

Part 5 Codes and Protocols

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Members' Code of Conduct

Reference:

The Conduct of Members (Model Code of Conduct) (Wales) Order 2001

The Conduct of Members (Principles) (Wales) Order 2001

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016

CAERPHILLY COUNTY BOROUGH COUNCIL

CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

**CODE ADOPTED BY
CAERPHILLY COUNTY BOROUGH COUNCIL**

**ON 2ND MAY, 2008 &
AMENDED ON 13TH MAY, 2016**

CODE OF CONDUCT OF CAERPHILLY COUNTY BOROUGH COUNCIL

PART 1 INTERPRETATION

1.—(1) In this code —

"co-opted member" ("*aelod cyfetholedig*"), in relation to a relevant authority, means a person who is not a member of the authority but who —

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority, and who is entitled to vote on any question which falls to be decided at any meeting of that committee or subcommittee;

"meeting" ("*cyfarfod*") means any meeting —

(a) of the relevant authority,

(b) of any executive or board of the relevant authority,

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint sub-committee of any executive or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990,

and includes circumstances in which a member of an executive or board or an officer acting alone exercises a function of an authority;

"member" ("*aelod*") includes, unless the context requires otherwise, a co-opted member;

"registered society" means a society, other than a society registered as a credit union, which is —

(a) a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014; or

(b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

"register of members' interests" ("*cofrestr o fuddiannau'r aelodau*") means the register established and maintained under section 81 of the Local Government Act 2000;

"relevant authority" ("*awdurdod perthnasol*") means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,
- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (e) a National Park authority established under section 63 of the Environment Act 1995;

"you" ("*chi*") means you as a member or co-opted member of a relevant authority; and

"your authority" ("*eich awdurdod*") means the relevant authority of which you are a member or co-opted member.

(2) In relation to a community council—

- (a) "proper officer" ("*swyddog priodol*") means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972; and
- (b) "standards committee" ("*pwylgor safonau*") means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.

PART 2 GENERAL PROVISIONS

2.—(1) Save where paragraph 3(a) applies, you must observe this code of conduct —

- (a) whenever you conduct the business, or are present at a meeting, of your authority;
- (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
- (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

3. Where you are elected, appointed or nominated by your authority to serve —

(a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or

(b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

4. You must —

(a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;

(b) show respect and consideration for others;

(c) not use bullying behaviour or harass any person; and

(d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.

5. You must not —

(a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

(b) prevent any person from gaining access to information to which that person is entitled by law.

6.—(1) You must —

(a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;

(b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);

(c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;

(d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

(2) You must comply with any request of your authority's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

7. You must not —

(a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

(b) use, or authorise others to use, the resources of your authority —

(i) imprudently;

(ii) in breach of your authority's requirements;

(iii) unlawfully;

(iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must —

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —

(i) the authority's head of paid service;

(ii) the authority's chief finance officer;

(iii) the authority's monitoring officer;

(iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);

(b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

9. You must —

(a) observe the law and your authority's rules governing the claiming of expenses and allowances in connection with your duties as a member;

(b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by your authority), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3 INTERESTS

Personal Interests

10.—(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.

(2) You must regard yourself as having a personal interest in any business of your authority if —

(a) it relates to, or is likely to affect —

(i) any employment or business carried on by you;

(ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;

(iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;

(iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;

(v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;

(vi) any land in which you have a beneficial interest and which is in the area of your authority;

(vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;

(viii) any body to which you have been elected, appointed or nominated by your authority;

(ix) any —

(aa) public authority or body exercising functions of a public nature;

(bb) company, registered society, charity, or body directed to charitable purposes;

(cc) body whose principal purposes include the influence of public opinion or policy;

(dd) trade union or professional association; or

(ee) private club, society or association operating within your authority's area,

in which you have membership or hold a position of general control or management;

(x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;

[Note: subparagraph (b) is omitted.]

(c) a decision upon it might reasonably be regarded as affecting —

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2)(c)(i);

(iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

(aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11.—(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

(a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your

authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing —

- (a) details of the personal interest;
- (b) details of the business to which the personal interest relates; and
- (c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.—(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

- (a) relates to —
 - (i) another relevant authority of which you are also a member;
 - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
 - (iii) a body to which you have been elected, appointed or nominated by your authority;
 - (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
 - (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;
- (b) relates to —
 - (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than

two months, and provided that those functions do not relate particularly to your tenancy or lease;

(ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

(iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.—(1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

- (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
 - (b) not exercise executive or board functions in relation to that business;
 - (c) not seek to influence a decision about that business;
 - (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
 - (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.
- (2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- (2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.
- (2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.
- (3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —
- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
 - (b) you have the benefit of a dispensation provided that you —
 - (i) state at the meeting that you are relying on the dispensation; and
 - (ii) before or immediately after the close of the meeting give written notification to your authority containing —
 - (aa) details of the prejudicial interest;
 - (bb) details of the business to which the prejudicial interest relates;
 - (cc) details of, and the date on which, the dispensation was granted; and
 - (dd) your signature.
- (4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4 THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

15.—(1) Subject to sub-paragraph (4), you must, within 28 days of—

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

Sensitive information

16.—(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your

authority's monitoring officer, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Registration Of Gifts And Hospitality

17. You must within twenty eight days of the date of receipt notify the monitoring officer or in relation to a community council to your authority's proper officer of the existence and nature of any gifts, hospitality, material benefits or advantage received or offered to you and declined where the value of the item or benefit exceeds £25.00 or such other value as the Authority may from time to time determine. This rule applies equally to any gift accepted by the member on behalf of the authority.

COD YMYDDYGIAD CYNGOR BWRDEISTREF SIROL CAERFFILI

RHAN 1 DEHONGLI

1.—(1) Yn y cod hwn —

mae "aelod" ("*member*") yn cynnwys aelod cyfetholedig onid yw'r cyd-destun yn mynnu fel arall;

ystyr "aelod cyfetholedig" ("*co-opted member*"), mewn perthynas ag awdurdod perthnasol, yw person nad yw'n aelod o'r awdurdod ond—

(a) sy'n aelod o unrhyw bwyllgor neu is-bwyllgor i'r awdurdod, neu

(b) sy'n aelod o unrhyw gyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod, ac sy'n cynrychioli'r awdurdod arno,

ac sydd â'r hawl i bleidleisio ar unrhyw gwestiwn sydd i'w benderfynu mewn unrhyw gyfarfod o'r pwyllgor neu o'r is-bwyllgor hwnnw;

ystyr "eich awdurdod" ("*your authority*") yw'r awdurdod perthnasol yr ydych chi'n aelod neu'n aelod cyfetholedig ohono;

ystyr "awdurdod perthnasol" ("*relevant authority*") yw—

(a) cyngor sir,

(b) cyngor bwrdeistref sirol,

(c) cyngor cymuned,

(ch) awdurdod tân ac achub a gyfansoddwyd drwy gynllun o dan adran 2 o Ddeddf Gwasanaethau Tân ac Achub 2004 neu gynllun y mae adran 4 o'r Ddeddf honno yn gymwys iddo,

(d) awdurdod Parc Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995;

ystyr "cofrestr o fuddiannau'r aelodau" ("register of members' interests") yw'r gofrestr a sefydlir ac a gedwir o dan adran 81 o Ddeddf Llywodraeth Leol 2000;

ystyr "cyfarfod" ("*meeting*") yw unrhyw gyfarfod —

(a) o'r awdurdod perthnasol,

(b) o unrhyw weithrediaeth neu fwrdd i'r awdurdod perthnasol,

(c) o unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor i'r awdurdod perthnasol neu unrhyw bwyllgor, is-bwyllgor, cyd-bwyllgor neu gyd-is-bwyllgor o'r fath i unrhyw weithrediaeth neu fwrdd i'r awdurdod, neu

(ch) y mae aelodau neu swyddogion yr awdurdod perthnasol yn bresennol ynddo ac eithrio cyfarfod grŵp gwleidyddol a gyfansoddwyd yn unol â rheoliad 8 o Reoliadau Llywodraeth Leol (Pwyllgorau a Grwpiau Gwleidyddol) 1990,

ac mae'n cynnwys amgylchiadau pan fo aelod o weithrediaeth neu fwrdd neu swyddog sy'n gweithredu ar ei ben ei hun yn arfer un o swyddogaethau awdurdod; ac

ystyr "chi" ("*you*") yw chi fel aelod neu aelod cyfetholedig o awdurdod perthnasol.

(2) Mewn perthynas â chyngor cymuned—

(a) ystyr "swyddog priodol" ("proper officer") yw swyddog o'r cyngor hwnnw o fewn ystyr adran 270(3) o Ddeddf Llywodraeth Leol 1972; a

(b) ystyr "pwyllgor safonau" ("standards committee") yw pwyllgor safonau'r cyngor sir neu'r cyngor bwrdeistref sirol sydd â swyddogaethau mewn perthynas â'r cyngor cymuned y mae'n gyfrifol amdano o dan adran 56(1) a (2) o Ddeddf Llywodraeth Leol 2000.

RHAN 2 DARPARIAETHAU CYFFREDINOL

2.—(1) Ac eithrio pan fo paragraff 3(a) yn gymwys, rhaid i chi gydymffurfio â'r cod ymddygiad hwn —

(a) pa bryd bynnag y byddwch yn cynnal busnes eich awdurdod, neu'n bresennol mewn un o gyfarfodydd eich awdurdod;

(b) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu yn rôl aelod y cawsoch eich ethol neu eich penodi iddi;

(c) pa bryd bynnag y byddwch yn gweithredu, yn honni gweithredu neu'n rhoi'r argraff eich bod yn gweithredu fel un o gynrychiolwyr eich awdurdod; neu

(ch) ar bob adeg ac mewn unrhyw gapasiti, mewn cysylltiad ag ymddygiad a nodir ym mharagraffau 6(1)(a) a 7.

(2) Dylech ddarllen y cod hwn ar y cyd â'r egwyddorion cyffredinol a ragnodir o dan adran 49(2) o Ddeddf Llywodraeth Leol 2000 o ran Cymru.

3. Os byddwch wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i wasanaethu
—

(a) ar awdurdod perthnasol arall, neu ar unrhyw gorff arall, sy'n cynnwys Bwrdd Iechyd Lleol rhaid i chi, pan fyddwch yn gweithredu ar ran yr awdurdod arall neu'r corff arall hwnnw, gydymffurfio â chod ymddygiad yr awdurdod arall neu'r corff arall hwnnw; neu

(b) ar unrhyw gorff arall nad oes ganddo god sy'n ymwneud ag ymddygiad ei aelodau, rhaid i chi, pan fyddwch yn gweithredu ar ran y corff arall hwnnw, gydymffurfio â'r cod ymddygiad hwn, ac eithrio pan yw'n gwrthdaro ag unrhyw rwymedigaethau cyfreithlon eraill y gall y corff hwnnw fod yn ddarostyngedig iddynt neu i'r graddau y mae'n gwrthdaro â'r cyfryw rwymedigaethau.

4. Rhaid i chi —

(a) cyflawni eich dyletswyddau a'ch cyfrifoldebau gan roi sylw dyladwy i'r egwyddor y dylai fod cyfle cyfartal i bawb, waeth beth fo'u rhyw, eu hil, eu hanabledd, eu cyfeiriadedd rhywiol, eu hoed neu eu crefydd;

(b) dangos parch at eraill ac ystyriaeth ohonynt;

(c) peidio ag ymddwyn fel bwli neu harasio unrhyw berson; a

(ch) peidio â gwneud dim sy'n cyfaddawdu, neu sy'n debygol o gyfaddawdu, didueddrwydd y sawl sy'n gweithio i'ch cyngor neu ar ei ran.

5. Rhaid i chi —

(a) peidio â datgelu gwybodaeth gyfrinachol neu wybodaeth y byddai'n rhesymol ystyried ei bod o natur gyfrinachol, heb gydsyniad datganedig person a awdurdodwyd i roi cydsyniad o'r fath, neu onid yw'r gyfraith yn mynnu eich bod yn gwneud hynny;

(b) peidio â rhwystro unrhyw berson rhag gweld gwybodaeth y mae gan y person hwnnw hawl i'w gweld yn ôl y gyfraith.

6.—(1)Rhaid i chi —

(a) peidio ag ymddwyn mewn ffordd y gellid yn rhesymol ei hystyried yn un sy'n dwyn anfri ar eich swydd neu ar eich awdurdod;

(b) adrodd, p'un ai drwy weithdrefn adrodd gyfrinachol eich awdurdod neu'n uniongyrchol i'r awdurdod priodol, ar unrhyw ymddygiad gan aelod arall neu gan unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran ac y mae'n rhesymol i chi fod o'r farn ei fod yn golygu neu'n debygol o

olygu ymddygiad troseddol (nad yw at ddibenion y paragraff hwn yn cynnwys tramgwyddau neu ymddygiad y gellir ei gosbi drwy gosb benodedig);

(c) adrodd i swyddog monitro eich awdurdod ar unrhyw ymddygiad gan aelod arall y mae'n rhesymol i chi fod o'r farn ei fod yn groes i'r cod ymddygiad hwn;

(ch) peidio â gwneud cwynion blinderus, maleisus neu wacsaw yn erbyn aelodau eraill neu unrhyw un sy'n gweithio i'ch awdurdod neu ar ei ran.

(2) Rhaid i chi gydymffurfio ag unrhyw gais gan swyddog monitro eich awdurdod, neu gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru, mewn cysylltiad ag ymchwiliad a wneir yn unol â'u gwahanol bwerau statudol.

7. Rhaid i chi —

(a) yn eich capasiti swyddogol neu fel arall, beidio â defnyddio neu geisio defnyddio eich safle yn amhriodol i roi neu i sicrhau mantais i chi eich hun neu i unrhyw berson arall, neu i greu neu i osgoi anfantais i chi eich hun neu i unrhyw berson arall;

(b) peidio â defnyddio adnoddau eich awdurdod, neu awdurdodi eraill i'w defnyddio—

(i) yn annoeth;

(ii) yn groes i ofynion eich awdurdod;

(iii) yn anghyfreithlon;

(iv) ac eithrio mewn dull a fwriedir i hwyluso neu i ffafrio cyflawni swyddogaethau'r awdurdod neu'r swydd yr ydych wedi eich ethol neu eich penodi iddo neu iddi;

(v) yn amhriodol at ddibenion gwleidyddol; neu

(vi) yn amhriodol at ddibenion preifat.

8. Rhaid i chi —

(a) pan fyddwch yn cyfrannu mewn cyfarfodydd neu'n gwneud penderfyniadau ynghylch busnes y mae a wnelo eich awdurdod ag ef, wneud hynny ar sail rhinweddau'r amgylchiadau o dan sylw ac er budd y cyhoedd gan roi sylw i unrhyw gyngor perthnasol a ddarperir gan swyddogion eich awdurdod, ac yn benodol gan —

(i) pennaeth gwasanaeth taledig yr awdurdod;

(ii) prif swyddog cyllid yr awdurdod;

(iii) swyddog monitro'r awdurdod;

(iv) prif swyddog cyfreithiol yr awdurdod (y dylid ymgynghori ag ef pan fo unrhyw amheuaeth ynghylch pw^{er} yr awdurdod i weithredu, ynghylch a yw'r cam a arfaethir yn dod o fewn y fframwaith polisi y cytunwyd arno gan yr awdurdod neu os gallai

canlyniadau cyfreithiol gweithredu neu fethu â gweithredu gan yr awdurdod gael ôl-
effeithiau pwysig);

(b) rhoi rhesymau dros bob penderfyniad yn unol ag unrhyw ofynion statudol ac unrhyw
ofynion rhesymol ychwanegol a osodir gan eich awdurdod.

9. Rhaid i chi —

(a) parchu'r gyfraith a rheolau eich awdurdod sy'n llywodraethu hawlio treuliau a lwfansau
mewn cysylltiad â'ch dyletswyddau fel aelod;

(b) osgoi derbyn rhoddion oddi wrth neb, na lletygarwch (ac eithrio lletygarwch swyddogol,
megis derbyniad dinesig neu weithio dros ginio, a awdurdodir yn briodol gan eich awdurdod)
na buddiannau materol neu wasanaethau i chi eich hun neu i unrhyw berson os byddai
gwneud hynny'n eich rhoi o dan rwymedigaeth amhriodol, neu os gallai'n rhesymol
ymddangos fel pe bai'n gwneud hynny.

RHAN 3 BUDDIANNAU

Buddiannau Personol

10.—(1) Ym mhob mater rhaid i chi ystyried a oes gennych fuddiant personol, ac a yw'r cod
ymddygiad hwn yn ei gwneud yn ofynnol i chi ddatgelu'r buddiant hwnnw.

(2) Rhaid i chi ystyried bod gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich
awdurdod ag ef —

(a) os yw'n gysylltiedig â'r canlynol, neu'n debygol o effeithio arnynt —

(i) unrhyw gyflogaeth yr ydych yn ymgymryd â hi neu fusnes yr ydych yn ei redeg;

(ii) unrhyw berson sy'n eich cyflogi neu sydd wedi eich penodi, unrhyw ffyrn yr ydych yn
bartner ynddi neu unrhyw gwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl;

(iii) unrhyw berson, ac eithrio eich awdurdod, sydd wedi rhoi taliad i chi mewn cysylltiad
â'ch ethol neu mewn cysylltiad ag unrhyw dreuliau a dynnwyd gennych wrth i chi
gyflawni eich dyletswyddau fel aelod;

(iv) unrhyw gorff corfforaethol y mae ganddo le busnes neu dir yn ardal eich awdurdod,
ac y mae gennych chi fuddiant llesiannol mewn dosbarth o warannau sydd gan y corff
hwnnw ac sy'n werth mwy na'r gwerth enwol o £25,000 neu un ganfed ran o gyfanswm
cyfalaf cyfrannau dyroddedig y corff hwnnw;

(v) unrhyw contract am nwyddau, gwasanaethau neu waith neu weithfeydd a wnaed
rhyngoch chi, rhwng ffyrn yr ydych yn bartner ynddi, neu rhwng cwmni yr ydych yn
gyfarwyddwr arno ac yn derbyn tâl, neu rhwng corff o'r math a ddisgrifir yn is-baragraff
(iv) uchod a'ch awdurdod;

(vi) unrhyw dir y mae gennych fuddiant llesiannol ynddo ac sydd yn ardal eich awdurdod;

(vii) unrhyw dir y mae eich awdurdod yn landlord arno ac y mae ffyrm yr ydych yn bartner ynddi, cwmni yr ydych yn gyfarwyddwr arno ac yn derbyn tâl, neu gorff o'r math a ddisgrifir yn is-baragraff (iv) uchod yn denant arno;

(viii) unrhyw gorff yr ydych wedi eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;

(ix) unrhyw —

(aa) awdurdod cyhoeddus neu gorff sy'n arfer swyddogaethau o natur gyhoeddus;

(bb) cwmni, cymdeithas ddiwydiannol a darbodus, elusen, neu gorff arall a chanddo ddibenion elusennol;

(cc) corff y mae dylanwadu ar farn neu bolisi cyhoeddus ymhlith ei brif ddibenion; (chch)undeb llafur neu gymdeithas broffesiynol; neu

(dd) clwb preifat neu gymdeithas breifat sy'n gweithredu o fewn ardal eich awdurdod,

yr ydych yn aelod ohono neu ohoni neu mewn safle rheolaeth neu reoli cyffredinol ynddo neu ynddi;

(x) unrhyw dir yn ardal eich awdurdod y mae gennych drwydded (ar eich pen eich hun neu ar y cyd ag eraill) i'w feddiannu am 28 o ddiwrnodau neu fwy;

[Nodyn: Mae is-baragraff (b) wedi ei hepgor.]

(c) pe byddai'n rhesymol ystyried penderfyniad arno yn benderfyniad a fyddai'n effeithio —

(i) ar eich llesiant neu eich sefyllfa ariannol, neu lesiant neu sefyllfa ariannol person yr ydych yn byw gydag ef, neu unrhyw berson y mae gennych gysylltiad personol agos ag ef;

(ii) ar unrhyw gyflogaeth yr ymgwymerir â hi neu fusnes a redir gan bersonau fel a ddisgrifir yn 10(2)(c)(i);

(iii) ar unrhyw berson sy'n cyflogi neu sydd wedi penodi'r cyfryw bersonau ag a ddisgrifir yn 10(2)(c)(i), unrhyw ffyrm y mae'r cyfryw bersonau'n bartneriaid ynddi, neu unrhyw gwmni y maent yn gyfarwyddwyr arno;

(iv) ar unrhyw gorff corfforaethol y mae gan bersonau fel a ddisgrifir yn 10(2)(c)(i) fuddiant llesiannol mewn dosbarth o warannau sy'n werth mwy na'r gwerth enwol o £5,000; neu

(v) ar unrhyw gorff a restrir ym mharagraffau 10(2)(a)(ix)(aa) i (dd) y mae personau a ddisgrifir yn 10(2)(c)(i) mewn safle rheolaeth neu reoli cyffredinol ynddo,

a hynny i raddau mwy—

(aa) yn achos awdurdod â dosbarthiadau etholiadol neu wardiau, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn y dosbarth etholiadol neu'r ward, yn ôl y digwydd, y bydd y penderfyniad yn effeithio arnynt; neu

(bb) ym mhob achos arall, na'r rhelyw o bobl eraill sy'n talu'r dreth gyngor, o bobl eraill sy'n talu ardrethi neu breswylwyr eraill yn ardal yr awdurdod.

Datgelu Buddiannau Personol

11.—(1) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn bresennol mewn cyfarfod lle y caiff y busnes hwnnw ei ystyried, rhaid i chi ddatgelu ar lafar gerbron y cyfarfod hwnnw fodolaeth a natur y buddiant hwnnw cyn i'r cyfarfod ystyried y busnes neu ar ddechrau'r ystyriaeth, neu pan ddaw'r buddiant i'r amlwg.

(2) Pan fydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch yn gwneud —

(a) cynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod ynghylch y busnes hwnnw, dylech gynnwys manylion am y buddiant hwnnw yn y gyfathrebiaeth ysgrifenedig; neu

(b) cynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) i un o aelodau neu o swyddogion eich awdurdod dylech ddatgelu'r buddiant ar ddechrau'r cyfryw gynrychioliadau, neu pan ddaw'n amlwg i chi fod gennych fuddiant o'r fath, a chadarnhau'r cynrychioliad a'r buddiant yn ysgrifenedig o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

(3) Yn ddarostyngedig i baragraff 14(1)(b) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef ac y byddwch wedi gwneud penderfyniad wrth arfer un o swyddogaethau gweithrediaeth neu fwrdd, rhaid i chi mewn perthynas â'r busnes hwnnw sicrhau bod unrhyw ddatganiad ysgrifenedig ynghylch y penderfyniad hwnnw'n cofnodi bodolaeth a natur eich buddiant.

(4) Rhaid i chi, mewn cysylltiad â buddiant personol nas datgelwyd eisoes, cyn cyfarfod neu'n syth ar ôl diwedd cyfarfod pan ddatgelir y buddiant yn unol ag is-baragraff 11(1), roi hysbysiad ysgrifenedig i'ch awdurdod yn unol ag unrhyw ofynion a nodir gan swyddog monitro eich awdurdod, neu mewn perthynas â chyngor cymuned, swyddog priodol eich awdurdod o bryd i'w gilydd ond, rhaid cynnwys o leiaf —

(a) manylion am y buddiant personol;

(b) manylion am y busnes y mae'r buddiant personol yn gysylltiedig ag ef; ac

(c) eich llofnod.

