

Document Pack



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FRIDAY, 4 SEPTEMBER 2015

TO: ALL MEMBERS OF THE STANDARDS COMMITTEE

I HEREBY SUMMON YOU TO ATTEND A MEETING OF THE **STANDARDS COMMITTEE** WHICH WILL BE HELD IN THE **CHAMBER, COUNTY HALL, CARMARTHEN AT 10.00 AM. ON FRIDAY, 11TH SEPTEMBER, 2015** FOR THE TRANSACTION OF THE BUSINESS OUTLINED ON THE ATTACHED AGENDA

Mark James

CHIEF EXECUTIVE



PLEASE RECYCLE

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COMMITTEE MEMBERSHIP

9 MEMBERS

Independent Members (5)

Mrs Mary Dodd
Mr Christopher A. Downward (Vice-Chair)
Mr M. Andre Morgan
Mr Paul W.L. Stait (Chair)
Mr Alun Williams

Community Committee Member (1)

Councillor Jeanette Gilasbey

Elected Members of the County Council (3)

Councillor Susan M. Allen
Councillor B.A. Louvain Roberts
Councillor Gareth B. Thomas

AGENDA

1. APOLOGIES FOR ABSENCE.
2. DECLARATIONS OF PERSONAL INTEREST.
3. TO SIGN AS A CORRECT RECORD THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON THE 29TH JULY, 2015. 1 - 4
4. STANDARDS COMMITTEE ANNUAL REPORT 2014/2015. 5 - 16
5. REVIEW OF CORPORATE WHISTLE BLOWING POLICY. 17 - 78
6. CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILLORS. 79 - 90
7. PUBLIC SERVICES OMBUDSMAN FOR WALES REPORT 2014/15. 91 - 164
8. REVISED OMBUDSMAN'S GUIDANCE. 165 - 216
9. ADJUDICATION PANEL FOR WALES - DECISION NOTICE COMMUNITY COUNCILLOR HAULWEN LEWIS. 217 - 222
10. APPLICATION FOR DISPENSATION BY FIFTEEN COUNCILLORS FROM GORSLAS COMMUNITY COUNCIL. 223 - 230
11. APPLICATION FOR DISPENSATION BY COUNCILLOR SHAHID HUSSAIN. 231 - 238
12. ANY OTHER ITEMS OF BUSINESS THAT BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR DECIDES SHOULD BE CONSIDERED AS A MATTER OF URGENCY PURSUANT TO SECTION 100B(4)(B) OF THE LOCAL GOVERNMENT ACT 1972.

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STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON

29TH JULY 2015

PRESENT: Mr P. Stait (Chair)

Independent Members:-

M. Dodd, M.A. Morgan and A. Williams

County Council Members:-

Councillors S.M. Allen, B.A.L. Roberts and G.B. Thomas

The following officers were also in attendance:-

Mr R. Edgecombe – Legal Services Manager

Mrs M. Evans Thomas – Democratic Services Officer

(Chamber, County Hall, Carmarthen: 10.00 a.m. – 10.50 a.m.)

1. APOLOGIES

Apologies for absence were received from Mr C. Downward and Community Councillor J. Gilasbey.

2. DECLARATIONS OF PERSONAL INTERESTS

Name of Member	Minute No	Nature of Interest
Councillor G.B. Thomas	6 – Application for Dispensation by Councillors Gareth Thomas and Jean Lewis	He is one of the applicants

3. MINUTES

RESOLVED that the minutes of the meeting of the Committee held on the 12th June, 2015 be signed as a correct record.

4. APPLICATION FOR DISPENSATION BY COMMUNITY COUNCILLOR G.E. WRIGHT

The Committee considered an application submitted by the Clerk to Llandovery Town Council on behalf of Councillor G.E. Wright, a member of Llandovery Town Council, for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 to speak at meetings of Llandovery Town Council on issues relating to the future of the Pantycelyn School site in Llandovery.

It was reported that a dispensation was sought as Councillor Wright is a member and former Director of the Calon Cymru project which aims to revitalise communities on the Heart of Wales line through the purchase of land for use by the

STANDARDS COMMITTEE
MINUTES OF THE MEETING HELD ON
29TH JULY 2015

community via Community Land Trusts. The Pantycelyn School site was a site which would potentially be of interest to the project.

Councillor Wright would have a personal interest in relation to any discussions regarding the school site by virtue of paragraph 10(2)(ix)(ee) of the Code as the matter under discussion would be likely to affect a society or association operating in the county in which she is a member. Councillor Wright's interest would be prejudicial as, by her own admission, she wished to promote the views of the project in those discussions.

Following a detailed discussion, it was

UNANIMOUSLY RESOLVED that dispensation be granted under Regulation 2(f) of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 to Councillor G.E. Wright to SPEAK BUT NOT VOTE at meetings of Llandovery Town Council on any issues relating to the future of the Pantycelyn School site in Llandovery, until 4th December, 2015.

5. APPLICATION FOR DISPENSATION BY COMMUNITY COUNCILLORS LYN DAVIES, JOHN REES, N. THOMAS, S. THOMAS, J. GIBBIN, H. PHILLIPS, D. PHILLIPS, R. WILLIAMS AND R. DAVIES

The Committee considered an application submitted by the Clerk to Llanboidy Community Council on behalf of Councillors Lyn Davies, John Rees, N. Thomas, S. Thomas, J. Gibbin, H. Phillips, D. Phillips, R. Williams and R. Davies, members of Llanboidy Community Council, for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 to speak and vote at meetings of Llanboidy Community Council in respect of their involvement with the Market Hall, Llanboidy. The Council receives requests for financial assistance from the Hall.

It was reported that a dispensation was sought as all nine councillors were members of the Hall Committee. One is also the Treasurer and another Chairman. Their role as Committee Members gives rise to a personal interest under 10(2)(a)(ix)(ee) of the Code i.e. membership of a private club, society or association operating within the Authority's area. This interest was also prejudicial as a member of the public with knowledge of the facts would reasonably regard it as so significant that it was likely to prejudice the Councillor's judgement of the public interest.

There was no suggestion that the Councillors would themselves gain financially as a result of their involvement with the hall. The application was silent as to whether any of the Councillors were appointed to the Committee by the Council.

Although the application made specific reference to a meeting on the 1st July, 2015, the interest was a continuing one.

Following a detailed discussion, it was

STANDARDS COMMITTEE
MINUTES OF THE MEETING HELD ON
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UNANIMOUSLY RESOLVED that dispensation be granted under Regulation 2(a) of the Standards Committees (Grant of Dispensation) (Wales) Regulations 2001, to Councillors Lyn Davies, John Rees, N. Thomas, S. Thomas, J. Gibbin, H. Phillips, D. Phillips, R. Williams and R. Davies to **SPEAK AND VOTE** at meetings of the Llanboidy Community Council in relation to any discussions regarding the Market Hall, Llanboidy until 4th December, 2015.

6. APPLICATION FOR DISPENSATION BY COUNTY COUNCILLORS GARETH THOMAS AND JEAN LEWIS

[NOTE: Councillor G.B. Thomas, having earlier declared a personal interest in this item, left the meeting prior to the consideration and determination thereof.]

The Committee considered an application submitted by County Councillors Gareth Thomas and Jean Lewis for the grant of a dispensation under the provisions of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 to speak and make written representations at meetings of Carmarthenshire County Council and its Committees on any matters relating to dairy farming. Both Councillors are actively engaged in the dairy farming industry.

It was reported that a dispensation was sought as their role in the dairy farming industry gives rise to a personal interest under paragraph 10(2)(a)(i) of the Code i.e. any employment or business carried on by them. This interest was also prejudicial as a member of the public with knowledge of the facts would reasonably regard it was so significant that it was likely to prejudice the Councillor's judgement of the wider public interest.

Matters relating to dairy farming are regularly discussed at meetings of the Council and its Committees. The application gave an example of where the Councillors were forced to declare an interest and absent themselves from a meeting in which they could have otherwise made a valuable contribution due to their expertise.

Following a detailed discussion, it was

UNANIMOUSLY RESOLVED that dispensation be granted under Regulation 2(f) of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 to County Councillors Gareth Thomas and Jean Lewis to **SPEAK BUT NOT VOTE AND TO MAKE WRITTEN REPRESENTATIONS** at meetings of Carmarthenshire County Council and its Committees in relation to any discussions regarding dairy farming until 4th December, 2015.

7. CODE OF CONDUCT TRAINING FOR TOWN AND COMMUNITY COUNCILLORS

Further to minute no. 8 of the meeting held on 12th June, 2015 the Committee received a further update report on the Code of Conduct training sessions held in early June for representatives of local Town and Community Councils.

A consultation questionnaire was provided for all delegates seeking feedback on the training sessions and members considered a schedule of the feedback

STANDARDS COMMITTEE
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29TH JULY 2015

responses together with a summary of the main points. Out of the 106 delegates who attended, 98 returned their questionnaires and the Committee noted that the response to the training was overwhelmingly positive.

UNANIMOUSLY RESOLVED that the report be noted.

SIGNED: **DATE:**

STANDARDS COMMITTEE 11TH SEPTEMBER 2015

STANDARDS COMMITTEE ANNUAL REPORT 2014/2015

Recommendations / key decisions required:

To consider the report

Reasons:

The subject matter of the report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Directorate

Chief Executives

Name of Head of Service:

Linda Rees-Jones

Report Author:

Robert Edgecombe

Designations:

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EXECUTIVE SUMMARY STANDARDS COMMITTEE 11th SEPTEMBER 2015

STANDARDS COMMITTEE ANNUAL REPORT 2014/2015

The Standards Committee is required to produce an annual report of its activities for presentation to Full Council, usually in November or December of each year.

Following discussions between officers and the Chair of the Committee, the attached draft report has been prepared for consideration and comment.

The report focuses on the following issues;

- Committee Membership
- Code of Conduct and Dispensation Applications
- Whistle-Blowing Policy
- Complaints and Compliments
- Public Services Ombudsman for Wales – 2014/2015 Annual Report
- Annual Standards Conference
- Adjudication Panel Report 2013/2014
- Code of Conduct compliance by Town and Community Councillors

The section on the Annual Standards Conference has been left intentionally blank. It is suggested that it be completed once members have attended the conference

DETAILED REPORT ATTACHED ?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Linda Rees Jones**

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-136	Legal Services, County Hall

STANDARDS COMMITTEE

ANNUAL REPORT 2014/2015

Item	Subject
1.	Introduction
2.	Period covered by the report
3.	Committee Membership
4.	Code of Conduct complaints
5.	Applications for Dispensation
6.	Code of Conduct Training
7.	Whistle-Blowing Policy
8.	Complaints and Compliments
9.	Ombudsman's Report 2014/2015
10.	Annual Standards Committee Conference
11.	Adjudication Panel Report for 2013/14
12.	Code Compliance by Town and Community Councillors

1. INTRODUCTION

The law requires each and every County and County Borough Council in Wales to establish and maintain a Standards Committee. Such committees are responsible for overseeing standards of conduct for elected members of both the principal council and the constituent community and town councils within the principal council's area.

The Committee receives and determines applications for dispensation from elected members in relation to the Code of Conduct, and adjudicates upon code complaints referred to the Council by the Public Services Ombudsman for Wales. However it should be noted that only rarely has the Committee been requested to undertake this latter function.

The Committee also receives reports in relation to complaints and compliments, and the operation of the Council's whistle-blowing policy.

2. PERIOD COVERED BY THIS REPORT

This report covers the period 1st April 2014 to 31st March 2014

3. COMMITTEE MEMBERSHIP

The Committee has nine members, made up of five independent co-opted members, an elected member of a community council in the County and three elected members of the County Council. The Chair and Vice-Chair are both independent co-opted members.

The vacancy caused by the resignation of independent member Mrs Gillian Whitehead and referred to in my report for 2013/2014 has been filled with the appointment of Mrs Mary Dodd to the Committee.

The names of the committee members, together with the Committee's terms of reference, are shown on the Council's website.

4. CODE OF CONDUCT COMPLAINTS

The Committee has not been required to adjudicate upon any Code of Conduct complaints during the period of this report.

Formal complaints about councillors who are suspected of breaching the Code of Conduct are referred directly to the Public Service Ombudsman for Wales without involving the Standards Committee. Most complaints are resolved by the Ombudsman but, occasionally the Ombudsman may require the Committee to investigate and adjudicate on a complaint. In 2014-15, however, the Ombudsman did not refer any complaints to the Committee.

During the year a total of 24 Code complaints were made against Councillors from Carmarthenshire. Of these 15 were against County Councillors and 9 against Town and Community Councillors. This represents a significant increase over recent years; however the following points should be noted;

- (i) 8 of the complaints relating to County Councillors arose out of the same incident and were in regard to the same Councillor. The Ombudsman found that no action was required as the Councillor had followed the Code in his conduct at a meeting of the Planning Committee.
- (ii) The Ombudsman found that the Code had been breached on only 1 occasion (by a Town Councillor), and even then concluded that no further action should be taken.
- (iii) 8 of the complaints were by councillors against a fellow councillor. All these complaints related to Town and Community Councils.

No particular trends can be identified from the cases that have been notified.

Highlights of the Public Service Ombudsman's report for the whole of Wales are given in section 9.

5. APPLICATIONS FOR DISPENSATION

The Committee has considered 17 applications for dispensation from County and Community and Town Councillors during the year.

The grounds upon which the Committee may grant a dispensation are set out in the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001.

The Committee continues to approach each application with a presumption in favour of granting a dispensation, wherever it can. The Committee may also delegate authority to the Monitoring Officer to grant similar dispensations in relation to that business.

Details of the applications that have been dealt with can be viewed as part of the minutes of the meetings of the Committee which are accessible on Carmarthenshire County Council's website www.carmarthenshire.gov.uk.

A comparison between the numbers of dispensation applications received since 2009 shows the following;

YEAR	TOTAL	CCC	T/CC	GRANTED	REFUSED	OTHER
2009/10	9	1	8	6*	0	N/A
2010/11	6	4	2	6*	0	N/A
2011/12	7	6	1	7*	0	N/A
2012/13	23	18	5	8	15	N/A
2013/14	27	7	20	26*	1	N/A
2014/15	17	1	16	17	0	N/A

*includes cases where the application was partially granted

As can be seen the overall number of applications received was lower than in 2013/20134 and 2012/2013. An analysis of the applications reveals that of the 16 applications received from Town and Community Councils (T/CC), 10 were from one particular council.

A review of all the T/CC applications received shows that they all related to instances where a councillor's membership of another organisation created a personal and prejudicial interest. In the vast majority of cases these organisations were voluntary or community based and, in those instances, the committee granted dispensations to speak but not vote.

It continues to be of some concern that the majority of applications for dispensation originate from one Council although this year the Council in question is different to the one that supplied 16 out of 20 applications in 2013/2014.

6. CODE OF CONDUCT TRAINING

Following a review of the code of conduct training provided to Town and Community Councillors in May and June 2014 a decision was taken to again invite each Town and Community Council to send representatives to two training sessions that were held on separate evenings during June this year. Although technically falling outside the period of this report, I am pleased to confirm that the sessions were well attended, with over 100 delegates present on behalf of 40 different Councils, making the sessions the most successful that we have provided.

7. WHISTLE –BLOWING POLICY

The Committee has oversight of the authority’s whistle-blowing policy. The process is regulated by the Public Interest Disclosure Act 1998, which protects against dismissal and other detriment for workers who disclose information in the public interest in prescribed circumstances to prescribed persons.

Details of the complaints dealt with during the period 2014/2015 are set out below;

New Complaints	Complaints carried over from 2013/14	Cases Concluded	Cases Continuing
3	0	3	0

The Committee has taken a particular interest in the steps being taken by the Council to raise awareness amongst staff of the policy and to train managers in its implementation and has closely monitored progress throughout the year.

When considering the number of complaints made under the policy, it is necessary to keep in mind that the policy is only intended to cover concerns that fall outside the scope of other procedures. For example there is often some overlap with matters relating to safeguarding, grievance, disciplinary matters and dignity at work. The number of whistle blowing complaints received appears to be consistent with those received by other local authorities.

8. COMPLAINTS AND COMPLIMENTS FROM THE GENERAL PUBLIC

In June 2015 the Committee was presented with a report on complaints and compliments received by the Council for 2014/2015. The report provided comparative data with the previous year and an analysis by department. It also summarised the targets and initiatives pursued to date and planned for the following year.

There has been a decrease overall in the number of complaints received compared with 2013/2014 (from 676 to 573), but there are again variations between departments.

The number of cases dealt with within the required time period fell from 71% to 66% reversing the improvement that that had been made the previous year.

The overall decrease in complaints, following on from a similar decrease in 2013/2014 is pleasing to note and a very encouraging trend.

9. PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT FOR 2013/2014

In September 2015 the Committee received the 2014/2015 annual report of the Public Services Ombudsman for Wales. The Ombudsman investigates complaints of maladministration and service failure and also deals with complaints against councillors in respect of alleged breaches of the member's Code of Conduct.

Maladministration

Maladministration complaints against public bodies in general have risen again by 8%. However complaints against local authorities rose by 5% during this period. However once again, the majority of complaints were closed after initial consideration as they did not merit investigation.

In relation to Carmarthenshire County Council, a total of 58 matters were determined by the Ombudsman. Unfortunately one of these matters did result in a Public Interest report being issued and which was reported to Full Council on the 24th February 2015. The Committee noted however that this report related to events that occurred in 2012.

Members Code of Conduct

The Ombudsman reported a 1% increase in Code of Conduct complaints overall compared to the previous year. Although there was a decrease in the number of Code complaints against Town and Community Councillors, there was a surprising 13% increase in complaints against County Councillors.

This increase reverses the general downward trend since 2011/12.

10. ANNUAL STANDARDS CONFERENCE

(Detail to be inserted following attendance at the conference)

11. ADJUDICATION PANEL REPORT 2013/2014

The Committee has also considered the Adjudication Panel's Annual Report for 2013/2014.

The panel deals with the most serious allegations of misconduct under the Code of Conduct and is a venue for appeals against decisions made by Standards Committees.

Throughout Wales, 1 case was referred to the Panel by the Ombudsman during the year and a further 2 were carried over from the previous year.

None of these cases related to Carmarthenshire.

12. CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILLORS

In September 2015 the Committee received a report upon the general level of Code compliance by Town and Community Councillors since the 1st April 2012. The report considered in detail the number of code complaints, dispensation applications and declarations of interest recorded in respect of each of the 72 Councils, and also the level of Code training given to members. This information will be used to help formulate and target training and guidance in the future.

Paul Stait
Chairman - Standards Committee

STANDARDS COMMITTEE 11TH SEPTEMBER 2015

REVIEW OF CORPORATE WHISTLEBLOWING POLICY

Recommendations / key decisions required:

To consider the report

Reasons:

The subject matter of the report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Directorate

Chief Executives

Name of Head of Service:

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Report Author:

Robert Edgecombe

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**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
11th SEPTEMBER 2015**

REVIEW OF CORPORATE WHISTLE BLOWING POLICY

The remit of the Standards Committee includes the receipt of an annual report upon the operation of the Council's Whistle Blowing Policy, with a view to the inclusion of relevant information within the Chairman's Annual Report to Full Council.

Between the 1st April 2014 and 31st March 2015 three new whistle blowing complaints were received by the Council. This compares with 1 new complaint in 2013/2014.

These complaints were concluded as follows;

1. One was concluded following contact with the alleged complainant
2. One was investigated but no evidence was found to substantiate the complaint
3. One was investigated and resulted in a formal disciplinary investigation being undertaken.

No complaints were carried over from 2013/2014 and no complaints have been carried over into 2015/2016.

The Council has continued to take steps to raise staff awareness of the policy and ensure managers are fully trained to recognise whistle blowing complaints and deal with them properly.

Full details of these measures and a copy of the current policy, are set out in the attached report

DETAILED REPORT ATTACHED ?

YES

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-136	Legal Services, County Hall
Legal file	CCCN-061	Legal Services, County Hall

ANNUAL REVIEW
OF
WHISTLE BLOWING POLICY
2014-2015

Authors:

Ann L Clarke and Robert Edgecombe

Dated: 11th September 2015

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- A. Executive Summary
- B. Introduction
- C. Annual Review of Whistle Blowing Policy
- D. Whistle Blowing Complaints Received during 2014/2015
- E. Awareness Raising and Training
- F. Wales Audit Office Review
- G. Future Action

A. EXECUTIVE SUMMARY

1. The Council has adopted a formal Whistle-blowing policy in accordance with statutory requirements and which is reviewed annually by the Standards Committee.
2. The number of complaints received during the year has increased compared to 2013/2014 but is still at a low level. This is consistent with the levels of complaint recorded by other authorities.
3. The Council has distributed a guidance booklet regarding the Policy to all staff.
4. All staff with access to email (including all managers) have been provided with a copy of the policy and confirmed that they have read and understood it.
5. 84% of managers have completed the additional e-learning module as at the 7th August 2015 and efforts are continuing to increase the completion rate further.
6. The Wales Audit Office are satisfied with the Council's approach on the issue, and will be considering the operation of the Policy further during their Corporate Assessment of the Authority later this year.

B. INTRODUCTION

1. The Public Interest Disclosure Act 1998 ('the Act') gives legal protection to workers against dismissal or other detriment where they disclose certain types of information in the public interest to the Council or others who are defined in the Act as prescribed person.
2. The protection applies not just to employees, but also casual workers, agency workers, contractors and sub-contractors.
3. The protection applies to disclosure of a 'relevant failure' i.e. a crime, breach of legal obligation, a miscarriage of justice, danger to health and safety, damage to the environment or deliberate concealment of information relating to any of these categories.
4. The Policy aims to provide clear and practical guidance to workers as to their rights under the Act and the process by which they can disclose the existence of a 'relevant failure'.
5. The Policy does not exist in isolation and its operation should be considered in the context of other policies and procedures which are designed to enable workers (and others from the wider public) to raise concerns about the way the Council performs its functions. These policies and procedures include;
 - (a) Corporate Complaints Policy
 - (b) Corporate Grievance Procedure
 - (c) 'Working Together to Safeguard Children' Guidance issued by Welsh Government
 - (d) All-Wales Child Protection Procedures
 - (e) Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse.

C. ANNUAL REVIEW OF THE POLICY

1. Officers have reviewed the Policy since it was last approved by the Standards Committee on the 12th September 2014.
2. Save for updating certain contact information on pages 8 and 9 officers are satisfied that the Policy continues to be legally correct as at the date of this meeting.
3. Officers therefore recommend that the policy be approved subject to the changes to contact details highlighted.
4. A copy of the Policy is attached at Appendix A.

D. COMPLAINTS RECEIVED DURING 2014-2015

1. During the period covered by this report three new complaints have been received that fall within the scope of this Policy.
2. All three complaints related to allegations of fraudulent conduct. One complaint was concluded when the person alleged to have made the complaint denied doing so. The others proceeded to investigation.
3. Of the complaints that proceeded to investigation one resulted in no evidence being discovered to substantiate the complaint, but the second resulted in a formal disciplinary investigation being undertaken.
4. No complaints were carried over from 2013-2014.
5. Throughout the period of the report the dedicated whistle blowing email address has been monitored weekly. No emails have been received. A test email has been sent to the address once a month to check it is still working.

E. AWARENESS RAISING AND TRAINING

1. The Council has taken the following steps to raise awareness amongst its staff of the existence of the Policy and train Managers in its operation;
 - (a) A short guide explaining the Policy has been prepared and circulated to all members of staff, including Managers. Those who have access to email received the guide electronically and hard copies were made available to all others. Approximately 6135 copies of the guide were distributed in total, including approximately 3500 hard copies. The total number of staff employed by the authority (excluding locally employed school staff) is 5170. A sample of the guide is attached at Appendix B.
 - (b) All members of staff with access to email were required to read the Whistle Blowing Policy and confirm they understood it. This requirement was enforced by Meta-compliance and applied to 2635 staff in total, including all Managers. 100% compliance was achieved.
 - (c) All Managers were required to complete an e-learning module aimed at improving their ability to identify a whistle blowing complaint and deal with it appropriately. Since June 2015 this requirement has also been enforced by Meta-compliance. A table showing the up to date completion rates for the module per department is attached at Appendix C.
 - (d) Other members of staff with access to email were also given an opportunity to improve their understanding of the operation of the policy by completing the same module. However this was not made a mandatory requirement as not all members of staff have access to email. A table showing the up to date completion rates for the module per department is attached at Appendix D.
 - (e) Following the annual review of the Policy by Standards Committee every September an article is placed in the Staff newsletter ('Y Gair') regarding the policy and sent to all staff. A copy of the Article is attached at Appendix E.

- (f) 2635 staff received the newsletter electronically and approximately 3500 hard copies were made available to staff, casual workers, contractors and agency staff not on email.
 - (g) The same article is also placed in the departmental newsletters for the Environment, Communities and Education and Children's Departments and circulated to all staff in those departments.
 - (h) An email was sent to all 2635 staff with access to email enclosing a link to the revised policy. A copy of the email is attached at Appendix F.
 - (i) Whistle Blowing Officers received a refresher briefing session on the 4th December 2015.
 - (j) Hugh James Solicitors delivered specialist training to HR Officers, Legal Officers and Whistle Blowing Officers on the 16th June 2015
 - (k) Posters have been developed and are placed at various locations around Council buildings. A Copy of the poster is attached at Appendix G
 - (l) The internal staff website ('BRIAN') has a section dedicated to whistle blowing where staff and managers can access the policy, short guide, posters, the Public Sector Good Practice Guide and a link to the e-learning module.
2. In addition to the above the Social Care and Housing Department (now Department for Communities) provided bespoke training to 360 of its own Team Managers/Supervisors in 2012/2013.
 3. Although legal responsibility for developing and implementing whistle blowing policies in relation to schools rests with individual governing bodies, the Council has circulated the Welsh Government Guidance and Model Policy to all schools in the County.

F. WALES AUDIT OFFICE REVIEW

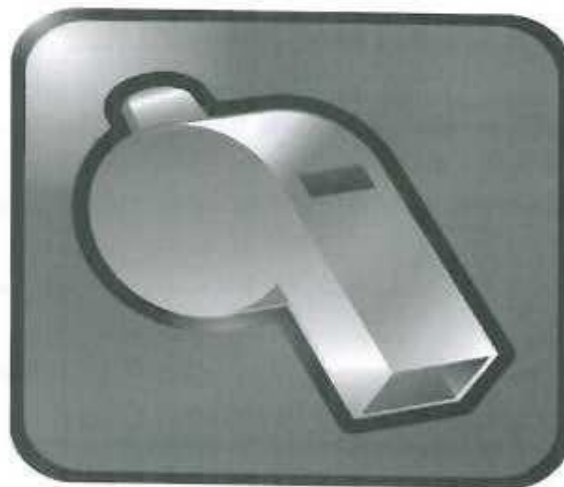
1. During 2015 the Wales Audit Office conducted a review of the operation of the Council's Whistle blowing Policy as part of a national exercise. A representative of the Wales Audit Office attended a meeting of the Standards Committee in September 2014 to present their findings, a copy of which are attached at Appendix H.
2. The findings of the Review were largely positive. All recommendations contained within the report have been followed up and largely implemented

G. Future Action

1. Efforts to further improve completion rates in respect of the e-learning module are continuing.
2. Consideration is being given to developing a training presentation for elected members to improve their awareness of the policy and its operation.
3. The Policy will continue to be reviewed annually and updated as and when required to reflect changes in the law and guidance.
4. All staff will continue to receive an annual reminder of the policy via the staff newsletter and an email to staff with access to that facility.
5. The Wales Audit Office will be conducting a Corporate Assessment of the authority during the autumn which will include an examination of the operation of the Policy. Any findings will be reported to the Standards Committee.



WHISTLEBLOWING POLICY



Legal Protection for Workers with Concerns at Work:

Employee; Casual Worker; Volunteer; Contractor; Agency Worker;
Consultant; County Councillor and Co-Opted Members

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What is this about?

1. We (the 'Council') want to ensure a working environment where you (the 'worker') feel confident to raise any concerns about malpractice within the Council. However, some people are reluctant to voice their concerns because of fears about possible repercussions, or a feeling of disloyalty to colleagues. Some might consider it easier to ignore the concern rather than report what may just be a suspicion of malpractice.
2. Malpractice can include fraud, corruption, bribery, dishonesty, financial irregularities, serious maladministration because of deliberate and improper conduct, unethical activities (which may be of a criminal nature) and dangerous acts or omissions which create a risk to health, safety or the environment, criminal offences, or failure to comply with a legal or regulatory obligation.
3. Whistleblowing does not include mismanagement as this may arise from weak management, for example, rather than malpractice. Mismanagement may be dealt with under the Council's Capability Policy or Disciplinary Procedure, as appropriate.
4. This policy is intended to encourage and support you to raise serious concerns **within** the Council safely and with confidence and view this as a **duty**, rather than overlooking the problem. 'Whistle-blowing' refers to the disclosure, by workers, of malpractice as well as illegal acts or omissions at work.
5. This policy will be applied consistently to everyone irrespective of race, colour, nationality, ethnic or national origins, language, disability, religion, belief or non belief, age, sex, gender reassignment, sexual orientation, parental, marital or civil partnership status.
6. If you have any equality and diversity concerns in relation to the application of this policy and procedure, please contact a member of the HR Team who will, if necessary, ensure the policy/procedure is reviewed accordingly.

What legal protection do I have?

7. The Public Interest Disclosure Act 1998 gives you legal protection against dismissal and other detriments where you disclose certain types of information in the public interest, to the Council, either as your employer or (in the case of a contractor disclosing information) to the organisation that has legal responsibility for that matter.

Will I be protected if I make a public disclosure?

8. You are encouraged to raise your concerns via your line manager (para 32), the Council's dedicated Whistleblowing Officers (para 33), or via the Council's

(para.35). You can also seek advice from prescribed organisations independent of the Council regarding your concerns (para.49). If you raise concerns to someone else other than those detailed within this procedure, e.g. to the local paper, depending on your disclosure and to whom it is made, you may not receive the legal protection as a 'whistleblower'. You are therefore strongly advised to seek advice before taking this action.

9. If you do take the matter outside the Council you should ensure that you do not disclose any confidential information, e.g. client case notes, given to you in confidence, unless you have consent in writing from the person to whom the information relates.

What support can I expect?

10. At all times, when raising and investigating your concerns:

- Directors and Heads of Service, will support the investigation process
- your concerns will be taken seriously
- the Council will do all it can to support you throughout the investigation, e.g. provide advocacy services, interpreters, counselling etc.

If appropriate, and after full consultation the Council may consider temporarily re-deploying you or others for the period of the investigation.

What is the Council's attitude to malpractice in the workplace?

11. We take any malpractice within the Council very seriously, as we are committed to maintaining the highest standards of openness, probity and accountability. If you have serious concerns about any aspect of the Council's work then you are encouraged and expected to come forward and voice those concerns.
12. We understand that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. However, if you raise your concerns you will have nothing to fear as you will be doing your duty to your employer, your colleagues and those to whom you provide a service.
13. Harassment or victimisation of individuals, who have raised concerns, including informal pressures, will not be tolerated and will be taken seriously.

14. We will not tolerate any attempt on the part of any worker, councillor, council contractor or supplier to apply any sanction or detriment to anybody who has reported to the Council any serious and genuine concern that they may have about apparent wrongdoing.
15. We will treat such conduct by an employee of the Council as a serious disciplinary matter, and any such conduct by a Councillor is liable to be reported as a breach of the Members Code of Conduct.
16. Where any such conduct is undertaken by any contractor or supplier of the Council we will regard that as a serious breach of contract.
17. Any such behaviour by any recipient of a Council service will be regarded as a breach of the condition under which that service is provided.

Who can blow the whistle?

18. This policy applies to:
 - Workers for Carmarthenshire County Council including all employees, centrally employed teachers and casual workers
 - Employees of contractors working for the Council on Council premises, for example, agency staff, builders, drivers
 - Those providing services under a contract or other agreement with the Council in their own premises, for example care homes
 - Voluntary workers working with the Council
 - Consultants engaged by the Council
 - County Councillors and Co-Opted Members
19. However, this policy does not cover staff on the complement of locally managed schools for which local arrangements exist. In the absence of local arrangements school governing bodies are recommended to adopt the principles contained within this policy.

What can I blow the Whistle about?

20. You are encouraged to 'blow the whistle' where you reasonably believe malpractice has taken place or is likely to take place, in one or more of the following six areas:
 - Criminal offences
 - Breach of legal obligation
 - Miscarriages of justice
 - Danger to the health and safety of an individual
 - Damage to the environment

21. You can raise serious concerns about any aspect of service provision or conduct of officers or Members of the Council or others acting on behalf of the Council. The event may already have occurred or it may be likely to be committed in the future. For example, your concerns might fall into one or more of the six areas of malpractice describe above that:
- is potentially unlawful, fraudulent or corrupt
 - might contravene our Standing Orders, our Financial Procedure Rules, our policies, codes of conduct or other legal obligations
 - could amount to improper conduct by an officer or a member
 - might fall below established standards of practice
 - constitutes sexual, physical or emotional abuse
 - potentially endangers the health and safety of an individual
 - is causing, or is likely to cause, damage to the environment
 - might involve a miscarriage of justice
 - is an attempt to cover up any of the above examples
22. Whistle blowing is where a worker has a concern about danger or illegality that has a public interest aspect to it, and usually this is because it threatens others (e.g. customers or the public). In contrast, a grievance is a dispute about your own employment position and has no additional public interest dimension. A whistle blowing issue could be entangled within a grievance or dignity at work allegation, in which case the Council will need to consider the facts, assess the risks and decide how to best deal with the issue (See Appendix A Whistleblowing Flowchart).
23. If your concerns fall outside the six areas illustrated above you will be advised of the correct procedure to follow as described below.

How does the policy fit in with other Council policies?

24. The Whistle-blowing Policy is intended to cover major concerns that **fall outside** the scope of other procedures **and are in the public interest**, i.e. any **serious concerns** that you have about any aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under this policy.
25. Concerns you may have about your own employment with the authority, such as, terms and conditions of employment, health & safety, work relations, new working practices, working environment or organisational change should be raised through the Grievance procedure.
26. Concerns you may have about allegations of bullying, harassment, victimisation or discrimination in work should be raised through the Dignity at Work procedure.
27. This policy should be read in conjunction with the Council's Officer Code of Conduct

may be developed from time to time and which will be drawn to the notice of employees and others to whom this policy applies.

What if I am already involved in another HR procedure?

28. Any investigation into allegations of malpractice will not influence or be influenced by any disciplinary, grievance, sickness, capability, redundancy or any other procedures that already affect you or may affect you in the future. On the other hand, any disciplinary grievance, sickness, capability, redundancy or any other procedures to which you are already subject will not be halted as a result of raising concerns.

How does this policy fit with the Member's Code of Conduct?

29. The Council has no power to deal with Code of Conduct complaints against an elected member. If you raise concerns about an elected member under this policy you will be given the appropriate legal protection against any acts of detriment and advised to make your concerns to the Public Services Ombudsman for Wales. Alternatively the Monitoring Officer may decide to refer the matter to the Ombudsman if it is considered appropriate to do so. Details of the Ombudsman's complaints process can be found at www.ombudsman-wales.org.uk

What if I want to make anonymous allegations?

30. You can raise concerns anonymously but they are much less powerful and will be considered under this policy at the discretion of the Monitoring Officer. Remember, the purpose of this policy is to protect and support you, and ensure that you can raise your concerns with confidence. If you do not tell us who you are, it will be much more difficult for us to look into the matter, to support and protect you, or to give you feedback.


Is my identity kept confidential?

31. All disclosures will be treated in confidence and every effort will be made not to reveal your identity if you so wish. It must be appreciated however that the investigation process may reveal the source of the information and a formal statement may be required from you as part of the evidence. If you are required to give evidence in criminal or disciplinary proceedings we will arrange for you to receive advice about the procedure. If disclosure of your identity becomes unavoidable then the Council will support you through the process.

How do I raise a concern?

32. You should not approach or accuse individuals directly or attempt to investigate the matter yourself. Instead you should normally raise your concerns with your line manager or if you prefer, one of the Council's dedicated Whistleblowing Officers, as shown below:

Whistleblowing Officer	Job Title/e-mail address	Phone number
Noelwyn Daniel	Performance & Information Manager NDaniel@carmarthenshire.gov.uk	01267 224476 (extension 4476)
Nigel J Evans	Practice Support Manager njevans@carmarthenshire.gov.uk	01267 224694 (extension 4694)
Tracey Thomas	Principal Development Officer TrThomas@carmarthenshire.gov.uk	01267 226202 (extension 6202)
Stefan Smith	Head of Children's Services SJSmith@carmarthenshire.gov.uk	01267 246530 (extension 6530)
Nicola Williams	Business Support Manager NiJWilliams@carmarthenshire.gov.uk	01269 590232 (extension 3232)
Alan Howells	Business and Development Manager aehowells@carmarthenshire.gov.uk	01267 228140 (extension 5140)
Barbara E Williams	Safeguarding and Complaints Manager BEVWilliams@carmarthenshire.gov.uk	01267 228995 (extension 2995)


 You are welcome to contact me in Welsh or English

33. If you do not wish to raise your concerns with your line manager or one of the Council's dedicated Whistleblowing Officers you can raise your concerns through the Council's confidential Whistleblowing mailbox by emailing CEWhistleBlowing@carmarthenshire.gov.uk. This mailbox is only viewed by the Monitoring Officer and Deputy Monitoring Officer in the Legal Department.

