

STANDARDS COMMITTEE – 3RD APRIL 2009

**REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES
AND MONITORING OFFICER**

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ITEM No. 1
PART 1 SECTION A

Report of Public Services Ombudsman for Wales and Adjudication Panel for Wales 2007/08

Purpose of Report

It is of value from time to time to look at the reports of the Public Services Ombudsman and of the Adjudication Panel for Wales in relation to complaints that Members have breached the Code of Conduct.

Previous Practice

Several years ago the Ombudsman, when dealing with those cases of maladministration which formally comprised his sole jurisdiction, had the practice of publishing all reports which he had issued against Authorities. These published reports were helpful in signalling to other Local Authorities the approach which the Ombudsman was likely to take in relation to particular issues.

The Ombudsman's practice now derives from a variation in his statutory powers in that, if an Authority agrees with a report finding maladministration and is prepared to undertake those measures which the Ombudsman would wish to see put in place e.g. compensation or changes to administrative practices, then the Ombudsman does not require publication of such reports. Some reports are published in the Ombudsman's annual report but they are far less than were published previously.

Reports for 2007/08

As far as the Standards Committee is concerned, we are of course interested in Code of Conduct complaints and, as far as the Ombudsman's report is concerned, it contains only a summary of the number of complaints dealt with across Wales. This Summary is found at Annex 1 to this report.

From the report Members will note that the number of complaints against Principal Authorities i.e. County or County Borough Councils has increased from 136 in 2006/07 to 160 in the year 2007/08. The Ombudsman notes however that forty eight of those complaints were against two Local Authorities about individual planning applications. He decided to act in relation to neither of these sets of complaints.

Complaints against community councils decreased from 81 to 65 between the two financial years.

The Ombudsman's report does not contain any detail of Code of Conduct cases and determinations by the Adjudication Panel or, indeed, determination of matters by Standards Committee. As Members will know the Ombudsman can refer cases to Standards Committee for local determination.

The Adjudication Panel Annual Report is more informative about individual cases. The cases determined during the year I have reproduced at Annex 2 to this report.

Looking at the cases it is surprising how some of them still relate to cases of Members failing to declare and leave in circumstances where either they members of their family had interests whether of land ownership or otherwise

One area which called for some special thought in relation to interests in the County Borough was the Local Plan. I will say that officers and Members of the County Borough have been particularly careful to identify cases where interests may arise when dealing with the adoption of development plans. In that context it is interesting to note the first of the reported decisions relating to the Isle of Anglesey APW/010/2005/CT but there is not sufficient detail in order for any particular lessons to be learnt.

There is a little useful guidance in the cases relating to the need to show respect and consideration for others – Officers and Members alike and of the circumstances under which a Member will be considered guilty of bringing the Local Authority into disrepute.

The Panel also dealt with two cases of Appeals from decisions of Standards Committees – that of Aberffraw Community Council reference APW/005/2006-07/A in both cases the decision of the Adjudication Panel was to uphold the decision of the local Standards Committee.

Whilst this report is mainly for the information of Members I have noted the lack of publicly available information in the Ombudsman's report and the nature of the reporting in the Adjudication Panel report also. I would recommend to Members of the Standards Committee that we make some representations to the Ombudsman about the reporting of decisions in the Ombudsman's Annual Report and to the Adjudication Panel about the extent of reporting there.

Recommendation

Representations are made to the Ombudsman about the reporting of decisions in the Ombudsman's Annual Report and to the Adjudication Panel about the extent of reporting there.

List of Background Papers

Ombudsman's Annual Report 2007/08
The Adjudication Panel Annual Report

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Wards Affected

All

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Code of Conduct Complaints

The table below gives a breakdown of the code of conduct complaints that I received by type of local authority. I was pleased to see a further decline in complaints against members of community councils compared with last year's Annual Report, when I reported that there had been a dramatic decline in the number of complaints that I had received about community council members. There had been a pattern in prior years of members in a handful of community councils making trivial complaints against one another on a 'tit-for-tat' basis. I had found it necessary in the past to warn all councillors of certain community councils that making vexatious allegations was in itself was a breach of the code of conduct.

