

Public Pack

**Pennaeth Gwasanaethau Cwsmeriaid a Chorfforaethol/
Head of Corporate and Customer Services**
Trevor Coxon LLB (Hons) Birm Solicitor

Neuadd y Dref, Wrexham, LL11 1AY
Guildhall, Wrexham, LL11 1AY DX: 721924-WREXHAM 4
Ffacs/Fax: 01978 292207
www.wrexham.gov.uk www.wrexham.gov.uk



Eich Cyf/Your Ref	
Ein Cyf/Our Ref	
Dyddiad/Date	Friday, 1 December 2017
Gofynner am/Ask for	Jane Johnson
Rhif Union/Direct Dial	01978 292236
Cyfnwid Testun/Text Relay:	18001
E-bost/E-mail	jane.johnson@wrexham.gov.uk

Dear Councillor

You are requested to attend a **Meeting** of the **STANDARDS COMMITTEE of Wrexham County Borough Council** to be held in **MEETING ROOM 3, GUILDHALL, WREXHAM** on **THURSDAY, 7 DECEMBER 2017** at **3.30 pm** for the transaction of the business specified below.

Yours faithfully

Head of Corporate and Customer Services

AGENDA

- Apologies for Absence**
- Declarations of personal interests, if any**
Members are reminded of their responsibility, under Paragraph 11 of the Members' Code of Conduct, to declare the existence and nature of any personal interest in respect of any of the business to be transacted at this meeting.
- Confirmation of Minutes**
To sign as a correct record the Minutes of the Meeting held on 7 September 2017
(Pages 3 - 6)
- Application for Dispensation by Members of Gresford Community Council**
To consider the report of the Monitoring Officer (Pages 7 - 14)
- Review of Local Resolution Protocol and Procedure**
To consider the report of the Monitoring Officer (Pages 15 - 20)

*Rydym yn croesawu gohebiaeth yn Gymraeg.
Byddwn yn ymateb i unrhyw ohebiaeth yn Gymraeg ac ni fydd hyn yn arwain at unrhyw oedi.*

*We welcome correspondence in Welsh.
We will respond to any correspondence in Welsh and this will not lead to any delay.*

6 Procedure for Dealing with Hearings

For information/discussion. The attached document sets out the procedure, adopted in 2014, that the Standards Committee will follow when it is required to make decisions about the conduct of Councillors following investigations by the Public Services Ombudsman for Wales or the Council's Monitoring Officer under Part III of the Local Government Act 2000 and related regulations. *(Pages 21 - 36)*

7 Feedback from the North Wales Standards Forum held on 24 November 2017

8 Any other items which the Chair decides are urgent

TO: THE CHAIR AND MEMBERS OF THE STANDARDS COMMITTEE

Ms Julie Adams
Mr Neil Benson
Mrs Claire Blanchard
Mrs Sandra Hunt
Mr Michael Pugh

Councillor Andrew Atkinson
Councillor I David Bithell, MBE
Councillor Kevin Hughes

Mr Geoff Edwards - Community Councillor

Item 3

**MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD IN
MEETING ROOM 2, GUILDHALL, WREXHAM ON THURSDAY, 7 SEPTEMBER
2017**

MEMBERS

Mr Michael Pugh, Chair
Mr Neil Benson, Vice-Chair

Ms Julie Adams
Mrs Claire Blanchard
Mrs Sandra Hunt

*Councillor Andrew Atkinson
Councillor I David Bithell, MBE
Councillor Kevin Hughes

Mr Geoff Edwards - Community Councillor

*Absent

11 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor Andrew Atkinson.

12 DECLARATIONS OF PERSONAL INTERESTS, IF ANY

Members were reminded of their responsibility, under Article 11 of the Members' Code of Conduct, to declare any interests in relation to any of the business to be transacted at this meeting. The following declarations were made

Agenda Item 7 – Community Council Representative
Community Councillor Geoff Edwards - Personal and Prejudicial – being the current Community Council member on the Committee. The Councillor withdrew from the meeting for this item taking no part in the discussion and voting thereon.

13 CONFIRMATION OF MINUTES

RESOLVED – That the Minutes of the Meeting held on 2 March 2017 be signed as a correct record.

The Deputy Monitoring Officer informed the Committee that Code of Conduct Training for Town and Community Councillors had been arranged for 3 and 16 October at 4.00pm in the Council Chamber at the Guildhall, Wrexham. Members of the Standards Committee were encouraged to attend and participate at these training sessions.

14 PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT

The Deputy Monitoring Officer submitted a report (HCCS/53/17) informing the Committee of the publication of the Annual Report and Accounts of the Public Services Ombudsman for Wales 2016/17 entitled "Innovation, Improvement, Influence".

