



STANDARDS COMMITTEE

***1.00 PM - MONDAY, 9 SEPTEMBER 2024**

**MULTI-LOCATION MEETING - COUNCIL CHAMBER, PORT TALBOT
& MICROSOFT TEAMS**

**PLEASE NOTE TIME*

**ALL MOBILE TELEPHONES TO BE SWITCHED TO SILENT FOR THE
DURATION OF THE MEETING**

PART 1

1. Welcome and Chair's Announcements
2. Declarations of Interest
3. Minutes of Previous Meetings *(Pages 5 - 10)*
4. Internal Audit in respect of Members Ethics *(Pages 11 - 28)*
5. Referral from the Ombudsman *(Pages 29 - 38)*
6. Planning Protocol for Elected Members *(Pages 39 - 68)*
7. Neath Port Talbot Council Whistleblowing Policy *(Pages 69 - 86)*
8. Recent Decision of the Adjudication Panel for Wales and Public Service Ombudsman for Wales relating to Members Code of Conduct Breaches *(Pages 87 - 100)*
9. South West Wales Corporate Joint Committee *(Pages 101 - 146)*
10. Town and Community Council Code of Conduct Matters *(Pages 147 - 152)*

11. Forward Work Programme (*Pages 153 - 154*)

12. Urgent Items

Any urgent items at the discretion of the Chairperson pursuant to Section 100BA(6)(b) of the Local Government Act 1972 (as amended).

K.Jones
Chief Executive

Civic Centre
Port Talbot

Date Not Specified

Committee Membership:

Chairperson: L.Fleet

**Vice
Chairperson:** T.Ward

**Independent
Members:** A.Davies and D.Lewis

**NPTCBC
Members:** S.Thomas and W.Carpenter

**Community
Committee
Member:** C.Edwards

Substitutes

**NPTCBC
Substitutes:** A.Lodwig and S.Grimshaw

**Community
Committee
Substitute:** Vacant

- Notes: (a) The Quorum for the Standards Committee is at least three Members including the Chairperson (or in absence Vice Chairperson). At least half the Members present (including the Chair) must be Independent Members. (e.g. if only two Independent Members attend, there must **only** be two other Members of the Committee present.)*
- (b) In view of the above, can all Members please inform the Monitoring Officer/Democratic Services Officer as soon as possible, if there is a problem with attendance.*

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STANDARDS COMMITTEE

(Microsoft Teams Meeting / Hybrid Conference Room 2, Ground Floor, Port Talbot Civic Centre)

Members Present:

23 April 2024

Chairperson: L.Fleet

Independent Members: A.Davies and D.Lewis

NPTCBC Members: **Councillors** W.Carpenter and S.Thomas

Community Committee Members: **Councillors** C.Edwards

Officers In Attendance: T.Davies and C.Griffiths

Invitees: **Councillors** A.Aubrey, N.Goldup-John, C.Galsworthy and S.Reynolds

Apologies: **Councillors** T.Ward

1. **WELCOME AND CHAIR'S ANNOUNCEMENTS**

The Chair welcomed all to the meeting, and noted apologies from invitees Councillor D.Keogh and Councillor A.J.Richards.

2. **DECLARATIONS OF INTEREST**

No declarations of interest were received.

3. **MINUTES OF PREVIOUS MEETING**

The minutes of the previous meeting, held on 11 March 2024, were agreed as an accurate record.

4. **ATTENDANCE OF ELECTED MEMBERS OF NEATH PORT TALBOT COUNTY BOROUGH COUNCIL AT THE STANDARDS COMMITTEE**

As part of its 2022/2023 Annual Reports, Members of the Standards Committee requested further engagement with Elected Members, to meet for an informal discussion, in order to dispel the myths of the Standards Committee, and to discuss the forward work programme of the Standards Committee.

The following Members attended the meeting:

- Cllr Angharad Aubrey
- Cllr Nathan Goldup-John
- Cllr Sonia Reynolds
- Cllr Charlotte Galsworthy

Councillors Anthony Richards and Dennis Keogh were also invited but gave their apologies.

Various topics were discussed, including:

- Holding to account Elected Members who rarely attend meetings, or don't engage with their constituents.
- Training on the Code of Conduct and the Nolan principles.
- Social media.
- The referral process to the Ombudsman, and the Local Resolution Process.

RESOLVED: That the report, and the discussion with the invited elected Members, be noted.

5. **GROUP LEADER ANNUAL REPORTS**

Members noted that during the 2024-25 cycle of meetings, the 4 group leaders would be invited all together, to a meeting of the Standards Committee.

RESOLVED: That Members note the reports of the Group Leaders, contained at Appendix 1 of the circulated report.

6. **TOWN AND COMMUNITY COUNCIL QUESTIONNAIRE**

Members discussed the findings from their recent observations of the Town/Community Councils meetings and felt the attached questionnaire would benefit from including additional questions based on the discussion held during Minute No 4.

- RESOLVED:**
1. That the Code of Conduct questionnaire (as detailed at Appendix 1 of the circulated report) be approved for issue to Town/Community Clerks, incorporating points from today's discussion.
 2. A report be brought back to Members at a future meeting of the Standards Committee, detailing the results.

7. **CODE OF CONDUCT TRAINING**

Members felt the slides which accompanied the Members code of Conduct training were very clear and comprehensive.

- RESOLVED:** That the training provided to all 60 Elected Members of Neath Port Talbot Council, be noted.

8. **GRANT OF DISPENSATIONS AND RENEWAL OF GRANTS UNDER SECTION 81(4) LOCAL GOVERNMENT ACT 2000**

- RESOLVED:** That the application for dispensations set out in paragraph 14 of the circulated report, be approved to the Member listed, to speak but not vote, and that the dispensations run to the Standards Committee which follows the Annual meeting of Council 2027.

9. **STANDARDS COMMITTEE ANNUAL REPORT**

- RESOLVED:** That the draft Annual Report of the Standards Committee be approved, and delegated authority be given to the Head of Legal and Democratic Services (in consultation with the

Chair of the Standards Committee) to amend the report as may be necessary, to reflect any updated complaint figures received.

10. **FORWARD WORK PROGRAMME**

Members were advised that the Forward Work Programme could be amended or added to any time Members felt necessary.

RESOLVED: That the Standards Committee Forward Work Programme be noted.

11. **URGENT ITEMS**

No urgent items were received.

CHAIRPERSON

STANDARDS COMMITTEE

(Multi-Location Meeting via Microsoft Teams or In Person,
Conference Room 2, Port Talbot Civic Centre)

Members Present:

17 June 2024

Chairperson: T.Ward

Independent Members: A.Davies, C.Edwards and D.Lewis

NPTCBC Members: **Councillors** W.Carpenter and S.Thomas

Officers In Attendance: C.Griffiths, J.Stevens, S.McCluskie and J.Woodman-Ralph

Apologies: **Councillor** L.Fleet

PART 1

1. **WELCOME AND CHAIR'S ANNOUNCEMENTS**
2. **DECLARATIONS OF INTEREST**
3. **URGENT ITEMS**

Any urgent items at the discretion of the Chairperson pursuant to Section 100BA(6)(b) of the Local Government Act 1972 (as amended).

PART 2

4. **ACCESS TO MEETINGS**

To resolve to exclude the public for the following item(s) pursuant to Section 100A(4) and (5) of the Local Government Act 1972 and the relevant Exempt Paragraphs of Part 4 of Schedule 12A to the above Act

5. **REFERRAL FROM THE OMBUDSMAN (EXEMPT UNDER PARAGRAPHS 12. 13 AND 18C)**

CHAIRPERSON



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

9th September 2024

Matter for Decision

Wards Affected: All Wards

Internal Audit in respect of Member's Ethics

Purpose of the Report:

1. To provide Standards Committee with a copy of a report undertaken by the Council's Internal Audit Section with regards to Members' Ethics

Executive Summary:

2. An audit in respect of Members ethics was undertaken in accordance with the provision made in the 2023/24 Internal Audit Plan.
3. The ethical conduct of all elected members is of paramount importance to the Council as a whole. Not only must elected members comply with the Members' Code of Conduct (the Code) and associated protocols they must be seen to behaving with integrity to ensure that the electorate have confidence that decisions taken by them are lawful, considered and free from any personal gain. The role of officers is to ensure that members have the necessary protocols to guide them, to provide advice when required and to take robust action when inappropriate behaviour is reported to them.

4. Following this audit reasonable assurance can be provided that there are appropriate internal processes in place to help ensure that members act in an ethical manner.
5. This assurance rating will be reported to the next Governance & Audit Committee.

Background:

6. An audit in respect of Members ethics was undertaken in accordance with the provision made in the 2023/24 Internal Audit Plan.
7. The ethical conduct of all elected members is of paramount importance to the Council as a whole. Not only must elected members comply with the Members' Code of Conduct (the Code) and associated protocols they must be seen to behaving with integrity to ensure that the electorate have confidence that decisions taken by them are lawful, considered, and free from any personal gain. The role of officers is to ensure that members have the necessary protocols to guide them, to provide advice when required and to take robust action when inappropriate behaviour is reported to them.
8. Following this audit reasonable assurance can be provided that there are appropriate internal processes in place to help ensure that members act in an ethical manner.
9. This assurance rating will be reported to the next Governance & Audit Committee.
10. The following recommendations were however made by the Audit Manager and the views of the Monitoring Officer are included below:

Recommendation	Comment
<p>If he has not already done so the Monitoring Officer should arrange additional training on Declarations of Interest and the use of Social Media and explore providing training to all members on conflict resolution.</p> <p>Consideration should also be given to updating the Code to take account of</p>	<p>Specific training on Declarations of Interest is provided to elected members as part of Code of Conduct training and subsequent refresher sessions. A guidance document has also been prepared and issued to all members along with Public Service Ombudsman for Wales guidance. Future code of conduct training will</p>

<p>hybrid attendance at Council meetings.</p> <p>Standards Committee should continue the good practice shown by continuing to invite members to their meetings to gain their views in relation to compliance with the Code and ethical behaviour.</p> <p>The Monitoring Officer should share with Group Leaders the views expressed by the members who attended the Standards Committee Meeting.</p>	<p>continue to emphasise the pertinent issues.</p> <p>Work undertaken at a national level in respect of the standards regime will be looking at how code obligations can be amended to reflect hybrid attendance.</p> <p>Standards Committee will continue to invite members to their meetings to gain their views in relation to the compliance with the Code and ethical behaviour. A future meeting is scheduled for late 2024/early 2025.</p> <p>A copy of the minutes and recording of the meeting have been forwarded to Group Leaders.</p>
<p>The Local Resolution Process should be promoted to members and training undertaken on this core process.</p>	<p>A copy of the Local Resolution Process was issued to all members at member induction and a further copy was forwarded on the 23rd May 2024</p> <p>The terms of the Local Resolution Process will now be incorporated into member training and development sessions relating to the Code of Conduct.</p>
<p>All Senior Officers to be reminded of the need for them to be vigilant in ensuring that all member contact with staff is appropriate and that members are no getting involved in operational issues. When instances of inappropriate behaviours/contact is identified the Monitoring Officer should be made aware of it in order that it can be addressed appropriately.</p>	<p>The Member/Officer Protocol has been discussed on a number of occasions at the Council's Corporate Directors Group and Corporate Management Group and will be discussed at future meetings.</p> <p>The protocol will be reviewed by officers in late 2024.</p> <p>General emails of advice to senior officers have also been distributed.</p>

Financial Impacts:

11. No implications.

Integrated Impact Assessment:

12. An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

13. No implications

Workforce Impacts:

14. No implications

Legal Impacts:

15. The Council has adopted a Whistleblowing Policy in line with the requirements of the Public Interest Disclosure Act 1998.

Consultation:

16. There is no requirement for external consultation on this item

Recommendations:

17. That Members note the content of the Neath Port Talbot County Borough Council Internal Audit Report and provide any comments or as they consider appropriate.

Appendices:

18. Appendix 1 - Neath Port Talbot County Borough Council Internal Audit Report on Member Ethics

List of Background Papers:

19. None

Officer Contact:

Mr Craig Griffiths
Head of Legal and Democratic Services
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Neath Port Talbot
Castell-nedd Port Talbot
County Borough Council Cyngor Bwrdeistref Sirol

REPORT OF INTERNAL AUDIT TO THE CHIEF EXECUTIVE & OTHER NAMED ADDRESSEES

TITLE OF REPORT

MEMBERS' ETHICS

Report No – 1

2024/25

Issue date 20th May 2024

1. INTRODUCTION

- 1.1 This audit was undertaken in accordance with the provision made in the 2023/24 Internal Audit Plan.
- 1.2 The ethical conduct of all elected members is of paramount importance to the Council as a whole. Not only must elected members comply with the Members’ Code of Conduct (the Code) and associated protocols they must be seen to behaving with integrity to ensure that the electorate have confidence that decisions taken by them are lawful, considered and free from any personal gain. The role of officers is to ensure that members have the necessary protocols to guide them, to provide advice when required and to take robust action when inappropriate behaviour is reported to them.
- 1.3 NPTCBC has adopted the Model Code of Conduct and it is readily available to all members. It is also included within the induction pack sent to all new members.
- 1.4 The Local Government and Elections (Wales) Act 2021 imposes specific duties on political leaders to promote and maintain standards of conduct of members within their group, and to cooperate with the Standards Committee in the exercise of its functions. This requires leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups. The Act also places an additional function on Standards Committee to monitor Group Leaders compliance with the new duty imposed upon them.
- 1.5 All Internal Audit Work complies with the Public Sector Internal Audit Standards.

Executive Summary

Following this audit reasonable assurance can be provided that there are appropriate internal processes in place to help ensure that members act in an ethical manner.

The Monitoring Officer is widely respected by members and is seen as the first port of call for any issues regarding actual or perceived inappropriate behaviour.

The Chief Executive instigated a review of the Member/Officer Protocol following concerns regarding the conduct of some members when interacting with officers.

The Chief Executive is kept abreast of all issues relating to members’ behaviour and is often contacted directly by members. She is fully aware of any emerging issues and is proactive in addressing them.

A comprehensive training programme for all members is in place which is regularly reviewed and delivered. Attendance rates by members is generally good and all members have attended training on the Code.

This assurance rating will be reported to the next Governance & Audit Committee.

This report should not be shared externally without the prior agreement of the Audit Manager.

2. **Audit Objectives & Findings**

2.1 **Objective**

The Council has a Code of Conduct for Elected Members which is readily available to all members. Appropriate training on the Code is undertaken for all new members who are then provided with a guidance note and refresher training is held for all members periodically.

Findings

NPTCBC’s Constitution includes a Code of Conduct for all Elected Members which is readily available on the Authority’s website. It is also included in the induction pack issued to all new members and from Democratic Services Officers.

Upon election all members are required to sign a Declaration of Acceptance and give a written undertaking to abide by the Code. If this is not done they cannot serve. All current members have complied with this requirement.

Comprehensive training on the Code is provided to all Members. 2 sessions were held during 2021, 4 sessions were held during 2021, 1 session during 2023 and a session is due to be delivered in June 2024. All current members have attended training on the Code, which has been recently updated by the Monitoring Officer, and a guidance note issued to all.

2.2 Objective

Group Leaders are aware of the duties imposed upon them by the Local Government and Elections (Wales) Act 2021 (the Act) in relation to the promotion and maintenance of standards of behaviour by their group members and to assist the Standards Committee in the exercise of its functions. Standards Committee are discharging their new function under the Act.

Findings

To establish if Group Leaders were complying with this new duty imposed by the Act, the Monitoring Officer proposed to Standards Committee that they invite all Group Leaders to a committee meeting to discuss the new duties imposed on them. This was accepted by the committee and all Group Leaders subsequently attended to answer a number of questions set by the committee in relation to the discharge of their new duties.

Through attendance at these meeting it was evident that all Group Members were aware of their responsibility in ensuring that their

members acted appropriately and were aware of the requirements of the Code. It was suggested that the Code should be updated due to hybrid attendance at meetings. One Group Member stated that he impressed on his members that they were Councillors 24 hours a day/365 days a year and not just when they were actively involved in Council business. This is a very valid point well made.

All Group Leaders stated that they encourage all their members to attend all training offered. One Group Leader stated that he felt additional training on declarations would be useful as he felt this was a requirement that some members struggled to fully understand. He did however acknowledge that the Monitoring Officer was always available to assist any member who was unsure of when to make a declaration.

All Group Leaders stated that when interacting with constituents on social media special care needed to be taken by all members. It is perceived as a danger area as ill-considered comments could be made in the heat of the moment.

Following the meeting with the Group Members it was agreed that a cross party selection of members would be invited to a Standard Committee meeting with a view to gaining their views on the Code and member behaviours. Attendance at this meeting was insightful and similar themes were raised by the members in attendance as those raised by the Group Leaders. However a number of areas not discussed during the Group Leaders’ attendance at Standards Committee were raised. These areas were; a perception that Group Leaders do not hold members who breach the Code to account and members would like the Committee’s assistance with that; Councillors do not have the same protections as employees; it is wrong to expect councillors to have a thick skin; there is a general lack of respect between members from different parties; 1 member present spoke at length about bullying she had endured; social media training should be revised to include how to deal with online abuse; wider training on conflict resolution would be beneficial for all members; there is a conflict of interest if members are both County Council members and Town Council members and the

Ombudsman process is too long and not helpful as they are only interested in a complaint if it is in the public interest to investigate. By instigating the process of inviting Group Leaders and a cross section of members to address Standards Committee, the committee had fulfilled the obligation placed up them by the Act.

