



CYNGOR BWRDEISTREF SIROL
RHONDDA CYNON TAF
COUNTY BOROUGH COUNCIL

COMMITTEE SUMMONS

C. Hanagan
Director of Communications & Interim Head of Democratic Services
Rhondda Cynon Taf County Borough Council
The Pavilions
Cambrian Park
Clydach Vale CF40 2XX

Meeting Contact: Emma Wilkins - Democratic Services (01443 424110)

YOU ARE SUMMONED to a meeting of **STANDARDS COMMITTEE** to be held at the **Council Chamber, The Pavilions, Cambrian Park, Clydach Vale, Tonypany, CF40 2XX** on **FRIDAY, 23RD NOVEMBER, 2018** at **10.00 AM**.

Non Committee Members and Members of the public may request the facility to address the Committee at their meetings on the business listed although facilitation of this request is at the discretion of the Chair. It is kindly asked that such notification is made to Democratic Services by Wednesday, 21 November 2018 on the contact details listed above, including stipulating whether the address will be in Welsh or English.

AGENDA

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1. DECLARATION OF INTEREST

To receive disclosures of personal interest from Members in accordance with the Code of Conduct

Note:

1. Members are requested to identify the item number and subject matter that their interest relates to and signify the nature of the personal interest: and
2. Where Members withdraw from a meeting as a consequence of the disclosure of a prejudicial interest they must notify the Chairman when they leave.

2. MINUTES

To approve as an accurate record, the minutes of the meetings held on the 18th September 2018 and 22nd October 2018 respectively.

REPORTS OF THE MONITORING OFFICER

- 3. APPLICATION FOR DISPENSATION – COUNTY BOROUGH COUNCILLOR P.JARMAN**
To consider the application presented.

19 - 22
- 4. APPLICATION FOR DISPENSATION – COUNTY BOROUGH COUNCILLOR R BEVAN**
To consider the application presented.

23 - 26
- 5. STANDARDS COMMITTEE WORK PROGRAMME**
To consider a draft Committee Work Programme for the Municipal Year 2018 – 2019.

27 - 36
- 6. SOCIAL MEDIA AND THE MEMBERS' CODE OF CONDUCT**
To receive for information the Welsh Local Government Association's Social Media and Handling Online Abuse Guidance for Councillors and an oral update from the Director of Communications and Interim Director of Democratic Services in respect of social media.

37 - 82
- 7. LOCAL RESOLUTION PROCESS FOR TOWN AND COMMUNITY COUNCILS - ONE VOICE WALES - ORAL UPDATE**
To receive an oral update following consideration of the One Voice Wales Local Resolution Process at the Community Council Liaison Committee held on 25th September 2018.
- 8. PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2017 - 2018**
To provide Members with a summary of Code of Conduct matters as set out in the Ombudsman's Annual Report and Letter to this Council 2017 – 2018.

83 - 94
- 9. ADJUDICATION PANEL FOR WALES - REVISED SANCTIONS GUIDANCE**
To provide Members with information in respect of the revised Sanctions Guidance published by the Adjudication Panel For Wales.

95 - 120
- 10. URGENT BUSINESS**
To consider any items, which the Chairman, by reason of special circumstances, is of the opinion should be considered at the meeting as a matter of urgency.

Director of Communications & Interim Head of Democratic Services

Circulation:-

Independent Members – M.Jehu, MBE (Chair), D. Bowen and J.Thomas

County Borough Councillors: M. Forey & E. Webster

Community Councillor R.Butler

(Reserve Community Councillor Member: C. Willis)

Officers:

Mr C. Jones, Monitoring Officer

Mr A. Wilkins, Deputy Monitoring Officer

Mr C. Hanagan, Director of Communications & Interim Head of Democratic Services

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RHONDDA CYNON TAF

RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE

Minutes of the meeting of the Standards Committee meeting held on Tuesday, 18 September 2018 at 10.00 am at the Council Chamber, The Pavilions, Cambrian Park, Clydach Vale, Tonypany, CF40 2XX.

Present:

Independent Members:

Mr M Jehu (Chairman)

Mr D. Bowen

Mr J. Thomas

County Borough Councillors - Standards Committee Members in attendance:-

Councillor M Forey Councillor E Webster

Community Councillor:

Mr R. Butler

Officers in attendance

Mr A Wilkins, Head of Legal - Corporate & Democratic Services

Mr C Jones, Director, Legal & Democratic Services

Mr C Hanagan, Director of Communications & Interim Head of Democratic Services

8 **WELCOME**

The Chairman welcomed everyone to the meeting and for the benefit of new members in attendance introductions around the table were made. In accordance with the Welsh Standards, the Chairman took the opportunity to enquire whether Members of the Committee wished to conduct future meetings through the medium of Welsh, to which Members confirmed that they were happy to conduct meetings through the medium of English.

9 **DECLARATIONS OF INTEREST**

In accordance with the Council's Code of Conduct, there were no declarations made pertaining to the agenda.

10 **MINUTES**

It was **RESOLVED** to approve the minutes of the 8th December, 2017 as an accurate reflection of the meeting.

11 PUBLIC SERVICES OMBUDSMAN FOR WALES

In his report, the Monitoring Officer provided a summary of complaints made against Council Members and submitted to the Public Services Ombudsman for Wales for the period 1st April 2017 – 31st March 2018.

Members discussed the report before them, and queried whether further detail could be provided in future in respect of the level of details relating to the complaints, to assist Members with their deliberations. The Deputy Monitoring Officer advised that some further details could potentially be provided within the report however added that this was dependant on the level of information provided by the Ombudsman in respect of the complaint and the necessity to ensure the anonymity of the Complainant and Member(s) concerned was maintained.

Members also discussed the potential for 'persistent offenders' and common themes such as 'bullying' to be highlighted within the report, which are not currently evident to Members given the existing content of the report due to complaints being anonymised. The Deputy Monitoring Officer reassured Members that there was no current pattern or trend of such behaviour within the summary of complaints in the report and also advised of the Ombudsman's approach to issuing 'warnings' to Members about future conduct where their behaviour may have merited such a warning despite no formal action being taken in respect of a specific complaint.

Following consideration of the above it was **RESOLVED** to note the contents of the report.

12 LOCAL RESOLUTION PROCESS FOR COMMUNITY AND TOWN COUNCILS - ONE VOICE WALES

The Monitoring Officer referred Members to his report which sought the Committee's endorsement in respect of 'One Voice Wales' Local Resolution Procedure for Community and Town Councils.

Members were advised that the Ombudsman's guidance on the Code of Conduct for Community and Town Councils encourages the use of local resolution for low level complaints. The Monitoring Officer referred Members to Appendix 1 of the report which detailed the One Voice Wales Local Resolution protocol, which it was suggested be taken forward for adoption by the Community and Town Councils.

Members commented on the benefits of a local resolution protocol for both Community and Town Councils, although Members did acknowledge that some Community and Town Councils would not be members of One Voice Wales. In this regard they considered it advisable that those Councils should seek to adopt a similar set of local resolution procedures, if they had not done so already.

The Director of Communications & Interim Head of Democratic Services referred to the Community Liaison Committee that was scheduled for the 25th September, and advised Members that the matter would be taken forward for that Committee's consideration.

Following discussions Members **RESOLVED** to endorse, in principle, the One Voice Wales Local Resolution Procedure subject to the comments and feedback

of the Town and Community Councils at the meeting of the Community Liaison Committee on the 25th September 2018.

13 PUBLIC SERVICES OMBUDSMAN FOR WALES - CODE OF CONDUCT CASEBOOKS

In his report, the Monitoring Officer provided the Committee with Code of Conduct Casebooks (Issues 15 -1 7) produced by the Public Services Ombudsman for Wales and following consideration thereof, it was **RESOLVED**:

1. To note the information contained within the report
2. That future Code of Conduct Casebook issues are provided electronically to Members through a hyper link within the report.

14 STANDARDS CONFERENCE

The Chairman addressed the Committee with an update on the Ninth Standards Conference held in Aberystwyth on 14th September 2018. The Chair thanked the Members and Officers who attended the event and advised of the content of the conference including the workshops. It was acknowledged by those who attended that the acoustics during the Plenary sessions was poor which detracted from the presentations made and that this feedback had been given at the end of the conference. The Chair thanked Ceredigion and Powys Councils for organising the event and the University of Wales, Aberystwyth for hosting. The Conference focused on the need for Standards Committees to incorporate the good practices of other Standards Committees across Wales and also touched upon the issues coming forward in respect of Social Media. Members also commented on sessions which were held discussing the practical aspects of holding a Standards Hearing. The Chairman advised that social media would be discussed further as a Committee under the Work Programme agenda item.

It was **RESOLVED** to note the content of the update

15 STANDARDS COMMITTEE WORK PROGRAMME

The Chairman spoke of the good practice in setting a work programme for the Committee going forward over the next twelve months and commented upon potential items that could be taken forward. The Chair spoke of the need for flexibility within the programme and the themes and development opportunities that could be taken forward, along with standard items.

A query was raised in respect of the Vacant independent (reserve) position on the Committee membership and the Deputy Monitoring Officer advised that the vacancy was to be re-advertised over the next coming weeks and confirmed the details for advertising of the vacancy. Members commented that as good practice and for continuity the same Appointments Panel should be used and the Deputy Monitoring Officer confirmed that this is what Council has agreed.

Following discussions by the Committee it was **RESOLVED** that a draft work programme be presented at the next meeting of the Committee for Members consideration containing the following themes:

- Working in Partnership - Joint Training Opportunities and sharing of good practice

- Local Resolution Protocol – Town & Community Councils
- Social Media
- Training and Development needs / Paperless Committee Approach
- Update on Members Attendance

16 DATE OF NEXT MEETING

The Chairman confirmed that the date of the next Standards Committee meeting was scheduled for the 22nd October, where the Committee would sit to consider a hearing under the local resolution protocol. The Chairman advised that he had taken the opportunity to invite Merthyr Tydfil's Council Standards Committee Members to observe the meeting.

This meeting closed at 11.20 am

**M Jehu
Chairman.**



RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE

Minutes of the meeting of the Standards Committee meeting held on Monday, 22 October 2018 at 10.30 am at the Council Chamber, The Pavilions, Cambrian Park. Clydach Vale, Tonypany, CF40 2XX.

Present:

Independent Members:

Mr M Jehu (Chairman)

Mr D. Bowen

Mr J. Thomas

County Borough Councillors - Standards Committee Members in attendance:-

Councillor M Forey Councillor E Webster

Community Councillor:

Mr R. Butler

Officers in attendance

Mr A Wilkins, Head of Legal - Corporate & Democratic Services

Non-Committee Members in attendance:-

Councillor P. Jarman	Councillor R. Yeo
Councillor L. Walker	Councillor E. Stephens
Councillor L. Jones	Councillor J. Williams
Councillor G. Thomas	Councillor J. Davies

17 DECLARATION OF INTEREST

In accordance with the Council's Code of Conduct, there were no declarations made pertaining to the agenda.

18 COMPLAINT BY A MEMBER UNDER THE LOCAL PROTOCOL – STANDARD OF CONDUCT EXPECTED BY MEMBERS

The Chair opened the meeting by outlining its purpose and how it was to be conducted following the agreement of the Committee to adopt the proposed procedures set out in the report of the Monitoring Officer. In accordance with the adopted procedures, the Committee would hear the evidence of the Complainant, the Respondent and the witnesses in attendance. Only the Standards Committee could ask questions of any party and the Complainant and the Respondent would both be given an opportunity to provide closing remarks.

At this juncture in the meeting Cllr Yeo clarified the position in respect of the number of witnesses Members were able to call, due to potential misinformation

he had received. The Deputy Monitoring Officer advised that the protocol did not stipulate a number and the Chair ascertained whether Cllr Yeo was still happy to proceed in light of any previous miscommunication, to which the Cllr confirmed he was.

In accordance with the adopted procedures the Chair invited County Borough Cllr P. Jarman to address the Committee on her complaint which related to alleged remarks made by Cllr Yeo at the meeting of the Overview and Scrutiny Committee held on the 30th April, 2018.

Cllr Jarman referenced the witnesses that she was intending to call and speak on the matter. For the benefit of the Committee Cllr Jarman advised that she and her witnesses would run through the chronological order of events leading up to the Overview & Scrutiny Committee on the 30th April and advised Members that both her and her Members in attendance at that meeting were shocked over the remarks made by Cllr Yeo which she believed were made in a threatening and bullying manner. Cllr Jarman advised that following this meeting she contacted her Members who were in attendance to advise that she would make a complaint in respect of the conduct of Cllr Yeo at the meeting.

Cllr Jarman referenced the letter of apology provided to her by Cllr Yeo and the fact that he admitted to partaking in the debate as this was not reflected in the Minutes of the Overview & Scrutiny Committee and reiterated that his outburst at the meeting was out of order. She also referenced the minutes of the Health & Well Being Scrutiny Committee Meeting held on 16th April and again the Overview and Scrutiny Committee which did not reflect any hint of discord or challenge. Cllr Jarman informed the Committee that she did not accept the apology issued by Cllr Yeo and appended to the Monitoring Officer's report as it did not address the particular reason for the complaint.

Cllr Jarman referred to the comments of Cllr Yeo at the meeting, admitting that there was no official record of the comments made. She noted that some of the words used during his 'outburst' were non coherent but that his alleged conduct was captured by social media with Cllr Yeo commenting that he 'regretted the politicking and hijacking that occurred in the Health & Well Being Committee' to which she added that the Committee Members had every right to hold the Cabinet to account. Cllr Jarman continued by advising that Cllr Yeo also commented within his outburst that 'they will not get away with a decision like that again in my Committee'.

Cllr Jarman continued by adding that the comments made were bullying and discriminating against Members and also put their reputations into disrepute. The Member continued by advising that Members on scrutiny committees have a duty to scrutinise cabinet decisions and this was the Council's checks and balances. Cllr Jarman commented upon the apology received adding that she did not believe it was sincere and had no alternative other to proceed with the complaint to the Standards Committee.

Committee Members proceeded to question Cllr Jarman in respect of her complaint with Members seeking clarification on the point of time during the Overview & Scrutiny Committee meeting the alleged comments were made. Cllr Jarman advised that the Chair of Overview & Scrutiny invited Cllr Yeo to speak during the meeting, which was when the comments were made. Cllr Yeo was the last speaker prior to Cllr Jarman summing up as the Lead Member of the Call In.

Members also sought clarification on what was exactly said by Cllr Yeo during the meeting and Cllr Jarman informed that the words 'hijacking of the meeting' and also 'assure you that they won't get away with that in my committee again' were used. Following further questions Cllr Jarman advised that the comments were audible as they were picked up by the press and reported on social media through twitter and via the website, WalesOnline.

Members queried the tone and manner that Cllr Yeo spoke to which Cllr Jarman responded 'angrily' although it was confirmed that no indecent language was used although the terminology in respect of 'hijacking' was insulting to her and her colleagues.

Members queried whether Cllr Jarman made any notes of the alleged comments made at the meeting, to which Cllr Jarman advised that she did and that the complaint to the Council's Monitoring Officer was made the same day, whilst it was still fresh in her mind.

The Chair then invited County Borough Cllr Yeo to respond to the allegations made against him.

Cllr Yeo advised that he had not prepared a statement for today's meeting and would be recalling from memory, and advised that two of his witnesses were not in attendance.

Cllr Yeo advised the Committee that he had only been Chair of the Health & Wellbeing Committee for a year and his aim was to drive the agenda of his Committee, looking at items of interest and making sure scrutiny brought accountability, enhancing the work of the Council and value for money. By way of background to the issues in discussion the Cllr referenced the Communities First programme, the proposed changes being taken forward with Community Hubs and his request for further information on this area be presented to a meeting of the Health & Wellbeing Scrutiny Committee for information purposes. Cllr Yeo was unaware that the report on Community Hubs presented to the Health and Wellbeing Scrutiny meeting held in April was also on the Cabinet Work Programme for consideration. Cllr Yeo continued by describing a series of events which led to the delay in the matter coming before the Health & Wellbeing Scrutiny Committee and when it was presented, Cllr Yeo as Chair was unaware that the item was also on the Cabinet meeting agenda scheduled a couple of days later. Cllr Yeo commented that he had intended for the Committee to receive an information report on the item and did not intend for the two reports to be conflated.

Cllr Yeo continued to advise of the proceedings as they transpired at the relevant Health and Wellbeing Scrutiny meeting and the report on of Community Hubs commenting that some Members had little knowledge of the subject area as the programme previously did not run within certain wards. He advised that Cllr J. Williams subsequently moved a motion in relation to the report, which at the time he was unaware could be done and sought clarification from the legal officer in attendance. Cllr Yeo commented that he believed this killed the debate and the fact finding that many Members wanted to pursue. Cllr Yeo advised that he was disappointed in himself at the time as he didn't intend for the report to be confused with the report being considered by Cabinet. He was disappointed with himself that he had not recognised that it was on the Cabinet Work Programme and that it was by accident that the items had somehow clashed.

Cllr Yeo explained that he attended the Overview & Scrutiny Committee Call in meeting out of courtesy and to show an interest. He added that he didn't think he would be speaking at the meeting. He commented that he does respect the rights of all individual members and the decisions that they make. Cllr Yeo continued by advising that he spoke at the meeting, not in an angry way but again added that he was disappointed in the circumstances that led to the events previously described and was being self critical about himself. He added that he sees scrutiny as an important part of the democratic process and the need for Members to scrutinise policy decisions.

Cllr Yeo spoke of the Health and Wellbeing Committee being a good committee that avoided parochialism of issues and politicisation of issues. He added that all Members brought critical challenge and analysis of items on the agenda.

He again reiterated that the comments he made at the Overview and Scrutiny Committee meeting were self critical, and he made comments about himself that he had failed, with his failure to adequately understand the process in time and that in the future 'it' would not happen again within his Committee, not 'they' wouldn't happen.

Committee Members proceeded to question Cllr Yeo regarding his statements.

Members questioned Cllr Yeo on whether he felt the meeting on the 16th April was political in nature and his discussions with the Monitoring Officer over what he believed to be the nature of the complaint. Cllr Yeo commented that he felt the item was on the agenda for information finding and not for pre-scrutiny and reiterated that it was an accident that the reports in respect of Community Hubs to the Health & Wellbeing Committee and Cabinet coincided. He added that Members had a right to act in the way that they did at the meeting in respect of moving the motion. The Member advised of his brief discussions with the Monitoring Officer and added that the Monitoring Officer explained the complaint that had been made and the wording and he stated that this was not what he meant at the meeting and the Monitoring Officer advised that he could write a letter of apology. The Member reiterated his disappointment with the process that had taken place and his disappointment with himself as Chair. He added that during his comments at Overview & Scrutiny he did not use any derogatory terms, nor name anyone but aired his personal disappointment and frustrations with himself. He added that as a Chair he now has greater understanding of the scrutiny process and again commented that he respected all the contributions made by Members of his Committee

Members asked for clarification on the wording that Cllr Yeo during the meeting and the Member informed the Committee that he did not use the term 'hijack' and that he was saying to himself 'it' would not happen rather than he would not let 'them'. He added that he was telling everyone, telling people generally that he would do a better job in future and that 'I would make sure it wouldn't happen again'. He reiterated that it was a series of unfortunate events that had led to the events at the Health & Well Being meeting. The Member added that the comments could be down to interpretation and again stressed of his disappointment in himself. He advised that he didn't shout but just spoke.

The Chair queried whether Cllr Yeo's demeanour could have been seen as being angry due to his own self criticism and frustration. Cllr Yeo responded by advising that he was unable to comment on other people's perception but felt that the Overview & Scrutiny meeting was more political in nature and such

meetings could be politically charged. He agreed that his demeanour and comments could have been taken out of context although stressed this was not his intention.