RESOLVED – That the contents of the report be noted.

Reason for decision

To inform Members of the work undertaken by the Public Services Ombudsman for Wales.

15 PUBLIC SERVICES OMBUDSMAN FOR WALES - THE CODE OF CONDUCT CASEBOOK

The Monitoring Officer submitted a report (HCCS/37/17) to enable Members to consider the recent decisions of the Public Services Ombudsman for Wales published in the Code of Conduct Casebook.

Members said it was useful to have examples of real cases and have an understanding of the Ombudsman's approach to allegations of breaches of the Code of Conduct and the penalties imposed, in those cases which were considered by a Standards Committee or the Adjudication Panel for Wales.

RESOLVED – That the decisions reported in the Code of Conduct Casebook be noted.

Reason for decision

To inform Members of the work undertaken by the Public Services Ombudsman for Wales.

16 NORTH WALES STANDARDS COMMITTEES FORUM

The Deputy Monitoring Officer reminded Members that it was this Council's turn to host the next meeting of the North Wales Standards Committees Forum and it was agreed that the meeting be held at 10.00am on Friday, 24 November 2017 in the Guildhall, Wrexham.

It was suggested that a discussion item be included on the Agenda relating to the Code of Conduct Induction Training – how it was delivered in other authorities and best practice.

17 ANY OTHER ITEMS WHICH THE CHAIR DECIDES ARE URGENT

The Chair reminded Members of the Independent Remuneration Panel Visit to Wrexham on 19 September to which Co-opted members had been invited to attend.

18 COMMUNITY COUNCIL REPRESENTATIVE

(Members declarations of interest in relation to this item are set out in Minute 12 above)

The Monitoring Officer submitted a report (HCCS/55/17) to enable the Committee to consider the reappointment of the current Community Council member on the

Standards Committee following consultation with all Town and Community Councils and One Voice Wales.

The consultation responses were noted.

RESOLVED – That the Council be recommended to reappoint Councillor Geoff Edwards, Penycae Community Council, as the Community Council representative on the Standards Committee for the period up to the date of the next Community Council elections or until the Councillor ceases to be a member of a Community Council within the County Borough area, whichever is the shorter.

Reason for decision

To ensure the Standards Committee is constituted in accordance with the Standards Committees (Wales) (Amendment) Regulations 2006.

Mr Michael Pugh
Chair



REPORT TO:	Standards Committee
REPORT NO:	HCCS/77/17
DATE:	7 December 2017
REPORTING OFFICER:	Head of Corporate and Customer Services/Monitoring Officer
CONTACT OFFICER:	Sioned Wyn Davies, Deputy Monitoring Officer (Tel: 292221)
SUBJECT:	Application for Dispensation by Members of Gresford Community Council
WARD:	N/A

1. PURPOSE OF THE REPORT

To consider an application by members of Gresford Community Council for a dispensation to take part in and vote on business in which they may have a prejudicial interest by virtue of their membership of Gresford and District War Memorial Community Centre Trust (Gresford Trust).

2. EXECUTIVE SUMMARY

- 2.1 An application for a dispensation has been received from the Clerk to Gresford Community Council on behalf of the members listed in Appendix 1 to this report. These members fall into two categories. There are three members who are trustees of the Gresford Trust and also members of the Community Council. There are a further three members of the Community Council appointed to represent the Council on the Gresford Trust.
- 2.2 All of these members would be considered to have a personal interest in relation to Gresford Community Council business at which the work of Gresford Trust were discussed by virtue of paragraphs 10(2)(viii) and 10(2)(ix) of the Code of Conduct. In accordance with paragraph 12(1) of the Code of Conduct those members may be regarded as having a prejudicial interest in any such business.
- 2.3 The Standards Committees (Grant of Dispensation) (Wales) Regulations 2001 stipulate the circumstances in which a Standards Committee may grant dispensation to members of a relevant authority. The Standards Committee may determine the period for which a dispensation may remain in force. In the event that a dispensation is granted paragraph 14(3)(b) of the Code of Conduct stipulates the requirements of a member at meetings where the member is relying on a dispensation.

3 RECOMMENDATIONS

3.1 That the Standards Committee consider the grant of a dispensation to the members of the Gresford Community Council under Regulation 2 of the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001. The following terms may be considered appropriate if the Committee are minded to grant a dispensation:-

- (a) The dispensation applies only to business considered by Gresford Community Council relating to the Gresford and District War Memorial Community Centre Trust.**
- (b) Members relying on the dispensation must comply with the provisions of paragraph 14(3)(b) of the Code of Conduct for Members.**
- (c) The dispensation will expire on [date to be determined] or on the date of the next local elections for Community Councils, whichever is the sooner.**

REASONS FOR RECOMMENDATIONS

- (i) To enable Members of the Gresford Community Council to participate in consideration of matters relating to Gresford and District War Memorial Community Centre Trust with the benefit of a statutory dispensation.**

4. BACKGROUND INFORMATION

4.1 Gresford Trust was founded in 1949 and owns a significant amount of land and open space in the village of Gresford providing facilities for both indoor and outdoor sport and also facilities for general community use. Gresford Community Council appoints three members of the Council as its representatives on the Gresford Trust and in addition three of the Gresford Community Council members are also trustees of the Gresford Trust.

