

Due to the current heightened security level at all our premises, Members are reminded to wear their identity badges whilst attending meetings. Any visitors must produce photographic identification at Reception.

FIRE & RESCUE AUTHORITY SUMMONS

STANDARDS COMMITTEE

You are required to attend a meeting of the South Wales Fire & Rescue Authority Standards Committee to be held at **South Wales Fire & Rescue Service Headquarters, Forest View Business Park, Llantrisant, CF72 8LX on Thursday, 22 March 2018 at 1630 hours – Room 8**

A G E N D A

1. Role Call
2. Apologies for Absence
3. Declarations of Interest

Members of the Standards Committee are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct

4. To receive the minutes of:

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2018

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Signature of Proper Officer:



MEMBERSHIP

Cllr	J	Harries	Labour
Cllr	V	Smith	Independent
Cllr	A	Roberts	Labour
Mr	G	Hughes	Independent Lay Member
Dr	M	Kerbey	Independent Lay Member
Mr	R	Alexander	Independent Lay Member
Mr	S	Barnes	Independent Lay Member
Mr	D	Fussell	Independent Lay Member

SOUTH WALES FIRE & RESCUE AUTHORITY

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON MONDAY 6 MARCH 2017 AT SOUTH WALES FIRE & RESCUE SERVICE HEADQUARTERS

54. PRESENT:

Mr G Hughes (Chair)	Independent Lay Member
Ms B Heller	Independent Lay Member
Ms A Jones	Independent Lay Member
Dr M Kerbey	Independent Lay Member
Councillor J Morgan	South Wales Fire & Rescue Authority
Councillor V Smith	South Wales Fire & Rescue Authority

APOLOGIES:

Mr A Clemes	Independent Member
Councillor B Morgan	South Wales Fire & Rescue Authority

ABSENT:

OFFICERS PRESENT: - Ms S Chapman – Monitoring Officer, Mr C Powell – Deputy Monitoring Officer

55. DECLARATIONS OF INTEREST

No declarations of interest were made.

56. MINUTES OF PREVIOUS MEETING

The minutes of the Standards Committee meeting held on 7 March 2016, were received and accepted as a true record of proceedings, subject to the following slight amendment:-

- ‘Dr’ M Kerbey was in attendance, not ‘Mr’ M Kerbey as recorded.

With reference to Item 52.4 in the minutes, the Monitoring Officer confirmed that a new calendar of Fire Authority meetings for the Municipal Year 2017/2018 would be circulated to Members in due course.

Following discussion on Item 53.1 in the minutes, regarding holding Standard Committee meetings every 6 months, the Monitoring Officer assured the group that Independent Members would be invited to attend a joint training session with new Fire Authority Members following the Annual General Meeting on 12 June 2017.

Following a query raised by Members on Minute Number 51.1, regarding a progress update on carrying out a review and scrutiny of the Bribery Act, the Monitoring Officer informed Members that the Service was currently in the process of carrying out a review of all organisational procedures. Members would be updated on any changes at the next meeting.

57. QUORUM

The Deputy Monitoring Officer advised Members of the legal requirement for a quorum to be present at Standard Committee meetings.

RESOLVED THAT

Following determination, Members formally agreed that a quorum should be present for all future meetings.

58. MONITORING OFFICER PROTOCOL

The Monitoring Officer presented a report which explained to Members the protocol of the Monitoring Officer.

RESOLVED THAT

58.1 Members agreed to note the content of the report.

58.2 Following a question and answer session and lengthy discussion on a number of points within the report, Officers agreed to make slight tweaks and amendments to the draft document.

58.3 With reference to Item 3.7.3 within the report, following a request by the Chair, Officers agreed to include the wording 'Members of the Standards Committee would be informed of any investigation'.

59. MEMBER INDUCTION TRAINING

The Monitoring Officer informed Members of the programme of Induction Training for Members following the Local Government Elections on 4 May 2017.

RESOLVED THAT

- 59.1 Members agreed to note the programme of Induction Training taking place.
- 59.2 Following lengthy discussion on mandatory training for Fire Authority Members, and tracking and monitoring training requirements, Officers agreed that mandatory training for handling complaints would be provided to Members of the Standards Committee.
- 59.3 Members noted that Induction Training for Fire Authority Members would take place on 26 June, 2017, at Cardiff Gate Training & Development Centre.

60. RETIREMENT

As it was Councillor J Morgan's last Standards Committee meeting, on behalf of Members the Chair took the opportunity to wish Councillor Morgan best wishes and good luck in her retirement.

**SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER**

AGENDA ITEM NO 5
22 MARCH 2018

APPOINTMENT OF INDEPENDENT MEMBERS OF THE STANDARDS COMMITTEE

SUMMARY

This report informs Members about the appointment of Independent Members of the Standards Committee.

RECOMMENDATION

That Members note the content of this report.

1. BACKGROUND

1.1 Throughout the year, three Independent Members of the Standards Committee resigned. Advertisements were therefore placed in accordance with the Standards Committee (Wales) Regulations.

2. ISSUE

2.1 Thirteen applications were received and 11 applicants were invited to interview. Interviews took place on 13 & 14 March 2018 with 11 candidates attending.

2.2 The interview panel consisted of the Deputy Monitoring Officer, Acting Deputy Monitoring Officer and Chair of the Standards Committee.

2.3 As a result of the interview process, three Independent Members were appointed.

3. EQUALITY RISK ASSESSMENT

3.1 There are no equality issues arising as a result of this report.

4. RECOMMENDATION

4.1 That Members note the content of this report.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	None

**SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER**

AGENDA ITEM NO 6
22 MARCH 2018

MEMBERS' TRAINING

SUMMARY

This report informs Members of the attendance of Fire & Rescue Authority Members at various training events throughout the year.

RECOMMENDATIONS

That Members note the contents of this report.

1. BACKGROUND

1.1 Following the Local Government Elections in May 2017, sixteen out of 24 new Fire & Rescue Authority Members were appointed. It was therefore identified that a comprehensive Member Induction Programme was needed to provide Members with the knowledge and understanding to be able to undertake their role.

2. ISSUE

2.1 As a result, a number of training sessions were programmed throughout the year. Some of these sessions focused on Members of the Local Pension Board whilst other sessions were designed for all Members of the Fire & Rescue Authority.

2.2 Attached at Appendix 1 is a report which records the attendance of Members at each of the training sessions.

2.3 In addition, Rhondda Cynon Taf CBC recently agreed that Members of our Standards Committee could join with theirs for future training sessions. Further information in this regard will be circulated as and when it becomes available.