(5) Pan fydd eich swyddog monitro wedi cytuno bod yr wybodaeth sy'n ymwneud â'ch buddiant personol yn wybodaeth sensitif, yn unol â pharagraff 16(1), mae eich rhwymedigaethau o dan y paragraff 11 hwn i ddatgelu'r cyfryw wybodaeth, p'un ai ar lafar neu'n ysgrifenedig, i'w disodli gan rwymedigaeth i ddatgelu bodolaeth buddiant personol ac i gadarnhau bod eich swyddog monitro wedi cytuno bod y cyfryw fuddiant personol o natur gwybodaeth sensitif.

(6) At ddibenion is-baragraff (4), dim ond os bod hysbysiad ysgrifenedig wedi ei ddarparu yn unol â'r cod hwn ers y dyddiad diwethaf pryd yr etholwyd chi, y penodwyd chi neu yr enwebwyd chi'n aelod o'ch awdurdod y bernir bod buddiant personol wedi ei ddatgelu eisoes.

(7) At ddibenion is-baragraff (3), os na ddarperir hysbysiad ysgrifenedig yn unol â'r paragraff hwnnw bernir na fyddwch wedi datgan buddiant personol yn unol â'r cod hwn.

Buddiannau sy'n Rhagfarnu

12.—(1) Yn ddarostyngedig i is-baragraff (2) isod, os bydd gennych fuddiant personol mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef bydd gennych hefyd fuddiant sy'n rhagfarnu yn y busnes hwnnw os bydd y buddiant yn un y bydd yn rhesymol i aelod o'r cyhoedd sy'n gwybod y ffeithiau perthnasol fod o'r farn ei fod mor arwyddocaol fel y bydd yn debygol o ragfarnu eich barn ynghylch buddiant cyhoeddus.

(2) Yn ddarostyngedig i is-baragraff (3), nid ystyrir bod gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes os bydd y busnes hwnnw—

(a) yn gysylltiedig—

(i) ag awdurdod perthnasol arall yr ydych hefyd yn aelod ohono;

(ii) ag awdurdod cyhoeddus arall neu gorff sy'n arfer swyddogaethau o natur gyhoeddus lle yr ydych mewn safle rheolaeth neu reoli cyffredinol;

(iii) â chorff yr ydych wedi cael eich ethol, eich penodi neu eich enwebu gan eich awdurdod i fod arno;

(iv) â'ch rôl fel llywodraethwr ysgol (os na chwsoch eich penodi neu eich enwebu gan eich awdurdod) oni bai bod y busnes yn benodol gysylltiedig â'r ysgol yr ydych yn un o'i llywodraethwyr;

(v) â'ch rôl fel aelod o Fwrdd Iechyd Lleol os na chwsoch eich penodi neu eich enwebu gan eich awdurdod i fod arno;

(b) yn gysylltiedig:

(i) â swyddogaethau tai eich awdurdod os oes gennych denantiaeth neu les gyda'ch awdurdod, ar yr amod nad oes arnoch i'ch awdurdod ôl-ddyledion rhent o fwy na deufis, ac ar yr amod nad yw'r swyddogaethau hynny'n ymwneud yn arbennig â'ch tenantiaeth neu â'ch les;

(ii) â swyddogaethau eich awdurdod mewn cysylltiad â phrydau ysgol, cludiant a threuliau teithio, os ydych chi'n warchodwr, yn rhiant, yn fam-gu neu'n nain neu'n dad-cu neu'n daid, neu os oes gennych gyfrifoldeb rhiant (fel y'i diffinnir yn adran 3 o Deddf Plant 1989) dros blentyn sy'n cael addysg lawnamser, onid yw'r busnes yn benodol gysylltiedig â'r ysgol y mae'r plentyn hwnnw'n ei mynychu;

(iii) â swyddogaethau eich awdurdod mewn cysylltiad â thâl salwch statudol o dan Ran XI o Ddeddf Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992, os ydych yn cael, neu os oes gennych hawl i gael, taliad o'r fath gan eich awdurdod;

“(iv) â swyddogaethau eich awdurdod mewn cysylltiad â lwfans neu daliad a wneir yn unol â darpariaethau Rhan 8 o Fesur Llywodraeth Leol (Cymru) 2011, neu lwfans neu bensiwn a ddarperir o dan adran 18 o Ddeddf Llywodraeth Leol a Thai 1989;

(c) yn gysylltiedig â'ch rôl fel cynghorydd cymunedol mewn perthynas â grant, benthyciad neu fath arall ar gymorth ariannol a wnaed gan eich cyngor cymuned i gyrff cymunedol neu wirfoddol hyd at uchafswm o £500.

(3) Nid yw'r esemptiadau yn is-baragraff (2)(a) yn gymwys os yw'r busnes yn gysylltiedig â dyfarnu ar unrhyw gymeradwyaeth, cydsyniad, trwydded, caniatâd neu gofrestrriad.

Pwyllgorau Trosolygu a Chraffu

13. Bydd gennych hefyd fuddiant sy'n rhagfarnu mewn unrhyw fusnes sydd gerbron un o bwyllgorau trosolygu a chraffu eich awdurdod (neu un o is-bwyllgorau pwyllgor o'r fath) —

(a) os bydd y busnes hwnnw'n gysylltiedig â phenderfyniad a wnaed (p'un a gafodd ei weithredu ai peidio) neu gam a gymerwyd gan weithrediaeth, bwrdd, neu un arall o bwyllgorau, is-bwyllgorau, cyd-bwyllgorau neu o gyd-is-bwyllgorau eich awdurdod; a

(b) os oeddech chi, ar yr adeg pan wnaed y penderfyniad neu pan gymerwyd y cam, yn aelod o'r weithrediaeth, y bwrdd, y pwyllgor, yr is-bwyllgor, y cyd-bwyllgor neu'r cyd-is-bwyllgor a grybwyllir yn is-baragraff (a) a'ch bod chi'n bresennol pan wnaed y penderfyniad hwnnw neu pan gymerwyd y cam hwnnw.

Cyfrannu mewn Perthynas â Datgelu Buddiannau

14.—(1) Yn ddarostyngedig i is-baragraffau (2), (2A), (3) a (4), os bydd gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef rhaid i chi, oni roddwyd i chi ollyngiad gan bwyllgor safonau eich awdurdod —

(a) ymadael â'r ystafell, y siambr neu'r man lle y mae cyfarfod i ystyried y busnes yn cael ei gynnal—

(i) pan fo is-baragraff (2) yn gymwys, yn syth ar ôl i'r cyfnod ar gyfer gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes ddod i ben a beth bynnag cyn i ystyriaeth bellach o'r busnes ddechrau, p'un a ganiateir i'r cyhoedd aros yn bresennol ar gyfer y cyfryw ystyriaeth ai peidio; neu

(ii) mewn unrhyw achos arall, pa bryd bynnag y daw i'r amlwg bod y busnes hwnnw'n cael ei ystyried yn y cyfarfod hwnnw;

(b) peidio ag arfer swyddogaethau gweithrediaeth neu fwrdd mewn perthynas â'r busnes hwnnw;

(c) peidio â cheisio dylanwadu ar benderfyniad ynghylch y busnes hwnnw;

(ch) peidio â gwneud unrhyw gynrychioliadau ysgrifenedig (p'un ai drwy lythyr, neges ffacs neu ar ryw ffurf arall ar gyfathrebu electronig) mewn perthynas â'r busnes hwnnw; a

(d) peidio â gwneud unrhyw gynrychioliadau llafar (p'un ai'n bersonol neu ar ryw ffurf ar gyfathrebu electronig) mewn cysylltiad â'r busnes hwnnw neu rhaid i chi roi'r gorau ar unwaith i wneud y cyfryw gynrychioliadau llafar pan ddaw'r buddiant sy'n rhagfarnu i'r amlwg.

(2) Os oes gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef cewch fod yn bresennol mewn cyfarfod ond dim ond er mwyn gwneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes, ar yr amod y caniateir hefyd i'r cyhoedd fod yn bresennol yn y cyfarfod i'r un diben, p'un ai o dan hawl statudol neu fel arall.

(2A) Os oes gennych fuddiant sy'n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef cewch gyflwyno cynrychioliadau ysgrifenedig i gyfarfod sy'n ymwneud â'r busnes hwnnw, ar yr amod y caniateir i'r cyhoedd fod yn bresennol yn y cyfarfod at y diben o wneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy'n ymwneud â'r busnes, pa un ai o dan hawl statudol neu fel arall.

(2B) Pan fyddwch yn cyflwyno cynrychioliadau ysgrifenedig o dan is-baragraff (2A), rhaid i chi gydymffurfio ag unrhyw weithdrefn y caiff eich awdurdod ei fabwysiadu ar gyfer cyflwyno cynrychioliadau o'r fath.

(3) Nid yw is-baragraff (1) yn eich rhwystro rhag bod yn bresennol a chyfrannu mewn cyfarfod —

(a) os gofynnir i chi fod yn bresennol mewn cyfarfod pwyllgor trosolwg neu graffu, gan y cyfryw bwyllgor ac yntau'n arfer ei bwerau statudol; neu

(b) os oes gennych y fantais o fod gollyngiad wedi ei roi i chi ar yr amod—

(i) eich bod yn datgan yn y cyfarfod eich bod yn dibynnu ar y gollyngiad; a

(ii) eich bod, cyn y cyfarfod neu'n syth ar ôl i'r cyfarfod orffen, yn rhoi hysbysiad ysgrifenedig i'ch awdurdod a bod hwnnw'n cynnwys —

(aa) manylion y buddiant sy'n rhagfarnu;

(bb) manylion y busnes y mae'r buddiant sy'n rhagfarnu'n gysylltiedig ag ef;

(cc) manylion y gollyngiad a'r dyddiad pryd y'i rhoddwyd; a

(chch) eich llofnod.

(4) Os bydd gennych fuddiant sy'n rhagfarnu a'ch bod yn gwneud cynrychioliadau ysgrifenedig neu lafar i'ch awdurdod gan ddibynnu ar ollyngiad, rhaid i chi ddarparu manylion am y gollyngiad o fewn unrhyw gynrychioliad ysgrifenedig neu lafar o'r fath ac, yn yr achos olaf hwn, rhaid i chi ddarparu hysbysiad ysgrifenedig ar gyfer eich awdurdod o fewn 14 o ddiwrnodau ar ôl gwneud y cynrychioliad.

RHAN 4 COFRESTR BUDDIANNAU AELODAU

Cofrestru Buddiannau Personol

15.—(1) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl—

(a) i god ymddygiad eich awdurdod gael ei fabwysiadu neu i ddarpariaethau gorfodol y cod enghreifftiol hwn gael eu cymhwyso i'ch awdurdod; neu

(b) i chi gael eich ethol neu eich penodi i swydd (os digwydd hynny'n ddiweddarach),

gofrestru eich buddiannau personol, os ydynt yn dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(2) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw fuddiant personol newydd sy'n dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), gofrestru'r buddiant personol newydd hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(3) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw newid i fuddiant personol a gofrestrwyd sy'n dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), gofrestru'r newid hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod, neu, yn achos cyngor cymuned, swyddog priodol eich awdurdod.

(4) Nid yw is-baragraffau (1), (2) a (3) yn gymwys i wybodaeth sensitif a benderfynir yn unol â pharagraff 16(1).

(5) Nid yw is-baragraffau (1) a (2) yn gymwys os ydych yn aelod o awdurdod perthnasol sy'n gyngor cymuned pan fyddwch yn gweithredu yn eich capasiti fel aelod o awdurdod o'r fath.

(6) Pan fyddwch yn datgelu buddiant personol yn unol â pharagraff 11 am y tro cyntaf, rhaid i chi gofrestru'r buddiant personol hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod, neu, yn achos cyngor cymuned, swyddog priodol eich awdurdod.

Gwybodaeth sensitif

16.—(1) Os byddwch yn ystyried bod yr wybodaeth sy'n ymwneud ag unrhyw un neu rai o'ch buddiannau personol yn wybodaeth sensitif, a bod swyddog monitro eich awdurdod yn cytuno, nid oes angen i chi gynnwys yr wybodaeth honno pan fyddwch yn cofrestru'r buddiant hwnnw, neu, yn ôl y digwydd, newid i'r buddiant o dan baragraff 15.

(2) Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi ddod yn ymwybodol o unrhyw newid yn eich amgylchiadau sy'n golygu nad yw gwybodaeth sydd wedi ei heithrio o dan is-baragraff (1) mwyach yn wybodaeth sensitif, hysbysu swyddog monitro eich awdurdod, neu mewn perthynas â chynngor cymuned, swyddog priodol eich awdurdod gan ofyn am i'r wybodaeth gael ei chynnwys yng nghofrestr buddiannau aelodau eich awdurdod.

(3) Yn y cod hwn, ystyr "gwybodaeth sensitif" ("*sensitive information*") yw gwybodaeth y mae ei rhoi ar gael i'w harchwilio gan y cyhoedd yn creu, neu'n debygol o greu, risg ddifrifol y gallech chi neu berson sy'n byw gyda chi fod yn destun trais neu fygythion.

Cofrestru Rhoddion a Lletygarwch

17. Rhaid i chi, o fewn 28 o ddiwrnodau ar ôl i chi gael unrhyw rodd, lletygarwch, buddiant materol neu fantais faterol, sy'n fwy na £25.00 neu werth arall a bennir mewn penderfyniad gan yr Awdurdod o bryd i'w gilydd, hysbysu'r swyddog monitro neu, mewn perthynas â chynghor cymunedol, i swyddog priodol eich awdurdod am fodolaeth a natur yr eitem neu fudd hynny. Mae'r rheol hon yn ddilys hefyd ar gyfer unrhyw rodd sy'n cael ei derbyn gan yr aelod ar ran yr awdurdod.

Officers' Code of Conduct

Reference:

*The Code of Conduct (Qualifying Local Government Employees) (Wales)
Order 2001*

*The Code of Conduct (Non-Qualifying Local Government Employees) (Wales)
Regulations 2001*

CODE OF CONDUCT

FOR EMPLOYEES

Version:	Version 1 – February 2006 (revised November 2014) Policy Ratified by: Human Resources Date: July 2004 Revised February 2006 Revised June 2012 Revised November 2014 Area Applicable: All Caerphilly employees except School based unless the School Governing Body has adopted the Scheme
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Review Year	As Appropriate

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CAERPHILLY COUNTY BOROUGH COUNCIL

CODE OF CONDUCT FOR EMPLOYEES

1. INTRODUCTION

- 1.1 This Code of Conduct has been devised by the Council in order to give employees guidance on a range of issues which will help them to maintain and improve the high standards of conduct within local government and to protect them from misunderstandings and confusion.
- 1.2 This Code, incorporates the statutory Code of Conduct set out in regulations made by the National Assembly for Wales and sets out the minimum standards that should apply. It covers all employees of the Council other than teachers. In the Assembly regulations they are referred to as “qualifying employees” and the Council is referred to as “relevant authority”. These phrases appear throughout the document, when extracts from the statutory Code of Conduct are set out.
- 1.3 This policy must be cross-referenced with the following core policies of the Council:-
- Recruitment and Selection Policy
 - Disciplinary Procedure
 - the I.T. Security Policy
 - the Microsoft Exchange Code of Practice
 - Internet Usage Standards and Code of Practice
 - Grievance Procedure
 - Statements of Particulars of Employment
 - Codes of Conduct in relation to Social Care
- 1.4 Social Care staff need to be aware that code of conduct in social care is also subject to codes of practice issued by CSIW and these codes should be read in conjunction with this document.

2. SCOPE OF POLICY

- 2.1 This policy has been agreed with the Trade Unions and will apply to all employees except those whose terms and conditions are governed by School Governing Bodies who have not accepted the procedure. Where the School Governing Body has accepted the procedure, the provisions shall apply to those employees. 2.2 The effective date of the policy is 1 July 2004 (revised June 2014).

3. STANDARDS

- 3.1 The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity. Qualifying employees of relevant authorities work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law. (This is a Statutory Code requirement)
- 3.2 The Council's conditions of service provide that employees must not behave in such a way as to bring the Authority, or the service, into disrepute.
- 3.3 Local government employees are expected to give the highest possible standards of service to the public and it is part of their duties to provide appropriate advice to Councillors and fellow employees with impartiality; employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the level of service. Employees must report to the appropriate Head of Service/Establishment or Senior Officer any impropriety or breach of procedure. This is detailed in the paragraph below relating to Whistleblowing. Where appropriate, an employee may also raise any issue with their trade union representative. The employee will have the right to be represented by a work colleague, local or full-time trade union representative, spouse, partner, friend or legal representative.
- 3.4 Where a Monitoring Officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that Monitoring Officer in connection with such an investigation. (This is a Statutory Code requirement),

4. DISCLOSURE OF INFORMATION

- 4.1 Openness in the dissemination of information and decision making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information. (This is a Statutory Code requirement)
- 4.2 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. However due regard has to be made to the following legislative requirements and advice.
- 4.3 No Officer shall communicate to the public (or the press) the proceedings of any Committee meeting etc. when the public is excluded, nor the content of any document (or exempt report) relating to the Authority unless required by law or expressly authorised to do so.
- 4.4 Section 100 of the Local Government Act 1972 deals with the admission of the press and public to local government Committee meetings.
- 4.5 The Local Government Planning and Land Act 1980 at Section 2 requires local authorities to publish certain categories of information in accordance with codes of recommended practice and any statutory regulations made by the Secretary of State
- 4.6 The Local Government Act 1972 requires the Council to maintain a list, open to public inspection, specifying those powers of the Council which are exercisable from time to time by officers of the Authority in pursuance of its duties under statutory powers. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.
- 4.7 The Freedom of Information Act 2000 imposes wide legal obligations on authorities to disclose information that they hold.
- 4.8 Information relating to the above Acts and what constitutes exempt information is available from the Monitoring Officer.
- 4.9 Information relating to the Data Protection Act is available from the Head of Information Technology Services. Generally under the terms of this Act any computer or manual system holding personal data requires registration with the Data Protection Registrar. There are strict statutory rules about the use and disclosure of personal data. No disclosure of information under the Act should be actioned without the approval of the Head of Information Technology Services.
- 4.10 Employees should not use any information obtained in the course of their employment, for personal gain or benefit, nor should they pass it on to others who may use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by law.

5. POLITICAL NEUTRALITY

- 5.1 Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities. (This is a Statutory Code requirement)
- 5.2 Employees are employed to serve the Council as a whole. It follows that they must serve all Elected Members and not just those of the controlling group. They must ensure that the individual rights of all Councillors are respected. Regard must be had to Councillors' rights set out in the Council's Constitution; the Monitoring Officer can give advice on these.
- 5.3 As part of their employment, employees may be required to advise political groups. In doing so they must ensure that they do not compromise their political neutrality. Officers holding politically restricted posts who are invited to attend political meetings, other than meetings of the Council and its Committees, in their role as officers of the Council, must obtain the approval of their Manager/Nominated Officer prior to attending such meetings. It should be noted that unless there are exceptional circumstances which make it essential for the officer to attend, then permission will not be granted.
- 5.4 All employees, (whether or not the posts they hold are designated as being politically restricted), must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions or preferences to interfere with their work.
- 5.5 Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 (as amended) are exempt from the standards detailed above.
- 5.6 The Local Government and Housing Act 1989 (as amended) contains provisions to stop "twin tracking", i.e. where a senior local authority employee is also an elected member of another local authority and to restrict the political activity of senior employees. Local authority employees holding politically restricted posts are disqualified from membership of any local authority other than a Parish or Community Council, from being a Member of Parliament or Member of the European Parliament and are subject to prescribed restrictions on their political activity. The political restrictions are incorporated into the contract of employment of every local government employee who holds a politically restricted post. Regulations, which include the Local Government Officers (Political Restrictions) Regulations 1990 and the Local Government (Politically Restricted Posts) (No. 2) Regulations 1990 cover the posts which are politically restricted.
- 5.7 Local government employees, must not, in the course of their employment, discriminate against any section or sections of the local community.

6. RELATIONSHIPS

6.1 External Bodies/Organisations/Agencies etc.

6.1.1 All employees should be particularly vigilant in their dealings and conduct with external bodies, organisations, agencies etc, as they are justifiably seen, by the public and such bodies etc, to be acting as a representative of the Council. If any employee is placed in a position in which they are unsure of how to act, they must without delay, contact their Manager/Nominated Officer.

6.2 Councillors

6.2.1 Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis. (This is a Statutory Code requirement)

6.2.2 Employees are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors and senior managers, and all are there to carry out the Council's work. Mutual respect between employees and Councillors is essential to good local government. Where relationships for example, business, family etc. exist between Councillors and employees which might bring about a conflict of interest, employees must enter details in the Register of Employees Interests (copy attached at Appendix 1).

6.2.3 Employees must have regard to the requirements of the Member/Officer Protocol contained in the Council's Constitution (available on the Council's Intranet, from any Head of Service, or from the Monitoring Officer).

6.3 The Local Community and Service Users

6.3.1 Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias. (This is a Statutory Code requirement)

6.4 Contractors

6.4.1 All relationships of a business or private nature with external contractors or potential contractors, where there is a potential conflict of interest, must be declared in the Register of Employee Interests (copy attached at Appendix 1). Orders and contracts must be awarded on merit, by fair competition against other tenderers, and no special favour should be shown to businesses which are run, owned or employ a spouse, partners or relatives or close acquaintances.

6.4.2 Employees who engage or supervise contractors or have any other official relationships with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, must declare that relationship in the Register of Employees Interests (copy attached at Appendix 1). The entry must record what steps are intended to protect the Council's interests in these circumstances and must be signed by the employee and the appropriate senior officer.

7. APPOINTMENT AND OTHER EMPLOYMENT MATTERS.

- 7.1 Qualifying employees of relevant authorities involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work. (This is a Statutory Code requirement)
- 7.2 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employer to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post as reflected in the Council's recruitment and selection policy. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside of work with an applicant. Employees must record this interest in the Register of Interests (copy attached at Appendix 1).
- 7.3 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a spouse, partner, relative or close acquaintance.
- 7.4 Every candidate for any appointment under the employing authority must, when making an application, disclose in writing to the Chief Executive of the Authority whether to his knowledge he is related to any member of the Authority or to a holder of any senior office under the Authority. Deliberate omission to make such a disclosure will disqualify the candidate and, if the omission is discovered after appointment, he should be liable to dismissal. Every member and senior officer of the Authority shall similarly disclose to the Authority any relationship known to him to exist between himself and a candidate for an appointment of which he is aware. It shall be the duty of the Chief Executive to the Authority to report to the Authority or appropriate Committee any such disclosure made to him.
- 7.5 Where an employee states that he or she has gained academic and/or professional qualifications, evidence of such qualifications may be requested at any time.
- 7.6 The Local Authorities (Standing Orders) Regulations 1993 describe the procedure to be followed in respect of the appointment of Chief Officers and their dismissal in the event of misconduct.
- 7.7 Where relationships for example, business, family etc. exist between employees, employees must enter details in the Register of Employees Interests (copy attached at Appendix 1).