4.2 The Gresford Community Council have considerable involvement with the Trust and examples of business which the Community Council considers involving the Gresford Trust are as follows:-

- i. Planning applications regarding development e.g. five a side area and alterations to Gresford Memorial Hall and Constitutional Club**
- ii. Community issues such as damage to property belonging to the Trust and leased by the Community Council**
- iii. Development Works, to adjoining property Constitutional Club, Royal British Legion Club and Gresford Bowling Club**
- iv. Previous Financial Assistance given by the Community Council to the Trust, e.g. a recent grant of £1,200.00 towards the cost of external CCTV cameras to reduce anti social behavior in the area, and £3650 last year in the form of a grant towards refurbishment of rooms.**
- v. Previously a £114,000.00 loan to enable the hall to be built which has now been paid off.**
- vi. £2,188.00 towards the provision of car parks**
- vii. £100.00 towards the provision of a safe external play area**
- viii. £14,176.67 towards the provision of boundary fencing**

- 4.3 All of the Gresford Community Council members who are also trustees of the Gresford Trust will be considered to have a personal interest in relation to items concerning the Trust discussed at meetings of the Gresford Community Council by virtue of paragraphs 10(2)(viii) and 10(2)(ix) of the Code of Conduct for Members. As that interest is likely to be considered to be a prejudicial interest under paragraph 12(1) of the Code of Conduct the application is submitted seeking a dispensation to permit those members to continue participating at meetings where matters concerning Gresford Trust are under consideration.

Relevant Statutory Provisions

- 4.4 Section 81(4) of the Local Government Act 2000 provides that any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provision is not a failure to comply with the Authority's Code of Conduct if the member or co-opted member has acted with a dispensation from the prohibition granted by the Authority's Standards Committee in accordance with the Regulations made under sub-section 5.
- 4.5 Section 56 of the Local Government Act 2000 provides that the Standards Committee of the County Borough Council in Wales is to have the same functions in relation to Community Councils within the County Borough as it does in relation to the County Borough Council and its members. Accordingly the Standards Committee of Wrexham County Borough Council has the power to grant dispensation to members of Community Councils within its area.
- 4.6 The Regulations governing the grant of dispensations are the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (the Regulations). The Regulations set out the circumstances in which the Standards Committee may grant dispensation. The most relevant circumstances to this request appear to be the following:-

Regulation 2(d) – the nature of the member's interest is such that the member's participation in the business to which the interest relates will not damage public confidence in the conduct of the relevant authority's business.

Regulation 2(f) – the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise.

Regulation 2(h) – the business which is to be considered relates to the finances or property of a voluntary organisation of whose management, committee or board member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business.

Consideration of the Application

- 4.7 The Standards Committee will wish to consider the application for dispensation in respect of the two categories of members separately. The members of Gresford Community Council who are nominated to represent the community council on the Gresford Trust can rely on the exemption afforded by paragraph 12(2)(a)(iii) of the Code of Conduct for Members as they have been nominated by their authority to the Gresford Trust. Although such exemption would not apply where the business

relates to the determination of any approval, consent, licence, permission or registration these are not matters for which Gresford Community Council has responsibility. In the circumstances the Community Council may consider that a dispensation in addition to the exemption is not strictly necessary.

- 4.8 In considering whether paragraphs (d), (f) or (h) may apply in granting a dispensation to those members of the Gresford Community Council who are also members of the Gresford Trust, although not appointed by the Community Council, the Standards Committee must consider the specific provisions of the Regulations. In respect of Regulation 2(d) the Standards Committee would need to be satisfied that there would be no damage to public confidence in the conduct of the Gresford Community Council's business. In respect of Regulation 2(f) the Standards Committee must take into consideration the member's particular role or expertise. To rely on Regulation 2(h) the Standards Committee must be satisfied that the member has no other interest in the business and will note that the dispensation does not extend to a vote with respect to that business only participation in the discussion.
- 4.9 The Gresford Community Council website discloses that there are fourteen members of the Community Council. The website for the Gresford Trust discloses that Mrs Janet Holmes is currently secretary of the Gresford Trust and that Mrs Jen Dutton is a current committee member. The Standards Committee will have the opportunity to seek further information at the meeting as representatives of the Gresford Community Council will be in attendance to present the application.
- 4.10 The Standards Committee will wish to note that previous similar applications have been considered and approved. The dispensation expired on 6th September 2016.