34. Alternatively, you could contact one of the people listed below;

Name	Job Title/e-mail address	Phone number
Mark James	Chief Executive mjames@carmarthenshire.gov.uk	01267 224111
Linda Rees-Jones	Head of Administration and Law/Monitoring Officer lrijones@carmarthenshire.gov.uk	01267 224012
Robert	Legal Services Manager/Deputy Monitoring Officer	01267 224012

Chris Moore	Head of Financial Services (including responsibility for proper administration of financial affairs) cmoore@cararthenshire.gov.uk	01267 224160
Paul Thomas	Assistant Chief Executive (People Management and Performance) porthomas@cararthenshire.gov.uk	01267 226123
Paul Stait	Chair of Standards Committee paul.stait@btinternet.com	01550 777728
Phil Sexton	Head of Audit, Risk and Procurement psexton@cararthenshire.gov.uk	01267 226217

 You are welcome to contact me in Welsh or English

35. You may seek the support of a companion, i.e. a recognised trade union official or representative or a work colleague, to assist you in raising your concerns and accompany you at any meeting through this procedure.

Contact names	Trades Union	E-mail address	Phone number
Mark Evans Simon Dunn	UNISON	unisoncarms1@btconnect.com	01267 224942 01792 483915
Mark Preece Allan Card-	Unite	MAPreece@cararthenshire.gov.uk Allan.Card@unitetheunion.org	07718925787 01646 690618
Caroline Green Althea Phillips	GMB	CGreen@cararthenshire.gov.uk Althea.phillips@gmb.org.uk	07772 579231 07980 753125

36. If you would prefer to contact an outside organisation instead then a list of useful contacts is given at paragraph 49 below. It is better to contact one of the external organisations listed than to overlook your concerns.

What happens after I have raised my concerns?

37. The person you speak to and raise your concerns will offer you some initial advice and guidance and will normally become your "**Contact Officer**". This will depend on the nature of your concerns and could be someone else with your agreement. Your Contact Officer will be the person with whom you will have all future contact in respect of your concern, and if an investigation takes place (see below) s/he will be your primary contact for feedback.

38. We will need to get the details set out in writing as soon as possible.

this for you instead and support you in expressing the background and history of your concern, giving names, dates and places where possible and the reason why you are particularly concerned about the situation. The earlier your concerns are expressed the easier it is to take action.

39. Although you are not expected to prove the truth of an allegation, you will need to demonstrate to your Contact Officer that there are reasonable and sufficient grounds for your concern.

How will we deal with your concerns?

40. Action taken by the Council will depend on the nature of the concern. The matters raised may be:
- investigated internally by an appropriate person in line with the Council's Investigation Policy
 - referred to the Police
 - referred to the Wales Audit Office
 - the subject of an independent inquiry.
41. In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection) will normally be referred for consideration under those procedures. Some concerns may be resolved by agreed action without the need for investigation.
42. The Contact Officer will acknowledge your concern as soon as possible and contact you within 14 calendar days of you raising your concern to:
- indicate how it is proposed to deal with the matter
 - give you an estimate of how long it may take to provide a final response
 - tell you whether any initial enquiries have been made; and
 - inform you whether a full investigation will take place, and if not, why not.
43. The Contact Officer will give you as much feedback as possible, but sometimes precise action will not be set out where this would infringe upon a duty of confidence owed to the Council by someone else. Time estimates and limits may be amended by agreement between you and the Contact Officer.
44. The frequency of contact between you and the Contact Officer will depend upon the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Contact Officer or the officer investigating the matter will seek further information from you.
45. When any meeting is arranged between you and the Contact Officer, you have the

work to which the concern relates). Steps will be taken to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, we will arrange for you to receive advice about the procedure.

46. We understand that you will need to be assured that the matter has been dealt with properly and therefore, subject to legal constraints, your Contact Officer will inform you of the outcome and confirm in writing within 14 calendar days of the conclusion of the matter, i.e. whether your concerns have been upheld, what actions the Council proposes to take (subject to confidentiality constraints) and timescales for implementing. At that point you will be asked to complete a short questionnaire about your experience of the whistle blowing procedure (See Appendix B). Your feedback is important to us, as it will help us to monitor the effectiveness of this policy.

What happens if my concerns are not confirmed after an investigation?

47. If, you raise a concern using through this policy but it is not confirmed by the investigation, no action will be taken against you. If, however, an allegation is made frivolously, maliciously or for personal gain, disciplinary action may be taken against you in accordance with the Council's Disciplinary Procedure.
48. Remember, if you want to take independent advice at any stage, you may contact the independent charity Public Concern at Work (see paragraph 49 for details). Their lawyers can give you free confidential advice at any stage about how to raise concerns about serious malpractice at work.

What happens if I am not happy with the Council's response?

49. This policy is intended to provide you with a way to raise your concerns **within** the Council and we hope that you will be satisfied with the way that we deal with the matter. However, in the event that the issue is not resolved to your satisfaction then you are welcome to contact (assuming that they have not previously been involved in your case) Mr Mark James, the Council's Chief Executive or Mr Paul Stait, the independent chair of our Standards Committee. Their contact details are given at paragraph 34. As an alternative, we suggest the following possible contact points:
 - The charitable organisation Public Concern at Work (See Appendix C). Telephone 020 7404 6609 or e-mail info@pcaw.co.uk or whistle@pcaw.co.uk
 - Wales Audit Office, Public Interest Disclosure Helpline 01244 525980 or e-mail whistleblowing@wao.gov.uk
 - The Public Services Ombudsman for Wales. Telephone 0300 790 0203
 - Dyfed-Powys Police. Telephone non-emergency 101 or e-mail ContactCentre@Dyfed-Powys.pnn.police.uk
 - Health and Safety Executive. Telephone 0845 300 999

- Care Standards Inspectorate for Wales. Telephone 01267 245160 or e-mail cssiw.southwest@wales.gsi.gov.uk
- Environment Agency Wales. Telephone 0800 807060
- Equality & Human Rights Commission via the Equality and Advisory Support Service. Telephone 0808 800 0082
- Citizens Advice Bureau. Telephone 08444 77 20 20 or go to www.citizensadvice.org.uk
- Relevant professional bodies or regulatory organisations
- Your trade union

A full list of prescribed persons can be found at:

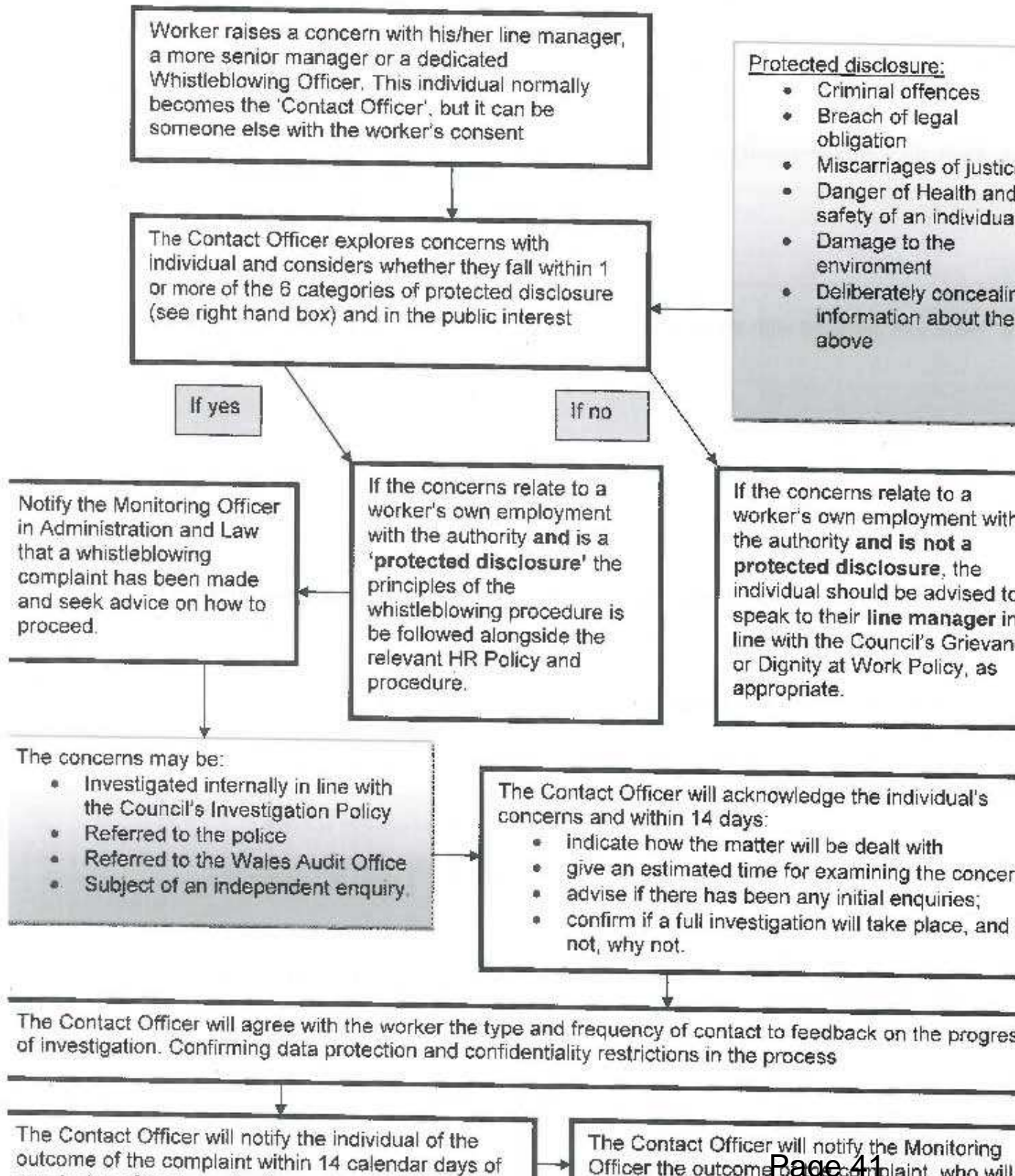
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies>

Who is responsible for this policy?

50. Linda Rees-Jones, the Council's Monitoring Officer and Paul Thomas, Assistant Chief Executive share overall responsibility for the maintenance and operation of this policy. Linda Rees-Jones will keep a record of concerns raised and the outcomes (in a format that does not endanger confidentiality) and will report to the Standards Committee annually.
51. This edition of the policy was adopted by the Council's Standards Committee on 12th September 2014. The policy is reviewed annually.

If you require this publication in an alternative format, such as large print, Braille or on audiotape please telephone 01267 224651.

WHISTLEBLOWING FLOWCHART



CONFIDENTIAL
WHISTLEBLOWING PROCEDURE FEEDBACK FORM

We have recently concluded an investigation into your concerns raised under the Council's Whistleblowing Policy. We would welcome your feedback in relation to how the matter was handled as this will assist us when dealing with future cases and when reviewing the policy. Your reply will be treated as confidential and will be retained by the Monitoring Officer.

1. **Who did you report your concern to?**
- Line Manager
 Whistleblowing Officer
 Trade Union Rep
 Other (please specify)
-
2. **Were you satisfied with the way in which your concern was dealt with by that person?**
- Yes
 No
3. **If no, please explain why:**
-
-
4. **Were you aware of the Whistleblowing Policy at the time you raised your concern?**
- Yes
 No
5. **If yes, where did you see a copy of the Whistleblowing Policy?**
- Line Manager
 Whistleblowing Officer
 Trade Union Rep
 Intranet
 Other (please specify)
6. **Were you advised of how the concern was being dealt with and the outcome?**
- Yes
 No
7. **Overall, are you satisfied with the way your concern has been managed within the Whistleblowing Policy?**
- Yes
 No
8. **If no, please explain why:**
-

WHISTLEBLOWING CASE STUDIES

The following case studies have been produced by Public Concern at Work (PCaW), the whistleblowing charity, which advises individuals on their whistleblowing dilemmas and organisations on their whistleblowing arrangements.

They are examples of whistleblowing concerns that individuals have raised in other organisations.

Case 1 – Fraud in the NHS

The Story

Tim coordinated training for an NHS Trust. He was concerned that his boss was hiring a friend of his to deliver training on suspicious terms which were costing the Trust over £20,000 a year. More courses were booked than were needed and the friend was always paid when a course was cancelled. Although Tim asked his boss to get a credit note as with other training contracts, he never did. Tim also couldn't understand why the friend was paid for training sessions delivered by NHS staff. One day when the boss was out, Tim saw the friend enter the boss' office and leave an envelope. His suspicions aroused, Tim peeked inside and saw that it was filled with £20 notes, amounting to some £2,000. Unsure what to do, Tim called Public Concern at Work. Tim said his boss had lots of influence in the Trust and he was unsure who to tell, particularly as the Trust was being restructured and none of the directors were secure in their posts. Tim also recognised that the cash in the envelope was so brazen that there could be an innocent explanation.

What PCaW advised

PCaW advised Tim that the options were either to go to a director of the Trust or to the NHS Counter-Fraud Unit. Either way, we advised Tim to stick to the facts and focus on specific suspect arrangements and payments. We also said he should avoid the temptation to investigate the matter himself. Tim said he felt much better and would decide what to do over the holiday he was about to take.

What happened

On his return, Tim raised his concerns with a director at the Trust, who called in NHS Counter Fraud. Tim's suspicions were right: his boss and the trainer pleaded guilty to stealing £9,000 from the NHS and each received 12 month jail terms suspended for two years.

Case 2 - Involving a Regulator

The Story

Ian worked as a safety inspector at an amusement park. He was responsible for maintaining one of the park's most popular rides. Every morning he would carry out a safety inspection on the ride and, if it passed, he would sign the ride off as safe in the log. During one inspection, he noticed that pins on the axles which kept the carriages stable had become loose. Ian thought this presented a serious risk and notified his managers.

After what Ian felt was not a thorough examination, the Operations Manager cleared the ride as safe. Ian was unhappy with this and the next day, as no corrective action had been taken, he again could not sign off the ride as safe. Again the Operations Manager

anxious that the weekend was coming up and that the park would be extremely busy. He was also worried that if he pursued the issue any further he would be dismissed.

What PCaW advised

PCaW advised Ian that they could contact the Health and Safety Executive (HSE) on his behalf and relay the information that he had given us without giving his name. However, it was more than likely that they would want to speak to him, if they felt that the situation was potentially serious. PCaW said they would explain Ian's anxieties about his position and ask the HSE to bear this in mind. Although he was unsure whether he would speak to the HSE, he asked us to make the initial contact. The HSE agreed that the situation sounded potentially serious. However, they told PCaW that they would need to speak to Ian. PCaW explained Ian's fears that if the HSE suddenly turned up to inspect this particular ride, his employers would easily put two and two together and he would be out of a job. The HSE assured us that if they were to carry out an inspection, it could be done in such a way as not to make Ian's role apparent. We went back to Ian and, after talking things through, he agreed that he would speak to the HSE.

What happened

Shortly afterwards the HSE made a 'routine' visit to the park during which they inspected the ride, along with several other rides. As a result of the inspection, the ride was suspended and the repairs were carried out.

Case 3 - Inappropriate Relations

The story

AM was a residential social worker in a children's home. He grew increasingly concerned that a colleague, PE, seemed to have developed a close relationship with a 12 year old girl in the home.

Colleagues and some of the children joked that PE was becoming rather infatuated with the girl. During a holiday trip, AM was alarmed that PE insisted that the girl should travel in his car alone with him and that he spent a lot of time with her during the holiday. AM raised the issue with PE who just laughed it off. On return from the holiday, AM decided with a colleague that they should raise their concerns discreetly with the Council. They were told they had a duty to report them formally. When they did, an investigation was launched and PE was given special leave and told to stay away from the home. AM contacted us when he learned that the investigation had finished and that PE would be returning to the home. He and colleagues were worried that this was not the right decision.

What PCaW advised

PCaW advised him to contact the Council's head of child protection and explain his concerns. However, we pointed out it was the Council's job to decide what action to take and that what mattered was that the Council felt sure that PE was not a risk. We also said that the fact that PE was returning to the home did not mean that no action had been taken.

What happened

Page 44 After discussing the matter with the Council, AM felt happier with its decision as he

Canllaw Ynghylch Datgelu Camarfer



Amdiffyniad Cyfreithiol i Weithwyr
sydd â Phryderon yn y Gwaith



Rhagymadrodd

Lluniwyd y daflen hon yn ganllaw byr i bolisi a gweithdrefnau Datgelu Camarfer y Cyngor. Os hoffech gael rhagor o wybodaeth dylech gyfeirio at y Polisi llawn y gellir cael golwg arno ar y Fewnrwyd, neu siarad â'ch Rheolwr Llinell, eich Tim Adnoddau Dynol, Swyddog Datgelu Camarfer, neu gynrychiolydd eich Undeb Llafur.

Ni fydd y rhan fwyaf o weithwyr byth yn gorfod wynebu'r penderfyniad anodd o ran datgelu neu roi gwybod am gamarfer difrifol yn y gwaith, ond os cewch eich hunan mewn sefyllfa o'r fath, dylech fod yn ymwybodol fod gan y Cyngor weithdrefnau i'ch diogelu. Â dweud y gwir, mae'r gweithdrefnau'n ofynnol yn ôl Deddf Datgelu er Budd y Cyhoedd 1998.



Beth yw Datgelu Camarfer?

Datgelu Camarfer yw'r term a ddefnyddir i ddisgrifio datgeliad gan weithiwr, h.y. gweithwyr cyflogedig, gweithwyr achlysurol, cyngorwyr neu aelodau cyfetholedig, staff asiantaeth, contractwyr neu wirfoddolwyr, o gamymddygiad ynghyd â gweithredoedd anghyfreithlon neu esgeuluso yn y gwaith.

Beth yw agwedd y Cyngor at gamymddygiad yn y gweithle?

Nod y Polisi Datgelu Camarfer yw rhoi sylw i bryderon nad ydynt yn cael eu cwmpasu gan weithdrefnau cyflogaeth eraill ac sy'n faterion budd y cyhoedd. Er enghraifft, os oes gennych achwyniad ynghylch eich cyflogaeth, dylech ddefnyddio Gweithdrefn Achwyniadau'r Cyngor. Os ydych yn pryderu am fwlio neu aflonyddu yn y gwaith dylech ddefnyddio'r Weithdrefn Urddas yn y Gweithle sydd gan y Cyngor. Fe'ch anogir chi i ddatgelu camarfer os credwch fod camymddygiad wedi digwydd yn unrhyw rai o'r meysydd canlynol:

- Troseddau
- Mynd yn groes i rwymedigaethau cyfreithiol
- Camweinyddu cyfiawnder
- Peryglu iechyd a diogelwch unigolyn
- Niweidio'r amgylchedd
- Ymdrech bwriadol i gelu gwybodaeth am unrhyw un o'r enghreifftiau uchod.

Dylech ddarllen y Polisi hwn ar y cyd â'r C&d Ymddygiad ar gyfer Swyddogion, ynghyd ag unrhyw weithdrefnau adrannol ar gyfer umhwlle i bryderon.

Sut y byddaf yn cael fy niogelu os byddaf yn "datgelu camarfer"?

Mae'r Polisi Datgelu Camarfer yn fodd i chi leisio eich pryderon yn gyfrinachol a heb ofni unrhyw eriedigaeth, camwahaniaethu nac anfantais yn sgil hynny.

Pam y dylwn Ddatgelu Camarfer?

Rydym yn ystyried pob achos o gamarfer o fewn y Cyngor yn fater difrifol iawn, ac os oes gennych bryderon difrifol am unrhyw agwedd ar waith y Cyngor, fe'ch anogir i leisio'r pryderon hynny, yn wir, **mae disgwyl i chi wneud.**

Rhoddir sylw i chi'n syth ac mewn modd priodol. Drwy ddatgelu camarfer gallech ddiogelu eich cydweithwyr, y cyhoedd, ac eraill, ac ar yr un pryd, sicrhau bod y Cyngor yn ymwybodol o'r broblem ac yn gallu delio â hi.

Â phwy y gallaf gysylltu os oes gennyf bryder difrifol?

Ni ddylech gyhuddo neb na siarad ag unigolion yn uniongyrchol, na cheisio ymchwilio i'r mater eich hun. Dylech godi eich pryderon gyda Swyddog Datgelu Camarfer neu gydag enwau cyswllt eraill a nodir yn y Polisi.

A oes modd i mi leisio fy mhryder yn ddiennw?

Cewch fynegi eich pryderon yn ddiennw ond maent yn llai grymus a chânt eu hystyried yn ôl disgrisiwn y Swyddog Monitro.

Cofiwch fod y Polisi Datgelu Camarfer yno i'ch diogelu ac i'ch helpu i fynegi eich pryderon yn hyderus.

Beth sy'n digwydd ar ôl i mi leisio fy mhryderon?

Rhoddir cymaint o adborth â phosibl i chi ynghylch sut yr ymdrinnir â'r mater, a hynny fel arfer gan y sawl y bu i chi leisio eich pryder iddo/iddi. Mae hyn yn amodol ar ddiogelu data a chyfrinachedd.

Beth sy'n digwydd os byddaf yn dal yn anfodlon ar ymateb y Cyngor?

Bwriad y polisi hwn yw rhoi modd i chi leisio eich pryderon o fewn y Cyngor, ac rydym yn gobeithio y byddwch yn fodlon ar y ffordd y byddwn yn ymdrin â'r mater. Fodd bynnag, os na fyddwch yn fodlon mae croeso i chi gysylltu â Phrif Weithredwr y Cyngor, neu â Chadeirydd Annibynnol y Pwyllgor Safonau, neu â'r manau cyswilt allanol a nodir yn y Polisi.

Mae'r Polisi Datgelu Camarfer yn cydnabod y ddyletswydd sydd ar y Cyngor i roi cymorth i weithwyr sydd yn eu cael eu hunain yn yr amgylchiadau anodd hyn. Mae cymorth arall ar gael ar ffurf y Polisi Urddas yn y Gweithle, y Polisi Achwyniadau a'r Polisi Straen, neu'r Gwasanaethau Cwnsela drwy'r Gwasanaeth Iechyd Galwedigaethol.

I gael rhagor o wybodaeth, edrychwch ar y fewnwyd neu cysylltwch â Chynrychiolydd eich Undeb Llafur neu â'r Tîm Adnoddau Dynol drwy ffonio 01267 246184.

Appendix "B" English

Whistleblowing

A Guide



Legal Protection for Workers
with Concerns at Work



Introduction

This leaflet has been produced as a short guide to the Council's Whistleblowing Policy and procedures. If you want more information you should refer to the full Policy which can be viewed on the Intranet or speak to your line manager, Human Resources Team, a Whistleblowing Officer or Trade Union representative.

Most employees will never be faced with the difficult decision of speaking up or reporting a serious wrongdoing at work but if you do find yourself in this situation, you should be aware that the Council has procedures in place to protect you. This is, in fact a requirement of the Public Interest Disclosure Act 1998.



What is Whistleblowing?

Whistleblowing is the term used to describe a disclosure by a worker, i.e. employees, casual worker, Councillor or Co-opted member, agency staff, contractors or volunteers, of malpractice as well as illegal acts or omission at work.

What is the Council's attitude to malpractice in the workplace?

The Whistleblowing Policy's aim is to cover concerns which fall outside the scope of other employment procedures and are in the public interest. For example, if you have a grievance relating to your employment, you should use the Council's Grievance Procedure. If you are concerned about bullying or harassment in work you should use the Council's Dignity at Work Procedure. You are encouraged to 'blow the whistle' if you believe malpractice has taken place in any of the following areas:

- Criminal offences
- Breach of legal obligation
- Miscarriage of justice
- Danger of the health and safety of an individual
- Damage to the environment
- Deliberate concealing of information about any of the above.

You should read the Policy in conjunction with the Officer's Code of Conduct and any departmental procedures for investigating concerns.

How will I be protected if I “blow the whistle”?

The Whistleblowing Policy allows you to express your concerns in confidence and without fear of victimisation, subsequent discrimination or disadvantage.

Why should I Whistleblow?

We take any malpractice within the Council very seriously and if you have serious concerns about any aspect of the Council's work then you are encouraged and **expected** to come forward and voice those concerns.

You will be dealt with promptly and properly. By doing so, you could be protecting your colleagues, the public and others, whilst ensuring that the Council is aware of the problem and can deal with it.

Who can I go to if I have a serious concern?

You should not approach or accuse individuals directly or attempt to investigate the matter yourself. You should raise your concerns with a Whistleblowing Officer or other contacts named in the Policy.

Can I report my concern anonymously?

You can raise concerns anonymously but they are less powerful and will be considered at the discretion of the Monitoring Officer.

Remember the Whistleblowing Policy is there to protect you and help you raise your concerns with confidence.

What happens after I have reported my concerns?

You will be given as much feedback as possible on how the matter is being dealt with usually by the person you reported your concern. Subject to data protection and confidentiality.

What happens if I am still not happy with the Council's response?

The Policy's aim is to give you a way to raise your concerns within the Council and we hope that you are satisfied with how it is dealt with. However, if you are not satisfied then you are welcome to contact the Council's Chief Executive or the Independent Chair of the Standards Committee or external contact points as described in the Policy.

Whistleblowing e-learning completion rates for managers

Department	03/11/2014 Total No. People Managers (Mandatory)	03/11/2014 No. People Managers completed	03/11/2014 % completion rate People Managers	07/08/2015 Total No. People Managers (Mandatory)	07/08/2015 No. People Managers completed	07/08/2015 % completion rate People Managers
Executives ⁸	62	29	47%			
Executives ⁹						
Technical Services ¹⁰	125	20	16%	90	90	100%
Environment ¹¹						
Services	94	16	17%	140	114	81%
Generation & Leisure ¹²	98	59	60%	93	87	94%
Education & Children's	122	30	25%	127	102	80%
Care, Health & Housing ¹³	152	18	12%			
Utilities ¹⁴						
	653	172	26%	197	152	77%
				647	545	84%

Chief Executive Department prior to transfer of Economic Development
 or Executive's Department including Economic Development
 Technical Services Department
 Environment Department including Planning/Rights of Way
 Generation & Leisure Department prior to disaggregation to Chief Executive's/Communities/Environment Departments
 Social, Care, Health & Housing Department
 Communities Department including Leisure

Whistleblowing e-learning completion rates for staff

Department	03/11/2014 Total No. staff	03/11/2014 No. staff completed	03/11/2014 % completion rate all staff	07/08/2015 Total No. staff	07/08/2015 No. staff completed	07/08/2015 % completion rate all staff
Chief Executives ¹	301	78	26%			
Chief Executives ²						
Technical Services ³	340	24	7%	346	336	97%
Environment ⁴						
Resources	394	27	7%	414	210	51%
Generation & Leisure ⁵	498	197	40%	349	200	57%
Education & Children's	530	71	13%			
Care, Health & Learning ⁶	672	32	5%	600	257	43%
Communities ⁷						
	2735	429	16%	926	365	40%
				2635	1368	52%

¹ Chief Executive Department prior to transfer of Economic Development
² Chief Executive's Department including Economic Development
³ Technical Services Department
⁴ Environment Department including Planning/Rights of Way
⁵ Regeneration & Leisure Department prior to disaggregation to Chief Executive's/Communities/Environment Departments
⁶ Social, Care, Health & Housing Department
⁷ Communities Department including Leisure



Superfast - Cyflymu Cymru

MAE preswylwyr Sir Gaerfyrddin yn cael eu hannog i fynegi diddordeb mewn band eang cyflymach i'w cymuned.

Bydd preswylwyr a busnesau yn y sir yn elwa o'r rhaglen arloesol Superfast - Cyflymu Cymru, sy'n werth miliynau o bunnoedd ac yn dod â band eang ffeibr i bob rhan o Gymru.

Band eang ffeibr yw'r genhedlaeth nesaf o fand eang - mae'n llawer cyflymach a mwy dibynadwy, ac mae'n defnyddio technoleg wahanol. Nid cyflymu'r broses o lawrlwytho e-byst neu bori ar y rhyngwyd yw'r unig fanteisiari.

Mae hefyd yn agor busnesau: farchnad fydeang, gan wella eich cadwyn gyflenwri a chynyddu cynhyrchiant, fel bod mwy o gyfleoedd ar gael. Mae ffeibr eisoes ar gael mewn rhai rhannau o Lanelli trwy raglen dreigl fastnchol BT. Bydd y gyfnewidfa hon yn derbyn sylw eto fel rhan o raglen Superfast - Cyflymu Cymru.

Bydd ardaloedd Pencader a Chaerfyrddin yn gallu cyrchu'r gwasanaeth newydd hwn o dan y rhaglen yn ystod mis Medi 2014, gyda Hebron, Llanybydder, Maesycrugiau, Pumsaint, Felindre a Cross Hands yn dilyn ym mis Mawrth 2015. Mae'r cyfnewidfeydd eraill i gael eu huwchraddio ar ôl mis Mawrth 2015. Gallwch nodi eich diddordeb ar y wefan: www.superfast-cymru.com, a byddwch yn cael gwybod pan fydd band eang ffeibr ar gael i chi.

Mae nifer o wahanol Ddarparwyr Gwasanaeth Rhyngwyd (ISPs) yn cynnig y gwasanaeth, felly gallwch ddewis y fargen orau i chi.

Pwll nofio Llanelli wedi ailagor

MAE pwll nofio Llanelli ar agor bellach.

Misoedd ar ôl gorfod cau'r cyfleuster hwn yn y ganolfan hamdden ym mis Ionawr oherwydd i'r to gael ei ddifrodi gan y stormydd, mae pobl yn gallu mwynhau yn y pwll nofio unwaith eto.

Mae'r holl raglenni nofio yn weithredol erbyn hyn, ac mae archebion yn cael eu derbyn nawr ar gyfer y Rhaglen Dysgu Nofio.

Yn ogystal mae cynlluniau ar waith ar gyfer gweithgareddau newydd, gan gynnwys polo dŵr sy'n cael ei lansio cyn diwedd y mis.

Yn gynharach y mis hwn cynhaliwyd ponwythnos o weithgareddau hwyl am ddim yn y ganolfan hamdden i ddatlu bod y pwll yn ailagor.

Roedd hwn yn gynllun atgyweirio sylweddol a gostiodd £350,000 gan fod angen gosod to newydd 1,200 o febrau sgwâr, ynghyd â gosod ffenestri newydd yn y to a gwneud gwaith i addasu'r goleuadau. Ni fydd y gwellianau hyn yn rhyw amlyg iawn yn y cyfleuster hynod boblogaidd hwn ond bellach mae gan y pwll nofio do cadarn i'r dyfodol.



Cefnogi eich Stryd Fawr Leol

GOFYNNIR i staff gefnogi eu Stryd Fawr Leol fel rhan o ymgyrch genedlaethol sy'n annog pobl i siopa'n lleol.

Mae trefi yn Sir Gaerfyrddin yn cymryd rhan yn y fenter hon gan Lywodraeth Cymru drwy gynnal digwyddiadau mawr megis yr Wyd Retro yn Llanelli a Gŵyl y Twrch Twyth yn Rhydaman.

I gael rhagor o wybodaeth, ewch i'r Newyddion ar y Cyngor a chadwch lygad am #helpurstrydfawr ar Twitter neu ewch i'r dudalen Facebook - Helpu'r Stryd Fawr Nghymru.



Datgelu Camarfer

MAE'R Cyngor am ddiolch i'r staff a wnaeth ddwy pryderon o ran camarfer at sylw'r Cyngor yn ystod y Ddiwrnod I'r ymchwilwyr hyn, mae sawl cam wedi cymryd i wella'r gwasanaeth a ddarperir ac i ddiolch Cyngor, ei staff, ar cyhoedd.

Fel un o weidwyr y Cyngor, chi sydd yn y sefyllfa orau camymerfer yn y Cyngor ond efallai eich bod yn gweld leisio eich pryderon.

Mae'r polisi hwn yn eich annog i fynegi pryderon di bidd y cyhoedd, a hynny'n ddiogel ac yn gyfrinachol.

Os ydych yn dymuno siarad â rhywun yn gyfrinachol o'r fath, cysylltwch â Swyddog Datgelu Camarfer, Uri Reolwr, Swyddog Ymgynghoriol (Adnoddau Dynol), gynyrtoliydd Undeb Llafur. Gallir dod o hyd i ragor drwy fynd i'r adran Adnoddau Dynol ar BRIAN.

Diwrnod allan yn yr Ardd Fotaneg

MAE maglen o weithgareddau cyffrous i gael ei threfnu ar gyfer aelodau Fforwm Gaerfyrddin yn yr Ardd Fotaneg Genedlaethol.

Mae'r digwyddiad, a drefnwyd gan Fforwm 50+ Sir Gaerfyrddin, yn cynnig mynediad am ddim i aelodau gyfer y gweithgareddau ddydd Gwener, Medi 19eg.

Bydd y diddanwr Roy Noble yno ac mae'r digwyddiad cynnwys arianyddol sesiynau rhagflas sy'n rhoi sylw i celf a chrefft, adweithg, clybwaith a dawns amser trefn.

Hefyd bydd teithiau cerdded tywysedig o amgylch ailgread inaint go iawn o Sied Ysgafennu Dylan Thomas golff gwallgo, stondinau gwybodaeth ac areithiau gynyrtoliwyr allweddol 50+.

Mae 2,000 o aelodau gan y grŵp 50+ eisoes, ac mae aelodau newydd wedi ymuno yn dibyn hysbysseb yn Newyddion Sir Gâr yn ddiweddar, sy'n gofygu bod y grŵp yn ymuno ym mwyaf yng Nghymru.

Nid oes tali aelodaeth i'w dalu. Os hoffech ymuno neu wella'n fwy, cysylltwch â'r Swyddog Datgelu Camarfer, Uri Reolwr, Swyddog Ymgynghoriol (Adnoddau Dynol) ar 01267 22(4692) neu ewch i: www.carmarthenshire50.org.uk/?lang=cy.

FYTHYNNOD GWYLIU MOETHUS YNG NGHYMRU



Mae Y Gorau o Gymru yn cynnig llety gwyliau hunan dderpar 4 a 5 seren yng Nghymru.

Gostyngiad: 5% i staff, teulu a ffrindiau.

Yn syml iawn, nodwch y cod CSG5 wrth archebu i dderbyn eich gostyngiad.

www.bestofwales.co.uk neu ffonio 01650 511 101

- Helfonda: Emille May The Sheep Outdoor Harvester Cafe Number 4 Seed Coes Fabric House Monks IPL Beauty Roger and Son Butchers RIP N&Gresh Love Letters UK Sing and Sign The Optic Shop Solarth L&S
- Tel: 01650 511 101 neu ewch i'r we: www.bestofwales.co.uk

Gair gan y Prif Weithredwr



BU nifer o newidiadau'n ddiweddar o ran uwch-reolwyr y Cyngor. Mae Roger Jones, y Cyfarwyddwr Adnoddau, wedi gadael a gofynnwyd i Chris Moore ymgymryd â'r rôl cyllid statudol dros dro hyd nes y byddwn yn hysbysebu'r swydd rywbryd y flwyddyn nesaf. Bydd gan Chris dasg anferth o ran gweithio ar y gyllideb heriol iawn yn y tair blynedd

nesaf gyda chydweithwyr yn y Tim Rheoli Corfforaethol a Bwrdd Gweithredol y Cyngor.

Ar 30^{ain} Medi bydd Bruce McLernon, ein Cyfarwyddwr Gofal Cymdeithasol, lechyd a Thai yn gadael. Rydym wedi penodi Jake Morgan yn olynydd iddo ond ni fydd Jake yn dechrau tan fis Tachwedd felly bydd Stefan Smith yn ymgymryd â'r rôl y Cyfarwyddwr Statudol hyd nes y bydd Jake yn cyrraedd. Stefan yw Pennaeth y Gwasanaethau Plant ar hyn o bryd a'n gweithiwr cymdeithasol uchaf.

Gadawodd Chris Burns, Prif Weithredwr Cynorthwyol, y Cyngor ar 1af Medi i ymgymryd â'r rôl Prif Weithredwr Dros Dro Cyngor Bwrdeistref Sirol Caerffili. Mae Wendy Walters wedi'i phenodi'n Brif Weithredwr Cynorthwyol dros dro am hyd at flwyddyn. Bydd Wendy hefyd yn parhau'n Pennaeth Datblygu Economaidd.

Yn olaf, wrth imi ysgrifennu hyn, rydym wedi cael 20 o geiswch am swydd Cyfarwyddwr y Gwasanaethau Amgylcheddol. Bydd y cyfweiliadau yn cael eu cynnal ar 1af a 2il Hydref. Mae Richard Workman, ein cyfarwyddwr presennol, wedi bod mor garedig â chytuno i aros tan y Nadolig i ganiatau i'w olynydd ymgymryd â'r swydd. Hoffwn ddiolch i Richard am ei gymorth a'i hyblygrwydd yn hyn o beth.

Mae'r holl newidiadau hyn yn digwydd ar adeg heriol iawn inni. Mae'n rhaid inni ystyried sut y gallwn wneud arbedion/toriadau gwerth £15 miliwn yn ein cyllidebau yn ystod y tair blynedd nesaf. Mae hyn yn einriadol o arnodd ac mae'r Tim Rheoli Corfforaethol a'r Pennaethlaid Gwasanaeth yn gweithio i nodi sut y byddwn yn lleihau, dileu, ail-drefnu, ailflaenoriaethu, cynyddu incwm ac ati. Bydd hyn yn effeithio ar bob rhan o bob gwasanaeth oherwydd maint y toriadau i'r gyllideb yr ydym yn ei derbyn gan Llywodraeth Cymru. Er nad yw cyllidebau Llywodraeth Cymru yn cael eu lleihau mae wedi penderfynu bod y GIG yn flaenoriaeth ac felly mae'n rhaid lleihau cyllidebau Llywodraeth Leol er mwyn cyllido'r GIG. Bydd cynigion ar gyfer cwtdgi ar wasanaethau, ail-drefnu'r Cyngor, lleihau gwasanaethau ac ystyried lle byddwn yn cael yr arbedion sydd eu hangen yn dechrau dod i'r golwg yn ystod yr hydref. Yn ddiarnheuaeth calff hyn effaith ar staffio. Ond rwyf wedi atgoffa'r holl uwch-swyddogion bod yn rhaid inni wneud popeth y gallwn i osgoi diswyddio gorfodol. Y cam olaf oll fydd hyn. Rydym eisoes wedi dosbarthu gwybodaeth am y Cynllun Terfynu Cyfogaeth yn Wrfodol a chyfluoedd i fynd yn rhan-amser, neu gael ymddedoliad hyblyg. Rhaid dychwelyd unrhyw fynegiannau o ddiardordeb erbyn 30 Medi.

