



County Hall  
Rhadyr  
Usk  
NP15 1GA

7<sup>th</sup> January 2014

Notice of meeting:

**Standards Committee**  
**Monday 13<sup>th</sup> January 2014 at 9.30am**  
**Council Chamber, County Hall, Rhadyr, Usk, NP15 1GA**

**Agenda**

Item No	Item
1.	Apologies for absence.
2.	Declarations of Interest
3.	To confirm and sign the minutes of the meeting held on 3 <sup>rd</sup> October 2013 (copy attached).
4.	Reports of the Monitoring Officer (copies attached):  i) Guidance on Gifts and Hospitality Register for Members ii) Member Protocol for Self-Regulation iii) Protocol on Member/Officer Relations
5.	To receive for information and comment, a report by the Monitoring Officer to County Council on Family Absence for Members.
6.	To note the date and time of next meeting: Monday 3 <sup>rd</sup> March 2014 – 2.00pm

**Paul Matthews**

**Chief Executive**

## Standards Committee Membership

Independent Representatives: Mrs P Reeves (Vice Chairman), Mr T.Auld, Mr.G.Powell, Mr. G. Preece, Mr. M. Sutton

Councillors: County Councillor D.J.Evans  
County Councillor R. P. Jordan  
County Councillor D.L.Edwards

## Connecting with people

### Our outcomes

The Council has agreed five whole population outcomes. These are *People in Monmouthshire will*:

- Live safely and are protected from harm
- Live healthy and fulfilled lives
- Benefit from education, training and skills development
- Benefit from an economy which is prosperous and supports enterprise and sustainable growth
- Benefit from an environment that is diverse, vibrant and sustainable

### Our priorities

- Schools
- Protection of vulnerable people
- Supporting enterprise, job creation and entrepreneurship

### Values

- \* **Openness:** we aspire to be open and honest to develop trusting relationships.
- \* **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- \* **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- \* **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

**Minutes of a meeting of the Standards Committee held at County Hall, Usk, on  
Thursday 3<sup>rd</sup> October 2013 at 9.30 a.m.**

**PRESENT:**

Mrs P Reeves (Chairman)  
County Councillors D.L. Edwards and D.J. Evans

**INDEPENDENT REPRESENTATIVES:**

Mr T. Auld, Mr G Powell, Mr G. Preece and Mr M. Sutton.

**COMMUNITY REPRESENTATIVE:**

Community Councillor D. Hedley

**IN ATTENDANCE:**

Mr. S.M.W. Andrews- Monitoring Officer  
Mr R. Tranter – Deputy Monitoring Officer  
Mrs S. King - Democratic Services Officer

**1 APOLOGIES FOR ABSENCE**

Apologies were received from County Councillor P. Jordan.

**2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3 MINUTES**

We resolved that the minutes of the meeting held on 3<sup>rd</sup> June 2013 be confirmed as correct record and signed by the Chairman.

**4 ALLEGATION OF A BREACH OF CALDICOT TOWN COUNCIL'S CODE OF CONDUCT FOR MEMBERS**

County Councillor D Evans requested advice, as he had declared an interest and left the Town Council meeting, where the issue that gave rise to this item had previously been raised. The Monitoring Officer advised that it was an issue for an individual member to consider but he would have to be satisfied that he would be able to reach a decision on merit and in the public interest. Councillor Evans remained in this Standards meeting during consideration of the item.

The Monitoring Officer advised that where he had historically formally provided advice to the committee, in future the role would be split with the Deputy Monitoring Officer, this was dependent on which officer had written the report for the committee.

**Minutes of the Standards Committee  
on Thursday 3<sup>rd</sup> October 2013 at 9.30 a.m.**

We received a report of the Monitoring Officer to the Standards Committee, who agreed that Town Councillor Julia Haskey had failed to comply with Caldicot Town Council's Code of Conduct for Members.

The committee were invited to consider whether there is evidence of failure to comply with the Town Council's Code of Conduct and if so, what, if any action should be taken in respect of the failure.

Members of the Standards Committee confirmed that they had received additional information, a letter, from Town Councillor Julia Haskey, who was not present at the meeting.

A formal consideration of disputed facts had not been undertaken by the Monitoring Officer due to comments made by the committee at the hearing on 3<sup>rd</sup> June 2013. The report incorporated a summary of activities that occurred during November 2011.

The Ombudsman investigated the complaint and concluded that whilst there was evidence to suggest that a breach of paragraph 11(1) of the Code may have occurred, he was not persuaded that the sanction would be applied if this matter were to be referred to the Standards Committee of the Council.

Councillor Julia Haskey had acknowledged that a breach had occurred and she had attended training provided by the Monitoring Officer in relation to the code of conduct, she had been advised to be diligent in declaring future interests.

During discussion we noted the following points:

- The requirements of the Code of Conduct relating to interests had been explained to Councillor Haskey and training had been provided by the Monitoring Officer. The Monitoring Officer was now satisfied that she understands the requirements of the Code.
- Members were disappointed that Councillor Haskey had not attended the Standards committee meeting. We were advised that Councillor Haskey had been unable to get leave from her employment.
- During a meeting in October 2012, Councillor Haskey acknowledged that she should have declared an interest in the meeting held in November 2011.
- The committee were advised that there were three courses of possible action, which were, no action, specific action i.e. training, censure or suspension. We agreed that the breach did not warrant suspension.
- Members agreed to deal with the breach in the absence of Councillor Haskey.
- Members felt that a letter should accompany the resolution, which would highlight the importance of training for members.

The Monitoring Officer left the meeting and the committee deliberated the course of action.

Town Councils would retain attendance lists of training attended by Members.

**Minutes of the Standards Committee  
on Thursday 3<sup>rd</sup> October 2013 at 9.30 a.m.**

We resolved that no further action would be taken but recommended that a letter was sent to Councillor Haskey requiring attendance at further training by the end of 2013.

The Monitoring Officer returned to the meeting.

Training had not been provided since the election in 2012. It was agreed that Democratic Services would arrange Code of Conduct training for all members as soon as possible.

The committee were invited to consider the new process where cases were referred to the Monitoring Officer by the Ombudsman and whether these should be considered by the Standards Committee. During discussion we noted:

- It was recognised that all cases were different and it would be inappropriate for the committee to be briefed on any potential cases beforehand. Each case should be considered on individual merits.
- All matters received by the Standards committee would initially be received by the Ombudsman, who would look at evidence and decide whether to investigate or refer to the Monitoring Officer or take no further action.
- We were advised that the Ombudsman was in the process of removing cases from his remit.

We resolved that the Monitoring Officer would look at practice undertaken by other local authorities.

## **5 WLGA SOCIAL MEDIA GUIDE FOR COUNCILLORS**

The committee were provided with a copy of the Welsh Local Government Association Guide for Members on the use of Social Media.

It was requested that the document was included on the agenda of the next Democratic Services Committee.

We recognised that there was a requirement for members to be aware of how and where social media was used and in conjunction should have regard for the Monmouthshire County Council Code of Conduct.

The committee resolved that the County Council's social media policy would be included on the agenda of the next Standards meeting.