5. IMPLICATIONS

- 5.1 **Policy Framework** – The responsibilities of the Standards Committee are contained in Article 9 of the Council's Constitution which includes the granting of dispensations.
- 5.2 **Budget** – There are no budgetary implications arising from this report.
- 5.3 **Legal** – The relevant legal references are contained within the body of this report. An extract from the Regulations is attached at Appendix 2.
- 5.4 **Staffing** – There are no staffing implications arising from this report.
- 5.5 **Equality/Human Rights** – Members are advised of their duty to consider the full Equality Impact Assessment which is available to Elected Members at <http://vmwinsqld/equalityisalive/Menu.aspx> report number CCS/EIA00189/2017. An EIA screening assessment has been undertaken and it is not considered that the determination of the application impacts persons with protected characteristics.
- 5.6 **Risks** – There are no specific risks arising from this report.

BACKGROUND PAPERS	LOCATION	WEBSITE INFO.
Code of Conduct for Members	Council website	http://www.wrexham.gov.uk/english/council/codeconduct/index.htm

Trustees of Gresford Trust and Members of the Community Council

Councillor Andrew Bailey
Councillor Mrs Jen Dutton
Councillor Janet Holmes

**Members of Community Council appointed to represent the Council
on the Gresford Trust**

Councillor Sarah Atherton
Councillor Irene Lewis
Councillor James Hobbley

The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001

Regulation 2

Circumstances in which dispensations may be granted

The standards committee of a relevant authority may grant dispensations under section 81(4) of the Act where -

- (a) no fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;
- (b) no fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (d) or (e) also applies;
- (c) in the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;
- (d) the nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;
- (e) the interest is common to the member and a significant proportion of the general public;
- (f) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;
- (g) the business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;
- (h) the business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business;
- (i) it appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify;
- (j) it appears to the committee to be otherwise appropriate to grant a dispensation.

Summary Of Standards Committee determinations

Please note, this is a summary of the assessment. Refer to the full text.

Department: Corporate & Customer Services
Department Reference: CCS/EIA00189/2017
Responsible Officer: Trevor Coxon
Job Title: Head of Corporate & Customer Services
Completed Date: 27/11/2017 14:28:16

Positive Impacts	
Impact	Description
All	Determinations of the Standards Committee are made in accordance with the relevant legislative framework. In respect of the determination of the application for dispensation from Gresford Community Council no specific PC's have been identified as requiring consideration.

Page 13

REPORT TO:	Standards Committee
REPORT NO:	HCCS/76/17
DATE:	7 December 2017
REPORTING OFFICER:	Head of Corporate & Customer Services/Monitoring Officer, Trevor Coxon
CONTACT OFFICER:	Sioned Wyn Davies, Deputy Monitoring Officer (Tel: 292221)
SUBJECT:	Review of Local Resolution Protocol and Procedure
WARD:	N/A

1 PURPOSE OF THE REPORT

To review the operation of the Local Resolution Protocol and procedure adopted in September 2013.

2 EXECUTIVE SUMMARY

- 2.1 On the recommendation of the Standards Committee a local resolution protocol and procedure was adopted by the Council in September 2013 entitled the Members' Self-Regulatory Protocol.
- 2.2 The adoption of the Members' Self-Regulatory Protocol was adopted in order to meet the expectations of the Public Services Ombudsman for Wales that a procedure to address low level complaints of breaches of the Code of Conduct be adopted by all Local Authorities in Wales.
- 2.3 This is the fourth monitoring report submitted to the Standards Committee on the operation of the Members' Self-Regulatory Protocol, there have been no recorded incidents of a referral under the Members' Self-Regulatory Protocol since it was adopted in September 2013.

3 RECOMMENDATION

- 3.1 To note the contents of the report.

REASON FOR RECOMMENDATION

To inform the Standards Committee of the operation of the Members' Self-Regulatory Protocol and procedure since its adoption in September 2013.