The Chair asked whether in hindsight the Member would act in the same way again. Cllr Yeo responded by advising that he would change the chain of events, with better communications in respect of the agenda planning, his knowledge and experience of scrutiny would have better informed of the process and he would have made sure that any comments made, if any, could not have been taken out of context. He added that in hindsight he should not have said anything at the meeting although he wasn't expecting to say anything when he attended.

Cllr Jarman's witnesses were then invited to address the Committee as follows:

Cllr J. Williams commented upon the Health & Well Being Scrutiny Committee and the role she was able to play as a Member due to her professional background, adding that due to the comments of Cllr Yeo it was felt her conduct had been brought into question during the Overview & Scrutiny Committee meeting due to the events at Health & Well Being. The Member continued by advising of the events at the meeting following consideration of the report and the motion that was put and carried and the rationale behind the decision, advising of the chance for scrutiny to undertake pre-scrutiny on the Community Hubs programme. She advised that Cabinet did not accede to the request of scrutiny which resulted in the Call In of the Cabinet decision by Scrutiny Members. Cllr Williams commented upon the outburst by Cllr Yeo at this meeting which she felt questioned her conduct and those of her colleagues. She advised that she could not say verbatim but words such as 'never allow such behaviour again' the word 'hijack' and people 'playing politics' were referenced. She also commented on the aggressive manner that it was said and the Member's body language, to which she felt was a threat and unprofessional. The Member added that she was quite taken aback and felt intimidated, although added that it was quite out of character for the Member concerned. She concluded by adding that her version of events did not tally with those of Cllr Yeo.

Members proceeded to question Cllr Williams on her account for clarity of the sequence of events leading up to the incident.

Members again asked the Member to reiterate Cllr Yeo's comments, to which Cllr Williams responded 'I will never allow things like that to happen again in my Committee, people hijacking and people playing politics'. She again expressed her concerns about the comments and reaffirmed that her actions at the Health & Wellbeing Scrutiny Committee were appropriate and confirmed that she was aware that the item was on the forthcoming Cabinet Committee agenda.

Members queried why the Member didn't address her concerns about the comments at the Overview & Scrutiny Committee meeting. Cllr Williams advised that she was taken aback by the outburst at the time and did comment to Cllr Jarman although felt it wasn't her place to address a point of order at the Committee meeting itself.

The Member was queried as to whether she thought she might have misinterpreted what was said by the Cllr, to which Cllr Williams responded, by saying she didn't believe his statement could be misunderstood. She confirmed that she believed the outburst was not about his personal frustration but to the

people who had made the decision at the Health & Wellbeing Committee meeting.

The Chair concluded the questions by asking whether the Member felt that Cllr Yeo had learnt from the experience to which the Member said that she had hoped he had learnt from the experience and his own conduct at future meetings.

The Committee called upon Cllr Jarman's next witness – Cllr J. Davies.

Cllr Davies provided Members with details of the Health & Wellbeing Committee meeting, advising that he was not present at the Overview and Scrutiny Committee meeting where the incident occurred. Cllr Davies advised that he seconded Cllr Williams motion to undertake pre-scrutiny on the report that was presented to Committee. He commented that the Chair was uneasy with the decision that was taken by the Committee and that he had sought advice from the legal officer at the time.

The Chair confirmed that in relation to the allegation made against Cllr Yeo, Cllr Davies had not been a witness, to which the Member agreed.

The Committee called upon Cllr Jarman's next witness – Cllr L. Jones.

The Member commenced by commenting that she appreciated the difficulties new and inexperienced Chairs had on occasions during meetings and continued by referring to the scrutiny process of questions and debate. She added that Cllr Yeo looked angry and frustrated when the decision was taken by the Health & Wellbeing Committee. She remarked that his comments at the Overview & Scrutiny Committee were inappropriate and unprofessional and as Chair of a Committee he should sit as an impartial observer.

The Member confirmed that she was present at the Overview & Scrutiny Committee meeting although this wasn't reflected in the minutes. She advised that she was shocked at the comments made and advised the Committee of her and her colleagues reaction as they all looked at each other in disbelief.

She confirmed that it was both what Cllr Yeo said and the way which it was said that caused the upset; 'This won't happen again in my Committee'. Following a question Cllr Jones advised that she found that remark disappointing. She added that scrutiny was an opportunity for all parties to work together and politics should be set aside. She added that the Health & Wellbeing Committee are a very good committee which in general wasn't political in nature.

Members asked why Cllr Jones hadn't brought forward the complaint herself and she advised that she was aware that Cllr Jarman had put forward a complaint on behalf of all Members affected by Cllr Yeo's statement.

The Committee called upon Cllr Jarman's next witness – Cllr E. Stephens.

Cllr Stephens advised Members that she was present at the Overview & Scrutiny Committee meeting that she had contributed to the debate although this was not reflected in the minutes. She added that during the meeting Cllr Walker asked the Chair of Overview & Scrutiny if Members of the public in attendance could be afforded the opportunity to speak at the meeting and the request was denied, however he asked Cllr Yeo towards the close of the meeting whether he would

like to speak as the Chair of the Health & Wellbeing Committee. She added that Cllr Yeo started to speak and stated that he hadn't expected to speak and had done no preparation in advance. He spoke about the Health & Wellbeing meeting and the intention for the report on Community Hubs to be different to that presented to Cabinet. She added that Cllr Yeo made a comment that 'the politicking gone on here is disgusting'. She continued by advising the Committee that two things said by Cllr Yeo had made her feel uncomfortable. She commented that his accusation of the Committee playing politics was questioning Members ability to scrutinise, adding that one of the goals of scrutiny was understanding without bias. She again reiterated the rationale behind the decision taken at the Health & Wellbeing Committee. She added that the comments blackened the character and good names of those Members at the Health & Wellbeing Scrutiny Committee, especially as two of the Members of the Committee were not at the Overview and Scrutiny Committee to defend themselves. Cllr Stephens added that the second thing that made her feel uncomfortable was the comment made by Cllr Yeo namely 'I can assure you Chair that I won't allow them to get away with this behaviour in my Committee again'. The Member added that taking Cllr Yeo comments about politics and his statement together, it was clear who he was talking to. She commented upon the expression and tone of voice used by Cllr Yeo. She added his words were intimidating and threatening.

Committee Members then proceeded to ask questions of Cllr Stephens for clarity. Members commented that each Member had so far given a different version of the statement alleged to have been said by Cllr Yeo. Committee Members queried who Cllr Stephens believed Cllr Yeo was talking to with his statement and the Member responded by advising that she believed the statement was directed to the Members that voted at the Health & Wellbeing and those that called in the Cabinet decision and not about himself.

The Member was asked whether she could have misinterpreted the statement and although she added that everything could be possibly misinterpreted, Cllr Yeo's manner and demeanour at the meeting was such that she was taken aback. She added that she was glad that she did not sit on the Health & Wellbeing committee if this was his approach and added that lessons had to be learnt.

The Chair concluded by asking the Member whether she made a note of the comments made at the meeting and if so when. The Member added that on the day in question she had to attend a funeral so felt her senses were all heightened and therefore remembers the meeting very well.

The Committee called upon Cllr Jarman's next witness – Cllr L. Walker.

Cllr Walker explained to the Committee that he was also one of the signatory's to the Call In of the Cabinet Decision. He commented on Cllr Yeo's seating arrangements in the meeting which he felt could have been intimidating to Members and his disrespect at the Committee by talking to a fellow Cllr during the meeting whilst Members were debating the item. He added that at the meeting he asked the Chair if Members of the public could address the committee, with this request being denied and he added that he was quite shocked when Cllr Yeo then spoke. He added in his mind Cllr Yeo's comments were not threatening but that it could have come across as slightly intimidating, adding that his demeanour could have been softer. The Member commented that it was obvious that Cllr Yeo was proud to be the Chair of the Health & Well

Being Committee although the things said were not suitable and the way in which they were said was not suitable. In respect of Cllr Yeo's actual comments the Member advised that he was unable to recall exactly as it did not make sense to him. He again added that his demeanour was possibly intimidating to some, although it wasn't to him. He added that it was out of character for Cllr Yeo.

The Chair confirmed that Cllr Walker had not heard the statement by Cllr Yeo, to which the Member agreed. He added however that the demeanour of Cllr Yeo at the meeting was inappropriate. He felt that the nature of the meeting and his passion as Chair had got the better of him. He added that he could see that other members in the Chamber were shocked by Cllr Yeo's conduct.

The Committee called upon Cllr Yeo's witness – Cllr G. Thomas.

Cllr Thomas explained to the Committee that he was sitting in the Chair on the day of the Overview and Scrutiny meeting, noting that everyone's perception of the meeting that had taken place over six months ago were all different. Cllr Thomas clarified that at the meeting he did not ask Cllr Yeo to speak but instead asked if 'there is anyone else who wishes to speak', commenting that this was different to asking. The Member continued by commenting on Cllr Yeo's position at the meeting refuting the descriptions used in respect of his demeanour and manner adding that the Member looked focused and that in his opinion his comments alluded to Cllr Yeo feeling that he should have intervened in the events. He added that as Chair of the Overview and Scrutiny Committee at the meeting he didn't feel it necessary to intervene following Cllr Yeo's comments. Cllr Thomas commented on the various versions of the words alleged to have been used by Cllr Yeo at the meeting and explained that his recollection of the statement made was "this would not happen again on my watch". He added the matter of what could actually be interpreted by those words was open to interpretation, but from a Chair's perception he did not deem them out of order. He added that Cllr Yeo was not angry in his delivery, frustrated possibly, frustrated due to his own role in the events that had occurred and that he hadn't done all that he possibly could have. He added that his perception was that he would do better in the future. The Member also referenced the letter of apology which again he commented that the wording used was open to interpretation, adding that different people have different views. He added that in his view the letter of apology was appropriate and should have been sufficient to have settled the matter.

The Member commented that during this meeting his integrity as Chair had been called into question and added that experienced Members were present at the Overview & Scrutiny Committee meeting and if they had felt that the comments were untoward and directed at them then they should have raised a point of order so the matter could have been addressed at the time, not six months down the line, when the Member could have potentially retracted any comments or issued an immediate apology.

Members of the Committee questioned Cllr Thomas on the evidence provided. One of the Members commented that if Cllr Thomas did not believe the comments to be unacceptable why did he think there was a need for an apology to be provided? The Member explained that if Committee Members felt it was a personal remark towards them and felt aggrieved by the comments then it was acceptable to ask for an apology and it would have been for Cllr Yeo to decide whether to provide one or not. Following further questions he confirmed that he

wasn't offended by Cllr Yeo's comments.

The Member was asked about the reactions of the Committee Members at the end of the meeting and Cllr Thomas explained that he was not aware of any particular reaction. Cllr Jarman had made no reference to it specifically during the meeting.

The Member was queried on his version of the wording used 'not on my watch'. The Member commented that he felt this was what was said although whilst the words used may be slightly different the substance did not vary. He added there was a variety of explanations and recollections made by people in attendance at the meeting.

Cllr Yeo explained that his next witness, Cllr M. Webber had not been able to attend the meeting and instead had provided a written statement. The Chair of the Committee agreed to accept the written statement which was read out to all Members by the Deputy Monitoring Officer.

At this juncture of the meeting, following submissions from both Members witnesses the Chair called upon Cllr Jarman to provide her closing remarks.

Cllr Jarman reflected on Cllr Thomas' comments as Chair of the Overview & Scrutiny Committee meeting and also reiterated her surprise that the minutes of that meeting did not reflect that Cllr Yeo had spoken at the meeting.

She advised Members that she had made her complaint to the Monitoring Officer the same day as the meeting which noted that the complaint was on behalf of the three Members in attendance at the meeting and not just taken forward by herself. She added that the words 'hijacked' had definitely been uttered by Cllr Yeo at the meeting, and this was supported by the by a Wales Online article. She added that his comments were unnecessary and that neither he nor her colleagues were content with the letter of apology provided. She added that she would have preferred to have settled the complaint informally if Cllr Yeo had amended his letter to offer a more sincere apology.

The Members called upon Cllr Yeo to provide his closing remarks.

Cllr Yeo advised that he never uses or used disgusting words, he added that he didn't think his demeanour was angry at the meeting as he respected all Members. He noted the comments made by Cllr Walker in respect of the discussions that were taking place during the meeting by Cllr Yeo and another colleague.

He continued by adding that he did not recall using the words hijack and again added that in hindsight he should not have spoken at the meeting. He commented that the letter of apology was provided not through guilt but an acknowledgement that his words could have possibly been misinterpreted. He again added that he respected all Members, their rights to provide their beliefs and the value that this brings to debates

He reiterated the events of the Health & Well Being Scrutiny committee meeting and his lack of knowledge in the proceedings that were taken forward with the moving of the motion. He again commented on the confusion with the report and the timing and his disappointment in himself with the events that had unfolded. He added that his comments at the Overview & Scrutiny Committee were not

addressed to anyone in particular but an admission of his own fault.

The Chair thanked everyone for their submissions and at this juncture in the meeting and the Committee Members returned to undertake their deliberations.

On the Committees return the Chair reminded Members it was their responsibility to provide in advance any supporting evidence they seek to rely on to present their case. The Chair stressed the importance of Committee Members being provided with all available relevant evidence to assist them in their deliberations particularly if it was going to be referred to in any hearing.

The Chair concluded by advising Members of the decision taken by the Committee in respect of the complaint brought forward by Cllr Jarman, advising that following consideration of all the evidence provided and the statements by all the witnesses the Committee found that whilst there was a basis to the complaint against Cllr Yeo no further action was required.

This meeting closed at 1.45 pm

**M Jehu
Chairman**



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2018 - 2019

STANDARDS COMMITTEE

23 NOVEMBER 2018

APPLICATION FOR DISPENSATION – COUNTY BOROUGH COUNCILLOR P. JARMAN

REPORT OF THE MONITORING OFFICER

Author : Mr. Andy Wilkins (Deputy Monitoring Officer) (Tel: 01443 424189)

1. PURPOSE OF REPORT

To enable the Committee to decide whether to grant a dispensation to County Borough Councillor Pauline Jarman to speak and vote on all matters for the duration and adoption of the 2019-20 Budget process in her capacity as Leader of the Opposition.

2. RECOMMENDATION

- 2.1 To consider granting County Borough Councillor Pauline Jarman a dispensation to speak and vote on all matters for the duration and adoption of the 2019-20 Budget process in her capacity as Leader of the Opposition.

3. BACKGROUND

- 3.1 Paragraph 14 of the Code of Conduct sets out the procedures to be followed regarding participation in meetings when a Member has declared a personal and prejudicial interest.
- 3.2 However the participation by a Member in any business which is prohibited by Paragraph 14 is not a failure to comply with the Code if the Member has acted in accordance with a dispensation from the prohibition granted by the Standards Committee in accordance with regulations.

- 3.3 The relevant regulations are the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001. These regulations set out the grounds on which dispensations may be granted.
- 3.4 County Borough Councillor Pauline Jarman's son works in the Streetcare Department and lives with her at her home address. Councillor Jarman therefore seeks a dispensation to speak and vote on all services affected by the Budget. In her application for dispensation Councillor Jarman states that by virtue of being Leader of an Opposition Group, her participation in the Budget process is justified.
- 3.5 One of the grounds for granting a dispensation is:-
- “(f) the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise.”
- 3.6 It is therefore recommended the Committee consider granting Councillor Pauline Jarman a dispensation to speak and vote on all matters for the duration and adoption of the 2019-20 Budget process in her capacity as Leader of the Opposition.

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

LIST OF BACKGROUND PAPERS

STANDARDS COMMITTEE

23 NOVEMBER 2018

BACKGROUND PAPERS

APPLICATION FOR DISPENSATION - COUNTY BOROUGH COUNCILLOR P.JARMAN	Officer to contact: Mr. A.S. Wilkins Tel: 01443 424189
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Freestanding Matter



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2018 - 2019

STANDARDS COMMITTEE

23 NOVEMBER 2018

APPLICATION FOR DISPENSATION – COUNTY BOROUGH COUNCILLOR R. BEVAN

REPORT OF THE MONITORING OFFICER

Author : Mr. Andy Wilkins (Deputy Monitoring Officer) (Tel: 01443 424189)

1. PURPOSE OF REPORT

To enable the Committee to decide whether to grant a dispensation to County Borough Councillor Robert Bevan to speak and vote on all matters relating to the Community and Children's Services Group, save for any specific matters that directly affect his daughter who is employed by the Council in the Community and Children's Services Group as the Service Manager for Access and Enablement, with such dispensation being reviewed on an annual basis by the Standards Committee.

2. RECOMMENDATION

- 2.1 To consider granting County Borough Councillor Robert Bevan a dispensation to speak and vote on all matters relating to the Community and Children's Services Group, save for any specific matters that directly affect his daughter, who is employed by the Council in the Community and Children's Services Group as the Service Manager for Access and Enablement, with such dispensation being reviewed by the Standards Committee on an annual basis.

3. BACKGROUND

- 3.1 Paragraph 14 of the Code of Conduct sets out the procedures to be followed regarding participation in meetings when a Member has declared a personal and prejudicial interest.

- 3.2 However the participation by a Member in any business which is prohibited by Paragraph 14 is not a failure to comply with the Code if the Member has acted in accordance with a dispensation from the prohibition granted by the Standards Committee in accordance with regulations.
- 3.3 The relevant regulations are the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001. These regulations set out the grounds on which dispensations may be granted.
- 3.4 County Borough Councillor Robert Bevan's daughter works in the Community & Children's Services Group as the Service Manager for Access and Enablement. Councillor Bevan therefore seeks a dispensation to speak and vote on all matters relating to the Community and Children's Services Group save for any specific matters that directly affect his daughter. Reference to matters 'directly affecting his daughter' in this context means matters which do not directly financially advantage or disadvantage, or give other direct benefit or dis-benefit to her.
- 3.5 Councillor Bevan acknowledges that any dispensation awarded cannot be used if the matter under consideration would confer a greater benefit on the employed family member than on other tax payers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect his ability to act purely on the merits of the case and in the public interest if he were to take part in the discussion.
- 3.6 In his application for dispensation Councillor Bevan further states that by virtue of being a Cabinet Member his participation in matters relating to the Community and Children's Services Group is justified.
- 3.7 Two of the grounds for granting a dispensation are:-
- “(d) the nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business”; and
- “(f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise.”
- 3.8 It is recommended the Committee consider granting Councillor Robert Bevan a dispensation to speak and vote on all matters for relating to the Community and Children's Services Group save for any specific matters that directly affect his daughter, who is employed by the Council in the Community and Children's Services Group as the Service Manager for Access and Enablement, with such dispensation being reviewed on an annual basis.

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

LIST OF BACKGROUND PAPERS

STANDARDS COMMITTEE

23RD NOVEMBER 2018

BACKGROUND PAPERS

APPLICATION FOR DISPENSATION - COUNTY BOROUGH COUNCILLOR R.BEVAN	Officer to contact: Mr. A.S. Wilkins Tel: 01443 424189
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Freestanding Matter

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RHONDDA CYNON TAF

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

23 NOVEMBER 2018

STANDARDS COMMITTEE WORK PROGRAMME

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

The purpose of the report is to review the Committee's Work Programme and agree items for consideration by the Standards Committee during the Municipal Year 2018-2019.

2. RECOMMENDATION

- 2.1 Subject to any amendments Committee Members' may have it is recommended the Work Programme for the Municipal Year 2018-2019, as set out in Appendix 2 to the report, be adopted.

3. BACKGROUND

- 3.1 The Standards Committee's Terms of Reference, as detailed in Appendix 1 to this report, set out the remit of the Committee to monitor, review and advise on matters relating to the Ethical code; Members Code of Conduct and associated matters of governance and probity.
- 3.2 To enable the Committee to fulfil its role an annual work programme is developed. The Committee is asked to give consideration to standard monitoring reports and any issues arising from the Committee's work in promoting high standards of conduct and managing complaints. The views of this Committee assist in the development of an ongoing work plan.
- 3.3 Attached at Appendix 2 to the report is a draft Work Programme for the Committee for the Municipal Year 2018-2019. It reflects ongoing priorities and standard reports and the frequency of reporting. The Committee is invited to review the draft Work Programme taking into account available resources, and add or remove items as necessary.