## **6 ANNUAL STANDARDS CONFERENCE – APRIL 2013**

We received the notes of the Annual Standards Conference, held in Llandudno on 19<sup>th</sup> April 2013.

Members were asked to note the address made by the Ombudsman at the Conference and receive further notes of the workshop on the Proactive Promotion of Standards and feedback information to inform the future work of the committee.

**Minutes of the Standards Committee  
on Thursday 3<sup>rd</sup> October 2013 at 9.30 a.m.**

The committee were invited to comment on the possibility of a Standards Committee rolling work programme.

We resolved that Members would email the Monitoring Officer and Deputy Monitoring Officer with items to be included on the future work programme.

## **7 REVIEW OF COUNCIL'S CONSTITUTION**

Monitoring Officers in Wales have collaborated in a revision of a model constitution for consideration by their respective authorities. The Council's Democratic Services Committee is tasked with reviewing the model with a view to its adoption by Council. Elements of the Constitution are of particular relevance to the Standards Committee. The review will also incorporate changes introduced by the Local Government (Democracy) (Wales) Act, significant provisions of which came into effect on 1 October.

The committee were advised that this was an opportune time to review and refresh the constitution. The Democratic Services Committee, would consider the first 55 pages of the current constitution, the Scrutiny Chairs would look at the areas relating to select committees and it was suggested that Standards Committee could consider areas relating to protocol, local resolution, rules of procedure and code of conduct.

We resolved that an item would be included on the next agenda relating to parts of the constitution, as follows:

- Code of Conduct
- Local Resolution Process
- Members/Officers complaints protocol
- Planning Protocol

The Standards Committee members would receive a full electronic copy of the constitution.

## **8 SUSPENSION PROTOCOL**

The committee received a report from the Monitoring Officer which set out the effect of suspension for members and officers.

We resolved to note the report.

## **9 REVIEW OF GIFTS AND HOSPITALITY**

The Gifts and Hospitality register was presented for members' information. Two issues were raised for consideration:

- 1) Whether gifts offered but declined were registered and
- 2) Whether the register should be published.

**Minutes of the Standards Committee  
on Thursday 3<sup>rd</sup> October 2013 at 9.30 a.m.**

The local authority is required to maintain a register of gifts and hospitality. The Code of Conduct requires any gifts with a value of £25 or over to be registered. There is no legal obligation for the register to be published.

Discussions were held regarding the perceived notion that if Councillors declared gifts or hospitality in the register then acceptance would be excused. The Monitoring Officer clarified that in accordance with Paragraph 9 of the Code of Conduct 'improper obligation', members must not put themselves in a position where they are obliged to another person and they would not be absolved by including the gift in the register.

The Monitoring Officer would investigate practice undertaken by other authorities. The Register of Members' interests is to be published on the Council's website and the committee were invited to consider whether the gifts and hospitality register should be published, whether availability should be advertised and if the £25 threshold was appropriate.

Members were encouraged to reflect on whether:

- 1) Gifts declined should be recorded
- 2) Guidance for members should be issued on receiving gifts/hospitality

It was requested that Democratic Services would create an electronic version of the register.

**10 DATE AND TIME OF NEXT MEETING**

We resolved that the meeting due to be held in December 2013 would be postponed.

The next meeting would be held on **Monday 13<sup>th</sup> January 2013 at 9.30am.**

**The meeting ended at 12.15 p.m.**





## Agenda Item 4i

<p><b>SUBJECT: Guidance on Gifts and Hospitality Register for Members</b> <b>MEETING: Standards Committee</b> <b>DATE: 13 January 2014</b> <b>DIVISION/WARDS AFFECTED: All</b></p>
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### 1. PURPOSE:

At its last meeting this committee requested the Monitoring Officer to produce draft Guidance for consideration before issuing to members and co-opted members

### 2. RECOMMENDATIONS:

Members consider the attached draft Guidance, including foreword from the committee chair.

### 3. KEY ISSUES:

The Code of Conduct requires that members “must, within 28 days of receiving any gift, hospitality material benefit or advantage above £25, provide written notification to the monitoring officer of the existence and nature of that gift, hospitality material benefit or advantage”.

A Member’s personal reputation and that of the Council can be seriously jeopardised by the acceptance of a gift or hospitality although this is not always unlawful or inappropriate.

The guidance does not apply to:

- Gifts and hospitality from family and friends (as birthday or other festive presents) that are not related to the recipient’s position as a member.
- The acceptance of facilities or hospitality provided to a member by the Council.
- Gifts given to the Council that are accepted formally on the council’s behalf and retained by the council and not by a member personally.

The Register of Interests is available for public inspection. The view of the Information Commissioner has been sought as to whether the publication of the register on-line would breach any of the data protection principles. At the time of writing this report his view is awaited but members will be updated when the committee meets.

### 4. REASONS:

The Standards committee is charged with monitoring the operation of the Council’s Code and assisting members and co-opted members in observing its requirements.

### 5. RESOURCE IMPLICATIONS:

None

**6. SUSTAINABLE DEVELOPMENT AND EQUALITIES IMPLICATIONS:**

None.

**7. CONSULTEES:**

The Chief Executive, Political Group Leaders and the Chair of this committee have seen a draft of the attached Guidance.

**8. BACKGROUND PAPERS:**

The County Council's Code of Conduct for Members

**9, AUTHOR:** S.M.W. Andrews, Monitoring Officer.

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**E-mail:** murrayandrews@monmouthshire.gov.uk

## **FOREWORD BY THE CHAIR OF THE STANDARDS COMMITTEE**

In January 2011 Monmouthshire County Council adopted a revised Code of Conduct (The Code) for its members, including co-opted members. The Code is based on the statutory model code of conduct for all relevant authorities in Wales.

As well as our general role in promoting and maintaining high standards of conduct by the members and co-opted members of the Council, the Standards committee is charged with monitoring the operation of the Council's Code and assisting members and co-opted members in observing its requirements.

Paragraph 17 of the Code requires members to notify the Monitoring Officer in writing of the nature of any gift, hospitality or material benefit or advantage received above the value of £25, within 28 days of receipt.

Paragraph 9(b) of the Code requires members to avoid accepting any gifts, hospitality, material benefits or services for themselves or any person which might place them, or reasonably appear to place them, under an improper obligation

The Code also requires that at all times, members do not conduct themselves in a manner which could reasonably be regarded as bringing the office of member or the Council itself into disrepute, or use or attempt to use their your position improperly to confer or secure, for themselves or any other person, an advantage or disadvantage.

The Standards Committee has therefore proposed that the Council adopts this Guidance to guide you, its members and co-opted members where you are faced with the offer of a gift or hospitality. The improper acceptance of such a gift or hospitality as an inducement or reward in connection with your role as a member can have a deleterious effect on the reputation of both you individually and the Council as a whole. Such actions therefore call into question the Council's ability to act generally in the public interest.

This guidance is designed to assist you in complying with these provisions of the Code and in avoiding a situation where your integrity may be called into question as a result of accepting a gift or hospitality.