4 BACKGROUND INFORMATION

- 4.1 In 2013 the Public Services Ombudsman for Wales issued guidance on the Code of Conduct for Members of Local Authorities and recommended that a local resolution procedure was adopted to deal with low level complaints made by a Member against a fellow Member.
- 4.2 The Ombudsman indicated that the complaints falling into this category would include failure to show respect and consideration for others contrary to paragraph 4(b) of the Code and the duty not to make vexatious, malicious or frivolous complaints against other Members under paragraph 6(1)(b) of the Code.
- 4.3 Following consultation with Members in 2013 the Standards Committee recommended a self-regulatory Protocol for approval by Council which was adopted on 25 September 2013.
- 4.4 There have been no instances recorded by the Monitoring Officer of any referral under the Members' Self-Regulatory Protocol. The objective of the local resolution procedure adopted by the Council is to engage early and at a relatively informal level with a view to nipping issues in the bud with minimal involvement from the Monitoring Officer and Standards Committee.
- 4.5 The Group Leaders were consulted on the operation of the Protocol and no issues have been brought to the attention of the Monitoring Officer. In the absence of any instances of referral to the Monitoring Officer or Standards Committee a fundamental review at this time is not merited. It is suggested that a further monitoring report be submitted in 12 months to Standards Committee.

5 IMPLICATIONS

- 5.1 **Policy Framework** – A strong ethical framework and governance arrangements supports the Council Plan outcome of creating conditions for success. Strong ethical arrangements underpin the objectives contained in the Council Plan. It is important that the Council is and is seen to be mature enough to address its disciplinary issues where appropriate.
- 5.2 **Budget** – There are no immediate budgetary implications arising from this report.
- 5.3 **Legal** – By virtue of the Local Government Act 2000 Members are required to comply with the Council's Code of Conduct for Members and adoption of the Self-Regulatory Protocol is compliant with guidance issued by the Public Service Ombudsman for Wales. Members' compliance with the Self-Regulatory Protocol is voluntary. Members are still at liberty to complain directly to the Ombudsman should they so wish.
- 5.4 **Staffing** – There are no staffing implications arising from this report.
- 5.5 **Equality and Human Rights** – Elected Members are advised of their duty to consider the full Equality Impact Assessment which is available at <http://vmwinsqld/equalityisalive/Menu.aspx> report number CCS/EIA00149/2016. An EIA screening assessment has been undertaken and it is not considered that the operation of the protocol impacts persons with protected characteristics more than any other person.

5.6 Risks – There are no specific risks arising from this report.

5.7 Consultation – The Group Leaders have been consulted in the preparation of this report.

6 SCRUTINY COMMITTEE COMMENTS

The matter has not been subject to Scrutiny.

BACKGROUND PAPERS	LOCATION	WEBSITE INFO.
Report HCCS/110/13 to Council “Adoption of Local Resolution Protocol and Procedure”	Council website	http://www.wrexham.gov.uk/MinutesData/Council/Reports/hccs11013.pdf
Associated Minute	Council website	http://www.wrexham.gov.uk/MinutesData/Council/cl25092013m.htm

Summary Of Local Resolution Protocol

Please note, this is a summary of the assessment. Refer to the full text.

Department: Corporate & Customer Services
Department Reference: CCS/EIA00149/2016
Responsible Officer: Trevor Coxon
Job Title: Head of Corporate & Customer Services
Completed Date: 27/11/2017 15:40:04

Positive Impacts	
Impact	Description
All	This is a review of the existing Members' Self Regulatory Protocol and it is not considered that any PCs are impacted by the operation of this Protocol.

Item 6

Procedure for Dealing with Allegations made against Councillors and referred to the Standards Committee

1. INTRODUCTION

This document sets out the procedure that the Council's Standards Committee will follow where it is required to make decisions about the conduct of Councillors following investigations by the Public Services Ombudsman for Wales or the Council's Monitoring Officer under Part III of the Local Government Act 2000 and related regulations. If there is any conflict between this document and any statutory requirements then those statutory requirements will prevail.

2. INTERPRETATION

In this procedure:

- 2.1 the "Act" means the Local Government Act 2000;
- 2.2 the "Council" means Wrexham County Borough Council;
- 2.3 the "Code of Conduct" means the code of conduct for members adopted by the Council or the community councils within the Council's area in 2008 in accordance with section 51 of the Act, including any revisions;
- 2.4 the "Complainant" means any person who made any allegation which gave rise to the investigation;
- 2.5 the "Investigating Officer" means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer;
- 2.6 an "investigation report" means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under s71(2) of the Act or by the Monitoring Officer under the Regulations;
- 2.7 the "Member" means any person who is the subject of an investigation into any alleged breach of the Code of Conduct;
- 2.8 the "Monitoring Officer" means the officer for the time being appointed by the Council under section 5 of the Local Government and Housing Act 1989;
- 2.9 the "Ombudsman" means the Public Services Ombudsman for Wales;
- 2.10 the "Regulations" means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended;
- 2.11 the "Standards Officer" means the officer for the time being appointed by the Council to support the work of the Standards Committee.

3. SUMMARY OF THE PROCEDURE

- 3.1 Under section 69 of the Act, the Ombudsman may investigate any alleged breach of the Code of Conduct by Members or Co-Opted Members (or former Members

or co-opted Members) of the Council or a community council in the Council's area.