3. EQUALITY RISK ASSESSMENT

3.1 There are no equality issues arising as a result of this report.

4. RECOMMENDATION

4.1 That Members note the content of this report.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	

Fire Authority Training Days - Appendix 1

Members		Cld = Cancelled		R = Requisite		P = Present		A = Apologies		Ab = Absent No Apologies Received						Totals							
		FA TRG		LPB TRG		LPB TRG		FA TRG		LPB TRG		FA TRG		LPB TRG		FA TRG		Training Days					
		10/07/17		13/09/17		29/09/2017		02/10/2017		11/10/2017 Cancelled		27/11/17		06/02/2018		05/03/2018 Cancelled		R	P	A	Ab	Cld	T
1.	Cllr D T Davies	R	P	R	P	R	P	R	P	R	P	R	P	R	P	R	P	R	P	A	Ab	Cld	T
		Yes	P	No		No		Yes	A	No		Yes	P	No		Yes	Cld	4	2	1	0	1	8
2.	Cllr S Bradwick	Yes	P	Yes	A	Yes	P	Yes	A	Yes	Cld	Yes	P	No		Yes	Cld	7	3	2	0	2	8
3.	Cllr D Ali	Yes	P	Yes	A	Yes	P	Yes	A	Yes	Cld	Yes	P	Yes	Ab	Yes	Cld	8	3	2	1	2	8
4.	Cllr H Joyce	Yes	P	Yes	A	Yes	A	Yes	Ab	Yes	Cld	Yes	P	Yes	Ab	Yes	Cld	8	2	2	2	2	8
5.	Cllr D Naughton	Yes	P	No		No		Yes	P	No		Yes	P	No		Yes	Cld	4	3	0	0	1	8
6.	Cllr M Phillips	Yes	P	Yes	P	Yes	P	Yes	P	Yes	Cld	Yes	A	No		Yes	Cld	7	4	1	0	2	8
7.	Cllr P Wong	Yes	P	No		No		Yes	P	No		Yes	A	No		Yes	Cld	4	2	1	0	1	8
8.	Cllr C Smith	Yes	A	No		No		Yes	Ab	No		Yes	A	No		Yes	Cld	4	0	2	1	1	8
9.	Cllr D White	Yes	P	No		No		Yes	A	No		Yes	P	No		Yes	Cld	4	2	1	0	1	8
10.	Cllr K Critchley	Yes	P	No		No		Yes	A	No		Yes	P	No		Yes	Cld	4	2	1	0	1	8
11.	Cllr H Thomas	Yes	P	No		No		Yes	Ab	No		Yes	P	No		Yes	Cld	4	2	0	1	1	8
12.	Cllr S Pickering	Yes	P	No		No		Yes	A	No		Yes	Ab	No		Yes	Cld	4	1	1	1	1	8
13.	Cllr A Roberts	Yes	Ab	No		No		Yes	Ab	No		Yes	Ab	No		Yes	Cld	4	0	0	3	1	8
14.	Cllr G Stacey	Yes	A	Yes	A	Yes	A	Yes	A	Yes	Cld							5	0	4	0	1	8
15.	Cllr D Thomas	Yes	P	No		No		Yes	P	No		Yes	A					3	2	1	0	0	8
16.	Cllr S Evans	Yes	A	No		No		Yes	P	No		Yes	P	No		Yes	Cld	4	2	1	0	1	8
17.	Cllr V Smith	Yes	P	Yes	P	Yes	P	Yes	P	Yes	Cld	Yes	P	No		Yes	Cld	7	5	0	0	2	8
18.	Cllr L Brown	Yes	P	No		No		Yes	A	No		Yes	A	No		Yes	Cld	4	1	2	0	1	8
19.	Cllr G Thomas	Yes	P	No		No		Yes	P	No		Yes	A	No		Yes	Cld	4	2	1	0	1	8
20.	Cllr C Elsbury	Yes	A	No		No		Yes	Ab	No		Yes	Ab	No		Yes	Cld	4	0	1	2	1	8
21.	Cllr A Hussey	Yes	P	No		No		Yes	P	No		Yes	P	No		Yes	Cld	4	3	0	0	1	8
22.	Cllr R Crowley	Yes	P	No		No		Yes	P	No		Yes	P	No		Yes	Cld	4	3	0	0	1	8
23.	Cllr K McCaffer	Yes	P	Yes	P	Yes	P	Yes	A	Yes	Cld	Yes	A	No		Yes	Cld	7	3	2	0	2	8
24.	Cllr K Gibbs	Yes	P	No		No		Yes	A	No		Yes	A	No		Yes	Cld	4	1	2	0	1	8
25.	Cllr J Harries													Yes	Ab	Yes	Cld	2	0	0	1	1	8
26.	Cllr A Slade													No		Yes	Cld	1	0	0	0	1	8
27.	Mr Geoffrey Hughes	Yes	A	No		No		No		No		No		No		No		1	0	1	0	0	8
28.	Ms Anne Jones	Yes	P	No		No		No		No		No		No		No		1	1	0	0	0	8
29.	Dr Mark Kerby	Yes	P	No		No		No		No		No		No		No		1	1	0	0	0	8
TOTALS																		122	50	29	12	31	

**SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER**

AGENDA ITEM NO 7
22 MARCH 2018

**THE PUBLIC SERVICES OMBUDSMAN'S CODE OF CONDUCT
CASEBOOK**

SUMMARY

This report highlights for Members the work of the Public Services Ombudsman for Wales and the type of complaints he considers in dealing with breaches of the Code of Conduct.

RECOMMENDATIONS

That Members note the contents of this report.

1. BACKGROUND

1.1 The Public Services Ombudsman for Wales considers complaints where Members of local authorities in Wales have broken the Code of Conduct.

2. ISSUE

2.1 Where the Ombudsman decides that a complaint should be investigated, there are four findings set out in Section 69 of the Local Government Act 2000 which the Ombudsman can arrive at:

- (i) that there is no evidence that there has been a breach of the Authority's Code of Conduct.
- (ii) that no action needs to be taken in respect of matters that were subject to investigation.
- (iii) that the matter be referred to the Authority's Monitoring Officer for consideration by the Standards Committee.
- (iv) that the matter be referred to the President of the Adjudication Panel for adjudication by a tribunal (generally in more serious cases).

2.2 Every quarter, the Ombudsman publishes the Code of Conduct Casebook which features investigations into complaints that local authority Members have broken their Authorities' Code of Conduct. Whilst no complaints have been made against Members of this Authority, the last two versions of the Casebook are attached for Members' information at Appendix 1.

2.3 Also attached for Members' information at Appendix 2 is the Ombudsman's Casebook summary of what is expected of public bodies when commissioning other bodies/third parties to provide services.

3. EQUALITY RISK ASSESSMENT

3.1 There are no equality issues arising as a result of this report.

4. RECOMMENDATION

4.1 That Members note the content of this report.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	The Ombudsman's Code of Conduct Casebook

The Code of Conduct Casebook

Issue 14 November 2017

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Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- (a) that there is no evidence that there has been a breach of the authority's code of conduct;
- (b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- (c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what

penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers July to September 2017.

Case summaries

No evidence of breach

Vale of Glamorgan Council – Integrity

Case Number 201606398 - Report issued in July 2017

A complaint was received that a member of the Council had sought to mislead the public, to create an advantage for herself in the election campaign, by making misleading statements in a campaign leaflet.

The investigation found that there was no intent to mislead and that once a complaint had been received that the leaflet could be misleading, it was withdrawn.

Llanelli Rural Council – Promotion of equality and respect

Case Number 201607211 - Report issued in August 2017

Councillor B complained that Councillor C had said Councillor B was corrupt, during a Council meeting at which the public and press were present. She said that doing so had been disrespectful and inconsiderate to her and had brought the Council into disrepute. Councillor B said this would amount to a breach of the Code of Conduct for elected members.