8. OUTSIDE COMMITMENTS

- 8.1 Employees must exercise great care and diligence in undertaking duties outside of their employment with the Council. Where the slightest doubt exists, and where there is a potential conflict of interest, employees are advised to either decline acceptance of secondary appointment/commissions or seek the advice of their Manager/Nominated Officer
- 8.2
- (a) Employees, Grade 9 and above (or equivalent if covered by other negotiating groups) must not undertake outside work if their official duties overlap in some way with their proposed work or if their proposed outside work causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of his or her position. It is irrelevant whether or not the work is paid.
 - (b) Any employee, Grade 9 and above (or equivalent if covered by other negotiating groups) who wishes to engage in any outside business or appointment must obtain the consent of their Manager/Nominated Officer detailing the nature of the business or appointment. The Manager/Nominated Officer will inform the Corporate Management Team of the request and will consider any observations made before reaching a final decision.
 - (c) Any other employee will inform their Manager/Nominated Officer of the business or appointment so that the Council can ensure that it does not breach statutory or other requirements. The Council acknowledges the individual's right to privacy; this provision is purely to ensure that there is no breach of the law or conflict with the Council's interests.
 - (d) The employee will be informed in writing of the Council's views and where it is decided that there is a conflict of interest with the Authority's interests or there would be a breach of statutory requirements, the employee must refuse the appointment and/or refrain from being involved with/participating in the business.
 - (e) Details of such business or appointment should be entered in the Register of Employees' Interests (copy attached at Appendix 1).
- 8.3 No Council resources must be used for outside work except where authorised in advance by the Council. All work must be done outside of Council time and away from Council premises.
- 8.4 The requirements of the Council as an employer must take precedence over any outside appointments undertaken by an employee of the Council.
- 8.5 Employees must be aware of the rules on the ownership of intellectual property or copyright created during their employment where specifically included in conditions of service. "Intellectual property" is a wide term which includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property. Details are available from the Head of Legal Services and Governance.

9. PERSONAL INTERESTS

- 9.1 Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:
- (1) any rules of their relevant authority on the registration and declaration by employees of financial and non - financial interests,
 - (2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority. (This is a Statutory Code requirement)
- 9.2 The Council adds the following rules as referred to above:- Employees must declare to their Manager/Nominated Officer any non-financial interests that they consider could bring about conflict with the Council's interests for example, acting as a school governor within a school maintained by the Council, involvement with an organisation receiving grant aid from the Council, involvement with organisations or groups seeking to influence the Council's policies, etc. Details of such interests must be entered in the Register of Employees Interests (copy at Appendix 1) and must record what steps are intended to protect the Council's interests in the circumstances.
- 9.3 Employees must declare to their Manager/Nominated Officer any financial interests which conflict with the Council's interests. Details of these interests must be entered in the Register of Employees Interests (copy at Appendix 1) and must record what steps are intended to protect the Council's interests in the circumstances.
- 9.4 Employees must declare to their Manager/Nominated Officer membership of any organisation not open to the public with formal membership and commitment of allegiance and which has secrecy about rules, membership or conduct. Details of membership should be declared in the Register of Employees Interests (copy at Appendix 1) and must record what steps are intended to protect the Council's interests in the circumstances.
- 9.5 A declaration by the Head of Service is signed by the appropriate Director, a declaration by a Director is signed by the Chief Executive and a declaration by the Chief Executive is signed by the Monitoring Officer.

10. EQUALITY ISSUES

- 10.1 Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law. (This is a Statutory Code requirement)

11. SEPARATION OF ROLES DURING THE TENDERING PROCESS

- 11.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for openness and accountability.
- 11.2 Employees in contractor or client positions must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 11.3 Employees who are privy to confidential information in relation to costs or tenders for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- 11.4 Employees contemplating a management buy out must, as soon as they have formed a definite intent, inform the Council and withdraw from the contract awarding process.
- 11.5 Employees must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

12. BRIBERY

- 12.1 Under the Bribery Act 2010 a person is guilty of an offence where they offer, promise or give a financial advantage to another person in the circumstances set out in the Act.
- 12.2 Under the Bribery Act 2012 the potential recipient of the bribe will be guilty of an offence in the circumstances set out in the Act.
- 12.3 Section 117 of the Local Government Act 1972 states that if an officer knows that a contract in which he has a direct or indirect pecuniary interest is before the local authority, he must give notice of his interest to the Authority. Section 117 (2) of the Act forbids an officer "under colour of his office or employment" to accept "any fee or reward" whatsoever other than proper remuneration. Contravention of this rule is a criminal offence. The employee must give notice to the Authority by entering details of the interest in the Register of Employees Interests (copy at Appendix 1).
- 12.4 It is a serious criminal offence for employees to receive or give any gift, fee, reward or advantage for doing or not doing anything showing favour or disfavour to any person in their official capacity. Employees must not contravene the provisions of the Bribery Act 2010 as this may result in the imposition of a fine or imprisonment.
- 12.5 If an employee or their spouse, partner or immediate relatives receive gifts and such gifts are less than £25 in value*, the goods may be kept and used by the employee **BUT ANY GIFT WHICH COULD BE SEEN BY A THIRD PARTY AS PLACING THE EMPLOYEE UNDER AN IMPROPER OBLIGATION SUCH AS MORE THAN ONE GIFT FROM THE SAME PARTY MUST BE REFUSED, IRRESPECTIVE OF ITS VALUE.**
- 12.6 If an employee or their spouse, partner or immediate relatives receive any gift other than those identified in the previous paragraph, they must refuse acceptance of the gift, explaining their position, the standards of conduct and integrity expected of local government employees, and, the requirement of being seen to be fair to all agencies/bodies/organisations and individuals. If it is not possible to refuse, for example, if it was received through the post or refusal would cause offence, the employee must, without delay, report the occurrence to their Manager/Nominated Officer who will pass the gift to the Mayor's charity and write to the donor to explain what has been done. The Officer and the Manager/Nominated Officer must keep a record of any such occurrences in the Register of Employees Interests (copy at Appendix 1).
- 12.7 The rules above are by their very nature general, but the underlying principles should always be upheld and if any employee is in the slightest doubt as to how to conduct themselves in such a situation, they are advised to refuse a gift or hospitality or refer to their Manager/Nominated Officer for guidance.

* This is the same figure as elected members are required to declare, and will be reviewed by the Council from time to time, in respect of both this Code and the Code for elected members.

13. USE OF FINANCIAL RESOURCES

- 13.1 Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so. (This is a Statutory Code requirement).

14. HOSPITALITY

- 14.1 Employees may accept small offers of hospitality only where the activity is of a nature where there is a genuine need to impart information or to represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. If an employee or their spouse, partner or immediate relatives receive hospitality of less than £25 in value*, the hospitality may be accepted by the employee **BUT ANY GIFT WHICH COULD BE SEEN BY A THIRD PARTY AS PLACING THE EMPLOYEE UNDER AN IMPROPER OBLIGATION (SUCH AS MORE THAN ONE GIFT FROM THE SAME PARTY) MUST BE REFUSED, IRRESPECTIVE OF ITS VALUE.**
- 14.2 When hospitality has to be declined the employee should inform the person/company/organisation offering the hospitality of the procedures and standards operating within the Council.
- 14.3 When receiving authorised hospitality employees should be particularly sensitive as to the timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 14.4 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than individual and where the Council gives consent in advance and is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment etc. are required, employees should ensure that the Council meets the cost of such events to avoid jeopardising the integrity of any subsequent purchasing decisions.
- 14.5 If an employee or their immediate relatives enjoy hospitality, for example, they received lunch/dinner from a company with which they deal on behalf of the Council, either on an individual or small group basis, as opposed to hospitality at a more large scale presentation, for example at a conference, seminar etc, they are required to declare this in the Register of Employees Interests (copy at Appendix 1) upon their return and inform the company of this declaration to discharge themselves from any possible allegations that the provision of such hospitality affected their decision when dealing with the company.

* This is the same figure as elected members are required to declare, and will be reviewed by the Council from time to time, in respect of both this Code and the Code for elected members.

15. SPONSORSHIP

- 15.1 Where an outside body/agency/organisation wishes to sponsor or is seeking to sponsor a local government activity whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and/or hospitality will apply. Particular care must be taken when dealing with contractors or potential contractors.
- 15.2 Where the Council wishes to sponsor an event or service neither an employee, nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the employee's Manager/Nominated Officer of any such interest and employees must enter any such interest in the Register of Employees Interests (copy at Appendix 1). Similarly where the Council through sponsorship, grant aid, financial or other means, gives support to the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

16. WHISTLEBLOWING

- 16.1 In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998 (as amended by the Enterprise and Regulatory Reform Act 2013 and other legislation), and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose. (This is a Statutory Code requirement)
- 16.2 The Council's Whistleblowing Policy can be accessed via the Council's Constitution at Part 5. Advice and Guidance can also be obtained from the independent charity Public Concern at Work, details of which are set out in the Whistleblowing Policy.
- 16.3 Employees are reminded that particular attention should be paid to anything which impacts in any way on children or vulnerable adults.
- 16.4 The Council has a high duty of care in the way that it delivers services to children and vulnerable adults and one of the elements of that duty is to ensure that staff who may come into contact with these groups in any way whatsoever have not been convicted of criminal offences which might affect whether it is appropriate for that member of staff to have dealings with either of these groups. For that reason employees whose posts are designated as exempted from the provisions of the Rehabilitation of Offenders Act are required within seven days of conviction of a criminal offence to report details of that to the Head of Workforce and Organisation Development and in this context:-
- (a) "conviction of a criminal offence" includes a formal caution given by the police in place of a summons to appear before a court; and
 - (b) this requirement does not apply to criminal offences which are dealt with by way of a fixed penalty in place of an appearance before a court.

17. APPLICATION OF THE CODE OF CONDUCT

- 17.1 A Register of Employees Interests must be kept by each Head of Service who will countersign the entries to show that they are aware of any declarations. The record will also show what steps are intended to protect the Council's interests in the circumstances.
- 17.2 In the case of Heads of Service and Directors, the responsibility for maintaining the Register of Employees Interests will rest with the Director of Corporate Services. In the case of the Chief Executive and the Deputy Chief Executive the responsible person will be the Council's Monitoring Officer. 17.3 The Head of Service/Establishment or other responsible officer must make arrangements to safeguard the confidentiality of the information. 17.4 This Code must be made available to all Council employees. Breach of the Code may result in disciplinary action.

FEBRUARY 2006 (revised November 2014)

CAERPHILLY COUNTY BOROUGH COUNCIL - REGISTER OF EMPLOYEES' INTERESTS

Employee's Name:		Employee's Number:	
Job Title:			
Directorate			
Service Area, School or Establishment:			
Type of Declaration	Details		
Relationship: Councillor <input type="checkbox"/> Contractor <input type="checkbox"/> Employee <input type="checkbox"/> Other <input type="checkbox"/>	Name: Post Title: Nature of my relationship to the named person: Details of any potential contact/conflict of interest:		
Personal interest or membership of an organisation, business, professional body or secret society e.g. School Governing Body, voluntary organisation role, involvement in a family business	Description of my interest: Name and location of organisation concerned (if applicable): Effective date: Financial benefit / implication: Details of steps that could be taken to protect the Council's interest:		
Gifts and Hospitality	Was the gift / hospitality to you or to an immediate relative? (if a relative, please give the relative's name and their relationship to you): Description of gift, hospitality or sponsorship: Supplier name / organisation: Date offer made: Approximate value: Accepted / Declined and reason for decision		
Employee's Signature:		Date:	

CAERPHILLY COUNTY BOROUGH COUNCIL - REGISTER OF EMPLOYEES' INTERESTS

Completed By Head of Service

Details of any controls/ action taken to protect the Council's interests			
Name of Head of Service:			
Head of Service Signature:		Date:	

Circulation of Completed Form

Original copy retained by Head of Service:	
Date Copy Sent to Employee:	
Date copy emailed to HR Strategy and Development for filing on employee's personal file:	
Date Directorate Summary Spreadsheet updated:	

Version: 2
Date Verified: November 2014

Register Of Employees Interests

Notes For Guidance

- 1.0 The Register of Interest Forms are to be completed in triplicate and on completion should be distributed as follows: Top Copy to be retained by the Head of Service/Manager Second Copy to be retained by the individual making the declaration Third Copy to be passed to the Head of Workforce and Organisation Development for filing on the individual's personnel file.
- 2.0 The Control Log should be completed to ensure all forms have been accounted for, all declarations have been received and will allow Managers to satisfy themselves that all declarations have been dealt with appropriately. Details to be completed as follows:
- (i) Registration Reference Number (top right hand corner of declaration form). All forms will be pre-numbered and should be issued in sequential order.
 - (ii) Name of Officer requesting the registration form (this will allow follow up in the event of the form not being returned in order to prevent completed forms being lost in transit).
 - (iii) Date Issued to the individual making the declaration (all three copies should be issued and returned).
 - (iv) Date Returned
 - (v) Note of whether the registration form was completed or not (YES or NO). This will provide a trail for following through completed registrations to filed records and account for any uncompleted forms.
 - (vi) If forms are not returned or completed a note of the reason for non completion e.g. lost in transit, spoiled, not required due to change in circumstances etc.

N.B. Any spoiled forms (all three copies) should be retained by the Head of Service/Manager and filed. Any uncompleted forms returned can either be cancelled and retained with the spoiled copies or reissued. Any reissued forms will need to be re-entered on the control log (a number of extra rows have been included in the control log to facilitate this).

- 3.0 The registration Forms will need to be completed as follows:

- (i) Service Area
- (ii) Type of Declaration:
 - (a) Relationships – details required will include the name of the individuals, company, or organisation concerned, the nature of the relationship and the likely contact/involvement with the individual making the declaration which might cause or be perceived to cause a conflict of interests.
 - (b) Outside Interests – details required will include the nature of the interest or outside employment and how this might be connected with, impact on or influence the work/duties of the individual making the declaration. (c) Gifts & Hospitality- details required will include the name of the individual, company or organisation making the offer, details of the offer including an estimated value. Also as in (a) above the likely contact/involvement of the individual making the declaration with the person(s) making the offer and how this might influence or be perceived to influence any decisions made as part of Page 24 of 24 that individual's work/duties and therefore constitute a potential conflict of interests.

- (iii) Further Description/Action Taken (to be completed by the individual making the declaration). In the case of Gifts and Hospitality this should indicate whether the gifts were accepted or declined.

In the case of (a) and (b) above or in the case of (c) where the offer is accepted the individual will need to state what action has been taken or is proposed in order to safeguard themselves against any allegations of misconduct due to a conflict of interest and ensure that the Council's interests are protected.

- (iv) Comments. Head of Service/Delegated Officer. Where the officer receiving the declaration is not satisfied that the action proposed by the individual making the declaration is sufficient to prevent a conflict of interest and protect the interests of both the officer and the Council advice should be issued to the officer as to what further action will need to be taken. This advice should be entered on the declaration of interest form so that all parties are clear as to what action has been recommended/agreed.
- (v) The form will need to be dated and signed by the Employee making the declaration and the Head of Service or delegated officer.

Whistleblowing Policy

Version of Scheme:	Version 2
Draft Number:	Final
Scheme Ratified By:	Council
Date Ratified:	18 th November 2014
Effective Date of Scheme:	18 th November 2014
Review Date:	2016
Applicable To:	All Caerphilly employees. If you are a volunteer or contractor working on Council premises, including builders, drivers and suppliers, you should raise your concerns under the Council's Corporate Complaints Policy, which is available on the Council's website.
Equalities Issues:	All Equalities considerations have been taken into account when drafting this Scheme.

The Council's recognised trade unions have been consulted on this Scheme.



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INTRODUCTION

1. Caerphilly County Borough Council is fully committed to running the organisation in the best possible way and to do so we need your help. We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have about malpractice at an early stage and in the right way.
2. All of us, at one time or other, have a concern about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible fraud, danger or malpractice that might affect others or the organisation itself, it can be difficult to know what to do.

WHAT THE SCHEME COVERS

3. This policy covers any disclosures that employees make with regard to any alleged wrong doing. The policy must be read in conjunction with all relevant Council policies and procedures, in particular the Council's Code of Conduct.

DETAIL OF THE SCHEME

4. The Whistleblowing Policy aims to reassure you that it is safe and acceptable to speak up and to enable you to raise serious concerns you have about malpractice at an early stage and in the right way.
5. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of detrimental treatment as a result.
6. The policy is specifically intended for raising concerns about malpractice. If, however, you wish to make a complaint about your employment or how you have been treated, please use the grievance procedure – copies can be obtained from your Manager or the HR Support Portal.
7. The policy provides you with an avenue to raise your concerns and to receive feedback on any action taken. Any feedback will be provided within the confines of the Data Protection Act 1998.

CATEGORIES OF WRONGDOING

8. You are protected under this policy to raise any concerns you may have about the following categories of wrongdoing:
 - Criminal offences, including conduct which is an offence or a breach of law or sexual or physical abuse of clients;
 - Failure to comply with legal obligations including the unauthorised use of public funds, possible fraud and corruption;
 - Discrimination against the public or colleagues (e.g. racism, homophobia, etc.)
 - Miscarriages of justice;
 - Dangers to health or safety including risks to the public as well as other employees;
 - Danger or damage to the environment or
 - Deliberate concealment of any of the above categories.

9. The policy may also be used to report something that:
-

- Makes you feel uncomfortable in terms of the standards you believe the Council subscribes to;
- Is against the Council's Constitution and policies;
- Falls below established standards of practice or
- Amounts to improper conduct.

OUR ASSURANCE TO YOU

10. Caerphilly County Borough Council is committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of detrimental treatment as a result. The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern and we consider it a disciplinary matter to victimise anyone who has raised a genuine concern.
11. With these assurances, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone confidentially first. If this is the case, please say so at the outset.
12. If you ask us not to disclose your identity, we will not do so without your consent unless required by law. You should understand that there may be times when we are unable to resolve a concern without revealing your identity, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

ANONYMOUS ALLEGATIONS

13. The policy encourages you to put your name to your allegation whenever possible. If you do not tell us who you are it will be much more difficult for us to look into the matter. We will not be able to protect your position or to give you feedback. Accordingly you should not assume we could provide the assurances we offer in the same way if you report a concern anonymously.
14. If you are unsure about raising a concern you can get independent advice from Public Concern at Work (contact details can be found under Independent Advice).

UNTRUE ALLEGATIONS

15. If you make an allegation in good faith but it is not confirmed by the investigation, no action will be taken against you. Provided you are raising a genuine concern, it does not matter if you are mistaken. Of course we do not extend this assurance to someone who maliciously raises a matter they know is untrue.
16. If you make an allegation maliciously or for personal gain, disciplinary action may be taken against you.

RAISING A CONCERN

17. You do not need to have firm evidence of malpractice before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern.
18. If you have a concern about malpractice the first step is to raise it with your Manager or Team Leader. This may be done verbally or in writing. We understand that the ability to raise concerns in this way will depend on the nature of the concern and the individuals involved.
19. If you feel unable to raise the matter with your Manager, for whatever reason, please raise the matter with:
Head of Workforce & Organisational Development

20. If you want to raise the matter confidentially, please say so at the outset so that appropriate arrangements can be made. A discussion will be held with you to discuss what is the most appropriate way to deal with the matter.
21. If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact:
Head of Legal and Monitoring Officer

Section 151 Officer

HOW WE WILL HANDLE THE MATTER

22. The Council will acknowledge receipt of your concern within 10 working days. We will assess it and consider what action may be appropriate. This may involve an informal review, an internal inquiry or a more formal investigation. We will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you, how we propose to handle it and provide a timetable for feedback. If we have misunderstood the concern or there is any information missing please let us know.
23. When you raise the concern it will be helpful to know how you think the matter might best be resolved. If you have any personal interest in the matter, we ask you to tell us at the outset.
24. If we think your concern falls more properly within one of our other policies (i.e. grievance) we will let you know.
25. If you are invited to a meeting to discuss your concerns, you can be accompanied by a trade union representative or work colleague not involved in the matter.
26. Whenever possible we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person. Any feedback will be provided within the confines of the Data Protection Act 1998.
27. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this policy you will help us to achieve this.

INDEPENDENT ADVICE

28. If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact the independent charity Public Concern at Work on 020 7404 6609 or by email at helpline@pcaw.org.uk. Their lawyers can talk you through your options and help raise a concern about malpractice at work.
29. If you are a member of a trade union you can also contact your union for advice.

EXTERNAL CONTACTS

30. While we hope this policy gives you the reassurance you need to raise your concern internally with us, we recognise that there may be circumstances where you can properly report a concern to an outside body. In fact, we would rather you raised a matter with the appropriate regulator than not at all. Public Concern at Work (or your union) will be able to advise you on such an option if you wish. Details of External Regulators under the Public Interest Disclosure (Prescribed Persons) Order 2014 can be found under Appendix 1. If this Schedule is amended by future legislation then the revised list will apply.
31. If you do take the matter outside the Council, you should ensure that you do not disclose personal or confidential information.

INTERPRETATION OF THE SCHEME

32. In the event of a dispute relating to the interpretation of the Policy, the Head of Workforce and Organisational Development or the Head of Legal and Monitoring Officer will make the final decision on interpretation.

REVIEW OF THE SCHEME

33. A review of this policy will take place when appropriate. Any amendments will be consulted on with all the relevant parties. However, in the case of amendments relating to legislative requirements, the Scheme will be amended and reissued.

NOVEMBER 2014

PRESCRIBED PERSONS UNDER THE PUBLIC INTEREST DISCLOSURE ACT

<i>Persons and descriptions of people</i>	<i>Matters Relating To</i>
Accounts Commission for Scotland and auditors appointed by the Commission to audit the accounts of local government bodies.	Proper conduct of public business, value for money, fraud and corruption in local government bodies.
The Audit Commission for Local Authorities and the National Health Service in England.	Proper conduct of public business, value for money, fraud and corruption in public bodies.
Audit Scotland.	Proper conduct of public business, value for money, fraud and corruption in public bodies.
Auditor General for Wales.	Proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.
Auditor General for Scotland and persons appointed by or on his behalf under the Public Finance and Accountability (Scotland) Act 2000 ^[4] to act as auditors or examiners for the purposes of sections 21 to 24 of that Act.	Proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.
Auditors appointed by the Audit Commission for Local Authorities and the National Health Service in England to audit the accounts of (a) local government bodies as defined by section 53 of that Act (including police and crime commissioners, the Mayor's Office for Policing and Crime and the Common Council of the City of London, and the Chief Constables for Policy Forces maintained under Section 2 of the Police Act 1996, the Commissioner of Police of the Metropolis and the Commissioner of Police for the City of London Police) (b) health service bodies as defined by section 53 of that Act or (c) any other body whose accounts are subject to audit in accordance with the Audit Commission Act 1997	Proper conduct of public business, value for money, fraud and corruption in public bodies.
Auditors appointed by NHS Foundation trusts to audit the accounts of those trusts.	Proper conduct of public business, value for money, fraud and corruption in public bodies.
The Bank Of England	(a) The functioning of clearing houses (including central – counterparties); inter-bank payment systems and securities settlement systems. (b) The treatment, holding and issuing of banknotes by the authorised banks (and their agents) under Part 6 of the Banking Act 2009.
Care Council for Wales.	The registration of social care workers under the Care Standards Act 2000.