The number of complaints received against county councillors was up by 24 on 2006-07. However, 29 complaints were against the members of Merthyr Tydfil County Borough Council in respect of a planning matter. I decided that these complaints did not warrant investigation. Similarly, I received a batch of 19 complaints against members of Flintshire County Council, also about a planning matter. I commenced investigation, but discontinued it having concluded that no action was necessary.

Breakdown of Code of Conduct complaints received by type of local authority

	2007/08	2006/07
Community Council	65	81
County/County Borough Council	160	136
National Park	4	5
Police Authority	1	3
Total	230	225

As the table opposite shows, of the Code of Conduct cases considered in 2007/08, I decided that the large majority did not call for an investigation. Indeed, where I did investigate, I concluded that only 9 cases warranted further formal action. This compares with 19 in 2006/07.

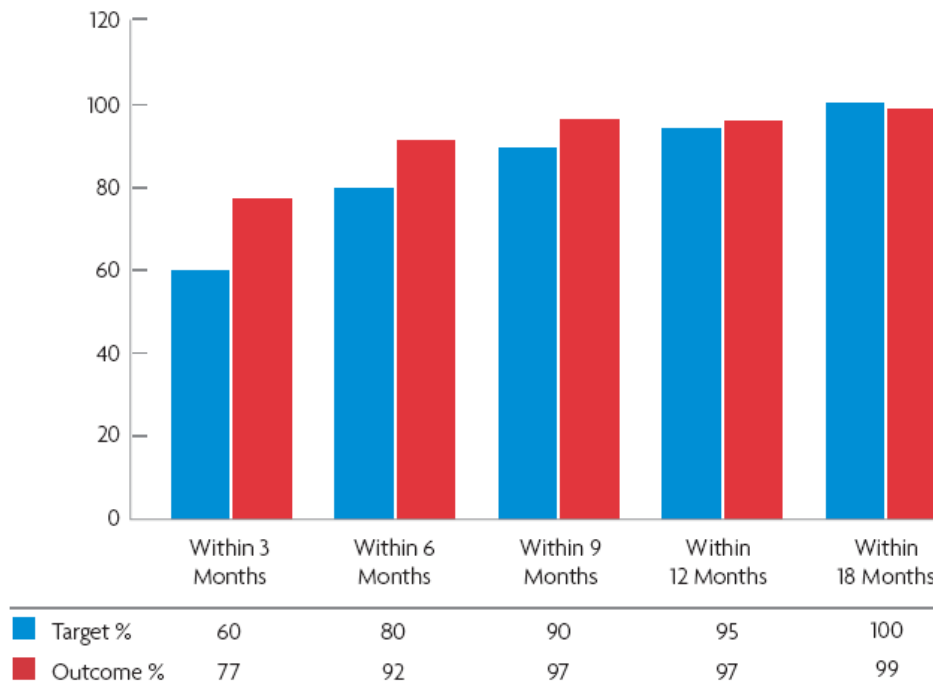


Summary of Code of Conduct Complaint Outcomes

Decision not to investigate complaint	153
Complaint withdrawn	1
Investigation discontinued	28
Investigation completed: No evidence of breach	12
Investigation completed: No action necessary	8
Investigation completed: Refer to Standards Committee	6
Investigation completed: Refer to Adjudication Panel	3
Total Outcomes	211

I am conscious that being the subject of an unresolved Code of Conduct complaint is stressful for the councillor concerned. I am pleased, therefore, that the chart below shows that the large majority of cases dealt with last year were resolved within 3 months and that only 8% of cases took longer than 6 months.

Decision Times for Concluding Code of Conduct Complaint Cases



Summary of Case Tribunals

The Panel had 4 cases referred by Ombudsman that were ongoing at the start of the financial year. A further 3 cases were referred to the Panel by the Ombudsman during the reporting period. All 7 cases were determined by case tribunals in the period covered by this report and are summarised below.

APW/010/2005/CT - Pembrokeshire Coast National Park Authority

The referral from the Ombudsman related to allegations that the councillor had breached the council's code of conduct by failing to declare an interest and failing to withdraw from consideration of matters relating to the Joint Unitary Development Plan at meetings of the Authority.