A number of witnesses were interviewed and whilst it was clear that Councillor B had become upset by something Councillor C had said there was not a consistent account of what was said. From the evidence gathered it was not clear that Councillor C had made the statement attributed to her by Councillor B. Further, it is not the Ombudsman's role to interfere with robust political debate and the evidence did not suggest that the actions of Councillor C went beyond that on this occasion.

Tywyn Town Council - Disclosure and registration of interests

Case Number 201607052 - Report issued in August 2017

Councillor A complained that Councillor B breached the Code of Conduct for members by failing to declare a personal and prejudicial interest in the matter of an adverse possession claim on a parcel of land owned and managed by the Town Council.

Councillor A alleged that Councillor B had a close personal association with the adverse possession claimant (a local farmer) despite denying having ever met him. Councillor A alleged that Councillor B concealed this in order to profit from the farmer's land claim. Councillor A also alleged that Councillor B sought to suppress the production of minutes of meetings at which the land claim was discussed.

The Ombudsman investigated whether Councillor B had improperly used her position to secure an advantage; whether she had failed to disclose a prejudicial or personal interest and whether she had brought her office into disrepute. Statements and comments were obtained from Councillor B, from the Clerk to the Council, from the farmer involved in the land claim and from the County Council's Monitoring Officer.

The Ombudsman found no evidence that Councillor B ever had a close personal association with the adverse possession claimant; no evidence that Councillor B sought to conceal and/or failed to declare a prejudicial or personal interest in the claim, and no evidence that Councillor B attempted to suppress the production or distribution of minutes. The Ombudsman concluded that Councillor B had not, therefore, breached the Code of Conduct.

No action necessary

There are no summaries in relation to this finding

Referred to Standards Committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

Flintshire County Council – Promotion of equality and respect
Case Number 201601611 - Report issued in June 2017

The Ombudsman received a complaint that a former member of Flintshire County Council (“the former Councillor”) had failed to show respect and consideration for others and had used bullying and harassing behaviour. The complaint related to two emails which the former Councillor had sent to a team manager in the Council’s planning department, which had been copied to senior officers and several other Members. The investigation considered whether the former Councillor may have breached paragraphs Paragraph 4(b), 4(c), 4(d) and 7(a) of the Code of Conduct (“the Code”).

The Ombudsman concluded that the two emails were distasteful and derogatory and failed to show respect and consideration for the recipient. He also found that the emails were intimidating and malicious and that they appear to have been intended to undermine and insult the recipient. He did not, however, consider that the former Councillor’s conduct breached paragraphs 4 (d) and 7 (a) of the Code.

Whilst the former Councillor did not seek re-election at the May 2017 election, the Ombudsman considered that the potential breaches were sufficiently serious for it to be in the public interest to pursue the matter further. The Ombudsman referred the matter to the Adjudication Panel for Wales for consideration, as he considered that the former Councillor’s conduct in sending the two emails was suggestive of breaches of paragraphs 4 (b) and 4 (c) of the Code.

On 6 October, a Case Tribunal, convened by the Adjudication Panel for Wales, concluded that the former Councillor had failed to show respect and consideration for the Council officer through the two emails and in a subsequent post on social media. The Case Tribunal further concluded that, through the two emails and in a subsequent post on social media, the former Councillor had used behaviour which amounted to bullying and harassment of the Council officer. Consequently, the Case Tribunal found the former Councillor to have been in breach of paragraphs 4 (b) and 4 (c) of the Code.

The Case Tribunal decided, by unanimous decision, that the former Councillor should be disqualified for a period of 14 months from being or becoming a member of Flintshire County Council or of any other relevant authority.

The decision of the Panel can be found [here](#).

More information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to Matthew.Aplin@ombudsman-wales.org.uk or Lucy.John@ombudsman-wales.org.uk or sent to the following address:

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CF35 5LJ

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Fax: 01656 641199

e-mail: ask@ombudsman-wales.org.uk (general enquiries)

Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

The Code of Conduct Casebook

Issue 15 January 2018

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Introduction

The Public Services Ombudsman for Wales considers complaints that members of local authorities in Wales have broken the Code of Conduct. The Ombudsman investigates such complaints under the provisions of Part III of the Local Government Act 2000 and the relevant Orders made by the National Assembly for Wales under that Act.

Where the Ombudsman decides that a complaint should be investigated, there are four findings, set out under section 69 of the Local Government Act 2000, which the Ombudsman can arrive at:

- (a) that there is no evidence that there has been a breach of the authority's code of conduct;
- (b) that no action needs to be taken in respect of the matters that were subject to the investigation;
- (c) that the matter be referred to the authority's monitoring officer for consideration by the standards committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales for adjudication by a tribunal (this generally happens in more serious cases).

In the circumstances of (c) and (d) above, the Ombudsman is required to submit the investigation report to the standards committee or a tribunal of the Adjudication Panel for Wales and it is for them to consider the evidence found by the Ombudsman, together with any defence put forward by the member concerned. It is also for them to determine whether a breach has occurred and, if so, what

penalty (if any) should be imposed.

The Code of Conduct Casebook contains summaries of reports issued by this office for which the findings were one of the four set out above. However, in reference to (c) and (d) findings, The Code of Conduct Casebook only contains the summaries of those cases for which the hearings by the standards committee or Adjudication Panel for Wales have been concluded and the outcome of the hearing is known. This edition covers October to December 2017.

Case summaries

No evidence of breach

Cardiff Council – Promotion of equality and respect

Case Number 201606695 – Report issued in October 2017

A complaint was made that a member (“the Councillor”) of Cardiff Council (“the Council”) breached the Authority’s Code of Conduct for elected members when he allegedly made comments to a former Councillor on two occasions about a local religious association.

The complaint was investigated on the basis that the member may have breached paragraphs 4(a), 4(b), 4(d) and 6(1)(a), relating to equality, respect, impartiality and bringing their office or authority into disrepute.

The investigation found that there were no witnesses to either of the conversations the member had with the former Councillor. The member also strongly denied the allegations. Therefore, under section 69(4) (a) of the Local Government Act 2000, the Ombudsman’s finding was that there was no evidence that the member failed to comply with the Code of Conduct.

Merthyr Tydfil County Borough Council - Integrity

Case Number 201700102 – Report issued in October 2017

A complaint was made that a member (“the Councillor”) of Merthyr Tydfil County Borough Council (“the Council”) breached the Authority’s Code of Conduct for elected members when she made comments about a member of the public in a Facebook messenger group chat.

The complaint was investigated on the basis that the Councillor may have breached paragraph 6(1)(a) of the Code, by bringing her office or authority into disrepute.

The Ombudsman considered that the Councillor’s comments were made in extremely bad taste. However, he took into account that the Facebook messenger group in which the Councillor posted her comments only consisted of three members. It was clear that the Councillor deeply regretted her actions and when she realised that the subject of her comments had become aware of what she had posted, she provided a fulsome apology.