Persons and descriptions of people	Matters Relating To
Care Inspectorate	The provision of care services, as defined in the Public Services Reform (Scotland) Act 2010.
Care Quality Commission	(a) The registration and provision of a regulated activity as defined in section 8 of the Health and Social Care Act 2008 and the carrying out of any reviews and investigations under Part 1 of that Act or (b) any activities not covered by (a) in relation to which the Care Quality Commission exercises its functions.
Certification Officer.	Fraud, and other irregularities, relating to the financial affairs of trade unions and employers' associations.
Charity Commission for England and Wales.	Proper administration of charities and of funds given or held for charitable purposes.
Chief Executive of the Criminal Cases Review Commission.	Actual or potential miscarriages of justice.
Chief Executive of the Scottish Criminal Cases Review Commission.	Actual or potential miscarriages of justice.
Children's Commissioner	The rights, welfare and interests of children.
Children's Commissioner for Wales.	Matters relating to the rights, welfare and interests of children.
Commissioner for Children and Young People in Scotland	Promoting and safeguarding the rights of children and young people.
Commissioners of HM Revenue and Customs	The functions of the Commissioners for Revenue and Customs as set out in the Commissioners for Revenue and Customs Act 2005, including (a) the administration of the UK's taxes, including income tax, inheritance tax, corporation tax, capital gains tax, VAT and the excise duties. (b) the administration of the national insurance and tax credits systems (c) customs and border-related functions and (d) criminal investigations
Competition and Markets Authority	(a) The sale of goods or the supply of services, which adversely affect the interests of consumers. (b) Competition affecting markets in the UK.
Comptroller and Auditor General	Proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services.
Director of the Serious Fraud Office.	(a) serious or complex fraud within the meaning of section 1 (3) of the Criminal Justice Act 1987 or (b) civil recovery of the proceeds of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations as set out in Part 5 or 8 or the Proceeds of Crime Act 2002.
Elected local policing bodies	Any report made in accordance with section 114 of the Local Government Finance Act 1988 in relation to (a) the Chief Constable for the elected local policing body's area or (b) the Commissioner of Police of the Metropolis, where the elected local policing body is the Mayor's Office for Policing and Crime.

Persons and descriptions of people	Matters Relating To
Environment Agency	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to pollution, abstraction of water, flooding, the flow of rivers, inland fisheries and migratory salmon or trout.
Financial Conduct Authority	<ul style="list-style-type: none"> (a) the carrying on of investment business or of insurance business or of any business related to or constituting a regulated activity as defined in section 22 of the Financial Services and Markets Act 2000 and wholesale money market regimes (b) the conduct of persons authorised for the purposes of section 31 of the Financial Services and Markets Act 2000 including banks, building societies established under the Building Societies Act 1986, consumer credit firms and credit unions within the meaning of the Credit Unions Act 1979 or registered under the Credit Unions (Northern Ireland) Order 1985 or the Industrial and Provident Societies Act (Northern Ireland) 1969, friendly societies within the meaning of the Friendly Societies Act 1974 and the Friendly Societies Act 1992, insurers, the Society of Lloyd's ,managing agents (c) the conduct of persons who are subject to Part 18 of the Financial Services and Markets Act 2000 (d) the conduct of persons who are electronic money issuers for the purposes of electronic money regulations 2011 (e) the conduct of persons who are payment service providers for the purposes of the payment services regulations 2009 (f) the operation of small UK Alternative Investment Fund Managers registered under regulation 10 of the Alternative Investment Fund Managers Regulations 2013 (g) the operation of societies registered under the Friendly Societies Act 1974 and the Friendly Societies Act 1992, including friendly societies, benevolent societies, working men's clubs, specially authorised societies (h) the operation of 'registered societies' within the meaning of the Co-operative and Community Benefit Societies Act 2014 (i) the conduct of persons subject to rules made under Part 6 of the Financial Services and Markets Act 2000 (j) competition in relation to the provision of financial services and the financial services markets (k) the functioning of financial markets and (l) money laundering, financial crime and other serious financial misconduct, in connection with activities regulated by the Financial Conduct Authority.

Persons and descriptions of people	Matters Relating To
The Financial Reporting Council Limited and its conduct committee	<ul style="list-style-type: none"> (a) the independent oversight of the regulation of the accountancy, auditing and actuarial professions (b) the independent supervision of Auditors General (as defined in section 1226 of the Companies Act 2006) (c) the monitoring of statutory audit functions in respect of major audits (as defined by paragraph 13 (10) of Schedule 10 to that Act), of third country audit functions (as defined in that paragraph), and of major local audits (as defined in that paragraph as applied by paragraph 28 of Schedule 5 to the Local Audit and Accountability Act 2014) (d) the registration and monitoring of third country auditors (as defined in section 1261 of the Companies Act 2006) (e) compliance with the requirements of legislation relating to accounting and reporting and (f) the investigation of the conduct of auditors, accountants and actuaries and the holding of disciplinary hearings in public interest cases (as defined in paragraph 24 of Schedule 10 to that Act and by that paragraph as applied by paragraph 28 of Schedule 5 to the Local Audit and Accountability Act 2014).
Food Standards Agency.	The health of any member of the public in relation to the consumption of food and other matters which concern the protection of the interests of consumers in relation to food.
Gas and Electricity Markets Authority	<ul style="list-style-type: none"> (a) the generation, transmission, distribution and supply of electricity, participation in the operation of an electricity interconnector (as defined in section 4(3E) of the Electricity Act 1989) (b) providing a smart meter communication service (as defined in section 4 (3G) of that Act) and activities ancillary to these matters (c) the transportation, shipping and supply of gas through pipes, participation in the operation of a gas interconnector (as defined in section 5(8) of the Gas Act 1986. (d) providing a smart meter communication service (as defined in section 5 (11) of that Act) and activities ancillary to these matters and (e) the renewable generation of heat (as defined in section 100(3) of the Energy Act 2008) and activities ancillary to that matter.
General Chiropractic Council	<ul style="list-style-type: none"> (a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Dental Council	<ul style="list-style-type: none"> (a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Medical Council	<ul style="list-style-type: none"> (a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.

Persons and descriptions of people	Matters Relating To
General Optical Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Osteopathic Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
General Pharmaceutical Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
Health and Care Professions Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
Health and Safety Executive.	The health or safety of any individual at work other than individuals at work wholly or mainly on premises which are, or are on (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013) (b) an authorised defence site (within the meaning given in regulation 2 (1) of the Health and Safety (Enforcing Authority) Regulations 1998) or (c) a new nuclear build site (within the meaning given in regulation 2A of those Regulations
Healthcare Improvement Scotland	(a) furthering the improvement in the quality of health care (within the meaning of section 10A of the National Health Service (Scotland) Act 1978) and (b) any activities not covered by (a) in relation to which Healthcare Improvement Scotland has functions.
Her Majesty's Chief Inspector of Education, Children's Services and Skills (the Chief Inspector)	(a) the regulation and inspection of establishments and agencies under Part 2 of the Care Standards Act 2000 (b) the inspection of the functions of local authorities in England referred to in section 135 (c) to (e) of the Education and Inspections Act 2006 (c) the inspection of Children's Services under section 20 of the Children's Act 2004 (d) the review of Local Safeguarding Children Boards under section 15A of the Children Act 2004 (e) the inspection, under section 87 of the Children Act 1989, of the welfare of children provided with accommodation by boarding schools and further education colleges (f) the inspection of the Children and Family Court Advisory and Support Service under section 143 of the Education and Inspections Act 2006 and any other functions which may be assigned to the Chief Inspector under section 118 (4) of that Act but only in so far as they relate to one of the functions set out in (a) to (f) above.

Persons and descriptions of people	Matters Relating To
Homes and Communities Agency	The regulation of registered providers of social housing, in accordance with Part 2 of the Housing and Regeneration Act 2008 (as amended by the Localism Act 2011), delivered through the Regulation Committee of the Homes and Communities Agency.
Independent Police Complaints Commission	The conduct of a person serving with the police (as defined in section 12 (7) of the Police Reform Act 2002) or any other person in relation to whose conduct the Independent Police Complaints Commission exercises functions in or under any legislation.
Information Commissioner.	Compliance with the requirements of legislation relating to data protection and to freedom of information.
Local authorities which are responsible for the enforcement of food standards in accordance with sections 5 and 6 of the Food Safety Act 1990.	Compliance with the requirements of food safety legislation.
Local authorities which are responsible for the enforcement of health and safety legislation.	Health or safety of any individual at work; matters, which may affect the health and safety of any member of the public, arising out of or in connection with the activities of persons at work.
Local weights and measures authorities as defined by section 69 of the Weights and Measures Act 1985 which are responsible for the enforcement of consumer protection legislation.	Compliance with the requirements of consumer protection legislation.
Lord Advocate, Scotland.	Serious or complex fraud within the meaning of section 27 of the Criminal Law (Consolidation) (Scotland) Act 1995.
A member of the House of Commons	Any matter specified in this column.
Monitor	(a) the regulation and performance of NHS foundation trusts and (b) any activities not covered by (a) in relation to which Monitor exercises its functions.
National Crime Agency	Corrupt individuals or companies offering or receiving bribes to secure a benefit for themselves or others.
National Health Service Trust Development Authority	The performance of English NHS Trusts, including clinical quality, governance and management of risk.
The National Society for the Prevention of Cruelty to Children (NSPCC) and any of its Officers	Child welfare and protection.
Nursing and Midwifery Council	(a) the registration and fitness to practise of a member of a profession regulated by the Council and (b) any activities not covered by (a) in relation to which the Council has functions.
Officer for Nuclear Regulation	The health and safety of any individual at work wholly or mainly on premises which are, or are on (a) a GB nuclear site (within the meaning given in section 68 of the Energy Act 2013) (b) an authorised defence site (within the meaning given in regulation 2 (1) of the Health and Safety (Enforcing Authority) Regulations 1998 or (c) a new nuclear build site (within the meaning given in regulation 2A of those regulations)

Persons and descriptions of people	Matters Relating To
Office of Communications	(a) the provision of electronic communications networks and services and the use of the electro-magnetic spectrum (b) broadcasting and the provision of television and radio services (c) media ownership and control and (d) competition in communications markets.
Office of Qualifications and Examinations Regulation	Issues relating to the Office of Qualifications and Examinations Regulation exercises functions under the Apprenticeships, Skills, Children and Learning Act 2009.
Office of Rail Regulation	(a) the provision and supply of railway services and (b) any activities not covered by (a) in relation to which the Office of Rail Regulation has functions.
Office of the Scottish Charity Regulator	The proper administration of charities and of funds given or held for charitable purposes.
Payment Systems Regulator	Payment systems (within the meaning given by section 41 of the Financial Services (Banking Reform) Act 2013) and the services provided by them.
Pensions Regulator	Occupational pension schemes and other private pension arrangements including matters relating to the Pensions Regulator's objective of maximising compliance with the duties under Chapter 1 of Part 1 (and the safeguards in sections 50 and 54) of the Pensions Act 2008.
Police and Crime Panels	(a) any complaint about the conduct of a relevant office holder, within the meaning of section 31 of the Police Reform and Social Responsibility Act 2011 and (b) any report made in accordance with section 114 of the Local Government Finance Act 1988 or section 4 or 5 of the Local Government and Housing Act 1989 in relation to the elected local policing body for the Police and Crime Panel's area.
Prudential Regulation Authority	(a) the carrying on of deposit taking business or insurance business or investment business or any business related to or constituting a regulated activity as designated pursuant to section 22A of the Financial Services and Markets Act 2000 (b) the safety and soundness of persons authorised for the purposes of section 31 of the Financial Services and Markets Act 2000, including banks, insurers, the Society of Lloyd's incorporated by the Lloyd's Act 1871, Lloyds managing agents, building societies established under the Building Societies Act 1986, designated investment firms, societies registered under the Friendly Societies Act 1974 and the Friendly Societies Act 1992, including friendly societies, benevolent societies, working men's clubs and specially authorised societies, and credit unions within the meaning of the Credit Unions Act 1979 or registered under the Credit Unions (Northern Ireland) Order 1985 or under the Industrial and Provident Societies Act (Northern Ireland) 1969, in connection with matters regulated by the Prudential Regulation Authority.
Public Services Ombudsman for Wales	Breaches by a member or co-opted member of a relevant authority (as defined in section 49 (6) of the Local Government Act 2000) of that authority's code of conduct.

Persons and descriptions of people	Matters Relating To
Scottish Environment Protection Agency	Acts or omissions which have an actual or potential effect on the environment or the management or regulation of the environment, including those relating to flood warning systems and pollution.
Scottish Housing Regulator	(a) Social Landlords' performance of housing activities (b) The registration of Registered Social Landlords in accordance with Part 2 of the Housing (Scotland) Act 2010 and (c) The financial well-being and standards of governance of Registered Social Landlords.
Scottish Information Commissioner	Compliance with the requirements of legislation relating to the freedom of information.
Scottish Social Services Council.	Registration of the social services workforce by the Scottish Social Services Council under the Regulation of Care (Scotland) Act 2001.
Secretary of State for Business, Innovation and Skills.	(a) Fraud, and other misconduct, in relation to companies, (b) Consumer safety.
Secretary of State for Transport.	Compliance with the requirements of merchant shipping law, including maritime safety.
Standards Commission for Scotland and the Chief Investigating Officer.	Breaches by a councillor or a member of a devolved public body (as defined in section 28 of the Ethical Standards in Public Life etc. (Scotland) Act 2000[9]) of the code of conduct applicable to that councillor or member under that Act.
Water Services Regulation Authority	The supply of water and the provisions of the sewerage services.
Water Industry Commissioner for Scotland.	The supply of water and the provision of sewerage services.
Welsh Ministers	(a) The provision of Part II services as defined in section 8 of the Care Standards Act 2000 and the Children Act 1989. (b) The inspection and performance assessment of Welsh local authority social services as defined in section 148 of the Health and Social Care (Community Health and Standards Act 2003 (c) The review of, and investigation into, the provision of health care by and for Welsh NHS bodies as defined under the Health and Social Care (Community Health and Standards) Act 2003. (d) The regulation of registered social landlords in accordance with Part 1 of the Housing Act 1996 (113) (as amended by the Housing (Wales) Measure 2011 (114)).

Protocol on Member/Officer Relations

CAERPHILLY COUNTY BOROUGH COUNCIL

PROTOCOL FOR MEMBERS AND OFFICERS

1. Introduction

- 1.1 This protocol guides Members and Officers of the Council in their relationships with one another. To a large extent, the protocol is no more than a statement of current practice and convention. As it is in a written form, however, it should promote clarity and certainty.
- 1.2 This protocol will be kept under review and amended as necessary.
- 1.3 A breach of this protocol could constitute a breach of the Council's Code of Conduct or the Officer Code of Conduct.

2. Member/Officer Relations

- 2.1 The Council's Code of Conduct says this on the relationship between Members and Officers:-

"Members of the Authority:

- (a) must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity of all people, regardless of their gender, race, disability, sexual orientation, age or religion and show respect and consideration for others;
 - (b) must not do anything which compromises or which is likely to compromise the impartiality of the authority's employees".
- 2.2 Members and Officers share a responsibility to work together to achieve decisions in the interests of the Council and the area it serves. Officers serve the Council as a whole and they act in a politically neutral way in giving professional advice and general support to all Members.
 - 2.3 Irrespective of size, all political groups are entitled to equal treatment by Officers. All political groups and Members not in political groups are entitled to have access to information from Officers through the Council's established channels to the same extent and are entitled to call on the support of Officers to assist them. These channels are set out later in the protocol.

- 2.4 All dealings between Members and Officers should observe reasonable standards of courtesy and neither party should seek to take advantage of their position. On occasions, Members may have reason to complain about the conduct or performance of an Officer. All such complaints should be made personally to the relevant Head of Service, or the Chief Executive. It is important that complaints are made in this way, and details are noted.
- 2.5 If an Officer is concerned about a Member's conduct it should be brought to the attention of the Chief Executive and the Leader of the Council. In the absence of the Leader, the Deputy Leader should be approached. If appropriate, matters of concern will be referred to the Council's Monitoring Officer and Standards Committee.
- 2.6 The partnership of Members and Officers depends on mutual trust, respect and understanding of respective roles and responsibilities. **Care should be taken to ensure that dealings with an individual Member or Officer cannot be open to accusations of bias, favouritism or political partiality.**

3. **Rights of access to information**

- 3.1 The previous provisions of this paragraph have been replaced with effect from the 1 December 2005 by a protocol on elected members' rights of access to information, which was approved at a meeting of the Council on the 22 November 2005. That protocol now appears at the end of Part 5 of the Constitution.

4. **Preparation of Agenda**

- 4.1 Agendas for meetings of the Council, its Cabinet and Committees shall be prepared by the Chief Executive. Any Member may ask either the Director or the relevant Scrutiny Committee Chairman for an item of business to be included on an Agenda. Its inclusion is subject to the discretion of the Chairman and must comply with the Committee's forward work programme.
- 4.2 Reports which have been presented to the Cabinet are subsequently detailed on the Agenda for the relevant Scrutiny Committee and within a given deadline a Member can request that the item may be reviewed and debated at the meeting.

5. **Urgent Business**

- 5.1 The decision as to whether an item of business is urgent and should be considered by the meeting is one for the Chairman to make. As a working rule, an item of business will normally only be urgent if it has arisen since the despatch of the agenda.
- 5.2 Members or Officers wishing to raise an item of urgent business should approach the Chairman and Committee Services Officer prior to the start of the meeting at which the request is to be raised. The Chairman's ruling is binding on whether an item is urgent and is not open to discussion or debate.

6. **Delegation of Functions**

- 6.1 The Scheme of Delegation sets out the various powers delegated to appropriate Officers and Councillors. In exercising delegated powers every person is obliged to act in accordance with:-
- (i) the overall policies laid down by the Council or any of its Committees;
 - (ii) Standing Orders including those relating to contacts; and
 - (iii) financial regulations.
- 6.2 Officers are expected to consult with Members as follows:-
- (i) to maintain a close liaison with the appropriate Chairman and Vice Chairman;
 - (ii) to consult as necessary/inform any other Member who has a specific local or specialist interest in the matter particularly when the issue is controversial or ongoing, ie. more than two letters/phone calls/visits are needed to resolve the matter;
 - (iii) to reflect the views of consulted Members in the subsequent report.
- 6.3 In all cases it is open to an Officer to refer a matter to the Cabinet or appropriate Committee for decision if in his opinion the matter is of such a nature that it should more properly be referred to Members. If an Officer exceeds the authority given under delegated powers they could be subject to disciplinary action.

7. **Support Services to Members**

- 7.1 The Council can only lawfully provide support services (eg. stationery, typing, printing, photocopying, transport, shredding of confidential waste etc) to Members to assist them in discharging their role as Members of the Council. Such support services must therefore only be used for Council business and never in connection with party and political campaigning activity, or for private purposes.

8. **Relations with the Media** (this should be read in conjunction with the Media Protocol which is part of the Communications Strategy attached as an appendix).

- 8.1 Relations with the media need to be handled with care to ensure the Council's position on any issue is represented properly. Day to day contact with the press and media will normally be handled by the Communications Manager together with the appropriate Cabinet Members, Committee Chairmen and relevant Officers.
- 8.2 On occasions Members may be approached directly by the media and asked to make a comment or to appear for interview. Members are asked where practicable to ensure the Chief Executive and/or Communications Manager are made aware of the approach. Unless Members have been authorised to speak on behalf of the Council they should make it clear that any views they express are not necessarily those of the

Council. In all cases Members should uphold the good name and integrity of the Council.

9 Planning Applications – Members Involvement

9.1 The Council's Planning Committee (or Chief Planning Officer under the Scheme of Delegation) is responsible for making decisions on planning applications. Members may find themselves lobbied both by applicants and objectors. Such approaches need to be handled carefully to maintain the Council's integrity and credibility in the decision making process. Members should follow the guidelines given below in dealing with these situations:-

- (i) take care about expressing an opinion which may be taken as indicating that they have already make up their mind on the issue before they have heard all the evidence and arguments.
- (ii) encourage lobbyists to write to the Officers so their views can be included in the report to Planning Committee.
- (iii) not to lobby officers directly so as to influence the professional views expressed in the report.

9.2 Members attention is drawn to the Local Government Association document 'Probity in Planning – The role of Councillors and Officer' (October 1997). Members are advised to follow this advice in their involvement with planning matters.

1. **Media Protocol**

Selection and Association of Councillor Spokespeople in Media Commentary

Purpose of Document

This is intended as a technical working paper aimed at providing clarity and agreement on how and which Councillors and other Council representatives should be approached for media commentary under the Council's current pilot structure of Cabinet; Overview and Scrutiny; Area forums etc.

The protocol relates to **pro-active** (communication unit led) and **reactive** (media led) cases and should minimise conflict in the often, difficult process of determining who to approach. It will form part of the List of Approved Delegations.

Scope & Background

The whole business of Modernising Local Government places accountability and clarity at the top of the agenda. A fundamental element of local accountability is a high level of public awareness of who is responsible for Leadership roles. An inevitable response to these demands and the function of a Cabinet is that more frequent emphasis may be placed on those Members responsible for decisions.

It is an accepted fact that individual Members place value on gaining a public profile and achieving awareness for political and personal views on issues. Likewise, the Modernising Local Government agenda and local research indicates that **public awareness of Councillors**; their role in the Council and understanding of 'who decides what' is very low (nationally and locally, only 2.5% of the population can name a Councillor). This validates the role of the Caerphilly county borough council's communication Unit in promoting the positive image of Councillors; it also demands this protocol to support the values of fairness and integrity.

The **Communications Strategy** "One Voice" prescribes the values and standards of:

Integrity and Honesty	Openness and Accessibility
Clarity	Inclusive
Personable and approachable	Political balance
Leadership and Accountability	Impartiality
Timeliness and tactics	Consistency

The Protocol

Public understanding and clarity should take precedent over the formality of Council definitions. Within the value of honesty and integrity it should be accepted that the concept of communications is to illustrate and present Council in best possible light.

ROLES AND RESPONSIBILITIES

Leader of the Council

Lead commentary on any major issue including corporate budget, emergency issues, and major built environment or media campaigns. In the Leader's absence, the Deputy Leaders may be approached.

Cabinet Spokespeople

The appointed spokespeople from the Cabinet comment on issues arising under their area/portfolio of responsibility.

i.e. Cabinet member for: -

- Best Value and Community Planning
- Economic Development and Objective 1
- Education, Leisure and Lifelong Learning
- Environmental and Housing Services
- Modernisation and Personnel
- Resources
- Social Services
- Transportation and Planning

Overview and Scrutiny Committee

The Chair will comment on issues that arise from this group and in their absence, the Vice Chair.

The Chairman

In position as first citizen to give comment on behalf of the county borough, in relation to civic events or where the Chairman has a long-standing personal commitment to local issues e.g. Chairman's Charity. In some circumstances it may be relevant to comment in the event of an emergency incident. Following existing civic protocol, if the Chairman is unavailable it may be appropriate to approach the Vice Chairman.

Ward Councillors

Ward Councillors will comment on Area Forum issues.

Comment from Leader of Each Political Party

Cross party comments will be used when there is clear cross party support for corporate projects such as crime reduction. It is not the Council's role to present conflicting political views.

Party Spokespeople

With the agreement of the political parties, the Communication Unit can provide details of individual party spokespeople to the local media to enable them to use the information to make proactive approaches if they wish.

Press Briefings

Press briefings have two purposes:

- To help explain a complex issue that will aid the media's understanding of the subject and more accurate reporting.

- To communicate an important story (good and bad news) that will attract media attention.