Recommendation

If he has not already done so the Monitoring Officer should arrange additional training on Declarations of Interest and the use of Social Media and explore providing training to all members on conflict resolution. Consideration should also be given to updating the Code to take account of hybrid attendance at Council meetings.

Standards Committee should continue the good practice shown by continuing to invite members to their meetings to gain their views in relation to compliance with the Code and ethical behaviour.

The Monitoring Officer should share with Group Leaders the views expressed by the members who attended the Standards Committee Meeting.

Response to recommendation: Accepted

Recommendation Grading: Medium

Implementation Date: As soon as possible

Responsible Officer: Monitoring Officer

2.3 **Objective**

All members are aware of how to raise an issue regarding what they perceive to be inappropriate conduct by a fellow member.

Findings

Whilst all members who attended Standards Committee were aware that they could raise issues with Monitoring Officer there was a general lack of awareness of the Local Resolution Process and where a copy could be located. Members were also aware of the

Ombudsman Process however there were mixed views on what value it added. There was also a perception that when cases were reported to the Ombudsman they took too long to be resolved.

Recommendation

The Local Resolution Process should be promoted to members and training undertaken on this core process.

Response to recommendation: Accepted

Recommendation Grading: Medium

Implementation Date: By end of October 2024

Responsible Officer: Monitoring Officer

2.4 Objective

All complaints relating to members conduct are dealt with appropriately and use made of the Local Resolution Process in the first instance and when appropriate escalated to the Ombudsman. A register of all complaints received should be maintained by the Monitoring Officer and reported to Standards Committee.

Findings

Ombudsman Complaints

During 2021/22, 5 complaints were made against elected members. All were discontinued by the Ombudsman’s officer with no further action required.

During 2022/23 again 5 complaints were received and all were discontinued by them with no further action.

During 2023/24 3 complaints were made, 2 were discontinued by then with no further action required and was 1 referred to Standards Committee for consideration re any action they wished to take.

Complaints from members of the public

During 2021/22 the Monitoring Officer received 8 contacts. An email was sent to each complainant advising them of how to take the matter forward.

During 2022/23 17 concerns were raised to the Monitoring Officer, again the complainants were advised how to take their issues

forward. This increase could be put down to the fact that this was an election year.

During 2023/24 5 contacts were made and again the Monitoring Officer advised how the issues should be taken forward.

Complaints from members concerning a fellow member

During 2021/22, 5 notifications were received by the Monitoring Officer, in 2022/23 9 were received and in 2023/24 7 were received.

In each instance the member was advised how they could use the Local Resolution Process or make a referral to the Ombudsman.

In all cases where the Monitoring Officer is advised of an issue he will after considering the issue speak to the member whose conduct is in question if it is appropriate to do so. The Chief Executive also follows this route when made aware of issues.

The Monitoring Officer makes Standards Committee aware of all conduct matters raised with him. He also presents the Ombudsman’s Annual report on matters relating to this Council to the Committee. Recent decisions from the Adjudication Panel for Wales relating to member breaches of the Code are also presented.

2.5 Objective

All members and officers are aware of the appropriate way in which they should interact with officers.

Findings

Following concerns regarding the way in which some members were interacting with officers the Chief Executive commissioned a review of the existing Member/Officer Protocol. This was done and training delivered to all members and officers likely to come into contact with members when undertaking their respective roles. It is intended that refresher training will be provided at appropriate intervals.

The Chief Executive also had concerns that there may be undue influence exerted by members in relation to capital programme works. To mitigate this potential risk the now Director of Finance was charged with revising the Capital Programme Steering Group (CPSG) Terms of Reference, it was also agreed that I would attend

CPSG meetings on an ad hoc basis, review minutes arising and monitor spend and changes to the programme. To date there have been no concerns in relation to any changes to agreed works and the revised Terms of Reference are fully adhered to.

Attendance at and observance of Member Surgeries did not raise any concerns in the interactions viewed. Similarly attendance at and reviewing a number of Council meetings did not raise any issues with regards to the mutual respect that would be expected between members and officers. There were occasions when members’ questioning of offices was robust however this is to be expected and somewhat necessary to achieve good governance. One occasion was highlighted where a member had edited a recording of a meeting and posted it on social media. The edited copy did not reflect the full discussion, was misleading and unfair to the officer involved. This was identified and addressed swiftly.

What is more difficult to assess is the casual interactions between members and officers particularly when there are schemes proposed for their ward or where they have a particular issue within their ward which they want addressed. When Chief Officers were asked if they were aware of any inappropriate behaviour or undue influence being exerted by members only 1 issue was raised. Both the Chief Executive and the Monitoring Officer were aware of and it had been appropriately addressed.

Recommendation

All Senior Officers to be reminded of the need for them to be vigilant in ensuring that all member contact with staff is appropriate and that members are not getting involved in operational issues. When instances of inappropriate behaviours/contact is identified the Monitoring Officer should be made aware of it in order that it can be addressed appropriately.

Response to recommendation: Accepted

Recommendation Grading: Medium

Implementation Date: As soon as possible

Responsible Officer: Monitoring Officer

2.6 Objective

To ensure that safe and legal decisions are made, all Members are aware of when they are required to make a declaration; what type of declaration is required by them and that any such declarations are recorded.

Findings

As stated earlier a Group Leader commented that he had concerns that members fully understand when it was appropriate to make a declaration at a meeting and what type of declaration should be made.

Through attendance at and reviewing recording committee meetings it was evident that a standing item on every agenda is declarations of interests. At every meeting attended or recording reviewed declarations were asked for and made when appropriate, meeting minutes also reflected this.

When the first recommendation within this report is addressed the perceived lack of confidence that members fully understand the differing types of declarations and when it is appropriate to make a declaration should be resolved.

2.7 Objective

To ensure that good governance is achieved and the electorate are fully represented all members regularly attending committee meetings and contributing to the decision making process.

Findings

A review of attendance records maintained by Democratic Services Officers did not highlight any issues with members’ attendance. It will always be the case that some members are more active than others given the age range and outside interests of members however the introduction of hybrid meetings now makes it easier for members to attend meetings. It is the responsibility of Group Members to ensure that their members are fully representing their constituents and contributing to the decision making process.

4 Acknowledgments

I would like to express my thanks to the Monitoring Office and Democratic Services Officers for their assistance during the course of this audit.

5 Post Audit Review

A post audit review, to check implementation of the agreed recommendations, will be undertaken in November 2024.

A M O’Donnell
Audit Manager
1st May 2024

Distribution
Chief Executive
Monitoring Officer
Director of Finance
Audit Wales

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

9th September 2024

REPORT OF THE MONITORING OFFICER – MR C GRIFFITHS

Matter for Decision

Wards Affected: Resolven and Tonna

Referral from the Ombudsman

Purpose of the Report

1. To receive a final copy of the decision notice in respect of Councillor Dean Lewis, elected member of Neath Port Talbot County Borough County Council as investigated and now referred to the Standards Committee by the Public Service Ombudsman for Wales (“the Ombudsman”)

Background

2. As Monitoring Officer, I received a referral from the Public Service Ombudsman for Wales (“the Ombudsman”) relating to an alleged breach of the Neath Port Talbot County Borough Council Member’s Code of Conduct.
3. On the 11th March 2024, members of the Standards Committee resolved that Councillor Dean Lewis should be given the opportunity to make representations to the Committee, either orally or in writing, in respect of the findings of the investigation and that delegated authority be granted to the Monitoring Officer, in consultation with the Chair of the Standards Committee to agree a timetable for a hearing to be convened.
4. Both Councillor Lewis and the Ombudsman agreed that this matter was suitable to be dealt with by way of written representations
5. At its meeting on the 17th June 2024 Standards Committee concluded that Councillor Lewis had breached the Code of Conduct and sanctioned him with a four calendar month suspension.
6. A copy of the Decision Notice is attached at Appendix 1.
7. Councillor Lewis’s suspension took effect from the 9th July 2024 as no appeal was made to the Adjudication Panel for Wales

Financial Impact

8. There are no financial impacts associated with this Report.

Integrated Impact Assessment

9. There are no integrated impacts associated with this Report

Workforce Impacts

10. There are no workforce impacts associated with this Report

Legal Impacts

11. The ethical framework of Members is as derived from the Local Government Act 2000 and the Members Code of Conduct is as set out in the Constitution of Neath Port Talbot County Borough Council ("the Council") as created by the Conduct of Members (Model Code of Conduct) (Wales) Order 2001.

Consultation

12. There is no requirement under the Constitution for external consultation on this item.

Recommendations

13. It is recommended that members note the Decision Notice included at Appendix 1 of this report,

Appendices

14. Appendix 1 – Decision Notice

List of Background Papers

15. None

Officer Contact

Mr Craig Griffiths

Head of Legal and Democratic Services / Monitoring Officer

Telephone 01639 763767

Email: c.griffiths2@npt.gov.uk

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Introduction

1. This is the report of the Neath Port Talbot County Borough Council Standards Committee on the outcome of an investigation into the conduct of Councillor Dean Lewis, a County Borough Councillor representing the Resolven and Tonna ward of Neath Port Talbot County Borough Council (“Councillor Lewis”).
2. This report has been produced in accordance with Regulation 13 of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001.
3. The investigation follows from a referral by the Public Services Ombudsman for Wales (“the Ombudsman”) which alleged that Councillor Lewis had acted in breach of the Neath Port Talbot County Borough Council Members Code of Conduct (“the Code of Conduct”).

Allegations

4. In her referral the Ombudsman indicated that her investigations had found that there was evidence to suggest that Councillor Lewis had breached the following provisions of the Code of Conduct–

***Paragraph 6(1)(a)** Members must not conduct themselves in a manner which could reasonably be regarded as bring their office or authority into disrepute*

Process

5. Both the Ombudsman and Councillor Lewis agreed that this matter was capable of being dealt with by way of written representations and consideration into the matter took place on 17th June 2024 by virtue of consideration of the papers at Civic Centre Port Talbot before the Standards Committee of Neath Port Talbot County Borough Council.

Findings of Fact

6. Councillor Lewis is one of two elected members for the Resolven and Tonna Ward of Neath Port Talbot County Borough Council having first been elected in May 2019 and re-elected in May 2022.
7. On election, on both occasions, he received a presentation on the requirements of the Neath Port Talbot County Borough Council Members Code of Conduct and signed an undertaking on the 10th May 2022 that he would in performing his functions as an elected member observe the Code of Conduct.
8. Councillor Lewis visited Resolven Rugby Club on the 14th January 2023 and drove home from the Rugby Club after consuming alcohol.

9. Later that evening, after he had arrived home, he was arrested on suspicion of driving his car whilst under the influence of alcohol. He was taken to Swansea Police Station where an alcohol test was conducted. The test showed that Councillor Lewis had 54 microgrammes of alcohol in 100 millilitres of breath. This exceeded the prescribed limit of 35 microgrammes of alcohol in 100 millilitres of breath.
10. On the 3rd February 2023, Councillor Lewis advised the Monitoring Officer of his arrest and the Monitoring Officer advised that Councillor Lewis should make a self-referral to the Ombudsman.
11. Councillor Lewis was charged by South Wales Police and released on unconditional bail pending a court hearing at Swansea Magistrates Court.
12. On the 6th June 2023, Councillor Lewis pleaded guilty in court to driving a motor vehicle when his alcohol level was above the legal limit. Councillor Lewis was disqualified from holding or obtaining a driving licence for fourteen (14) months and received a fine of six hundred and ninety-one pounds (£691), with the option of the disqualification being reduced by fourteen weeks (14 weeks) if Councillor Lewis completed an approved course.
13. Councillor Lewis did not appeal the conviction.
14. Councillor Lewis' conviction was not reported in the local press at the time.

Decision of the Standards Committee

15. The purpose of the ethical standards framework is to promote high standards amongst members of councils in Wales and maintain public confidence in local democracy.
16. The Standards Committee determined that Councillor Lewis did conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute and therefore breached the Code of Conduct in relation to paragraph 6(1)(a).

Reasons for Decision

17. The reason for making these conclusions were as follows (adopting the structure set out above):
 - (a) The Members Code of Conduct is based on principles to which members must have regard in undertaking their role as a member. The principles were designed to promote the highest possible standards and include a duty to uphold the law. Councillor Lewis was over the legal alcohol limit for driving and such behaviour is not of the standard expected of elected members.
 - (b) The Standards Committee note the guidance of the Ombudsman that states conduct which results in a criminal conviction will bring a member's council into disrepute even if the behaviour happens in the member's private life.
 - (c) Although the conduct occurred in Councillor Lewis' personal capacity and was not reported in the press, Councillor Lewis has discussed the incident with others, and

it is likely that several people in the locality know the events of that evening. Additionally, it is noted that a member of the public made the report to the Police. Councillor Lewis also claims to have received support from chairs of local community councils, which further demonstrates awareness in the locality of the conviction.

Sanction

18. The Standards Committee were guided by previous decisions reported by the Ombudsman in their Code of Conduct Casebook and had due regard to the principles and five stage process identified in the Adjudication Panel for Wales Sanctions Guidance as part of their determination.
19. The Standards Committee acknowledged that in line with the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 the maximum sanction they can impose is a six-month suspension. Having considered the facts of the case and the seriousness of the breaches of the Code of Conduct found, the Standards Committee recognise that the purpose of a sanction is to (a) provide a disciplinary response to an individual member's breach of the Code; (b) place the misconduct and appropriate sanction on public record; (c) deter future misconduct on the part of the individual and others; (d) promote a culture of compliance across the relevant authorities; and (e) foster public confidence in local democracy. These principles were considered by the Standards Committee in reaching its conclusions.
20. In considering the determination of any sanction which might be applied the Standards Committee determined that due to the significance of the incident, no action or informal action was not feasible due to the need to ensure that the Standards Committee promote the highest possible standards, which includes a duty to uphold the law.
21. The Standards Committee, by a majority, concluded that a public censure would not be appropriate as it would be important to send a message to councillors that such behaviour is not appropriate for elected officials, and it would be necessary to ensure that the public had confidence in local democracy and the only way to achieve this would be via a stronger sanction.
22. The Standards Committee concluded that a suspension of some duration was the appropriate course of action here. The Standards Committee considered the representations made by the Ombudsman both as to aggravating and mitigating circumstances. The Standards Committee also took into account the representations made by Councillor Lewis.
23. The Standards Committee, considered that the following were aggravating factors:
 - (a) A member of the public reported to the Police that Councillor Lewis had driven his car under the influence of alcohol;

- (b) It is likely that several other people in the locality know what happened though it is acknowledged that Councillor Lewis felt that perhaps he was a victim of someone targeting him as a result of his status as an elected member;
 - (c) At the time of arrest and charge, Councillor Lewis did appear to be in denial about the offence he committed. He did not accept that his alcohol level was over the legal limit when he drove the car and did not accept that his behaviour may have breached the Code.
 - (d) Councillor Lewis initially demonstrated a lack of insight into the impact of his criminal behaviour on the reputation of the Neath Port Talbot County Borough Council.
24. The Standards Committee though, considered by way of mitigation the representations put forward by Councillor Lewis and supplemented by the Ombudsman, those being:
- (a) Councillor Lewis was acting in his personal capacity when he drove his car under the influence of alcohol and was arrested by the Police;
 - (b) The matter was not reported in the press;
 - (c) Councillor Lewis pleaded guilty to the charge of driving a motor vehicle when his alcohol level was over the legal limit.
 - (d) Despite initial views, Councillor Lewis subsequently acknowledged during this investigation that his conviction may have brought his office as a member into disrepute and acknowledges the importance of maintaining public confidence in local democracy;
 - (e) Councillor Lewis now recognises the need for greater vigilance and responsibility, particularly in refraining from any alcohol consumption when driving;
 - (f) Councillor Lewis self-referred to the Ombudsman and co-operated with the Ombudsman's investigation and is prepared to accept any appropriate punishment or endeavour imposed by the Standards Committee
- and accordingly, were prepared to reduce the sanction that would be made accordingly in line with the guidance from the Adjudication Panel for Wales. The Standards Committee also recognised that this was the first time that Councillor Lewis had appeared before them and there had been no previous referrals from the Ombudsman.
25. Pursuant to Regulation 9 of the 2001 Regulations, the Standards Committee, by a majority, made a determination that Councillor Lewis should be suspended as a County Borough Councillor for a period of four (4) calendar months from the date that this notice takes effect and that on recommencing Councillor Lewis' duties following suspension Councillor Lewis undertake a refresher course on the Code of Conduct.
26. This Decision Notice is dated the 17th June 2024 and Councillor Lewis has twenty one (21) calendar days from this date in which to make an appeal.
27. In the event that no appeal is made, the suspension will take effect from the 9th July 2024 until the 8th November 2024.

17th June 2024

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Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

9th September 2024

Matter for Decision

Wards Affected: All Wards

Planning Protocol for Elected Members

Purpose of the Report:

1. To update the Standards Committee in relation to the Neath Port Talbot Council Planning Protocol for Elected Members

Background:

2. The Planning Protocol is intended to guide the procedures by which Councillors ('Members') and Officers of the Council deal with planning matters and to set standards of probity and conduct expected of them. Neath Port Talbot Council will seek to adopt best practice in its administration of the planning process. It recognises that the public expects the Council to subscribe to the principles of fairness, consistency and objectivity.
3. Members of the Planning Committee have a key role in ensuring that these principles are followed and the Council has stated that the Planning system must be fair and open. Elected Members are critically important in arbitrating between competing arguments.

