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Date: 6th September 2018

Dear Sir/Madam,

A meeting of the **Standards Committee** will be held in the **Sirhowy Room, Penallta House, Tredomen, Ystrad Mynach** on **Thursday, 13th September, 2018** at **10.00 am** to consider the matters contained in the following agenda. You are welcome to use Welsh at the meeting, a minimum notice period of 3 working days is required should you wish to do so. A simultaneous translation will be provided if requested.

All Committee meetings are open to the Press and Public, observers and participants are asked to conduct themselves with respect and consideration for others. Please note that failure to do so will result in you being asked to leave the meetings and you may be escorted from the premises.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Chrissy'.

Christina Harrhy
INTERIM CHIEF EXECUTIVE

AGENDA

- 1 To receive apologies for absence.
- 2 To note the resignation of Mr Maldwyn Stone.
- 3 Declarations of Interest.

Pages

A greener place Man gwyrddach



Councillors and Officers are reminded of their personal responsibility to declare any personal and/or prejudicial interest(s) in respect of any item of business on this agenda in accordance with the Local Government Act 2000, the Council's Constitution and the Code of Conduct for both Councillors and Officers.

To approve and sign the following minutes: -

- | | | |
|---|--|-------|
| 4 | Standards Committee held on 28th September 2017. | 1 - 4 |
|---|--|-------|

To receive and consider the following report(s): -

- | | | |
|---|---|---------|
| 5 | WLGA Social Media - A Guide for Councillors. | 5 - 50 |
| 6 | Adjudication Panel for Wales - Sanction Guidance. | 51 - 76 |
| 7 | Members' Declarations of Gifts and Hospitality September 2017 to August 2018. | 77 - 80 |

Circulation:

Councillors: C.P. Mann and Mrs D. Price

Mr P. Brunt, Mrs M. Evans, Mrs D. Holdroyd and Mr D. Lewis

Community Councillor Mrs G. Davies

Copy for information only to:

Councillors Mrs J. Gale and Mrs M.E. Sargent.

And Appropriate Officers

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STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, TREDOMEN PARK
ON THURSDAY 28TH SEPTEMBER 2017 AT 1.30PM

PRESENT:

Mrs D. Holdroyd - Chair
D. Lewis - Vice-Chair

Mr P. Brunt

Community Councillor Mrs G. Davies

Councillor C.P. Mann

Together with:

G. Williams (Interim Head of Legal Services and Monitoring Officer), L. Donovan (Acting Head of HR and Organisational Development), L. Lane (Corporate Solicitor), A. Jones (Complaints Officer), H. Morgan (Senior Committee Services Officer)

1 APOLOGIES

Apologies for absence were received from Councillors Mrs J. Gale and Mrs D. Price, Mrs M. Evans and Mr M. Stone.

2. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

3. RESIGNATION - MR T ABBAS

It was noted that as Mr Abbas no longer resides in the county borough and is not registered on the electoral roll for Caerphilly, he is not eligible to sit on the Committee and has subsequently resigned.

The Chair/Members paid tribute to the way in which he had carried out his role as an independent member of the Committee. It was agreed that a letter be sent expressing the views of the Committee and thanking him for his service.

4. MR PETER BRUNT

Members welcomed Mr Peter Brunt to his first meeting of the Standards Committee and introductions were made.

5. MINUTES - 31ST MAY 2017

RESOLVED that the minutes of the meeting held on 31st May 2017 (minute nos. 1 - 5, on page nos. 1 - 3), be approved as a correct record.

REPORT OF OFFICERS

Consideration was given to the following reports.

6. ANNUAL LETTER FROM PUBLIC SERVICES OMBUDSMAN FOR WALES 2016-2017

Consideration was given to the Annual Letter received from the Public Services Ombudsman for Wales, which provided a detailed breakdown of all complaints received and investigated by his Office during 2016/17 and the response times to requests for information.

Members were asked to note that the fact sheet attached to the Annual Letter gives a detailed breakdown of complaints data relating to Caerphilly. This includes a new set of statistics regarding Ombudsman's interventions which includes all cases upheld as well as early resolution and voluntary settlements. In relation to Caerphilly, the number of complaints received by the Ombudsman was at a similar level as in the previous year (56 in 2015/16 compared to 54 this year).