Penny Reeves

Chair of Monmouthshire County Council Standards Committee

Date

# **Gifts and Hospitality**

## **Guidance for Members and Co-Opted Members**

This guidance has been adopted by the Council to advise Members about accepting and registering gifts and hospitality. It sets out the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality. It includes a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council. This Guidance does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Council.

The terms “gift” and “hospitality” includes but is not limited to any food, drink, accommodation or entertainment freely provided or heavily discounted, the free gift of goods or services, money, gift vouchers, lottery and raffle tickets.

### **1. INTRODUCTION**

The registration of acceptance of gifts and hospitality by members is not merely an administrative matter. A member’s personal reputation and that of the Council can be seriously jeopardised by the inappropriate acceptance of a gift or hospitality. It reflects directly upon the public perception of members and the Council as acting in the public interest rather than acting for the personal advantage of friends or family and for what personal benefit members can derive from their position.

The law on the acceptance of gifts and hospitality is set out in the Council’s Code of Conduct for Members and in the Bribery Act 2010. It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Authority. The acceptance of any gift or hospitality in breach of the Code, or the failure to declare the receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. The corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to ten years imprisonment.

### **2. SCOPE OF THIS GUIDANCE**

The Council’s Code of Conduct for Members (“The Code”) applies to gifts and hospitality received as a member of the Council. Therefore, this Guidance relates to any offer, gift, favour or hospitality that is made, given, or afforded to you in your capacity as a Member. It is not intended to cover the ordinary social relationships which people enjoy with friends, (for example gifts received as birthday or other festival presents) provided that the friend is not applying to the Council for anything, seeking to do business with the Council, or involved in an business relationship with the Council. You should also be cautious of gifts or hospitality offered by an unfamiliar source.

The Code only requires you to register gifts or hospitality received above the value of £25. However, this Guidance encourages you also to declare any gift or hospitality of

value over £25 that has been offered but declined by you, as this helps to promote transparency.

The Code does not generally affect the provision of gifts made to the Council. However, members should avoid soliciting gifts on behalf of the Council, without first seeking advice from the Monitoring Officer.

This Guidance sets out:

- the general principles that you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality (Section 3)
- Examples of situations where it may be acceptable to receive a gift or hospitality (section 4)
- Advice on valuing gifts and hospitality (section 5)
- A procedure for declaring any gift or hospitality of a value of over £25, whether accepted or declined (Section 6)

### **3. GENERAL PRINCIPLES**

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles:

**3.1 Never accept a gift or hospitality as an inducement or reward for anything done as a member or co-opted member of the Council, or as a means of gaining influence. Members**

As a Member, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, inducement, reward or absence of inducement for discharging those duties in a particular manner.

The Code of Conduct for Members provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

**3.2 Never accept a gift or hospitality if acceptance might be open to misinterpretation**

The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. Gifts or hospitality offered should not be accepted where the circumstances are likely to be misinterpreted by a reasonable member of the public. The appearance of impropriety can be as damaging to members and the Council as actual impropriety.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. Examples of situations where the Council could be challenged or discredited include:-

- (i) Occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
- (ii) Determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination;
- (iii) Determination of grants or other requests for funding.

### 3.3 Never accept a gift or hospitality which puts you under an improper obligation

Some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

### 3.4 Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a member of the Council unless the acceptance of that gift or hospitality would be permitted under this Guidance. You should also take care to avoid giving any indication that you might be open to such any improper offer.

### 3.5 You should only accept hospitality if there is a commensurate benefit to the Council.

The only proper reason for accepting hospitality is that there is a commensurate and proportionate benefit for the Council and/or the public whom it represents.

Acceptance of hospitality can confer a legitimate advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch/dinner etc. or to canvass and promote the interests of the Council and its area at a meeting.

Unless the benefit to the Council is clear, and is commensurate with the value of the hospitality, the presumption must be that the hospitality is purely for your personal benefit.

## **4. EXAMPLES WHERE ACCEPTANCE OF GIFTS AND HOSPITALITY MAY BE PERMITTED**

Subject to the general principles set out above, you may accept a gift or hospitality in the following circumstances:-

- civic hospitality offered by another public authority, including other county and county borough councils, community councils, fire and rescue authorities and national park authorities
- reasonable refreshment in connection with any meeting or visit in the ordinary course of your duties as a member of the Council, such as tea, coffee, soft drinks and biscuits, unless for example you are a member of the planning committee and the person providing the refreshments is the applicant for planning permission.
- Council-sponsored events-tickets for sporting, cultural and entertainment events that are sponsored by the Council
- Small gifts with a low intrinsic value below £25, such as pens, pencils, mouse pads, calendars and diaries
- Modest working lunches, provided to enable the parties to discuss business
- Souvenir gifts, received from another public authority with a value of below £25 given on the occasion of a visit by or to that authority
- Reasonable hospitality, provided at external visits, meetings or conferences provided that this is also available to other attendees

## **5. VALUING GIFTS AND HOSPITALITY OFFERED**

In order to decide whether you need to declare the offer of a gift or hospitality you will need to estimate whether the value of the gift or hospitality is above £25. In most cases it should be possible to estimate whether a gift is likely to exceed £25 in value. A series of small gifts from the same source over a short period of time with a cumulative value of over £25 should be registered.

The value of hospitality may be more difficult to estimate, but this should still be possible, given a degree of common sense. You should try to assess the value of the hospitality on offer (regardless of whether or not it is accepted) and consider how much a person could reasonably expect to pay for an equivalent function or event run on a commercial basis. This is the preferred approach, as we believe that it would not be in your interests to be drawn into arguments about how much you ate or drank at a particular occasion. Where you are in any doubt the prudent course is to register the hospitality.

## **6. PROCEDURE FOR DECLARING GIFTS AND HOSPITALITY OVER £25 IN VALUE**

If you accept any gift or hospitality which you estimate to have a market value or cost of provision of over £25 then paragraph 17 of the Code requires you to notify the Council's Monitoring Officer in writing as soon as possible and in any event within 28 days of receipt of the gift or hospitality.

The form in the Appendix to this Guidance has been designed to enable you to comply with paragraph 17, but the information can be sent by any other written means as is convenient to you. The register will be available for public inspection during the term of the Council.

The Council's Standards Committee have also recommended that you also notify the Monitoring Officer in writing of the offer of any gift or hospitality that exceeds £25 in value, where offer of the gift or hospitality has been declined.

You may also wish to voluntarily declare the receipt (or the offer, where declined) of gifts and hospitality under £25 in value where you might be concerned that its acceptance (or offer) might be misinterpreted, for example where the person or organisation offering the gift or hospitality is connected with a situation given in the examples at Section 3.2 of this Guidance.

## **7. GIFTS TO THE COUNCIL**

Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council. You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements.

If you receive such an offer on behalf of the Council, you should report the offer directly to the Monitoring Officer. The Monitoring Officer will then write back to the person or organisation making the offer to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should inform the Monitoring Officer directly.

## **8. PREJUDICIAL INTERESTS**

You need to be aware that the receipt of a gift or hospitality may be a prejudicial interest and the rules in relation to prejudicial interests in the Code would apply. That is to say you may need to declare the interest, leave the room in which the matter is being considered, and not participate in any way in the discussion/decision making process. The Register of Members' interests is available to view on the Council's website.