4. LEGAL IMPLICATIONS

- 4.1 There are no legal implications arising from this report however the Committee is reminded of its statutory role contained in the extract from the Local Government Act 2000 set out below which should be considered alongside its terms of reference when setting the Work Programme:

54 Functions of standards committees

(1) The general functions of a standards committee of a relevant authority are--

(a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and

(b) assisting members and co-opted members of the authority to observe the authority's code of conduct.

(2) Without prejudice to its general functions, a standards committee of a relevant

authority has the following specific functions—

(a) advising the authority on the adoption or revision of a code of conduct,

(b) monitoring the operation of the authority's code of conduct, and

(c) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct.

- 4.2 The Committee has the same statutory functions in relation to Community and Town Councils (and Community and Town Councillors) as it has in relation to this Council and its Councillors (pursuant to section 56(1) of the Local Government Act 2000).

5. CONSULTATION

- 5.1 There are no consultation implications arising from this report.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 There are no equality and diversity implications arising from this report.

7. FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no consultation implications arising from this report subject to the agreed Work Programme being delivered within existing financial resources.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

23 NOVEMBER 2018

REPORT OF THE MONITORING OFFICER

Background Papers: Freestanding matter

Contact: Mr Andy Wilkins (Head of Legal – Corporate & Democratic Services) –
01443 424189

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STANDARDS COMMITTEE - TERMS OF REFERENCE

Composition

- (a) **Membership.** The Standards Committee is composed of 6 Members. Its membership includes:
- (i) 3 'independent' Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Act, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001;
 - (ii) 2 Councillors other than the Leader and not more than one Member of the Executive; and
 - (iii) 1 Community Council Member
- (b) **Term of Office**
- (i) Independent Members are appointed for a period of 6 years and may be reappointed for a consecutive term not exceeding 4 years.
 - (ii) Members of local authorities who are members of the Standards Committee will have a term of office of no more than four years or until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for 1 further consecutive term.
- (c) **Quorum.** A meeting of the Standards Committee shall only be quorate when:
- (i) at least three Members, including the Chairperson, are present, and
 - (ii) at least half the Members present (including the Chairperson) are Independent Members.
- (d) **Voting.** Independent Members and the Community Council Member will be entitled to vote at meetings.
- (e) **Chairing the Committee.**
- (i) Only an Independent Member of the Standards Committee may be the Chair.
 - (ii) The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of (a) not less than 4 years or no more than 6 years, or (b) until the term of office of the Independent Member comes to an end. The Chair and Vice Chair can be appointed for one period only.

Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted Members and Church and Parent Governor representatives;
- (b) assisting the Councillors, co-opted Members and Church and Parent Governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors, co-opted Members and Church and Parent Governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors , co-opted Members and Church and Parent Governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that Officer by the Public Services Ombudsman For Wales;
- (h) overview of the Council's whistleblowing policy;
- (i) overview of complaints handling and Ombudsman investigations;
- (j) oversight of the Members' protocols adopted by the Council;
- (k) oversight of the register of personal interests maintained under Section 81 of the Local Government Act 2000;
- (l) oversight of the gifts and hospitality register;
- (m) monitor adherence to the Council's Management of Unreasonably Persistent Customers Policy by Group and Service Directors; and
- (n) the Committee will exercise the functions set out in (a) - (g) above in relation to Community Councils and Members of Community Councils.



STANDARDS COMMITTEE WORK PROGRAMME

Forward plan of proposed Committee Business for the 2018 - 2019 Municipal Year

Specific Period: - May 2018 – April 2019

N.B – The work programme is subject to change to take account of any additional / deletion of reports, including any new consultative documents or legislative initiatives from the Welsh Government, which require urgent attention, Public Services Ombudsman For Wales referrals and hearings under the Council’s Local Resolution Protocol – Standards of Conduct to be followed by Members

Key Decision	Brief Outline	Responsible Officer	Open / Exempt Report	Consultation undertaken prior to Decision being made?
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SEPTEMBER 2018

18.09.18

Public Services Ombudsman For Wales	Summary of Complaints against Members from the 1 st April 2017 – 31 st March 2018	Monitoring Officer	Open	None
Local Resolution Process For Town and Community Councils – One Voice Wales	To provide Members with information and seek the Committees endorsement in respect of One Voice Wales' Local Resolution Procedure for Town and Community Councils	Monitoring Officer	Open	None
Public Services Ombudsman For Wales – Code of Conduct Casebooks	To consider the Code of Conduct Casebooks for the months January, May & July 2018 (Issues 15 – 17)	Monitoring Officer	Open	None
Standards Conference 2018	To receive an oral update on the feedback from the Ninth Standards Conference held in Aberystwyth on 14 th September 2018	Monitoring Officer	Open	None
Standards Committee Work Programme	To discuss the future Work Programme for the Committee	Monitoring Officer	Open	None

NOVEMBER 2018

23.11.18

Standards Committee Work Programme	To consider a draft Committee Work Programme for the Municipal Year 2018 - 2019	Monitoring Officer	Open	Standards Committee meeting – 18.09.18
Applications for Dispensation	To consider two applications for dispensations in accordance with The Standards Committee (Grant of Dispensations) (Wales) Regulations 2001	Monitoring Officer	Open	None
Social Media and the Members' Code of Conduct	To receive an update in respect of social media and the Members' Code of Conduct	Monitoring Officer / Director of Communications & Interim Head of Democratic Services	Open	None

Key Decision	Brief Outline	Responsible Officer	Open / Exempt Report	Consultation undertaken prior to Decision being made?
Local Resolution Process For Town and Community Councils – One Voice Wales – An oral update	To receive an oral update following consideration of the One Voice Wales Local Resolution Process at the Community Council Liaison Committee held on 25 th September 2018	Monitoring Officer	Open	Community Council Liaison Committee meeting - 25.09.18
Public Services Ombudsman For Wales – Annual Report and Letter 2017 - 2018	To provide Members with a summary of Code of Conduct matters as set out in the Ombudsman's Annual Report and Letter to this Council 2017 – 2018	Monitoring Officer	Open	None
Adjudication Panel For Wales – Revised Sanctions Guidance	To provide Members with information in respect of the revised Sanctions Guidance published by the Adjudication Panel For Wales	Monitoring Officer	Open	None

MARCH 2019

22.03.19

Standards Committee Annual Report 2018 - 2019	To consider a draft Standards Committee annual report for the Municipal Year 2018 -2019	Monitoring Officer	Open	None
Members' attendance at Meetings – An update	To receive an update on the current position regarding the recording of Members' attendance at meetings	Director of Communications & Interim Head of Democratic Services	Open	Democratic Services Committee, Standards Committee & Full Council
Review of Gifts and Hospitality Policy and associated Register	To receive a report concerning a review of the Council's Gifts & Hospitality Policy and associated Register	Monitoring Officer	Open	Staff consultation/questionnaire
Review of Unreasonably Persistent Customer Policy	To review the Council's Unreasonably Persistent Customer Policy in accordance with the Committee's monitoring role	Monitoring Officer	Open	None

Key Decision	Brief Outline	Responsible Officer	Open / Exempt Report	Consultation undertaken prior to Decision being made?
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MISCELLANEOUS

(the following items to be considered as and when appropriate / necessary during the Municipal Year)

Dispensation Applications	To consider applications for dispensations made in accordance with The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001	Monitoring Officer	Open	
Local Resolution Protocol – Standards of Conduct To Be Followed By Members	To consider complaints made under Stage 2 of the Local Resolution Protocol	Monitoring Officer	Open	
Public Services Ombudsman For Wales – Code of Conduct Casebook	To provide information in respect of the quarterly publication of the Code of Conduct Casebook by the Public Services Ombudsman For Wales	Monitoring Officer	Open	
Public Services Ombudsman For Wales – Members Code of Conduct Complaints	To consider any allegations that a Member has failed or may have failed to comply with the Members Code of Conduct contained in a report of the Public Services Ombudsman For Wales undertaken under Section 69 of the Local Government Act 2000	Monitoring Officer	Open	
Review of Standards Committee Member's Training Needs	To consider any requirements in respect of Committee Members' training needs	Monitoring Officer	Open	



CLILC • WLGA

Social Media

A Guide for Councillors



Contact

Welsh Local Government Association

The WLGA's primary purposes are to promote a better local government, its reputation and to support authorities in the development of policies and priorities which will improve public service and democracy.

It represents the 22 local authorities in Wales with the 3 fire and rescue authorities and 3 national park authorities as associate members.

Welsh Local Government Association

Local Government House

Drake Walk

Cardiff

CF10 4LG

Tel: 029 2046 8600

www.wlga.wales

We are indebted to the officers and members who have contributed to this guide, particularly in Denbighshire, Flintshire County Council on behalf of North Wales Local Authority Emergency Information Team Chairs. Lawyers in Local Government, the Heads of Democratic Services, Chairs of Democratic Services Committees, the MSO and Lead Members Network, guidance from the LGA and Scottish Improvement Service and The Office of the Welsh Language Commissioner. Also, to Kevin O'Keefe, then of Excelsa Interim Management & Consultancy Ltd, who contributed to the 2013 first edition of this guide.

Contact Sarah Titcombe – Policy and Improvement Officer for Democratic Services.
029 2046 8638 sarah.titcombe@wlga.gov.uk

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Introduction

Social media is changing the world.

It is changing the way we communicate, the way we receive our news and, increasingly, the way we think about ourselves and others. Social media is transforming politics too; it makes politicians and public institutions more accessible, allows individuals to have their voices heard and helps share ideas or promote campaigns, potentially to millions, in an instant.

It is a powerful tool that can do much good but, in the wrong hands, can cause harm too. The growth of online abuse or trolling is a concern, as is the mounting evidence that organisations or even foreign agencies can exploit social media or use 'fake news' to influence public opinion or even affect democratic contests¹.

Social media's influence is growing, not only are the number of active users increasing but it is also being used more effectively as a medium to communicate, engage and mobilise.

Social media has therefore become a vital tool for councils and councillors to inform and engage with the communities they serve.

Many councillors already use social media and many more are thinking about using it. As a councillor, there are additional things to consider when using it, including the Code of Conduct and managing expectations and workload.

This guidance offers advice for those councillors who are new to social media and some tips for those already using it. Social media is rapidly evolving, so this guidance offers a general overview, some key pointers and principles and references to step-by-step resources online.

¹ <https://www.bbc.co.uk/news/uk-39830727> and <https://www.bbc.co.uk/news/world-us-canada-41355903>

1. What is social media?

Social media is a vast blanket term applied to a range of online multimedia tools; in short, social media allows you to communicate, broadcast or publish to millions in an instant, usually for free and all from a small device in the palm of your hand.

Social media can be set up and accessed via your smartphone, PC, laptop, tablet or smart TV. Social media applications (apps) or platforms allow you to communicate (either with individuals, specific groups or everyone), share information, share photos, create, edit and share audio or videos and play games with others.

Councils now use social media as a matter of course to communicate and consult with their residents who now expect this to be another communication channel, especially for urgent information. Council Twitter feeds include information on community events, school and road closures, job vacancies, sporting events and consultations, as well as details and, occasionally, detailed accounts of council meetings, including links to webcasts. Council scrutiny committees may also be using social media to promote and consult on their activities and undertake service reviews, such as in [Monmouthshire](#) and [Swansea](#).

Although there are some risks to using social media, which will be covered later in this guide, social media can be fun and innovative and can be used as an alternative method of communication and engagement, it can also break down barriers and stereotypes. Councils and other public bodies have used it for positive public relations, for example, it is worth looking at Swansea's [Faces of Swansea](#) social media campaign or the Twitter account [Love the Lagoon](#), or Torfaen's '[In the Depot](#)' video.

Some councils [have asked the public to name snow ploughs](#).

We have social media to thank for [Boaty McBoatface](#)!

Social media has a massive reach and some individuals (typically celebrities or national politicians) have many millions of followers. Social media is growing in usage too, an Office of National Statistics survey in 2017² showed that 66% of people in the UK had used social media in the last 3 months. It's not just younger people who use social media, further research by the ONS showed that that there is significant use across all age groups:

²<https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/adhocs/007401socialnetworkingbyagegroup2011to2017>

Age	16-24	25-34	35-44	45-54	55-64	65+	All
%	96	88	83	68	51	27	66

According to Ofcom³, in 2017:



84%
OF WELSH HOUSEHOLDS
HAD ACCESS TO THE
INTERNET



74%
OF ADULTS USED
A SMARTPHONE



21 Hours
ON AVERAGE SPENT
ONLINE EVERY WEEK BY
WELSH INTERNET USERS

Facebook and Twitter are the most widely used social media platforms and therefore the most relevant to councillors. According to Twitter⁴, and Facebook⁵ there are:



AN ESTIMATED
17.1m
TWITTER USERS
IN UK



30m
FACEBOOK USERS IN THE UK
ON MOBILES ALONE...
AND OVER 2.20bn MONTHLY
ACTIVE USERS WORLDWIDE

This guide will therefore focus on Facebook and Twitter for councillors, and will touch on other platforms too.

³ https://www.ofcom.org.uk/_data/assets/pdf_file/0027/104985/cmr-2017-wales.pdf

⁴ <https://www.statista.com/statistics/271350/twitter-users-in-the-united-kingdom-uk/>

⁵ <https://zephoria.com/top-15-valuable-facebook-statistics/>

Blogs

A blog (an abbreviation of “web-log”) is essentially an online journal with your latest posts appearing first. It can be a journal of diary entries, thoughts or ideas or somewhere to publish more detailed articles on particular issues. Anyone can add comments to your blog and you can use the site to link or draw attention to other online comments or sources of information. Blogs are most effective when they are regularly maintained and updated.

Blogs tend to be included as part of an existing website or via Facebook, which means it’s easier to promote and encourage broader feedback.

Some leaders or chairs produce blogs via their council websites, for example in [Caerphilly](#), [Rhondda Cynon Taf](#), and [Chairman of Denbighshire County Council](#).

Other councillors publish their own, for example:

- [Cllr Peter Black](#)
- [Deputy Lord Mayor of Swansea 2018-2019](#)
- [Cllr Neil Prior](#)

Keep at it!

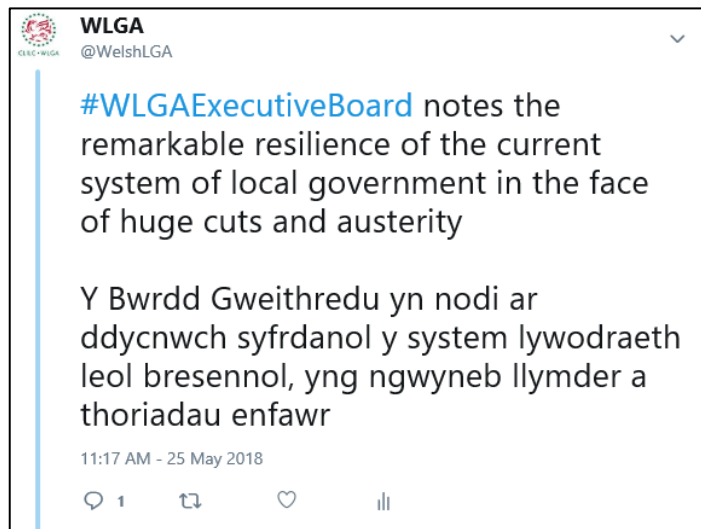
As with all social media, if you start blogging, it’s best to keep it up and keep it up-to-date; all it takes is for someone to find your last blog entry of some years ago and they can criticise you by saying ‘you have nothing else to say’ or ‘you have no new ideas’. If you do stop blogging, think about archiving the material or moving it over to a new social media platform.



Twitter is technically a micro-blog. Twitter allows you to post information, news, photos or videos in messages that are known as **tweets**. Twitter enables you to **follow** people, organisations, news or information that you are interested in and post information and messages of your own. People or organisations in turn can follow you, so they can see all of your tweets; you can even adjust the settings to allow you to be alerted when someone you’re particularly interested in tweets.

Tweets are each limited to 280 characters (characters include letters, numbers, punctuation and spaces). Tweets are not a private means of communication and can be seen by anyone who is following you.

For example:



You can **like** or **retweet** information and someone else's tweets that you would like to pass on to others. For example:



Conversations on the same theme on Twitter are called **threads**. You can search for tweets on a subject that you are interested in by typing your subject into the search box.

Tweets on the same theme are drawn together using **hashtags**. People use the hashtag symbol (#) before a relevant keyword or phrase in their tweet to categorise those tweets and help them show more easily in a Twitter search. Clicking on a hash tagged word in any message shows you other Tweets that include that hashtag.

You can have a private conversation or create a group conversation with anyone who follows you by using the **Direct Message** option. Anyone you do not follow can also send you a Direct

Warning

As a politician, others may consider your tweets 'fair game'. A good rule of thumb is not to commit anything to social media that could at some point be used against you. Even your retweets can be perceived as something you endorse or support.

As with emails, although Direct Messages are private and you may trust the recipients, they can become public if leaked!

Here are some examples of councillors' Twitter accounts:

[@LeaderNewport](#)

[@CllrRobJames](#)

[@PeterFox61](#)

[@Cllrjuliefallon](#)

[@CllrSaif](#)

[@CllrFionaCross](#)

[@elinmwj](#)

[@DebbieWallice](#)

[@Alun_Williams](#)

[@CllrJoshuaPlaid](#)

[@CllrLisaMytton](#)

[@PriorNeil](#)

And some useful organisations:

[@WelshLGA](#)

[@LGAComms](#)

[@WelshGovernment](#)

[@WG_localgov](#)

[@AssemblyWales](#)

[@BBCWalesNews](#)

Message, if you have opted to receive Direct Messages from anyone or you have previously sent that person a Direct Message.

You can **block** or **mute** accounts on Twitter. Once an account has been blocked, those accounts cannot follow you and you cannot follow them. However, even those you have blocked can still access your account through a third party who follows you.

All the details about how twitter works and how you can set up an account can be found [here](#).



Facebook is the most extensively used social network in the world. Essentially, it allows you to easily create your own webpage or group, or an interactive newsletter about you, your life, your interests and friends.

Have a look at these councillors' pages

- [Councillor Neil Prior](#)
- [Councillor Dhanisha Patel](#)
- [Councillor Matthew Dorrance](#)
- [Councillor Steve Churchman](#)

And these authority pages:

- [Wrexham Council](#)
- [Isle of Anglesey County Council](#)
- [Blaenau Gwent County Borough Council](#)
- [Snowdonia National Park](#)
- [Flintshire County Council](#)
- [Vale of Glamorgan Council](#)

To use Facebook, you'll need to create a profile - a **Timeline** where you might add a photo, describe yourself, what you do and your interests. You can also describe your **Status** which would inform your friends about how you are feeling or what you are doing at any given time. You can update this as often as you like.

On Facebook, you can invite people to be your **Friends** and set different levels of access to your account. Some people can see all the information about you or you can make less detail available to others. You can also use Facebook to communicate with groups or individuals. People who find your page, comments or proposals of interest can **Like** you or your latest post, which encourages further use, and is a useful way of taking a straw poll of your ideas. People can also add a **Comment** on your post or **Share** your post on their own timelines.

You may wish to set up a Facebook page about your community, to promote events, announcements or your council activities; many councils and councillors do this and it can be a very effective method to engage and seek views from the community. You should be prepared to receive challenge and criticism however, as it is an open forum and not everyone will agree with your ideas or views; you can however set rules, moderate and edit other people's posts if their language or content is offensive or inappropriate.

You can also set up a Facebook group. When you [create a group](#), you can decide whether to make it publicly available for anyone to join, require administrator approval for members to join or keep it private and by invitation only.

You can send private notes to any "friend" you're connected with on Facebook; they can only be seen by the person to whom they're sent; Facebook's **Messenger** app is increasingly popular. You can also **'Live Chat'** on Facebook. This is a real-time conversation with any of your Facebook friends who happen to be online and signed in at the same time as you are.