The figures show that in the last year the number of complaints referred to the Ombudsman in relation to Housing is the biggest area of complaint. The data has been analysed and of the twelve complaints made in relation to Housing, six were made prematurely (had been referred to the Ombudsman before exhausting the Council's Corporate Complaints Procedure), one complaint was referred out of time and the remaining five referrals were not taken into investigation. Practically, it is not possible to prevent premature referrals to the Ombudsman. The Council's Complaints Policy is available via the Council's web site and hard copy booklet readily available to the public.

It was noted that overall 14 premature complaints were received by the Ombudsman. This is slightly less than the Local Authority average of 15 but there is nothing further that can be done by the Council to prevent premature referrals. There were four early resolutions/interventions by the PSOW. Three of the four were social services complaints and the fourth was in relation to waste collection. Members noted the Annual Letter made reference to the fact that there was a significant drop in Children's Social Services Complaints from 9 to 3; there were no upheld complaints this year and only 7% of cases required PSOW intervention which is the second lowest of any local authority. Members were advised that a summary of the cases can be found on the PSOW website www.ombudsman-wales.org.uk. There were 7 code of conduct complaints made against Members of the County Borough during 2016/17. Six were closed after initial consideration, one found no evidence of a breach.

During the course of the debate, a query was raised in relation to specific directorate complaints rather than those referred to the Ombudsman. The Interim Head of Legal Services advised that she did not have a breakdown of these figures but that reports on corporate complaints received are presented to the Audit Committee on a regular basis to advise members whether any trends were identified during the period, the action taken and the lessons learned in respect of the complaints which have been upheld or partially upheld.

After due consideration, Members noted the content of the Annual Letter received from the Public Services Ombudsman for Wales, and were advised that it will now be presented to Council for information.

7. ANNUAL WHISTLEBLOWING REPORT - APRIL 2106 - 31ST MARCH 2017

Consideration was given to the report which provided a review of whistleblowing activity and the development of the Council's approach to whistleblowing during the period 1st April 2016 to 31st March 2017.

Members were reminded that the policy provides a method for employees to raise concerns about the running of the Council without fear of victimisation and all employees have access to the document. There is access through the HR portal, there is a communication plan in place and the Council has access to an ongoing facility provided for employees to access the confidential support helpline provided by Public Concern at Work. This enables individuals to make contact in a confidential manner, should they wish to seek independent advice.

Reference was made to the way in which whistleblowing is monitored and it was confirmed that in accordance with terms of reference, it is the Standards Committee that oversee the whistleblowing regime and, as such, reports protecting the identity of the person, will be presented as required.

The report provided an anonymous summary of 3 formal whistleblowing investigations undertaken during the course of the last year. It was noted that two of the investigations were undertaken by a Solicitor and one by a Head of Service with HR Officers supporting each investigation. One of the investigations was as a result of an anonymous complaint. The identity of the Whistle-blower was not revealed in one of the other investigations.

The Acting Head of HR and Organisational Development advised Members that each investigations was thorough and involved interviewing appropriate Officers across the Authority and reviewing a wide range of documentation. In all cases the extent of the investigation was proportionate and the allegations were all considered on the basis of the civil burden of proof i.e. 'on the balance of probabilities'. The Committee were assured that recommendations from whistleblowing investigations are monitored for implementation by the Council's Monitoring Officer.

Members viewed the allegations and outcomes as set out in the appendix to the report and noted that whilst most were not substantiated, of those substantiated or partially substantiated, and in order to improve internal practices and procedures, a number of recommendations had been made by the Investigating Officer. In noting that most were supervisory it was confirmed that the recommendations had been sent to the respective Head of Service and will be monitored by the Interim Head of Legal Services and Monitoring Officer.

It was moved and seconded that the report be noted. By a show of hands this was unanimously agreed.

8. MODEL LOCAL RESOLUTION PROTOCOL FOR COMMUNITY AND TOWN COUNCILS

The report advised of the Model Local Resolution Protocol that had been drawn up by One Voice Wales for use by any Town or Community Council when dealing with low level complaints about its member and sought to endorse the proposal that all Town and Community Councils in Caerphilly be requested to consider adopting the Model Resolution Protocol (or to use the Model version to develop their own Protocol).