The investigation found that, whilst the Councillor’s actions may have brought herself into disrepute, for the reasons outlined above, she had not brought her office or authority into disrepute. Therefore, under section 69(4)(a) of the Local Government Act 2000, the Ombudsman’s finding was that there was no evidence that the Councillor failed to comply with the Code of Conduct. However, the Councillor was advised of her responsibility to take care when expressing her personal opinions.

Tywyn Town Council and Gwynedd Council – Promotion of Equality and Respect

Case Number 201607353 & 201607357 – Report issued in November 2017

Councillor X complained that a member (“Councillor Y”) of Tywyn Town Council and Gwynedd Council breached the Code of Conduct for elected members by making personal allegations about her. Councillor

X provided evidence that Councillor Y made comments about her in various emails, which he had sent to members of Tywyn Town Council and Gwynedd Council.

The complaint was investigated on the basis that Councillor Y may have breached paragraphs 4(b) (failure to show respect and consideration), 4(c) (bullying and harassment), and 6(1)(a) (bringing his office or authority into disrepute).

The Ombudsman did not consider that the comments made by Councillor Y were so offensive as to amount to a breach of paragraph 4(b) of the Code of Conduct. Neither did he consider that his actions were sufficiently serious to amount to a breach of paragraph 4(c) of the Code.

In relation to paragraph 6(1)(a) of the Code, there was no evidence to suggest that Councillor Y had shared emails with members of the public. He had sent one email to a member of the press, and whilst the Ombudsman considered it was unwise for him to do so, it did not appear that the email was acted upon or shared further. That being so, the Ombudsman did not consider that the consequences of his actions were sufficiently serious to have brought his office or authority into disrepute.

Whilst the Ombudsman's finding was that there was no evidence that Councillor Y had failed to comply with the Code of Conduct, he was advised of his responsibility to be mindful of how his comments are perceived by others in future.

Llansannan Community Council – Promotion of Equality and Respect Case Number 201700953 – Report issued in November 2017

Mr X complained that a member ("the Councillor") of Llansannan Community Council ("the Community Council"), breached the Code of Conduct for members when he asked Mr X to leave a meeting of the Community Council and used the words "for your own safety," which Mr X considered to be a threat.

The complaint was investigated on the basis that there may have been a failure to comply with the following paragraph of the Code of Conduct for elected members:

- 4(b) – you must show respect and consideration for others; and
- 4(c) – you must not use bullying behaviour or harass any person.

There was no evidence to suggest that the Councillor's behaviour towards Mr X was in any way threatening and the Ombudsman was satisfied that his actions were reasonable under the circumstances.

Under Section 69(4)(a) of the Local Government Act 2000, the Ombudsman's finding was that there was no evidence that the Councillor failed to comply with the Code of Conduct.

No action necessary

Conwy County Borough Council - Disclosure and registration of interests

Case Number 201702250 – Report issued in October 2017

The Ombudsman received a complaint that a member of Conwy County Borough Council (“the Councillor”) had breached the Code of Conduct when he submitted a written objection, in an official capacity, to a planning application which the complainants had made to the Council. The Councillor lives near the application site, and could be personally affected by it.

The Ombudsman concluded that it was likely that the Councillor had breached the Code given the proximity of the development site to his home and the fact his objections were sent from his Council email address and signed off “Councillor [Name]”. However, the Ombudsman decided to take no action in this case on the basis that the Councillor had shown remorse and apologised, his explanation that he had accidentally selected his Council email address from a drop down box when writing his email was plausible, he had acted swiftly to withdraw his objection when concerns were raised, and his actions did not adversely affect the planning application, which was granted permission.

Referred to Standards Committee

There are no summaries in relation to this finding

Referred to Adjudication Panel for Wales

There are no summaries in relation to this finding

More information

We value any comments or feedback you may have regarding The Code of Conduct Casebook. We would also be happy to answer any queries you may have regarding its contents. Any such correspondence can be emailed to Matthew.Aplin@ombudsman-wales.org.uk or sent to the following address:

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Follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

Further information about the service offered by the Public Services Ombudsman for Wales can also be found at www.ombudsman-wales.org.uk

What's in the postbag?

Increasingly Welsh public bodies are delivering services through arrangements with third parties. These can include partnership agreements with other public bodies, services commissioned from the private sector, arm's length or wholly owned companies or charitable trusts.

The experience of cases coming to this office is that such arrangements can blur the lines of accountability making it difficult for service users to know who they should complain to.

Regardless of how services are delivered, the public body with the statutory responsibility to deliver the services remains accountable for that service. When such complaints are made to the Ombudsman he will consider any complaint in the usual way and hold the public body with overall responsibility for the service to account for the delivery of the service.

Complaints processes must therefore be clear and simple for members of the public to follow. The Ombudsman expects public bodies entering into arrangements with other public bodies or third parties to ensure that it has robust governance arrangements in place.

Governance arrangements

- Public bodies must include clear arrangements for complaint handling in any contract or agreement with partner organisations.
- Any such arrangements must be consistent with any statutory complaints process (e.g. Putting Things Right /Children's Social Services complaints) and should otherwise follow the [Model Complaints & Concerns Policy](#).
- The arrangements must be clear about how disputes between the public body and the provider are dealt with to ensure they do not impact upon the process for responding to the complainant.
- Be clear in the arrangements about which party to any agreement is responsible for responding to a complaint.
- If a partner organisation is responsible for responding to a complaint on behalf of the public body, ensure that the partner organisation informs the complainant of their right to complain to my office.¹
- Ensure staff within all organisations know what the arrangements are and what their role is in carrying them out.
- Ensure that the public body with overall responsibility for the service is informed about all complaints and monitors the outcomes of complaints.
- Ensure that elected councillors and independent board members understand complaint mechanisms so that they can respond to queries from the public.

The Ombudsman welcomes the fact that public bodies are collaborating and working jointly with the aim of providing streamlined services to the public. However, when failings are made it is important that members of the public have the same access to justice.

The Equality, Local Government and Communities Committee of the Assembly's consideration of the PSOW Bill is ongoing. The Ombudsman very much hopes it will decide to progress the Bill. Should the Com-

1 In compliance with Section 33 PSOW Act 2005

plaints Standards Authority function within the Bill be enacted, this office would be able to monitor public bodies handling of complaints where such arrangements have been made across Wales so that performance data can be monitored. This should help ensure a more citizen-centred service in Wales.

STANDARDS CONFERENCE WALES 2018 – 14 SEPTEMBER 2018

SUMMARY

This report advises Members of the forthcoming Standards Conference on 14 September 2018 and seeks their interest in attendance.

RECOMMENDATIONS

That Members note the content of this report and consider their attendance at the Standards Conference Wales 2018.

1. BACKGROUND

- 1.1 The Authority has been advised that the Standards Conference Wales 2018 will be held at Aberystwyth University on Friday, 14 September 2018.

2. ISSUE

- 2.1 Full details of the conference are not yet known but we are aware that the key speakers will be the Public Services Ombudsman for Wales and the President of the Adjudication Panel for Wales.
- 2.2 The conference will provide an opportunity to hear directly from senior officials in the adjudication of the Code of Conduct, to question them on matters of concern and to enable delegates to debate current issues on the Code of Conduct. However, further details in this regard will be provided when known.
- 2.3 It is anticipated that up to three places will be offered to each local authority within Wales.