When:

Press briefings will be arranged on an ad hoc basis, to provide additional support including:

- When complex issues are being determined / being raised
- When sensitive issues need absolute accuracy and confidentiality
- When major incident situations arise
- When media partners identify the need for greater clarity of Council Reports and Agendas issued ahead of Council meetings (NB it will not always be possible, effective or efficient to plan Press Briefings when no media interest has been raised)
- Major corporate news e.g. budget /Council Tax announcement
- To illustrate the work of major services such as Education or Social Services or Transportation

Who:

Press Briefings will usually comprise

- The Cabinet member 'Portfolio Holder' for the related issue or the Chair of the appropriate meeting
- The Chief Executive or Director with portfolio responsibility
- The appropriate Service Unit Head and/or any technical expert
- A representative of Communication Unit

The Leader of the Council will also be informed of all Press Briefings and is entitled to attend should they wish.

Press briefings do not preclude the media from approaching other Council representatives for comment.

Use of Embargoes

Embargoes will only be used when considered essential

- When news releases are linked to a launch event
- When an issue of confidentiality requires it
- When it is required by a third party (e.g. Lottery Commission announcing funding support)

Embargoes are not legally enforceable and are adhered to by general local agreement.

The following supplementary guidance was approved by the Council on the 27 May 2004 as an addition to the Member/Officer Protocol:-

GUIDANCE TO OFFICERS ON ATTENDANCE AT PUBLIC MEETINGS NOT ORGANISED BY THE COUNCIL

1. Officers are often asked by elected members to attend public meetings organised by that member, or by an organisation other than the Council to attend as a representative of the authority. It is difficult to set out hard and fast rules but this guidance has been approved by Corporate Management Team and should cover most eventualities.
2. Officers are reminded that neither Cabinet nor local members as individuals can require the attendance of an officer at a public meeting and no disciplinary consequences will follow to the officer if he/she refuses to attend purely on the basis of the request from the councillor involved.
3. When an officer is invited to a meeting he/she should obtain as much information as possible as to the exact purpose of the meeting and who will be present. The relevant officer should then exercise his/her own judgement as to whether he/she should attend and if in doubt should seek advice from his/her line manager. The presumption, however, should be in favour of attending the meeting.
4. On many occasions local members will also have been invited or may even have arranged or called for the meeting in the first place. If they have not been involved then they should be advised of the meeting.
5. The relevant Cabinet Member should also be notified of the meeting. It is of course up to the meeting organiser whether the Cabinet Member will be allowed to attend but it is always open to the officer to make a condition of his/her attendance that the Cabinet Member would be invited to attend. This should only arise where an issue appears sensitive or politically charged or where a large number of residents are likely to be present which indicates the scale of the problems.
6. Consideration should also be given to arranging for the Local Member or Cabinet Member to be proposed to chair the meeting.
7. Whilst at the meeting the officer should make it clear that his/her attendance is on the basis of explaining policy or answering questions as to facts or policy. It should be made clear that changes in policy are matters for the Council itself, i.e. elected members, to resolve.
8. Whilst we are all public servants and we should assist the residents where possible and be accountable for our actions or failures to act, this does not mean that we should be unreasonably attacked or vilified at such meetings and there might be occasions when it is reasonable to leave a meeting after giving due notice to do so.
9. These brief guidelines have been set out to deal with queries that have arisen from time to time but to make them too rigid may give rise to greater problems being encountered. It is clearly a matter for each officer in dealing with a request to attend a

public meeting to exercise his/her judgement and seek guidance in individual cases where appropriate.

- N.B. The guidelines set out above relate to public meetings but officers should be reminded of the protocol previously agreed regarding ward issues which do not involve, or have not reached the stage, of public meetings.

“CONSULTATION/LIAISON WITH MEMBERS REGARDING LOCAL ISSUES

In accordance with the model adopted by the Council local members are consulted on issues affecting their ward about reports to be presented to Cabinet which were of a local nature. There was no protocol however for dealing with day to day issues which arise. In order to find a balance of informing members it was suggested that the following be adopted as a basis for the protocol.

- (i) when officers write to residents regarding matters of general concern in the area a copy should be forwarded to the local members e.g. traffic calming measures;*
- (ii) when officers write to residents regarding issues affecting one household the local member is not informed except as is mentioned in (iii) below;*
- (iii) where a member of the Council has been involved in an issue affecting one household, then the relevant officer(s) should keep the member informed of developments until the issue is finalised. In these circumstances officers do not copy the correspondence to the other ward members;*
- (iv) where a member of the Council has been involved in an issue affecting more than one household then it is for the discretion of that member to keep all other local members, and any other member(s), informed of developments until the issue is finalised;*
- (v) this protocol will not affect members access to information or the limitations thereon contained in the Local Government (Access to Information) Act 1985.”*

March 2004

Protocol describing the principal functions of the Monitoring Officer and the manner in which the authority expects him/her to discharge those functions

1 Functions

The principal functions of the Monitoring Officer shall be:

- 1.1 To report to the Council and to the Executive in any case where he/she is of the opinion that any proposal, decision or proposal of the authority in respect of any “reportable incident” (being any matter which, in his/her opinion, has given rise to or is likely to or would give rise to any illegality, or breach of statutory code or which has given rise to any maladministration under Sections 5 and 5A of the Local Government and Housing Act 1989);
- 1.2 To investigate any matter which he/she has reason to believe may constitute, or where he/she has received an allegation that a matter may constitute, a reportable incident or a failure to observe the authority’s Code of Conduct for Members;
- 1.3 To act as the principal adviser to the authority’s Standards Committee;
- 1.4 To maintain the register of members’ interests;
- 1.5 Where so appointed by the Council, to act as the proper officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Executive;
- 1.6 Responsibility as set out in Council policies or regulations for Complaints, the Public Services Ombudsman for Wales and Whistle-Blowing functions of the authority;
- 1.7 To consult regularly with the Chief Executive, the Chief Finance Officer, Head of Human Resources and the Chief Internal Auditor to identify areas where the probity of the authority can be improved or better protected, and to take appropriate actions;
- 1.8 To respond to the Public Services Ombudsman for Wales in respect of any complaint of a breach of the authority’s Code which is referred to him/her for local investigation and/or determination;
- 1.9 A power to investigate any application for a dispensation and to report and recommend to the Standards Committee;
- 1.10 To secure that members and officers of the authority are fully aware of their obligations in relation to probity;
- 1.11 To report to the Executive and to the Council on the resources which he/she requires for the discharge of his functions;
- 1.12 To report regularly to the Standards Committee on the performance of his/her functions and to make any recommendations, which would better enable those functions to be performed;
- 1.13 To undertake all statutory Monitoring Officer functions, including:
 - 1.13.1 advice on the requirement to adopt a Local Code within 6 months of the

publication of the relevant Model Code;

- 1.13.2 advice on the requirement upon members to sign an undertaking to observe their authority's Local Code within two months of the authority adopting its Local Code and within one month of election to the Council;
- 1.13.3 advice on the requirement for members to notify the Proper Officer of the Council of any personal interests where such interests will form part of a public register, and means of gaining access to that register.
- 1.13.4 advice on the need to apply to the Standards Committee for any dispensations and of the arrangements agreed by the Standards Committee for receiving and determining any such applications, and for maintaining a register of such dispensations and advising the applicant and the Council of any dispensations which are granted;
- 1.13.5 advice on any provisions under which individual complaints of misconduct by members may be referred or delegated to the Monitoring Officer and the Standards Committee for investigation and determination, and any arrangements agreed by the Monitoring Officer and the Standards Committee for dealing with such complaints; and
- 1.13.6 advice and action under the terms of the Council's Local Resolution Protocol and Procedure for complaints against members of the authority under that Protocol and/or the obligation of any member to report a potential breach of the Code of Conduct.
- 1.13.7 advice to individual members on enquiries as to their obligations to declare or notify particular interests, on the need to apply for a dispensation, and on any consequent restrictions on the member's participation in consideration of the matter.
- 1.13.8 the provision of support and advice to Community and Town Councils within the area of the authority in maintaining probity, including advice on the requirement for members to notify the Proper Officer of that Council of any personal interests where such interests will form part of a public register, means of gaining access to that register, and of any arrangements to ensure that the Proper Officer of Community and Town Council are kept informed of any such declarations.

2 Resources

For the purpose of carrying out these functions, the Monitoring Officer shall be provided with the following resources:

- 2.1 The right of access to all documents and information held by or on behalf of the authority, including documents and information held by any officer or member of the authority. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political party or group represented on the Council;
- 2.2 The right of access to any meetings of officers or members (or both) of the authority, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party or group represented on the Council;
- 2.3 The right to require any officer or member of the authority, or any contractor of the

authority, to provide an explanation of any matter under investigation;

- 2.4 A right to report to the Council, the Standards Committee, and to the Executive, including a right to present a written report and to attend at meetings and to advise verbally;
- 2.5 The right to require the assistance of any officer of the authority in carrying out an investigation and to delegate to that officer any of the powers of the post of Monitoring Officer in relation to the investigation;
- 2.6 The right of access to the Head of the Paid Service and to the Section 151 Officer and the Corporate Management Team;
- 2.7 The consent of the authority to disclose information and documents to the Public Services Ombudsman for Wales, even where such disclosure would otherwise be in breach of the Monitoring Officer's duty of confidentiality to the authority;
- 2.8 The right, after consultation with the Head of the Paid Service and the Section 151 Officer, to notify the Police, the authority's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
- 2.9 The right to obtain at the authority's expense legal advice, either internally or from an independent external solicitor or barrister, on any matter which he/she believes may be a reportable incident, and sufficient financial resource to enable him/her to do so.

3 Discharge of Functions

- 3.1 It is recognised that the Monitoring Officer will be most effective if he/she is able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, officers and members of the authority should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes;
- 3.2 The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality, etc, or by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, officers and members of the authority may consult the Monitoring Officer in confidence in respect of any proposal, and the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer;
- 3.3 Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
- 3.4 In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue;
- 3.5 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add his/her

written advice to the report of any other officer of the authority;

- 3.6 Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Chief Executive and the Section 151 Officer, he/she is of the opinion that such is necessary in order to respond properly to a reportable incident.
- 3.7 Where the Monitoring Officer becomes aware of facts which, if substantiated, would indicate a failure by one or more members of the authority to observe the Code of Conduct for Members, the Monitoring Officer may:
- 3.7.1 advise any member or complainant to report the facts to the Public Services Ombudsman for Wales (PSOW) ; or
 - 3.7.2 conduct, or arrange for the conduct of, a preliminary investigation (see below); or
 - 3.7.3 report the matter to the PSOW without any investigation
- 3.8 Where, upon preliminary investigation, the Monitoring Officer is of the opinion that there is substantive evidence to suggest that a member of the authority has failed to observe the Code of Conduct, he/she shall consider whether the matter is capable of local resolution and, if so, take such action as is necessary to seek to resolve the matter in accordance with the Council's local resolution procedure.
- 3.9 Where the Monitoring Officer is of the opinion that such a matter is not capable of local resolution, is so serious that local resolution is not appropriate or where such efforts have failed, the Monitoring Officer may report the matter to the Public services Ombudsman for Wales. Before so reporting, the Monitoring Officer shall where practicable consult the Chief Executive (or in his/her absence the Section 151 Officer).

4 Conflicts

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the authority, he/she shall consult the Chief Executive who may request an independent person or a neighbouring authority to make their Monitoring Officer available to the authority to investigate the matter and report to the Chief Executive and/or the authority as **appropriate**.

CAERPHILLY COUNTY BOROUGH COUNCIL

PROTOCOL ON ELECTED MEMBERS' RIGHTS OF ACCESS TO INFORMATION

**Approved at a meeting of Caerphilly County
Borough Council on 22 November 2005, to take
effect from 1 December 2005**

RIGHTS OF ACCESS TO INFORMATION

1. STATUTORY AND OTHER POWERS

Elected Member as a member of the public

1.01 Members of the public have the following rights to information held by a public authority:-

- (a) under the Freedom of Information Act 2000 - a general right of access to all types of recorded information held by public authorities subject to exemptions specified in the legislation (see Appendix 2);
- (b) under the Environmental Information Regulations 2004 to a wide range of environmental information held by public authorities subject again to exemptions (see Appendix 3);
- (c) under the Access to Information Act 1985 a right to attend meetings of the Council, its committees and meetings of the Cabinet except where confidential or exempt information (see Appendix 1) is to be disclosed, the right to see agenda papers and reports (except for exempt information) and to inspect background papers and the following minutes of the meetings;
- (d) under the Data Protection Act individuals have the right to see personal data held by the authority about that individual (subject to exemptions which are set out in the Act). Only the individual, and not members of the public generally, have that right.

Rights as an elected member

1.02 Note: these rights are over and above rights given to members of the public and information obtained under these categories may not be disclosed to a member of the public.

- (a) under Access to Information Act 1985 the right to inspect material relating to any business to be transacted at a meeting (of the Council or its committees or of the Cabinet) apart from certain categories of exempt information. The law allows the Proper Officer to exempt from this right certain categories of exempt information (see Appendix 1 for the details).
- (b) under the Local Government Act 2000 members of a scrutiny committee have additional rights to copies of any documents in the possession or under the control of the Executive of the authority. Additional rights have been given by a Statutory Instrument made by the National Assembly for members of Overview and Scrutiny Committees which permits a member of an Overview and Scrutiny Committee to copies of any documents in the possession or under the control of the Executive of the authority and contains material relating to any business transacted at a meeting of the Executive **except that** where that information contains confidential or exempt information the member will not be entitled to a copy of the document unless either:-

- (i) it relates to a decision being scrutinised by the scrutiny committee; or
- (ii) it is relevant to any review contained in any programme of work of such a committee.

The Chief Executive as Proper Officer will determine whether information may be released in these circumstances.

- (c) the right (as agreed by the Council) to receive copies of all exempt reports being considered by committees, or the Cabinet, where the member is not a member of that body, and a right to sit in on any meetings where exempt information is being considered;
- (d) rights to information under the “need to know”. The common law right of Members is much broader, and is based on the principle that any Member has a right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as “the need to know” principle.

- 1.03 The exercise of this common law right depends, therefore, upon the Member’s ability to demonstrate that he/she has the necessary “need to know”. The Courts have held that Members have no right to a “roving commission” to go and examine documents. Mere curiosity is not sufficient.
- 1.04 There are some instances where the “need to know” can be clearly established, e.g. a Member of a Committee will usually have a right to see relevant information to be dealt with by that Committee or any of its Sub-Committees; a Member of an Overview and Scrutiny Committee should be entitled to access relevant information relating to any matter considered by another committee where that matter has become an issue for scrutiny; where a matter is being discussed at Full Council either on the basis of a report to the Council or on the recommendation of a Committee or other forum where there is a natural connection between the matters discussed. Members will normally be able to have access to the background documents to a Council or Committee Report; where the matters relate to that Member’s ward. These are areas where a “legitimate interest” can usually be demonstrated.
- 1.05 Where the request relates to a need not connected with the Member’s public position a need to know will not be made out e.g. where the Member needs the information because of his position as Chair of a voluntary body. The need to know will also not apply where it merely arises from a Member’s personal interest in the matter in question.
- 1.06 The decision on a “need to know” request needs to balance any demonstrated need against other public interest factors pointing in the opposite direction. These may involve potential breaches of Data Protection principles, Human Rights or the common law of confidentiality.
- 1.07 One important difference is that a Member’s “need to know” may be satisfied more satisfactorily or readily by other available means e.g. by written information or a briefing by officers. Each situation will need to be considered on its own merits.

- 1.08 Where a question arises as to the Member's need to know, the following procedure will apply:-
- (i) The Chief Executive will consider, in consultation with the Leader of the Council, whether the request is reasonably in furtherance of the Member's need to know. If it is then the document will be produced for the Members inspection.
 - (ii) If the request raises any legal issues, the Leader and the Chief Executive will consult the Council's Head of Legal & Governance.
 - (iii) If the matter remains unresolved it will then be referred to the Standards Committee for decision.
- 1.09 Both Members and Officers must note that where information of a possible defamatory nature is contained in a document, inspection of which is permitted, such inspection is allowed on the clear understanding that neither the document nor its contents should be passed on.

Advice and Information

- 1.10 Members are entitled to seek information (sometimes at short notice) from any appropriate Officer. Officers will do their utmost to assist Councillors in their information and advice needs, but may refer Members to another Officer who is better able to give the relevant advice. Any advice given to a political group, or to members collectively or individually, and the subject of that advice, is strictly confidential to the Members concerned unless agreed otherwise. Any advice given must be on Council business and not on party political group issues. Further, the proceedings of a political group meeting are to remain private.
- 1.11 Officers are encouraged to work with all political groups and to facilitate discussions between them in order to secure decisions, whenever appropriate. In doing this, Officers must be careful to respect any information confidential to a single political group.
- 1.12 The Council wishes to conduct its affairs as openly as possible and to give Members maximum access to information and documents to enable them to discharge their role as Members of the Council, subject to the restrictions imposed by law. Requests for information must be made to a Director, Head of Service or Senior Officer of the relevant service and can range from general information about an aspect of the Council's work to specific requests for information on behalf of a Ward Constituent.
- 1.13 In cases where a Ward Constituent does not want his/her Ward Member to obtain information on his/her behalf and wishes to nominate a Member from a different Ward to act on his/her behalf, a signed letter to this effect must be obtained from the Ward Constituent and produced to the relevant Director or Head of Service.
- 1.14 Councillors are entitled to access (a) all information that is publicly available and (b) other information held by Officers which it is reasonable for Councillors to access in pursuit of their roles. This right is described in paragraph 2 below. Individual Officers are entitled to seek confirmation from the Chief Executive and the Monitoring Officer

about making sensitive information available if there is any doubt. Councillors must respect the right of Officers to seek this clarification. Officers will co-operate with Councillors in making information available promptly, with a target of 10 working days for a response. There is a presumption that if the member shows a need to know, information will be disclosed as requested by members unless the information falls within those categories of exempt information set out below, when reasons for the decision should be given.

2. STATUTORY AND OTHER RESTRICTIONS

Data Protection Act

- 2.01 Personal data is defined later in this document. The Council has a statutory obligation to observe the data protection principles, which strictly regulate the release of personal data. In order to put beyond doubt the right of the Council to release personal data, the written consent of the individual involved will be required. This should be in the form set out in Appendix 4 to this document.
- 2.02 There are restrictions in the children legislation and the adoption legislation on disclosure of information which may be wider than personal data but in addition there is with clients of the Social Services directorate a natural expectation of confidentiality covering the authority's dealings generally with those clients and an expectation that unless authorised by the individual or required to do so by legislation or a court order the authority would not disclose that information to a third party.

Social Services cases (children and vulnerable adult information)

- 2.03 The following Departmental Guidance represents the ability of an individual to access information. It is included in this part of the Protocol for information as to the processes already in place.
- 2.04 *ACCESS TO PERSONAL INFORMATION IN CHILDREN'S SERVICES*

INTRODUCTION

The Directorate will pursue, as far as is consistent with the welfare of individual children, open access to individuals to their personal information held in computerised and manual information systems.

LEGISLATION, REGULATIONS, GUIDANCE, REPORTS:

Access to Personal Files (Social Services) Regulations 1989

Welsh Office Circular (88)51

Data Protection Act 1984

Social Work etc. Orders: Individual's Right of Access to Information

Welsh Office Circular WHC(88)59/WOC41/88

Data Protection 1984

Personal Social Services: Confidentiality of Personal Information.

The overriding principles that wherever possible the child (the data subject) should have access to their records as a matter of course and the personal information recorded on file should be used in positive ways to help the child. A data subject is defined as “an individual receiving or having received Social Services involvement, whether as an individual or member of a family group”.

With specific listed exemptions, no information held by the Social Services Department should come as a surprise to a child or young person.

“Personal Information” means information which relates to an individual who can be identified from that information (or from other information in the possession of the Authority with respect to the individual).

There are exceptions to this:-

- *Information given by third parties where their written permission to divulge has not been given.*
- *Where individuals other than the client would be identified.*
- *Information which is likely to cause the client or a third person serious harm. (It is envisaged that withholding information on this ground would be most exceptional but may be “relevant where there is a risk of child abuse or neglect, or where the individual has a mental disorder”).*
- *Information restricted by statute (this relates to adoption and information that “consists of a report given or to be given to the Court by the local Social Services Authority in the course of any proceedings to which the Magistrates Courts (Children and Young Persons) Rules 1988(A) apply where in accordance with the provision of those Rules, the information may be withheld by the Court in whole or in part from the individual who is the subject of the information”).*
- *Health, Personnel, Police and other professionals and agencies originating information by letter, reports, case conferences notes or verbal communications have been assured confidentiality. As with any third party information, written permission to allow access to such information will be requested from the individual or agency, on each occasion access is requested.*
- *Information held by the local Social Services Authority for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offender and open access would prejudice either or both matters.*
- *Information in respect of which a claim to professional privilege could be maintained in legal proceedings.*

ACCESS TO RECORDS

Access is available to the child or young person.

The child or young person will be permitted access to their personal information subject to an assessment of their ability to understand the information. A child for purposes of this policy is anyone under the age of eighteen years.

If a child is of an age or stage of maturity or disability that it would be inappropriate to allow the child access to information held in departmental files, parents or guardians will be allowed access if it is in the child's interest.

Members access to information in this category

- 2.05 The need for confidentiality is high, resulting from statutory requirements, and the natural expectation of confidentiality from the client of the Directorate. It follows therefore:-
- that the “need to know” of an elected member must be of a very high order before information can be disclosed
 - that there will be circumstances where officers will decline to comment at all, because to do so could reveal the Department’s involvement with an individual or family, and so breach confidence
 - any information disclosed to a member must remain with that member. That elected member may be put in a difficult position (if for example he/she is representing the interests of a third party and is expected to “report back” to a complainant) and the member should consider not having that information at all rather than have to say to the complainant “I know but I can’t tell you”.
- 2.06 The Director of Social Services is personally accountable to the courts for the care of individuals, and so the protection of personal data. For information in this category therefore the decision as to whether to release information personal to a client of the Directorate will be taken by the Director or any officer nominated by the Director after consultation with the Chief Executive, Head of Legal Services or the Monitoring Officer, and the rules earlier in this Protocol about reference to the Leader and the Standards Committee will not apply.
- 2.07 In reaching the decision the Director will consider:-
- (i) whether proper and informed consent to disclose information has been given by the individual (and the form at Appendix 4 will be relevant to this);
 - (ii) the “need to know” circumstances of the individual elected member;
 - (iii) whether making any comment at all would breach a confidence of someone other than the member’s constituent;
 - (iv) whether information can be given to the member in another way to enable the member to discharge his/her constituency role on a query by a third party.

Ward Members

2.08 The protocol for dealing with day to day issues is as follows:-

- (i) when officers write to residents regarding matters of general concern in the area a copy should be forwarded to the local members e.g. traffic calming measures;
- (ii) when officers write to residents regarding issues affecting one household the local member is not informed except as is mentioned in (iii) below;
- (iii) where a member of the Council has been involved in an issue affecting one household, then the relevant officer(s) should keep the member informed of developments until the issue is finalised. In these circumstances officers do not copy the correspondence to the other ward members;
- (iv) where a member of the Council has been involved in an issue affecting more than one household then it is for the discretion of that member to keep all other local members, and any other member(s), informed of developments until the issue is finalised;
- (v) the above rules apply equally where correspondence is received in relation to a constituent of a particular ward where the member generating the correspondence is not a member for that ward.
- (vi) this protocol will not affect members' access to information or the limitations thereon contained in the Local Government (Access to Information) Act 1985.