Mae'r flordd y mae'r Cyfarwyddwyr a'r Pennaethlaid Gwasanaeth a llawer o reolwyr eraill wedi ymateb i'r her hon hyd yn hyn yn destun calondid inni. Mae llawer mwy o waith i'w wneud ond rwy'n hyderus y byddwn yn dod drwyddi gystal, os nad gwell, na chyrrff cyhoeddus eraill yng Nghymru.

Ein Ysgolion

Cam yn nes at ysgol newydd i Seaside

CYFLWYNNODD Cyngor Sir Caerfyrddin yr achos o blaid y prosiect £12.5 milwr i ddatblygu un ysgol fawr yn Llanelli, a fydd yn cynhyd lle ysgolion Copperwork Maestlys.

Mae Llanelli wedi'i gystatodi lle y bydd Hen Fabi Braka yn Hael Copperwork ac mae'n talle wedi'i gbin eisoes yn baredig yn ddatblygu. Bydd yr adeilad newydd datblygu lleoedd i 420 o ddisgyblion yn ogystal â bod o leoedd i blant meistrïd. Yn dilyn ymchwil a gwybodaeth Cymru, galk y Cyngor statud ymlaen Bellach i ganiatu nesaf y prosiect a bydd y gwaith iawn yn dechrau yn wrth berfformy, bydd patr amser cyn i gwaith adeiladu ar yr ysgol ar hyn dechrau. Dywedodd y Cynghor ydd Keith Davies, yr Aelod o'r Bwrdd Gweithredol dros Adlyng: "Efen bod wrth gwis yn lach iawn o gael cymeradaeth i'w wneud Cymru'n Fachs Amfanelol Strategol, mae cynhyddu'n o ffordd i fynd ers i'w bod yn prosiectau gan gynnwys yr angen i gyflwynu Achos Busnes Amfanelol ac Achos Busnes Terfynol i'w cymeradwyo cyn y gellir dechrau mynd ar ôl ddi'frell i adeiladu'r ysgol newydd.

"Er hynny mae hwn yn gam mawr ymlaen ac yn datblygu'r ysgolion i'w gyswrtu i'w fawr gan yr ysgolion a'r gymuned."

Bydd yr ysgol newydd yn rhan o'r Raddfa Modernidd i'n Adlyng y Cyngor a bydd yn modernidd i'w gyswrtu i'w plant ac yn hyspysu addysgu y hyspysu. Hef bydd yn ddarparu angen cyfodol am adlyng gymraod datblygu hyspysu a dafal bugetiol gwell yn helpu i ddatblygu TG ac yn adlyngi ardal.

Banciau Cyfarpar Trydanol ac Electronig Gwastraff

BELLACH mae dau fanc symudol ar gael ar gyfer ailgylchu eitemau electronig bychain.

Mae'r rhain yn cynnwys eitemau trydanol ac electronig bach megis sychwyr gwallt, radios, tostiwr, tegelli, a ffonau symudol. A ddaed y gwit, caiff unid yw eitem trydanol sy'n gallu fflio i mewn i'r bin ei derbyn, er hailgylchu a'i thro'n i'w wneud newydd.

Ar hyn o bryd mae'r Banciau Cyfarpar Trydanol ac Electronig Gwastraff wedi'u lleoli yn y dos gwastraff ac ailgylchu yn Neuadd y Sir ac yn y man storio gwastraff ger Bloc 2 yn Mharc Dewi Sant. Hefyd mae gan y rddau le fanciau gwyrdder mwyn i'r staff ailgylchu eu parhau cofi ac ati.

Arwyr Achosion Da

Enw: Christine Darkin

Teitl y Swydd: Uwch-gynorthwy-ydd Teithwyr

Adran: Y Gwasanaethau Technegol

Beth yw eich digwyddiad elusennol?

Amrywol o digwyddiadau lleol drwy gydol y flwyddyn i godi arian er mwyn i blant ac oedolion ifanc sy'n anabl gael ychydig o fwyhad yn eu bywydau.

Ar gyfer pwy ydych chi'n codi arian? Ar gyfer Breakthrough yn Llanelli. Rwyf wedi bod yn gysylltiedig â'r elusen hon ers blynyddoedd lawer. Rwy'n trefnu digwyddiadau ar eu cyfer megis penwythnosau i ffwrdd, nosweithiau sinema, teithiau dydd, a digwyddiadau cymdeithasol gyda'r holl

Sut gall pobl gyfrannu i'ch elusen? Gall pobl helpu mewn sawl ffordd, gan gynnwys thol eitemau i'r elusen eu gwerthu. Os hoffech gael rhagor o wybodaeth, cysylltwch â mi drwy ffonio 5314.

Llinell Gofal

Beth yw Llinell Gofal?

Ffoniwch heddiw i



Super Fast Cymru



CARMARTHENSIRE residents are being encouraged to register their interest in superfast broadband for their community.

Residents and businesses in the county are set to benefit from the pioneering multimillion pound programme Superfast Cymru, bringing nationwide fibre broadband to Wales.

Fibre broadband is the next generation of broadband - much faster, more reliable and it uses a different technology. Downloading emails or internet browsing more quickly aren't the only benefits.

It also opens businesses up to a worldwide market, improving your supply chain and increasing productivity offering greater opportunities. Fibre is already available in some areas of Llanelli through BT's commercial rollout. This exchange will be re-visited under the Superfast Cymru programme.

Areas of Pencader and Carmarthen will be able to access this new service under the programme during September 2014, with Hebron, Llarrybydder, Maesyrcrugiau, Pumpsaint, Velindre and Cross Hands following in March 2015. The remaining exchanges are scheduled to be upgraded post March 2015. Register your interest on the Superfast Cymru website www.superfast-cymru.com. You will be informed when fibre broadband becomes available to you. There are a number of different Internet Service Providers (ISPs) offering the service, so you can choose the best deal for you.

Swimming Pool Now Open!

LLANELLI swimming pool is now open.

Staff can enjoy making waves again at the leisure centre facility months after it was forced to close its doors in January due to damage to its roof caused by the storms. All swimming programmes are up and running and bookings are now being taken for the Learn to Swim programme.

New activities are also planned with Water Polo being launched this month.

A fun packed, free activity weekend was held at the leisure centre earlier this month to celebrate its opening. The £350k repair work was a major scheme with 1,200sq metres of roofing to be replaced including new skylights and lighting alterations.

There will not be much to see at this immensely popular facility by way of improvements but the swimming pool has a secure roof for the future.



Support your local High Street

STAFF are being asked to support their local High Street as part of a national campaign aimed at encouraging people to shop locally.

Towns in Carmarthenshire are participating in the Welsh Government initiative including putting on major events at Llanelli with the Retrofest; and y Twrch Twryth Festival in Ammanford. For more information go to the newsroom on the council website or look out for #supporthighstreets on Twitter or visit our Facebook page - Support your High Street Wales.



Whistleblowing

THE council wants to thank staff that brought whistleblowing concerns to the council's attention during 2013-14.

As a result of these investigations a number of actions have been taken to improve service delivery and safeguard the council, its staff and the public.

As an employee you are in the best position to report malpractice within the council but maybe reluctant to voice your concerns.

This policy encourages you to raise serious concerns in the public interest safely and with confidence.

If you want to speak to someone in confidence about an issue, contact a Whistleblowing Officer, Senior HR Advisor or Trade Union representative. Further details can also be found on the HR section of the council website.

Day out at Botanic

AN exciting programme of activities has been planned for Carmarthenshire's 50+ members at the National Botanical Gardens.

The event, organised by Carmarthenshire's 50+ Forum, offers free entry to members for the activities on 1 September 19th. Hosted by entertainer Roy Noble, the event includes various taster sessions from iPad, crafts, reflexology, patchwork and a tea dance.

There will also be guided walk tours around the garden and a life size replica of the iconic Dylan Thomas's Writing Room. There will be mini crazy golf, information stalls and speeches by representatives.

The 50+ group already has almost 2,000 members and 300 new members joining following a recent Carmarthenshire News advert, making the forum the largest in Wales.

Membership is free. If you would like to join or to reserve your free place at the event contact 01267 224669 or visit www.carmarthenshire50.org.uk.



LUXURY HOLIDAY COTTAGES IN WALES

Best of Wales offer exclusive 4 and 5* self catering holiday accommodation in Wales.

Discount: 5% discount for staff, family and friends. Enter code CSGS when booking to receive your discount. Visit www.bestofwales.co.uk or call 01659 511 101.

Halfords, Emble May, The Snug, Odeon, Harvester, Cafe Number 4, Snod Cass, Fabric House, Monks, It's Beauty, Roger and Son Butchers, IDP McGrath, Love Letters UK Sing and Sign, The Optic Shop, Solaris, Les. Still making great offers today when you visit www.carmarthenshire.gov.uk/localrewards

Direct from the Chief Executive



THERE have been a number of changes recently to the senior management of the Council. Roger Jones, the Director of Resources has left and on an interim basis, Chris Moore has been asked to take on the statutory finance role until we go out to advert some time next year. Chris will have a big job to do working on the very challenging budget for the

next three years with colleagues at Corporate Management Team and the Council's Executive Board.

On 30th September, Bruce McLernon, our Director of Social Care, Health and Housing leaves. We have appointed Jake Morgan as his successor, but Jake will not start until November, so Stefan Smith will step into the Statutory Director's role until Jake's arrival. Stefan is currently Head of Children's Services and our most senior social worker.

Chris Burns, Assistant Chief Executive left the council on 1st September to take up the role of Interim Chief Executive at Caerphilly County Borough Council. Wendy Walters has been appointed Assistant Chief Executive on an interim basis for up to a year. Wendy will also continue to be Head of Economic Development.

Finally, as I write this we have received 20 applications for the post of Director of Environmental Services. Interview will take place on 1st and 2nd October. Richard Workman, our current Director, has very kindly agreed to stay on until Christmas to allow his successor to be appointed into post. My thanks to Richard, for his assistance and flexibility in this respect.

All these changes take place at a very challenging time for us. We have to look at making savings/cuts of £45m from our budgets over the next three years. This is exceptionally difficult and the Corporate Management Team and Heads of Service are working to identify how we reduce, withdraw, restructure, re-prioritise, increase income etc. No area of service will be untouched given the scale of cuts in the budget we receive from Welsh Government. Whilst their budgets are not being reduced they have determined that the NHS is a priority and therefore Local Government budgets have to be reduced to fund the NHS. Proposals for cutting services, restructuring the Council, downsizing and looking at where we will find the savings needed will begin to emerge during the autumn. There is no doubt that this will have an impact on staffing. But I have reminded all senior officers that we must do all we can to avoid compulsory redundancies. This will be a very last resort. We have already circulated information about the Voluntary Severance Scheme and opportunities for going part-time, or taking flexible retirement. Any expressions of interest must be returned by 30 September.

I am encouraged so far by the way Directors and Heads of Services and many other managers have been responding to this challenge. There is much more work to do, but I am optimistic that we will navigate our way through this as well, if not better, than other public bodies in Wales.

Chris Moore

Our Schools

New Seaside School one step closer

A NEW school for Seaside is one step closer after the Welsh Government gave its approval to the Strategic Outline Case.

The case was made by Carmarthenshire County Council for the development of the £12.5million super school in Llanelly which will replace Copperworks and Lakefield schools.

A site has been identified at the former Dyks factory in Copperworks Road and has been cleared ready for development. The new building will cater for 420 pupils plus a nursery with 60 places. Following the Welsh Government approval, the council is now moving the project forward to the next stages of work on this will begin immediately. However, it will be some time before actual building work on the school can begin.

Education executive board member Cllr Keith Davies said: "Whilst we are obviously really pleased with the Welsh Government's approval for our Strategic Outline Case, there is still a considerable way to go yet to satisfy the processes, including the need to present for approval an Outline Business Case and Final Business Case before construction of the new school premises can begin in earnest.

"However, this is a major step forward and very welcome news for the school and the community."

The new school is part of the council's Modernising Education Programme and will modernise the facilities for children and streamline infant education. It will also meet the increasing need for bilingual primary education and better pastoral care, help develop IT and the regeneration of the area.

WEEE banks

THERE are now two mobile WEEE banks for the recycling of small electrical items.

These include small electronic and electrical items such as hairdryers, radios, toasters, kettles and mobile phones, in fact any electrical item that can fit inside the bin will be accepted, recycled and turned into something new.

The WEEE banks are currently located in the waste and recycling compound at County Hall and at the waste store adjacent to Block 2 Parc Ddwr Sant. Both locations also have glass banks for staff to recycle their coffee jars etc.

Charity Champion

Name: Christine Darkin

Job title: Senior Passenger Assistant

Department: Technical Services

What is your charity event?

Hold various events throughout the year locally to raise money for disabled children and young adults to have a bit of enjoyment in life.

Who are you fundraising for? Raising money for Breakthrough in Llanelly. I have been involved with this charity for many years. I organise events for them, such as weekend breaks away, cinema nights out, day trips and social night events.

How can people donate to your cause?

There are many ways people can help including donating items for the charity to sell. For more information contact Christine on ext 5314.

Careline

What is Careline?

Phone today to give



POLISI DIWYGIEDIG YNGHYLCH DATGELU CAMARFER

Diogelwch Cyfreithiol i Weithwyr sydd â Phryderon yn y Gwaith


Chi, y gweithiwr, sydd yn y sefyllfa orau i nodi camarfer yn y Cyngor ond efallai eich bod yn amharod i leisio eich pryderon. Mae'r polisi hwn wedi'i ddiweddarau a'i nod yw eich annog i fynegi pryderon difrifol er budd y cyhoedd a hynny yn y Cyngor, yn hyderus.

Fe'ch anogir i ddatgelu camarfer os ydych yn credu bod camarfer wedi digwydd yn unrhyw un o'r meysydd canlynol:

- Tramgwyddau troseddol
- Torri rhwymedigaeth gyfreithiol
- Camweinyddu cyfiawnder
- Peryglu iechyd a diogelwch unigolyn
- Niwed i'r amgylchedd
- Datgelu gwybodaeth am unrhyw un o'r pwyntiau uchod yn fwriadol

Cofiwch, diben y polisi hwn yw eich diogelu os ydych yn gorfod rhoi gwybod am bryder difrifol ynghylch gwasanaeth y mae'r Cyngor yn ei ddarparu neu ynghylch ymddygiad gweithiwr arall, cynghorydd neu unigolyn arall sy'n gweithredu ar ran y Cyngor.

Os ydych yn dymuno siarad â rhywun yn gyfrinachol am fater o'r fath, cysylltwch â'ch Swyddog Datgelu Camarfer adrannol, â'ch Swyddog Ymgynghorol (Adnoddau Dynol) neu â chynrychiolydd eich Undeb Llafur. Gallwch gael gair ag unigolyn a enwyd, yn eich dewis iaith, ac mae Swyddogion sy'n medru'r Gymraeg wedi'u rhestru yn y polisi.

Edrychwch am y symbol hwn 

Mae rhagor o wybodaeth ar gael yn adran Adnoddau Dynol y llyfrgell dogfennau ar BRIAN neu drwy gysylltu â'ch rheolwr llinell.

REVISED WHISTLEBLOWING POLICY


Legal Protection for Workers with Concerns at Work

As an employee you are in the best position to recognise malpractice within the Council but maybe reluctant to voice your concerns. This policy has been updated and is intended to encourage you to raise serious concerns that are in the public interest within the Council with confidence.

You are encouraged to 'blow the whistle' if you believe malpractice has taken place in any of the following areas:

- Miscarriage of justice
- Danger of the health and safety of an individual
- Damage to the environment
- Deliberate concealing of information about any of the above.

Remember, this Policy is there to protect you if you find yourself having to report a serious concern about a service the Council provides or the conduct of another employee, councillor or other individual acting for the Council.

If you want to speak to someone in confidence about such an issue, please contact your Departmental Whistleblowing Officer, HR Advisor or Trade Union representative. You can speak to a named individual in your language of choice and Welsh speaking Officers are named within the Policy. Look out for this symbol 

Further information can be found in the HR section of the Document Library on BRIAN or via your line manager

Appendix "G" (Welsh)

Os gwelwch fod rhywbeth o'i le

...soniwch amdano

Os byddwch yn pryderu am risg,
camymddygiad neu gam-arfer,
codwch eich llais i gadw'r Cyngor yn i

Os nad ydych yn sicr sut mae symud ymlaen
mewn ymateb i'ch pryder, mynnwch air â'ch
rheolwr llinell neu'r swyddog(ion)
dynodedig isod:

Mae'r Polisi Datgelu Cam-arfer ar gael yn y llyfrgell
ddoofennau ar BRIAN

Rydym yn ymroddedig i ymdrin
yn gyfrifol, yn agored ac yn
broffesiynol ag unrhyw bryder
dilys a fynegir.

Ni allwn wneud hyn heb eich help
chi. Os bydd rhywbeth yn eich po
yn y gwaith, dywedwch wrthym.

If you see something wrong...

...say something



If you have a concern about
a risk, wrong-doing or malpractice,
speak up for a healthy company.

If you are unsure how to proceed with your concern, please discuss with your line manager or the designated officer(s) below:

We are committed to dealing responsibly, openly and professionally with any genuine concerns raised.

We cannot do this without your help, if something at work is troubling you, please tell us.



histleblowing

marthenshire County Council

Appendix "H"

Context and Background

Wales Audit Office is currently undertaking a review of Whistleblowing as one of its Local Government Studies

This Whistleblowing review looked at the Council's Whistleblowing Policy and arrangements that are in place support Whistleblowing and Whistleblowers

We looked at a number of areas and our findings are summarised on the following slides

Summary

Overall Whistleblowing arrangements are good, with some exemplar practice, if addressed a number of very small weaknesses in policy, process and training will strengthen arrangements further

we came to this conclusion because:

- the Council's Whistleblowing Policy is good, well structured, concise and supportive;
- the Council commitment to whistleblowing is good, with some exemplar practice, including effective scrutiny;
- specific training on whistleblowing has been created and more training is being developed but completion rates are relatively low and the training has not been made available to Councillors;

The Council has made the Policy available on the intranet, although it has not checked staff awareness of the policy and reaching staff without computer access remains a challenge; and

Page 69 a formal, central record does not exist, the current record is an informal version maintained by the Monitoring Officer.

The Council's Whistleblowing Policy is good, well structured, concise and supportive

- Policy reviewed in September 2013 (reflects legislation changes), a further revision is being presented to Standards Committee in September 2014
 - Concise and well presented
 - User-friendly style - supportive and reassuring language
 - Able to raise concerns outside of line management
 - Wide range of contacts identified:
 - ✓ Dedicated e-mail inbox; and
 - ✓ Named Whistleblowing Officers.
 - Contact details for independent advice provided
 - Clear examples to differentiate whistleblowing concerns from grievances
- x Slight confusion over the role of the Line Manager in hearing a concern

The Council's Whistleblowing Policy is good, well structured, concise and supportive

- ✓ Clear explanation of the risk of making external disclosures
 - ✓ Range of external contacts provided
 - ✓ Allows for anonymous concerns to be raised
 - ✓ Identifies limitations with anonymous concerns
 - ✓ Clearly states it is there to protect and support whistleblowers
 - ✓ Explicitly prohibits reprisals against whistleblowers
 - ✓ Disciplinary action for making malicious allegations
- ✗ Statement about obtaining written consent to disclose information may act to 'gag' potential whistleblowers
 - ✗ Does not include a comprehensive list of external prescribed persons

The Council commitment to whistleblowing is good, with some exemplar practice, including effective scrutiny

Owned by the Monitoring Officer and Assistant Chief Executive and maintained by HR Policy Manager	x	Investigation procedure requires clarification – explain who makes initial enquiries, who would complete any internal investigation and how independence is provided to the process
Effective scrutiny provided by Whistleblowing Steering Group which meets annually to review policy and arrangements		
Steering Group reports to Standards Committee, which in turn reports to Full Council, providing all Councillors with an oversight	x	Policy is lacking an explicit statement about raising a concern externally and/or anonymously rather than ignoring wrongdoing
Concerns are considered outside of line management		
Comprehensive arrangements for providing feedback (with expected timeframes)		

The Council commitment to whistleblowing is good, with some exemplary practice, including effective scrutiny

- Policy reviewed annually by Whistleblowing Steering Group
 - Steering Group reports on concerns, themes and outcomes, which are then reported to Standards Committee and full Council
 - HR Policy Manager reviews the Public Concern at Work (PCAW) website
 - Feedback form added to the Whistleblowing Policy to help the Council assess staff confidence in how concerns are handled
 - Council uses a pool of 10 accredited investigators for complex investigations
 - Caseload information is collected (informally by the Monitoring Officer)
- There is no formal, central record of concerns
 - The number of whistleblowing concerns recorded is relatively low (2-3 per annum) and the Council believes that some concerns may be dealt with under other policies

**pecific training on whistleblowing has been created and
ore training is being developed but completion rates are
tively low and the training has not been made available to
Councillors**

- E-learning training module on whistleblowing for all managers
 - HR have secured funding and are currently developing further training for people managers
 - People identified in the whistleblowing policy have received recent update training via refresher briefings
- * Completion rates of e-learning module are low, this is being looked at by the Council
 - * Councillors do not receive training specifically covering whistleblowing

The training clearly differentiates between whistleblowing and grievances, providing case study examples to help illustrate the differences

The Council has made the Policy available on the intranet, although it has not checked staff awareness of the policy and reaching staff without computer access remains a challenge

- ✓ Policy is easily accessible on the intranet
- ✗ The Council has not done anything corporately to check the level of staff awareness
- ✓ The Council is aware of the challenge in reaching those employees without internet access
- ✓ The Whistleblowing Steering Group review communications and have put a number of schemes in place – posters, Whistleblowing Guide, Communications Champions, HR Bulletins and ER Fora

Proposals for Improvement

Strengthening the Whistleblowing Policy further:

- clarify the roles of managers and contact officers;
- clarify the procedure for investigations;
- be explicit about raising concerns rather than ignoring wrongdoing; and
- review the statement that refers to obtaining written consent to disclose confidential information so that it doesn't act to gag potential whistle-blowers.

Create a formal, central record of whistleblowing concerns

Focus training on:

- promoting the completion of the existing e-learning module;
- training elected members specifically on whistleblowing; and
- completing the work already started on developing further whistleblowing training.

Develop a communications strategy for making staff aware of the updates and general arrangements

Review methods of checking staff awareness

Questions?



STANDARDS COMMITTEE 11TH SEPTEMBER 2015

CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILLORS

Recommendations / key decisions required:

To consider the report

Reasons:

The subject matter of the report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Cllr M Stephens

Directorate

Chief Executives

Name of Head of Service:

Linda Rees-Jones

Report Author:

Robert Edgecombe

Designations:

Head of Administration & Law

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**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
11th SEPTEMBER 2015**

CODE OF CONDUCT COMPLIANCE BY TOWN AND COMMUNITY COUNCILLORS

As part of its role in monitoring Code compliance by Town and Community Councillors, the Committee received a report at its December 2014 meeting detailing the levels of code training received, declarations of interest made, dispensation requests granted and Code complaints registered in respect of Town and Community Councils within the County.

However not all Town and Community Council's responded to requests for information and therefore there were significant gaps in the report.

The Committee therefore requested that a further report be presented to its September 2015 meeting and that a formal Freedom of Information Request be sent to all Town and Community Councils within the County.

That information request was submitted in April 2015. A detailed summary of the information provided is attached to this report.

DETAILED REPORT ATTACHED ?

YES

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Linda Rees Jones** **Head of Administration and Law**

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-136	Legal Services, County Hall

Code of Conduct Compliance

Council	Code Training 2012/2013	Dispensations 2012/2013	Code of Complaints 2012/2013	Declarations 2012/2013		Code Training 2013/2014	Dispensations 2013/2014	Code Complaints 2013/2014	Declarations 2013/2014		Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Comments
Abergwili	0	5	0	0		2	0	0	5		0	0	0	9	
Abernant	0	0	0	0		3	0	0	1		0	0	0	0	
Ammanford Town	2	1	0	6		4	0	0	23		0	0	1	38	
Betws	0	0	0	0		2	0	0	0		2	0	0	1	
Bronwydd	ND	0	0	ND		ND	0	0	ND		ND	0	0	ND	No data provided (ND)
Carmarthen Town	0	0	0	63		0	0	0	32		1	0	0	30	
Cenarth	2	0	0	2		2	0	0	1		1	0	0	2	
Cilycwm	0	0	0	6		2	0	0	1		0	0	0	0	
Cilymaenllwyd	0	0	0	2		0	0	0	2		0	0	0	4	
Cwmamman Town	4	0	0	14		7	0	0	14		0	0	0	21	
Cynwyl Elfed	0	0	0	2		Y	1	0	7		0	0	0	10	Number of cllrs. trained not known (Y)+P74

Council	Code Training 2012/2013	Dispensations 2012/2013	Code of Complaints 2012/2013	Declarations 2012/2013		Code Training 2013/2014	Dispensations 2013/2014	Code Complaints 2013/2014	Declarations 2013/2014		Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Comments
Cynwyl Gaeo	ND	0	0	ND		ND	0	0	ND		ND	0	0	ND	ND - no data provided
Dyffryn Cennen	0	0	0	7		7	0	0	7		2	0	0	3	
Eglwys Gymyn	0	0	0	0		1	0	0	1		1	0	0	0	Clerk also attended training
Gorslas	Y	0	0	11		Y	0	0	7		Y	0	0	15	Y - Number of Cllrs. trained not known
Henllan Fallteg	1	0	0	2		0	0	0	6		0	0	0	4	
Kidwelly Town	9	0	0	29		2	16	2	65		0	5	1	78	
Laugharne Town	1	0	0	2		0	0	0	4		0	0	0	5	Members have discussed the Code on several occasions
Llanarthne	2	0	0	6		2	0	0	4		2	0	0	5	
Llanboidy	0	0	0	0		2	0	0	4		0	0	0	1	
Llanddarog	Y	0	0	1		Y	0	0	1		Y	0	0	7	Y - number of cllrs. trained not known
Llanddeusant	0	0	0	0		0	0	0	1		0	0	0	1	

Council	Code Training 2012/2013	Dispensations 2012/2013	Code of Complaints 2012/2013	Declarations 2012/2013		Code Training 2013/2014	Dispensations 2013/2014	Code Complaints 2013/2014	Declarations 2013/2014		Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Comments
Llanddowror & Llanmiloe	1	0	0	2		2	0	0	0		3	0	0	1	
Llandeilo Town	2	0	0	26		2	0	0	20		0	0	1	28	
Llandovery Town	0	0	0	15		1	0	0	11		1	0	0	12	Training materials given to all members
Llandybie	0	0	0	30		0	0	0	35		2	1	0	22	
Llandyfaelog	1	0	0	8		2	0	0	13		0	0	0	11	
Llanedi	ND	0	0	ND		ND	0	0	ND		ND	0	2	ND	ND - no data provided
Llanegwad	0	0	0	1		1	0	0	7		0	0	0	12	
Llanelli Rural	13	0	0	12		0	0	0	27		1	0	3	51	
Llanelli Town	Y	0	0	27		Y	0	0	33		Y	0	0	25	Y - Number of Cllrs. trained not known
Llanfair ar y Bryn	1	0	0	1		0	0	0	0		2	0	0	1	
Llanfihangel Aberbythych	2	0	0	8		0	0	0	5		0	0	0	5	
Llanfihangel ar Arth	0	0	0	2		1	0	1	5		3	0	0	1	Code complaint resulted in suspension of cllr.

Council	Code Training 2012/2013	Dispensations 2012/2013	Code of Complaints 2012/2013	Declarations 2012/2013		Code Training 2013/2014	Dispensations 2013/2014	Code Complaints 2013/2014	Declarations 2013/2014		Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Comments
Llanfihangel Rhos y Corn	0	0	0	1		2	0	0	0		0	0	0	0	
Llanfynydd	1	0	0	5		1	0	0	10		1	0	0	11	
Llangadog	ND	0	0	ND		Y	0	0	ND		ND	0	0	ND	ND - no data provided
Llangain	0	0	0	2		0	0	0	2		2	0	0	2	
Llangathen	0	0	0	1		0	0	0	2		0	0	0	6	
Llangeler	Y	0	0	10		2	0	0	4		2	0	0	6	
Llangennech	ND	0	0	ND		ND	0	0	ND		ND	0	0	ND	ND - no data provided
Llangyndeyrn	0	0	0	19		0	0	0	36		0	0	0	26	
Llangunnor	5	0	0	9		2	0	0	6		2	10	0	24	
Llangynin	1	0	0	4		2	0	0	6		0	0	0	4	
Llangynog	0	0	0	4		0	0	0	6		0	0	0	4	Clerk attended training and cascaded info. to members

Council	Code Training 2012/2013	Dispensations 2012/2013	Code of Complaints 2012/2013	Declarations 2012/2013		Code Training 2013/2014	Dispensations 2013/2014	Code Complaints 2013/2014	Declarations 2013/2014		Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Comments
Llanllawddog	0	0	0	8		1	0	0	6		0	0	0	2	Members received copies of Code Training presentation
Llanllwni	ND	0	0	ND		ND	0	0	ND		ND	0	0	ND	ND - no data provided
Llannon	4	0	0	8		1	0	0	8		0	0	0	3	
Llanpumsaint	0	0	0	3		0	0	0	3		0	0	0	0	
Llansadwrn	0	0	0	0		0	0	0	1		0	0	0	0	Same Clerk as Llanwrda and Meidrim
Llansawel	ND	0	0	ND		ND	0	0	ND		ND	0	0	ND	ND - no data provided
Llansteffan & Llanybri	0	0	40			1	0	0	45		0	0	1	38	
Llanwinio	0	0	0	3		1	0	0	5		0	0	0	4	
Llanwrda	0	0	0	0		0	0	0	3		0	0	0	0	Same Clerk as Llansadwrn and Meidrim
Llanybydder	1	0	0	2		1	0	0	3		0	0	0	2	
Llanyrcwys	0	0	0	3		0	0	0	2		0	0	0	3	

Council	Code Training 2012/2013	Dispensations 2012/2013	Code of Complaints 2012/2013	Declarations 2012/2013		Code Training 2013/2014	Dispensations 2013/2014	Code Complaints 2013/2014	Declarations 2013/2014		Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Comments
Manordeilo & Salem	0	0	0	6		1	0	0	10		0	0	0	6	
Meidrim	0	0	0	0		0	0	0	0		0	0	0	0	Same Clerk as Llanwrda and Llansadwrn
Myddfai	0	0	0	0		0	0	0	0		0	0	0	0	
Newcastle Emlyn Town	Y	0	0	29		2	0	0	18		Y	0	0	27	Number of cllrs. trained unknown (Y)
Newchurch & Merthyr	0	0	0	0		0	0	0	2		0	0	0	2	
Pembrey & Burry Port Town	15	0	0	26		1	2	1	7		1	0	0	4	
Pencarreg	0	0	0	0		0	0	0	0		0	0	0	0	
Pendine	0	0	0	0		0	0	0	0		0	0	0	0	Code discussed by members on several occasions
Pontyberem	ND	0	0	ND		ND	0	0	ND		ND	0	0	ND	No data provided (ND)

Council	Code Training 2012/2013	Dispensations 2012/2013	Code of Complaints 2012/2013	Declarations 2012/2013		Code Training 2013/2014	Dispensations 2013/2014	Code Complaints 2013/2014	Declarations 2013/2014		Code Training 2014/2015	Dispensations 2014/2015	Code Complaints 2014/2015	Declarations 2014/2015	Comments
Quarter Bach	0	0	0	12		2	0	0	16		1	0	0	19	
St. Clears Town	1	0	0	14		3	3	0	20		0	0	0	17	
St. Ishmael	Y	3	0	ND		Y	0	0	ND		Y	0	0	ND	No data provided (ND)
Talley	1	0	0	2		1	0	0	2		0	0	0	0	
Trelech a'r Betws	0	0	0	0		0	0	0	0		2	0	0	0	
Trimsaran	0	0	0	1		2	0	0	2		0	0	0	2	
Whitland Town	2	0	0	7		2	1	0	5		6	1	0	7	

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STANDARDS COMMITTEE 11TH SEPTEMBER 2015

PUBLIC SERVICES OMBUDSMAN FOR WALES REPORT 2014/2015

Recommendations / key decisions required:

To consider the report

Reasons:

The subject matter of the report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Directorate

Chief Executives

Name of Head of Service:

Linda Rees-Jones

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EXECUTIVE SUMMARY STANDARDS COMMITTEE 11th SEPTEMBER 2015

PUBLIC SERVICES OMBUDSMAN FOR WALES REPORT 2014/2015

The Public Services Ombudsman for Wales has published his annual report for 2014/2015

The Ombudsman considers complaints of maladministration and service failure against public bodies and allegations against members of local authorities that they have broken the Members Code of Conduct.

The key points are;

1. The overall number of maladministration complaints against public authorities rose by 7% compared to an 8% increase the previous year.
2. Local authorities continue to account for the largest proportion of complaints, the number of complaints recorded against them rising by 5% compared to a 9.5% increase the previous year.
3. Of the 2,015 maladministration complaints concluded, only 428 were taken forward and only 349 of these (82%) resulted in the complaint being upheld or partially upheld.
4. A total of 12 Public Interest Reports were issued, one of which related to Carmarthenshire County Council (see page 49 of the Annual Report). This matter related to events that took place in 2012 and the Ombudsman's report was presented to Full Council on the 24th February 2015.
5. A total of 58 Maladministration complaints relating the Carmarthenshire County Council were determined (the 4th highest)
6. Overall there has been a 1% increase in Code of Conduct complaints compared to a 22% decrease in 2013/2014.
7. Code complaints against County Councillors have risen 13% whilst complaints against Community Councillors fell by 8%
8. Of the 239 Code complaints concluded during the year, only 34 cases were taken to investigation. Of these in 17 cases there was no evidence of breach, in 8 cases no action was needed, 1 case was referred to the Adjudication Panel for Wales and 8 referred to local Standards Committees.
9. A total of 15 Code complaints relating to County Councillors and Town and Community Councillors from Carmarthenshire were concluded (the 2nd highest)

The committee is requested to consider the attached report

DETAILED REPORT ATTACHED ?

YES

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-136	Legal Services, County Hall
Legal file	CCCN-061	Legal Services, County Hall



MAKING COMPLAINTS **SERVE WALES**



The Annual Report 2014/15

of

The Public Services Ombudsman for Wales

Laid before the National Assembly for Wales
under paragraph 14 of Schedule 1
of the Public Services Ombudsman (Wales) Act 2005



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1. Introduction by the Ombudsman



Nick Bennett
Ombudsman
(from August 2014)



Margaret Griffiths
Acting Ombudsman
(to July 2014)

I am delighted to introduce this report for the year 2014/15. It is the ninth Annual Report of the Public Services Ombudsman for Wales (PSOW) since the inception of the office in April 2006. The year 2014/15 was of course a year of transition. I took up my appointment as Ombudsman in August 2014, succeeding Professor Margaret Griffiths who was the Acting Ombudsman to July 2014, having been in that role from December 2013. I wish to pay tribute to Professor Griffiths for so ably taking on the interim role as Ombudsman as well as for her assistance and support to me during the transition phase. I valued this highly.

Innovation

On taking up my role, one of the first things that struck me was the stark reality that the volume of increases in enquiries and complaints made to this office reported in previous Annual Report was continuing into 2014/15. Significant was the fact that during July 2014, the month before I took up my post, the office received both the highest number of enquiries and the highest number of complaints since the office came into existence in April 2006. At the end of the year the picture was that, compared with 2013/14 there had been a 7% increase in all contacts (that is, enquiries, public body complaints, and complaints about the conduct of members of local authorities).

Taking a look back over the past five years, complaints about NHS bodies (which includes health boards, GPs, Dentists) have risen by 126%. Whilst not painting such a dramatic picture, it should not go unremarked that complaints about county/county borough councils are also on the rise. Again comparing the position to five years ago, there has been a 10% increase. Greater detail on the complaints made to my office during 2014/15 can be found at section 3 of this report.

This upward trend in contacts to my office has been a matter of concern to me. Whilst admirable work has been undertaken in recent years to streamline the office's complaints handling processes, I have been eager that we should seek to identify areas for further efficiency gains. I therefore instigated an innovation project, which took place over the space of some three months. This engaged all staff. The work resulted in over 30 agreed action points. The majority of these related to internal changes, with a key focus being on reinforcing and gathering greater momentum in relation to becoming a 'paperless office'. We have taken the view that this approach will enable us to gain further efficiencies in relation

to the practicalities of dealing with casework documents. However, there will also be implications for bodies within jurisdiction too and I was able to announce in February the fact that we would be changing our approach so that we would request records in electronic format only, but that associated with this I would be reducing the timescales allowed for bodies in jurisdiction to provide me with the records requested. It is also intended to increase use of Skype/videoconferencing to conduct interviews across Wales.

Turning the Curve

In addition to the changes emanating from the innovation work, I am firmly of the view that we should engage more directly with county/county borough councils and health boards with the aim of promoting improvements in their approaches to complaint handling. These two sectors account for 83% of the complaints that I receive. Essentially the service I provide is reactive. That is, I have to respond to the enquiries and complaints that arrive at my office. However, I am keen that more people's grievances are properly addressed and resolved at local level, providing earlier resolution for complainants and in turn reducing the level of complaints arriving at my door. The current upward trajectory of complaints to my office cannot be sustained indefinitely without additional resource and I am anxious that we should act proactively to turn the curve.

Furthermore, I am of the view that we also need to do more in relation to having a greater wider impact in relation to improving public service delivery and contributing to public policy in Wales, beyond seeking improvement in the place where the problem occurred. I believe that beyond the 'common good' resulting from this, it will also ultimately lead to fewer complaints coming to the office. As part of this programme, I will be placing greater emphasis on my office's own data gathering in relation to the complaints we receive in the office, so that we can derive more detailed statistical data and hence intelligence in relation to the trends and patterns of these.

