

# Member Induction Wales 2017



## Ethics and Standards

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# Ethical Governance

Effective local government requires high standards of conduct to ensure that there is public confidence in everything we do.



## Consequences for Councillors...

- “The committee found that [the] councillor had breached the code of conduct and that he should be suspended for a calendar month”
- “[The Councillor] had failed to show respect and consideration for others... the Committee agreed that they would publish the Committee’s findings ...and recommend to Council that the Member be issued with a formal censure”
- “Councillor breaches code of conduct for threatening behaviour...towards employee”



## **Your Responsibilities**

You have a legal duty to act ethically. This is set out in the Local Government Act 2000.

The Local Authorities (Model Code of Conduct) (Wales) Order 2008 requires a mandatory code of conduct in each authority based on a national model



# The Ethical Framework

**The Nolan Committee in 1997 - origins of the ethical framework for Standards in Public Life**

**As a Member you must have regard to these principles :**

Selflessness

Honesty

Integrity and Propriety

Duty to uphold the law

Stewardship

Objectivity in Decision making

Equality and respect

Openness

Accountability

Leadership



## Code of Conduct

- Shows you how to apply the ethical framework
- Unless you sign your Declaration of Acceptance and give a written undertaking to observe the Code of Conduct you cannot be a member
- If you fail to undertake or observe you can be suspended from office
- Applies to all members in Wales apart from members of Police Authorities who should comply with the English Code of Conduct



## **The Code Applies to You Whenever You Are ...**

- In any “official” meeting of the authority
- In any meeting where members or officers of the authority are present
- Acting, claiming to act or giving the impression you are acting as a representative of the authority
- Conducting business of the authority as a member and acting as a representative of the authority
- Acting in an official capacity
- Acting as a representative on another body unless that body has conflicting legal rules or its own code.



## And Also...

At any time if :

- You conduct yourself in a manner likely to bring your office or authority into disrepute or
- You use or attempt to use your position to gain advantage or avoid disadvantage for yourself or others or
- You misuse your authority's resources





## **General Rules you Need to Follow Under the Code**

- Promote equality
- Treat others with respect and consideration
- Do not bully or harass people
- Do not compromise the impartiality of officers
- Do not disclose confidential information
- Do not prevent access to information



## General Rules you Need to Follow Under the Code

- Do not bring your office or authority into disrepute
- You must report breaches of the code to your Monitoring Officer
- Do not make vexatious complaints
- You must cooperate with investigations
- You must not use your position improperly
- Do not misuse your authority's resources



## **General Rules you Need to Follow Under the Code**

- Reach decisions objectively
- Consider advice that officers give you and give reasons if you don't take it
- Comply with the law and your authority's rules regarding expenses
- Do not accept any gifts or hospitality that would place you under an obligation or seem to do so.



## Interests

The public must have confidence that you are making decisions in their best interests not yours!

Therefore, if you have an interest you must declare it.



# Personal Interests

You have a personal interest when a decision relates to or is likely to affect you or a “close personal associate” in relation to

- Your job or business
- Your employer or company in which you are a partner or director
- Someone who has contributed to your election costs or member expenses
- Any company where you have shares over £25K or more than 1% of the total share value which has premises or land in your area



- Any contract that your authority makes with a company in which you are a partner, paid director or hold shares
- Any land in which you have an interest in your authority's area
- Any land let by your authority to a firm in which you are a partner, paid director or hold shares
- Any land in your authority's area which you have a license to occupy for at least 28 days



- Any body to which you have been elected appointed or nominated by your authority
- Any public authority or body exercising functions of a public nature, charity, public opinion or policy, trade union or professional association, private club or society in your authority's area of which you are a member or in a management position



## Who is ' a Close Personal Associate'

Not just your best friend but your worst enemy....

- Close friends
- Colleagues with whom you have strong connections
- Business associates
- Close relatives
- Or someone with whom you have been in dispute
  
- But not casual acquaintances, distant relatives or people who you come into contact with through your work.





## What Do You Do If You Have a Personal Interest ?

- You must declare it verbally at meetings
- You must declare it when making written or verbal representations outside of a meeting
- You must complete a declaration of interests form
- BUT you are entitled to take part in discussions and vote unless it is a prejudicial interest



## Prejudicial Interests

Are personal interests which a member of the public would regard as likely to influence your opinion or your ability to be objective for example:

- If your daughter lives next to a proposed site for a new housing development
- If your son attends a local school which is due for closure



# What Do You Do if You Have a Prejudicial Interest?

You must leave the meeting during the discussion

You must not exercise delegated powers

You must not seek to influence the decision

You must not make written or verbal representations

## **UNLESS**

The Standards Committee has granted you a dispensation

The public have a right to speak in which case you have the same right to speak (but you must leave after you have spoken) or you can provide written representations to the meeting

You have been called before a scrutiny committee



## **Predisposition and Predetermination**

**Predisposition** – having an opinion on something but you have not yet made up your mind

**Predetermination** – having decided a position on something where no argument will change your mind

If you are involved in a decision you should avoid giving the impression that you have conclusively decided how you will vote at the meeting.

“I have a view on the subject but want to listen to all the arguments before I make up my mind”



## Bias

- Bias – Members need to remember that apparent bias can infect the whole decision and make it vulnerable to challenge as is highlighted by a recent case in the High court:- *Kelton v Wiltshire*
- Planning permission for a residential development was quashed due to the apparent bias of a member of the planning committee



## How the Code is Policed

- The Monitoring Officer
- The Standards Committee
- The Public Services Ombudsman for Wales
- The Adjudication panel for Wales



## What Happens if you Breach the Code?

- Complaints are made to the Ombudsman
- If he believes them to be justified he refers them to the authority's standard's committee or to a tribunal convened by the Adjudication Panel for Wales
- If they find the complaint proven they can impose a range of sanctions from no action through suspension to disqualification for 5 years
- Even if you are suspended you are still subject to the Code!
- Remember also any local resolution procedures



## Where to Find Further Information

- If in doubt ask the Monitoring Officer
- Guidance from the Public Service Ombudsman for Wales <http://www.ombudsman-wales.org.uk/>