SECTION 18

18. Members' Code of Conduct

18.1 The Principles

The Conduct of Members (Principles)(Wales) Order 2001 sets out the principles which are to govern the conduct of members of a relevant authority in Wales. They are:

18.1.1 Selflessness

Members must act solely in the public interest. They must never use their position as members to improperly confer advantage on themselves or to improperly confer advantage or disadvantage on others.

18.1.2 Honesty

Members must declare any private interests to their public duties and take steps to resolve any conflict in a way that protects the public interest.

18.1.3 Integrity And Propriety

Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions, avoid the appearances of such behaviour.

18.1.4 Duty To Uphold The Law

Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

18.1.5 Stewardship

In discharging their duties and responsibilities members must ensure that their authority's resources are used both lawfully and prudently.

18.1.6 Objectivity in Decision Making

In a carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, members must make decisions on merit. Whilst members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and if appropriate, how to vote on any issue.

18.1.7 Equality and Respect

Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

18.1.8 Openness

Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

18.1.9 Accountability

Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a member. They must be prepared to submit themselves to such scrutiny as it appropriate to their responsibilities.

18.1.10 Leadership

Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

18.2 Interpretation

18.2.1 In this code

"**co-opted members**" 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**" means any meeting :

(a) of the relevant authority;

(b) of any executive or board of that relevant authority;

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such 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 (Committee 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" includes, unless the context requires otherwise a co-opted member;

“protected characteristics” (“*nodweddion gwarchodedig*”) has the meaning given by section 4 of the Equality Act 2010

"Relevant authority" 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 Service Act 2004 or a scheme to which 4 of that Act applies;

(e) a National Park Authority established under Section 63 of the Environment Act 1995;

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

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

18.2.2 In relation to a community Council, references to an authority's monitoring officer and an authority's Standard Committee are to be read, respectively, as references to the Monitoring Officer and 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(2) of the Local Government Act 2000.

18.3 General Provisions

18.3.1 Save where paragraph 18.3.3 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 18.3.6(a) and 18.3.8

18.3.2 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.

18.3.3 When you are elected, appointed or nominated by your authority to serve:

(a) on another relevant authority, or any other body, which includes a police authority or 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.

18.3.4 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 protected characteristics or socio-economic circumstances

(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.

18.3.5 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.

18.3.6 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 the Public Services Ombudsman for Wales and 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.

18.3.7 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.

18.3.8 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.

18.3.9 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 chief executive;

ii. the authority's Head of Finance;

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.

18.3.10 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.

18.4 Interests

18.4.1 Personal Interests

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

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

(i) it relates to, or is likely to affect:

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

(B) 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;

(C) 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;

(D) 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;

(E) 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 (D) above;

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

(G) 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 (D) above.

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

(I) any:

1. public authority or body exercising functions of a public nature;
2. company, industrial and provident society, charity or body directed to charitable purposes;
3. body whose principal purposes include the influence of public opinion or policy;
4. trade union or professional association; or
5. private club, society or association operating within your authority's area

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

(J) 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).

(ii) a member of the public might reasonably perceive a conflict between your role in taking a decision upon that business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division; or

(iii) a decision upon it might reasonably be regarded as affecting:

(A) 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;

(B) any employment of business carried on by persons as described in (A)

(C) any person who employs or has appointed such persons described in (A), any firm in which they are a partner, or any company of which they are directors;

(D) any corporate body in which persons as described in (A) have a beneficial interest in a class of securities exceeding the nominal value of £5,000, or

(E) any body listed in paragraphs 18.4.1(b)(i)(I)1 to 18.4.1(b)(i)(I)5 in which persons described in (A) hold a position of general control or management a greater extent than the majority of:

1. in the case of an authority with electoral divisions or wards, other council taxpayers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

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

18.4.2 Disclosure of Personal Interests

(a) 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.

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

(i) 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

(ii) 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 representations and interest in writing within 14 days of the representation.

(c) Subject to paragraph 18.4.5(a)(ii) 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.

