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AGENDA

Pwyllgor IS-BWYLLGOR SAFONAU A MOESEG (PANEL GWRANDAWIADAU)

Dyddiad ac amser y cyfarfod DYDD MERCHER, 15 RHAGFYR 2021, 10.00 AM

Lleoliad CYFARFOD O BELL TRWY MS TEAMS

Aelodaeth Aelodau Annibynnol: Hollie Edwards-Davies (Cadeirydd)
Arthur Hallett a/ac Chrissie Nicholls

1 Ymddiheuriadau am Absenoldeb

2 Datgan Buddiannau

3 Gwrandawriad o dan y Protocol Datrys Leol - CDC/21/003 - Materion Rhagarweiniol (Tudalennau 3 - 70)

Mae'r adroddiad a'r atodiadau D, E, G, G1 a H1-3 mewn perthynas â'r eitem hon wedi'u heithrio o'u cyhoeddi gan eu bod yn cynnwys gwybodaeth wedi'i heithrio o'r disgrifiad sydd ym mharagraffau 12 a 13 o Atodlen 12A Deddf Llywodraeth Leol 1972. Gallai'r cyhoedd fod wedi'i wahardd o'r cyfarfod drwy benderfyniad y Pwyllgor yn unol ag Adran 100A(4) Deddf Llywodraeth Leol 1972 wrth i'r eitem hon gael ei thrafod.

James Williams

Dirprwy Swyddog Monitro

Dyddiad: Dydd Iau, 9 Rhagfyr 2021

Cyswllt: Mandy Farnham, 02920 872618, Mandy.Farnham@caerdydd.gov.uk

Mae'r dudalen hon yn wag yn fwriadol

Yn rhinwedd paragraff (au) 12, 13 Rhan (nau) 4 a 5 o Atodlen 12A
o Ddeddf Llywodraeth Leol 1972.

Mynediad Cyfyngedig i'r Ddogfen

Mae'r dudalen hon yn wag yn fwriadol

PART 5 – CODES AND PROTOCOLS

CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS OF THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF

Adoption

This Code was adopted by the Authority on 15 May 2008 and last amended on 21 October 2021.

PART I

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 sub-committee;

"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;

“register of members’ interests” (“cofrestr o fuddiannau’r aelodau”) means the register established and maintained under Section 81 of the Local Government Act;

“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;

“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.

1.2 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” (“pwyllgor 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 II

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.
- 2.2 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
 - (c) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.
- 4.1 When using social media, you must comply with the Members' Code of Principles on Social Media Use, adopted by Cardiff Council (Annex 1 to this Code).

- 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.
- 6.2 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 III

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.
- 10.2 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 sub-paragraph (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;

(b) *[Deleted]*

(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.
- 11.2 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.
- 11.3 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.
- 11.4 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.
- 11.5 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.

- 11.6 For the purposes of sub-paragraph 11.4, 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.
- 11.8 For the purposes of sub-paragraph 11.3, 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 12.2 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.
- 12.2 Subject to sub-paragraph 12.3, 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 Local Government (Wales) Measure 2011 (1), or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989 (2);
- (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.

12.3 The exemptions in subparagraph 12.2(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

- 13.1 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 sub-committees; 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 14.2, 14.2(a) 14.3 and 14.4, 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 14.2 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.

14.2 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.

- (a) Where you have a prejudicial interest in any business of your authority and 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 a statutory right or otherwise.
- (b) When submitting written representations under sub paragraph 14.2(a) you must comply with any procedure that your authority may adopt for the submission of such representations.

14.3 Sub-paragraph 14.1 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.

14.4 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 IV

THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

- 15.1 Subject to sub-paragraph 15.4, 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.
- 15.2 Subject to sub-paragraph 15.4, 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.
- 15.3 Subject to sub-paragraphs 15.4, you must, within 28 days of becoming aware of any change to a 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 community council to your authority's proper officer.
- 15.4 Sub-paragraphs 15.1, 15.2 and 15.3 do not apply to sensitive information determined in accordance with paragraph 16.1.
- 15.5 Sub-paragraphs 15.1 and 15.2 do not apply if you are a member of a relevant authority which is community council when you act in your capacity as a member of such an authority.
- 15.6 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.