3.2 Under section 70(4) of the Act, where the Ombudsman ceases such an investigation before it is completed, he/she may refer the matters which are the subject of the investigation to the Monitoring Officer. The Monitoring Officer will then investigate matters in accordance with the Regulations before reporting and, if appropriate, making recommendations to the Standards Committee.

3.3 Alternatively, under section 71(2) of the Act, where the Ombudsman decides after investigating that it is appropriate, he/she will produce a report on the outcome of the investigation and send it to the Monitoring Officer and the Council's Standards Committee. The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, making recommendations to the Standards Committee.

3.4 The Standards Committee will then make an initial determination either:

3.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or

3.4.2 that the Member should be given the opportunity to make representations, either orally or in writing.

3.5 Where the Member is given an opportunity to make representations, the Standards Committee will convene a hearing to consider any response made by the Member and it must determine under regulation 9(1) of the Regulations either that:

3.5.1 there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken;

3.5.2 the Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;

3.5.3 the Member has failed to comply with the Code of Conduct and should be censured; or

3.5.4 the Member has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted Member of his/her authority for a period not exceeding six months

and take any such action accordingly.

4. INVESTIGATIONS BY THE MONITORING OFFICER (REFERRALS UNDER SECTION 70(4) OF THE ACT)

4.1 Where the Ombudsman ceases his/her investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:

4.1.1 conduct and investigation; and

4.1.2 report, and if appropriate, make recommendations to the Council's Standards Committee.

- 4.2 The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as he or she considers appropriate in the circumstances of the case.
- 4.3 After concluding an investigation, the Monitoring Officer must:
- 4.3.1 produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards Committee;
 - 4.3.2 send a copy of the report to the Member; and
 - 4.3.3 take reasonable steps to send a copy of the report to the Complainant.
- 4.4 The Standards Committee will consider the Monitoring Officer's report and any recommendations in accordance with the procedure set out below.
5. **INVESTIGATIONS BY THE OMBUDSMAN (REFERRALS UNDER SECTION 71(2) OF THE ACT)**
- 5.1 Where the Ombudsman completes his or her investigation and sends a report to the Monitoring Officer and the Council's Standards Committee under section 71(2) of the Act, the Monitoring Officer must consider the Ombudsman's report and, if appropriate, make recommendations to the Council's Standards Committee.
- 5.2 The Standards Committee will consider the Ombudsman's report together with any recommendations made by the Monitoring Officer in accordance with the procedure set out below.
6. **THE FIRST MEETING OF THE STANDARDS COMMITTEE - INITIAL DETERMINATION**
- 6.1 After the Monitoring Officer has:
- 6.1.1 produced an investigation report in accordance with paragraph 4.3; or
 - 6.1.2 considered the Ombudsman's investigation report in accordance with paragraph 5.1
- he/she will arrange for a meeting of the Standards Committee to be convened as soon as possible and for a copy of the investigation report, together with the Monitoring Officer's recommendations (if any), to be sent to each of the members of the Standards Committee.
- 6.2 Notice of the time and place of the meeting will be given in accordance with Part VA of the Local Government Act 1972 as amended by the Standards Committees (Wales) Regulations 2001.
- 6.3 If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Standards Committee. If the investigation report is produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Standards Committee.

6.4 The business of the Standards Committee meeting will be limited to considering the investigation report and the Monitoring Officer's recommendations (if any) and to making an initial determination either:

6.4.1 that there is no evidence of any failure to comply with the Code of Conduct; or

6.4.2 that the Member should be given the opportunity to make representations,

either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

7. AFTER THE FIRST MEETING OF THE STANDARDS COMMITTEE

7.1 Where the Standards Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the Standards Officer will accordingly notify the Member, the Complainant and the Ombudsman.

7.2 Where the Standards Committee decides that the Member should be given the opportunity to make representations, the Standards Officer will notify the Member of the Committee's decision and the procedure which the Committee proposes to adopt to receive and consider any representations that he or she may wish to make.

8. PREPARING FOR THE HEARING TO CONSIDER THE MEMBER'S REPRESENTATIONS

8.1 The Standards Officer, in consultation with the Chair of the Standards Committee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and to ask the Member to respond in writing within 14 days to confirm whether he/she:

8.1.1 is able to attend the hearing;

8.1.2 wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response;

8.1.3 disagrees with any of the findings of fact in the investigation report, and if so, which matters he or she disagrees with and the reasons for any disagreements;

8.1.4 wants to appear before the Committee in person or be represented at the hearing by a solicitor, barrister or any other person, in accordance with his/her right under the Regulations;

8.1.5 wants to give evidence to the Standards Committee, either orally or in writing;