Following a pre-hearing review and the receipt of additional information, the Case Tribunal issued a listing direction in which it identified the key relevant disputed facts upon which it would need to find, namely:

- a. did the councillor own any land that was capable of being developed when he participated in the relevant meetings of Pembrokeshire Coast National Park Authority; and
- b. what was the likely impact of the introduction of a proposed affordable housing policy ("Policy 47") on land values in the Pembrokeshire Coast National Park.

The Case Tribunal also needed to determine whether the councillor had considered whether or not he had a personal interest, the nature of which he should disclose.

During the hearing the Case Tribunal found that the councillor did own land that was capable of being developed when he participated in meetings of the Authority. The Case Tribunal also found that the likely impact of the introduction of Policy 47 upon land values was that the value of existing homes would rise, but the value of new build homes would remain the same.

The Case Tribunal found that the councillor did consider whether he had a personal interest in the matter of the Authority's consideration of Policy 47, but there was no such interest to disclose.



On the basis of the findings of fact, the Case Tribunal found by a unanimous decision that there had not been a failure to comply with the Authority's code of conduct.

APW/004/2006-07/CT - Isle of Anglesey County Council

The referral from the Ombudsman related to allegations that the councillor had breached the council's code of conduct by failing to declare an interest and to withdraw from consideration of the allocation of land for housing development at meetings of the Council's Executive.

It was alleged that the councillor supported the inclusion of a parcel of land for housing development in the Unitary Development Plan which was owned by a property developer with whom the councillor had previously had a business relationship and had earlier declared a friendship.

The Case Tribunal found evidence that there had been some degree of friendship between the councillor and the developer but, on the balance of probabilities, any degree of friendship had broken down and that by the time of the Executive Meetings they could not properly be described as friends.

The Case Tribunal found that there had been an indirect commercial relationship between the councillor and the property developer. Whilst it was a poor relationship it was still ongoing at the time of the UDP meetings and did amount to a personal interest under the code.

The Case Tribunal found that the councillor had always and consistently supported the development of the land in question for affordable housing in the genuine belief that there was need for such for local people. In the circumstances, the Case Tribunal did not find that a member of the public might reasonably conclude that the personal interest was such that it would *significantly* affect the councillor's ability to act purely on the merits of the case and in the public interest.

The Case Tribunal found by a unanimous decision that there had been a failure to declare the personal interest, which was a partial breach of paragraph 5.1.3.7(iii) of the Council's Code of Conduct (cf. paragraph 16(3) of the model code),



but had the councillor declared his interest he could have spoken on the matter at the Executive Meetings.

The Case Tribunal found that the nature of the breach was not such as to warrant a sanction.

APW/006/2006-07/CT - St Brides Major Community Council

The referral from the Ombudsman related to allegations that the councillor had breached the council's code of conduct by failing to declare an interest and/or the nature of an interest and/or failing to withdraw from consideration of matters relating to businesses owned by his son and daughter-in-law for which he had a personal interest. It was also alleged that the councillor was guilty of improper conduct during a council meeting.

Prior to the commencement of the tribunal's consideration of the allegations, the councillor sought to have the proceedings stayed on the basis of undue delay and perceived bias on the part of the tribunal. He argued that it would not be possible for him to receive a fair hearing, contrary to Article 6 of the Human Rights Act 1998.

The Case Tribunal found that there was guidance in the legal authorities to support the proposition that a relatively high threshold had to be crossed before it could be said in any particular case that the period of delay was unreasonable. The tribunal noted that the investigation, which involved a number of separate, but related allegations made over a period of time, had been concluded within a 9 month period. The tribunal hearing had commenced within a 9 month period of the referral by the Ombudsman. The Case Tribunal found that the delay was not in breach of Article 6.

The councillor submitted that the Case Tribunal should not have sight of the full report of the Ombudsman. The report dealt with 16 allegations in respect of which the Ombudsman had found evidence to support only 9. The Case Tribunal noted that it was independent of the Ombudsman. Its role was inquisitorial in nature and it would reach its own views on the facts of the allegations before it. The Case Tribunal concluded it was impossible to separate the evidence between events



where the Ombudsman had found potential breaches from those where he had found insufficient evidence to conclude there was a breach. The Case Tribunal found no grounds to suggest that its impartiality had been compromised.