2.09 In exercising those rights, Members must have regard to the Code of Conduct which requires them to maintain the confidentiality of information given in confidence.

MPs and AMs

2.10 Guidelines have been adopted by the Council following consultation with the Information Commissioner:-

2.11 Guidelines for when local ward Councillors may be given copies of correspondence from AMs and MPs containing personal data

To: All Directors and Heads of Service

As you will be aware the Council no longer routinely copies complaint correspondence to local ward Councillors, in the light of the Information Commissioner's concerns that this may breach the provisions of the Data Protection Act 1998.

The Information Commissioner has agreed that there will be some circumstances where local ward Councillors will need to become closely involved in handling a complaint which may necessitate the disclosure of a complainant's personal data. However the Information Commissioner has emphasised that this is only permissible where the local ward Councillor has a demonstrable need to know that personal data.

Personal data is defined in the Data Protection Act 1998 as...

data which relate to a living individual who can be identified-

- (a) from those data, or
- (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

Sensitive personal data means...

personal data consisting of information as to-

- (a) the racial or ethnic origin of the data subject,
- (b) his political opinions,
- (c) his religious beliefs or other beliefs of a similar nature,
- (d) whether he is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- (e) his physical or mental health or condition,
- (f) his sexual life,
- (g) the commission or alleged commission by him of any offence, or
- (h) any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.

Rather than leaving such decisions to be taken purely on an ad hoc basis it has been decided that the following guidelines should be issued to give some guidance as to who should make the decision, when such copying might be appropriate and how this can be done within the parameters set by the Information Commissioner.

Firstly, the decision should always be taken at Head of Service level or above. The basic presumption is against copying complaint correspondence to local ward Councillors. In difficult cases a Head of Service should consult with their respective Director or if this is not possible with the Monitoring Officer.

Secondly, the decision to copy in a Councillor or Councillors to correspondence should not be on the basis that they are the local ward Councillor. But should be on the basis that the Councillor needs to know because of another position, or role, that the Councillor holds, or it is known that the Councillor has already made representations on behalf of the complainant in connection with the same matter. Such a decision should always be made on a case-by-case basis.

Thirdly, serious consideration should be given as to how much of any personal data the Councillor needs to know to make a decision, or contribute to making a decision, on the matter. This is to address the question of whether there is a demonstrable need to know that personal data. It may be possible to anonymise the correspondence by obscuring names and addresses. Personal data, especially sensitive personal data, contained in correspondence, which is irrelevant to the decision or complaint could be deleted. For instance the constituent's physical or mental health may be relevant to the complaint but their racial or ethnic origin may not be, and therefore any references to such could be deleted. Where such deletions are physically difficult to achieve it may be possible that a synopsis of the correspondence can be prepared for use that omits irrelevant personal data.

APPENDIX 1

CATEGORIES OF EXEMPT INFORMATION

EXEMPT INFORMATION	QUALIFICATION
12. Information relating to a particular individual.	Public interest test applies (see below)
13. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
14. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under — the Companies Act 1985; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993. Public interest test applies (see below)
15. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Public interest test applies (see below)
16. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
17. Information which reveals that the authority proposes : (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Public interest test applies (see below)
18. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Public interest test applies (see below)
<i>(In relation to a meeting of a standards committee, or a sub-committee of a standards committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the</i>	Public interest test applies (see below)

EXEMPT INFORMATION	QUALIFICATION
<p><i>Local Government Act 2000</i>):</p> <p>18A. Information which is subject to any obligations of confidentiality.</p> <p>18B. Information which relates in anyway to matters concerning national security.</p> <p>18C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.”.</p>	
	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992</p>

Public Interest Test:

Information which —

- (a) falls within any of paragraphs 12 to 15, 17 and 18 above; and
- (b) is not prevented from being exempt by virtue of the ‘qualifications’ above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

APPENDIX 2

FREEDOM OF INFORMATION ACT EXEMPTIONS

EXEMPTION	QUALIFIED OR ABSOLUTE EXEMPTION?*
Section 21: Information Accessible By Other Means	Absolute
Section 22: Information Intended For Future Publication	Qualified
Section 23: Information Supplied by, or Related to, Bodies Dealing with Security Matters	Absolute
Section 24: National Security	Qualified
Section 26: Defence	Qualified
Section 27: International Relations	Qualified
Section 28: Relations Within The United Kingdom	Qualified
Section 29: The Economy	Qualified
Section 30: Investigations And Proceedings Conducted By Public Authorities	Qualified
Section 31: Law Enforcement	Qualified
Section 32: Court Records	Absolute
Section 33: Audit Functions	Qualified
Section 34: Parliamentary Privilege	Absolute
Section 35: Formulation Of Government Policy	Qualified
Section 36: Prejudice to Effective Conduct of Public Affairs	Qualified (absolute if the information is held by the Commons or Lords)
Section 37: Communications With Her Majesty, With Other Members Of The Royal Household, And The Conferring By The Crown Of Any Honour Or Dignity	Qualified
Section 38: Health And Safety	Qualified
Section 39: Environmental Information	Qualified
Section 40: Personal Information where the applicant is the data subject (disclosure of which is governed by the Data Protection Act 1998)	Absolute in relation to personal data under Data Protection Act; otherwise Qualified
Section 41: Information Provided In Confidence	Absolute
Section 42: Legal Professional Privilege	Qualified
Section 43: Commercial Interests	Qualified
Section 44: Prohibitions by law on Disclosure	Absolute

* If something is a 'qualified exemption' then a public interest test is applied "does the public interest in maintaining the exemption outweigh the public interest in disclosing the information?"

APPENDIX 3

ENVIRONMENTAL INFORMATION REGULATIONS EXEMPTIONS

REGULATION	EXEMPTION
12(3)	Personal information
12(4)(a)	Information is not held (then there is a duty to refer the request on)
12(4)(b)	The request is manifestly unreasonable
12(4)(c)	The request is too general (after fulfilling duty to advise and assist)
12(4)(d)	The request is for unfinished documents or data (in which case estimated time for completion must be given).
12(4)(e)	The request is for internal communications (as with all EIR exceptions, the public interest must be applied).
12(5)(a)	To the extent that its disclosure would adversely affect international relations/public security/defence
12(5)(b)	To the extent that its disclosure would adversely affect the course of justice and right to fair trial
12(5)(c)	To the extent that its disclosure would adversely affect commercial confidentiality
12(5)(d)	To the extent that its disclosure would adversely affect confidentiality of proceedings
12(5)(e)	To the extent that its disclosure would adversely affect intellectual property rights
12(5)(f)	To the extent that its disclosure would adversely affect personal/voluntary data
12(5)(g)	To the extent that its disclosure would adversely affect environmental protection
13	The request is for personal information, and disclosure is permitted provided it does not breach the Data Protection Act 1998 (or any other data protection principles).

Note: Each of the exemptions is subject to:-

- (a) a presumption in favour of disclosure;
- (b) a public interest test “is the public interest in maintaining the exception outweighed by the public interest in disclosing the information?”.

APPENDIX 4

CAERPHILLY COUNTY BOROUGH COUNCIL

**CORRESPONDENCE WITH COUNCILLORS,
MEMBERS OF PARLIAMENT & ASSEMBLY MEMBERS**

Dear Resident,

You have asked your Councillor, Member of Parliament or Assembly Member to write to the Council on your behalf. There are certain confidentiality and data protection rules which mean that I need your consent to show this correspondence to other people who may be involved.

For that reason, I need you to sign this form which is your agreement:-

- (a) that I can copy the correspondence being sent on your behalf to those people who need to see it in order to reply to the letter properly;
- (b) to copy it to those people involved in the running or overseeing of the area of the Council's activity that you are writing about (and this could include cabinet members or local councillors) so that they are aware of the problem and can take this into account when taking decisions about how the Council's services are delivered in future; and
- (c) to disclose your personal information.

Your Councillor/M.P./A.M. will also be signing this document to show his/her agreement to the disclosures that I have described above.

Yours sincerely,

Anthony O'Sullivan
Chief Executive

I agree to the information being disclosed for the purposes described above.

Signed:
(Resident)

Address:

Dated:

Signed:
(Councillor/M.P./A.M.)

Dated:

PLANNING CODE OF PRACTICE

ADOPTED BY

COUNCIL - 31ST JULY, 2007

**(Amended in relation to site inspections at meeting
of Council – 17th November, 2015)**

**(Amendments relating to non-committee members
of committee April 2021)**

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1. INTRODUCTION

- 1.1 This code of practice is intended to guide the procedures by which councillors (members) and officers of the council deal with planning matters, and to set standards of probity and conduct which the people of Caerphilly County Borough can expect.
- 1.2 As planning affects people's lives and private interests, it can often be very contentious. It is, therefore, important that the people of Caerphilly borough understand the system and have confidence in its integrity and transparency, and that members and officers involved in the planning process, avoid impropriety or even the suspicion of impropriety. This approach is endorsed by the Committee on Standards in Public Life (the Nolan Committee), the District Audit and the Local Government Association.
- 1.3 Members must follow the Codes and Protocols in The Constitution of Caerphilly County Borough Council (The Constitution), Part 5 of which covers such matters as declarations of interests, gifts and hospitality and the Protocol for Member/Officer Relations. When dealing with planning matters they must also act in accordance with this Planning Code of Practice.
- 1.4 A breach of these codes whilst not usually amounting to a breach of criminal law, may adversely affect the standing of the Council. It could result in a decision being judicially reviewed or in a complaint of maladministration, being made to the Local Government Ombudsman. A breach of the Members' Code of Conduct can result in a complaint against a member personally.
- 1.5 If members or officers are in doubt about the application of the codes they should seek advice from the Council's Monitoring Officer.

2. GENERAL ROLES, RESPONSIBILITIES AND CONDUCT

- 2.1 Members and officers have different, but complementary roles in the planning process. Members of the Planning Committee have different roles to those of other councillors.

Members of the Planning Committee

- 2.2 Councillors who are members of the Planning Committee determine the more significant and contentious planning applications received by the council. In doing so those members perform a quasi-judicial role and are required to consider all planning proposals in the wider public interest. Other applications are delegated to the Chief Planning Officer and the Development Control Manager to decide, as described in paragraph 2.10.
- 2.3 Planning Committee Members shall:
 - Exercise personal responsibility in deciding whether to declare any personal interest as defined in the Code of Conduct in relation to any planning application that is before the Planning Committee for determination, and withdraw, if so required by the Code. If in doubt, members should consult

and seek guidance from the Monitoring Officer.

- Act fairly and openly and avoid any actions that would give rise to an impression of bias.
- Avoid social contact with applicants and their agents, objectors and other interested parties which could put, or be seen as putting, the member under an obligation, or could create an impression of bias.
- Approach each planning application or issue with an open mind, avoiding preconceived ideas.
- Not organise support for or opposition to a planning application or express a view about the merits or otherwise of an application if they do not wish to affect their ability to vote at Planning Committee.
- Carefully weigh up all relevant planning issues before making a decision.
- Make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality. Whilst Planning Committee members have a special responsibility to their electoral division constituents, the decisions of that committee must be based on material planning considerations.
- Not decide how to vote on applications on the basis of a political 'whip', but only on the planning merits of each case. Subjecting a planning decision to the discipline of the political 'whip' could result in a judicial review, or maladministration complaint.
- Have reasons and justification for their position and resolutions (this is a requirement of the Code of Conduct).

Members of the Planning Committee who are also members of community and town councils

- 2.4 Membership of a community and town council provides an opportunity to listen to local views and does not of itself give rise to a conflict of interest for a Planning Committee member provided he or she maintains an open mind until all the evidence and arguments have been presented at the Planning Committee. A member does not have to declare an interest at the Community/Town council that he/she is a member of the Planning Committee, unless the matter under discussion is an application by the County Borough Council.
- 2.5 Legally a member may participate and vote when a planning application is under consideration at a meeting of the community town council. However, such involvement could give rise to a perception that the member has already formed a view as to how he or she would vote in advance of reading the full and final report to the Planning Committee and hearing the debate. That could undermine the integrity of the decision made by the Planning Committee and the decision could then be challenged on appeal, in the courts or by a claim of maladministration made to the

ombudsman.

- 2.6 Members should therefore choose whether they should take part in debates at the community or town council or at the Planning Committee. This does not prevent a member listening to a debate at a community council, so long as the member does not take part in the debate.

Non-Committee members of the council

- 2.7 Members who are not on the Planning Committee represent their electoral division and the county borough as a whole. They may attend the Planning Committee and address it for no more than five minutes but may not take part in any debate and will not have a vote on any matter. They may also attend site visits. Whilst such members are not decision makers like Planning Committee members, they shall:
- Act fairly and openly and avoid any actions that would give rise to an impression of bias or undue influence.
 - Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.
- 2.8 Such members may express support for a particular opinion in advance of the matter being considered by the Planning Committee, or by the Chief Planning Officer and Development Control Manager under delegated powers.
- 2.9 A member who has declared a personal and prejudicial interest in a planning application is not permitted to attend the Planning Committee and speak, unless members of the public will be addressing the planning committee on the planning application..”
- 2.10 Members are consulted about planning submissions by means of the weekly list of planning applications, which gives them the opportunity to specify which proposals should come before committee, and should prompt them to advise officers of their concerns as early in the process as possible.
- 2.11 Officers cannot give members a blow-by-blow account of the determination of a planning application. They cannot enter into correspondence about material planning considerations with members or interested persons whilst an application is in the process of being determined. The important thing is that members provide officers with their concerns as soon as possible so that they can be properly investigated.
- 2.12 It is not appropriate for members to communicate directly with the applicants, developers or statutory consultees. It is for officers to resolve any matters with the applicants, developers or statutory consultees.
- 2.13 Officers will not attend public or site meetings to discuss planning applications.
- 2.14 Officers will commit to one meeting with ward members for each major

- planning application, to give councillors the opportunity to express their concerns. A maximum two members of the public can attend such a meeting as representatives of the local community and unless there are exceptional circumstances these meetings should be held a virtually. If further concerns come to light, an email will normally be enough to advise officers.
- 2.15 Members will not be provided with any paper copies of a planning application or supporting documents. That would be wasteful of resources and contrary to the general trend of communicating information electronically.
- 2.16 Officers will ensure that all additional documentation submitted by applicants or agents in support of a planning application will be placed on the Public Access part of the Council's website as soon as practically possible to allow members to update themselves on the progress of an application.
- 2.17 Members should communicate to officers their concerns or support for a scheme based on the submission of amended plans and documentation as soon as practically possible.
- 2.18 The feedback on members' concerns is contained in the report to Planning Committee or in the delegated officer report. Officers will provide to members a general quarterly update in respect of major applications stating when they are likely to come before committee, and what the outstanding issues are. The timescale for reporting an application to Planning Committee will vary depending on the scale and complexity of the application.
- 2.19 In multi-Member Wards only one Member from each political group should normally exercise speaking rights at Planning Committee unless they have opposing views.
- ~~2.7 Members who are not on the Planning Committee represent their electoral division and the county borough as a whole. They may attend the Planning Committee and address it for no more than five minutes but may not take part in any debate and will not have a vote on any matter. They may also attend site visits. Such members do not act in the quasi-judicial role performed by Planning Committee members, but shall:~~
- ~~• Act fairly and openly and avoid any actions that would give rise to an impression of bias or undue influence.~~
 - ~~• Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.~~
- ~~2.8 Such members may express support for a particular opinion in advance of the matter being considered by the Planning Committee, or by the Chief Planning Officer and Development Control Manager under delegated powers.~~
- ~~2.9 A member who has declared an interest in a matter is not permitted to attend the Planning Committee, either as a councillor or as a private citizen.~~

Officers

- 2.10 The function of officers is to support and facilitate the councillors in their work and to implement lawful decisions.
- 2.11 The Chief Planning Officer and the Development Control Manager make decisions on the majority of planning applications under delegated powers and make recommendations on more significant and contentious applications and other planning matters for decision by the Planning Committee. In considering applications and in advising members and the public on planning policy, the determination of planning applications, enforcement and other planning matters, officers must:
- Act fairly and openly and avoid any actions that would give rise to an impression of bias.
 - Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.
 - Approach each planning application or issue with an open mind, avoiding preconceived ideas.
 - Carefully weigh up all relevant planning issues
 - Make decisions purely on planning grounds having regard to the development plan and other material considerations.
 - Give professional, objective and accurate analysis of the planning issues.
 - Give a clear recommendation.
 - Carry out the decisions of the Planning Committee.
- 2.12 The council's legal officers advise members on legal and procedural matters. In doing so, they must:
- Act fairly and openly and avoid any actions that would give rise to an impression of bias.
 - Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.
 - Give professional, objective and consistent advice.
 - Carry out the decision of the Committee insofar as they relate to the completion of any legal agreement, or instigation or defence of proceedings etc.

3. ADMINISTRATIVE ARRANGEMENTS

Planning application notification

- 3.1 All the members of the council will be informed of the submission of all planning and related applications through the weekly list of planning applications.
- 3.2 The weekly applications list will indicate whether the application decision is expected to be made by the Planning Committee or by officers under the scheme of delegation.

Meetings with applicants and objectors

- 3.3 Local members will not be informed of, or invited by the Planning Division, to any meetings with applicants or objectors in respect of any application in their electoral

division, although the applicant or objector may invite them. Should members attend any such meetings they should be aware of the need to avoid expressing any support for or objection to the proposal.

- 3.4 The local planning authority does not organise public meetings in respect of any application. The statutory planning process which includes a procedure for notifying occupiers of land neighbouring an application site provides ample opportunity for the public to make its views known about a proposal.

Determination process

- 3.5 Should a member wish an application, designated to be determined under delegated powers, to be determined by the Planning Committee, he or she should make a request in writing, which includes e-mail, to the Chief Planning Officer within 21 days of the issue of the weekly list that contains that particular submission.
- 3.6 Members shall not put pressure on officers to make particular recommendations or decisions, nor to change recommendations or decisions in respect of any application.

4. PRE-APPLICATION DISCUSSION AND ENFORCEMENT DISCUSSIONS

- 4.1 Local planning authorities are encouraged to enter into discussions and negotiations, which can bring about improvements that can make an application acceptable, and thereby potentially speed up the process.
- 4.2 Such discussions will normally take place at officer level and members shall, wherever possible, refer requests for such advice to the officers. If members become involved in such discussions they should make it clear that their views are personal and provisional and they may wish to make a record of the discussion.
- 4.3 All officers taking part in such discussions shall:
- Identify the decision making process applicable to the application or issue under discussion.
 - Make it clear that only personal professional and provisional views can be expressed that will not bind the council to reach a particular decision when determining an application.
 - Express views in the context of the development plan and other material planning considerations.
 - Be consistent in interpreting planning policies and government guidance.
 - Where appropriate advise applicants, neighbours and objectors on procedural matters.
- 4.4 Occasionally local people or community and town councils will arrange public meetings to discuss a current application and may invite the applicants, members and officers to attend. Officers will not attend such meetings, and any councillors attending should abide by this code and The Constitution. Officers may attend normal meetings of town and community councils but only to convey information to and listen to the views of the members of those councils, and not to enter into a debate.

A member of the Planning Committee who expresses a view about an application at such a meeting will put at risk their ability to participate at the Planning Committee meeting.

5. LOBBYING OF MEMBERS OF THE PLANNING COMMITTEE

5.1 Lobbying is the process by which applicants, agents, neighbours, non-planning committee members and other interested parties may seek to persuade councillors on the Planning Committee to come to a particular decision. It is legitimate for them to approach members of the Planning Committee (in person or in writing) and such discussions may help members to understand the issues and concerns. As stated in the Nolan Committee Third Report, 'It is essential for the proper operation of the planning system that local concerns are adequately ventilated.'

5.2 In responding to approaches of this kind, Planning Committee members should not publicly express an opinion that may be taken to indicate that they have made up their minds prior to hearing all the evidence and arguments, which will be presented at the Planning Committee. They should explain their position in respect of probity if they express an opinion on a proposal before consideration at the Planning Committee. They should:

- Explain the procedures by which representations can be made.
- Indicate that a decision will be taken only when all relevant planning considerations have been taken into account.
- Explain the kinds of planning issues that the council can take into account.
- Report issues raised to the officers or direct the public to the officers so that their views can be considered.

5.3 Although it is not unlawful for a member of the Planning Committee to publicly support a particular outcome, or express a view on an application prior to the meeting of the Planning Committee, such involvement could give rise to a perception that the member has already formed a view as to how he or she would vote in advance of reading the full and final report to the Planning Committee and hearing the debate. That could undermine the integrity of the decision made by the Planning Committee and the decision could then be challenged on appeal, in the courts or by a claim of maladministration made to the ombudsman.

5.4 Members should not give any indication that they have made their mind up about a planning application prior to consideration of a full report and debate at Planning Committee.

6. PLANNING APPLICATIONS SUBMITTED BY MEMBERS, COMMUNITY AND TOWN COUNCILS AND OFFICERS

6.1 Planning applications submitted by, or on behalf of members or officers employed by the council who are involved in the planning process, or by, or on behalf of a spouse, partner, parent, child or sibling of a member or officer of the council involved in the planning process, where known, shall be decided by the Planning Committee and not under delegated powers by the Chief Planning Officer or the Development

Control Manager. This will also apply where that person is acting as an agent for another party.

- 6.2 The affected member or officer must declare the existence and nature of the interest or relationship in accordance with the appropriate Code of Conduct and withdraw from involvement in the decision.
- 6.3 The affected officer shall take no part in the processing of the application and any recommendation made to the Planning Committee.
- 6.4 Where a community or town council submits a planning application, the county borough council members who are also members of that community or town council should disclose their interest and not participate on that application should it come to Planning Committee for decision. (Note that while the Code of Conduct allows a member to speak but not vote having declared that interest, the member should not participate, so as to protect the decision from being challenged by way of judicial review).

7. **PLANNING APPLICATIONS SUBMITTED BY THE COUNCIL**

- 7.1 It is essential that the council treat applications for its own development (or a development involving the council and another party) in the same manner as all other applications and that this is seen to be the case.
- 7.2 All such proposals will be subject to the same administration processes, including consultation, as private applications. Determination shall similarly take into account planning policy and any other material planning considerations.
- 7.3 Where appropriate, applications submitted by the council should be dealt with under delegated powers in accordance with the scheme of delegation.

8. **OFFICERS' REPORTS TO THE PLANNING COMMITTEE**

- 8.1 All planning matters considered by the Planning Committee will be the subject of appropriate written reports by the Chief Planning Officer incorporating his recommendations. Such reports shall be comprehensive but succinct in setting out the key planning issues to be considered in terms of the provisions of the development plan and other material planning considerations, the substance of any representations received and any relevant planning history.

9. **CONDUCT AND PROCEDURE OF PLANNING COMMITTEE MEETINGS**

Conduct

- 9.1 The chairperson of the Planning Committee is responsible for the conduct of the meeting in accordance with the Rules of Procedure (Part 4 of The Constitution), and for the effective delivery of business in a professional, courteous and transparent manner. The members of the committee and officers shall respect that role and behave in a manner that is commensurate with the high standards of conduct and

propriety that are expected in public office.

9.2 The chairperson will seek to ensure that members and officers are treated in accordance with the council's agreed Protocol on Member/Officer Relations, with regard to:

- The political neutrality of officers
- The independence of officers
- Mutual respect, courtesy, civility and professionalism with respect of differing views.