- 16.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph 16.1 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.
- 16.3 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 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

PART 5 – CODES AND PROTOCOLS

MEMBERS CODE OF CONDUCT

ANNEX 1 - MEMBERS' SOCIAL MEDIA CODE OF PRINCIPLES

At the full Council meeting in March 2021, Cardiff Council passed a Motion which recognised that:

- a) Councillors have a duty to promote kind and honest discourse both online and off line;
- b) Discussion, robust debate and scrutiny are vital to a democracy and should not be discouraged, but must be carried out without abuse;
- c) Social media is an increasingly aggressive space where abuse is common place and public figures are often the target for abusive behaviour, which inevitably has a significant detrimental impact on their wellbeing;
- d) Misinformation is often the trigger for such abusive behaviour; and
- e) Anonymous accounts with no trail of accountability are often the worst culprits,

And agreed to introduce a Code of Principles for social media use.

After consideration of this issue by the Standards and Ethics Committee and consultation with Members, the Council has adopted the following principles in relation to its Members' use of social media:

1. Standards of conduct

All Members are required to comply with the duties set out in the statutory [Members Code of Conduct.pdf \(moderngov.co.uk\)](#), and these duties continue to apply to Members' use of social media. Amongst other things the Code requires that:

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.

(paragraph 4 of the Code of Conduct)

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.

(paragraph 5 of the Code of Conduct)

You must—

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

(paragraph 6.1(a) of the Code of Conduct)

2. Respect and consideration

Members should treat everyone with respect and consideration. Whilst legitimate criticism is part of democratic accountability, criticism should be fair, constructive and courteous, and Members should not post comments which may be regarded as malicious, aggressive, disrespectful or bullying.

3. Equality

Members' comments should treat everyone equally, without discrimination, in particular, against groups with 'protected characteristics' under equality laws (ie. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation) or Welsh language speakers.

4. Professionalism

Members are expected to participate in robust political debate, but should refrain from making, or acting in any way which encourages, unfair or inaccurate public criticisms of the authority or its councillors or officers doing their jobs. Policies may be criticised, without making unnecessary personal comments.

5. Honesty

Members' comments should reflect views which they honestly hold. They should refrain from making misleading comments.

6. Accuracy

Information given should be factually correct and not misleading. Members should make all reasonable efforts to verify the factual accuracy of the information they post.

7. Accountability

Members should be accountable for their comments, including 'liking' or sharing comments made by others, and are also responsible for making all reasonable efforts to monitor and edit any third-party comments made via their platforms.

If a Member engages a personal assistant (or any other third party) to manage a social media account and or post social media comments or responses on their behalf, the Member must make them aware of the contents of this Code of Principles, and make all reasonable efforts to ensure they fully understand, and are committed to adhering to it.

8. Informed

Members should try to make sure they have sufficient information about a subject before commenting on it and make all reasonable efforts to fully read and understand the substance of information before they 'like' or share it.

9. Transparency

Members should openly identify themselves as a Councillor and should not post anonymous comments or use false accounts. For the avoidance of doubt, this does not prevent Members from posting comments on community pages, as long as the Member is openly identifiable.

10. Confidentiality

Members must take care to avoid disclosing any confidential, exempt or personal information, without clear authorisation or consent from any individuals concerned.

Status of this Code and Consequences of Breach

By resolution of the Council, this Code has been incorporated into the Members' Code of Conduct for elected Members of Cardiff Council. This means that a failure to comply with any of the above principles may constitute a breach of the Members' Code of Conduct, which may result in misconduct proceedings and associated sanctions being imposed on any Member found to be in breach.

Members are expected to comply with this Code of Principles for the duration of their term of office as a Cardiff Councillor.

Informal Resolution

Members are encouraged to raise concerns they may have about the content of social media with the member concerned and/or with the relevant Group Whip and Group Leader, saying how they would like the matter to be resolved in a reasonable and proportionate way. For example, this could include asking for a comment to be amended or removed. All members are expected to act in a reasonable manner to seek to resolve any concerns. If this does not achieve resolution, or if it is a recurring problem or a pattern of behaviour, members are encouraged to report their concerns to the Monitoring Officer.

Mae'r dudalen hon yn wag yn fwriadol

Appendix A

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 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.
- 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. What is a "low-level, Member on Member" complaint?

