

# MEMBER REFRESHER TRAINING

## CODE OF CONDUCT

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# GOVERNANCE FRAMEWORK

Local Government Act 2000

The Local Authorities (Model Code of Conduct) (Wales) Order 2008



# PRINCIPLES OF PUBLIC LIFE

## NOLAN

selflessness

honesty

integrity & propriety

objectivity in decision-making

openness

accountability

leadership



# PRINCIPLES OF PUBLIC LIFE ADDED by NAFW

Duty to uphold the law

Stewardship of Council resources

Equality & respect for others



# PURPOSE

- Drive up standards in public life
- Create a culture where members are respected for selflessness, objectivity, respectful behaviour
- Build public confidence in our democratic institutions
- Promote good governance for benefit of communities



# PUBLIC OMBUDSMAN FOR WALES ROLE

- PSOW Act 2005
- Provide guidance
- Investigative role



# INVESTIGATIVE ROLE OF PSOW

Independent role but supported by:-

Local resolution

Standards Committees

Adjudication Panel for Wales



# WHICH BREACHES INVESTIGATED?

Two stage test:-

1. Is there direct evidence of breach?
2. Is investigation or referral in the public interest?



# PUBLIC INTEREST FACTORS

- Seriousness of breach
- Whether member deliberately sought personal gain for themselves or another at public expense
- Was there a misuse of position of trust or authority & was harm caused to a person
- Was breach motivated by discrimination
- Is there evidence of previous similar behaviour by member
- Is investigation required to maintain public confidence in elected members
- Is investigation a proportionate response (likely to lead to sanction)



# INVESTIGATION BY PSOW

- PSOW will not investigate low level complaints – best dealt with via local resolution procedure
- Only the more serious allegations of breach will be investigated by PSOW
- Following investigation may refer matter to Standards Committee or Adjudication Panel for Wales for determination depending on the nature of & individual circumstances of the alleged breach
- Hearing



# POWERS OF STANDARDS COMMITTEE

- To conduct a hearing to decide whether Member has breached the code of conduct
- If Member found to be in breach to then determine how to deal with breach:-
  - No action required
  - Member may be censured (public rebuke)
  - Suspension or partial suspension for period up to 6 months
- Appeal may be made to the Adjudication Panel for Wales but prior permission required



# POWERS OF ADJUDICATION PANEL FOR WALES

- To conduct a hearing to decide whether Member has breached the code of conduct
- Powers if Member found to be in breach to then determine how to deal with breach:-
  - Disqualification for up to 5 years
  - Suspension or partial suspension for period up to 12 months
  - No further action
- To hear appeals against decisions of the Standards Committee



# WHEN DOES CODE APPLY?

- Acting in an official capacity
- Conducting business of the authority
- Giving the impression that you are acting in an official capacity as a member or representing the authority
- At any time if conduct could reasonably be regarded as bringing your office or your authority into disrepute
- At any time if use or attempt to use your position to gain advantage (avoid disadvantage) or misuse resources



# PSOW GUIDANCE

## August 2016

### Example

Councillor B is nominated to be the Council board member of a stock transfer housing association. 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 saying 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. Compounded the breach by issuing 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 serious breach of confidentiality.

Failure to adhere to Housing Association code in breach of **paragraph 3(a)**

Brought his office and authority into disrepute in breach of **paragraph 6(1)(a)**



# PSOW GUIDANCE

## August 2016

### Example

A member of a town council wrote to a Deputy Minister of the Welsh Assembly Government about an employee (“Mr S”) of a county council, a letter which was also copied to the Council. In the letter the member questioned Mr S’s competence and motivation and he made a number of comments of a disparaging and personal nature about Mr S 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 Adjudication Panel for Wales 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.



# PSOW GUIDANCE

## August 2016

### 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.

**Paragraphs 4(b) & (c) and 6(1)(a)**



# PSOW GUIDANCE

## August 2016

### 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 a persistent course of conduct over 6 months and suspended the Member from office for 12 months.

### Paragraph 4(d)



# PSOW GUIDANCE

## August 2016

### 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.



# PSOW GUIDANCE

## August 2016

### 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.

### Breach of **paragraph 7(b)**

The Adjudication Panel suspended the member for 9 months for this and other breaches.



# PERSONAL & PREJUDICIAL INTERESTS

**Personal interests – *paragraph 10***

**Disclosure of personal interests – *paragraph 11***

**Prejudicial interests – *paragraph 12***

*Test is whether a member of the public with knowledge of the relevant facts would reasonably regard the personal interest as so significant that it is likely to prejudice your judgement of the public interest*



# REGISTER OF INTERESTS

## Part 4 of Code of Conduct

**First declaration with in 28 days of election or appointment**

**Duty to provide written notification of change within 28 days**

**All now on the WEB for ease of access to public**



# ANY QUESTIONS?



[www.wrexham.gov.uk](http://www.wrexham.gov.uk) / [www.wrecsam.gov.uk](http://www.wrecsam.gov.uk)