3. EQUALITY RISK ASSESSMENT

- 3.1 There are no equality issues arising as a result of this report.

4. RECOMMENDATION

- 4.1 That Members note the content of this report and consider their attendance at the Standards Conference Wales 2018.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	

**SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER**

AGENDA ITEM NO 9
22 MARCH 2018

**INDEPENDENT REMUNERATION PANEL FOR WALES ANNUAL REPORT
2018**

SUMMARY

This report informs Members of the recommendations contained within the Annual Report of the Independent Remuneration Panel for Wales.

RECOMMENDATIONS

That Members note the contents of this report.

1. BACKGROUND

- 1.1 The Independent Remuneration panel (IRPW) was established under the Local Government (Wales) Measure 2011 (the Measure) to determine and monitor the payment and allowances of Members of relevant authorities.
- 1.2 The Welsh Government amended the Measure by adding Section 143A which enabled the IRPW to take a view on any changes to the salary of Head of Paid Services.
- 1.3 The IRPW publishes an annual report, normally in February of each year, which determines the payments to be made to Members from the Authority's next AGM.

2. ISSUE

- 2.1 The current position in South Wales Fire & Rescue Authority is that in accordance with the IRPW's recommendations, the basic salary of Members will increase by £30 to £1745 per annum from the AGM in June 2018.
- 2.2 There is no additional increase to the payment made to the Chair of the Fire & Rescue Authority or to the senior salaries paid to the Deputy Chair of the Fire & Rescue Authority, the Chair of HR & Equalities or to the Chair of the Finance, Audit & Performance Management Committee (other than to the basic salary element).
- 2.3 Attached at Appendix 1 is an extract from the IRWP report which relates to Fire & Rescue Authorities.

3. EQUALITY RISK ASSESSMENT

3.1 There are no equality issues arising as a result of this report.

4. RECOMMENDATION

4.1 That Members note the content of this report.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	IRPW Annual Report 2018

APPENDIX 1

8. Payments to Members of Welsh Fire and Rescue Authorities

Structure of Fire and Rescue Authorities

8.1 The 3 Fire and Rescue Services in Wales: Mid and West Wales, North Wales and South Wales and Fire and Rescue Authorities (FRAs) were formed as part of Local Government re-organisation in 1996.

8.2 FRAs comprise of elected Members who are nominated by the Principal Councils within the Fire and Rescue Service area.

8.3 The structure of the each of the 3 FRAs is set out in Table 5

Table 5: Membership of Fire and Rescue Authorities

Name of Fire and Rescue Authority	Number of Local Authority Members
Mid and West Wales	25: Carmarthenshire County Council – 5 Ceredigion County Council – 2 Neath Port Talbot County Borough Council – 4 Pembrokeshire County Council – 3 Powys County Council – 4 Swansea City and County Council - 7
North Wales	28: Conwy County Borough Council – 5 Denbighshire County Council – 4 Flintshire County Council – 6 Gwynedd Council – 5 Isle of Anglesey County Council – 3 Wrexham County Borough Council – 5
South Wales	24: Bridgend County Borough Council – 2 Blaenau Gwent County Borough Council – 1 Caerphilly County Borough Council – 3 Cardiff City Council – 5 Merthyr Tydfil County Borough Council – 1 Monmouthshire County Council – 2 Newport City Council - 2 Rhondda Cynon Taf County Borough Council - 4 Torfaen County Borough Council – 2 Vale of Glamorgan Council -2

8.4 In addition, Standards Committees of FRAs have independent co-opted members whose remuneration is included in the framework as set out in Section 9.

8.5 In considering remuneration of members of FRAs, the Panel has based its determinations on the following key points:

- The chair has a leadership and influencing role in the authority, and a high level of accountability especially when controversial issues relating to the emergency service arise. In addition to fire authority meetings, all FRAs have committees that include in different combinations: audit, performance management, scrutiny, human resources, resource management as well as task and finish groups and disciplinary panels. As well as attending formal meetings of the authority and committees, members are encouraged to take on a community engagement role, including visiting fire stations.
- There is a strong training ethos in FRAs. Members are expected to participate in training and development. Induction programmes are available as well as specialist training for appeals and disciplinary hearings.
- Training sessions often follow on from authority meetings to make the training accessible.

Basic and Senior Salaries

- 8.6 The Panel has previously determined that the remuneration of ordinary members of an FRA should be aligned to the basic salary of a member of a principal council and that the time commitment required is a notional 20 days per year. This remains the basis of the Panel's determinations.
- 8.7 Although public sector funding continues to be constrained the Panel considers that a modest increase in the basic annual salary of elected members is justified and has determined there shall be an increase of £200 (which equates to 1.49%) from the date of the authority's Annual General Meeting in the level of basic salary for members of principal councils. This will help to limit further erosion of relative levels of remuneration in the basic salary paid in recognition of the duties expected of members.
- 8.8 Therefore, there is a corresponding increase of £30 (rounded) on the basic salary for members of FRAs from the date of the authority's Annual General Meeting.
- 8.9 The Panel determined that the remuneration of an FRA chair should be aligned to that part of a Band 3 Level 1 senior salary received by a committee chair of a principal council.
- 8.10 The Panel determined that the remuneration of an FRA deputy chair where there is significant and sustained senior responsibility will be aligned with the Band 5 senior salary.

- 8.11 The Panel has determined that up to two FRA committee chairs where there is significant and sustained responsibility can be remunerated.
- 8.12 During 2016, the Panel met with members and officers of the 3 FRAs. Feedback was received about the importance of members' attendance at meetings and the impact non-attendance can have. The Panel is minded to consider this further during 2016/17.

Additional Senior Salaries

- 8.13 The Panel allows principal councils greater flexibility to apply for specific or additional senior salaries that do not fall within the current Remuneration Framework. The Panel is extending this provision to FRAs as reflected in the following principles
- a. Applications will have to be approved by the authority as a whole (this cannot be delegated) prior to submission to the Panel.
 - b. There must be clear evidence that the post/posts have additional responsibility demonstrated by a description of the role, function and duration.
 - c. Each application will have to indicate the timing for a formal review of the role to be considered by the authority as a whole.

Local Pension Boards

- 8.14 The Panel has considered requests from FRAs to allow them to pay salaries to chairs of local pension boards established under the Firefighters' Pension Scheme (Wales) Regulations 2015. Those Regulations already give FRAs the power to decide how local pension boards are to work and to pay the chair and members if they wish. Therefore it is not appropriate for the Panel to make a determination empowering FRAs to pay salaries to local pension board chairs. The senior salaries in Determination 33 or 34 cannot be used exclusively for this role.
- 8.15 The Panel has made the following determinations:

Determination 31: The basic salary for FRA ordinary members shall be £1,745

Determination 32: The senior salary of the chair of an FRA shall be £10,445

Determination 33: An FRA senior salary can be paid to the deputy chair and up to two chairs of committees where there is significant and sustained responsibility. This shall be paid at £5,445.

Determination 34: The Panel has determined to include a provision for FRAs to apply for specific or additional senior salaries that do not fall within the current Remuneration Framework.

Determination 35: Members must not receive more than one FRA senior salary.