4. The Town and Country Planning system involves the Council taking decisions about private proposals for the development and use of land, but in the public interest.
5. Planning law requires that all planning applications be determined in accordance with the adopted development plan unless material planning considerations indicate otherwise.
6. The Council must also take account of representations made by members of the public, in as far as they relate to material planning considerations.
7. As the planning system affects people's lives and private interests it can be very contentious. It is therefore important that members of the public understand the system and has confidence in its integrity and transparency, and that Members and Officers avoid impropriety or even the suspicion of impropriety.
8. Members and Officers must not only ensure that their conduct accords with the Code of Conduct for Members and professional standards for officers (which cover such matters as declarations of interests, gifts and hospitality), but, when dealing with planning matters, also act in accordance with this Planning Protocol.
9. A breach of this code, while not usually amounting to a breach of criminal law, may adversely affect the standing and reputation of the Council. It could result in a decision being judicially reviewed and the planning permission being quashed by the Court or in a complaint of maladministration or an allegation of a breach of the Code of Conduct for Members being made to the Public Services Ombudsman for Wales.
10. If Members or Officers are in doubt about the application of this Code, they should seek advice from the Council's Monitoring Officer.

Financial Impacts:

11. No implications.

Integrated Impact Assessment:

12. An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

13. No implications

Workforce Impacts:

14. No implications

Legal Impacts:

15. The Council has adopted a Whistleblowing Policy in line with the requirements of the Public Interest Disclosure Act 1998.

Consultation:

16. There is no requirement for external consultation on this item

Recommendations:

17. That Members note the content of the Planning Protocol and provide any comments or recommendations for consideration as they consider appropriate.

Appendices:

18. Appendix 1 - Neath Port Talbot County Borough Council Planning Protocol

List of Background Papers:

19. None

Officer Contact:

Mr Craig Griffiths
Head of Legal and Democratic Services
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Email: c.griffiths2@npt.gov.uk

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Planning Protocol

1. Planning decisions should be made openly, impartially, on relevant justifiable planning reasons and in the public interest.
2. The overriding duty of a Councillor is to the whole community and not just to the people in their Ward.
3. Councillors should always apply the rules in the Members' Code of Conduct first; this protocol supplements that code for the purposes of the Council's planning function.
4. Councillors should always disclose any interest they have under the Members' Code and should not take part on any application in which they have a personal and prejudicial interest.
5. Councillors should not decide on how to vote on any planning matter prior to the Planning meeting and reading the officer report.
6. Councillors should not lobby excessively fellow Councillors, Officers or organise opposition or support for a specific planning application.
7. Councillors on the Planning Committee who are also members of a Community Council should consider carefully expressing views when the Community Council meeting is consulted on planning matters.
8. Councillors who consider that they have predetermined a planning matter can make a personal statement at the beginning of the debate but then must withdraw from the meeting and cannot move or second a motion on that matter.
9. When contacted in relation to a planning matter Councillors should consider taking notes, referring the person to the Planning Section and should not say anything which could be interpreted as their final view on the merits of the application.
10. Councillors should attend presentations and formal meetings only with Officers present. Councillors may ask questions but

should avoid expressing what could be considered a final view.

11. Advice should be sought from the Head of Legal and Democratic Services at all times where Councillors have concerns regarding any of the above.

1. Background

- 1.1 The Third Report of the Committee in Standards in Public Life (the Nolan Committee) looked in detail at the Planning System making a number of recommendations, including a recommendation that Planning Committees should review their procedures and set them out in a code accessible to Councillors, staff and members of the public.
- 1.2 In response, the Council adopted a document following this recommendation in November 2000. It was reviewed in June 2012, following the revised National Code of Conduct for Councillors in 2007, the publication by the Local Government Association in 2009 of updated guidance in “Probity in Planning: The Role of Councillors and Officers”, and also to take into account Section 25 of the Localism Act 2011 (the provision relating to predetermination) which came into force in January 2012.
- 1.3 This protocol is supplemental to the Neath Port Talbot Members’ Code of Conduct.

2. General Considerations

- 2.1 Planning decisions necessarily affect land and property interests including the value of land and the amenities of people living in the vicinity. Consequently, planning is often highly contentious. It is important, therefore, that the Council, as Planning Authority, should make planning decisions, openly, impartially with sound judgements and for justifiable planning reasons.
- 2.2 The aim of this planning protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.3 The key purpose of Planning is to control development in the public interest.
- 2.4 The role of a Member of the Planning Committee is:

2.4.1 To make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

2.4.2 The overriding duty of a Councillor is to the whole community.

2.4.3 Whilst the Councillor can take into account the views of others it is his or her responsibility alone to decide what view to take on any question which Councillors have to decide.

2.4.4 It is not enough to avoid actual impropriety. The Councillor must always avoid giving suspicion for or the appearance of improper conduct.

2.4.5 Not to decide how to vote on planning applications on the basis of a political 'whip'.

2.4.6 To determine each case on its own merits.

2.5 This protocol applies to Councillors at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers, or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues and decisions relating to the Local Development Plan (LDP) or other plan and policies. When the LDP is referred to in this protocol it includes reference to other policies also, as it does to planning applications.

2.6 If you have any doubts about the application of this protocol to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

3. Relationship to the Members' Code of Conduct

3.1. The Councillor should apply the rules in the Members' Code of Conduct first, which must always be complied with.

3.2. The Councillor should then apply the rules in this Planning Protocol which seek to explain and supplement the Members' Code of Conduct for the purposes of planning control. If the Councillor does not abide by this protocol:

3.2.1 The Council may be at risk of proceedings on the legality or maladministration of the related decision; and

3.2.2. A breach of the Members' Code of Conduct can result in a personal complaint against a Councillor. That Councillor may be at risk of being reported to the Ombudsman and the matter referred to the Standards Committee if the failure is also likely to be a breach of the Code of Conduct.

4. Development Proposals and Interests under the Members' Code

4.1 The Councillor should disclose the existence and nature of any interest at any relevant meeting, including informal meetings or discussions with officers and other Councillors. The interest should be disclosed at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

4.2 Where the interest is personal and prejudicial:-

4.2.1 The Councillor should not participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.

4.2.2 The Councillor should not represent ward views, but should ask another Ward Councillor or a Councillor from another Ward to do so instead.

4.2.3 The Councillor should not get involved in the processing of the application.

4.2.4 The Councillor should not seek or accept any preferential treatment, or place him or herself in a position that could lead the public to think the Councillor

is receiving preferential treatment. This would include using the Councillor's official position to discuss proposals with officers or other Councillors when other members of the public would not have the same opportunity to do so.

- 4.2.5 The Code places limitations on what the Councillor can do in respect of an application in respect of which they have a personal and prejudicial interest whether positive or negative.
 - 4.2.5.1 The Councillor should notify the Monitoring Officer in writing and note that:
 - 4.2.5.1.1 Notification should be sent as soon as the Councillor is aware of the application where possible.
 - 4.2.5.1.2 The proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
 - 4.2.5.1.3 Where a Councillor has a personal and prejudicial interest in a proposal put before a meeting, the Councillor will have to withdraw from the room or chamber whilst the meeting considers it.
 - 4.2.5.1.4 It is advisable to employ an agent or use a representative to act on the Councillor's behalf on the proposal in dealing with officers.
- 4.2.6 Para 10 (2)(b) of the Members' Code of Conduct operates to define as a personal (and potentially prejudicial) interest a situation where a member of the public may reasonably perceive that the member was more swayed by ward interest than wider public interest. Where a controversial planning application potentially affects the whole of a Councillor's ward the Councillor should seek advice from the Monitoring Officer at an early stage as to whether this paragraph may be relevant. If para 10 (2)(b) is triggered a Councillor must declare an interest and withdraw from the Planning Committee meeting in accordance with the requirements of the Members' Code of Conduct.

5. Predetermination in the Planning Process

- 5.1.1 In addition to the declaration of personal or prejudicial interests the Courts have stated over the years that members of a planning committee need to avoid any actual bias or any appearance of bias or of having predetermined their views when taking a decision on a planning application or LDP matter. Avoidance of bias or predetermination is a principle of natural justice which the decision-maker is expected by the courts to embrace.
- 5.1.2 The position of the Courts is supplemented by the provision of the Members' Code of Conduct which states that decisions should be reached on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant officer's advice.
- 5.1.3 In addition Planning Committees are obliged to consider what are known as "material considerations" when considering planning matters and should disregard matters not relevant to planning. Therefore, regardless of background views Councillors are required to focus on material considerations when making decisions. The Code also requires that Councillors should be able to give reasons for decisions.
- 5.2 A distinction is drawn between a planning councillor having clearly decided beforehand how he or she would vote and having a closed mind at a meeting (predetermination), and a predisposition to an initial view, but where the councillor is clear they are willing to listen to all the material considerations presented at the committee before deciding on how to exercise their vote on behalf of the community. In the latter case there is no predetermination.
- 5.3 The Councillor should not decide on how to vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and

hearing the officer's presentation and evidence and arguments on both sides.

- 5.4 Otherwise, taking part in the decision could put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 5.5 Under the Localism Act 2011 any views expressed by a Councillor cannot be used to prove that he or she has predetermined the matter. However under the Act any views expressed prior to a meeting can be relevant if together with other evidence, it shows that a member has or appeared to have predetermined a matter. This section only deals with evidence of predetermination and does not abolish the rule that a decision maker should not predetermine. The legislation is confusing and your legal advisors will monitor developments in the law. However, what remains clear is that if a Councillor is satisfied that he or she has predetermined a matter participation in a decision is not appropriate.
- 5.6 Councillors can talk to constituents, take an active part in local discussions and express a view on local issues prior to a matter coming before the Planning Committee.
- 5.7 Councillors should however refrain from expressing views which could be perceived as being their final view and a determination to vote in a particular way irrespective of all the arguments and points raised at the meeting.
- 5.8 Councillors should be aware that they are likely to have predetermined where the Council is the landowner, developer or applicant and the Councillor has acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through a Councillor's significant personal involvement in preparing or advocating the proposal a Councillor will be, or perceived by the public

as being, no longer able to act impartially or to determine the proposal purely on its planning merits).

5.9 Councillors on the Planning Committee who also serve on bodies (such as Town and Community Councils) that are consulted about planning applications need to think carefully about their participation in that consultation process in order to avoid the impression that they have already made their minds up before the matter arrives at the Planning Committee. Councillors will be familiar with the fact that, when they receive the consultation on a particular matter, they only receive the proposal and not the full officers' report. It is at the point when the officers' report is submitted to Councillors that all material considerations are before them. A firm decision before that point is as stated above therefore premature in terms of planning law. This does not prevent a Councillor listening to a debate at a Town and/or Community Council, so long as the Councillor does not take part in the debate.

5.10 The Ombudsman has issued guidance on the Code of Conduct in which he says that, if Councillors participate in considering consultations at the Community Council level, they should emphasise that they would look at the matter afresh when it was considered in the Planning Committee and further that they would take into account all the information and advice provided to them. The Ombudsman goes on to say that the Councillors should then emphasise at the Planning Committee that they are not bound by the decision of the Community Council on the consultation. This advice is rather complicated to follow and one can question whether any member of the public attending a Community Council meeting would understand the distinction between a view expressed on consultation and a vote taken at the Planning Committee. Councillors may well consider whether it would be preferable to leave the room or simply listen to debate in the Community Council but express no view until the matter comes before Planning Committee.

5.11 Councillors who consider that they have predetermined a matter shall adhere to the following procedures:-

- 5.11.1 The Councillor shall inform the Committee at the commencement of the meeting that he or she intends to make a personal statement on a specified item.
- 5.11.2 When the Committee reaches that item the Chair shall call the Councillor to make the personal statement.
- 5.11.3 The statement shall contain only the following matters:-
 - 5.11.3.1 a statement by the Councillor that he or she has committed themselves on the matter and therefore cannot participate in the decision making;
 - 5.11.3.2 any representations received by the Councillor as a ward Member;
 - 5.11.3.3 any queries or requests for clarification which the Councillor wishes the officers to address at Committee.

Following this statement the Councillor shall withdraw from the meeting but may remain in the public gallery.

- 5.12 A predetermined Councillor can continue to represent those ward interests as a spokesperson for their local community outside a meeting.

6. Contact with Applicants, Developers and Objectors

- 6.1 Councillors should refer those who approach them for planning, procedural or technical advice to officers.
- 6.2 Where Councillors feel a formal meeting with applicants, developers or groups of objectors would be useful in clarifying the issues, the Councillor should never seek to arrange that meeting but should request the Head of Planning and Public Protection to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- 6.3 If Councillors are contacted they should:
 - 6.3.1 follow the rules on lobbying;
 - 6.3.2 consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - 6.3.3 report to the Head of Planning and Public Protection any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and their involvement in them, and ensure that this is recorded on the planning file.

6.4 Where there are presentations by applicants/developers:

6.4.1 Councillors should not attend a planning presentation unless an officer is present and/or it has been organised by officers. This will not prevent Councillors from attending unaccompanied passive exhibitions where there is no requirement for interaction with a proposed developer.

6.4.2 Councillors may ask relevant questions for the purposes of clarifying their understanding of the proposals.

6.4.3 Councillors should remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Committee of the planning authority.

6.4.4 Councillors should be aware that a presentation is a form of lobbying and any views should be expressed as their provisional views and should not state how they might vote.

7. Lobbying of Councillors

7.1 Councillors should explain to those lobbying or attempting to lobby that, whilst Councillors can listen to what is said, it could prejudice impartiality and therefore

the ability to participate in the Committee's decision making.

- 7.2 Councillors should remember that their overriding duty is to the whole community not just to the people in their ward and, taking account of the need to make decisions impartially, that Councillors should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- 7.3 Councillors should not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable Councillors should ensure it is of a minimum and its acceptance is declared as soon as possible and remember to register it on the Register of Members' Interests where its value is £50 or over (in accordance with the authorities rules on gifts and hospitality).
- 7.4 Councillors should copy or pass on any lobbying correspondence received to the Head of Planning and Public Protection at the earliest opportunity.
- 7.5 Councillors should promptly refer to the Head of Planning and Public Protection any offers made of planning gain or constraint of development, through a proposed S.106 Planning Obligation or otherwise.
- 7.6 Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).
- 7.7 Councillors should note that, unless they have a personal and prejudicial interest, they will not have predetermined or breached this Planning Protocol through:
 - 7.7.1 Listening or receiving viewpoints from residents or other interested parties.

- 7.7.2 Making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to pre-judging the issue and they are clear about keeping an open mind.
- 7.7.3 Seeking information through appropriate channels; or
- 7.7.4 Indicating what views they have heard or speaking at the meeting as a Ward Member, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

8. Lobbying by Councillors

- 8.1 It may be unwise for a Councillor to become a member or lead or represent an organisation whose primary purpose is to lobby to promote or oppose specific planning proposals. If they do, they will have predetermined the matter and may have a personal and prejudicial interest.
- 8.2 Councillors may join general interest groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but should disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that the Councillor has reserved judgement to make up their own mind on each separate proposal. However advice should be sought in each case.
- 8.3 Councillors should not lobby excessively fellow councillors regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 8.4 Councillors should not decide or discuss how to vote on any application at any sort of political group meeting, or

lobby any other Councillor to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

9. Site Visits

- 9.1 There is a need for consistency both in the way that it is decided that a site visit should take place and in the conduct of such visits. Otherwise it leaves the Council open to the accusation that site visits are arbitrary or even a covert lobbying device.
- 9.2 A call for a site visit should be the subject of a substantive motion to the Planning Committee, and such motion shall include the reasons for the site visit.
- 9.3 Site visits can cause delay and additional costs and should only be acceded to when the expected benefit is substantial, e.g. where the impact of the proposed development is difficult to visualise from the material available to the Committee, or where relevant issues cannot be expressed adequately in writing, or where a proposal is particularly contentious.
- 9.4 Where the Planning Committee agree to a site visit, the reasons shall be recorded in the Minutes.
- 9.5 Site visits will normally be undertaken by the Planning (Site Visits) Panel, plus local members. Site visits by the whole of the Planning Committee should be rare and should relate to contentious major proposals.
- 9.6 Site visits are open for anyone to attend, subject to the landowner's permission where the meeting is being held on private land. There is no provision for third parties to speak. Their purpose is to view the proposals on site and, following consideration of the planning officer's report, including where relevant the views of any statutory consultee, to make a reasoned recommendation to the Planning Committee.
- 9.7 The visit is not intended to be a site meeting with either the applicant or objectors, as the pros and cons of the

application are for debate and discussion at the Panel meeting. Site visits by their very nature need to be informal. They of course take place in the open air, sometimes in adverse weather conditions, and it is often neither the time nor the place for reasoned debate.

9.8 Any local residents, particularly objectors who may attend at the site, should therefore be acknowledged and told their objections will be reported to the Planning Committee (which they should separately put in writing) but there should be no debate with them at the site. Sometimes it will be necessary to enter the property of a local resident who will be able to point to features but, again, he/she must be informed of the objective of the visit.

9.9 One variation to the above may be for the Site Visits Panel, on the instruction of the Planning Committee, to meet with another statutory body or organisation, at a site visit (e.g. a Community Council) but again it will be for the Panel to report back to the Planning Committee. However, in this case the applicant must also be given the opportunity to be present and to be heard by the Panel.