Crucially, Facebook lets each user control who can see their personal information and what they post on the network. You can set the level of privacy for different categories of your information and posts and extend different levels of permission to different people who view your site. As a member you might want to differentiate between what you show your close friends and family and members of the public. Find out more and join Facebook [here](#).



WhatsApp is a free messaging app which also allows you to have traditional 'phone conversations'. It is very popular as it allows you to set up groups of friends or colleagues to keep them updated on a particular theme. It may be a quick and easy way, for example, of keeping your political group up to date on key issues. You can download the app from various app stores or visit [the website](#).



YouTube is a video sharing platform. Videos are easy to record via a smartphone and are more easily distributed via Twitter or Facebook, however, some people prefer to use YouTube and it is increasingly being used by councils to post information. Here are some examples:

[Cardiff](#)

[Conwy](#)

[Gwynedd](#)

[Monmouthshire](#)

[Powys](#)

2. Why you may find social media useful

Social media will allow you to open new conversations with the people you represent, and the potential for councillors using social media is huge. Social media allows you to be innovative and responsive as well as providing links to useful sources of information or sign-posting to other organisations.

Don't ignore social media – it's there and won't go away! People are already online and it's growing, and people increasingly expect their councillors to be contactable via social media. If you're not involved people may bypass you or may even 'talk about you' and you'll be missing out on a useful source of intelligence.

- It's a useful way of finding out what people are talking about locally, their concerns and interests.
- It's useful for finding out about breaking news, the latest research or publication or the latest policy announcements from political parties.
- It's a good way of making the electorate more aware of the work you do personally.
- It can help make you appear more human and down-to-earth! People often don't understand what councillors do and may have negative perceptions, but social media can give people a taste of your personal life and remind them that you are just like them, with similar interests – you do need to consider balance though and how much of your personal life you want in the public domain: for example - do you want strangers to be able to identify your family and friends?
- It's an effective way of coordinating campaigns, for example, mobilising support and interest and gathering followers, you can also allow campaign workers access to your Facebook account to post on your, or your campaign's, behalf to share the workload.
- It allows you to have a conversation with a range of people that you would never be able to physically meet and who do not traditionally seek out their local representatives.
- It allows for immediate communication. You can pass on information and receive opinions in minutes. You can forward information from other people equally quickly. "Going Viral" refers to a mass spreading of a piece of information around the world – but be careful, only share information you are confident is correct, Fake News is damaging and there is the risk of defamation if you spread falsehoods.

- The local and sometimes national press will follow councillors on Twitter or Facebook. Social media is a growing source for stories for news outlets as each tweet or comment is effectively a mini-press release. Journalists will know what you are talking about the minute you talk about it.
- Social media is mobile. You can take it around your community, on the train, or to a coffee shop. You can upload pictures and videos, showing for example your role in local events, pictures of potential sites for development, new buildings, local eyesores - a picture tells a thousand words.
- It's free and you probably already have the equipment you need. All you need is time.
- You can receive immediate feedback on your ideas and manifesto to allow you to modify your proposals in line with local thinking.
- Above all, it can be a lot of fun!

What are the drawbacks?

- Having a social media presence means that people can contact you 24/7. This is great in terms of accessibility but means that they may expect you to reply immediately. Technology and social media has raised expectations, people often expect a speedy response and resolution to their query; this expectation, coupled with the fact that social media shows everyone how responsive you are, can create more pressure.
- Using social media can become addictive, many people find themselves answering messages late into the night because they just can't put it down.
- Similarly, too much weight can be given to what goes on in the 'Twittersphere'; sections of Twitter are often described as 'echo chambers' – it may only be a couple of people with a limited number of followers with strong views on a subject who are 'bouncing' off each other – they may be in the minority and not be representative - the rest of the community or the rest of society may be blissfully unaware or may not think in the same way!
- People can post false information, insults or messages that you would not want to be associated with on your social media platforms. These can be spread rapidly via social media.

- Some people say things via social media that they would not say to your face, it's an easy way of taking personal pot shots at councillors. People making these comments are often called 'Trolls' and may not be interested in facts, just in attacking you.
- Councillors, and in particular women councillors, are increasingly the subject of online abuse, bullying and harassment on social media.
- The WLGA has produced a [separate guide](#) on how to deal with online abuse.

It's easier said than done, but try not to get too concerned about what's said online...

You are likely to receive criticism at some point and trolls may try to rile you, but often they will have few followers and their comments may not be seen by many people. Keep calm and the best advice is to ignore, often trolls will crawl back under their bridge...if it does get serious, you can report it

Are you controlling your social media use or is it controlling you?

Recent research has recognised that some people feel out of control in their use of social media⁶.

Ask yourself how comfortable you feel if you cannot access your social media accounts. It is important for councillors to bear in mind that even if the rest of the world seems to be online 24/7, you don't have to be. Being a councillor is a professional role and you can decide how available you want to make yourself. There are some common recommendations for managing your time in front of a screen and you may want to consider some of these:

Top tips to manage social media use

- Establish a routine, check your messages at the same time every day rather than responding to the 'ping' of every new message arriving
- Looking at a screen can disrupt your sleep patterns, consider turning off all screens two hours before going to bed and make the bedroom a screen free zone
- When you are with your residents face to face, give them your undivided attention to help you focus on what's happening where you are and not appear rude.

⁶ <http://www.bbc.com/future/story/20180118-how-much-is-too-much-time-on-social-media>

3. Getting started

A good place to start is to contact your Democratic Services officers and find out what support and training is available.

Choose your medium and sign up. Signing up is very straightforward and will take you less than five minutes! Facebook and Twitter are good places to start.

If you don't already have an account, ask a colleague, friend or family member for advice, ask them to show you how they use social media. You might want to begin with a trial personal account (rather than calling yourself "Councillor Jones") and experiment with family and friends. Make sure that you understand how people find you and who can access your material.

Remember:

On Facebook you can control who has access to different parts of your account. You can manage what the world sees and what your "friends" see.

On Twitter the whole world can see everything you tweet. You can '**Protect my Tweets**', which essentially makes your tweets private to only your current followers, but that defeats the object of using Twitter to engage more widely.

When you are ready to set up your final account, consider the identity you use. The name you give yourself online is important as it allows people to find you. Prefacing your Twitter account with Cllr lets people know exactly who you are and indicates that the Code of Conduct will apply.

Consider:

- Different councillors have different views, but you might want to consider setting up a separate personal and "councillor" account, at least at first - you can talk about the amazing food in the restaurant around the corner to your friends and followers in your informal account, and the plans for the new bypass to your friends and followers on your councillor account.

Separate accounts can help you manage some of the online trolling that is likely to come your way as a councillor – it can be a way of keeping your home life and councillor life separate.

However, many councillors think that some of their personal comments about food, places they've visited, football matches or TV helps break down perceptions of councillors and proves that they are normal like everyone else!

- Make it easy for people to find you online. Many people will start their search for the area that you represent, so make sure you mention your location frequently as this will then be picked up by search engines. You will also want to make sure that your social media account details are on your business cards, posters and flyers.
- Increase your social media following by following other people, retweeting other people's tweets, liking tweets or posts or commenting on people's Facebook posts. Find people on Twitter with links to your community, county or region or with similar interests by searching using the 'hashtag' (#) symbol to prefix your search term for example #llandrindod, #powys #midwales.
- Reach more people on Twitter by timing your tweets when the audience you want to reach are online. Ask your friends for a retweet, use hashtags and include photos for a larger and more noticeable post.
- Be disciplined about making time available to write new content and answer your "friends" and "followers" at a regular time each week to update your Facebook status and throughout the day to check Twitter. If you use your mobile phone, you can set notifications to alert you each time you are mentioned in a tweet.
- If you do not want to be available every hour of the day or night, tell people when your account will be checked, for example you might add "available 9.00-7.00 weekdays" on your profile.
- Decide on what you are going to talk about and how. This could be
 - Weekly updates of your own activities as a councillor - don't forget your pictures! This works better on Facebook as you can include more detail. Remember a tweet is only 280 characters and tends to be more instant and timely.
 - Regular updates on council policies and actions of interest to your community.
 - Links and re-tweets of other relevant national activities.
 - Issues on which you would like feedback.
 - Notice of events and public meetings.

- Using social media is all about two-way communication, it's good for providing information to your community or flagging up press statements, but it's better as a tool to get useful feedback. You will get feedback and you should expect some people to challenge your ideas or enter into a debate with you online. This is part and parcel of social media.
- Keep your communications clear, positive, polite and professional. Plain language helps. Many people use abbreviations on Twitter – you'll pick these up as you go along!
- On Facebook, you will need to monitor and, if necessary, censor the contributions that other people make to your page; or group and delete them if they do not match your required standards of behaviour or language. Defamatory and offensive language could be attributed to the publisher (that's you!) as well as the original author and could incur financial liability. It is up to you to decide if you want to remove posts that disagree with your political position, however if you do remove them you may be accused of censoring contributions on political grounds.
- It is up to you to decide if you want to remove posts that disagree with your political position, however if you do remove them you may be accused of censoring contributions on political grounds.
- Bear in mind that constituents may find party political point scoring tedious and prefer to hear information about what you are achieving.
- If appropriate, consider setting up an account for your ward with your fellow ward members – this way you can share the administrative tasks.
- If you don't have anything to say...don't say anything. Even though it's tempting to let your followers know how busy you are they will soon become bored with constant updates on your day without some relevant or interesting information.

Monitoring social media

It can be difficult to keep on top of what's happening online; people are posting and tweeting all the time and if you are following many people or organisations, social media can become 'noisy' and you could miss things of interest or significance.

A quick way to check up on things on Twitter is to visit the Twitter page of some of your favourite people, organisations or news outlets to see what they've been saying. You could also search for a particular theme or issue with a hashtag#.

If you're keen to find out what people are saying about you, your local area or local council for example, there are social media management applications that you can use such as [Hootsuite](#) or [Buffer](#). These are simple to set up and use and can allow you to see how often people read or retweet your tweets. It also allows you to schedule tweets, for example, to send a pre-prepared tweet at a certain time of day.

The Welsh Language

As a councillor you will want to use and promote the Welsh language and culture as much as possible. There are also legal requirements which apply to the use of the Welsh language on social media. How these rules apply, depends on the type of work you are doing and which of the Welsh Language Standards apply to your local authority.

When you are representing your local authority, the same standards will apply to you as they do to officers. So, if you are, for example, a cabinet member tweeting about a new policy decision, a mayor blogging about your recent activities on behalf of the council, the chair of a scrutiny committee undertaking a formal consultation on behalf of the committee or letting people know about the forward work programme of the committee, then you may be subject to the standards which apply to the officers in your authority.

This may mean that your communication, including responses to messages, must be translated and the content and format of the message must treat the Welsh language no less favourably than the English language. Your authority will provide you with guidelines for how your local Welsh language standards apply when you are representing the authority – if you are in any doubt, it's best to contact the council for guidance.

If you are acting in the capacity of a ward member, acting on behalf of individuals or communities then the same rules apply as if you were a member of the public. So, regardless of your role on the council, if you are tweeting about a local fete, commenting on a council decision in, for example, your role on a local pressure group, or retweeting a complaint about pot holes then you may communicate in the language of your choice.

The exception to this is when you are communicating in relation to an activity for which you are using council resources (beyond the standard remuneration and equipment provided to you as a member) for example council buildings for a community meeting.

Some of the [practical guidance](#) in the Welsh Language Commissioner's guide for businesses and charities about using Welsh on social media may be useful.

4. Staying safe and dealing with trolls

Some form of online disagreement and criticism is inevitable and, if you're not online, you or your policies may already be subject to debate without you. Disagreement and challenge is a key feature of democratic debate, however, online it can easily spill over into abuse or harassment.

You will therefore need to prepare yourself for some uncomfortable reading, which may cause some upset. You cannot prevent online abuse, but you can take control of how and whether you respond and, if it becomes serious, you can report it.

The WLGA has produced separate guidance on dealing with online abuse which you may find useful. You can read it [here](#).

Some advice

- **Take Control**

Decide for yourself and make it clear on your homepage what you expect from people who are engaging with you on social media. You might say, for example, that whilst you welcome an open and frank exchange of views, any inappropriate comments will be removed and that any comment which is libellous or threatening or becomes harassment will be reported.

- **Remember that you don't have to put up with abuse or harassment just because you are a political figure**

Be prepared to 'Mute', 'Block' or 'Unfriend' abusive users from your account or ask them to remove comments. If a comment crosses the line into abuse or harassment you can report this to Facebook or Twitter or even the police.

- **Respond or ignore?**

When faced with an abusive comment give yourself some time to decide whether to respond or ignore it. Trolls often have few followers or few followers of significance – if you reply it can lead to a tit for tat argument fuelling further confrontation and provides the troll with the "oxygen of publicity" or the satisfaction of seeing you riled. Chances are you'll have far more followers than the troll, so if you reply, all of your followers will be aware of the troll's original tweet. Ignoring the comment can lead to short term allegations of dodging an issue but may succeed in the long term.

Don't feed the troll!

- **Stay calm and polite**

Not every criticism is from a troll – sometimes a frustrated member of the public may be critical or angry with you initially on social media, particularly if they are trying to resolve a council service issue. If you respond constructively, their tone will change and they may even apologise or show you appreciation online.

Bear in mind that for every troll there will be many more legitimate and sensible followers. Think of them when you respond. One approach is to respond with facts only or to refer the troll to a longer factual statement about the situation or a set of “frequently asked questions” that you can post to pre-empt queries. You might want to invite the troll to a public meeting. They may find it harder to be abusive in public. You may also want to remind the troll that you are more than happy to have a political debate in your role as a councillor but that personal comments about you or your family are unacceptable.

The [Facebook](#) and [Twitter Help Pages](#) have full details about how to block users and how to report abuse

A Criminal Offence?

If someone sends threatening, abusive or offensive messages they may be committing an offence. If you receive a message which you consider falls into this category, do not respond to it, check out the guidance provided by the [police](#) and [CPS](#) and if appropriate report it.

5. Support from the council

A good place to start is to contact your Democratic Services officers and find out what support and training is available

Councillors are generally provided with the ICT equipment that they need to do their job. The Independent Remuneration Panel expects that this will include equipment, support and training.

It is also reasonable to expect that you should have access to social media sites via council ICT equipment to enable you to carry out your councillor role more effectively. You do not need the council to set you up with a personal social media account, but you should take advantage of any training or guidance provided to help you use it properly.

Most councils have a social media policy. You will need to abide by this and any social media protocols that may have been agreed when using your "councillor" account.

It's worth remembering that the council is responsible for any information provided on its website and is subject to legal responsibilities. **You** are personally responsible for the material that you broadcast via your own social media accounts or websites – but more of this later.

Advice will be available to you from a number of council officers. The Monitoring Officer, Head of Democratic Services, the Communications Team and the ICT Manager are likely to have useful advice.

Using social media in an emergency

During emergencies (such as severe weather events, pollution incidents or major fires) partner agencies such as local authorities, police, health, Natural Resources Wales and fire and rescue services will use social media to provide information to help people prepare, keep them informed and to signpost where they can get help.

It's important during these situations that the most up to date and correct information is communicated to the public and the partner agencies will coordinate the content and timing of the information to be provided.

In an emergency situation, the council will also identify an official spokesperson - an officer or a senior member - who will use the approved information to speak on behalf of the council.

It's always best in these circumstances to restrict your own social media activity to sharing official communications from the partner agencies responding to the situation.

For more information about how your council operates in these circumstances please contact your council's civil contingencies team so that you know what to do in an emergency.

6. Social media and council meetings

Your council's social media policy and/or council constitution will provide you with guidance about if and when you can use social media during council meetings. Other than what your constitution or social media policy says, there is no legal reason why you shouldn't use social media during meetings. However, some common sense does need to apply.

Tweeting on meeting progress and receiving comments from the community can be helpful for transparency and engagement BUT excessive use of Twitter may give people the impression that you are not concentrating on the business in hand or are even relying on guidance from outside the meeting. For that reason, it is probably sensible not to use Twitter during a planning or licensing debate. Committee chairs may want to decide how to address this in their meetings and you should abide by the rules set out in your constitution.

Many politicians tweet their contributions or questions to meetings or debates to keep their followers informed of how they're representing their communities' interests. Remember, you may not need to tweet about the detail of a meeting if the meeting is being webcast. Your council may have official" twitter feeds for live on-line conversations to run alongside the meeting webcast.

Remember that you should not tweet or communicate in any way the content of exempt or confidential business dealt with by local authorities in closed session such as when making formal appointments.

7. Golden rules

- Think before you tweet or post on Facebook. Do not say anything, post views or opinions that you would not be prepared to:
 - Discuss face to face with the person you are speaking about.
 - Write on a placard and carry down your high street and discuss and defend with anyone who sees it.
 - Be prepared to have minuted in a public meeting – remember, Twitter or Facebook effectively publicly minutes everything for you as you go along!
- Remember that once you have said something it may be seen by millions - friends, supporters, political opponents and the press and could be re-tweeted around the world in minutes.
- Keep your messages professional, polite and positive.
- Remember to try to keep tweets and texts separate – many people tweet comments that they would have texted to someone privately before the advent of social media; this may be about meeting up later (do you want all your followers knowing your plans and gate-crashing your lunch!?) through to 'in' jokes or banter that could be misinterpreted.
- Exercise discretion when choosing who to follow on Twitter or 'befriend' on Facebook, for example, some council employees might find it a bit uncomfortable or inappropriate to have a councillor hanging on their every word. If you follow or are Facebook "friends" with council employees, contractors who have been procured to provide services to the council, a company or member of the public making a planning application or pressure groups, this might be construed as having a close personal association with them and therefore a personal interest.
- If you make a mistake admit it. Mistakes happen so don't try to cover it up as there will always be a record of what you've said.

Warning

Don't discuss casework on social media or encourage people to contact you about issues that might be personal to them.

Encourage them to use more secure channels.

- Don't tweet or post on Facebook when you are "tired or emotional"! It's probably sensible to turn off your phone at any time when you think your judgement may be impaired. Even if you exercise social media control, other people will still have their smart phones, so may post a photo or video of you 'enjoying yourself'; you need to let your hair down, but it's just one extra thing to consider as a councillor in the age of social media.
- As with your own leaflets or newsletters, ask permission before taking a picture that you intend to use. NEVER take photos of children without the express permission of their parents based on an understanding of what you intend to use the picture for. Your council will have a policy on taking pictures of children, take advice on this before taking or using pictures.
- Do not allow anyone else access to your social media accounts. Protect your passwords and use robust, unique passwords and change them regularly especially if you use a public or shared computer.
- Just like email, you can be hacked on social media! Be wary about direct messages via Twitter, even from people you know, with messages such as 'Hi, have you seen this photo of you on Twitter?' Delete these before opening, as the spam could then be sent to all of the people you are following. Do not open videos or links on, for example, Facebook Messenger if you are not expecting them. It could be a hack.
- If you had a social media account **before you were elected as a councillor**, it may be sensible to review your historical posts through the lens of your new 'political reputation' as well as the expectations of the code of conduct. You may have posted personal photos of social occasions, shared jokes, retweeted videos or made or re-posted political views that you may no longer agree with. If people see such historical posts, it may cause embarrassment or reputational damage not only to yourself but also to the council. It could even be referred to the Ombudsman as a potential breach of the Code of Conduct. Bear in mind that although you posted your comments before you were a councillor, your social media account is essentially still broadcasting them, and they may still be re-posted by other people.

THINK before you post; even if you later delete your post, someone may have already taken a screen shot.

CHECK before you share or retweet information. Is it true? Who said it and why?

Do you trust the source?

8. Keep on the right side of the law...

Councillors new to social media tend to be concerned about the legal implications. It is an important consideration, and some councillors and other politicians have fallen foul of the law, but with careful use and following some ground-rules you will be fine!