It was noted from the background set out in the Model document that the Public Service Ombudsman for Wales has agreed to the principle of referring some complaints against Members back to Town or Community Councils for a local resolution. However to date there has not been a common process for Town and Community Councils to follow in dealing with such matters. To assist the sector, One Voice Wales has drawn up the model protocol which any Town or Community Council can use in dealing with such complaints.

The Model Protocol is meant as a starting point for Town and Community Councils and is intended for use where complaints are low level and have been made by an Officer (not the Clerk) or another member. Serious complaints or those made by the Clerk or a member of the public are recommended for referral to the Ombudsman. Further details as to the use of process are set out in the Model. Individual Town or Community Councils may wish to add or amend the attached model to suit their particular needs.

It was confirmed that the Protocol advises that a complaint would need to be sent to the Clerk/Proper Officer of the Council to undertake a first sift to ensure that the complaint is at a low level and should not be dealt with by way of a complaint to the Ombudsman. The Protocol sets out a proposed resolution process and possible results of the process together with the timing of the process with the intention that it is completed as quickly as possible to resolve the issue.

The Interim Head of Legal Services and Monitoring Officer indicated that whilst she provides governance advice to Town and Community Councils resources are insufficient to operate the Local Resolution Protocol on behalf of these Councils. As such Town and Community Councils will be responsible for the implementation and adoption of the Protocol individually.

It was moved and seconded that the proposal that all Town and Community Councils in Caerphilly be requested to consider adopting the Model Resolution Protocol or to use the Model version to develop their own Protocol be supported and that each Clerk be invited to adopt the model or variation thereof. By a show of hands this was unanimously agreed.

The meeting closed at 2.10pm

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the next meeting they were signed by the Chair.



CLILC • WLGA

Social Media

A Guide for Councillors



Contact

Welsh Local Government Association

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

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

Welsh Local Government Association

Local Government House

Drake Walk

Cardiff

CF10 4LG

Tel: 029 2046 8600

www.wlga.wales

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

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

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Introduction

Social media is changing the world.

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

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

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

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

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

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

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

1. What is social media?

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

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

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

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

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

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

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

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

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

According to Ofcom³, in 2017:



84%
OF WELSH HOUSEHOLDS
HAD ACCESS TO THE
INTERNET



74%
OF ADULTS USED
A SMARTPHONE



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

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



AN ESTIMATED
17.1m
TWITTER USERS
IN UK



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

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

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

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

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

Blogs

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

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

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

Other councillors publish their own, for example:

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

Keep at it!

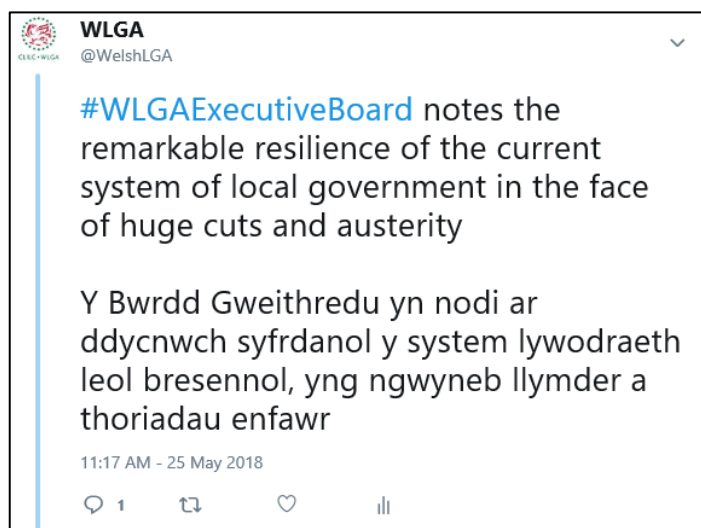
As with all social media, if you start blogging, it’s best to keep it up and keep it up-to-date; all it takes is for someone to find your last blog entry of some years ago and they can criticise you by saying ‘you have nothing else to say’ or ‘you have no new ideas’. If you do stop blogging, think about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