- 2.1. In order to fall within the remit of this Protocol a complaint should satisfy all of the following criteria:
- a. The complaint is made by a Member of the Council and relates to a breach of the Code by a fellow Member.¹
 - 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*

¹ Members should not encourage non-Members to make complaints simply to avoid the application of this Protocol. Doing so, in itself, is likely to be viewed as a breach of the Code (for example, under Paragraph 6(1) of the Code).

paragraph 4(b) of the Code or the duty to not 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.

3. Procedure

- 3.1. In the event of a Member seeking to make a complaint that may fall within the definition of a “low-level, Member on Member” complaint, that Member should first arrange to meet with the Monitoring Officer (or their deputy or other appointed officer who may assume the role of the Monitoring officer under this Protocol). The purpose of doing so is to determine whether the matter should be dealt with under this Protocol or whether the matter should be referred directly to the Ombudsman.
- 3.2. If it is decided that the matter should be dealt with under this Protocol the following procedure shall be followed.
- 3.3. Firstly, the Monitoring Officer will consider whether the matter can be resolved by mutual resolution. If so, then the Monitoring Officer shall arrange a meeting of the Members concerned with the aim of seeking an informal resolution of the matter. In doing so the Monitoring Officer may:
 - i require the attendance of any Group Leader, Member or Officer as they determine may be beneficial to resolving the complaint; and
 - ii adopt such arrangements (such as “breaking out” to meet with the individuals concerned privately or adjourning the meeting to ask individuals to reflect on their position) as they deem beneficial in an attempt to resolve the complaint.
- 3.4. If the matter cannot be resolved by mutual resolution, the Member bringing the complaint may ask the Monitoring Officer to refer the matter to the Standards & Ethics Member Hearing Sub-Committee (**Hearing Panel**).

4. Standards & Ethics Hearing Panel Proceedings

4.1. The Hearing Panel shall adopt and make available to all Members a procedure under which it shall carry out hearings. If a matter is brought before the Hearing Panel then the Hearing Panel shall hold a hearing to determine the matter in accordance with its hearing procedure.

4.2. The sanctions available to the Hearing Panel should it find that there has been a breach of the Code shall be:

- a. A statement that the complaint has substance, but no further action is required.
- b. Referral of the Member for training on a particular topic.
- c. A private or public written warning. If public, that warning shall be announced and circulated at the next meeting of Council.
- d. Censure of the Member at the next meeting of Council.
- e. Referral to the Ombudsman for investigation if the complaint is considered to be deserving of more serious sanctions than the Hearing Panel has the power to impose.

4.3. In making a decision on the sanctions to be imposed, the Hearing Panel 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.
- c. Whether there is an indication of the behaviour being repetitious or whether the Member has previously been found to have committed similar offences.

CITY OF CARDIFF COUNCIL
LOCAL RESOLUTION PROTOCOL
STANDARDS AND ETHICS COMMITTEE
HEARINGS PANEL PROCEDURE

1. Introduction

- 1.1. The City of Cardiff Council has adopted a Local Resolution Protocol. The purpose of the Protocol is to enable minor “member on member” allegations of breaches of the Members’ Code of Conduct to be dealt with at a local level rather than being referred to the Public Services Ombudsman for Wales.
- 1.2. In accordance with the Protocol a Sub-Committee of the Standards and Ethics Committee has been formed to carry out hearings in relation to alleged breaches. This Sub-Committee is referred to in this document as the “**Hearings Panel**”.
- 1.3. This document sets out how matters may be referred to the Hearings Panel and the Procedure that the Panel shall adopt in relation to matters that are referred to it.
- 1.4. In this document references to the Monitoring Officer shall include references to their Deputy or other officer appointed for the purposes of the Protocol.