Determination 36: An FRA senior salary is paid inclusive of the FRA basic salary and must reflect significant and sustained responsibility

Determination 37: Members of a principal council in receipt of a Band 1 or Band 2 senior salary cannot receive a salary from any FRA to which they have been nominated.

The Panel's determinations on Travel and Subsistence, Reimbursement of Costs of Care and Family Absence are now set out in separate sections of this Annual Report.

9. Payments to co-opted Members of Principal Councils, National Park Authorities and Fire & Rescue Authorities¹

- 9.1 The Panel has determined that a daily/half daily fee is appropriate remuneration for the important role undertaken by co-opted members of authorities with voting rights (this includes the co-opted member from a Town or Community council). The level of payments is equivalent to the current daily rates for chairs and members of the Welsh Government's Band 2 sponsored bodies. The Panel notes there has been no uplift in these payment levels across such bodies since 2010.
- 9.2 Principal councils, NPAs and FRAs can decide on the maximum number of days in any one year for which co-opted members may be paid.
- 9.3 The determinations are set out below:

Determination 38: Principal councils, NPAs and FRAs must pay the following fees to co-opted members (Table 6) (who have voting rights).

Table 6: Fees for co-opted members (with voting rights)

Chairs of standards, and audit committees	£256 (4 hours and over) £128 (up to 4 hours)
Ordinary members of standards committees who also chair standards committees for community and town councils	£226 daily fee (4 hours and over) £113 (up to 4 hours)
Ordinary members of standards committees; education scrutiny committee; crime and disorder scrutiny committee and audit committee	£198 (4 hours and over) £99 (up to 4 hours)
Community and town councillors sitting on principal council committees	£198 (4 hours and over) £99 (up to 4 hours)

Determination 39: Reasonable time for pre meeting preparation is eligible to be included in claims made by co-opted members the extent of which can be determined by the appropriate officer in advance of the meeting.

Determination 40: Travelling time to and from the place of the meeting can be included in the claims for payments made by co-opted members (up to the maximum of the daily rate).

¹ This section does not apply to co-opted members of community and town councils.

Determination 41: The appropriate officer within the authority can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.

Determination 42: Meetings eligible for the payment of fees include other committees and working groups (including task and finish groups), premeetings with officers, training and attendance at conferences or any other formal meeting to which co-opted members are requested to attend.

The Panel's determinations on Travel and Subsistence, Reimbursement of costs of care and Family Absence are now set out in separate sections of this Annual Report.

10. Reimbursement of Costs of Care

- 10.1. This section applies to members of principal councils, National Park Authorities, Fire and Rescue Authorities and to co-opted members of these authorities. A similar, but permissive, provision for Community and Town Councils is given in section 13
- 10.2. The purpose of this section is to enable people who have personal support needs and or caring responsibilities to carry out their duties effectively as a member of an authority. The Panel believes that the additional costs of care required to carry out approved duties should not deter people from becoming and remaining a member of an authority or limit their ability to carry out the role.
- 10.3 The Panel recognises the issues relating to the publication of this legitimate expense. This is reflected in the options for publication as set out in Annex 4. To support current members and to encourage diversity the Panel urges authorities to promote and encourage greater take-up of the reimbursement of Costs of Care

Determination 43: All authorities must provide for the reimbursement of necessary costs for the care of dependent children and adults (provided by informal or formal carers) and for personal assistance needs up to a maximum of £403 per month. Reimbursement must be for the additional costs incurred by members in order for them to carry out their approved duties. Reimbursement shall only be made on production of receipts from the carer.

ADJUDICATION PANEL FOR WALES – SANCTIONS GUIDANCE

SUMMARY

This report seeks Members' views on the draft Sanctions Guidance of the Adjudication Panel for Wales.

RECOMMENDATIONS

That Members consider the draft guidance and provide any views they may have for reporting to the President of the Adjudication Panel for Wales.

1. BACKGROUND

- 1.1 The Local Government Act 2000 introduced an ethical framework to promote high standards of public life in Wales by introducing a Code of Conduct for elected and co-opted Members of all local authorities, community councils, fire & rescue authorities and national park authorities.
- 1.2 The introduction of this ethical framework included the establishment of the Adjudication Panel for Wales as an independent judicial body with powers to form tribunals to deal with alleged breaches of the Code of Conduct.

2. ISSUE

- 2.1 The Members of the Adjudication Panel for Wales have recently reviewed their Sanctions Guidance, attached as Appendix 1, and are seeking views before finalising any changes.

3. EQUALITY RISK ASSESSMENT

- 3.1 There are no equality issues arising as a result of this report.

4. RECOMMENDATION

- 4.1 That Members consider the draft guidance and provide any views they may have for reporting to the President of the Adjudication Panel for Wales.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	

Appendix 1**ADJUDICATION PANEL FOR WALES****SANCTIONS GUIDANCE**

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

ADJUDICATION PANEL FOR WALES

SANCTIONS GUIDANCE

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 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, Monitoring Officers and Welsh Government. 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 member, 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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<ul style="list-style-type: none"> - 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 determine the specific sanction and duration; it also addresses the tribunal's power to make recommendations. 	
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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 2000ⁱ. Its primary purpose is to assist the Panel's case, appeal and interim 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 case, appeal and interim tribunals in determining sanction following a finding that the Code has been breached.
3. The purpose of the sanctions regime 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 case, appeal and interim 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 by way of illustration and not exhaustive. Tribunals have ultimate discretion when imposing sanctions and can consider other factors that they consider necessary and appropriate. Nor does the Guidance undermine the responsibility of the legal member of a tribunal to advise on questions of law, including the specific applicability of this Guidance and the approach to be taken by the tribunal.
5. In setting out the factors considered by a tribunal in its determination of an appropriate sanction, the Guidance offers a transparency of approach for the benefit of all parties involved in a tribunal. It aims to ensure that everyone is aware, from the outset, of the way in which the tribunal will 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 Walesⁱⁱ, confirming the expectations on local members in 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 [insert date]. 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 a 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 must, on taking office, sign an undertaking to abide by their authority's Code for the duration of their membership.
9. The Welsh Government has issued a model Code of Conductⁱⁱⁱ in order to ensure broad consistency across Wales and to give certainty to members and the public as to the minimum standards expected. Local Codes must include, as a baseline, the requirements of the national model which builds on the Nolan Committee's Principles for Public Life^{iv} and encompasses ten core principles^v:
 - 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

Expectations on local members

10. Members of local authorities, community councils, fire and rescue authorities and national park authorities in Wales must abide by their authority's Code:
 - whenever they are acting, claiming to act or giving the impression of acting in an official capacity as a member or representative of their authority;
 - at any time, if they are conducting themselves in a manner which could reasonably be regarded as bringing their public 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 Code^{vi}. 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 use of the authority's resources – in addition to those less frequently encountered.
12. Ultimately, members must use their judgment in applying the principles to their own situation. They cannot delegate responsibility for their conduct under the Code.

Allegations of breach

13. Allegations that a member's conduct is in breach of the Code are 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 tribunal.

The Adjudication Panel for Wales

14. The introduction of the ethical framework included the establishment of the Adjudication Panel for Wales^{vii} 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.