## **9. DEFINITIONS**

9.1 "Gift or hospitality" includes:

(i) the free gift of any goods or services;



(ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public;

(iii) the opportunity to obtain any goods or services which are not available to the general public;

(iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

9.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:

(i) your estimate of the cost to the person or organisation of providing the gift or consideration.

(ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

9.2 Gifts or hospitality received from one individual or organisation over £25.00 in aggregate over any 12 month period should be registered under paragraph 17 of the Code.

Details of gifts and hospitality are personal interests that will be made available in the public register of member’s interests kept by the Monitoring Officer under Section 81 of the Local Government Act 2000.

## APPENDIX

Monmouthshire County Council

### DECLARATION BY MEMBERS AND CO-OPTED MEMBERS OF OFFER OF GIFT AND/OR HOSPITALITY

Please read the guidelines set out in the Guidance on Gifts and Hospitality and then complete the details below.

Name of Councillor

Name of Donor

Description of gift/hospitality

Value of gift/hospitality

Was the gift/hospitality accepted?

Details of any contract the Donor is interested in securing or any other business of the Council

Councillor's comments (if any)

Signed

Date

When completed this form should be forwarded to Mr Murray Andrews, Monitoring Officer, County Hall, Usk

**SUBJECT: Member Protocol for Self-Regulation**  
**MEETING: Standards Committee**  
**DATE: 13 January 2014**  
**DIVISION/WARDS AFFECTED: All**

**1. PURPOSE:**

To review the protocol for Self-Regulation agreed by the Council in January 2013

**2. RECOMMENDATIONS:**

To review the operation of the protocol for self-regulation as set out at Appendix A with particular regard to the Protocol - Standard of Conduct Expected of Members as included in the review of Councils' Constitutions generally across Wales and set out at Appendix B.

**3. KEY ISSUES:**

Following amended guidance issued by the Public Services Ombudsman for Wales (PSOW) in September 2012 "*to deal with low level complaints which are made by a member against a fellow member*" and on the recommendation of this committee, the Council adopted a local resolution procedure for "Member-on-member" disputes.

At the time of its adoption, it was agreed that the operation of the protocol should be reviewed in January 2014. In the event, whilst the deputy Monitoring Officer and I have advised two members of the availability of the protocol, we are not aware that Group Leaders have formally considered any complaints. Certainly none have reached the stage where the Monitoring Officer and Standards Committee have had to become involved. Members may feel, therefore that it is a little premature to consider any amendments to the substance of the protocol.

I have asked the Head of Democratic Services for an update on annual reports, training and development and shall report orally at the committee meeting. In terms of attendance at ethical framework training, 22 elected members attended the training session held on 26 November. Three independent members of the Standards committee also attended as well as one co-opted member of the Adults select committee.

The Council's protocol on self-regulation is similar to a number of other authorities'. The new model constitution which is currently under consideration includes a protocol on the standard of conduct expected of members (attached). Members may feel that this would be a useful appendix to the Council's protocol.

**4. REASONS:**

To keep the conduct of members towards each other and the protocol for dealing with any complaints under review.

**5. RESOURCE IMPLICATIONS:**

None identified

**6. EQUALITIES AND SUSTAINABLE DEVELOPMENT IMPLICATIONS:**

None identified

**7. CONSULTEES:**

Head of Legal Services (Deputy Monitoring Officer)  
Head of Local Democracy

**8. BACKGROUND PAPERS:**

The Code of Conduct for members of local authorities in Wales - Guidance from the Public Services Ombudsman for Wales issued September 2012 – *available here:*

<http://thepoint.monmouthshire.gov.uk/Directorates/CE/monitoringofficer/Shared%20Documents/120930%20PSOW%20Guidance%20for%20Members%27%20Code%20of%20Conduct.pdf>

**9, AUTHOR:**

S.M.W. Andrews, Monitoring Officer.

**9. CONTACT DETAILS:**

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## **Protocol for Self-Regulation of Member Conduct**

### **General Principles**

1. To promote high standards of conduct and behaviour as a means of strengthening respect and trust amongst members.
2. The protocol does not replace the Member-Officer Relations Protocol set out in the Council's Constitution.
3. It is NOT intended to replace the Code of Conduct rather it is intended to sit alongside it, enabling behaviour which may not reach the Ombudsman's threshold to be dealt with.
4. Members will make all reasonable attempts to resolve disputes through agreed internal processes subject to their obligations under the Members' Code of Conduct.
5. Members will avoid personal confrontation in any public forum, especially full Council and through the media.
6. These commitments will not stifle legitimate political debate or scrutiny.
7. Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for their own members.
8. Group Leaders individually and collectively will work to ensure compliance with this protocol.
9. Members will commit to training and development in support of this protocol

### **Working to avoid problems**

To minimise the number of instances of alleged breaches all Group Leaders are asked to commit to:-

1. A Member Learning and Development Strategy – to which they will seek to secure the commitment of their group members. All reasonable endeavours will be made to ensure that the Learning and Development Strategy identifies and responds to the needs of members.
2. Attending relevant Member training events - in particular those relating to the Code of Conduct or probity courses within the scope of their role.
3. Support the provision made by the County Council for complying with sections 5 and 7 of the Local Government Measure 2011 (Annual reports & Training and development)

### **Role of Group Leaders**

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group Leader, who will then refer

the issue to the Group Leader with responsibility for the member against whom the complaint is made.

Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal, resolved through face to face meetings. Group Leaders will need to retain some records but the process will not be “document heavy”. The emphasis should be on training, education, mediation and conciliation.

When appropriate, a sanction such as removal from a committee or an outside body, may be used in extreme cases or after persistent breaches and the matter will be referred to the Public Services Ombudsman for Wales.

Prior to considering any sanction, or training, the relevant Group Leader may consult with a member of the Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.

At the next available Group Leaders’ meeting any issue of discipline which has been referred to a Group Leader will be discussed with the group and with the objective of seeking to ensure that fair and consistent sanctions are applied.

### **Unaffiliated Members**

As far as unaffiliated members are concerned, the Chair of the Council will fulfil the role of Group Leader. Concerns regarding the conduct of an unaffiliated member should be referred to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation.

In the event that an unaffiliated member refuses to provide reasonable co-operation to the Chair of the Council, or if the breach is significant, or in the event of repeated breaches, then the Council may remove the unaffiliated member from any committee seats allocated by the full Council. Such a proposal should be put to the Council jointly by the Group Leaders. In the case of persistent breaches the matter shall be referred to the Ombudsman by the Monitoring Officer or in his/her absence the Deputy Monitoring Officer.

### **Persistent Breaches**

In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Chief Executive and Monitoring Officer to agree a way forward. Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches. The collective Group Leaders will also assume this responsibility in relation to unaffiliated members.