2. Stage 1 (Initiation of a Complaint)

- 2.1. Any Member who wishes to make a complaint under the Protocol should send their complaint in writing to the Monitoring Officer within three months of the event which has given rise to the complaint; or within three months of the substance of the complaint coming to the attention of the Member submitting the complaint.
- 2.2. The Monitoring Officer will advise the Complainant whether the complaint falls within the Protocol or whether the Complainant should consider referral to the Ombudsman.
- 2.3. If the Monitoring Officer determines that the complaint falls within the Protocol he/she will advise the Respondent of the complaint and will seek an informal resolution of the matter (although see paragraph 2.4 below). The parties should note that details of attempts to achieve an informal resolution may be referred to at any subsequent hearing by the Hearings Panel.
- 2.4. The complaint may be referred to a meeting of the Hearings Panel if:

- a. the Monitoring Officer is of the view that making informal attempts to mutually resolve the matter is inappropriate; or
- b. having made attempts to mutually resolve the matter, the Complainant asks the Monitoring Officer to refer the matter to the Hearings Panel.

2.5. In such cases the Monitoring Officer will make arrangements to convene a meeting of the Hearings Panel and to refer that matter to it.

2.6. The Monitoring Officer may choose not to deal with the complaint personally at Stage 1 in order to be able to advise the Hearings Panel under Stage 2, in which case the Deputy Monitoring Officer or other officer nominated for the purpose will provide advice to the parties under Stage 1 and seek informal resolution.

Alternatively if the Monitoring Officer deals with the complaint at Stage 1 the Deputy Monitoring Officer or other officer nominated for the purpose will advise the Hearings Panel at Stage 2.

3. Stage 2 (Referral to the Hearings Panel)

The steps required in paragraphs 3.1 and 3.2 are compulsory.

3.1. The Complainant will provide the Monitoring Officer with written details of their complaint to include:

- i a written account of the conduct that has given rise to the complaint;
- ii a list of any witnesses whom the Complainant wishes to call to appear before the Hearings Panel;
- iii a list and copies of any documents that the Complainant wishes to draw to the attention of the Hearings Panel; and
- iv details of the paragraphs of the Members' Code of Conduct that are alleged to have been breached.

3.2. The Monitoring Officer will give the Respondent a copy of the documents referred to in paragraph 3.1 above. The Respondent will give the Monitoring Officer written details of their response to the allegations to include:

- i written details of the Respondent's response to the facts as alleged by the Complainant;
- ii a list of any witnesses whom the Respondent wishes to call to appear before the Hearings Panel; and
- iii a list and copies of any documents that the Respondent wishes to draw to the attention of the Hearings Panel.

3.3. Prior to the hearing the Monitoring Officer will arrange for the documents referred to in paragraphs 3.1 and 3.2 to be made available

to the Panel Members, the Complainant, and the Respondent. If the Monitoring Officer believes it appropriate in the circumstances the Monitoring Officer will also provide a Report in relation to any investigations into or attempts to settle the complaint or any other matter that the Monitoring Officer believes to be relevant to the deliberations of the Hearing Panel.

- 3.4. If a matter involves cross allegations with two or more Members making allegations of breaches of the Code against each other, the Monitoring Officer (in consultation with the Chair) may convene one Hearing to deal with all such allegations simultaneously. In such circumstances the Monitoring Officer may amend the requirements of paragraphs 3.1 – 3.3 to ensure that a fair opportunity to present and respond to complaints is afforded to each Member prior to the Hearing.

4. Legal Advice and the Monitoring Officer's Role at Hearings

- 4.1. The Monitoring Officer, Deputy Monitoring Officer, or other officer nominated for the purpose shall be in attendance at hearings to advise the Hearings Panel.
- 4.2. If the Monitoring Officer has investigated a complaint, he/she may attend a hearing in his/her role as the person who has investigated the complaint and will not be present to provide legal advice to the Hearings Panel. In such cases, the Deputy Monitoring Officer or another of the Authority's lawyers will be present to advise the Hearings Panel.
- 4.3. The Hearings Panel may take legal advice from its advisor at any time before or during the hearing or while the outcome is being considered.

5. Attendance and Representation at Hearings

- 5.1. If Members who are party to the complaint do not wish to attend the hearing or fail to attend the hearing the hearing may proceed in their absence.
- 5.2. Members may be represented or accompanied during the hearing by another Member, or any other person if they so desire. However when making a decision on representation Members should bear in mind that Local Resolution is intended to provide a relatively informal forum to resolve relatively minor complaints.
- 5.3. Members are responsible for meeting their own costs of any representation.