In respect of the allegations against the member, the Case Tribunal concluded that there were 10 occasions when there were breaches of paragraph 16(3) of the code of conduct. Two of those were failure to define the nature of an interest, two related to active participation by the councillor in matters in which he had an interest. There was one serious failure to make any declaration of an interest in relation to discussion of matters concerning his daughter-in-law's business. There were also 5 serious breaches of failure to withdraw, two of which occurred after the councillor was aware that allegations had been made to the Ombudsman.

The Case Tribunal gave consideration to the fact that the councillor had not acted in any way which benefited his son or daughter-in-law's business. However, the Case Tribunal concluded that the failure to withdraw was deliberate and that the councillor had deliberately ignored the advice of the Monitoring Officer. The councillor was an experienced councillor and would have been aware of the consequences of ignoring the advice of the Monitoring Officer.

Given the deliberate nature of the breaches, the lack of concern of the councillor and the effect on public confidence, the Case Tribunal concluded that the councillor should be suspended for 9 months from acting as a member of St Bride's Major Community Council.

The allegation that the councillor was guilty of improper conduct during a council meeting arose from a single comment during a highly charged meeting. The Case Tribunal concluded that this did not require a separate sanction.

APW/007/2006-07/CT - Sully Community Council

The referral from the Ombudsman related to allegations that the councillor had breached the council's code of conduct by attempting to gain a fellow councillor's support for his continuing membership of a council working group through unpleasant bullying tactics. In so doing, he failed to show respect and consideration for that councillor and behaved in a manner likely to bring the office of member into disrepute.



The councillor did not wish to appear before the Tribunal. Through his solicitor he accepted that he had failed to show respect and consideration for his fellow councillor. He also accepted that he behaved in a manner which could have brought the office of member into disrepute.

In his Report, the Ombudsman considered the nature of the councillor's approach to a fellow councillor to be inappropriate and unethical. The Case Tribunal shared the Ombudsman's view that the councillor attempted to gain support by unpleasant tactics and bullying.

The Case Tribunal found by unanimous decision that there had been a failure to comply with the Council's code of conduct and that the councillor should be suspended from acting as a member of Sully Community Council for a period of 6 months.

APW/001/2007/2008 CT - City and County of Swansea

The referral from the Ombudsman related to an allegation that the former councillor had breached the council's code of conduct by making improper use of Council-owned computer equipment for private purposes by downloading inappropriate images and sending letters to a local newspaper, which were falsely represented as being from members of the public. The actions of the councillor brought the office of member into disrepute. The councillor failed to show respect and consideration for others by failing to take account of the impact of his actions on council employees who later saw the images on the computer equipment.

The pattern of persistent misconduct demonstrated a failure by the councillor to promote the principles of the code by leadership and example.

The councillor did not wish to appear before the Tribunal. Through his solicitor he acknowledged that, in making a voluntary reference to the Ombudsman, he accepted that he had misused computer equipment supplied by the Council and, in so doing, had brought the office of councillor into disrepute.

The councillor also indicated that he did not disagree with the Ombudsman's conclusion that he had failed to show respect for others and had failed to promote the principles of the code by leadership and example.



The Case Tribunal found by a unanimous decision that there had been a failure to comply with the authority's code of conduct. The Case Tribunal found that the councillor, by his own admission, had misused computer equipment supplied by the Council to download a large number of adult pornographic images and to create letters submitted under false names to the press.

The former councillor had also indicated that he did not disagree with the Ombudsman's conclusion that he had failed to have regard to the effect on council employees who had to view the images when a computer was returned for repair.

The Case Tribunal decided by unanimous decision that the former councillor should be disqualified for 2 years 6 months from being or becoming a member of the City and County of Swansea or of any other relevant authority.

APW/004/2007-08/CT - Merthyr Tydfil County Borough Council

The referral from the Ombudsman related to allegations that the councillor had breached the council's code of conduct by bringing the office of member and the Council into disrepute, that he had used his position improperly to secure an advantage for himself and his father and, in so doing, had failed to adequately disclose an interest and withdraw.

The alleged breaches related to a fact finding site visit by the Council's Planning and Regulatory Committee, of which the councillor was a member. The site visit had been arranged to inspect work to trees on land adjacent to the council's property owned by his father.