## **Standards Committee**

- The Standards Committee Members will play a supporting/advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader, in a particular case.
- Such meetings will be private and informal.
- Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the members of the Standards Committee shall remain private and confidential.
- When acting in an advisory role to the Group Leaders/Chair of the Council, the Standards Committee has no right of sanction. However, it shall be open to the Group Leader to request that the Standards Committee, as a last resort, issue a public censure against a group member. Where this is to be considered, the member who may be subject to censure, will be provided with a reasonable opportunity to make submissions to the Standards Committee members, either in person or in writing.
- The recommendations available to the Standards Committee will include a recommendation that a Group Leader takes action against one of their members, including removal from committee or outside body.

This Protocol will be reviewed in January 2014

**Protocol - Standard of Conduct Expected of Members**

This protocol sets out the standards of conduct expected from Members within Monmouthshire County Council in dealing with each other. It should be read in conjunction with the Members Code of Conduct and the Local Resolution Procedure. It adds to these documents and does not detract from them.

Members are expected to:

**1. PUBLIC BEHAVIOUR**

- 1.1 show respect to each other;
- 1.2 not to make personal abusive comments about each other;
- 1.3 not to publish anything insulting about each other;
- 1.4 not to make malicious allegations against each other;
- 1.5 not to publish or spread any false information about each other;
- 1.6 show respect to diversity and equality;

**2. BEHAVIOUR IN MEETINGS**

- 2.1 behave with dignity;
- 2.2 show respect to the Chair and obey his/her decisions;
- 2.3 not to use indecent language nor make racial remarks or remarks which prejudice any section of society;

**3. CONFIDENTIALITY**

- 3.1 keep the confidentiality of exempt papers and any other documents which are not public;
- 3.2 not to release confidential information to the press or the public;
- 3.3 not to use confidential information for purposes other than intended;

**4. LOCAL MEMBERS**

- 4.1 work with Members of adjoining electoral divisions for the benefit of the locality;
- 4.2 if dealing with any matter relating to another electoral division:
  - 4.2.1 explain to anyone seeking assistance that he/she is not the local Member;
  - 4.2.2 inform the local Member, unless it would lead to a breach of confidentiality.



**SUBJECT: Protocol on Member/Officer Relations**  
**MEETING: Standards Committee**  
**DATE: 13 January 2014**  
**DIVISION/WARDS AFFECTED: All**

**1. PURPOSE:**

To review the protocol on Member/Officer Relations agreed by the Council on the recommendation of the Standards Committee in February 2009

**2. RECOMMENDATIONS:**

To consider whether, as part of the overall review of the Council's constitution, the new model protocol on member/officer relations should replace, or inform a review of the existing protocol.

**3. KEY ISSUES:**

Members will be aware that the County Council is engaged generally on a review of its consultation following the production of a model constitution under the auspices of Monitoring Officers across Wales and funded by the Welsh Local Government Association

A number of the constituent parts of the new model constitution will be of interest and relevance to the Standards Committee. The current protocol on Member/Officer relations (attached at Appendix 1) has been in place since 2009. Its effectiveness may be judged against the number (just one) of complaints formally considered by the Standards Committee.

The protocol now suggested in the new model constitution is attached at Appendix 2. A significant advantage in considering the adoption of the new protocol is that potentially it is a document that could be adopted across Wales and offer a degree of consistency in dealing with this aspect of Local Authorities' ethical framework.

**4. REASONS:**

The Standards Committee's terms of reference include "monitoring and from time to time reviewing the operation of the Members' Code of Conduct and protocols which apply to members of the Council, employees, contractors and other parties or organisations associated with Council activity".

**5. RESOURCE IMPLICATIONS:**

None identified

**6. EQUALITIES AND SUSTAINABLE DEVELOPMENT IMPLICATIONS:**

None identified

**7. CONSULTEES:**

Head of Legal Services (Deputy Monitoring Officer)

**8. BACKGROUND PAPERS:**

None

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# **MONMOUTHSHIRE COUNTY COUNCIL**

## **PROTOCOL FOR MEMBER AND OFFICER RELATIONS**

## **PROTOCOL FOR MEMBER AND OFFICER RELATIONS**

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## **PROTOCOL FOR MEMBER AND OFFICER RELATIONS**

### **1 Introduction**

- 1.1 The Local Government Act 2000 introduced a new ethical framework for local government with the introduction of a new statutory code of conduct for employees and requirement for local authorities to adopt a Members' code of conduct and appoint a Standards Committee.
- 1.2 The Members' code of conduct addresses in general terms the aspects of a Member's conduct in carrying out the whole range of official duties and has direct relevance to the relations between Members and officers.
- 1.3 The Council seeks an excellent working relationship between Members and officers as the best means of ensuring clear and consistent strategy and proper representation by outside interests in the work of the Council. Such good working relationships require this protocol as a framework.
- 1.4 This protocol guides Members and officers of the Council in their relations with one another. To a large extent it is no more than a statement of current practice and convention. It is neither prescriptive nor comprehensive but aims to promote clarity and certainty. Accordingly it will be kept under review and amended as necessary. This first edition of the protocol addresses the issues which most commonly arise. As such, it may also serve to provide guidance on dealing with other issues.
- 1.5 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity of the Council in the eyes of the people it serves.

### **2 Member/Officer relations**

- 2.1 Both Members and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Members represent the wider public and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council and to carry out the Council's work under the direction and control of the Council, its Cabinet, Committees and Sub-Committees.
- 2.2 Members should respect the role of the Council's officers and treat them in a way that engenders mutual respect at all times which is essential to good local government.

- 2.3 Officers should respect the role of the Council's Members and treat them in a way that engenders mutual respect at all times which is essential to good local government.

*Expectations*

- 2.4 Members can expect from officers:

- commitment to the Council as a whole and not only to any part of it
- respect and courtesy and adherence to the Council's Values
- the highest standards of integrity
- a working partnership
- an understanding of and support for respective roles, workloads and pressures
- timely responses to enquiries and complaints
- professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
- regular up to date information that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold
- awareness of and sensitivity to the political environment
- training and development in order to carry out their role effectively
- appropriate confidentiality
- that they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly
- support for the role of Members within the arrangements made by Council compliance with the protocols at all times.

- 2.5 Officers can expect from Members:

- respect, courtesy and adherence to the Council's Values
- the highest standards of integrity

- a working partnership
- an understanding of and support for respective roles, workloads and pressures
- leadership
- appropriate confidentiality
- not to be subject to bullying, or discrimination or to be put under undue pressure
- that Members will not use their position or relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly
- compliance with the Members' Code of Conduct and protocols at all times.

### *Working relationships*

- 2.6 Both Members and officers should take care not to give the impression that their distinct roles have become blurred in some way. Maintaining confidence in the separation of these roles necessarily imposes limitations on behaviour. Members and officers should exercise caution in forming close personal friendships between each other. This can confuse their separate roles and affect the proper discharge of the Council's functions. The perception could be in others that a particular Member or officer may be able to secure advantageous treatment as a result of such a friendship. Where a relative or close personal friend of an employee becomes a Member of the Council the employee should make the circumstances known to the Chief Executive.
- 2.7 Bullying, intimidation or harassment can take many forms and is not limited to actions intended to influence unfairly someone's actions, thoughts or deeds. Whilst no policy statement can give guidance on every instance where such behaviour may occur the Council is committed to promoting standards of behaviour which reflect the proper, professional, working relationship which should exist between Members and officers at all times and to ensure normal standards of courtesy and behaviour between individuals.
- 2.8 All dealings between Members and officers should, therefore, 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 Chief Executive, a Corporate Director or the Monitoring Officer. It is particularly important that such complaints are made in this way and are not aired in public

such as at a meeting of the Authority, other external bodies or in the press.