6. Composition and Decisions of the Hearings Panel

- 6.1. The Hearings Panel shall be composed of three independent members of the Standards and Ethics Committee. Alternatively the Standards and Ethics Committee may also resolve to co-opt suitably experienced independent persons to serve as members on the Hearings Panel.
- 6.2. The Hearings Panel shall appoint one of their number to serve as Chair for each hearing.
- 6.3. Except for decisions that are expressed in this Procedure to be taken by the Chair, any decision of the Hearings Panel shall be made on the basis of a simple majority vote.

7. General Powers of the Hearings Panel in relation to this Procedure

- 7.1. The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness. The Chair may also vary this procedure in the interests of ensuring an efficient hearing (provided that such variation does not have any detrimental impact on the fairness of the proceedings).
- 7.2. Panel members may ask any questions they wish to anyone taking part in the Hearing.
- 7.3. The Panel may also seek the attendance of a particular person or the production of specific documentation where they are of the view it would assist their deliberations.

8. Introductions

- 8.1. At the start of the hearing the Chair shall introduce each of the Members of the Hearings Panel and everyone involved in the hearing. The Chair shall then explain the procedure that the Panel is to follow in conducting the hearing and should obtain confirmation from everybody taking part in the hearing that they have understood the procedure.

9. Additional Information

- 9.1. If a party wishes to present additional information to the Panel that was not included in the written material that they produced for circulation prior to the hearing they should apply to the Panel for permission to do so before the commencement of the formal part of the hearing.
- 9.2. It will assist if the Legal Advisor and the other party have been provided with details of the late information as early as possible but at least two days before the commencement of the hearing. The Panel retains sole discretion whether to permit the late introduction of

information but shall always seek to ensure that neither party is prejudiced and all parties are able to present evidence which is relevant to the matters before the Panel.

10. Order of Procedure at the Hearing

- 10.1. After the introductions and any other preliminary matters the Complainant may address the Hearings Panel and may be questioned by members of the Panel.
- 10.2. Any witnesses that the Claimant wishes to call may address the Hearings Panel and may be questioned by members of the Panel.
- 10.3. The Respondent may address the Hearings Panel and may be questioned by members of the Panel.
- 10.4. Any witnesses that the Respondent wishes to call may address the Hearings Panel and may be questioned by members of the Panel.
- 10.5. The Complainant may address the Hearings Panel with any closing remarks.
- 10.6. The Respondent may address the Hearings Panel with any closing remarks.
- 10.7. The Hearings Panel will retire to deliberate in private.

11. The Hearings Panel's Deliberations

- 11.1. When it deliberates the Hearings Panel will make any necessary findings about the facts. It will then consider whether the Respondent failed to follow the Members' Code of Conduct.
- 11.2. If the Hearings Panel determines that the Respondent has not breached the Members' Code of Conduct it shall dismiss the complaint, but it may make general recommendations or remarks to the Members involved or to all Members.
- 11.3. If the Hearings Panel determines that the Respondent has failed to follow the Code it shall consider what sanction, if any, to impose. The sanctions available to the Panel under the Local Resolution Protocol are as follows:
 - (i) A statement that the complaint has substance but no further action is required
 - (ii) Referral of the Respondent for training on a particular topic.
 - (iii) A private or public written warning. If public, that warning shall be announced and circulated at the next meeting of Council.

(iv) Censure of the Respondent at the next meeting of Council.

(v) Referral to the Public Services Ombudsman for investigation if the complaint is considered to be deserving of more serious sanctions than the Hearings Panel has the power to impose.

In making a determination as to sanction the Hearings Panel may consider any factor that they consider to be relevant, including:

- i the severity of the offence;
- ii the level of remorse that the Respondent has shown and any apologies that they have made; and
- iii whether there is an indication of the behaviour being repetitious or whether the Respondent has previously been found to have committed similar offences.

11.4. Once a decision has been reached by the Hearings Panel the parties may re-convene and the Chair will announce the decision orally.

12. The Written Decision

12.1. The Panel will issue a written decision shortly after the end of the Hearing. The written decision shall be published on the Authority's website not later than 14 days after the date of the Hearing for a period of 21 days.

Yn rhinwedd paragraff (au) 12, 13 Rhan (nau) 4 a 5 o Atodlen 12A
o Ddeddf Llywodraeth Leol 1972.

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