9 The majority of respondents commenting (six) considered the procedure for the referral of dispensation applications to another standards committee was appropriate. One respondent did not consider that such a procedure was necessary.

Criteria for Granting Dispensations – Disability

8.5.10 Seven respondents considered the proposed general dispensation category was appropriate, although one considered that a dispensation granted under this category should be subject to regular review. One thought that a specific dispensation on the grounds of disability should be available, while another queried the need for such provision and pointed to a potential conflict with paragraph 14 of the Model Code of Conduct.

Dispensations – Other Amendments

8.5.11 No respondent disagreed with the proposal to removal the requirement for a standards committee which grants a dispensation under paragraph 2(i) of the 2001 Dispensation Regulations to give written notification to the Welsh Ministers.

8.6 As a result of the consultation, the Amendment Regulations have been amended so that a dispensation granted under the new general category and which has continuing effect must be reviewed by the standards committee in each 12 month period from the date on which it was granted (see paragraph 4.4.11 above).

9. Competition Assessment

9.1 A competition filter test has been applied to the draft Amendment Regulations. The result indicates there is unlikely to be any detrimental or beneficial effects on competition.

10. Post implementation review

10.1 The Welsh Government will monitor the impact of the Order through feedback from local government and other stakeholders.

Report of the Head of Democratic Services

Standards Committee – 3 June 2016

PUBLIC SERVICES OMBUDSMAN FOR WALES CODE OF CONDUCT CASEBOOK

Purpose:	To update the Standards Committee of recent publications of the Public Services Ombudsman for Wales Code of Conduct Casebook.
Policy Framework:	None.
Reason for Decision:	For Information Only.
Consultation:	Access to Services, Finance, Legal.
Report Author:	Huw Evans
Finance Officer:	Carl Billingsley
Legal Officer:	Tracey Meredith
Access to Services Officer:	Phil Couch

1. Introduction

- 1.1 The Code of Conduct Casebook is published twice a year by the Public Services Ombudsman for Wales and contains the summaries of all reports issued under section 69(4) of the Local Government Act 2000.

2. Equality and Engagement Implications

- 2.1 An Equality Impact Assessment (EIA) screening process took place prior to the consultation period. The outcome indicated that it was low priority and a full report was not required.

3. Financial Implications

- 3.1 There are no financial implications.

4. Legal Implications

- 4.1 There are no legal implications.

Background Papers: None.

Appendices:

- Appendix 1 - Code of Conduct Casebook Issue 6 - October 2015.
Appendix 2 - Code of Conduct Casebook Issue 7 - January 2016.

The Code of Conduct Casebook

Issue 6 October 2015

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Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

(a) that there is no evidence that there has been a breach of the authority's code of conduct;

(b) that no action needs to be taken in respect of the matters that were subject to the investigation;

(c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;

(d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

(Continued overleaf)

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers April to June 2015, but also includes the summaries of older cases for which the standards committee or Adjudication Panel hearings were concluded during this period.

Case Summaries

No evidence of breach

Pembrokeshire County Council – Accountability and openness

Case reference 201404748 – Report issued in July 2015

It was alleged that a member of Pembrokeshire County Council (“the Councillor”), used his position improperly to influence and undermine the functions of a Cross Party Disciplinary Investigation Committee. In particular it was alleged that he used “pressure” and “manipulation” to dissuade another elected member from co-operating with this Committee.

The Ombudsman commenced an investigation to determine whether there was evidence to suggest that the Councillor had breached paragraphs 6(1)(a) and 7(a) of the Code of Conduct for elected members.

Evidence was obtained from the Pembrokeshire County Council and a number of elected members. During the course of the investigation evidence which was suggestive of a further breach of the Code by the Councillor was identified. The Ombudsman decided to extend the scope of the original investigation to determine whether there was evidence that the Councillor had also used his position improperly to influence another elected member.

The Councillor was interviewed in relation to both matters and denied that he had in any way attempted to influence either member.

The Ombudsman found that the direct evidence obtained during the course of the investigation was not sufficient to support the allegation made and concluded that there was no evidence of breach in respect of all matters investigated.