(d) 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 18.4.2(a) submit a written notice to the authority in accordance with any requirements identified by your authority's Monitoring Officer from time to time, but as a minimum containing:

(i) details of the personal interest;

(ii) details of the business to which the personal interests relates; and

(iii) your signature.

(e) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 18.5.2(a), your obligations under paragraph 18.4.2 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.

(f) For the purpose of paragraph (d), 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.

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

18.4.3 Prejudicial Interests

(a) Subject to sub-paragraph (b) 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.

(b) Subject to paragraph (c), you will not be regarded as having a prejudicial interest in any business where that business :-

(i) relates to:

(A) another relevant authority of which you are also a member;

(B) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

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

(D) 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;

(E) your role as a member of the Local Health Board where you have not been appointed or nominated by your authority;

(ii) relates to

(A) 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 relates particularly to your tenancy or lease;

(B) 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 the child attends;

(C) 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 receipt of, or are entitled to the receipt of such pay from your authority;

(D) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972 an allowance or pension under Section 18 of the Local Government and Housing Act 1989 or an allowance or payment under Section 100 of the Local Government Act 2000;

(iii) 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.

(c) The exemptions in sub-paragraph 18.4.3.(b)(i) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

18.4.4 Overview and Scrutiny Committees

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.

18.4.5 Participation in relation to Disclosed Interests

(a) Subject to paragraphs (b), (c) and (d), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standard committee:

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

(A) where sub-paragraph (b) 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

(B) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(ii) not exercise executive or board functions in relation to that business;

(iii) not seek to influence a decision about that business;

(iv) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(v) 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.

(b) 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.

(c) Sub-paragraph (a) does not prevent you attending and participating in a meeting if -

(i) you are required to attend a meeting of an overview or scrutiny committee by such committee exercising its statutory powers; or

(ii) you have the benefit of a dispensation provided that you -

(A) state at the meeting that you are relying on the dispensation; and

(B) before or immediately after the close of the meeting give written notification to your authority containing -

1. details of the prejudicial interest;
2. details of the business to which the prejudicial interest relates;
3. details of, and the date on which, the dispensation was granted; and
4. your signature.

(d) 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 24 days of making the representation.

18.5 The Register of Members' Interests

18.5.1 Registration of Financial and Other Interests and Memberships and Management Positions

(a) Subject to sub-paragraph (c) you must within 28 days of

i. your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

ii. your election or appointment to office (if that is later)

register your financial interests and other interests where they fall within a category mentioned in paragraph 18.4.1(b)(i) in your authority's register maintained under Section 81(1) of the Local Government Act 2000 by providing written notification of your authority's Monitoring Officer.

(b) You must within 28 days of becoming aware of any new personal interest or change to any personal interest registered under sub-paragraph (a), register that new personal interest or change by providing written notification to your authority's Monitoring Officer.

(c) Sub-paragraphs (a) and (b) do not apply to sensitive information determined in accordance with paragraph 18.5.2(a).

(d) Sub-paragraph (a) will 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.

18.5.2 Sensitive Information

(a) When 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 18.5.1.

(b) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (a) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(c) In this code, 'sensitive information' 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.

18.5.3 Registration of Gifts and Hospitality

You must within 28 days of being offered any gift, hospitality, material benefit or advantage above the value of £25, provide written notification to your authority's monitoring officer of the existence and nature of that

gift, hospitality, material benefit or advantage. You must register any such offer whether you accept it or not.

Appendix 1

The Gwynedd Standard

This document explains the standard of conduct expected from Gwynedd Council's councillors in dealing with each other. It should be read in conjunction with the Members Code of Conduct and the Protocol Member-Officer Relations. It adds to those documents and not detract from them.

Gwynedd Council members are expected to :-

Public behaviour:

- Show respect to each other
- Not make personal abusive comments about each other.
- Not publish anything insulting about each other.
- Not make malicious allegations against each other.
- Not publish or spread any false information about each other.
- Show respect to diversity and equality.