Appeal tribunals

16. Appeals tribunals are appointed by the President to consider appeals from members against a decision of a local Standards Committee on misconduct. Appeal tribunals are responsible for reviewing the decision that a local member has breached the Code of Conduct and any sanction imposed. They may dismiss the appeal, overturn the Standards Committee decision on breach or refer the matter back to the Committee with a recommendation as to a different sanction.

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 tribunal is not to be regarded as disciplinary as this would be premature given the ongoing nature of the Ombudsman's investigation.

The sanctions regime

18. The Committee on Standards in Public Life^{viii} which originated the ethical framework identified a mechanism for enforcing and punishing 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:

- 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 tribunal that has found a breach of the Code are^{ix}:

- 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.

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.

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 local 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 value 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 Casebook^x 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.

Equality and impartiality

26. Fair treatment is a fundamental principle of 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.

Human Rights (Article 10)

27. Tribunals must ensure that their processes and practices respect human rights legislation. This Guidance aims to support those principles. In particular, tribunals must ensure that they consider the relevance of Article 10 of the European Convention on Human Rights in their deliberations.

28. Article 10 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 Wilkie^{xi} 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)?

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 an appropriate sanction, the tribunal’s approach should be sufficiently broad 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 and the duration; 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.

35. The tribunal will assess seriousness with particular reference to:

- the nature and extent of the breach, and number of breaches;
- the Respondent/Appellant'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 of any publicity surrounding the breach.

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

- a breach involving deliberate deception for personal gain 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 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 coverage of the council in the national media 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, the deliberate abuse of privileged or sensitive information for personal gain, and sexual misconduct, discriminatory, predatory 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, even if suspended, is automatically subject to disqualification^{xii}.

Choosing the potential sanction

39. Having assessed the relative seriousness of the Respondent/Appellant's breach of the Code, the tribunal will consider which of the three courses of action available to it is most appropriate^{xiii}. In line with the principles of fairness and proportionality, the tribunal should start its considerations of possible sanctions with that of least impact to that of greatest.

No action

39.1 The tribunal may decide that, despite the Respondent/Appellant 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:

- 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 Respondent/Appellant 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 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 Respondent/Appellant as to their conduct and/or seek

assurances as to future behaviour. This provides an effective means of placing the Respondent/Appellant'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 Respondent/Appellant being found to have breached the Code in the future.

Suspension for up to 12 months

- 39.3 A tribunal may suspend the Respondent/Appellant for up to 12 months from the authority(ies) whose Code has 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 future such 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.
- 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.
- 39.6 Circumstances in which a tribunal may decide that a suspension is appropriate may include:
- the Respondent/Appellant'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 (or found to have committed a criminal offence punishable by at least three months imprisonment);
 - 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 Respondent/Appellant 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 Respondent/Appellant from exercising a particular function or role (such as being a member of a particular authority, 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 Respondent/Appellant 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 Respondent/Appellant 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 Respondent/Appellant 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 misconduct arises from the membership of a particular authority and has no bearing on the membership of another;
- the Respondent/Appellant 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 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 Respondent/Appellant might be regarded as unfit for public office 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 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;

- seeking personal gain (for herself/himself or family member or personal associate) by exploiting membership of the authority and/or the authority's resources;
- deliberately seeking political gain by misusing public resources or power within the authority;
- a 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/Appellant'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 Respondent/Appellant may mitigate and/or aggravate the level of sanction under consideration. This stage is designed to take account of any personal circumstances affecting the Respondent/Appellant's conduct including inexperience, capacity, insight, responsibility (for the breach), remorse, reparation and any previous findings. The 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 may be more appropriate than a disqualification, and vice versa.

41. Tribunals are encouraged to work through the examples set out below but 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 Respondent/Appellant'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. the misconduct arose from provocation or manipulation on the part of others;
- vi. 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;
- vii. the misconduct, whilst in breach of the Code, had some beneficial effect for the public interest;
- viii. political expression of an honestly held opinion, albeit intemperately expressed, or a political argument (see Aggravating factor xii below);
- ix. self-reporting the breach;
- x. recognition and regret as to the misconduct and any consequences;
- xi. an apology, especially an early apology, to any affected persons;
- xii. co-operation in efforts to rectify the impact of the failure;
- xiii. co-operation with the investigation officer and the standards committee/APW;
- xiv. acceptance of the need to modify behaviour in the future;
- xv. preparedness to attend further training;
- xvi. commitment to seeking appropriate advice on the Code in the future;
- xvii. compliance with the Code since the events giving rise to the adjudication.

Aggravating factors

- i. length of experience, seniority and/or position of responsibility;
- ii. unfairly blaming others for the Respondent/Appellant's own actions;
- iii. deliberate conduct designed to achieve or resulting in personal (for her/himself, a family member or 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 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 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;
- xiii. obstructing and/or failing to co-operate with the Ombudsman's investigation 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 warnings or assurances given as to conduct relevant to the Code.

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 standard 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 Respondent/Appellant 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 Respondent/Appellant 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 Respondent/Appellant'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/Appellant is no longer a member, a short period of disqualification may be appropriate. This will ensure that the Respondent/Appellant 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.

Financial impact

48. Tribunals should take into account the financial impact on members of a sanction: during suspension, a member will be denied payment of their basic salary or allowances; following disqualification, the member will lose any entitlement to 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 salaried paid to leaders of larger councils^{xiv}.

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. Tribunals should consider the validity of imposing a disqualification as an alternative to suspension in order to avoid the electorate being left without adequate representation or an authority being inquorate.

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 Respondent/Appellant. For example: a disqualification of 18 months, imposed in December 2020, would prevent a Respondent/Appellant 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. Nor, if the matter does come before a case tribunal, should the view be taken that because a Court has imposed a sentence of 3 months imprisonment or longer that the maximum disqualification should automatically be imposed. The same facts as might give rise to such an outcome from criminal proceedings might not usually attract a five-year disqualification by a case tribunal.

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.

Recommendations

54. Case tribunals also have the power to make recommendations^{xv} 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, it 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 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 tribunals are not disciplinary. Interim 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 tribunal^{xvi} 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.

60. Interim case tribunals will therefore seek to take the minimum action necessary to ensuring 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:
- 65.1 the Respondent is a member of two (or more) relevant authorities but the allegations are specific to one authority only - the Respondent may be suspended from that authority without impacting on the others;
 - 65.2 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 precluded from their specific or executive responsibilities in order to reassure public confidence whilst not undermining the authority's ability to function effectively or depriving the electorate of their 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 Local Authorities (Case and Interim Case Tribunals and Standards Committees) (Amendment) (Wales) Regulations 2009 2578 (W. 209)

ⁱ 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

ⁱⁱ 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

ⁱⁱⁱ 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

^{iv} Nolan Report “Standards of Conduct in Local Government in England, Scotland and Wales

^v 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

^{vi} 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

^{vii} Part III, Local Government Act 2000

^{viii} Reference to the report on enforcement

^{ix} Section 79, Local Government Act 2000

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

^{xi} Wilkie J in the case of Sanders v Kingston No (1) [2005] EWHC 1145

^{xii} Section 80(1)(d), Local Government Act 1972

^{xiii} Section 79, Local Government Act 2000

^{xiv} <http://gov.wales/irpwsb/home/?lang=en>

^{xv} Section 80, <http://www.legislation.gov.uk/ukpga/2000/22/section/80>

^{xvi} Section 78(1), Local Government Act 2000

**SOUTH WALES FIRE & RESCUE AUTHORITY
STANDARDS COMMITTEE
REPORT OF THE MONITORING OFFICER**

AGENDA ITEM NO 11
22 MARCH 2018

WELSH LOCAL GOVERNMENT ASSOCIATION PUBLICATIONS

SUMMARY

This report brings to Members' attention two Welsh Local Government Association (WLGA) publications which have been drafted for consultation.