I have also given considerable thought as to how my staffing resource should be structured in order to enable me to achieve those things that I see as my priorities. Having arrived at my conclusions, I presented my proposals to my staff during March 2015. I will be seeking to implement those changes in the early part of 2015/16.

Assembly Inquiry into the Powers of the Public Services Ombudsman for Wales

Another aspect that I gave early attention to upon taking up my role as Ombudsman was to consider whether the PSOW Act required review, particularly since it is now ten years old. I took the advantage as part of my 'induction' as Ombudsman to ascertain what best practice looked like amongst colleague ombudsmen, particularly within the UK but also further afield. Having considered what I found, I arrived at the view that whilst the PSOW Act remained well regarded within the ombudsman community, there was a danger that Wales would be left behind as regards developments taking place in other nations and countries. Furthermore, I believe it is important to future proof the Act to enable me, and my successors, to be able to respond to the challenges we know Wales will face with the future ageing society.

Building on the work of the previous Ombudsman, Peter Tyndall, I therefore put forward a number of proposals to the National Assembly for Wales in relation to areas where I believed that the current Act could be extended and strengthened. I was exceptionally pleased that the Assembly's Finance Committee agreed to undertake an inquiry into the possibility of extending the powers of the Public Services Ombudsman for Wales. I was delighted that so many stakeholder organisations took the time and trouble to provide evidence. This ranged from bodies in jurisdiction and their representative organisations, the Commissioners in Wales, as well as colleague Ombudsmen in other parts of the United Kingdom and academic experts in the field. At the time of writing, we await the Finance Committee's decision as to whether to recommend the introduction of a Bill in relation to the PSOW's powers.

Thanks

Finally, I wish to thank the staff of my office. Upheaval is never easy, but their professionalism and dedication is of the highest order.



Nick Bennett
Ombudsman

2. My Role as the Public Services Ombudsman for Wales

As Ombudsman, I have two specific roles. The first is to consider complaints about public service providers in Wales; the second role is to consider complaints that members of local authorities have broken the Code of Conduct. I am independent of all government bodies and the service that I provide is free of charge.

Complaints about public service providers

Under the PSOW Act 2005, I consider complaints about bodies which, generally, are those that provide public services where responsibility for their provision has been devolved to Wales. The types of bodies I can look into include:

- local government (both county and community councils);
- the National Health Service (including GPs and dentists);
- registered social landlords (housing associations);
- and the Welsh Government, together with its sponsored bodies.

Since 1 November 2014, I am also able to consider complaints about privately arranged or funded social care and palliative care services.

When considering complaints, I look to see whether people have been treated unfairly or inconsiderately, or have received a bad service through some fault on the part of the service provider. Attention will also be given to whether the service provider has acted in accordance with the law and its own policies. If a complaint is upheld I will recommend appropriate redress. The main approach taken when recommending redress is, where possible, to put the complainant (or the person who has suffered the injustice) back to the position they would have been in if the problem had not occurred. Furthermore, if from the investigation I see evidence of a systemic weakness, then recommendations will be made with the aim of reducing the likelihood of others being similarly affected in future.

Code of Conduct Complaints

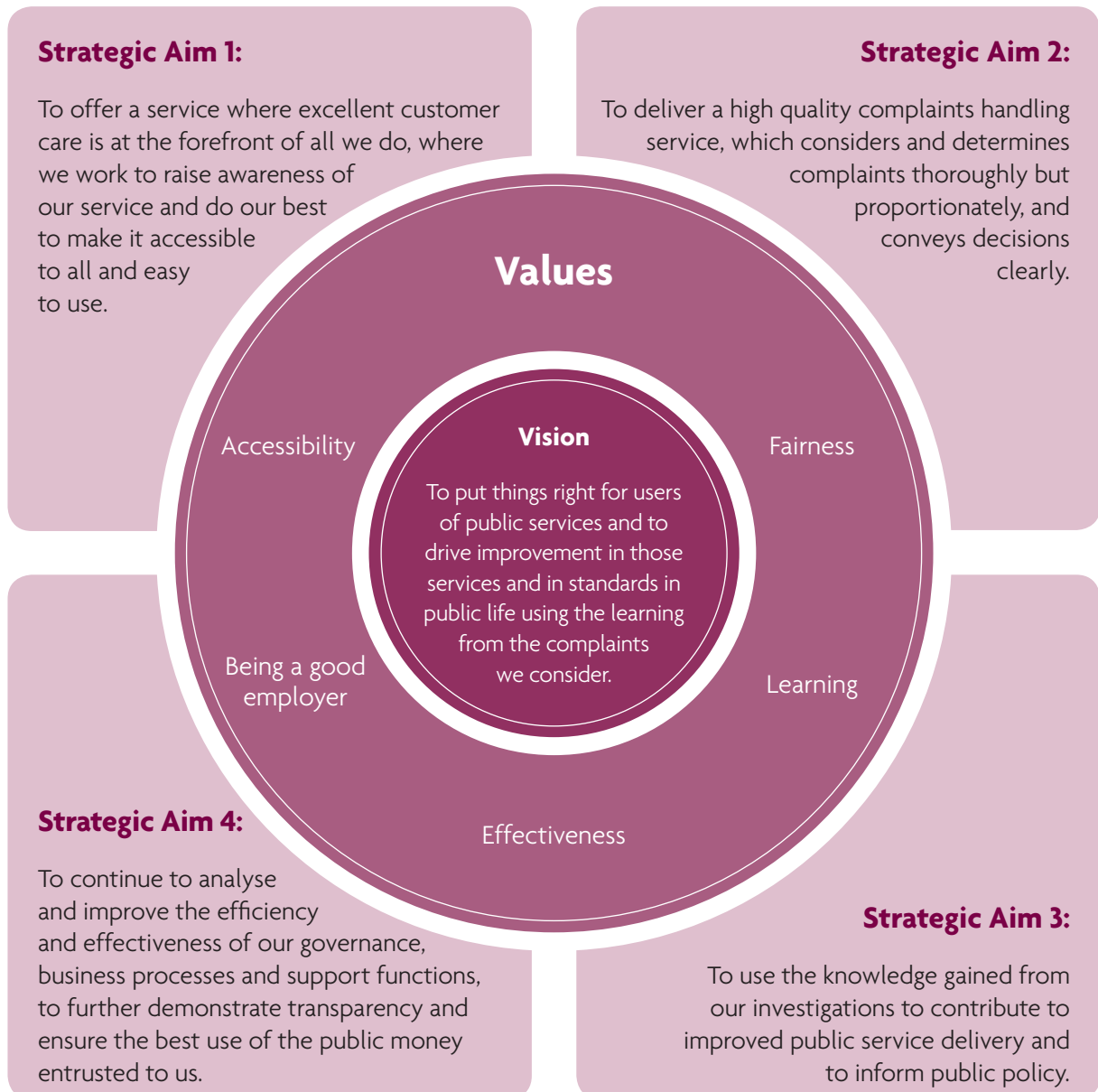
Under the provisions of Part III of the Local Government Act 2000 and also relevant Orders made by the National Assembly for Wales under that Act, I consider complaints that members of local authorities have breached their authority's Code of Conduct. I can consider complaints about the behaviour of members of:

- county and county borough councils
- community councils
- fire authorities
- national park authorities and
- police and crime panels.

All these authorities have a code of conduct which sets out in detail how members must follow recognised principles of behaviour in public life.

If a county councillor wishes to make a complaint about another county councillor within their own authority, then I expect them to first of all make their complaint to that authority's Monitoring Officer, as it may be possible to resolve the matter locally without my involvement.

Vision, Values and Strategic Aims



3. The Complaints Service



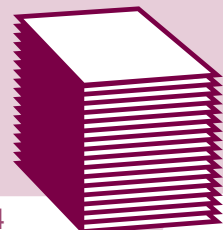
3,470
Enquiries

7% increase on 2013/14

Total Complaints

2,296

6% increase on 2013/14



Complaints about a Public Body

2,065 Complaints

7% increase on 2013/14



938
County
Council
Complaints
5% increase



769
NHS body
Complaints
1% increase

These account
for **83%** of all
Public Body
complaints



Code of Conduct

231 Complaints

1% increase on 2013/14



125
County
Councillors
Complaints
13% increase



106
Community
Councillors
Complaints
8% decrease

These account
for **100%** of all
Code of Conduct
complaints

Public Body complaints outcomes 2014/15

Total cases closed: **2,015**



349
complaints upheld
/partly upheld

12 of these were
public interest

Code of Conduct complaints outcomes 2014/15

Total Code of Conduct
cases closed: **239**



17 No evidence of a breach
of the Code of Conduct



8 No action
needed



1 Referred to the
Adjudication Panel
for Wales

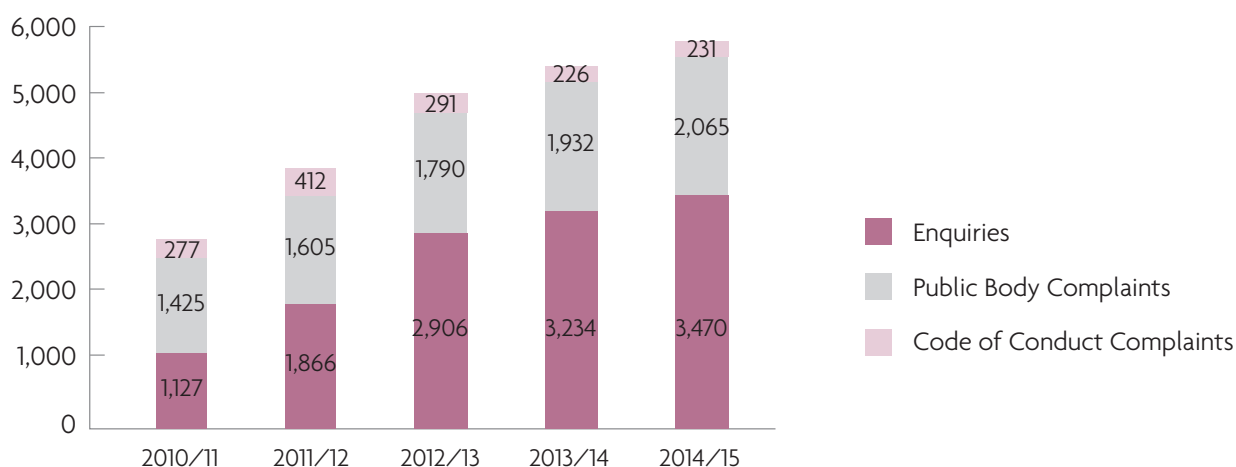


8 Referred to
a standards
committee

Caseload overview

Annual Reports of previous years have drawn attention to the volume of increases in enquiries and complaints to this office. The year 2014/15 saw that trend continue. There was a 7% increase in all contacts (that is, enquiries, public body complaints, and complaints about the conduct of members of local authorities) and casting an eye over the past five years, there has been a 104% increase.

Total Enquiries and Complaints received by year



Enquiries

The office dealt with 3,470 enquiries during 2014/15, compared with 3,234 the previous year an increase of 7%.

Enquiries are contacts made by potential complainants asking about the service provided, which do not, in the end, result in a formal complaint being made to me. At this point of first contact, we will act in various ways, such as:

- advise people how to make a complaint to me where people have not already complained to the relevant public body, we will advise them appropriately, sending their complaint directly to that body on their behalf if that is their wish
- where the matter is outside my jurisdiction, direct the enquirer to the appropriate organisation able to help them.
- where appropriate, the Complaints Advice Team also seeks to resolve a problem at enquiry stage without taking the matter forward to the stage of a formal complaint.

We are pleased that despite the continued increase in enquiries to this office we have been able to provide a prompt service at the frontline. We set ourselves the target of answering our main line reception calls within 30 seconds in 95% of cases. There were 6,307 main line calls to the office during 2014/15 and 99% of these were answered within this timescale, which clearly is better than the target we set ourselves.

Public Body Complaints

The number of complaints received about public bodies continues to increase. We received 2,065 such complaints in 2015/16 compared with 1,932 in 2013/14 (a 7% increase).

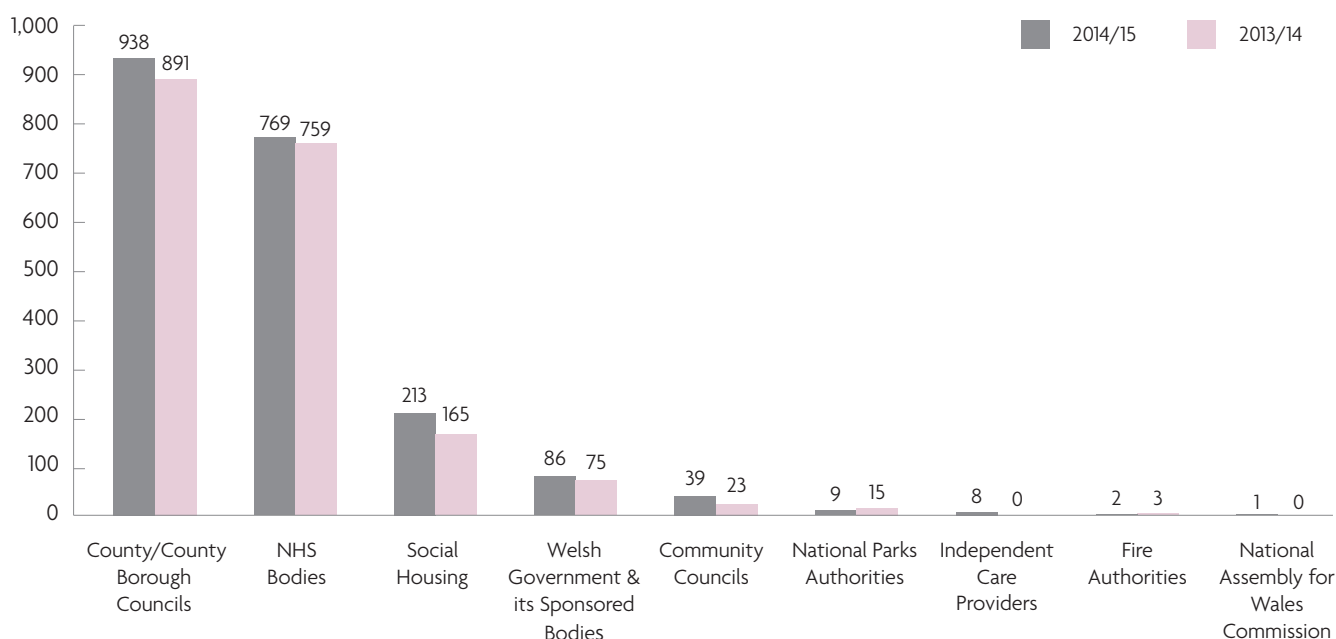
Sectoral breakdown of complaints

County councils have always generated the most complaints to this office. This is not surprising given the wide range of services they provide. For a number of years complaints received about county councils had held at a fairly constant level, the past two years have seen an increase. In particular, there was a notable 5% increase in complaints over the position for 2013/14.

Health body complaints continued the upward trend of recent years. There was a 1% increase over the past year (769 complaints compared with 759 in 2013/14).

The chart below shows the distribution of the complaints received by sector.

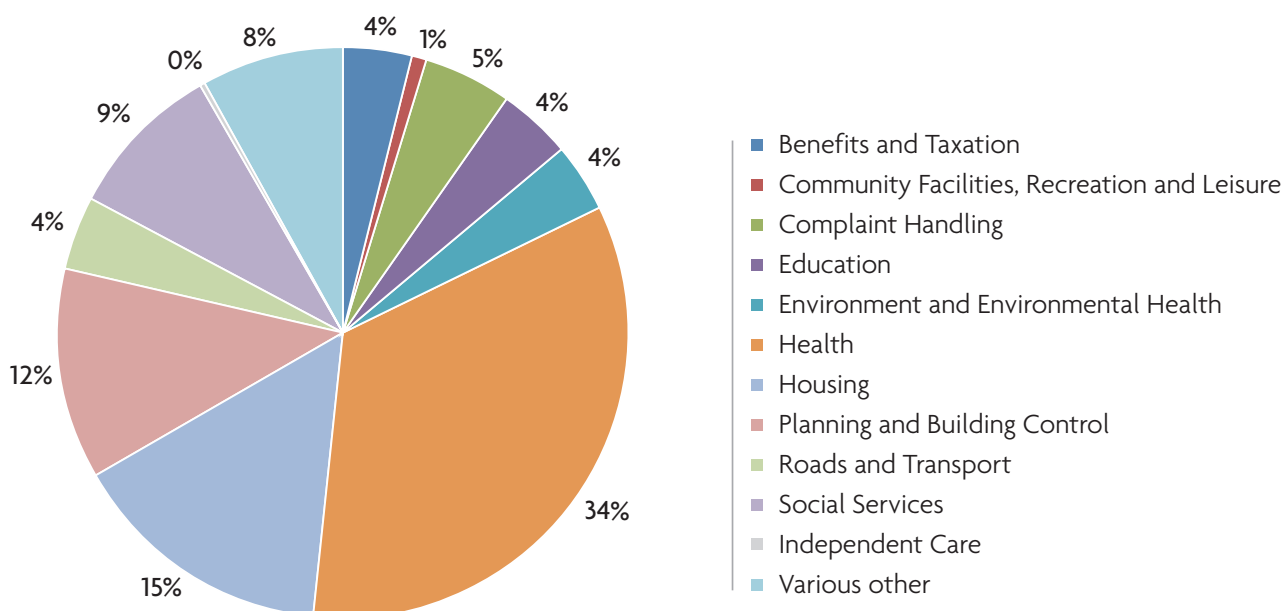
Complaints by public body sector



Complaints about public bodies by subject

As can be seen from the chart below, health complaints account for 34% of the caseload compared with 36% in 2013/14. This small decrease in ratio terms is due to an increase in other types of complaints received rather than a fall in the number of health complaints received (as confirmed by the details above). As has been the case in recent years, housing (15%) and planning (12%) are the service areas which account for the greatest number of complaints received after health complaints.

Complaints by subject 2014/15



[Note: Complaints are categorised by the main subject area of a complaint. However, complaints can also comprise other areas of dissatisfaction - for example, a 'Health' complaint may also contain a grievance about 'Complaint Handling'.]

Outcomes of complaints considered

We closed 2,015 complaints during 2014/15, compared with 1,926 during 2013/14 (an increase of 5%). A summary of the outcomes is set out in the table below and detailed breakdowns of the outcomes by public service provider can be found at Annex B.

I am extremely pleased that we have managed to achieve this level of closure during the year and that we are continuing to keep pace with the increased number of complaints to the office. Whilst the number of cases on hand at the end of 2014/15 stood at 446, compared with 393 at the end of 2013/14, I remain satisfied that this is a reasonable caseload to have open at any one time and do not consider this to be a backlog.

Complaint about a Public Body	2014/15	2013/14
Closed after initial consideration*	1,564	1,402
Complaint withdrawn	23	47
Complaint settled voluntarily (includes "quick fix" of 127 cases)	164	214
Investigation discontinued	8	18
Investigation: complaint not upheld	71	63
Investigation: complaint upheld in whole or in part	173	173
Investigation: complaint upheld in whole or in part – public interest report	12	9
Total Outcomes – Complaints	2,015	1,926

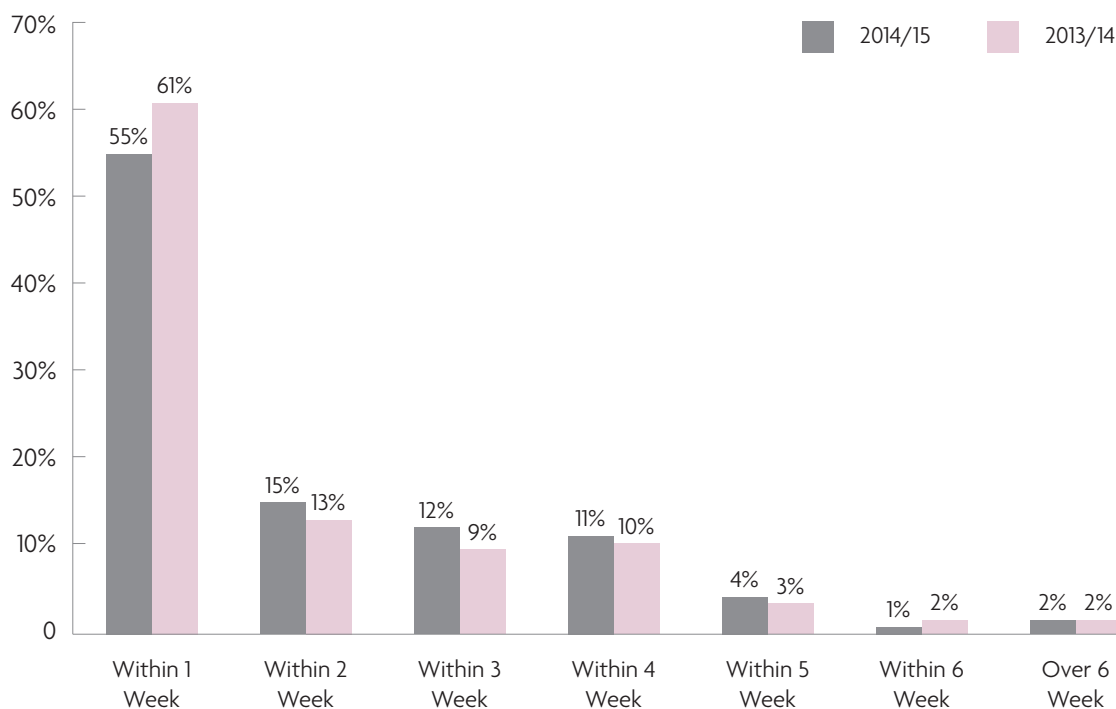
[* Cases closed after initial consideration include complaints that relate to one of the following circumstances:

- outside of my jurisdiction
- premature (that is, the complainant had not first complained to the public service provider, giving them an opportunity to put matters right)
- did not provide any evidence of maladministration or service failure
- did not provide any evidence of hardship or injustice suffered by the complainant
- showed that little further would be achieved by pursuing the matter (for example, a public body may have already acknowledged providing a poor service and apologised).]

Decision times

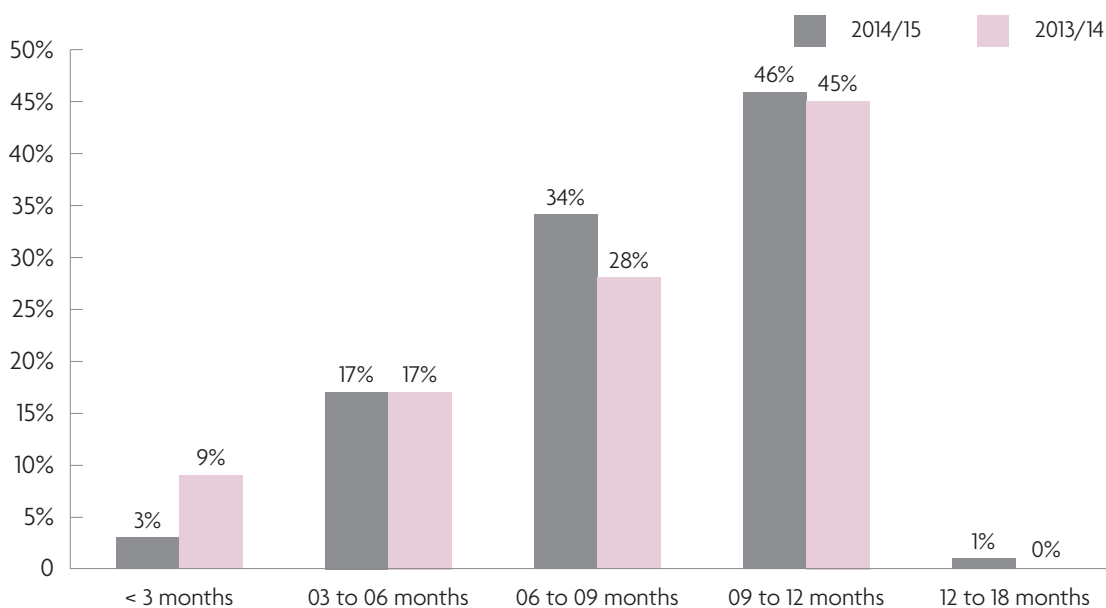
Time taken to tell the complainant if I will take up their complaint

In relation to complaints about public bodies, we informed 93% of complainants within 4 weeks of whether I would take up their complaint (from the date that sufficient information is received). This is better than the 90% target we set ourselves. Further information on these timescales is set out in the chart below.



Investigation Times

We completed 99% of investigations within 12 months, against the 100% target we set ourselves. There were two cases that went over 12 months. Both of these involved strong challenges from parties in the investigation. This led to further clinical advice being sought in the first case, and an internal review of the evidence gathered in the second before the investigation could be concluded. The chart below gives further details on the timescales taken to conclude investigations concerning public bodies.



Code of Conduct Complaints

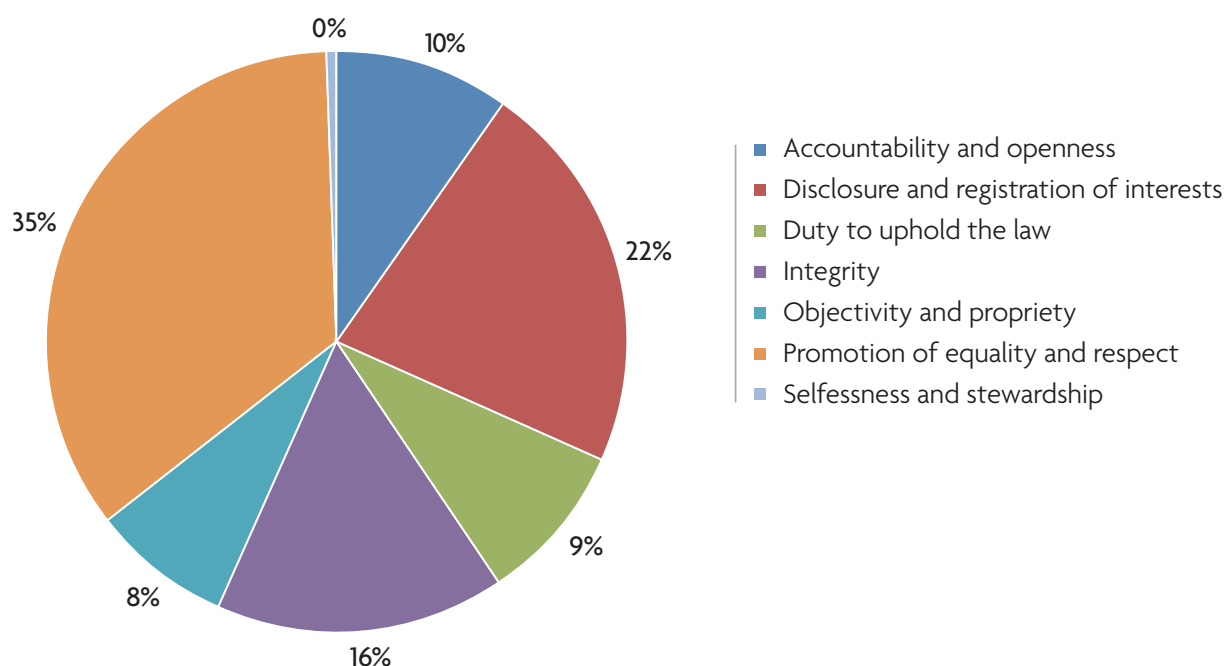
Complaints received

Overall the number of number of complaints received was similar (231 in 2014/15 compared with 228 in 2013/14). However, the past year saw an increase in complaints about members of county or county borough councils, whilst the number of complaints concerning members of community councils fell. This can be seen in the table below.

	2014/15	2013/14
Community Council	106	115
County/County Borough Council	125	111
Fire Authority	0	2
National Park Authority	0	0
Police & Crime Panels	0	0
Total	231	228

Nature of Code of Conduct complaints

As in previous years, the majority of complaints received during 2014/15 related to matters of ‘equality and respect’. In 2014/15 this accounted for 35% of the code of conduct complaints received compared with 36% in 2014/15. The next largest areas of complaint related to disclosure and registration of interests (22%), and integrity (16%).



[Note: Although showing as ‘0%’ there was 1 complaint made in relation to ‘Selflessness and stewardship’]

Code of Conduct complaint outcomes

Of the 239 Code of Conduct complaints closed in 2014/15, the majority (178) were closed under the category ‘Closed after initial consideration’. This includes decisions such as:

- there was no ‘prima facie’ evidence of a breach of the Code
- the alleged breach was insufficiently serious to warrant an investigation (and unlikely to attract a sanction)
- the incident complained about happened before the member was elected (before they were bound by the Code).

A greater number of investigation reports were referred either to a local authority’s standards committee or to the Adjudication Panel of Wales in 2014/15 (9 complaints) compared with 2013/14 (6 complaints). In these circumstances it is for these bodies to consider the evidence found, together with any defence put forward by the member concerned. It is then for them to determine whether a breach has occurred and, if so, what penalty, if any, should be imposed.

A summary breakdown of the outcomes is below:

	2014/15	2013/14
Closed after initial consideration	178	176
Complaint withdrawn	7	12
Investigation discontinued	20	8
Investigation completed: No evidence of breach	17	10
Investigation completed: No action necessary	8	17
Investigation completed: Refer to Standards Committee	8	5
Investigation completed: Refer to Adjudication Panel	1	1
Total Outcomes – Code of Conduct complaints	239	229

County councillors are now expected to make their complaints about other councillors within their authority to their monitoring officer. However, I continue to receive ‘low level’ complaints of this type at my office. These, for example, could be allegations of failures to show respect and consideration of others under paragraph 4(b) of the code. We have reviewed our practice in dealing with the complaints of this type that come to my office, and will be taking a firmer position in the future in referring these ‘low level’ complaints back to monitoring officers to be dealt with locally.

A detailed breakdown of the outcome of Code of Conduct complaints investigated, by authority, during 2014/15 is set out at Annex C.

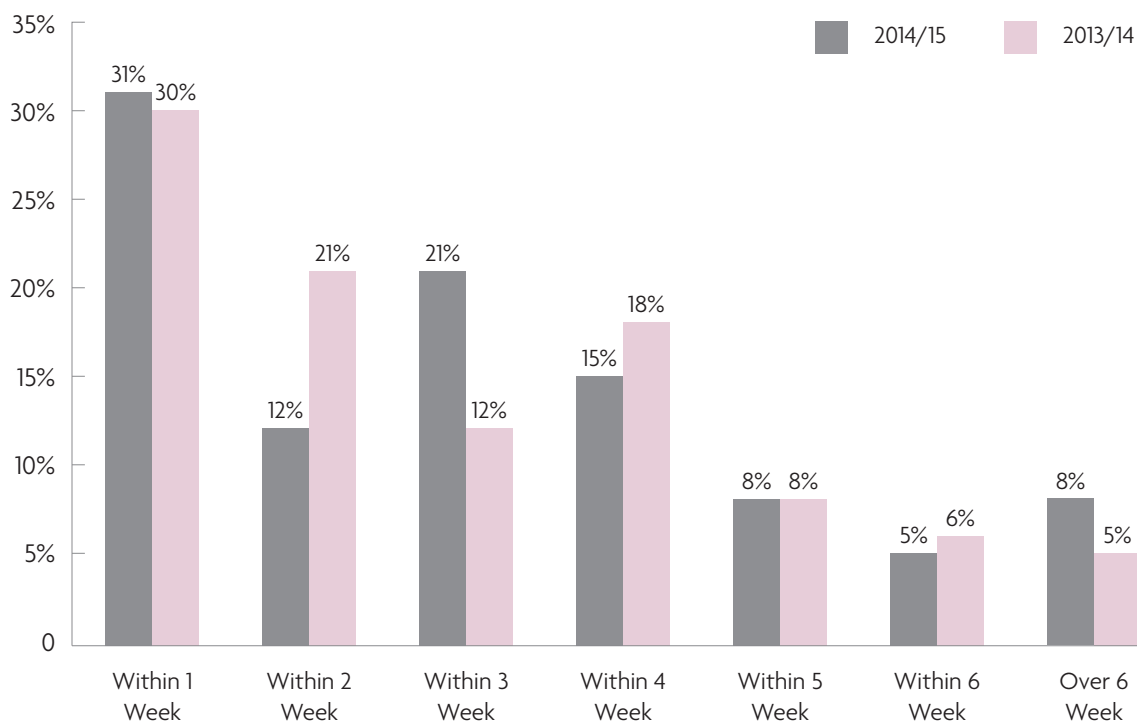
Decision times

Time taken to tell the complainant if I will take up their complaint

In respect of Code of Conduct complaints, 79% of complainants were informed within 4 weeks of whether I would take up their complaint (from the date that sufficient information is received). This is lower than the 90% target we set ourselves.

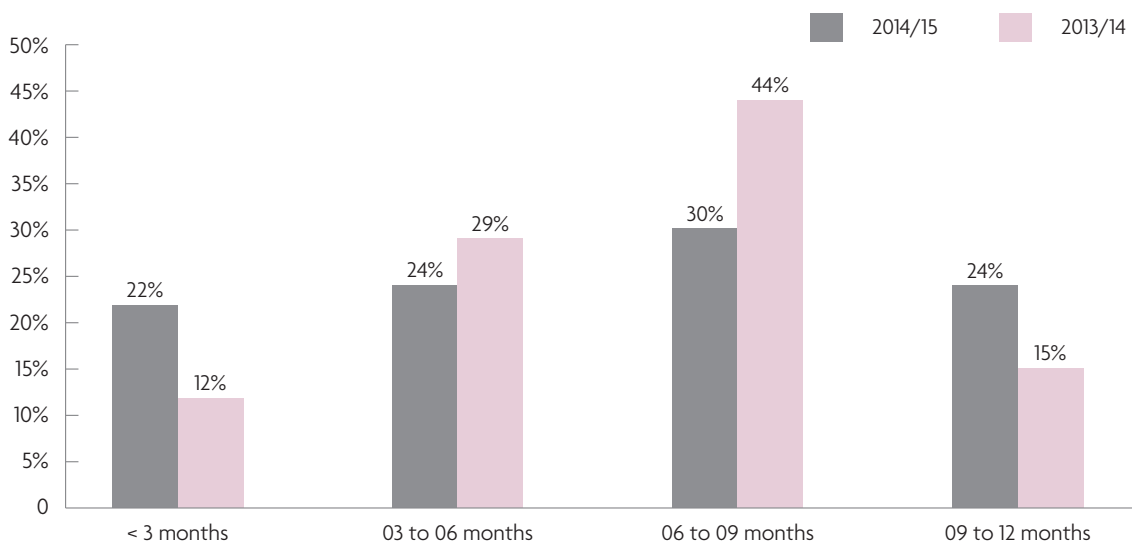
However, different from the position in relation to public body complaints, although not obliged to, members may (and often do) comment on the complaint against them when they have been informed of the complaint. Whilst therefore it can take longer to decide whether to commence an investigation, I consider that it is fairer for us to take into consideration what a member has to say before taking a decision. This is because the commencement of a formal investigation against a member is a stressful and serious matter for the member being complained about. Nevertheless, I will work during the year to ensure that we advise both the complainant and the accused member promptly as to whether we will take the matter into investigation or not.

Further details on these decision timescales are shown overleaf.



Investigation Times

The position for completing code of conduct investigations is a positive one. I am pleased that over the past year we succeeded in meeting our 100% target for completing investigations within 12 months, as can be seen in the chart below.



4. Improving Public Service Delivery

I place great importance on using the knowledge and learning gained from the casework of my office to improve public service delivery in Wales and to inform public policy. There are a number of established key vehicles in place in this regard:

- **Public interest reports – 12 issued in 2014/15:** Summaries of these complaints together with findings and outcomes are set out at Appendix A, with the full reports available on my website at www.ombudsman-wales.org.uk.
- **The Ombudsman’s Casebook, which is published quarterly:** Key issues addressed during 2014/15 were -
 - failures by local authorities to recognise their homelessness duties and associated handling of housing application
 - insufficiently robust investigations by public service providers, inconsistent with the mantra of ‘investigate once; investigate well’, together with missed opportunities by service providers to resolve matters themselves at an early stage.
- **The Code of Conduct Casebook:** Last year it was reported that a Code of Conduct Casebook had been introduced on a biannual basis at the request of local authority monitoring officers. This has been well received, but a request was made during the year for this be produced on a quarterly rather than six monthly basis. Quarterly editions will therefore appear in 2015/16, however, due to the low number of cases available within quarterly editions, a commentary/lessons learnt section will be produced within an end of year ‘annual compendium’ only.
- **Annual letters – county councils and health boards:** Published on my website, these provide details in respect of the individual bodies and comparisons against other organisations in the same sector as well as details on an All Wales basis. They are also used as the basis of discussions with the Chairs and Chief Executives of individual local health boards. Local authorities are also invited to seek a meeting to discuss their particular Annual Letter if they so wish.

In addition to the above, a revised edition of the **Guidance on the Code of Conduct for local authorities members**, originally published in 2010, was issued at the end of March 2015. A key change introduced is the new ‘public interest test’ that I will now apply when considering whether or not to investigate a complaint. I have introduced this test as a result of the high number of trivial complaints that I receive at my office, and to make clear the criteria that I will apply when considering whether a complaint should be taken into investigation or not. This test will ensure that I continue to investigate serious complaints to maintain public confidence in standards of public life. Other changes introduced into the document include further guidance on the use of social media and political expression, as well as a flowchart designed to provide members with assistance on the issue of interests. I hope these changes will also see a reduction in the number of code of conduct complaints to my office. The revised version of the Guidance can be found on my website: www.ombudsman-wales.org.uk

I have also given consideration to how I might be able to work with other relevant organisations. Examples of activities during 2014/15 have been:

- **Information Commissioner**

I have been very pleased to be able to work with the Information Commissioner in reviewing the PSOW's Principles of Good Administration. At the time of writing the proposed revised document is out to consultation, but the intention is to introduce two new principles in relation to Good Records Management and to issue the revised version as a joint publication with the ICO.