The style of communication employed in the social media environment tends to be fast and informal. Messages can appear lightweight and transitory.

Whenever you post something on social media, it becomes a publication, you have effectively made a broadcast. As it is now in the public domain, it is subject to both the **Code of Conduct** and to various **laws**.

Code of Conduct

If you conduct yourself on Twitter or Facebook as you would in person on the street or in your leaflets, then you will be fine.

Remember that according to guidance from the Ombudsman, the Code of Conduct applies to you 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" Also the Code applies if you "Conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute"⁷

If you can be identified as a councillor when you are using social media, either by your account name or how you describe yourself or by what you comment upon and how you comment, the requirements of the Code of Conduct apply. If you say something that could be regarded as bringing your office or authority into disrepute the Code applies even if you are not apparently acting in your official capacity or do not identify yourself as a member.

Remember that the 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"

⁷ <https://www.ombudsman.wales/guidance-policies/>

In the same way that you are required to act in council meetings or in your communities you should:

- **Show respect for others** - do not use social media to be rude or disrespectful
- Not disclose confidential information about people or the council
- **Not bully or intimidate others** - repeated negative comments about or to individuals could be interpreted as bullying or intimidation
- Not try to secure a benefit for yourself or a disadvantage for others
- **Abide by the laws of equality** - do not publish anything that might be seen as racist, sexist, ageist, homophobic, anti-faith or offensive to any of the groups with protected characteristics defined in the Equality Act 2010. Even as a joke or "tongue in cheek"

Predetermination

As a councillor, you are aware that when you act in a quasi-judicial capacity, for example on a planning or licensing committee, you should not make up your mind about an issue that is to be formally decided upon before you had heard all the relevant information. You are allowed to be predisposed to a particular view but not to have gone so far as to have predetermined your position.

It is important to remember therefore, that anything relevant you might have said about particular issues on social media could be used as evidence of your having made up your mind in advance of hearing all the relevant information.

Don't become a troll yourself!

Social media is a great tool for councillors to challenge and scrutinise, but always think about what you are saying, how you are saying it, how often and about whom. If you are perceived to be too aggressive or too confrontational or too frequent, it could begin to damage your reputation, undermine your relationship with colleagues or you could risk breaching the Code of Conduct in terms of bullying, intimidation or lack of respect for others.

It's therefore not appropriate for you to use social media to criticise your council's officers, who often will not be in a position to defend or respond publicly.

Many councils have apps or member referral services; it is often best to use these mechanisms to request council services or report local concerns as you are likely to receive a resolution to your request.

Criminal Offences

Don't panic! These generally apply to you already in your conduct as a councillor, but it is worth considering them as they apply to social media:

Harassment - It is a criminal offence to repeatedly pursue a campaign against someone where this is likely to cause alarm, harassment nuisance or distress.

Data Protection and the General Data Protection Regulation. - It is illegal to publish personal data about individuals unless they have given you their consent. This might apply to your constituents or service users. As a councillor you are a data controller in your own right and therefore personally responsible for what you publish. Make sure you understand the requirements of the GDPR and Data Protection Act. There is more information about this [here](#).

Contact the Data Protection Officer in your council for more information.

Incitement - It is a criminal offence to incite any criminal act.

Discrimination and Racially Aggravated Offences (or any other protected Characteristic) - It is a criminal offence to make a discriminatory remark about anyone based on a "Protected Characteristic" as defined in The Equality Act 2010 (such as their race, religion, sexual orientation etc).

Malicious & Obscene Communications - It is a criminal offence to send malicious or obscene communications.

Remember

If you receive a message or someone posts something on your page that you consider to be unsuitable remove it as soon as possible. If you "like" or appear to endorse or retweet a message or image you are regarded as having published it, and will face any legal consequences. It is therefore important to regularly check and moderate any site on which others can post. If you are in any doubt about how to deal with a message you receive, consult your Monitoring Officer.

Civil Law

This is where things get riskier for anyone who uses Twitter or Facebook, whether they are councillors, members of the public or celebrities:

Defamation - It is against the law to make a false statement about someone which damages their personal or professional reputation. **Crucially - even if you simply retweet or pass on information originally posted by others, you may still be held equally as responsible as the original commentator.** This can also apply to publishing images. If found liable to another person, you could be ordered to pay large sums of money as damages.

Copyright - The legal ownership of the contents of documents, photos, videos and music belong to the person who created them. You could be in breach of copyright if you reproduce such material without the owner's permission. Always ask for written consent before you use someone else's material.

Political Comment and Electioneering - Remember that although it is acceptable to make political points or canvass votes via your own social media accounts this will not be permissible if you are using this via council supplied computer equipment, certainly in the run-up to elections. The Electoral Commission has further information about the return on expenditure that candidates need to provide on advertising or campaign literature.

Beware of Fake News!

Social media is breeding ground for fake news or 'click bait' (where a deliberately salacious headline with a link tries to draw you in, often to a very mundane news item accompanied by lots of pop-up adverts); view all news or gossip with a discerning eye – it could be embarrassing if you retweet or promote fake news and, worse, you could be breaking the law if you circulate false statements about someone, even if you are just retweeting something someone else has posted.

9. Further information, interesting sites and sources of help

Bear in mind that information, sites and terminology change quickly. The next big social media platform will soon be on its way. Here are some current examples of information and useful sites but bear in mind that they may be quickly out of date.

Social Media websites

[Sign up to Twitter here](#)

[Sign up to Facebook here](#)

[Social Media Checklist for Councillors](#) (Local Government Association)

[#FollowMe - A guide to social media for elected members in Scotland](#)
(Scottish Improvement Service)

[Nextdoor](#) is a social network for neighbourhoods where people who live within the same or neighbouring communities can share information, organise events and take opinion polls. It's a useful platform for members to raise awareness and tap into what is interesting or concerning local residents.

10. Links

Here is a list of the links that were used in this guide:

Monmouthshire County Council - https://twitter.com/Mon_CC_Scrutiny

Swansea Council - <https://twitter.com/SwanseaScrutiny>

'Faces of Swansea Council 2018' Twitter campaign - <https://twitter.com/hashtag/facesofswansecouncil2018>

Love the Lagoon - <https://twitter.com/lovethelagoon?lang=en>

'In the Depot' campaign, Torfaen County Borough Council - <https://www.youtube.com/watch?v=G6UerjFCLdI>

Naming gritting lorries, BBC News - <https://www.bbc.co.uk/news/uk-england-south-yorkshire-42026485>

Public using social media to choose the name 'Boaty McBoatface', BBC News - <https://www.bbc.co.uk/news/uk-england-36064659>

Blogs

Caerphilly County Borough Council Leader's blog - <http://www.caerphilly.gov.uk/My-Council/Councillors-and-committees/Leader-s-blog>

Rhondda Cynon Taff County Borough Council Leader's blog - <https://www.rctcbc.gov.uk/EN/Council/TheLeadersBlog/RhonddaCynonTafCouncilLeadersBlog.aspx>

Denbighshire County Council Chairman blog - <https://denbighshirecouncilchairman.wordpress.com/>

Cllr Peter Black - <http://peterblack.blogspot.com/>

Deputy Lord Mayor of Swansea 2018-19 - <http://swanseamayoralmusing.blogspot.com/>

Cllr Neil Prior - <https://www.linkedin.com/pulse/year-county-councillor-surviving-thriving-elected-life-neil-prior/?published=t>

Councillor Twitter accounts

Cllr Debbie Wilcox - <https://www.twitter.com/LeaderNewport>

Cllr Rob James - <https://twitter.com/CllrRobJames>

Cllr Peter Fox - <https://twitter.com/PeterFox61>

Cllr Julie Fallon - <https://twitter.com/Cllrjuliefallon>

Cllr Saifur Rahaman - <https://twitter.com/CllrSaif>

CLlr Fiona Cross - <https://twitter.com/CLlrFionaCross>
CLlr Elin Walker Jones - <https://twitter.com/elinmwj>
CLlr Debbie Wallice - <https://twitter.com/DebbieWallice>
CLlr Alun Williams - https://twitter.com/Alun_Williams
CLlr Joshua Davies - <https://twitter.com/CLlrJoshuaPlaid>
CLlr Lisa Mytton - <https://twitter.com/CLlrLisaMytton>

Useful organisations' Twitter accounts

Welsh Local Government Association - <https://www.twitter.com/WelshLGA>
Local Government Association - <https://www.twitter.com/LGAComms>
Welsh Government - <https://www.twitter.com/WelshGovernment>
Local Government Section, Welsh Government - https://www.twitter.com/WG_localgov
National Assembly for Wales - <https://www.twitter.com/AssemblyWales>
BBC Wales News - <https://www.twitter.com/BBCWalesNews>

Councillor Facebook pages

CLlr Neil Prior - <https://www.facebook.com/cllrneilprior/>
CLlr Dhanisha Patel - <http://www.facebook.com/dhanisha4ogmore/>
CLlr Matthew Dorrance - <https://www.facebook.com/CLlrMatthewDorrance/>
CLlr Steve Churchman - <https://www.facebook.com/councillorstevechurchman/>

Local Authority Facebook pages

Wrexham Council - <http://www.facebook.com/wrexhamcouncil/>
Isle of Anglesey County Council - <http://www.facebook.com/IOACC/>
Snowdonia National Park - <https://en-gb.facebook.com/visitsnowdonia>
Flintshire County Council - <https://www.facebook.com/Flintshire-County-Council-124912774260207/>
Vale of Glamorgan Council - <https://www.facebook.com/valeofglamorgancouncil/>

Council YouTube pages

Cardiff Council - <https://www.youtube.com/user/cardiffcouncil/featured>

Conwy County Borough Council - <https://www.youtube.com/user/ConwyWeb>

Gwynedd Council - <https://www.youtube.com/user/CyngorGwynedd>

Monmouthshire County Council -

https://www.youtube.com/channel/UCZHCKKCI7DqtxDabOkj_Esg/featured

Powys County Council - https://www.youtube.com/channel/UCop_U-YVW7OB0jRIt3b8f1Q

Social media support pages

Facebook support pages - <https://en-gb.facebook.com/help/tools>

Twitter support pages - <https://help.twitter.com/en/safety-and-security/cyber-bullying-and-online-abuse>

Welsh Language

Welsh Language Commissioner guidelines on using the Welsh language on social media -

<http://www.comisiynyddygybraeg.cymru/hybu/SiteCollectionDocuments/Using%20Welsh%20on%20Social%20Media%20SA.pdf>

Guidelines

WLGA Councillors' Guide to Handling Online Abuse -

<http://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&mid=665&fileid=1504>

Police social media guidelines - <https://www.askthe.police.uk/content/Q770.htm>

Crown Prosecution Service guidelines on social media communications -

http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/

The General Data Protection Regulation - Information for Councillors, WLGA -

<https://www.wlga.wales/gdpr-information-for-councillors>

Local Government Association (LGA) social media guidelines -

<https://www.local.gov.uk/our-support/guidance-and-resources/comms-hub-communications-support/digital-communications/social-1>

Scottish Improvement Service Social Media guide for elected members -

http://www.improvementservice.org.uk/documents/elected_members/follow-me-guide-to-social-media-for-elected-members.pdf

Useful links for social media websites

Twitter - <https://twitter.com/>

Facebook - <https://en-gb.facebook.com/>

Nextdoor - https://nextdoor.co.uk/about_us/

WhatsApp - <http://www.whatsapp.com/>

Hootsuite - <https://hootsuite.com/>

Buffer - <https://buffer.com/>

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Councillors Guide to Handling Online Abuse

March 2018



Social media has become a powerful tool for councillors, helping them to engage with communities, raise awareness of community issues, events, or council initiatives and to seek views and receive feedback.

Social media however has its darker side; online abuse and bullying or 'trolling' has reached record levels and politicians, particularly women, are often the target of unacceptable, unpleasant and, sometimes, threatening online abuse.

“Abuse of public servants is unacceptable and the online abuse of councillors should not be tolerated”

The abuse of public servants is unacceptable and the online abuse of councillors should not be tolerated. Councillors are committed individuals who invest a huge amount of time, energy and emotion into serving their communities and the public. Councillors do not often receive thanks or recognition for their efforts, but they should not expect abuse and harassment.

Being a councillor can be a challenging and often vulnerable role. In the era of austerity and cuts to public service funding, the Cabinet Secretary for Local Government Alun Davies AM recently recognised that ‘...the most difficult job in politics in Wales today is that of a councillor’. Councillors often take difficult or controversial decisions, which may affect the communities in which they live; councillors are local, accessible and visible and can therefore be subjected to personal challenge, criticism or, worse, abuse.

Elected politicians in general are increasingly subject to personal abuse and threats; these issues were explored and several recommendations were made in the December 2017 Report of the Committee on Standards in Public Life Review into ‘Intimidation in Public Life’.¹

In February 2018, Prime Minister Theresa May MP announced that the UK Government intends to consult on making it an offence in electoral law to intimidate candidates and campaigners². Politicians will continue to take a personal and collective stand in challenging intimidation, however until a change in law, candidates and politicians will unfortunately have to continue to seek support from colleagues in managing or reporting any abuse.

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/666927/6.3637_CO_v6_061217_Web3.1_2_.pdf

² <https://www.gov.uk/government/speeches/pm-speech-on-standards-in-public-life-6-february-2018>

Online abuse is an unfortunate feature of modern society and it is difficult to prevent in the age of social media. Online abuse is on the increase; the overall number of ‘malicious communications’ recorded by Welsh police forces more than doubled in 2015, to 2,915 reports of cyberbullying, trolling, online harassment and death threats³.

Concerns about online abuse of councillors are growing⁴ and several councillors who stood down at the 2017 elections did so due to general abuse from members of the public.

“Challenge and scrutiny is a key part of democratic accountability and should be welcomed; but it should remain constructive and courteous”

Challenge and scrutiny is a key part of democratic accountability and should be welcomed; but it should remain constructive and courteous. Some residents may feel frustrated about an issue or wish to raise a legitimate complaint; but it should be polite and respectfully raised.

Occasionally such instances can cross the line but can be managed as they are well-intentioned; other instances however can be malicious and vexatious.

Online abuse is sadly likely to be an inevitable downside of being a councillor, so it is important that councillors prepare themselves and consider the steps they can take to manage, minimise and respond to any incidents.

“Councillors need to be particularly careful about what they post online themselves”

Councillors need to be particularly careful about what they post online themselves. Councillors are expected to uphold the highest of standards and are subject to a statutory code of conduct. Councillors should therefore ensure that what they say and how they say things online do not cause undue distress or upset to members of the public or other councillors. The WLGA has produced a separate [Social Media Guide for Councillors](#) which outlines the “Dos and Don’ts” of social media and the legal and code of conduct risks (and protection) for councillors.

Some unsympathetically say that politicians should ‘grow a thicker skin’ and whilst it is true that councillors do have to prepare themselves for likely abuse and sometimes the best approach is to ignore it if you can, there are some approaches you can take, social media companies and, ultimately, the law are all on your side.

“Social media companies and, ultimately, the law are on your side”

³ <http://www.bbc.com/news/uk-wales-41729206>

⁴ <http://www.bbc.co.uk/news/uk-wales-41263983>

Your response to a particular online post or to a repetitive troll however requires personal judgement, circumstances will vary and each post may require a different response depending on the nature and subject matter of the message, the history of the individual and so on.

This guide provides advice on how to manage or report online abuse or harassment and points you in the direction of online resources⁵ which will guide you through the process of blocking, unfriending, muting, hiding or reporting online posts.

In summary, if you don't like a social media comment you might choose to ignore it or challenge it but if a social media comment is libellous, threatening or becomes harassment, you can take action and report it.

If you are concerned about any social media activity, you may wish to seek the advice of your Monitoring Officer in the first instance; should you wish to seek other support you may wish to approach the Head of Democratic Services or other councillors in your group or in your ward.



Tackling abuse on Twitter™

1. “No tit for tat on twitter”

No matter how tempting it might be, entering a ‘tit-for-tat’ debate with a troll is a risky approach. You are unlikely ever to have the ‘last word’ and trolls, like all bullies, seek attention and are looking for a reaction; a response may just fuel them further.

“Shall I put you down as a ‘Maybe’ then?”

Humour and sarcasm can sometimes work: one councillor who received unpleasant abuse from a troll during the local elections succeeded in silencing the troll by responding: ‘Shall I put you down as a ‘Maybe’ then?’

Sometimes it can work and it can certainly make you feel better, but it may end up encouraging a more vitriolic and prolonged response and sarcasm does not always translate well on social media, so you may confuse or offend some of your normal followers as a result.

It is also more than likely that you will have many, many more followers than the troll will. Most trolls have few followers and many of them may be sympathetic to the troll's opinions and style. If you do decide to react and reply to a troll's tweet, all your many hundreds or thousands of followers will see the troll's original tweet and you will just help spread the

⁵ Links to resources are embedded in the text but are also included in footnotes, should the reader be using a hard copy version.

troll's abuse, allegations or misinformation on his or her behalf. On balance, it is probably not worth giving the troll the oxygen of publicity.

2. Whistling in the wind?

Check to see if the troll has many followers and who those followers are. As noted above, the chances are that a troll will have few followers. If that's the case, no matter how concerning the comments made it is likely that few people (and few people you care about) will have seen them.

3. Your right of reply

If a troll has posted some inaccurate information about you or the council, you may of course wish to set 'the record straight'. You should balance up the risks and likely success of this approach and, if the information is libellous, you may wish to receive legal advice or follow up through alternative routes.

4. Move the tweet into a different domain

If the tweet is a complaint about a council service, ask for contact details and pass the information to officers to follow-up on. Inform the individual that this is the course of action you are taking. This may help defuse any tensions.

5. Take a record of the abuse

If you have received online abuse, even if you are not overly concerned or if you intend to ignore it, you should consider keeping a record should any incidents escalate in the future. You can simply 'screen shot', 'clip' or 'snip' tweets on your phone or computer. You may also decide to warn the troll that you are keeping a record of all messages and may refer them to the appropriate authorities, which may scare them off posting further comments or might encourage them to delete them.

6. Dealing with defamation

In addition to taking a record, if you believe that a tweet defames you (i.e. a false statement that could harm your reputation) there are several options you may wish to take. You may contact the individual initially to request that the tweet be deleted; some individuals may have made a mistake without malice and will remove their post immediately. Depending on the nature of the tweet and the number of followers who may have viewed the tweet, you may wish to seek a correction and/or an apology.

If this approach is unsuccessful or where a defamatory tweet causes serious concern or is part of a concerted campaign, you may wish to issue a 'notice and take-down' letter via your solicitor; although you may not have the intention of proceeding further, the threat of legal action is often a powerful deterrent and can prompt a swift and successful resolution. You may wish to seek informal advice from your Monitoring Officer, but a Monitoring Officer is unlikely to be able to become involved unless the defamer is another elected member (in which case it may be an alleged breach of the Code of Conduct).

7. Mute or Block Trolls

You may wish to unfollow, mute or even block a troll or someone who is persistently tweeting you. Guidance about to mute and block is available from Twitter, but in summary:

Muting⁶ allows you to remove an account's Tweets from your timeline but does not go as far as unfollowing or blocking the account. Muted accounts will not know that they have been muted and you can 'unmute' them at any time.

Blocking⁷ allows you to restrict specific accounts from contacting you, seeing your Tweets or following you. Unlike muting, trolls can find out that they have been 'blocked' and may accuse you of avoiding their scrutiny; this may be a small price to pay if their behaviour is checked and can be easily rebutted if necessary.