RECOMMENDATIONS

That Members consider the documents that have been drafted by the WLGA and provide any comments they wish to feedback.

1. BACKGROUND

- 1.1 The WLGA has drafted two documents: 'Personal Safety for Members' and 'Councillors Guide to Handling Online Abuse', which are attached as Appendix 1 and 2 respectively.

2. ISSUE

- 2.1 Members are invited to review the documents and provide any comments they wish to feedback.

3. EQUALITY RISK ASSESSMENT

- 3.1 There are no equality issues arising as a result of this report.

4. RECOMMENDATION

- 4.1 That Members consider the documents that have been drafted by the WLGA and provide any comments they wish to feedback.

Contact Officer:	Background Papers:
Sally Chapman Monitoring Officer	None

Personal Safety for Members

APPENDIX 1

Incidents of violence towards public figures is rare, however, councillors have high profile public roles, are constantly interacting with members of the community and can be the victims of verbal or written abuse. They may experience harassment and stalking and online abuse.

It is important therefore that councillors understand the steps they should take to keep themselves safe. This guidance note for members will signpost you to resources that can help and outline some of the measures that can be taken to reduce risk and ensure safety.

Members should seek guidance from their corporate health and safety advisors or Heads of Democratic Services about the specific guidance in place locally and be mindful of the risks when for example:

- Visiting people in their homes
- Receiving callers to your home
- Holding surgeries
- Travelling, whether on public or private transport and when alone
- Communicating online

If, as a member, you have a specific concern or you feel you at risk, speak to your corporate health and safety advisor, Head of Democratic Services or Monitoring Officer. You may be able to access relevant training or safety or security equipment to help protect you in your role.

Useful Resources

- **Personal Safety Guidance for Councillors** - The Local Government Information Unit LGIU has published guidance specifically for members covering what to do in these situations which can be found here.

<https://www.lgiu.org.uk/wp-content/uploads/2016/09/Personal-safety-for-elected-members.pdf>

- **Personal Safety Advice** - There is also a range of excellent online advice available from the Susie Lamplugh Trust which covers for example:
 - canvassing and campaigning,
 - dealing with aggression
 - stalking
 - lone working
 - personal alarms
 - hate crime and
 - internet safety.
- <https://www.suzylamplugh.org/Pages/FAQs/Category/personal-safety> **Online Abuse Guidance for Councillors** - The WLGA has published guidance for dealing with online abuse available here. **Get Safe Online guidance** - More information on online safety is available from the government supported website, *Get Safe Online*. This covers everything from protecting your devices to social networking to information security.

<https://www.getsafeonline.org/>

- **Recognising the Terrorist Threat Guidance** - The national counter terrorism security office has useful information about dealing with suspect packages and knowing what to do in the event of terrorist threats.

<https://www.gov.uk/government/publications/recognising-the-terrorist-threat/recognising-the-terrorist-threat>

If you are in any doubt about the actions you should take to ensure your personal safety speak to your corporate health and safety advisor or Head of Democratic Services for support.

Abuse and bullying within the council

Local government has a strict statutory Code of Conduct which sets out clear expectations of behaviour and conduct for members. However, in some cases councillors do not come forward if they have been the victims of bullying or harassment as they believe that their concerns may be dismissed as “banter” or political rough and tumble”. The WLGA encourages all members to challenge bad behaviour when they see it and to ensure that support is offered to members who experience it.

More information here (link to another webpage)*

More information sarah.titcombe@wlga.gov.uk

***Abuse and bullying within the council webpage**

The Leader of the WLGA Cllr Debbie Wilcox has said

“When I first became Leader of this body I stated that I wanted to put equality and respect, in all its forms, high on the agenda.

Local government is perhaps better placed than others; we have a strict statutory code of conduct which sets out clear expectations of behaviour and conduct; we provide training and have local resolution processes to manage lower level councillor-on-councillor complaints. I was pleased to see that councillor complaints made to the Ombudsman last year were at their lowest for over a decade; given last year was an election year, that’s no mean feat! I also understand that few Ombudsman complaints over the recent years have related to bullying and/or inappropriateness.

But we cannot assume that all is rosy in our garden, we cannot assume that everyone feels comfortable and confident enough to come forward if they are a victim of bullying or harassment. There are no doubt many people who have stayed silent, too intimidated or scared to come forward or who have turned a blind eye or excused an inappropriate comment as mere ‘banter’.

As councillors we all set out to do the right thing for our the most vulnerable in our communities; but we shouldn’t forget that some of those amongst us, some of us in this council chamber, may be vulnerable too; after all the cut and thrust of politics, we are all just human beings at the end of the day.

We aspire to encourage more diverse and younger talent to come through our ranks and to be our leaders of tomorrow. What worries me most is that many of the alleged victims are young women, early on in their professional or political careers. How many and how much potential has been lost as a result, if these early experiences meant that they turned their back on politics or public life? local democracy and politics is not a huge appeal to many in our communities and our collective reputation risks being eroded further.

We therefore need to draw a line.

We as leaders and senior members must ensure that we encourage, support and cultivate a culture that anyone and everyone can feel at home in and contribute fully within. I think we need to be positive and proactive, we should adopt a zero-tolerance stand, we must challenge bad behaviour when we see it or hear it. We have processes in place, but we need to reassure ourselves that these processes are robust, that people can come forward if necessary and that support is available and will be offered to both parties involved in a complaint"

All council Leaders have agreed to support a commitment to end bullying and inappropriate conduct and to ensure that there are robust processes in place in every council to address this.

Councillors who have experienced bullying or other inappropriate behaviour are advised

- Not to tolerate it
- To follow any formal reporting process in place in the council
- To raise any concerns with your Group Leader, Group Whip, a trusted colleague or the council's Monitoring officer.
- If appropriate take advantage of any confidential counselling service offered by your council

APPENDIX 2

Councillors Guide to Handling Online Abuse

February 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

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>

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.

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.

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

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

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

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

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

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 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 abused

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. 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

7. 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

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.

8. 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.

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

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

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

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

An offence relating to malicious communications may be a single incident, but a 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 or report any incidents.

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

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.

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>

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

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

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.

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

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

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

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

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 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

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

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

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.

DRAFT

1.	Role Call	
2.	Apologies for Absence	
3.	Declarations of Interest	
	Members of the Standards Committee are reminded of their personal responsibility to declare both orally and in writing any personal and/or prejudicial interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Fire & Rescue Authority's Standing Orders and the Members Code of Conduct	
4.	To receive the minutes of:	
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