Monmouthshire County Council – Disclosure and registration of interests

Case reference 201405619 - Report issued in July 2015

The Ombudsman received a complaint that a member of both Monmouthshire County Council and Abergavenny Town Council (“the Town Council”) had breached the Code of Conduct for members at a Planning meeting of the Town Council on 8 October 2014. It was alleged that the member had failed to declare an interest in the matter as a former high street shop trader when considering an item relating to an application for consent to operate as a street trader. It was further alleged that the member sought to use his position improperly by influencing the views of the members of the Planning meeting on the merits of the street trader consent. The complainant said that the member’s actions were discriminatory.

The investigation found no evidence that the accused member had an interest in the matter under consideration. In the absence of any evidence to suggest that the accused member, or someone closely associated to him, had any specific dealings with the applicant and/or link to the application,

the Ombudsman was not satisfied that an objective person would reasonably regard the factor of the member's former occupation as so significant that the member would be considered as having an interest in the matter. Furthermore, there was no evidence that the member had spoken on the merits of the application at the Planning meeting. Having considered the available information, the Ombudsman concluded there was no evidence that the member had breached the Code.

Monmouthshire County Council

Case Number: 201405619/201405638 - Report issued in July 2015

The Ombudsman received a complaint that a member of both Monmouthshire County Council and Abergavenny Town Council ("the Town Council") had breached the Code of Conduct for members at a Planning meeting of the Town Council on 8 October 2014. It was alleged that the member had failed to declare an interest in the matter as a former high street shop trader when considering an item relating to an application for consent to operate as a street trader. It was further alleged that the member sought to use his position improperly by influencing the views of the members of the Planning meeting on the merits of the street trader consent. The complainant said that the member's actions were discriminatory.

The investigation found no evidence that the accused member had an interest in the matter under consideration. In the absence of any evidence to suggest that the accused member, or someone closely associated to him, had any specific dealings with the applicant and/or link to the application, the Ombudsman was not satisfied that an objective person would reasonably regard the factor of the member's former occupation as so significant that the member would be considered as having an interest in the matter. Furthermore, there was no evidence that the member had spoken on the merits of the application at the Planning meeting. Having considered the available information, the Ombudsman concluded there was no evidence that the member had breached the Code.

Carmarthenshire County Council

Case reference 201500393/201500441 – Report issued in July 2015

A member of the public complained about a Councillor of Llanelli Rural Council ("the Council"). They said that the Councillor spoke to her in a rude and aggressive manner during a discussion outside the Trallwm Hall on 9 April. The Ombudsman investigated whether the Councillor's alleged behaviour was such that it brought the office or Council into disrepute and whether it could be considered disrespectful or bullying.

As part of the investigation, a Council officer who overheard some of the discussed was interviewed. Whilst the officer said that the nature of the discussion was not cordial, he did not hear the Councillor being disrespectful and their behaviour did not leave cause for concern. There were differing accounts of the discussion given by the Councillor and the member of the public. Independent advice was provided by the Council officer who saw nothing inappropriate in the Councillor's behaviour. The Ombudsman found there had been no breach of the code.

**Rhondda Cynon Taf County Borough Council – Disclosure and registration of interests
Case reference 201408430 – Report issued in September 2015**

A complaint was received about a member of Rhondda Cynon Taf CBC (“the Councillor”) failing to declare a personal and prejudicial interest in planning applications made by the director of a company. On 14 April 2011, at a Development Control Committee (DCC) meeting, the Councillor did not declare a personal and prejudicial interest in a planning application by the company. On 18 October 2012, an application was considered by the same applicant. The Councillor said the applicant was a family friend, she had a prejudicial interest and left the meeting. On 21 March 2013, another planning application was made by the same applicant. The Councillor said that she knew the applicant’s mother, but did not leave the meeting.

The Councillor said that at the meeting on 14 April 2011, she had not known the applicant and she opposed the application. She said at the meeting on 18 October 2012, she made a personal and prejudicial declaration, as she had publicly opposed the application and left the meeting. The Councillor said that on 21 March 2013, her interest had been personal and not prejudicial. She had not voted as the application was deferred. The Councillor said she had over declared her personal interest as she had known the applicant’s mother who had been her children’s school secretary who are now adults. She had not sought to progress any application by the director.

The Ombudsman determined that there was no evidence that the Councillor failed to comply with the Code of Conduct in accordance with S69 (4) (a).