The Case Tribunal found that in attending the meeting the councillor was under an obligation to declare an interest because it involved his father's land, which was subject to a number of planning applications. His presence would have been viewed as a demonstration of support for his father throughout the meeting. The Case Tribunal considered that the councillor should have made it clear at the outset of the meeting whether he was present as a private individual or as a member of the Planning and Regulatory Committee. By not doing so, the Tribunal was satisfied that he was present as a member of the Council.



The Case Tribunal found by unanimous decision that there had been a failure to comply with the Council's code of conduct and concluded that he should be disqualified for 12 months from being or becoming a member of Merthyr Tydfil County Borough Council or of any other relevant authority.

APW/005/2007-08/CT - Conwy County Borough Council

The referral from the Ombudsman related to allegations that the councillor had breached the council's code of conduct by using his position improperly to assist his son and daughter-in-law in matters relating to a complaint against their neighbours, that he failed to show respect and consideration in his dealings with Council staff and attempted to compromise their impartiality, that he disclosed confidential information and that his behaviour brought the office of member of the authority into disrepute.

The Case Tribunal found that the councillor had made a number of calls to council officials to discuss issues relating to his son and daughter-in-law with regard to the complaint against their neighbours and that many of the calls were outside office hours. The telephone calls were made by the councillor in his role as an elected member.

The Case Tribunal was satisfied that in one of the telephone calls with a council official, the councillor had adopted a hostile attitude and had asked the official to release confidential information.

The Case Tribunal was satisfied that the Deputy Monitoring Officer of Conwy County Borough Council had written to the councillor emphasising the powerful position that elected members occupy when dealing with members of staff who can feel easily intimidated by members. The Case tribunal found that the councillor's conduct in contacting officers continued beyond the date of the letter.

The Case Tribunal found that there was insufficient evidence to substantiate an allegation that the councillor had disclosed confidential information.



The Case Tribunal found that the councillor had failed to show respect and consideration for others and that his persistent conduct in dealings with council officials amounted to harassment. The Tribunal also found that by his actions the councillor sought to compromise the impartiality of the authority's employees.

The Case Tribunal found that the councillor, by the accumulative nature of his dealings with council officials and the making of a false allegation regarding a council official as to the installation of equipment in a property, had brought the office of member into disrepute. The Case Tribunal found that the councillor had improperly promoted, as an elected member, the interests of his own family.

The Case Tribunal found that the allegations were serious and included harassment of council officials. While there were aspects of the allegations that could have justified a disqualification from office, there were also a number of mitigating factors. The Case Tribunal concluded that the proximity of the local elections meant that the effect of a disqualification would be disproportionate. It concluded by unanimous decision that the councillor should be suspended from acting as a member of Conwy County Borough Council for a period of 12 months.

Summary of Appeal Tribunals

One appeal was carried over from the previous reporting year and the Panel received a further appeal against the determination of a local standards committee. Both of these appeals were determined during the period covered by this report and are summarised below.

APW/005/2006-07/A - Aberffraw Community Council

An appeal was received against the decision of Isle of Anglesey County Council's Standards Committee that the councillor had breached the community council's code of conduct and should be suspended for 3 months.

The allegation was that the councillor had failed to declare an interest when the Council considered candidates to fill a vacancy by co-option, when a family member was a candidate.



It became apparent from the information provided by the councillor that he was not seeking to challenge either the finding that he had breached the code of conduct, nor the sanction imposed by the Standards Committee. The councillor required the tribunal to make a finding in respect of perceived criticisms of Aberffraw Community Council in the Standards Committee's written decision report.

It was explained to the councillor that the purpose of the Appeal Tribunal was to determine whether to uphold or overturn the determination of the Standards Committee that there had been a failure to comply with the code of conduct. If the tribunal upheld the decision it would then decide whether to endorse the sanction imposed or to refer the matter back to the Standards Committee with a recommendation that a different sanction be imposed.

The councillor was advised that the tribunal had no jurisdiction in respect of the procedure of the Standards Committee or the terms of its decision in implying criticism of the community council. The councillor was given the opportunity to make further representations. No further representations were received and the Standards Committee advised that the matter was closed.

APW/002/2007/2008 A - City and County of Swansea

An appeal was received against the decision of the City and County of Swansea's Standards Committee that the councillor had breached the authority's code of conduct and should be censured in respect of one matter and suspended for 1 month in respect of another.