- **Commissioners in Wales**

I have continued to meet regularly with the Commissioners in Wales to discuss matters of mutual interest and concern. We continue to explore ways in which we can reinforce each other's work for the benefit of public services in Wales. For example, I intend in the forthcoming year to give consideration to the issue of the apparent lack of social care complaints that I receive, in view of the outcome of the Older People's Commissioner's "A Place to Call Home?: Care Home Review Report". In addition, I was delighted to have had the opportunity to speak at an event hosted by the Welsh Language Commissioner during the National Eisteddfod for Wales in 2014, in what was my first week in the post as Ombudsman. I was also grateful to the Commissioners for their support for the proposals for new legislation and was encouraged by the recognition that our respective offices could work well together in relation to any proposed own initiative investigations, should the Ombudsman be granted this power by the Assembly.

- **Memorandum of Understanding (MoU) with the Care and Social Services for Inspectorate Wales (CSSIW)**

Whilst the CSSIW is a body within my jurisdiction, I considered that it would be appropriate to put in place a MoU with the CSSIW in view of its role as a regulator. The MoU was signed on 14 December 2014 and was particularly timely in view of the recent extension to my jurisdiction on 1 November 2014 to be able to consider complaints about privately arranged or funded social care and palliative care services.

In the forthcoming year, I will be looking to explore how the work of my office can have a greater impact in the future in relation to influencing improvements in public service delivery and for informing public policy and I look forward to being able to report next year on developments in this area.

5. Governance and Accountability

The Ombudsman

The Public Services Ombudsman (Wales) Act 2005 establishes the office of the Ombudsman as a 'corporation sole'. The Ombudsman is accountable to the National Assembly for Wales, both through the mechanism of the annual report, and as Accounting Officer for the public funds with which the National Assembly entrusts the Ombudsman to undertake their functions.

During 2014/15, I appeared before three of the Assembly's Committees, namely the Public Accounts Committee (to discuss the Annual Accounts for 2013/14); the Communities, Equality and Local Government Committee (to discuss the Annual Report for 2013/14); and the Finance Committee (to discuss my budget estimate submission for 2014/15). I welcomed the opportunity on each occasion to discuss how the public money I received was and would be spent, and the service provided by my office.

Advisory Panel and Audit & Risk Assurance Committee

Whilst bearing in mind the constitutional position of a corporation sole, I have an Advisory Panel which provides both challenge and support to me as Ombudsman. There is also an Audit & Risk Assurance Committee, a sub-committee of the Panel, which provides particular support to me in relation to my responsibilities as Accounting Officer. The work of both these fora over the past year will be addressed in greater detail as part of the Governance Statement within my Annual Accounts for 2014/15, which I expect to be published in August 2015. However, I take the opportunity here to state that, following an open recruitment exercise, I was delighted that Mrs Sharon Warnes, previously Assistant Director/Senior Policy & Performance Manager at Gwynedd Council, was appointed to the Advisory Panel (following Mr Ceri Stradling's resignation at the end of 2013/14). Mrs Warnes also sits on the Audit & Risk Assurance Committee.

Management Team

Whilst as Ombudsman I am solely accountable for the decisions and operation of my office, the Management Team is a formal group that provides me with advice and support. It takes specific responsibility for advising on the development of the three year Strategic Plan and the annual Business Plan; annual budgetary requirements; ensuring the best use of the public money received; and an appropriate performance monitoring framework.

It is also responsible for the delivery and monitoring of strategic aims; monthly performance monitoring against objectives; ensuring that risks are actively identified and addressed; agreeing corporate policies (e.g. complaint handling procedures, human resources policies) and monitoring their effectiveness; and developing the office's outreach strategy and monitoring its implementation.

Three Year Strategic Plan and Business Plan

The past year was the final year in relation to implementation of the Strategic Plan developed for 2012/13 to 2014/15 and many of the activities and achievements have been reflected in this Annual Report. The existing vision, values, purposes and strategic aims for the PSOW service can be found at page 9.

I decided during the course of the year to produce a one year Strategic Plan for 2015/16, which has been deliberately rolled on from the previous Three Year Strategic Plan as I believe that the ‘Vision’ remains as relevant and appropriate as ever, not least given the current public policy context. Another key consideration for rolling on the previous three year Strategic Plan for a further year was that it was hoped that the National Assembly for Wales would agree to modernising the PSOW Act. It seemed more appropriate for the office to develop a new Three Year Strategic Plan at a time when the position on these potential changes to the Ombudsman’s legislation is known.

European Directive on Alternative Dispute Resolution

Following the issuing of the European Directive on Alternative Dispute Resolution, the UK Government laid before Parliament on 17 March 2015 the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. These new arrangements in relation to consumer and trader disputes have an impact on PSOW jurisdiction in relation complaints about independent care providers.

Whilst the National Assembly for Wales has legislated that people who fund their own care have a right to complain to the Ombudsman, the EU Directive/UK Regulations will mean that unless the PSOW applies (at a cost) to be an ‘ADR Entity’ the UK Government will also nominate an alternative ADR entity to be available to consider such grievances. That said, neither the EU’s ADR Directive nor the UK Government’s Regulations make ADR compulsory for businesses in areas where it is not currently, so the majority of businesses will retain a choice as to whether to use an alternative ADR entity or not. Further they would no doubt be the subject of a charge to sign up to an alternative ADR provider. This ultimately means that the only statutory right that service users will have, in relation to the independent consideration of their complaint to an independent care provider, will be through the Ombudsman.

There are a number of issues requiring consideration in this matter, including questions of subsidiarity, and the position of the Ombudsman in relation to accountability to the National Assembly for Wales and independence as regards reporting to the UK Government’s nominated Competent Authority – the Trading Standards Institute, in what in essence is a ‘traders’ membership organisation’. There is also the issue that independent social care providers are organisations which are regulated by the CSSIW. At the time of writing, I am still considering whether or not it is appropriate for the PSOW to apply to be an ADR entity.

6. Other Activities

Relationship with the National Assembly for Wales



Welcoming the Presiding Officer to our office

I am pleased with the development of the relationship between my office and the National Assembly over the past year. I was pleased to meet with Dame Rosemary Butler, the Presiding Officer, in the early days after having taken up my appointment and to be able to discuss my initial priorities as Ombudsman. I was also delighted to be able to welcome the Presiding Officer to my office in January 2015, when Dame Rosemary took the time to meet individual members of my staff. This was much appreciated.

I refer elsewhere in this report to my engagement with the Assembly in relation to the inquiry into the powers of the Ombudsman. I have been very grateful to Mrs Jocelyn Davies, AM, the Finance Committee Chair and all members of the Finance Committee for agreeing to undertake this inquiry and for being prepared to consider recommending a Committee led Bill in this regard. I know that my officers too have appreciated the co-operation they have received from Assembly staff in this regard.

I was also pleased to be able to offer as part of the professional development scheme for Assembly Members and their staff, a training session whereby we were able to discuss the work of my office tailored in a way in order to assist them to be able to better advise their constituents about what, as Ombudsman, I can and cannot do.

Outreach

The office's stakeholders are many, and include

- members of the public (i.e. the users of public services)
- bodies within jurisdiction
- members of the National Assembly for Wales
- voluntary organisations (in particular those who offer advocacy services)
- the media.

We have continued in our endeavours to help people know where and how to put a complaint about a public service through the Complaints Wales signposting service, which is delivered by the Complaints Advice Team. This independent and impartial web and telephone service signposts people's complaint to the organisation that provides the service they wish to complain about, or to the appropriate independent complaint handler or ombudsman. Promotion of the service continued during 2014/15 via a radio advertisement campaign.

In relation to bodies in jurisdiction, in addition to the meetings held with individual bodies, during January 2015 I held regional seminars aimed at both chief executives and complaint handling practitioners, where the issue of good practice in relation to complaint handling and records keeping was addressed. I was grateful to a number of complaint handling practitioners from bodies in jurisdiction for speaking about their experiences at these sessions. I was particularly pleased that over 200 people attended from all sectors within my jurisdiction.



Delegates in attendance at the seminar held in Newport.

We continued to engage with voluntary organisations. For example, during the past year we spoke at, or held meetings with Oxfam Cymru, Diverse Cymru, All Wales Credit Union Managers Group, Shelter Cymru, Age Cymru, Welsh Council for Voluntary Action and the Motor Neurone Disease Association. We also held meetings with, or spoke at events held by, professional and representative bodies of those delivering public services (for example, law and nursing professions; One Voice Wales).

A positive relationship with the media continued. Media attention to the work of the office again was largely as a result of the public interest reports issued. However, I was also pleased to be able to meet with BBC news and current affairs staff during the year. It was particularly useful to be able to discuss the limits of what I am able to comment upon as Ombudsman and what is and is not possible to put into the public domain as a result of the confidential work of my investigations.

Complainant satisfaction research

We have continued with our complainant satisfaction survey practice in relation to customer satisfaction for our first contact service. The outcome for 2014/15 was as follows:

	% of respondents answering either 'strongly agree' or 'agree'
It was easy to find out how to contact the Public Services Ombudsman for Wales	84%
The service I have received has been helpful and sensitive	75%
Staff were able to understand my complaint / The person that dealt with my query knew enough to be able to answer my questions	73%
I was given a clear explanation of what would happen to my query/complaint	80%
The service has provided what I expected of it	64%

The past year has again overall seen a very good level of satisfaction. Also similar to previous years, responses to the final question have been affected by a decision by the Ombudsman not to investigate their complaint, for example, because the person concerned has not yet complained to the organisation concerned or that the matter is outside of the Ombudsman's jurisdiction. Sometimes, people decline to answer this question, saying that they are going to wait for the Ombudsman's decision on their complaint.

In addition, the data gathered from the questionnaires returned to us, which contain both satisfaction and equality information, is now input into our complaints handling system and associated with the relevant complaint case record. This has enabled us to analyse outcomes of complaints against various protected characteristic groups. This work is still in its infancy, but I am pleased that to date nothing has emerged from this analysis to suggest that there should be any reason for concern in relation to anything in our processes or approach to investigations which disadvantage any particular groups of people. (Note: access to the customer satisfaction and equality data on our system is limited to a couple of members of staff and no complaint handler has access to these details.)

The PSOW and the Ombudsman World

The 9th Regional Seminar of the European Network of Ombudsmen

The PSOW, jointly with the European Ombudsman, hosted a very successful three-day seminar in June. The event was very well attended by regional ombudsmen from across Europe. The theme was 'Voices for the Voiceless' and seminar sessions were relevant to all participants and provided much food for thought among the delegates. It was interesting to note that we all faced similar challenges. It was also an opportunity to showcase Wales to those present. On behalf of Margaret Griffiths as well as myself, I would like to thank Dame Rosemary Butler, the Presiding Officer, for hosting the welcome reception at the Senedd.



Emily O'Reilly, European Ombudsman (standing) and Acting Ombudsman, Margaret Griffiths, addressing the European delegation.

International Ombudsman Institute/Northern Ireland Ombudsman

In July 2014 the Northern Ireland Ombudsman and Northern Ireland Human Rights Commission (NIHRC) produced a Human Rights Manual which is a toolkit for ombudsman staff to identify human rights issues in the assessment and investigation of complaints of maladministration. This was launched by them at the IOI World Conference in Tallin. The Northern Ireland Ombudsman and the NIHRC have committed to deliver a training package to enable other ombudsman schemes to develop a human rights based approach to investigations of maladministration. Whilst my office has already adopted such an approach to a certain degree, I am pleased that arrangements have been made for the training on the toolkit to be delivered to my staff in the early part of 2015/16.

The Ombudsman Association

In many ways the role of the Ombudsman is unique. Although no one Ombudsman scheme is exactly like another, the work of the Ombudsman Association (OA) is considered to be important as a means of sharing best practice and to learn from each other. This is particularly valuable in view of the fact that Ombudsman schemes need to be objective and maintain an appropriate distance from the bodies in jurisdiction. We have continued to participate in OA activities, including participating in a number of the OA Interest Groups.

Complaints about the PSOW service

The 'Complaints about us' procedure can be used if someone is unhappy about our service. For example, a complainant may wish to complain about undue delay in responding to correspondence; or feel that a member of staff has been rude or unhelpful; or that we have not done what we said we would. There is a separate procedure for complainants wishing to appeal against a decision on their complaint. Further details about both these procedures are available on my website: www.ombudsman-wales.org.uk.

The table below reports on the number of complaints received during 2014/15 and their outcomes, together with a comparison of the position in 2013/14.

	2014/15	2013/14
Complaints brought forward from previous year	3	2
New Complaints received	13	32
Total Complaints	7	12

Outcomes		
Not Upheld (service related issue)	14	13
Upheld in whole or in part	12	7
Related to investigation decision - referred to investigation process	44	17
Complaint withdrawn or insufficient information	14	7
Total closed during year	84	44
Ongoing and carried forward at 31 March	1	3

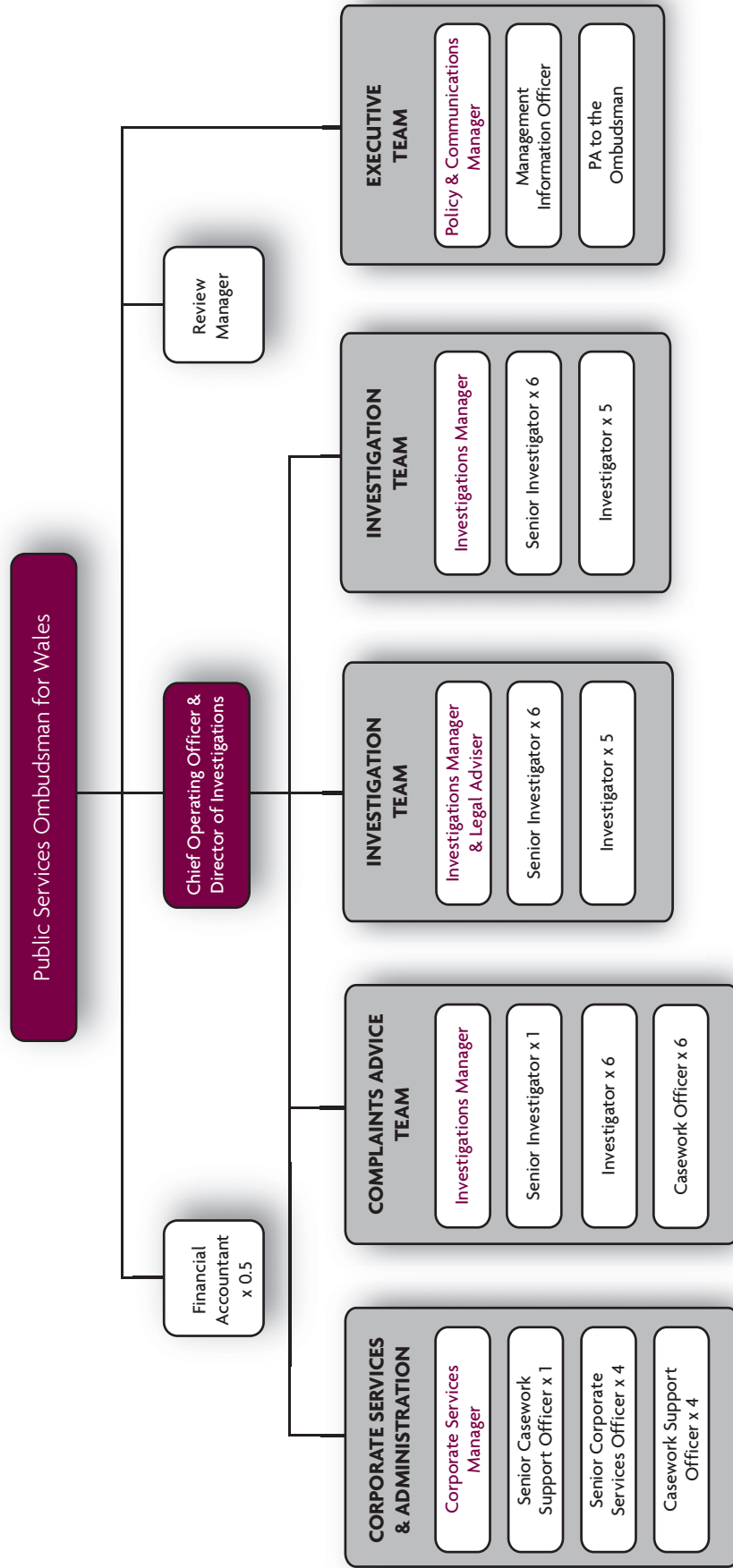
The nature of the complaints that were upheld/partly upheld were:

Undue delay in response	1
Wrong postcode held on file	1
Incorrect information provided	1
Not responding to correspondence	1
Interviews forms and CD recording covers not bilingual	1
Website complaint form submission error	3
Wrong details held on file / or correspondence sent in error	4
Total	12

The following corrective action was undertaken:

- An apology was issued to the complainant in all 12 cases.
- The relevant line Manager(s) were made aware of the upheld complaints relevant to their team for future training and monitoring.
- Appropriate and relevant staff training was undertaken where necessary.
- Appropriate action in accordance with PSOW HR policies was undertaken.
- Issues with ITC e.g. Website submissions were reported to relevant IT providers for resolution.
- Interview forms are now available in a bilingual format, and arrangements have been made for bilingual CD labels to be used as soon as they are available.

Organisational Chart (position as at 31 March 2015)



7. Equality Issues

A commitment to treating people fairly is central to the role of an ombudsman. The Public Services Ombudsman for Wales is committed to providing equal opportunities for staff in the service provided to complainants. No job applicant, staff member or person receiving a service from the PSOW will be discriminated against, harassed or victimised due to personal characteristics such as age, disability, ethnicity, sex, gender reassignment, pregnancy or maternity, sexual orientation, religion or belief, whether they are married or in a civil partnership, or on the basis of any other irrelevant consideration. Staff are expected to share the Ombudsman's total opposition to unlawful and unfair discrimination and the commitment to conducting business in a way that is fair to all members of society.

Under the Equality Act 2010 and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 laid down by the National Assembly for Wales, the Ombudsman has a duty to publish a Strategic Equality Plan and equality objectives. The first such Plan, which contains the Ombudsman's equality objectives, was published at the end of March 2012 and complied with the statutory requirement to publish before 2 April 2012. (The Plan is available on the website: see www.ombudsman-wales.org.uk). Also under the specific duties, the Ombudsman is required to produce an annual report in respect of equality matters. As articulated in the Strategic Equality Plan, many of our practices have been part and parcel of our approach since the inception of the office in 2006. Where relevant therefore, these will remain a part of the annual report on equality matters, which is set out below.

Accessibility

As part of our process, we do our very best to identify as early as possible any individual requirements that may need to be met so that a service user can fully access our services and, in particular, we ask people to tell us their preferred method of communication with us. We always try to make reasonable adjustments where these will help people make and present their complaint to us. Examples are: providing correspondence in Easy Read; using Language Line for interpretation, where a complainant is not comfortable with making their complaint in English or Welsh; obtaining expertise to assist us to understand the particular requirements of complainants with certain conditions, such as Asperger's syndrome; and visiting complainants at their homes.

We produce key documents in alternative formats, such as CD/tape and Braille, translate these into the eight key ethnic minority languages used in Wales; and we have upgraded the accessibility of our website from A to AA compliant.

During 2014/15, further work was undertaken in relation to our websites, with a view to introducing tools to enable translation of web pages in a whole host of languages; checks in relation to website accessibility issues; introduction of BrowseAloud which functions for the mobile versions of our websites in addition to the desktop versions.

Particular attention has also been given to requirements of those people who are deaf or hard of hearing and we intend to improve on our service in relation to British Sign Language provision and other relevant facilities during 2015/16.

We also recognise that some service users may need assistance in making their complaint to us and we have also invested a great deal of our energy in gathering information about advocacy and advice organisations to help them in this regard. This information is readily available on our website as well as through our Complaints Advice Team.

Equality Data Gathering/Monitoring – Service Users

We have always undertaken equality monitoring in respect of service users, which has informed our annual outreach strategy. Results of equality monitoring undertaken since 2005/06 in respect of service users was published in the Strategic Equality Plan.

The outcome of the monitoring during 2015/16 in respect of the protected characteristic groups (as defined in the Equality Act) is set out below.

In view of the nature of the work of this office, we would expect the composition of people who complain to this office to, at the very least, mirror the national demographic position; in fact, we would expect the proportion of complainants from groups who could be considered to be at disadvantage or vulnerable to exceed the national picture. In respect of each of the questions we asked, those who completed the form were given the opportunity to respond ‘Prefer not to say’. Nevertheless, from the results below, the PSOW is relatively satisfied that in making comparisons with official data available (e.g. the Census 2011) the composition of our service users meets or exceeds national demographics in the way we would expect. It is in particular good to see that of those who responded, 4% identified themselves as having a minority ethnic background, which matches the demographic picture in Wales against the Census in 2011. This was a group which was slightly under represented in the most recent few years.

We take the results from our equality monitoring into account when developing our outreach programmes. We gave particular focus to raising awareness of the PSOW service among people from minority ethnic groups during 2014/15, engaging with organisations such as Diverse Cymru and Oxfam Cymru. Whilst the improvement could be a matter of coincidence, I believe this outreach work has at least had some impact in this area.

Protected characteristic group	Percentage Outcome
Age:	
Under 25	4%
25-34	13%
35-44	19%
45-54	22%
55-64	20%
65-74	12%
75 or over	5%
Prefer not to say/No response	4%

Protected characteristic group	Percentage Outcome
Disability	
Yes	30%
No	61%
Prefer not to say/No response	9%
Health problem or disability limiting day-to-day activities?	
Yes, limited a lot	26%
Yes, limited a little	15%
No	50%
Prefer not to say/No response	8%
Gender reassignment	
Yes	31%
No	0.5%
Prefer not to say/No response	68.5%
Religion or belief	
No religion	39%
Christian (all denominations)	49%
Other religions	6%
Prefer not to say/No response	5%
Married or same-sex civil partnership	
Yes	46%
No	44%
Prefer not to say/No response	11%
Race/Ethnicity	
White	91%
Other ethnic background	4%
Prefer not to say/No response	5%
Sex	
Male	47%
Female	47%
Prefer not to say/ No response	6%
Sexual orientation	
Heterosexual or straight	84%
Gay or Lesbian	3%
Bisexual	0.5%
Other	1%
Prefer not to say/No response	11.5%

Our Casework

Our commitment and contribution to equality matters also manifests itself in our complaint handling work. We also have regard to matters of human rights. Whilst it is not for the Ombudsman to decide whether a public service provider is in breach of such legislation, it is possible that the failure to take account of any such legal obligations, or to follow policies and procedures designed to implement these obligations, will be maladministration. For example, following the investigation into a complaint about works being undertaken at a property by a housing association, the report issued in January 2015 included a recommendation that the housing association should also consider the impact of its failings in connection with the Human Rights Act.

Training

PSOW staff have over the years received equality and diversity training. We continue to provide relevant training in this regard. This is important to us for two reasons. Firstly, so that in the service we provide we can be responsive to the changing needs and requirements of people with whom we communicate and interact. For example, most recently two members of staff have been learning how to communicate via British Sign Language. Secondly, so that we have the knowledge to be able to identify during our investigations any failings by public service providers in respect of their equality duties.

Further, and as referred to at Section 6 of this Annual Report, arrangements are being put in place for 2015/16 in relation to training for staff to identify human rights issues in the assessment and investigation of complaints of maladministration

Outreach

We meet regularly with third sector organisations, holding formal seminars at least biennially, giving talks and addresses at their conferences and we also have an ongoing proactive programme of meeting with individual organisations. This year's activity has been reported on at Section 6 of this Annual Report. This enables two way discussions about the work of the office, so that we can obtain views on the service we provide from their perspective and it enables us to explain how they can help those individuals who require assistance in making a complaint to us to do so.

Equality Impact Assessments

As part of the work in developing the Strategic Equality Plan, we developed an equality impact assessment toolkit. Equality Impact Assessments are now embedded in our practices when reviewing existing, or developing new, policies and procedures.

Staff Equality Data Gathering/Monitoring

Our staff have been asked to complete and return a monitoring form seeking information in respect of each of the protected characteristics. We also now gather such information during our recruitment exercises. That disclosure is, of course, on a voluntary basis. The data held at 31 March 2015 is set out below.

Age	The composition of staff ages is as follows: 21 to 30: 17% 31 to 40: 29% 41 to 50: 31% 51 to 65: 23%
Disability	86% of staff said there were not disabled, no member of staff said that they were a disabled person (14% preferred not to say) However, when asked if their day-to-day activities were limited because of a health problem or disability which had lasted, or was expected to last, at least 12 months, 2% said that they were limited a lot, 2% said they were limited a little, 82% said their day to day activities were not limited (14% preferred not to say)
Nationality	In describing their nationality, 50% said they were Welsh; 26% said British, 10% said they were English, 2% said 'Other' (12% preferred not to say)
Ethnic group	The ethnicity of staff is: 79% White (Welsh, English, Scottish, Northern Irish, British); 2% White/Irish 3% Black (African, Caribbean, or Black British/Caribbean 2% Asian or Arian British/Bangladeshi (14% preferred not to say)
Language	When asked about the main language of their household, 75% of staff said this was English; 11% said Welsh, and 2% said 'Other' (12% preferred not to say)
Religion or Belief	Responses to the question asking staff about their religion were as follows: No religion: 38%; Christian 38%; Muslim 2%; Other:1% (21% preferred not to say)
Marriage/ Civil Partnership	When asked if they were married or in a same sex civil partnership, 49% of staff replied 'Yes'; whilst 33% said 'No' (18% preferred not to say)
Sexual Orientation	Responding on this, 77% said that they were Heterosexual or Straight, 2% said Gay or Lesbian (21% preferred not to say)

Under the specific duties we are required to set an equality objective for gender and pay; if we do not do so, we must explain why. The Strategic Equality Plan does not currently contain any specific objective in this regard because at the time of its development females were very well represented at the higher pay scales within my office. The position is kept under continual review and the equality objectives will be revised if necessary. However, as can be seen from the table below, the position currently remains satisfactory.

Pay and Gender - data as of 31/03/2015

Pay (FTE)	Male	Female
Up to £20,000	0	6
£20,001 to £30,000	1	12
£30,001 to £40,000	1	2
£40,001 to £50,000	8	20
£50,001 to £60,000	3	2
£60,001 +	1	1
Subtotal	14	43
Total	57	

In relation to the working patterns of the above, all staff work on a full time basis with permanent contracts, with the exception of the following;

- 13 members of staff work part time (11 female, 2 male).
- no members of staff were employed on a fixed term contract.

New starters / staff leavers

During the year we have had six members of staff leave and recruited six. Due to the low numbers involved, the equality data for these individuals has been reported as part of the all staff information above. It is not considered appropriate to report separate equality information relating to the individuals involved due to the risk of identification.

Recruitment

During the year we have conducted three recruitment exercises which have resulted in the following data:

		IO	CAT CO / CWSO	Advisory Panel Member	Total
Age	Did not say	9%	8%	0%	9%
	under 25	0%	28%	0%	19%
	25-34	26%	35%	0%	32%
	35-44	29%	19%	0%	22%
	45-54	25%	10%	21%	15%
	55-64	11%	0%	64%	4%
	65-74	0%	0%	7%	1%
	75 and over	0%	0%	7%	1%
Gender	Did not say	4%	3%	7%	4%
	Male	43%	42%	71%	42%
	Female	53%	55%	21%	54%
Nationality	Did not say	5%	6%	7%	6%
	Welsh	92%	61%	64%	71%
	English	3%	9%	0%	7%
	Scottish	0%	3%	0%	2%
	Northern Irish	0%	0%	0%	0%
	British	0%	18%	29%	12%
	Irish	0%	3%	0%	2%
	Welsh/German	0%	0%	0%	0%
Ethnic Group	Did not say	5%	12%	0%	10%
	White(Welsh/Scottish/English/ NI/British)	95%	76%	100%	82%
	White (Irish)	0%	3%	0%	2%
	White (Gypsy/Irish traveller)	0%	0%	0%	0%
	White (Other)	0%	0%	0%	0%
	Asian/Asian British	0%	6%	0%	4%
	Black, African, Caribbean or Black British	0%	3%	0%	2%
	Mixed or multiple ethnic group	0%	0%	0%	0%
	Other ethnic Group	0%	0%	0%	0%
Language	Did not say	14%	3%	14%	7%
	English	18%	92%	57%	67%
	Welsh	58%	0%	29%	19%
	Bilingual (Welsh/English)	10%	5%	0%	7%
	Other	0%	0%	0%	0%

		IO	CAT CO / CWSO	Advisory Panel Member	Total
Disability	Did not say	10%	3%	0%	6%
	Yes	0%	0%	0%	0%
	No	90%	97%	100%	95%
Limited Activities	Did not say	10%	3%	7%	5%
	Yes, limited a little	0%	0%	0%	0%
	Yes, limited a lot	0%	0%	0%	0%
	No	90%	97%	93%	95%
Religion	Did not say	16%	12%	0%	13%
	None	34%	59%	14%	51%
	Christian	47%	29%	86%	35%
	Buddhist	0%	0%	0%	0%
	Hindu	0%	0%	0%	0%
	Jewish	0%	0%	0%	0%
	Muslim	0%	0%	0%	0%
	Sikh	0%	0%	0%	0%
	Other	3%	0%	0%	1%
Married or civil partnership	Did not say	5%	7%	7%	6%
	Yes	32%	16%	86%	21%
	No	63%	77%	7%	72%
Sexuality	Did not say	18%	19%	7%	19%
	Heterosexual	82%	74%	93%	77%
	Gay or Lesbian	0%	7%	0%	5%
	Bisexual	0%	0%	0%	0%
	Other	0%	0%	0%	0%

[Note: the above information excludes internal promotion.]

Key to abbreviations:

- **IO** – Investigation Officer.
- **CAT CO/CWSO** – Complaints Advice Team Casework Officer or Casework Support Officer.

Staff Training

The majority of staff training is based upon job roles or applicable for all staff to attend, and as such there are no equality considerations to report. All individually requested training by staff has been approved, and as such there is no need to report on equality data differences between approved and non-approved training requests.

Disciplinary / Grievance

Due to the small numbers of staff working in the office, and the small number of instances of disciplinary / grievance, it is not considered appropriate to report on equality data for this category due to the risk of identification of staff involved. I remain satisfied that there are no identifiable issues in this area that would cause me concern.

Procurement

Our procurement policy now refers to the relevant equality requirements that we expect our suppliers to have in place.

Annex A

Public Body Complaints

Public Interest Reports: Case Summaries

Cwm Taf University Health Board Case reference 201401023 – Report issued March 2015

Mr C complained to me about the care given to his mother (Mrs M) by Cwm Taf Local Health Board (“the Health Board”). Mrs M was 86. She had a medical history which included atrial fibrillation (“AF”), Type 2 Diabetes, osteoarthritis and osteoporosis. She was taking a number of medications, including Warfarin (anticoagulation protection for AF). She was admitted to the Royal Glamorgan Hospital on 24 March 2012 because she was suffering with diarrhoea and vomiting.

Mr C said that at approximately 5.00pm on 4 April, while waiting to be discharged, Mrs M suffered a stroke. He said that despite family requests, his mother was not seen by a doctor for over six hours. Then, overnight whilst she was sleeping, she suffered a further significant stroke. Mr C said the Health Board repeatedly delayed responding to the complaint and he was dissatisfied with the way it handled the complaint and the complaint response.

My investigation considered the relevant records, comments from the Health Board and evidence provided by Mr C and his family. I took advice from an experienced physician, a Stroke specialist and an experienced senior nurse.

I upheld Mr C’s complaint because I concluded that the care provided to Mrs M on, and leading up to, the evening of 4 April was inadequate. During her stay in hospital, by allowing the protection offered by anticoagulation to be inadequate, the Health Board failed to properly protect Mrs M from an avoidable stroke. The Health Board then failed to assess and treat her symptoms promptly and effectively. There was also a delay in her being seen by a suitably trained clinician and in transferring Mrs M to an Acute Stroke Unit.

My investigation also found that the Health Board failed to:

- follow the relevant NICE Stroke Guidance and did not have an adequate stroke protocol;
- provide (or record the provision of) appropriate nursing care;
- keep appropriate records;
- comply with Complaints Guidance.

The Health Board accepted the report and agreed to:

- a) give Mr M an unequivocal written apology for the failures identified by this report;
- b) give Mr C an unequivocal written apology for failing to comply with Complaint Guidance;
- c) make a payment to Mr M of £5,500 to reflect the failings in care identified by this report; the uncertainty caused by those failings; the delays in the Health Board’s handling of this complaint and the time and trouble taken by his family in pursuing the complaint with this office;
- d) so that appropriate lessons may be learned, share this report with the medical, nursing, health care and administrative staff involved in the case;

e) provide me with evidence of the existing monitoring and quality assurance mechanisms it has in place to prevent a recurrence of:

- the failure of nursing staff to complete appropriate assessments and implement appropriate care plans
- the failure of staff to maintain appropriate records
- the failure of administrative, nursing and medical staff to follow the Complaints Guidance;

f) ensure compliance with current NICE guidance and professional guidelines, by reviewing (and if needed, updating) the current policies/protocols for the:

- management of in-patients on pre-existing Warfarin therapy
- INR monitoring of in-patients with relevant pre-existing conditions

(if needed, the Health Board should implement training for staff who indicate that they are not fully conversant with the relevant protocols);

g) ensure that staff training in respect of recognising acute stroke is up to date, with particular reference to the current NICE guidance and professional guidelines;

h) ensure that use of the NIHSS (or similarly recognised tool), in order to identify patients who are likely to have had an acute stroke, is implemented;

i) to ensure compliance with current NICE guidance and professional guidelines, review its arrangements for the identification and treatment of acute stroke and consider including the following measures:

- all patients who may have had an acute stroke should be immediately assessed by a suitably trained physician to determine whether thrombolysis is suitable
- all patients who may have had an acute stroke should have immediate CT scanning (i.e. within one hour)
- all patients who may have had an acute stroke should be assessed immediately for admission to a specialist acute stroke unit
- all patients who may have had an acute stroke should have a swallowing screening test (using a validated tool) by a trained professional within four hours;

j) give my office suitable evidence to demonstrate that it has complied with the recommendations.

Cardiff and Vale University Health Board and GP Case references 201306223 and 201306224 - Report issued February 2015

Mrs H complained about the standard of care afforded to her late husband, X, by the Health Board's Mental Health Services and his GP practice, before his death in January 2013 (when he took his own life). X's clinical history included a number of incidents - he had self harmed, abused both alcohol and drugs and taken overdoses. In 2012, X continued to be treated by the GP Practice with increasing regularity, being prescribed a number of different medications to treat anxiety/mood disorders and/or depression. These included drugs known as benzodiazepines (known to be potentially addictive). X took an overdose of anti-depressants in January 2013, two weeks before his death, but was discharged from hospital and remained on a waiting list for counselling (which he had been on for some time). However, before he could be seen, X took his own life. Mrs H also complained that she had subsequently received a letter addressed to X inviting him for a counselling appointment at the Practice, which compounded her distress. An inquest touching upon X's death returned a verdict of suicide but noted "That there was a failure by those treating him to identify his suicidal intent."

Following advice from my clinical advisers, the complaint was mostly upheld. Whilst I could not conclude with any certainty that the outcome would have been different, were it not for the failings found during the investigation, failures on the part of both the Health Board and the Practice included the following:

- Lost opportunities on the part of the Health Board to properly evaluate X's mental health following earlier serious incidents and to comprehensively assess him when he was seen.
- A failure on the part of the Health Board to discuss X's discharge after an overdose two weeks before his death, and a failure to provide discharge information to the Practice in a timely way.
- Numerous errors in the Health Board's own investigation, following X's death, which indicated a lack of proper care and attention.
- A failure on the part of the Practice to refer to secondary care and/or a failure to properly assess X's suicide risk.
- The Practice's continued prescribing of benzodiazepines was contrary to national guidance.

I recommended that both the Health Board and the Practice apologise to Mrs H, and offer her redress of £1,500 each, for the failures identified, her distress, and her time in pursuing the complaint.

Further recommendations included the provision of evidence by the Health Board of its audit of discharge communication with GPs, its reminder to staff conducting investigations of serious incidents and reminders about comprehensive risk assessments. In relation to the Practice, further recommendations were made about continued auditing and monitoring of its benzodiazepine prescribing and that it should produce a Practice Prescribing Policy. Both the Health Board and the Practice accepted my recommendations in full.

Hywel Dda University Health Board and GP

Case references 201302382 & 201306002 - Report issued September 2014

Mrs X complained that her mother's GP had failed to ensure that aspirin, which had previously been prescribed for atrial fibrillation, was reinstated following a period when it had been stopped because she was taking warfarin. Mrs X said that her mother, Mrs Y, had suffered a debilitating stroke, which she believed could have been avoided, or its severity reduced, if she had been taking aspirin.

Although I found that the GP had failed to re-prescribe aspirin for Mrs Y in January 2013, there was no evidence that aspirin would have reduced the risk of Mrs Y suffering a stroke.

My advisers expressed concerns about the failure of the GP to consider prescribing warfarin, rather than aspirin, for atrial fibrillation, and the failure of secondary care professionals in the Health Board to alert the GP to consider this. The scope of my investigation was therefore broadened to include the Health Board.

I found that it had not been unreasonable for the GP to prescribe aspirin in 2004, as guidelines at that time did not clearly recommend warfarin. However, a CT scan in 2011 showed that Mrs Y had suffered a stroke; she was therefore known to be at high risk of a further stroke, and the Health Board ophthalmology service, which had arranged the scan, should have referred her to the Stroke Department. Also, the GP should have considered prescribing warfarin for her, in accordance with guidelines at that time.