9.10 Councillors should not enter a site, which is subject to an application, other than as part of an official Planning (Site Visits) Panel, even in response to an invitation, as this may give the impression of bias, unless:

1. The Councillor can ensure he or she will comply with the Members' Code of Conduct;
2. The Councillor has first spoken to the Head of Planning and Public Protection about his or her intention to do so and the reason(s). For the avoidance of doubt, these reasons and decisions will be recorded on a file.

10. **Public speaking at meetings**

Councillors should not allow members of the public, applicant(s), objector(s) and/or their professional

advisor(s)/agent(s) to communicate with them during the Committee's proceedings (orally or in writing) as this may give the appearance of bias.

11. Officers

11.1 Councillors should not put pressure on officers to put forward a particular recommendation. This does not prevent you from asking questions or expressing views to the Head of Planning and Public Protection.

11.2 Councillors should recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.

11.3 Councillors should recognise and respect the fact that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

12. Decision making

12.1 Councillors should ensure that, if they request a proposal to go before the Committee rather than be determined through officer delegation, that their reasons are recorded and repeated in the report to the Committee.

12.2 Councillors should come to meetings with an open mind and demonstrate that they are open-minded.

12.3 Councillors must comply with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and make

decisions in accordance with the Development Plan unless material considerations indicate otherwise.

- 12.4 Councillors should come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If they feel there is insufficient time to digest new information or that there is simply insufficient information before them they should request that further information. If necessary, seek a short adjournment or deferral.
- 12.5 Councillors should fully assimilate the report on any application and try to be present to hear the entire debate, including the officers' presentation of their report.
- 12.6 The proposed reason for a decision to defer any proposals shall form part of a motion to defer and shall be recorded in the minutes.
- 12.7 Under the Council's Constitution the Committee may determine planning applications which are contrary to any policy within the Structure Plan, Local Plans, and/or the Unitary Development Plan except that where there is a major departure in the view of the Director, and the Committee is minded to approve notwithstanding a recommendation of refusal by the Director, then the views of the Cabinet must be obtained. If the Cabinet supports the Officers view, but the Committee is still minded to approve, then the application must be referred to full Council for determination.
- 12.8 Councillors should make sure that if they are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that they identify clearly and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. They should be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge, which may involve legal proceedings.

12.9 Councillors should ensure that they consider any issue in light of material considerations overall and not ward interests.

13. Local Development Plan

13.1 The principles set out in this Protocol apply equally to decisions on the Local Development Plan. Whilst it is expected that Members will be fully involved in community engagement and discussions Members should avoid putting themselves in a position of predetermination.

13.2 Preparation of the Local Development Plan differs from the consideration of individual planning applications in that it both relates to the consideration of individual sites and to how sites relate to the needs of the wider area. It is important that even where Members or Officers have a prejudicial interest in relation to a site that they are able to contribute to the work and discussion concerning a wider area. However, whenever the discussion or preparatory work focuses on the comparison of individual sites or could otherwise be seen as impacting on or in some other way relevant to their site they must exclude themselves from the work and decision making.

14. The Procedure

14.1 The deliberations of the Planning Committee will be confined to the published agenda, and any urgent items that have been accepted by the Chairperson, in accordance with the Local Government Act 1972. The order of business will generally be in accord with the agenda, however, the Chairperson will seek to bring forward items of business those members of the public, or applicants, have come to hear.

14.2 The Chairperson will ensure that meetings of the Planning Committee are conducted in accordance with the Council's Rules of Procedure, and safeguard that appropriate debate is able to take place in a structured and professional manner, with Members being given the opportunity to raise material planning issues (normally

through a single representation). The Chairperson will seek to avoid repetition and/or irrelevant debate.

- 14.3 Members shall endeavour to give not less than twenty four (24) hours' notice (preferably in writing) to the Head of Planning and Public Protection all questions requiring a technical or detailed response so that an appropriate response can be prepared for the meeting of the Planning Committee.
- 14.4 To ensure the meeting of the Planning Committee is kept to a reasonable length, if a number of individuals wish to speak, either for or against a particular planning application on similar grounds, they should seek to combine their representations, and nominate one (1) spokesman to speak on their behalf. This will avoid any unnecessary repetition.
- 14.5 Planning officer(s) will update the Planning Committee, on each application, in respect of submissions and other material matters not addressed in the main report and, through the Chairperson, will be responsible for responding to Councillor questions.
- 14.6 Visual aids and/or other supporting evidence (for either the applicant(s) or objector(s)) will not be permitted, unless there are exceptional circumstances (to be determined by the legal officer in consultation with the Chairperson). Applications by applicants, or objectors, to submit visual aids or supporting evidence to the Planning Committee will need to be made to the Planning Section in advance of the Planning Committee in order for their appropriateness to be assessed. This will not impinge upon Council officers submitting such evidence. The Chairperson shall have absolute discretion as to the conduct of business, which shall include deciding on the number of speakers, together with ruling upon the admissibility of evidence.
- 14.7 Where officers advise the Chairperson of material professional concerns or potential consequences of a particular course of action (or of any potential liabilities or errors of fact) officers shall be afforded reasonable

opportunity to concisely explain those matters to the Planning Committee before it reaches a decision. Similarly, the legal officer present at the meeting shall also be permitted to intervene for the purposes of giving legal advice relating to matters of procedure, and planning law, at any point before the Planning Committee reaches a decision.

14.8 The order for public speaking will normally be as follows:

1. Presentation of the Council officer's report;
2. The applicant(s);
3. The applicant's professional adviser(s);
4. Supporters of the applicant(s);
5. Professional advisers of the objector(s);
6. Objector(s);
7. Response by the planning officer to new material, detail or comments introduced by the applicant(s) and objector(s) and/or their each respected adviser(s);
8. Summing up by the Chairperson.

Councillors will then consider and debate the application, and will determine the decision to be made on it.

14.9 Each speaker will have no more than five (5) minutes to address the meeting although, in exceptional circumstances, the Chairperson may extend this time.

14.10 Each and every speaker must comply with the directions of the Chairperson, should he/she interrupt them during their speech.

14.11 Each and every speaker is advised that the law of defamation applies to any statement made in public. It is important, therefore, that speakers do not make personal comments about any applicant(s) or objector(s).

14.12 Consideration of an item will not be delayed because an applicant, or objector, is not present, providing they have been appropriately informed of the time and date of the

Planning Committee meeting, and of their right to speak at that meeting.

15. Training for Councillors

15.1 The Council considers that Members of the Planning Committee should undertake training. This opportunity will be offered to all Councillors. No Councillor appointed to the Planning Committee can sit at a Planning Committee meeting without having undertaken appropriate training in planning procedures beforehand.

15.2 Members of the Planning Committee will be offered core training (normally within three months of appointment to the Committee. The subject matter will cover planning procedures, the development plan and material planning considerations, probity and other subject determined from time to time by officers in consultation with the Councillors.

15.3 Other training will be available in the form of additional sessions, short presentations to the Committee, and the circulation of briefing notes.

16. Planning applications submitted by Councillors, Community/Town Councils, and officers

16.1 Planning applications submitted by, or on behalf of Councillors, or officers employed by the Council, or by, or on behalf of a spouse, partner, parent, child or sibling of a Councillor or officer of the Council, where known, shall be decided by the Planning Committee and not delegated powers by the Head of Planning and Public Protection. This will also apply where that person is acting as an agent for another party.

16.2 The affected Councillor(s) must declare an interest, and nature of the interest/relationship, and shall take no part in the decision unless he/she has been granted dispensation from the Council's Standards Committee.

16.3 The affected officer shall take no part in the processing of the application, and any recommendation made to the Planning Committee.

16.4 Where a Community or Town Council submits a planning application, any County Borough Council Councillors who are also Councillors of that Community or Town Council should declare their interest and withdraw from the meeting. Those Councillors, however, may be allowed to attend to Planning Committee meeting for the purposes of making representations, and answering questions relating to the application concerns, providing members of the public are permitted to make representations, give evidence or answer questions about the matter. The Councillor must then leave the Planning Committee meeting until the application has been determined by the Committee; following this the Councillors can re-join the meeting to take part in any remaining agenda items.

17. Planning applications submitted by the Council

17.1 It is essential that the Council treat applications for its own development (or a development involving the Council and another party) in a similar manner to all other applications, and that is seen to be the case.

17.2 All such proposals will be subject to the same administration processes, including consultation, as private applications. Determination shall similarly take into account planning policy, and any other material planning consideration(s).

17.3 In order to ensure transparency and openness in dealing with such applications, Council applications (except for discharge of conditions) that involve land owned by the Council and/or where the Council has a financial interest will not be dealt with under delegated powers, but will be determined by the Planning Committee.

- 18. Recording of proceedings of Planning Committee meeting**
- 18.1 Planning Committee meetings shall be webcast by the Council in accordance with the Council Procedure Rules
- 19. Appeals against Council decisions**
- 19.1 Officers will organise and generally appear as witnesses at planning appeals, and other proceedings on behalf of the Council. In some circumstances (such as where specialist evidence is required or where a Member decision is contrary to officer recommendation) it may be necessary to appoint a consultant(s) to appear on behalf of the Council.
- 19.2 In giving evidence, officers will present the best case on behalf of the Council while complying with the Royal Town Planning Institute Code of Professional Practice, which requires that planning officers – who are members of the Institute – do not make statements purporting to be their own, but which are contrary to their bona fide professional opinions.
- 19.3 In cases where the appeal is against a decision that the Planning Committee has made, contrary to planning officers' recommendation, the planning case officer may be able to give evidence. In some cases, however, another officer or consultant(s) will be employed the Head of Planning and Public Protection considers that the case-officer's previously stated views may be unhelpful to presenting the Planning Committee's position.
- 19.4 Councillors can have an important role to play in appeals and may, within set deadlines, make written representations to the Planning Inspector, and may also appear at informal hearings or as a witness at public local inquiries. In doing so, they should state whether they are acting in their local Councillor capacity or, exceptionally, representing the Council's case.

19.5 Where planning officers are unable to defend decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute) the Planning Committee should be aware of this before the final vote is taken. In such cases, the Committee shall nominate at least two of its members who voted contrary to the recommendation to appear at any appeal, and defend the Committee's decisions, and reasons, for them. These should normally be the proposer, and seconder, of the proposal, which was contrary to officers' recommendation.

19.6 Councillors attending or wishing to make representations at appeals will receive support from planning, and legal, officers. Planning, and legal, officers will advise Councillors on preparing and delivering evidence. Legal officers will attend inquiries or assist in preparing representations when legal representation is required.

20. Review of decisions

20.1 The Audit Commission's Report, '*Building Quality*', recommends that Councillors should visit a sample of implemented planning permissions to assess the quality of the decisions. The purpose of such a review is not to change decisions, but to assess and improve the quality and consistency of decisions and, thereby, strengthen public confidence and assist in reviewing planning policy.

20.2 The Planning Committee will undertake an annual review of a sample of planning decisions made by the Committee. The review will include examples from a range of development types (for example, major residential proposals, listed building consents, and enforcement cases) and, where it is considered appropriate and beneficial, include visits to sites.

20.3 The Planning Committee will formally consider the results of the review and decide whether it gives rise to the need for new policies, procedures and practices.

20.4 The outcome of appeals against the decisions of the Council will be reported regularly to the Planning Committee. The outcome of enforcement cases, and legal proceedings, will also be reported regularly so that the Planning Committee can review its own decision-making processes.

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Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

9th September 2024

Matter for Decision

Wards Affected: All Wards

Neath Port Talbot Council Whistleblowing Policy

Purpose of the Report:

1. To provide Members with a copy of the Neath Port Talbot County Borough Council's ("the Council") Whistleblowing Policy and to seek comments or recommendations as Members deem appropriate.

Executive Summary:

2. The Council embarks on a review of the Whistleblowing Policy on a regular basis. A copy of the current policy attached at Appendix 1 for consideration by Members of the Standards Committee and for any recommendations to be made as may be considered appropriate.

Background:

3. One of the remits of the Council's Standards Committee is to oversee the whistleblowing regime in particular in this respect to consider and recommend procedures in respect of the following:
 - (a) Whistleblowing arrangements
 - (b) Anti-Fraud/Corruption or malpractice strategy
4. The Council has adopted a Whistleblowing Policy in line with the requirements of the Public Interest Disclosure Act 1998.
5. In the policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council. The aim of the Policy is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.
6. Employees are often the first to realise that there may be something seriously wrong within the Council. 'Whistleblowing' is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency and long-term success. It is not disloyal to colleagues or the Council to speak up. The Council is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices. To help achieve these standards it encourages freedom of speech.
7. Importantly the policy also provides protection for workers who report allegations of such malpractice or misconduct.
8. The whistleblowing policy is designed to ensure that all allegations of malpractice or misconduct are thoroughly investigated and suitable action taken where necessary.

9. The policy is intended to encourage and enable workers to raise serious concerns within the Council, rather than overlooking a problem or 'blowing the whistle' outside.
10. The Whistleblowing Policy has recently been updated in content and format as part of a review by the Council's People and Organisational Development section and is not brought before members of the Standards Committee any recommendations to be made as may be considered appropriate

Financial Impacts:

11. No implications.

Integrated Impact Assessment:

12. An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

13. No implications

Workforce Impacts:

14. No implications

Legal Impacts:

15. The Council has adopted a Whistleblowing Policy in line with the requirements of the Public Interest Disclosure Act 1998.

Consultation:

16. There is no requirement for external consultation on this item

Recommendations:

17. That Members note the content of the Neath Port Talbot County Borough Council Whistleblowing Policy and provide any comments or recommendations for consideration as they consider appropriate.

Appendices:

18. Appendix 1 - Neath Port Talbot County Borough Council Whistleblowing Policy

List of Background Papers:

19. None

Officer Contact:

Mr Craig Griffiths
Head of Legal and Democratic Services
Telephone 01639 763767
Email: c.griffiths2@npt.gov.uk



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

Whistleblowing Policy

Polisi Chwythu'r Chwiban.

Whistleblowing Policy
Polisi Chwythu'r Chwiban.

Os hoffech dderbyn gohebiaeth mewn perthynas â'ch cyflogaeth yn Gymraeg, [cysylltwch â'ch Swyddog AD dynodedig.](#)

Version	Date	Action
1	31 st August 2015	New Document
2	19 April 2018	Review and Amendment
3	1 st January 2020	Review and Amendment
4	11 th April 2022	Review and Amendment
5		Full Review following Member Feedback and Amendment
6		To be reviewed

1. What is Whistleblowing?

In this policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council.

The aim of this Policy is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

Employees are often the first to realise that there may be something seriously wrong within the Council. 'Whistleblowing' is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency and long-term success. It is not disloyal to colleagues or the Council to speak up. The Council is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices. To help achieve these standards it encourages freedom of speech.

2. Aim and Purpose of the Policy

The Policy is designed to ensure that concerns can be raised about wrongdoing or malpractice within the Council without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

It is also intended to encourage and enable people to raise serious concerns **within** the Council rather than ignoring a problem or 'blowing the whistle' outside.

This Policy aims to:

- encourage people to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice
- provide avenues for people to raise those concerns and receive feedback on any action taken
- ensure that a response is received relating to concerns and that you are aware of how to pursue them if they are not satisfied.
- reassure people that they will be protected from possible reprisals or victimisation if they have made any disclosure in good faith.

3. Scope of this Policy

This Policy is intended to enable those who become aware of wrongdoing in the Council affecting some other person or service, to report their concerns at the earliest opportunity so that they can be properly investigated.

The Whistle Blowing Policy is not intended to replace existing procedures:

- If your concern relates to your own treatment as an employee, you should raise it under the existing grievance or Dignity at Work procedures.
- If a service user has a concern about services provided to him/her, it should be raised as a complaint to the Council.

- Complaints of misconduct by Councillors are dealt with under a separate procedure (for further information please contact the Council's Monitoring Officer)

4. Who can raise a concern under this Policy?

The Policy applies to all:

- employees of Neath Port Talbot County Borough Council excluding schools
- employees of contractors working for the Council, for example, agency staff, builders and drivers
- employees of suppliers
- those providing services under a contract or other agreement with the Council in their own premises, for example care homes, and
- voluntary workers working with the Council

5. What should be reported?

Any serious concerns that you have about service provision or the conduct of officers or members of the Council or others acting on behalf of the Council that:

- make you feel uncomfortable in terms of known standards;
- are not in keeping with the Council's Employee Code of Conduct or any other policy;
- fall below established standards of practice; or
- relate to improper behaviour.

These might relate to:

- conduct which is an offence or a breach of the law (a criminal offence has been committed or failing to comply with any other legal obligation)
- disclosures related to miscarriages of justice
- discrimination in relation to a protected characteristic (Equality Act 2010)
- health and safety risk to the public and/or other employees
- damage to the environment
- unauthorised use of public funds or other assets
- possible fraud, bribery, corruption or malpractice
- neglect or abuse of clients*, or
- other unethical conduct.

This list is not exhaustive.

*Please note many employees and workers are governed by their own Codes of Practice, such as within Social Work and Education. These codes put a duty on employees to report instances of neglect or abuse and therefore this policy may not be applicable. Further advice can be sought from Internal Audit.

6. Protecting the Whistleblower

This policy has been written to take account of the Public Interest Disclosure Act 1998 which protects workers making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in the public interest.

The Act makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Council cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

6. Harassment or Victimisation

The Council is committed to good practice and high standards and to being supportive of Council employees.