The allegations were that the councillor had failed to reach a decision on the basis of the merits of the circumstances involved when he attended a meeting of the Planning Committee on 20 July 2006 and, in so doing, had also failed to have regard to the advice of the authority's Monitoring Officer.

The councillor disputed that he had failed to comply with the code. He stated that he did not vote at either of the meetings so that the suggestion of pre-determination was not relevant. He said he had regard to the advice of the Monitoring officer but chose not to follow it.



The councillor stated that his decision not to vote showed that he had given consideration to the Monitoring Officer's advice as to whether or not he was predetermined, but he could not explain why he felt it appropriate to speak but not vote.

The Appeal Tribunal was satisfied that the councillor did not appreciate that he was predetermined and, in fact, was convinced that he was not. The Appeal Tribunal considered that the councillor's failure to correct or clarify information which appeared in newsletters, his active opposition to matters considered at council committee meetings, his attendance between those meetings at a public meeting convened to oppose the scheme would, on the balance of probabilities lead a reasonable onlooker to conclude that he was predetermined.

The Appeal Tribunal was of the view that the meaning of "having regard" to advice given by the Monitoring officer meant accepting such advice in the absence of good reasons not to. The Appeal tribunal concluded that no such reasons were given.

The Tribunal upheld the determination of the standards committee that the councillor had breached the code of conduct. The tribunal further determined to endorse the decision of the standards committee that the councillor should be censured for breaching paragraph 8(a) of the code and suspended for 1 month for breaching paragraph 8(b) of the code.



Summary of sanctions imposed by case tribunals and appeal tribunals in the period October 2002 to 31 March 2008

Sanction	Period	No of Decisions
Case and Appeal Tribunals		
Disqualification	2 years 6 months	1
	2 years	1
	1 year	1
Suspension	12 months	2
	9 months	2
	6 months	4
	3 months	1
	2 months	2
	1 month	2
Partial suspension		0
Censure		2
Breach - no action		1
No breach		4
Appeals		
Breach of code upheld/dismissed		6 (86%)/1(14%)
Different sanction recommended		1 increase/1 decrease
Refused:		
• out of time		1
• Not in jurisdiction		1
• Withdrawn		1



ITEM No. 2
PART 1 SECTION A

Grant of Dispensations

Purpose of Report

To seek the extension of current dispensations.

Introduction

Dispensations were mainly granted by the Standards Committee of the County Borough Council on two occasions, firstly, a general meeting held in March or the start of April in any year and secondly, in a meeting following the Annual Meeting of the Council.

I would explain to Members that the Civic Year of the Authority runs from Annual Meeting to Annual Meeting and it is at these meetings that the County Borough determines who is going to sit on what Committee, Co-options etc.

This has often led to the situation that dispensations were granted in March/April only to be changed in May.

Proposal for Change

The Standards Committee has processed fewer dispensations this year than in previous years and it would be my intention to canvass more widely amongst Members the possibility of renewing some older dispensations at a further meeting in May.

I consider that it would a more efficient use of time if we were to be able to take all dispensations to the same Committee meeting.

I would therefore recommend to Members that the current list of dispensations which are set out in the table below be extended to the end of May this year when all renewals and new applications will be dealt with on the one occasion.

It would then be my intention in consultation with the Chair and Vice Chair to schedule a meeting of the Standards Committee at the end of May in each year to consider the renewal and grant of dispensations.

