

## Purpose of Today

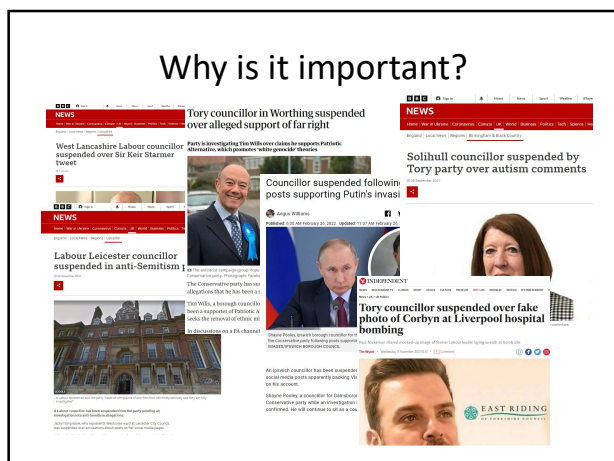
- Provide an overview to Members on:
  - Ethical Governance
  - The Members Code of Conduct
  - Members Gifts/Hospitality
  - Member Officer Protocol
  - Code of Conduct and Social Media
  - Policing the Code of Conduct

## Ethical Governance

## Ethical Governance

- Effective local government requires high standards of conduct to ensure that there is public confidence in everything we do.
- As elected representatives you are expected to behave and conduct yourself in certain ways, regardless of individual background or politics.
- You have a personal legal duty to act ethically. This is set out in the Local Government Act 2000.
- Failure to comply could see a referral to the Public Service Ombudsman for Wales

## Why is it important?



## Ethical Governance

- Primary purpose is not to restrict the way in which you act as a member, rather it is intended to help and guide you in maintaining appropriate standards of conduct when serving your community.
- It provides reassurance to the public and helps build their trust in, and respect for, their local representatives.

## Ethical Framework

- Nolan Committee in 1997 – Origins of the ethical framework for Standards in Public Life.
- You must have regard to this:
  - Selflessness
  - Honesty
  - Integrity and Propriety
  - Duty to uphold law
  - Objectivity
  - Equality and respect
  - Openness
  - Accountability
  - Leadership

## Members Code of Conduct

## Members Code of Conduct

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

## When does the Code Apply?

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

## When does the Code Apply?

At any time whether in an official capacity or not:

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

## Code (General Rules)

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

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### Code (General Rules)

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

### Code (General Rules)

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

### Interests

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

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

One rule for personal interests. Another rule for interests which are personal and prejudicial.

### Personal Interests

You have a personal interest when a decision relates to or is likely to affect:-

- Your well-being or financial position
- Your job or business
- Your employer or company in which you are a partner or director
- Someone who has contributed to your election costs or member expenses
- Any company where you have shares over £25K or more than 1% of the total share value which has premises or land in your area
- Or that of a **close personal associate**
- Any contract that your authority makes with a company in which you are a partner, paid director or hold shares
- Any land in which you have an interest in your authority's area
- Any land let by your authority to a firm in which you are a partner, paid director or hold shares
- Any land in your authority's area which you have a license to occupy for at least 28 days
- Any body to which you have been elected appointed or nominated by your authority
- Any public authority or body exercising functions of a public nature, charity, public opinion or policy, trade union or professional association, private club or society in your authority's area of which you are a member or in a management position

### Personal Interests

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

- Close friends
- Colleagues with whom you have strong connections
- Business associates
- Close relatives
- Or someone with whom you have been in dispute
- But not casual acquaintances, distant relatives or people who you come into contact with through your work.

### Personal Interests (What do you do?)

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

### Prejudicial Interest

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

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

Test is not whether you were influenced but how it appears.