Further opportunities to recognise the situation were missed in July and September 2012; in July Mrs Y suffered a DVT, and was prescribed a six month course of warfarin, but neither the clinician who referred her to the haematology department in July nor the cardiologist who saw her in September alerted the GP to the desirability of considering prescribing warfarin for Mrs Y on a longterm basis. The GP did not review Mrs Y's medication then or subsequently. I found that these were serious failings and upheld the complaint; if Mrs Y had been taking warfarin the risk of her suffering a stroke would have been significantly reduced, although he could not conclude that she would not have done so.

I recommended that the GP should:

- a) apologise to Mrs X for the failings identified;
- b) pay Mrs X the sum of £1,000 in recognition of the significant distress the failings had caused her;
- c) if she had not already done so, carry out an audit of all patients at the Practice who have been diagnosed with atrial fibrillation, to ensure they are prescribed the most appropriate anticoagulant;
- d) introduce and maintain a register of such patients, with annual review of their treatment being carried out.

I recommended that the Health Board should:

- a) apologise to Mrs X for the failings identified;
- b) pay Mrs X the sum of £1,000 in recognition of the significant distress the failings had caused her;
- c) consider the introduction of a register and annual medication review of patients with atrial fibrillation;
- d) introduce a procedure to ensure a medication review by the original clinician before the discharge of a patient on warfarin;
- e) advise all clinicians to be explicit in their correspondence with GPs as to their expectations for future management of the patient;
- f) undertake a review of the procedures in the ophthalmology department for referral to other specialties.

Aneurin Bevan University Health Board

Case reference 201302660 - Report issued July 2014

Mrs X complained about the length of time that her father (Mr Y) had to wait to be seen following a referral made by his GP in September 2012 for an endoscopy at the Royal Gwent Hospital. Mrs X highlighted that there had been a downgrading of the referral from urgent suspected cancer (USC) without her father having been seen and without any discussion with his GP. She was also concerned about the lack of clear ownership and responsibility for her father's care. Mrs X said that there was a lack of cohesion between the differing specialities involved which resulted in communication failures. Mrs X was of the view that her father's treatment and quality of life might have been improved if he had been seen in a more timely manner.

Mrs X also complained that the Health Board's subsequent investigation into her complaint failed to accept responsibility and acknowledge the harm that was caused by the delay in Mr Y receiving attention. In investigating the complaint the Acting Ombudsman took account of the view of one of her Clinical Advisers. The Acting Ombudsman found there to be unacceptable delays in the care provided and said that no sense of urgency was shown to Mr Y's clinical condition. She said that there were shortcomings in the leadership and ownership of the care and treatment being provided to Mr Y. The Acting Ombudsman raised concern about inadequate communication with the GP and with Mr Y and his family. The Acting Ombudsman highlighted that the relevant Health Board policy did not comply with the NICE guidelines. The Acting Ombudsman was also concerned about the waiting time for an urgent outpatient appointment. She said there had been an unnecessary delay in an endoscopy procedure being carried out. The primary site of cancer was identified following this.

The Acting Ombudsman upheld the concerns raised by Mrs X about the clinical care. She noted that although a more timely response would not have changed the sad outcome, it might have avoided the unnecessary psychological suffering felt by Mr Y and his family. It was also possible that a tracheostomy procedure could have been avoided.

The Acting Ombudsman also upheld Mrs X's complaint about the Health Board's subsequent complaint investigation.

The Acting Ombudsman recommended that the Health Board should:

- a) provide an apology to Mrs X for the significant shortcomings in her father's care and treatment;
- b) provide financial redress to Mrs X of £1,500 for the distress caused to Mr Y and his family and £500 for the time and trouble incurred in making a complaint and for the shortcomings in the complaint response;
- c) review the endoscopy referral criteria for USC to ensure consistency with the relevant NICE guideline;
- d) ensure that the First Consultant Gastroenterologist considered the issues raised in this case.
- e) take action to ensure that the unacceptable delays for urgent outpatient appointments are addressed;
- f) review the process to ensure that abnormal results are acted upon urgently by a lead clinician or relevant cancer MDT;
- g) review how it communicates effectively and appropriately with patients and their families, particularly when more than one speciality is involved;
- h) comply with the "Putting Things Right" framework including a proper consideration of "qualifying liability" and seeking independent clinical advice in appropriate circumstances.

Betsi Cadwaladr University Health Board **Case reference 201301339 – Report issued June 2014**

Ms A complained that Betsi Cadwaladr University Health Board ("the Health Board") unreasonably delayed two of her appointments, at its Glaucoma Review Clinic (Glaucoma is a disease which damages the optic nerve and causes vision loss). She said that she needed emergency treatment as a result. She contended that she sustained significant vision loss in her right eye and experienced "considerable distress" because of these appointment delays. She indicated that she was dissatisfied with the Health Board's response to her complaint because it took too long to provide it and asserted that her sight was "unaffected" by these appointment delays.

The Acting Ombudsman upheld Ms A's complaint. She considered that the Health Board delayed Ms A's Clinic appointments unreasonably and failed to manage her glaucoma-related risks appropriately.

She was also of the view that it took too long to respond to Ms A's complaint and failed to update her and manage the issue of possible qualifying liability appropriately. She recommended that the Health Board should:

- a) write to Ms A to apologise for the failings identified;

- b) write to Ms A to explain how it determined that there was no qualifying liability in her case;
- c) review its ophthalmology services with reference to her investigation report and a pre-existing “Situation Background Assessment Recommendation” (“SBAR”) report; and,
- d) prepare another SBAR report following this review.

The Acting Ombudsman also considered it appropriate to recommend financial redress for Ms A. However, she did not do so because Ms A did not want such redress. The Health Board agreed to comply with the recommendations made.

Cwm Taf Health Board

Case reference 201300374 – Report issued May 2014

Mrs C complained, through her solicitor, that the Health Board had failed to diagnose her brain tumour in a timely way; instead for over a year she was managed and treated for a stroke, and was later referred for a mental health assessment. Consequently, Mrs C said, she was not provided with earlier relief from the distressing symptoms she suffered and she was made to feel that her symptoms were psychosomatic. In addition, Mrs C complained about how the Health Board had dealt with her subsequent complaint.

The investigation found failings in Mrs C’s clinical management. The Acting Ombudsman’s Independent Clinical Advisers said that Mrs C’s multiple admissions to hospital should have triggered consideration of an alternative diagnosis to a stroke much sooner. She ought to have been referred for an MRI scan and/or to a Neurologist. Two failed referrals could not be explained. The Consultant treating Mrs C for a stroke worked alone at the time; this was criticised as it gave no opportunity to discuss complex presentations. The referral requests to Radiology were found to be insufficient or illegible resulting in failed communication and misinterpretation of some images. This resulted in a 12 month period of additional distress for Mrs C albeit that, unfortunately, no surgical intervention could have been offered to her. There was some delay in the Health Board responding to requests made by Mrs C’s solicitor as part of her complaint. Mrs C’s complaints were upheld.

The Health Board agreed to all the Acting Ombudsman’s recommendations:

- a) to apologise and offer redress of £2,500 to Mrs C for her distress as a result of the failings and delays identified;
- b) through a Clinical Lead, to issue reminders to all staff of the need to provide accurate, clear requests to Radiology colleagues and also to properly evidence inter-clinician referrals clearly in the clinical records;
- c) Mrs C’s case should be used as a learning exercise and discussed at a joint meeting of all departments involved; and,
- d) the Radiology service should consider participating at an early stage in future Welsh trials of the electronic ordering of Radiology requests.

Abertawe Bro Morgannwg University Health Board Case reference 201205048 – Report issued May 2014

Mrs A complained about the care provided for her late father, Mr B, by Abertawe Bro Morgannwg University Health Board (“the Health Board”), at Morriston Hospital (“the Hospital”). Her complaint concerned the diagnosis and investigation of his condition, his treatment in the Emergency Department, his discharge from the Hospital, his spinal surgery, his ophthalmology input, his manual handling assessment and his personal care. Mr B had cancer.

The Acting Ombudsman upheld Mrs A’s complaint. She considered that the Health Board had not investigated Mr B’s condition appropriately, diagnosed it correctly soon enough, provided timely triage for him, managed his discharge, pain and handling-related needs effectively or consistently given him a reasonable standard of personal care. She recommended that the Health Board should:

- a) write to Mrs A to apologise for the failings identified;
- b) pay Mrs A a nominal sum of £1,500 in recognition of the significant distress that its failings caused;
- c) formally remind its clinicians of the importance of identifying and responding to Red Flags (clinical indicators of possible serious underlying conditions that require investigation);
- d) satisfy itself that its triage arrangements should avert any delay akin to that experienced by Mr B;
- e) review its pain policy to ensure that it complies with the relevant pain management guideline;
- f) arrange and provide discharge-related training for its nursing staff members;
- g) formally remind its nursing staff members that they must ensure that their patient handling complies with the relevant best practice guidance;
- h) formally remind its nursing staff members that they must assess and review the personal care needs of their patients systematically and record the service provision associated with them consistently;
- i) formally remind its nursing staff members that they must ensure that their catheter care complies with the relevant best practice guidance;
- j) arrange and provide pain management training for its nursing staff members;
- k) share her investigation report with all relevant staff members and discuss it in an appropriate forum.

The Health Board agreed to comply with these recommendations.

Cartrefi Cymunedol Gwynedd

Case reference 201304611 - Report issued August 2014

Mr K complained that Cartrefi Cymunedol Gwynedd (“CCG”), his housing association landlord, had unfairly refused his application to adapt his property to install a walk-in shower. He said that CCG had accepted that he had a need for the adaptation, as two occupational therapy assessments had indicated.

Mr K explained that CCG had refused the application mainly because he and Mrs K were underoccupying their home, as it was a three bedroom property. It had stated that many families were awaiting such homes. Mr K asserted that CCG’s decision to refuse the application and then turn down his appeal, demonstrated that its policies were discriminatory against older and disabled people. In addition, he considered that the way CCG handled his appeal was incorrect.

Mr K said that he was being forced to move from a home he had lived in for 36 years against his will because he could not use the bathroom facilities satisfactorily.

I concluded that broadly CCG was operating reasonable policies, which were compliant with legislation and took account of the balance between a prudent use of its housing stock and the rights of tenants. However, I found that CCG needed to do more to provide evidence of the number and waiting times of families within its policy framework.

In Mr K’s case, however, I found that CCG had been maladministrative in its handling of the application and appeal. I found that the initial decision to refuse the application had been taken without due consideration of Mr K’s circumstances. The appeal decision then failed to identify that omission. I considered that Mr K had not had a fair hearing as a result of these failures. Mr K had suffered an injustice in that context.

I upheld Mr K’s complaint. I recommended that CCG:

- a) apologise to Mr K;
- b) pay him £300;
- c) offer Mr K a fresh and prompt re-determination of his application;
- d) review its Adaptations Policy with regard to one aspect of its wording;
- e) consider how it could incorporate the evidential basis regarding the need for family homes into the Adaptations Policy.

CCG accepted these recommendations.

Carmarthenshire County Council **Case Reference 201304738 - Report issued January 2015**

Mr Y complained about delay by the Council in investigating his concerns about his four year old daughter's welfare, when in her mother's care.

His concerns were the family's living conditions, the frequent changes of address and allegations of drug taking. He considered that some of the remarks made by a social worker regarding drug taking and parenting were "inappropriate."

I found that the Council failed to carry out a home visit and missed a number of opportunities to investigate Mr Y's concerns about the family's circumstances, which included a number of risk factors. Instead it relied on information from the school, where his daughter was a new pupil. It also failed to investigate properly a referral made from an English County Council's Children's Social Services Team where the concerns were similar to those raised by Mr Y and where an "urgent welfare check" was requested. It was several months before the home was visited and this was only after a referral from the police following a drugs raid. An assessment of the child's needs was not carried out before the child left the Council's area to return to Mr Y's care.

I found that a comment relating to drug taking and parenting made by a social worker was not appropriate given the lack of investigation and assessment of Mr Y's daughter's circumstances. He also highlighted very poor complaint handling and found that Council staff were defensive and lacked objectivity in dealing with Mr Y's representations. The Council failed to deal with the complaint under the Children's Complaints procedures which it should have done, and missed an opportunity to investigate the service failings in respect of Mr Y's daughter.

The Council accepted my recommendations to:

- a) apologise to Mr Y and make a payment of £1,000 for the uncertainty caused by the lack of assessment together with his "time and trouble" in making the complaint;
- b) arrange an audit (to be carried out independently of the Council) of referrals to its Children's Services Teams to review the appropriateness and consistency of its responses;
- c) provide training on the Framework for the Assessment of Children in Need and their Families for all staff who deal with referrals and assessments;
- d) review its arrangements for dealing with social services complaints, to ensure its compliance with recent legislation and guidance;
- e) provide training on complaint handling for those staff dealing with complaints regarding the provision of services for children.

Llansannan Community Council Case Reference 201304436 - Report issued July 2014

Mr Z complained that he had been wrongly prevented from attending monthly meetings of the Llansannan Community Council (“the Council”). He further complained that before he was told he could no longer attend, the Council had stopped providing any translation facility for those meetings. The Council transacts its business in Welsh and Mr Z does not understand Welsh.

The investigation found that there had been maladministration in the manner in which the Council reached its decision to prevent Mr Z attending meetings. There were no minutes or any record of the appeal Panel meeting at which the decision was said to have been taken. I also considered there were no evidenced grounds for its decision given the statutory enshrined right of members of the public to attend meetings of elected councils so long as no disruption was caused at meetings (when attendees could be asked to leave or that right withdrawn). There was no evidence of any disruption when Mr Z had attended; the decision had been solely based on his conduct in daily life outside meetings. Whilst not condoning that conduct, there was no basis to prevent Mr Z from attending.

The Acting Ombudsman was satisfied that the Council could, as it had done, elect to transact its business in Welsh but she was not persuaded that it had demonstrated how it might ensure the non Welsh speaking public could engage in its democratic business (as noted by guidance issued by the Welsh Government). Furthermore, the Council’s own adopted Welsh Language Scheme stated that it would treat both languages equally. It could not therefore objectively be doing so if it failed to make some provision for those attending meetings who did not understand Welsh. Otherwise those members of the electorate could not understand what was being discussed.

The Acting Ombudsman made the following recommendations to the Council:

- a) to apologise to Mr Z for the maladministration resulting in the injustice to him of not being able to attend monthly meetings;
- b) to review a number of its policies including its Standing Orders and Welsh Language Scheme to ensure greater clarity as to its position on translation at business meetings;
- c) to ensure it recorded decisions taken pursuant to its policies and procedures.

Annex B

Public Body Complaints

Statistical Breakdown of Outcomes by Public Body Complaints Investigated

COUNTY/COUNTY BOROUGH COUNCILS

County/ County Borough Council	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Blaenau Gwent	6	4	10				1		1	22
Bridgend	2	9	19				1		1	32
Caerphilly	9	19	19				1	1		49
Cardiff	11	41	27		17		1		1	98
Carmarthenshire	5	23	17	2	7	1	1		2	58
Ceredigion	3	12	12	1	2		7	1		38
Conwy	8	8	13		1					30
Denbighshire	7	10	8		1		1	1		28
Flintshire	7	20	12		3		1			43
Gwynedd	7	9	12		3		1		1	33
Isle of Anglesey	4	14	13							31
Merthyr Tydfil	5	5	6				1			17
Monmouthshire	2	9	5				2		1	19
Neath Port Talbot	3	15	14		3		2			37
Newport	1	14	18		1					34
Pembrokeshire	5	14	13		3					35
Powys	4	20	22		3		1	1		51
Rhondda Cynon Taf	4	17	13		1					35
Swansea	9	20	28		1		1			59
Vale of Glamorgan	6	9	12		3		1			31
Torfaen	2	7	13		4					26
Wrexham	7	22	22	1	5		1	1		59
TOTAL	117	321	328	4	58	1	24	5	7	865

OTHER LOCAL AUTHORITY

School Appeal Panels	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Roath Park Primary School			1							1
Sketty Primary School			1							1
Millbrook Primary School			1							1
Tiryberth Primary School					1					1
Bassaleg School			1							1
Bryngwyn school			1							1
Caerleon Comprehensive School			1							1
Llanishen Fach Primary School			1							1
Monnow Primary School					1					1
Radyr Comprehensive School			1							1
Rhydypenau Primary School			2							2
St. Richard Gwyn RC High School			1							1
Llysfen Primary School									1	1
St Woolos Primary School			1							1
Ysgol Treganna			1							1
Ysgol Mynydd Isa			1							1
Ysgol Bryn Teg		1								1
Mount Stuart Primary School			1							1
Exclusion Appeal Panel - Willows High School			1							1
TOTAL		1	16		2				1	20

OTHER LOCAL AUTHORITY (CONTINUED)

National Park Authority	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Brecon Beacons	1	1	1		1					4
Pembrokeshire Coast	1	1								2
Snowdonia	1		1							2
TOTAL	3	2	2		1					8

Fire & Rescue Authority	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Mid & West Wales					1					1

COMMUNITY/TOWN COUNCILS

Community or Town Council	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Abertillery & Llanhilleth Community	2		1				1			4
Aberystwyth Town	2									2
Argoed Community (Flintshire)		2								2
Caerwent Community		1								1
Cefn Community							1			1
Connah's Quay Town			1							1
Cynwyl Elfed Community							1			1
Dolgellau Town		1								1
Dyffryn Arth Community		1								1
Hanner Community		1								1
Llaneli Community	1		1		1					3
Llangattock Community			1						1	2
Llangennith, Llanmadoc & Cheriton Community		2								2
Llannon Community	1									1
Llanover Community		1								1
Llansannan Community			2			1			1	4
Maesteg Town									1	1
Mawr Community	1									1
Nannerch Community			1							1
Neath Town		1								1
Pembrey & Burry Port Town	1									1
Pennard Community		1	3		1					5
Talgarth Town		1								1
Total	8	12	10		2	1	3		3	39

REGISTERED SOCIAL LANDLORDS

Registered Social Landlord (Housing Association)	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Abbeyfield, Flint Society Ltd					1					1
Bro Myrddin Housing Association Ltd	1		1							2
Bron Afon Community Housing Ltd		10	2							12
Cadwyn Housing Association Ltd			1							1
Cardiff Community Housing Association Ltd		7	2							9
Cartrefi Conwy		5	2							7
Cartrefi Cymunedol Gwynedd	2	6	5		3	1				17
Charter Housing Association	1	4	2		1				1	9
Clwyd Alyn Housing Association Ltd	1		6		1					8
Coastal Housing Group Ltd	1	1			1					3
Cymdeithas Tai Cantref		1								1
Cymdeithas Tai Clwyd Cyf			2							2
Cymdeithas Tai Eryri		1	1							2
Cynon Taf Community Housing		1			3					4
Family Housing Association (Wales) Ltd		1	2		1					4
Grwp Cynefn		2								2
Grwp Gwalia Cyf Ltd	1	6	13		1					21
Hafod Housing Association	1	5								6
Linc-Cymru Housing Association		3	1							4

REGISTERED SOCIAL LANDLORDS (CONTINUED)

Registered Social Landlord (Housing Association)	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Melin Homes Ltd		7	1		1					9
Merthyr Tydfil Care and Repair	1									1
Merthyr Valleys Homes		1								1
Mid Wales Housing Association Ltd	1	1	3							5
Monmouthshire Housing Association	2	2	1							5
Newport City Homes	2	1	2		1					6
Newydd Housing Association	1		3		1					5
NPT Homes	1	11	2		4		1		1	20
Pembrokeshire Housing Association Ltd		1	1							2
RCT Homes		4	1							5
Rhondda Cynon Taf Care and Repair	1				1					2
Seren Group	1		1							2
Tai Calon		5					1			6
Tai Ceredigion Cyf	1	8	1				1			11
United Welsh Housing Association		3	1		1				1	6
Valleys To Coast Ltd		2	1							3
Wales and West Housing Association		6	5							11
TOTAL	19	105	63		21	1	3		3	215

LOCAL HEALTH BOARDS AND NHS TRUSTS

Local Health Board/ NHS Trust	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Abertawe Bro Morgannwg	8	33	30		16	1	17	5		110
Aneurin Bevan	10	30	22		8	1	24	2	2	99
Betsi Cadwaladr	8	31	32		10	1	27	13	2	124
Cardiff and Vale	7	24	19		16	1	15	8	1	91
Cwm Taf	6	9	12		3	2	11	4	1	48
Hywel Dda	6	36	24		13	1	11	5	2	98
Powys Teaching		5	15	2	6		1	6		35
Public Health Wales		1	1							2
Welsh Ambulance Services	2	4	4				1	1		12
TOTAL	47	173	159	2	72	7	107	44	8	619

OTHER HEALTH BODIES

Other Health	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Dentist	3	6	7	1	1		3	3		24
GP	7	26	34		3	2	29	19	1	121
Pharmacist		1	2				1			4
TOTAL	10	33	43	1	4	2	33	22	1	149

Community Health Council	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
Abertawe Bro Morgannwg			1							1
Board of Community Health Councils in Wales					1					1
Cardiff and Vale of Glamorgan			1							1
Cwm Taf		1	1							2
TOTAL		1	3		1					5

WELSH GOVERNMENT AND WELSH GOVERNMENT SPONSORED BODIES

Welsh Government	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
CAFCASS Cymru	3	4	5							12
CSSIW			5							5
Healthcare Inspectorate Wales		1			1					2
North Wales Valuation Tribunal	1									1
Planning Inspectorate	1	3	9							13
Welsh Government	7	12	16	1	1		2			39
Welsh Health Specialised Services Committee		1								1
TOTAL	12	21	35	1	2		2			73
Welsh Government Sponsored Bodies										
Care Council for Wales	1									1
Natural Resources Wales	1	3	5							9
Residential Property Tribunal for Wales	1									1
TOTAL	3	3	5							11
OVERALL TOTAL	15	24	40	1	2		2			84

INDEPENDENT CARE PROVIDERS

Independent Care Providers	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	Public Interest Report Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
BUPA Care Homes (Partnerships) Ltd		1								1
Hawthorn Court Care Home	1									1
Ty Hafan		1								1
White House Residential Care Home			1							1
Talbot Court Care Home							1			1
TOTAL	1	2	1				1			5

OTHERS

Other	Out of Jurisdiction	Premature	'Other' cases closed after initial consideration	Discontinued	Quick Fix/ Voluntary Settlement	S16 Report - Upheld - in whole or in part	Other Report Upheld - in whole or in part	Other Report - Not Upheld	Withdrawn	Total Cases Closed
National Assembly for Wales Commission	1									1
ESTYN	1									1
Body out of jurisdiction	3									3
TOTAL	5									5



Annex C

Code of Conduct Complaints:

Statistical Breakdown of Outcomes by Local Authority

COUNTY/COUNTY BOROUGH COUNCILS

County/ County Borough Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Blaenau Gwent	1			1				2
Caerphilly	4	1						5
Cardiff	15		2		1		3	21
Cardiff	15							15
Ceredigion	2		1					3
Conwy	1							1
Denbighshire	2							2
Flintshire	1	1						2
Gwynedd	6	1			2			9
Isle of Anglesey	2		3		1			6
Merthyr Tydfil	4							4
Monmouthshire	2		1					3
Neath Port Talbot	2	1						3
Newport City			1					1
Pembrokeshire	5	1						6
Powys	8	2						10
Rhondda Cynon Taf	7		1		2			10
Swansea	9	1						10
Vale of Glamorgan Council	7		1					8
Torfaen	7	2						9
Wrexham		1					1	2
Total	100	11	10	1	6	6	4	132

COMMUNITY/ TOWN COUNCILS

Community or Town Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Abertillery & Llanhilleth Community	4		1					5
Aberystwyth Town	4		1					5
Ammanford Town	1							1
Arthog Community		1						1
Bangor City	1							1
Bethesda Community	1							1
Bridgend Town	3							3
Buckley Town	4							4
Caerwent Community	3							3
Caldicot Town	1							1
Coedpoeth Community	1						1	2
Connah's Quay Town	2							2
Dinas Powys Community	2							2
Fishguard & Goodwick Town				1				1
Holyhead Town	1							1
Kidwelly Town	1							1
Llanarmon yn Ial Community	1							1
Llanbadrig Community	1			2				3
Llanddulas and Rhyd y Foel Community	1	2			1			4
Llandeilo Town				1				1
Llandudno Town	2							2
Llanedi Community	1							1
Llanelli Rural	5							5
Llanfihangel ar Arth Community							1	1

COMMUNITY/ TOWN COUNCILS (CONTINUED)

Community or Town Council	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Llangattock Vibon Avel Community			1					1
Llangelynnin Community	1							1
Llangennith, Llanmadoc & Cheriton Community	8							8
Llanharan Community	1							1
Llanover Community Council	1							1
Llansanffraid Glan Conwy Community							1	1
Llansannan Community	2							2
Llansantffraed Community				1				1
Llansteffan & Llanybri Community	1							1
Llantwit Major Town	1							1
Llanwnda Community							1	1
Llay Community	3							3
Mumbles Community	3							3
Ogmore Valley Community		1						1
Penmaenmawr Town		3	1					4
Pennard Community	7							7
Prestatyn Town	1							1
Rhyl Town		1						1
Sully Community	1							1
Templeton Community				1				1
Tywyn Town	7		2	1	1			11
Y Felinheli Community	1							1
TOTAL	78	8	6	7	2	1	3	105

FIRE & RESCUE AUTHORITIES

Fire & Rescue Authority	Closed after initial consideration	Discontinued	No evidence of breach	No action necessary	Refer to Standards Committee	Refer to Adjudication Panel	Withdrawn	Total Cases Closed
Mid and West Wales		1	1					2

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STANDARDS COMMITTEE 11TH SEPTEMBER 2015

REVISED OMBUDSMANS GUIDANCE

Recommendations / key decisions required:

To consider the report

Reasons:

The subject matter of this report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Directorate

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EXECUTIVE SUMMARY STANDARDS COMMITTEE 11TH SEPTEMBER 2015

REVISED OMBUDSMANS GUIDANCE

The Public Services Ombudsman for Wales has issued revised Guidance in relation to the Code of Conduct for Members of local authorities in Wales.

A copy of the revised guidance is attached to this report.

The main areas of change from previous versions of the Guidance are;

1. An explanation of the 2 stage test employed by the Ombudsman when determining whether or not to investigate.
2. Further guidance on the use of social media and political expression
3. Further guidance on declarations of interests

As the guidance was published in April 2015 it was taken in to account when preparing and presenting the Code of Conduct training in June of this year.

DETAILED REPORT ATTACHED ?

YES

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-136	Legal Services, County Hall

The Code of Conduct

for members of local authorities in Wales

Guidance from the
Public Services Ombudsman for Wales
for members of county and county borough councils,
fire and rescue authorities, and
national park authorities

Preface

This revised guide from me as Public Services Ombudsman for Wales provides an overview of the Model Code of Conduct (“the Code”) introduced in 2008. It is intended to help you as a member to understand your obligations under the Code. The Code applies to all members and co-opted members of local authorities, community councils, fire and rescue authorities and national park authorities in Wales. As a member, you are required to sign up to it as part of your declaration of acceptance of office. The Code does not apply to the actions of authorities as a whole, or to the conduct of their officers and employees. There is a separate code of conduct applying to officers of local authorities in Wales.

This is the third version of this guidance and is my first as Public Services Ombudsman for Wales. This version, for the first time, explains the revised two stage test that I will consider when deciding whether to investigate or to continue with an investigation of a breach of the Code to the stage of referring the matter to a standards committee or the Adjudication Panel for Wales. It also includes further guidance on the use of social media and political expression, and aims to provide assistance to members on the issue of interests which some members find challenging. As before, it excludes guidance which only relates to town and community councillors. It contains examples drawn from recent cases considered by my office, standards committees across Wales and the Adjudication Panel for Wales.

The following pages aim to provide you with a general understanding of the Code and its requirements. Section 1 provides an introduction, while Section 2 outlines your obligations under the Code, referencing specific paragraphs for further information. Sections 3 and Section 4 deal with general issues surrounding interests. You can obtain a copy of the Code by downloading it from your authority’s website or contacting your Monitoring Officer.

The guide is intended to help you to understand the Code and how it applies, but it cannot hope to cover every conceivable circumstance. Ultimately, it is your responsibility to take specific advice from your Monitoring Officer and to make a decision as to the most suitable course of action.

I have used examples throughout to help to bring the guidance to life. These examples are drawn from actual cases considered by my office and also include decisions reached by local standards committees and the Adjudication Panel for Wales. Some of these decisions may have been taken by my predecessor, but throughout, for ease of reference, I will refer to them as my own decisions. Further examples of recent cases will be published quarterly in “The Code of Conduct Casebook” which is on my website at www.ombudsman-wales.org.uk

As a member you will be offered training on the Code whether by a Monitoring Officer or from a representative body. I expect all members to take advantage of such training, including refresher courses, to ensure that they are fully aware of the provisions of the Code and the standards

expected of them in public life. I would also urge members to continue to avail themselves of local arrangements for dealing with member versus member complaints which have proved very effective as a means of resolving many of these cases.

Since taking up my office I have become increasingly concerned about the number of low level complaints that are being received. Whilst these complaints appear to have been generated by a small number of members, in these challenging times of public austerity, it is increasingly important to ensure the effective use of my office's resources and that any investigation undertaken is proportionate and required in the wider public interest.

We should continue to work collaboratively to drive up standards in public life and to create a culture where members are respected for their selflessness, objectivity and respectful behaviour. If we do so we can build public confidence in our democratic institutions and promote good governance for the benefit of the people of all of our communities.



Nick Bennett
Public Services Ombudsman for Wales
March 2015

This statutory guidance is issued by the Public Services Ombudsman for Wales under Section 68 of the Local Government Act 2000 for elected, co-opted and appointed members of:

- county and county borough councils
- fire and rescue authorities, and
- national park authorities

in Wales.

Acknowledgement

This guidance draws on guidance prepared and issued by Standards for England on the former English Code of Conduct. It has been extended and amended to refer to the Welsh Code and to the Welsh context. I would like to thank the legal services department of Ceredigion County Council for the use of its flowcharts on interests which are appended to this guidance.

Separate guidance is available for members of community councils.

First published April 2010.

This edition published March 2015.

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1. Introduction

The Local Government Act 2000 created a new ethical framework for local government in Wales. It created a power for the National Assembly for Wales to issue a model code of conduct to apply to members and co-opted members of all relevant authorities in Wales. This power was transferred to the Welsh Ministers by the Government of Wales Act 2006. In 2008, Welsh Ministers issued the current Model Code of Conduct which all relevant authorities are required to adopt.

Authorities were required to adopt the Code in its model form in its entirety, but could make additions to the Code, provided these were consistent with the Model. This was intended to give certainty to members and the public as to what standards are expected. It helps to ensure consistency throughout relevant authorities, avoiding confusion for members on more than one authority and for the public.

Standards committees of principal councils are required to assist members and co-opted members of their authorities, together with members of town and community councils in their area, to observe the Code and to arrange for advice and training to be provided. I strongly recommend that all members should attend training and take advice where it is offered. I support individual authorities which require members to attend training on the Code before they can join certain decision-making bodies such as planning committees.

As a member, when you sign your declaration of acceptance of office, you are confirming that you will observe the Code. It is your personal responsibility to ensure that you understand your obligations under the Code and act in a way which shows that you are committed to meeting the high standards of conduct that are expected of you as a member.

Ultimately you are responsible for the decisions you take and can be held to account for them. However, this does not imply that you can take decisions which breach the Code or contrary to advice simply because the decision is yours to take. This guidance explains the constraints you are expected to act within to ensure members of the public can be confident in the way in which authorities in Wales reach their decisions.

It is my role as Public Services Ombudsman for Wales to independently investigate serious complaints that members of local authorities in Wales have breached the Code. In determining whether to investigate a complaint or whether to continue an investigation of a breach of the Code I will use a two stage test. At the first stage, I will aim to establish whether there is direct evidence that a breach actually took place. The level of proof that is required is on the balance of probabilities. If that evidential test is met, at the second stage, I will consider whether an investigation or a referral to a standards committee or the Adjudication Panel for Wales is required in the public interest. Some of the public interest factors that I will consider are set out below. These factors are not exhaustive and the weight to be attached to each will vary according to the facts and merits of each case.

Public interest factors include:

- the seriousness of the breach
- whether the member deliberately sought personal gain for themselves or another person at the public expense
- whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to a person
- whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity
- whether there is evidence of previous similar behaviour on the part of the member
- whether the investigation or referral to a standards committee or the Adjudication Panel for Wales is required to maintain public confidence in elected members in Wales
- whether investigation or referral to a standards committee or the Adjudication Panel for Wales is a proportionate response, namely, whether it is likely that the breach would lead to a sanction being applied to the member (I will take account of the outcomes of previous cases considered by standards committees across Wales and the Adjudication Panel for Wales), and whether the use of resources in carrying out an investigation or hearing by a standards committee or the Adjudication Panel for Wales would be regarded as excessive when weighed against any likely sanction.

I have a wide discretion as to whether to begin or continue an investigation. I have revised the two stage test adopted by my predecessor in order to provide greater clarity on how I will usually exercise my discretion and to secure a degree of consistency and certainty in the decisions that I reach.

The process I use for investigating complaints is on my website at www.ombudsman-wales.org.uk

Local Resolution Process

Most local authorities across Wales have implemented local resolution procedures to deal with low level complaints which are made by a member against a fellow member. These arrangements are proving to be effective at resolving many of these kinds of complaints. Typically these complaints continue to be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code or the duty not to make vexatious, malicious or frivolous complaints against other members under paragraph 6(1)(d) of the Code. Whilst a member may still complain directly to me about a fellow member if the matter being complained about concerns paragraphs 4(b) and 6(1)(d), I am very likely to refer the matter back to the Council's Monitoring Officer for consideration under this process. In my view such complaints are more appropriately resolved informally and locally in order to speed up the complaints process and to ensure that my resources are devoted to the investigation of serious complaints.

The aim of local resolution is to resolve matters at an early stage so as to avoid the unnecessary escalation of the situation which may damage personal relationships within the authority and the authority's reputation. The process may result in an apology being made by the member concerned. However, where a member has repeatedly breached their authority's local protocol then I would expect the Monitoring Officer to refer the matter back to me. If I see a pattern of similar complaints being made to me by the same members I will consider this to be a serious matter and decide whether the persistent reporting of such complaints is conduct which in itself should be investigated as a potential breach of the Code.

When I have investigated a complaint I may refer the matter to a standards committee or the Adjudication Panel for Wales. This will depend on the nature of and individual circumstances of the alleged breach.

Standards Committees

Standards committees are made up of independent lay members and of elected members of the authority. When I refer a case to a standards committee its role is to decide whether a member has breached the Code and whether a sanction should be imposed. In my view, hearings should be conducted in public unless there are valid reasons for not doing so to promote public confidence in standards in public life. Where a standards committee concludes that a member or co-opted member has failed to comply with the relevant authority's code of conduct, it may determine that:

- no action needs to be taken in respect of that failure
- the member or co-opted member should be censured which takes the form of a public rebuke, or
- the member or co-opted member should be suspended or partially suspended from being a member of that authority for a period not exceeding six months.

A member may appeal against the determination of a standards committee to the Adjudication Panel for Wales.

The Adjudication Panel for Wales

When I refer a case to the Adjudication Panel for Wales its role is also to determine whether a member has breached the Code and whether a sanction should be imposed. In addition, it will consider any appeals against the determination of a standards committee. The powers available to the Panel when it determines that a member or co-opted member has failed to comply with the Code are:

- to disqualify the respondent from being, or becoming, a member of the relevant authority concerned or any other relevant authority for a period of up to five years
- to suspend or partially suspend the respondent from being a member or co-opted member of the relevant authority concerned for up to 12 months, or
- to take no action in respect of the breach. In such cases the Panel may deem it appropriate to warn the member as to their future conduct. Where such a warning has been recorded it is likely

to be taken into account during any future hearing where the member is found again to have failed to follow the provisions of the Code.

Where either a standards committee or the Panel suspends or partly suspends a member or co-opted member that member is still subject to the Code, in particular the provisions set out in paragraphs 6(1)(a) (bringing the office of member or authority into disrepute) and paragraph 7(a) (improperly using the position of member).

The Principles

The Local Government Act empowered the National Assembly to issue principles to which you must have regard in undertaking your role as a member. The Code is based on these principles which are designed to promote the highest possible standards. These principles draw on the 7 Principles of Public Life which were set out in the Nolan Report “Standards of Conduct in Local Government in England, Scotland and Wales”. Three more were added to these: a duty to uphold the law, proper stewardship of the Council’s resources and equality and respect for others.

Members elected to local authorities give generously of their time and commitment for the benefit of their communities. The principles provide a framework for channelling your commitment in a way which will reflect well on you and your authority, and which will give your communities confidence in the way that your authority is governed.

The individual sections of the Code are designed to support the implementation of the Principles. For example, the Selflessness principle is covered by Section 7 of the Code – Selflessness and Stewardship. The current principles were set out in a statutory instrument¹ and are detailed below.

1. Selflessness

Members must act solely in the public interest. They must never use their position as members to improperly confer an advantage on, or to avoid a disadvantage for, themselves or to improperly confer an advantage or disadvantage on others.

2. Honesty

Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

3. Integrity and Propriety

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

¹The Conduct of Members (Principles) (Wales) Order 2001 SI 2001 No.2276 (W.166)

4. Duty to Uphold the Law

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

5. Stewardship

In discharging their duties and responsibilities members must ensure that their authority's resources are used both lawfully and prudently.

6. Objectivity in Decision-making

In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, members must make decisions on merit. Whilst members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

7. Equality and Respect

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

8. Openness

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

9. Accountability

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

10. Leadership

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

The principles are not part of the Model Code of Conduct, and failure to comply with the Principles is not of itself, therefore, indicative of a breach of the Code. However, it is likely that a failure, for example, to adhere to the principle concerning equality and respect would constitute a breach of the requirements of paragraphs 4(a) and 4(b) of the Code in respect of equality of opportunity and respect.