- 2.9 The corollary to the Member's concern about an officer's performance is a concern by an Officer in relation to a Member's conduct. All such concerns should be brought personally to the attention of the Chief Executive or in his/her absence a Corporate Director and the Monitoring Officer.

### **3 Roles of Members**

Members have three main areas of responsibility: determining the policy of the Council and giving it political Leadership; representing the Council externally; acting as advocates on behalf of their constituents. It is not the role of members to involve themselves in the day to day implementation of policies and the management of Council services. Members have a right to ensure that their decisions for which they are statutorily responsible and accountable are implemented by officers. Officers should demonstrate that they are sensitive to Members' aspirations underlying those policies.

#### **3.1 Members of the Executive, Chairmen and Vice-Chairmen**

Members of the Executive and Chairmen and Vice-Chairmen of Committees have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than, those of members without those responsibilities and this is recognised in the expectations they are entitled to have.

#### **3.2 Other Members**

As individual members of the Council, all members have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of Overview and Scrutiny. However, where independent members or a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between employees, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

### **4 Rights and duties of individual Members**

- 4.1 All members have the right
- of access to Committee papers



- to attend meetings
- to see the accounts and make copies, and before the annual audit to inspect specific books, contracts, bills etc
- to receive approved allowances.

4.2 There are also duties on individual Members, principally:

- to abide by the Council's Members' Code of Conduct and protocols
- to disclose personal interests in any matter before meetings of the Council, Cabinet, Committees, Sub-Committees and other meetings
- to register the receipt of any gifts and hospitality
- to attend meetings of the Council, its Committees, Sub-Committees, other events and any outside bodies to which they have been appointed
- to attend and participate in opportunities for training and development
- to take into account advice provided by the Chief Executive, Chief Finance Officer, Monitoring Officer, Chief Legal Officer and other officers of the Council.

## **5 Inspection of documents**

5.1 The Council wishes to conduct its affairs in an open and transparent way and to give Members maximum access to information and documents to enable them to discharge their role as Members of the Council. Requests for information can range from general information about some aspect of the Council's work to specific requests for information on behalf of a member of the public. Under the Freedom of Information Act (FoIA), both members of the public and Members of the Council have the same rights of access to information. However, some types of information, such as information that would infringe someone's Data Protection rights or breach confidentiality, or where release of the information would prejudice an investigation, are exempt from the Act. In general terms, Members requests for information should be considered under their rights and obligations as councillors without the need for the formality of an application under the FoIA. Where requests for information are made by a Member on behalf of a member of the public, the Member should make this clear at the time of making the request. Such requests should be made to senior officers to avoid putting junior staff in a difficult position. This type of request will be treated in the same way under the FoIA as if the member of the public has asked for the information direct.

- 5.2 The legal rights of Members to inspect Council documents are covered partly by statute (the Local Government Acts) and partly by the common law. A Member will be permitted access to private Council documents if he or she can demonstrate that access to the documents is reasonably necessary to enable him or her properly to perform his or her duties as a Member (the “need to know” principle).
- 5.3 Members wishing to inspect or obtain a copy of information which is in the public domain should approach the relevant officer in writing or by email.
- 5.4 Where information is not in the public domain, or there is doubt about this, an approach should be made to the Chief Executive, the appropriate Corporate Director or the Monitoring Officer. The officer whose unit holds the documents in question (with advice, where necessary, from the Monitoring Officer) will decide whether the information can be released. The Member will be expected to justify the request in specific terms. In the event of a dispute, the Standards Committee will be asked to decide.

## **6 Confidentiality of Committee Reports**

- 6.1 All Corporate Directors have a duty to satisfy themselves that Committee reports to which they are signatories are only classified as ‘exempt information’ or ‘confidential information’ when the statutory criteria for confidentiality are met as set out in the Local Government Act 1972.
- 6.2 Once an exempt report has been issued with the agenda for a meeting a Member must respect the confidentiality of the report and not disclose its contents to a third party. However this restriction does not apply if the Committee decides at the meeting that the report should be discussed in the presence of the press and public.

## **7 Roles and responsibilities of officers**

- 7.1 A mutual and working understanding of the roles and responsibilities of officers is essential to the Council developing and applying a clear and consistent approach to the role and responsibilities of its Members.
- 7.2 Officers, through reports, formal and informal advice, play an essential role in the formation and carrying out of the Council's decisions and policies. If officers, in their professional judgement, consider a proposed course of action is imprudent they will advise Members accordingly. The prime responsibility of officers in the matter of all challengeable decisions is in advising Members before such decisions are reached. In such cases, the advice should include clear legal and financial advice, on what are relevant and irrelevant factors and on how to approach decision-making. The fact that such advice has been given and considered will be material in any court proceedings that will be

concerned to see that the Council has properly applied its mind to the relevant issues.

- 7.3 If despite officers' advice the Council decides to proceed with its course of action, officers will implement the decision unless it contravenes their professional statutory codes of practice or ethics to such an extent as to place their continued professional practice at risk. In these circumstances an officer must take advice from the Monitoring Officer.
- 7.4 An officer is under a duty not to implement a decision or take any action that is contrary to statute law or is unlawful. An officer will also not implement a decision where the Monitoring Officer or Chief Finance Officer has issued a statutory report that has not yet been considered by the Council or has not yet been complied with.

## **8 Roles of specific officers**

8.1 Three officers have specific roles defined by statute:

8.1.1 Head of Paid Service: is under a duty, 'where he or she considers it appropriate' to report to the Council and Members on:

- the manner in which the discharge by the Council of its different functions is co-ordinated;
- the number and grades of staff required by the Council for the discharge of its functions;
- the organisation of the Council's staff; and
- the appointment and proper management of the Council's staff.

8.1.2 Section 151 Chief Finance Officer: (designated under s.151 of the Local Government Act 1972) is responsible for the proper administration of the Council's financial affairs. He or she is under a duty to report, to both Members of the Council and to the Council's external Auditor, any decision involving unlawful, (or potentially unlawful), expenditure by the Council; any unlawful course of action likely to cause a loss or deficiency on the part of the Council; or an unlawful entry of an item of account.

8.1.3 Monitoring Officer: (designated under s.5 of the Local Government and Housing Act 1989) has a duty to put a formal report to the Council where it appears that the Council, Cabinet, any committee or officers are involved in any proposal, decision or omission which is likely to be illegal or give rise to maladministration or injustice. It is also implicit in legislation, and indicated elsewhere in guidance, that the Monitoring Officer may give informal advice, including to individual Members, and that they may also seek guidance on legal or propriety matters. The Monitoring Officer also has specific legal duties and powers in respect

of the Members' Code of Conduct and the Standards Committee. The Monitoring Officer's duties may be performed by a nominated deputy.