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

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

For example:



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



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

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

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

Warning

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

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

Here are some examples of councillors' Twitter accounts:

[@LeaderNewport](#)

[@CllrRobJames](#)

[@PeterFox61](#)

[@Cllrjuliefallon](#)

[@CllrSaif](#)

[@CllrFionaCross](#)

[@elinmwj](#)

[@DebbieWallice](#)

[@Alun_Williams](#)

[@CllrJoshuaPlaid](#)

[@CllrLisaMytton](#)

[@PriorNeil](#)

And some useful organisations:

[@WelshLGA](#)

[@LGAComms](#)

[@WelshGovernment](#)

[@WG_localgov](#)

[@AssemblyWales](#)

[@BBCWalesNews](#)

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

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

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



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

Have a look at these councillors' pages

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

And these authority pages:

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

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

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

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

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

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

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



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



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

[Cardiff](#)

[Conwy](#)

[Gwynedd](#)

[Monmouthshire](#)

[Powys](#)

2. Why you may find social media useful

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

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

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

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

What are the drawbacks?

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

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

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

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

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

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

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

Top tips to manage social media use

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

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

3. Getting started

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

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

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

Remember:

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

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

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

Consider:

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

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

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

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

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

Monitoring social media

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

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

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

The Welsh Language

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

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

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

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

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

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

4. Staying safe and dealing with trolls

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

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

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

Some advice

- **Take Control**

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

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

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

- **Respond or ignore?**

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

Don't feed the troll!

- **Stay calm and polite**

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

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

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

A Criminal Offence?

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

5. Support from the council

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

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

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

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

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

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

Using social media in an emergency

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

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

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

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

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

6. Social media and council meetings

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

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

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

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

7. Golden rules

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

Warning

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

Encourage them to use more secure channels.

- If you make a mistake admit it. Mistakes happen so don't try to cover it up as there will always be a record of what you've said.
- Don't tweet or post on Facebook when you are "tired or emotional"! It's probably sensible to turn off your phone at any time when you think your judgement may be impaired. Even if you exercise social media control, other people will still have their smart phones, so may post a photo or video of you 'enjoying yourself'; you need to let your hair down, but it's just one extra thing to consider as a councillor in the age of social media.
- As with your own leaflets or newsletters, ask permission before taking a picture that you intend to use. NEVER take photos of children without the express permission of their parents based on an understanding of what you intend to use the picture for. Your council will have a policy on taking pictures of children, take advice on this before taking or using pictures.
- Do not allow anyone else access to your social media accounts. Protect your passwords and use robust, unique passwords and change them regularly especially if you use a public or shared computer.
- Just like email, you can be hacked on social media! Be wary about direct messages via Twitter, even from people you know, with messages such as 'Hi, have you seen this photo of you on Twitter?' Delete these before opening, as the spam could then be sent to all of the people you are following. Do not open videos or links on, for example, Facebook Messenger if you are not expecting them. It could be a hack.

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

CHECK before you share or retweet information.

Is it true?

Who said it and why?

Do you trust the source?

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

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

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

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

Code of Conduct

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

Remember that according to guidance from the Ombudsman, the Code of Conduct applies to you whenever you are "Conducting the business of your authority, acting, claiming to act or give the impression you are acting in your official capacity as a member or representative of your authority" Also the Code applies if you "Conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute"⁷

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

Remember that the Ombudsman's guidance states that "Making unfair or inaccurate criticism of your authority in a public arena might well be regarded as bringing your authority into disrepute"

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

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

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

Predetermination

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

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

Don't become a troll yourself!

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

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

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

Criminal Offences

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

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

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

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

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

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

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

Remember

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

Civil Law

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

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

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

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

Beware of Fake News!