According to Twitter, blocked accounts cannot:

- Follow you
- View your Tweets (unless they report you, and your Tweets mention them)
- Find your Tweets in search when logged in on Twitter
- Send Direct Messages to you
- View your following or followers lists, likes or lists when logged in on Twitter
- View a Moment you've created when logged in on Twitter
- Add your Twitter account to their lists
- Tag you in a photo

8. Report the abuse to Twitter

Twitter itself promotes 'Rules' encouraging constructive debate but it explicitly prohibits behaviour '...that crosses the line into abuse, including behaviour that harasses, intimidates, or uses fear to silence another user's voice.'⁸

⁶ <https://support.twitter.com/articles/20171399>

⁷ <https://support.twitter.com/articles/117063>

⁸ <https://support.twitter.com/articles/18311?lang=en#>

If tweets are so offensive that you believe they violate Twitter's rules, you can report them to Twitter who may decide to take action. For further information about how to report 'violations' visit Twitter's [How to report violations](#)⁹ page.

9. Report the abuse to the Police

If someone sends threatening, abusive or offensive messages via any social networking site, they could be committing an offence. The most relevant offences are 'harassment' and 'malicious communications'.

According to the Police, harassment means a 'course of conduct' (i.e. two or more related occurrences) and the messages do not necessarily have to be violent in nature, but must be oppressive and need to have caused some alarm or distress.

An offence relating to malicious communications may be a single incident, but for an offence to have been committed, a message must be indecent, grossly offensive, obscene or threatening or menacing.

The Police advise that you may wish to initially report the matter to Twitter, but if you wish to report either of these alleged offences to your local police force, you should not respond to the message as it may encourage the sender and make the situation worse. The Police also advise that you take a screen shot of the message so if it gets deleted later there will still be a record of what was said.

Further information about social media and criminal offences is available via the [Police](#)¹⁰ and [Crime Prosecution Service](#)¹¹



Tackling abuse on FacebookTM

You can take a similar approach to responding to abuse and harassment as you would to Twitter or any other social media platform; you need to weigh up whether it's best to ignore, respond, refer, take legal advice or report any incidents.

That said, Facebook has slightly different '[Community Standards](#)'¹² and alternative methods of dealing with complaints.

⁹ <https://support.twitter.com/articles/15789#>

¹⁰ <https://www.askthe.police.uk/content/Q770.htm>

¹¹ http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/

¹² <https://www.facebook.com/communitystandards#attacks-on-public-figures>

You are also more likely to encounter community or campaign groups or pages which facilitate scrutiny of you, fellow councillors or your local council and some have been set up specifically with that purpose in mind. Scrutiny and constructive challenge should be supported, but if these groups are not moderated effectively, they can provide a conduit for abuse and harassment.

Although Facebook encourages respectful behaviour and takes action to protect '[private individuals](#)'¹³ from bullying and harassment, it permits 'open and critical discussion of people who are featured in the news or have a large public audience based on their profession or chosen activities' but does take action around 'credible threats' and 'hate speech'¹⁴.

Responding to abuse or harassment

There are a range of options for you to manage abuse or harassment on Facebook and full instructions are available on the [Facebook help page](#)¹⁵:

- If you want a post removed from Facebook, you can ask the person who posted it to remove it.
- If you don't like a story that appears in your News Feed, you can [hide it](#).
- If you are not happy with a post you're tagged in, you can [remove the tag](#).
- You can leave a [conversation](#) at any time, though the other people in the conversation will be notified and you will no longer receive messages from the conversation.
- You can [unfriend](#) or [block](#) another user; they will no longer be able to tag you or see things you post on your timeline.
- If the post goes against Facebook's Community Standards you can report it to Facebook.

Responding to abuse or harassment in Groups or Pages

Scrutiny and constructive challenge should be supported, although both can provide a conduit for abuse and harassment from individuals or groups if they are not moderated effectively.

Your council may have a policy or tactic on communicating and engaging with such groups, particularly if they have been set up to criticise the council, so you should take advice from the council's communications officers.

¹³ <https://www.facebook.com/communitystandards#bullying-and-harassment>

¹⁴ <https://www.facebook.com/communitystandards#attacks-on-public-figures>

¹⁵ <https://www.facebook.com/help/408955225828742?helpref=search&sr=6&query=unfriend>

There is no right or wrong way with regards responding to a group or page which regularly criticises the council or councillors; some believe that it is beneficial to engage constructively, to explain, inform or signpost and hopefully improve awareness, understanding and support, whilst others are more reluctant as it will require emotional energy and time and the likelihood of successful engagement may be limited.

If you are concerned about comments or postings about you in a group or page, you can [report the post to the Group Administrator](#).¹⁶ If you are concerned about a group that is abusive and you think it has broken Facebook's Community Standards, you can [report the group to Facebook](#).¹⁷

Managing and moderating your own Group or Page

You may wish to set up your own personal, councillor or community page on Facebook. These are valuable platforms to promote local information, news, events or council developments or seek people's views on community or council proposals.

Members or the community and others can contribute and comment in an interactive manner and whilst most is constructive and uses acceptable language, some individuals may use bad language or 'cross the line' into abuse or harassment.

The use of bad language can sometimes be unintentional and if you are the group or page administrator you can politely rebuke the individual and advise on expected conduct and an apology is often forthcoming.

If you are a Group or Page administrator, Facebook provides you with a range of tools to manage and moderate other people's content or contributions to your Group or Page for more serious breaches of standards.

You can:

- Block certain words or apply a 'profanity filter' in the settings, this will stop such postings appearing in your page;
- Hide or delete comments, photos or tags; and
- Ban or remove someone from your pages.

Useful guidance and instructions are available on the '[Banning and Moderation](#)'¹⁸ section of Facebook.

Administering a large Group can be a lot of work, particularly if group members are active. If that's the case, you might want to share the responsibility with other councillors, friends or

¹⁶ <https://www.facebook.com/help/436113899837980?helpref=search&sr=1&query=report%20to%20admin>

¹⁷ <https://www.facebook.com/help/266814220000812?helpref=related>

¹⁸ https://www.facebook.com/help/248844142141117/?helpref=hc_fnav

trusted community members. Guidance on making other people administrators or 'moderators is available on [Facebook](#)¹⁹.

Tackling abuse on blogs

Blogs are a quick and easy way for members of the public or councillors to set up mini-websites to discuss and air views on matters of interest.

Occasionally, blogs may take an interest in local, community matters and some have been set up specifically to scrutinise the local council or councillors.

Whilst scrutiny is a key part of local democracy and accountability, on occasions, some blogs may make unfair comments or untrue allegations or may include abusive or threatening commentary. Unlike Facebook and Twitter, there are no 'community rules or standards' to moderate or challenge such content.

Depending on the nature of the comments, councillors therefore have several choices:

- Ignore the blog altogether and hope that few people read and become aware of the comments;
- Engage with the blogger and seek to assure, inform or correct the comments as appropriate. As with trolls however, this course of action may fuel and prolong the debate and abusive comments further; or
- If you are concerned that the blogger is harassing you, threatening you, spreading malicious communications or is defaming or libelling you, you may wish to record any evidence (e.g. take some screen shots) and seek further legal advice or refer the matter to the Police.

¹⁹ <https://www.facebook.com/help/148640791872225?helpref=search&sr=3&query=group%20admin>

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RHONDDA CYNON TAF

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

23 NOVEMBER 2018

PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2017-2018

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

To provide Members with a summary of matters pertaining to standards of conduct of County, Town and Community Councillors as set out in the Public Services Ombudsman for Wales' ('PSOW') Annual Report and Annual Letter to this Council for 2017-2018.

2. RECOMMENDATION

- 2.1 That the Committee notes the matters relating to Code of Conduct Complaints reported in the Public Services Ombudsman for Wales' Annual Report and Annual Letter to this Council 2017-2018.

3. BACKGROUND

- 3.1 The PSOW has published his Annual Report for 2017-2018 ('AR') pursuant to Paragraph 14 of Schedule 1 of the Public Services Ombudsman (Wales) Act 2005. The AR has been combined with the annual accounts for the PSOW as it was last year. The purpose of the AR is to report on the performance of the PSOW's office over the year, provide an update on developments and to deliver any key messages arising from their work carried out during the year.

- 3.2 The AR can be accessed via the PSOW website and the following link:

<https://www.ombudsman.wales/wp-content/uploads/2018/07/PSOW-Annual-Report-and-Accounts-2017-2018.pdf>

- 3.3 The PSOW also issues an Annual Letter (AL) to each Local Authority in Wales with a summary of complaints received by his office that relate specifically to that Local Authority. At the time of publication of the Agenda for this meeting the AL had not been published on the PSOW website and is therefore attached as Appendix 1 to this report.

- 3.4 The AR sets out the workload that has been dealt with by the PSOW during 2017-2018. It breaks the workload down into the number of enquiries received

and the number of complaints received, and also breaks down the complaints into those received about services (public body complaints) and those received in relation to Code of Conduct Complaints (CCCs). This report will highlight the data relating to CCCs only (issues arising from public services or the annual accounts section of the AR are beyond the scope of this report).

- 3.5 The number of CCCs has risen by 14% since 2016-17. The total number of complaints for the year 2016-17 was 236 and for 2017-18, 270. 42% of the complaints related to the promotion of equality and respect; 19% related to the failure to disclose or register interests; 16% related to integrity; 8% related to accountability and openness; and 7% related to failure to be objective or act with propriety. Of those complaints, 247 were closed (one less than last year) and 30 were investigated (down 32% on last year).
- 3.6 The 14% increase in CCCs is wholly due to an increase in complaints regarding Town and Community Councillors, which have risen 33% on last year.
- 3.7 Further statistical data is contained at pages 11 to 13 of the AR and detailed data at pages 21 to 23 of the AR. However, in general terms the nature of the complaints were weighted towards those around equality and respect, followed by failure to register or declare interests and then issues related to integrity, which mirrors the position last year.
- 3.8 The most common outcome of the complaints were that they were 'Closed after initial consideration.' Of the 247 complaints in 2017-18, the majority (213) were closed under this outcome. These include decisions where there is no 'prima facie' evidence of a breach of the Code and it is not in the public interest to investigate.
- 3.9 Fewer complaints were closed after full investigation in 2017-18 (26) than in 2016-17 (34). The AR states that this is because the PSOW continued to apply a public interest test when deciding whether to investigate CCCs and the PSOW will only investigate the more serious complaints where an investigation is required in the public interest.
- 3.10 In 2017-18 the PSOW received nine complaints which raised potential whistleblowing concerns about alleged breaches of the Code of Conduct. These complainants either did not provide 'prime facie' evidence of a breach of the code or did not warrant investigation in the public interest.
- 3.11 Of the cases the PSOW investigated and closed this year, three cases were referred to the Adjudication Panel for Wales. Two of these cases were considered by the Panel during the year and in both cases serious breaches of the Code were found on the basis of the PSOW's investigations and reports. Both cases involved Councillors making derogatory remarks and unfounded allegations against staff and engaging in bullying, harassment, intimidation and malicious behaviour. As a result, a former member of Flintshire County Council was disqualified from holding office for 14 months and a former member of Conwy County Borough Council was disqualified from holding office for 18 months. A detailed breakdown of the outcomes of CCCs is provided at Annex B to the AR.

4. LEGAL IMPLICATIONS

4.1 There are no legal implications arising from this report.

5. CONSULTATION

5.1 There are no consultation implications arising from this report.

6. EQUALITY AND DIVERSITY IMPLICATIONS

6.1 There are no equality and diversity implications arising from this report.

7. FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are no financial implications arising from this report.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

23 NOVEMBER 2018

REPORT OF THE MONITORING OFFICER

Background Papers: Freestanding matter

Contact: Mr. Andy Wilkins (Head of Legal – Corporate & Democratic Services) –
01443 424189

Our Ref: NB/CW/MA



Catrin.wallace@ombudsman-wales.org.uk

Matthew.aplin@ombudsman-wales.org.uk

15 October 2018

Councillor Andrew Morgan

Sent by email: Andrew.Morgan2@rctcbc.gov.uk

Annual Letter 2017/18

Following the recent publication of my Annual Report, I am delighted to provide you with the Annual Letter (2017/18) for **Rhondda Cynon Taf County Borough Council**.

Despite a challenging complaints context, I am delighted to be able to report positive progress in the activities of the office over the past year.

Four public interest reports have been published in the past year, but none related to local authorities.

A new Public Services Ombudsman Bill has been introduced to the National Assembly and is currently at the second stage in the legislative process. This means that Members have agreed the general principles of the Bill and a Financial Resolution was agreed on 17 July 2018. This new legislation will help drive up public service standards as it is important that Wales continues to adopt best practices in complaints handling and public service improvement. If the Bill progresses I will be engaging with public bodies in Wales in preparation for the introduction of the new powers within the Bill.

Overview of complaints

Overall the number of complaints and enquiries received by my office has increased by 5% this year, this is attributed to an 8% rise in enquiries.

This year my office saw a 4% decrease in public body complaints. Despite complaints against NHS bodies increasing by 7%, we have seen a 10% reduction in complaints against councils.

After Health, which comprises 41% of all complaints, housing (11%), social services (9%) and planning and building control (8%) remain significant areas of complaint.

The number of Code of Conduct complaints increased by 14% in the past year, this is attributed to a 33% increase in Code of Conduct complaints involving Community Councils. Many of these complaints have arisen following changes in the membership of councils.

42% of Code of Conduct complaints received were with regards to the promotion of equality and respect, 19% were with regards to disclosure and registration of interests and 16% were with regards to integrity.

We are pleased to report that the number of complaints received by the Ombudsman concerning Rhondda Cynon Taf have decreased in the past year from 47 to 36. However, we would like to draw your attention to the number of complaints regarding Children Social Services which, remaining unchanged from last year, receive the highest number of complaints at 10.

You will find below a factsheet giving a breakdown of complaints data relating to your Local Authority. This year we have included a new set of statistics regarding Ombudsman interventions. These include all cases upheld by my office as well as early resolutions and voluntary settlements.

Please would you present my annual letter to the Cabinet to assist Members in their review of the Council's performance.

This correspondence has been copied to the Chief Executive of the Council and to your Contact Officer within your organisation. I would again reiterate the importance of this role. Finally, a copy of all annual letters will be published on my website.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nick Bennett', with a stylized flourish at the end.

Nick Bennett

Public Services Ombudsman for Wales

CC: Chris Bradshaw, Chief Executive
Alison Lagier, Contact Officer

Factsheet

A. Complaints Received and Investigated with Local Authority average adjusted by population

Local Authority	Complaints Received	Average	Complaints Investigated	Average
Blaenau Gwent County Borough Council	10	17	0	0
Bridgend County Borough Council	40	36	1	1
Caerphilly County Borough Council	40	45	1	1
Cardiff Council	109	90	5	3
Carmarthenshire County Council	25	46	3	1
Ceredigion County Council	35	18	5	1
City and County of Swansea	62	61	1	2
Conwy County Borough Council	36	29	3	1
Denbighshire County Council	20	24	3	1
Flintshire County Council	50	39	6	1
Gwynedd Council	29	31	2	1
Isle of Anglesey County Council	29	17	2	0
Merthyr Tydfil County Borough Council	13	15	2	0
Monmouthshire County Council	16	23	0	1
Neath Port Talbot County Borough Council	35	35	2	1
Newport City Council	37	37	2	1
Pembrokeshire County Council	34	31	0	1
Powys County Council	39	33	3	1
Rhondda Cynon Taf County Borough Council	36	60	0	2
Torfaen County Borough Council	15	23	0	1
Vale of Glamorgan Council	30	32	4	1
Wrexham County Borough Council	41	34	3	1

B. Complaints Received by Subject

Rhondda Cynon Taf County Borough Council	Complaints Received
Adult Social Services	2
Benefits Administration	1
Children s Social Services	10
Complaints Handling	3
Education	1
Environment and Environmental Health	5
Finance and Taxation	2
Housing	2
Planning and Building Control	4
Roads and Transport	3
Various Other	3

C. Comparison of complaint outcomes with average outcomes for Local Authorities, adjusted for population distribution

County/County Borough Councils	Out of Jurisdiction	Premature	Other cases closed after initial consideration	Early Resolution/Voluntary settlement	Discontinued	Other Report - Not upheld	Other Report Upheld - in whole or in part	Public Interest Report	Total Cases closed
Rhondda Cynon	6	12	12	6					36
Rhondda Cynon (adjusted)	10	17	21	8	0	1	1	0	58

D. Number of cases with PSOW intervention

	No. of complaints with PSOW intervention	Total number of closed complaints	% of complaints with PSOW interventions
Local Authority			
Blaenau Gwent County Borough Council	3	11	27
Bridgend County Borough Council	5	39	13
Caerphilly County Borough Council	3	39	8
Cardiff Council	37	123	30
Carmarthenshire County Council	1	24	4
Ceredigion County Council	4	35	11
City and County of Swansea	11	62	18
Conwy County Borough Council	4	32	13
Denbighshire County Council	1	15	7
Flintshire County Council	11	47	23
Gwynedd Council	1	26	4
Isle of Anglesey County Council	2	26	8
Merthyr Tydfil County Borough Council	3	13	23
Monmouthshire County Council	1	14	7
Neath Port Talbot County Borough Council	4	31	13
Newport City Council	8	34	24
Pembrokeshire County Council	3	32	9
Powys County Council	6	38	16
Rhondda Cynon Taf County Borough Council	6	36	17
Torfaen County Borough Council	1	16	6
Vale of Glamorgan Council	3	32	9
Wrexham County Borough Council	8	41	20

E. Code of Conduct Complaints Closed

County/County Borough Councils	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total
Rhondda Cynon Taf	1							1

F. Town / Community council Code of Conduct Complaints

Town/Community Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total
Hirwaun & Penderyn CC	1						3	4

Appendix

Explanatory Notes

Section A compares the number of complaints against the Local Authority which were received and investigated by my office during 2017/18, with the Local Authority average (adjusted for population distribution) during the same period.

Section B provides a breakdown of the number of complaints about the Local Authority which were received by my office during 2017/18. The figures are broken down into subject categories.

Section C compares the complaint outcomes for the Local Authority during 2017/18, with the average outcome (adjusted for population distribution) during the same period.

Section D provides the numbers and percentages of cases received by the PSOW in which an intervention has occurred. This includes all upheld complaints, early resolutions and voluntary settlements.

Section E provides a breakdown of all Code of Conduct complaint outcomes against Councillors during 2017/18.

Section F provides a breakdown of all Code of Conduct complaint outcomes against town or community councils.

Feedback

We welcome your feedback on the enclosed information, including suggestions for any information to be enclosed in future annual summaries. Any feedback or queries should be sent to catrin.wallace@ombudsman-wales.org.uk or matthew.aplin@ombudsman-wales.org.uk

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RHONDDA CYNON TAF

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

23 NOVEMBER 2018

ADJUDICATION PANEL FOR WALES - REVISED SANCTIONS GUIDANCE

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

To provide Members with the Adjudication Panel for Wales (APW) revised sanctions guidance (the 'Guidance'), for when a Councillor has been found to have breached the Members' Code of Conduct (the 'Code') by a case tribunal, or an appeal tribunal.

2. RECOMMENDATION

- 2.1 That the Committee considers the contents of the Adjudication Panel for Wales' Sanctions Guidance.

3. BACKGROUND

- 3.1 The APW have issued the Guidance, attached as Appendix 1 to the report, pursuant to its powers under Section 75(10) of the Local Government Act 2000. The Guidance came into effect on 1st September 2018.
- 3.2 The primary purpose of the Guidance is to assist the APW's case tribunals, when considering the appropriate sanction to impose where a Councillor has been found to have breached the Code. It also seeks to fulfil the wider role of supporting all those, including local Standards Committees, in maintaining, promoting and adjudicating on the Code. The Guidance is a living document that will be updated and revised as the need arises, following consultation.
- 3.3 The Guidance describes: 1. The ethical framework for conduct of County, Town and Community Councillors; 2. The role of the APW; and 3. The approach of the APW's tribunals to sanctions, following a finding that the Code has been breached.

Purpose of sanctions

- 3.4 The Guidance sets out five purposes as follows:- 1. To provide a disciplinary response to an individual Member's breach of the Code; 2. To place misconduct and sanction on public record; 3. To deter future misconduct; 4.

To promote a culture of compliance with the Code; and 5. To foster public confidence in local democracy.