8.1.6 wants to call relevant witnesses to give evidence to the Standards Committee;

8.1.7 wants any part of the meeting to be held in private;

- 8.1.8 wants any part of the investigation report or other relevant documents to be withheld from the public
- 8.2 The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether he or she will be attending the hearing.
- 8.3 The Standards Officer will send a copy of the Member's response under paragraph 8.1 to the Investigating Officer and will ask him/her to confirm in writing within seven days whether he/she:
 - 8.3.1 has any comments on the Member's response;
 - 8.3.2 wants to be represented at the hearing;
 - 8.3.3 wants to call relevant witnesses to give evidence to the Standards Committee;
 - 8.3.4 wants any part of the meeting to be held in private; and
 - 8.3.5 wants any part of the investigation report or other relevant documents to be withheld from the public.
- 8.4 The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least two weeks before the hearing to:
 - 8.4.1 confirm the date, time and place for the hearing;
 - 8.4.2 summarise the allegation;
 - 8.4.3 outline the main facts of the case that are agreed;
 - 8.4.4 outline the main facts which are not agreed;
 - 8.4.5 note whether the Member or the Investigating Officer will attend or be represented at the hearing;
 - 8.4.6 list those witnesses, if any, who will be asked to give evidence;
 - 8.4.7 enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
 - 8.4.8 outline the proposed procedure for the meeting.

9. **POWERS OF THE STANDARDS COMMITTEE**

- 9.1 The Standards Committee may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings. It must so far as appears to it appropriate seek to avoid formality and inflexibility in its proceedings. The Standards Committee will decide factual evidence on the balance of probabilities.
- 9.2 The Member or the Investigating Officer may be represented or accompanied whether or not legally qualified but if in any particular case the Standards Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.

- 9.3 The Standards Committee may take legal advice from a Council officer appointed for this purpose at any time during the meeting or while they are considering the outcome. The substance of any legal advice given to the Committee will be shared with the Member and the Investigating Officer if they are present.
- 9.4 Where appropriate, and in accordance with the Regulations, the Standards Committee has power to censure the Member, or suspend or partially suspend the Member for a period not exceeding six months.

10. **PROCEDURE AT THE HEARING**

- 10.1 The hearing will be held in public unless the Standards Committee is persuaded that there is a good reason to exclude the public.
- 10.2 The procedure at the meeting shall be as set out below, subject to the Chair making such changes as he or she thinks fit in order to ensure a fair and efficient hearing.

10.3 **Introduction**

The Chair of the Standards Committee will introduce those persons present and will explain the manner and order of proceedings

10.4 **First Stage - Preliminary Procedural Issues**

The Standards Committee will then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the prehearing process.

10.5 **Second Stage - Making Findings of Fact**

The Standards Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.

10.5.1 If there is a disagreement as to the facts:

- (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report;
- (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer;
- (c) the Member will then be invited to make representations to support his or her version of the facts;
- (d) the Member may call any necessary witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.

- 10.5.2 At any time, the Standards Committee may question any of the people involved or any of the witnesses.
- 10.5.3 If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Standards Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
- (a) continue with the hearing, relying on the information in the investigation report;
 - (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
- 10.5.4 At the conclusion of the representations as to matters of fact, the Standards Committee will retire to deliberate in private on the representations, after which the Chair of the Standards Committee will announce their findings of fact.
- 10.6 **Third Stage - Deciding whether the Member has failed to comply with the Code**
- 10.6.1 The Standards Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.
- 10.6.2 The Standards Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Committee has found, the Member has failed to comply with the Code of Conduct.
- 10.6.3 The Standards Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to whether or not, based on the facts the Committee has found, he or she has failed to comply with the Code of Conduct.
- 10.6.4 The Standards Committee may, at any time, question anyone involved on any point they raise in their representations.
- 10.6.5 The Member will be invited to make any final relevant points.
- 10.6.6 The Standards Committee will retire to deliberate in private on the representations and decide whether or not the Member has failed to comply with the Code of Conduct, after which the Chair of the Standards Committee will announce their findings.

10.7 **Fourth Stage - Action to be Taken**

- 10.7.1 If the Standards Committee decides that the Member has not failed to comply with the Code of Conduct, it will formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.
- 10.7.2 If the Standards Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:
- (a) whether or not the Committee should apply a sanction; and
 - (b) what form any sanction should take.
- 10.7.3 The Standards Committee will retire to deliberate in private on the representations and decide either that:
- (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct;
 - (b) the Member should be censured; or
 - (c) the Member should be suspended or partially suspended from being a member or Co-Opted Member of his or her authority for a period not exceeding six months,
- after which the Chair of the Standards Committee will announce their decision.
- 10.7.4 After making a decision the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision (including details of the Member's right of appeal) to the Member, the Complainant and the Ombudsman as soon as reasonably practicable.