## **9 Delegation of functions to the Chief Executive and other officers**

9.1 The Council's Scheme of Delegation sets out the various powers delegated to the Chief Executive and other officers. In exercising delegated functions, officers are obliged to act in accordance with:

- i) the overall policies approved by the Cabinet, Council or any of its Committees or Sub-Committees;
- ii) standing orders including those relating to contracts; and
- iii) financial regulations.

9.2 In all cases it is open to officers to refer a matter to Cabinet, the Council, Committee or Sub-Committee for decision if in his or her opinion the matter is of such a nature that it should more properly be referred to Members.

9.3 Officers are responsible to their appropriate line manager and whilst officers should always seek to assist Members, they must not, in doing so, go beyond the bounds of whatever authority that has been delegated to them.

## **10 Relationships with the Council Chairman, Vice Chairman, Cabinet members and Committee Chairmen and Vice Chairmen**

10.1 The Chief Executive and Corporate Directors should foster close working relationships with the appropriate Cabinet member, Committee Chairmen and Vice Chairmen. However, these relationships should never be allowed to become so close, or appear to be so close, as to bring into question Officers' ability to deal properly with other Members and to discharge his/her duty to serve the Council as a whole.

## **11 Support Services to Members**

11.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is 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 political or campaigning activity or for private purposes.

## **12 Attendance by Members at meetings arranged by officers**

12.1 Within the Council, Members are free at any time to meet officers to discuss aspects of the Council's business.

- 12.2 Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Council or to action its decisions. The convention is that Members will not be present at these meetings but will be advised either informally or through reports to Cabinet and Committees, of any relevant discussions and/or outcomes. There may be occasions where a Member may be invited to attend a meeting by the appropriate officer or by a resolution of a Committee.

### **13 Breaches of the Protocol**

- 13.1 Allegations of specific breach of this protocol by a Member may be dealt with under the Council's procedures for breaches in local protocols and may ultimately be the subject of a complaint to the Standards Committee. Potential problems may be resolved by early discussion between a Member and the Chief Executive. More general concerns about relationships between Members and officers or perceived breaches of the principles embodied in this Protocol can be discussed with the Council's Monitoring Officer. The Chief Executive will consider whether disciplinary procedures are appropriate in the case of alleged breach of this protocol by officers. Any matters raised under this protocol will be considered and disposed of (whether under the procedures for breach or otherwise) individually and without provision for cross/counter claim.

### **14 Training and briefing**

- 14.1 Training and briefings on the operation of the Protocol for Members and Officers will be arranged as required.

### **15 Advice**

- 15.1 The Council's Monitoring Officer and Deputy Monitoring Officer will give advice on the interpretation and operation of this Protocol.

### **16 Review**

- 16.1 The operation of the protocol shall be regularly monitored and reviewed annually and any appropriate amendments made when necessary.

Adopted by Monmouthshire County Council

Date **26 February 2009**

**PROTOCOL ON MEMBER / OFFICER RELATIONS****1.1 Introduction**

The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

1.2 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

1.3 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

**1.4 Roles of Members**

Members undertake many different roles. Broadly these are:

1.4.1 Members express political values and support the policies of the party or group to which they belong (if any).

1.4.2 Members represent their electoral division and are advocates for the citizens who live in the area.

1.4.3 Members are involved in active partnerships with other organisations as community leaders.

1.4.4 Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.

1.4.5 Members help develop and review policy and strategy.

1.4.6 Members monitor and review policy implementation and service quality.

1.4.7 Members are involved in quasi-judicial work through their Membership of regulatory committees.

**1.5 Roles of Employees**

Briefly, Employees have the following main roles:

1.5.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.

1.5.2 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.

1.5.3 Initiating policy proposals.

1.5.4 Implementing agreed policy.

1.5.5 Ensuring that the Council always acts in a lawful manner.

**1.6 Respect and Courtesy**

1.6.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the

Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

#### 1.6.2 Undue Pressure

- (a) It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.
- (b) In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.
- (c) A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- (d) Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. *(The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code.)*

#### 1.6.3 Familiarity

- (a) Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- (b) Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.
- (c) For these reasons close personal familiarity must be avoided.

#### 1.6.4 Breach of Protocol

- (a) If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Chief Officer responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.
- (b) If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Chief Officer. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

### 1.7 Provision of Advice and Information to Members

- 1.7.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

- 1.7.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed ie either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.
- 1.7.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 1.7.4 The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 1.7.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 1.7.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 1.7.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division. (Further details are contained in the Local Member Consultative Charter, which is annexed to this Protocol).
- 1.7.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.
- 1.7.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.
- 1.7.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Information Officer will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

## 1.8 **Confidentiality**

- 1.8.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:



- (a) he/she has the consent of a person authorised to give it;
- (b) he/she is required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the authority.

1.8.2 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

1.8.3 Information and correspondence about an individual's private or business affairs will normally be confidential.

1.8.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.

1.8.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.

1.8.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

## 1.9 **Provision of Support Services to Members**

1.9.1 The only basis on which the Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### 1.9.2 Correspondence

Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

### 1.9.3 Media

Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a

particular issue he should contact the appropriate Chief Officer or Head of Service concerned or ask the Press Office to do so.

#### 1.10 **The Council's Role as Employer**

In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

#### 1.11 **Political Activity**

1.11.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

1.11.2 In summary, such employees are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
- (b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in (a);
- (c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:
  - (i) participate in the general management of the party or branch; or
  - (ii) act on behalf of the party or branch in dealings with persons other than Members of the party;
- (d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (a);
- (e) speaking to the public with the apparent intent of affecting public support for a political party; and
- (f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

1.11.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles, eg chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

1.11.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Chief Officers and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

1.11.5 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Chief Officers/Heads of Service, and not to individual Members of the Council whatever office they might hold.

1.11.6 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working

relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

#### 1.12 **Sanctions**

1.12.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

1.12.2 Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or the Head of Legal Services.

#### 1.13 **Conclusion**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.



**SUBJECT: Family Absence for Members**  
**MEETING: County Council**  
**DATE: 16 January 2014**  
**DIVISION/WARDS AFFECTED: All**

**1. PURPOSE:**

The Family Absence for Members of Local Authorities (Wales) Regulations 2013, “(the Regulations)” made under Part 2 of the Local Government (Wales) Measure 2011 (“the Measure”) require the Council to make Standing Orders as soon as practicable to give effect to the prescribed conditions to be satisfied to meet the entitlement to absence set out in the regulations.