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

9. Further information, interesting sites and sources of help

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

Social Media websites

[Sign up to Twitter here](#)

[Sign up to Facebook here](#)

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

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

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

10. Links

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

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

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

'Faces of Swansea Council 2018' Twitter campaign - <https://twitter.com/hashtag/facesofswanseaouncil2018>

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

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

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

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

Blogs

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

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

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

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

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

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

Councillor Twitter accounts

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

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

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

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

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

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

Useful organisations' Twitter accounts

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

Councillor Facebook pages

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

Local Authority Facebook pages

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

Council YouTube pages

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

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

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

Monmouthshire County Council -

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

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

Social media support pages

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

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

Welsh Language

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

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

Guidelines

WLGA Councillors' Guide to Handling Online Abuse -

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

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

Crown Prosecution Service guidelines on social media communications -

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

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

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

Local Government Association (LGA) social media guidelines -

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

Scottish Improvement Service Social Media guide for elected members -

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

Useful links for social media websites

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

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

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

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

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

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

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Councillors Guide to Handling Online Abuse

March 2018



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Tackling abuse on Twitter™

1. “No tit for tat on twitter”

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

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

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

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

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

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

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

2. Whistling in the wind?

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

3. Your right of reply

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

4. Move the tweet into a different domain

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

5. Take a record of the abuse

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

6. Dealing with defamation

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

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

7. Mute or Block Trolls

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

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

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

According to Twitter, blocked accounts cannot:

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

8. Report the abuse to Twitter

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

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

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

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

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

9. Report the abuse to the Police

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

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

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

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

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



Tackling abuse on Facebook™

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

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

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

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

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

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

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

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

Responding to abuse or harassment

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

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

Responding to abuse or harassment in Groups or Pages

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

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

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

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

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

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

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

Managing and moderating your own Group or Page

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

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

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

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

You can:

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

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

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

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

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

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

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

Tackling abuse on blogs

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

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

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

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

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

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

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STANDARDS COMMITTEE – 13TH SEPTEMBER 2018

SUBJECT: ADJUDICATION PANEL FOR WALES – SANCTION GUIDANCE

REPORT BY: HEAD OF LEGAL SERVICES AND MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To ask members of the Standards Committee to consider and note the Sanctions Guidance recently improved and modernised by the Adjudication Panel for Wales which is attached at Appendix 1 to this report.

2. SUMMARY

- 2.1 To provide members with updated Sanctions Guidance issued by the Adjudication Panel for Wales.

3. LINKS TO STRATEGY

- 3.1 Compliance with the Code of Conduct by members ensures the Council maintains a high standard of behaviour and conduct and thereby encouraging and promoting democracy throughout society thereby contributing to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:

- *A more equal Wales*
- *A Wales of cohesive communities*
- *A Wales of vibrant culture and thriving Welsh language*
- *A globally responsible Wales*

4. THE REPORT

- 4.1 The Adjudication Panel for Wales (APW) has recently undertaken an exercise to improve and modernise its Sanction Guidance following consultation with Monitoring Officers, the Public Services Ombudsman for Wales and the Welsh Government. The updated copy of the Sanctions Guidance is attached for members' information at Appendix 1 to this report. The Sanctions Guidance will come into force for cases heard by the APW after 1st September 2018.
- 4.2 The APW views the new Sanctions Guidance as a living document, and would therefore welcome any comment or feedback following its use by the Standards Committee, so that they may consider and make improvements to the guidance.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 This report contributes to the Well-being Goals as set out in Links to Strategy above in that it promotes high standards and thereby encourages participation and more likely to encourage

members to have a vested interest in the aims of the Well-being Act.

6. EQUALITIES IMPLICATIONS

6.1 There are no equalities implications the report is for information only

7. FINANCIAL IMPLICATIONS

7.1 There are no financial implications the report is for information only

8. PERSONNEL IMPLICATIONS

8.1 There are no personnel implications the report is for information only

9. CONSULTATIONS

9.1 As the aim of the report is to present updated guidance from the APW, no formal consultation has been undertaken

10. RECOMMENDATIONS

10.1 Members are asked to note the updated Sanctions Guidance issued by the Adjudication Panel for Wales attached at Appendix 1

11. REASONS FOR THE RECOMMENDATIONS

11.1 To ensure the Standards Committee are familiar with the sanction guidance in order to fulfil its duties under its terms of reference when considering recommendation from the Adjudication Panel or case tribunals in accordance with its terms of reference.