Types of APW Tribunal and available sanctions

- 3.5 There are three types of tribunal which can be established by the President of the APW. A Case Tribunal, an Interim Case Tribunal or an Appeal Tribunal.
- 3.6 A Case Tribunal is an independent tribunal established to consider an alleged breach of the Code, where a full investigation by the Public Services Ombudsman for Wales (PSOW) has taken place and the PSOW has referred his report on his investigation to the APW. Should the APW find that the Code has been breached, the sanctions available are 1. To take no action; 2. To suspend or partially suspend a Member for up to twelve months; or 3. To disqualify a Member for up to five years.
- 3.7 An Interim Case Tribunal is an independent tribunal established when an investigation is underway by the PSOW but has been referred to them to consider whether to suspend or partially suspend the Member under investigation, pending the completion of his investigation. The maximum period of suspension is six months, or, if less than six months, until the investigation is complete. Unlike the Case Tribunal and Appeal Tribunal, a decision to suspend is a neutral act given the investigation is still ongoing.
- 3.8 An Appeal Tribunal is an independent tribunal of the APW established to review a decision of a local Standards Committee, where the PSOW has referred an investigation to them. The tribunal must decide whether to uphold and endorse the decision and sanction imposed by the Standards Committee, uphold the decision on breach of the Code but refer the matter back to the Standards Committee with a recommendation as to an alternative sanction, or to overturn the decision that the Code has been breached. The available sanctions are the same as those that are open to the Standards Committee on referral to them by the PSOW; that is, to censure or to suspend or partially suspend up to a maximum of six months.

Approach and process in determining sanction

- 3.9 Tribunals established by the APW must always have in mind underlying principles of fairness, the public interest, proportionality, consistency and equality and impartiality when approaching the issue of sanction. The appointed tribunal must also act in accordance with Article 6 (right to a fair hearing) of the European Convention on Human Rights (ECHR) and in addition, both when considering whether a Councillor is in breach of the Code, and when considering whether to impose a sanction, the APW has to assess whether such a finding would be a breach of the Councillor's enhanced right to freedom of speech under Article 10 of the ECHR. The High Court established that there is a three-stage approach that must be followed in this regard: - 1. Can the tribunal conclude that there has been a breach of the Code as a matter of fact? 2. If so, is the finding of breach and the imposition of a sanction on the face of it a breach of Article 10? and 3. If so, is the restriction one which is justified by reason of the requirements set out in Article 10 as to when the convention right may be legitimately interfered with?
- 3.10 The Guidance sets out a five-stage process for a tribunal in determining sanction: - 1. Assess the seriousness of the breach and consequences for

individuals and/or the Council; 2. Identify the broad type of sanction most likely to be appropriate having regard to the breach; 3. Consider any mitigating and/or aggravating factors surrounding the breach; 4. Consider any further adjustments necessary; and 5. Confirm the decision on sanction and include within a written decision an explanation of the sanction imposed.

- 3.11 Paragraphs 34 to 66 of the Guidance explain in detail how these stages of the process will work. For example, in respect of assessing seriousness of the breach, the Guidance explains that matters such as nature and extent of the breach, the number of breaches, the Councillor's culpability/intentions, any previous breaches of the Code, and the consequences of the breach on individuals, the council and the wider public, are all matters to which a tribunal will have regard. The tribunals will start by considering the appropriateness of possible sanctions of least impact. Paragraphs 36 to 38 give examples of the types of behaviour that are likely to lead to harsher sanctions. The Guidance provides a useful and detailed explanation of the other four stages of the process for determining sanction.
- 3.12 In addition to the Guidance, the APW also publish an annual report which summarises the cases they have heard and the decisions they have made and the web address for those reports is set out below:

<http://apw.gov.wales/about/annual-reports/?lang=en>

4. LEGAL IMPLICATIONS

- 4.1 There are no legal implications arising from this report.

5. CONSULTATION

- 5.1 There are no consultation implications arising from this report.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 There are no equality and diversity implications arising from this report.

7. FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no financial implications arising from this report.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

23 NOVEMBER 2018

REPORT OF THE MONITORING OFFICER

Background Papers: Freestanding matter

Contact: Mr Andy Wilkins (Head of Legal – Corporate & Democratic Services) –
01443 424189

Sanctions Guidance

Issued by the President of the Adjudication Panel for Wales under Section 75(10) of the Local Government Act 2000.

Foreword by the President

I am pleased to introduce our new *Sanctions Guidance* which sets out the approach to be taken by case, appeal and interim case tribunals of the Adjudication Panel for Wales in order to reach fair, proportionate and consistent decisions on the sanctions that should be applied in relation to an individual's breach of the local Code of Conduct.

The Guidance has been developed by members of the Adjudication Panel for Wales in consultation with the Public Services Ombudsman for Wales, Monitoring Officers and other interested parties. I would like to thank everyone for their contributions. In publishing this Guidance, I hope it will help all those with whom we share an interest in the Code - most importantly members of county and community councils, fire and rescue authorities, and national park authorities in Wales. I hope it reflects the importance we attach to the role of local members, the value of local democracy and the Adjudication Panel's commitment to promoting the highest standards in public life in Wales.

Claire Sharp
President, Adjudication Panel for Wales

CONTENTS

Introduction

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- the status, purpose and intended use of the Guidance, and its relevance to the public, individual members, Monitoring Officers and Standards Committees of councils, fire and rescue authorities, and national park authorities in Wales, the Public Services Ombudsman for Wales and the Adjudication Panel for Wales.

Standards in Public Life

page 3

- the Code of Conduct, expectations for local members and the process to be followed when a breach of the Code is alleged.

The Adjudication Panel for Wales

page 5

- the role of the Adjudication Panel for Wales, the purpose of the sanctions regime and sanction powers available to case, appeal and interim tribunals of the Adjudication Panel for Wales.

The Tribunals' Approach: underlying principles

page 7

- an overview of the general principles that underpin the broad approach of case, appeal and interim case tribunals, specifically fairness, public interest, proportionality, consistency, equality and impartiality, and Article 10 of the European Convention on Human Rights.

Case and Appeal Tribunals: determining sanction

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- the specific sanctions available to case and appeal tribunals and the five stage process to be used to assess the seriousness of a breach, relevant mitigating and aggravating circumstances and any wider factors, and guidance on how to determine the specific sanction and duration; it also addresses the tribunal's power to make recommendations.

Interim Case Tribunals: determining sanction

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- the distinct aims of interim case tribunals to facilitate an ongoing investigation and the specific powers available in response to a report, and any recommendation, from the Ombudsman.

Annex: other relevant documents and guidance

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Introduction

1. This Guidance is issued by the President of the Adjudication Panel for Wales (APW) using powers available to her under the Local Government Act 2000¹. Its primary purpose is to assist the APW's case, appeal and interim case tribunals when considering the appropriate sanction to impose on a member, or former member, who is found to have breached their authority's Code of Conduct.
2. This Guidance describes:
 - i. the role of the ethical framework and Code of Conduct in promoting high public standards amongst members of councils, fire and rescue authorities, and national park authorities in Wales;
 - ii. the role of the Adjudication Panel for Wales (APW) and the purpose of the sanctions regime;
 - iii. the approach to be taken by its tribunals in determining sanction following a finding that the Code has been breached.
3. The purpose of sanctions and this Guidance are built on the values that underpin the Code of Conduct, in particular the fundamental importance of promoting the highest standards in local public life. The Guidance aims to assist tribunals in determining sanctions that are, in all cases, fair, proportionate and consistent.
4. The Guidance is not prescriptive and recognises that the sanction decided by an individual tribunal will depend on the particular facts and circumstances of the case. Any examples should be considered to be by way of illustration and not exhaustive. Tribunals have ultimate discretion when imposing sanctions and can consider in addition to this Guidance other factors that they consider necessary and appropriate. Nor does the Guidance affect the responsibility of the legal member of a tribunal to advise on questions of law, including the specific applicability of relevant sections of this Guidance.
5. In setting out the factors to be considered by a tribunal in its determination of an appropriate sanction, the Guidance offers a transparent approach for the benefit of all parties involved tribunal proceedings. It aims to ensure that everyone is aware, from the outset, of the way in which the tribunal is likely to arrive at its decision on sanction.
6. The Guidance seeks to fulfil a wider role and support all those with an interest in maintaining, promoting and adjudicating on the Code of Conduct. It aims to complement the statutory Guidance published by the Public Services Ombudsman for Wales², confirming the expectations on local members in

¹ Section 75(10) of the Local Government Act 2000 ("the 2000 Act") provides a power for the President of the Adjudication Panel for Wales to issue guidance on how its tribunals are to reach decisions

² The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils:

terms of their conduct and emphasising the central importance of public confidence in local democracy. It should be of value to individual members, Monitoring Officers and Standards Committees of county and county borough councils, fire and rescue authorities, and national park authorities in Wales, and the Public Services Ombudsman for Wales.

7. This Guidance comes into effect on 1 September 2018. It is a living document that will be updated and revised as the need arises, following consultation.

Standards in Public Life

The Code of Conduct

8. The Local Government Act 2000 introduced an ethical framework to promote high standards of conduct in public life in Wales. The framework's central mechanism is the Code of Conduct. All local authorities, community councils, fire and rescue authorities and national park authorities in Wales must have in place a Code of Conduct. All elected members and co-opted members (with voting rights) must, on taking office, sign an undertaking to abide by their authority's Code for the duration of their term of office.
9. The Welsh Government has issued a model Code of Conduct³ in order to ensure consistency across Wales and to give certainty to members and the public as to the minimum standards expected. The model Code is consistent with ten core principles of conduct⁴ prescribed by the National Assembly for Wales in 2001, which are themselves derived from the Nolan Committee's Principles for Public Life⁵:
 - i. Selflessness
 - ii. Honesty
 - iii. Integrity and Propriety
 - iv. Duty to Uphold the Law
 - v. Stewardship
 - vi. Objectivity in Decision-making
 - vii. Equality and Respect
 - viii. Openness
 - ix. Accountability
 - x. Leadership

Guidance (August 2016), issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000

³ The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2008, as amended by the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016
www.legislation.gov.uk/wsi/2016/84/pdfs/wsi_20160084_mi.pdf and
www.legislation.gov.uk/wsi/2016/85/pdfs/wsi_20160085_mi.pdf

⁴ The Conduct of Members (Principles) (Wales) Order 2001 SI 2001 No.2276 (W.166)
http://www.legislation.gov.uk/wsi/2001/2276/pdfs/wsi_20012276_mi.pdf

⁵ Nolan Report "Standards of Conduct in Local Government in England, Scotland and Wales"

Local codes must incorporate any mandatory provisions of the model Code and may incorporate any optional provisions of the model Code. At this time, all provisions of the model Code are mandatory.

Expectations on local members

10. Members of county councils, county borough councils, community councils, fire and rescue authorities and national park authorities in Wales must abide by their authority's Code:
 - whenever they are acting or present at a meeting of their authority, claiming to act or giving the impression of acting in an official capacity in the role of member to which they were elected or appointed or as a representative of their authority;
 - at any time, if they are conducting themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute, or if using or attempting to use their position to gain an advantage or avoid a disadvantage for anyone or if they misuse the authority's resources.
11. Members are expected to engage in any training and access ongoing advice, as the need arises, from their local Monitoring Officer and Standards Committee. Members are also expected to be familiar with and have regard to the Public Services Ombudsman's statutory guidance on the Code⁶. It addresses each of the Code's requirements in order to help members understand their obligations in practical terms. It offers advice on the fundamental ethical principles that many members need to consider on a regular basis – for example, declarations of interest, confidentiality and whether their actions constitute bullying or harassment– in addition to those less frequently encountered.
12. Ultimately, members must use their judgment in applying the Code and the Principles to their own situation. They cannot delegate responsibility for their conduct under the Code.

Allegations of breach

13. There are non-statutory local protocols in place for low-level member-on-member complaints which do not result in case or appeal tribunals. Allegations that a member's conduct is in breach of the Code can be made to the Ombudsman, who will decide whether to investigate a complaint. If, following an investigation, the Ombudsman finds that there is evidence of a breach of the Code, he can refer his report to the relevant local Standards Committee or to the President of the Adjudication Panel for Wales. The Ombudsman may also refer reports from an ongoing investigation to the President for consideration by an interim case tribunal.

⁶ The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils: Guidance (August 2016), issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000

The Adjudication Panel for Wales

14. The introduction of the ethical framework included the establishment of the Adjudication Panel for Wales⁷ as an independent, judicial body with powers to form tribunals to deal with alleged breaches of the Code. The Panel's operation is subject to regulation by the Welsh Government.

Case tribunals

15. Case tribunals are appointed by the President of the Adjudication Panel for Wales in order to consider a report from the Ombudsman following an investigation into an allegation of a member's misconduct. Case tribunals are responsible for deciding whether a local member has breached the Code of Conduct of their authority and, if so, for determining an appropriate sanction (if any).

Appeal tribunals

16. Appeals tribunals are appointed by the President to consider appeals from members against a decision of a local Standards Committee. Appeal tribunals are responsible for reviewing the decision that a local member has breached the Code of Conduct and any sanction imposed. They may uphold and endorse any sanction imposed or refer the matter back to the Standards Committee with a recommendation as to a different sanction or overturn the determination of the Committee that there has been a breach of the Code. An appeal tribunal cannot recommend a sanction which was not available to the Standards Committee.

Interim case tribunals

17. Interim case tribunals are appointed by the President to consider a report, and any recommendation to suspend a member, from the Ombudsman during an ongoing investigation into alleged misconduct. The tribunal is responsible for determining the need to suspend, or partially suspend, the member or co-opted member from the authority or a role within the authority. The maximum duration of the suspension or partial suspension is 6 months. Unlike case and appeal tribunals, suspension by an interim case tribunal is a neutral act, given the ongoing nature of the Ombudsman's investigation.

The sanctions regime

18. The Committee on Standards in Public Life⁸ had a key role in developing the ethical framework and identified the need for mechanisms to enforce and punish public office holders who breached the standards expected of them, if the ethical framework was to command public credibility. The purpose of the sanctions available to Adjudication Panel for Wales case and appeal tribunals are to:

⁷ Part III, Local Government Act 2000

⁸ Reference to the report on enforcement

- provide a disciplinary response to an individual member's breach of the Code;
- place the misconduct and appropriate sanction on public record;
- deter future misconduct on the part of the individual and others;
- promote a culture of compliance across the relevant authorities;
- foster public confidence in local democracy.

19. The sanctions available to a case tribunal that has found a breach of the Code are⁹:

- a. to take no action in respect of the breach;
- b. to suspend or partially suspend the member from the authority concerned for up to 12 months;
- c. to disqualify the member from being, or becoming, a member of the authority concerned or any other relevant authority to which the Code of Conduct applies for a maximum of 5 years.

The sanctions available to an appeal tribunal that has found a breach of the Code are:

- d. censure;
- e. to suspend or partially suspend the member from the authority concerned for up to 6 months.

20. The different types and scope of duration of sanction are designed to provide tribunals with the flexibility to apply sanctions of considerable difference in impact and enable a proportionate response to the particular circumstances of an individual case. This Guidance does not propose a firm tariff from which to calculate the length of suspension or disqualification that should be applied to specific breaches of the Code. Instead, it offers broad principles for consideration by all tribunals whilst respecting the details that make each and every case different.

⁹ Section 79, Local Government Act 2000

The Tribunal approach – underlying principles

21. Tribunals must always have in mind that every case is different and requires deciding on its own particular facts and circumstances. Following a finding that the Code of Conduct has been breached, tribunals must exercise their own judgment as to the relevant sanction in line with the nature and impact of the breach, and any other relevant factors. They must also ensure that the sanctions take account of the following underlying principles in order to ensure that their decisions support the overall ambitions of the ethical framework, fulfilling the purpose of the sanctions, and are in line with the tribunal's wider judicial obligations.

Fairness

22. The tribunal should take account and seek to find an appropriate balance between the various interests of the Respondent/Appellant, the Complainant, other interested parties to a case, the Ombudsman, the authority, the electorate and the wider public.

Public interest

23. Whilst seeking to ensure that the sanction imposed is appropriate, fair and proportionate to the circumstances of the case, the tribunal should consider the reputation of and public confidence in local democracy as more important than the interests of any one individual.

Proportionate

24. Tribunals will take account of the good practice identified in the Ombudsman's Guidance and Code of Conduct Casebook¹⁰ in order to assist their sense of proportionality when determining the sanction appropriate to the scale and/or nature of the breach.

Consistent

25. Tribunals will aim to achieve consistency in their sanctions in order to maintain the credibility of the ethical framework. They will take account of the good practice identified by the Ombudsman (para.24) in addition to this Guidance and its own previous decisions. Where a tribunal panel has reason to depart from the Guidance, it should clearly explain why it has done so.

Equality and impartiality

26. Fair treatment is a fundamental principle for the Adjudication Panel for Wales and is embedded within individual members' judicial oath. Tribunals must ensure that their processes and practices safeguard their capacity for objective, independent and impartial decision-making, free from prejudice and partiality, in order to uphold their judicial responsibilities.

¹⁰ <http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx>

Human Rights (Articles 6 and 10)

27. Tribunals must ensure that their processes and practices respect human rights. This Guidance aims to support those principles. In particular, tribunals must ensure that they consider the relevance of Articles 6 and 10 of the European Convention on Human Rights in their deliberations. These articles enshrine the right to a fair hearing and freedom of expression.

28. Article 10 is a key provision when considering possible breaches of the Code. It provides that:

“10(1) Everyone has the right to freedom of expression. The right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers...”

10(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

29. Enhanced protection of freedom of expression applies to political debate, including at local government level. Article 10(2) has the effect of permitting language and debate on questions of public interest that might, in non-political contexts, be regarded as inappropriate or unacceptable. This protection does not extend to gratuitous or offensive personal comment, nor to ‘*hate speech*’ directed at denigrating colour, race, disability, nationality (including citizenship), ethnic or national origin, religion, or sexual orientation.

30. In their consideration of Article 10, tribunals should apply the three-stage approach established by Mr Justice Wilkie¹¹ in the case of *Sanders v Kingston (No1)* and which applies to both decision about breach and sanction, as follows:

- i. Can the Panel as a matter of fact conclude that the Respondent’s conduct amounted to a relevant breach of the Code of Conduct?
- ii. If so, was the finding of a breach and imposition of a sanction *prima facie* a breach of Article 10?
- iii. If so, is the restriction involved one which is justified by reason of the requirement of Article 10(2)?

¹¹ Wilkie J in the case of *Sanders v Kingston No (1)* [2005] EWHC 1145

Case and Appeal Tribunals – determining sanction

31. A tribunal will decide whether or not a sanction is appropriate after considering the facts of a case and finding that an individual has breached the Code of Conduct. In determining any appropriate sanction, the tribunal's approach should be sufficiently broad so as to accommodate its consideration of the various interests of those involved in the case, any specific circumstances of the individual respondent/appellant, the intended purpose of the sanctions available (in particular, the wider public interest) and the tribunal's wider judicial responsibilities.
32. Case tribunals will decide on the appropriate sanction to impose, if any, and the duration of any such sanction; appeal tribunals will consider the appropriateness of the sanction imposed by the Standards Committee.