### Prejudicial Interest (What do you do?)

You must leave the meeting during the discussion

You must not exercise delegated powers

You must not seek to influence the decision

You must not make written or verbal representations

#### **UNLESS**

The Standards Committee has granted you a dispensation

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

You have been called before a scrutiny committee

### Dispensations

- You can apply for a dispensation to the Standards Committee (via the Monitoring Officer) where you may have a prejudicial interest:
  - at least 50 per cent of the Council or Committee members would be prevented from taking a full part in a meeting because of prejudicial interests
  - the nature of your interest is such that your participation would not harm public
  - your interest is common to a significant proportion of the general public
  - you have a particular role or expertise which would justify your participation
  - the business relates to the finances or property of a voluntary organisation and you sit on its board or committee in your own right and you do not have any other interest, although in this instance, any dispensation will not let you vote on the matter
  - the Committee believes that your participation would be in the interests of the people in your Council's area

### Predetermination and Predisposition

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

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

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

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

If you have predeterminded a matter you should not vote in any matter.

If in doubt ASK

### Gifts and Hospitality

### Gifts and Hospitality

- **It is important that you do not accept any gifts or hospitality for yourself, or on behalf of others, which would place you under obligation or appear to do so.**
- Accepting such gifts or hospitality could be regarded as compromising your objectivity when you make decisions or carry out the work of your Council.
- This is also true of any services or gifts in kind.
- This does not prevent you from attending official events such as a civic reception or working lunch where these are authorised by your Council. Similarly if you get a free pen from a course etc.

### Gifts and Hospitality

- If receive occasional bunch of flowers/bottle of wine etc. that can be somewhat acceptable but have to look at circumstances upon which it is given.
- All gifts/hospitality notified to the Monitoring Officer are placed in a public register.
- If you do accept a gift:
  - Over the value of £50 it must be reported to the Monitoring Officer
  - Under £50, discretion is with members as to whether to report it. Advice is to be completely transparent and record.
  - Complete the Form on the Members Hub

### Member Officer/Protocol

### Relationship

- Mutual respect between Members and Employees is essential to good local government.
- Close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.
- The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members.
- The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

### Role of Members

- Members undertake many different roles. Broadly these are:
  - Members express political values and support the policies of the party or group to which they belong (if any).
  - Members represent their electoral division and are advocates for the citizens who live in the area.
  - Members are involved in active partnerships with other organisations as community leaders.
  - Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.
  - Members help develop and review policy and strategy.
  - Members monitor and review policy implementation and service quality.
  - Members are involved in quasi-judicial work through their Membership of regulatory committees.

### Role of Officers

- Employees have the following main roles:
  - Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
  - Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.
  - Initiating policy proposals.
  - Implementing agreed policy.
  - Ensuring that the Council always acts in a lawful manner.

### Principles

- Neither should seek to take unfair advantage of their position
- 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 office and/or political office.
- Should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours.
- Employee 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 Employees.
- Close personal familiarity between individual Members and Employees can damage the principle of mutual respect.

### Principles

- If a Member considers that they have not been treated with proper respect or courtesy they may raise the issue with the Employee's line manager.
- If an employee considers that a Member has contravened the protocol they should consult their line manager who will if necessary involve the Head of Service or Director

### Advice to Members

- Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council.
- Employees will always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry

### Advice to Members

- Information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources.
- Members should seek to act reasonably in the number and content of the requests they make.
- Local Members will be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division

### Advice to Members

- Officers have to advise Members from time to time that a certain course of action cannot be carried out.
- Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians.
- Officers are employed to give unbiased professional advice even if it is not what Members want to hear.
- They do this as much for the protection of Members as for any other reason. However, if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways.

### Support to members

- Only basis on which the Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council.
- They should never be used in connection with party political or campaigning activity or for private purposes

### Importance of Protocol

- Good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area.
- Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees

### Social Media – A double sided coin?

### Social Media

Useful links:

[Microsoft Word - 130805 WLGA social Media Guidance for Councillors.doc](#)

[Social Media and Online Abuse – WLGA](#)

[General : 27 FINAL Investigation Report Template s21 casework support only \(ombudsman.wales\)](#)

<https://www.npt.gov.uk/media/16685/members-code-of-conduct.pdf?v=20211216163251>

### WHAT IS SOCIAL MEDIA?

- Electronic platform - instantaneous, potentially large audience
- Used locally, nationally, and internationally
- Council uses social media, eg FB, twitter, Youtube,
- Other platforms Instagram & Whatsapp