12. STATUTORY POWER

12.1 Local Government Act 2000

Author: Robert Tranter Head of Legal Services and Monitoring Officer

Consultee Lisa Lane Corporate Solicitor

Appendices:

Appendix 1 Copy of Sanctions Guidance together with covering letter

31 August 2018

Dear Monitoring Officer

Adjudication Panel for Wales – Sanctions Guidance

As you are aware the Adjudication Panel for Wales (APW) has recently undertaken an exercise to improve and modernise its Sanction Guidance following consultation with Monitoring Officers, the Public Services Ombudsman for Wales and the Welsh Government.

I now enclose a copy of the Sanctions Guidance for you to share with your Standards Committee. The Sanctions Guidance will come into force for cases heard by the APW after 1st September 2018.

The APW views the new Sanctions Guidance as a living document, so please do contact us if you have any comments or feedback following its use by your Standards Committee, so that we may consider and make improvements to the guidance.

Please contact me if you have any questions in regard to the new Sanctions Guidance or the APW more generally.

Yours sincerely

Leon Mills
Registrar to the Panel

*Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn
Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.
We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be
answered in Welsh and corresponding in Welsh will not lead to a delay in responding.*

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Sanctions Guidance

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

Foreword by the President

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

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

Claire Sharp
President, Adjudication Panel for Wales

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

Standards in Public Life

page 3

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

The Adjudication Panel for Wales

page 5

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

The Tribunals' Approach: underlying principles

page 7

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

Case and Appeal Tribunals: determining sanction

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

Interim Case Tribunals: determining sanction

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

Annex: other relevant documents and guidance

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Introduction

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

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

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

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

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

Standards in Public Life

The Code of Conduct

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

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

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

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

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

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

Expectations on local members

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

Allegations of breach

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

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

The Adjudication Panel for Wales

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

Case tribunals

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

Appeal tribunals

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

Interim case tribunals

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

The sanctions regime

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

⁷ Part III, Local Government Act 2000

⁸ Reference to the report on enforcement

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

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

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

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

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

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

⁹ Section 79, Local Government Act 2000

The Tribunal approach – underlying principles

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

Fairness

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

Public interest

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

Proportionate

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

Consistent

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

Equality and impartiality

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

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

Human Rights (Articles 6 and 10)

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

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

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

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

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

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

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

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

Case and Appeal Tribunals – determining sanction

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

The five-stage process

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

Assessing the seriousness of the breach

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

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

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

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

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

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

Choosing the potential sanction

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

No action

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

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

¹³ Section 79, Local Government Act 2000

- an inadvertent failure to follow the Code;
- an isolated incident with extremely limited potential for consequential harm;
- an acceptance that a further failure to comply with the Code on the part of the member is unlikely, nor are there any wider reasons for a deterrent sanction;
- specific personal circumstances, including resignation or ill health, which render a sanction unnecessary and/or disproportionate.

39.2 A tribunal that finds a breach of the Code but decides that no action is necessary in terms of sanction, should consider whether there is a need to warn the member as to their conduct and/or seek assurances as to future behaviour. This provides an effective means of placing the member's behaviour on record, reflected in the tribunal's written decision, so that the warning and/or reassurance may be taken into account in the event of the same member being found to have breached the Code in the future. A failure to comply with any assurances given to the tribunal may be brought to the attention of the tribunal in any future hearings.

Suspension for up to 12 months

39.3 A case tribunal may suspend the member for up to 12 months from the authority(ies) whose Code/s has/have been breached.

39.4 Suspension is appropriate where the seriousness of the breach is such that a time-limited form of disciplinary response is appropriate in order to deter such future action, temporarily remove the member from the authority/a role within the authority, safeguard the standards set by the Code and to reassure the public that standards are being upheld.

39.5 A suspension of less than a month is unlikely to meet the objectives of the sanctions regime and risks undermining its overall ambitions. Tribunals are also reminded that the highest sanction available to local Standards Committees is 6 months' suspension. They should bear this in mind when considering an Ombudsman's referral to the Adjudication Panel, in preference to the local Standards Committee, and when considering an appeal against a local Standards Committee sanction. It is possible for appeal tribunals to recommend an increase in the sanction originally imposed by the Standards Committee.