9.3 Members of the public are permitted to address the meeting in accordance with the council's agreed procedure. Where disturbance of the meeting occurs by way of public interference, the chairperson may suspend proceedings until matters are resolved or in extreme situations may close the meeting to the public.

Procedure

9.4 The deliberations of the Committee will be confined to the published agenda and any urgent items that have been accepted by the chairperson in accordance with the Local Government Act 1972. The order of business will generally be in accordance with the agenda but the chairperson will seek to bring forward items of business that members of the public or applicants have come to hear.

9.5 The chairperson will ensure that meetings of the Planning Committee are conducted in accordance with the council's Rules of Procedure and safeguard that appropriate debate is able to take place in a structured and professional manner, with members being given the opportunity to raise material planning issues (normally through a single presentation). The chairperson will seek to avoid repetition or irrelevant debate.

9.6 Members shall endeavour to give not less than 24 hours notice (preferably in writing) to the Chief Planning Officer all questions requiring a technical or detailed response so that an appropriate response can be prepared for the meeting of the Planning Committee.

9.7 Planning officers will update the Planning Committee on each application in respect of submissions and other material matters not addressed in the main report and, through the chair, will be responsible for responding professionally to member questions.

9.8 Appropriate legal or administration officers will be responsible for advising the chairperson and the committee on matters of procedure and protocol.

9.9 Where officers advise the chairperson of material professional concerns or potential consequences of a particular course of action, or of any potential liabilities or errors of fact, officers shall be afforded reasonable opportunity to concisely explain those matters to the Planning Committee before it reaches a decision.

10. **SITE INSPECTIONS**

Purpose of site inspections

- 10.1 Site inspections are fact-finding exercises to allow members to make a more informed decision than would be possible from reading the officer's report and considering the views expressed at the Planning Committee meeting.
- 10.2 The sole purpose of site inspections is to allow the chairperson and vice-chairperson and other members to look at the site and its surroundings. In conducting the site visit, the members will not formally debate the application, express a prior opinion, lobby for any particular decision or come to any decision.

Requests for Committee site inspections

- 10.3 If Members wish an application to be reported to Planning Committee and be the subject of a site visit, they should advise the case officer or in his/her absence any other officer of the Development Management Team in writing (including email) within 21 days of receiving the weekly list of planning applications.
- 10.4 Site visits should be allowed on the basis of a request from either the chairperson or vice-chairperson, or from any local member including an adjoining ward Councillor whether or not a member of the committee. It is expected that local members will already be familiar with the site. Members are encouraged to go to the sites themselves, discuss proposals with officers, and look at the presentation that officers now email to Planning Committee Members before Committee.
- 10.5 Site visits may also be arranged, at the behest of the Head of Planning and Regeneration or Development Control Manager when they consider that there are particular site issues that members should be aware of prior to the determination of the application.

Criteria for agreeing to hold site inspections

- 10.6 Any request for a formal site visit will have to comply with the following criteria:-
- Illustrative material is insufficient to convey the issues;
 - A judgement is required on visual impact;
 - The setting and surroundings are relevant to the determination of the application;
 - The site has not been visited recently by the Planning Committee in relation to another planning application.
- 10.7 Requests for formal site visits made at Planning Committee will only be allowed in exceptional circumstances, e.g. where a Councillor is incapable of notifying officers of the need for a site visit when the application for planning permission was first publicised.

Examples where a site visit would not normally be appropriate include where:

- The member simply disagrees with the conclusion reached in the report.
- The member wishes to consider boundary or neighbour disputes.
- Loss of property values
- Any issues that are not material planning considerations.
- Where councillors have already visited the site within the last 12 months, except in exceptional circumstances.

Where there is any dispute about the need for a site visit, the final decision will be taken by the Chair and/or Vice-Chair of the Planning Committee in consultation with the Head of Planning and Regeneration and/or the Development Control Manager.

Notification of site visits

- 10.8 All site visits will take place on the Monday before Planning Committee for applications being reported to that Committee. Where it is impractical to undertake all approved site visits on the Monday before the Planning Committee, the visit/s may take place on any day subject to the visit/s taking place before the Planning Committee to which the application/s is/are being reported. All Members (subject to declarations of interests) will be entitled to attend the site visits, and all Planning Committee Members will be encouraged to attend.

Committee Services will arrange the site visits, but will not attend to take minutes. A brief note will be prepared by Planning Officers and will be presented to the Planning Committee, confirming that a site visit has taken place and providing a summary of any additional information received or matters arising from the site visit.

Attendance At Site Inspections

- 10.9 Site visits will normally be attended by the chairperson and vice-chairperson of Planning Committee, ward members and appropriate officers. All Members (subject to declarations of interest) will be encouraged to attend the site visits and all Planning Committee Members will be encouraged to attend.
- 10.10 Members may through the chairperson ask questions of officers to clarify factual matters relevant to the site inspection.
- 10.11 If a request is received from a third party to inspect the site from a different location, the members, as a group, should take the view whether to do so. Unless there are good reasons not to do so, such a request should normally be acceded to but only if all participants at the site inspection are extended the same invitation.
- 10.12 Members may only enter onto the site with the permission of the site owner who has the right of attendance at the site inspection.
- 10.13 The public does not have a right of access to a site but may attend and view the site by way of public vantage points or on site with the consent of the owner.
- 10.14 Applicants, their agents and members of the public, will not be allowed to speak at the site visits apart from providing matters of information or clarification; the informal

meeting with the public that has become the part of the customer practice of the Council will end so that the site visits are undertaken in a more formal manner.

- 10.15 If a member finds it necessary to visit a site alone, he or she shall view it from public vantage points only, seek to avoid discussion with interested parties and, if dialogue occurs, make it clear that a decision will be taken when the Planning Committee has discussed it after the site inspection.
- 10.16 **Members are reminded that the rules of declarations of interest apply to site visits, and that if a member has an interest that would require the member to withdraw from a Planning Committee, the member is not entitled to attend the site meeting.**

Conduct at site inspections

- 10.17 The inspection will be chaired by the chairperson or vice chair of the Planning Committee who will ensure that it is conducted as a single meeting and in an orderly fashion.
- 10.18 The planning officer will give a brief summary of the application and the site inspection issues at the beginning of each site visit.
- 10.19 Members of the Planning Committee attending the site inspection shall not make comments that would create an impression that they have already formed a view on the merits of the application.
- 10.20 Members of the Planning Committee shall not discuss the application, other than to clarify issues of fact, and shall not make a decision while on site.
- 10.21 Non-Committee members may address their colleagues on issues of fact pertaining to the site context.

11. PLANNING COMMITTEE DECISIONS CONTRARY TO OFFICER RECOMMENDATION

- 11.1 From time to time the Committee will disagree with professional advice given by the officers and may decide to determine an application contrary to that advice. When this occurs the chair of the Planning Committee will ensure that the following principles are followed:
- Members shall clearly express the planning reasons for their decision and these shall be minuted.
 - A member proposing refusal of an application for which the officer recommendation is approval shall state his/her reasons prior to the vote being taken.
- 11.2 In the cases when this occurs the matter shall be deferred for a further report at the following or subsequent meetings in which officers will advise members of the appropriate wording of the reasons for refusal. Officers shall be given an opportunity in that report to explain to the Planning Committee the planning or legal implications

of their intended decision before the decision is confirmed.

11.3 Where the Planning Committee wishes to add or amend conditions or reasons, or attach a planning obligation, officers shall be given the opportunity to explain the planning or legal implications before the decision is confirmed.

11.4 The committee shall ascertain officers' views in respect of paragraph 12.5.

12. **APPEALS AGAINST COUNCIL DECISIONS**

12.1 Officers will organise and generally appear as witnesses at planning appeals and other proceedings on behalf of the council. In some circumstances (such a where specialist evidence is required or where a member decision is contrary to officer recommendation) it may be necessary to appoint consultants to appear for the council.

12.2 In giving evidence officers will present the best possible case on behalf of the council while complying with the RTPI Code of Professional Conduct, which requires that planning officers who are members of the institute do not make statements purporting to be their own, but which are contrary to their *bona fide* professional opinion.

12.3 In cases where the appeal is against a decision that the committee has made contrary to officers' recommendation, the planning case-officer may be able to give evidence. However in some cases, another officer or consultants will be employed if the Chief Planning Officer considers that the case-officer's previously stated views (or those of the Planning Division as a whole) might be unhelpful to presenting the committee's position.

12.4 Members can have an important role to play in appeals and may, within set deadlines, make written representations to the inspector and may also appear at informal hearings or as a witness at public local inquiries. In doing so they should state whether they are acting in their local councillor capacity or, exceptionally, representing the council's case.

12.5 Where planning officers are unable to defend decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute) the Planning Committee should be aware of this before the final vote is taken. In such cases, the committee shall nominate at least two of its members who voted contrary to the recommendation to appear at any appeal and defend the committee's decisions and the reasons for them. These should normally be the proposer and seconder of the proposal that was contrary to officers' recommendation. Those members will then be required to attend a subsequent appeal hearing, and if necessary, to give evidence in support of the Council's decision.

12.6 Planning and legal officers will support members attending or wishing to make representation at appeals and advise them on preparing and delivering evidence. Legal officers will attend inquiries or assist in preparing representations when legal representation is required.

13. **MEMBER TRAINING**

- 13.1 The council considers that members of the Planning Committee should undertake training and that this opportunity be offered to all members.
- 13.2 Members will be offered and required to attend core training (normally within three months of appointment to the committee). The subject matter will cover planning procedures, the development plan and material planning considerations, probity and other subjects determined from time to time by officers in consultation with the members. The Council, or political groups as appropriate, will be asked to remove from the Committee a member who fails to undertake this training.
- 13.3 Other training will be available in the form of additional sessions, short presentations to the committee and the circulation of briefing notes.
- 13.4 Attendance at training events will be recorded and will be monitored through the relevant scrutiny committee.

14. REVIEW OF DECISIONS

- 14.1 The Audit Commission's report 'Building Quality' recommends that councillors should visit a sample of implemented planning permissions to assess the quality of the decisions. The purpose of such a review is not to change decisions, but to assess and improve the quality and consistency of decisions and thereby strengthen public confidence and assist in reviewing planning policy.
- 14.2 The Planning Committee will undertake an annual review of a sample of planning decisions made by the committee. The review will include examples from a range of development types e.g. major residential proposals, listed building consents and enforcement cases, and, where it is considered appropriate and beneficial, include visits to the sites.
- 14.3 The Planning Committee will formally consider the results of the review and decide whether it gives rise to the need for new policies, procedures and practices.
- 14.4 The outcome of appeals against the decisions of the council will be reported regularly to Planning Committee. The outcome of enforcement cases and legal proceedings will also be reported regularly so that the Planning Committee can review its own decision-making processes.

Caerphilly County Borough Council Local Resolution Protocol

1. Introduction

- 1.1 By way of background, around a third of complaints referred to the Public Services Ombudsman for Wales (**Ombudsman**) are made by a Member against a fellow Member. Many of these complaints relate to low-level behavioural issues, typically during what may often be seen as the "cut and thrust" of normal Council debates and local politics. Many of these, if investigated by the Ombudsman, would not result in a sanction being imposed.
- 1.2 This Protocol has been adopted in response to the Ombudsman's latest guidance on the Code of Conduct for Members (**Code**) which states that "low-level, Member-on-Member" complaints relating to the breaches of the Code should be dealt with at a local level. The Ombudsman's aim of doing so is to seek the resolution of matters at an early stage so as to avoid unnecessary escalation. The Protocol should be read in conjunction with the Members Code. It adds to this document and does not detract from it.
- 1.3 This Protocol seeks to define what is meant by "low-level, Member-on-Member" complaints and sets out the procedure to be adopted in response to them.
- 1.4 It is important to note that this Protocol does not preclude Members from referring any complaint to the Ombudsman if they so wish. However Members should note that the Ombudsman has made clear that, in normal circumstances, it is expected that in the first instance Members should exhaust the procedures set out in this Local Protocol before referring low-level complaints to the Ombudsman.

2. The Standards of Conduct

Members shall:-

2.1 Public Behaviour

- (a) Show respect to each other
- (b) Not make personal abusive comments about each other
- (c) Not publish anything insulting about each other
- (d) Not make malicious allegations against each other
- (e) Not publish or spread any false information about each other
- (f) Show respect to each other's diverse backgrounds and circumstances
- (g) Use social media responsibly and in accordance with the Members' Code of Conduct and this protocol

2.2 Behaviour In Meetings

- (a) Behave with dignity
- (b) Show respect to the Chairman and obey his/her decisions and conversely Members can expect the Chairman to show mutual respect to Members
- (c) Not use indecent language nor make discriminatory remarks that may be deemed to be offensive to any section of society

3. What Is A "Low-Level, Member On Member" Complaint?

3.1.1 In order to fall within the remit of this Protocol a complaint should satisfy all of the following criteria:

- (a) The complaint made by a Member of the Council and relates to a breach of the Code by a fellow Member.
- (b) The complaint is "low-level" in nature. Whether or not a complaint is "low-level" in nature will be dependant on the individual circumstances of a complaint.

The Ombudsman has indicated that *"typically these complaints will be about alleged failures to show respect and consideration for others as required by paragraph 4(b) of the Code or the duty not to make vexatious, malicious or frivolous complaints against other Members under paragraph 6(1)(d) of the Code"*.

If you are unsure whether a matter you wish to complain about is "low-level" then you may wish to discuss this with the Monitoring Officer (who may consult with the Ombudsman's office) to obtain guidance.

- (c) The complaint does not relate to repeated occurrences of similar conduct that has already been dealt with under this Protocol or by the Ombudsman. In the event that the complaint relates to such a "repeated offence" it is likely that it will be appropriate to refer the matter to the Ombudsman directly.

4. Procedure

4.1 Allegations by a Member of a breach of one (or more) of the standards of conduct set out in paragraph 2 of the Protocol by another Member will be dealt with in accordance with the procedures set out below.

4.2 It is important that any allegations made under the protocol are dealt with quickly and effectively with the co-operation of all parties involved. Each party must make themselves available to attend a hearing held thereunder as a matter of priority and within the timescales set out in this Protocol.

4.3 Should following commencement of the Protocol process any member elects at any time to refer the matter to the Ombudsman for investigation the Protocol process will be discontinued and cannot subsequently be resumed.

4.4 **Stage One - Making The Complaint And Informal Resolution**

- (i) Any Member who wishes to submit an allegation under the Protocol should send the complaint to the Monitoring Officer. The complaint must be submitted to the Monitoring Officer within one month of the event that has given rise to the complaint occurring or, within one month of the substance of the complaint coming to the attention of the Member submitting the allegation.
- (ii) Following receipt of the complaint the Monitoring Officer will advise whether the allegation falls within the Protocol or whether the complainant(s) should consider referral to the Ombudsman as an allegation of breach of the Members' Code of Conduct.
- (iii) If there is a formal referral to the Ombudsman then legislation and regulations set out how the Ombudsman may investigate that matter and if appropriate refer the result of any investigation to the Standards Committee so that the Committee may determine that complaint.
- (iv) If the Monitoring Officer determines that the allegation falls within the Protocol he/she will seek to try and resolve the matter informally.
- (v) If following Stage One the Monitoring Officer cannot resolve the matter informally between the parties and the Member(s) wishes to proceed with the allegation under the protocol the matter will be referred to a hearing before the Standards Committee under Stage Two.

NB: The Monitoring Officer may choose not to deal with the allegation at this stage in order to be able to advise the Committee later in the process, in which case the Deputy Monitoring Officer or a Legal Officer will advise the Member complainant(s).

4.5 **Stage Two – Standards Committee Hearing**

- (i) Stage Two is a hearing before the Standards Committee.
- (ii) The Member(s) making the complaint will be asked to re-confirm the substance of the complaint in writing to the Monitoring Officer (including identifying which standard(s) of conduct set out in paragraph 2 above is/are alleged to have been breached) together with all the written evidence they wish to submit for consideration at the hearing within two weeks of notifying the Monitoring Officer they wish the complaint to be dealt with by way of hearing before the Standards Committee.

- (iii) The Member(s) who is the subject of that complaint must provide a written response to that complaint within one month of receipt of notification of it together with all written evidence they wish to submit for consideration at the hearing.
- (iv) The Monitoring Officer if he/she participated in Stage One will notify the Deputy Monitoring Officer or a Legal Officer of receipt of the complaint who shall thereafter have conduct of the matter (the 'Investigating Officer').
- (v) If the Monitoring Officer chose not to deal with the allegation at Stage One he/she shall be the Investigating Officer.
- (vi) Both the Member(s) making the complaint and the Member(s) against whom the allegation(s) has been made must respond promptly to all correspondence relating to the matter including requests to confirm availability in respect of scheduling the hearing itself. Member(s) will be given dates within a two month window in which they must confirm a date they are available to attend the hearing.
- (vii) The papers referred to in paragraph 4.5(ii) and 4.5(iii) will be distributed to the Members of the Committee in accordance with the Council's Access to Information Rules.
- (viii) No additional evidence may be produced without the prior consent of the Chair of the Committee.
- (ix) Each Member must give notification in writing to the Investigating Officer of any witnesses they intend to call to give evidence at the hearing. It is the responsibility of the Member calling the witness to ensure that the witness is available to attend on the agreed date.
- (x) If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
- (xi) Should they deem it appropriate the Standards Committee may invite Council officers to attend the hearing to answer any questions they may have relevant to the matter before it.
- (xii) The proceedings at the Standards Committee hearing itself shall be conducted as follows:-
 - (a) Opening address by the Chairman;
 - (b) Member(s) who submitted the complaint be invited to address the Committee;
 - (c) Questions by Committee Members;

- (d) Member(s) who the allegations have been made against be invited to address the Committee;
- (e) Questions by Committee Members;
- (f) Witnesses for Member(s) who submitted the complaint address the Committee;
- (g) Questions by Committee Members;
- (h) Witnesses for Member(s) who the allegations have been made against be invited to address the Committee;
- (i) Questions by Committee Members;
- (j) The Member(s) who has made the complaint be invited to address the Committee with any closing remarks;
- (k) The Member(s) who is/are the subject of the complaint be invited to address the Committee with any closing remarks;
- (l) Questions by Committee Members (if any) to Council Officers who have been invited to attend by the Committee;
- (m) Committee to retire to deliberate in private on the representations and decide whether or not the Member(s) who the allegations have been made against has failed to comply with the Protocol and what sanction, if any, to impose;
- (n) Committee to reconvene in public for the Chairman to announce the Committee's finding.

NB: There will be no cross examination of any of the parties save for questions asked by Committee members.

- (xiii) The Investigating Officer will be available to advise the Committee.
- (xiv) The Committee can come to one or more of the following conclusions, namely:-
 - (a) that there is no basis to the complaint and no further action required
 - (b) that there is a basis to the complaint but that no further action is required
 - (c) that there is a basis to the complaint and that the Member should be censured at the next meeting of Council and/or additional action should be taken

- (d) referral to the Ombudsman for investigation and if the complaint is considered to be deserving of more serious sanctions than the Standards Committee has the power to impose.
 - (xv) The conclusion reached by the Committee will be minuted and reported to Council. In addition, the Committee can make recommendations to Council regarding changes to the Protocol or taking any further action (for example the removal of Members from specific committees or further training requirements).
- 4.6 In making a decision on the sanction to be imposed, the Standards Committee may take into account (but is not limited to considering):
- a. The severity of the offence;
 - b. The level of remorse the Member in question has shown and any apologies they have made.

NB: The time-limits and deadlines set out in these procedures are subject to there being flexibility in exceptional circumstances as determined by the Chairman.

5. **General**

- 5.1 Both the name of the complainant and the Councillor against whom the complaint has been made will be kept confidential at Stage 1 of the Protocol process.
- 5.2 Where complaints are resolved at Stage 1 the Monitoring Officer shall report to Standards Committee periodically the numbers and types of complaints determined under this Protocol, but shall maintain the anonymity of both the complainant and the Councillor concerned.
- 5.3 The Stage 2 hearing before the Standards Committee will generally be conducted in an open session of the Standards Committee.

PROTOCOL FAMILY ABSENCE FOR MEMBERS OF LOCAL AUTHORITIES

1. BACKGROUND

- 1.1 The Family Absence for Members of Local Authorities (Wales) Regulations 2013 create an entitlement of Members to the following types of Family Absence:
- (a) **Maternity Absence** – Available to pregnant Members who can take an absence period of up to a maximum of 26 weeks.
 - (b) **Newborn Absence** – Available to a Member who is married to, the civil partner or partner of a child's mother and expects to have responsibility for the upbringing of the child. Up to two consecutive weeks are available to be taken within 56 days of a child's birth.
 - (c) **Adopter's Absence** – Available to a Member who adopts a child. Up to two consecutive weeks are available to be taken within 56 days of a child being adopted.
 - (d) **New Adoption Absence** – Available to a Member who is married to, the civil partner or partner of a person adopting a child and expects to have responsibility for the upbringing of the child. Up to two consecutive weeks are available to be taken within 56 days of a child being adopted.
 - (e) **Parental Absence** – Available to a Member who has or expects to have responsibility for the care of a child and does not satisfy the criteria for Maternity Absence, Newborn Absence, Adopters Absence or New Adoption Absence. Up to 90 days can be taken in a single or a series of absences from the date a councillor assumes responsibility for the care of a child under the age of 14 and ends 1 year later.
2. Members can claim a period of Family Absence by satisfying the following requirements:

2.1 Maternity Absence

- (a) No later than 15 weeks before the expected week of childbirth or, if that is not practical, as soon as reasonably practical, a Member must give written notice to the Head of Democratic Services of:
 - a. The Member's pregnancy.
 - b. The expected week of childbirth.
 - c. The date on which the Member intends the maternity absence will start.
 - d. The duration of the period of maternity absence. The period of absence will be 26 weeks unless the Member specifies a shorter period of time.
- (b) A Member can vary the period of absence by giving the Head of Democratic Services a new start date at least one week before the intended start date or at least one week before the new start date or, if that is not reasonably

practicable, as soon as possible. Regardless, Maternity Absence will start automatically on the day after childbirth, if the baby is born before the date specified by the Member.

- (c) A Member must provide a certificate from a registered medical practitioner or midwife stating the expected week of childbirth if requested to do so by the Head of Democratic Services.
- (d) A Member can vary the duration of Maternity Absence by giving the Head of Democratic Services written notice of the new duration by giving at least one week notice before the expected end of the absence or, at least one week before the intended new end of the period of absence or, if that is not practical, as soon as is reasonable practical.
- (e) Maternity Absence may begin between the start of the 11th week before the expected childbirth and the day after childbirth occurs.
- (f) Although a Member can choose the day on which their maternity absence starts, if a member is absent from a meeting during the 4 week period before the start of the expected childbirth due wholly or partly to pregnancy, the Maternity Absence will begin on the day after the meeting from which the Member was absent.
- (g) A Member may cancel Maternity Absence at anytime before the start of Maternity Absence by giving written notice to the Head of Democratic Services.

2.2 Newborn Absence

- (a) A Member must give the Head of Democratic Services written notice of the date the Member intends the period of Newborn Absence to start. The period of absence will be 2 consecutive weeks unless the Member specifies a shorter period of time.
- (b) Newborn Absence may be taken between the day of childbirth and 56 days after that date.
- (c) A Member may cancel Newborn Absence at anytime before the start of Newborn Absence by giving written notice to the Head of Democratic Services.