The Council recognises that the decision to report a concern can be a difficult one to make. If you honestly and reasonably believe what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer, your colleagues and those for whom you are providing a service.

The Council will not tolerate any harassment or victimisation of a whistleblower (including informal pressures) and will take appropriate action to protect employees when a concern is raised in good faith and will treat this as a serious disciplinary offence by the perpetrator which will be dealt with under the disciplinary rules and procedure.

7. Supporting employees

Throughout this process:

- employees will be given full support from senior management
- employees concerns will be taken seriously, and
- the Council will do all it can to help the employee throughout the investigation

If appropriate, the Council will consider temporary redeployment for the period of the investigation, however this will be discussed with the whistleblower and relevant managers before any decision is made.

For those who are not Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

8. Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if that is your wish. If disciplinary or other proceedings follow the investigation, it may not be possible to take action as a result of your disclosure without your help, so you may be asked to come forward as a witness. If you agree to this, you will be offered

advice and support. Colleagues and other employees may also need to be spoken to as part of the process if they are a witness.

9. Anonymous Allegations

This Policy encourages you to put your name to your allegation whenever possible. This policy is not ideally suited to concerns raised anonymously.

Concerns expressed anonymously are much less powerful but they may be considered at the discretion of the Council. In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issue raised
- the credibility of the concern, and
- the likelihood of confirming the allegation from other sources

10. Untrue Allegations

If you make an allegation in good faith and reasonably believe it to be true, but it is not confirmed by the investigation, your concern will be dealt with in line with this policy. If however, an allegation is made frivolously, maliciously or for personal gain, then appropriate action may be taken that could include disciplinary action procedures being invoked.

12. Raising a Concern

12.1. Who should you raise your concern with?

This will depend on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing. You may wish to raise a concern with your line manager, however if this is not appropriate, you may also raise your concern direct to the Audit Manager.

The address and contact details for correspondence is audit@npt.gov.uk in your email please leave your contact details and a detailed description of your concerns.

If you are unsure who to contact, the independent charity **Protect** can advise you. They offer a free and confidential helpline on **020 3117 2520**.

12.2. How to raise a concern

You may raise your concern by telephone, in person or in writing. The earlier you express your concern, the easier it is to take action. You will need to provide the following information:

- the nature of your concern and why you believe it to be true
- the background and history of the concern (giving relevant dates)

Although you are not expected to prove beyond doubt the truth of your suspicion, you will need to demonstrate to the person contacted that you have a genuine concern

relating to suspected wrongdoing or malpractice within the Council and there are reasonable grounds for your concern.

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

You may invite your trade union, professional association representative or a work colleague to be present for support during any meetings or interviews in connection with the concerns you have raised.

13. What the Council will do

The Council will respond to your concerns as quickly as possible. Do not forget that testing your concerns is not the same as either accepting or rejecting them.

The overriding principle for the Council will be the public interest. In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

The investigation may need to be carried out under terms of strict confidentiality, i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. In certain cases however, such as allegations of ill treatment of others, suspension from work may have to be considered immediately. Protection of others is paramount in all cases.

Process for dealing with whistleblowing concerns

All whistleblowing concerns must be forwarded to the Audit Manager /– check with Anne Marie, if not directly by the whistleblower, then by the recipient.

They will then investigate the complaint, if the complaint relates to a specialist area of Council business the Audit Manager may request that the responsible Head of Service appoint a senior officer within the service area to assist with the investigation and where appropriate, may:

- Refer the matter to the police
- Refer the matter to the external auditor
- Engage in the subject of an independent inquiry

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Within 10 calendar days of a concern being raised with them, Internal Audit will write to the whistleblower if the identity of the whistleblower is known:

- acknowledging that the concern has been received
- indicating how the Council proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response
- advising whether any initial enquiries have been made
- supplying information on staff support mechanisms, and
- advising whether further investigations will take place and if not, why not.

The amount of contact between the officers considering the issues and the whistleblower, will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from the whistleblower.

Where any meeting is arranged, the whistleblower can be accompanied by a trade union or professional association representative or a work colleague.

The Council will take steps to minimise any difficulties which a whistleblower may experience as a result of raising a concern. For instance, if s/he is required to give evidence in criminal or disciplinary proceedings the Council will arrange for him/her to receive advice about the procedure.

The Internal Audit Service will produce a report on the findings of the investigation. The format of the report will not always be the same as each case is unique, but will frequently set out:

- How the investigation arose
- Who the suspects are
- Their position within the Authority and their responsibilities
- How the investigation was undertaken
- The facts and evidence which were identified
- Summary of findings and recommendations, both regarding the fraud, malpractice, corruption or bribery and any additional work required on the system weaknesses identified during the investigation.

All reports issued by Internal Audit in relation to Whistleblowing Investigations will be distributed to the Chief Executive, the relevant Corporate Director and Head of Service, the Monitoring Officer and Audit Wales

The Council accepts that whistleblowers need to be assured that the matter has been properly addressed.

Thus, subject to legal constraints, the Council will inform whistleblowers of the outcome of any investigation.

If at any point during the Whistleblowing Investigation there is evidence which suggests that the threshold has been met for the investigation to be undertaken in line with the Council's Disciplinary Policy and Procedure the Head of Service will be notified and the procedure invoked. In these instances to preserve the integrity of the investigation and to save duplication of effort the Audit Manager will normally be appointed as the investigation officer.

Internal Audit will ensure that the whistleblower is kept up-to-date with the handling of their disclosure, with any support or advice as necessary from HR.

Please refer to flowchart in Appendix B for a summary of the process.

14. The Responsible Officer

The Chief Finance Officer, Monitoring Officer and Head of People and Organisational Development have responsibility for the maintenance and operation of this Policy.

15. How the Matter can be Taken Further

This Policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and you feel it is right to take the matter outside the Council, the following are the Council's prescribed contacts:

A 'prescribed body' is one which is identified under PIDA as able to receive concerns about organisations. Most regulators are prescribed bodies.

An employee or worker can raise concerns with a prescribed body, or any other such body, if it is relevant to that body. Such disclosures are protected under PIDA law, where the whistleblower meets the criteria for disclosure. They must also reasonably believe that the matter is substantially true and relevant to the regulator. Examples of prescribed bodies are:

- The Public Services Ombudsman for Wales
- HMRC
- Financial Services Authority
- Health and Safety Executive
- The Information Commissioner
- Regulator of Social Housing
- Care Inspectorate Wales
- Pensions Regulator
- Food Safety Agency
- Audit Wales

Independent advice may be sought before raising a concern, by contacting a trade union or professional regulatory body, or referring to guidance issued by them. Free, confidential advice can be obtained from independent whistle-blowing charity Public Concern at Work:

**Protect
The Green House
244-254 Cambridge Heath Rd
London
E2 9DA**

02031172520

[Protect - Speak up stop harm - Protect - Speak up stop harm \(protect-advice.org.uk\)](http://protect-advice.org.uk)

[Contact our Advice Line - Protect - Speak up stop harm \(protect-advice.org.uk\)](http://protect-advice.org.uk)

You should not disclose information that is confidential to the Council or to anyone else, such as a client or contractor of the Council, except to those included in the list of prescribed contacts.

This Policy **does not** prevent you from taking your own legal advice.

16. Review of the Policy

This policy will be reviewed every three years by the Head of People and Organisational Development, the Head of Legal and Democratic Services and Audit Manager.

17. Record Keeping

A central record shall be maintained by Internal Audit of all whistle-blowing concerns raised.

Data processed through a scheme that promotes anonymous whistle-blowing should be deleted or archived within two months of conclusion of the investigation unless it has led to disciplinary or legal proceedings.

The Public Interest Disclosure Act 1998 (as amended 2013)

The Public Interest Disclosure Act 1998 (PIDA) offers protection to workers from any detriment from their employer that arises from the worker making a **'protected disclosure'**.

To qualify as a 'protected disclosure' the disclosure must satisfy a number of requirements under PIDA:

1. The worker must have made a **'qualifying disclosure'**. This is a disclosure of information which, in the reasonable belief of the worker, tends to show one or more of the following:
 - (a) That a criminal offence has been committed, is being committed, or is likely to be committed
 - (b) That a person has failed, is failing, or is likely to fail to comply with any legal obligation to which he is subject
 - (c) That a miscarriage of justice has occurred, is occurring, or is likely to occur
 - (d) That the health and safety of any individual has been, is being, or is likely to be endangered
 - (e) That the environment has been, is being, or is likely to be damaged
 - (f) That information tending to show any matter falling within any of the preceding paragraphs has been, or is likely to be deliberately concealed

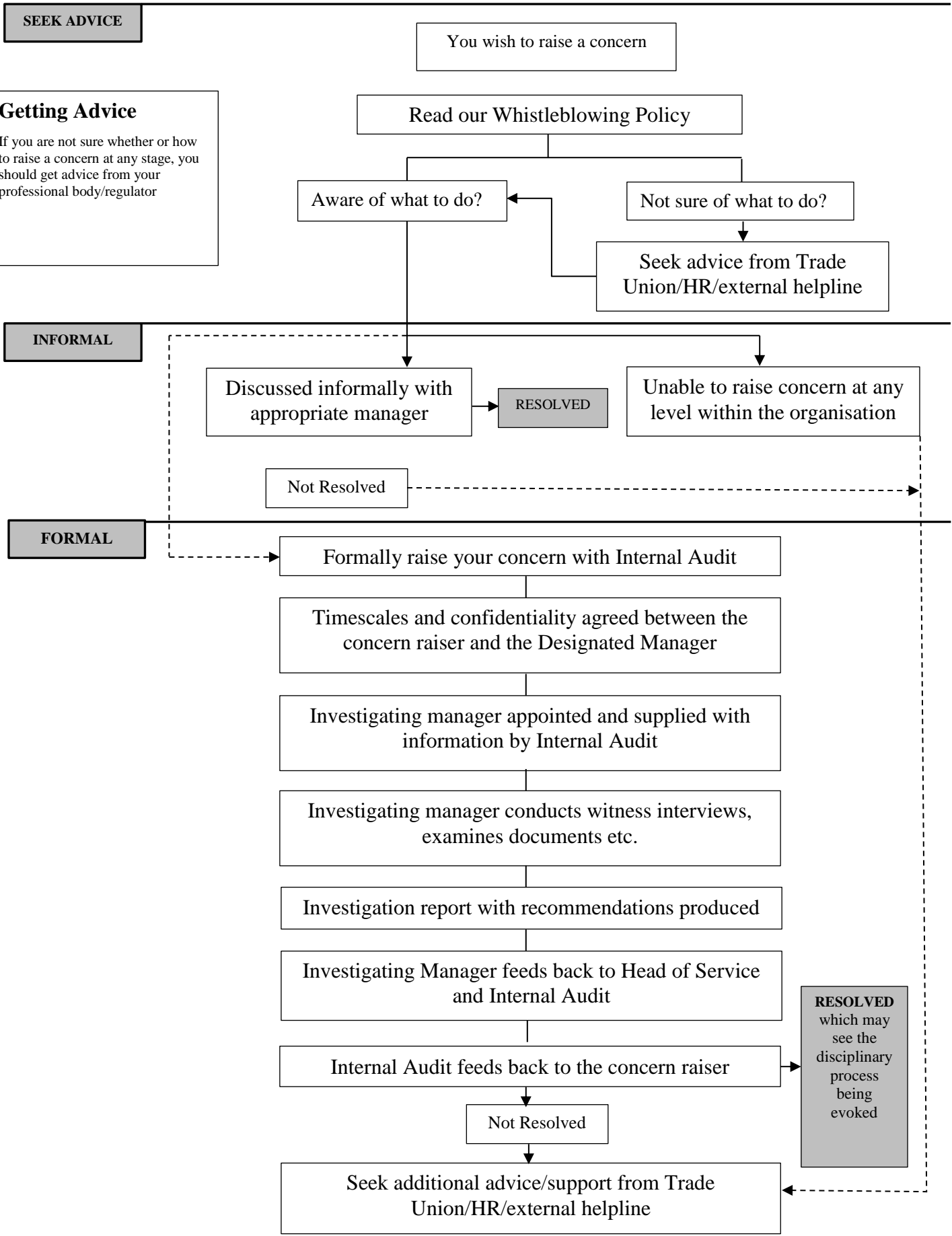
A disclosure of information is not a qualifying disclosure if the person making it commits a criminal offence in doing so.

The qualifying disclosure must be made in **the public interest**.

3. The worker must make the qualifying disclosure to one of a number of **'specified persons'** set out in PIDA, which include:
 - (a) The worker's **employer** or, if they reasonably believe that the failure relates solely or mainly to (i) the conduct of a person other than their employer or (ii) any other matter for which a person other than their employer has legal responsibility, **to that other person**
 - (b) A **'prescribed person'**, which includes CQC. However, the worker must reasonably believe that the information disclosed and any allegation contained in it is substantially true. The worker must also reasonably believe that the

relevant failure being disclosed falls within any description of matters for which CQC is a prescribed person.

Where the above requirements are satisfied, a worker who has made a protected disclosure is protected under PIDA from dismissal or any other detriment arising from making that disclosure. Detriment can include detriment suffered from a previous employer where, for example, the employer refused to give a reference because the worker has made a protected disclosure. A worker who suffers dismissal or detriment may bring a claim for compensation (which is unlimited) in the Employment Tribunal. The term 'worker' includes employees, contractors or self-employed people.



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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

9th September 2024

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR C GRIFFITHS

Matter for Information

Wards Affected: All

Recent decision of the Adjudication Panel for Wales and Public Service Ombudsman for Wales relating to Members Code of Conduct Breaches

Purpose of the Report

1. To draw to Members attention a recent decision of the Adjudication Panel for Wales as the subject matter of this reports falls within the remit of the Standards Committee.

Background

2. Decisions published by the Adjudication Panel for Wales and the Public Services Ombudsman for Wales regarding code of conduct complaints provide the committee with points of learning which can be considered when implementing the code and providing training to councillors. The following recent decisions are of interest.
 - Adjudication Panel for Wales Councillor David Metcalfe
 - Public Services Ombudsman for Wales - Conwy County Borough Council, Festiniog Town Council and Monmouthshire county Council

Financial Impact

3. There are no financial impacts associated with this Report.

Integrated Impact Assessment

4. There is no requirement for an integrated impact assessment

Workforce Impacts

5. There are no workforce impacts associated with this Report

Legal Impacts

6. The ethical framework of Members is as derived from the Local Government Act 2000 and the Members Code of Conduct is as set out in the Constitution of Neath Port Talbot County Borough Council (“the Council”) as created by the Conduct of Members (Model Code of Conduct) (Wales) Order 2001.

Consultation

7. There is no requirement under the Constitution for external consultation on this item.

Recommendations

8. That Members note the report of the Adjudication Panel for Wales and Public Service Ombudsman for Wales regarding compliance with the Members Code of Conduct.

Appendices

9. Appendix 1 – Decisions of the Adjudication Panel for Wales and Public Service Ombudsman for Wales

List of Background Papers

10. The Constitution of Neath Port Talbot County Borough Council incorporating the Members Code of Conduct.

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NOTICE OF DECISION

TRIBUNAL REFERENCE NUMBER:

APPELLANT: Councillor David Metcalfe

RELEVANT AUTHORITIES: Cefn Community Council (principal authority - Wrexham County Borough Council)

1. Following a decision by the Standards Committee of Wrexham County Borough Council (“the Standards Committee”) on 16 January 2024 that the Appellant breached the Code of Conduct of the Relevant Authority, and the Notice of Decision which was emailed to the Appellant on 19 January 2021 (receipt confirmed), the Appellant has made an application to appeal under Regulation 10(8) of the Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales) Regulations 2001.
2. I have deemed the application to be in time. The Appellant’s appeal was received by the APW on 5 February 2024, within the 21-day period in which applications for permission to appeal must be received.
3. The Appellant sent a copy of the standards committee’s decision and the minutes with his appeal form.
4. I have made my decision on the basis of the following evidence:
 - a. The completed APW05 form from the Appellant seeking permission to appeal (together with the additional sheets provided as attachments to that form);
 - b. The Notice of Decision from the Standards Committee sent to the Appellant;
 - c. The minutes of the Standards Committee meeting held on 16 January 2024;
 - d. The comments of the Appellant disputing the minutes of the Standards Committee meeting held on 16 January 2024