39.6 Circumstances in which a tribunal may decide that a suspension is appropriate may include:

- the member's action has brought the member's office or authority into disrepute but they have not been found in breach of any other paragraph of the Code (though the most appropriate sanction will depend on the specific facts of each case);

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

Partial Suspension for up to 12 months

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

Disqualification for a maximum of 5 years

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

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

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

Mitigating and aggravating circumstances

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

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

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

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

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

Mitigating circumstances

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

Aggravating factors

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

Fulfilling the purpose of the sanctions regime

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

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

Public interest

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

Eligibility for public office in other relevant authorities

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

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

Former members

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

Financial impact

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

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

Impact on the electorate

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

Timing of local elections

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

Automatic disqualifications

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

Confirming the sanction

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

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

Recommendations

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

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

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

Interim case tribunals – determining sanction

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

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

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

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

Purpose and process

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

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

¹⁶ Section 78(1), Local Government Act 2000

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

The nature of the allegation(s)

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

No action

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

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

Partial Suspension

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

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

Suspension

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

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

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

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

Annex: other documents and guidance relevant to tribunals

Adjudication Panel for Wales : Members Handbook (2017)

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

Equal Treatment Bench Book, Judicial College (as amended)

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

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



STANDARDS COMMITTEE – 13TH SEPTEMBER 2018

**SUBJECT: MEMBERS' DECLARATIONS OF GIFTS & HOSPITALITY
SEPTEMBER 2017 TO AUGUST 2018**

REPORT BY: HEAD OF LEGAL SERVICES & MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To advise Members of the Standards Committee of the gifts and hospitality declared by elected Members for the period 1st September 2017 to 31st August 2018.

2. SUMMARY

- 2.1 Attached at Appendix 1 is a list of gifts and hospitality declared by elected Members for the period 1st September 2017 to 31st August 2018.

3. LINKS TO STRATEGY

- 3.1 The Authority acting through this Committee has an obligation to maintain high standards and probity and conduct throughout the Council and the Community Councils within the County Borough area and to monitor the declarations of Members' gifts and hospitality which thereby contributes to the following Well-being Goals:

- A more equal Wales
- A more globally responsible Wales

4. THE REPORT

- 4.1 Following a report to the Standards Committee on 3rd October 2013, Members will be aware that as part of the drive to strengthen governance arrangements across the Authority, the informal arrangements of reporting gifts and hospitality declared by elected Members has been replaced by the presentation of a quarterly report to the Standards Committee. Quarterly reports have however proved unnecessary as the numbers of gifts declared has been very low.
- 4.2 The Standards Committee last received a report on Members Declarations of Gifts and Hospitality at the meeting held on the 4th November 2015 which related to declarations for the period 1st January to 30th September 2015.
- 4.3 The Appendix attached lists the gifts and hospitality as declared by elected Members for the period 1st September 2017 to 31st August 2018. Members will note that there have been 3 declarations which were received in January 2018, March 2018 and April 2018.

5. WELLBEING OF FUTURE GENERATIONS

- 5.1 This report contributes to the Wellbeing Goals as set out in Links to Strategy above as it ensures members participating in democracy maintain high standards and are not unduly influenced when making decisions or recommendations.

6.0 EQUALITIES IMPLICATIONS

- 6.1 None. This report is for information only.

7. FINANCIAL IMPLICATIONS

- 7.1 None. This report is for information only.

8. PERSONAL IMPLICATIONS

- 8.1 None. This report is for information only.

9. CONSULTATIONS

- 9.1 None. This report has been prepared for information only.

10. RECOMMENDATIONS

- 10.1 None this is an information item only.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 None this is an information item only.

12. STATUTORY POWER

- 12.1 Local Government Act 1972 and 2000.

Author: Robert Tranter, Head of Legal Services & Monitoring Officer
Consultee Lisa Lane Corporate Solicitor

Background Papers:
Report to Standards Committee 4th November 2015 and 3rd October 2013

Appendices:
Appendix 1 Members Declarations of Gifts and Hospitality

Councillor

Details of Declaration

Councillor D. Poole

Attendance at a CBI Wales Annual Dinner

Celebratory event for Bearmach's 60 Years Anniversary Event

Lunch provided at a hotel venue in respect of City Deal Meeting

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