2.3 Adopter's Absence

- (a) A Member must give the Head of Democratic Services written notice of the date the Member intends the period of Adopter's Absence to start. The period of absence will be 2 consecutive weeks unless the Member specifies a shorter period of time.
- (b) Adopter's Absence may be taken between the date on which a child is placed with a Member for adoption and 56 days after that date.
- (c) A Member may cancel Adopter's Absence at anytime before the start of

Adopter's Absence by giving written notice to the Head of Democratic Services

2.4 New Adoption Absence

- (a) A Member must give the Head of Democratic Services written notice of the date the Member intends the period of Adopter's Absence to start. The period of absence will be 2 consecutive weeks unless the Member specifies a shorter period of time.
- (b) New Adopter's Absence may be taken between the date on which a child is placed with the adopter and 56 days after that date.
- (c) A Member may cancel New Adopter's Absence at anytime before the start of New Adopter's Absence by giving written notice to the Head of Democratic Services.

2.5 Parental Absence

- (a) A Member must give the Head of Democratic Services written notice of:-
 - a. Their intention to take parental Absence.
 - b. The date on which the Member intends the Parental Absence will start.
 - c. The duration of the period of Parental Absence.
 - d. Whether the absence is intended to be taken as a single period or as a series of absences. Where Parental Absence is to be taken in a series of absences, a Member must give the Head of Democratic Services advance written notice of the intended start date and duration of each period of parental Absence.
- (b) If requested to do so, a Member must give the Head of Democratic Services evidence in relation to the extent that they have responsibility for the child.
- (c) The period of absence will be up to 90 days which can be taken in a single or a series of absences from the date a councillor assumes responsibility for the care of a child under the age of 14 and ends 1 year later.
- (d) A Member may cancel Parental Absence at anytime before the start of Parental Absence by giving written notice to the Head of Democratic Services.
- (e) A Member may bring any period of Parental Absence to an end earlier than intended by notifying the Head of Democratic Services in writing of their intention.

2.6 Records and Notification of Family Absence

- (a) The Head of Democratic Services will keep a record of all notifications and periods of maternity absence, parental absence, newborn absence, adopters absence and new adoption absence (collectively referred to as family absence) taken and will inform the Mayor, Leaders of each political

group and Chair of Democratic Services Committee of all periods of family absence.

2.7 Cancellation of Family Absence by Council

- (a) If the Head of Democratic Services suspects that a Member is not entitled to the family absence as notified, he/she may cancel or end a Member's family absence if he/she is of the view that the Member is not entitled to such absence in accordance with the Regulations.
- (b) A Member's remuneration will be withheld if a Member does not return from family absence by the date determined in paragraph (c) below.
- (c) In the event of a decision by the Head of Democratic Services to cancel the Family Absence he/she shall notify the Mayor of his intention to cancel and thereafter give written notice to the Member of the decision to cancel or bring to an end the period of family absence and the date from which the Member must return from family absence.

2.8 Members right to Appeal against Cancellation of Family Absence

- (a) A Member may within 28 days of being notified by the Head of Democratic Services that a period of family absence being cancelled or ended, complain in writing to the Head of Democratic Services regarding the cancellation.
- (b) The Head of Democratic Services will refer any complaint received under para (a) above to the Panel constituted in accordance with the Family Absence for Members of Local Authorities (Wales) Regulations 2013 who will determine the complaint made.
- (c) The Panel may:-
 - Confirm the decision of the Head of Democratic Services; or
 - Substitute its own decision as to the Member's entitlement to family absence in accordance with the Regulations.

2.9 Members request to perform duties/attend meetings during a period of Family Absence

- (a) Any Member on Family Absence may subject to paragraph (b) and (e) below:-
 - (i) Attend any meeting or perform any duty associated with being a councillor within specific dates.
- (b) The Member must obtain the permission of the Mayor (or Deputy in his or her absence) before attending any meeting or exercising any duty.
- (c) In seeking permission the Member will (if able) specify start and finish dates in any application to suspend Family Absence.

- (d) The Mayor will inform Leaders of each political group of the Council before granting permission under paragraph (b) above.
- (e) A Member may complain in writing to the Head of Democratic Services regarding a refusal under paragraph (b) above.
- (f) The Head of Democratic Services will refer a complaint under para (e) above to the Mayor of the Council.
- (g) A Panel constituted in accordance with the Family Absence For Members of Local Authorities (Wales) Regulations 2013 will determine a complaint made under paragraph (e) above.
- (h) The Panel may: -
 - Confirm the decision of the Mayor of the Council (or Deputy in his or her absence); or
 - Substitute its own decision as to the Member attending any meeting or performing any duty.

Members Training and Development Protocol

Introduction

Whilst each councillor role requires a different blend of skills, knowledge and competencies, this protocol provides Members with a consistent process for identifying and delivering mandatory and non mandatory training based on Members individual roles.

This protocol creates three distinct categories:

A. Mandatory Training

The following training is mandatory to ensure all councillors have the necessary knowledge to enable them to operate within the Council's Code of Conduct, have an understanding of the Council's constitution, undertake common essential duties and, where appropriate, discharge regulatory or personnel committee functions.

- i) Induction training
- ii) Certain training associated with Members' statutory responsibilities, i.e. Audit Committee and regulatory committee membership and Committees with personnel functions

B. Recommended Training

This type of training is considered as important whilst recognising that Members have different levels of experience and knowledge of the councillor role. The amount of training commitment required will depend on individual Members specific committee roles.

C. Requested Training

This type of training is identified by individual Members as part of the councillor training needs analysis undertaken every 2 years. It is similar to Recommended Training in being considered helpful but not compulsory.

A. Mandatory Training

i) Induction Training

Induction Training will be delivered within the first month of a new Council. It is made up of two 2½ hour modules held in the daytime and repeated in the evening as follows:

Module 1 - Governance

- Code of Conduct – Understanding the Council's Code of Conduct and the role of the Council's Standards Committee and Public Service Ombudsman.
- The Council's Constitution – Understanding the key procedures for the operation of full Council and Council Committees.
- Electronic Voting and Webcasting – A guide to the operation of the Council's electronic voting system installed in the Council Chamber and to inform Members of the operation of webcasting of Council meetings.

Module 2 - Equalities and Information Management

- Information Management and Data Protection - Requirements of data protection legislation, awareness required to handle all personal information safely and freedom of information legal obligations.
- Equalities and Welsh Language – To provide Members with an overview of the Council's Equalities and Welsh Language obligations.

ii) **Certain training associated with Members' statutory responsibilities, i.e. Audit Committee and regulatory committee membership and Committees with personnel functions**

The Council has an Audit Committee, 3 regulatory committees; namely Planning Committee Licensing Committee and Rights of Way Cabinet Committee and 3 personnel related committees; namely Pension and Compensation Committee, Appointments and Appeals Committee and Investigating and Disciplinary Committee.

Members serving on these committees will receive mandatory training at least (it may be more if there are changes to legislation) twice per Council term to ensure that they understand the role of the committee, any considerations to be taken into account before coming to a decision and any appeals processes. Membership of these committees will be dependant on Members undertaking the mandatory training. Should a Member fail to undertake any mandatory training their membership will automatically cease. The twice council term training requirement will be made up of two 2½ hour training modules for each committee.

As the above mandatory training subjects are considered essential, feedback about the quality and usefulness of the training will be reported to the Democratic Services Committee.

In addition members who refuse to attend the mandatory training or do not have good reason for being unable to attend mandatory training will be reported to the Standards Committee and will be required to attend a meeting of the Standards Committee to explain their absence to the Committee. The Head of Democratic Services will refer a member to the Standards Committee. It will be a matter for the Standards Committee to consider what course of action it considers appropriate but could result in a Member being censured.

B Recommended Training

1) Induction Training

This element of Induction Training will be delivered within the first month of a new Council and will focus on key Councillor roles. The recommended Induction Training may be delivered as a single 1 day module, held on a weekday and repeated on a weekend to ensure all Members can attend regardless of other responsibilities. It will assist Members understand their role as a local representative, effective committee member and political leader.

The Councillor Role

Local Leadership – Role of the ward councillor, being an advocate for stakeholders and providing effective political leadership in the community.

Partnership working – Understanding the councillor role and being an effective Member on partnerships and outside bodies.

Communication Skills – Dealing constructively with the public and press, portraying a positive self image and skills for public speaking and social media.

Political Understanding – Creating and maintaining positive Member/Officer relationships. Exploring councillors’ unique roles - political activist, open minded decision maker and unbiased scrutineer.

Scrutiny and Challenge – The benefits of scrutiny and keys skills for successful scrutiny and policy development.

Regulating and Monitoring – Members responsibilities in the Council’s governance framework to include: standards committee, monitoring performance of Council services, risk management and budget monitoring.

2) Additional Recommended Training

Recommended training will support Councillors in their various committee roles. The amount of training any Member should attend will depend on an individual’s specific committee roles. The training will focus on the skills, knowledge and competencies required for each committee role. For instance, serving as a Cabinet Member may require a different skill set from being Chair of the Audit Committee. Similarly, a Scrutiny Member role may differ considerably from a Planning Committee Member role. Each of the Committee Role Skills training requirements can be delivered in a half day. A full list of identified committee roles are given below:

Recommended Training Frequency	Position	Proposed
Chairing Skills	Chairs of Scrutiny, Audit, Planning, Licensing, Democratic Services and SDAP Committees. Chairs of Town Centre Management Groups etc	Twice per Council term
Role and Responsibilities of Cabinet Members	Cabinet Members	Twice per Council term
Performance Reviews	All Senior Salary Holders responsible for undertaking annual Performance Reviews	Twice per Council term

Scrutiny Skills	Scrutiny Committee Members	Twice per Council term
Committee skills, knowledge and competencies	All Members of each Council Committee/Panel etc	Annually. To be delivered before the first meeting of each Committee or Panel immediately after the Council's Annual General Meeting. Likely to last approximately half an hour
Update to legislation, case Law, national policies and Funding etc	Members of Committees and Panels etc listed in Appendix 1 below	Twice per annum. To be delivered before the start of a committee meeting. Likely to last approx half an hour

C Requested Training

There is a well established process in place for identifying Members individual training needs. A training needs questionnaire is circulated to each member every two years which is designed to identify personal skills and knowledge training and development opportunities. A planned training programme is developed based on the outcome of the returned questionnaires. This process will continue to run concurrently with the proposed Training and Development Protocol outlined above.

Responsibilities and Publication

Democratic Services will manage the members training programme and in partnership with the Democratic Services Committee, Committee Chairs, the relevant Director and Heads of Service.

The training programme will be presented to Democratic Services Committee and published in May each year. The training offered and Members attendance will be published annually as part of each Members' Annual Report.

Appendix 1

Education for Life Scrutiny Committee
Health Social Care and Well Being Scrutiny Committee
Policy and Resources Scrutiny Committee
Crime and Disorder Scrutiny Committee
Regeneration and Environment Scrutiny Committee
Appeals Panel (Disciplinary/Grievance)
Appointments Committee (Chief Officer Related Posts/Heads of Service)
Audit Committee
Democratic Services Committee
Investigation and Disciplinary Committee
Licensing Committee
Planning Committee
Standards Committee
Sustainable Development Advisory Panel
Rights of Way Cabinet Committee



Caerphilly County Borough Council

Social Media Protocol For Members

1. Introduction

1.1 Definition Of Social Media

1.1.1 Social media is a collective term used to describe online media, which offer easy ways to publish content online and also to facilitate and participate in online conversations, which may invite the posting of comments or contributions or otherwise invite discussion.

1.1.2 Social media can involve social networks (e.g. facebook); professional networks (e.g. LinkedIn); content communities sites (e.g. Flickr and Youtube); blogs (e.g. via sites such as Wordpress and Blogger); micro-blogging sites (e.g. Twitter). Social media can be accessed by a variety of digital equipment, such as laptops, smart-phones and tablets, which can also be used to capture audio-visual information.

1.2 Scope

1.2.1 This protocol is intended to set out clearly how Elected Members ought to interact with social media, both as County Councillors and private individuals. The Protocol provides guidance concerning the permissible use of social media by Elected Members during meetings.

1.2.2 The protocol does not relate to Officers of the Council who are covered by separate ICT policies.

1.2.3 The use of social media by Elected Members is covered by part 2.1 of the Protocol.

1.2.4 The use of social media by Elected Members during meetings is discussed in 2.1.5.

1.3 Background

- 1.3.1 Social media can play an important part in the operation of a democratic society by offering positive opportunities for the Council and its Elected Members to engage with the citizens of Caerphilly. For example, social media can be an efficient and cost effective way for the Council to keep in touch with residents and businesses. Elected Members can also effectively use social media to interact with constituents and support local democracy. It has been demonstrated that, when used effectively, social media can engage those who would not otherwise participate in local politics or interact with their Elected Members.
- 1.3.2 It is apparent that the use of social media also presents the Council and its Elected Members with certain risks and challenges. In particular, the use of social media by Elected Members can potentially result in breaches of the Code of conduct. Therefore, it is important that Elected Members recognise the risks associated with social media and ensure that they do not use social media in a way which breaches the Code of Conduct.
- 1.3.3 It is intended that the Council's Standards Committee will have regard to the Protocol when determining allegations of breach of the Code of Conduct involving the use of social media.

2. Social Media & The Council

2.1 Use Of Social Media By Elected Members

- 2.1.1 It is likely that the use of social media by Elected members may include participation in Council sponsored media, such as blogs, use made in a private or seemingly private, capacity through a private account, anonymous participation with, or contribution to blogs, forums or other social media sites.
- 2.1.2 Members are bound by the terms and conditions of the individual social media sites. In addition, Members should recognise that their use of social media could be covered by the Code of Conduct, and it is likely that any failure to comply with the law and user agreements of the sites could constitute a breach of the Code of Conduct. In particular, Members should also avoid using social media in a way, which suggests bias and predetermination.
- 2.1.3 In addition to issues covered by the Code of Conduct, Members are reminded that their use of Social Media can have implications in general law, which for an Elected Member may have serious consequences.
- 2.1.4 It is suggested that the potential difficulties arising from the use of social media can be avoided if the information published by members is objective, balanced, informative and accurate. The effects of publishing information online can be long lasting, as access to online published content is pervasive and effectively published in perpetuity.
- 2.1.5 Members should not use social media during meetings. The restriction extends both to making contemporaneous comments on other individuals or issues and

accessing social media during meetings.

- 2.1.6 In addition, Members should seek to avoid giving others the impression that they are not fully attentive to the proceedings of a meeting. This can be done by ensuring that mobile devices are used sparingly and discreetly during meetings.
- 2.1.7 Members should avoid using mobile devices to send or receive information which is not connected with the matters under consideration in the meeting. Use made of mobile devices to send or receive private messages or email during meetings ought to be reasonable and discreet. Chairs should reprimand any Member whose use of mobile devices during meetings is deemed to be excessive.
- 2.1.8 The following paragraphs of the Code of Conduct will apply to the use of social media and other online behaviour. The rights of Members under Articles 8 and 10 (Schedule 1) of the Human Rights Act 1998 have been considered.
- 2.1.8.1 Paragraph 5.4(a) "carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion".

Members should ensure that their use of social media does not breach the Council's principles of equality. Discriminatory statements are also likely to be unlawful.

- 2.1.8.2 Paragraphs 5.4(b) "*show respect and consideration for others*".

Members should be aware that whilst political comments and the expression of political opinions and arguments are not stifled by the Code of Conduct, it is likely that personal remarks aimed at an individual could be seen as disrespectful and could constitute a breach of the Code.

Members are reminded that their use of social media could result in the libel of another individual. This also applies if a Member with a personal social media site allows any individual to publish libellous content on it.

- 2.1.8.3 Paragraph 5.4(c) "*not use bullying behaviour or harass any person*"

Members should be cautious when making personal comments about individuals and social media should never be used to review and discuss the performance of Council staff. The Council will not tolerate any anonymous use by members of social media, which is deemed to bully or harass any person.

Members who maintain a blog or networking site (such as Twitter) should be aware that the comments of others on those sites could be attributed to the member by association. Members should ensure that defamatory or obscene comments are removed from their personal sites.

- 2.1.8.4 Paragraph 5.5(a) "*disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so*".

Members should always be certain that information they discuss or disclose on social media sites is not confidential and that it is proper to do so. Members should remember that information placed on a website, whether anonymously or not, which could only have been obtained by a member is likely to fall under the Code.

Members should never publish the personal data of individuals on social media sites in breach of the Data Protection Act 1998.

Members should avoid breaching copyright by publishing images or text on a social media site, which is the intellectual property of another person.

- 2.1.8.5 Paragraph 10(2)(c)(1) *Personal interests "or any person with whom you have a close personal association"*.

Various terms are used to define online contacts and associations on various social media sites. These terms include "friends" (Facebook) and "followers" (Twitter). Members should be aware that any person they include as a contact on social media site should be regarded, for the purposes of the Code of Conduct, as a close personal associate. Members should be cautious that their use of social media sites does not give the perception that a conflict of interests exists. It is advisable that Members, when creating their own content on social media sites, seek to emphasise the distinction between business content and pages containing personal content.

- 2.1.8.6 Paragraph 12(1) Prejudicial interests "*...a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interests*".

Members should be cautious that their use of social media sites does not give the perception that they have a prejudicial interest in any matter.

- 2.1.9 Elected Members are bound by the code of conduct if they use social media to conduct Council business or are representing the Council. However, an Elected Member could be open to allegations that he/she acted in breach the Code of Conduct if the use made of social media was inappropriate and that he/she was not conducting official business, but merely claiming or giving the impression that he/she was acting in an official capacity.
- 2.1.10 Anonymous use of social media by Members can also lead to a breach of the code where it can be demonstrated that a Member uploaded the site content

and that they were acting in their capacity as a Member.

2.1.11 In order to determine whether a Member was acting in an official capacity, it would be necessary to consider the context of a Member's use of social media, taking into account such factors as:

- The public profile of a Member, which can result in a reasonable assumption being made that the Member was acting as a County Councillor
- The privacy settings on her social media site or blog. It is a member's responsibility to ensure that appropriate privacy settings are in place. If constituents can access a Member's post they may make the reasonable assumption that the Member is acting in an official capacity;
- Members should seek to enable other users of social media to avoid any misunderstanding over the official status, or otherwise; of the Member's contributions.

2.1.12 Members should avoid discussing council business on a personal social media site, or make remarks about others. It is not adequate for Members to subsequently claim that any disputed posts were made in a private capacity.



PROTOCOL FOR THE WEBCASTING OF COUNCIL MEETINGS

INTRODUCTION

Purpose

This protocol provides guidance for those attending full Council meetings (including members, officers and members of the public) and associated procedures which will be included in the Council's constitution.

In addition, the protocol aims to ensure that the Council is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998.

Webcasting

The Council has agreed it will webcast meetings of full Council held in the Council Chamber, Penallta House.

A webcast is an unedited audio and visual recording of a meeting which is available via the Council's website to view either live or in an archive format.

The main purpose of webcasting is to give members of the public the chance to view meetings as they happen without having to attend in person

The webcast recordings of council meetings will be available in date order on the Council's website for 18 months.

Webcasting Notices and Signage

It is important to ensure that those attending a meeting of full Council are aware that the meeting is being recorded and webcast. A notice will appear on the relevant meeting agenda and a sign will be displayed inside and outside of the Council Chamber to ensure those attending understand the meeting is being webcast.

The following notice will appear on the relevant agenda:

This meeting will be filmed and made available to view in live and archive form via the Council's website. The whole of the meeting will be filmed, except for discussions involving confidential or exempt items. The webcast will be available for 18 months from the date of the meeting at www.caerphilly.gov.uk

It is possible that the public seating areas could be filmed and by entering the Chamber you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting purposes.

If you have any queries please contact the Democratic Services Manager by email jonesj16@caerphilly.gov.uk or telephone 01443 864242.

The following sign will be displayed inside and outside of the Council Chamber:

Webcasting Notice

Please note that Caerphilly County Borough Council will film this meeting and it will be made available to view in live and archive form via the Council's website.

It is possible that the public seating areas could be filmed and by entering the Chamber you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting purposes.

If you have any queries please contact the Democratic Services Manager by email jonesj16@caerphilly.gov.uk or telephone 01443 864242.

Members and Officers Consent

There is a presumption that Members and officers give their consent to being filmed and for their images to be webcast.

Public Speakers

Representatives from other organisations or members of the public being presented or speaking at a meeting of full Council will be informed in advance that the meeting will be filmed and made available for viewing in live or archive format via the Council's website.

Announcement at Start of Meeting

At the start of each meeting to be filmed, an announcement will be made by the Mayor or Chair to the effect that the meeting is being webcast. The suggested announcement is as follows:

I would like to remind everyone present that this meeting is being filmed and made available to view in live and archive form via the Council's website. If you are seated in the public gallery it is possible that the cameras may capture your image and you are deemed to be consenting to being filmed and your image and sound recordings webcast.

Use of Microphones

Microphones must be turned on before speaking to ensure their voice is recorded and can be heard on the webcast recording.

Suspension of Recording

All parts of a Council meeting will be recorded with the exception of discussions of 'exempt' reports which contain confidential information as defined by Schedule 12A of the Local Government Act 1972.

The Mayor or Chair of the meeting has the discretion to request the termination or suspension of the webcast if in the opinion of the Mayor or Chair continuing to webcast would prejudice the proceedings of the meeting or, if the Mayor or Chair, on advice, considers that continued filming might infringe the rights of any individual. This would include:

- (i) Public disturbance or other suspension of the meeting;
- (ii) Exclusion of public and press being moved and supported under relevant legislation;
- (iii) Any other reason moved and seconded and supported by full Council.

Removal of Archive Recordings

Archived webcasts or parts of webcasts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory or common law provision, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information.

If the Monitoring Officer has decided to take such action the officer will notify all Councillors in writing as soon as possible to explain the reason(s) for the decision. It is anticipated, however, that meetings will be conducted lawfully and that the need to exercise this power will occur only on an exceptional basis.

Language

Webcast recordings will be broadcast in the language used in the Council chamber. Any requests for simultaneous translation will be considered by the Monitoring Officer if made at least 3 working days prior to the meeting date.

Minutes of Council Meetings

The Council produces minutes of full council meetings and they are the formal record of Council meetings. Minutes of webcast meetings will still be signed as a correct record in accordance with, Paragraph 16 of the Council's Procedure Rules which are in Part 4 of the Council's constitution.

Copyright

The webcasts and archived material and its copyright therein, remain the property of the Council, and the right to copy, issue, rent, perform, communicate or adapt any of the webcast or archived material is restricted as follows:

- (i) Subject to (ii) and (iii) below, any person may copy and use webcast material or part thereof providing that the facility is not used in a way that otherwise breaks the law.

(ii) The use of any webcast involving the alteration or editing of the material which results in changing the message or context without the prior written approval of the Monitoring Officer is not permitted.

(iii) The use of webcast for commercial purposes involving re-use of the material is not permitted without the prior written approval of the Monitoring Officer.

Other Recording of Meetings

This protocol only applies to meetings of full Council and does not affect the Council's existing restrictions on photography, filing or recording of other Council meetings. No other form of photography, filing or recording of full Council meetings is permitted.

Code of Conduct

Members and officers are reminded that their code of conduct applies in meetings of full Council.

Managing Technical Faults

If a technical fault develops with the webcasting equipment, the Mayor or Chair will agree a short recess to enable the problem to be resolved. If after 15 minutes the problem still exists, the meeting can continue irrespective of it not being recorded.