5. The Appellant has raised several grounds of appeal, which focus on facts and the alleged breaches of the Code of Conduct found. I am required to consider whether it has no reasonable prospect of success. I will take the Appellant's case at its highest (this means assuming his version of key disputed facts is correct for the purposes of considering his application), unless it is conclusively disproved, is entirely unsupported by reasonable argument or the evidence before me, or can reasonably be viewed as fanciful allegations.
6. If any ground of appeal is found by me to have no reasonable prospect of success, that ground will not proceed to be considered by the Appeal Tribunal. I am required to give reasons if I find a ground of appeal has no reasonable prospect of success. The threshold is low to obtain permission to appeal – even if I take the view the ground is unlikely to succeed, unless I find there is no reasonable prospect of success, I will allow the ground to be considered by an Appeal Tribunal. Where there is a dispute about the fact-finding undertaken by a standards committee, I will consider the decision of that committee to consider whether the criticisms made have no reasonable prospect of success.
7. If any ground does have a reasonable prospect of success, I am required to arrange for an Appeal Tribunal to be convened to hear the appeal.
8. I note that the decision letter of the standards committee is summary in nature. The draft minutes sets out evidence was received, that submissions were made, and the sanction imposed. There is no record of the Committee's reasoning, what the submissions were, the weight placed on the evidence or submissions received or whether the Sanctions Guidance was considered. I observed that compared to the detailed decisions supplied by other Standards Committee, the letter did not enable a review of the decision making process to be undertaken by an objective reader. I reviewed the minutes of the meeting (whilst noting that the Appellant disputed their accuracy); again I noted that there was no record setting out why the Standards Committee reached the conclusion that it did.
9. The Appellant raised the following grounds in his application for permission to appeal:
 - a. He commented on the phrase of "*cripple your business*", aspects of his hopes for the Ebenezer building and the underlying dispute over its future with the principal authority– there are not relevant to the reasons why he was found to have acted aggressively in a meeting of 4 May 2021 or failed to declare an interest in council business at the same meeting, and the details of the underlying dispute cannot be resolved in this forum. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
 - b. The Appellant complains of a presentation made in the meeting of 4 May 2021 – this is not something that can form the basis of a ground

of appeal. Taking his additional comments made into consideration, it appears that the Appellant asserts that there has been a “cover up” by both the community council and the principal authority regarding the Ebenezer building; again, this is not relevant as to whether the Appellant breached the Code of Conduct and the underlying dispute cannot be resolved in this forum. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**

- c. The Appellant accepts that he did not seek advice from the clerk, the monitoring officer or any other body as to whether he should declare an interest when attending the meeting on 4 May 2021; his position is that he did not need to do so and asserts that there is no need to declare something that should have been known. This is incorrect – it is necessary to declare even if known. The Appellant admits that he made no declaration and sought no advice, but this is on the basis that his interest was known. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- d. The Appellant accepts that he raised his voice at the meeting of 4 May 2021 but says that others did so. This is not an acceptable justification as the Appellant is responsible for his own conduct. There is no challenge that he conceded to the Standards Committee that he behaved aggressively. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- e. The Appellant touched on the finding that he brought his office or the relevant authority into disrepute, but does not set out any basis on which the finding can be challenged. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- f. The Appellant says that he did not use his official capacity as a councillor to improperly obtain an advantage for himself or any other, or create a disadvantage – this was found by the Standards Committee but the Appellant has failed to explain why he challenges this finding. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- g. The Appellant denies that he had a personal or prejudicial interest in the business of the authority and failed to disclose it. On his account within the application for permission to appeal alone, it is evident that the Appellant did have a personal interest in the fate of the Ebenezer building (which was financial in nature as it could lead to the insolvency of his personal business according to the Appellant) and says that he did not need to disclose it (or withdraw) as it was known. **This ground has no reasonable prospect of success and cannot proceed to an Appeal Tribunal.**
- h. The Appellant has made no submission that the sanction imposed was inappropriate. I have closely examined all of his documents, and

no argument is made and no comment in the form set out challenging this. **It therefore is not a ground of appeal and cannot proceed to an Appeal Tribunal.**

10. An Appeal Tribunal will not be convened by the President of the Adjudication Panel for Wales. The Monitoring Officer will be notified to enable the period of suspension to commence.

Signed: 

Date: 8 February 2024

Claire Sharp
President of the Adjudication Panel for Wales

Report Date

09/07/2023

Case Against

Conwy County Borough Council

Subject

Duty to uphold the law

Case Reference Number

202205954

Outcome

No Action Necessary

The Ombudsman received a complaint that a Member (“the Member”) of Conwy County Borough Council (“the Council”) had breached the Code of Conduct (“the Code”) by participating and voting in a Council meeting, which he attended virtually, while appearing to be driving.

The Ombudsman’s investigation considered whether the Member had breached the Code by bringing his office or authority into disrepute.

Information was obtained from the Council, including minutes from the relevant Council meetings and videos of the incidents that led to the complaint. Information was also obtained from the Member and from the Police.

The video footage from the first Council meeting showed the Member to be driving a vehicle whilst participating in the meeting and the Member acknowledged that this was the case. The Member felt it important that he attend all meetings. Subsequent videos showed the car either to be stationary or that the Member was in the passenger seat.

The Police said it had not received a complaint and it would not now be in the public interest to investigate the matter. It is not the Ombudsman’s role to determine whether the Member’s actions would have amounted to criminal behaviour. However, the Police decision does not mean the Member’s actions were considered acceptable.

The Ombudsman found that the actions of the Member were suggestive of a breach of the Code. The public rightly expect elected members to engage fully with council business and to attend a meeting whilst driving a

vehicle demonstrated poor judgement and had the potential to bring the Council into disrepute.

The Ombudsman considered that there was evidence of a single incident where the Member was driving and interacted with the meeting, and that it did not appear to be indicative of repeated behaviour. That subsequent videos showed the Member to be in the passenger seat or in a stationary vehicle suggests the Member had not repeated the behaviour and has learned from this complaint.

The Ombudsman found that although the members actions were suggestive of a breach of the Code, that he had not repeated the behaviour since, and the lack of a criminal investigation meant it would not be in the public interest to take further action.

The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

This decision will be held on record and will be taken into account if there is any future similar behaviour by the Member.

Report Date

09/13/2023

Case Against

Ffestiniog Town Council

Subject

Disclosure & register of interest

Case Reference Number

202201791

Outcome

No Action Necessary

The Ombudsman received a complaint that a Member (“the Member”) of Ffestiniog Town Council (“the Council”) had breached the Code of Conduct (“the Code”) by failing to declare a personal and prejudicial interest when the Council took the decision not to support a request by local residents to oppose an application to the Land Registry Tribunal which had been made by a fellow councillor, the Member’s friend. It was also alleged that the Member had subsequently sent a statement of support for his fellow councillor’s application.

The Ombudsman’s investigation considered whether the Member had breached the Code by failing to declare a personal and prejudicial interest, by using his position to create an advantage or disadvantage for someone and whether he had brought his office or authority into disrepute.

Information was obtained from the Council and witnesses were interviewed.

The Member acknowledged that his intention to write a statement of support for his fellow councillor’s application to a Land Registry tribunal meant that he held a personal and prejudicial interest and that he should have declared the interest and not participated in discussion of those matters at council meetings.

The Ombudsman found that the actions of the member were suggestive of breaches of the Code in that he had failed to declare a personal and prejudicial interest and had made representations at council meetings when he should not have done so. However, the Ombudsman also noted that advice given by other councillors and the Clerk was not as clear as it could have been.

The Ombudsman was not persuaded that these events had, or were likely to have, an effect on the reputation of the Council as a whole, because it was unclear whether the Member's input would have affected the Council's decision and it was a limited decision affecting only a small group of people in the area.

The Ombudsman was also not persuaded that the Member used his position improperly or in a way that was suggestive of a breach of the Code because, had he declared a personal and prejudicial interest, he would not have been prevented from writing the statement if he wished to do so in his personal capacity and the fact that he was a member of the Council did not give him an advantage in that situation.

The Member had not received training on the Code before the events that gave rise to the complaint. The Member signed an undertaking to abide by the Code before he took up his role. This should not have been taken lightly and should have alerted him to the fact that he was under a duty to understand the Code in order to abide by it. He has since attended training on the Code as well as several other courses and now better understands the requirements of the Code and his responsibilities as a member of the Council.

The Ombudsman found that although the Member's actions were suggestive of a breach of the Code the limited impact of his actions, the mitigation provided by the unclear advice he received and the actions he has since taken to address his understanding of his obligations, meant it would not be in the public interest to take further action.

The Ombudsman found that under Section 69(4)(b) of the Local Government Act 2000 no action needed to be taken in respect of the matters investigated.

Report Date

10/20/2023

Case Against

Monmouthshire County Council

Subject

Promotion of equality & respect

Case Reference Number

202201568

Outcome

No Action Necessary

The Ombudsman received a complaint that a member (“the Member”) of Monmouthshire County Council (“the Council”) may have breached the Code of Conduct by the comments the Member made in a public Council meeting about a missing person. It was alleged that the comments were insensitive to the missing person’s family.

The Ombudsman’s investigation considered whether the Member’s conduct may have breached paragraphs 4(b) and 6(1)(a) of the Code of Conduct. Information was obtained from the Council. Witnesses, including the complainant, were interviewed. The Member was interviewed. Information was obtained from the Police.

The Ombudsman’s investigation found that the Member had been asked for help by a constituent, who was also related to the missing person. The Police did not share any information with the Member about the missing person. The Ombudsman found that the Member’s explanation that he was acting on behalf of his constituent in making the comments appeared reasonable. However, the Ombudsman found that the Member should have been mindful of the sensitive and upsetting nature of the matter. The complainant found the Member’s comments upsetting and distressing to hear and the Ombudsman noted that the comments were made in a full Council public meeting. She considered that the public nature of the comments and references to the missing person could be considered as disrespectful to the family of the person who was missing. The Ombudsman found that discussing such a sensitive and upsetting matter as part of Council business may have failed to show respect and consideration to the complainant and accordingly, were in breach of paragraph 4(b) of the Code.

The Member said that he was representing his constituent in making the comments and that his comments were made as part of a political point. This meant that careful consideration of the enhanced protection councillors have, which permits the use of language in political debates which might, in non-political contexts be regarded as inappropriate or unacceptable had to be carefully considered. In view of this, the Ombudsman was not persuaded that the conduct was likely to have brought the Member's office of councillor or his Authority into disrepute (in breach of paragraph 6(1)(a) of the Code of Conduct).

The Ombudsman acknowledged that the Member was asked for help by a constituent and had explained that he was trying to help his constituent in making the comments complained about. It was noted that the Member had not received information which he had been asked to keep confidential and his comments were made as part of a political debate. In view of this, the Ombudsman did not consider that further action was needed in the public interest. The Ombudsman reminded the Member of the need to be mindful when commenting on sensitive matters in any future council meetings.

The Ombudsman found that under Section 69(b) of the Local Government Act 2000, my finding is that no action needs to be taken in respect of the matters investigated.



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

STANDARDS COMMITTEE

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR CRAIG GRIFFITHS

9th September 2024

Matter for Information

Wards Affected: All Wards

South West Wales Corporate Joint Committee

Purpose of the Report:

1. To update members on the Standards Committee of Neath Port Talbot Council being declared the Standards Committee of the South West Wales Corporate Joint Committee

Background:

2. The Local Government and Elections (Wales) Act 2021 was passed in November 2021 and the aim of Welsh Government was to “provide local government with new ways to support and serve their communities” and to “reinvigorate local democracy in Wales”. The legislation establishes a framework to support and encourage greater collaboration between local authorities. The Welsh Government aims that the framework will enable a

- “more coherent, consistent, simplified and democratically controlled mechanism” for regional working. This will be achieved, in the main, by new Corporate Joint Committees.
3. Corporate Joint Committees, or CJC’s for short, are regional corporate bodies, with broadly similar powers and duties to local authorities. They’ll also have similar governance and administrative structures, but will have a level of discretion on constitutional and operational arrangements.
 4. CJC’s can employ staff directly, hold assets and manage finances in the same way a local authority would. They’re required by law to appoint a Chief Executive, a Finance Officer and a Monitoring Officer.
 5. CJC’s are made up of the local authorities named in the Regulations that establish them, and membership is made up of the executive leaders of the local authorities within that region (that is the elected council leaders). National park authorities are also included where one sits wholly or partially within a CJC area.
 6. In January 2022, the South West Wales Corporate Joint Committee (“SWWCJC”) was formerly constituted and will comprise the leaders of the City and County of Swansea Council, Carmarthenshire County Council, Neath Port Talbot County Borough Council, Pembrokeshire County Council and representatives of Brecon Beacons National Park Authority and Pembrokeshire National Park Authority.
 7. The SWWCJC is responsible for strategic development planning, regional transport planning and promoting the economic well-being of their area:
 - (a) Strategic Development Plans - Welsh planning law establishes a framework for local planning authorities to bring forward

- Strategic Development Plans (SDPs). The aim being to deal more effectively with regional cross-boundary issues such as housing and transport, and provide a strategic approach to planning at a greater scale than individual local development plans (LDPs). CJsCs are responsible for preparing the SDPs. Local planning authorities will still prepare LDPs, but these will be more focused in nature.
- (b) Transport functions - CJsCs are also responsible for developing Regional Transport Plans. These plans will replace local transport plans previously prepared by individual authorities.
 - (c) The economic well-being function - CJsCs have the power to promote and improve the economic well-being of their areas. The power may be exercised for the benefit of the whole or part of the CJsCs area, or all or any person resident in the area. It's anticipated that City or Regional Growth Deals will be subsumed by CJsCs, although some aspects of this are still to be ironed out.

Code of Conduct

- 8.** It will be important that members and co-opted members within a CJC are subject to the same standards of conduct as members of constituent councils.
- 9.** The Local Government Act 2000 established an 'ethical framework' for local government in Wales and this same 'ethical framework' will apply to CJsCs.
- 10.** However, it should be noted that ad hoc observers / attendees invited to advise or to present to the CJC will not be subject to the code, but should follow the Nolan principles of public life in the same way as members and co-opted members of the CJC should. It will be for the CJC to ensure that Ad hoc observers are aware of the Nolan principles and are aware of the standards required when invited to advise or present. Ad hoc

observers / attendees should also be required to declare any interests in any CJC meetings they attend.

11. CJC is required to adopt its own code of conduct for members, and its members and co-opted members will be brought under the remit of the Public Services Ombudsman for Wales. At its meeting in January 2022, the SWWCJC adopted the same Members Code of Conduct as that used by Neath Port Talbot Council.
12. On application of the ethical framework the SWWCJC will be required to maintain a register of interests, to be established by the Monitoring Officer, for its members and co-opted members. The SWWCJC will cover a different geographical area to its individual constituent councils and therefore it is considered necessary for a separate relevant register of interests to be maintained to cover the functions and geographic area of the CJC (and in relation to relevant matters outside the areas to which CJsCs may influence and to which members may benefit).

Standards Committee

13. On application of Part 3 of the Local Government Act 2000 the CJC is required to appoint a standards sub-committee. The way in which this requirement is satisfied is for the CJC to determine. There are a number of approaches the CJC could have pursued, these include, utilising an existing standards committee of one of its constituent councils, establishing its own standards sub-committee, which could be populated in line with the principles within the Standards Committee (Wales) Regulations 2001 but by members of the standards committees of the constituent councils, establishing a standards sub-committee in line with the Standards Committee (Wales) Regulations 2001.

14. Accordingly, it was resolved by the CJC in its January 2022 meeting that as the Monitoring Officer for the CJC is the Monitoring Officer of Neath Port Talbot Council that the Neath Port Talbot Standards Committee be designated the Standards Committee of the CJC.
15. What this in essence means for the Standards Committee of Neath Port Talbot, is that it will oversee the standards functions of those members appointed to the CJC. However, the remit shall only apply to those matters which relate to the CJC. Where a matter relates to a members conduct in general and not specifically relating to CJC activities then the Standards Committee of that member's constituent council will have primacy.

Work to Date

16. Since the incorporation of the CJC a number of steps have been taken to promote ethical standards of behaviour
 - (a) A member code of conduct similar to those in place by County Borough Councils has been adopted;
 - (b) Policies in respect of gifts and hospitality, expenses and officer/member protocols have been adopted. These have taken the form of the model adopted by Neath Port Talbot Council;
 - (c) Advisors who have been appointed to sit on an Advisor Group to provide advice to the CJC have been asked to sign an Advisor Agreement which commits advisors to comply with the obligations of the Nolan principles and the same principles we place on elected members in matters such as interests and ethical decision making.
17. A copy of these documents are enclosed at Appendix 1.
18. To date there have been no complaints in respect of the conduct of members of the CJC.

Financial Impacts:

19. No implications.

Integrated Impact Assessment:

20. An Integrated Impact Assessment is not required for this report.

Valleys Communities Impacts:

21. No implications

Workforce Impacts:

22. No implications

Legal Impacts:

23. There are no legal impacts associated with this report.

Consultation:

24. There is no requirement for external consultation on this item

Recommendations:

25. That Members note the delegation of the standards committee function of the South West Wales Corporate Joint Committee to Neath Port Talbot Council Standards Committee and the work programme undertaken to date.

Appendices:

26. Appendix 1 – CJC Documentation in respect of Ethical Standards.

List of Background Papers:

27. None

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Local Resolution Procedure Member Complaints of Breaches of the Code of Conduct for Members

Scope of Procedure

South West Wales Corporate Joint Committee (“CJC”) Members have adopted this Protocol which is supplemental to the Protocol on Member/Employee Relations and the Code of Conduct requirements of the Constitution. The Welsh Government and the Public Services Ombudsman for Wales (“PSOW”) have indicated that Member against Member complaints should be dealt with locally and informally by the CJC.

This Procedure recognises that the freedom of expression enjoyed by Members is not absolute and the exercise of the freedom incurs responsibilities and may be subject to restrictions, notably the protection of the reputation and other rights of other Members and preventing unauthorised disclosure of information. The freedom to express their political opinions is not restricted by agreeing to this Protocol.

This Local Resolution Procedure may be utilised for low level disputes by a Member before a complaint is referred to the PSOW. The PSOW indicates that where a Local Resolution Process has been adopted by a CJC, he may not accept a complaint for consideration of an investigation relating to a low level complaint until or unless the Member has used the Local Resolution Procedure. If the complaint is not of a low level nature the Member may be referred to the PSOW.

This is an informal process and no indemnity will be granted to any Member for representation at the Local Resolution Panel.