11. **FAILURE TO MAKE REPRESENTATIONS / ATTEND THE HEARING**

- 11.1 If the Member fails to make representations, the Standards Committee may:
- 11.1.1 unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
 - 11.1.2 give the Member a further opportunity to make representations.
- 11.2 If a party fails to be present or represented at a hearing, the Standards Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence:
- 11.2.1 hear and decide the matter in the party's absence; or
 - 11.2.2 adjourn the hearing.

12. **ILLNESS OR INCAPACITY**

If the Standards Committee is satisfied that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter.

13. **SUSPENSION**

A period of suspension or partial suspension will commence on the day after:

- 13.1 the expiry of the time allowed to lodge a notice of appeal to an appeals tribunal under the Regulations (ie within 21 days of receiving notification of the Standards Committee's determination);
- 13.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations;
- 13.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last.

14. **REFERRAL BY AN APPEALS TRIBUNAL**

14.1 Where the Standards Committee determines that the Member has failed to comply with the Code of Conduct, the Member may appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales.

14.2 An appeals tribunal may endorse the decision of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the decision.

14.3 If:

14.3.1 the Standards Committee determines that the Member failed to comply with the Code of Conduct;

14.3.2 the Member appeals to an appeals tribunal drawn from the Adjudication Panel for Wales; and

14.3.3 the said tribunal refers the matter back to the Standards Committee with a recommendation that a different penalty be imposed,

the Standards Committee shall meet as soon as reasonably practicable to consider the recommendation of the appeals tribunal and will determine whether or not it should uphold its original determination or accept the recommendation.

14.4 After making its determination the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the Adjudication Panel for Wales as soon as reasonably practicable.

15. **PUBLICATION OF THE STANDARDS COMMITTEE'S REPORT**

- 15.1 The Standards Committee will cause to be produced within 14 days after:
- 15.1.1 the expiry of the time allowed to lodge a notice of appeal under the Regulations, or
 - 15.1.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations, or
 - 15.1.3 a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last, a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant.

- 15.2 Upon receipt of the report of the Standards Committee, the Monitoring Officer shall:
- 15.2.1 for a period of 21 days publish the report on the Council's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available;
 - 15.2.2 supply a copy of the report to any person on request if he or she pays such charge as the Council may reasonably require, and
 - 15.2.3 not later than seven days after the report is received from the Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by paragraphs 15.2.1 and 15.2.2 above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

16. **COSTS**

The Standards Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

Form A

Arrangements for the Standards Committee hearing

Please tick the relevant boxes

1	<p>The proposed date for the Standards Committee hearing is given in the accompanying letter. Are you intending to go to the hearing?</p> <p>If "No", please explain why.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Reason:</p>
2	<p>Do you wish to make representations to the Standards Committee?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>If yes, do you wish to make</p> <p>Oral representations? <input type="checkbox"/></p> <p>Written representations? <input type="checkbox"/> (please enclose these with your completed questionnaire)</p>
3	<p>Are you going to present your own case?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
4	<p>If you are not presenting your own case, will a representative present it for you?</p> <p>If "Yes", please state the name of your representative.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Name:</p>
5	<p>Is your representative a practising solicitor or barrister?</p> <p>If "Yes", please give his or her legal qualifications. Then go to question 7.</p> <p>If "No", please go to question 6.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Qualifications:</p>
6	<p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p>

7	<p>Are you going to call any witnesses?</p> <p>If "Yes", please fill in Form E.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
8	<p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed?)</p> <p>If "Yes", please give details</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	Details:
9	<p>Do you, your representative or your witnesses have any special needs (for example, is an interpreter needed?)</p> <p>If "Yes", please give details</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	Details:
10	<p>Do you want any part of the hearing to be held in private?</p> <p>If "Yes", please indicate which part(s) and give reasons.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	Reasons:
11	<p>Do you want any part of the documents to be withheld from public inspection?</p> <p>If "Yes", please indicate which documents and give reasons.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	Reasons:
12	<p>Do you disagree with any of the findings of fact in the investigation report?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>If yes, please complete Form C and provide details of any other evidence relevant to the allegation.</p>

Please attach separate sheets if necessary

Signed: _____

Date: _____

FORM C

Please enter the number of any paragraph where you disagree with the findings of fact in the Investigating Officer's report, and give your reasons and your suggested alternative

Member's response to the evidence set out in the Investigating Officer's report

Paragraph number from the Investigating Officer's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Page 35

Please attach separate sheets if necessary

Signed: _____

Date: _____

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you

Other evidence relevant to the allegation

Paragraph number	Details of the evidence

Page 36

Please attach separate sheets if necessary

Signed: _____

Date: _____