In any event, the Principles offer a sound basis for your conduct in office and I encourage members to have regard to them at all times.

Deciding when the Code applies to you

See Paragraphs 2 and 3

Members are entitled to privacy in their personal lives, and many of the provisions of the Code only apply to you when you are acting in your role as member or acting as a representative of your authority. However, as there may be circumstances in which your behaviour in your private life can impact on the reputation and integrity of your authority, some of the provisions of the Code apply to you at all times.

Consider conduct
in your public &
private life

When reaching a decision as to whether the Code applies to you at a particular time I will have regard to the particular circumstances and the nature of your conduct at that time.

Before considering your obligations under the Code you should first consider whether the Code applies and, if so, what provisions.

When does the Code apply?

- Whenever you act in your official capacity, including whenever you are conducting the business of your authority or acting, claiming to act, or give the impression you are acting, in your official capacity as a member or as a representative of your authority
- At any time, if you conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute or if you use or attempt to use your position to gain an advantage or avoid a disadvantage for yourself or any other person or if you misuse your authority's resources.

Where you act as a representative of your authority on another relevant authority, or any other body, you must, when acting for that other authority, comply with their code of conduct. When you are nominated by your authority as a trustee of a charity you are obliged when acting as such to do so in the best interests of that charity, in accordance with charity law and with the guidance which has been produced by the Charity Commission (see its website: www.charity-commission.gov.uk).

If you are acting as a representative of your authority on another body, for example on the board of a housing association, which does not have a code of conduct relating to its members, you must comply with your authority's own Code unless it conflicts with any legal requirements that the other body has to comply with.

If you refer to yourself as councillor, the Code will apply to you. This applies in conversation, in writing, or in your use of electronic media. There has been a significant rise in complaints to me concerning the use of Facebook, blogs and Twitter. If you refer to your role as councillor in any way or comments you make are clearly related to your role then the Code will apply to any comments you make there. Even if you do not refer to your role as councillor, your comments may have the effect of bringing your office or authority into disrepute and could therefore breach paragraph 6(1) (a) of the Code.

The Welsh Local Government Association has produced useful guidance on social media entitled “Social Media: A Guide for Councillors”. The guidance aims to provide you with a clearer idea about how you can use social media, the possible pitfalls and how to avoid them. It is available on their website at www.wlga.gov.uk or by calling 029 2046 8600.

If you are nominated by your authority as the director of a company (a stock transfer housing association for example) you are obliged to act in the best interests of the company. If it has a code of conduct for its directors you must abide by it. If it does not, you must comply with your authority’s Code, except on the rare occasions where it conflicts with any legal obligations the company may have.

If you are suspended from office for any reason, you must still observe those elements of the Code which apply, particularly as set out in paragraph 2(1)(d), while you are suspended.

Example

Councillor B was nominated by a county borough council to serve as a board member of a stock transfer housing association. The Chief Executive of the housing association copied all board members into a confidential e-mail to the Chief Executive of the Council. Councillor B admitted sending the e-mail to the local press and said that he had done so because he felt that his duty as a councillor over-rode his duty as a board member of the housing association. Councillor B was found to have breached paragraph 3(a) of the Council’s Code by disclosing the e-mail in breach of the board’s own code of conduct. He was also found to have brought his office and authority into disrepute by making a misleading statement that “he recently had to withdraw” from the board of the housing association when he had been removed with immediate effect for the serious breach of confidentiality.

Example

An on-line poll about a person accused of murder which contained inappropriate language was set up using Councillor B’s council-provided laptop, internet access and his council e-mail address. Councillor B said he personally had not set up the poll. However, as the Council had provided him with the laptop he was responsible for it. He also made disparaging comments about housing benefit claimants on his Facebook page when responding to a request for advice in his councillor role. The Adjudication Panel found that Councillor B had acted in his official capacity because he had used his council-provided equipment and e-mail address.

Therefore, he could reasonably be regarded as representing himself as a councillor.

2. General obligations under the Code

If you consider that the Code applies to you at a particular time then you must consider what provisions may apply and your obligations under the Code. I have referred to each paragraph below to provide you with some guidance on your general obligations.

Equality

See Paragraph 4(a)

You must carry out your duties with due regard to the principle that there should be equality of opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion.

You should at all times seek to avoid discrimination. There are four main forms of discrimination:

- Direct discrimination: treating people differently because of their gender, race, disability, sexual orientation, age or religion
- Indirect discrimination: treatment which does not appear to differentiate between people because of their gender, race, disability, sexual orientation, age or religion, but which disproportionately disadvantages them
- Harassment: engaging in unwanted conduct on the grounds of gender, race, disability, sexual orientation, age or religion, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment
- Victimisation: treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

The Equality Act 2010 (as amended) reinforces the importance of this part of the Code. It imposes positive duties to eliminate unlawful discrimination and harassment and to promote equality. Under equality laws, your authority may be liable for any discriminatory acts which you commit. This will apply if you do something in your official capacity in a discriminatory manner.

You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this paragraph of the Code.

You must also be mindful that at all times including when acting in your private capacity you must not act in a way that would bring your Council into disrepute. It is likely that engaging in behaviour which could be considered to be in breach of the Equality Act in your private capacity would fall into this category.

Example

A member of a county council was a member of the Council's Recruitment Panel to appoint a new Chief Executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room Councillor A said "good candidate, shame he's black". The Adjudication Panel for Wales found that paragraph 4(a) of the Code had been breached and that Councillor A had brought the office of member and his authority into disrepute (in breach of paragraph 6(1)(a) of the Code).

Treating others with respect and consideration

See Paragraph 4(b)

Freedom of expression is a right which applies to all information and ideas, not just those that are found favourable.

However it is a right that may be restricted in certain circumstances, for example, for the protection of the rights and interests of others. A member's freedom of expression attracts enhanced protection when the comments are political in nature. Therefore, the criticism of opposition ideas and opinion is considered to be part of democratic debate, and it is unlikely that such comments would ever be considered to be a breach of the Code.

"Political" comments are not confined to those made within the council chamber and, for example, include comments members may generally make on their authority's policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that I will investigate and will take the view that the member needs a "thicker skin".

I may also decline to investigate a complaint where the member has raised "political" issues with officers. This would not however include threats to an officer's position or wellbeing. Recent case law has confirmed that council officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to unwarranted comments that disenable them from carrying out their duties or undermine public confidence in the administration. That said, the officers who are in more senior positions, for example Chief Executives or Heads of Services, will also be expected to have a greater degree of robustness.

I expect members to afford colleagues, opponents and officers the same courtesy and consideration they show to others in their everyday lives. Whilst I recognise that political debate can, at times, become heated, the right to freedom of expression should not be used as an excuse for poor conduct generally. Such poor conduct can only discredit the role of member in the eyes of the public.

When considering such complaints I will take into account the specific circumstances of the case, whether, in my view, the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what has been said.

Political comments can attract Article 10 rights

Example

An appeal tribunal of the Adjudication Panel for Wales considered an appeal by Councillor X against the decision of the Council's Standards Committee. The Standards Committee found that Councillor X had failed to show respect and consideration to another member by prohibiting him from e-mailing the clerk and accessing the Council's website. Councillor X also made comments in an e-mail to the other members regarding his colleague's shower habits. In doing this the Standards Committee found that Councillor X had brought the Council into disrepute.

The Adjudication Panel found that Councillor X's comments were political in nature and attracted the enhanced protection of Article 10 of the European Convention on Human Rights. The Standards Committee's decision was overturned and the sanction rescinded. The decision of the Adjudication Panel can be found on the Panel's website <http://apw.wales.gov.uk> (Ref: APW/001/2014-015/AT).

Example

The Adjudication Panel upheld a finding of a standards committee of a failure to show respect and consideration for others by posting online comments about other members and the way in which the Council was run. The member sought judicial review of this decision. The Court found that whilst the comments which were posted were sarcastic and mocking and the tone ridiculed his fellow members, because the majority of the comments related to the way in which the Council was run, how its decisions were recorded and the competence of the members, the comments were "Political Expression". The ruling said no account had been taken of the need for politicians to have "thicker skins". In view of the member's freedom of expression and the fact that the majority of comments were directed at fellow councillors, the finding of a breach in this case was a disproportionate interference with the member's rights under Article 10 of the European Convention on Human Rights. The Standards Committee's decision to censure the member was therefore set aside.

Example

A member of a town council wrote to a Deputy Minister of the Welsh Assembly Government about an employee ("Mr Smith") of a county council, a letter which was also copied to the Council. In the letter the member questioned Mr Smith's competence and motivation and he made a number of comments of a disparaging and personal nature about Mr Smith and his associates. He raised the issue of homosexuality and referred to it as a "notorious disability" and that "homosexuality is only a demon which can be driven out". The member was referred to the Adjudication Panel for Wales.

The Panel found that the member had breached paragraph 4(b) in that he had failed to show respect and consideration for others. It also found that by his use of words he had brought the office of member into disrepute in breach of paragraph 6(1)(a) of the Code.

The member was disqualified for 12 months from being or becoming a member of a local authority.

Bullying and harassment

See Paragraph 4(c)

You must not use any bullying behaviour or harass any person including other members, council officers or members of the public.

Consider your conduct from the other person's perspective

Harassment is repeated behaviour which upsets or annoys people. Bullying can be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health. This can be contrasted with the legitimate challenges which a member can make in questioning policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

When considering allegations of bullying and harassment I will consider both the perspective of the alleged victim, and whether the member intended their actions to be bullying. I will also consider whether the individual was reasonably entitled to believe they were being bullied. Bullying is often carried out face to face, but increasingly, it can be carried out in print or using electronic media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

You need to ensure that your behaviour does not cross the line between being forceful and bullying. There can be no hard and fast rules governing every set of circumstances but the relative seniority of the officer will be a factor in some cases. As outlined under paragraph 4(b) of the Code very senior officers can be involved in robust discussion with members and be well placed to put their own point of view forcefully. The same is not true of more junior officers and members need to be aware of this. This is not to say that I condone the bullying of senior officers, only that the greater the power difference between the officer and the member the greater the likelihood that the officer will consider behaviour to constitute bullying.

Recently, the High Court found that there is a public interest in protecting public confidence in unelected public servants which is to be balanced against the interests of open discussion on matters of public concern. It also found that all members should equally respect the mutual bond of trust and confidence between themselves and the officers which is crucial to good administration.

Local Authorities have appropriate channels for expressing concern about the performance of an officer and it is important that you raise issues about poor performance in the correct way and proper forum. Raising such issues in the context of a meeting with others present, especially if they are from outside bodies or are members of the public, is not acceptable. Neither is it acceptable to do so in the media, in your own publications or using blogs, tweets, Facebook or other electronic

means. If your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

Example

A county council member was disqualified from office for 2 years and 6 months by the Adjudication Panel for Wales following allegations of bullying, harassment, disrespect and bringing the office of member into disrepute. The alleged incidents occurred over a period of two years. During that time the member had made threatening comments to officers of both junior and senior grades. For example, comments such as, a number of managers of the Council had been dispensed with and there were more to go and “You won’t like the man I’ll become if I don’t get what I want...I don’t need to threaten you you’re an intelligent woman I know you’re listening to me”.

The member appealed the decision and the matter was referred to the High Court where all but three breaches were upheld. The decision can be found on the Panel’s website <http://apw.wales.gov.uk> (Ref: APW/005/2010-011/CT).

Compromising the impartiality of officers of the authority

See Paragraph 4(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, your authority. You should not approach anyone who works for, or on behalf of, the authority with a view to pressurising them to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision or threaten someone if they are not minded to act in a particular way. As well as avoiding pressurising officers in person, you need to avoid doing so in writing, using electronic media or in the press.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

If a member develops a close personal relationship with an officer, this becomes a personal and possibly a prejudicial interest under the Code. I would encourage you to adhere to any protocol developed by your authority that deals with relationships between members and officers.

Example

The son and daughter-in-law of a member of a county borough council were neighbours of a family who were tenants of the Council. Complaints had been made about the family’s conduct. The member

contacted officers of the Council regarding the family's occupancy of the council property and its impact on his son's family on a number of occasions, sometimes outside office hours. The calls were made in his role as elected member and he had direct access to officials because he was a member. He received a warning from the Deputy Monitoring Officer as to his conduct, which emphasised the powerful position elected members occupy when dealing with members of staff.

Despite this he continued to contact officers about the matter including requesting an officer to visit his family "there and then" and accusing an officer of "tipping off" the family being complained about that noise monitoring equipment was being installed.

The Adjudication Panel for Wales found that the conduct of the member was a persistent course of conduct over a period of 6 months intended to bring undue pressure upon council officers. It found that by his actions he had sought to compromise the impartiality of officers of the Council. It also found that the member had failed to show respect and consideration for others and that his actions amounted to harassment and he had used his position improperly to promote the interests of his own family. Given the accumulative nature of his dealings with officers and his making a false allegation that an officer had "tipped off" the family he had also brought the office of member into disrepute.

The member was suspended from office for 12 months

Disclosing confidential information

See Paragraph 5(a)

You must not disclose confidential information, or information which should be reasonably regarded to be of a confidential nature, except in any of the following circumstances:

- you have the consent of the person authorised to give it
- you are required by law to do so.

The Information Commissioner has issued helpful guidance on the Freedom of Information Act and Data Protection Act which is available on his website at www.ico.gov.uk or by calling 0303 123 1113. As a member, you may be party to confidential information about individuals or organisations including personal or commercially sensitive matters. This might include information about people's employment, or personal matters arising from social services work, for instance. Sometimes, these will be marked confidential. On other occasions, this will not be the case, but you must not disclose them even if they are not marked. If you are in any doubt, always ask your Monitoring Officer.

As a general rule, you should treat items discussed in the confidential sections of meetings (exempt items) as confidential. These reports have usually been assessed by the author as containing sensitive information, following expert legal advice. The sensitivity of the information may decline over time, but you are strongly urged to take proper legal advice before disclosing it. Similarly, legal advice, whether provided by external lawyers or your authority's in-house legal staff, is almost always covered by legal privilege and should not be disclosed.

When information is provided to members during the course of an investigation I expect this to be treated in the strictest of confidence and it should not be disclosed to anyone other than the member's legal or other adviser. If the information is disclosed to other persons I may consider this to be a breach of this paragraph of the Code. In addition members should not discuss the complaint with any of the witnesses, whether directly or indirectly, as such contact may also be construed to be a breach of the Code.

Example

A member of a county borough council who sat on the Council's adoption panel disclosed publicly details of a person who had applied to the panel to adopt a child. He could only have become aware of the information he disclosed by virtue of his membership of the panel. The Adjudication Panel found that the member had disclosed confidential information in breach of the Code. It suspended the member from the Council for 6 months.

Preventing access to information

See Paragraph 5(b)

You must not prevent any person from accessing information which they are entitled to by law. This includes information under the Freedom of Information Act 2000 or those copies of minutes, agendas, reports and other documents of your authority which they have a right to access. To find out more about what types of information the public can access, contact the Information Commissioner's Office by visiting www.ico.gov.uk or by calling 0303 123 1113 or for specific queries, you should ask your Monitoring Officer.

Any information that you produce in your official capacity is liable to be subject to the disclosure requirements of the Freedom of Information Act, and your authority may be required to release it in response to a request. If you do not provide the information to the relevant officer of your authority on request, you will be in breach of the Code.

Your authority needs to decide whether to disclose information or whether it may be covered by an exemption. Even if you believe that information you hold is exempt, you must provide it to your authority's relevant officer to allow the authority to reach a decision. As well as being a breach of the Code, it is a criminal offence if information is destroyed after a Freedom of Information Act request has been received.

Example

A leader of a county council refused to give the Council's Information Officer a letter he had written to the Wales Audit Office on behalf of the Council's Executive. As a result the Council could not respond appropriately to a Freedom of Information Act request which resulted in a complaint being made to the Information Commissioner's Office. The member continued to refuse to disclose the letter despite having received clear and unequivocal advice from the Information

Officer. His refusal led to an adverse finding from the Information Commissioner's Officer. The Adjudication Panel found that the member had breached paragraphs 5(b) and 6(1)(a) (disrepute) in respect of this matter and other related matters. By the time the case was considered by the Panel the member had resigned from office. He was disqualified from holding office for 12 months.

Disrepute

See Paragraph 6(1)(a)

You must not behave in a way which could reasonably be regarded as bringing your office or authority into disrepute at any time. As a member, your actions and behaviour are subject to greater scrutiny than those of ordinary members of the public. You should be aware that your in both your public and private life might have an adverse impact on your office or your authority. You should also ensure that you do not engage in any behaviour that may prejudice an investigation undertaken by me or your Monitoring Officer as this may also constitute disrepute.

Any conduct unbecoming of a member can constitute disrepute

Dishonest and deceitful behaviour will bring your authority into disrepute, as may conduct which results in a criminal conviction, especially if it involves dishonest, threatening or violent behaviour, even if the behaviour happens in your private life. Making unfair or inaccurate criticism of your authority in a public arena might well be regarded as bringing your authority into disrepute. Inappropriate e-mails or social media posts might well bring the office of member into disrepute.

You must also conduct yourself in an appropriate manner with others within the confines of a council's building, regardless of whether your conduct is likely to be in the public domain.

Example

A community councillor had been abusive to a shop proprietor and two members of her staff and had attempted to obtain a discount on a private purchase by saying it was being bought on behalf of the Community Council, and when his request for a discount was refused he had made threats against the business. The Adjudication Panel found that the member had brought the office of member into disrepute and suspended him for 9 months.

Reporting breaches of the Code

See Paragraph 6(1)(c)

If you reasonably believe that a breach of the Code has occurred, you must report it to me and to your Monitoring Officer. In order to have a reasonable belief that a breach has occurred, you will need to have direct evidence which supports this. If you are in doubt as to whether a breach has occurred, you should consult your Monitoring Officer as soon as possible. Where the breach is a very minor or technical one, or where there is no clear evidence that a breach occurred,

your Monitoring Officer may advise you of the likely threshold I will set and suggest that the matter would be more appropriately dealt with through the authority's local resolution process. Nonetheless, the decision as to whether to investigate a breach rests with me. The balance of any doubt should always favour reporting. It is helpful if you specify which aspect of the Code you believe has been breached.

Where a member has reported a fellow member to their Monitoring Officer under the authority's local resolution process, there is no need to report the matter to me as well.

In determining whether to investigate a complaint of a breach I will use the two stage test that I have outlined on pages 6 and 7 above. You should ensure that you provide any evidence you have available when you make a complaint including minutes of meetings, correspondence, contemporaneous notes or e-mails. If there are other individuals who have witnessed the alleged breach, you should let us know who they are. This latter point is especially important because if I only have one person's word against another's, I may not be able to conclude with sufficient certainty that there is enough evidence to warrant pursuing the matter.

To report a breach, you can contact my office by phone at **0845 6010987**, by e-mail to **ask@ombudsman-wales.org.uk** or via the website at **www.ombudsman-wales.org.uk**. A special leaflet on making complaints about alleged breaches of the Code is available on request or on the website.

Vexatious complaints

See Paragraph 6(1)(d)

You must not make complaints against other members or staff members or people working on behalf of your authority which are not founded in fact and which are motivated by malice (a desire to do them harm) or by political rivalry. Unfortunately, there have been instances where members have sought to bring complaints about rivals which are designed to disadvantage them, sometimes in the run-up to elections, and where the evidence of any breach is weak or non-existent. I consider that in the first instance such conduct should be considered under the relevant authority's local resolution process.

Where specific details of such complaints are passed to local press and media, this may prejudice an investigation and as I have explained may also be a breach of the Code. You must report well-founded alleged breaches to me and to your Monitoring Officer, not to your local newspaper or radio station. The press will properly cover the business of any hearings and their outcomes, and members making allegations should not generate publicity in advance of these.

The Code should not be used by members to pursue their political or private differences. You should therefore avoid making complaints which have little or no substance (frivolous complaints) which are designed mainly to annoy the person complained about, for example, when you may disagree with a member's approach to your authority's business or their role as member. Where

I find evidence to suggest that a complaint has been made to my office which is not founded in fact and has been motivated by malice or political rivalry I will consider this to be a serious matter and I may investigate. Making vexatious, malicious or frivolous complaints is not only a breach of this paragraph but may also be contrary to your other obligations under the Code such as the requirement not to bring your position as councillor into disrepute or not to use your position for an improper purpose.

Example

A member of a county borough council claimed that the leader of the Council had offered to provide another councillor and his group of members with office facilities if that councillor supported the leader's preferred candidate for the post of Chief Executive. The evidence supported the leader's position that the two matters were unconnected and that therefore the complaint was malicious. The Adjudication Panel suspended the member making the complaint for 12 months.

Co-operating with investigations

See Paragraph 6(2)

You must co-operate with an investigation when it is being conducted by me or by your Monitoring Officer using our statutory powers. Not to do so is itself a breach of the Code. This means that you should reply promptly to all correspondence and telephone calls, make yourself available for interview if required and make available copies of any requested documents. It would be helpful if you could identify any concerns that you may have during the course of the investigation so that these can be promptly resolved. My office and your Monitoring Officer will make reasonable allowances for urgent pressures you face and arrangements previously made, for example, for holidays. However, you are expected to give priority to their investigations to avoid matters being needlessly drawn out. The requirement to co-operate with an investigation applies whether you are a witness or the subject of the investigation.

I am aware of instances where members accused of breaches of the Code have sought to put pressure on the individuals making the complaint or on other witnesses. I regard such behaviour as entirely unacceptable. You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you have breached paragraph 4(c) of the Code with regard to bullying or harassment, or paragraph 6(1)(a) in respect of bringing the office of member into disrepute.

Using your position improperly

See Paragraph 7(a)

You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else. **This paragraph applies at all times** and not just when you are carrying out your duties as a member. You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a member. This also applies if you use your office to improve your wellbeing at the expense of others.

Members who own land, or whose close personal associates own land, need to be particularly cautious where planning matters are concerned. If you are in any doubt, you should take advice. This applies equally to members of community councils when your Council is consulted on planning matters. Similarly, while it is reasonable to expect members to help constituents apply to the Council, for example, for housing, it is quite inappropriate to seek to influence the decision to be taken by the officers.

The provisions of the Bribery Act 2010 apply to members carrying out their public functions. Should a member be convicted of a criminal offence under this Act then it is likely that they will also have used their position improperly (in breach of paragraph 7(a)) and be likely to have brought the office of member or their authority into disrepute in breach of paragraph 6(1)(a). If any complaint which is made to me concerns conduct which may amount to a criminal offence then I am likely to refer the matter to the police.

Example

A member of a county council had requested that land in his ownership in Village A be included as suitable for development in the Council's Local Development Plan (LDP). When the Council was considering suitable settlement areas for inclusion in the LDP, officers recommended that land in the neighbouring village (Village B) be included in the draft plan instead. Despite having received very clear advice from the Council's Monitoring Officer on his prejudicial interest the member e-mailed the Council's planning policy officer and outlined a number of arguments which he claimed favoured the inclusion of his land in Village A as opposed to the land in Village B. At the relevant time the draft plan had been disclosed to members of the Council on a confidential basis and had not been disclosed publicly.

The Adjudication Panel found that by sending the e-mail the member had breached paragraph 7(a) of the Code by attempting to use his position improperly for his own advantage. At the hearing he sought to apportion blame on the Council's Monitoring Officer for failing to advise and train him properly on the Code when this clearly was not the case. His actions also brought his office and the Council into disrepute. The member was disqualified from holding office for 18 months for this and other breaches of the Code.

The authority's resources

See Paragraph 7(b)

You must only use or authorise the use of the resources of the authority in accordance with its requirements. **This paragraph also applies at all times.** Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with your authority's rules is likely to amount to a breach of the Code. If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by your authority's rules.

Using resources for proper purposes only

See Paragraphs 7(b)(v) and 7(b)(vi)

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any guidance issued by your authority.

You should never use authority resources for purely political purposes, including designing and distributing party political material produced for publicity purposes. However, your authority may authorise you to use its resources and facilities for political purposes in connection with your authority's business, for example, holding meetings of your political group. In this case, you must be aware of the limitations placed upon such use for these purposes. Members should also have regard to the fact that periods leading up to local government elections are particularly sensitive in this regard. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code. Some authorities will permit members to use authority-supplied IT equipment such as laptops for ancillary use. Provided that such usage is in line with the authority's requirements, there would not be a breach, but sending mass e-mails as part of an election campaign, for example, would not be appropriate.

Where, however, there is no policy or the policy is silent you may not use these resources for any political or private purposes.

Example

A member of a county council was found in breach of the Code for making improper use of his council-issued computer equipment for private purposes by downloading inappropriate adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as being from members of the public. The Adjudication Panel found that the member had misused the Council's equipment in breach of the Code and had brought the office of member into disrepute. He was disqualified from being or becoming a member of a local authority for 2 years and 6 months.

Example

A member of a county borough council was found in breach of the Code for using his council-issued mobile phone excessively for private purposes. Whilst limited personal use was permitted under the Council's IT policy a bill in excess of £1000 was incurred in respect of private calls which the member had made. The Adjudication Panel suspended the member for 9 months for this and other breaches.

Reaching decisions objectively

See Paragraph 8(a)

When taking part in meetings of your authority, or when arriving at decisions relating to the authority's business, you must do so with an open mind and objectively. During the decision-making process you must act fairly and take proper account of the public interest.

In some decisions, such as those taken by planning committees, you are required always to make your decisions on the basis of the facts in front of you, and not to have made your mind up in advance to such an extent that you are entirely unprepared to consider all of the evidence and advice you receive. Having a completely closed mind is known as pre-determination. You are entitled to hold a preliminary view about a particular matter in advance of a meeting (pre-disposition) as long as you keep an open mind and are prepared to consider the merits of all the arguments and points made about the matter under consideration before reaching your decision.

Pre-determination on the other hand would be where you have clearly decided on a course of action in advance of a meeting and are totally unwilling to consider the evidence and arguments presented on that matter during the meeting. Pre-determination could not only invalidate the decision, it would also amount to a breach of the Code.

Section 78 of the Local Government (Wales) Measure 2011 prohibits a member of an overview or scrutiny committee meeting from voting on a question at a meeting, if before the meeting, the member has been given a party whip relating to the question.

In order for me to investigate complaints of “whipping” of votes by political groups there must be written evidence or other corroborative evidence available of the whip. Suppositions based upon the voting patterns of particular groups will not be sufficient evidence of a whip.

Considering advice provided to you and giving reasons

See Paragraph 8(b)

You must have regard to all of the advice you receive from your authority’s officers, especially advice from the Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Legal Officer where they give it under their statutory duties. Such advice may also be contained in policy and guidance documents produced by your authority. This is a complex area and there are provisions within other legislation which underpin it, but in general, it goes well beyond a requirement to simply consider and reject advice if it is not welcome. I expect members to follow the advice unless there are strong reasons not to do so, and where a decision is made not to follow advice, it is highly advisable to record the reasons for not doing so.

It is worth reflecting also that this places a considerable onus on statutory officers to consider their formal advice carefully, and again, where they believe it is likely to be contentious, to keep a record of it. There may be isolated cases where advice is given to a member which, when followed, leads to a breach of the Code. In investigating such cases, if the evidence suggests that there has been a breach, I would generally regard the flawed advice as a factor in mitigation, rather than as evidence that no breach occurred.

It is always helpful, if you can, to get advice as early as possible. If you can, ask for advice in good time before a meeting, rather than at the meeting or immediately before it starts. Make sure you give the officer concerned all of the information they need to take into account when giving you advice.

If you seek advice, or advice is offered to you, for example, on whether you should register a personal interest, you should have regard to this advice before you make up your mind. Failure to do so may be a breach of the Code.

You must give reasons for all decisions in accordance with any statutory requirements and any reasonable requirements imposed by your authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people’s rights are affected but it is not confined to these.

As a matter of good practice, where you disagree with officer recommendations in making a decision, you should give clear reasons for your decision. This applies to decisions to vote against the advice of the statutory officers, even if you lose the vote. If you decide to vote against their advice, you should ensure that your reasons for doing so are recorded in the relevant minutes. You should be aware that voting against the advice of the statutory officers without good reason may be a breach of the Code.

In reaching decisions where the advice is not provided by the statutory officers, you should still have regard to the advice provided by officers and take it into account in reaching your decision. You may also wish to have regard to other advice you have received and, of course, to the position adopted by a political group of which you are a member. In some circumstances, such as planning decisions, you must not vote on the basis of a “whip” imposed by your group. In others, it is reasonable to do so but you should avoid having an entirely closed mind prior to a debate. Again, whatever the reasons for voting against officer advice, it is highly advisable to record them.

Example

A member of a county council who chaired a council meeting refused to allow the Council’s Monitoring Officer to advise members during a debate about the Council’s “Annual Letter” from the Wales Audit Office. Also, when the Monitoring Officer did manage to intervene to express grave concerns about the way in which the proceedings were being conducted, he failed to have regard to the limited advice she was allowed to offer and simply said that he “noted her comments”.

The member was found to have breached paragraph 8(a)(iii) of the Code. The Adjudication Panel took into account the member’s full apology and expressions of remorse for his behaviour and indicated that had the member not already accepted his wrongdoing it would have imposed a greater sanction than the 4 months’ suspension it imposed.

Expenses

See Paragraph 9(a)

You need to follow the law and your authority’s requirements in claiming expenses and allowances. If you are in any doubt about your entitlements, or the proper way to claim, you should ask for advice. You need to keep proper records of expenditure supported by receipts where appropriate, so that you can properly evidence your claims. Even if a particular scheme does not require you to submit receipts, you are strongly advised to keep these so that you can prove how much you have actually spent on the items you are claiming, for example, for childcare.

Example

A member of a county borough council was alleged to have used the Child/Dependent Care Allowance to pay his wife to look after their daughter. During the investigation it transpired that he had paid his adult son (from a previous marriage) a regular weekly income to care for the child as and when required. The member was able to provide proof of the payments through receipts and cheque counterfoils. In view of this there was no evidence of any failure on the part of the member to comply with the Code.

Gifts and hospitality

See Paragraph 9(b)

It is important that you do not accept any gifts or hospitality for yourself, or on behalf of others, which would place you under obligation or appear to do so. Accepting such gifts or hospitality could be regarded as compromising your objectivity when you make decisions or carry out the work of your Council. This is also true of any services or gifts in kind.

This does not prevent you from attending official events such as a civic reception or working lunch where these are authorised by your authority. (See also the section on registering gifts and hospitality at page 44).

3. Personal and prejudicial interests

The elements of the Code which cover personal and prejudicial interests give rise to many questions from members. They are designed to safeguard the principles of selflessness and objectivity. They are intended to give members of the public confidence that decisions are being taken in their best interests, and not in the best interests of members of authorities or their close personal associates.

Personal interests relate to issues where you or a close personal associate may have some link to a matter under discussion. These interests become prejudicial where an informed independent observer could conclude that the interest would influence your vote, or your decision.

In my experience it is the distinction between personal and prejudicial interests, and what action a member should take depending on the nature of their interest, that causes the most difficulty for members.

The paragraphs below are designed to offer guidance in this area. I would strongly recommend that if you are in any doubt about whether you have a personal or prejudicial interest, and, if so, what you need to do, you should ask your Monitoring Officer for advice. However, the decision on what course of action should be taken remains with you.

To provide some further assistance, I have attached two flowcharts at Appendix 1 and 2 which Ceredigion County Council's Monitoring Officer designed to take you through the questions that you should ask when deciding whether you have an interest. They are for illustration purposes only and are not definitive.

Guidance on registering interests is at Section 4.

Personal Interests

See Paragraph 10

While you are carrying out your duties, you need to decide if you have a personal interest, and if so, whether you need to disclose it. Most members know that you need to disclose personal interests at meetings, but there are other occasions, such as when speaking to your authority's officers about the matter concerned, when you may also need to do so.

Listed below are some questions that you should ask when deciding if you have an interest.

Do you have a link or close connection to the item to be considered?

Do I have a personal interest?

You have a personal interest in any business of your authority, including when making a decision, where it relates to or is likely to affect:

1. your job or your business
2. your employer, or any firm in which you are a partner or paid director
3. any person who has paid towards the cost of your election or your expenses as a member
4. any company in which you hold shares with a nominal value of more than £25,000 or where your holding is more than 1% of the total issued share capital, which has premises or land in your authority's area
5. any contract that your authority makes with a firm in which you are a partner, paid director or hold shares in as described in 4
6. any land in which you have an interest and which is in your authority's area (this is especially important in all planning matters including strategic plans)
7. any land let by your authority to a firm in which you are a partner, paid director or a body as set out in 4
8. any body to which you have been elected, appointed or nominated by your authority
9. any:
 - public authority or body exercising functions of a public nature
 - company, industrial and provident society, charity or body directed to charitable purposes
 - body whose main role is influencing public opinion or policy
 - trade union or professional association
 - private club, society or association operating in your authority's area in which you have membership or are in a position of general control or management
10. any land in your authority's area which you have a license to occupy for at least 28 days.

It is always safer to declare an interest, however, if in doubt consult your Monitoring Officer.

Ward and electoral division issues – including Paragraph 10(2)(b)

If **a member of the public** could reasonably conclude that when you are taking a decision on behalf of the authority as a whole you are more influenced by issues in your ward or electoral division than by the interests of the authority as a whole, for example, if the authority needs to make a provision but you do not think it should be in your ward or electoral division, then you would have a personal interest.

This paragraph has given rise to great interpretative difficulties. The crux of the problem is that a strict interpretation of the paragraph, as worded, could well preclude members from participating in any decision affecting their ward - whereas the underlying policy intention had been to limit the scope of this provision to decisions made by individual councillors in the exercise of executive functions.

I do not believe that it would be in the public interest, or in the interests of local democracy, to adopt a literal interpretation as a matter of course. Therefore as a general rule, in exercising my discretion, the decision as to whether to investigate will be based on the assumption that the paragraph is actually directed at individual members making decisions in the exercise of executive functions and decisions such as those made at planning or licensing committees.

Section 25 of the Localism Act 2011 outlines circumstances when members should not be regarded as having a closed mind when taking decisions. I will continue to review this in light of any future decisions and case law on the effect of this provision.

Example

The Adjudication Panel considered a case concerning this provision of the Code. The member had declared his opposition to a controversial planning application in his election manifesto pledging to “work tirelessly on issues of concern” and to “oppose the current development proposal”. Having been elected the member voted against the first planning application which the Council considered when the application was refused. He was subsequently quoted in the local and national press defending his decision to oppose the development. The Adjudication Panel found that the member had acted in such a way that a member of the public might reasonably perceive a conflict between his role as a local councillor and his role in taking a decision on behalf of his authority. It suspended the member from the planning committee for a period of 3 months.

Matters affecting your well being or financial position

If a decision might be seen as affecting your well being or financial position or the well being or financial position of any person who lives with you or with whom you have a close personal association to a greater extent than other people in your ward or, for members of authorities which do not have wards (for example, national parks) in your authority’s area, you have a personal interest. Examples of decisions of this kind include obvious issues like contracts being awarded to your partner’s company but also issues about the location of developments, where it might make a big difference to where you or your close personal associates live. Examples have included the location of playgrounds, where elected members have opposed them near their houses because of issues about noise.

What is “a body exercising functions of a public nature”?

The phrase “a body exercising functions of a public nature” has been subject to broad interpretation by the courts for a variety of different purposes. Although it is not possible to produce a definitive list of such bodies, here are some of the criteria to consider when deciding whether a body meets that definition:

- Does that body carry out a public service?
- Is the body taking the place of local or central government in carrying out the function, for example, a care home with residents supported by social services?
- Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority, for example, a private company collecting refuse for the authority?

- Is the function exercised under legislation or according to some statutory power?
- Can the body be judicially reviewed?

Unless you answer ‘yes’ to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature. Examples of bodies included in this definition are health bodies, council-owned companies exercising public functions and school governing bodies. If you need further information or specific advice on this matter, please contact your Monitoring Officer.

What does “affecting well-being or financial position” mean?

The term ‘well-being’ can be described as a condition of contentedness and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being. A personal interest can affect you or your close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, you need to declare a personal interest in both situations.

Who is a close personal associate?

Close personal associates include people such as close friends, colleagues with whom you have particularly strong connections, business associates and close relatives. It does not include casual acquaintances, distant relatives or people you simply come in contact with through your role as member or your work in the local community.

Close personal associates include friends, relatives, business associates and those with whom you have been in dispute

Close personal associates can also include someone with whom you have been in dispute, or whom you may be regarded as having an interest in disadvantaging. For example, being a member of the same golf club as another person would not of itself constitute a close personal association but having that person as a weekly golf partner might well do. If you are in doubt, you should ask your Monitoring Officer.

What if I belong to an authority without wards or electoral divisions?

If you are a member of an authority that does not have wards or electoral divisions, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you or one or more of your close personal associates, more than it would affect other people in your authority’s area. If you are a local authority member of a fire authority, for example, you would need to declare an interest under this heading on matters concerning your nominating authority’s area.

“Twin hatted” members

If you are a member of both a community council and a county council you are not prevented from discussing the same matters at both. You may, for example, take part in a discussion about a planning

application about which your Community Council has been consulted and still go on to participate in a decision about the application if you sit on the Planning Committee of your County Council.

If you do so, you would be well advised to state at the Community Council meeting that you would be looking at the matter afresh when you consider it at the County Council meeting, and that you would take into account all of the information and advice provided to you. At the Planning Committee, you should make it clear that you are not bound by the views of the Community Council. The advice about objective decision making in respect of paragraphs 8(a) and 10(2)(b) of the Code is also relevant here.

Obviously, if the application was one submitted by the Community Council, then you would have both a personal and a prejudicial interest, and you would be required to declare it and withdraw in line with the guidance on “What to do when you have a prejudicial interest” below.

Example

Councillor F participated in a meeting which was considering whether to approve the complainant’s nomination for the post of school governor; Councillor F’s husband had also applied for the post. Not only did the Adjudication Panel find that she should have declared a personal interest in the item of business by virtue of her close personal association with her husband, it also took the view that as there had been a history of animosity directed towards the member by the complainant which had been reported publicly, she also had a personal interest by virtue of her close personal association with the complainant.