### Social media – a tool for communication?

- Makes Politicians and public institutions more accessible –considered by many as vital tool
- Used well, beneficial and effective, but **can** cause harm too, to Members and to Council
- Focus today – what to have in mind when using social media, the positives, as well as downsides
- **Touchstones**, the Code of Conduct and WLGA guidance

### Why might Social media be useful?

- Immediately accessible conversations with constituents, and wider public
- Links to local information/signposting
- Expectations that Members will use
- Way to communicate your work and make electorate more aware of you BUT
- Striking a **balance** in its use is **essential**

### Social Media – the balance?(1)

- Great advantages in using Social Media, but governed by Code and law:
- Please have in mind:
  1. Once sent, posting is likely to be public
  2. Post only those things you are **confident are correct**. **Applies to sharing** posts too. Worse case scenario? Code breach and defamation action
  3. Your audience may be larger than you anticipate, local or even national media

### Social Media – To “👍” or “Not to Like?”

- 🗑️ Did you really “like” the posting?
- Does the 👍 paint a thousand words?

### Social Media – the balance? (2)

- Once published, even deletion may not remove
- Caution in befriending and retweeting
- **The Code? Applies whenever you are**

*“Conducting the business of your authority, acting, claiming to act or give the impression you are acting in your official capacity as a member or representative of your authority”*
- **BUT ALSO** where you
 

*“Conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute”*

### Social Media – the balance (3)

- Ombudsman’s guidance states that:
 

*“Making unfair or inaccurate criticism of your authority in a public arena might well be regarded as bringing your authority into disrepute”*

### Social Media – Other rules & the law

- Show respect for others
- Don’t disclose confidential information
- Secure consent before publishing or taking photos (GDPR)
- Don’t bully or intimidate others
- Remove any offensive or defamatory comment from other sources
- Don’t secure benefit or disadvantage for others
- Abide by the laws of Equality
- Don’t predetermine
- Criminal and Civil laws

### Social Media - Golden Rules

- **THINK** before you post; once sent, it almost certainly out there
- **CHECK** before you share or retweet information.
- Is it true?
- Who said it and why?
- Do you trust the source?
- **IN DOUBT?** Don’t send, seek advice instead, we are here to help



## Policing the Code

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

## Ombudsman Video

- [Michelle Morris Public Services Ombudsman for Wales – YouTube](#)

## Breaches (Examples)

- **Cllr A** failed to declare an interest in an application when speaking to officers outside of a formal Council meeting and then failed to declare an interest whilst in the meeting where the matter was considered. The Adjudication Panel for Wales identified a breach of the Members Code of Conduct and **suspended the Cllr for 7 months.**
- **Cllr B** used threatening and abusive behaviour towards a fellow member of the Council and behaved in an aggressive and confrontational manner at two Council meetings. Standards Committee found that the Member's behaviour at both meetings was capable of bringing the Council into disrepute. Decided that on the basis of the findings reached that the Member should be **suspended from office of member of the Council for a period of four months.**
- **Cllr C** displayed disrespectful and bullying behaviour towards an officer. Member had failed to show respect and consideration. **Standards Committee issued a censure to the Member for the breaches of the Code found.**
- **Cllr D** had liked a post on social media criticising officers of the Council where a member of the public commented that they were "corrupt". Standards Committee found that the member had failed to show due respect and consideration. **Standards Committee suspended the member for two months.**
- **Cllr E** had commented that a resident had deserved to be murdered. Comments about the victim were both disrespectful and distasteful and, whilst it may have been the member's private opinion, there was no reason for it to have been expressed publicly. Standards Committee found that the **Member had breached the Code of Conduct and she was suspended for four months.**

## Questions

## When in doubt?

- Read the Ombudsman Guidance Note we forward to you
- Read the Code of Conduct
- Ask for help/guidance
  - Craig Griffiths (Monitoring Officer)
  - Mike Shaw (Deputy Monitoring Officer)
  - Stacy Curran (Democratic Services Manager)