**2. RECOMMENDATIONS:**

1. That the Head of Democratic Services be granted delegated powers to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.
2. That the role and function of the Chairman of the Council, as set out in the Council's Constitution, be amended to provide for the Chairman to carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.
3. That a politically balanced sub-committee comprising 3 members of the Democratic Services Committee be established to hear and determine any complaints from Members regarding a refusal by the Head of Democratic Services to grant family absence
4. That the Monitoring Officer be given delegated authority to make such changes to the Council's Standing Orders as are necessary to give effect to the Council's decision and compliance with the Regulations. Members may wish, in this regard, to refer further consideration of the matters set out in paragraph 3.4 to the Democratic Services Committee
5. That members consider whether they wish to make any representations to the Independent Remuneration Panel on the matters set out in paragraph 3.5

**3. KEY ISSUES:**

3.1 Legislation and Guidance

Part 2 of the Local Government (Wales) Measure 2011 ("the Measure") introduces an entitlement to a period of family absence for Members of local authorities, during which a Member is entitled to be absent from authority meetings. The entitlement created by the Measure is subject to Members satisfying conditions prescribed by the Welsh Ministers in the Regulations which came into force on 5th December 2013.

The Regulations prescribe the conditions that Members must satisfy to be entitled to a period of family absence, make provisions regarding the duration, start, cancellation and end of a period of family absence, and set out an administrative process for dealing with family absence. The Welsh Ministers have also published draft Statutory Guidance on Family Absence (“the Guidance” issued under section 30 of the Measure), to which the Council is required to have regard. The final Guidance is not yet available on the Welsh Government web-site.

### 3.2 Categories of Family Absence

There are five types of family absence to which a Member may be entitled under the Measure, subject to compliance with the Regulations:

(i) Maternity Absence – for the mother of a child, granted up to a maximum of twenty six weeks;

(ii) New-born Absence – for a Member who is either the father of the child or who is married to, the civil partner or the partner of, the child's mother, but is not the child's father, for a period of up to two consecutive weeks (N.B. in each case, the Member must have or expect to have, responsibility for the upbringing of the child);

(iii) Adopter's Absence – for the adopter of a child, for a period of up to two consecutive weeks;

(iv) New Adoption Absence - for the husband or wife, civil partner or partner of an adopter (and who has, or expects to have, the main responsibility [apart from the responsibility of the adopter] for the upbringing of the child), for a period of up to two consecutive weeks; and

(v) Parental Absence – for a Member who becomes responsible for a child (and does not meet the conditions for New-born Absence, Adopter's Absence or New Adoption Absence), for a period of up to three months.

### 3.3 The Process

The administrative process established by the Regulations provides:

(i) that the Member must give written notice to the Head of Democratic Services of his/her intention to take family absence and the intended start date (and any change or cancellation of the period of absence);

(ii) that the Head of Democratic Services must maintain a record (for at least 10 years) of all notifications and periods of family absence taken and must inform the Chairman of the Council, the Chairman of the Democratic Services Committee, and the Leaders of each political group of the Authority (the Guidance indicates that the Head of Democratic Services is also free to inform any other persons felt necessary, e.g. fellow Ward Members);

(iii) if the Head of Democratic Services informs the authority that he/she has reasonable grounds to suspect that a Member may not be entitled to the family absence notified, the local authority may cancel or end the family absence (and if the

Member then fails to resume duties, the local authority may withhold the Member's remuneration);

(iv) for the option for a Member to continue to attend particular meetings or perform particular duties during a period of maternity or parental absence, subject to permission from the Chairman of the Council (who must inform the political Group Leaders before granting permission);

(v) a requirement for the Council to make provisions regarding the extent of any duties which Members may still be required to perform during a period of family absence;

(vi) a Member may complain in writing to the Head of Democratic Services regarding a refusal to grant family absence. Any complaints received must be forwarded by the Head of Democratic Services to the Chairman of the Council.

(vii) for a requirement for the Council to appoint a Panel comprising three Members (which cannot include the Chairman of the Council) to hear and determine complaints from Members, the Panel's determination being final; and

(viii) for the right for a Member to complain to the Panel against a decision of the Authority that the Member is not entitled to a family absence; and / or against a refusal by the Chairman of the Council to grant permission for the Member to continue to attend particular meetings or perform particular duties whilst on family absence.

### 3.4 Standing Orders

The Council is required to make Standing Orders, as soon as reasonably practicable after the Regulations come into force, in respect of the matters set out in subparagraphs 3.3 (iv) and (v) above, that is:

(i) To describe the circumstances in which a Member on maternity or parental leave may continue to perform some duties if so desired.

The Guidance states that this may be "where the Member has a well-known particular interest in a matter of business or if urgent business affecting their local area is being considered"; and

(ii) To provide whether any duty conferred on Members should be performed during a period of family absence.

The Guidance states that this may "enable a Member on family absence to be asked to attend a meeting if it might otherwise be inquorate. The Standing Orders could enable different arrangements to be made for different Members. There might be a particular area of expertise possessed by a Member which would be difficult to replace on a temporary basis, which might suggest a limited commitment could still be expected of a Member in such defined circumstances. However, the effect of any such provision under the Standing Orders should not be contrary to the purpose of the Measure and the Regulations".

It should be noted that the Standing Orders may include other provisions relating to family absence, provided this is not contrary to the purpose of the Measure and the Regulations (for example, regarding temporary cover for Members who are on family absence).

### 3.5 Members Salaries

The Independent Remuneration Panel for Wales has issued a draft supplementary report on family absence requesting any representations by Friday 7th February 2014. The proposed determinations are that:

- a) A member is entitled to retain a basic salary when taking family absence under the regulations irrespective of the attendance record prior to the commencement of the family absence.
- b) When a senior salary holder is eligible for family absence, he/she will be able to continue to receive the senior salary for the duration of the absence if the authority so decides whether or not it makes a substitute appointment.
- c) The member substituting for a senior salary holder taking family absence will be eligible for a senior salary.
- d) If the paid substitution results in the authority exceeding the maximum number of senior salaries as set out in the Panel's Annual Report, an addition to the maximum will be allowed for the duration of the substitution.
- e) When an authority agrees a substitution for family absence, the Panel must be informed, within 14 days of the date of the decision, of the details including the particular post and the duration of the substitution.
- f) The schedule of remuneration must be amended to reflect the implication of the family absence.

#### **4. REASONS:**

To ensure the Council meets the requirements of the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

#### **5. RESOURCE IMPLICATIONS:**

There are no direct implications arising from the report. In the event of a Member in receipt of Senior Salary being granted family absence, there is no provision in the Regulations governing payment to another Member for assuming any temporary responsibilities.

#### **6. EQUALITIES AND SUSTAINABLE DEVELOPMENT IMPLICATIONS:**

The Family Absence provisions apply to all Members of the Council, subject to the requirements of the legislation being met.

#### **7. CONSULTEES:**

Leadership Team  
Political Leadership Group  
Head of Legal Services (Deputy Monitoring Officer)  
Head of Local Democracy



The Standards Committee have received a copy of this report for information. Any comments will be communicated to members after the Committee has met on 13 January

**8. BACKGROUND PAPERS:**

**DRAFT** Statutory Guidance made under Section 30 of the Local Government (Wales) Measure 2011 available at:

<http://wales.gov.uk/docs/dsjlg/consultation/130322familyabsenceguideannex2en.pdf>

Independent Remuneration Panel for Wales draft supplementary report on family absence available at:

<http://wales.gov.uk/irpwsb/home/publication/201415/draft-supp-report-family-absence/?lang=en>

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