A further element to this complaint was that after the complainant had made a complaint to me about the member, the member sat on the Council’s Standards Committee when it considered a separate complaint from the complainant against another member. The Adjudication Panel took the view that, in light of the acrimonious relationship between the member and the complainant, the member’s participation in the Standards Committee hearing could reasonably have been regarded as affecting the complainant’s wellbeing because she was entitled to a fair and unbiased hearing of her complaint.

What if I am not aware of my personal interest?

Your obligation to disclose a personal interest to a meeting only applies when you are aware of **or reasonably ought to be aware** of the existence of the personal interest. Clearly you cannot be expected to declare something of which you are unaware. It would be impractical to expect you to research into the employment, business interests and other activities of all your close associates and relatives. However, you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

What to do when you have a personal interest

See Paragraph 11

If you decide that you have a personal interest then you must take the following action before the matter is discussed or as soon as it becomes apparent to you, except in limited circumstances:

- declare that you have a personal interest, and the nature of that interest
 - at meetings
 - when making written representations (including e-mails, faxes etc.)
 - when making oral representations, even if your interest is on the register of interests.
- confirm your interest by e-mail or in writing to the officer concerned and to the Monitoring Officer within 14 days
- consider whether you have a prejudicial interest (see below).

If you are making representations in writing to another member or an officer, you must include details of any personal interests you have. Similarly, if you are speaking with an officer or member in person, by phone or video conference you should tell them about any personal interest you have before making representations or when the interest becomes apparent. The Ombudsman would generally expect officers to make a record of any conversation in which a member has declared an interest and attach it to the appropriate file.

If you are making a decision as part of an executive or board, you must make sure that the written record of that decision (for example, minutes of a cabinet meeting) includes details of your interest. If you have disclosed an interest at a meeting which has not previously been recorded, you must give it in writing to your authority in line with the arrangements set out by your Monitoring Officer. Normally, this will mean before, or immediately after the meeting concerned or as soon as possible thereafter. As a minimum, you need to say in writing what the interest is, what business considered by the meeting it relates to and you need to sign it.

If you have agreed with your Monitoring Officer that the information about your personal interest is sensitive information then you should disclose the existence of a personal interest and confirm that the Monitoring Officer has agreed that the information about it is sensitive. More information about this is included in the separate section below.

If you declare a personal interest you can remain in the meeting, speak and vote on the matter, **unless your personal interest is also a prejudicial interest**. What constitutes a prejudicial interest is outlined in the following section.

Once disclosed you can stay & participate if your interest is not prejudicial

Prejudicial Interests

See Paragraph 12

Do not be swayed by what you think - consider what a member of the public would reasonably think

Do I have a prejudicial interest?

Your personal interest will also be a prejudicial interest in a matter if any of the following conditions applies:

- the matter does not fall within one of the exempt categories of business (see below), or
- the matter relates to a licensing or regulatory matter (see paragraph 12(3)), and
a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

What is so significant that it is likely to prejudice your judgement?

If a reasonable member of the public with knowledge of all the relevant facts would think that your judgement of the public interest might be prejudiced, then you have a prejudicial interest.

This is an objective test. You must decide not whether you would take the decision without prejudice, but whether you would be seen as doing so.

You must ask yourself whether **a member of the public**, if he or she knew all the relevant facts, would think that your personal interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.

The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

Some general principles must be remembered when applying this test. You should clearly act in the public interest and not in the interests of any close personal associates. You are a custodian of the public purse and the public interest and your behaviour and decisions should reflect this responsibility.

You would have a prejudicial interest in a planning application proposal if a close personal associate of yours (for example, your son or a good friend) lives next to the proposed site. This is because your close personal associate would be likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward or electoral division affected by the decision (or authority, if your authority does not have wards) and this gives you a personal interest in the issue. The close personal association means a reasonable member of the public might think that it would prejudice your view of the public interest when considering the planning application.

It does not matter whether it actually would or not.

In other cases, where there has been a dispute between you and an individual who could be disadvantaged by a decision, an informed reasonable member of the public might conclude that you would be inclined to vote accordingly, whether this is the case or not.

Does the matter fall within one of the exemptions?

See Paragraph 12(2)

A member will not have a prejudicial interest if the business falls within one of a number of exemptions which are set out below.

The business relates to:

- another relevant authority of which you are also a member
- another public authority or a body exercising functions of a public nature in which you hold a position of general control or management
- a body to which you have been elected, appointed or nominated by your authority
- your role as school governor where you have not been appointed or nominated by your authority (for example, a parent governor) unless the business specifically relates to your school
- your role as a member of a health board where you have not been appointed by your authority
- housing - if you hold a tenancy or lease with the authority, as long as the matter does not relate to your particular tenancy or lease and you do not have arrears of rent of more than 2 months
- school meals or school transport and travelling expenses, if you are a parent, guardian, grandparent of, or have parental responsibility for, a child in full-time education unless it relates particularly to the school your child attends
- decisions about statutory sick pay if you receive or are entitled to receive it from your authority
- an allowance or payment for members. I do not consider a member being put forward for election to a council office which attracts a Special Responsibility Allowance to have a prejudicial interest as I consider them to be covered by this dispensation.

These exemptions will not apply where the business you are considering is about determining an approval, consent, license, permission or regulation. I consider these descriptions to refer to a narrow category of decisions, such as granting planning consent and licensing decisions. A wider interpretation of approval, for example, would cover almost every aspect of your authority's business and was clearly not intended.

If one of the exemptions applies you are **not** regarded as having a prejudicial interest. You still must disclose your personal interest **but you are allowed to participate in the item under discussion.**

Example

Two members of a county borough council, who were sisters, were found by the Council's Standards Committee to have failed to declare both personal and prejudicial interests when they decided to allocate funds from their Members' Small Payments Scheme to a company, in respect of which one of the members was a non-paid director. During my investigation one of the members disputed the fact that she had received advice from the Monitoring Officer about the disclosure of such interests, and the other member had, despite receiving advice on the declaration of interests, falsely declared that she had no interest in the company on the nomination form. The Standards Committee considered the breaches of the Code to be serious ones. It decided to censure both members.

Example

A standards committee determined that the circumstances in which a member's membership of a local organisation had ended resulting in an acrimonious and ongoing dispute between her and the organisation (including solicitors' letters for the recovery of a debt) constituted a close personal association. It found that the nature of this association meant that the member had a prejudicial interest and that she had failed to declare this and withdraw from numerous meetings when a financial donation to the organisation had been discussed.

Overview and Scrutiny Committees

See Paragraph 13

Please note: this section does not apply to fire and rescue authorities, and national park authorities.

You have a prejudicial interest in any business before an overview and scrutiny committee or sub-committee meeting where both of the following requirements are met:

- that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees, and
- you were a member of that decision-making body at that time and you were present at the time the decision was made or action taken.

If the overview and scrutiny committee is checking a decision which you were involved in making you may be called to attend the meeting to give evidence or answer questions on the matter, and you may do so provided it is acting under its statutory powers.

What to do when you have a prejudicial interest

See Paragraph 14

If you consider that you have a prejudicial interest in your authority's business you must take certain action.

Nevertheless, even where you have a prejudicial interest, the Code supports your role as a community advocate and enables you in certain circumstances to represent your community and to speak on issues important to them and to you.

Key point:

If you have a prejudicial interest in a matter being discussed at a meeting, you must, having declared your personal interest in the matter, leave the room (or any other venue in which the meeting is being held including, for example, the location of a site meeting).

This is unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room or chamber once the period for considering representations has finished, and before any discussion on the item begins, even if members of the public are allowed to remain. You cannot remain in the public gallery to observe the vote on the matter.

In addition, **you must not seek to influence a decision in which you have a prejudicial interest**. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage. This means that as well as leaving meetings where the item is discussed, you should also not write or make any oral representations about the matter.

Do I have a statutory right to speak to the meeting?

The Code does not provide you with a general right to speak to a meeting where you have a prejudicial interest. However, in limited circumstances, legislation may provide you with a right to speak (for example, licensing hearings and standards hearings) which the Code recognises. If so, you will be allowed to exercise that right to speak. Your Monitoring Officer should be able to confirm whether this is relevant to your case.

If I do not have a statutory right, will I be allowed to speak to the meeting?

The Code aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your authority's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial interest in the item. You may not take part in the discussion or observe the vote.

You must declare your interest and withdraw from the room

When must I leave the place where the meeting is held?

You must leave immediately when the time for making representations, giving evidence or answering questions is finished, and before any debate starts.

What does influencing a decision mean?

You must not make any representations or have any involvement with decisions in which you have a prejudicial interest, except where you are entitled to speak as described above. Your presence itself could be perceived to be capable of influencing the decision making process.

What if the public are not allowed to speak to the meeting on the matter?

If an ordinary member of the public is not allowed to speak on the matter, you cannot do so if you have a prejudicial interest. You must leave the place where the debate is being held and not seek to influence the debate in any way.

This may be the case, for example, where your authority is discussing a confidential matter in closed session or does not have procedure rules or standing orders in place that allow members of the public to speak at a meeting of your authority. Like the public, you are not allowed to participate if you have a prejudicial interest. However, where the public may be allowed to sit in the public gallery to observe the meeting, **you will be required to leave the room during the debate and vote.**

What if I am summoned to attend a scrutiny committee to discuss business in which I have a prejudicial interest?

If you are asked to attend by the committee exercising its statutory powers, then you may attend and participate in the meeting.

Executive or cabinet roles

Please note: this section will not apply to fire and rescue authorities or national park authorities, unless in the latter case there are executive arrangements in place.

If you are a leader or cabinet member of an authority operating executive arrangements, you must follow the normal rules for executive members who have personal and prejudicial interests. If your interest is personal but not prejudicial, you can advise the executive on the issue and take part in executive discussions and decisions as long as you declare your interest. You can also exercise delegated powers in the matter as long as you record the existence and nature of your personal interest.

If you are an executive member who can take individual decisions, and you have a prejudicial interest in a decision, your authority may make other arrangements as set out in sections 14-16 of the Local Government Act 2000. This means that the decision can be taken by an officer, another cabinet member, the full executive, or a committee of the executive.

Although you have a prejudicial interest in a matter, you may be able to make representations, answer questions and give evidence as long as a member of the public would have the same rights, but you are barred from decision-making about that matter individually or in cabinet. You also should not participate in any early consideration of it, or exercise any delegated powers in relation to it. If you have delegated powers in that area, you should refer the consideration and any decisions on the matter to the cabinet to avoid the perception of improper influence.

Dispensations

If I have a prejudicial interest, can I obtain a dispensation to allow me to take part in the meeting?

You can apply in writing to your authority's Standards Committee for a dispensation to speak and/or vote on a matter on one or more of the following grounds:

- at least 50 per cent of the authority or committee members would be prevented from taking a full part in a meeting because of prejudicial interests
- at least half of the cabinet would be so prevented (the leader should be included in the cabinet in calculating the proportion)
- in the case of a county/county borough council, the political balance at the meeting would be upset to such an extent that the outcome would be likely to be affected
- the nature of your interest is such that your participation would not harm public confidence
- your interest is common to a significant proportion of the general public
- you have a particular role or expertise which would justify your participation
- the business is being considered by an overview or scrutiny committee and you do not have a pecuniary interest; the business relates to the finances or property of a voluntary organisation and you sit on its board or committee in your own right and you do not have any other interest, although in this instance, any dispensation will not let you vote on the matter, or
- the committee believes that your participation would be in the interests of the people in your authority's area and that the committee notifies Welsh Ministers within seven days.

You can apply for a dispensation individually and, in certain circumstances, you can make joint applications where a number of members want to obtain a dispensation to speak or vote on the same matter. If the Standards Committee approves your application, it must grant the dispensation in writing and before the meeting is held. If you need a dispensation, you should apply for one as soon as is reasonably possible.

Only the Standards Committee can grant the dispensation and will do so at its discretion. The Standards Committee will need to balance the public interest in preventing members with prejudicial interests from taking part in decisions, against the public interest in decisions being taken by a reasonably representative group of members of the authority. If failure to grant a dispensation will result in an authority or committee not achieving a quorum, this may well constitute grounds for granting a dispensation.

Where you hold a dispensation, you can also make written representations but you must provide details of the dispensation in any correspondence. If you make oral representations, whether in person or by phone, you must refer to the dispensation and confirm this in writing within 14 days.

4. Registration of Interests

Key points:

All members of authorities have to provide a record of their interests in a public register of interests. If you are a member of a county or county borough council, fire authority or national park authority, you must tell your Monitoring Officer in writing within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code, outlined below.

You need to register your interests so that the public, authority staff and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

The register also protects you. You are responsible for deciding whether you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

As previously mentioned, unless you are a community councillor, you must tell your Monitoring Officer in writing within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code. These categories include:

- your job(s) or business(es)
- the name of your employer or people who have appointed you to work for them
- the name of any person who has made a payment to you in respect of your election or expenses you have incurred in carrying out your duties
- the name of any person, company or other body which has a place of business or land in the authority's area, and in which you have a shareholding of more than £25,000 (nominal value) or have a stake of more than 1/100th of the share capital of the company
- any contracts between the authority and yourself, your firm (if you are a partner) or a company (if you are a paid director or if you have a shareholding as described above) including any lease, licence from the authority and any contracts for goods, services or works. Where the contract relates to use of land or a property, the land must be identified on the register
- any land and property in the authority's area in which you have a beneficial interest (or a licence to occupy for more than 28 days) including, but not limited to, the land and house you live in and any allotments you own or use

- your membership or position of control or management in:
 - any other bodies to which you were elected, appointed or nominated by the authority
 - any bodies **exercising functions of a public nature** (described above), or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party or trade union
 - any private club, society or association operating within your authority's area.

Sensitive information

Key points:

You may be exempt from having to include sensitive information on your register of interests. If your personal interest in a matter under discussion at a meeting is sensitive information, you will need to declare that you have a personal interest but you will not have to give any details about the nature of that interest.

Sensitive information may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create a serious risk of violence or intimidation against you or someone who lives with you should they become public knowledge.

You should provide this information to your Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your Monitoring Officer agrees. Ultimately, you must decide what information to include on your publicly available register of interests. If information on your register ceases to be sensitive you must notify your Monitoring Officer within 28 days asking them to amend the information accordingly.

Gifts and hospitality

Key points:

You must register any gifts or hospitality worth more than the amount specified by your authority that you receive in connection with your official duties as a member and the source of the gift or hospitality.

You must register the gift or hospitality and its source within 28 days of receiving it. Like other interests in your register of interests, you may have a **personal interest** in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare the existence and nature of the gift or hospitality, the person who gave it to you, how the business under consideration relates to that person and then decide whether that interest is also a **prejudicial interest**. It is also good practice to provide a note of any offers of gifts which you have declined.

Is the gift or hospitality connected to my official duties as a member?

You should ask yourself, would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, I recommend that you register it or speak to your Monitoring Officer.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.

What if I do not know the value of a gift or hospitality?

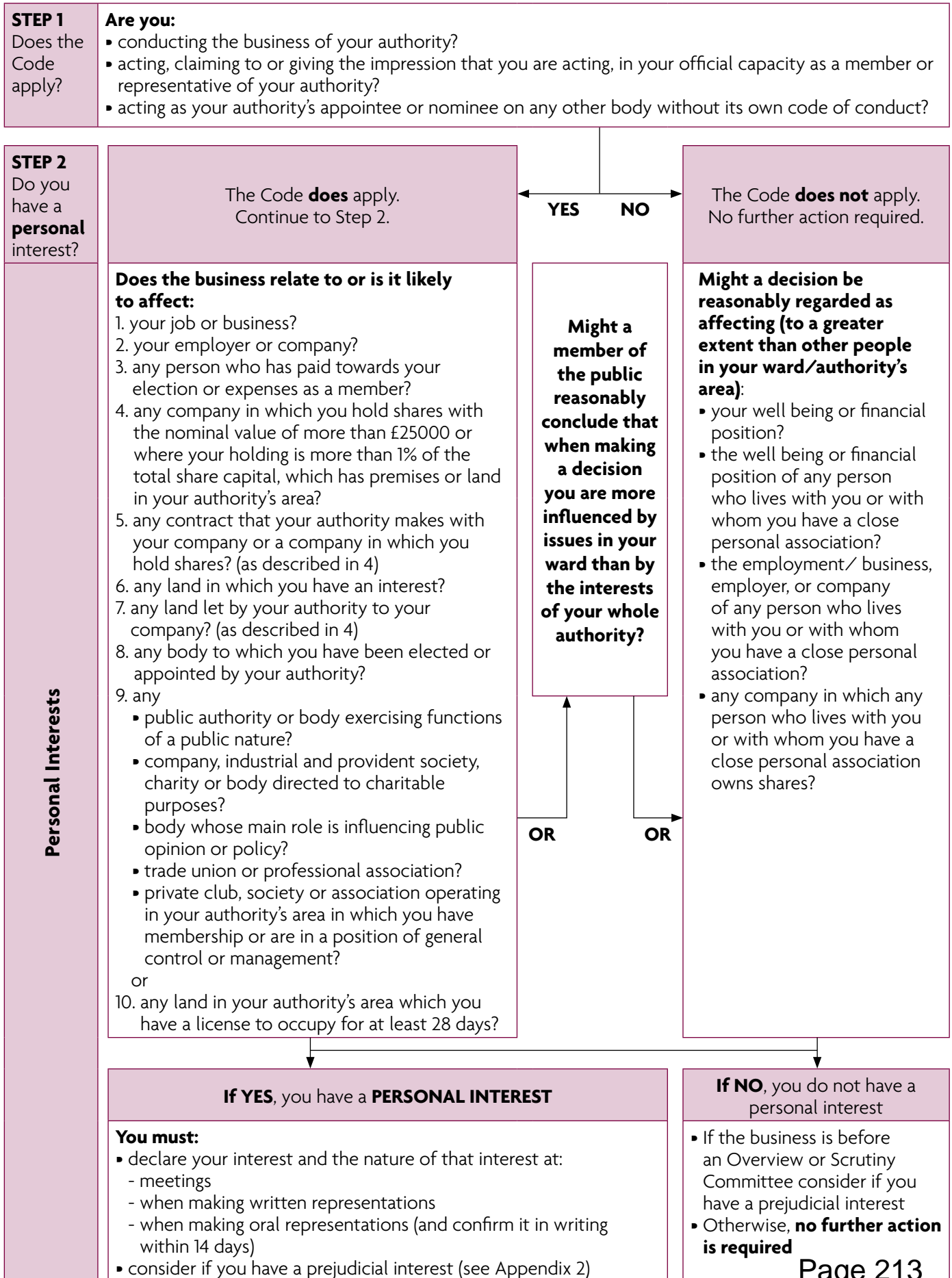
The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you receive from the same source over a short period that add up to the value specified by your authority or over should be registered.

The Code also refers to material benefit or advantage. The measure of this would be if an informed independent observer could conclude that you might be perceived to be better off as a consequence.

Appendix 1

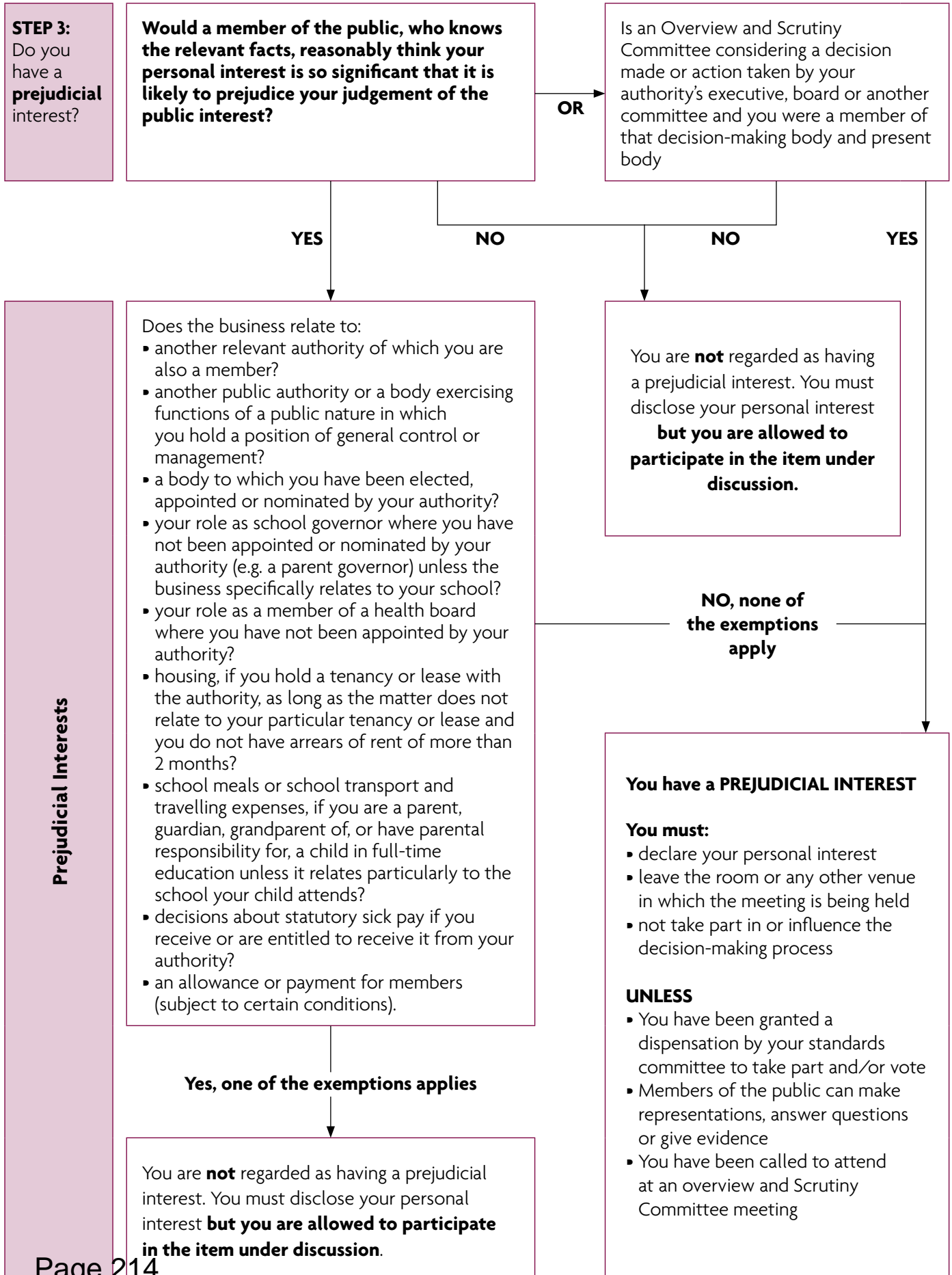
Personal Interests

Questions to ask yourself. If in doubt you should ask your Monitoring Officer.



Prejudicial Interests

Questions to ask yourself. If in doubt you should ask your Monitoring Officer.



Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel: 01656 641150

Fax: 01656 641199

E-mail: ask@ombudsman-wales.org.uk

Web: www.ombudsman-wales.org.uk

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STANDARDS COMMITTEE 11TH SEPTEMBER 2015

ADJUDICATION PANEL FOR WALES-DECISION NOTICE COMMUNITY COUNCILLOR HAULWEN LEWIS

Recommendations / key decisions required:

To consider the report

Reasons:

The subject matter of this report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Directorate

Chief Executives

Name of Head of Service:

Linda Rees-Jones

Report Author:

Robert Edgecombe

Designations:

Head of Administration & Law

Acting Legal Services Manager

Tel Nos.

01267 224018

E Mail Addresses:

RJEdgeco@carmarthenshire.gov.uk.

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
11TH SEPTEMBER 2015**

**ADJUDICATION PANEL FOR WALES – DECISION NOTICE
COMMUNITY COUNCILLOR HAULWEN LEWIS**

On the 13th August 2015 a Case Tribunal of the Adjudication Panel for Wales was convened to consider a reference from the Public Services Ombudsman for Wales in respect of Councillor Haulwen Lewis of Llanfihangel ar Arth Community Council.

The referral related to an alleged breach of the Members Code of Conduct by Councillor Lewis at a meeting of the community council on the 16th January 2012. It was claimed that Councillor Lewis failed to declare a personal and prejudicial interest when consideration was being given to a planning application for a wind farm on land adjacent to land which she owned and that furthermore she had participated in a secret ballot in relation to the application.

The Case Tribunal unanimously found that Councillor Lewis had by her conduct breached paragraphs 11(1) and 14(1)(a) of the Code.

The Case Tribunal also unanimously decided that Councillor Lewis should be suspended from acting as a member of Llanfihangel ar Arth Community Council for a period of 3 months as from the 13th August 2015.

A copy of the Case Tribunal's decision Notice is attached to this report.

DETAILED REPORT ATTACHED ?

NO

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: Linda Rees Jones

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-136	Legal Services, County Hall

PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES

NOTICE OF DECISION

TRIBUNAL REFERENCE NUMBER: APW/002/2014-015/CT
RESPONDENT: Councillor Haulwen Lewis
RELEVANT AUTHORITY: Llanfihangel ar Arth Community Council

1. A Case Tribunal convened by the President of the Adjudication Panel for Wales has considered a reference in respect of the above Respondent.
2. In a letter dated 10 September 2014 the Adjudication Panel for Wales received a referral from the Public Services Ombudsman for Wales ("the Ombudsman") in relation to allegations made against Cllr Lewis. The allegations were that Cllr Lewis had breached Llanfihangel ar Arth Community Council's Code of Conduct by failing to declare a personal and prejudicial interest at the meeting of the Community Council on 16 January 2012, during which a planning application for a wind farm on land adjacent to a farm she owns was considered and a secret ballot held in order to decide whether the Community Council would support or oppose the application.
3. At a hearing on Thursday 13 August 2015 at the Ivy Bush Royal Hotel, Carmarthen, the Case Tribunal found by unanimous decision that Cllr Lewis failed to comply with the Llanfihangel ar Arth Code of Conduct as follows:
 - 3.1 Paragraph 11(1) of the Code of Conduct states that "Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent."
 - 3.2 The Case Tribunal found that Cllr Lewis on her own (albeit belated) admission had breached paragraph 11(1) of the code of conduct.
 - 3.3 Paragraph 14(1) of the Code of Conduct states that "Where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from you authority's standards committee –
(a) withdraw from the room, chamber or place where a meeting considering the business is being held."
 - 3.4 The Case Tribunal found that Cllr Lewis had by her own admission (albeit belated) breached paragraph 14(1)(a) of the code of conduct.
4. The Case Tribunal decided by unanimous decision that Cllr Lewis should be suspended from acting as a member of Llanfihangel ar Arth Community Council for

(CT12)

a period of 3 months or, if shorter, the remainder of her term of office, with effect from the date of this notice.

5. The Llanfihangel ar Arth Community Council and Carmarthenshire County Council and its Standards Committee are notified accordingly.

6. The Respondent has the right to seek the leave of the High Court to appeal the above decision.

Signed..........

Date.....13/8/15.....

Mr J Peter Davies
Chairperson of the Case Tribunal

Mrs Helen Cole
Panel Member

Mr R Gwyn Davies
Panel Member

STANDARDS COMMITTEE 11TH SEPTEMBER 2015

APPLICATION FOR DISPENSATION BY FIFTEEN COUNCILLORS FROM GORSLAS COMMUNITY COUNCIL

Recommendations / key decisions required:

To consider and determine the application

Reasons:

The subject matter of this report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Directorate		
Chief Executives		
Name of Head of Service:	Designations:	
Linda Rees-Jones	Head of Administration & Law	Tel Nos.
Report Author:		01267 224018
Robert Edgecombe	Acting Legal Services Manager	E Mail Addresses:
		RJEdgeco@carmarthenshire.gov.uk.

**EXECUTIVE SUMMARY
STANDARDS COMMITTEE
11TH SEPTEMBER 2015**

**APPLICATION FOR DISPENSATION BY FIFTEEN
COUNCILLORS FROM GORSLAS COMMUNITY COUNCIL**

An application has been received on behalf of 15 elected members of Gorslas Community Council for the grant of a dispensation to speak and vote on matters relating to 3 recreation parks owned and maintained by the Community Council.

The Councillors have a personal interest in these matters pursuant to paragraph 10(2)(ix)(ee) of the code in that they are members of local Welfare Association Committees which are involved in the running of those parks.

The Councillors were not appointed to their roles on those committees by the Community Council.

The Councillor's interests are prejudicial as a member of the public with knowledge of the relevant facts would reasonably regard that interest as so significant that it is likely to prejudice the Councillors judgement of the public interest. For example when the Community Council is deciding whether or not to spend monies on the parks a member of the public could reasonably conclude that the fact a Councillor is a member of the relevant Welfare Association committee would influence their view as to whether the money should be spent on the park or on some other issue unconnected with the Association.

The Councillors have no direct financial interest in their respective welfare associations.

If the committee is minded to grant these applications it is suggested that this be on ground 2(a) in the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001, namely that the interest affects no fewer than half the members of the authority.

In granting a dispensation the Committee has absolute discretion as to how long it lasts for. If the committee is minded to limit the dispensation for a specific period, it may wish to consider doing so until the 4th December (3 months) or 11th March (6mths)

DETAILED REPORT ATTACHED ?

NO

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Linda Rees Jones** **Head of Administration and Law**

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-136	Legal Services, County Hall

CARMARTHENSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

APPLICATION for a dispensation under Section 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001

The Carmarthenshire County Council Standards Committee are requested to grant the Member/s listed below a Dispensation to cover the interest/s declared in Section 2 below. My reasons for requesting same are set out in Section 4

SECTION 1	Name(s) of Member(s)	Name of member's authority
	<i>see enclosed sheet.</i>	<i>GORSLAS COMMUNITY COUNCIL</i>

SECTION 2	Matter to be discussed on which member seeks dispensation
	<i>see enclosed sheet.</i>
Date of meeting at which the matter is to be discussed:	<i>All meetings</i>

Dispensation being sought to speak and vote	
Dispensation being sought to speak only	

SECTION 3	The interest which the member must disclose, and the nature of that interest in relation to the matter to be discussed
	<i>Members of their respective ward Welfare Committee's</i>

21 AUG 2015

SECTION 4	Criteria for seeking dispensation	PRIF WEITHREDWR CHIEF EXECUTIVE
<ul style="list-style-type: none"> ~ 50% of members affected (<i>100% of members affected.</i>) ~ Political balance would be affected (county borough only) ~ No damage to public confidence ~ Common interest with general public ~ Justified because of special expertise ~ Scrutiny committee business <u>and</u> not financial interest ~ Voluntary organisation <u>and</u> not financial interest ~ In the interests of inhabitants <p><i>(See appendix for more details)</i></p>		<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>

SECTION 5	Reason/s in support of my/our application (use a separate sheet of paper if necessary)
<div style="border: 1px solid black; height: 400px; width: 100%;"></div>	

SIGNED *Green*

clerk to the Gorseddau County Council
(Member of County Council)

DATED: 19/8/15

Gorslas Community Council

Re Section 1 of the dispensation form

Name of members and Ward

Cefneithin Ward

Terry Jones 42
Huw Davies
Brian Kirby
Cllr Darren Price
Simon David Martin

Drefach Ward

Dewi Wyn Edwards
Clive Green,
Anthony Rees
Tina Jukes
Nia Lewis

Gorslas Ward

Terrence Davies
Aled Owen
Janice Ann Price
Ellis Davies,
Gavin Griffiths

Section 2

Matters to be discussed on which members seeks dispensation

Dispensation to allow members of the Cefneithin, Drefach and Gorslas Welfare Associations and who are also Community Coucillors for the respective Community Council Wards of Cefneithin, Drefach and Gorslas to speak and vote at meetings of Gorslas Community Council when matters relating to the 3 Recreation Grounds which are owned by the Community Council are discussed. None of the Community Councillors have a personal or financial interest in the 3 Recreation Grounds.

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STANDARDS COMMITTEE 11TH SEPTEMBER 2015

APPLICATION FOR DISPENSATION BY COUNCILLOR SHAHID HUSSAIN

Recommendations / key decisions required:

To consider and determine the application

Reasons:

The subject matter of this report falls within the remit of the Committee

Scrutiny Committee recommendations / comments:

Not applicable

Exec Board Decision Required NO

Council Decision Required NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:- Cllr E Dole (Leader)

Directorate		
Chief Executives		
Name of Head of Service:	Designations:	
Linda Rees-Jones	Head of Administration & Law	Tel Nos.
Report Author:		01267 224018
Robert Edgecombe	Acting Legal Services Manager	E Mail Addresses:
		RJEdgeco@carmarthenshire.gov.uk.

EXECUTIVE SUMMARY STANDARDS COMMITTEE 11TH SEPTEMBER 2015

APPLICATION FOR DISPENSATION BY COUNCILLOR SHAHID HUSSAIN

An application has been received from Councillor Shahid Hussain of Cwmamman Town Council for the grant of a dispensation to speak and vote in respect of the relocation of Glanamman Post Office.

The issue is to be discussed at a meeting of the Town Council on the 3rd September 2015.

Councillor Hussain has a personal interest in the matter by virtue of paragraph 10(2)(a)(i) of the code of conduct as it relates to and is likely to affect a business carried on by him. This is because the proposed site of the relocated post office is a petrol station owned by Councillor Hussain.

Councillor Hussain's interest is also prejudicial as a member of the public, with knowledge of Councillor Hussain's business and financial interest in the issue would reasonably regard that interest as so significant as to be likely to prejudice his judgement of the wider public interest.

Councillor Hussain requests that a dispensation be granted under regulation 2(f) of the Standards Committees (Grant of Dispensations)(Wales) Regulations 2001 in that his participation is justified because of his particular role or expertise. Councillor Hussain submits that his previous experience of such post office re-locations and the financial implications that result is unique amongst members of the Council and that if he were unable to participate the Council would be at risk of making a decision without all relevant information.

If the committee is minded to grant the application it has absolute discretion as to the duration of the dispensation. It may be limited solely to the meeting on the 3rd September, granted for a longer duration (eg to the meetings of the Standards Committee on the 4th December 2015 or the 11th March 2016) or to last for the remainder of his term of office.

DETAILED REPORT ATTACHED ?

NO

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Linda Rees Jones**

Head of Administration and Law

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	NONE	NONE	NONE	NONE	NONE	NONE

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: Linda Rees Jones

Head of Administration and Law

(Please specify the outcomes of consultations undertaken where they arise against the following headings)

1. Scrutiny Committee

Not applicable

2. Local Member(s)

Not applicable

3. Community / Town Council

Not applicable

4. Relevant Partners

Not applicable

5. Staff Side Representatives and other Organisations

Not applicable

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

THESE ARE DETAILED BELOW

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Legal file	DPSC-0000	Legal Services, County Hall

CARMARTHENSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

APPLICATION for a dispensation under Section 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001

The Carmarthenshire County Council Standards Committee are requested to grant the Member/s listed below a Dispensation to cover the interest/s declared in Section 2 below. My reasons for requesting same are set out in Section 4

SECTION 1	Name(s) of Member(s)	Name of member's authority
	Shahid Hussain	Cwmaman Town Council

SECTION 2	Matter to be discussed on which member seeks dispensation
	Relocation of Glanamman Post Office from it's current location (99 Cwmamman Road , Glanamman) to Petro Express Ltd (Cwmamman Road, Glanamman) (it is only 200 yards away)
Date of meeting at which the matter is to be discussed:	Thursday 3rd September 2015

Dispensation being sought to speak and vote	<input checked="" type="checkbox"/>
Dispensation being sought to speak only	<input type="checkbox"/>

SECTION 3	The interest which the member must disclose, and the nature of that interest in relation to the matter to be discussed
	I own and operate Petro Express Ltd. I have already been given approval for the move from Royal Mail. Having successfully, submitted a business plan and passed an interview

SECTION 4**Criteria for seeking dispensation**

- ~ 50% of members affected
- ~ Political balance would be affected (county borough only)
- ~ No damage to public confidence
- ~ Common interest with general public
- ~ Justified because of special expertise
- ~ Scrutiny committee business and not financial interest
- ~ Voluntary organisation and not financial interest
- ~ In the interests of inhabitants

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

(See appendix for more details)

SECTION 5

Reason/s in support of my/our application (use a separate sheet of paper if necessary)

I am the only councillor on the council with knowledge of how the Post Office Local model works. This is the model that will be adapted regardless of where the Post Office moves too. I have been through this process previously last year in one of my other business premises. The move was completed successfully and local people are happy with the new setup. Again the Post Office was moved from it's current location to my petrol station across the road. I managed the change and hand over personally and it caused no disruption to either my business or the Post Office.

In regards to the Post Office Local model. I am aware of the potential hazards/pitfalls as well as the advantages. I am aware of the risk and liabilities involved in taking on this project. Other councillors are assuming it will be run as a normal Post Office, which will not be the case.

Royal Mail have already approved the move. The only reason it is up for discussion is that local residents would rather see it moved to the local community centre. If this were to happen, Cwmaman Town Council would effectively be taking over the Post Office and be the "Postmaster".

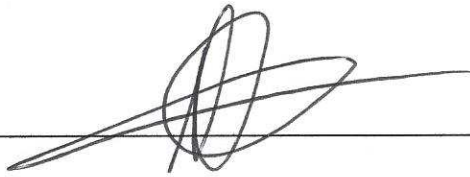
Royal Mail have said that they would rather see the Post Office move to Petro Express (my premises) and that the option of the local community centre is not viable.

The cost/risk implications to Cwmaman Town Council are huge, and these have not been made clear to either local residents or to the Council.

Therefore I am seeking dispensation to talk and vote on this move as I want to make sure Cwmaman town council has all the information/ hazards/costs etc before making a decision.

The final decision will still rest with Royal Mail. If they see the Community centre as not a viable option then it does not matter what the Council say.

SIGNED

A handwritten signature consisting of several overlapping loops and a long horizontal stroke extending to the right.

(Member of County Council)

DATED:

24-8-15