The five-stage process

33. Case and appeal tribunals will follow a five step process in determining sanction:
- 33.1 assess the seriousness of the breach and any consequences for individuals and/or the council (para.34 - 38)
 - 33.2 identify the broad type of sanction that the Tribunal considers most likely to be appropriate having regard to the breach; (para.39)
 - 33.3 consider any relevant mitigating or aggravating circumstances and how these might affect the level of sanction under consideration; (para.40 to 42)
 - 33.4 consider any further adjustment necessary to ensure the sanction achieves an appropriate effect in terms of fulfilling the purposes of the sanctions; (para.43)
 - 33.5 confirm the decision on sanction and include, within the written decision, an explanation of the tribunal's reasons for determining the chosen sanction in order to enable the parties and the public to understand its conclusions. (para.53)

Assessing the seriousness of the breach

34. The relative seriousness of the breach will have a direct bearing on the tribunal's decision as to the need for a sanction and, if so, whether a suspension or partial suspension (of up to 12 months) or disqualification (up to 5 years) is likely to be most appropriate. It is important to bear in mind though that appeal tribunals can only recommend a suspension (partial or full) for up to 6 months and cannot recommend disqualification due to the constraints upon its powers.
35. The tribunal will assess seriousness with particular reference to:
- the nature and extent of the breach, and number of breaches;

- the member’s culpability, their intentions in breaching the Code, and any previous breaches of the Code;
- the actual and potential consequences of the breach – for any individual(s), the wider public and/or the council as a whole;
- the extent to which the member’s actions have, or are likely to have the potential to, bring his/her office or the relevant authority into disrepute.

36. Examples of the way in which tribunals might weight seriousness include:

- a breach involving deliberate deception for personal gain or discrimination is likely to be regarded as more serious than that involving the careless use of a council email address on a personal social media profile;
- a breach involving the systematic harassment or bullying of a junior officer is likely to be regarded as more serious than instances of disrespectful language in the course of a council debate;
- a breach of confidentiality that results in the disclosure of the address of a looked after child is likely to be regarded as more serious than the disclosure of a planning officer’s confidential advice;
- a breach resulting in significant negative reputational damage to the office or authority is likely to be regarded as more serious than an inappropriately worded email to a member of the public.

37. Breaches involving the blatant disregard of specific, authoritative advice given as to a course of conduct and/or the Code (particularly by the relevant authority’s monitoring officer), the deliberate abuse of confidential, privileged or sensitive information for personal gain or that of a close personal associate, and sexual misconduct, criminal, discriminatory, predatory, bullying and/or harassing behaviour are all likely to be regarded as very serious breaches.

38. A member who is subject to a term of imprisonment for three months or more without the option of paying a fine in the previous five years before their election or since their election is automatically subject to disqualification¹².

Choosing the potential sanction

39. Having assessed the relative seriousness of the member’s breach of the Code, the tribunal will consider which of the courses of action available to it is most appropriate¹³. In line with the principles of fairness and proportionality, the tribunal should start its considerations of possible sanctions with that of least impact.

No action

39.1 The tribunal may decide that, despite the member having failed to follow the Code of Conduct, there is no need to take any further action in terms of sanction. Circumstances in which a tribunal may decide that no action is required may include:

¹² Section 80(1)(d), Local Government Act 1972

¹³ Section 79, Local Government Act 2000

- an inadvertent failure to follow the Code;
 - an isolated incident with extremely limited potential for consequential harm;
 - an acceptance that a further failure to comply with the Code on the part of the member is unlikely, nor are there any wider reasons for a deterrent sanction;
 - specific personal circumstances, including resignation or ill health, which render a sanction unnecessary and/or disproportionate.
- 39.2 A tribunal that finds a breach of the Code but decides that no action is necessary in terms of sanction, should consider whether there is a need to warn the member as to their conduct and/or seek assurances as to future behaviour. This provides an effective means of placing the member's behaviour on record, reflected in the tribunal's written decision, so that the warning and/or reassurance may be taken into account in the event of the same member being found to have breached the Code in the future. A failure to comply with any assurances given to the tribunal may be brought to the attention of the tribunal in any future hearings.

Suspension for up to 12 months

- 39.3 A case tribunal may suspend the member for up to 12 months from the authority(ies) whose Code/s has/have been breached.
- 39.4 Suspension is appropriate where the seriousness of the breach is such that a time-limited form of disciplinary response is appropriate in order to deter such future action, temporarily remove the member from the authority/a role within the authority, safeguard the standards set by the Code and to reassure the public that standards are being upheld.
- 39.5 A suspension of less than a month is unlikely to meet the objectives of the sanctions regime and risks undermining its overall ambitions. Tribunals are also reminded that the highest sanction available to local Standards Committees is 6 months' suspension. They should bear this in mind when considering an Ombudsman's referral to the Adjudication Panel, in preference to the local Standards Committee, and when considering an appeal against a local Standards Committee sanction. It is possible for appeal tribunals to recommend an increase in the sanction originally imposed by the Standards Committee.
- 39.6 Circumstances in which a tribunal may decide that a suspension is appropriate may include:
- the member's action has brought the member's office or authority into disrepute but they have not been found in breach of any other paragraph of the Code (though the most appropriate sanction will depend on the specific facts of each case);

- the breach merits a disciplinary response but, in view of the circumstances of the case, it is highly unlikely that there will be a further breach of the Code;
- the member has recognised their culpability, shown insight into their misconduct, and apologised to those involved.

Partial Suspension for up to 12 months

- 39.7 The tribunal may impose a partial suspension, preventing the member from exercising a particular function or role (such as being a member of a particular committee or subcommittee or the holder of a particular office) for up to 12 months.
- 39.8 Partial suspension is appropriate where the seriousness of the breach merits a suspension (see above) but the circumstances of the case are such that the member is permitted to continue in public office except for the role/function/activity specifically limited by the suspension.
- 39.9 In the case of a partial suspension, the tribunal will need to decide from what role/function/activity the member is to be suspended and, in the case of membership of more than one authority, the impact of the partial suspension in each relevant authority.
- 39.10 Circumstances in which a partial suspension may be appropriate include:
- the member is capable of complying with the Code in general but has difficulty understanding or accepting the restrictions placed by the Code on their behaviour in a specific area of council/authority activity;
 - the misconduct is directly relevant to and inconsistent with a specific function or area of responsibility held;
 - the member should be temporarily removed or prevented from exercising executive functions for the body to which the Code applies.

Disqualification for a maximum of 5 years

- 39.11 A case tribunal may disqualify the member from being, or becoming, a member of the authority concerned or any other relevant authority to which the Code of Conduct applies for a maximum of 5 years.
- 39.12 Disqualification is the most severe of the sanctions available to a tribunal. It is likely to be appropriate where the seriousness of the breach is such that a significant disciplinary response is appropriate in order to deter repetition, make clear the unacceptable nature of such conduct in public office, underscore the importance of the Code and to safeguard the public's confidence in local democracy. A disqualification of less than 12 months is unlikely to be meaningful (except in circumstances when the term of office of the member is due to expire during that period or is no longer a member).

39.13 Circumstances in which a tribunal may decide that a disqualification is appropriate may include:

- deliberately seeking personal gain (for her/himself, a family member or personal associate) by exploiting membership of the authority and/or the authority's resources;
- deliberately seeking to disadvantage another by exploiting membership of the authority and/or the authority's resources;
- deliberately disregarding or failing to comply with the provisions of the Code and continuing to assert the right so to do;
- repeatedly failing to comply with the provisions of the Code and demonstrating the likelihood of continuing the pattern of behaviour;
- deliberately seeking political gain by misusing public resources or power within the authority;
- a second or subsequent breach, despite a warning and/or having given an assurance as to future conduct in a previous case before an Adjudication Panel for Wales tribunal;
- conduct that calls into question the Respondent's fitness for public office;
- bringing the relevant authority into serious disrepute.

Mitigating and aggravating circumstances

40. The tribunal will go on to consider how any particular circumstances of the member may mitigate and/or aggravate the level of sanction under consideration. This stage is designed to take account of any personal circumstances affecting the member's conduct including inexperience, capacity, insight, responsibility (for the breach), remorse, reparation and any previous findings. This process is likely to have significant bearing on the duration of the sanction, varying the term down or up in line with the mitigating or aggravating factors. Such factors may at times be sufficient to persuade a tribunal that a suspension (if any) may be more appropriate than a disqualification, and vice versa.

41. Tribunals are encouraged to work through the examples set out below but are reminded that these are not exhaustive. Where any mitigating/aggravating factor relates directly to the nature or seriousness of the breach and the tribunal has already considered that factor in its choice of appropriate sanction, care should be taken as to the extent to which that factor is included in mitigation/aggravation. For example:

- if the sanction under consideration is a suspension because the conduct is regarded as a 'one off', this factor should not also be regarded as mitigating unless the 'one off' nature of the breach is so exceptional that it should have a direct bearing on the length of the suspension;

- if the breach is regarded as serious because it includes ‘bringing the authority into disrepute’, this factor should not also be regarded as aggravating unless the disrepute is so exceptional as to have a direct bearing on the length of the disqualification.

42. Tribunals should also take care to respect a member’s legitimate right to appeal and to distinguish protestations or assertions made in the course of exercising that right from those actions that might be regarded as aggravating factors designed to obstruct the processes of the Ombudsman or Adjudication Panel.

Mitigating circumstances

- i. substantiated evidence that the misconduct was affected by personal circumstances, including health and stress;
- ii. a short length of service or inexperience in a particular role;
- iii. a previous record of good service (especially if over a long period of time);
- iv. the misconduct was a one-off or isolated incident;
- v. that the member was acting in good faith, albeit in breach of the Code;
- vi. the misconduct arose from provocation or manipulation on the part of others;
- vii. the breach arose from an honestly held, albeit mistaken, view that the conduct involved did not constitute a failure to follow the Code, especially having taken appropriate advice;
- viii. the misconduct, whilst in breach of the Code, had some beneficial effect for the public interest;
- ix. political expression of an honestly held opinion, albeit intemperately expressed, or a political argument (see paragraphs 27-30 above and Aggravating factor xii below);
- x. self-reporting the breach;
- xi. recognition and regret as to the misconduct and any consequences;
- xii. an apology, especially an early apology, to any affected persons;
- xiii. co-operation in efforts to rectify the impact of the failure;
- xiv. co-operation with the investigation officer and the standards committee/APW;
- xv. acceptance of the need to modify behaviour in the future;
- xvi. preparedness to attend further training;
- xvii. commitment to seeking appropriate advice on the Code in the future;
- xviii. compliance with the Code since the events giving rise to the adjudication.

Aggravating factors

- i. long experience, seniority and/or position of responsibility;
- ii. seeking to unfairly blame others for the member's own actions;
- iii. deliberate conduct designed to achieve or resulting in personal (for her/himself, a family member or close personal associate) benefit or disadvantage for another;
- iv. deliberate exploitation of public office and/or resources for personal (for her/himself, a family member or close personal associate) or political gain;
- v. abuse or exploitation of a position of trust;
- vi. repeated and/or numerous breaches of the Code, including persisting with a pattern of behaviour that involves repeatedly failing to abide by the Code;
- vii. dishonesty and/or deception, especially in the course of the Ombudsman's investigation;
- viii. lack of understanding or acceptance of the misconduct and any consequences;
- ix. refusal and/or failure to attend available training on the Code;
- x. deliberate or reckless conduct with little or no concern for the Code;
- xi. deliberately or recklessly ignoring advice, training and/or warnings as to conduct;
- xii. the expression of views which are not worthy of respect in a democratic society, are incompatible with human dignity and conflict with the fundamental rights of others (see paragraphs 27 – 30 above);
- xiii. obstructing and/or failing to co-operate with any Ombudsman's investigation, Standards Committee, and/or the Adjudication Panel for Wales's processes;
- xiv. refusal to accept the facts despite clear evidence to the contrary;
- xv. action(s) that has/have brought the relevant authority and/or public service into disrepute;
- xvi. failure to heed previous advice and/or warnings and to adhere to any previous assurances given as to conduct relevant to the Code.
- xvii. Previous findings of failure to follow the provisions of the Code.
- xviii. Continuing to deny the facts, despite clear evidence to the contrary.

Fulfilling the purpose of the sanctions regime

43. The tribunal may need to consider further adjustments to the chosen sanction or length of sanction in order to achieve an appropriate deterrent effect, for the

individual and/or the wider council membership, or to maintain public confidence. Tribunals will also need to have regard to external factors that may exacerbate or diminish the impact of the chosen sanction.

Public interest

44. The overriding purpose of the sanctions regime is to uphold the standards of conduct in public life and maintain confidence in local democracy. Tribunals should review their chosen sanction against previous decisions of the Adjudication Panel for Wales and consider the value of its chosen sanction in terms of a deterrent effect upon councillors in general and its impact in terms of wider public credibility. If the facts giving rise to a breach of the code are such as to render the member entirely unfit for public office, then disqualification rather than suspension is likely to be the more appropriate sanction.

Eligibility for public office in other relevant authorities

45. Disqualification will automatically apply to a Respondent's current membership of all authorities to which the Local Government Act 2000 applies, irrespective of whether the other authorities' Codes have been breached. Disqualification will also prevent the Respondent from taking up public office, through election or co-option, on any other authorities to which the Act applies until the expiration of the disqualification period.

46. A suspension will preclude the member from participating as a member of the authority whose Code s/he has been found to have breached but not necessarily any other authorities of which the Respondent/Appellant is a member. Where the facts of a case call into question the member's overall suitability to public office, a disqualification may be more suitable than a suspension.

Former members

47. In circumstances where the tribunal would normally apply a suspension but the Respondent is no longer a member, a short period of disqualification may be appropriate (this can only apply in case tribunals). This will ensure that the Respondent is unable to return to public office, through co-option for example, sooner than the expiry of the period of suspension that would have been applied but for their resignation or not being re-elected. For appeal tribunals, a censure remains an option.

Financial impact

48. Tribunals should take into account the financial impact on members of a sanction: during suspension and disqualification, a member will be denied payment of their salary and allowances. The financial impact varies from an annual expenses reimbursement for community councillors to a basic salary

plus expenses for county councillors to the higher salaries paid to leaders of larger councils¹⁴.

Impact on the electorate

49. The High Court has recognised that Parliament has expressly provided case tribunals with a power to interfere with the will of the electorate and that such ‘interference’ may be necessary to maintain public trust and confidence in the local democratic process. Tribunals should be confident in their right to disqualify members whose conduct has shown them to be unequal to fulfilling the responsibilities vested in them by the electorate.
50. Suspension has the effect of temporarily depriving the electorate of local representation whereas disqualification triggers a process, either by-election or co-option, to replace the disqualified member.

Timing of local elections

51. In general, the length of a disqualification should be determined in relation to the nature of the breach and circumstances of the case, and be applied irrespective of the imminence or otherwise of local elections. There may be exceptional times when the duration of a disqualification might have a particularly disproportionate effect on the member. For example: a disqualification of 18 months, imposed in December 2020, would prevent a member from standing for local government election until May 2027, as the period of disqualification would overlap the May 2022 elections by one month. Tribunals should be willing to hear submissions as to why the length of disqualification should be varied, whilst bearing in mind the overriding public interest principle.

Automatic disqualifications

52. The law imposes an automatic disqualification for five years on any member who is subject to a term of imprisonment for three months or more (whether suspended or not). That a Court has imposed a lesser sanction does not mean that a five-year disqualification is inappropriate. If the case tribunal is of the view that the member concerned is unfit to hold public office and is unlikely to become fit over the next five years, then it may well be appropriate to impose such a disqualification.

Confirming the sanction

53. Tribunals should confirm their final determination on sanction, notifying the hearing and recording it in the decision notice. Tribunals will make sure that the reasons for their determination, including any significant mitigating and aggravating factors, are included in the full written record of proceedings in order to ensure that the parties and the public are able to understand its conclusions on sanction.

¹⁴ <http://gov.wales/irpwsb/home/?lang=en>

Recommendations

54. Case tribunals also have the power to make recommendations¹⁵ to the relevant authority whose Code it has considered about any matters relating to:

- the exercise of the authority's functions
- the authority's Code of Conduct;
- the authority's Standards Committee.

55. The authority to whom the recommendations are made is under a duty to consider them within three months and then prepare a report for the Ombudsman outlining what the action it, or its Standards Committee, has taken or proposes to take. If the Ombudsman is not satisfied with the action taken or proposed, he/she has the power to require the authority to publish a statement giving details of the recommendations made by the case tribunal and of the authority's reasons for not fully implementing them. As such, tribunals are advised to consider their use of this power with care.

Interim case tribunals – determining sanction

56. Interim case tribunals will decide, after considering a report (including any recommendation) from the Ombudsman on an ongoing investigation into alleged misconduct, whether to suspend or partially suspend, the member or co-opted member from the authority or a role within the authority.

57. Unlike case and appeal tribunals, interim case tribunals are not disciplinary. Interim case tribunals aim to:

- facilitate the Ombudsman's effective and expeditious investigation of the respondent's conduct;
- minimise any disruption to the business of the authority concerned during the investigation;
- maintain the reputation of the authority concerned;
- protect the authority concerned from legal challenge.

58. The powers available to an interim case tribunal¹⁶ are to suspend the Respondent, wholly or partially from being a member or co-opted member of the authority concerned, for not more than six months (or, if shorter, the remainder of the member's term of office). In the case of a partial suspension, the interim case tribunal will need to decide from what activity the respondent is to be suspended.

Purpose and process

59. Interim case tribunals recognise that no definitive finding has yet been made on the validity of the allegations about the Respondent and that any form of suspension can have a significant impact on a member's role, credibility and finances.

¹⁵ Section 80, <http://www.legislation.gov.uk/ukpga/2000/22/section/80>

¹⁶ Section 78(1), Local Government Act 2000

60. Interim case tribunals will therefore seek to take the minimum action necessary to ensure the effective completion of the investigation, the proper functioning of the authority concerned and the maintenance of public confidence. The tribunal will only decide on full suspension if its aims cannot be met otherwise.

The nature of the allegation(s)

61. Interim case tribunals will start by considering the nature of the allegations against the Respondent in order to decide whether, if the allegation were substantiated, a suspension or partial suspension would be an appropriate sanction.

No action

62. If the tribunal concludes that neither suspension nor partial suspension would follow a finding of breach, it is highly unlikely to make such an order without compelling reasons as to why the Ombudsman's investigation cannot effectively proceed without such action.

63. If the tribunal concludes that a finding on breach would result in a suspension or partial suspension, it will still require a compelling argument that it is in the public interest for a suspension or partial suspension of the Respondent in advance of the Ombudsman completing his investigation and referring a final report to the Adjudication Panel for Wales.

Partial Suspension

64. Partial suspension offers the possibility of safeguarding public confidence in an authority and enabling it to function effectively without depriving the member's constituents of ward representation. Interim case tribunals may wish to draw on the principles that apply to case and appeal tribunals' approach to partial suspension.

65. Partial suspension may be appropriate in circumstances where the allegations are directly relevant to and inconsistent with a specific function or area of responsibility held or the Respondent exercises executive functions for the authority whose Code s/he is alleged to have breached or – the Respondent may be excluded from their specific or executive responsibilities in order to reassure the public whilst not undermining the authority's ability to function effectively or depriving the electorate of their division/ward representation.

Suspension

66. Suspension is likely to be appropriate if there is a legitimate concern as to any of the following:

- the Respondent may interfere with evidence or with witnesses relevant to the matter under investigation;
- the business of the authority concerned cannot carry on effectively if the Respondent were to continue in office whilst the allegation against him or her

remained unresolved – the tribunal will have particular regard to any breakdown or potential breakdown in relations between the Respondent, other members and/or key staff of the authority;

- the allegations raise issues of such gravity that they jeopardise public confidence in the authority concerned if the Respondent were to continue in office whilst the allegations remained unresolved.

Annex: other documents and guidance relevant to tribunals

Adjudication Panel for Wales : Members Handbook (2017)

Public Services Ombudsman for Wales –The Code of Conduct for members of county and county borough councils, fire and rescue authorities, and national park authorities: Guidance (August 2016) and The Code of Conduct for members of community councils: Guidance (August 2016)

Equal Treatment Bench Book, Judicial College (as amended)

The Adjudications by Case Tribunals and Interim Case Tribunals (Wales Regulations 2001 No. 2288 (W.176), as amended by the Local Authorities (Case and Interim Case Tribunals and Standards Committees) (Amendment) (Wales) Regulations 2009 2578 (W. 209)

The Local Government Investigations (Functions of Monitoring Officers and Standards Committee) (Wales) Regulations 2001 No. 2281 (W171), as amended by the Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 No. 85 (W.39)