Standards of Behaviour

1. Members should:
 - 1.1 Show personal respect to each other: when disagreeing with another Member's views, opinions or Member actions. A Member should not engage in abusive, insulting or improper personal comments about other Members or their family but, having regard to the Code of Members' Conduct ("the Code") requirement that decisions are made on the merits of the circumstances, should focus on the arguments put forward by other Members or the effectiveness of their actions. It is accepted that feelings can run high in debate but should the standards of behaviour have been breached, the culpable Member should apologise to the meeting when the breach is brought to their attention when the matter will be considered closed.
 - 1.2 Not publish malicious or false allegations or information or insulting personal comments against a Member: The growing propensity for personal comments to be made electronically to the world at large require a greater degree of control by the author, as once made it is difficult for the comments to be rescinded. The truth is only a defence if it is the whole truth and puts matters in context.
 - 1.3 Not release confidential information to the press or members of the public: there is no defence of public interest in the Code and there are avenues that should be explored to provide transparency in decision-making that would not disclose confidential/personal information which may cause harm to an individual or a company/organisation. The CJC is a regulatory body but also has powers to enhance the prospects of the community which may be harmed by unauthorised disclosure.

Local Resolution Procedure

- 2.1 In the event of a dispute arising, a Member who complains that another has breached the Code will be provided with the contact details of a Mediator appointed by the Monitoring Officer.

- 2.2 The complainant Member will notify the Member who is the subject of the complaint of his intention to seek mediation of the dispute. Both Members will supply the Mediator with dates of availability, but with the intent that the mediation meeting will take place within six weeks from the date of the complaint being made.
- 2.3 The mediation meeting(s) will be confidential. It is hoped that this process will encourage the Members to attain consensus on resolving the complaint. Whatever is agreed will be confirmed by them to the Mediator but will not be further published unless agreed by both the Members.
- 2.4 If the mediation stage does not resolve the complaint, then the complaining Member may request that the matter be referred to the Local Resolution Panel within six weeks of the last mediation meeting. The Mediator will be asked to confirm whether resolution was attained but nothing further.
- 2.5 The Local Resolution Panel will comprise three members of the Standards Committee (with at least two being lay independent members). No Member shall serve who has had a previous involvement with the matter. The Panel will meet in private.
- 2.6 Both the complaining Member and the Member who is subject of the complaint will be entitled to appear and/or produce written or oral information relevant to the facts of the matter complained of. Either Member may be accompanied by a friend but shall not be represented by a Solicitor or Barrister.
- 2.7 The Local Resolution Panel will consider the information and have discretion to determine the facts and if they consider it appropriate to make such recommendation as would address the complaint, either there is:
- 2.7.1 No basis for the complaint
- 2.7.2 A basis for the complaint but no further action is necessary or

- 2.7.3 A basis for the complaint and an apology should be provided to the complainant Member in an appropriate manner or such other action that is within the power of the CJC.
- 2.8 The complainant Member may refer the matter to the PSOW and the PSOW will consider whether to investigate.
- 2.9 The Local Resolution Panel may also make recommendations to the Standards Committee regarding training or changes to any procedures which may have contributed to the complaint arising.
- 2.10 If the complaint is referred to the PSOW and an investigation report is produced the independent Member on the Standards Committee who was appointed to the Local Resolution Panel will not take part in any proceedings relating to that investigation report.

South West Wales Corporate Joint Committee Members' Code of Conduct

THE MODEL CODE OF CONDUCT PART 1

1. Interpretation

1.1 In this code –

“co-opted members” (aelod cyfetholedig), in relation to the CJC, means a person who is not a member of the CJC prescribed by law or the Constitution but who –

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

“meeting” (“cyfarfod”) means any meeting -

- (a) of the CJC;
- (b) of any committee, sub-committee, joint committee or joint sub-committee of the CJC or of any such committee, sub-committee, joint committee or joint sub-committee of the CJC, or
- (d) where members or officers of the CJC 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” (“cymdeithas cofrestredig”) means a society, other than a society registered as a credit unit, 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” (“confrestr o fuddiannau’r aelodau”) means the register established and maintained under Section 81 of the Local Government Act 2000;

“CJC” (“awdurdod perthnasol”) means the South West Wales Corporate Joint Committee

“you” (“chi”) means you as a member or co-opted member of the CJC; and

1.2 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

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 the CJC;

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

2.2 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.

2.3 Where you are elected, appointed or nominated by the CJC to serve:-

- (a) on another CJC, 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 conduct, except and insofar as it conflicts with any other lawful obligations for which that other body may be subject.

2.4 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, the CJC.

2.5 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 is entitled by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

2.6. 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 the CJC's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, the CJC 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 the CJC'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, the CJC.

2.7 You must comply with any request of the CJC's Monitoring Officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

2.8 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 the CJC:-
 - (i) imprudently;
 - (ii) in breach of the CJC'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.

2.9 You must:-

- (a) when participating in meetings or reaching decisions regarding the business of the CJC, 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 the CJC's officers, in particular by:-
 - (i) the CJC's Chief Executive;
 - (ii) the CJC's Chief Finance Officer;
 - (iii) the CJC's Monitoring Officer (who should be consulted when there is any doubt as to the CJC'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 CJC might have important repercussions)
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the CJC.

2.10 You must:-

- (a) observe the law and the CJC'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 the CJC), 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

3. Interests

Personal Interests

- 3.1 You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- 3.2 You must regard yourself as having a personal interest in any business of the CJC 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 the CJC, 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 the CJC'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 the CJC 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 the CJC;
 - (vii) any land where the landlord is the CJC 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 the CJC;
 - (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 the CJC's area,

in which you have membership or hold a position of general control or management
 - (x) any land in the CJC'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.]

- (b) 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 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

3.3 Where you have a personal interest in any business of the CJC 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.

- 3.4 Where you have a personal interest in any business of the CJC and you make:-
- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of the CJC 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 the CJC 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.
- 3.5 Subject to paragraph 14.1(b), where you have a personal interest in any business of the CJC, 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.
- 3.6 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 the CJC in accordance with any requirements identified by the CJC's monitoring officer, or in relation to a community council, the CJC'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
- 3.7 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.

- 3.8 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 day on which you were elected, appointed or nominated as a member of the CJC.
- 3.9 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

- 3.10 Subject to sub-paragraph (2) below, where you have a personal interest in any business of the CJC 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.
- 3.11 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 CJC or 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 the CJC;
 - (iv) your role as a school governor (where not appointed or nominated by the CJC) 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 the CJC;
- (b) relates to:-
- (i) the housing functions of the CJC where you hold a tenancy or lease with the CJC, provided that you do not have arrears of rent with the CJC of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) the functions of the CJC 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 the CJC 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 the CJC;
 - (iv) the functions of the CJC 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.

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

Scrutiny Committees

3.13 You also have a prejudicial interest in any business before a scrutiny committee of the CJC (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 the CJC's or another of the CJC's committees, sub-committees, joint committees or joint sub-committees; 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 sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

3.14 Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interests in any business of the CJC you must, unless you have obtained a dispensation from the CJC'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.

3.15 Where you have a prejudicial interest in any business of the CJC 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.

- (a) where you have a prejudicial interest in any business of the CJC 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.
- (b) When submitting written representations under sub-paragraph (a) you must comply with any procedure that the CJC may adopt for the submission of such representations.

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

- (a) you are required to attend a meeting of a 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 the CJC 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.

3.17 Where you have a prejudicial interest and are making written or oral representations to the CJC 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 the CJC within 14 days of making the representation.

PART 4

4. THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

- 4.1 Subject to paragraph (4), you must, within 28 days of:-
- (a) the CJC's code of conduct being adopted or the mandatory provisions of this model code being applied to the CJC; 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 the CJC's register of members' interests by providing written notification to the CJC's monitoring officer.
- 4.2 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 the CJC's register of members' interests by providing written notification to the CJC's monitoring officer.

- 4.3 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 the CJC's register of members' interests by providing written notification to the CJC's monitoring officer, or in the case of a community council to the CJC's proper officer.
- 4.4 Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).
- 4.5 Sub-paragraphs (1) and (2) do not apply if you are a member of a CJC which is a community council when you act in your capacity as a member of such an authority.
- 4.6 You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in the CJC's register of members' interests by providing written notification to the CJC's monitoring officer, or in the case of a community council to the CJC's proper officer.

Sensitive Information

- 4.7 Where you consider that the information relating to any of your personal interests is sensitive information, and the CJC'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.
- 4.8 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 the CJC's monitoring officer, or in relation to a community council, the CJC's proper officer asking that the information be included in the CJC's register of members' interests.
- 4.9 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

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

Policy On Members Gifts, Material Benefits, Advantages And Hospitality

1. Introduction

- 1.1. This Policy is made in accordance with the Statutory Code of Conduct for Members (“the Code”) as adopted by South West Wales Corporate Joint Committee (“CJC”). As such it applies to all Members including co-opted Members, of the CJC. Both Members and co-opted Members are referred to as ‘Members’ hereafter.
- 1.2. Members should complete their notification on the attached form and send it to the CJC’s Monitoring Officer within the time limit specified in this Policy. The completed forms will form the Register of Gifts and Hospitality (a copy of which is made available to the public on request).
- 1.3. Please note that this policy only applies in respect of gifts, material benefits and hospitality provided to Members in respect of their role with the CJC. Any gifts, material benefits and hospitality provided to Members in accordance with their role within their constituent authority shall be dealt with in accordance with that authority’s policy.

2. Statutory Basis

- 2.1. The statutory principles which are to govern Member conduct say that Members “must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour” (b)
- 2.2. Also the same principles state Members “must act solely in the public interest – they must never use their position as Members to improperly confer advantage on themselves or to improperly confer advantage on others” (c)
- 2.3. The CJC has adopted the Code without amendment.

- 2.4. The Code says Members “must avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a Civic Reception or a working lunch duly authorised by the CJC) material benefits or services for themselves or any person with whom the Member is living that would, or might reasonably appear to, place them under an improper obligation” (d)
- 2.5. The Code further says Members must not in their official capacity or otherwise, use their position improperly to confer on or secure an advantage for themselves or any other person (e)
- 2.6. Members must give the notification of the acceptance of gifts, material benefits, advantages or hospitality by giving the information required on the relevant Form approved for the purpose. Such form must be returned to the CJC’s Monitoring Officer within 28 days of receipt.

3. **The Register**

- 3.1. The requirement to register applies to gifts and hospitality received as a Member but Members should consider the overall propriety of accepting the same bearing in mind the likely public perception.
- 3.2. The CJC’s Monitoring Officer is required by law to keep a Register of all notifications made by Members.
- 3.3. The Register will be open to public inspection during all normal office hours.
- 3.4. The Register will be kept at the Civic Centre, Port Talbot under the custody and control of the CJC’s Monitoring Officer.

4. **The Threshold**

- 4.1. Members must notify receipt of gifts, material benefits, advantages and hospitality **irrespective of value.**

5. **Civic Gifts**

5.1. The receipt by a Member of a gift accepted on behalf of CJC is not subject to the Code. Members should note that the CJC requires that a gift accepted by a Member on behalf of this CJC i.e. a civic gift, should be given into the custody of an appropriate officer (usually this will be the Mayor's Secretary who will keep a manifest of gifts received and will keep them in safe custody). If any decision is needed as to the disposal of civic gifts the Chief Executive shall determine what is to happen to them. For the avoidance of doubt disposal can be by donation to a charity (including the Mayor's Charity) or by giving the same for the use of the public, or a sector of the public, or to an organisation for Community purposes/or to a not for profit voluntary organisation whose main purposes are charitable/or Community based. If donated by CJC to another body or organisation as described, the recipient may auction, raffle or sell the gift and apply the monies received to fulfil their main charitable/or Community purposes.

6. Matters which it is not necessary to disclose

6.1. It is not necessary for Members to notify the CJC's Monitoring Officer of receipt of promotional gifts, pens, calendars, diaries, mousemats etc. of only a nominal value below the threshold and Members are discouraged from making such notification for registration.

6.2. It is encouraged that a Member record with the Monitoring Officer offers of hospitality or gifts declined and the appropriate form shall be utilise to achieve this.

7. Hospitality

7.1. The CJC regards working lunches or their equivalent as appropriate hospitality and a proper way of doing business provided that they are generally authorised by CJC and involve no extravagance and would be considered within the bounds of normal courtesy lunches i.e. following working parties, Committee meetings, partnership meetings etc. including Seminars, Conferences or similar events.

- 7.2. Likewise the CJC authorises the receiving of official hospitality – such as Civic Receptions, by Members as by persons living with them.
- 7.3. Otherwise the CJC requires that Members should only accept offers of hospitality if it is generally felt that the CJC interests are served by attendance or that it is appropriate for the Authority to be seen to be represented at the event. The same test should be applied by Members in judging whether it would be reasonable for a Member to attend a social function, sporting or similar event organised by outside persons or bodies. Members who are offered hospitality of a social nature must consider how the offer might be viewed from the perspective of a member of the public.
- 7.4. Hospitality covered by 7.1 and 7.2 will not need to be notified to the CJC's Monitoring Officer. However, hospitality mentioned in 7.3 must be notified in the usual manner to the CJC's Monitoring Officer.
- 7.5. Additionally, Members who wish to accept any form of hospitality covered by 7.3 above are advised to seek appropriate advice beforehand from the CJC's Chief Executive, Finance Officer or Monitoring Officer.
- 7.6. Acceptance by Members of hospitality through attendance at conferences, seminars and other similar events is permissible when it is clear that the hospitality is corporate rather than personal in nature and where it is clear that the CJC's position is not compromised.
- 7.7. Where visits to sites to view proposed developments or to view vehicles, equipment, any goods or service delivery or similar are required or Members attend any demonstrations relating to same including software/IT demonstrations Members must ensure that the cost of such visits are borne by the CJC to avoid jeopardising the integrity of any subsequent purchasing decision. Members may accept mere modest courtesy hospitality on the basis that purchasing decisions are not thereby likely to be compromised.

- 7.8. Members must not avail themselves of the services of contractors or suppliers engaged by the Authority where goods, labour, plant or similar are made available at cost, trade or discount prices. The only exception permissible is where such discounts are generally available to members of the public.
- 7.9. Members should be mindful of the timing of any acceptance of any gift, material benefits, advantages and hospitality in relation to decisions which the CJC may be taking affecting those providing the same.
- 7.10. When gifts, material benefits, advantages and hospitality have to be declined, those making the offer should be courteously, but firmly informed of the procedures and standards operated within the Authority.

8. Other Considerations

- 8.1. Members should balance the practicalities of operating in public life against any misconception which would arise with the public were Members to be perceived as being able to receive lavish or expensive gifts, material benefits or advantages and hospitality of a similar nature.
- 8.2. The CJC requires Members to refrain from accepting disproportionately generous offers which could create an improper obligation, particularly if linked into any actual or potential commercial transaction with the authority.

9. General

- 9.1. The threshold value for the notification and registration of gifts, material benefits, advantages and hospitality will be reviewed from time to time by CJC.
- 9.2. When Notification is required a separate notification for each class of receipt is to be given and Members should separately declare each receipt.

**SOUTH WEST WALES CORPORATE JOINT COMMITTEE
MEMBER'S CODE OF CONDUCT**

**Notification by a Member of the Receipt of a Gift/Material
Benefit/Advantage or Hospitality**

I, (full name)

Give Notice that I have received/declined the following gift, material benefit, advantage or hospitality

And (tick as appropriate)

In the case of hospitality I have paid the cost myself

When was the offer made?

Who was the offer made to?

Who was the offer made by?

.....

What was the nature of the gift, material benefit, advantage or hospitality?

Signed Date

Received Date

Note – This form must be submitted within 28 days of receipt of the gift, material benefit, advantage or hospitality

Members' Travelling and Subsistence Allowances

11. General

- 11.1 Claims for Travel and Subsistence expenses shall be paid in accordance with the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 and the 2007 Regulations effective from 3rd December 2008, in accordance with the provisions below.
- 11.2 A Member shall be entitled to receive payments by way of Travel Allowance or Subsistence Allowance at rates determined each year by the CJC where expenditure on travel or subsistence is necessarily incurred by that Member in the performance of an approved duty as a Member of the CJC.
- 11.3 Members are encouraged to consider whether the travelling arrangement can be avoided and alternative forums can be utilised to meet desired needs i.e. use of online platforms such as Microsoft TEAMS/Zoom or participation via telephone.
- 11.4 Where a Member makes use of his/her private car for approved duty purposes, arrangements must be made to ensure that the vehicle complies with all legislative requirements re: road worthiness including:
- Valid Road Fund Licence
 - MOT Certificate (where required)
 - Insured for Business Use
- with proof to be provided to the CJC on request.
- 11.5 Where Members utilise his/her private car the Member shall ensure they comply with any appropriate policies to which they are notified by the Chief Executive and Monitoring Officer concerning the use of vehicles.
- 11.6 Any claim for payment of Travel and Subsistence Allowances in accordance with these Regulations shall be accompanied

by appropriate receipts proving actual expenses, subject to any requirement or limitation that the CJC may determine.

12. Private Car etc.

12.1 The rate for travel by private car shall be:-

Up to 10,000 miles per annum	45p per mile
Over 10,000 miles per annum	25p per mile
Passenger supplement	5p per mile
Private motor cycles	24p per mile
Pedal cycles	20p per mile

12.2 For outward journeys in excess of 100 miles, the lower of 1st class rail fare (where appropriate) or the appropriate car mileage rate will be paid regardless of the actual mode of transport.