Name	Employment Dispensation	Date Granted
Cllr. Mrs. J. Hopkins	Her husband is employed as an ICT Research Officer in Environment	Re-granted 15.08.08
Cllr. E. V. Latham	His son is employed as a Parks Attendant in Environment	Re-granted 15.08.08
Cllr. Mrs. M. A. Lewis	1) Her niece is employed as a PE Teacher in EL&LL 2) Her Daughter-in-law is employed as a Support Teacher in EL&LL	Re-granted 15.10.08
Cllr. A. Llewelyn	His wife is employed as a Teacher in EL&LL	Re-granted 15.10.08
Cllr. Dr. J. D. Morgan	His wife is employed as a Teaching Assistant in EL&LL	Re-granted 15.10.08
Cllr. L. Purcell	Her ex-husband is employed in SSH&H	Grant – 15.08.08
Cllr. P.A. Rees	His daughter-in-law is employed as a School Clerk in EL&LL	Re-granted 15.08.08
Cllr. Mrs. B. Richards	Her son and his partner are employed as Accounts Clerks in Environment	Grant-15.10.08
Cllr. P. D. Richards	His wife is employed as a Specialist Behavioural Outreach Worker in SSH&H	Re-granted 15.08.08
Cllr. J. Rogers	1) His daughter is employed as a Teaching Assistant in EL&LL 2) His son is employed as an Admin Officer in SSH&H	Re-granted 15.08.08
Cllr. D. Vaughan	His wife is employed as a Victim Liaison Worker in CEX's	Re-granted 15.08.08
Cllr. A. N. Woolcock	His niece is employed as a Modern Apprentice in SSH&H	Re-granted 15.08.08

Recommendation

That the current dispensations set out in the table above be extended to the end of May this year when all renewals and new applications will be dealt with on the one occasion.

List of Background Papers

Current dispensations.

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Wards Affected

All

ITEM No. 3
PART 1 SECTION A

Section 12 Local Government and Housing Act 1989

Purpose of Report

To consult with the Standards Committee about guidance to be issued by the Monitoring Officer

Introduction

Under Section 12 of the Local Government and Housing Act 1989 it is the duty of every Local Authority to ensure that, so far as is practicable, the interests of the authority in any negotiations about terms and conditions of employment are never represented whether directly or indirectly by persons in such employment or persons who are Members of the Authority and officials or employees or Trades Unions whose members include persons in Local Authority employment.

Interpretation of the Section

Most Local Authority employment terms and conditions are negotiated nationally but, perhaps to an increasing extent, these national agreements are being supplemented by local agreements. The purpose of the Section was to avoid any perceived conflict of interest where Members would represent the employer in negotiations. Inevitably a number of Members will be Trades Union officials (the vast majority unpaid).

Some Monitoring Officers have in the past taken a very wide view of this Section which meant that Councillors who were also Trades Union officials would be precluded from sitting on items of business relating to all personnel matters.

The view which I have taken on the issue is that the Section is, in one way, really quite specific in that it relates to negotiations on terms of employment and does not relate to other issues.

The amalgamation of many major Trades Unions over the years has meant that a number of Members have been caught by these provisions where in fact they are working in different sectors such as the health services.

I set out below some guidance which I propose to send out to Members of this Authority.

“It is clear that a Councillor who is an official or an employee of a Trade Union whose members include persons in Local Government employment cannot participate directly in negotiations with respect to terms and conditions of employment for Local Authority employees. Therefore, the Councillor concerned could not, for example, sit on any negotiating committee which dealt with face to face discussions with the Trades Unions.

The slight grey area is that the Council is also compelled by the legislation to ensure that it is not indirectly represented by a Councillor with that Trade Union involvement. Quite what indirectly represented means is perhaps open to debate but I have always assumed that it meant participation in decision making relating to issues which would then be subsequently negotiated with the Trades Unions. Decision making on Job Evaluation is an example of this.

In summary, my advice is that Councillors who are officials or employees of a Trade Union whose members include Local Authority employees cannot participate directly in negotiations affecting terms and conditions for Local Authority employees and that they should not participate indirectly in such negotiations by taking part in decision making.”

For Consideration

List of Background Papers

Section 12 of the Local Government and Housing Act 1989.

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Wards Affected

All

ITEM No. 4
PART 1 SECTION B

Independent Remuneration Panel for Wales

Purpose of Report

To advise Committee of discussions with The Independent Remuneration Panel.

The body which advises Local Government and, to a certain extent, the Welsh Assembly Government on allowances for Local Authority Members is the Independent Remuneration Panel for Wales. This body sets the maximum allowances which can be paid.

The Remuneration Panel is consulting with Local Authorities and other bodies about the future of allowances. Arrangements have been made for two members of the Panel to meet with Councillors and Co-opted Members of the Authority on 30th March.

At the request of the Panel invitations have been issued to Members of the Standards Committee to get their views.

List of Background Papers

The Independent Remuneration Panel for Wales Initial Report of July 2008 and Supplementary Report of December 2008.

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Wards Affected

All