Behaviour in committees:

- Behave with dignity in the Chamber.
- Show respect to the Chairman and obey his decisions.
- Not use indecent language nor make racial remarks or remarks which prejudice any section of society.

Confidentiality:

- Keep the confidentiality of exempt papers and any other documents which are not public.
- Not release confidential information to the press or the public.
- Return confidential papers.
- Not use confidential information for purposes other than intended.

Local members:

- Work with members of adjoining wards for the benefit of the locality.
- If dealing with any matter relating to another ward
    - Explain to anyone seeking assistance that he/she is not the local member
    - Inform the local member, unless it would lead to a breach of confidentiality

Appendix 2

Gwynedd Council Local Resolution Procedure

A Procedure for Dealing with Allegations that a Member has Breached the Member-Officer Relations Protocol or the Gwynedd Standard

Introduction

1. The Protocol for Member-Officer Relations is an important tool to promote good co-operation between members and officers within the Council and thereby allow the council to fulfil its duties effectively and professionally. In the same vein the Council has adopted the Gwynedd Standard in order to promote and maintain high standards of conduct amongst members. It is therefore important that any allegations against a member that he/she has breached the protocol or the Standard can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy to understand method of dealing with such allegations.

    1.1 The aim of this procedure is to try and resolve complaints regarding members quickly and effectively reaching a resolution to low level complaints through consensus. Nothing in this procedure prevents anyone from submitting a complaint to the public services ombudsman for Wales that a member has breached the members code of conduct. The ombudsman could, if he is of the opinion that there is a case to answer, refer the matter of the standards committee or the adjudication panel for Wales which has the power to disqualify members for up to 5 years.

    1.2 This procedure is not suitable for allegations which in the opinion of the monitoring Officer allege a serious breach of the Code of Conduct. The Monitoring Officer will advise on the suitability of this process based on the facts/circumstances of each case. Examples of what might be regarded as serious breaches include (but are not limited to);

        - Whether the member deliberately sought personal gain for themselves or another person at the public expense
        - Whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to a person
        - Whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity
        - Alleging repeated breaches of the code of conduct

2. The process is confidential, and information will only be shared outside of those involved in the process, by agreement, aside from statistical data that is provided to the Standards Committee for its Annual Report. At each stage there will be a confidential outcome letter that will record in summary what was discussed and any agreed actions.

3. The process is consensual and all parties must agree to its use, and to progress from Stage 1 to Stage 2

Stage 1 of the Procedure

4. Anyone who wishes to submit an allegation under this procedure should send the complaint (in the case of an officer following consultation with the Head of Department) to the Monitoring Officer. Following receipt of the complaint the Monitoring Officer will act as follows:-

5. In the first place a brief preliminary investigation will be held to establish the facts (where possible) and the areas of dispute. A copy of the complaint will be sent to the member within 7 working days of receipt of the full complaint. In the case of a complaint by members against members the Monitoring Officer will send a copy of the compliant to the Group Leader of the member complained about. Possible resolution will be explored with the complainant and the member about whom the complaint is made to establish whether the complaint can be resolved quickly. With the agreement of the complaining member and the member complained against the relevant Group Leaders may be brought into the process at this point to support the process. At this stage the complainant will also be advised whether another course of action (e.g. referral to the Ombudsman) is more appropriate. This stage may be undertaken by the Monitoring Officer personally or by another officer appointed by him.

6. If following the first stage the complainant wishes to proceed with the allegation under this procedure the matter may be referred to a conciliation meeting under Stage 2.

Stage 2 of the Procedure.

7. At Stage 2 a meeting will be held between the person making the complaint, the member against whom the complaint is made, the Monitoring Officer and (if deemed appropriate) other persons invited by the Monitoring Officer. Such persons could include, but are not limited to, the Chief Executive and the Group Leader of the relevant political group(s). It is possible for an officer to have a colleague or senior officer from the department with him/her. It is also possible for the matter to be dealt with in the officer's absence in exceptional cases. The purpose of this meeting will be to try and resolve the matter without it going further.