12.3 Only one mileage claim will be paid for up to four Members and/or officers attending the same approved duty unless there are logistical, operational or economic reasons why this is unreasonable in which case specific authorisation of the Chief Finance Officer will be required.

12.4 All mileage claims should be supported by a fuel VAT receipt

13. Rail etc.

13.1 For travel by rail, the actual costs incurred may be claimed supported by a valid receipt or ticket to support the claim.

13.2 Bus or Taxi Fares may be reimbursed in full provided that it is unreasonable that public transport could have been used and that the claim is supported by a proper receipt.

13.3 Air Travel costs may be reimbursed in full provided that no other means of practical, operationally efficient or economic travel is available. Specific approval in advance by the Chief Finance Officer is required for all air travel.

Subsistence

14. Day Allowances

14.1 Meal Allowances are payable only for meals taken outside the area of the CJC. Only actual costs incurred shall be reimbursed up to the maximum below, and subject to the production of paid receipts to an overall maximum of £28.00 per day (including breakfast when not provided as part of overnight accommodation).

- (a) Breakfast allowance (more than 4 hours away from normal place of residence before 11.00am) = £6.88).
- (b) Lunch allowance (more than 4 hours away from normal place of residence including the lunchtime period between 12 noon and 2.00pm) = £9.49.
- (c) Tea allowance (more than 4 hours away from normal place of residence including the period 3.00pm to 6.00pm) = £3.73.
- (d) Evening Meal allowance (more than 4 hours away from normal place of residence ending after 7.00pm) = £22.90.

Where meals are taken on a train, the reasonable cost of the meal (supported by receipts), will be reimbursed, subject to the overall maximum of £28.00 per day.

Where Members are required to visit countries outside the U.K., the reasonable costs of meals actually incurred shall be reimbursed in full upon production of receipts.

15. Overnight Accommodation

15.1 Only actual costs incurred shall be reimbursed up to the maximum below, and subject to the production of paid receipts:-

London	£150.00	Per night
Outside London	£95.00	Per night
Cardiff	£120.00	Per night

15.2 Alternatively, in certain circumstances e.g. conference hotels or where no suitable accommodation is available, overnight accommodation may be pre-booked and paid for by the CJC in excess of the above limits, subject to reasonableness and approval of the Chief Executive.

15.3 No allowance is paid where Members stay with friends or relatives.

16. Administrative Arrangements

16.1 Travel and subsistence allowances may be claimed by submitting a claim by the 8th of a month to the Chief Finance Officer. Payment will be made direct to bank on a monthly basis. Claims over three months old will not be paid unless there are extenuating circumstances justifying the late claim which must be approved by the Chief Finance Officer. Claim forms can be obtained from the Monitoring Officer.

16.2 It is acknowledged however that a monthly reimbursement may not always be appropriate for all Members and therefore the following arrangements are also available:-

16.2.1 The provision of travel warrants on request.

16.2.2 The booking of accommodation by the CJC when required and the direct billing of such charges to the CJC.

16.2.3 An advance payment of expenses already incurred by cheque when the amount outstanding becomes excessive.

16.2.4 An advance payment of expenses already incurred by cheque at the discretion of the Chief Finance Officer in extenuating circumstances.

16.2.5 An advance payment when Members are attending a conference.

16.2.6 A payment of expenses already incurred in cash.

16.3 The duration of a Member's approved duties on any one day will be the total of:-

16.3.1 actual travelling time.

16.3.2 additional travelling time to home and return can be taken into account when there are separate approved duties in both morning and afternoon periods.

16.3.3 the actual length of time of a meeting, plus up to two hours actual time on other Council business, immediately before or after the meeting.

16.3.4 "attendance" need not necessarily be at any of the CJC or constituent councils offices, for example an invitation to attend a day or evening meeting, forum, function, seminar etc. in connection with the function of the CJC and at which the Chief Executive considers the CJCI should be represented are acceptable.

17. Approved Duties for Subsistence

17.1 Attendance at a meeting of the CJC or of any committee of the CJC or of any body to which the CJC makes appointments or nominations or of any committee of such a body.

17.2 Attendance at a meeting of any association of authorities of which the CJC is a member.

17.3 Attendance at any other meeting the holding of which is authorised by the CJC or by a committee of the CJC or by a joint committee of the CJC and one or more other authorities.

17.4 A duty undertaken for the purpose of or in connection with the discharge of the functions of the executive.

17.5 A duty undertaken in pursuance of a standing order which requires a member or members to be present when tender documents are opened.

- 17.6 A duty undertaken in connection with the discharge of any function of the CJC which empowers or requires the CJC to inspect or authorise the inspection of premises.
- 17.7 Attendance at any training or developmental event approved by the CJC or its executive or board.
- 17.8 Any other duty approved by the CJC, or any other duty of a class so approved, undertaken for the purpose of, or in connection with, the discharge of the functions of the CJC or of any of its committees, including attendance by Members at the request of the Chief Executive in connection with the functions of the CJC, and including attendance at Conferences, Seminars and Courses as an authorised representative of the CJC.

Protocol on Member/Officer Relations

The purpose of this Protocol is to guide Members and Officers of the CJC in their relations with one another.

Mutual respect between Members and Officers is essential to good local government. However, close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.

The relationship has to function without compromising the ultimate responsibilities of Officers to the CJC as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Officers.

1. Underlying Principles

The following general principles apply to all relations involving Members and Officers.

All relations shall be conducted:

- with respect for others and in a way which promotes equality
- with honesty and integrity
- acknowledging the duty to uphold the law and act in accordance with the trust placed in them by the public
- in a way that promotes objectivity, accountability and openness
- acknowledging the duty of confidentiality that exists in relation to information given in confidence and information which the CJC is entitled by law to treat as confidential
- with a view to establishing and promoting positive working relationships

2. Member/Officer Relationships generally

Both Members and Officers are involved in public service. However, their respective roles are quite different:

- Members are responsible to the electorate;
- Officers are responsible to the Chief Executive and to their respective Corporate Directors.

Individual Members are not permitted to give instructions to Officers unless specifically authorised to do so by the CJC.

An Officer's job, where it is part of his/her duties, is to provide appropriate advice to Members with impartiality. Such advice must be given in an equitable manner, irrespective of the political nature of the elected Member concerned.

For the effective conduct of CJC business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. This plays a very important part in the CJC's reputation and how it is seen in public. It is very important that both Members and Officers remember their respective obligations to enhance the CJC's reputation and to do what they can to avoid criticism of other Members, or other Officers, in public places.

It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position.

In their dealings with Officers (especially junior Officers) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.

A Member should not apply undue pressure on an Officer either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of CJC property and services.

Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers.

Close personal familiarity between individual Members and Officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

3. Roles of Members

All Members will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) participate in the governance and management of the CJC;
- (iii) represent their communities and bring their views into the CJC's decision-making process, i.e. become the advocate of and for their communities;
- (iv) deal with individual casework and act as an advocate for constituents in seeking to resolve particular concerns or grievances;
- (v) balance different interests identified within the electoral division and represent the electoral division as a whole;
- (vi) contribute to the continual improvement of CJC services
- (vii) be involved in decision-making;
- (viii) be available to represent the CJC on other bodies; and
- (ix) maintain the highest standards of conduct and ethics.

In carrying out their roles, Members should respect the political neutrality and integrity of all officers employed by the CJC.

Members should be aware of the need to declare interests when meeting with officers outside of formal CJC meetings as the Member's Code of Conduct equally applies in telephone calls, face to face meetings and virtual meetings

4. Roles of Officers

The role of Officers is to work for and serve the CJC as a whole. They shall be responsible for the day-to-day managerial activities and operational decisions which the CJC takes and should provide support to all Members in their several roles. Such support must be given in an equitable manner, irrespective of the political nature of the elected Member concerned.

The Chief Executive and Statutory Officers shall be entitled to offer advice at meetings of all member bodies if he/she thinks it is necessary to ensure that all relevant matters are taken into account.

Where an Officer feels that his/her political neutrality or integrity is being compromised in any way, he/she shall notify the Chief Executive.

Officers should at all times be aware of whether they occupy a politically sensitive or specified post. The Local Government and Housing Act 1989 (LGHA 1989), as amended by the Local Democracy, Economic Development and Construction Act 2009 imposes restrictions on the political activities of local government Officers and prevents an individual from having any active political role either in or outside the workplace. Further advice should be sought from the Head of Legal and Democratic Services where appropriate.

5. Relationship between Leader; Cabinet Members; Chairs/ Members of Scrutiny Committees; other Committees; and Officers

Whilst there is necessarily going to be a close working relationship between certain Members (e.g. the Leader of the CJC) and the Chief Executive, such relationships should never be allowed to become so close or appear to be so close, as to damage the professional relationship and prove embarrassing to other Officers and other Members.

Given the nature of the respective roles of Members and Officers, it is accepted that the Officers, while remaining politically neutral, will inevitably give advice on a wider range of issues and on a more regular basis. Officers are obliged to

respond positively to any requests from Members of Scrutiny and other Committees for appropriate advice and information relevant to any issues under consideration.

6. Other Individuals who are Members of CJC Committees

Other individuals who are members of CJC Committees, e.g. through co-option, shall follow and shall be treated in accordance with the underlying principles set out in this Protocol. Additionally, any duties of confidentiality which they owe to the body they are representing shall be respected.

Such individuals shall have the same right to advice from Officers on CJC related matters as Members have.

Conflicts of interest between a person's personal, professional or business interests and those of the CJC may arise from time to time. Such conflicts shall be declared and dealt with in accordance with the CJC's procedures.

7. Press and Media Relations

Officers dealing with the press and media, and any press/media releases that are issued, should not seek to further the interests of a political party or a particular Member other than as a representative of the CJC.

The CJC will follow such national codes and guidance on press and publicity as are in force from time to time.

8. Correspondence

Members may not commit the CJC to any contract or course of action, and should ensure in personal correspondence that personal or political views expressed cannot be taken by the recipient to represent those of the CJC.

9. Breach of protocol

If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Chief Executive. If direct discussion with the manager does

not resolve the complaint it should be referred to the Head of Service or Director responsible for the Officer concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Officer if the circumstances warrant it.

If an Officer considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Chief Executive. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

9th September 2024

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES – MR C GRIFFITHS

Matter for Decision

Wards Affected: All

Town and Community Council Code of Conduct Matters

Purpose of the Report

1. To draw to Members attention the role of the Neath Port Talbot County Borough Council's ("the Council") Standards Committee and to consider the results of a recent town and community council survey.

Background

2. Part III of the Local Government Act 2000 introduced a new Ethical Framework for Councils. As part of this framework, the Council has a Standards Committee. This Committee is also responsible for standards functions in relation to the Town and Community Councils (and their Members) in the area of the County Borough Council.
3. Another critical part of the Ethical Framework is the Code of Conduct for Members. One of the functions of the Standards Committee is to assist the Council and the Town and Community Councils in securing compliance with the Code.
4. To ensure the Standards Committee can fully discharge its function in respect of Town/Community Councils, the Monitoring Officer suggested that it would be wise to obtain some updated conduct related information from each Town/Community Council, which can form the basis of discussion at the next Standards Committee and also to allow members of the Standards Committee to determine what specific areas they would like to consider as part of their forward work programme.
5. To that extent a questionnaire was produced which is annexed to this report at Appendix 1 and issued to all town and community councils. Only 4 responses out of the 16 Town and Community Councils were received.

Financial Impact

6. There are no financial impacts associated with this Report.

Integrated Impact Assessment

7. There is no requirement to undertake an integrated impact assessment for this report.

Workforce Impacts

8. There are no workforce impacts associated with this Report

Legal Impacts

9. The Standards Committee is governed by the obligations set out in the Local Government Act 2000 and its composition and running is as set out in the Standards Committee (Wales) Regulations 2001.

Consultation

10. There is no requirement under the Constitution for external consultation on this item.

Recommendations

11. That Members discuss the findings from the survey undertaken of Town and Community Councils and consider what steps the Standards Committee would wish to embark on to provide further support.

Reason for Report

12. That Members of the Standards Committee are aware of the remit of the Standards Committee and the legislative background in which the Standards Committee operates

Appendices

13. Appendix 1 – Draft Questionnaire to Town/Community Councils and results

List of Background Papers

14. The Constitution of Neath Port Talbot County Borough Council

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

Responses

<p>Have all members received Code of Conduct training?</p> <p>In what format did this training take?</p> <p>If not all members have had training please indicate the number of members who have not and what training opportunities are afforded to them?</p>	<p>2 authorities confirmed all members had received training and 2 confirmed that not all members had received training.</p> <p>Training took place in different formats:</p> <ul style="list-style-type: none"> • Online training via One Voice Wales • From NPTCBC Monitoring Officer • Links to online resources • Direct discussions with clerk and attendance at County Borough Council training <p>Comments received included:</p> <ul style="list-style-type: none"> • 6 of 14 have received training, 2 were unable to connect to training rest are new members and will do the course soon • 4 members have not had training but have received the presentation in paper form. Additionally all Members who were not able to attend that training session were given verbal updates by the Clerk. • 14 Members as part of basic induction, 4 Members directly through OVW, 4 Members possibly through NPT CBC • Members are provided with the code at the beginning of the term and are reminded to review the code annually - They are not required to confirm compliance
<p>What specific Code of Conduct training has been provided to Members in the year 2023-2024 and what has been the take up of such training (if information is available)?</p>	<p>See above</p>
<p>How many complaints concerning Members conduct have been referred to you as Clerk in the year 2023-2024?</p>	<p>Of the 4 authorities who submitted a return all indicated that they had received one or two informal complaints.</p>
<p>How many complaints concerning a breach of the Code of Conduct have been made to the Public Service Ombudsman for Wales in respect of your members in the year 2023-2024 that you are aware of?</p>	<p>The responses indicated that none of the informal complaints were investigated by the Public Service Ombudsman for Wales</p>
<p>How many declarations of interest have been made in Council meetings during the year 2023-2024?</p>	<p>Responses confirmed that members of the Town and Community Council routinely declared interests. However, it was commented that The DoI numbers we provide won't reflect the position</p>

	accurately. NPTCBC employees always declare an interest if there is an NPTCBC subject reference and are temporarily removed. Members who are associated with community groups will do the same. The figure is high as any references to Planning in particular (at every meeting) and community group work (at every meeting) Members will be removed for that conversation.
How many of your members have sought dispensation to speak upon matters which they have a prejudicial information in the year 2023-2024	All 4 responses confirmed no dispensations had been sought.
Has your Council adopted a training plan for its members as required by the Local Government and elections (Wales) Act 2021	All 4 responses confirmed yes.
If the Answer to Q.8 is YES, has the training plan been published on your Council's website	All 4 responses confirmed yes.
If the answer to Q.8 is No, when will the Council be adopting a Training Plan?	N/A
If the Answer to Q.8 is YES, does the training plan require members to undertake code of conduct training	3 responses confirmed yes and 1 response said no
Has your Town/Community Council signed the Town and Community Councils, Civility and Respect Pledge?	2 responses confirmed yes and 2 responses confirmed no
If yes, when was this signed	1 response confirmed it was signed in March 2023, 1 response confirmed it was signed in April 2024 and 2 responses confirmed it will be considered in due course.
If the Answer to Q.13 is NO, do you intend to sign the Pledge?	Of the 2 responses who had not signed both indicated they would give consideration to signing.
If member's behaviour is contrary to that pledge, how do you address it	Responses included: <ul style="list-style-type: none"> Initially, on an informal basis by calmly asking members to treat each other with dignity and respect and perhaps follow up with a friendly chat/email. Usually with a conversation at the time (in a meeting) by the Chair and if considered necessary, the Leader and Clerk will then follow up with another conversation. Internally in the first instance, we have a Local Resolution Protocol, advice from Monitoring Officer and OVW Mayor informed of the issue. Clerk to discuss issue with individual Councillor - Always making reference to Code of Conduct and now the Civility and respect pledge If Councillor not willing to alter

	behavior then advice would be taken from NPT Legal department
Do you feel there is any additional support the Standards Committee could provide your Town/Community Council?	<p>2 responses indicated:</p> <ul style="list-style-type: none"> • Happy with the arrangements we have, but perhaps a bit more clarity as to when their role would be most applicable. • NPT Legal department (Craig) is extremely helpful in obtaining a way forward when issues of these arise (thankfully rarely) - A discussion with the Councillor is usually sufficient to alter behaviours

Meeting Date	Agenda Item
September 2024	Decision Notice of Ombudsman Referral
	Whistleblowing Policy Update
	Town and Community Council Data Capture Feedback
	Case Law Updates
	Planning Code of Practice
	Internal Audit Report
October 2024	Conflict Resolution Training
	Review of Member Officer Protocol
	Local Resolution Protocol Update
	Learning and Development Opportunities – Equality Act 2010
	Meeting with Group Leaders
	Forum Update
	Ombudsman Code of Conduct Casebook
January 2024	Declarations of Interest and Dispensation Updates
	Member Training and Development
	Provision of Case Studies on Ethical Behaviour
	Engagement with Elected Members – Additional Session
	Candidates for Council and guidance to be issued
April 2025	Review of Code of Conduct
	Group Leader Duties
	Standards Committee Annual Report

As Needed:

- Ombudsman Code of Conduct Casebook
- Complaints from Public Service Ombudsman
- Dispensation Reports

- Code of Conduct Updates
- Case Law Update
- CJC Updates
- Member Training