No action necessary

There are no summaries in relation to this finding

Referred to standards committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

Llanfihangel ar Arth Community Council - Disclosure and registration of interests Case reference 201305114 Report issued in August 2015

The Ombudsman received a complaint that a member (“the Councillor”) of Llanfihangel ar Arth Community Council (“the Council”) had breached the Code of Conduct for Local Authority Members during meetings of the Statkraft Alltwalis Wind Farm Community Benefit Fund (upon which she had been nominated to sit in her capacity as a community councillor) and of the Council. It was alleged that the Councillor should have declared an interest and left the room when items relating to her husband’s building firm and an application for a wind farm to be built next to land she owned were discussed during the meetings.

The Ombudsman determined that it was appropriate to investigate whether the Councillor had breached the Code of Conduct. Evidence was obtained from the Council, the Statkraft Alltwalis Wind Farm Community Benefit Fund and persons present at the meetings.

The Ombudsman was satisfied that on balance the evidence suggested that whilst the Councillor had a personal and prejudicial interest in Council business relating to her husband’s building firm, she had appropriately declared an interest and left the room at the relevant times. The Ombudsman found that the Councillor had not been required to declare a personal interest at a number of Council meetings. However, the Ombudsman did consider that the Councillor had failed to declare a personal and prejudicial interest and to withdraw from the room whilst matters relating to the wind farm were discussed and voted on at the Council meeting of 16 January 2012.

The Ombudsman referred the matter to the Adjudication Panel for Wales for adjudication by a tribunal.

The Tribunal concluded that the Councillor had breached the Code of Conduct. Accordingly, the Tribunal decided that the Councillor should be suspended the Council for a period of three months.

The decision of the Adjudication Panel for Wales can be found [here](#).

More Information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to Matthew.Aplin@ombudsman-wales.org.uk or Lucy.Geen@ombudsman-wales.org.uk, or sent to the following address:

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The Code of Conduct Casebook

Issue 7 January 2016

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Case Summaries

No evidence of breach

Cardiff Council - Promotion of equality and respect

Case reference 201408688 – Report issued in October 2015

A complaint was received that a member of Cardiff Council (“the Councillor”) had breached the Code of Conduct for members by using her position improperly to obtain “confidential” information relating to another member of Cardiff Council and by sharing this information with her political party in order to create a disadvantage for him and for political purposes.

Evidence was obtained from Cardiff Council and a number of elected members.

The Councillor was interviewed and said that she received a request for information from an outside organisation and that her role as councillor required her to seek appropriate advice and act in accordance with that advice.

The Ombudsman concluded that it was not unreasonable for the Councillor to rely on the advice provided to her and on this basis was not persuaded that evidence gathered was suggestive that she had breached the Code of Conduct.

No action necessary

Pembrokeshire County Council – Integrity / Disclosure and registration on interests Case reference 201500279/201500292 – Report issued in December 2015

A complaint was made that a member of Pembrokeshire County Council had breached the Code of Conduct by seeking to influence a decision of the Council over a matter in which he had a prejudicial interest, that he had failed to have regard to relevant advice provided by the Council's Monitoring Officer and that he had conducted himself in a manner which could reasonably be regarded as bringing his authority into disrepute.

Evidence was obtained from the Council and a formal interview was carried out with the Councillor.

The Councillor declared a prejudicial interest, but it was apparent at interview that he did not believe that his interest in the matter was prejudicial. The Councillor acted against the direction of the Standards Committee and rejected the advice of the Monitoring Officer, both of which were based upon his declaration that he had a prejudicial interest. These actions were not appropriate and may have amounted to a breach of the Code of Conduct. However, had the Councillor fully considered his position at the outset, he may not have declared a prejudicial interest. Since these events, the Councillor has sought and complied with advice from the Monitoring Officer and the Standards Committee.

The Ombudsman determined that it would not be proportionate or in the public interest to take further action against the Councillor.

Llanelli Town Council - Objectivity and propriety

Case Number: 201500965 – Report issued in December 2015

A complaint was made that, due to his conduct at an event, a member of Llanelli Town Council may have breached the Code of Conduct by failing to show respect and consideration for others, using bullying or harassing behaviour towards another, using the resources of his authority imprudently and bringing his authority into disrepute. It was alleged that the Councillor had been drinking excessively at tax payers' expense, had been verbally abusive towards members of staff and had acted in a violent manner towards another guest at the event.

A number of witness statements were obtained and the Councillor was formally interviewed. The Ombudsman determined that the evidence was not sufficiently robust that it would satisfy a Standards Committee or the Adjudication Panel for Wales that a breach of the Code of Conduct had occurred and that a sanction would be appropriate, therefore no further action was necessary.

Referred to standards committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

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